

Annex 3

Radley ROMP. Radley Parish Council (RPC) comments on material submitted by the operators' agents on 20-21 June 2022

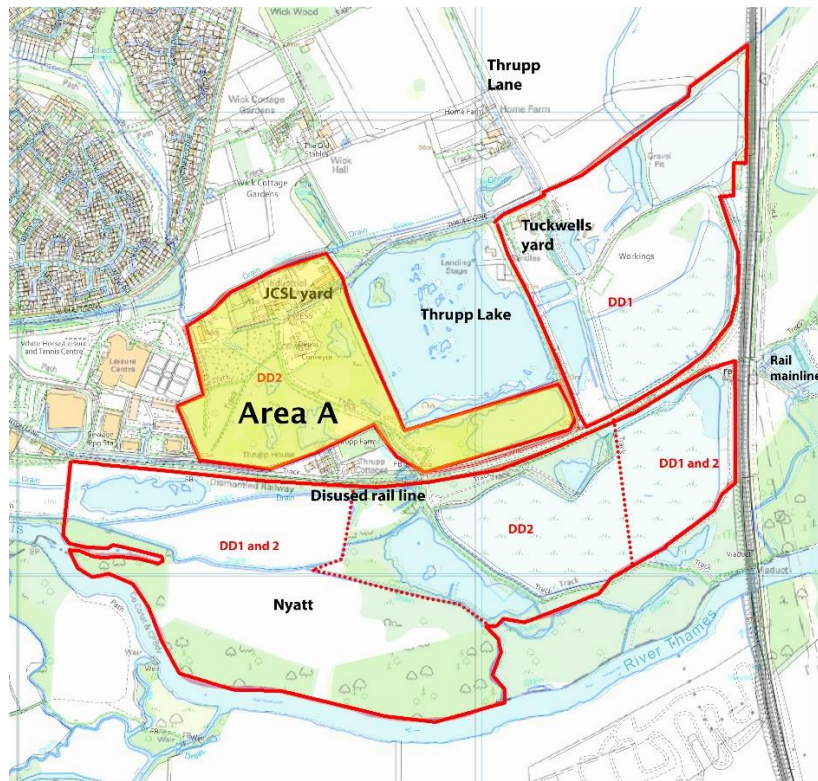
Summary

The material submitted on 20/21 June 2022 does not materially change the position considered by the Planning & Regulation Committee on 6 September 2021.

RPC's view is that

- A good case has been made for discontinuing the prohibition order for most of the ROMP area
- No such case has been made for the land in the north-west of the area, marked 'A' on the map below
- There is no convincing evidence that the restoration of Area A will be achieved through the ROMP process
- It can however be achieved through a prohibition order for this area
- Area A is easily distinguishable, under separate operator control and meets the statutory criteria for serving a prohibition order.
- OCC therefore remain under a statutory duty to proceed with a prohibition order for this area.

The comments below relate primarily to the additional material submitted on 20/21 June and should be read alongside the much fuller comments made prior to the P&RC meeting in September 2021.



Timetable

The operators report a slippage of several months in the submission of their ROMP application, which will not now be made until 'early 2023', as against the previous intention of 'spring/summer 2022'. This makes it more difficult for the P&RC to consider the best route forward at its July meeting and potentially extends the period of blight applying to the ROMP area.

If, however, the revised timetable allows reconsideration of the conveyor route between the proposed extraction and processing sites this is welcome. RPC's view has always been that the two sites and the route between them need to be considered together.

It remains important that the operators consult RPC and others on the detail of their proposals prior to submission to OCC – as they undertook to do at the P&RC meeting in September 2021.

Evidence from the material submitted

Area A

The additional material submitted provides no evidence that minerals remain in this area nor that there is any intention for the area to be used 'to a substantial extent' in connection with minerals winning and working. The legal tests for a prohibition order continue therefore to be met.

Nor does it provide concrete evidence of any intention to restore the area or to propose adequate restoration conditions as part of a ROMP application.

