



To: **Members of the Planning & Regulation Committee**

***Notice of a Meeting of the Planning & Regulation  
Committee***

**Monday, 19 February 2018 at 2.00 pm**

**Rooms 1&2 - County Hall, New Road, Oxford OX1 1ND**

A handwritten signature in black ink that reads "Peter G. Clark".

Peter G. Clark  
Chief Executive

February 2018

*Committee Officer:* **Graham Warrington**  
*Tel:* 07393 001211; *E-Mail:*  
*graham.warrington@oxfordshire.gov.uk*

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*Members are asked to contact the case officers in advance of the committee meeting if they have any issues/questions of a technical nature on any agenda item. This will enable officers to carry out any necessary research and provide members with an informed response.*

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**Membership**

Chairman – Councillor Les Sibley  
Deputy Chairman - Councillor Jeannette Matelot

*Councillors*

Mrs Anda Fitzgerald-  
O'Connor  
Mike Fox-Davies  
Stefan Gawrysiak  
Bob Johnston

Mark Lygo  
Glynis Phillips  
G.A. Reynolds  
Judy Roberts

Dan Sames  
Alan Thompson  
Richard Webber

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**Notes:**

- **Date of next meeting: 26 March 2018**

## Declarations of Interest

### The duty to declare.....

Under the Localism Act 2011 it is a criminal offence to

- (a) fail to register a disclosable pecuniary interest within 28 days of election or co-option (or re-election or re-appointment), or
- (b) provide false or misleading information on registration, or
- (c) participate in discussion or voting in a meeting on a matter in which the member or co-opted member has a disclosable pecuniary interest.

### Whose Interests must be included?

The Act provides that the interests which must be notified are those of a member or co-opted member of the authority, **or**

- those of a spouse or civil partner of the member or co-opted member;
- those of a person with whom the member or co-opted member is living as husband/wife
- those of a person with whom the member or co-opted member is living as if they were civil partners.

(in each case where the member or co-opted member is aware that the other person has the interest).

### What if I remember that I have a Disclosable Pecuniary Interest during the Meeting?.

The Code requires that, at a meeting, where a member or co-opted member has a disclosable interest (of which they are aware) in any matter being considered, they disclose that interest to the meeting. The Council will continue to include an appropriate item on agendas for all meetings, to facilitate this.

Although not explicitly required by the legislation or by the code, it is recommended that in the interests of transparency and for the benefit of all in attendance at the meeting (including members of the public) the nature as well as the existence of the interest is disclosed.

A member or co-opted member who has disclosed a pecuniary interest at a meeting must not participate (or participate further) in any discussion of the matter; and must not participate in any vote or further vote taken; and must withdraw from the room.

Members are asked to continue to pay regard to the following provisions in the code that *“You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself”* or *“You must not place yourself in situations where your honesty and integrity may be questioned.....”*.

Please seek advice from the Monitoring Officer prior to the meeting should you have any doubt about your approach.

### List of Disclosable Pecuniary Interests:

**Employment** (includes *“any employment, office, trade, profession or vocation carried on for profit or gain”*.), **Sponsorship, Contracts, Land, Licences, Corporate Tenancies, Securities.**

For a full list of Disclosable Pecuniary Interests and further Guidance on this matter please see the Guide to the New Code of Conduct and Register of Interests at Members’ conduct guidelines.

<http://intranet.oxfordshire.gov.uk/wps/wcm/connect/occ/Insite/Elected+members/> or contact Glenn Watson on **07776 997946** or [glenn.watson@oxfordshire.gov.uk](mailto:glenn.watson@oxfordshire.gov.uk) for a hard copy of the document.

**If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.**

# AGENDA

1. **Apologies for Absence and Temporary Appointments**
2. **Declarations of Interest - see guidance note opposite**
3. **Minutes** (Pages 1 - 10)

To approve the minutes of the meeting held on 8 January 2018 (**PN3**) and to receive information arising from them.

4. **Petitions and Public Address**
5. **Chairman's Updates**
6. **Application to modify or discharge Section 106 Planning Obligations at Finmere Quarry, Fibmere - Application No. MW.0110/17** (Pages 11 - 26)

Report by the Director for Planning & Place (**PN6**).

This is an application to discharge obligations set out in existing Section 106 legal agreements linked to minerals and waste development at Finmere Quarry. There are seven relevant planning agreements. The applicant wishes to be released from obligations related to restrictions on the geographical source of waste (the hinterland) and the restoration bond.

This is not a planning application and the relevant consideration is whether the provisions continue to serve a useful purpose. In this case, it is considered that the bond does continue to serve a useful planning purpose to ensure the satisfactory restoration of the site and therefore these provisions should remain in place and so the legal agreements should continue to have effect without modification. It is considered that the waste catchment area is no longer necessary to achieve its purpose and therefore the provisions relating to this can separately be discharged through agreement with the applicant and any other parties to the legal agreements.

***It is RECOMMENDED that:***

1. ***Oxfordshire County Council do not enter into a deed of variation to amend the existing Section 106 legal agreements with regards to the bond provisions, as applied for in application MW.0110/17 and that the S106 legal agreements continue to have effect without modification.***
2. ***The committee supports the removal of the hinterland provision from the S106 legal agreements and authorises the Director for Planning and Place to***

*enter into negotiations with the applicant and any other parties to the legal agreements with regard to entering into a deed of variation to remove this requirement.*

- 7. Continuation of the development permitted by P17/V0138 (MW.0005/17) (the demolition of existing asphalt plant and construction and operation of a replacement asphalt plant with ancillary plant and machinery, a new weighbridge and portable office) without according with condition 3, in order to allow extended hours of operation at Appleford Depot, Appleford Sidings, Appleford Road, Sutton Courtenay - Application No. MW.0109/17 (Pages 27 - 40)**

Report by Director for Planning & Place (PN7).

This is an application to amend a condition on an existing planning consent for an asphalt plant at Appleford Depot. The condition states that operations should take place between 6am and 6pm Mondays to Sundays and operations outside of these hours must be subject to prior notification and approval from the Minerals Planning Authority. The applicant has applied to amend the condition so that 24 hour working can take place on 180 days each calendar year with no need to obtain advance approval. The applicant has stated that the current condition wording is not practical because working outside of core hours is often required at short notice to supply asphalt for overnight road works.

There has been no objection from the District Council or the Environmental Health Officer. The site is located some distance from the nearest residential dwellings and a noise report submitted with the application concludes that noise limits will be within acceptable levels. However, there has been an objection from Sutton Courtenay Parish Council.

The report concludes that the proposed amended condition would be in accordance with development plan policy, subject to acceptable details of external lighting being provided.

***Subject to consideration of the further information with regard to the detailed external lighting proposals, it is RECOMMENDED that planning permission for application MW.0109/17 be approved subject to the conditions set out in Annex 2 to the report PN7 as amended by Annex 1 also to that report.***

- 8. Continuation of development without complying with Condition 2 (mineral extraction cessation date) of Planning Permission no. 16/02109/CM (MW.0125/16) in order to extend the period permitted for the extraction of mineral from 31st December 2017 to 31st December 2018 at Shipton-on-Cherwell Quarry, Bunkers Hill, Kidlington - Application No. MW.0001/18 (Pages 41 - 64)**

Report by the Director for Planning & Place (PN8).

This is a planning application to allow a further period of time, up to 31 December

2018, year for the extraction of the mineral. The application area is within the overall permission for Shipton on Cherwell Quarry which had a range of uses on the site and currently includes waste recycling, land filling and restoration. The report outlines the relevant planning policies, along with the comments and recommendations of the Director for Planning and Place.

The main issues with the application is the effect on the local amenity and the need to extract the mineral. It is felt that the effect on the local amenity can be controlled by conditions and that there is a need to remove the reserve rather than have it sterilised.

***It is RECOMMENDED that planning permission for application No. MW.0001/18 be approved subject to conditions to be determined by the Director of Planning and Place to include the Conditions set out in Annex 1 to the report PN8.***

**9. 7 number 6m high external lighting columns installed around the area of new car parking at William Fletcher School, Rutten Lane, Yarnton - Application No. R3.0065/17 (Pages 65 - 72)**

Report by the Director for Planning & Place (**PN9**).

This is a retrospective planning application to allow 7 lighting columns of 6m in height at a school car parking area. The application area is within an existing primary school site.

The report outlines the relevant planning policies, along with the comments and recommendations of the Director for Planning and Place.

The main issues with the application is the effect on the local amenity, and the local land scape. It is felt that the effect on the local amenity and local landscape is unacceptable and has not been justified.

***It is RECOMMENDED that planning permission for application no. R3.0065/17 be refused on the grounds that:***

- 1. It would cause light pollution detrimental to the local amenity contrary to saved policy ENV1 of the Cherwell Local Plan 1996; and***
- 2. It would have a detrimental effect on the local landscape contrary to policy ESD13 of the Cherwell Local Plan 2031.***

**10. Report on proposed planning enforcement action at Elm Farm Quarry, Stratton Audley (Pages 73 - 86)**

Report by the Director for Planning & Place (**PN10**).

The report updates members on an enforcement strategy for Elm Farm Quarry, Stratton Audley to secure the best long term restoration at minimum cost to the public purse that differs from the planning consent.

*It is RECOMMENDED that the Committee:*

*(a) note the report; and*

*(b) endorse the carrying out of further ecological surveys to support the officers' consideration of the expediency of taking enforcement action and the steps to be specified as required in a planning enforcement notice to be served no later than 31 December 2018.*

## **11. Relevant Development Plan and other Policies (Pages 87 - 100)**

Paper by the Director for Planning & Place (**PN11**).

The paper sets out policies in relation to Items 6., 7, 8 and 9 and should be regarded as an Annex to each report

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### **Pre-Meeting Briefing**

There will be a pre-meeting briefing at County Hall on **Monday 19 February 2018** at **12.00 midday** for the Chairman, Deputy Chairman and Opposition Group Spokesman.

## PLANNING & REGULATION COMMITTEE

**MINUTES** of the meeting held on Monday, 8 January 2018 commencing at 2.00 pm and finishing at 4.40 pm.

**Present:**

**Voting Members:**

Councillor Les Sibley – in the Chair

Councillor Mrs Anda Fitzgerald-O'Connor

Councillor Mike Fox-Davies

Councillor Stefan Gawrysiak

Councillor Bob Johnston

Councillor Mark Lygo

Councillor Glynis Phillips

Councillor G.A. Reynolds (Deputy Chairman)

Councillor Judy Roberts

Councillor Dan Sames

Councillor Alan Thompson

Councillor Richard Webber

Councillor Liam Walker (In place of Councillor Jeannette Matelot)

**Other Members in Attendance:**

Councillor Charles Mathew (for Agenda Item 7)

**Officers:**

Whole of meeting

G. Warrington & D. Mytton (law & Governance); C. Kenneford and D. Periam (Planning & Place)

Part of meeting

**Agenda Item**

6

**Officer Attending**

M. Thompson (Planning & Place)

7

R. Plater (Planning & Place)

8

K. Broughton (Planning & Place)

*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.*

**1/18 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS**

(Agenda No. 1)

<i>Apology for absence</i>	<i>Temporary Appointment</i>
Councillor Jeanette Matelot	Councillor Liam Walker

*Councillor George Reynolds deputised for Councillor Matelot as Deputy Chairman for the meeting.*

**2/18 MINUTES**

(Agenda No. 3)

The minutes of the meeting held on 27 November 2017 were approved and signed subject to amending “Councillor Matthew” in line 6 of paragraph 6 Minute 48/17 to read “Councillor Mathew”.

**3/18 PETITIONS AND PUBLIC ADDRESS**

(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
Chris Herbert (SLR Consulting for Viridor)	6. Ardley Energy Recovery Facility
John Salmon (Agent for Sheehan Haulage and Plant Hire Ltd) County Councillor Charles Mathew	) 7. Sheehan Recycled Aggregates ) Plant, Dix Pit )
Suzi Coyne (Agent for M & M Skip Hire Ltd)	8. M & M Skips at Worton Farm



**4/18 CONTINUATION OF THE DEVELOPMENT PERMITTED BY MW.0044/08 (THE CONSTRUCTION AND OPERATION OF AN ENERGY FROM WASTE AND COMBINED HEAT AND POWER FACILITY TOGETHER WITH ASSOCIATED OFFICE, VISITOR CENTRE AND BOTTOM ASH RECYCLING FACILITIES, NEW ACCESS ROAD AND WEIGHBRIDGE FACILITIES AND THE CONTINUATION OF LANDFILL OPERATIONS AND LANDFILL GAS UTILISATION WITH CONSEQUENT AMENDMENTS TO THE PHASING AND FINAL RESTORATION LANDFORM OF THE LANDFILL SURFACE, WATER ATTENUATION FEATURES AND IMPROVEMENTS TO THE EXISTING HOUSEHOLD WASTE RECYCLING CENTRE) WITHOUT COMPLYING WITH CONDITIONS 1 AND 3, IN ORDER TO ALLOW AN IMPORT OF 326,300 TONNES PER ANNUM TO THE ARDLEY ENERGY RECOVERY FACILITY - APPLICATION MW.0085/17**

(Agenda No. 6)

The Committee considered (PN6) an application to increase the maximum tonnage permitted to be imported to Ardley Energy Recovery Facility from 300,000 tonnes per year to 326,300 tonnes per year

Mary Thompson presented the report.

Chris Herbert commended the proposal and responded to questions from:

Councillor Phillips – the application was more about flexibility in tonnage and consistency with the maximum tonnage of 326,000 as allowed on the environmental permit now that the plant was fully operational.

Referring to the concerns expressed by Bucknell Parish Council and the views of many who still considered that the plant should not have been placed in this location at all Councillor Reynolds however recognised that the increase was small and so moved the officer recommendation as set out in the report. Councillor Johnston seconded the motion which was then put to the Committee and -

**RESOLVED:** (unanimously) that subject to a supplementary legal agreement to ensure that the provisions of the existing Section 106 and routeing agreements were carried forward that planning permission for Application MW.0085/17 be approved subject to conditions as on consent MW.0044/08 amended as set out in Annex 1 to the report PN6.

**5/18 SECTION 73 APPLICATION TO CONTINUE THE OPERATION OF DIX PIT RECYCLED AGGREGATE FACILITY PERMITTED BY PLANNING PERMISSION NO. 16/04166/CM (MW.0140/16) WITHOUT COMPLYING WITH CONDITION 6 THEREBY ALLOWING AN INCREASE IN THE MAXIMUM TONNAGE OF WASTE MATERIAL IMPORTED TO SITE TO 175,000 TONNES PER ANNUM AT SHEEHAN RECYCLED AGGREGATES PLANT, DIX PIT, STANTON HARCOURT, WITNEY, OX29 5BB - APPLICATION NO. MW.0073/17**

(Agenda No. 7)

The Committee considered PN7 an application to increase the amount of waste imported to the existing Dix Pit Recycled Aggregates Facility from 100,000 to 175,000 tonnes per calendar year through a variation of condition 6 of planning permission no. 16/04166/CM (MW.0140/16). No other changes to the existing conditions had been proposed. This matter had been deferred at the 27 November 2017 meeting to allow further negotiation with the applicant.

Mr Periam presented the report together with the addenda sheet tabled at the meeting.

The Committee also noted a late submission from residents of Deans Farmhouse, Evergreen Cottage, Tudor Cottage and The Green all objecting to any increase in the already high volume of HGVs on a road which they considered unfit for that type of traffic.

Responding to Councillor Johnston Mr Periam confirmed that the applicants had not been prepared to consider a staged approach to the proposed increase in vehicle movements to the site for the reasons set out in paragraph 2 of the officer report.

Mr Salmon for the applicants advised that the application supported Council policy on recycling, production of secondary aggregates and maximum diversion of waste from landfill. The route to the site followed a designated lorry route and a recent traffic consultancy report had shown that impact on Sutton village from this increase would not be as severe as had been suggested. Although there were currently over 3,000 daily movements on the road the predicted number of additional vehicles to or from Dix Pit as a result of this application would equate to one every ¼ hour with none of the extra vehicles in any event travelling through Sutton. Similarly, as the number of vehicle movements resulting from the application were considered insignificant the applicant felt any need to agree a staged increase was impractical. Sheehans were happy to comply with conditions requiring information and notification of any breaches of the routeing agreement every 3 months and had also agreed a contribution of £5,000 towards a feasibility study to determine the most effective way to improve highway safety. Contrary to what had been suggested Sheehans took its role regarding local amenity and safety seriously. They were accredited under the Fleet Operator Recognition Scheme and trained their drivers to a high standard. They had an exemplary safety record and adhered to the routeing agreement to avoid Sutton during peak hours despite the alternative route requiring a 20 mile diversion, which was both time consuming and environmentally costly and not required by other operators who used the site. Sutton village was not a typical village centre but had 24 residences spaced out on both sides of the road, over a distance of 600 meters, and

set well back from the road itself. It had a 30 mph speed limit with adequate signing and 2 HGVs were able to pass each other. The County Council's own highways department considered the road acceptable as a local lorry route. Therefore, bearing in mind that the application supported Council policies, used a designated lorry route, avoided Sutton at peak hours in accordance with the routeing agreement and had been supported by county planning and highway officers he urged the Committee to approve the application bearing in mind that the report also recognised that a refusal of permission could not be sustained on appeal.

Responding to Councillor Reynolds he confirmed an additional 40 vehicles per day over and above the current 54.

Councillor Mathew expressed regret that the applicants had been unwilling to consider a compromise staggered approach and continued to pursue their aim for an immediate increase to 175,000 tonnes. That increase equated to a vehicle through Sutton village every 4½ minutes and could not be perceived in any way as insignificant. He advised that breaches of the routeing agreement continued to occur and only that morning 5 lorries had passed him on the B4449 outside the permitted hours. He questioned the integrity of specialist reports and in his opinion all such reports should be conducted by independent specialists appointed by the county council and paid for by applicants. The carriageway was not wide enough for 2 HGVs to pass comfortably and any moves to improve the pavements would merely result in a further narrowing of the carriageway. The situation was completely unacceptable to local residents when there was a perfectly adequate alternative route via Hardwick through to Ducklington. The parish council had not been approached on proposals to improve the footpath and he had only learned of the £5,000 offer from the applicants 5 minutes before the meeting. He asked the Committee to refuse the application.

He then responded to questions from:

Councillor Johnston – the offer of £5,000 was unusual and in his view inadequate in that it wouldn't deliver a great deal. He would prefer to see any available money spent on drainage works to the south side between the 30 mph sign and Dean Farmhouse.

Councillor Fitzgerald-O'Connor – he advised that costings on drainage works had been done by OCC 6 months previously.

Mr Plater advised that footpath improvement works would involve cutting back vegetation on the existing pathway and not widening into the carriageway.

Councillor Gawrysiak – there had been regular breaches of the am hours agreement regularly since 2012 and he agreed that by implication and in his experience more lorries would inevitably mean more contraventions.

Responding to Councillor Webber Mr Periam explained that unlike planning conditions routeing agreements were legal agreements containing various clauses which an operator needed to comply with. The County Council could request details of movements from company records or could sit and observe movements and if

breaches occurred they could then be followed up. That had been done in this particular case after the November meeting but bearing in mind available staffing resources and the number of mineral and waste sites in the county which are monitored, there was a limit to how much officer time could be devoted to this at any one site. If there were persistent breaches then action would have to be taken through the civil court process.

Councillor Webber then asked whether it was right under the current system for developers to be able to appoint their own experts to undertake reviews or would it be better to have a list of approved consultants/contractors from which appointments could be made.

Mr Mytton confirmed that it would not be permissible to prevent applicants from appointing their own experts although officers could, if they wished, obtain a second opinion but at the county council's expense.

Responding to Councillor Fox-Davies who considered that there should be a break clause in any permission where an operator persistently breached the terms of an agreement Mr Periam advised that where a permission had been granted subject to an agreement the county council would seek to ensure that operators complied with the terms of that agreement. However, Mr Mytton advised that permission could not be revoked because of breaches of a routeing agreement. There would be substantial costs involved in the revocation of permission.

Councillor Sames suggested a S106 type agreement for permissions to ensure an annual contribution from operators to repair damage to roads. Mr Periam advised that that would be difficult to achieve not least of all because of the difficulties in proving what vehicle had caused damage.

Councillor Walker considered the £5,000 derisory. The carriageway was clearly not wide enough and to have a further 40 plus vehicles was a concern. He felt the applicants should have considered a staged approach and could not support the application as it stood.

Councillor Gawrysiak agreed that the contribution offered was too low and the number of vehicles proposed significant. It seemed the routeing agreement was not being enforced now and he could only see that situation worsening if this application was agreed.

Councillor Johnston understood the concerns expressed but did not think a refusal could be successfully defended on appeal.

Mr Periam advised that it was open to the applicant to appeal if the application were refused. The highway authority had not objected as a statutory consultee and so any refusal would need to be based on amenity grounds due to increased traffic movements with a demonstration of severe harm to residents.

Councillor Stratford moved the revised recommendation as set out in the addenda sheet as follows:

“Subject to the applicant entering into a Section 106 Legal Agreement to secure the payment of £5,000 towards highway improvement works along the B4449 through Sutton, application MW.0073/13 be approved subject to the existing conditions including the amendment made under Non-material amendment application no. MW.00889/17 to condition 6 reading as follows:

No more than 175,000 tonnes of waste shall be imported to the site in any calendar year. Records of imports, sufficient to be monitored by the Waste Planning Authority shall be kept on site and made available to the Waste Planning Authority's officers on request. Separate records shall be kept on site of any topsoil or other soil materials imported solely for use in the restoration of the Controlled Reclamation Site permitted subject to planning permission no. MW.0141/16(16/04159/CM).

and

An additional condition requiring that the operator's records of heavy goods vehicle movements to and from the site be provided to the Waste Planning Authority on a quarterly basis.”

The motion seconded by Councillor Johnston was put to the Committee and lost by 6 votes to 5 with 2 abstentions.

