

**Division Affected:** Sutton Courtenay and Marcham

**PLANNING AND REGULATION COMMITTEE**

**Application to modify or discharge Section 106 Planning Obligations to remove the existing waste catchment area and amend permissive path at Sutton Courtenay Landfill Site**

**Report by Director of Planning, Environment and Climate Change**

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

**Location:** Sutton Courtenay Landfill Site, Appleford Sidings, OX14 4PP

**Application No:** MW.0034/23 **District Ref:** P23/V0529/CM

**Applicant:** FCC

**District Council Area:** Vale of White Horse

**Date Received:** 27<sup>th</sup> February 2023

**Consultation Period:** 9<sup>th</sup> – 30<sup>th</sup> March 2023

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**Summary**

1. This report sets out the details of a Section 106 A application to amend a legal agreement associated with an existing planning permission. The applicant proposes to remove the hinterland obligation, which currently means that waste can only be brought in to the landfill from Oxfordshire, Reading, Bracknell, Wokingham and West Berkshire. They also propose a change to the timescale for delivery of a permissive path. This report considers whether these obligations continue to serve a useful purpose and recommends that the application is approved, and a deed of variation is entered into to, to amend the terms of the legal agreement.

## • Part 1 – Facts and Background

### **Location (see plan 1)**

2. Sutton Courtenay Landfill Site covers 263 hectares between Appleford and Sutton Courtenay villages, containing land in both parishes.

### **Site and Setting**

3. Sutton Courtenay is a 264-hectare site. The site is bordered by the B4016 to the north and by the Oxford to London railway line to the east. Didcot power station lies immediately south and to the west lies open agricultural land.
4. The site is crossed by two private roads, Portway which runs east-west and Corridor Road which runs north-south. These roads are both rights of way for at least part of their lengths.
5. There are two vehicular accesses to the site, one to the north and one to the south. The northern access is onto the Sutton Courtenay to Appleford Road (B4016) and over the Thames at Culham Bridge. Landfill traffic is required to use the southern access, which exits onto a roundabout on the Didcot perimeter road (A4130.) The site has a rail siding entering the site from the east off the main Oxford to London line.
6. The closest properties to the site are Hill Farm and Bridge House, which lie adjacent to the planning permission boundary. Bridge Farm House, Crossing Cottage and properties on Chambrai Close and Main Road, Appleford fall within 100 metres of the application boundary.
7. Oxfordshire County Council are dealing with a planning application for the 'HIF1' road scheme. This application has not yet been determined. If approved, this would permit the construction of a new road which would cut through the site from the south east to north west, which would require amendments to the approved restoration proposals.

### **Background and history**

8. Sand and gravel working at the Sutton Courtenay site commenced in the 1930s and landfilling has been ongoing as part of the restoration works since the 1970s. A number of consents have been permitted over the years to alter the duration of the landfilling consent and vary the conditions associated with the operations. There are a number of active consents for minerals and waste developments within the landfill site. Some of these are temporary for the life of the landfill.
9. A planning application was submitted in 1992 to consolidate all earlier permissions and extend mineral extraction and landfilling. This was issued

in 1996 (SUT/APF/616/33-CM.) In 2001 a new permission was issued (SUT/APF/616/45 CM) which varied the conditions to allow an increased proportion of waste to be imported by road for a temporary period. In 2009 a permission (APF/616/56-CM) was issued to extend the landfill end date for the landfill from 2012 to 2021. This was issued following the completion of a routeing agreement and a Section 106 legal agreement dated 4<sup>th</sup> November 2008. This agreement covers highway contributions, a levy for waste imported by road, long term management, footpath provision and a hinterland restriction limiting waste imported by road to that originating in Oxfordshire, West Berkshire, Reading, Wokingham and Bracknell Forest. This replaced the hinterland area of the previous Section 106 agreement, which was based on distance from the site rather than local authority areas.

