

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 29 November 2021 commencing at 2.00 pm and finishing at 4.28 pm

Present:

Voting Members: Councillor Geoff Saul – in the Chair

Councillor Richard Webber (Deputy Chair)
Councillor Robin Bennett
Councillor Felix Bloomfield
Councillor Yvonne Constance OBE
Councillor Mohamed Fadlalla
Councillor Judy Roberts
Councillor David Rouane
Councillor Les Sibley

Other Members in Attendance: Councillor Ian Middleton (for Agenda Item 6)
Councillor Liz Leffman (for Agenda Item 7)

Officers:

Whole of meeting G. Warrington & D. Mytton (Law & Governance); D. Periam & M. Hudson (Strategic Infrastructure & Planning)

Part of meeting

Agenda Item **Officer Attending**
7. M. Case (Strategic Infrastructure & Planning) & H. Breith (Environment Strategy)

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting and decided as set out below. Except as insofar as otherwise specified, the reasons for the decisions are contained in the agenda and reports, copies of which are attached to the signed Minutes.

24/21 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

<i>Apology for Absence</i>	<i>Temporary Appointment</i>
Councillor Stefan Gawrysiak Councillor Ian Snowdon	- -

25/21 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE OPPOSITE
(Agenda No. 2)

There were no declarations of interest.

26/21 MINUTES
(Agenda No. 3)

The minutes of the meeting held on 6 September 2021 were approved and signed.

Minute 21/21 – Serving of the Prohibition Order for the Review of the Mineral Planning Permission (ROMP) at Thrupp Farm and Thrupp Lane, Radley

The Chairman referred to an email sent to all members of the Committee from Radley Parish Council requesting that “OCC officers enter into discussions with the Parish Council so as to give the Committee an early, and if possible agreed, understanding of the legal options open to them.”

Officers reiterated that at the 6 September meeting their advice had been as set out in the report submitted to the Committee at that time and based on counsel’s opinion, which had been appended to the report. The Committee had then heard from representatives of the parish council, Friends of Radley Lakes and the operator and his agent before resolving to defer a decision to the July meeting with the expectation that the operator would by that time have submitted a ROMP application accompanied by an Environmental Statement for the whole of the Radley ROMP permissions area.

The Chairman was asked to respond to the Radley Parish Council setting out that the Committee having listened to a variety of views and opinions and debated the matter thoroughly had reached its decision in the light of all the information provided and it was not considered appropriate for officers to now enter into further discussion with the Parish Council with regard to the legal options open to the Committee and if the Parish Council had any new information and wished to make further submissions for officers to consider then they were of course welcome to do that in writing which officers could then review.

27/21 PETITIONS AND PUBLIC ADDRESS
(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
Phillip Duncan (Agent for the Applicant) County Councillor Ian Middleton (Local Member))) 6. Cassington Quarry – Application) MW.0122/20)

<p>Antony Cook (Agent for the Applicant) County Councillor Liz Leffman (Local Member)</p>	<p>) 7. Castle Barn Quarry – Application) Nos. MW.0057/21 and) MW.0058/21)</p>
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28/21 CHAIRMAN'S UPDATES

(Agenda No. 5)

Officers advised that an application had been submitted to the Vale of White Horse District Council for permanent planning permission to use the Curtis site in Thrupp Lane as a contractor's yard.

29/21 SECTION 73 APPLICATION FOR THE CONTINUATION OF THE WINNING AND WORKING OF SAND AND GRAVEL WITH RESTORATION USING SUITABLE IMPORTED MATERIALS TO VARY CONDITIONS 2, 3 AND 6 OF PLANNING PERMISSION 19/02521/CM (MW.0111/19) IN ORDER TO EXTEND THE PERIOD OF EXTRACTION UNTIL 31ST DECEMBER 2022 AND THE TIME PERIOD FOR RESTORATION UNTIL 31ST DECEMBER 2024 TO ALLOW FOR SUFFICIENT TIME FOR THE WORKING OF MINERAL FROM BENEATH THE PLANT SITE AND THE REVISED RESTORATION OF THE PLANT SITE AT CASSINGTON QUARRY, WORTON, WITNEY, OX29 4EB - APPLICATION NO: MW.0122/20

(Agenda No. 6)

The Committee considered (PN6) a report setting out proposed changes to the specified existing planning conditions which had been applied for under application no. MW.0122/20.