All we are told is

: "Meeting held with John Curtis & Sons Ltd and Ecologist Jonathan Adey to agree a strategy for the restoration of the previously worked ROMP Areas. This will form part of the ROMP Application. It was understood from this meeting that John Curtis & Sons Ltd are seeking to progress a planning application to retain existing, and to create further, employment opportunities at the industrial estate."

This indicates that JCSL remains focussed not on restoration, as required as part of the ROMP process, but on the extension of non-mineral activities on the land.

Moreover the terms of the existing planning permission (DD2) applying to the area have required JCSL to submit restoration plans ever since 2012. They have not done so and it is difficult to see what has changed.

Land other than 'Area A'

In their representations for the September 2021 meeting Tuckwells submitted considerable evidence of their intention to extract minerals from this land. In their representations RPC accepted that a genuine intent did exist.

The further material submitted on 20/21 June confirms Tuckwells intentions and RPC's view is unchanged. They represent a genuine intent.

The issues arising and the decision required

In the absence of action by the P&RC the land in Area A will remain unrestored until 2043, over 60 years after minerals extraction ceased. This is not an outcome that can be brushed aside. The land is

- wholly in green belt;
- part of the Radley Lakes Masterplan area for nature conservation and quiet recreation;
- within a Local Wildlife Site and Conservation Target Area.

At its September 2021 meeting the Committee seemed clear that continued failure to restore the land was unacceptable. The question at issue was the best route to prevent this happening.

- RPC argued that the appropriate route was a prohibition order applying just to Area A, that this was viable and indeed a duty, and that there was enough evidence to decide on the matter without waiting.
- Officers advised that such a limited order was possible but that it would be preferable to seek the restoration of the area through the ROMP process.

The Committee decided that, before reaching a conclusion, it should review the position in July 2022 in the light of progress with the ROMP.

Nine months on where does this leave the Committee?¹ Not as far on as they had hoped. But in RPC's view there is still enough evidence to form the basis of a sound decision.

The new evidence makes it clearer than ever that there is no intention to use Area A for minerals purposes, but that there is credible evidence of an intention to extract minerals elsewhere in the ROMP area.

The tests for a prohibition order are therefore met for Area A, but not for the remainder of the ROMP area.

Nothing seems likely to change that position. The questions then are

- Is it feasible to make an order just for Area A?
- Could the same result be achieved through the ROMP process?

Is it feasible to make an order just for Area A?

RPC set out in September 2021 why an order applying just to Area A was feasible and appropriate in law.

- The legislation on prohibition orders is separate to that on ROMP reviews and is not tied to the area of a ROMP or even to that of an individual permission.
- The Government explained at the time that an order for part only of a ROMP area might be appropriate where there were two operators, varying in the extent of their compliance – as is the case here.
- They also explained that what was previously a power for a minerals authority to make an order was being made a duty so as to avoid blight through authority inaction – as is the risk here.

There is a further point which was not put before the Committee in September but is significant.

- The existing planning permission (DD2) already splits the DD2 area into two with one set of conditions applying to the land 'north of the disused railway' (ie Area A) and another to the remainder. A prohibition order applying just to Area A would therefore mirror a distinction already applying and not break new ground.

Could the same result be achieved through the ROMP process?

The evidence suggests not. Under a ROMP review it is up to the applicants not OCC to propose restoration conditions. The ROMP process is being led by Tuckwells who wish to extract gravel. The land in Area A, however, is controlled not by them but by JCSL and falls outside the management agreement between the two. JCSL have taken no action to date to restore the land as required by the current planning

¹ RPC sought to use this period for discussions with OCC on the interpretation of the law and the available options so that the Committee might be presented with an agreed analysis of the position. . OCC however declined to meet us.

permission and seem focussed on other non-minerals objectives which conflict with green belt policy and could well prejudice restoration.

The decision now to be taken

The Committee could allow more time for firmer intentions on restoration to emerge from JCSL but this risks yet more delay to no purpose. The delay would lead not only to continued inaction on restoration but also to continued uncertainty for Tuckwells about their planned extraction in the remainder of the ROMP area.

RPC's view is that uncertainty has already been dragging on much too long. A decision could and should be made now to proceed with a prohibition order, but one limited in scope just to Area A.

Radley Parish Council
30 June 2022