10. Permission SUT/616/59-CM was issued in 2010. Amongst other changes this further extended the life of the landfill, until 2030. This was issued following the completion of a supplemental Section 106 legal agreement dated 12<sup>th</sup> October 2009. This agreement ensured that the provisions of the 2008 agreement, including the hinterland, continued to apply and replaced the plan for the long-term management of the restored site and included a new footpaths plan.
11. In 2014 a further Section 73 application was made to amend the conditions on the landfill consent, to extend the date for the completion of sand and gravel extraction under the mineral processing plant. Although mineral extraction operations were complete within the landfill, the processing plant was within the site and covered by the landfilling consent. When permission P14/V0479/CM (OCC reference MW.0009/14) was issued it became the main consent for landfilling operations. No new legal agreements were needed as the existing Section 106, supplemental Section 106 and routeing agreement would continue to apply, including the hinterland provisions.
12. In 2015 a further Section 73 application was approved, amending the conditions on the extant landfilling consent to amend the landfill phasing, the restoration plan for phase 3, the restored contours of phase 3 and the restoration method for phases 3 and 4. This resulted in permission P15/V0530/CM (OCC reference MW.0039/15) which was issued in August 2015. This is the extant permission for landfilling. No new legal agreements were needed as the existing Section 106, supplemental Section 106 and routeing agreement would continue to apply, including the hinterland provisions.

### **Details of the Application**

13. This is an application made under Section 106A of the Town and Country Planning Act 1990 (as amended). This allows a person against whom a planning obligation is enforceable to apply to modify or discharge the obligations in a Section 106 agreement.

14. FCC have applied for two modifications to the obligations contained in the 4<sup>th</sup> November 2008 agreement and the 12<sup>th</sup> October 2009 supplemental agreement. The changes proposed are removal of the obligation relating to the waste hinterland and a revision to the timescale for the provision of one of the permissive paths required as part of the restoration.

#### Waste Hinterland

15. The existing legal agreement requires that no waste is imported by road, other than from Oxfordshire, West Berkshire, Reading, Wokingham and Bracknell. This replaced an earlier hinterland restriction which showed the hinterland as a radius on a plan, not linked to local authority boundaries. The restriction was considered to be necessary to ensure that waste was disposed of near its source and waste was not transported long distances by road.
16. Oxfordshire County Council's monitoring team regularly check compliance with conditions and legal agreements on active waste sites. The monitoring team identified that waste was coming in from outside of the approved hinterland area and raised this non-compliance with the operator.
17. As a result, the applicant has made this application to regularise the situation by removing the hinterland restriction so that waste can be brought from anywhere. No information has been supplied predicting what proportion might still come from the current hinterland and what proportion might be from further afield, or indicated likely sources of waste from outside the current hinterland. However, data showing the source of waste to the landfill over recent years indicate that waste is brought from across the South East in quantities which far exceed waste imported from within the approved hinterland.
18. This proposed change relates to the source of waste, rather than the quantity of waste. Condition 52 on the planning consent (MW.0039/15) limits annual waste imports to 600 000 tonnes, with no more than 350 000 tonnes by road. These limitations on the quantity of waste would remain unchanged.

#### Permissive Path

19. The applicant is seeking to amend the timescale for provision of a north-south permissive path running from the existing Byway Open to All Traffic (BOAT) on Portway, north and then north west to meet footpath 373/12/40 which on its definitive route runs east-west in the northern part of the site.
20. This footpath 373/12/40 is currently diverted along the northern boundary of the site, to allow completion of restoration of Phase 3. However, the permissive path would meet this footpath at the point where the definitive

route and the diversion meet, so this diversion would not impact the provision of the permissive path.

21. The existing Section 106 legal agreement requires that the path be put in 'progressively' during the restoration of the relevant part of the site and opened to the public no later than 30<sup>th</sup> September 2023. The application states that this cannot be provided within the timescale specified in the agreement because a cement plant occupies the land. This is understood to refer to an operation which crushes and recycles reject building blocks and a mineral processing area, both operated by other parties.
22. It is proposed that the path would be provided after landfilling has ceased in 2030, as the life of the other activities on the site are linked to this.

