



To: Members of the Planning & Regulation Committee

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

**Monday, 6 September 2021 at 2.00 pm
Council Chamber, County Hall, New Road, Oxford OX1 1ND**

Please note that Council meetings are currently taking place in-person (not virtually) with social distancing at the venue. Meetings will continue to be live-streamed and those who wish to view them are strongly encouraged to do so online to minimise the risk of Covid 19 infection.

If you wish to view proceedings, please click on this [link](#). However, that will not allow you to participate in the meeting.

Places at meetings are very limited due to the requirements of social distancing. If you still wish to attend this meeting in person, you must contact the Committee Officer by 9am on Tuesday 31 August 2021 and they will advise if you can be accommodated at this meeting and of the detailed Covid-19 safety requirements for all attendees. Requests to speak should be sent to graham.warrington@oxfordshire.gov.uk. You will be contacted by the officer regarding arrangements for speaking.

Please note that in line with current government guidance *all* attendees are strongly encouraged to take a lateral flow test in advance of the meeting.

A handwritten signature in blue ink, appearing to read 'Yvonne Rees'.

Yvonne Rees
Chief Executive

August 2021

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

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.

Membership

Chair – Councillor Geoff Saul
Deputy Chair - Councillor Richard Webber

Councillors

Judy Roberts
Robin Bennett
Felix Bloomfield
Yvonne Constance OBE

Imade Edosomwan
Mohamed Fadlalla
Stefan Gawrysiak
David Rouane

Les Sibley
Ian Snowdon

Notes:

- ***Date of next meeting: 18 October 2021***

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 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 - 12)**

To approve the minutes of the meetings held on 19 April 2021 and 18 May 2021 (PN3) and to receive information arising from them.

4. **Petitions and Public Address**

Currently council meetings are taking place in-person (not virtually) with social distancing operating in the venues. However, members of the public who wish to speak at this meeting can attend the meeting 'virtually' through an online connection. Places at the meeting are very limited due to the requirements of social distancing. While you can ask to attend the meeting in person, you are strongly encouraged to attend 'virtually' to minimise the risk of Covid-19 infection.

Please also note that in line with current government guidance all attendees are strongly encouraged to take a lateral flow test in advance of the meeting.

Normally requests to speak at this public meeting are required by 9 am on the day preceding the published date of the meeting. However, during the current situation and to facilitate these new arrangements we are asking that requests to speak are submitted by no later than 9am four working days before the meeting i.e. 9 am on Tuesday 31 August 2021. Requests to speak should be sent to graham.warrington@oxfordshire.gov.uk. You will be contacted by the officer regarding arrangements for speaking.

If you ask to attend in person, the officer will also advise you regarding Covid-19 safety at the meeting. If you are speaking 'virtually', you may submit a written statement of your presentation to ensure that if the technology fails, then your views can still be taken into account. A written copy of your statement can be provided no later than 9 am 2 working days before the meeting i.e. Thursday 2 September 2021. Written submissions should be no longer than 1 A4 sheet.

5. **Chairman's Updates**
6. **Serving of the Prohibition Order for the Review of the Mineral Planning Permission (ROMP) at Thrupp Farm and Thrupp Lane, Radley (Pages 13 - 64)**

Report by the Assistant Director Strategic Infrastructure and Planning (PN6).

As resolved at the meeting of the Planning and Regulation Committee on 8th March 2021, the report provides an update on the progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP areas DD1 and DD2. It is recommended that the Planning and Regulation Committee's conclusion from its meeting on 9th September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased be updated to reflect new information demonstrating an ongoing intention to continue mineral working on the Radley ROMP site and that the unserved Prohibition Order is revoked.

It is RECOMMENDED that the Planning & Regulation Committee's previous conclusion from its meeting on 9th September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased be rescinded and that the Prohibition Order of that date but not yet served is revoked.

- 7. Use of the existing processing plant site to process sand and gravel from the nearby 94 acre Review of Old Mineral Permission (ROMP) site (Ref: DD1 and DD2), the installation of a field conveyor system to the site boundary and ancillary facilities for the transportation, storage and processing of the sand and gravel and the use of an existing haul road - Thrupp Lane, Radley, Abingdon, Oxon, OX14 3NG.- Applicant: H Tuckwell And Sons Ltd - Application no: MW.0075/20 (Pages 65 - 92)**

Report by the Assistant Director of Strategic Infrastructure and Planning (PN7).

The report sets out the proposed development for which planning permission has been applied under application no. MW.0075/20. Having considered the application against the development plan and other material considerations including consultation responses and representations received the officer recommendation is that subject to the completion of a section 106 Agreement for the provision of a permissive path and to conditions to be determined by the Assistant Director of Strategic Infrastructure and Planning it be approved.

It is RECOMMENDED that subject to the applicant first entering into a section 106 agreement for the provision of a permissive path to provide a link between Thrupp Lane and the disused railway line as part of the restoration of the site that planning application no. MW.0075/20 be APPROVED subject to conditions to be determined by the Assistant Director for Strategic Infrastructure and Planning to include those set out in Annex 1 to the report PN7.

- 8. Progress Report on Minerals and Waste Site Monitoring and Enforcement (Pages 93 - 126)**

Report by Assistant Director for Strategic Infrastructure and Planning (PN8)

This report updates members on the regular monitoring of minerals and waste planning permissions for the financial year 1st April 2020 to 31st March 2021 and on the progress

of enforcement cases.

It is RECOMMENDED that the Schedule of Compliance Monitoring Visits at Annex 1 to the report (PN8) and the Schedule of Enforcement Cases at Annex 2 to the report (PN8) be noted.

9. Relevant Development Plans and Other Policies (Pages 127 - 140)

Paper by the Report by Assistant Director for Strategic Infrastructure and Planning (PN9).

The paper sets out policies in relation to Item 7 and should be regarded as an Annex to that report.

Pre-Meeting Briefing

A pre-meeting briefing via Teams for the Chairman and Deputy Chairman to be arranged.

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 19 April 2021 commencing at 2.00 pm and finishing at 4.55 pm

Present:

Voting Members: Councillor Stefan Gawrysiak – in the Chair

Councillor Mrs Anda Fitzgerald-O'Connor
Councillor Damian Haywood
Councillor Judith Heathcoat (in place of Councillor Dan Sames)
Councillor Bob Johnston
Councillor Charles Mathew (in place of Councillor Ted Fenton)
Councillor G.A. Reynolds
Councillor Judy Roberts
Councillor John Sanders
Councillor Alan Thompson
Councillor Richard Webber

Other Members in Attendance: Councillor Hannah Banfield (for Agenda Items 6 & 7)
Councillor Pete Sudbury (for Agenda Item 8)

Officers:

Whole of meeting G. Warrington & D. Mytton (Law & Governance); D. Periam (Law & Governance)

Part of meeting

Agenda Item	Officer Attending
6 & 7	M. Hudson (Planning & Place) & R. Bbosa (Highways)

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting, together with a schedule of addenda 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.

7/21 ELECTION OF DEPUTY CHAIRMAN

Councillor George Reynolds was elected Deputy Chairman. There were no other nominations.

8/21 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS
(Agenda No. 1)

<i>Apology for Absence</i>	<i>Temporary Appointment</i>
Councillor Ted Fenton Councillor Dan Sames	Councillor Charles Mathew Councillor Judith Heathcoat

9/21 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE OPPOSITE
(Agenda No. 2)

During discussion on Item 8 other sites in the Faringdon area had been referred to and Councillor Heathcoat declared that those sites were in her division.

10/21 MINUTES
(Agenda No. 3)

The minutes of the meeting held on 8 March 2021 were approved for publication.

11/21 PETITIONS AND PUBLIC ADDRESS
(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
County Councillor Hannah Banfield Malcolm Lawer (supported by Andy Shepley) for the applicants) 6 & 7 – Tarmac Asphalt & Concrete) Batching Plant, Hennef Way,) Banbury
County Councillor Dr Pete Sudbury Monika Gogol for the applicants) 8. New Barn Farm Quarry)

12/21 CHAIRMAN'S UPDATES
(Agenda No. 5)

There were no Chairman's updates.

The Chairman took the opportunity to thank the outgoing Chairman Councillor Jeannette Matelot for her work on the Committee and also members of the

Committee past and present who were standing down as Councillors at the May elections.

13/21 WIDENING AND UPGRADING OF EXISTING SITE ACCESS ONTO WATERWORKS ROAD (GRIMSBURY GREEN) AND HIGHWAY IMPROVEMENT WORKS TO WATERWORKS ROAD/GRIMSBURY GREEN AT TARMAC ASPHALT AND CONCRETE BATCHING PLANT, WATER WORKS ROAD, HENNEF WAY, BANBURY, OX16 3JJ - APPLICATION NO. MW.0011/21
(Agenda No. 6)

The Committee considered a report (PN6) setting out the detail of an application for permission to widen and upgrade the existing site access onto the public highway at Grimsbury Green, including the provision of a new footpath into the site at the eastern side of the access, re-surfacing, and alterations to drainage. The proposals also intended to segregate HGV movements from non-motorised users and to formalise the T-junction to prevent vehicle conflict and HGVs cutting the corner. Existing palisade fencing would be relocated to the new boundary at the eastern edge of the access, although the western edge would remain unfenced. Additionally, the application also proposed to fund the provision of a new 2m wide footway to the south of Grimsbury Green along with a central refuge crossing point.