Recognising on the basis of that vote that the Committee seemed minded to refuse the application the Chairman called a short adjournment to consider reasons for refusal. On resumption of the meeting it was **RESOLVED** (on a motion by Councillor Walker seconded by Councillor Gawrysiak and carried by 7 votes to 0 with 6 abstentions) that Application MW.0073/17 be refused as there would be an unacceptable adverse impact on the amenity of residents in Sutton village arising from the additional HGV movements proposed by the application, contrary to policy C5 of the adopted Minerals & Waste Core Strategy and that the offer of £5,000 for highway improvements could not overcome that concern.

**6/18 M&M SKIPS AT WORTON FARM:**

**1. SECTION 73 APPLICATION FOR NON-COMPLIANCE WITH CONDITIONS 1 AND 4 OF PERMISSION NO: 09/00585/CM (MW.0108/09) FOR WASTE RECYCLING AND TRANSFER FACILITY, TO ALLOW RE-SHAPING OF SITE BUNDING TO ENABLE ADDITIONAL CAR PARKING PROVISION. USE OF LAND FOR STORAGE OF EMPTY SKIPS.**

(Agenda No. 8)

The Committee considered two planning applications at and near to existing waste operations in the Green Belt at Worton, near Yarnton and Cassington. One (MW.0091/17) sought to remove part of a bund on land within the existing waste recycling permission to create car parking. The second proposed the permanent retention of a temporary skip storage operation.

Mr Broughton advised an amendment to the plan at page 59 and then presented the applications.

Application MW.0091/17

On behalf of the applicants Mrs Coyne welcomed the officer recommendation for approval but not the proposed removal of permitted development rights, particularly as that had not been recommended in 2007. There was no clear justification now to recommend its removal which she considered would be unlawful and advised that the applicants would appeal that decision if agreed. She had raised this issue with officers in July 2017 but had received no response. There were in any event limitations and controls on what could be built and the principle of the development could not be changed, which is why removal was being opposed.

Mr Mytton advised that officers considered removal of the permitted development rights condition met the 6 tests as set out in the NPPF and it was incorrect to suggest that because this condition for removal hadn't been attached before that it couldn't be now on the basis of what might have changed. It was the officer view that the proposed bund removal and car parking constituted inappropriate development in the Green Belt and removal of permitted development rights would not materially alter the development.

Mrs Coyne then responded to questions from:

Councillor Johnston – there was case law on this point and in the applicant's view the removal of permitted development rights condition fundamentally changed the development and there was no justification for it.

Councillor Fox-Davies – she confirmed that the applicants were satisfied with conditions 1 – 3 but not 4.

Councillor Reynolds – her clients were doing a good job in managing the recycling operation at this site and a proposed extension was urgently required in order to maintain those levels of excellence.

Councillor Reynolds felt that it would be open to the applicant to apply separately for the necessary permission and on that basis moved the revised recommendation as set out in the addenda sheet. Councillor Johnston seconded the motion.

Councillor Sames did not consider the proposed changes constituted inappropriate development.

Councillor Gawrysiak accepted the legal advice given by county officers.

Councillor Webber reminded members that the threat of appeal was not a material planning consideration.

The motion was then put to the Committee and carried by 8 votes to 5. See resolution (a) below.

Mr Broughton then presented application MW.0090/17.

Suzi Coyne referred to the email that she had sent to members of the Committee prior to the meeting explaining that the application for the storage of skips was an essential part of the waste recycling operation at this site. In the normal course of things there would be 1000 skips in use but there was also a need for reserves to be stored on site. Currently the facility was outgrowing demand and it was neither financially or economically viable to move elsewhere. Contrary to the officers' view the applicant considered that very special circumstances had been demonstrated for the site to remain and it continued to be an important location for this type of operation. Recognising the government's commitment to sustaining economic growth every effort had been made to foster the site's continuing success and in so doing securing employment for 70 people. The applicants had made a large recent investment in machinery and refusal now would jeopardise the future of the site. She considered it unreasonable to have published a second reason for refusal just prior to the meeting.

Recognising the need to protect the Green Belt Councillor Phillips agreed with the officers' view that no very special circumstances had been demonstrated.

However, Councillor Sames did not feel that was the case and in view of the type of site already there this was not a visual amenity issue and he could not accept that this would cause further harm to the Green Belt.

Mr Broughton advised that officers were not specifying harm to the visual amenity but rather seeking to prevent urban sprawl. This was new development and in his view inappropriate.

Mr Periam added that the applicant had put their case as had county officers and it was for the Committee to now reach a decision on the appropriateness of the development.

**RESOLVED:** that

- (a) planning permission for application no. MW.0091/17 be approved subject to conditions to be determined by the Director of Planning and Place to include the following:
  - (1) Detailed Compliance
  - (2) Development to be carried out within 3 years.
  - (3) Drainage details of the car park area to be approved.
  - (4) Permitted development rights to be removed.
  
- (b) (on a motion by the Chairman, seconded by Councillor Johnston and carried by 8 votes to 4) that planning permission for application no MW.0090/17 be refused for the following reasons:
  - (1) It would be inappropriate development in the Oxford Green Belt and no very special circumstances to justify making an exception have been demonstrated. The application would therefore be contrary to policy C12 of

the Oxfordshire Minerals and Waste Core Strategy, policy ESD 14 of the Cherwell Local Plan 2031 and National Planning Policy Framework paragraphs 87, 88 and 90.

- (2) It would be contrary to the priorities for locating waste facilities as set out in policy W5 of the Oxfordshire Minerals and Waste Core Strategy.

..... in the Chair

Date of signing .....



**For: PLANNING AND REGULATION COMMITTEE - 19 FEBRUARY 2018**

**By: DIRECTOR FOR PLANNING AND PLACE**

<b>Application to modify or discharge Section 106 Planning Obligations at Finmere Quarry</b>
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**Division Affected:** Ploughley

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

**Location:** Finmere Quarry, Banbury Road, Finmere,  
Oxfordshire, MK18 4AJ

**Application No:** MW.0110/17    **District Ref:** P18/V0023/CM

**Applicant:** AT Contracting & Plant Hire Limited

**District Council Area:** Cherwell

**Date Received:** 19 December 2017

**Consultation Period:** 21 December 2017 – 15 January 2018

**Contents:**

- Part 1 – Facts and Background
- Part 2 – Other Viewpoints
- Part 3 – Analysis and Conclusions

**Recommendation**

The report recommends that the application (MW.0110/17) be refused but that the committee supports officers entering into separate negotiations with regard to releasing the hinterland provisions from the S106 legal agreements.

• Part 1 – Facts and Background

**Location (see plan 1)**

1. Finmere Quarry is in the north-east of Oxfordshire adjacent to the boundaries with Northamptonshire and Buckinghamshire. It is accessed off the A421 which runs north of the quarry site. Finmere village lies 450 metres north east of the edge of the site and Bicester lies 7.4 miles (12km) south west.

**Site and Setting**

2. Finmere Quarry comprises a non-hazardous landfill site and sand and gravel quarry. The application site is the area affected by seven legal agreements linked to planning permissions (Section 106 legal agreements). The application site area is smaller than the wider Finmere Quarry site and lies entirely to the east of a dismantled railway line running through the site. The surrounding area is predominantly agricultural rural countryside and the site is located within the North Ploughley Area of High Landscape Value as designated in the Cherwell Local Plan 1996. There is landfill gas utilisation plant on the southern flank of the landfill generating electricity and a Materials Recycling Facility (MRF) which is located 200 metres south of the landfilled area.
3. Land immediately west of the landfill has permission for sand and gravel working and inert landfill and land to the south east has permission for sand and gravel and clay extraction solely to be used as engineering material for the landfill and filling back with inert material from the existing quarry area.
4. The site as defined by the area of land subject to the relevant Section 106 legal agreements is bounded to the west by a dismantled railway line, part of which is proposed for the High Speed 2 rail project. A bridleway runs along part of the northern site boundary and part of the eastern site boundary. This was diverted in 2008 to avoid the MRF and in 2009 to avoid the quarry and it crosses the haul road. There are further planning permissions in the area to the west of the railway line, but these are not subject to the Section 106 provisions.
5. The nearest properties to the site include Foxley Field Farm Bungalow which lies just within the landfill site boundary on its eastern edge, Widmore Farm which lies approximately 250 metres west of the western site boundary formed by the dismantled railway line, on the site boundary of the wider site and Boundary Farm which lies approximately 250 metres east of the southern site boundary, immediately adjacent to the south east corner of the wider site.

### **Background and history**

6. Permission was originally granted for sand and gravel working and inert waste infilling on appeal in 1993. Permission for commercial and industrial landfill was granted in 1998. In 2005 permission was given to increase the height of the landfill based on advice from the Environment Agency that it was necessary to ensure run off from the landfill. The operator tipped to levels higher than those permitted and an enforcement notice was served and upheld on appeal requiring the removal of over-tipped waste.
7. In accordance with the enforcement notice, an application was made in May 2008 to remove the over-tipped waste to other waste cells within the site. The Environment Agency objected as levels of hydrogen sulphide detected from the landfill were regarded as a risk to the health of people on and off the site. As a result, the application was refused. Permission was given for retaining the over-tipped waste in 2009.
8. Permissions for a MRF and for extraction of sand and gravel and clay and inert filling on adjacent land were granted on appeal in 2007. Permission was granted in 2009 to extend the life of the landfill and the MRF to 2020. Permission 10/00361/CM was granted in May 2010 for a variation to the MRF to include the provision of a ventilation stack.
9. Permission 10/01515/CM was granted in 2010 to extend the duration of the sand and gravel extraction and restoration in the south east of the site. In September 2017, an application (MW.0083/17) was made to further extend the time period for this development. This application was approved on 26 January 2018.
10. Permission 10/01516/CM was granted in 2010 to extend the duration of sand and gravel extraction in land to the west of the railway. This land is not the subject of the Section 106 agreements. The permission allowed until 31<sup>st</sup> December 2016 for mineral extraction. Other than an initial dig to implement the planning permission in 2013, no mineral extraction has taken place. An application (MW.0142/16) has been submitted to further extend the timescales to complete this development but has not yet been determined.
11. In January 2012 permission 11/00015/CM was granted for the change of use of the MRF to add bio-drying and gasification waste treatment technologies and associated power generation together with an extension to the operational life of the building until 2035.
12. In January 2012 permission 11/00026/CM was also granted for an extension of time for the life of the landfill site until 2035, to account for the slowdown in landfilling rates that would arise as a result of the improvements in the recycling process and gasification. The permission requires the site to be restored by 31 December 2036.

13. In December 2013 permission 13/00973/CM was granted to vary the phasing of landfilling, and to extend the timescale for capping certain cells.
14. A Breach of Condition notice was served in June 2015 requiring compliance with conditions of permission 13/000973/CM regarding securing the completion of capping, soiling and seeding of cells 4, 5 & 8. These works have been completed.
15. In August 2015 permission 15/00245/OCC was granted for the MRF building as constructed along with some changes to the MRF as originally consented. In January 2016 permission (15/02059/OCC) was granted to vary this permission to vary the conditions to allow the storage of Refuse Derived Fuel (RDF) and Solid Recovered Fuel (SRF) outside the storage bay at the consented MRF to amend the operational hours of the MRF and to extend the acoustic barriers.
16. In July 2017 permission 17/01189/CM was granted to vary the conditions on permission 13/00973/CM for the landfill to extend the permitted time for restoration of certain cells and allow deposit of waste in the haul road. The end date for landfilling of waste is January 2028, in accordance with a condition attached to this consent which required the end date to be calculated on the basis of the remaining landfill void. This permission allows a further 4 years for restoration; therefore, the end date for restoration is January 2032.
17. In November 2017 permission 17/01719/CM was issued for a replacement site reception compound and related facilities at the landfill site.
18. The MRF has been damaged by fire and is not currently operational. The landfill is currently operational.
19. In December 2017, the new owner sought a Scoping Opinion for a proposal to extend the area approved for sand, gravel and clay extraction, extend the area to be restored through landfill with non-hazardous waste, use the mineral processing plant for the recovery of secondary aggregate and extend the operation of the MRF until landfilling is complete. It is anticipated that an application will be made for these developments in the future.
20. Permissions at the wider quarry and landfill site are subject to Section 106 legal agreements which include, amongst other things, a restricted hinterland for the importation of waste. The effect of the legal agreements is that no more than 25% of the waste received can be imported from outside the defined hinterland. The agreements also require a restoration bond to be held by Oxfordshire County Council and used for restoration should the owner be unable to meet their restoration obligations.
21. There is a total of seven agreements relating to the site containing provisions in relation to the waste catchment area and restoration bond. These are dated:

- 4 May 1993
- 18 March 1994
- 11 November 1997
- 4 May 2005
- 11 July 2005
- 1 May 2009
- 5 January 2012

There is a further agreement related to permission no. 15/00245/OCC dated 24 August 2015 but as it is less than five years since this was entered into, modifications to it cannot be sought under this section 106A application.

### **Details of the Application**

22. 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.
23. As the new owner of Finmere Quarry, the existing Section 106 agreements are enforceable against AT Contracting & Plant Hire Limited and they have applied to modify certain provisions of those agreements.
24. In this case, there are a total of seven Section 106 planning obligations which would need to be amended to achieve the changes sought by the applicant. The amendments could be secured by Oxfordshire County Council entering a deed of variation with the applicant.
25. The applicant is seeking to remove the obligation relating to the catchment area from which waste can be imported to the site. This would mean that there would be no restriction on the geographical source of waste. The current catchment area covers an oval shaped area including Northampton, Milton Keynes, Banbury, Oxford, High Wycombe and Luton. It does not include the whole of Oxfordshire.
26. The application is also seeking to remove the provisions relating to the restoration bond for the site. This comprises a sum of money which has been collected from the site operators over the years in order to fund the restoration of the site should the operator not be able to fund this when restoration is due to take place.

- Part 3 - Relevant Planning Documents

**Relevant Development Plan and other policies (see Policy Annex attached)**

27. 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.
28. The Development Plan for this area comprises:  
Oxfordshire Minerals and Waste Core Strategy 2031 (OMWCS)  
Oxfordshire Minerals and Waste Local Plan (saved policies) (OMWLP).  
Cherwell Local Plan 1996 (saved policies) (CLP 1996)  
Cherwell Local Plan 2011-2031 Part 1 (CLP 2031)
29. Other documents that need to be considered in determining this development include:
- National Planning Policy Framework (NPPF);
  - Planning Practice Guidance (PPG)
  - National Policy for Waste (NPPW);
30. Cherwell District Council are preparing a Part 2 to the Adopted Cherwell Local Plan 2011-2031 which will contain non-strategic site allocations and development management policies. An issues consultation was held in early 2016. This plan is at an early stage and there are not yet draft policies to consider.

Relevant Policies

31. The relevant policies are:

Oxfordshire Minerals and Waste Core Strategy (OMWCS)  
M10 – Restoration of mineral workings  
W6 – Landfill  
C5 – Local environment, amenity and economy

Oxfordshire Minerals and Waste Local Plan (OMWLP) 1996  
There are no relevant saved policies.

Cherwell Local Plan 2011-2031 (CLP 2031)  
There are no relevant policies.

The Cherwell Local Plan saved policies (CLP 1996)  
There are no relevant saved policies.

32. Other material considerations:

National Planning Policy Framework (NPPF)  
National Planning Policy for Waste (NPPW)  
Planning Practice Guidance (PPG) – paragraphs 047, 048 and 049.

• **Part 2 – Other Viewpoints**

**Representations**

33. Two third party representations have been received. The first is an objection that expresses concern about the return of monies from the restoration bond and states that the NPPF applies from the date it was published and not retrospectively. It states that the bond does continue to serve a useful purpose as it ensures that the site can be appropriately restored in the event that the operator is unable to meet their obligations. The second letter is also an objection expressing concerns that the owner could leave the site unrestored and restoration costs would be with Oxfordshire County Council and Cherwell District Council. It also expresses concern about the history of the site.

**Consultation Responses**

34. Finmere Parish Council – Accept the guidelines that regard restoration as more suitably addressed by planning conditions. However, see the S106 as a legally binding obligation on the applicant that, should it be breached, can be promptly countered with legal action. This, provides a significant incentive for the obligation not to be breached, since there is obvious and immediate redress. We see a planning condition as an agreement between the two parties which both are expected to honour. The wider community has an expectation that it will be honoured. Sometimes that community is disappointed if a breach occurs. That disappointment can be further compounded if the offending party exploits the options available to offset the breach. For instance, in some cases, a new permission is sought which, if granted, now legitimises the breach. Irrespective of that, the time taken by the process to remedy a breach is protracted and the wider community feel that the offending party has gained an unfair advantage. There is no such latitude in the S106 and the wider community feel more assured that, should a breach occur, action will be taken to correct it. Our history with the site has not given us any confidence that operators can be compelled to promptly remedy breaches of conditions, and that a more rigorous means of regulation, such as the legally binding S106, is the only way to ensure conformity. Accordingly, we would resist any attempt to modify the obligations attached to the operators of the site.
35. County Councillor Ian Corkin – The community are rightly sensitive to the financial sustainability of the site, especially as the last owners went into administration. Under the circumstances, it is essential that the bond remains in place to protect the public in future.
36. Cherwell District Council Planning – No objections.

37. OCC Ecology Officer – No comments.

• **Part 4 – Analysis and Conclusions**

**Comments of the Director for Planning and Place**

**Background**

38. This is not a planning application for new development and therefore the relevant considerations are different. The test on 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.

**Waste Catchment Area**

39. The waste catchment area was first introduced through the legal agreement dated 11 November 1997. This provision ensures that the development is carried out in a sustainable manner by preventing waste being transported to the site over long distances.

40. The applicant has argued that planning policy does not support the restriction on the geographical source of waste. They point to government guidance, including NPPW paragraph 4, which states that planning authorities should recognise that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant. The applicant also references appeal cases where local authorities have been unsuccessful in attempting to impose catchment areas on waste plants, including the Ardley Energy Recovery Facility (ERF) in Oxfordshire.

41. The OMWCS, adopted in September 2017, does not provide any specific support for imposing catchment areas on waste plants. The supporting text (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. 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.

42. The existing planning obligations do not seek to limit imported waste to only that arising without the county of Oxfordshire. The existing waste catchment plan allows waste to be imported from a number of different local authority areas, including Buckinghamshire, Bedfordshire, and Northamptonshire in addition to parts of Oxfordshire. In addition, under the existing terms of the agreements up to 25% of the waste imported can be sourced from anywhere outside the defined catchment area. Therefore, OMWCS policy stating that provision will be made for the deposit of waste from outside Oxfordshire does not lend any specific support for the proposal to end the waste catchment provisions at Finmere, as these already provided for waste from outside the County.



43. The unsuccessful attempt to impose a hinterland on the Ardley ERF is not considered directly comparable to the hinterland agreement for Finmere. 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 Finmere, the existing hinterland does not limit the source of waste to administrative boundaries, but to a radius around the site. However, it is acknowledged that it is unusual for inspectors to support hinterland provisions on facilities taking commercial and industrial waste.
44. The Parish Council have not provided any comment in relation to the hinterland provisions.
45. It must be considered whether the hinterland restrictions serve a useful planning 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. It is considered that the costs of transporting waste to the landfill and MRF would act to prevent waste from travelling large distances for disposal and recovery. In addition, it is considered that, given the history of this site, it would be of benefit to the local community for the site to be filled and restored as soon as possible. Restrictions on the areas from which waste can be imported from would potentially delay the completion of infilling and restoration, particularly should suitable waste material be scarce.
46. Overall, and in the context of the Parish Council having no comments to make on this provision, it is considered that the hinterland restrictions are no longer required to achieve sustainable transportation at this site.

### **Restoration Bond**

47. Currently £245,664.82 is held by Oxfordshire County Council as a restoration bond. There are no payments left outstanding. The agreements make provision for the bond to be reduced upon application to the Council, as the developer discharges their liabilities. Under the 2005 agreement money is to be returned if the fund exceeds the estimated cost of the restoration works, as calculated by Oxfordshire County Council. The 2005 agreement also includes a provision that no further monthly payments are due once the fund reaches £250,000.

48. NPPG paragraph 047<sup>1</sup> states that mineral planning authorities should address any concerns about the funding of site restoration principally through appropriately worded planning conditions.
49. NPPG paragraph 048<sup>2</sup> states that a financial guarantee to cover restoration and aftercare costs at mineral workings will normally only be justified in exceptional cases. It provides the following examples of exceptional cases:
- very long-term new projects where progressive reclamation is not practicable, such as an extremely large limestone quarry;
  - where a novel approach or technique is to be used,
  - where there is reliable evidence of the likelihood of either financial or technical failure
- It goes on to state that where an operator is contributing to an established mutual funding scheme it should not be necessary for a minerals planning authority to seek a guarantee against possible financial failure, even in exceptional circumstances.
50. NPPG paragraph 049<sup>3</sup> states that mineral planning authorities should seek to meet any justifiable and reasonable concerns about financial liabilities relating to the restoration of the site through agreeing a planning obligation or voluntary agreement at the time a planning permission is given. This is what was done in this case.
51. The applicant has not suggested that they are a contributing member of an established mutual funding scheme. Therefore, under current policy guidance a restoration bond could be sought as a financial guarantee against financial failure, although normally only if this was considered to be an exceptional case. However, the application does not need to be assessed against current policy and guidance; the relevant consideration is whether the provision continues to serve a useful purpose.
52. The Parish Council have provided comments on the restoration bond. They would prefer to see restoration secured through the Section 106 legal agreements, rather than conditions because they perceive legal agreements as being more enforceable. In general, there are methods for enforcing planning conditions. However, in the case of large scale restoration of a mineral working there can be concerns that financial problems might leave an operator unable to comply with conditions due to the expense involved. The expense of final restoration would often come after the site has finished being economically productive. The advantage of a Section 106 agreement in this case is that it allows the funds for the restoration to be collected whilst the site is making money and held securely to be used in restoration. This would not be possible through planning condition.

