

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 20 July 2020 commencing at 2.00 pm and finishing at 3.50 pm

Present:

Voting Members: Councillor Jeannette Matelot – in the Chair

Councillor Stefan Gawrysiak (Deputy Chairman)
Councillor Mrs Anda Fitzgerald-O'Connor
Councillor Pete Handley
Councillor Damian Haywood
Councillor Hilary Hibbert-Biles (In place of Councillor Mike Fox-Davies)
Councillor Bob Johnston
Councillor G.A. Reynolds
Councillor Judy Roberts
Councillor Dan Sames
Councillor John Sanders
Councillor Alan Thompson
Councillor Richard Webber

Officers:

Whole of meeting G. Warrington and J. Crouch (Law & Governance); R. Wileman and D. Periam (Planning & Place)

Part of meeting

Agenda Item

6

Officer Attending

E. Bolster (Planning & Place) & P. Yoward (Transport Planning)

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.

23/20 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

<i>Apology for Absence</i>	<i>Temporary Appointments</i>
Councillor Mike Fox-Davies	Councillor Hilary Hibbert-Biles

25/20 MINUTES

(Agenda No. 3)

The minutes of the meeting held on 1 June 2020 were approved.

21/20 – Serving of the Prohibition Order for the Review of the Mineral Planning Permission (ROMP) at Thrupp farm and Thrupp Lane, Radley

On the advice of Counsel officers advised that they would be meeting with the operators to establish progress with regard to an application for the review of old mineral permission conditions. The application for the conveyor belt, processing plant and bailey bridge etc to take away mineral that might be extracted from the ROMP area had been validated and was now out for consultation. As part of that process officers had carried out a screening opinion to see if it constituted environmental impact assessment development and therefore required an environmental impact statement and had concluded that due to potential environmental impact with the ROMP area, which was a Schedule 1 Development in its own right an EIS would be required. The applicants had responded that they were in turn seeking a screening direction from the Secretary of State to the effect that it was not environmental impact assessment development and required no statement. It was hoped to report in September.

26/20 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
David Warr (Kingston Bagpuize PC) Paul Donovan (Resident) Jeremy Flawn (Agent for the Applicant))) 6.Swannbrook Farm – Application) No.)

27/20 SWANNYBROOK FARM, KINGSTON BAGPUIZE, ABINGDON, OXFORDSHIRE OX13 5NE

(Agenda No. 6)

The Committee considered a report (PN6) relating to two interlinked applications. The first considered whether permission should be granted for a screened soil storage extension area to the waste soils operation granted under planning permission MW.0049/11. The second if permission should be granted to vary conditions 5, 10, 13 and 15 in order to regularise current operations on site and allow for aggregate crushing, increase stockpile heights, amend the existing boundary planting and increase HGV movements, contrary to permission MW0049/11. The application had been reported to Committee at the request of the County Councillor due to objections raised by three parish councils and various local residents raising concerns that the request for variation to the requested conditions due to the increased operations and therefore consequent HGV movements would impact adversely on the local highways network and amenity of local residents.

Ms Bolster presented the report and responded to questions from:

Councillor Sanders – the reference to green spoil inferred that this was a contribution to more secondary aggregate provision by importing rubble from building sites and screening out anything that was reusable such as soil and rocks sent away to be crushed. Anything remaining was diverted to landfill. There was no excavation and the applicant was seeking to crush material on site.

Councillor Roberts – annual site visits had been carried out since 2011 which had resulted in higher stock piles being picked up and reported to the applicants. The last occasion had been January and the piles were reduced. There was evidence to suggest unauthorised crushing had taken place. The right of way would not be affected by these applications.

Councillor Johnston – Mr Periam advised that the applicants had been advised to either seek to regularise activities on site or enforcement action would be taken. A view had to be taken which course of action was best. If the application currently before the Committee was refused then enforcement action would need to be taken.