Mary Hudson presented the report together with an addendum setting out further responses from the Lead Local Flood Authority (LLFA) and the Environment Agency. The responses referred to Application MW.0011/21 (Item 6) and Applications MW.0012/21, MW.0013/21 and MW.0014/21 (Item 7). Neither had raised objections and no changes were being recommended to the conditions. A further letter of representation had also been received which had not raised any additional concerns over and above those already raised and addressed in the report.

Responding to questions from members of the Committee she:

Confirmed that no routeing agreement would be required for this particular application.

The period for commencement of works was the standard 3 years and responding to concerns that improvements to the access should be completed before the development proposed in the 3 applications for consideration at Item 7, that could be tied in with those applications.

Confirmed that the applicants had chosen to present the applications in this way. The first application related to access and the applicants wanted that done regardless of the outcome of the applications at Item 7. Conditions could be attached to this application in respect of the others if the Committee so wished noting that members of the Committee had suggested that the local member needed to be fully involved in these issues going forward

Approval of Application MW.0011/21 would not bind the Committee to the 3 applications at Item 7.

Councillor Banfield then spoke as local member. Waterworks Road was a very busy road and so the improvement works at the access were welcome but also considered that that application had been submitted in order to distract attention away from the 3 applications at Item 7. She had grave concerns for the health of residents in her division who lived close to the site and others whose properties backed onto Hennef Way where readings were already double safe and legally recommended limits. If all 4 applications were granted then HGV movements would increase from a current daily total of 80 to 348 and all would have to drive through Waterworks Road and enter onto Hennef Way. Safe access to the site was important but was it right to consider this sort of increase in the number of vehicles along with the associated problems of extra noise and dust pollution. Current facilities at the tarmac site were, in her opinion, inadequate for this number of vehicles. She considered the highways report commissioned by Tarmac to be misleading and did not accept that the plant would be restored at the end of the 5 year period and that they would seek to retain that. She questioned HGV traffic figures quoted in the report which stated that figures would be lower than the daily total which was often generated from the site now and that the overall expected use of the site would be lower than the existing fall back capacity of the site. She called for a comprehensive air pollution assessment report to be carried out.

Malcolm Lawer for the applicants advised that as stated in the officer's report, Grimsbury Green (also known as Waterworks Road) was a popular local recreation route for pedestrians and cyclists but with no current separation between the highway and the Tarmac site. Whilst that access had operated perfectly well over the 30-year life of the site at various rates of output, with no reported accidents, Tarmac wished to secure the long-term sustainability of the area by undertaking a series of highway improvements. All works would be carried out at Tarmac's expense and subject to formal approval of the Highways Authority through a S.278 Agreement. Widening of the access to the site would improve driver visibility as they entered and exited the site with improved pedestrian and cyclist links on Grimsbury Green, as well as providing a separate pedestrian/cycle access into the site, which did not currently exist so improving general visibility and pedestrian/cycle safety in the area. Tarmac were also seeking permission for a series of works within the plant site, which were the subject of applications at Item 7 on the Committee Agenda and it needed to be stressed that the access widening and highway improvements were not required in order to make the on-site works acceptable from a highways point of view and there was no direct correlation between the two as had been confirmed by the highways authority. However, Tarmac had taken on board various comments made by the local community over the years, as the proposed on-site works had evolved, and were keen to provide this local and long-term community benefit, which would also assist with the efficient operation of the site. Whilst access widening works would involve removal of part of the landscaped bank situated on the frontage of the site, Tarmac intended to carry out various improvements to the bank including new planting, ecological enhancements and long-term management to ensure no physical loss of biodiversity. On behalf of Tarmac he commended the officer report and recommendation to approve.

He then responded to questions from:

Councillor Johnston – the company would be responsible for the necessary works.

Councillor Mathew – the road safety audit had been agreed with the highway authority.

Councillor Roberts – the proposed width of the cycleway at 1.2 metres while less than the OCC cycle design width of 1.5 metres had been agreed with the highway authority.

Rashid Bbosa confirmed that a pedestrian count had not been carried out due to the relatively low pedestrian movements that would be generated. The proposed width of the cycleway although constrained to 1.2 metres by the width of the highway was considered acceptable.

Councillor Haywood considered that irrespective of the applications at Item 7 this particular application would improve conditions at the access to the site and so moved the officer recommendation. Councillor Johnston seconded the motion which was then put to the Committee and **RESOLVED** (by 8 votes to 1 with 2 abstentions) that planning permission for application MW.0011/21 be approved subject to conditions to be determined by the Assistant Director for Strategic Infrastructure and Planning, to include those set out in Annex 1 to the report PN7.

14/21 TARMAC ASPHALT AND CONCRETE BATCHING PLANT, WATER WORKS ROAD, HENNEF WAY, BANBURY, OX16 3JJ

(Agenda No. 7)

MW.0012/21: Demolition of existing concrete batching plant and stock bays and provision of new permanent aggregate storage bay area and weighbridge and associated lorry turning area and widening of internal access road;

MW.0013/21: Provision of new relocated RMX concrete plant and associated works including reconfigured storage bay area, new weighbridge, expanded car parking area and new office/welfare facility; and

MW.0014/21: Provision of temporary stock-bay area and weighbridge to accommodate additional aggregate deliveries associated with construction of HS2.

The Committee considered a report (PN7) setting out three applications for the proposed redevelopment of Tarmac's existing site in Banbury which formed part of an operational rail head used for the processing, storage and distribution of aggregate, concrete, and asphalt to the local construction industry. The railhead as a whole contained an operational asphalt plant, concrete batching plant, aggregate storage bays, areas of hardstanding and car parking, office, and associated infrastructure with a total operation land-take of around 2.8ha.

Mary Hudson presented the report together with an addendum setting out further representations as reported under Item 6 on the agenda. She confirmed that HGV routes set out in the 1992 routeing agreement ensured that HGVs used only approved routes through Banbury and a new agreement would be used to ensure that HGVs associated with this site continued to use those routes.

Responding to questions she confirmed that the routes as set out in 1992 agreement were still acceptable and as a permitted route there would be no limit on vehicles travelling south.

County Councillor Banfield speaking as local member reiterated the same concerns as she had raised under Item 6 with regard to the health and welfare of residents living in her division. She again expressed misgivings regarding long-term plans for the site and fully expected the company to seek to retain the plant infrastructure after the application period had expired.

Councillor Johnston left the meeting at 3:20.

Malcolm Lawer for the applicants. Tarmac's site in Banbury had supported local infrastructure projects, as well as nationally significant projects, over the past 30 years, such as works to the M40 and more recently HS2. In order to support the construction of vital infrastructure in the most efficient and sustainable way possible it had become clear that the Banbury plant would be required to play an important role over the next 5 years and, therefore, investment was being made now to support this. Part of that investment involved HS2 which was looking to utilise and maximise the use of existing rail connections as part of the delivery process to minimise carbon emissions that would otherwise be generated if all deliveries were made by road. The existing rail siding at Banbury was a key element of that strategy. The applications before the Committee were looking to alter the current layout to make more effective and safe use of the site and increase the efficiency of rail offloading and HGV movements, as well as providing additional temporary storage for materials associated with HS2. Tarmac appreciated there was some local concern regarding the potential impact on their amenities due to the increase in activity on site but it was important to stress that the historic planning permissions covering the site meant that Tarmac could already increase HGV and train deliveries, within the currently permitted hours of operation, without the need for planning permission. The applications before you were to enable more efficient offloading of trains and movement of HGVs serving both HS2 and the asphalt and concrete plants, whilst also improving overall site safety. During the 5-year HS2 construction period, HGV movements would increase compared to the current average and at peak times it was expected that there would be in the region of 348 movements per day which was less than could theoretically take place if Tarmac were to maximise use of the site under current planning permissions. He stressed that delivery numbers would be significantly below that for the majority of the 5-year period, as demand rose and then fell in line with the HS2 construction programme and on completion of the HS2 phase, overall HGV movements at the Banbury site were likely to reduce back to current levels. Tarmac had undertaken discussions with the highway authority who had not objected subject to an agreement to restrict overall HGV movements at peak times to 40 in total (i.e. 20-in and 20-out). Tarmac were mindful of the concerns raised by residents in relation to noise and the existing rail-grab facility which probably represented the noisiest element on the site would under the proposed site reconfiguration be relocated further north and, therefore, noise generated should dissipate more readily within the site. The Noise Assessment prepared in support of these applications had concluded that noise levels at the nearest residential properties might increase by 2dB which was still below the general baseline noise

level, due to the presence of Hennef Way. In order to further reduce the impact of the rail-grab, Tarmac had proposed a restriction on its use so that it did not operate during the night-time period (i.e. between the hours of 8pm and 6.30am) both during the HS2 construction period and beyond. In terms of HGV movements and air pollution, all vehicles associated with HS2 would be to EURO 6 standard, which complied with the very latest in European emission standards. Hennef Way was also a designated HGV route. The applications were seeking to renew and update old technologies, improve safety and hopefully reduce any environmental impact the plant would have while at the same time supporting local and nationally significant infrastructure projects. During its 30 years operation there had been no major issues, very few formal complaints to the activities taking place and no recorded accidents on Grimsbury Green. Council policies supported the use of facilities such as Tarmac's Banbury site to enable efficient and sustainable distribution of aggregates around the County and these applications would secure significant investment in the site, which was initially geared towards delivery of construction materials to HS2, but beyond that would provide an improved site with sustained employment with 4 new local jobs created and ensure the long-term supply of construction materials to the local area.