Officers presented the report and confirmed that the intention had been to use spoil from the now delayed Oxford Flood Alleviation Scheme but there was nothing to restrict the applicants from sourcing restoration material from elsewhere.

Phillip Duncan for the applicants explained that this was an application for an extension of one year due to delays in acquiring a licence to undertake work involving Great Crested Newts. Cassington Quarry had been worked and restored and this application represented the last element. He confirmed that material would be available from sources other than the delayed Oxford flood alleviation scheme. Plant site restoration had originally been for one large water body but as the quarry already had a large amount of that type of habitat a variation had been sought to reduce the extent of the water body, increase the area of grassland and provide smaller and more varied waterbodies. The timeframes for that permission had been for extraction to cease by 31 December 2020 with restoration completed within 2 years of that date. However, it was then identified that the site was populated by great crested newts, which were subject to protection with strict limitations on what works could be undertaken. The newt project, which related to the animal's life cycle, had been due to commence in April 2021 with an application made to extend the timeframes of the

planning permission by 1 year. However, the process to get the GCN licence took longer than anticipated with the necessary certificate only issued on 23 July 2021. Therefore, a further extension of time for the planning application was needed to enable the GCN works to be undertaken and amend the 1-year extension by a further year. This application was simply the result of an interconnected licensing and planning process. The GCN licence was now in place and if this application was approved then the last sand and gravel could be extracted from Cassington and the site then restored.

Councillor Ian Middleton referred to the many extensions to this site. The original permission had included a completion date of 2010, but we were now 11 years on from that. Although the applicant had referred to a 1-year extension the report referred to two years. There was a lot of local frustration that there always seemed to be one extension after another and a need to draw a line. He supported the protection being afforded to the great crested newt population but felt that the issue was something of a smoke screen. There were also issues relating to the green belt and rights of way and Yarnton residents wanted to see an end to this saga.

Members expressed their sympathy with the obvious local frustration which seemed to be a common theme with many permissions not meeting original estimates for completion of operations.

Officers accepted that there was a general pattern with regard to the frequency of extensions and although difficult to defend business circumstances did change and in this case the application needed to be considered in order to facilitate restoration. It was open to the Committee to approve for a reduced period, but their advice was to approve as recommended while noting the concern.

RESOLVED: (on a motion by Councillor Bloomfield, seconded by Councillor Constance, amended with their consent by Councillor Webber and carried unanimously) that planning permission for MW.0122/20 be approved subject to:

- (a) conditions to be determined by the Director of Planning and Place, to include those set out in Annex 1 to the report PN6; and
- (b) an additional informative that the “The Council’s Planning and Regulation committee was disappointed that yet another section 73 application for an extension of time for the completion of mineral extraction and restoration had had to be brought forward and would encourage the applicant to ensure that the development is now completed as required within the additional time periods permitted.”

30/21 (I) IMPORTATION OF INERT MATERIAL FOR USE IN RESTORATION OF THE SITE AND II) TO CONTINUE THE DEVELOPMENT OF LIMESTONE QUARRY EXTENSION PERMITTED BY 18/02008/CM (MW.0027/18) WITHOUT COMPLYING WITH CONDITION 1, CONDITION 2, CONDITION 8 AND CONDITION 26 IN ORDER TO AMEND THE APPROVED RESTORATION SCHEME, EXTEND THE DATE FOR RESTORATION AND ALLOW THE IMPORTATION OF INERT MATERIAL AT CASTLE BARN

QUARRY, FAIRGREEN FARM, SARSDEN, OXFORDSHIRE - APPLICATION NOS: MW.0057/21 AND MW.0058/21

(Agenda No. 7)

The Committee considered (PN7) a report setting out two applications in relation to Castle Barn Quarry. One (MW.0057/21) sought permission for the importation of inert material for use in restoration of the site and the second (MW.0058/21) a Section 73 application to vary certain conditions attached to planning permission MW.0027/18 regarding importation of material and an extension to the restoration date to 31 December 2024.