David Warr (chair of the Kingston Bagpuize and Southmoor planning sub-committee). Reinforcing his council's view about this retrospective application covering a series of breaches of conditions over the past few years with regard to the 2011 permission they had serious questions about what had changed since then to persuade the County Council to now recommend approval as in terms of policy and planning law nothing had changed except for an increased target imposed on the County to deal with waste recycling. In the time since the first approval, Kingston Bagpuize and Southmoor had grown from a settlement of some 800 dwellings to what it is today – 2,175 with attendant increases in traffic volumes and environmental impacts upon an expanding community. Within the next few years that would increase by a further 700 dwellings if the Lioncourt were to proceed. The Parish Council was not convinced by the reporting of traffic flows in and out of the site as it seemed that the County Council had relied on the applicant's reporting, which for anyone living here was significantly different from the reality. By evidence of Google Earth historical images this seemed to have increased exponentially since 2016. An indication of this was the spoil heap which was supposed to be limited to 3m in height and was, by

virtue of the applicant's own survey drawing, now 9m in height. While the permission limited movements of the applicant's waste management vehicles it was now clear that there were many other contractors in and out of the site. The Parish Council was aware of the other activities carried out by the applicant on parts of the site under the jurisdiction of the District Council and which were currently being assessed in terms of potential breaches of permissions. Those activities clearly added to the problems identified on the waste reclamation site. The parish council's view was that not enough monitoring or observation had been carried out by the County Council (both Planning and Highways) and had those studies been done the ability to refuse this application would have been that much easier. The serious consequence of allowing this application would be a gross increase in traffic flow along the A415 through Kingston Bagpuize. There was already a dangerous (Highway Authority's view not ours) unattended crossing at the mini roundabout where you took your life into your hands to cross and to amplify that risk with 20 tonne lorries would be irresponsible. The Parish Council were of the opinion that the evidence before this Committee should be reviewed and verified before any approval was considered and believed that had the applicant recognised that further planning permission was required and not flouted conditions we would have been content to discuss with them the impact of their business and might well have come to a different view on this matter but our position at present is that we believe the application should be refused.

Mr Warr then responded to questions from:

Councillor Roberts – the Vale of White Horse DC were in the process of preparing enforcement and were aware of the levels of activity on this site all of which were in breach of the district council's permissions.

Councillor Gawrysiak – Kingston Bagpuize was about a ¼ mile away. However, new development near the cricket green, south of Faringdon Road and Wellington Way meant the built up area was edging closer to this site. Site activity could be heard and there were problems with dust. The parish council were also concerned over the state of Biggin Lane running from A415 to Charney Bassett which was suffering from a combination of heavy traffic from this site and the Amazon distribution centre at Lyford.

Councillor Johnston – the parish council had not carried out any quantitative work but he was aware that the resident at the Longhouse had. Traffic levels were high with a lot of big lorries other than NAP Grab hire such as Hansons using local roads.

Paul Donovan and his family had lived at the Longhouse on Fyfield Wick, some 300m from the entrance to Swannybrook Farm since 2014. Escalation of noise and activity from NAP Grab Hire and damage to the verges outside his home had first prompted him in 2019 to engage in an unsuccessful meeting with Mr Neil Parker and then to raise NAP's planning breaches with Oxfordshire County Council prompting them to investigate and then to encourage the applicant to apply for retrospective planning permissions. Had the council effectively enforced its 2011 permissions we would not be here today. As residents they had not rushed to describe in emotional terms the impact of NAP Grab on our amenity but had commissioned professional reports on noise, traffic, and planning in order to consider our concerns objectively, as well as examining very closely the council's approach to managing this application. For over