Responding to questions he confirmed:

There had been no objection from the Environmental Health Officer with regard to air pollution from HGV traffic or with regard to the concrete works.

There was general support for the proposed increase in rail use although there were concerns expressed over traffic levels and the need to enforce routeing agreements and also the need to ensure adequate air quality monitoring.

RESOLVED: (on a motion by the Chairman, seconded by Councillor Sanders and carried by 8 votes to 2) that subject to the applicant first entering into a routeing agreement in respect of the following applications that:

- (a) application MW.0012/21 be approved subject to conditions to be determined by the Assistant Director for Strategic Infrastructure and Planning, to include those set out in Annex 1 to the report PN7.
- (b) application MW.0013/21 be approved subject to conditions to be determined by the Assistant Director for Strategic Infrastructure and Planning, to include those set out in Annex 2 to the report PN7.
- (c) application MW.0014/21 be approved subject to conditions to be determined by the Assistant Director for Strategic Infrastructure and Planning, to include those set out in Annex 2 to the report PN7, and
- (d) subject in all three cases to the following additional conditions:
 - (i) hours of HGV movements for each application Monday – Friday 7 am to 7pm and 7am – 1 pm Saturday;
 - (ii) 348 vehicle movements – 174 in and 174 out;
 - (iii) air quality monitoring to be undertaken in appropriate places.

15/21 THE USE OF THE LAND AT NEW BARN FARM QUARRY FOR THE IMPORTATION, HANDLING AND RE-SALE OF AGGREGATES AT NEW BARN FARM, CHOLSEY, WALLINGFORD, OXFORDSHIRE OX10 9HA - APPLICATION NO. MW.0114/20:

(Agenda No. 8)

The Committee considered (PN8) an application from Grundon Sand & Gravel Ltd for provision of a wider range of aggregate products from its operation at New Barn Farm to the local community. Planning permission was, therefore, being sought for the importation, handling and resale of 10,000tpa of aggregates within a small section of the Quarry. It was anticipated that 30% of the imported aggregates would be secondary and/or recycled and would largely comprise compost soil blend with the proportion of secondary and/or recycled aggregates expected to increase as more supplies became available.

Having presented the report Mr Periam confirmed that the configuration of the site access prevented any right turn out of the site.

Stuart Darby who had been due to speak had been unable to attend. A copy of his submission had been made available to members prior to the meeting in case of connectivity problems and so members of the Committee were aware of the grounds of Mr Darby's objection.

Councillor Pete Sudbury addressed the Committee and also spoke on behalf of Mr Stuart Darby. Outlining a number of main objections to this application he first advised that one of those concerns regarding potential loss of trade for other local suppliers seemed to have now been addressed following confirmation from local merchants that it was no longer an issue of concern for them. Other objections and concerns included what he referred to as the "bridgehead problem" where development could be allowed on the outside of the line of the Wallingford bypass in addition to the significant development already taking place inside the line of the road. That could lead to more traffic congestion and further erode the purpose of the bypass to keep traffic away from the centre of Wallingford. It was clear from the Grundon application that this proposal was aimed at creating a significant retail operation and any development allowed outside the line of the road meant that other applications including ones for residential development would be hard to resist. The coalescence of areas such as Brightwell and Wallingford was not the way forward and if that was allowed to happen then the bypass would become a through road with lower speed limits, more local traffic and more traffic encouraged to cut through Wallingford exacerbating current air quality issues in the town centre. As a major route from Didcot to the south and Henley the A4130 pre-Covid had already been congested at peak times and current levels of traffic were neither indicative or representative of what we might return to. Future residential development both locally and in Didcot meant this road should be regarded as a future pinch point and he did not accept that the extra traffic generated would be trivial as indicated by modelling assumptions but continue to be busiest at peak times and not spread out equally through the day. Access to the site was unsuitable for non-commercial traffic with the potential for accidents and tailbacks whereas the access to Highcroft had an extensive entrance, long slip roads, visibility improvements and lighting etc, yet the

quarry site had nothing like that allowing unaware members of public to just drive out into 60mph traffic on an unlit road? Regular users (ie HGV's) would be aware of the access requirements and limitations, but public traffic would not and so the access arrangements as presently built were unsuitable and dangerous. Furthermore because of the left-hand turn requirements on leaving the site, all traffic would have to travel along both carriageways of the bypass between Hithercroft and Winterbrook roundabouts at each visit, to enter or return depending on their final destination. He considered this an unnecessary development in the wrong place and should be refused.

The Committee noted the following written representation received from Brightwell cum Sotwell Parish Council objecting to the application. They pointed out that when planning permission had been granted it had been on the proviso that when the quarry was finished with extraction it would be turned into a lake for boating, wildlife and the like. There had never been any mention of a shop and we are very concerned that this might be the precursor for more development on the site which would be totally unacceptable. Also at the time the Parish Council had argued there was no need for a gravel pit at this site as there were plenty of alternative sites locally so the idea that gravel would be brought into this site from these other places seemed wrong. The parish council felt that traffic levels would increase and if there were to be any new building retail outlets in this area they should be sited on the other side of the road where an extension to the Hithercroft trading estate was already being built. They were also concerned that business would be taken away from the several established builders' merchants in the area.

Councillor Haywood left the meeting at 4:30.

Monika Gogol for the applicants advised that New barn Farm quarry had been operating for nearly a year to help meet the needs of the local construction industry. The site was permitted to extract 140,000 tonnes of sand and gravel per year and to be restored using 120,000 tonnes per year of imported soils and clays giving a total throughput of 260,000 tonnes per year. The quarry operated with dust and noise management schemes in place, both of which were monitored on a quarterly basis. Vehicles were routed to avoid travelling through Cholsey and Wallingford. The County Council monitored the site and had been to date satisfied that the site was compliant. The proposal was to import up to 10,000 tonnes per year for resale and involved the use of recycled aggregates and waste soils for blending with sand dug from the site to produce various products and a soil blend for landscaping. In addition small quantities of other aggregate would be imported for resale. Importation levels would be capped to ensure it remained ancillary to the main quarry operation and removed before restoration and so was a temporary use using part of the current gravel stocking area and the same machinery as the current operation which had been are considered satisfactory. County and District officers were satisfied that there would be no additional or potential impacts. Importation cap limits, vehicle numbers and the routing agreement meant that no vehicles would travel through Cholsey or Wallingford with County Highways officers satisfied that there would be no adverse impact. Grundon had been a local company for over 70 years and was the Districts' second largest private employer. The operation complimented and offered a different range of products to the usual builder's merchant range and they operated similar enterprises at other quarries in West Oxfordshire and North Hampshire. Whereas

builders' merchants supplied only 20kg small bags or 0.9 tonne bags this operation offered other quantities which could be loaded onto trailers without the resultant need for bags. The product range offered was also different with inquires for products already being received together with letters of support for the application. The NPPF encouraged a diverse economy and choice and competition and this application would ensure that customers could obtain the appropriate goods at the best price for them. She asked the Committee to accept their officer recommendation to approve.

She then confirmed that there would be no soil available for purchase on site as that material was needed for restoration.

With regard to monitoring and enforcement officers confirmed that the quarry was subject to monitoring visits and that would continue.

RESOLVED: (on a motion by the Chairman, seconded by Councillor Fitzgerald-O'Connor and carried by 4 votes to 2, with 3 abstentions. Two councillors had been unable to vote due to absence from part of the debate) that subject to a supplemental routeing agreement first being entered into that Application MW.0114/20 be approved subject to conditions to be determined by the Assistant Director for Strategic Infrastructure and Planning to include those set out in Annex 1 to the report PN8.

..... in the Chair

Date of signing

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Tuesday, 18 May 2021 commencing at 11.30 am and finishing at 11.45 am

Present:

Voting Members:

Councillor Robin Bennett
Councillor Felix Broomfield
Councillor Yvonne Constance
Councillor I. U. Edosomwan
Councillor Mohamed Fadlalla
Councillor Stefan Gawrysiak
Councillor Judy Roberts
Councillor David Rouane
Councillor Geoff Saul
Councillor Ies Sibley
Councillor Ian Snowdon
Councillor Richard Webber

Officers:

Whole of meeting Anita Bradley, Director for Law and Governance and
Monitoring Officer; Deborah Miller, Committee Officer

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

16/21 ELECTION OF CHAIR FOR THE 2021/22 COUNCIL YEAR

(Agenda No. 1)

It was moved and seconded that Councillor Geoff Saul be elected Chair of the Planning & Regulation Committee for the 2021/22 Council Year. There were no other nominations.

RESOLVED: (nem con) that Councillor Geoff Saul be elected Chair of the Planning & Regulation Committee for the 2021/22 Council Year.

