

PLANNING AND REGULATION COMMITTEE – 15 APRIL 2019

Development Proposed:

Application to continue the development permitted by CHN.45/90 (permanent consent for coated Roadstone) without complying with conditions 2, 3, 4, 5, 8, 12, 13 and 16 (to remove hours of working for asphalt plant to allow operations at any time of day or night and to update plans to relocate existing office, canteen and WC)

Division Affected: Banbury Grimsbury & Castle

Contact Officer: Mary Hudson **Tel:** 07393 001 257

Location: Tarmac Asphalt Plant, Water Works Road,
Banbury OX16 3JJ

Application No: MW.0117/18 **District No:** 18/01826/CM

Applicant: Tarmac Trading Ltd.

District Council Area: Cherwell

Date Received: 11 October 2018

Consultation Periods: 25 October – 15 November 2018
5 – 26 February 2019

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Recommendation

The report recommends that the application (MW.0117/18) be **approved**.

• Part 1 – Facts and Background

Location (see plan 1)

1. The asphalt plant which is the subject of this application is in Banbury and lies immediately west of the Birmingham to Oxford railway line. It is located to the north of the centre of Banbury, approximately 1.4 kilometres (0.9 miles) north of the train station.

Site and Setting (see Plan 2)

2. The application site contains an existing asphalt plant and a number of related buildings including site offices, weighbridge, welfare facilities and workshop. There is a row of aggregate storage bays running adjacent to the eastern site boundary by the railway line. The asphalt plant lies in the northern part of the site. To the north of the asphalt plant lies the applicant's concrete batching plant which is outside of the site area for this application.
3. The site lies north of Water Works Road, which itself lies immediately north of the A422 Hennef Way. Water Works Road is also known as Grimsbury Green and carries a public footpath which links the residential areas of north east Banbury to the canal towpath. The site is bounded to the east by the railway line and beyond that lies an industrial estate extending to the M40 motorway which is approximately 950 metres east of the site, along with junction 11.
4. To the west and north of the site lies open fields, which are also under the control of the applicant. Beyond these to the west lies a stream and beyond a waterworks and small reservoir. The Oxford Canal lies beyond the reservoir, approximately 480 metres west of the site boundary. The Oxford Canal Walk to the west of the reservoir is a promoted walk managed by the county council. There is permissive access around the reservoir. Banbury Ornithological Society manages a nature reserve to the north east of the reservoir.
5. The reservoir and surrounding habitats are popular for bird watching. Part of the area is managed by the Banbury Ornithological Society as a nature reserve. It also has a recreational use for a sailing club and forms part of the public water supply.
6. The closest designated nature reserve is Fishponds Wood Local Wildlife Site in Hanwell, which lies approximately 2.3 km (1.4 miles) north east of the site. The site lies approximately 180 metres north west from Grimsbury Manor which is a grade II listed building.
7. Access to the site is gained from Waterworks Road, which is also known as Grimsbury Green. This is a no-through road off Hennef Way providing access to the waterworks, reservoir and rail sidings. Most mineral used for the production of asphalt at the site is imported via the rail siding. Some

sand and gravel is imported by road from quarries without rail head access. Asphalt is exported by road.

8. The site is in flood zone 1, which is the area of least flood risk with small areas of land falling into flood zone 2 and flood zone 3 in the north-west corner.
9. The site has some vegetation along its boundaries, consisting of hedgerows and scrub vegetation with some trees. This provide some screening to the site.
10. The site is not located in a residential area. The closest residential area is Grimsbury in north east Banbury, the closest dwellings in this area lie 150 metres south of the application site on the other side of Waterworks Road, the A422 and the railway. A small group of dwellings lie a similar distance to the east of the site on the other side of the railway line and an industrial building.

Planning Background

11. Permission was granted for an asphalt plant in this location in 1993 under consent CHN.45/90. This was subject to a routeing agreement dated 26 October 1992. The site currently operates under a different consent issued with the same reference number in 2003. The 2003 consent was issued following a section 73 application on the original consent which extended the operating hours. A new routeing agreement would be required to carry these provisions forward to a new consent.
12. This application was submitted at the same time as a full application for development on the adjacent field (application reference MW.0116/18). That application proposes the temporary use of the land as a rail unloading and aggregate storage and distribution facility, including offices, two weighbridges, lorry loading and parking areas, maintenance shed, aggregate storage bays and conveyors linking the storage bays to the rail unloading area to the north and the creation of a new vehicular access into Waterworks Road.

Details of the Development

13. This application has been made to amend a number of conditions on the existing planning consent, in order to remove the current restrictions on hours of working and permit operations at the site at any time of day or night and also in order to relocate existing buildings to a new location within the site.
14. Condition 3 on the existing consent restricts operating hours to 04.00-19.00 Mondays to Saturdays and 08.00 to 17.00 on Sundays. It allows operations outside of these times only with the written agreement of the Local Planning Authority. Condition 5 requires that should justified complaints be received about early morning and evening working, the site

shall cease operations until measures for overcoming the complaints have been submitted, approved and implemented. The applicant has applied to remove these conditions so that there would be no restrictions on operating hours.