## • Part 2 – Other Viewpoints

### Representations

23. Two representations were received. The first expresses concern about HGVs passing through Henley on Thames and requests clarification of the routes to be used. No change proposed to the maximum HGV movements or the routes permitted by the routeing agreement. The routeing agreement is intended to ensure that HGVs do not travel through local villages to reach the site and therefore the routeing plan does not cover, or place any restriction on, the roads in Henley on Thames.
24. The second supports the objections from the Parish Councils. It goes on to state that it is unacceptable that the hinterland agreement has already been breached and that a company be allowed to be in breach of a planning condition aimed at protecting the amenity of the local community and preventing the transport of waste over long distances. It was clear from discussion at the liaison meeting that the old concrete batching plant is being removed and therefore there is no need to further delay the implementation of the permissive path.
25. The hinterland is secured by a legal agreement, rather than a condition. It is the usual approach when a breach of planning control is identified to invite the applicant to make an application to regularise the development as being carried out, to establish whether it is acceptable. The application refers to a cement plant being the reason for the delay to the implementation of the path. At the liaison meeting it was queried whether this referred to the concrete batching plant. However, it then became clear that it referred to the block crushing operations which have permission until 2030 and does prevent the implementation of the permissive path in the affected area.

### Consultation Responses

### **Sutton Courtenay Parish Council**

26. Object. The suggestion that the current hinterland restriction dates back 14 years and so is out of date is disingenuous as it was effectively implemented after FCC lost a contract to take waste from London. The provisions are not considered to be out of date and the need for sustainable waste management is even more relevant today due to global warming reduction targets. There were several reasons for the restriction including growing public concern that Sutton Courtenay was being used as a waste bin for London and the South East and the need to husband landfill void. Whilst it was related to the proximity principle, it was also to protect the amenity of local communities after the extensive and noisy imports from London and to avoid providing a disincentive to self-sufficiency in the wider area. The applicant has not proved that there is a requirement to restart waste imports from the wider south east and London in order to complete the landfill by 2030. It is possible under OMWCS policy W6, but there must be proof it is necessary. The available void should be filled by 2030 without the need to go outside the hinterland. The application should have specified the timescales. If waste is brought from a wider area it should be by rail. However, rail imports by Hanson and Forterra are already severely affecting Appleford residents. The impacts of the HIF road scheme also need to be considered. Further FCC rail traffic would add to noise pollution. The Milton Keynes appeal referred to in the application documents is not comparable as it had a much larger void.
27. At first glance the request in relation to the permissive path seems understandable. However, this should have been completed some time ago and allowance made for it when Hanson expanded the concrete batching facility. This highlights the ongoing saga of the permissive paths and FCC's failure to implement the agreed footpath plan and OCC's inability to enforce permissions and conditions.

### **Appleford Parish Council**

28. Object. The application should include supporting information regarding the volumes of waste, void and fill rates. It should be clear what proportion of the remaining void would be filled with waste from outside the current hinterland. Residents are concerned about noise nuisance and no information has been provided on this. A noise management plan is required including all three operators, FCC, Hanson and Forterra. The impact of increased activity due to HIF1 being constructed (if approved) should be addressed. A new application should be required rather than an amendment to the Section 106 agreement. It seems strange that they are seeking amendments to agreements in relation to permissive path provision given that existing conditions have not been addressed and remain outstanding.
29. Further Response – Would like to respond further in light of clarifications. Object to an increase in road transport over current levels. Relevant

information on expected tonnages has not been provided. Longer trips from outside the hinterland are contrary to climate and sustainability policies. The existing hinterland restriction was applied for good reason. Maximum tonnages should not be treated as a target to achieve. If the HIF1 road is approved, waste deliveries will pass close to Appleford. The HIF1 traffic assessment assumes the same volume of traffic, but the relaxation of the S106 would result in more HGV traffic.

### **Didcot Town Council**

30. Didcot Town Council's Planning and Development Committee would like to object to this application in regard to the extension of the waste catchment area, the additional waste being brought into the town, and the additional vehicle movements it will bring. The Committee are also disappointed with the delay to reinstating/creating public right of way.

### **Vale of White Horse District Council**

31. It is noted that waste management practices and the availability of landfill within the south-east of England have evolved over the last 14 years since the restriction was placed on the permission. In the interests of local amenity and road safety, request that OCC give consideration to ensuring that the proposal continues to be bound by the existing condition 52 limiting the annual import of waste to 600 000 tonnes, no more than 350 000 tonnes to be imported by road.

### **OCC Rights of Way Officer**

32. No comments on the hinterland restriction removal provision. Regarding the permissive path issue; although this delay isn't particularly welcome, I don't think an objection is possible. We would urge the applicant and wider site operatives to commit to improve all existing PRow and permissive routes through and connecting to the site to deliver public benefits and contribute towards achieving positive relationships with local communities. The same goes for bringing forward restoration activities.

### **OCC Transport Development Control**

33. No response received.

- **Part 3 - Relevant Planning Documents**

### **Relevant Development Plan and other policies**

34. This is not a planning application for new development and therefore does not need to be assessed against development plan policy in the same way as a planning application would. The test for this application is whether the

relevant provisions continue to serve a useful purpose. However, a consideration of relevant planning policy can be helpful in making that assessment.

35. The Development Plan for this area comprises:

- The Vale of White Horse Local Plan 2031 Part 1 (VLP1)
- The Vale of White Horse Local Plan 2031 Part 2 (VLP2)
- Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy (OMWCS)
- Oxfordshire Minerals and Waste Local Plan 1996 (Saved Policies) (OMWLP)

### Emerging Policy

36. South Oxfordshire and Vale of White Horse District Councils are working together to prepare a new Joint Local Plan 2041 (JLP). Once the JLP is adopted, it will replace the VLP1 and VLP2. The plan is at an early stage of preparation and therefore carries no weight in decision-making.

37. The Sutton Courtenay Neighbourhood Plan area was formally designated on 27th January 2017. The Parish Council has started the process of gathering evidence and engaging with the local plan. Given the very early stage of preparation of the plan, it carries no weight in decision-making.

38. In December 2022, the Oxfordshire Minerals and Waste Local Development Scheme (13th Edition) (OMWDS) was approved at Cabinet. This sets out a process for pursuing a new Minerals and Waste Local Plan which will combine Part 1 and Part 2, and upon adoption will replace the OMWCS 2017. The emerging OMWLP is scheduled for submission in March 2025 and there are no draft policies to consider at this time. The OMWCS 2017 remains part of the Development Plan, until the adoption of a new OMWLP.

### Relevant Policies

39. The relevant Oxfordshire Minerals and Waste Core Strategy (OMWCS) policies are:

- M10 – Restoration of mineral workings
- W6 – Landfill
- C1 – Sustainable development
- C2 – Climate Change
- C5 – Local environment, amenity and economy
- C11 – Rights of Way

40. The relevant Oxfordshire Minerals and Waste Local Plan (OMWLP) 1996 policy is:



SC3: Routeing agreements in the Sutton Courtenay Area

41. The relevant Vale of White Horse Local Plan Part 1 (VLP1) policies are:  
 CP 1 – Presumption in favour of sustainable development  
 CP17 – Delivery of Strategic Highway Improvements within the South East Vale sub-area  
 CP18 - Safeguarding of Land for Transport Schemes in the South East Vale Sub-Area

42. The relevant Vale of White Horse Local Plan Part 2 (VLP2) policies are:

CP 18a – Safeguarding of Land for Strategic Highway Improvements  
 DP 23 – Impact of development on amenity

43. Other material considerations include:

National Planning Policy Framework (NPPF)  
 National Planning Policy for Waste (NPPW)  
 Planning Practice Guidance (PPG)

• **Part 4 – Analysis and Conclusions**

**Comments of the Director of Planning, Environment and Climate Change**

**Background**

44. This is not a planning application for new development and therefore the relevant considerations are different. The test for a Section 106A application is whether the relevant provisions continue to serve a useful purpose. This is not necessarily the same as being fully compliant with current development plan policy.

**Hinterland Area**

45. The hinterland area was modified through the 4<sup>th</sup> November 2008 Section 106 agreement. The previous hinterland area for the site was not based on local authority areas, but a radius from the site which created practical difficulties due to the way that waste is collected and managed. The restriction was required to ensure that the development was carried out in a sustainable manner by preventing waste being transported to the site by road over long distances. The site has a rail siding and the hinterland area does not apply to waste transported by rail. There is no geographical restriction on the source of waste brought in by rail.