Officers presented the report.

Responding to questions officers advised that the statement by the applicant's counsel on page 44 of the report had unsurprisingly stated that this application did not constitute major development and was in the public interest because of benefits from the proposed scheme and improvements to safety on the site. However, under the NPPF a view had to be taken on any application in an AONB and it was for the Committee as decision takers to decide on whether advice given by officers in this case was correct or not. There had been a quarry there for many years and the original permission had been for restoration using on site material but, for whatever reason, more material had been removed from the site and as a result some imported material would now be required. However, the level of import being proposed was twice what was required to infill under the existing scheme.

While giving a higher bio-diversity net gain the new scheme would also result in more HGVs and carbon emissions so a balance was needed between the benefits to be derived from any net gains against the disbenefits from 27,00 additional vehicle movements when restoration could be achieved without that. There was a duty of regard for the management of AONBs.

The Highway Authority had initially raised some concerns but not now subject to routing agreements

Antony Cook for the applicant. Castle Barn Quarry had historically been worked for building stone but in 2015 that changed to allow surplus waste mineral to be crushed and exported as aggregate enabling the quarry to be worked in a more efficient and effective manner while creating a viable product from finite mineral resources. However, adequate safeguards had not been established by that permission or those that followed to ensure retention of sufficient waste material on site for restoration, which now meant that the approved restoration scheme could not now be delivered without importing inert material. While this was an issue that could have been prevented and was a problem inherited by the applicant (as landowner) who was now responsible for delivering the restoration of the quarry the scheme as now proposed presented an opportunity to deliver significant improvements through development, which sought only continuity of the nature and scale of the quarry operation that had existed on this site between 2015 and 2020 with a maximum three-year extension to complete restoration works. However, it was anticipated that the infill operation would be completed within eighteen months with the only discernible difference between the previous mineral operation and the proposed infilling of the remaining

void being that associated HGVs would import rather than export material with the number of daily vehicle movements remaining the same. Central to the officer recommendation was the implied impacts of maintaining HGV movements in the AONB but recent development history for the application site included three planning permissions across 2015, 2017 and 2018 each of which approved 58 daily HGV movements from the quarry and in assessing the impact of these applications county officers had consistently stated that 58 HGV movements exporting mineral did not comprise major development in the AONB and did not result in any adverse impact upon the landscape, including the Cotswolds AONB. How could that be different from the same number of HGV movements importing clean, unrecyclable inert material over an 18-month period and if it was that such adverse impacts existed then there should be compelling evidence resulting from the previous mineral operation. But that was not the case. The officer report referred to the lesser number of movements required to deliver the existing 'satisfactory' restoration scheme, but policy dictated that quarry restoration schemes must strive to be more than satisfactory especially within an AONB landscape. The consented scheme was almost entirely agricultural with limited biodiversity gains and a retained void resulting in a landform uncharacteristic of the designated landscape and he doubted whether the scheme if it were to be determined today would secure planning permission whereas the proposed development presented an opportunity to reinstate the pre-extraction landform in this part of the AONB; deliver wide-ranging and significantly enhanced biodiversity gains that were not achieved by the consented restoration and remove a large and hazardous void only a matter of metres from a public right of way all through 18 months of importation at a scale of development consistent with that which had currently existed at this site, without issue or detriment, for roughly 6 years and supported by the Parish Council. Extending HGV movements would be central to any decision-making process but as the material proposed to be used to fill the void already existed in the form of soils and clays from construction sites which, because of its unsuitability for use as recycled aggregate, would in any event need to be transported for management purposes. He accepted that there was a consented restoration scheme that could be delivered within a shorter timeframe but that would still require importation of inert material while resulting in at best nothing more than a satisfactory outcome whereas now there was an opportunity to deliver long term landscape, biodiversity and public safety benefits while representing 'exceptional circumstances' in accordance with national policy to provide justification to allow these planning applications to be approved.

Responding to questions from Councillors he:

Confirmed that waste would be supplied by a local haulier in North Oxfordshire.

The operation would use inert waste and be subject to an Environmental Permit.

The number of HGVs had been deliberately framed to be consistent with existing limits.

They were aware of surrounding traffic restrictions in settlements such as Chipping Norton.

As local member Councillor Leffman was well aware of the history of this site and did not consider this application constituted major development. What was being proposed would result in a complete infill of the site with a return to agricultural use and substantial improvements to both biodiversity and ecology. There had been traffic movements here for many years comprising tractors and lorries with no complaints and problems resolved through appropriate routeing to avoid neighbouring settlements. There had been no ecology objections or objections from neighbouring communities who accepted that the application would allow a return to agriculture with other major benefits. She considered that the application should be approved.

Councillor Constance supported the views put forward by the local member. Her expectation was that major development would be above ground rather than filling in below ground level. It seemed clear to her that there was an ambition here to restore this area to a higher standard, that there were exceptional circumstances, and it was in the public interest with a net gain in biodiversity.

The Chairman reminded the Committee that the main question was whether the development was major development in the AONB. While there was the potential for biodiversity gains and clearly a desire locally to get on with restoration the question remained about development in the AONB along with concerns regarding a balance to achieve that against increased carbon emissions.

Councillor Roberts referred to the concerns of Chipping Norton residents who were very exercised about pollution and that they might find it difficult to recognise the benefits to their community. Chipping Norton was also an AQMA, and this seemed to be going against that. She agreed that more information was needed as this was a very tight balance.

Councillor Rouane advised that environmental officers had not commented on the AQMA issue he did not see that as a problem and if it wasn't classed as a major scheme before then why it should be now.

Officers advised that Policy C8 and Policy C11 and Appendix 9 of the Cotswolds AONB Management Plan offered guidance on the issue of major development and whether the proposal had a material impact on the AONB. The Cotswolds Management Plan stated that material should address local needs and come from within the AONB. Given the opportunity quarries could become good biodiverse sites and there were landscape benefits to the proposed scheme but to do that here would require traffic movements estimated at around 28,000 HGVs with increased CO2 emissions. The harm caused by this did not outweigh the proposed benefits. This was an infill application and restoration of the quarry did not have to be completed in this way as there was already an alternative approved scheme as set out in the existing planning permission which would deliver biodiversity benefits. The question which needed to be asked was why this restoration scheme required so much more material than the original permission. Care was also needed to ensure a precedent was not set for other schemes.

It was clear from the full discussion that some Members felt that more information was needed in order to reach a conclusive decision and Councillor Edosomwan

moved that the applications be deferred. Seconding the motion Councillor Bennett added that the restoration scheme as now proposed seemed an improvement on the original scheme but agreed that in order to address the issues raised and reach a satisfactory conclusion more information was required to support a decision.

The motion was then put to the Committee and:

RESOLVED: (by 7 votes to 3) that Applications MW.0057/21 and MW.0058/21 be deferred to a future meeting for further information specifically relating to:

- Biodiversity - to include a comparison of the approved and proposed schemes but more generally whether the proposed restoration scheme was exceptionally better than the approved scheme in order to support the need to demonstrate exceptional circumstances and whether the public interest test had been met if it was concluded that it was major development in AONB terms.
- Landscape – Landscape Assessments to be provided by applicant for consideration.
- More detail on the two sites/operators in the north of Oxfordshire which the applicant’s agent had identified as the likely sources of the inert material.
- An assessment of the CO2 emissions associated with the importation of inert material to the site as proposed.

..... in the Chair

Date of signing