

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 18 July 2022 commencing at 2.00 pm and finishing at 3.30 pm

Present:

Voting Members: Councillor Geoff Saul – in the Chair

Councillor Richard Webber (Deputy Chair)
Councillor Robin Bennett
Councillor Imade Edosomwan
Councillor Mohamed Fadlalla
Councillor Stefan Gawrysiak
Councillor Judy Roberts

Other Members in Attendance: Councillor Bob Johnston (for Agenda Item 6)

Officers: Jennifer Crouch (Principal Solicitor, Environmental), David Periam (Development Management Team Leader), Neal Richmond (Senior Enforcement Officer), Jack Latkovic (Interim Head of Governance – Committee Services) and Jonathan Deacon (Interim Democratic Services Officer)

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.

35/21 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

Apologies for absence had been received from the following Members of the Committee: Cllr Yvonne Constance OBE, Cllr Felix Bloomfield, Cllr David Rouane, Cllr Ian Snowdon, and Cllr Les Sibley. Cllr Constance had observed the meeting via remote video link but did not participate in the debate or vote on any item on the agenda.

36/21 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE OPPOSITE

(Agenda No. 2)

There were none.

37/21 MINUTES

(Agenda No. 3)

It was **RESOLVED** that the minutes of the meeting on 6th June 2022 be confirmed as a true record and signed by the Chair.

38/21 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 4)

In respect of Item 6 on the agenda: Serving of the Prohibition Order for The Review of the Mineral Planning Permission (ROMP) at Thrupp Farm and Thrupp Lane, Radley, representations were received from Nick Dunn (on behalf of H Tuckwell & Sons, who are preparing the ROMP), Cllr Bob Johnston (Kennington and Radley Division, Oxfordshire County Council) and Richard Dudding (on behalf of Radley Parish Council).

The Chair advised that the ROMP application item was being considered prior to the Progress Report on Minerals and Waste Site Monitoring and Enforcement item. This took into account that there were speakers addressing the Committee.

39/21 SERVING OF THE PROHIBITION ORDER FOR THE REVIEW OF THE MINERAL PLANNING PERMISSION (ROMP) AT THRUPP FARM AND THRUPP LANE, RADLEY

(Agenda No. 6)

As resolved at the meeting of the Planning and Regulation Committee on 6th September 2022, the Committee considered a report providing an update on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP areas DD1 and DD2. It was recommended in the report that the Planning and Regulation Committee's conclusion from its meeting on 9th September 2019 that mineral working on the Radley ROMP site had permanently ceased be updated to reflect new information demonstrating an ongoing intention to continue mineral working on the Radley ROMP site and that the unserved Prohibition Order was revoked. It was also recommended that officers be instructed to seek an agreed date for the submission of the ROMP application.

David Periam, Development Management Team Leader, stated at the meeting that it had previously been expected that the ROMP application would have been submitted by now. However, evidence had been provided by H Tuckwell & Sons of the work undertaken on the site prior to submitting an application and Environmental Statement and this was reflected in the report.

Mr Dunn, on behalf of H Tuckwell & Sons, commented that there had been three legal opinions received which did not support a full or partial prohibition order for the Radley ROMP site. It was also the second time that a recommendation had been made in relation to the site that the prohibition order should be rescinded. There was a genuine intention to extract minerals from the site and progress an environmental impact assessment. H Tuckwell & Sons were currently working on the quarry design. There was no legal justification to pursue a prohibition order. The current plan was to submit the ROMP application in early 2023. Mr Dunn added that the threat of a prohibition order should not hang over the efforts to progress the application.

In response to questions from Members of the Committee, Mr Dunn made the following points:

- a) Ecological surveys had been restarted in Spring 2022 and these would continue to the Autumn. Once these were completed, he would be in a position to complete the environmental impact assessment which was likely to take place in February 2023. If the ROMP application was delayed beyond this time, he would be willing to submit a report setting out progress and what still needed to be done.
- b) In respect of a planning application received by the Vale of White Horse District Council from Terra Firma Roadways Ltd relating to land within the ROMP permissions DD2 area being part of the Curtis's Yard, where there were concerns the planning application would conflict with the restoration conditions of the ROMP permissions, Mr Dunn expressed the view that the ROMP area was a defined planning boundary. The legal advice he had received was that if Terra Firma's planning permission was granted, the areas would be removed from the ROMP. He was seeking to improve the whole ROMP area in lieu of a decision from the Vale of White Horse District Council.

The Committee heard from Mr Dudding. He stated that Radley Parish Council's view was that a prohibition order was no longer justified for the main part of the ROMP area. However, it was felt that a prohibition order was still required for the north-western part of the area which he called 'Area A'.

Mr Dudding explained that Area A was on one side of a disused railway line and the ROMP the other. Planning permissions for Area A had originally been granted in 1954 and 1955 and applied solely to this area with no overlaps. When new planning conditions had been applied in 2000, the distinction had remained. He asserted that mineral extraction had been exhausted in Area A by 1979 and this area had remained unrestored. Most of the ROMP area was owned by JCSL but was subject to an agreement with H Tuckwell & Sons to extract the remaining minerals. Area A, Mr Dudding stated, fell outside the terms of this agreement. He added that the legislation applied to land not to ROMP areas so it was appropriate to apply the prohibition order for Area A only. The legislation allowed for prohibition orders for part of a ROMP area where there were strict controls relating to different operators' circumstances.

Mr Dudding referred to the County Council's assertion that a prohibition order for Area A alone would prevent an environmental statement being produced for the entire site, at odds with the Government guidance. He made the point that the guidance did not address the current situation and was only advisory practice guidance. If there was a statutory requirement to provide a partial prohibition order, this could not be trumped by the guidance.

Mr Dudding had concerns about the applicant's activities at Area A and feared that there would be no restoration of the area prior to 2043 without a partial prohibition order being adopted for Area A.

In response to questions from Members, Mr Dudding clarified that he believed the prohibition order for Area A would lead to restoration of this area in line with previous

planning permission and the merits of the industrial site area could be considered on their own terms. He questioned the likelihood that the application would be submitted with the appropriate restoration conditions for Area A.

Councillor Bob Johnston, the local Member, addressed the Committee. He endorsed the comments by Mr Dudding. He referred to the area having been an issue for 40 years and considered that a significant reason for this was that poorly worded conditions had been attached to the planning permission in the 1980s. He commented on the Terra Firma application as yet being undetermined by the Vale of White Horse District Council and expressed concerns that there could be an industrial estate at this greenbelt location by stealth. He expressed doubts that the site would be restored after 40 years.

Regarding the Terra Firma application, it was queried whether there was anything that the County Council could do to resolve the position. It had been suggested by Councillor Johnston that either the County Council or the District Council could consider enforcement action. Mr Periam advised that if there was to be an investigation of Curtis's Yard or the buildings, this was a matter for the District Council. Mr Richmond added that the County Council could usually only enquire through a PCN if it believed that there was a specific matter being contravened, such as waste use, which was relevant to a County Council function. The service of a PCN in of itself would not prevent any development from becoming immune from enforcement formal action. Councillor Johnston stated that he would raise the matter with the District Council.

In response questions, Mr Periam advised the following:

- a) he did believe it would be possible to proceed with a prohibition order in the future should H Tuckwell & Sons' plans not come to fruition. Jennifer Crouch, Principal Solicitor, confirmed that this was the case.
- b) Mr Periam expected that any application received from H Tuckwell & Sons would address the whole of the DD1 and DD2 areas with enforceable conditions proposed, including for Curtis's Yard and Area A.
- c) The risk would lie with the County Council of costs being awarded against it if a prohibition order was put in place and challenged. The prohibition order would have to be confirmed by the Secretary of State before it came into effect and there was the potential for a public inquiry. Ms Crouch confirmed that if the County Council was not successful at a public inquiry in relation to a prohibition order, it would bear the costs of all the other parties involved.

Councillor Gawrysiak formally proposed the recommendations as set out on page 59 of the report. He stated it was enormously frustrating for Councillor Johnston and Radley Parish Council over many years but a clear commitment had been received from Mr Dunn that there would a ROMP application would be submitted, including Site A. The scheduled date was February 2023. If there was any delay, Mr Dunn had given a further commitment to explain in a report what progress had been made and what still needed to be done. The Terra Firma application was separate to what was before the Committee at this time. Councillor Roberts was a seconder for the recommendations. Councillor Webber suggested that the Chair could write to the District Council setting out the difficulties caused by the status of the Terra Firma

application. Councillor Bennett stated that there was the option of seeking a prohibition order should H Tuckwell & Sons' plans not come to fruition.

The Chair called for a vote on the recommendations. The votes cast were, as follows:

For: 7

Against: 0

Abstentions: 0

RESOLVED that:

- a) The Planning and Regulation Committee's previous conclusion from its meeting on 9th September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased be rescinded and that the Prohibition Order of that date but not yet served is revoked; and,
- b) Officers seek to agree a date with H. Tuckwell and Sons Ltd. by which a ROMP Application will be submitted.

40/21 PROGRESS REPORT ON MINERALS AND WASTE SITE MONITORING AND ENFORCEMENT

(Agenda No. 5)

The Committee received a report providing a summary of the work undertaken by the County's planning monitoring and enforcement team. It gave updates on the schedule of compliance monitoring visits for the period 1 April 2021 to 31 March 2022 and on the progress of planning enforcement actions.

Neal Richmond, Senior Enforcement Officer, gave a presentation at the meeting and clarified the following in response to questions from Members regarding the work of the Monitoring and Enforcement Team.

- a) The Monitoring and Enforcement Team were commended for the work they undertook, and the level of monitoring and enforcement of sites that they achieved. This is especially so, given the number of facilities existing and taking into account the team's limited resources. . Mr Richmond and Mr Periam advised that there had been rare cases of enforcement notices being appealed and costs being awarded against the County Council by the Planning Inspectorate. There were many more instances of enforcement notices being upheld in the Council's favour.
- b) Mr Richmond was asked whether the limited resources of the Monitoring and Enforcement Team could be used more effectively in terms of visits. He replied that the schedule was reviewed annually and sometimes events led to more visits at a specific location. There was still some catch up in the monitoring of sites following the Covid Lockdown period.
- c) Members were advised that the vast majority of monitoring visits by the Team were pre-announced. A lot of the sites were well run and the County Council was keen that the sites' representatives were available for the visits.
- d) It was confirmed that the Monitoring and Enforcement Team was unable to charge a fee for monitoring an unauthorised site which was not part of an existing facility. The Team was also unable to charge a fee for the recycling sites that were monitored.

- e) The Team could not steer or direct people towards providing recycling sites. Any planning applications were considered on their own merits and were subject to planning policies.
- f) The Team had an awareness of when sites were required to be restored and a period of aftercare was required after the planning permission ended.

RESOLVED: that the Schedule of Compliance Monitoring Visits and the Schedule of Enforcement Cases be noted.

..... in the Chair

Date of signing