15. It is not proposed to operate the asphalt plant continuously, 24 hours a day, 7 days a week. However, the applicant would like the flexibility to operate the plant at any time of day or night, in order to meet the requirements of contracts.
16. The applicant has stated that the reason for applying to vary these conditions is that the existing operating hours significantly restrict their ability to meet the demands of contracts, which often require asphalt at night to provide material for overnight roadworks. If this plant is closed and cannot supply material to local works, asphalt might need to be brought in from asphalt plants that lie further from the works.
17. The applicant has also applied to remove some conditions which no longer apply. Condition 4 restricts the hours of lorries entering and leaving the site. However, this only applies until the end of 2003 and therefore the condition is now redundant.
18. The applicant has also applied to amend conditions 2, 8 and 12 to refer to updated plans. The updated plans proposed show the relocation of the office, weighbridge and welfare facilities to the southern part of the site. The car parking area would be enlarged. The relocated modular office comprises two portacabins and it is proposed that these would be stacked to form a two-storey office building. An access gate would be relocated.
19. The application states that a second weighbridge would also be installed, to allow HGVs to use one weighbridge when entering the site and a separate weighbridge when exiting. However, permission is not sought for this because the applicant considers that it benefits from permitted development rights.
20. It is proposed to remove conditions 13 and 16, which no longer apply. Condition 13 requires the removal of temporary buildings from the site by 2008. Condition 16 removes permitted development rights for those temporary office buildings, so that they can only be used as area offices for the operator. The temporary buildings that these conditions refer to have been removed from the site.
21. The existing routing agreement restricts HGVs to certain approved routes, including the B4100 (Ruscote Avenue), the A423 (Southam Road), A422 (Hennef Way), the M40, A4260 (Cherwell Street, Windsor Street, Oxford Road) and A361 (Bloxham Road). No change is proposed to these arrangements, but a new routing agreement would be required to ensure that the requirements continue to apply.

22. A 6-metre-high noise barrier is proposed along with an increase to the height of one of the existing storage bay walls, to 6 metres.
23. Full details of the existing conditions are provided at Annex 1 and details of those proposed are provided at Annex 2.

• **Part 2 – Other Viewpoints**

Representations

24. Eleven third party representations were received specifically in relation to application MW.0117/18 and nine further representations were received which did not differentiate between this application and application MW.0116/18. The comments received in relation to this application primarily related to the noise impacts of 24 hour working in this location. The comments received are addressed in detail in Annex 3.
25. Cllr Banfield (County Councillor for Grimsbury and Castle) commented in response to the original consultation that she had serious concerns about both applications. Removing the operating hours condition would have a detrimental effect on residents with noise and light pollution through the night. Residents will suffer from sleep deprivation and will be more likely to suffer from illness. Residents are already sometimes awoken by operations at the plant at night. There would also be greater levels of air pollution, which is already a problem on Hennef Way, and ecology would be adversely affected.
26. Councillor Banfield also responded to the consultation on the further information submitted for this application. This states that she objects to the application due to concerns about air pollution from lorries and also as additional freight trains would cause more noise, light and air pollution. Concern is raised about 24 hour a day working causing sleep deprivation leading to mental health conditions, illness and family breakdown. Concern is also raised about increased production increasing the flood risk and adverse impacts on local ecology.
27. Councillor Andrew Beere (Cherwell District Council and Banbury Town Council) made representations, which are summarised as follows: Write without prejudice to membership of planning committees of Cherwell District Council and Banbury Town Council. Records should be checked to establish if there is a history of complaints. Noise can already be heard from the link road. Questions the assertion that an EIA is only needed when there is likely to be a significant impact on the environment. Understand the desire to promote employment by applications reads as if environmental impacts are second best. Misplaced to say that the number of residents affected will be small. The whole of Banbury will be affected by HGVs. There is likely to be planned engineering work on the train line at times and other incident which would slow down the trains and disrupt HGV flows to and from the site.

Consultation Responses

Banbury Town Council

Response to original consultation

28. Object. Banbury Town Council and the Banbury Traffic Advisory Committee object to both applications due to a likely unacceptable increase in HGV traffic, from an additional 300 movements per day and the increase in air pollution. Should the application be permitted there should be strict controls on HGV movements, such as restricting them to later in the evening. There should also be strict air and noise pollution mitigation strategies.

Cherwell District Council – Planning

Response to consultation on further information

29. Maintain objection. The plan showing the sound barrier location is helpful and it is unlikely that this would be significantly harmful to the wider visual amenities of the area. The plans are not clear on the extent of the area of cut required to relocate the site buildings. Details should also be provided on protection measures for trees and shrubs on the bank. The native thicket south of the car park should be retained along with native hedgerows on the western boundary. A condition should be used to control the number and of timing of train movements. The conditions should include detail of the implications should noise complaints be received during night time hours. The site should continue to be bound by the existing routeing agreement.

Response to original consultation

30. Object. Concerns about impacts on neighbours and object to the proposal for 24-hour working.
31. The Environmental Protection Officer would like to see further information regarding the proposed direction of travel of trains, the location of the locomotive during unloading and whether the engine can be turned off. Concerned that if the locomotive is left idling south of the site this would increase noise levels for residents. If permission is granted, conditions should be used to secure the recommendations in the noise report. It is noted that this includes a 6m high noise barrier which has not been included on the application plans. This should be included so that the impact can be assessed. Object to the removal of condition 5 and consider that there must be a process for dealing with complaints, including the cessation of overnight workings until mitigation is in place. A condition should be imposed to control HGV movements to a start time later than proposed. No objection to the removal of condition 4, which is redundant.

Without sufficient safeguards in place the proposals could be in conflict with policy ENV1 of CLP and SLE5 of CLP1.

32. Also questions whether the relocation of the office, canteen and WC and the enlargement of the car park should be agreed by Section 73. The visual impact of this should be fully assessed, including the loss of existing trees and vegetation on the embankment.

Environment Agency

Response to further information

33. No comments on further information

Response to original consultation

34. No objection.

Natural England

35. Responded, no comments.

SSE

36. No comments.

OCC Transport Development Control

37. No objection. However, it is recommended that any heavy goods vehicle movements associated with the operations must comply with the routing that was agreed in development permitted by CHN.45/90.

OCC Rights of Way

Response to further information consultation

38. Response received no comments

Response to first consultation

39. Response received, no comments.

OCC Ecology Officer

40. No objection. The site is of negligible ecological value, except for a small wooded area south of the existing operational area. There would be a minor impact on this area as a result of the relocation of facilities. Therefore, an informative should be added for the protection of birds, nests and eggs.

OCC Landscape and Green Infrastructure

Response to further information

41. No objection. Satisfied that the proposals would not have an unacceptable adverse impact on landscape and visibility. Opportunities to enhance the proposals include tree protection measures, additional landscape planting and professional input to lighting design, should this be required.

Response to original consultation

42. Further information is required in relation to vegetation removal, changes to ground levels and external materials. There are a number of potential visual and landscape receptors in the area.

OCC Lead Local Flood Authority

43. No response

OCC Archaeology

44. No objection. This site is located in an area of archaeological interest. A desk-based assessment and a geophysical survey has been undertaken for the site however which shows that the site has been previously disturbed and potentially backfilled. As such there are no archaeological constraints to this proposal.

Part 3 – Relevant Planning Documents

Relevant Planning Policies – (see policy annex)

45. Proposals should be decided in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for this area comprises:

- Oxfordshire Minerals and Waste Core Strategy (OMWCS)
- The Oxfordshire Minerals and Waste Local Plan 1996 (OMWCS) (saved policies)
- Cherwell Local Plan 1996 (CLP 1996) (saved policies)
- Cherwell Local Plan 2011-2031 Part 1 (CLP)

46. Other documents that are relevant to the determination of this application include:

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance (NPPG)

47. There are a number of saved policies from the Oxfordshire Minerals and Waste Local Plan 1996 (OMWLP) that still form part of the Development Plan. However, none of these are relevant to the determination of this application as they all relate to specific areas and none of them relate to this area.
48. Cherwell District Council are preparing a Part 2 to the Adopted Cherwell Local Plan 2011-2031 which will contain non-strategic site allocations and development management policies. An issues consultation was held in early 2016. This plan is at an early stage and there are not yet draft policies to consider.
49. Cherwell District Council have produced a Banbury Vision and Masterplan Supplementary Planning Document (SPD), which is a material consideration.

Relevant Development Plan Policies

50. The relevant development plan policies are:
- Oxfordshire Minerals & Waste Core Strategy (OMWCS)
 - C1 Sustainable development
 - C5 Local environment, amenity and economy
 - C7 Biodiversity and geodiversity
 - C8 Landscape
 - C9 Historic environment and archaeology
 - C10 Transport
 - M9 Safeguarding rail depots
 - Oxfordshire Minerals & Waste Local Plan 1996 (saved policies)
There are no relevant saved policies.
 - Cherwell Local Plan 1996 (CLP 1996) (saved policies)
 - TR7 – Development attracting traffic on minor roads
 - TR10 – Heavy goods vehicles
 - ENV1 - Development likely to cause detrimental levels of pollution
 - Cherwell Local Plan 2011-2031 Part 1 (CLP)
 - PSD1 – Presumption in favour of sustainable development
 - ESD10 – Protection and enhancement of biodiversity and the natural environment
 - ESD13 - Local Landscape Protection and Enhancement
 - SLE5 – High Speed Rail 2 – London to Birmingham

Other Relevant Documents

51. National Planning Policy Framework (NPPF)
52. National Planning Policy Guidance (NPPG)

53. Banbury Vision and Masterplan SPD - sections on environment, air quality, transport and movement.

Comments of the Director for Planning and Place

Amenity

54. OMWCS policy C5 states that proposals for waste development shall demonstrate that they will not have an unacceptable adverse impact on the local environment, human health and safety, residential amenity and the local economy. CLP policy ENV1 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.
55. CLP1 policy SLE5 states that the design and construction of the HS2 rail link must minimise adverse impacts on the environment, the local economy and local communities. Although this application does not relate to the site of the HS2 rail line, the proposal is directly linked to HS2 construction and Cherwell District Council have stated that they consider this policy to be relevant.
56. The applicant has operated at night on occasions in the past, with the prior agreement of the planning authority as requested by the current condition. These occasions did not lead to complaints.
57. The main potential impact on amenity is considered to be noise, as it is proposed to operate the site during night time hours when background noise levels are low and most nearby residents will be at home and sleeping, therefore at risk of being disturbed by loud operations.
58. Cherwell District Council have raised objections to 24/7 working and the removal of the process for dealing with complaints provided by condition 5. They have requested further information regarding train unloading.
59. The applicant has confirmed that there is no proposal to change the hours of train unloading for the asphalt plant. This would take place during the daytime only, regardless of the proposed 24 hour working for the asphalt plant itself. Cherwell District Council have requested a condition to ensure that train movements remain at 2-3 deliveries per week during the day. They have also asked for the re-wording of condition 5 to ensure it covers the implications if noise complaints are received during night hours.
60. The Environmental Protection Officer (EPO) has requested a condition to control HGV movements from the site to 6am-8pm Monday to Friday, 6am-3pm on Saturdays and 8pm-3pm on Sundays and Bank Holidays. The application proposed no restrictions on hours of HGV movements, as the purpose of the application was to ensure that the asphalt plant could be

used to supply roadworks taking place overnight. The hours proposed by the EPO are more restrictive than the currently permitted hours.

61. A 6-metre-high noise barrier has been proposed and Cherwell District Council initially asked for further details of this. The applicant provided an amended plan to show the location of this barrier on the northern edge of the staff car park. It is also proposed to increase one of the existing storage bay walls to 6 metres. They have stated that they would accept a condition requiring further details of the materials to be used in the noise barrier, should this be considered necessary. Cherwell District Council confirmed that the details of the sound barrier show that it is unlikely to be significantly harmful to the wider visual amenities of the area.
62. Overall, the proposal to amend the condition restricting overnight working, to allow for some 24-hour working, is considered to be acceptable. The noise assessment submitted with the application has demonstrated that, subject to mitigation, this would not lead to unacceptable impacts on amenity. The site already operates from 4am and is permitted to operate throughout the night with prior written agreement. The Minerals Planning Authority have not received complaints about these operations. It is considered reasonable that an asphalt plant would sometimes need to work overnight in order to provide asphalt to roadworks taking place whilst roads are quiet. It is not considered necessary to retain the requirement that the written consent of the Minerals Planning Authority must be obtained each time overnight works are needed.
63. It is considered necessary that appropriate conditions are used to control the development and ensure that potential noise impacts are mitigated. It is recommended that an additional condition is added specifying maximum night time noise limits from the operations of 1 decibel above background noise levels at the nearest noise sensitive properties. This is as proposed in the submitted noise assessment and would ensure that there would be no noise disturbance as a result of the plant or associated HGV movements. There should also be a condition requiring the developer to submit details of noise monitoring to demonstrate compliance with this requirement, if requested by the Minerals Planning Authority.
64. The application states that 24-hour working would only be necessary on occasion. It is considered that occasional working means that night time operations would take place on less than half of nights. Therefore, it is considered reasonable to include a condition stating that 24-hour working shall only take place on up to 180 nights of any calendar year. This is necessary to ensure that the development is carried out as proposed and does not become a continuous operation 24 hours a day, 7 days per week, as the acceptability of this has not been assessed. A further condition would also be required for the operator to keep records of night time operations, to ensure that this condition could be monitored and enforced.
65. Concern has been expressed about the removal of wording allowing residents to complain if night time working causes a nuisance. It is

considered that the current wording of this condition is not precise or enforceable and so fails to meet the tests for conditions. However, the additional condition proposed above requiring noise monitoring to be undertaken and submitted to the Minerals Planning Authority to demonstrate compliance with the night time noise limits would provide an alternative channel for ensuring that any complaints about night-time noise can be dealt with and would result in the cessation of night time operations if noise levels were found to be exceeding agreed levels.

66. It is also recommended that a specific condition is needed to ensure that the proposed noise barrier is in place prior to any further night-time working outside of the hours currently permitted.
67. It is considered appropriate to add a condition, as requested by Cherwell District Council, to ensure that train movements and unloading only take place during day time hours, as it is not proposed for these operations to take place at night and therefore no justification, assessment or mitigation has been provided.
68. Subject to the conditions detailed, the proposals are considered to be acceptable in terms of noise and amenity in general and in accordance with OMWCS policy C5, CLP policy ENV1 and CLP1 policy SLE5.

Traffic

69. OMWCS policy C10 states that minerals development will be expected to make provision for safe and suitable access to the advisory lorry routes. It states that where practicable minerals developments should be located, designed and operated to enable the transport of minerals by rail, water, pipeline or conveyor. It also says that proposals for minerals development that would generate significant amounts of traffic will be expected to be supported by a transport assessment or transport statement, as appropriate, including mitigation measures where applicable.
70. CLP 1996 policy TR7 states that development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted. CLP 1996 policy TR10 states that development that would generate frequent heavy-goods vehicle movements through residential areas or on unsuitable urban or rural roads will not be permitted.
71. There would be no change to the number of HGV movements or access arrangements as a result of this application, which is related to operating hours and internal site layout. The proposals would lead to the same overall number of HGV movements sometimes being spread over 24 hours, rather than within existing permitted working hours. A number of representations were made by people who were confused between this application and the development proposed by the separate application MW.0116/18, which would increase HGV movements.

72. A new routeing agreement would be required to ensure that the existing lorry routeing arrangements continue to apply following the grant of a new consent. This would also include the more restrictive route for night time lorry movements which is required by condition 6 on the existing consent. This condition requires signage to be erected to advise drivers that during the additional hours, HGVs should only travel direct to and from the M40 using Hennef Way. A new routeing agreement would ensure that HGV traffic uses suitable roads and not unsuitable minor or residential roads, in accordance with OMWCS policy C10 and CLP policies TR7 and TR10. The applicant has confirmed that they would be willing to enter into a new routeing agreement, including the requirement that all lorries leaving or arriving at the site between 18.00-06.00 Mondays to Saturdays and 14.00-06.00 on Sundays, use the more restrictive route direct to the M40
73. There has been no objection from Transport Development Control, subject to compliance with the current routeing arrangements.
74. The majority of mineral used at this site is imported by rail, which is supported by OMWCS policy C10.
75. Subject to a new routeing agreement, the proposals are considered to be in accordance with OMWCS policy C10 and CLP policies TR7 and TR10.

Relocation of buildings on site – landscape and visual impacts

76. CLP policy ESD 13 states that opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows. Proposals will not be permitted if they would be inconsistent with local character.
77. OMWCS policy C8 states that proposals shall demonstrate that they respect and where possible enhance local landscape character. Proposals shall include adequate and appropriate measures to mitigate adverse impacts on landscape, including careful siting, design and landscaping.
78. Cherwell District Council questioned whether it was appropriate to permit an additional office and enlargement of the car park through a Section 73 application and ask that the visual impact is fully assessed, including the loss of trees on the embankment. The landscape advisor requested further information regarding site entrance layout, vegetation removal, changes to ground levels associated with the relocated building and details of external finishes for new temporary buildings.
79. No additional office building is proposed, the application relates only to the relocation of an existing office/canteen building from the western boundary to the southern part of the site, along with a store and WC building.

80. In response to the queries raised during the first consultation, the applicant confirmed that with regards to vegetation removal they have confirmed that this would consist of the removal of small areas of scrub along the eastern boundary of the access road, the removal of one tree and the pruning of two trees. They have suggested that additional planting to mitigate this loss could be the subject of a planning condition. They have confirmed that the existing bank would be cut into to provide additional space to site the relocated office building and that this is shown on the plan. They have stated that there would be no visual impact from Grimsbury Green or the public right of way due to the existing tree and shrub cover on the bank.
81. In their second response, Cherwell District Council requested further detail of the area of cut required to relocate the building and for details of protection measures for the vegetation on the bank. They have also requested that existing vegetation is retained to provide screening and amenity. The applicant provided a plan showing that the area of cut would require the loss of one tree and they confirmed that they would be prepared to provide additional planting within this area as mitigation and in order to improve screening to Grimsbury Green Road. The details provided have been sent to Cherwell District Council and any further comments received following the drafting of this report will be provided in an addendum. It is considered that any issues arising from this further information could be dealt with by condition.
82. The OCC landscape advisor originally asked for further information about changes to ground levels and vegetation removal. This was provided and the landscape advisor re-consulted who confirmed that they have no objection to the proposals.
83. The proposed changes to the location of buildings would take place within the existing site. Due to the proposed new location of the buildings there could be some vegetation loss which has the potential to impact on visual amenity in the area. However, the relocated buildings would be located at the base of a steep bank which would mitigate their visual impact on the surrounding area.
84. Subject to conditions to ensure that vegetation is retained where possible, and that there is additional vegetation planting to mitigate vegetation loss, it is considered that the proposed relocation of the buildings is acceptable in terms of impacts on visual amenity and landscape, in accordance with OMWCS policy C8 and CLP policy ESD 13.
85. The landscape advisor has also suggested that there should be professional input to any proposed additional lighting. No external lighting is proposed as part of this application. However, it is recommended that a condition is added to any consent granted to require that no external lighting is erected until a scheme has been approved by the Minerals Planning Authority. This would ensure that no lighting is erected without professional advice on its acceptability.

Minerals Infrastructure

86. OMWCS policy M9 states that the existing rail depot at Hennef Way, Banbury is safeguarded for the importation of mineral into Oxfordshire. The proposed development utilises the rail depot for the importation of mineral and therefore is not contrary to the policy safeguarding this facility.

Other Issues

87. OMWCS policy C7 states that minerals and waste development should conserve and where possible deliver a net gain in biodiversity. CLP policy ESD10 also seeks a net gain in biodiversity. There has been no objection from the Ecology Officer as the site is of negligible biodiversity value and therefore no mitigation is required to protect biodiversity, although an informative should be added to cover birds, nests and eggs.
88. Although this site is in an area of archaeological potential the submitted information shows that the site has been previously disturbed and therefore there is no objection, or request for conditions, from the archaeology team. The proposals are therefore in accordance with OMWCS policy C9 which protects the historic environment and archaeology.

Sustainable Development

89. The NPPF contains a presumption in favour of sustainable development which has environmental, economic and social roles and this is reflected in OMWCS policy C1 and CLP1 PSD1. The proposed changes to the operating hours are considered to be sustainable development which would facilitate the efficient operation of the site, which makes use of a rail siding to reduce transport by road, therefore these policies are considered to support approval of the application.

Conclusions

90. The proposed development is considered to be in accordance with relevant development plan and emerging plan policy related to amenity and traffic. The main concern arising from the proposals is the potential for noise impacts on nearby residential areas, however it is considered that this can be satisfactorily mitigated through the use of conditions. The proposal is supported by the presumption in favour of sustainable development.

RECOMMENDATION

91. **Subject to a new routeing agreement first being entered into to secure the existing routeing provisions with additional restrictions to the route for night time HGV movements, it is RECOMMENDED that planning permission for Application MW.0117/18 be approved subject**

PN7

to conditions as set out in Annex 1 as amended by Annex 2 to this report.

SUSAN HALLIWELL
Director for Planning and Place

Annex 1 – Existing conditions on CHN.45/90 (2003)

1. The development hereby permitted shall be begun not later than five years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out solely in accordance with the details submitted with the application except as modified by conditions of this permission unless otherwise agreed by the local planning authority in writing.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. Except with the prior agreement of the local planning authority in writing, no operations authorised or required by this permission shall be carried out and plant shall not be operated, other than: Between 0400- and 1900-hours Mondays to Saturdays and 0800 hours to 1700 hours on Sundays.

Reason: In the interests of the amenities of residents of the area.

4. That between the hours of 0400 and 0600 in the period up to 31 December 2003 only, no lorries shall enter or leave the site.

Reason: In the interests of the amenities of residents of the area.

5. That should any justifiable complaints be received about the operations of the site within the hours hereby extended i.e. 0400 to 0600 hours and 1800 to 1900 hours Mondays to Fridays; 0400 to 0600 hours and 1400 to 1900 hours on Saturdays and 0800 to 1700 hours on Sundays, the site shall cease operations and the applicant shall submit for written approval by the local planning authority, details of measures to overcome those complaints. Site operations shall not recommence until such measures have been approved and implemented.

Reason: In the interests of the amenities of residents of the area.

6. That no lorries shall enter or leave the site unless and until signs, in a location and with size or form of wording agreed by the local planning authority, have been erected on site indicating that the only agreed lorry route for the additional hours granted by this permission is direct to the M40 via Hennef Way.

Reason: In the interests of the amenities of residents in the area.

7. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 as amended, or any order revoking or re-

enacting, that order, fences or other means of enclosure at the road junction shall be set back to the sight lines shown as 'vision splay' on approved plan 829/11 and this vision splay shall be kept free of obstacles.

Reason: In the interests of highway safety.

8. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 as amended, or any order revoking and re-enacting that order the access to the development hereby permitted shall not be other than from the point marked 'site entrance gates' on approved plan 829/1.1.

Reason: In the interests of highway safety.

9. No water shall be discharged from the site which is sufficiently contaminated with clay or silt to cause clouding or sedimentation in adjoining ditches or watercourses.

Reason: To prevent pollution of ditches and watercourses.

10. All tanks containing oil, fuels, or chemicals, other than bitumen, shall be sited on a concrete base surrounded by bund walls capable of retaining at least 110 per cent of the tank(s) volume and any spillages from fill or draw pipes. The bund walls shall be built and subsequently maintained in a condition such as to satisfy this condition in respect of the reason stated.

Reason: To prevent pollution of watercourses and groundwater.

11. No reversing beepers or other means of warning of reversing vehicles shall be fixed to, or used on, any mobile plant, other than Heavy Goods Vehicles visiting the site, except in accordance with details to be agreed by the local planning authority.

Reason: To screen the site and protect the appearance and character of the area.

12. The existing hedgerow and trees on the embankment as shown on approved plan 829/11 shall be retained and maintained in good condition.

Reason: The buildings, because of their design and siting, are not suitable for permanent retention.

13. At the expiration of five years from the date of this permission the temporary portacabin buildings shall be removed from the site and the land shall be restored to its former condition on or before that date unless plans and details of buildings of permanent construction have been approved by the local planning authority in writing in which case these buildings may replace the temporary ones

Reason: The buildings, because of their design and siting, are not suitable for permanent retention.

14. All items of mechanical plant and equipment, including compressor motors, fans, etc shall be operated in a manner which does not cause nuisance through noise. Acoustic control of plant on site shall be in accordance with the details agreed in the letter dated 4n/94.

Reason: In order to secure a reduction in the level of noise emanating from the premises.

15. Details of measures to be taken to prevent mud or dust from vehicles leaving the site being deposited on the public highway shall be as agreed in the letter dated 4n/94. The agreed measures shall be fully implemented within three months of the local planning authority deeming that such measures are necessary. Thereafter no lorry shall leave the site unless its wheels have been cleaned sufficiently to prevent mud being carried on to the highway.

Reason: In the interests of highway safety.

16. Notwithstanding Class 81 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any order revoking or re-enacting that order only those offices marked as 'portable offices to be used as area offices for Redland Land and Development Dept. on approved plan 829/11 or any permanent offices that may be agreed in accordance with condition 11 shall be used as area offices for Lafarge Aggregates. and for no other purpose whatsoever. In any event the offices shall not exceed 72 square metres floor space.

Reason: To enable the local planning authority to retain control over the development and to ensure that the office use is associated with the development on the rest of the site.

17. The existing three metre high continuous solid concrete fence shall be retained and maintained between points A and 8 marked on approved plan 829/11 except to allow for a 6-metre-wide access to the adjoining site to the north.

Reason: To screen the development acoustically and visually from surrounding land.

18. Unless otherwise agreed by the local planning authority in writing no aggregates shall be delivered to or stored in the aggregate bays numbered 1 to 9 on approved plan 829/11 except by rail.

Reason: To reduce lorry traffic on local roads in the interests of highway safety and local amenity.

19.No aggregates shall be delivered to or stored in the aggregate bays numbers 10 to 12 by road except sand and any type of crushed rock unavailable at any rail-headed quarry in England and Wales unless otherwise agreed in writing by the local planning authority.

Reason: To reduce lorry traffic on local roads in the interests of highway safety and local amenity.

20.Unless otherwise agreed by the local planning authority in writing no aggregates or other materials shall be deposited, stockpiled or stored on site except in structures shown for these purposes on approved plans 829n1, 829/12, and PL3902-1574-3.

Reason: To prevent pollution of groundwater and watercourses.

21.The site shall be surfaced in accordance with details agreed in the letter and attached plan dated 4/7/95. The site shall be surfaced with such materials that would prevent water or any effluent from the site from entering groundwater or nearby watercourses and thereafter maintained free of potholes.

Reason: To prevent pollution of groundwater and watercourses.

22.All surface water runoff from the site shall be directed to the water sump shown on approved plan 829/11 or such other sump as the local planning authority may agree. The sump shall be concreted in sufficiently to prevent water or any effluent from entering groundwater or nearby watercourses. The sump shall be cleaned out when full and the materials removed to a site properly licensed for its disposal.

Reason: To prevent pollution of groundwater and watercourses.

23.All wastes arising from the operation of the plant which are not reclaimed on site shall not be other than removed to a site properly licensed for their disposal.

Reason: To prevent pollution of groundwater and watercourses.

Annex 2 - Amended Conditions

The applicant has proposed changes to conditions 2, 3, 4, 5, 8, 12, 13, 16

Condition 2

The applicant has applied to vary condition 2, which states that the development should be carried out in accordance with the approved plans. These are listed on the first page of the decision notice, rather than within the condition.

Existing wording - The development hereby approved shall be carried out solely in accordance with the details submitted with the application except as modified by conditions of this permission unless otherwise agreed by the local planning authority in writing.

Applicant proposed change – The approved plans should be updated to include the new plans showing the locations for the relocated office, canteen and WC, and remove superseded plans.

Officer comments – The proposed change is acceptable. Condition 2 should be updated to list all approved plans, in line with current practice.

Condition 3

The applicant has applied to vary condition 3, which sets out the operating hours for the plant.

Existing wording - Except with the prior agreement of the local planning authority in writing, no operations authorised or required by this permission shall be carried out and plant shall not be operated, other than: Between 0400 and 1900 hours Mondays to Saturdays and 0800 hours to 1700 hours on Sundays.

Applicant proposed change – The applicant has applied for this condition to be removed so that the plant can be operated at any time, without the need to seek prior agreement from the local planning authority.

Officer comments – The proposed deletion of this condition is acceptable should the application be approved.

Condition 4

The applicant has applied to delete condition 4, as it only applied until the end of 2003 and therefore is no longer needed.

Existing wording - That between the hours of 0400 and 0600 in the period up to 31 December 2003 only, no lorries shall enter or leave the site.

Applicant proposed change – The applicant has applied for this condition to be removed.

Officer comments – The deletion of this condition is considered acceptable as it no longer applies.

Condition 5

The applicant has applied to remove condition 5, which relates to operating hours.

Existing wording - That should any justifiable complaints be received about the operations of the site within the hours hereby extended i.e. 0400 to 0600 hours and 1800 to 1900 hours Mondays to Fridays; 0400 to 0600 hours and 1400 to 1900 hours on Saturdays and 0800 to 1700 hours on Sundays, the site shall cease operations and the applicant shall submit for written approval by the local planning authority, details of measures to overcome those complaints. Site operations shall not recommence until such measures have been approved and implemented.

Applicant proposed change – The applicant has applied for this condition to be removed.

Officer comments – Concerns have been raised about the removal of this condition as residents are concerned that there should still be a mechanism to respond to noise complaints. However, it is considered that the current wording of the condition is not precise or enforceable. It is considered that the need to respond to complaints about excessive noise at night would be best dealt with through a new condition requiring the applicant to monitor noise and submit details further to any request by the Minerals Planning Authority. This request would be made if complaints were received about night-time noise levels. It would be used in conjunction with another new condition setting night-time noise levels. If the monitoring showed that the approved levels were not being achieved operations would need to cease until the problem had been resolved. This would ensure that noise mitigation operates as anticipated and night time working would not cause unacceptable impacts on amenity. Details of these additional conditions are set out below. Therefore, this condition can be deleted.

Condition 8

The applicant has applied to vary condition 8, as this refers to an approved plan which would be superseded through the approval of this application.

Existing wording – Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 as amended, or any order revoking and re-enacting that order the access to the development hereby permitted shall not be other than from the point marked 'site entrance gates' on approved plan B29/11

Applicant proposed change – It is proposed to update the plan reference.

Officer comments – The updating of this condition is acceptable should the application be approved. The reference to the permitted development order should also be updated.

Condition 12

The applicant has applied to vary condition 12, which includes reference to an approved plan which would be superseded through the approval of this application.

Existing wording - The existing hedgerow and trees on the embankment as shown on approved plan B29/11 shall be retained and maintained in good condition.

Applicant proposed wording – It is proposed to update the plan reference.

Officer comments – The updating of this condition is acceptable should the application be approved.

Condition 13

The applicant has applied to remove condition 13, which requires the removal of portacabin buildings.

Existing wording - At the expiration of five years from the date of this permission the temporary portacabin buildings shall be removed from the site and the land shall be restored to its former condition on or before that date unless plans and details of buildings of permanent construction have been approved by the local planning authority in writing in which case these buildings may replace the temporary ones

Applicant proposed wording – it is proposed to delete the condition.

Officer comments – The buildings have been removed and therefore this condition is no longer required and it is acceptable to delete it.

Condition 16

The applicant has applied to vary condition 16, which restricts the use of portable offices shown on an approved plan so that they can only be used as offices.

Existing wording - Notwithstanding Class 81 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any order revoking or re-enacting that order only those offices marked as 'portable offices to be used as area offices for Redland Land and Development Dept.' on approved plan 829/11 or any permanent offices that may be agreed in accordance with condition 11 shall be used as area offices for Lafarge Aggregates and for no other purpose whatsoever. In any event the offices shall not exceed 72 square metres floor space.

Applicant proposed change – It is proposed to delete this condition.

Officer comments – The buildings have been removed and therefore this condition is no longer required and it is acceptable to delete it.

Other changes to conditions

The remaining conditions on consent CHN.45/90 have been checked to see if any further changes are needed.

- Condition 1 is not required as the development has already commenced
- Condition 6 requires signage to be put up to instruct drivers that the agreed lorry routes for 'additional hours' (6pm-6am and 2pm-6am on a Sunday) is direct to the M40 via Hennef Way. The signage referenced in condition 6 is not present on site. The more restrictive route for night time lorry movements is better dealt with through the new routeing agreement. However, the condition should be retained so that there is signage on site to remind drivers of the requirements. The wording should be adjusted to ensure that it is precise.
- Update reasons for the conditions to include reference to relevant current policies
- Condition 11 should be updated as it requires the submission of details on reversing beepers, which have already been provided
- Plan references need to be updated where old plans will be superseded. In addition to the conditions identified by the applicant, this also applies to condition 7, 17
- The wording 'unless otherwise agreed in writing by the local planning authority' should be removed from conditions 18, 19 and 20 to ensure that it is precise.
- Condition 21 should be updated as the site has already been surfaced, but this should be maintained to prevent pollution.

Additional conditions

- An additional condition is required for a planting scheme to mitigate the vegetation removal necessary for the relocation of the office.
- Details of protection measures for vegetation to be retained should be provided.
- Full details of the noise barrier should be submitted, approved and implemented prior to the commencement of night time operations
- Condition to confirm that train movements and unloading are restricted to daytime hours only with a maximum of 3 per week, with records kept ensuring that compliance can be monitored
- Night-time noise limits of 1 decibel above background noise, as set out in submitted noise assessment
- Developer to monitor night time noise levels and submit details to Minerals Planning Authority upon request
- A condition stating that overnight working (between 6pm and 4am) shall only take place on up to 180 nights per calendar year

PN7

- A condition for records of night working to be kept and provided on request, to ensure that the condition above can be monitored and enforced
- An additional condition should be added to confirm the list of approved plans
- No external lighting, except in accordance with a scheme which has been submitted and approved by the Minerals Planning Authority.

Annex 3 – Representations

Representations relating to application MW.0117/18

Noise impacts:

- Concerned about long hours of working at anti-social times
- Open gateways would reduce impact of acoustic fencing
- Noise survey locations not representative
- Impacts on residents cannot be predicted
- 24-hour working is not necessarily appropriate at this site just because it is permitted elsewhere in the area
- Locations used in noise assessment were not ideal
- Noise should be monitored, complaints should be investigated, and action taken if needed. Restrictions should not be lifted until it has been proven that effects are negligible.
- Concern that if conditions are removed residents will not be able to complain about nuisance noise
- Acoustic fence would be ineffective due to gaps and entrances

Complaints:

- Proposed changes to conditions will mean that there will be no requirement to temporarily cease operations in response to complaints about noise or traffic, there is likely to be an increase in complaints with 24-hour working

Traffic:

- Object to the applicant's claim that they are not the sole producer of HGV traffic in the locality – they are

Officer response to representations: *Noise impacts are covered in the main report. There has been no objection from Transport Development Control and this application does not propose an increase in HGV movements.*

Other Representations

In addition to the 11 representations made in relation to this application (MW.0117/18), which are addressed above, 9 representations were made which did not specify whether they were objecting to these proposals or to application MW.0116/18, which is for an unrelated development by the same applicant on an adjacent site. These representations are summarised below. They largely related to application MW.0116/18 which proposes new development on a green field site and would lead to additional HGV movements. This application was submitted at the same time as MW.0117/18 but is not yet ready to be determined. The concerns that development had commenced prior to the application being determined were unfounded as the construction was associated with an unrelated site in the area.

Amenity impacts

- 24-hour plant should not be located so close to a residential area
- Asphalt plant already creates odour
- Noise is already a problem at night with grinding machinery at 5am waking residents
- Have previously complained to Cherwell EHO about 5am noise, unloading of trains at night at Tarmac site has been the biggest cause of noise nuisance in the area
- Noise from trains comes from work carried out in the open air, cannot compare to industrial processes taking place inside buildings
- Noise report can only measure noise from existing site, not the proposed one
- Noise survey did not use the best locations
- Loading and unloading would be noise
- Strong objections to noise at night
- Increase in rail traffic will worsen impacts
- Additional dust impacts
- Impact on the setting of Spiceball Park
- Impact on people using informal recreation areas
- No consideration has been given to the impacts of lighting a much larger site
- Air and noise pollution along Hennef Way has been steadily increasing for years due to increased traffic and industrial activity
- Hennef Way already breached air quality standards

Traffic

- Traffic already a problem and a safety issue with HGVs queuing and pulling around each other in an area busy with pedestrians, more HGVs will worsen this
- No pavements or road markings in the area despite being a public footpath, a safe route should be provided for pedestrians and cyclists

Proposed traffic management scheme is not adequate for pedestrians crossing from the rail bridge to the country park

- There should be a stop sign for traffic approaching the right of way
- There should be double yellow lines to prevent HGVs parking, which makes crossing difficult and forces pedestrians into the middle of the road
- No data has been provided on users of the right of way, it is heavily used by pedestrians and cyclists.

Concern that development has started prior to the applications being determined

- Drilling and digging has begun

Concern about process

- Surprised that Environmental Impact Assessment was not required

PN7

- Inappropriate for the council to determine applications when they also have responsibility to investigate noise complaints

Conditions suggested

- Site should be subject to normal hours of operations
- Measures should be put in place to protect pedestrians
-

Impacts on pedestrians

- This area is used for dog walking, exercise, access to park and reservoir and access from Grimsbury to Tesco
- There needs to be more signage warning lorries of pedestrians and the road markings are not clear where the slip road meets the footpath. There should also be double yellow lines to prevent dangerous lorry parking.

Impact on wildlife

- General concern about harm to wildlife in the area

Annex 4 - European Protected Species

The Local Planning Authority in exercising any of their functions, have a legal duty to have regard to the requirements of the Conservation of Species & Habitats Regulations 2017 which identifies 4 main offences for development affecting European Protected Species (EPS).

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of a EPS including in particular any disturbance which is likely a) to impair their ability – b) to affect significantly the local distribution or abundance of the species to which they belong. i) to survive, to breed or reproduce, or to rear or nurture their young, or ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
4. Damage or destruction of an EPS breeding site or resting place.

Our records and consideration of the habitats within the site area indicate that European Protected Species are unlikely to be present. Therefore, no further consideration of the Conservation of Species & Habitats Regulations is necessary.

Compliance with National Planning Policy Framework

In accordance with paragraph 38 of the NPPF Oxfordshire County Council takes a positive and creative approach and to this end seeks to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. We seek to approve applications for sustainable development where possible.

We work with applicants in a positive and creative manner by;

- offering a pre-application advice service, and
- updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions. For example, in this case further information was requested in relation to landscape impacts.