17/21 ELECTION OF DEPUTY CHAIR FOR THE 2021/22 COUNCIL YEAR

(Agenda No. 2)

It was moved and seconded that Councillor Richard Webber Saul be elected Deputy Chair of the Planning & Regulation Committee for the 2021/22 Council Year. There were no other nominations.

RESOLVED: (nem con) that Councillor Richard Webber be elected Deputy Chair of the Planning & Regulation Committee for the 2021/22 Council Year.

..... in the Chair

Date of signing

Division Affected – Kennington and Radley

PLANNING AND REGULATION COMMITTEE

6 SEPTEMBER 2021

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

Report by Assistant Director for Strategic Infrastructure and Planning

Contact Officer: David Periam **Tel:** 07824 545 378

Location: Land at Thrupp Lane and Thrupp Farm, Radley

District Council Area: Vale of White Horse

Executive Summary

1. As resolved at the meeting of the Planning and Regulation Committee on 8th March 2021, the report provides an update on the progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP areas DD1 and DD2. It is recommended that the Planning and Regulation Committee's conclusion from its meeting on 9th September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased be updated to reflect new information demonstrating an ongoing intention to continue mineral working on the Radley ROMP site and that the unserved Prohibition Order is revoked.

Update

2. At the meeting of the Planning and Regulation Committee on 19th September 2019, a report was presented with regard to the Review of the Old Mineral Permissions DD1 and DD2 at Thrupp Farm and Thrupp Lane, Radley (the Radley ROMP site – please see Figure 1 below). The Committee resolved that mineral working had permanently ceased and that therefore there was a duty to serve a Prohibition Order.
3. At its meeting on 7th September 2020, a further report was presented to the Planning and Regulation Committee. The Committee resolved to hold service of the Prohibition Order in abeyance pending (1) the progression and

determination of application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP areas DD1 and DD2; and (2) an update from H. Tuckwell and Sons Ltd which was to be accompanied by documentary evidence of progress made with the ROMP conditions application and accompanying Environmental Statement. This update was to be provided to the meeting of the Planning and Regulation Committee on 8th March 2021. This report was duly presented to the meeting on 8th March 2021 and is appended as Annex 1 (for full report and its annexes please see the Planning and Regulation Committee pages on the County Council's website).

4. The Planning and Regulation Committee resolved on 8th March 2021 that:

(a) the Planning & Regulation Committee's previous conclusion from its meeting on 9th September 2019 (Minute 39/19) that mineral working on the Radley ROMP site had permanently ceased and that the duty to serve a Prohibition Order should not be rescinded but that the service of that Prohibition Order be held in abeyance pending: i) the progression and determination of application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP areas DD1 and DD2; and ii) H. Tuckwell and Sons Ltd providing an update, accompanied by documentary evidence, on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP areas DD1 and DD2 to the meeting of the Planning and Regulation Committee on 19th July 2021;

(b) officers be instructed to investigate whether it was possible to serve a partial Prohibition Order should it be concluded that mineral working had permanently ceased over part but not all of the ROMP areas DD1 and DD2.

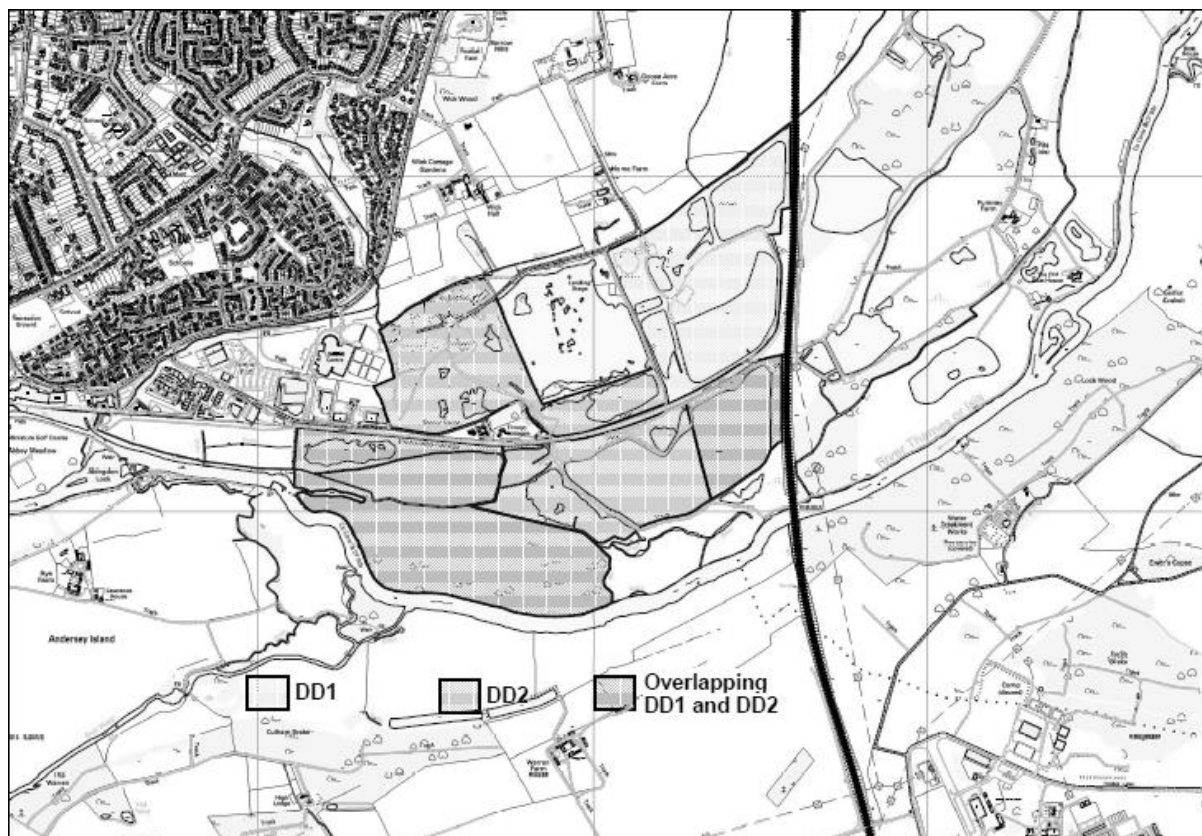


Figure 1: The Radley ROMP permissions site.

Update from the agent on behalf of the H. Tuckwell and Sons Ltd

5. An update has been provided by the agent (Annex 2) which is summarised as follows:

Email updates from the consultants who are contributing towards the ROMP Application and ES have been provided along with an email from the County Archaeologist agreeing the methodology to address archaeology. A company called Oxfordshire Archaeology have been instructed to produce the Cultural Heritage Chapter for the ES.

It is also confirmed that the applicant has been speaking with local residents and objector groups about the ROMP Application including the restoration of the site.

The proposed actions stated at the March 2021 Planning Committee have been undertaken, just as the actions proposed at the August 2020 Planning Committee were undertaken.

The timetable to have the ROMP Application and ES submitted, continues to be as follows:

- Spring-Summer 2021- EIA investigations surveys undertaken including- ecological, noise, hydrological, landscape and visibility surveys;

- Winter 2021 to Spring 2022: ROMP Application and ES prepared;
- Spring 2022: Pre-submission consultation held for the ROMP Application; and
- Spring-Summer 2022: ROMP Application (including final ES) submitted.

Even after the unprecedented conditions of three lockdowns and flooding at this site, the applicant is still on track to meet the 2022 submission date, as per my previous correspondence.

The applicant has also provided the Council with the updated ecological information required for the determination of Planning Application Ref: MW.0075/20 to allow the mineral from the Thrupp Lane ROMP to be transported and processed at the Tuckwells site at Thrupp Lane.

In considering how best to advise the Planning Committee in considering pursuing the Prohibition Order (PO), it is requested that officers consider the following past chain of events in the Officer's Report:

- This is the second attempt at serving a PO. The first was quashed in 2014 by the Secretary of State who also awarded full costs against the County Council;
- The decision to serve a PO was made at the meeting of the Planning and Regulation Committee in September 2019. At that time, the agent provided evidence of ongoing works by the late Douglas Symes acting for J. Curtis & Sons Ltd. This evidence was given in writing and presented at the Committee meeting. The PO was supported even though the recommendation was based on conjecture and contrary to objective evidence before the Committee;
- Douglas provided further substantiating evidence to the Committee in January 2020. This added weight to arguments against a decision to progress with the PO;
- The Council determined to seek a formal legal Opinion on a decision to progress with the PO;
- In September 2020, part of the justification for delaying final resolution of the PO was to allow Planning Application Ref: MW.0075/20 to be determined. It is considered the submission of Planning Application Ref: MW.0075/20 further demonstrates a genuine intention to extract minerals for the ROMP Area;
- The agent for Tuckwells spoke at the September 2020 and March 2021 Planning and Regulation Committee meetings requesting that the PO be quashed. The case presented was that sufficient evidence had been provided by that point to demonstrate an intention to continue with mineral working, while there was no evidential basis to support the PO. It was noted the summary provided of the Council's confidential internal legal advice supported withdrawal of the PO. He also highlighted that delaying a decision was *'kicking the can down the road'* at the expense of ongoing uncertainty and costs for Curtis and Tuckwells; and
- Regardless of this evidence before the Committees, decisions were made not to rescind the PO.

It was requested that following statements from the applicant are considered in the Officer's Report:

'The evidence Tuckwells has provided to date clearly demonstrates that significant financial investments has, and continues to be , been made in the ROMP Area. This has cost 10s of thousands of pounds on top of the £40,000 plus spent on Planning Application Ref: MW.0075/20 to date. This investment has been made at a time when there is a significant economic turbulence caused by the ongoing pandemic which may take many years to remedy.

As a Mineral Planning Authority (MPA) you have a duty to support sustainable mineral development and ensure a sufficient supply of aggregate in your County. This is what is being proposed at the Thrupp Lane ROMP by one of Oxfordshire's oldest family run mineral companies.

To achieve sustainable mineral development the MPA must work with and not against the Mineral Industry. In light of the positive planning approach required throughout the NPPF (2019) any further decision to continue with the PO must, to be reasonable and therefore necessary, be based on tangible evidence.

In light of the extensive cost and extent of the detailed evidence Tuckwells have provided to date, when compared against the complete lack of any tangible evidence to support the PO, the Tuckwells is of the strong opinion that OCC would not be acting reasonably by continuing to pursue the PO.

Tuckwells therefore respectfully request that you support the sustainable supply of minerals from a site that already has planning permission, by ending this ongoing uncertainty and unnecessary costs and make an evidence based decision to quash the PO'.

Other updates since the Committee's meeting on 8th March 2021

6. Planning application no. MW.0075/20 is the subject of a separate report to this committee meeting.
7. The Radley Lakes Masterplan which is referred to as a draft document in the previous Committee report appended as Annex 1 has now been published in its final version. This adds to the weight the Council may afford to this document in decision making. It sets out the vision for the Radley Lakes which is as follows:

'Radley Lakes will be an oasis of tranquillity set within a beautiful environment. Natural life will thrive supported by a diversity of habitats. The area will be easily accessible by the local community, providing opportunities for quiet recreation, education, and enhanced health and well-being.'

8. Radley Parish Council has provided a further representation with regard to the service of the PO and whether a partial PO can and should be served (Annex 3). In summary the Parish Council is of the view that the County Council can

legally serve a partial PO over any part of the land where it concludes that the winning and working of mineral has permanently ceased and has a duty to do so over the north-western part of the ROMP permissions (the area outlined in yellow on the plan included as part of Annex 3), this includes Curtis's Yard.

9. It is said this area is very easy to delineate geographically and has a distinct minerals history: extraction there started and finished much earlier than in the rest of the ROMP areas DD1 and DD2. A statutory declaration made by the landowner in 2006 treated it as a distinct and relatively historic area. In an earlier meeting of the Planning and Regulation Committee, reference was made to an earlier proposal by OCC to make a PO in relation to the land covered by permission DD2 but not DD1. This ran into difficulty because DD2 and DD1 contain an area of overlap, making it inappropriate to deal with the DD2 area in isolation. The Parish Council states that is not the case here as the area to which a 'partial' PO would apply falls wholly within DD2. There is no overlap. The Parish Council can therefore see no legal barrier to a PO applying to the north-west of the ROMP area.
10. In conclusion the Parish Council believe that:
 - The County Council are under a statutory duty to make a PO applying to the north-west of the ROMP area;
 - they should decide now to proceed on that basis;
 - they should also decide now not to proceed with a PO for the remainder of the ROMP area.

These decisions would bring a welcome end to the current uncertainty and blight.

Discussion

11. The decision that mineral working had permanently ceased in ROMP areas DD1 and DD2 which led then to the duty to serve the PO was made at the meeting of this Committee on 9th September 2019. At that time, the Committee did not have before it any new information with regard to the intentions of the operator/landowner actively progressing any proposals to work the remaining mineral in the ROMP areas other than it was intended to follow on from the existing workings of H. Tuckwell and Sons Ltd at Sutton Wick.
12. The situation at the Committee's meeting on 7th September 2020 was considered to be materially different as the application for the conveyor and related development had been submitted and was out for consultation. It would come before this Committee for determination in due course. Further information had also been provided with regard to the applicant's programme for the submission of a ROMP application to review the applicable conditions and its view on the service of a PO. The position of Radley Parish Council on the matter was also provided.
13. Work was then carried out to support the submission of the ROMP application. An update on this further work was provided by the agent for H. Tuckwell and

Sons Ltd to the Committee's meeting on 8th March 2021, along with further representations from Radley Parish Council.

14. It is therefore the case that the Committee now has before it firm evidence which supports the contention that the ROMP application is now being progressed. Radley Parish Council has also provided further representations that it is now of the view that the case to proceed with a PO over the whole of the ROMP permissions area is weak but that there is a strong case to serve a partial PO over the north-west part of the site which includes Curtis's Yard.
15. As the Committee has been previously advised, the Secretary of State would need to take into account any and all updated information provided since the Committee meeting on 8th March 2021 when deciding whether or not to confirm and serve the September 2019 PO now. This is because the Secretary of State will have to take into account everything that is before them at the time they assess whether or not working has permanently ceased and this will necessarily take into account information that wasn't before the Council at the time the Council made that decision.
16. As also previously advised, in order to protect the Council's position at any appeal against the PO, it is considered that any material considerations that have now come to the Council's notice are taken into account and weighed in the balance as to whether mineral working has permanently ceased prior to issuing the PO. Therefore, the Council must keep under review its previous decision that mineral working had permanently ceased from the ROMP areas DD1 and DD2 in the light of the evidence now before it.
17. Further and as previously advised, now that work is being progressed towards the submission of the ROMP conditions application and accompanying ES, the Committee would be entitled to conclude the evidence now before it is that mineral working has not permanently ceased and that it should rescind its decision to serve the PO. However, it could alternatively decide to again continue to hold the service of the PO in abeyance pending a further update at a later Committee meeting. This would have to be based on the impossibility of taking a decision on the PO now in light of the need for further advice, the likelihood of further information coming to light, or further steps being taken which would affect that decision. It is not considered that the evidence before the Council now is such that the Council cannot make a decision on the PO at this time.
18. As set out in the reports to the Committee on 7th September 2020 and 8th March 2021, the application for the conveyor and associated development (MW.0075/20) is also a material consideration in the Committee's deliberations. The extraction of mineral from the ROMP area is not dependent on permission being granted for this application but they are clearly related and it is material to the Council's assessment of whether or not mineral working pursuant to the ROMP permissions has permanently ceased.
19. The Committee is reminded as previously that in so far as the site owner is concerned, a PO is an analogous order to a Compulsory Purchase Order and

so costs at any appeal against the PO do follow 'success', unless there are exceptional reasons for not awarding costs. It is also the case that an award may be reduced if the objector has acted unreasonably and caused unnecessary expense in the proceedings. The owner/operator is cooperating with the Council in providing additional information. This is not behaviour that can be characterised as unreasonable.

20. At its meeting on 8th March 2021, the Committee resolved that officers investigate whether it is possible to serve a partial PO should it be concluded that mineral working has permanently ceased over part but not all of the ROMP areas DD1 and DD2. This followed the suggestion from Radley Parish Council that such a partial service could be carried out over the land to the north of the disused railway line. This includes the area known as Curtis's Yard where the buildings are located. However, temporary planning permission for the continued use of the buildings for a further five years was granted on appeal as set out in the report to the Committee meeting on 8th March 2021. Officers have therefore sought Counsel's opinion. The legal advice note is attached as Annex 4.

21. This advice is summarised as follows:

- i) The Council cannot serve a Prohibition Order when there is evidence that the winning and working of minerals on that land has not permanently ceased. The submissions made by the agent, the progression and award of planning permission for Curtis's Yard and the applicant's submission of the application MW.0075/20 all clearly demonstrate an intention to continue to work the mineral from the ROMP area.
- ii) In light of these facts, the Council is severely constrained in the options available to it by the terms of the legislation. It must base the decision on the likelihood of the resumption of the winning and working of mineral on all the evidence available at the time the Prohibition Order is made. The situation now is quite unlike the situation at the time the Prohibition Order was made in September 2019 when the above evidence was not before the Council. The Council therefore acted within its powers to make the Prohibition Order then, but the factual context is now quite different and it cannot now say there is no likelihood of the resumption of the winning and working of mineral at the site on the evidence available.
- iii) The legislation allows for a Prohibition Order to be served in relation to a "site". It is therefore for the Council to consider what constitutes the site. This means the statute does not prohibit a partial Prohibition Order from being served on part of the ROMP areas DD1 and DD2 e.g. that include Curtis's Yard as advocated by Radley Parish Council. But this must be based on the evidence before the Council, including extant permissions, outstanding applications, and any discussions with the landowners, and lead to a defensible conclusion on the permanent cessation of winning and working of minerals or the depositing of

mineral. A further factor is national planning practice guidance (PPG) which advises that where an ES is required, environmental information is required for the whole minerals site covered by that permission before new operating conditions can be determined. The Council has established that the submission of conditions for the entire Radley ROMP area site is Environmental Impact Assessment (EIA) development, and so the submission must be accompanied by an ES. The entirety of the site is duly in suspension pending receipt of the application for new conditions and the accompanying ES. The PPG's clear guidance that an ES must encompass "the whole minerals site" implies that government policy requires that any Prohibition Order should cover the whole of the ROMP area in the interests of protecting the environment. This is because all potential environmental impacts could not be fully assessed in an ES if there is a partial Prohibition Order in place, as this effectively removes part of the permitted area the PPG advises should be covered in the ES.

- iv) The Secretary of State is entitled to consider such evidence as they see fit and will undoubtedly consider the evidence of planning application MW.0075/20, at the very least, to constitute clear evidence of an intention to continue the winning and working of mineral on the site. Therefore, even if there was no costs risk if the Council progressed with the Prohibition Order it would be futile because the Secretary of State would almost certainly refuse to confirm the Prohibition Order.
 - v) In the light of the evidence now currently available to the Council, there is a significant risk of costs being awarded against the Council should it now proceed with the Prohibition Order.
 - vi) Because no action has been taken in relation to the Council's decision of September 2019 to make the existing Prohibition Order there is no reason why the Council cannot reconsider that decision, though it is advised that the entire procedure is transparently carried out by members given the interests that are affected and the significant public concern regarding the Radley ROMP site.
22. Separately, with regard to the Radley Lakes Masterplan, this would be a material consideration in the determination of any planning application in the Masterplan area, i.e. it would be material to the determination of application MW.0075/20. However, with regards to any decisions surrounding the service of the Prohibition Order for the ROMP area, due to the lack of involvement of the main landowner in the drafting of the Radley Lakes Masterplan, officer advice is that it should not be given any weight when assessing whether mineral working has permanently ceased.
23. It is therefore officer advice that the evidence now available to the Council as set out above no longer supports the conclusion reached previously by the Committee at its meeting on 9th September 2019 that the winning and working of mineral has permanently ceased. The Committee should therefore now reconsider its previous decision that the winning and working of mineral has

permanently ceased from the ROMP areas DD1 and DD2. Following consideration of the evidence at today's meeting, the Committee is therefore advised to now rescind its previous decision and to revoke the PO.

24. Should the Committee be of the view that the winning and working of mineral has permanently ceased on part but not all of the site then it is open to the Council to reach that conclusion. There would then be a duty to serve a PO only on the site where it was considered this situation applied i.e. a partial PO. But for the reasons set out in the appended legal note and summarised above, including the guidance on the need for environmental information to be provided for the entire ROMP site in order to inform the ES, it is not recommended that this should be pursued.

Financial Implications

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

Legal Implications

26. The legal implications of the decisions available to the Committee are considered in the report.

Comments checked by:

Jennifer Crouch, Principal Solicitor (Environmental) (Legal)

Equality & Inclusion Implications

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

Conclusion

28. It is considered that the further update and documentary evidence provided as well as the submission of application MW.0075/20 does support the contention that work is being progressed on the submission of the application for new conditions for the ROMP permissions DD1 and DD2 and associated Environmental Statement. In the light of this and the legal advice now provided and appended to this report, it is not considered that the conclusion of the committee at its meeting on 9th September 2019 that the winning and working of mineral has permanently ceased can now be sustained. The committee is

therefore invited to rescind its decision of 9th September 2019 and revoke the Prohibition Order. Recommendation

It is RECOMMENDED that:

The Planning and Regulation Committee's previous conclusion from its meeting on 9th September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased be rescinded and that the Prohibition Order of that date but not yet served is revoked.

Rachel Wileman

Assistant Director for Strategic Infrastructure and Planning

Annexes:	Annex 1 – Report to Planning and Regulation Committee 8 th March 2021
	Annex 2 – Update from agent for H Tuckwell and Sons Ltd
	Annex 3 – Radley Parish Council further representations
	Annex 4 – Counsel's Legal Advice Note
Background papers:	Nil (All annexes available to view on the County Council's Planning and Regulation committee and application websites (MW.0023/21).

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Division Affected – Kennington and Radley

PLANNING & REGULATION COMMITTEE

8 MARCH 2021

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

Report by Assistant Director for Strategic Infrastructure and Planning

Contact Officer: David Periam **Tel:** 07824 545 378

Location: Land at Thrupp Lane and Thrupp Farm, Radley

District Council Area: Vale of White Horse

RECOMMENDATION

It is RECOMMENDED that:

- A) The Planning & Regulation Committee's previous conclusion from its meeting on 9 September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased and that there is a duty to serve a Prohibition Order is not rescinded but that the service of the Prohibition Order is held in abeyance pending:
 - i) the progression and determination of application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP permission areas DD1 and DD2; and**
 - ii) H. Tuckwell and Sons Ltd providing an update, accompanied by documentary evidence, on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP permission areas DD1 and DD2 to the meeting of the Planning and Regulation Committee on 19th July 2021.****
- B) Officers are instructed to investigate whether it is possible to serve a partial Prohibition Order should it be concluded that mineral working has permanently ceased over part but not all of the ROMP permission areas DD1 and DD2**

Executive Summary

1. As resolved at the meeting of the Planning & Regulation Committee on 7 September 2020, the report provides an update on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP permission areas DD1 and DD2. The report also provides an update on the progress with planning application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP permission areas DD1 and DD2. It is recommended that a further update report be provided to the meeting of the Planning & Regulation Committee on 19 July 2021.

Update

2. The Committee will recall that at its meeting on 19 September 2019, a report was presented with regard to the Review of the Mineral Planning Permissions DD1 and DD2 at Thrupp Farm and Thrupp Lane, Radley (the Radley ROMP site – please see Figure 1 below). The Committee resolved that mineral working had permanently ceased and that, therefore, there was a duty to serve a Prohibition Order. On 7 September 2020, a further report was presented which is appended as Annex 1 (for full report and its annexes please see Planning & Regulation Committee pages on the County Council's website). The Committee resolved to hold service of the Prohibition Order in abeyance pending the progression and determination of application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP permission areas DD1 and DD2 and an update from H. Tuckwell and Sons Ltd accompanied by documentary evidence of progress made with the ROMP conditions application and accompanying Environmental Statement to today's meeting .

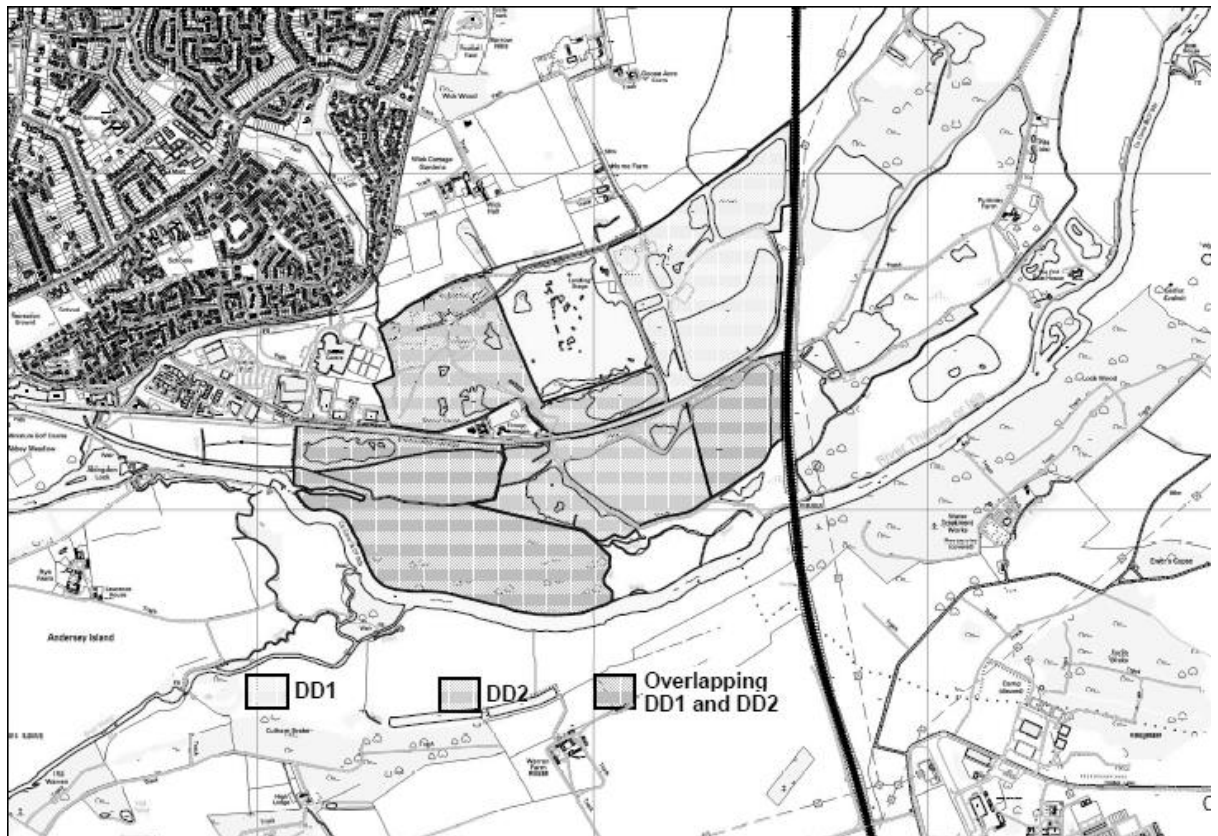


Figure 1: The Radley ROMP permissions site.