46. The applicant has argued that the restriction is now 14 years old and is not supported by current planning policy as the OMWCS does not specifically support the imposition of waste catchment areas and the supporting text refers to waste being brought to Oxfordshire from London and Berkshire with the expectation that this would continue. They point to government guidance, including NPPW paragraph 4, which states that planning authorities should plan for this disposal of waste while, 'recognising that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant.'
47. It is correct that the OMWCS, adopted in September 2017, does not provide any specific policy support for imposing hinterland restrictions on waste facilities. Paragraph 5.13 acknowledges that Oxfordshire receives substantial quantities of waste from other areas, and this is anticipated to continue for as long as the landfills in Oxfordshire operate. However, this simply describes the existing hinterland restriction on Sutton Courtenay. Policy W6 states that provision will be made for the disposal of waste from other areas (including London and Berkshire) at existing non-hazardous landfill facilities, again reflecting the hinterland agreement.
48. I consider that provision is made for waste from outside Oxfordshire under the existing hinterland provisions. Waste can be brought in from road from parts of Berkshire and by rail from London and all other areas. Therefore, the hinterland restriction is not considered necessarily contrary to policy W6. However, policy W6 does lend some support to proposals to provide for the disposal of non-hazardous waste from outside Oxfordshire at existing non-hazardous landfill facilities.
49. Paragraph 4 of the NPPW is not considered directly relevant as this proposal relates to an existing landfill facility. It is not a new facility and does not relate to a 'plant'. Paragraph 4 is understood to relate to decisions on new waste management plants, for example Energy Recovery Facilities (ERF).
50. Oxfordshire County Council was unsuccessful in negotiating an agreement or agreeing a condition to require a hinterland for the importation of waste by road on the Ardley ERF. However, this is not considered directly comparable to the hinterland agreement for Sutton Courtenay Landfill Site. At Ardley it was proposed to impose a condition requiring waste processed at the plant to be from within Oxfordshire and stating that waste from adjoining counties could also be imported only if there was residual capacity. The inspector noted that the site was in the north of Oxfordshire and close to the M40 and it would be more sustainable and consistent with the proximity principle to accept waste from close to the Oxfordshire boundary, albeit outside the county, if the facility would be the one which was the nearest. In the case of Sutton Courtenay, it is a landfill facility, and the site is located centrally within the hinterland area.
51. The applicant has undertaken a detailed analysis of landfill capacity within the South East Waste Authority Planning Advisory Group (SEWPAG) and

Greater London and concluded that there is a significant shortfall in non-hazardous landfill capacity, most of the remaining capacity is in Buckinghamshire, Milton Keynes and Oxfordshire, and there will be a continued need for landfill capacity for waste which cannot be recycled. If current disposal rates are maintained landfill capacity in the SEWPAG area will run out within a relatively short timeframe therefore the remaining capacity, such as that at Sutton Courtenay is becoming strategically important.

52. It is accepted that there are not many remaining non-hazardous landfill facilities in the south east and therefore those that remain are becoming important on a regional level. This is reflected in the monitoring data showing that Sutton Courtenay Landfill Site has already been taking significant quantities of waste from outside the hinterland area, contrary to the Section 106 provisions.
53. Sutton Courtenay Parish Council (SCPC) has objected to the proposal. They suggest that the application is incorrect in stating that the current hinterland restrictions date back 14 years as they were actually implemented after FCC lost a contract to bring waste from London. In fact, when waste was brought from London to Sutton Courtenay landfill site, it was transported by train. The current hinterland boundary has been in force since 2009, as stated in the application. Prior to that there was a similar hinterland boundary that was based on a radius from the site rather than local authority boundaries. SCPC set out potential difficulties associated with an increased rail traffic associated to the landfill site, however the hinterland only applies to road traffic. The applicant is already able to bring in waste by rail without a limit on the area it can be brought from. Therefore, concerns about increases to tonnages brought by rail are not considered relevant to this application.
54. Appleford Parish Council has also objected to the application. They are concerned about increased noise from the rail sidings and initially queried whether there would be an increase in waste volumes. No change is proposed to the annual limit on waste importation and the hinterland only applies to waste imported by road so does not affect imports through the rail sidings. They requested more information about current void space and recent fill rates. A further response confirmed that they have concerns about any increase over existing road transport, regardless of the fact that no change is proposed to the maximum tonnage. They also express concerns about climate and sustainability impacts.
55. It must be considered whether the hinterland restrictions serve a useful purpose. It is understood that the original purpose of the hinterland provisions was to ensure that waste was managed at one of the nearest suitable locations and waste did not travel large distances as this would not be a sustainable approach.

56. Planning permission for landfilling at Sutton Courtenay expires at the end of 2030. Only small quantities of waste are now sent to Sutton Courtenay landfill from within Oxfordshire, as suitable waste is now treated at the Ardley Energy Recovery Facility, rather than disposed of at landfill. Using the Environment Agency Waste Data Interrogator, in 2021 (the most recent date for which data is available) approximately 65 000 tonnes of waste was imported to Sutton Courtenay from within Oxfordshire and approximately 80 000 tpa was imported from outside Oxfordshire but within the approved hinterland area. A total of approximately 713,000 tonnes was imported to the landfill site. The Environment Agency Remaining Landfill Capacity report states that Sutton Courtenay landfill site had a remaining void of 2 355 040 cubic metres at the end of 2021. It is therefore clear that the remaining void would not be filled by the end date of 2030 if the existing hinterland requirements remained in force and were enforced.
57. Whilst there remains policy support for ensuring that development is sustainable and carbon emissions are minimised, it is considered that the costs of transporting waste to the landfill would act to prevent waste from travelling very large distances for disposal. Although data shows that waste has been brought from outside the hinterland, it is generally from within the South East region. There are some areas that do not have a non-hazardous landfill site in close proximity and so waste which must be landfilled has to travel further.
58. It is considered that there could be a benefit to the local community for the site to be filled and restored as soon as possible, subject to the planning condition limitations on the import of waste by road, which would not change. Continuing restrictions on the areas from which waste can be imported from would mean that landfilling and restoration of the site could not be completed within the timescales required by the planning consent.

#### Consideration of Other Policies

59. The test for a Section 106A application is whether the relevant provisions continue to serve a useful purpose. This is not necessarily the same as being fully compliant with current development plan policy. However, a consideration of planning policy is helpful in making this determination.
60. OMWCS policy W6 states that provision will be made for disposal of Oxfordshire's non-hazardous waste at existing facilities. It goes on to state that landfill sites shall be restored in accordance with the requirements of OMWCS policy M10. OMWCS policy M10 refers to sites being restored to a high standard and in a timely manner. The development, without the hinterland requirement, would allow for the disposal of Oxfordshire waste and waste from outside Oxfordshire to be disposed of at an existing facility, in line with W6. As noted above, it is not considered that policy W6 gives specific support for the importation of waste from outside the existing hinterland, however the proposal is not contrary to it. The continuation of the existing development without the hinterland would help to ensure that

the site could be restored in a timely manner in accordance with approved plans, in accordance with OMWCS policy M10.

61. OMWCS policy C5 states that waste development must not have an unacceptable adverse impact on the local environment, human health and safety or residential amenity, including through traffic, noise, air quality, litter and odour. VLP2 policy DP 23 states that proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses when considering both individual and cumulative impacts in relation to a range of factors including noise, emissions and pollution. OMWLP policy SC3 states that planning permission will not be granted unless there is a routeing agreement to encourage HGVs to use the Didcot Perimeter Road, prevent HGVs from entering local villages and limit HGV use of Culham Bridge. There would be no change to existing limits to waste imports, or the existing routeing agreement setting out the routes which HGVs must take to bring waste to the site. Overall, the continuation of the existing development without the hinterland is considered to be in accordance with OMWCS policy C5 and OMWLP policy SC3.
62. OMWCS policy C2 states that proposals should take account of climate change for the lifetime of the development. The importation of waste over longer distances from outside the existing hinterland has the potential to increase the transport related carbon emissions associated with the development. However, it is recognised that waste is travelling further to existing landfill sites as non-hazardous waste landfills close and more waste is diverted to treatment facilities, which have a positive impact on carbon emissions and climate change compared with disposal at landfill. Therefore, the development without the hinterland restriction, is not considered to be contrary to OMWCS policy C2.
63. VLP1 policy CP18 safeguards land for highway schemes and states that planning permission will not be granted for development which would prejudice the construction or effective operation of the schemes listed. VLP1 policy CP17 lists a new strategic road connection and River Thames crossing between the A415 and the A4130 north of Didcot. VLP2 policy CP18a safeguards land to support the delivery of a new Thames road crossing between Culham and Didcot and adds further detail. It is not considered that the removal of the hinterland agreement would prejudice the road scheme proposed in the area.
64. VLP1 policy CP 1 and OMWCS policy C1 reflect the NPPF's presumption in favour of sustainable development. The proposal, without the hinterland, is considered to be in accordance with development plan policies and therefore comprises sustainable development.
65. Overall, it is considered that the development would be acceptable in terms of compliance with planning policy without the hinterland agreement.

## **Permissive Path**

66. OMWCS policy C11 states that improvements and enhancements to the rights of way network will generally be encouraged, and public access sought to restored mineral workings, especially if this can be linked to wider provision of green infrastructure. Where appropriate, operators and landowners will be expected to make provision for this as part of the restoration and aftercare scheme.
67. The application states that the path cannot be provided within the timescale set out in the Section 106 agreement, due to a cement plant. This is understood to refer to the processing plant for the sand and gravel quarry (which has consent under MW.0039/15 (which requires final restoration of the wider site by 30<sup>th</sup> September 2031 and topsoiling of the whole site by 30<sup>th</sup> September 2036) and a block recycling operation (which has consent under MW.0135/15 until 31<sup>st</sup> December 2030, with final restoration by 31<sup>st</sup> December 2032).
68. Due to the existing developments occupying the site, it is accepted that it is not possible to provide this permissive path until after the restoration of the land.
69. The applicant has proposed a revised timescale for the provision of the permissive path until landfilling ceases at the end of 2030. This is considered to be acceptable and it is recommended that the date for the provision of this path for use by the public is linked to the completion of restoration of the block crushing operations, which is required by December 2032. There has been no objection from the OCC Rights of Way team and it is clear that it cannot be safely installed and used by the public until the current operations have ceased. This is in accordance with OMWCS policy C11. Any requirement to put the path in prior to the cessation of minerals and waste development on that part of the site is not appropriate. It is acceptable for the footpath to be installed as part of the restoration following the cessation of the development currently taking place in this part of the site.

## **Conclusions**

70. In relation to the proposal to remove the hinterland restriction on waste imported to the landfill by road, this is considered acceptable. This requirement no longer serves a useful purpose, because if it was complied with, waste importation levels would be too low to complete the landfill within the approved timeframes thus potentially prolonging the development (subject to planning permissions) or affecting the implementation of the approved restoration scheme. Since the Section 106 agreement was originally completed, a number of non-hazardous landfill sites in the South East have closed and those that remain are becoming more important on a regional level.

71. In relation to the proposal to delay the provision of a permissive path until the cessation of concrete batching operations in the area, this is considered to be acceptable. It would not be safe or practical to install this footpath until minerals and waste activities have ceased in this area.

### **Financial Implications**

72. Not applicable as the financial interests of the County Council are not relevant to the determination of planning applications.

### **Legal Implications**

73. There are not considered to be any legal implications arising from this report.

### **Equality & Inclusion Implications**

74. In writing this report, due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advanced equality of opportunity and foster good relations between different groups. It is not however considered that any issues with regard thereto, are raised in relation to consideration of this application.

## **RECOMMENDATION**

75. It is **RECOMMENDED** that

- i) **Oxfordshire County Council enter into a deed of variation to amend the existing Section 106 legal agreement with regards to removing the hinterland restriction and amending the date for the provision of a permissive path.**
- ii) **The Director of Planning, Environment and Climate Change is authorised to enter into negotiations with the applicant and any other parties to the legal agreement with regard to making the variations set out in this report.**

RACHEL WILEMAN  
Director of Planning, Environment and Climate Change