six months they had meticulously recorded the levels of traffic to and from the site and acquired a detailed understanding of the company relative to its permissions. Our findings had been largely discredited or ignored by the County Council, while the assertions of the applicant had gained currency as fact, when they were largely fantasy. The officer report completely failed to comprehend the situation that prevailed at Swannybrook Farm and the nearby waste stations run by SCB. It referred to an 'agricultural' yard, but in reality, very little of what occurred at Swannybrook was agriculture with most of the activities relating to car repairs, scaffolders, builders and mobile home trading with NAP's non-conforming activities thrown in for good measure. It seemed that neither District nor County Council knew whether these businesses had the relevant planning permissions nor the extent of their compliance. Following their own representations, the Vale of the White Horse enforcement team had now finally mounted a broader investigation, including the other activities of NAP. That would allow the cumulative impact to be properly assessed. While sympathetic to the County's drive for increased recycling capacity in the context of the Development Plan other factors were worthy of consideration. Data from the Bluestone Planning report, commissioned by the applicant, clearly stated that the applicant himself had supplied the numbers relating to traffic in and out of the site and that had been taken at face value and was, therefore unreliable, as, by implication, were the assumptions relating to projected waste tonnages. Mr Donovan had monitored traffic flows of grab wagons for months and had more than a thousand time-stamped images clearly showing NAP's HGVs and other customers of the NAP waste transfer station accessing or leaving the site from shortly after 6am. The level of trips ranged from 50 to 80 vehicles each weekday, too big a difference from the 28 claimed by the applicant to be credible and far greater than the number in the application. The officer estimate of impact had used mean time between HGV trips but failed to take into account the peaks in very early morning and late afternoon and erroneously asserting that the general low speeds on the road and its 5-metre width did not present an issue. However, the grab lorries were themselves 3.2m wide and could not physically pass each other on the road which also had a 60mph limit which was often exceeded! In 2011, permission had been granted for a seasonal, small-scale soil recycling operation to meet needs of local nurseries which had by neglect and indifference from planning enforcement become a large-scale waste transfer station but there was nothing in the report to support the strategic importance or suitability of this site. It also happily accepted that concrete crushing was now acceptable but had not been in 2011, so why was it acceptable now? That decision seemed to be made using the 2011 acoustic report but no acoustic report had been submitted on this occasion for a fundamental change in use. He asked the Committee to consider two options. His strong preference was for refusal or deferral until officers from both Councils had properly investigated the overall planning status of the site and in accordance with national planning policy. Alternatively, the recommendation to limit the total level of traffic to the waste station to the current 14 in and out on a weekday be agreed but with the addition of a cap of 7 in and out on a Saturday. That should be without concrete crushing and with a real commitment by OCC to rigorously enforce planning conditions. However, if the full application was approved today, then on the basis of a heavily flawed process he would reluctantly reserve the right to embark on the process of judicial review.

He then responded to questions from:

Councillor Johnston – the number of vehicles in and out of the site averaged between 50 – 80 per day.

Councillor Hopley – cameras were mounted on the front gate of his property.

Councillor Sanders – of the vehicles visiting the site some were NAP Grab branded lorries but also other 30 tonne grab lorries who were customers of the waste transfer station. There was some confusion what NAP movements were but figures regarding tonnage in and out could easily be verified through Environment Agency waste transfer tickets but he understood that when requested by enforcement officers these had not been provided. The material issue remained that 50 – 80 vehicles visited this site daily.

Councillor Gawrysiak – in 2019 he had been told that the crusher was only being stored on the site but crushing operations had been heard from his property and also by residents of Rice Farm. Crushing operations at Stonepit Barn could also be heard. Dust was less of a problem. Traffic was, however, very invasive impacting on his property and those at North Cottages. Operating hours were 8am to 6pm but vehicles often left before 6 am. In May a Skanska team had carried out repairs to the road but in doing so had included the verges which had made the road wider so the current width was now incorrect. However, that was still inadequate to cope with the size of vehicles. In 2019 he had spoken to Mr Parker who had advised him that his business had grown to such an extent that the site was now in an inappropriate location for the level of activity and size of lorries.

Jeremy Flawn for the applicant addressed sequentially the points raised by the other speakers and members of the Committee.

Obstruction of right of way – in 2011 his clients had liaised with OCC and the rights of way officer who were happy that the right of way was not being obstructed by this development. The problem arose as the right of way passed through the centre of Swannybrook Farm but was outside his client's control but in the control of the owner of the Farm.

Traffic Flows – the traffic numbers had not been made up. His client had hired a traffic consultant who had carried out counts in 3 locations – next to the 2 sites on the haul road, at the southern end of Swannybrook Farm and on Fyfield Wick itself. That data was set out in table 3.1 of the transport report and confirming 14 vehicles in and 14 out.

Breach of planning permissions – it had been stated that all operations at Swannybrook farm including his client's other operations were in breach of planning permissions. That was not the case as his client's site had been there over 20 years and so was not controlled by condition. His client's operational yard had nothing to do with these 2 applications and other operations under the control of his client including bulking mix materials and haulage were completely separate, a point clearly set out in the officer report. That had led to confusion with regard to NAP branded lorries. He had been advised that his client was not receiving visits from other operators who were entering the site to collect material. The traffic levels recorded by neighbours was nothing to do with this application.

Dust, noise and lighting – he had been advised that his client was operating within the terms of conditions.

Traffic information - The site was not predominantly agricultural but was predominantly filled with commercial operations which all generated vehicle movements. That had been the history of this site when home to the pig research centre which had generated 80 vehicle movements prior to its demolition for housing. His clients had supplied tachographic information which was always available. All traffic turned left out of the site towards the A415.

Noise and verge damage – on average 200 HGVs travelled up and down Fyfield Wick. NAP operations counted for 18% of that volume. Of the 50 – 80 vehicles entering/leaving the site they were not all NAP lorries or associated with NAP operations.

Crusher – he had been advised that crusher was stored there but had only been used on one occasion. Other noise referred to emanated from other operations.

Traffic Movements and Hours of operation – operational hours were 8am to 6 pm and am on Saturdays. Any lorries leaving before 8am were associated with applicant's other operations on the site. There had been confusion over HGVs and who they were visiting.

In conclusion his client agreed that the development was in accord with the Development Plan as well as policies within it and the NPPF, was sustainable and acceptable to the highway authority. The development could be conditioned to meet any concerns relating to dust etc and therefore should be approved.

He then responded to questions from:

Councillor Webber – he confirmed that one of the traffic survey points had been across the entrance to the soil area so had only picked up the vehicles associated with these applications ie 14 in and 14 out. With regard to the rest of Swannybrook Farm the survey point at the entrance had picked up 32 in and 30 out so effectively less than 1/2 of the vehicles recorded were connected with these applications.

Councillor Fitzgerald-O'Connor – the surveys were carried out between 29 August and 4 September inclusive which had included one weekend day and had then been averaged across those days.

Councillor Handley – the Highway Authority had confirmed as stated in the report that there was sufficient width for 2 lorries to pass at the required speed.

Councillor Johnston – he confirmed that if approved it would involve crushing. He further advised that it wasn't a question of acceptability now as opposed to 2011 as in 2011 his client had not asked for crushing. That application had been made only for soil recovery. However, they were now finding that 30% of each load could be recycled for higher specification schemes such as road improvements if that material was carefully crushed.

Councillor Gawrysiak – he accepted that there had been breaches of conditions including spoil heaps and crushing but this retrospective application had been submitted at the suggestion of planning officers to regularise this situation and was the normal route for such applications.

Councillor Hibbert-Biles – his clients had been operating from Swannybrook Farm for 25 years and he couldn't say specifically why they had breached conditions but he had been advised by them that they would abide by conditions and if not the County Council would be able to enforce. They were aware of local concern and were keen to open a dialogue and work with the community.

Councillor Fitzgerald-O'Connor expressed some sympathy with the Kingston Bagpuize Parish Council and Mr Donovan. The road access was narrow and the number of lorries along this route seemed excessive. She would like to see the application deferred for further investigation and a local liaison group set up. She so moved.

Seconding that Councillor Sanders referred to some conflicting evidence which needed to be sorted such as numbers of lorry movements and further work regarding noise and dust.

Mr Periam advised that liaison group could be established but that needed to be on the back on approval for the application. If the application were refused then enforcement of the current permission would be required. Other matters on the site would be for the Vale of White Horse District Council. Approval of the recommendation offered control as the planning authority could only enforce conditions that had been approved. He couldn't recommend refusal and could not see what could be gained by a deferral. Movements could be limited to a different number other than 14 in and 14 out and with additional planting he was confident that crushing operations could be carried out without impact. He was not sure what other information could be sought.

Councillor Webber advised that monitoring of traffic on surrounding areas such as Marcham was vital as even 2 or 3 lorries would have a serious impact.

Councillor Roberts wanted some further information back on the Vale of White Horse District's findings into operations on the site in order to assess the cumulative effect.

Councillor Hopley did not consider a deferral was needed pointing out that if deferred then crushing could not be carried out so, therefore, noise and dust could not be monitored.

Councillor Hibbert-Biles had thought deferral was the best option but she had been persuaded that a refusal was preferable.

Councillor Handley favoured deferral to get further information. This was conceivably the right location and we need to promote recycling but more protection was needed for the local community and, if approved, we needed to be able to support those people.

Summing up Councillor Fitzgerald-O'Connor wished to see further information on noise levels, dust, negotiation with the Vale of White Horse District Council to ascertain what they were doing with regard to this site, confirmation regarding lorry movements as the information presented to the meeting had been very confusing, landscaping (to be agreed in writing), height of stock piles, state and condition of road, width of lorries, clarity of routeing agreement and right of way situation. She accepted that a liaison group could not be pursued unless the application was approved.

Mr Periam advised that the applicant would need to be approached to agree an extended period for determination but could of course appeal on grounds on non-determination.

The Committee noted the receipt and contents of a letter from the Rural Planning Practice written on behalf of Mr and Mrs Donovan. It had summarised their objection on grounds of Traffic, Trees and Biodiversity, Noise, Dust & Light Pollution and Right of Way. The development significantly impacted on the amenity of properties in Fyfield Wick and did not meet national and local plan policy. The County Council needed to take these issues into account along with other objections received. Failure to enforce 2011 conditions had allowed this operation to grow and this application should now be refused or deferred to allow a full investigation to regularise activities at Swannybrook Farm. In the meantime the limited permitted use of the site by NAP Grab should be properly enforced.

The motion by Councillor Fitzgerald-O'Connor seconded by Councillor Sanders was then put to the Committee and carried by 10 votes to 3.

RESOLVED: that Applications MW.0134/19 and MW.0135/19 be deferred to enable further investigation with regard to:

- (1) noise levels,
- (2) dust,
- (3) discussion with the Vale of White Horse District Council enforcement team for their position on the planning status of the rest of Swannybrook Farm,
- (4) the carrying out of an independent traffic count survey to confirm existing lorry movements from the application sites,
- (5) landscaping scheme details (to be agreed in writing),
- (6) height of stockpiles,
- (7) state and condition of road,
- (8) width of lorries,
- (9) clarity of routeing agreement, and
- (10) right of way situation.

28/20 REVISIONS TO EXISTING ASPHALT PLANT LAYOUT, INCLUDING WIDENING SITE ENTRANCE TO WATERWORKS ROAD (GRIMSBURY GREEN), UPGRADING SITE ACCESS ROAD, PROVISION OF NEW WEIGHBRIDGES, RELOCATION OF ADMINISTRATIVE BUILDINGS AND STAFF PARKING AREA ; PROVISION OF NEW RELOCATED CONCRETE BATCHING PLANT ; PROVISION OF AGGREGATE STORAGE AND

**UNLOADING FACILITY WITH NEW BOTTOM DISCHARGE UNIT (BDU)
RAIL UNLOADING SYSTEM AT ASPHALT PLANT, CONCRETE
BATCHING PLANT AND ADJOINING LAND, WATER WORKS ROAD,
HENNEF WAY, BANBURY, OX16 3JJ**

(Agenda No. 7)

Application MW.0026/20 had been withdrawn by the Applicant.

..... in the Chair

Date of signing