Update from the agent on behalf of the H. Tuckwell and Sons Ltd

3. An update has been provided by the agent (Annex 2) which is summarised as follows:

The works undertaken since August 2020 include:

- i) Winter Bird Survey;
- ii) Winter- Piezometers installed & water quality sampling started; and
- iii) Groundwater monitoring.

NB Information on these is attached at Annexes 3, 4 and 5 respectively. Please note that these are provided solely as documentary evidence (as requested by the Committee) of the progression of work that has been carried out to inform the ROMP application and Environmental Statement; they are not at this time put forward for debate as to any issues arising from the information which would be available for consultation and comment at such time as the application may be made.

4. The update advises that the timetable to have the application and Environmental Statement submitted, continues to be follows:
 - February- March 2021: costs for ROMP / EIA established;
 - 2021: EIA investigations surveys undertaken including- ecological, noise, hydrological, landscape and visibility surveys;

- Winter 2021 to Spring 2022: ROMP Application and Environmental Statement prepared;
 - Spring 2022: Pre-submission consultation held for the ROMP Application; and
 - Spring-Summer 2022: ROMP Application (Including Environmental Statement) submitted.
5. With regard to progress towards the determination of Planning Application MW.0075/20, it has been identified that further clarification on ecology is required, which requires extra spring/summer surveys to progress. An ecologist has been instructed to undertake these surveys.
6. The update advises that the planning application to extend Sutton Wick Quarry into Oday Area 1, was submitted in October 2020. If favourably determined in Spring 2021 this will give the quarry 12 months of extra reserves. A planning application is also being worked on to extend this quarry further as nominated in 2020 for allocation in the Oxfordshire Minerals and Waste Local Plan Part 2 Site Allocations. It is anticipated that this will be submitted in late 2021/ early 2022. This will provide Tuckwells with sufficient mineral while the ROMP Application is being determined.
7. The update goes on to suggest that in considering how best to advise the Planning Committee in considering pursuing the Prohibition Order, it is respectfully requested that consideration is given to the following past chain of events:
- This is the second attempt at service of a Prohibition Order. The first was quashed in 2014 by the Secretary of State who also awarded full costs against the County Council;
 - The current decision to serve a Prohibition Order was made at the meeting in September 2019. At this time, tangible evidence was provided of ongoing works by the agent who was acting for J. Curtis & Son's Ltd. It is understood that the agent provided this evidence in writing and presented it the Committee meeting. This evidence was disregarded. In contrast, the Prohibition Order was supported even though the recommendation was based on conjecture without any objective supporting evidence;
 - The agent provided further evidence to the Committee meeting in January 2020. This was also disregarded and the decision to progress with the Prohibition Order was again made without any objective supporting evidence;
 - The County Council's arguments for progressing with the Prohibition Order were assessed in May 2020 by legal Counsel who advised the agent that they considered that the Prohibition Order could not be sustained if put to the Secretary of State at another inquiry;
 - In September 2021, part of the justification for continuing with the Prohibition Order was to allow Planning Application Ref: MW.0075/20 to be determined. This argument is flawed, as the ROMP can be worked without Tuckwells yard. The use of this yard is simply an environmentally preferable option to using the existing road access and yard arrangements. As a result, the determination of Planning Application

MW.0075/20 is not material to the ROMP, although it does show a genuine intention to extract minerals for the ROMP Area (as recognised by the Inspector in 2014);

- The current agent spoke at the September 2020 Committee meeting requesting that Prohibition Order should be quashed. The case presented was that sufficient evidence had already been provided, while there was no evidential basis to support the Prohibition Order. The agent highlighted that delaying a decision until March 2021 was '*kicking the can down the road*' at the expense of creating more ongoing uncertainty and costs for Curtis and Tuckwells; and
 - Regardless of the extensive evidence provided before the September 2020 Committee meeting, a decision was made not to rescind the Prohibition Order. At Tuckwells' further expense, this has resulted in this update and reports providing, again, evidence of the works to date towards the ROMP Application.
8. The evidence Tuckwells has provided to date clearly demonstrates that significant financial investment has, and continues to be, made in the ROMP Area as well as that spent on Planning Application MW.0075/20 to date. This investment has been made at a time when there is a significant economic downturn caused by the ongoing pandemic which may take many years to remedy.
 9. As a Mineral Planning Authority (MPA) the County Council has a duty to support sustainable mineral development and ensure a sufficient supply of aggregate in the County. This is what is being proposed at the Thrupp Lane ROMP.
 10. To achieve sustainable mineral development the MPA must work with and not against the Mineral Industry. In light of the positive planning approach required throughout the NPPF (2019) any further decision to continue with the Prohibition Order must, to be reasonable and therefore necessary, be based on tangible evidence.
 11. In light of the extensive cost and extent of the detailed evidence Tuckwells have provided to date, when compared against the complete lack of tangible evidence to support the Prohibition Order, the applicant is of the opinion that the County Council would not be acting reasonably by continuing to pursue the Prohibition Order.
 12. The agent therefore requests that the Committee supports Tuckwells and the sustainable supply of minerals from a site that already has planning permission by ending this ongoing uncertainty and unnecessary costs and make an evidence based decision to quash the Prohibition Order.

Other updates since the committee's meeting on 7 September 2020

13. As set out above, it has been identified that further ecological surveys need to be carried out to inform the decision making process for planning application no. MW.0075/20. The season for these will be April/May 2021. There will then

be a need for the results to be considered as to any points arising and then submitted to the Council for further consultation prior to determination. It is therefore anticipated that the application may not be reported to this committee for determination until its meeting on 19 July 2021. In the meantime, therefore, the Committee cannot give consideration to any comments made by any party on the planning merits of the application.

14. A request for a Screening Direction from the Secretary of State has been issued with regard to application no. MW.0075/20 which concluded that the application is not EIA development, contrary to the council's own Screening Opinion. An Environmental Statement is not, therefore, required to be produced to accompany the application.

15. Since the Committee's meeting in September 2020, an appeal against the refusal of planning permission for the further temporary use of the buildings in the area known as the Curtis's Yard, which is in the northern part of the ROMP permissions area (Area DD2), has been heard and allowed by an inspector appointed by the Secretary of State. Temporary planning permission was granted on 18 November 2020 subject to two conditions:

- 1) The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision.

- 2) The premises shall be used for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

16. Whilst it was not a matter for before the inspector to rule on the likelihood of further mineral extraction being carried out pursuant to the ROMP permissions, the inspector does reference a former condition attached to the mineral permission from 1954 which stated that:

All plant, buildings, foundations and machinery shall be removed from the site by the operator at such time as the Local Planning Authority, after consultation with the operator, is satisfied that they are no longer required for the purpose of working gravel.

As the committee is aware, the most recent conditions for the ROMP permission were approved by default in 2000. This condition is no longer included.

The relevant condition is now condition 2 which states:

The development shall cease no later than 21 February 2042 and restoration shall be completed by 21 February 2043, and all buildings, plant and equipment associated with this development shall be removed by 21 February unless otherwise agreed with the MPA.

However, the implication is that the inspector was of the view that the County Council as Mineral Planning Authority could pursue the removal of the

buildings with the operator when they were no longer required for the purposes of working gravel. The mechanism to now achieve their earlier removal would be the service of the Prohibition Order, albeit that that would, as previously be advised, not have effect until confirmed by the Secretary of State

17. Radley Parish Council has also provided further comments which are appended as Annex 6 and summarised as follows:

- i) No gravel has been extracted from the ROMP area (i.e. the area covered by planning permissions DD1 and DD2) since about 2000.
- ii) The applicants have for many years professed an intention to resume extraction but have never done so.
- iii) This appears to be tactical, designed to prolong the life of other industrial uses which would otherwise be refused planning permission.
- iv) These tactics are blighting an area of huge potential for quiet recreation and nature conservation and preventing planning decisions being taken about future uses of the land
- v) There is no convincing evidence of a genuine intention to extract and none has been produced since OCC's previous consideration of the issues on 7 September 2020.
- vi) There remains therefore a legal duty for OCC to proceed with their proposed prohibition order.
- vii) If OCC are uncertain about this for the whole ROMP area they should anyway proceed with a prohibition order for the part of the area lying to the north of the disused branch rail line. The case here is incontrovertible.

18. The Parish Council accepts that the decision on whether to proceed with the Prohibition Order must be based on specific legal grounds. However, they reference two specific items of new information since the committee's meeting in September 2020:

19. **i)The Radley Lakes Masterplan**

The ROMP site lies in the Oxford Green Belt and wholly within the Radley Lakes area: exceptional for the potential it provides for natural life, healthy exercise, scenic beauty, peace and tranquillity so close to a large urban population.

A masterplan is being prepared for the future of the Lakes area so its potential can be realised. A draft of the masterplan was published on 12 June 2020 for

consultation first with a very wide range of stakeholders (including landowners) and then with the general public.

In the public consultation there was ‘strong’ or ‘very strong’ support from over 95% of respondents. There was also strong support from most stakeholders. The masterplan is now being finalised for publication in the Spring. A charitable trust ‘The Radley Lakes Trust’ has been registered with the Charity Commission and will take the lead on delivery.

Implementation of the masterplan requires agreements with the various landowners, all except one have entered into dialogue. The exception is John Curtis and Sons Ltd (JCSL), whose land includes the majority of the ROMP area, including its unexploited gravel reserves. Six times they have been invited to discuss and six time they have refused.

JCSL’s unwillingness to consider a non-statutory agreement or understanding makes it all the more important that OCC pursue their statutory duties in respect of the proposed prohibition order.

20. **ii) The Planning Inspector’s decision on continued industrial uses on the JCSL site**

Within the DD2 area is an industrial yard with buildings that have their origins in minerals extraction but have been used for unconnected purposes for several decades. These uses have been operating without planning permissions for some periods and with temporary permissions for others. They are in the Green Belt and generate traffic on Thrupp Lane which blights the wider area.

On 2 December 2019 the Vale of White Horse District Council refused permission for further temporary use of these buildings for non-minerals purposes. The decision was appealed and on 18 November 2020 the Planning Inspector allowed the appeal. He did not consider he could reasonably disallow the uses while the buildings remained. If the buildings were no longer required for mineral purposes he said that was a matter for OCC to pursue as minerals authority, including through their duty to make a prohibition order.

The consequence of this decision is significant. Unless OCC carry out their statutory duty to make a prohibition order the Vale DC are unable to make appropriate planning decisions for the future of this area of high local importance.

Discussion

21. The decision that mineral working had permanently ceased in ROMP permission areas DD1 and DD2 which led then to the duty to serve the Prohibition Order was made at the meeting of this committee on 9 September 2019. At that time, the committee did not have before it any new information

with regard to the intentions of the operator/landowner actively progressing any proposals to work the remaining mineral in the ROMP permission areas other than it was intended to follow on from the existing workings of H. Tuckwell and Sons Ltd at Sutton Wick. The situation at the committee's meeting on 7th September 2020 was considered to be materially different as the application for the conveyor and related development had been submitted and was out for consultation and would come before this committee for determination in due course. Further information had also been provided with regard to the applicant's programme for the submission of the review of mineral conditions application for the ROMP permissions and its view on the service of a Prohibition Order. The position of Radley Parish Council in the matter was also provided.

22. As resolved at the Committee meeting on 7 September 2020, the agent for H. Tuckwell and Sons Ltd has provided an update on the progress made with the work to inform the ROMP permission application and Environmental Statement, and examples of some of the work carried out have been provided as documentary evidence for example records of the winter bird survey. It is therefore the case that the committee now has before it additional evidence which supports the contention that the application is now being progressed. Radley Parish Council has also provided further representations as set out above and appended to this report casting continued doubt over the likelihood of the application being progressed, the ongoing uncertainty that the situation sets for good planning and the future of the area including the development of the Radley Lakes Masterplan and advocating that the County Council continue with its duty to serve the Prohibition Order. Amongst the points made by the Parish Council is the possibility of the council considering a partial Prohibition Order for the area to the north of the disused railway line, this being part of the DD2 permission area where the Curtis's Yard is situated which was the subject of the recent appeal decision.
23. As the Committee has been previously advised, the Secretary of State would need to take into account the updated information provided since the committee meeting on 7th September 2020 in deciding whether or not to confirm the Prohibition Order if it were to now be served further to the committee's resolution of 9th September 2019. This is because the Secretary of State will have to take into account everything that is before them at the time they assess whether or not working has permanently ceased and this will necessarily take into account information that wasn't before the Council at the time the Council made that decision.
24. As also previously advised, in order to protect the Council's position at any appeal, it is considered that any material consideration that has now come to the Council's notice is taken into account and weighed in the balance as to whether mineral working has permanently ceased prior to issuing a Prohibition Order. Therefore, the Council must keep under review its previous decision that mineral working had permanently ceased from the ROMP permission areas DD1 and DD2 in the light of the evidence now before it.

25. If it is considered that the evidence provided does support the position that work is now being progressed towards the submission of the ROMP conditions application and accompanying Environmental Statement then the committee could take the view as advocated on behalf of H. Tuckwell and Sons Ltd that the evidence now before it is that mineral working has not permanently ceased and that it should rescind its decision to serve the Prohibition Order. Alternatively, the committee could take the view that the evidence provided supports that progress has been made towards such a submission but that it remains unconvinced that that is not yet sufficient to change its position that mineral working has permanently ceased. In the latter situation, the committee could then decide to proceed with the service of the Prohibition Order. However, it could alternatively decide to continue to hold the service of the Prohibition Order in abeyance pending a further update at a later committee meeting.
26. As set out in the report to the committee on 7 September 2020, the application for the conveyor and associated development (MW.0075/20) is also a material consideration in the committee's deliberations. The extraction of mineral from the ROMP permission area is not dependent on permission being granted for this application but they are clearly related and it is material to the Council's assessment of whether or not mineral working pursuant to the ROMP permissions has permanently ceased. This will not now come to this committee for determination earlier than its meeting on 19 July 2021 due to the need for further ecology surveys to be carried out in the spring/early summer. It would then seem appropriate for the committee to consider continuing to hold the service of the Prohibition Order in abeyance pending the determination of that application
27. The Committee is reminded as previously that in so far as the site owner is concerned, a Prohibition Order is an analogous order to a Compulsory Purchase Order and so costs do follow 'success', unless there are exceptional reasons for not awarding costs. It is also the case that an award may be reduced if the objector has acted unreasonably and caused unnecessary expense in the proceedings. The owner/operator is cooperating with the Council in providing additional information, which is not behaviour that can be characterised as unreasonable.
28. An issue which has not been considered previously is whether a partial Prohibition Order could be made i.e. only over part of the site. The suggestion from Radley Parish Council is that such a partial service could be carried out over the land to the north of the disused railway line. This includes the area known as Curtis's Yard where the buildings are located where the temporary planning permission for their continued use of the buildings for a further five years was granted on appeal as set out in paragraphs 15 and 16.
29. Officers have previously advised the committee that whilst parts of the site have been worked out, parts restored and parts contain unworked reserves, it would be consistent and for the avoidance of any doubt to serve a Prohibition Order over the whole ROMP site.

30. It does seem to be the case that there is no contention that there are any remaining workable mineral reserves in the land to the north of the disused railway line and that on that basis mineral working in this area of ROMP permission area DD2 has permanently ceased. The work carried out to date on behalf of H. Tuckwell and Sons Ltd does appear to relate to the area where there are known to be remaining mineral reserves to the south of the disused railway line. It is therefore recommended that if the committee is minded to resolve to continue to hold the service of the Prohibition Order in abeyance pending a further update report on the ROMP application submission and the determination of application no. MW.0075/20, it also resolve that officers investigate the possibility of the service of a partial Prohibition Order and advise the committee further on this at the same committee meeting. It should though be considered that the implication of serving of a partial Prohibition Order would be that the committee considers that mineral working may not have permanently ceased in the remaining area of the ROMP permissions area.

Financial Implications

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

Legal Implications

31. The legal implications of the decisions available to the committee are considered in the report.

Comments checked by:

Jennifer Crouch, Principal Solicitor (Environmental) (Legal)

Equality & Inclusion Implications

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

Conclusion

31. It is considered that the update and documentary evidence provided does support the contention that work is being progressed on the submission of the ROMP permissions application submission and associated Environmental

Statement. At this time however, it is not considered that this is sufficient for the committee to change its decision that mineral working has permanently ceased.

32. It is therefore recommended that the committee continue to hold the service of the Prohibition Order in abeyance pending the determination of application no. MW.0075/20 and a further update accompanied by documentary evidence, on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP permission areas DD1 and DD2 to the meeting of the Planning & Regulation Committee on 19 July 2021. It is also recommended that the committee instruct officers to investigate whether it is possible to serve a partial Prohibition Order should it be concluded that mineral working has permanently ceased over only part of the ROMP permission areas.

Recommendation

It is RECOMMENDED that:

- A) The Planning & Regulation Committee's previous conclusion from its meeting on 9 September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased and that there is a duty to serve a Prohibition Order is not rescinded but that the service of the Prohibition Order is held in abeyance pending:**
 - i) the progression and determination of application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP permission areas DD1 and DD2; and**
 - ii) H. Tuckwell and Sons Ltd providing an update, accompanied by documentary evidence, on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP permission areas DD1 and DD2 to the meeting of the Planning and Regulation Committee on 19th July 2021.**
- B) Officers are instructed to investigate whether it is possible to serve a partial Prohibition Order should it be concluded that mineral working has permanently ceased over part but not all of the ROMP permission areas DD1 and DD2**

RACHEL WILEMAN

Assistant Director for Strategic Infrastructure and Planning

Annexes:

Annex 1 – Report to Planning and Regulation Committee
7th September 2020

Annex 2 – Update from agent for H Tuckwell and Sons Ltd

Annex 3 – AD Ecology report and survey update

Annex 4 - Hafren Water report and survey update

Annex 5 – BCL Consultants report and survey update

Annex 6 – