

## PLANNING & REGULATION COMMITTEE

**MINUTES** of the meeting held on Monday, 15 April 2013 commencing at 2.00 pm and finishing at 4.20 pm

**Present:**

**Voting Members:** Councillor Steve Hayward – in the Chair  
Councillor Mrs Catherine Fulljames (Deputy Chairman)  
Councillor Alan Armitage  
Councillor Tony Crabbe  
Councillor Mrs Anda Fitzgerald-O'Connor  
Councillor Patrick Greene  
Councillor Jenny Hannaby  
Councillor Ray Jelf  
Councillor Stewart Lilly  
Councillor David Nimmo-Smith  
Councillor Neil Owen  
Councillor G.A. Reynolds  
Councillor John Sanders  
Councillor Lawrie Stratford  
Councillor John Tanner

**Other Members in Attendance:** Councillor Jim Couchman (for Agenda Item 7)

**Officers:**

Whole of meeting G. Warrington and D. Mytton (Law & Governance); C. Kenneford and D. Periam (Environment & Economy)

Part of meeting

<b>Agenda Item</b>	<b>Officer Attending</b>
6	D. Periam (Environment & Economy)
7 & 8	Taufiq Islam (Environment & Economy)
9	N. Fagan (Environment & Economy)
10	R. Goodlad (Law & Governance)

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

## **15/13 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS**

(Agenda No. )

There were no apologies for absence.

As this was the last meeting of the Planning & Regulation Committee under the current Council and his as both chairman of the Committee and member of the County Council the Chairman thanked members of the Committee, particularly Councillor Mrs Fulljames his Deputy Chairman and officers past and present for their support during his tenure as Chairman. He felt improvements had been made to working practices with regard to dealing with planning applications and in specific areas such as the County Council's relationship with the sand and gravel producers association and providing a better standard of training for councillors in planning matters

He also wished those Councillors not seeking re-election and those that were the very best for the future.

Councillor Tanner wished the Chairman well and thanked him for his service as Chairman during which time he had considered him to have been fair to both Councillors and members of the public alike.

## **16/13 MINUTES**

(Agenda No. 3)

The Minutes of the meeting held on 4 March 2013 were approved and signed.

### **Minute 14/13 – Wroxton Fields Quarry – Representations to the Environment Agency.**

Officers had written to the Environment Agency but having received a very bland reply further representations had been made setting out future expectations that, in the interests of good partnership working, consultation would and should be undertaken with local councils, the local community and the County Council. In this particular case an application would be submitted to regularise the situation and as a result of what had happened at Wroxton and the subsequent action which had been taken it was realistic to expect that this would be prevented from happening again elsewhere.

Councillor Reynolds highlighted the anomaly that when a planning application was considered there was invariably concern expressed regarding traffic movements connected with that application and yet the Environment Agency were able to move this amount of material without any consultation. He considered that in future restoration programmes should specifically state whether or not it was intended to import biosolids and conditions drafted to reflect that.

**17/13 PETITIONS AND PUBLIC ADDRESS**

(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
Peter Maggs (Middleton Stoney Parish Council) Grant Scott (Viridor) Ginny Dalrymple (Architect for Viridor)	) ) 6. Ardley landfill site – Applications ) MW.0139/12 and MW.0040/13 )
Martin Knight (Local Resident) Hazel Edwards (Agent for Applicant) Tom Hickman (Applicant) Councillor Jim Couchman (Local Member)	) ) 7. Shipton Hill, Fulbrook ) Application MW.0072/12 ) )
Sam Cook (Local Resident) Bob Hessian (Weston-on-the-Green Parish Council) Susan Daenke (Applicant) Norman Boardman (Applicant) Sue Parker (Highway Authority)	) ) ) 10. Weston-on-the-Green Village ) Green Application ) )

**18/13 DETAILS PURSUANT TO CONDITION 33 (APPROVAL OF EXTERNAL MATERIALS SAMPLES) OF PLANNING PERMISSION 08/02472/CM (MW.0044/08)**

(Agenda No. 6)

The Committee considered (PN6) a further application for the approval of the detail of materials to be used for the Energy from Waste facility at Ardley landfill site having deferred consideration of a similar previous application on 4 March 2013.

Introducing the report Mr Periam indicated that following further consultation the materials now proposed seemed acceptable. However, concerns had recently been expressed locally regarding the potential for light escape through the translucent areas of the building. It remained to be seen just how much light would escape from the building but it needed to be remembered that the use of such material had always been known about and referred to throughout the process and that it would be difficult now to argue about its appropriateness.

Peter Maggs highlighted concerns that photomontages tabled by Viridor at the last meeting had not been truly representative and tabled photographs taken the day before the meeting which he felt gave a more realistic representation of what was a significant industrial plant in the middle of a rural environment. He did not accept the view put forward that the development would sink into the landscape and it was important to get things right now including use of materials and significant

landscaping to reduce the building's visual impact. He confirmed that Middleton Stoney Parish Council endorsed the comments made by Ardley with Fewcott Parish Council regarding the use of translucent materials which had been tabled with the addenda.

Grant Scott outlined developments since March. Meetings with representatives of local parish councils had resulted in agreement on alternative materials which were now before the Committee for consideration. Viridor had submitted a further application which had been discussed at the Liaison Committee and having listened carefully to local concerns he hoped that would now be approved. He added that translucent materials had been utilised in the design to enable maximum amount of natural light into the building but that concerns expressed about light spill could be considered under condition 31 at a future date.

Responding to a question from the Chairman Mr Scott confirmed that the site close to Junction 12 on the M6 was in the ownership of Veolia and not Viridor.

Ginny Dalrymple stated that the photomontages produced at the last meeting had been prepared as objectively as possible using methods approved by landscape architects and in accordance with strict guidelines and best practice. She refuted any allegation that they were a fabrication. Danpalon material had been used to help ensure that the impact of the building's bulk was minimised.

Responding to Councillor Armitage Mr Periam confirmed that condition 8 attached to the Secretary of State's permission would ensure substantial landscaping was undertaken although that would take time to establish itself.

Councillor Mrs Fulljames reminded the Committee that the area she represented had not wanted this development in the first place but as it was now being built it was imperative to get things right particularly as local residents would be looking at the building for 35 years. She thanked Viridor for the productive meetings which had taken place but major concerns remained regarding the use of translucent materials some of which would be used on parts of the building 35 metres high and she suggested the use of louvered materials could help.

Mr Periam repeated that the issue of translucent materials was not part of the application currently before the Committee.

Some members agreed that it had been inappropriate to have issues regarding the use of translucent materials brought up at this late stage and felt that the undertaking given earlier by Mr Scott that levels of light spillage could be monitored under Condition 31 say within 12 months of the building being in operation would be an acceptable way forward.

**RESOLVED:** (on a motion by Councillor Lilly, seconded by Councillor Greene and carried unanimously) that:

- (a) Application MW.0139/12 be refused as inappropriate on a large building in the rural context of the application site contrary to the provisions of CLP policies

C6 and C28, OMWCS policies C3 and C6, and the guidance with regard to good design set out in paragraphs 17 and 56 of the NPPF;

(b) Application MW.0040/13 be approved.

## **19/13 SHIPTON HILL, FULBROOK**

(Agenda No. 7)

The Committee considered an application for a Certificate of Lawfulness of Existing Use or Development following a request for it do so by the local County Councillor.

Martin Knight accepted that the countryside needed employment opportunities and business ventures but questioned whether this operation was in the right location as in his view what was there now was not the original operation which had been given permission for. The development had not been adequately monitored which had led to creeping development, a doubling/trebling in size and consequently the establishment of an industrial activity by default. It was time to act to ensure the operation was in keeping with its rural location.

Tom Hickman advised that he had been born and bred in Fulbrook and had acquired this site in the 1980s. The recession had proved difficult and continued to do so but he currently employed 24 members of staff. He confirmed that this had been the second affidavit he had signed and confirmed that it was a true statement of fact.

Hazel Edwards clarified that the Committee had been involved in the first certificate of lawfulness. Formal lawfulness was only technically required and she was surprised that the matter was even before the Committee as it was evidence based. That evidence was comprehensive and had been painstakingly gathered and the recommendation before the Committee would protect both the Committee and the site. She thanked officers for their efforts in this complicated application.

Responding to questions from:

Councillor Tanner – retail sales were not related to this CLEUD. The company had used skips for 25 years to carry out its business which was different to distributing skips for use on contracts.

Councillor Reynolds – the company had not sought a CLEUD previously as average figures did fluctuate.

Officers confirmed that this was not an application for planning permission but a question of regulating what was happening. The second schedule to the recommendation stated very low levels of use and were limitations not conditions. This application represented a marker as to the current situation and presented an opportunity for adequate and meaningful enforcement.

Councillor Couchman stated that breaches at this site had been an issue since his election to the Council in 2005 and the 2008 settlement had clearly failed to resolve those issues. He felt certificates legalised breaches and a lack of enforcement by

both the County Council and West Oxfordshire District Council had not helped and he hoped that there would be more robust monitoring. He confirmed that hiring of retail skips from this site was widely advertised across West Oxfordshire even though permission for such operation had not been given.

Councillor Owen could not support the application which he felt gave the impression that the County Council were somehow complicit in allowing breaches to be glossed over.

Officers advised that it was clearly set out what an applicant had to do to get a certificate of lawfulness for what had gone on and it was immaterial whether or not members felt that the law was wrong. The certificate represented a way of dealing with these issues in the future and allowing for monitoring to be undertaken and levels of activity to be determined and to refuse the application would mean contradicting the evidence which had been submitted in support of it.

**RESOLVED:** (on a motion by Councillor Hannaby, seconded by Councillor Stratford and carried by 11 votes to 3): that the application for a Certificate of Lawful Existing Use or Development for the use of land for i) landscape contractor's yard including ground works contractor's yard with ancillary activities and ii) the importation, sorting, processing and storage of waste for a period exceeding ten years on the southern and central intermediate area of Hickman Brothers Landscapes Ltd site, Shipton Hill, Fulbrook be approved as set out below, with a Schedule of Limitations. The uses specified in the Second Schedule are not considered as lawful.

First Schedule (part 1):

1. The use as a landscape contractors' yard (including groundwork contractors' yard) of the land shown in plan A in the second schedule to this certificate, together with the following uses in so far as ancillary thereto:
  - i. plant and vehicle storage;
  - ii. operation of plant and equipment;
  - iii. for the importation, sorting, storage reuse/recycling of construction demolition and green waste and other landscape materials;
  - iv. the processing of green waste and demolition waste including hardcore and soils to produce aggregate, usable hardcore, fines, soils, mulch and compost;
  - v. screening waste to separate stone and concrete from soils;
  - vi. shredding wood and green waste.

First Schedule (part 2) - Subject to the following identified limitations:

- Imported waste and landscaping materials are predominantly – construction demolition waste, green waste, spent mushroom compost, soils, subsoil and aggregates, chipped bark, fencing, timber, incidental metal and plastic items
- Waste is imported to the Land shown in plan A via the land shown in plan B1.
- The amount of waste stored on the land shown in plan A has averaged 10,000 tonnes per annum

- In conjunction with the land shown in plan B1, as at April 2012 the business operated with the following large items of plant:
  - 24 tonne excavator, two 12 tonne excavators, one tractor loader, a crusher, a screener, a shredder and a chipper.
- In conjunction with the land shown in plan B1, no more than 6 lorries, 4 trailers and 16 vans have been in consistent use over the 10 years period

Second Schedule: The Council is not satisfied that the following uses are lawful

- Retail sales
- Operation of plant and equipment over and above that ordinarily ancillary to a landscaping and groundwork contractors' yard.
- Hire of plant, vehicles and equipment over and above incidental hiring of items ordinarily used for landscape and groundwork contracting.
- The hiring of skips for removal of household wastes not connected with the landscape contracting business.

**20/13 REQUEST FOR PRIOR APPROVAL OF THE INSTALLATION AND USE OF A CONCRETE BATCHING PLANT TO PRODUCE READY-MIXED CONCRETE FOR SALE - UPWOOD QUARRY - APPLICATION NO. MW.0017/13**

(Agenda No. 8)

The Committee considered (PN8) an application which sought prior approval pursuant to Class B of Part 19 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GDPO) for the installation of a concrete batching plant at Updwood Quarry, Besselsleigh. The application was being reported to this Committee as the local County Councillor and Parish Council had objected.

The addenda sheet reported that the Environmental Health Officer had raised no objection. His comments were set out in the addenda sheet along with further representations from local residents pointing out a number of inconsistencies in the report and asking for refusal and the CPRE Vale District expressing concerns on grounds of noise , traffic and visual impact and asking for a deferral pending full consultation with concerned parties.

Responding to Councillor Crabbe Taufiq Islam confirmed that sharp sand would need be imported to the site but that a maximum of 58 movements had been set.

**RESOLVED:** (on a motion by Councillor Greene, seconded by Councillor Tanner and carried by 13 votes to 1) that prior approval be granted for the installation and use of

a Concrete Batching Plant to produce ready-mixed concrete for sale under Part 19, Class B of the Town & Country Planning (General Permitted Development) Order 1995 (as amended), and in accordance with the detailed proposals for the location, height, design and appearance of the plant, as contained within the application and listed in the Schedule of Approved Plans and Documents.

#### Schedule of Approved Plans and Documents

(i) Supporting statement by Land and Mineral Management Limited (dated 15/01/2013), (ii) Concrete Plant Location – drawing no. 490B -2 dated 17/01/2013, (iii) GA of Transportable Plant – drawing no. BPL 8844 dated 15/10/2012 and\_iv) noise report by Advance Environmental dated 9 April 2013

### **21/13 RENEWAL OF CONSENT AND CONTINUED USE OF A RELOCATABLE BUILDING UNIT REFERENCE T1 (SP5) FOR A FURTHER PERIOD OF FIVE YEARS AT GRANDPONT NURSERY SCHOOL & CHILDREN'S CENTRE, WHITE HOUSE ROAD, OXFORD - APPLICATION NO. R3.0011/13**

(Agenda No. 9)

The Committee considered (PN9) a proposal to renew permission for a temporary building required to facilitate the running of this large pre-school. The application had been referred to the Committee because the City Council had objected on the basis that it did not sanction such buildings for more than five years.

The Chairman referred to the considerable efforts made by the County Council to remove temporary buildings and provide where possible permanent buildings.

Councillor Stratford moved and Councillor Hannaby seconded that the recommendation as set out in the officer report be approved.

Councillor Tanner considered that any permission should be for 3 years.

The motion was put to the Committee and –

**RESOLVED:** (by 11 votes to 1, Councillor Tanner recorded as having abstained) that Application R3.0011/13 be approved subject to the following conditions:

1. The development should be carried out solely in accordance with details submitted with the application;
2. Temporary permission should expire on 30 April 2018 and restoration of the site undertaken thereafter.



**22/13 COMMONS ACT 2006: IN THE MATTER OF AN APPLICATION TO REGISTER NORTH LANE POND, WESTON-ON-THE-GREEN, OXFORDSHIRE AS A TOWN OR VILLAGE GREEN**

(Agenda No. 10)

The Committee considered (PN10) a report by the County Solicitor and Head of Law and Governance setting out the terms of an application for the registration of land known as the Duck Pond, North Lane, Weston-on-the-Green under the Commons Act 2006. Objections had been received to the application and as a result Counsel's opinion sought.

Sam Cook a resident of Weston-on-the-Green had objected to the application on the basis that it was highway. He considered the application had been submitted to stifle planning permission for land to the rear of the green which would require a vision splay as part of its access.

Bob Hessian, Weston-on-the-Green Parish Council stated that most parish councillors were familiar with the area having resided in the village for 30/40 years. He had been familiar with the land for 26 years during which time the parish council had cleared and maintained the pond and at no time over those 26 years had anyone queried the right to use it as a village green. The parish council's concerns centred on the comments by Charles Mynors QC and the lack of definitive maps. The pink area contained very little of the green which was considered integral to the use of the pond and he supported registration of the land in its entirety so that it could continue to be looked after and nurtured for future generations.

Susan Daenke stated that the object of the application had been to protect the area for future generations. It had been part of the village for over a century and in living memory since the 1920s. It was not a straightforward case and there had been a long evaluation of the application over 3 years. She referred to clause 4.10 of Counsel's opinion which suggested that the boundary was negotiable and that had been the line the village had maintained. The pond area was a cherished place and Norman Boardman a co-applicant had cared for ducks for many years. There had been 44 letters of support and 145 signatures on a petition reflecting the importance of the site to local residents and localism initiatives. They were not asking for resources but merely the opportunity to continue to enjoy this area.

Norman Boardman endorsed those views and confirmed he had been involved in maintaining the pond for 25 years during which time the highway authority had never challenged that work.

Responding to a question from Councillor Armitage Mr Boardman confirmed the duckhouse had been erected on stilts within the pond.

Sue Parker on behalf of the highway authority outlined the history surrounding the application site and confirmed that highway records had it shown as publicly maintained highway since the late 1940s/early 1950s. She outlined the highway authority's legal position, future maintenance needs and its operational position, which was to assert and protect the highway and its users. Registration of the whole site could restrict its ability to do that which was why an objection to the registration of

the verge had been lodged but not to the pond itself which had been enlarged over the years. The highway authority had wished to accommodate the applicants as far as was practicable and had suggested to them that part of the verge could be protected using certain provisions of the Oxfordshire Act 1985 but the applicants had not regarded this as sufficient. A formal application received to vary the highway record so as to exclude the application area from the highway had been considered in depth but in the authority's view insufficient evidence had been presented to warrant such a variation.

Councillor Reynolds referred to the anomalous situation whereby there were lots of areas of highway which would never be used again as highway and, whilst he had every sympathy with Weston-on-the-Green Parish Council, the highway authority were required to protect the highway and the County Council could leave itself open to legal challenge by going against a recommendation to achieve that. He proposed that the officer recommendation be approved as set out in the report. Councillor Sanders seconded.

The Committee were advised that as there was one application it should vote on the recommendation in the officer's report as a whole.

The motion by Councillor Reynolds was then put to the Committee and –

**RESOLVED:** (by 10 votes to 4) that having received the advice of Counsel as set out in Annex 4 to the report PN10 to:-

- (a) approve the application for registration as a new Town or Village Green of that plot of land known as North Lane Pond, Weston-On-The-Green, Oxfordshire that site being identified coloured pink on the map appended to the report PN10;
- (b) reject the application for registration as a new Town or Village Green that plot of land known as North Lane Pond, Weston-On-The-Green, Oxfordshire that site being identified coloured brown on the map appended to the report PN10.

..... in the Chair

Date of signing