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<sup>1</sup> Reference ID: 27-047-20140306

<sup>2</sup> Reference ID: 27-048-20140306

<sup>3</sup> Reference ID: 27-049-20140306

53. The site has a complicated history including a number of past operators experiencing financial difficulties. This has led to past breaches of planning control, for example the landfill was overtipped prior to 2005 because the operator could not keep up with the necessary new cell construction due to financial problems and overtipped existing cells instead. A change of ownership occurred in 2005 but further over tipping followed. In 2007 there were three planning appeals related to mineral extraction, landfilling and the development of a MRF at the site. The operator at the time argued that the company would fail financially and be unable to meet obligations on the site, unless the appeal was allowed and permission granted.
54. Oxfordshire County Council's Scrutiny Committee reviewed enforcement action taken at Finmere Quarry in December 2008, following the over-tipping at the landfill and the limitations in securing revised contours due to Health and Safety concerns regarding gas emissions. One of the recommendations of the Scrutiny Committee was that the County Council should pursue the use of bonds in the development of future planning policy. The recently adopted OMWCS does not mention the use of bonds, which would not be compliant with National Policy Guidance for new applications. However, the recommendation does suggest that the Scrutiny Committee considered the bond at Finmere Quarry to be appropriate and useful in the context of that site.
55. There has been a history of financial failure of previous operators. The company which had operated the site since 2005 became insolvent in 2013 and another company took over. However, the Material Recovery Facility (MRF) at the site was seriously damaged by fire in February 2016, and the new operator went into administration. The current operators have owned the site for less than a year, since April 2017, and whilst operations to date appear to be progressing generally satisfactorily in accordance with the requirements of the planning permissions, it is considered that it is still too early to be assured that the required restoration of the site in the longer term will be achieved without the council and the local community having the comfort of being able to call on the restoration bond if necessary.
56. The current date for final restoration for the landfill site is January 2032, therefore it is still a number of years before restoration will be complete and it is unknown what might happen in that time. It is considered that the restoration bond still has a useful planning purpose as it provides a guarantee that the site can be restored at the end of the temporary minerals and waste activities, regardless of future changes in ownership or adverse market conditions.
57. OMWCS policy M10 states that mineral workings shall be restored to a high standard and in a timely and phased manner. OMWCS policy C5 states that proposals for minerals development shall demonstrate that they will not have an unacceptable adverse impact on the local environment, human health and safety and residential amenity. If this site was left unrestored or only partially restored there could be an adverse impact on the environment, health and safety and amenity. It must be considered

whether the bond is still necessary to achieve a high standard of restoration that does not risk an adverse impact on the environment, amenity or health and safety.

58. This is a relatively large site, with a relatively long time still to run until restoration is due with a history of financial problems and changes of ownership. It is considered that it would be short-sighted to return funds intended to ensure that restoration takes place to the current owner and operator who has owned the site for only a short time and has not yet proved that they can operate the site as an operational and financial success. Alternative methods of securing restoration do not offer the same level of security as the bond. The applicant has stated that conditions could be used, however it could be very difficult to enforce restoration conditions requiring a considerable expense in certain circumstances, for example should the current or any future owner go into administration without having restored the site at a point when the commercial opportunities of the site have been exhausted.
59. The approved afteruse is to agriculture and woodland, which is not a high value land use. Therefore, there would be limited opportunities for Oxfordshire County Council to recoup funds spent on completing restoration, should the current or any future operator abandon the site without completing the restoration.
60. It is considered that the restoration bond continues to serve a useful purpose, to ensure that the site is restored to a high standard and in a timely and phased manner, in accordance with OMWCS policies M10 and C5, given the context of the financial history of past operators at this site. Therefore, it is not recommended that a deed of variation is entered into to release the applicant from these obligations.

## **Conclusions**

61. The restoration bond continues to serve a useful purpose, to ensure that the site is restored to a high standard and in a timely and phased manner in accordance with OMWCS policies C5 and M10. However, the waste catchment area restrictions are no longer required to achieve sustainable transportation at this site. The provisions of section 106A do not allow for an application of this nature to be partially approved and partially refused therefore if members are minded that the restoration bond provisions should be retained then the application must be refused. However, S106 legal agreements can in any instance be modified if all parties are minded to do so and so if the committee is minded to support the removal of the hinterland provision then this can still be negotiated separately with the applicant and any other parties to the legal agreements.

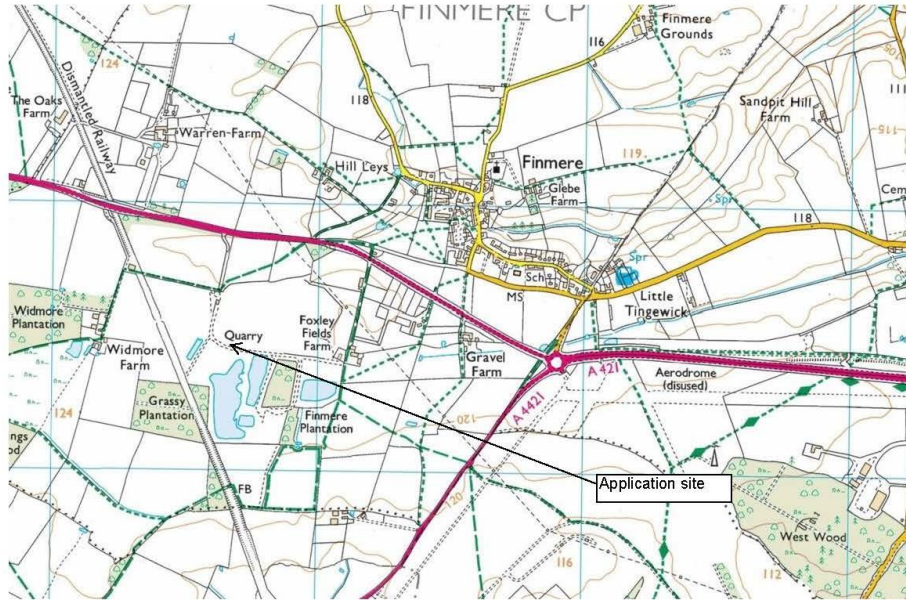
**RECOMMENDATION**

62. **It is RECOMMENDED that:**

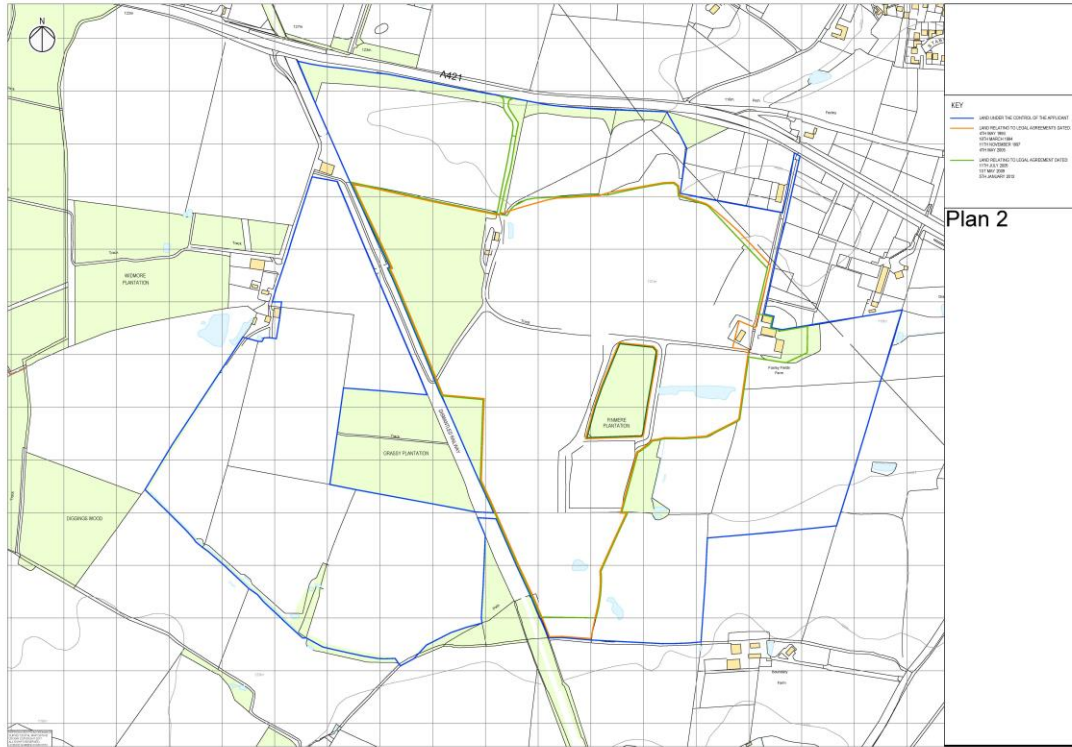
1. **Oxfordshire County Council do not enter into a deed of variation to amend the existing Section106 legal agreements with regards to the bond provisions, as applied for in application MW.0110/17 and that the S106 legal agreements continue to have effect without modification.**
2. **The committee supports the removal of the hinterland provision from the S106 legal agreements and authorises the Director for Planning and Place to enter into negotiations with the applicant and any other parties to the legal agreements with regard to entering into a deed of variation to remove this requirement.**

SUSAN HALLIWELL  
Director for Planning and Place

February 2018



**Plan 1**  
MW.0110/17 Finmere Quarry



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**For: PLANNING AND REGULATION COMMITTEE - 19 FEBRUARY 2018**

**By: DIRECTOR FOR PLANNING AND PLACE**

**Development Proposed:**

Continuation of the development permitted by P17/V0138 (MW.0005/17) (the demolition of existing asphalt plant and construction and operation of a replacement asphalt plant with ancillary plant and machinery, a new weighbridge and portable office) without according with condition 3, in order to allow extended hours of operation

**Division Affected:** Sutton Courtenay and Marcham

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

**Location:** Appleford Depot, Appleford Sidings, Appleford Road, Sutton Courtenay, Abingdon OX14 4PW

**Application No:** MW.0109/17 **District Ref:** P18/V0023/CM

**Applicant:** Hanson Quarry Products Europe Limited

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

**Date Received:** 28 June 2017

**Consultation Period:** 11 January – 1 February 2018

**Contents:**

- Part 1 – Facts and Background
- Part 2 – Other Viewpoints
- Part 3 – Relevant Planning Documents
- Part 4 – Analysis and Conclusions

**Recommendation**

The report recommends that the application (MW.0109/17) be approved.

• Part 1 – Facts and Background

**Location (see plan 1)**

1. The site lies within Appleford Rail Sidings. This is located towards the centre of the Sutton Courtenay landfill complex, approximately 0.7 mile (1.1 km) south west of Appleford and 1 mile (1.7 km) east of Sutton Courtenay. Didcot lies 1 mile (1.7km) to the south east. The sidings run for approximately 1km west of the main Didcot to Oxford train line.

**Site and Setting**

2. The wider Sutton Courtenay site includes active waste management uses undertaken by FCC, including active landfilling, composting, waste transfer and a materials recovery facility (MRF) within 500 metres of the application site.
3. The application site is surrounded by rail sidings and a road stone depot to the north, a waste transfer building and open windrow composting area to the west, restored landfill to the east and south. The operational landfill and Didcot Power station also lie to the south. There is an electricity pylon adjacent to the site.
4. The closest properties lie to the east on Main Road and Chambrai Close in Appleford. These are approximately 800 metres from the application site.
5. The site area is 0.56 hectare and is in flood zone 1, the area of least risk.
6. The site is accessed from the internal road known as the Portway which is a Public Byway Open to All Traffic (10/Sutton Courtenay).

**Details of the Development**

7. Permission was granted for the demolition of an existing asphalt plant and erection of a new replacement asphalt plant (MW.0005/17) on 26 October 2017, following a resolution to approve by Planning and Regulation committee on 5 June 2017.
8. The previous asphalt plant had been in use for over 30 years and had reached the end of its operational life. The new plant permitted by MW.0005/17 will maintain throughput at 300 000tpa with no change to traffic levels. Coarse aggregates continue to be imported by rail through the adjacent railhead and end products are exported by lorry. The plant will produce hot rolled asphalt for use on roads, pavements and parking areas. Current asphalt production is being maintained through the temporary plant granted under a separate planning permission (see below).
9. In October 2017 a monitoring visit identified that the previous asphalt plant had been demolished and construction of the replacement plant had

commenced prior to the issue of the consent for MW.0005/17. However, this permission was issued later the same month. A temporary, mobile asphalt plant was erected (under consent MW.0137/16) to ensure continuity in asphalt production before the new plant became operational. Under the terms of its planning permission, the temporary plant must be removed by early April 2018.

10. The original asphalt plant permission had no restriction on working hours. However, when application MW.0005/17 was considered, it was understood that approximately 10% of annual production at the original plant took place during periods of 24 hour working for special contracts. The rest took place within the plant's normal operational hours, which were 6am to 6pm Mondays to Sundays.
11. When the replacement plant was proposed, no changes were proposed to the hours of operation. The committee report for MW.0005/17 states that the continuation of the same hours for the new plant should have a negligible impact as there had been no recent complaints. However, to address concerns raised by Sutton Courtenay Parish Council, a condition was imposed to ensure that the existing core hours (6am to 6pm Mondays to Sundays) are maintained and operations outside of those hours are subject to prior notification and approval by the Minerals Planning Authority. This does not prevent 24 hour working but enables the Parish Council to have prior warning of late working and ensures that 24 hour working remains under the control of the Minerals Planning Authority and does not become significantly more frequent than suggested in the application documents.
12. The applicant has applied to amend the condition which requires prior notification and approval of operations outside of the core hours. They have suggested alternative wording which would mean that the plant could be operated on a 24 hour basis on 180 days per calendar year. The applicant has stated that the present wording of the condition is impractical and unworkable because working outside of core hours will be required on many occasions and sometimes at short notice.
13. Night time working allows asphalt to be produced and exported whilst overnight road resurfacing works are taking place. The applicant has submitted asphalt production figures to illustrate that night time working has been a consistent proportion of production over the period 2012-2017.
14. A noise impact assessment has been submitted with this application, which reports noise monitoring which was undertaken at Church Mill Road and Frilsham Street in Sutton Courtenay and at Appleford Crossing and Hartwright House, Hill Farm, in Appleford. It concludes that noise levels from the new plant are predicted to be less than from the original plant, as it uses more recent technology. It states that predicted noise levels would be within the limits specified on the existing consent for the landfill and associated activities (P/14/V0479/CM MW.0009/14) and there is no reason

to assume that the proposed change to the condition would elevate noise levels at the selected sensitive receptors.

15. No other changes are proposed to the permitted development, approved plans or conditions.

• **Part 2 – Other Viewpoints**

**Representations**

16. No third party representations have been received.

**Consultation Responses**

17. Sutton Courtenay Parish Council – Object to the proposed extension of hours. The original restrictions were imposed for good reason. The proposal to work during the night for 6 months of the year seems excessive. The original condition should be imposed.
18. Appleford Parish Council – No response received.
19. Didcot Town Council – No response received.
20. Vale of White Horse District Council Planning – No objection but requests that the views of the Local Parish Council and residents are taken in to account. Suggest the conditions regarding noise levels and train unloading etc. are retained in the interest of neighbouring amenity.
21. Vale of White Horse District Council Environment Health – No objection. Not aware of any complaints relating to the operation of the plant, although there have been some related to train unloading and movement.
22. Environment Agency – No comments, do not need to be consulted on this type of application.
23. Natural England – No comments.
24. OCC Transport Development Control – No objection.
25. OCC Ecology Officer – No comments received
26. OCC – Landscape and Green Infrastructure – First response – request further details regarding lighting proposals. The change to working hours is likely to require greater use of artificial lighting. This is an area of moderate light pollution. Further details should be provided to confirm that existing levels of light pollution would not be exceeded, and ideally would be reduced.
27. OCC – Transport Development Control – No objections.

### **Part 3 – Relevant Planning Documents**

#### **Relevant Planning Policies – (see policy annex)**

28. Development should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
29. The relevant development plan documents are:
- Oxfordshire Minerals and Waste Local Plan Core Strategy (OMWCS)
  - Oxfordshire Minerals and Waste Local Plan 1996 (OMWLP) saved policies
  
  - The Vale of White Horse Local Plan 2011 (VLP 2011) saved policies
  - The Vale of White Horse Local Plan 2031 Part 1 (VLP1)
30. The Vale of White Horse Local Plan 2031 Part 2 (VLP2) publication version has been published and the publicity period closed on 22<sup>nd</sup> November 2017. Therefore, although it is not yet adopted, this document is at an advanced stage and can be given appropriate weight.

#### **Relevant Policies**

31. The relevant development plan policies are:
- Oxfordshire Minerals & Waste Local Plan Core Strategy (OMWCS)
    - C1 – Presumption in favour of sustainable development
    - C5 – Amenity
  
  - Oxfordshire Minerals & Waste Local Plan (OMWLP) 1996
    - SC3 – Routeing agreements in Sutton Courtenay area
  
  - Vale of White Horse Local Plan (VLP 2011)
    - DC9 – Neighbouring amenity
  
  - Vale of White Horse Local Plan 2031 Part 1 (VLP1)
    - Core Policy 1 – Presumption in favour of sustainable development
32. The relevant emerging plan policies are:
- Draft Vale of White Horse Local Plan 2031 Part 2 (VLP2)
    - Development Policy 21- External Lighting
    - Development Policy 23- Impact of Development on Amenity
    - Development Policy 25- Noise Pollution

**Comments of the Director for Planning and Place**

**Amenity**

33. OMWCS policy C5 states that proposals for minerals and waste development shall demonstrate that there would be no adverse impact on the local environment, human health or residential amenity, including from noise, dust, traffic, light pollution and air quality.
34. VLP 2011 policy DC9 states that development will not be permitted if it would unacceptably harm the amenities of neighbouring properties and the wider environment in terms of a number of factors including noise or vibration, dust, pollution or external lighting.
35. VLP2 development policy 21 states that development that involves external lighting will be permitted provided that there would not be an adverse impact on the character of the area, the amenity of neighbouring uses or on local biodiversity.
36. VLP2 development policy 23 states that development proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses.
37. VLP2 development policy 25 states that noise generating development that would have an impact on environmental amenity or biodiversity will be expected to provide an appropriate scheme of mitigation. Development will not be permitted if mitigation cannot be provided within an appropriate design or standard.
38. Sutton Courtenay Parish Council have objected to this application as they consider that the original condition was necessary to protect the amenity of local residents. They consider allowing night working up to 6 months of the year to be excessive and against the intention of the original condition. However, there has been no objection from the Environmental Health Officer and the submitted noise report states that predicted noise limits from night time operation of the asphalt plant would be within acceptable limits. As stated by the Environmental Health Officer, past complaints have been in relation to unloading activities at the rail sidings, rather than the operation of the asphalt plant. The rail siding operations are subject to a separate planning consent (MW.0028/17) with its own conditions restricting operating hours and noise.
39. It is acknowledged that Sutton Courtenay Parish Council have concerns about the extent of night working proposed and understandable that they have objected to the amendment to a condition that was attached to address their concerns. However, the noise report submitted with this application demonstrates that the proposed night working would not cause significant harm to the amenity of local residents, who are located some distance from the plant. Therefore, in the light of the additional information produced since the original decision was made, it is not considered that

there are policy grounds for refusing the proposed change to the condition wording. However, it is recommended that an additional condition is attached to the consent setting a lower noise level limit for night time operations. The existing consent sets a noise limit of 54 dBLAeq, 1hr at listed properties. The noise report predicts a maximum noise level of 39 dBAeq 1 hr at these properties and therefore it recommended that a further condition is added to limit night time noise to 39 dBLAeq, 1hr in these locations to ensure that the predicted night time noise is not exceeded. Details of the proposed additional condition are provided in Annex 1.

40. Further information has been requested regarding the proposals for artificial lighting the site. At the time of writing the report, this had not been provided by the applicant. Additional night time working would extend the hours during which external lighting was in use, with potential impacts on light pollution affecting amenity and ecology. Therefore, further details of the proposed lighting must be provided and considered before a decision is made on this application. An update on this matter will be provided in an addendum. The recommendation below is subject to satisfactory details of lighting being submitted prior to a decision being taken.
41. The proposed change to the condition is considered to be in accordance with policies protecting amenity, including OMWCS policy C5, VLP 2011 DC9 and VLP2 policy 25, with regard to noise and dust. Further details of external lighting are required before a conclusion can be reached on compliance with the policies listed above and VLP2 policy 21 with regards to light pollution.

### **Traffic**

42. OMWLP policy SC3 states that planning permission in this area will not be granted unless a routeing agreement has been secured to encourage HGVs to use the Didcot Perimeter Road and prevent HGVs from entering the villages of Sutton Courtenay, Appleford and Long Wittenham. This policy is assessed as being partially compliant with the NPPF.
43. OMWCS policy C5 states that proposals for minerals development shall demonstrate that they will not have an unacceptable impact on the environment or amenity in terms of traffic.
44. The existing routeing agreement for MW.0005/17 dated 19<sup>th</sup> October 2017 would automatically continue to apply to any new permission granted for the same development with updated conditions. Therefore, there would be no need for a new routeing agreement. Therefore, the proposal is in accordance with OMWLP policy SC3.
45. There would be no increase in traffic because of the proposed change to the condition, although it would result in an increase in traffic movements at night. The routeing agreement would ensure that all movements,

including the additional night time movements, would be restricted to suitable roads.

46. Transport Development Control has not objected to the application. Given the continued routeing restrictions, the proposed development is considered to be acceptable in terms of impact on traffic, in accordance with OMWLP policy SC3 and OWMCS policy C5.

### **Sustainable Development**

47. The NPPF contains a presumption in favour of sustainable development which has environmental, economic and social roles and this is reflected in OMWCS policy C1 and Core Policy 1 of the VLP1.
48. This development would represent sustainable development as it would allow asphalt to be produced for overnight road works in the local area.

### **Conclusions**

49. Subject to acceptable proposals for external lighting, the proposed change to the condition is in accordance with relevant development plan policy related to amenity, traffic and sustainability.

### **RECOMMENDATION**

- 50. Subject to consideration of the further information with regard to the detailed external lighting proposals, it is RECOMMENDED that planning permission for application MW.0109/17 be approved subject to the conditions set out in Annex 2 to this report as amended by Annex 1 also to this report.**

SUSAN HALLIWELL  
Director for Planning and Place

February 2018



## **Annex 1 – Proposed Changes to conditions**

### **Condition 3 current wording:**

3. Other than with prior notification to and written approval from the Mineral Planning Authority, no operations, including HGVs entering and leaving the site shall be carried out other than between 0600 and 1800 hours Mondays to Sundays.

### **Condition 3 proposed new wording:**

3. Except on no more than 180 nights per year, no operations (including HGVs entering and leaving the site) shall take place other than between 0600 and 1800 hours Monday to Sunday. A record of all working between 1800 hours and 0600 hours will be kept and made available to the Mineral Planning Authority within 7 days of request

### **Additional condition for night time noise limits:**

11. Between 1800 hours and 0600 hours, operations shall not cause a noise level of 39 dBLAeq 1hr to be exceeded at residential properties at Hill Farm, Church Mill Road, Frilsham Street and Appleford Crossing, as set out in the Noise Impact Assessment (Appendix D to the approved Planning Application Supporting Statement) as measured 3.5 metres from the façade of these buildings.

Reason: To minimise any noise disturbance experienced by residents of properties at Hill Farm, Church Mill Road, Frilsham Street and Appleford Crossing. Policy: OMWCS C5.

### **Other updates to conditions**

- Update Plan references in condition 1 to include MW.0109/17 application documents.
- Clarify wording of condition 6 to make clear that the condition refers to day time noise limits (06.00-18.00)

## **Annex 2 – Conditions on Existing Consent MW.0005/17**

1. The development shall be carried out strictly in accordance with the particulars of the development, plans and specifications contained in the application except as modified by conditions of this permission. The approved plans and particulars comprise:

- Application Form dated 14/12/2016 - Planning Application Supporting Statement (including Appendix D Noise Impact Assessment) - AECOM dated December 2016 - Appleford Depot Site Location – Drawing no. 60513403.MAP.001 dated 12/2016 - Appleford Depot Replacement Asphalt Plant Site Location and Access - Drawing no. 60513403.MAP.002 dated 11/2016 - Appleford Depot Replacement Asphalt Plant Site Site Area Plan - Drawing no. 60513403.MAP.003 dated 12/2016 - Appleford Depot Replacement Asphalt Plant Site Existing Site Layout- Drawing no. 60513403.MAP.004 dated 12/2016 - Appleford Depot Replacement Asphalt Plant Site Site Layout Aerial - Drawing no. 60513403.MAP.005 dated 12/2016 - Appleford Depot Replacement Asphalt Plant Proposed Layout - Drawing no. 60513403.MAP.006 dated 12/2016
- Appleford Depot Replacement Asphalt Plant Elevation - Drawing no. 60513403.MAP.007 dated 12/2016
- Appleford Depot Replacement Asphalt Plant Site Weighbridge Detail - Drawing no. 60513403.MAP.008 dated 12/2016
- Outline Drainage Scheme - Drawing no. 60513403.MA.009 dated 14/12/2016

Reason: To ensure the development is carried out as proposed.

2. No development shall commence until a drainage scheme including the following details has been submitted to and approved in writing by the Mineral Planning Authority: i) soakage test information, ii) details of the size/length to the filter trench draining the plant; and iii) information on how the weighbridge will drain. The approved scheme shall be implemented for the duration of the development.

Reason: To ensure the development is carried out in a manner that ensures the site is properly drained and no silt is drained off site. Policy: OMWCS C4.

3. Other than with prior notification to and written approval from the Mineral Planning Authority, no operations, including HGVs entering and leaving the site shall be carried out other than between 0600 and 1800 hours Mondays to Sundays.

Reason: To protect the amenities of local residents of Appleford, Sutton Courtenay and Didcot. Policy: OMWCS C5.

4. No coarse aggregate mineral shall be imported to the site other than that which has been delivered by rail to the Appleford rail sidings.

Reason: To protect the amenities of local residents of Appleford, Sutton Courtenay and Didcot. Policy: OMWCS C5

5. No reversing beepers or other means of audible warning of vehicles reversing shall be fixed to, or used on any vehicle operating on the site, other than vehicles transporting material to and from the site, and those which use white noise.

Reason: To minimise any noise disturbance experienced by local residents of Appleford, Sutton Courtenay and Didcot. Policy: OMWCS C5.

6. Operations shall not cause a noise level of 54 dBLAeq, 1hr to be exceeded at residential properties at Hill Farm, Church Mill Road, Frilsham Street and Appleford Crossing, as set out in the Noise Impact Assessment (Appendix D to the approved Planning Application Supporting Statement) as measured 3.5 metres from the façade of these buildings.

Reason: To minimise any noise disturbance experienced by residents of properties at Hill Farm, Church Mill Road, Frilsham Street and Appleford Crossing. Policy: OMWCS C5.

7. No mud or dust shall be deposited on the public highway.

Reason: In the interests of highway safety. Policy: OMWCS C10.

8. A sign shall be erected and thereafter maintained at the site exit, advising drivers of vehicles leaving the site to turn left and to only travel to the A4130 via the Portway on leaving the site and that returning drivers shall only access the site from the A4130 and by turning right into the site.

Reason: In the interests of highway safety. Policy: OMWCS C10.

9. No floodlighting shall be used before 0600 hours or after 1800 hours without prior notification to and approval in writing from the Mineral Planning Authority.

Reason: To protect the amenities of local residents of Appleford, Sutton Courtenay and Didcot. Policy: OMWCS C5.

10. The asphalt plant and all associated infrastructure shall be removed at such time as the rail sidings approved under planning permission nos. SUT/APF/616/7 and P17/V0789/CM or any subsequent application varying the conditions of either of those planning permissions cease to be used for the importation of mineral for a period of two years.

Reason: To protect the amenities of local residents of Appleford, Sutton Courtenay and Didcot. Policy: OMWCS C5.

### **Annex 3 - European Protected Species**

European Protected Species (to include in Committee/Delegated reports as an Annex, not on Decision Notices)

The Local Planning Authority in exercising any of their functions, have a legal duty to have regard to the requirements of the Conservation of Species & Habitats Regulations 2010 which identifies 4 main offences for development affecting European Protected Species (EPS).

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of a EPS including in particular any disturbance which is likely
  - a) to impair their ability –
    - i) to survive, to breed or reproduce, or to rear or nurture their young, or
    - ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
  - b) to affect significantly the local distribution or abundance of the species to which they belong.
4. Damage or destruction of an EPS breeding site or resting place.

The habitat on and around the proposed development site indicates that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

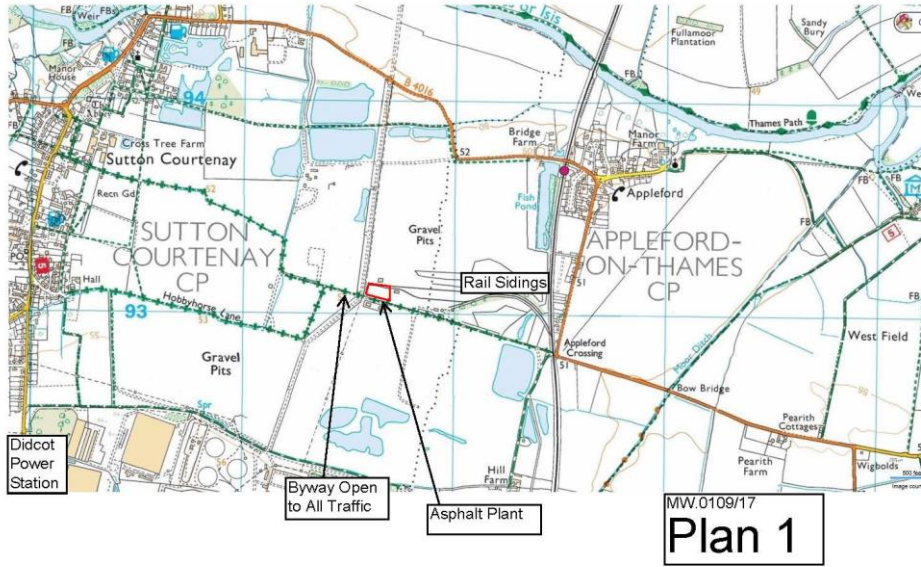
The recommendation:

European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

#### **Compliance with National Planning Policy Framework**

In accordance with paragraphs 186 and 187 of the NPPF Oxfordshire County Council take a positive and proactive approach to decision making focused on solutions and fostering the delivery of sustainable development. We work with applicants in a positive and proactive manner by;

- offering a pre-application advice service, and
- updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions. For example in this case, further information was requested and provided in relation to lighting levels on the site.



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**For: PLANNING & REGULATION COMMITTEE – 19 February 2018**

**By: DIRECTOR FOR PLANNING AND PLACE**

**Development Proposed:**

**Continuation of development without complying with Condition 2 (mineral extraction cessation date) of Planning Permission no. 16/02109/CM (MW.0125/16) in order to extend the period permitted for the extraction of mineral from 31st December 2017 to 31st December 2018**

**Division Affected:** Kirtlington and Kidlington North

**Contact Officer:** Kevin Broughton **Tel:** 07979 704458

**Location:** Shipton-on-Cherwell Quarry, Bunkers Hill, Kidlington, OX5 3BA

**Applicant:** Shipton Ltd, 5-7 Grosvenor Court, Foregate East Street, Chester, Cheshire, CH1 1HG

**Application No:** MW.0001/18

**District ref Nos:**

**District Council Area:** Cherwell

**Date Received:** 27 November 2017

**Consultation Period:** 11 January 2018 – 1 February 2018

**Contents:**

- Part 1 – Facts and Background
- Part 2 – Other Viewpoints
- Part 3 – Relevant Planning Documents
- Part 4 – Analysis and Conclusions

**Recommendations:**

• **Part 1 – Facts and Background**

**Location (see site plan Annex 1)**

1. The quarry is situated 10km (6.2 miles) north-west of Oxford, immediately north of the village of Shipton-on-Cherwell and east of the A4260. Bletchington lies 2km (1.2 miles) to the east of the site. To the north-west of the site is the linear settlement of Bunkers Hill, separated from the quarry by the A4095. Oxford Airport lies 1km (0.6 miles) to the south west. The site lies within the Oxford Green Belt.
2. The quarry is in open countryside covering 71 hectares, of which most of the site comprises a largely worked out dormant limestone quarry. The site also includes an aggregate recycling facility (ARF) located in a central 3.5 hectares area of the quarry, immediately east of the permitted haul road. The ARF is covered by a separate planning permission.
3. To the north-eastern boundary of the quarry, the land falls away to the Oxford Canal/River Cherwell. The Birmingham to Oxford railway line runs along the eastern boundary.
4. The quarry has been designated a County Wildlife Site and parts of it are designated as a geological Site of Special Scientific Interest (SSSI). A public right of way skirts the site to the north and south. Parts of the site are contaminated and are subject to remediation measures required by conditions attached to the extant planning permission.
5. The nearest dwellings to the proposed aggregate recycling site are in Jerome Way (in Shipton-on-Cherwell village) 400 metres to the north-west.

**Background**

6. In September 2006 the County Council approved a proposal for the comprehensive restoration and development of the quarry. This development incorporated:
  - Import and deposit of inert waste in order to raise the quarry floor above water level and create a development platform.
  - Re-establishment of rail sidings, construction of a rail aggregates depot and rail storage depot.
  - Mineral extraction.
  - B8 industrial use.
  - Demolition and recycling of existing structures.
  - Wildlife and geological conservation areas.
  - Temporary car storage (15 years).
  - Woodland for managed timber production (after 15 years).
  - Improvements to A4260 / A4095 junctions.
7. Section 73 to vary the condition of that application have been granted, the latest of which is reference number MW.0125/16, and the current



application seeks to change a condition relating to the mineral extraction element of that wider planning permission.

### **Details of the Developments**

8. The proposal is to modify the conditions of the existing planning consent which requires the extraction of minerals to cease by 31 December 2017 and extend the period for mineral extraction to 31 December 2018.
9. The applicants state that although the mineral extraction has progressed well this year, the currently permitted reserves within the quarry will not be fully worked out by the permitted date of 31 December 2017. They anticipate that the mineral will be worked out sometime in 2018, and in order to ensure this mineral is not sterilised, it has been necessary to seek an extension to this deadline.
10. The application was submitted before the permission expired.

### **Part 2 – Other Viewpoints**

#### **Representations**

11. There are seven third party representations that raise the following issues
  - Noise
  - Mud on the road
  - Damage to the road
  - Number of lorries has continued to increase
  - Lorries driving into Shipton damaging the verges
  - Dust
  - Continuous beeping noises
  - Noise and dust from the adjoining road
  - Rising water table requiring the use of a pump to bring down the water level. This could be from washing down lorries or from a change in the watercourses on the site
  - Concern that the site is not monitored enough
12. A petition containing 129 signatures has been submitted objection to the application for the following reasons:
  - Dust is a major problem, and current controls are not working.
  - Noise is a problem and current controls are not working: it regularly seems to breach permitted limits and the excavations cause a continuous banging noise.
  - There would be an increase in HGV movements from the extraction, and the impacts of HGVs would be felt over a longer period.
  - Representations have been made to the County Council on these issues but there has been no improvement in the situation.

**Consultations**

13. Oxford Airport Safeguarding – any need for cranes at the site should be subject to further consultation.
14. OCC Highway Authority – no objections.
15. OCC Archaeology – no archaeological constraints.
  
16. OCC Rights of Way – no comments.

**Part 3 – Relevant Planning Documents**

**Relevant planning policies (see Policy Annex to the committee papers)**

17. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
18. The relevant Development Plan policies in this case are:

Oxfordshire Minerals and Waste Core Strategy (OMWCS)

M2: Provision for working aggregate minerals  
M3: Principle locations for working aggregates minerals  
M4: Sites for working aggregates minerals.  
M5: Working of aggregates minerals  
M10: Restoration of mineral workings  
C1: Sustainable development  
C5: Local environment, amenity and economy.  
C7: Biodiversity and geodiversity  
C8: Landscape  
C10: Transport  
C12: Oxford Green Belt

Cherwell Local Plan 2031 (CLP)

PSD1: Presumption in Favour of Sustainable Development  
ESD 13: Local Landscape Protection and Enhancement  
ESD 14: Oxford Green Belt

The NPPF is also a relevant material consideration.

• **Part 4 – Analysis and Conclusions**

**Comments of the Director for Planning and Place**

19. Policy C1 of the OMWCS states that a positive approach will be taken to minerals development in accordance with the presumption in favour of sustainable development. This is echoed by policy PSD1 of the CLP which states that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. Ensuring that existing permitted mineral reserves can be extracted without adverse impacts is considered to be sustainable development.
20. The main issues for this application are the Green Belt, need for and location of mineral workings, restoration, local amenity, landscape character and highways impacts.

**Green Belt**

21. Policy C12 of the OMWCS states that proposals constituting inappropriate development in the Green Belt, will not be permitted except in very special circumstances. Policy ESD14 of the CLP states that development within the Green Belt will only be permitted if it maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
22. Paragraph 90 of the NPPF defines mineral extraction that does not affect the openness of the Green Belt as not inappropriate development. Whilst the existing planning permission covers more than just mineral extraction the proposed development is solely to amend the time period for the completion of mineral extraction and the permission is not changed in any other way. In this context, it is therefore not inappropriate and does not therefore need to demonstrate very special circumstances.

**Mineral Working Need and Location**

23. Policy M2 of the OMWCS states that provision will be made for a supply of 10,512 million tonnes of crushed rock to allow for a ten years supply. Paragraph 4.41 of the OMWCS states that permitted reserves will last until 2030. This is above the amount of permitted reserve needed, but the mineral at Shipton Quarry would nevertheless contribute to this reserve.
24. Policy M3 of the OMWCS sets out the principle locations for working crushed rock. Shipton Quarry is outside those areas. Policy M5 of the OMWCS states that prior to the adoption of the Minerals & Waste Local Plan: Part 2 – Site Allocations Document, permission will be granted for the working of aggregate minerals where this would contribute towards

meeting the requirement for provision in policy M2 and provided that the proposal is in accordance with the locational strategy in policy M3. In this case the working would contribute to the crushed rock reserve but is not within an identified strategic resource area for crushed rock. However, it is an existing quarry and the proposal is solely to allow an additional year for the extraction of the mineral which already forms part of the crushed rock landbank required to be maintained under policy M2. Therefore, it is not considered that there is any conflict with the intention of these policies.

#### Restoration

25. Policy M10 of the OMWCS requires mineral working to be restored in a timely manner. The proposed development would extend the mineral extraction by one year and would be in the context of a much wider site that has yet to be fully restored. No delay to the permitted timescale for restoration is proposed. Progressive restoration will continue and will not be delayed by the extended extraction end date. To not allow the extension proposed could also result in the sterilisation of the remaining permitted mineral reserve. The application would not therefore render the timescale for the restoration of the site to be contrary to Policy M10.

#### Local Amenity

26. Policy C5 of the OMWCS states that proposals for minerals and waste development shall demonstrate that they will not have an unacceptable adverse impact on: the local environment; human health and safety; residential amenity; and the local economy. Those impacts include from: noise; dust; traffic; mud on the road; and the cumulative impact of development. The site currently has conditions in place to protect the local amenity from noise, dust, and mud on the road. This is combined with other conditions relating to other uses on the site that in combination cover the cumulative impact.
27. There have been a significant number of objections to the application based on those issues and some of those objections relate to the lack of monitoring of the conditions. In the year preceding this committee the site was visited by monitoring officers on 19<sup>th</sup> June, 7<sup>th</sup> July, 31<sup>st</sup> August, 27<sup>th</sup> September, 25<sup>th</sup> October of last year and 9<sup>th</sup> January of this year. This was a combination of scheduled visits, spot checks and investigation of issues such as mud on the road. The overall levels of noise were found to be within the acceptable limits, and were affected by noisier activities in the monitoring locations. Dust was observed within the site but had not been raised as an issue at the time of the last full inspection on 27<sup>th</sup> September last year. The mud on the road was investigated and traced to a gate at Kidlington Airport. There have been concerns about the number of vehicle movements exceeding the permitted levels but these would relate to all the permissions on the site and have been raised and it is understood are being addressed by the applicant. I therefore consider that the planning conditions on the site are

effectively monitored and that breaches identified are pursued with the applicant.

28. The applicant doesn't propose to alter the way the mineral is extracted. All existing conditions and schemes on site protecting the local amenity will continue. Whilst the extension of time for the extraction of the remaining mineral will extend any impacts arising from that part of the permitted development and it is acknowledged that this is not the first such application for an extension of time to complete the mineral extraction, the period proposed is relatively short. All existing conditions restricting noise, dust and traffic levels will be brought forward into any new planning permission granted. Therefore, whilst the objections are noted it is not considered that the situation will significantly alter from that already permitted.
29. With the conditions in place the development would be controlled to the extent that it would not adversely affect the local amenity. The number of concerns from the local residents with regard to the existing development highlight the need for specific issues to be investigated when they arise, and this is facilitated through a liaison committee meeting regularly as well as the councils' monitoring visits. The monitoring reports make mention of a liaison committee and the applicant should be encouraged to make use of that facility.

#### Landscape Character

30. Policy C8 of the OMWCS states that proposals for minerals and waste development shall demonstrate that they respect and where possible enhance local landscape character. Policy ESD13 of the CLP seeks opportunities to secure the enhancement of the character and appearance of the landscape through, among other things, the restoration, management or enhancement of existing landscapes.
31. The permission for the quarry currently has a restoration condition, and that would remain unchanged by this proposal. The landscape character would therefore continue to be suitably protected.

#### Highways

32. Policy C10 of the OMWCS states that minerals and waste development will be expected to make provision for safe and suitable access to the advisory lorry routes shown on the Oxfordshire Lorry Route Maps. The proposed development would make no changes to the existing access and routing of lorry movements. It would therefore comply with this condition.

Other matters

33. Policy C7 of the OMWCS states that minerals and waste development should conserve and, where possible, deliver a net gain in biodiversity. The proposal would have no overall effect on biodiversity.
34. The conditions have been reviewed to see whether any further controls are necessary to meet the concerns of the local residents, but it is considered that the controls are already in place to cover the issues raised.

**Conclusions**

35. The proposed development would allow the extraction of the remaining mineral and avoid its sterilisation. The concerns of the local residents are noted and individual issues of breaches to conditions are and would continue to be investigated and pursued with the applicant. However, the proposed conditions are such that the local amenity and other impacts discussed above would continue to be protected. The development remains generally in accordance with development plan policy, is sustainable development and should be approved.

**Recommendation**

- 36 **It is RECOMMENDED that planning permission for application No. MW.0001/18 be approved subject to conditions to be determined by the Director of Planning and Place to include the Conditions set out in Annex 1 to this report.**

SUSAN HALLIWELL  
Director of Planning and Place

February 2018

European Protected Species

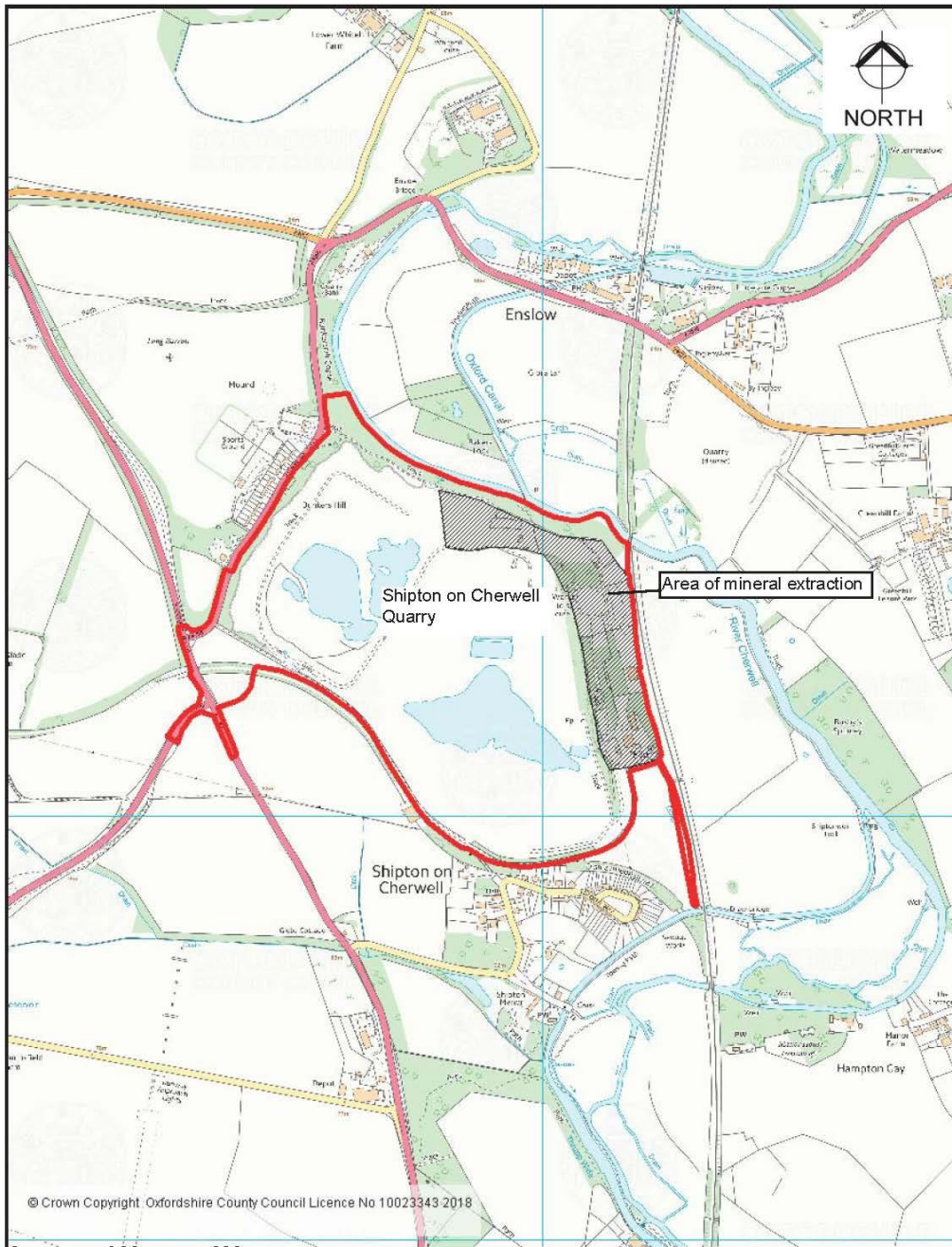
The habitat on and around the proposed development site indicate that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

Compliance with National Planning Policy Framework

In accordance with paragraphs 186 and 187 of the NPPF Oxfordshire County Council take a positive and proactive approach to decision making focused on solutions and fostering the delivery of sustainable development. We work with applicants in a positive and proactive manner by; offering a pre-application advice service; by updating applicants and agents of any issues that may

arise in the processing of their application and where possible suggesting solutions. In this case the concerns of the residents were passed on to the applicants giving them the opportunity to investigate and address those concerns.

Application no MW.0001/18 - Shipton on Cherwell Quarry



NTS

Oxfordshire County Council, Spectrum Software.



## Schedule 1 - Conditions

1. The development shall be carried out strictly in accordance with the following plans and particulars except as modified by conditions of this permission:
  - Application form dated 27/11/17
  - Application Form dated 6/10/16
  - Planning Statement dated 27/11/17
  - Site Location Plan - Drawing No. K.0117\_06-3  
Previously approved under permission MW.0125/16
  - Cover Letter dated 6th October 2016
  - Application Form dated 15th March 2016
  - Planning Statement (Amended 28th June 2016)
  - Application Form dated 22/08/2011
  - Supporting Planning Statement dated August 2011
  - Transport Statement (August 2011)
  - Phased Operational Schedule dated 27th February 2012
  - Supporting Planning Statement reference CRM.007.002 dated 12th February 2010
  - Proposed Schedule of Staged Activities and Scheme Pursuant to Condition 26 & 36 (Revised) dated 14th April 2010
  - Planning Statement (Further revised) dated August 2007)
  - Statement of Community Involvement (August 2006)
  - Design and Access Statement (Further revised in August 2007)
  - Report on Investigations for an Extension of Excavations (July 2006)
  - Approved document titled "Condition 10 – Surfacing of Access" (May 2009).
  - Approved document titled "Condition 15 – Advisory Lorry Routeing" (May 2009)
  - Advisory Lorry Routing (October 2012)
  - Approved Noise & Vibration Monitoring Locations K.0118\_27-1a
  - Reptile Fencing & Schedule 1 Bird Exclusion Zone Plan dated May 2009
  - Approved document titled "Condition 16 – Dust" (May 2009)
  - Approved document titled "Groundwater Monitoring Plan" (reference JER7612 revision 4) (September 2009)
  - Approved document titled "Desk Study Report & Site Remediation Strategy" (May 2009)
  - Approved document titled "Condition 35a - Surface Water Drainage" (May 2009)
  - Letter from Veronique Bensadou to James Irvine dated 24th June 2010 and plan CRM.003.004-001 (Proposed Contour Plan dated June 2010)
  - Approved document titled "Condition 35b – Disposal of Foul Sewage" (May 2009)
  - Approved document titled "Condition 37 – Lighting" (May 2009)
  - Approved document titled "Condition 41 – Translocation of Reptiles" (May 2009)
  - Approved document titled "Condition 44 – Storage of Limestone" (May 2009)

Ecological Mitigation and Management Plan pursuant to condition 41 of Planning Permission 11/01492/CM

- Ecological Mitigation and Management Plan

- Application Form dated 13/08/2015 (Ecological Mitigation & Management Plan)
- Approved Bat Survey Summary (Ecological Mitigation & Management Plan)
- Approved Breeding & Winter Survey Results (Ecological Mitigation & Management Plan)
- Phase 1 Habitat - Drawing No: D.001 (Ecological Mitigation & Management Plan)
- Approved Reptile Fencing Positions (Ecological Mitigation & Management Plan)
- Approved Reptile Results (Ecological Mitigation & Management Plan)
- Approved Site Photographs (Ecological Mitigation & Management Plan)

Reptile Mitigation Plan (Revised) dated March 2016 pursuant to condition 42 of Planning Permission 11/01492/CM.

- Reptile Mitigation Plan (Revised) V3 March 2016
- Reptile Presence/Likely Absence Survey dated 29th June 2015
- Application Form dated 07/07/2015 Site Location Plan -Drawing Number K.0117\_06-3

Plans (April 2007)

- Aerial Photograph – Drawing Number K.0117\_09-2
- Primary Contours Existing Levels – Drawing Number K.0117\_10-2
- Plan of Proposed Excavation Area and Cross Section Locations – Drawing No. K.0117\_14-2
- Cross Sections through Northern Part of Quarry – Drawing No. K.0117\_15-2
- Cross Sections through Eastern Part of Quarry – Drawing No. K.0117\_16-2
- Plan Showing Contours and Proposed Direction of Quarry Development – Drawing No K.0117\_17-2
- Scheme of Filling (Revised) – Drawing No. K.0117\_11-3
- Plan Showing Fill and Cut Area and Cross Section Locations (Revised) – Drawing No. K.0117\_18-3
- Cross Sections 1 & 2 – Drawing No. K.0117\_19-2
- Cross Sections 3, 4 & 5 – Drawing No. K.0117\_20-2
- Cross Sections 6, 7, 8 & 9 – Drawing No. K.0117\_21-2
- Proposed Access Arrangement – Drawing No. K.0117\_13-3
- Proposed Geological Exposures – Drawing No. K.0117\_24-3
- Proposed PDI Unit Floorplans – Drawing No. K.0117\_32-1
- Proposed PDI Unit Elevations – Drawing No. K.0117\_26-3
- Proposed Unit 1 Floorplan– Drawing No. K.0117\_33-1
- Proposed Unit 1 Elevations – Drawing No. K.0117\_27-3
- Proposed Unit 2 Floorplan – Drawing No. K.0117\_34-1
- Proposed Unit 2 Elevations – Drawing No. K.0117\_28-3
- Proposed Aggregate Depot Layout – Drawing No. K.0117\_29-3
- Proposed Aggregate Depot Elevations – Drawing No. K.0117\_30-3

Plans (August 2007):

- Interim Restored Uses Masterplan – Drawing No. K.0117\_48-5
- Interim Landscape Masterplan – Drawing No. K.0117\_22-44
- Final Restored Uses Masterplan – Drawing No. K.0117\_53-1
- Final Landscape Masterplan – Drawing No. K.0118\_78-1

- Development Construction Programme – Baseline – K.0117\_25-0d
- Development Construction Programme – Phase 3 – K.0117\_25-3d
- Development Construction Programme – Phase 4 – K.0117\_25-4d
- Development Construction Programme – Phase 5 – K.0117\_25-5d
- Development Construction Programme – Phase 6 – K.0117\_25-6d
- Development Construction Programme – Phase 7 – K.0117\_07-5
- Development Construction Programme – Phase 8 – K.0117\_25-8d
- Development Construction Programme – Phase 9 – K.0117\_52-1

Plans (May 2011):

- Site Location Plan No. 3 dated May 2011

Plans (July 2011):

- Planning Application and Ownership Areas Plan No. 4 dated July 2011

Plans (August 2011):

- Development Construction Programme Phase 1: Drawing No. K.0117\_25-1d
- Development Construction Programme Phase 2: Drawing No. K.0117\_25-2e

2. The extraction of minerals shall cease by 31st December 2018.
3. No aggregates shall be imported to the site by road for any purpose except for construction of site infrastructure and other aggregates, excluding gravel, which shall only be imported to the rail aggregates depot and which shall not be greater than 30% of the total aggregates import to the rail aggregates depot.
4. From the date of this permission the operators shall maintain records of all heavy goods vehicle movements to and from the site. The records shall detail the date, time of day, vehicle registration number, name of company operating the vehicle and a description of the vehicle's load including the tonnage. Such records shall be made available to the Minerals and Waste Planning Authority upon request.
5. No waste or inert material needed for the restoration of areas B, C, and D as shown on approved plan K.0117\_25-1d (Phase 1) shall be imported to the site by road after the end date of 12th February 2025 of this permission.
6. No more than 250,000 tonnes of waste shall be imported by road in any period of a year starting from the date of this permission.
7. No mineral extraction, waste disposal, demolition works or construction of any buildings or structures, including HGVs entering and leaving the site, but excluding water pumping or environmental monitoring, shall be carried out at the site except between the following times:-
  - a. 7:00 am to 18.00 pm Mondays to Fridays; and
  - b. 7.00 am to 13.00 pm Saturdays
  - c. No operations shall take place on Sundays, Public or Bank Holidays.

8. Prior to the completion of the road junction and access referred to in Condition 68, no vehicular access to the site shall be used other than that shown on approved plan K.0117\_25-1d (Phase 1) as a black arrowhead onto the A4095. The first 100 metres of the access road in use shall be metalled and maintained to ensure a smooth running surface free of pot holes, mud and other debris at all times.
9. Any remaining length of access or haul road not surfaced in accordance with approved plan K.0117\_25-4d (Phase 4) shall be hardened to ensure a smooth running surface free of pot holes and shall be maintained as such and kept free of mud and other debris at all times.
10. No vehicles loaded with minerals shall leave the site unsheeted except those only carrying stone in excess of 500 mm.
11. A drainage system shall be installed and maintained to ensure that no surface water from the site flows on to the public highway. That drainage system shall include a swale feature alongside the public highway.
12. No commercial vehicles shall enter the public highway until their wheels and chassis have been cleaned to prevent material being deposited on the highway.
13. The sign and road markings advising drivers to turn left out of the site entrance, as shown on approved document titled "Advisory Lorry Routing (October 2012)", shall be maintained until such time as the access referred to in Condition 68 and 69 is in use.
14. No development shall take place except in accordance with the dust suppression measures specified in the approved scheme titled "Condition 16 - Dust" dated May 2009.
15. No blasting for the purposes of mineral extraction shall be carried out on the site.
16. With the exception of the operation of the rail storage depot and aggregate depot, as shown on approved plan K0117\_25-4d, between the hours of 07:00 am to 18:00 pm Monday to Friday and 7:00 am to 18:00 pm Saturdays the noise levels arising from mineral extraction, mineral processing or waste disposal shall not exceed 55 dB(LAeq) (1 hour), freefield at the properties marked on approved plan K.0118\_27-1a (Noise and Vibration Monitoring Locations) with the exception of site 4. The rated level of noise emitted from the uses on open storage area, the PDI Unit and Units 1 and 2, all as shown on approved plan K.0117\_07-5 (Phase 7), shall not exceed background when measured in accordance with British Standard BS 4142:1997 Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas at any noise sensitive location within the vicinity of the open storage area, the PDI Unit or Units 1 and 2.

17. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times and shall be fitted with and use effective silencers.
18. The noise emitted at any time from the site from mineral working, mineral processing and waste disposal activities shall not contain any discrete continuous noise, i.e. whine, hiss, screech, hum or distinct impulses i.e. bangs, clicks, clatters or thumps (that are repeated as part of normal operations) distinguishable at the locations identified in condition 16 above.
19. In the event of justified noise complaints i.e. where noise levels set out in condition 16 are exceeded, night time operations shall cease until a scheme detailing appropriate noise mitigation measures has been submitted to and agreed in writing by the Mineral and Waste Planning Authority. Any scheme that is approved shall be implemented.
20. No development shall take place except with arrangements for ensuring that reversing vehicles do not emit warning noise other than white noise.
21. The rail storage depot and aggregate depot as shown on approved plan K.0117\_25-3d (Phase 3) shall not be used for storage until noise impact assessments for the depots have been submitted to the Mineral and Waste Planning Authority and approved in writing. Approval of either will enable that one to be implemented in advance of the other that has not yet been approved. The assessments shall set out acceptable noise levels in terms of LA max N noise criteria as well as LAeq terms and shall include mitigation measures to achieve these acceptable noise levels. Any mitigation measures that are approved shall be implemented and retained for the life of the depots.
22. Any chemical or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container's or containers' total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls.
23. 23. Repair, maintenance and refuelling of plant and machinery, shall where practical, only take place on an impervious surface drained to an interceptor.
24. 24. Schemes to deal with the risks associated with contamination of the site identified in the approved document titled "Desk Study Report & Site Remediation Strategy (May 2009)" shall be submitted to and approved by the Minerals and Waste Planning Authority in accordance with the approved document titled "Proposed Schedule of Staged Activities and Schemes Pursuant to Conditions 26 & 36 (revised)" dated 14/04/2010. In addition a scheme to deal with the risks associated with contamination from all waste stockpiles located around the north of the site (as detailed on page 6 of the approved Desk Study Report & Site Remediation Strategy dated May 2009) shall be submitted prior to the commencement of Stage 4. These schemes shall include all of the following elements:

- a. A site investigation scheme, based on the findings of the approved Desk Study Report & Site Remediation Strategy, sufficient in scope to provide information for an assessment of the risk to all receptors (including those off site) that may be affected by the contamination.
- b. The results of the site investigation, a risk assessment that identifies the magnitude of any risks to receptors and a method statement based on those results giving full details of the remediation measures required and how and when they are to be undertaken.

No stage of development as listed in the approved schedule (Proposed Schedule of Staged Activities and Schemes Pursuant to Conditions 26 & 36 (revised) dated 14th April 2010) shall take place until the details required prior to that stage have been submitted and approved in writing by the Mineral and Waste Planning Authority. The development shall proceed in strict accordance with any approved details.

25. Within one month of completion of any remediation measures required by condition 25 a verification report confirming that the remediation measures have been undertaken in accordance with the method statement shall be submitted to the Mineral and Waste Planning Authority. The verification report shall set out measures for maintenance, further monitoring and reporting.
26. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out in the specific area affected by the contamination until the developer has submitted, and obtained, written approval from the Minerals and Waste Planning Authority for an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with. Remediation measures shall then be undertaken in complete accordance with the amended method statement.
27. Piling or any other foundation designs using penetrative methods shall not take place except in accordance with a scheme agreed in writing by the Mineral and Waste Planning Authority.
28. Details of the final surfacing and containment arrangements for all areas used for the storage, handling, loading and unloading of fuels, oils, chemicals or effluents shall be submitted to, and approved in writing by the Mineral and Waste Planning Authority. Any approved scheme shall be fully implemented and retained throughout the life of that part of the development that it serves.
29. No soakaways shall be constructed in contaminated ground.
30. No development shall take place except in accordance with the groundwater monitoring scheme as set out in the approved scheme titled "Groundwater Monitoring Plan" (reference JER7612 revision 4) dated September 2009.
31. Groundwater levels shall not be artificially maintained below the current dewatered level of 56 m AOD at any time except in accordance with a

scheme that shall first be agreed in writing by the Mineral and Waste Planning Authority.

32. There shall be no direct connection between the River Cherwell and any surface water features within the development area.
33. For the duration of mineral extraction, infilling and restoration groundwater levels shall continue to be monitored on a monthly basis in accordance with the groundwater monitoring scheme approved under condition 31. This data shall be forwarded to the Minerals and Waste Planning Authority 6-monthly.
34. No development shall take place except in accordance with the approved surface water drainage scheme dated May 2009 as amended by letter from Veronique Bensadou to James Irvine dated 24th June 2010 and plan CRM.003.004-001 (Proposed Contour Plan dated June 2010).
35. No development shall take place except in accordance with the approved scheme for the disposal of foul sewage titled "Condition 35b" Disposal of Foul Sewage" dated May 2009.
36. The former landfill of high alkaline content waste in the northern corner of the site shall be removed off site or an onsite remediation strategy to address the high alkaline content shall be submitted to and approved by the Mineral and Waste Planning Authority in accordance with the approved document titled "Proposed Schedule of Staged Activities and Schemes Pursuant to Conditions 26 & 36" dated 14th April 2010 (prior to landfilling of the third hectare area as shown on approved plan K.0117\_25-5d (Phase 5)). Any agreed remediation strategy shall be implemented in accordance with the approved details.
37. No development shall take place except in accordance with the arrangements to minimise potential nuisance from light spillage, as specified in approved document titled "Condition 37 - Lighting" dated May 2009.
38. No reflective materials shall be used on the walls and roofs of buildings to be constructed on site.
39. By 12th February 2017 an aftercare scheme for Area A marked on approved plan K.0117\_25-1d shall be submitted for the approval of the Mineral and Waste Planning Authority and shall include all the areas to be restored to nature conservation use and shall address the monitoring and management of that land, water body, plant and animal community. Any scheme that is approved shall be implemented in any restored area from the date that that area is restored.

By 12th February 2020 an aftercare scheme for Area B-D marked on approved plan K.0117\_25-1d shall be submitted for the approval of the Mineral and Waste Planning Authority and shall include all the areas to be restored to nature conservation use and shall address the monitoring and management of that land, water body, plant and animal community. Any

scheme that is approved shall be implemented in any restored area from the date that that area is restored.

40. Details of the site's ecological mitigation and management shall be in accordance with the approved Ecological Mitigation and Management Plan pursuant to condition 41 of Planning Permission 11/01492/CM.
41. Details of the site's reptile mitigation shall be in accordance with the approved Reptile Mitigation Plan (Revised) dated March 2016 pursuant to condition 42 of Planning Permission 11/01492/CM.
42. Translocation of reptiles from any part of the site where extraction or infilling is to take place shall be completed before that extraction or infilling commences in that part. Translocation shall take place to the reptile receptor area as shown on approved plan Reptile Fencing & Schedule 1 Bird Exclusion Zone Plan or in accordance with the mitigation strategy approved pursuant to Condition 42 of Planning Permission 11/01492/CM.
43. The existing trees, bushes and hedgerows within the site, as denoted by the red line and as shown as being retained and protected during construction on approved plan K.0117\_25-1d (Phase 1), shall be retained and shall not be felled, lopped, topped or removed. Any such vegetation removed without consent, dying, being severely damaged or becoming seriously diseased shall be replaced with trees or bushes of such size and species as may be specified by the Mineral and Waste Planning Authority, in the planting season immediately following any such occurrences.
44. Within 6 months of a cessation of mineral extraction or waste disposal for a period exceeding 24 consecutive months, at any time before the mineral extraction or waste disposal development is completed, a reinstatement and restoration scheme shall be submitted in writing forthwith to the Mineral and Waste Planning Authority for approval. The scheme shall provide revised details of final levels, restoration, capping, landscaping and a timescale for the implementation of the scheme and each element within it. The approved scheme shall be carried out in accordance with the approved timescale.
45. Crushing, screening, processing and storage of minerals shall not take place other than on the quarry floor.
46. No extraction of limestone shall take place except within the area bounded by the line shown as "proposed limit of extraction" on approved plan K.0117\_14-2 (Scheme of Mineral Working: Proposed Excavation Area and Cross Section Locations).
47. No mineral extraction shall take place below 67 metres AOD.
48. No storage of skips shall take place on the site.
49. No waste other than non-recyclable construction, demolition or excavation wastes shall be deposited on the site.



50. A restoration scheme shall be submitted to and approved in writing by the Mineral and Waste Planning Authority for Area A marked on approved plan K.0117\_25-1d by 12th February 2017. The restoration scheme shall be based on the Schematic Restoration Plan for Zone A included in the approved Reptile Mitigation Plan (Figure 2.1) and include additional details:

- a. Restored habitats, which shall include the habitat elements shown on approved plan K.0117\_25-3d (Phase 3)
- b. Measures for safeguarding and protecting existing areas of biodiversity and details of regrading other areas to create new habitats
- c. The provision of a bird hide within area A
- d. Details showing the provision of paths and a car park for public access to the site including:
  - Perimeter paths for area A and public access arrangements
  - Specifications with regard to width, construction materials, waymarking, fencing and resting places
- e. Details of the creation of the three geological windows as shown on approved plan K.0117\_24-3 (Geological Exposures) or alternatives and how public access to them will be provided
- f. the removal and re-deposition of the excess materials deposited above the levels permitted in planning permissions 98/00470/CM, 98/02053 and 02/02602/CM.

A restoration scheme for Area B-D shall be submitted and approved in writing by the Mineral and Waste Planning Authority by 12th February 2020. The scheme shall be based on the approved Final Landscape Master Plan K.0118\_78-1 and include additional details of:

- a. Tree, hedgerow and scrub planting, including a woodland planting scheme for areas C and D designed to maximise a range of bird habitats and will detail the species, ages, spacing and distribution of plants
- b. Restored habitat in area B which shall include the habitat elements shown on approved plan K.0117\_25-3d (Phase 3)
- c. Measures for safeguarding and protecting existing areas of biodiversity and details of regrading other areas to create new habitats
- d. The provision of a bird hide within area B
- e. Details showing the provision of paths and a car park for public access to the site including:
  - Paths around and through the whole site
  - Links to the local existing public rights of way
  - Specifications with regard to width, construction materials, waymarking, fencing and resting places
- f. Details of the creation of the two geological windows as shown on approved plan K.0117\_24-3 (Geological Exposures) or alternatives and how public access to them will be provided
- g. the removal and re-deposition of the excess materials deposited above the levels permitted in planning permissions 98/00470/CM, 98/02053 and 02/02602/CM.

Any restoration scheme approved in writing by the Mineral and Waste Planning Authority shall be implemented in accordance with condition 53 and will supersede approved plans K.0118\_78-1 (Final Landscape Masterplan) and K.0117\_53-1 (Final Restored Uses Masterplan) and the restoration details shown on approved plans K.0117\_07-5 (Phase 7), K.0117\_25-8d (Phase 8), K.0117\_52-1 (Phase 9), and K.0117\_48-5 (Interim Restored Uses Masterplan).

51. Notwithstanding condition 6, soil for the purposes of restoration of the area shown as open storage area on approved plan K.0117\_48-5, shall be imported by road to the site, following the removal of the hardstanding, for a period of no more than two years.
52. The restoration plan shall be implemented in areas A, B, C and D as shown on approved plan K.0117\_25-1d (Phase 1) as follows:
  - a) Area A shall be completely restored before unit 1, as shown on approved plan K.0117\_07-5, is constructed.
  - b) Area D shall be completely restored within five years of the commencement of car storage operations in the area marked as 'second 10 hectares ...' on approved plan K.0117\_25-5d.
  - c) Areas B and C shall be completely restored within 2 years of the cessation of car storage in these areas or by 17 June 2036, whichever is sooner.
53. Final restoration levels shall not exceed the limits shown on approved plans K.0117\_11-3 (Scheme of Filling), K.0117\_18-3 (Plan Showing Fill and Cut Area and Cross Section Locations), K.0117\_19-2 (Cross Sections 1 & 2), K.0117\_20-2 (Cross Sections 3, 4 & 5) and K.0117\_21-2 (Cross Sections 6, 7, 8 & 9).
54. Demolition of the derelict cement works buildings and structures (including the chimney) shall be completed by 12th February 2020 in accordance with details to first be submitted to and approved in writing by the Mineral and Waste Planning Authority.
55. The operator shall inform the Mineral and Waste Planning Authority, in writing, of the date when cars are starting to be stored on site. Car storage shall not take place for a period exceeding 15 years from the date when car storage first began. In any event, car storage shall cease by 17 June 2034.
56. The Pre Delivery Inspection (PDI) unit building shall not be constructed other than in the position shown on approved plan K.0117\_48-5 (Interim Restored Uses Masterplan) and then only in accordance with the proposals in approved plans K.0117\_32-1 (Proposed PDI Unit Floorplans) and K.0117\_26-3 (Proposed PDI Unit Elevations). Notwithstanding the Use Classes Order 1987 any Order or any Order replacing it the building shall not be used for purposes other than the pre delivery inspection of motor vehicles. The building shall be removed when the land on which it is located is restored.

57. Notwithstanding the Use Classes Order 1987 or any Order replacing it, the Open Storage Area as shown on approved plan K.0117\_48-5 (Interim Restored Uses Masterplan) shall not be used for any other purpose than the storage of cars.
58. When car storage ends on site all the fences shown on approved plan K.0117\_48-5 (Interim Restored Uses Masterplan) shall be removed other than those around the rail storage depot, aggregates depot and the curtilages of Unit 1 and 2 buildings all as shown on approved plan K.0117\_52-1 (Phase 9).
59. Notwithstanding condition 7, rail access may take place at any time but no railway transporter or wagon shall be emptied or filled on the site of the aggregates depot as shown on approved plan K.0117\_52-1 (Phase 9) other than during the hours noted in condition 7.
60. No development shall take place that may adversely affect the main railway line or its safe operation, its drains or culverts.
61. The area marked as 'rail storage depot' on approved plan K.0117\_25-3d (Phase 3) shall not be used for any purpose other than the offloading or loading of railway transporters or rail wagons or the storage of materials brought in by rail.
62. No rail imported aggregates shall be stored on site except in the bays constructed in the location shown on approved plan K.0117\_29-3 (Proposed Aggregates Depot Layout) or within the rail storage depot, as shown on approved plan K.0117\_52-1 (Phase 9), within such structures and in such locations and to such dimensions that the Mineral and Waste Planning Authority approve in writing.
63. No development of the rail storage depot, as shown on approved plan K.0117\_25-3d (Phase 3), shall take place until details of the plant, machinery, buildings and structures there have been submitted to and approved by the Mineral and Waste Planning Authority in writing.
64. Notwithstanding the provisions of part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, replacing or re-enacting that Order), no fixed plant or machinery, buildings, structures and erections, or private ways shall be erected, extended, installed, rearranged, replaced, repaired or altered at either the rail storage depot or aggregate depot, as shown on approved plan K.0117\_25-3d (Phase 3) other than as shown in the details on approved plan K.0117\_29-3 (Proposed Aggregates Depot Layout) and in details agreed pursuant to condition 63.
65. The Unit 2 building shall not be constructed other than in the position shown on approved plan K.0117\_48-5 (Interim Restored Uses Masterplan) and in accordance with approved plans K.0117\_34-1 (Proposed Unit 2 Floorplan) and K.0117\_28-3 (Proposed Unit 2 Elevations). The building shall not be used

for any purpose other than a B8 use as defined by the Use Classes Order 1987 or any Order replacing it.

66. Notwithstanding condition 65 the area immediately around the Unit 2 building defined by the fence shown on approved plan K.0117\_48-5 (Interim Restored Uses Masterplan) shall not be used other than to store materials related to the activities in the building. No storage of materials shall take place above the level of the eaves of the building as shown on approved plan K.0117\_28-3 (Proposed Unit 2 Elevations).
67. The Unit 1 building shall not be built other than in the location shown on approved plan K.0117\_48-5 (Interim Restored Uses Masterplan) and then only in accordance with approved plans K.0117\_33-1 (Proposed Unit 1 Floorplan) and K.0117\_27-3 (Proposed Unit 1 Elevations). The building shall not be used for any other purpose than a B8 Use as defined by the Use Classes Order 1987 or any Order amending or replacing it. The area immediately around the building defined by the fence shown on approved plan K.0117\_48-5 shall not be used other than to store materials related to the activities in the building. No storage of materials shall take place above the level of the eaves of the building as shown on approved plan K.0117\_27-3.
68. The PDI and class B8 buildings, as shown on approved plan K.0117\_25-4d (Phase 4) shall not be used nor cars stored or exported from the site until the road junction marked 'Construction of light controlled junction and A4260/A4095/Quarry link road' on approved plan K.0117\_25-4d has been constructed. On completion of construction, road vehicles shall not use any access to site other than as shown on approved plan K.0117\_25-4d.
69. Prior to the use of the site access referred to in Condition 68, a sign shall be erected and thereafter maintained advising drivers of vehicle routes approved by the Mineral and Waste Planning Authority. The wording and construction details of the sign shall be submitted for the approval of the Mineral and Waste Planning Authority prior to the use of the access. The sign must be in accordance with the approved details.
70. HGV movements to and from the site shall not exceed 318 (159 in, 159 out) in any day.
71. The road marked 'haul-route-existing route to remain' on approved plan K.0117\_25-1d (Phase 1) shall not be used for the transport of minerals or waste materials or in connection with any activities approved by this permission. It shall revert to use as a track for agricultural, rail (but not in connection with the rail storage depot or rail aggregate depot) and site security uses before the construction of Unit 1 shown as 'Construction of 1 ha (2.5 acre) class B8 building ...' on approved plan K.0117\_25-4d (Phase 4) is complete.
72. The road, marked as 'surfaced access road' on approved plan K.0117\_25-4d shall be realigned so that it runs between restoration areas B and C, rather than A and B. The realignment shall be completed before restoration of areas

B and C are complete. The residual line between restoration areas A and B shall be removed and the area restored in accordance with the restoration plan approved under condition 50 and within the timescales for restoration for those areas as set out in condition 52.

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**For: PLANNING AND REGULATION COMMITTEE – 27 NOVEMBER  
2017**

**By: DIRECTOR FOR PLANNING AND PLACE**

**Development Proposed:**

**7 number 6m high external lighting columns installed around the area of new car parking**

**Division Affected:** Kidlington South

**Contact Officer:** Kevin Broughton **Tel:** 07979 704458

**Location:** William Fletcher School, Rutten Lane, Yarnton,  
Oxfordshire, OX5 1LW

**Applicant:** Oxfordshire County Council

**Application No:** R3.0065/17 **District ref No:** 17/01809/OCC

**District Council Area:** Cherwell

**Date Received:** 23 August 2017

**Consultation Period:** 7 September 2017 – 28 September 2017

**Contents:**

- Part 1 – Facts and Background
- Part 2 – Other Viewpoints
- Part 3 – Relevant Planning Documents
- Part 4 – Analysis and Conclusions

**Recommendation:**

- **Part 1 – Facts and Background**

**Location (see site plan Annex 1)**

1. William Fletcher School is on the northern side of Yarnton, a village about 8km (5miles) north of Oxford and 1.5km (1mile) west of Kidlington. The village of Yarnton is surrounded by Green Belt, but the village, and therefore the school are not designated Green Belt, and the site is not subject to any specific landscape designations.

2. The school site is bounded by a residential nursing home to the west, the access road to the nursing home and housing beyond to the north, housing to the south and Rutten Lane with housing beyond to the east.
3. The application area is the car park for 17 spaces to the north east corner of the site. School buildings lie to the south and west. Roads with housing beyond are to the north and east.
4. The nearest property is 10m to the north.

**Details of the Development**

5. The proposal is a retrospective application for 7 floodlights on 6m high columns to illuminate the car park at the school.
6. The applicant states that the number and height of the poles are needed in order to provide adequate lighting over the new parking area. The proposed hours of use for the lighting are 07.00 to 19.00 hours.
7. Lighting to the car park was included in application 15/01836/OCC which was an application for an extension to the school. That permission included a condition that no external lighting be erected or used until a detailed scheme, including specifications, locations and timings have been submitted and approved.
8. The lighting was erected and used without such a condition being discharged. Retrospectively a details pursuant application was submitted for the lighting scheme.
9. That details pursuant application was refused because the planning permission stated that lighting would be affixed to the external façade of the building. There were no lighting poles included in the application. The details pursuant to that permission stated that the lights would be on poles that would be 6m in height. Such poles would require planning permission in their own right, and had never been contemplated as part of the planning permission. The lighting would therefore be a new development requiring planning permission and not a detail pursuant to the permission given. A new application for the development was therefore submitted, and the lighting continues to be used even though it is unauthorised.
10. Details of light spillage were submitted in support of the application. The details show the light to be approximately 0.75 lux where it spills into the curtilages of neighbouring properties. For comparison moonlight on a clear night is 0.05 – 0.36 lux.



## **Part 2 – Other Viewpoints**

### **Representations**

11. There have been two third party representations objecting to the effect of the lighting on neighbourhood amenity.

### **Consultations**

12. Cherwell DC (Planning) – no objections subject to a condition being imposed requiring limiters / cowls to be placed on the lights so as to prevent light spillage to neighbouring properties, and for a light spillage plan for the same to be submitted and approved before the first operation of said lighting.
13. Cherwell District Council (Environmental Protection) – no objections or observations.
14. Yarnton Parish Council - Yarnton Parish Council objects for the following reasons:
  - The number and height of the posts are greater than needed for the car park.
  - It is a source of light pollution.
  - It is annoying for near neighbours.
  - The lighting is kept on when the school is unoccupied.
15. CPRE – the number of columns are too high for this area, and the proposed light will too great. They would be a visual intrusion into the surrounding area.
16. Oxford Airfield Safeguarding – objection pending the provision of further information to allow detailed safeguarding assessment to be carried out.

## **Part 3 – Relevant Planning Documents**

### **Relevant planning policies (see Policy Annex to the committee papers)**

17. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
18. The relevant Development Plan policies are:

Cherwell Local Plan 2031 (CLP2031) Policies:

PSD1: Presumption in favour of sustainable development.

BSC7: Meeting Education needs.

ESD 2: Energy Hierarchy and Allowable Solutions

ESD 13: Local Landscape Protection and Enhancement

Saved policies of the Cherwell Local Plan 1996 (CLP1996)  
ENV1 Development likely to cause detrimental levels of pollution.

19. Other Material Considerations are:

The Government's National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a material consideration in taking planning decisions. The CLG letter to the Chief Planning Officers dated 15 August 2011 is also relevant.

• **Part 4 – Analysis and Conclusions**

**Comments of the Director for Planning and Place**

20. The CLG letter to the Chief Planning Officers dated 15 August 2011 set out the Government's commitment to support the development of state funded schools and their delivery through the planning system. The policy statement states that:  
*"The creation and development of state funded schools is strongly in the national interest and that planning decision-makers can and should support that objective, in a manner consistent with their statutory obligations."* State funded schools include Academies and free schools as well as local authority maintained schools.

It further states that the following principles should apply with immediate effect:

- There should be a presumption in favour of the development of state-funded schools;
- Local Authorities should give full and thorough consideration to the importance of enabling the development of state funded schools in their planning decisions; Local Authorities should make full use of their planning powers to support state-funded schools applications;
- Local Authorities should only impose conditions that clearly and demonstrably meet the tests as set out in Circular 11/95;
- Local Authorities should ensure that the process for submitting and determining state-funded schools' applications is as streamlined as possible;
- A refusal of any application for a state-funded school or the imposition of conditions, will have to be clearly justified by the Local Planning Authority.

This has been endorsed as part of the National Planning Policy Framework.

21. Policy PSD1 of the CLP2031 sets out the presumption in favour of sustainable development. It requires planning authorities to take a proactive approach to development.
22. Policy BSC7 of the CLP 2031 states that the District Council will work together with other bodies to meet educational needs.

23. These policies in combination with the letter from the Secretary of State are a strong steer that planning permission should be granted for the proposed development unless there are overriding reasons not to.
24. The main issue for this development are the effect on the local amenity and landscape.

Effect on the Local Amenity and landscape

25. Policy ENV1 of the CLP 1996 seeks to protect the local environment from pollution, including light pollution.
26. The proposed development is a high level of lighting for a relatively small and not busy car park. The proposed number of lights would be an addition to the existing street lighting. The proposed lighting would lead to light spillage onto the neighbouring properties. Although this is not high and could be further reduced by the imposition of a condition to control the timing of the lighting it would nonetheless be an intrusion on the neighbours' properties and their amenity.
27. No justification has been submitted as to the need for the height of the lighting columns or the number of the columns. The lux levels provided are in excess of those experienced on a moonlit night with no artificial lighting. The effects are not likely to be large on the wider landscape but the height and numbers of the lights would have some detrimental effects on the local landscape contrary to policy ESD13.
28. The proposed development would lead to light pollution to the local amenity which would be contrary to policy ENV1. There is no evidence in the justification statement as to the need to cause the environmental pollution.

Other Issues

29. Policy ESD13 of the CLP 2031 seeks to protect and enhance local landscape, particularly on the edges of settlements.
30. The site is close to the edge of the village, but there is a residential nursing home between the school and the open countryside. The effects are not likely to be large on the wider landscape but the height and numbers of the lights would have some detrimental effects on the local landscape contrary to policy ESD13.
31. Policy ESD2 of the CLP 2031 seeks to promote reductions in energy use. The proposed lighting would be low energy LED and would generally be compliant with the policy, but the number of lighting columns would equate to 1 lighting column for every 2.5 car parking spaces which seems excessive.

### **Conclusions**

32. The proposed development would cause light pollution to the extent that there would be a detrimental effect on the local amenity and to the local landscape, contrary to saved policy ENV1 of the CLP 1996, and to policy ESD13 of the CLP 2031. No justification has been provided to support the need for such lighting to a small primary school car park. Even taking into account the presumption in favour of sustainable development, such a lighting scheme would result in an effect on amenity that would amount to an overriding reason for refusing the application.

### **RECOMMENDATION**

33. **It is RECOMMENDED that planning permission for application no. R3.0065/17 be refused on the grounds that:**
  1. **It would cause light pollution detrimental to the local amenity contrary to saved policy ENV1 of the Cherwell Local Plan 1996; and**
  2. **It would have a detrimental effect on the local landscape contrary to policy ESD13 of the Cherwell Local Plan 2031.**

SUSAN HALLIWELL  
Director of Planning and Place

February 2018

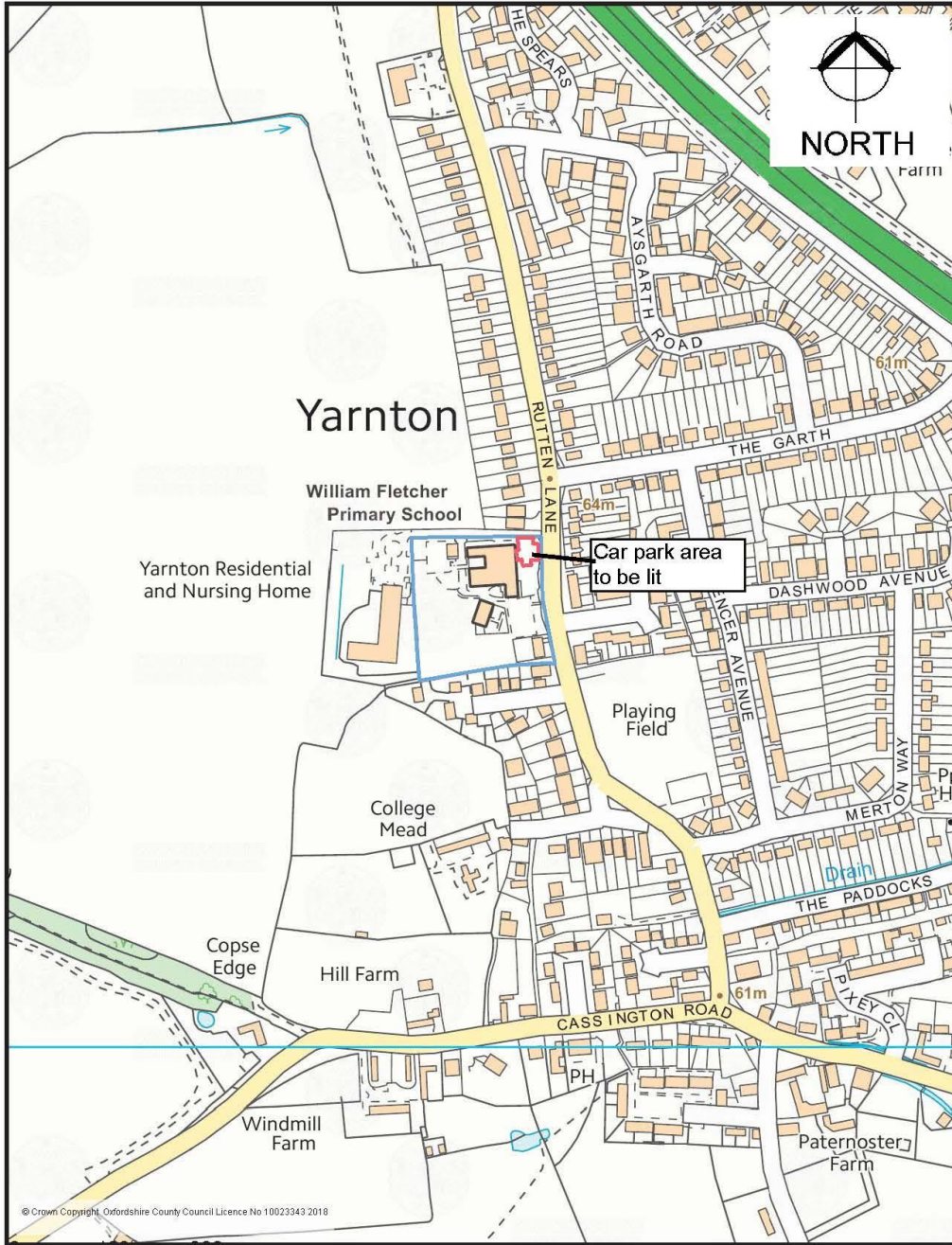
### **European Protected Species**

The habitat on and around the proposed development site indicate that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

### **Compliance with National Planning Policy Framework**

In accordance with paragraphs 186 and 187 of the NPPF Oxfordshire County Council take a positive and proactive approach to decision making focused on solutions and fostering the delivery of sustainable development. We work with applicants in a positive and proactive manner by; offering a pre-application advice service, which the applicant took advantage of in this case updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions. The applicant has been informed of the need to provide justification for the proposed lighting and has been advised as to the planning permissions needed for the development.

Application no R3.0065/17 - William Fletcher School



NTS

Oxfordshire County Council, Spectrum Software.

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**For: PLANNING AND REGULATION COMMITTEE – 19 February 2018**

**By: DIRECTOR FOR PLANNING AND PLACE**

<b>REPORT ON PROPOSED PLANNING ENFORCEMENT ACTION AT ELM FARM QUARRY, STRATTON AUDLEY.</b>
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Division Affected: Ploughley Division

Contact Officer: Chris Hodgkinson Tel: 07899 065518

### **Recommendation**

It is RECOMMENDED that the Committee:

1. notes the report; and
2. supports the carrying out of further ecological surveys to inform the council's consideration of the expediency of taking enforcement action and the steps to be specified as required in a planning enforcement notice to be served before 31st December 2018.

### **INTRODUCTION**

- 1 This report updates members on an enforcement strategy for the above site to secure the best long term restoration at minimum cost to the public purse. There are options available in this regard; in terms of the type of planning enforcement notice we serve and the extent of the work required to remedy the breach of planning control.
- 2 Decisions on enforcement action under the terms of the Oxfordshire County Council's constitution are delegated to the Director of Planning and Place and from her onwards to the Service Manager Planning Regulation, in consultation with the County Solicitor.

### **SITE LOCATION AND DESCRIPTION (Annex 1)**

- 3 The site is to the north of Bicester Airfield, access is situated on the unclassified road between the A421 and Stratton Audley village. The site is a partially restored quarry / inert landfill with two remaining voids (now water filled) and naturally developed open land, scrub, tall ruderal and wetland habitats. There are considerable piles of rubble and soils together with scrap materials left in situ, plus the remains of the wheel wash.
- 4 Adjoining the site to the north is a former County Council landfill, now with scrub and open water. Part of both sites is designated as the 'Stratton Audley Quarries' Site of Special Scientific Interest; the Geological SSSI was to be cut into the limestone (or blocks of limestone revealed for inspection) and has not been achieved. The two sites together are designated as Stratton Audley Quarry

Local Wildlife Site (LWS) (recent survey 2014). A belt of land around the perimeter of Bicester Airfield, which adjoins the site, is also designated an LWS.

## **RELEVANT PLANNING HISTORY**

- 5 The last planning permission covering operations at the site and associated legal agreements is as follows: 97/01501/CM Infilling of existing limestone quarry with naturally occurring subsoils and other wastes to form a Country Park, Importation of Waste Aggregates for Recycling and Resale, Elm Farm Quarry, Stratton Audley.
- 6 A unilateral undertaking was given on 20<sup>th</sup> February 1998 to;
  - make a payment for highway improvements;
  - to restore the land;
  - upon restoration, to open the land to the public for use as a Country Park for 300 days each year;
  - to maintain the Country Park;
  - to cease all mining, quarrying and extraction operations.

## **STATUS OF THE DEVELOPMENT**

- 7 The proper restoration of the Land was required to be completed no later than 31 December 2008 by planning permission no. 97/01501/CM. Restoration is not complete and this represents a serious breach of planning control.
- 8 The original limited liability company carrying out the development went into receivership and was subsequently dissolved. The land was then purchased by a company called Oaklane Properties Limited. The site remains dormant, un-restored and with residual heaps of waste present. The Geological SSSI was to be cut into the limestone (or blocks of limestone revealed for inspection) and has not been achieved with the drainage wetland turning into an overtopped lake. There are no monies, nor a bond available, for the long-term maintenance of a Country Park.
- 9 As stated, the site was required to be restored by 31st December 2008. The County Council has ten years from that date (by 31st December 2018) in which to bring formal enforcement proceedings for the on-going breach of planning control.
- 10 Officers tried in February 2016 to engage with the current land owners and this included a site meeting with an agent who purported to represent them. However, there has been no response to requests for further information following that meeting.

## **PLANNING AND ENFORCEMENT CONSIDERATIONS**

- 11 The Town and Country Planning Act 1990 (as amended) provides the Council with discretionary power to take enforcement action if it is expedient to do so, having regard to the provisions of the development plan and to any other material considerations. Any works on site to remedy the breach would have to



be carried out in accordance with the provisions of the original planning permission but cannot be any more onerous.

- 12 When considering expediency, it is necessary to contemplate the following points:
- The harm or potential harm to amenity if the breach or breaches are allowed to continue;
  - The history of the operator's compliance with both formal and informal requests to take steps prescribed or requested by the authority to remedy planning breaches;
  - That the enforcement action proposed is commensurate with and proportionate to the breach to which it relates;
  - Any previous advice, correspondence and negotiations;
  - The consequences of non-compliance;
  - The likely effectiveness of the various enforcement options;
  - The public interest, and;
  - The availability of appropriate evidence to support the enforcement action proposed with due consideration to the likelihood of success.
- 13 The current requirements are for the site to be restored to a Country Park. The original site operator is no longer in existence. Given the lack of any pro-active engagement with officers to date with regard to resolving the restoration of the site, it would seem unlikely that the current landowners would be committed to running the site as a Country Park even if it were to be restored as required by the existing planning permission and legal agreement.
- 14 Since it was last active nearly ten years ago, the site has naturally regenerated with vegetation and so various habitats have formed. It is known that the site is home to 300 flowering plants including some county rarities as well as 12 species of dragonfly and 53 species of hymenoptera (bees, wasps and ants). Therefore, it would also seem likely that birds and animals will also be using the area as habitat for both hunting and breeding. It would be a defence to any enforcement action taken if the council were to require works to be carried out which would detrimentally affect a Protected Species. Before any enforcement action is taken, it is therefore important to establish in more detail through surveys what the current ecological interest of the site is. The council must in any instance have consideration to the impacts on biodiversity provided for in development plan policies and national policy in considering the expediency of any enforcement action.
- 15 As part of the expediency considerations therefore, the County Ecologist has been consulted on the long-term site restoration and management (Annex 2). Following a site visit and desk-based assessment of available records, she concludes that the site is species-rich, has a number of habitats of local and county level importance and that a more biodiversity focused restoration than the current requirements would be appropriate. This could represent a considerably lower investment than the current consented restoration plan and a more practical solution to achieving the satisfactory restoration of the site given the lack of activity since 2008 and difficulties with engaging with the current landowners. Consideration could still be given to providing public access to the

site if achievable, though less formally than would have been provided through restoration to a Country Park e.g. replacing the requirement for a boating lake with retention of existing water bodies for the benefits of wildlife.

- 16 A departure from the approved scheme as a Country Park would represent an under enforcement. Any enforcement notice served is liable to appeal to the Secretary of State. The alternative of the service of a breach of condition notice could not be appealed but, given the situation of apparent lack of interest or management by the current landowners at this site, it would seem that it may now be both more practical and beneficial to biodiversity to enforce a revised site restoration as discussed above, the only way to do this would be through the service of an enforcement notice.
- 17 Further professional surveying is to be commissioned to establish the extent of habitats and key plant species listed for each habitat with abundance values and also importantly for the possible presence of Protected Species. This needs to be done in the spring and summer; preferably over different months. There will inevitably be a financial cost and estimates of this are set out at the end of the report attached as Annex 2. Your officers' intention is therefore to await the outcome of these further surveys and to then conclude their consideration of the expediency of taken enforcement action and the details of what this should require with a view to then serving an appropriately worded enforcement notice in the latter part of 2018. This will ensure that the council's position is protected.

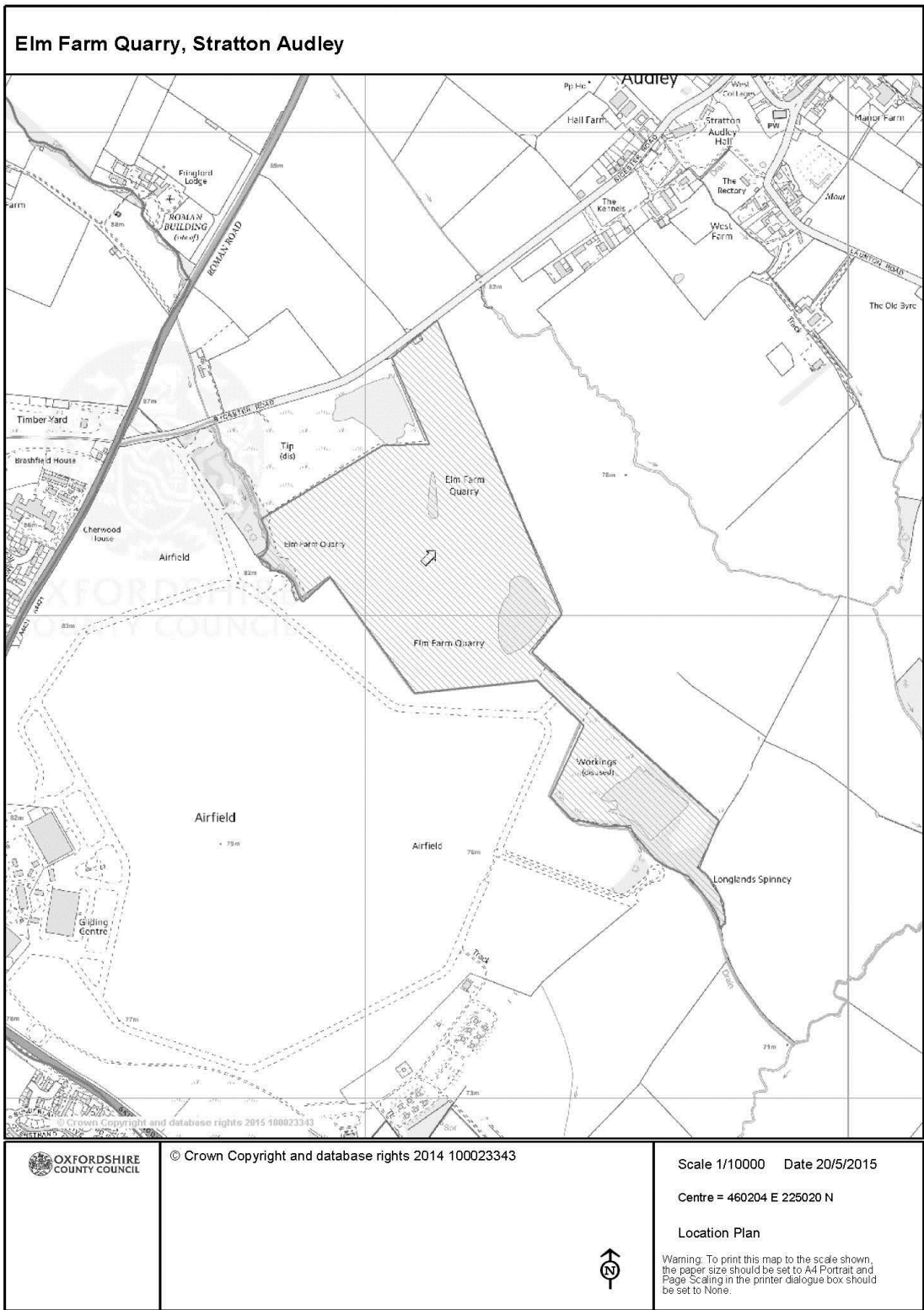
## **RECOMMENDATION**

18. **It is RECOMMENDED that the Committee:**
  - (a) **note the report; and**
  - (b) **endorse the carrying out of further ecological surveys to support the officers' consideration of the expediency of taking enforcement action and the steps to be specified as required in a planning enforcement notice to be served no later than 31 December 2018.**

SUE HALLIWELL

Director for Planning & Place

February 2018





## Stratton Audley Quarry

Notes on site restoration and management following site visit 12 October 2017.

S Lawley  
Ecologist  
04/01/18

### 1 Site description

#### 1.1 General description

The site is a partially restored quarry / inert landfill with two remaining voids (now water filled) and naturally developed open land, scrub, tall ruderal and wetland habitats. There are considerable piles of rubble and soils together with scrap materials left in situ, plus the remains of the wheel wash. Restored habitat includes a fishing lake to southeast end and a 'limestone heath' at the northwest end.

#### 1.2 Designations

Adjoining the site to the north is a former County Council landfill, now with scrub and open water. Part of both sites is designated as the 'Stratton Audley Quarries' Site of Special Scientific Interest, although the features of interest are now submerged below water. The two sites together are designated as Stratton Audley Quarry Local Wildlife Site (LWS) (recent survey 2014). A belt of land around the perimeter of Bicester Airfield, which adjoins the site, is also designated an LWS.

Local Wildlife Sites are recognised by NPPF (para 117), and the Oxfordshire Minerals and Waste Core Strategy 2017 -2031 Policy C7 (**highlighted**)

**NPPF Para 117.** To minimise impacts on biodiversity and geodiversity, planning policies should:

- plan for biodiversity at a landscape-scale across local authority boundaries;
- identify and map components of the local ecological networks, including the hierarchy of international, national and **locally designated sites of importance** for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation;

Policy C7: Biodiversity and geodiversity

Minerals and waste development should conserve and, where possible, deliver a net gain in biodiversity...

...In all other cases, development that would result in significant harm will not be permitted unless the harm can be avoided, adequately mitigated or, as a last resort, compensated for to result in a net gain in biodiversity (or geodiversity). In addition:...

... (iii) Development shall ensure that no significant harm would be caused to:

- Local Nature Reserves;
- Local Wildlife Sites;
- Local Geology Sites;
- Sites of Local Importance for Nature Conservation;
- Protected, priority or notable species and habitats, except where the need for and benefits of the development in that location clearly outweigh the harm.

### 1.3 Topography

The site is relatively flat overall, falling 10 metres over 1200 metres from the roadside in the northwest to the southeast boundary. The eastern boundary has a soil bund (now vegetated with scrub etc.) which is designed to contain flood water within the site. Rubble and soil piles have been left, particularly around the north of the site, while lower-lying areas are water-filled.

## 2 Spatial / current situation

The approved restoration plan shows restoration to a country park, with limestone heath, species-rich grassland, amenity grassland and woodland, a boating lake in the southwest corner and fishing lake to the south. This plan also shows contours, with hillocks in the northern part of the site, and footpaths throughout.

**Limestone heath** – this has been created in the planned location – see below.

**Species-rich grassland** – there does not appear to have been grassland established in the planned locations, and it is not clear that a seed mix has been introduced. The open mosaic habitat now present is an acceptable alternative, although not necessarily in the planned locations.

**Amenity grassland** has not been established as planned, however naturally developed rough grassland is an acceptable replacement in the site context. This is not necessarily in the planned locations and apparently of less extent than planned because of invading scrub.

**Woodland** – some species may have been planted, but the majority of woody species on site appear to have established naturally. Scrub does not provide the same amenity value as woodland because it is impenetrable to public access.

**Boating lake** – this has not been established. Two areas of open water have developed from the quarry void, although neither is suitable for boating. One of these has a geological SSSI exposure which is submerged.

**Contours** – these have not been shaped as planned, although the remaining rubble and soil heaps provide a degree of topographical variation. This is in keeping with the post-industrial nature of the site, but in landscape terms is unusual for the local area. The mounds are mainly around four metres above ground level and are not particularly visible from outside the site. They are also now covered with vegetation, which helps them blend in.

**Fishing lake** – established as planned and now occupied by a fishing club.

**Footpaths** – not established and parts of site are now difficult to access because of bramble etc. It appears that areas of the site can hold surface water, further restricting access at certain times.

**Country park** – this use has not materialised, with the site remaining security fenced. Some trespass access, mainly for dog walking, occurs. Local councillors wish to see the site used for public amenity, with car park and footpaths maintained. It is apparent that community use and management would be desirable, but more intensive use as a country park could now compromise the biodiversity value that has developed. Public funding or infrastructure for country park management is now not available.

### Current situation summary table

Restoration plan	Current situation	Comment
Limestone heath	Completed	As planned
Species-rich grassland	Open mosaic habitat	Not as planned, but a desirable outcome
Amenity grassland	Rough grassland	Not as planned but reasonable, however management will be an issue.
Woodland	Naturally developing scrub	Not as planned, however species are suited to site. Scrub is not ideal for amenity access.
Boating lake	One large pool and a smaller pool have established; not in planned location.	Retain as wildlife features
Contours	Contours not as planned.	Spoil mounds do add topographical variation
Fishing lake	Completed	As planned
Footpaths	Not done	Access difficult in places.
Country park	Security fence, some public access, no public proprietorship of site	Ideally, some form of low-key public or charity management and appropriate levels of access.

### 3 Habitats and species

The site has a wide range of habitats, which together with the unusual topography have attracted many species. A list provided by TVERC (Jan 2018) lists 762 species. Of particular note are:

12 species of dragonfly

53 species of hymenoptera (bees, wasps and ants)

300 flowering plants, including several county rarities

**Limestone heath** – this is developing an interesting range of less common plant species, some of which are typical of limestone conditions.

**Open mosaic habitat**– these are areas of typical post-industrial vegetation with bare ground and small annual plants such as common centaury. The site was predominantly covered by this type of vegetation around 2010. Since then introduction of topsoil or the build-up of soil nutrients has caused most of this habitat to change to rough grassland or scrub / weeds.

**Insects**- various studies have identified this site as important for invertebrates. Future site management should take account of the features etc., which have been noted as important for these species. Briefly it can be said that bare ground for nesting and a range of flowering plants for nectar are the critical factors and these should be mainly available in warm, sheltered, sunny aspects. As such the limestone heath and open mosaic areas will be very important.

**Rough grassland** - areas with lower levels of soil nutrients have developed species-poor rough grassland that is ideal for recreational use or could in time be made more species-rich and closer in type to meadow vegetation. Meadow habitat would support a range of insect species including butterflies.

**Scrub / tall weedy vegetation** - soil and rubble mounds, plus areas where topsoil / nutrient enrichment is apparent have mostly developed scrub / tall weedy vegetation including blackthorn scrub on the bund to the east of the site, and willow scrub to the north of the fishing lake. Scrub and weedy vegetation are now apparent across around 50% of the site and in some areas includes fairly invasive species such as Michaelmas daisy. It is important to note that these areas are likely to provide nectar and shelter for a range of insects.

**Open water** in both quarry voids and the fishing lake appears to be relatively low in nutrients with a range of marginal and aquatic plants. Considerable dragonfly and damselfly activity was noted on the site visit. The pool under the wheelwash has developed interest as an open water habitat.

**Wetland /grassland** to north of fishing lake. Previous surveys have recorded several county rare plants from this area. It was not examined in any detail during the site visit but is in good condition and clearly remains important.

#### 4 Habitat management / restoration

These are initial thoughts on management which may change subject to detailed survey and / or expert opinions on key species.

**Limestone heath** – this is very low in soil nutrients and requires very little input in terms of management or other intervention, in the medium to long term.



**Open mosaic** - Where open mosaic vegetation remains it should be retained, possibly requiring scraping back to bare substrate on a rotational basis. This technique could be used to reinstate open mosaic habitat in weedy areas although disposal of the scraped material would be an issue.

**Rough grassland** on flat ground on majority of site – the main issue with this is its unevenness, with boulders and other debris now partly concealed in vegetation, making it difficult or impossible to mow. Ideally, these obstructions should be removed and these areas levelled, so that open rough grassland can be maintained by management. Management by grazing might be possible if the site could be made safe for livestock (boundary fences, fencing steep slopes, and removal of harmful rubble / ironwork).

**Rubble piles** – Should be left in situ as these are not vegetating as rapidly as soil mounds. The rubble itself has formed small voids and cavities that are probably ideal for hibernating reptile and amphibian species. Longer term - consider control of scrub in areas to prevent becoming too shaded / keep access for wildlife open.

**Soil mounds** – these will develop poor quality scrubby woodland in time. It would probably be more damaging to remove these or spread them than leaving them as they are, although some careful re-profiling could be carried out. Exposing bare soil on slopes, especially south-facing ones, would provide opportunities for ground-nesting insects.

**Open water** – should be managed as wildlife ponds with no recreational activity or fishing. The pool under the wheelwash may require bank profiling and removal of metalwork for safety, but this should be done carefully with as little disturbance to the pool itself as possible.

**Wetland /grassland** to north of fishing lake – maintain as open habitat by controlling scrub.

Summary table habitat

Habitat	Importance	Important for?	Condition	Ideal management	Minimum management
<b>Limestone heath</b>	County level	Invertebrates Rare plants	Good, stable	May require more intervention longer term (10yrs +)	Leave alone
<b>Open mosaic</b>	County	Invertebrates Plants?	Good, stable extent decreased or decreasing	Restore key lost areas	Maintain, possibly requiring scraping every few years
<b>Rough grassland</b>	Local	Cover for a wide range of animals, possibly ground nesting birds	Moderate, declining	Improve plant diversity	Mow or graze
<b>Rubble</b>	Local	Amphibia and reptiles	Good, stable	Consider control of scrub in areas	Leave
<b>Weeds (tall ruderal)</b>	Local	Nectar and cover for invertebrates	Moderate, declining	Cut back on rotation (1/3 <sup>rd</sup> every year). Control spread of invasive species (Michaelmas daisy, bramble)	Define areas for access and control weeds in these areas.
<b>Scrub</b>	Local	Nesting birds, cover for other species	Moderate, declining	Rotational coppice management (say, 1/10 <sup>th</sup> to 1/15 <sup>th</sup> every year). Introduction of additional tree species, possible introduction of ground flora (seed mix).	Rotational coppice management 1/20 <sup>th</sup> every year.
<b>Open water</b>	Local / probably county	Dragonflies, Plants (stoneworts)	Good, stable	Maintain open water by dragging out some vegetation	Make wheelwash pool safe. Leave other pools.
<b>Wetland /grassland to north of fishing lake</b>	County	Plants	Good, stable	Control scrub	Monitor and control scrub

## 5 Recommendations

### Actions – short term

Survey – as a minimum the extent of habitats described needs to be mapped, and key plant species listed for each habitat with abundance values. This needs to be done in spring and summer, preferably over different months.

Mapping – an idea is to ask at airfield for volunteer to take good resolution aerial photos to aid habitat mapping. This will aid future site monitoring. Alternatively habitat surveyor to map on ground.

Management and safety audit – the site requires public amenity and habitat management. The practicalities of achieving these need to be investigated, particularly with respect to removal of site debris to facilitate mowing. This would best be done in winter when vegetation is low.

Consultation with key parties as listed below.

### Actions- medium term

Costed management plan to cover habitat management and provision of public access. Will require ecologist to lead. This should also cover habitat and species monitoring and reporting and remediation measures.

### Future of site

If it is concluded that a more biodiversity focused restoration is appropriate this could represent a considerably lower investment than the current consented restoration plan. A refocusing of the investment to ensure the very best habitat outcomes would then be more appropriate. Ideally these would include:

- Ensuring that the site infrastructure is of high quality and in optimum condition, including fencing for grazing management, footpaths
- Ensuring that habitats are in optimum condition
- Endowing a fund for ongoing community management and biodiversity monitoring

Ideally some type of community interest body could be set up to manage the site, constituted in such a way as to include representatives from TVERC and BBOWT to protect the ecological interest. This could in the longer term access funding such as available from HLF, TOE2, which private owners or councils cannot access. This consideration should not be used to justify poor investment in restoration or setting up community management.

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## PLANNING & REGULATION COMMITTEE – 19 FEBRUARY 2018

### POLICY ANNEX (RELEVANT DEVELOPMENT PLAN AND OTHER POLICIES)

#### Oxfordshire Minerals and Waste Local Plan 1996 – Saved Policies (OMWLP):

##### POLICY SC1: THE SUTTON COURTENAY AREA

The area between the Oxford-Didcot railway line, the Didcot Northern Perimeter Road, Didcot Power Station and the existing gravel pit at Sutton Courtenay will be released for sharp sand and gravel working in accordance with the other policies in the Plan. Applications for clay extraction will be considered under policy SD5.

#### Oxfordshire Minerals and Waste Core Strategy

##### POLICY M2: PROVISION FOR WORKING AGGREGATE MINERALS

Provision will be made through policies M3 and M4 to enable the supply of:

- sharp sand and gravel - 1.015 mtpa giving a total provision requirement of 18.270 million tonnes
- soft sand - 0.189 mtpa giving a total provision requirement of 3.402 million tonnes
- crushed rock - 0.584 mtpa giving a total provision requirement of 10.512 million tonnes

from land-won sources within Oxfordshire for the period 2014 – 2031 inclusive.

Permission will be granted for aggregate mineral working under policy M5 to enable separate landbanks of reserves with planning permission to be maintained for the extraction of minerals of:

- at least 7 years for sharp sand and gravel;
- at least 7 years for soft sand;
- at least 10 years for crushed rock;

in accordance with the annual requirement rates in the most recent Local Aggregate Assessment, taking into account the need to maintain sufficient productive capacity to enable these rates to be realised.

##### POLICY M3: PRINCIPAL LOCATIONS FOR WORKING AGGREGATES MINERALS

The principal locations for aggregate minerals extraction will be within the following strategic resource areas, as shown on the Policies Map:

###### Sharp sand and gravel

in northern Oxfordshire (Cherwell District and West Oxfordshire District):

- The Thames, Lower Windrush and Lower Evenlode Valleys area from Standlake to Yarnton;

in southern Oxfordshire (South Oxfordshire District and Vale of White Horse District):

- The Thames and Lower Thame Valleys area from Oxford to Cholsey;
- The Thames Valley area from Caversham to Shiplake.

#### Soft sand

- The Corallian Ridge area from Oxford to Faringdon;
- The Duns Tew area.

#### Crushed rock

- The area north west of Bicester;
- The Burford area south of the A40;
- The area east and south east of Faringdon.

Specific sites (new quarry sites and/or extensions to existing quarries) for working aggregate minerals within these strategic resource areas will be allocated in the Minerals & Waste Local Plan: Part 2 – Site Allocations Document, in accordance with policy M4.

Specific sites for extensions to existing aggregate quarries (excluding ironstone) outside the strategic resource areas may also be allocated in the Minerals & Waste Local Plan: Part 2 – Site Allocations Document provided they are in accordance with policy M4.

Sites allocated for sharp sand and gravel working (including both new quarry sites and extensions to existing quarries, including any extensions outside the strategic resource areas), to meet the requirement in policy M2 will be located such that approximately 25% of the additional tonnage requirement is in northern Oxfordshire and approximately 75% of the additional tonnage requirement is in southern Oxfordshire, to achieve an approximately equal split of production capacity for sharp sand and gravel between northern and southern Oxfordshire by 2031.

#### POLICY M4: SITES FOR WORKING AGGREGATE MINRALS

Specific sites for working aggregate minerals in accordance with policy M3, to meet the requirements set out in policy M2 will be allocated in the Minerals & Waste Local Plan: Part 2 – Site Allocations Document, taking into account the following factors:

- a) the quantity and quality of the mineral resource;
- b) priority for the extension of existing quarries, where environmentally acceptable (including taking into consideration criteria c) to l)), before working new sites;
- c) potential for restoration and after-use and for achieving the restoration objectives of the Plan in accordance with policy M10;
- d) suitability & accessibility of the primary road network;
- e) proximity to large towns and other locations of significant demand to enable a reduction in overall journey distance from quarry to market;
- f) ability to provide more sustainable movement of excavated materials;

- g) avoidance of locations within or significantly affecting an Area of Outstanding Natural Beauty;
- h) avoidance of locations likely to have an adverse effect on sites and species of international nature conservation importance and Sites of Special Scientific Interest; in the case of locations within the Eynsham / Cassington / Yarnton part of the Thames, Lower Windrush and Lower Evenlode Valleys area, it must be demonstrated that there will be no change in water levels in the Oxford Meadows Special Area of Conservation and the proposal must not involve the working of land to the north or north east of the River Evenlode; in the case of locations within the Corallian Ridge area, it must be demonstrated that there will be no change in water levels in the Cothill Fen Special Area of Conservation;
- i) avoidance of locations likely to have an adverse effect on the significance of designated heritage assets, including World Heritage Sites, Scheduled Monuments, Conservation Areas, Registered Parks and Gardens and Registered Battlefields, or on archaeological assets which are demonstrably of equivalent significance to a Scheduled Monument;
- j) avoidance of, or ability to suitably mitigate, potential significant adverse impacts on:
  - i. locally designated areas of nature conservation and geological interest;
  - ii. non-designated heritage assets;
  - iii. local landscape character;
  - iv. water quality, water quantity, flood risk and groundwater flow;
  - v. best and most versatile agricultural land and soil resources;
  - vi. local transport network;
  - vii. land uses sensitive to nuisance (e.g. schools & hospitals);
  - viii. residential amenity & human health; and
  - ix. character and setting of local settlements;
- k) potential cumulative impact of successive and/or simultaneous mineral development, including with non-mineral development, on local communities; and
- l) ability to meet other objectives and policy expectations of this Core Strategy (including policies C1 – C12) and relevant policies in other development plans.

## POLICY M5: WORKING OF AGGREGATE MINERALS

Prior to the adoption of the Minerals & Waste Local Plan: Part 2 – Site Allocations Document, permission will be granted for the working of aggregate minerals where this would contribute towards meeting the requirement for provision in policy M2 and provided that the proposal is in accordance with the locational strategy in policy M3 and that the requirements of policies C1 – C12 are met.

Permission will be granted for the working of aggregate minerals within the sites allocated further to policy M4 provided that the requirements of policies C1 – C12 are met.

Permission will not be granted for the working of aggregate minerals outside the sites allocated further to policy M4 unless the requirement to maintain a steady and adequate supply of aggregate in accordance with policy M2 cannot be met from within those sites and provided that the proposal is in accordance with the locational strategy in policy M3 and the requirements of policies C1 – C12 are met.

Permission will exceptionally be granted for the working of aggregate minerals outside the sites allocated further to policy M4 where extraction of the mineral is required prior to a planned development in order to prevent the mineral resource being sterilised, having due regard to policies C1 –C12.

Permission will exceptionally be granted for borrow pits to supply mineral to associated construction projects, having due regard to policies C1 – C12, provided that all of the following apply:

- the site lies on or in close proximity to the project area so that extracted mineral can be conveyed to its point of use with minimal use of public highways and without undue interference with footpaths and bridleways;
- the mineral extracted will only be used in connection with the project;
- it can be demonstrated that supply of the mineral from the borrow pit would have less environmental impact than if the mineral were supplied from an existing source;
- the borrow pit can be restored without the use of imported material, other than that generated by the project; and
- use of the borrow pit is limited to the life of the project.

Notwithstanding the preceding paragraphs, permission for working of ironstone for aggregate use will not be permitted except in exchange for an agreed revocation (or other appropriate mechanism to ensure the non-working) without compensation of an equivalent existing permission in Oxfordshire containing potentially workable resources of ironstone and where there would be an overall environmental benefit.

#### POLICY M10: RESTORATION OF MINERAL WORKINGS

Mineral workings shall be restored to a high standard and in a timely and phased manner to an after-use that is appropriate to the location and delivers a net gain in biodiversity. The restoration and after-use of mineral workings must take into account:

- the characteristics of the site prior to mineral working;
- the character of the surrounding landscape and the enhancement of local landscape character;
- the amenity of local communities, including opportunities to enhance green infrastructure provision and provide for local amenity uses and recreation;
- the capacity of the local transport network;
- the quality of any agricultural land affected, including the restoration of best and most versatile agricultural land;



- the conservation of soil resources
- flood risk and opportunities for increased flood storage capacity;
- the impacts on flooding and water quality of any use of imported material in the proposed restoration;
- bird strike risk and aviation safety;
- any environmental enhancement objectives for the area;
- the conservation and enhancement of biodiversity appropriate to the local area, supporting the establishment of a coherent and resilient ecological network through the landscape-scale creation of priority habitat;
- the conservation and enhancement of geodiversity;
- the conservation and enhancement of the historic environment; and
- consultation with local communities on options for after-use.

Planning permission will not be granted for mineral working unless satisfactory proposals have been made for the restoration, aftercare and after-use of the site, including where necessary the means of securing them in the longer term.

Proposals for restoration must not be likely to lead to any increase in recreational pressure on a Special Area of Conservation.

#### POLICY W6: LANDFILL AND OTHER PERMANENT DEPOSIT OF WASTE TO LAND

##### Non-hazardous waste

Provision for disposal of Oxfordshire's non-hazardous waste will be made at existing non-hazardous landfill facilities which will also provide for the disposal of waste from other areas (including London and Berkshire) as necessary. Further provision for the disposal of non-hazardous waste by means of landfill will not be made.

Permission may be granted to extend the life of existing non-hazardous landfill sites to allow for the continued disposal of residual non-hazardous waste to meet a recognised need and where this will allow for the satisfactory restoration of the landfill in accordance with a previously approved scheme.

Permission will be granted for facilities for the management of landfill gas and leachate where required to fulfil a regulatory requirement or to achieve overall environmental benefit, including facilities for the recovery of energy from landfill gas. Provision should be made for the removal of the facilities and restoration of the site at the end of the period of management.

##### Inert waste

Provision for the permanent deposit to land or disposal to landfill of inert waste which cannot be recycled will be made at existing facilities and in sites that will be allocated in the Minerals and Waste Local Plan: Part 2 – Site Allocations Document. Provision will be made for sites with capacity sufficient for Oxfordshire to be net-self-sufficient in the management of inert waste.

Priority will be given to the use of inert waste that cannot be recycled as infill material to achieve the satisfactory restoration and after use of active or unrestored quarries. Permission will not otherwise be granted for development that involves the permanent deposit or disposal of inert waste on land unless there would be overall environmental benefit.

## General

Proposals for landfill sites shall meet the requirements of policies C1 – C12.

Landfill sites shall be restored in accordance with the requirements of policy M10 for restoration of mineral workings.

## POLICY C1: SUSTAINABLE DEVELOPMENT

A positive approach will be taken to minerals and waste development in Oxfordshire, reflecting the presumption in favour of sustainable development contained in the National Planning Policy Framework and the aim to improve economic, social and environmental conditions of the area.

Planning applications that accord with the policies in this plan will be approved, unless material considerations indicate otherwise. Where there are no policies relevant to the application, or relevant plan policies are out of date, planning permission will be granted unless material considerations indicate otherwise, taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposed development when assessed against the National Planning Policy Framework; or
- specific policies in the National Planning Policy Framework indicate that the development should be restricted.

## POLICY C5: LOCAL ENVIRONMENT, AMENITY AND ECONOMY

Proposals for minerals and waste development shall demonstrate that they will not have an unacceptable adverse impact on:

- the local environment;
- human health and safety;
- residential amenity and other sensitive receptors; and
- the local economy;  
including from:
  - noise;
  - dust;
  - visual intrusion;
  - light pollution;
  - traffic;
  - air quality;
  - odour;
  - vermin;

- birds;
- litter;
- mud on the road;
- vibration;
- surface or ground contamination;
- tip and quarry-slope stability;
- differential settlement of quarry backfill;
- subsidence; and
- the cumulative impact of development.

Where necessary, appropriate separation distances or buffer zones between minerals and waste developments and occupied residential property or other sensitive receptors and/or other mitigation measures will be required, as determined on a site-specific, case-by-case basis.

#### POLICY C7: BIODIVERSITY AND GEODIVERSITY

Minerals and waste development should conserve and, where possible, deliver a net gain in biodiversity.

The highest level of protection will be given to sites and species of international nature conservation importance (e.g. Special Areas of Conservation and European Protected Species) and development that would be likely to adversely affect them will not be permitted.

In all other cases, development that would result in significant harm will not be permitted unless the harm can be avoided, adequately mitigated or, as a last resort, compensated for to result in a net gain in biodiversity (or geodiversity). In addition:

- (i) Development that would be likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other development) will not be permitted except where the benefits of the development at this site clearly outweigh both the impacts that it is likely to have on the Site of Special Scientific Interest and any broader impacts on the national network of Sites of Special Scientific Interest.
- (ii) Development that would result in the loss or deterioration of irreplaceable habitats, including ancient woodland and aged or veteran trees, will not be permitted except where the need for and benefits of the development in that location clearly outweigh the loss.
- (iii) Development shall ensure that no significant harm would be caused to:
  - Local Nature Reserves;
  - Local Wildlife Sites;
  - Local Geology Sites;
  - Sites of Local Importance for Nature Conservation;
  - Protected, priority or notable species and habitats,
 except where the need for and benefits of the development in that location clearly outweigh the harm.

All proposals for mineral working and landfill shall demonstrate how the development will make an appropriate contribution to the maintenance and enhancement of local habitats, biodiversity or geodiversity (including fossil remains and trace fossils), including contributing to the objectives of the Conservation Target Areas wherever possible. Satisfactory long-term management arrangements for restored sites shall be clearly set out and included in proposals. These should include a commitment to ecological monitoring and remediation (should habitat creation and/or mitigation prove unsuccessful).

#### POLICY C8: LANDSCAPE

Proposals for minerals and waste development shall demonstrate that they respect and where possible enhance local landscape character, and are informed by landscape character assessment. Proposals shall include adequate and appropriate measures to mitigate adverse impacts on landscape, including careful siting, design and landscaping. Where significant adverse impacts cannot be avoided or adequately mitigated, compensatory environmental enhancements shall be made to offset the residual landscape and visual impacts.

Great weight will be given to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty (AONB) and high priority will be given to the enhancement of their natural beauty. Proposals for minerals and waste development within an AONB or that would significantly affect an AONB shall demonstrate that they take this into account and that they have regard to the relevant AONB Management Plan. Major developments within AONBs will not be permitted except in exceptional circumstances and where it can be demonstrated they are in the public interest, in accordance with the 'major developments test' in the NPPF (paragraph 116). Development within AONBs shall normally only be small-scale, to meet local needs and should be sensitively located and designed.

#### POLICY C10: TRANSPORT

Minerals and waste development will be expected to make provision for safe and suitable access to the advisory lorry routes shown on the Oxfordshire Lorry Route Maps in ways that maintain and, if possible, lead to improvements in:

- the safety of all road users including pedestrians;
- the efficiency and quality of the road network; and
- residential and environmental amenity, including air quality.

Where development leads to a need for improvement to the transport network to achieve this, developers will be expected to provide such improvement or make an appropriate financial contribution.

Where practicable minerals and waste developments should be located, designed and operated to enable the transport of minerals and/or waste by rail, water, pipeline or conveyor.

Where minerals and/or waste will be transported by road:

- a) mineral workings should as far as practicable be in locations that minimise the road distance to locations of demand for the mineral, using roads suitable for lorries, taking into account the distribution of potentially workable mineral resources; and
- b) waste management and recycled aggregate facilities should as far as practicable be in locations that minimise the road distance from the main source(s) of waste, using roads suitable for lorries, taking into account that some facilities are not economic or practical below a certain size and may need to serve a wider than local area.

Proposals for minerals and waste development that would generate significant amounts of traffic will be expected to be supported by a transport assessment or transport statement, as appropriate, including mitigation measures where applicable.

#### **POLICY C12: GREEN BELT**

Proposals that constitute inappropriate development in the Green Belt, will not be permitted except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Conditions may be imposed on any permission granted to ensure that the development only serves to meet a need that comprises or forms an 'other consideration' in the Green Belt balance leading to the demonstration of very special circumstances.

#### **Cherwell Local Plan 1996 (CLP)**

##### **POLICY ENV1: DEVELOPMENT LIKELY TO CAUSE DETRIMENTAL LEVELS OF POLLUTION**

Development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.

#### **Cherwell Local Plan 2031 (CLP)**

##### **POLICY PSD 1: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT**

When considering development proposals the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- specific policies in the Framework indicate that development should be restricted.

## POLICY ESD 2: ENERGY HIERARCHY AND ALLOWABLE SOLUTIONS

In seeking to achieve carbon emissions reductions, we will promote an 'energy hierarchy as follows:

- Reducing energy use, in particular by the use of sustainable design and construction measures
- Supplying energy efficiency and giving priority to decentralized energy supply
- Making use of renewable energy
- Making use of allowable solutions.

## POLICY ESD 13: LOCAL LANDSCAPE PROTECTION AND ENHANCEMENT

Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.

Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:

- Cause undue visual intrusion into the open countryside
- Cause undue harm to important natural landscape features and topography
- Be inconsistent with local character
- Impact on areas judged to have a high level of tranquillity
- Harm the setting of settlements, buildings, structures or other landmark features, or
- Harm the historic value of the landscape.

Development proposals should have regard to the information and advice contained in the Council's Countryside Design Summary Supplementary Planning Guidance, and the Oxfordshire Wildlife and Landscape Study (OWLS), and be accompanied by a landscape assessment where appropriate.

## POLICY ESD 14: OXFORD GREEN BELT

The Oxford Green Belt boundaries within Cherwell District will be maintained in order to:

- Preserve the special character and landscape setting of Oxford
- Check the growth of Oxford and prevent ribbon development and urban sprawl
- Prevent the coalescence of settlements
- Assist in safeguarding the countryside from encroachment
- Assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Development proposals within the Green Belt will be assessed in accordance with government guidance contained in the NPPF and NPPG. Development within the Green Belt will only be permitted if it maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities. Proposals for residential development will also be assessed against Policies Villages 1 and Villages 3.

A small scale local review of the Green Belt boundary in the vicinity of Langford Lane, Kidlington and Begbroke Science Park will be undertaken as part of the Local Plan Part 2, in order to accommodate employment needs (see Policy Kidlington 1). Further small scale local review of the Green Belt boundary will only be undertaken where exceptional circumstances can be demonstrated.

## POLICY BSC7: MEETING EDUCATION NEEDS

The Council will work with partners to ensure the provision of pre-school, school, community learning and other facilities which provide for education and the development of skills. New school buildings should be located in sustainable locations. The co-location of other services and facilities with schools should be considered to create community hubs.

### **Vale of White Horse Local Plan (VLP 2011)**

## POLICY DC9: IMPACT OF DEVELOPMENT ON NEIGHBOURING USES

Development will not be permitted if it would unacceptably harm the amenities of neighbouring properties and the wider environment in terms of:

- i) loss of privacy, daylight or sunlight;
- ii) dominance or visual intrusion;
- iii) noise or vibration;
- iv) smell, dust, heat, gases or other emissions;
- v) pollution, contamination or the use of or storage of hazardous substances;  
and
- vi) external lighting.

### **Vale of White Horse Local Plan 2031 Part 1 (VLP1)**

## CORE POLICY 1: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

Planning applications that accord with this Local Plan 2031 (and where relevant, with any subsequent Development Plan Documents or Neighbourhood Plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant planning permission unless material considerations indicate otherwise, and unless:

- i. any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole, or
- ii. specific policies in the Framework indicate that development should be restricted.

### **Draft Vale of White Horse Local Plan 2031 Part 2 (VLP2)**

#### DEVELOPMENT POLICY 21: EXTERNAL LIGHTING

Development that involves external lighting will be permitted provided that:

- i. there would not be an adverse effect on the character of the area, the amenity of neighbouring uses or on local biodiversity;
- ii. there would not be a hazard for pedestrians or people using any type of transportation, and
- iii. the lighting proposed is the minimum necessary to undertake the task for which it is required.

Where permission is granted for external lighting, conditions may be imposed that require:

- iv. the fitting of devices to reduce glare and light spillage, and
- v. restricting the hours during which the lighting may be operated.

#### DEVELOPMENT POLICY 23: IMPACT OF DEVELOPMENT ON AMENITY

Development 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 the following factors:

- i. loss of privacy, daylight or sunlight
- ii. dominance or visual intrusion
- iii. noise or vibration
- iv. dust, heat, odour, gases or other emissions
- v. pollution, contamination or the use of/or storage of hazardous substances; and
- vi. external lighting.



## DEVELOPMENT POLICY 25: NOISE POLLUTION

### Noise-Generating Development

Noise-generating development that would have an impact on environmental amenity or biodiversity will be expected to provide an appropriate scheme of mitigation that should take account of:

- i. the location, design and layout of the proposed development
- ii. existing levels of background noise
- iii. measures to reduce or contain generated noise, and
- iv. hours of operation and servicing.

Development will not be permitted if mitigation cannot be provided within an appropriate design or standard<sup>1</sup>.

### Noise-Sensitive Development

Noise-sensitive development in locations likely to be affected by existing sources of noise<sup>2</sup> will be expected to provide an appropriate scheme of mitigation to ensure appropriate standards of amenity are achieved for future occupiers of the proposed development, taking account of:

- i. the location, design and layout of the proposed development
- ii. measures to reduce noise within the development to acceptable levels, including external areas, and
- iii. the need to maintain adequate levels of natural light and ventilation to habitable areas of the development.

In areas of existing noise, proposals for noise-sensitive development should be accompanied by an assessment of environmental noise and an appropriate scheme of mitigation measures.

Development will not be permitted if mitigation cannot be provided to an appropriate standard with an acceptable design.

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<sup>1</sup> Currently set out in British Standards 4142:2014 and 8233:2014. The Council is currently developing guidance relating to noise mitigation.

<sup>2</sup> Busy roads, railway lines, aerodromes, industrial/commercial developments, waste, recycling and energy Development Policy 24: Noise Pollution

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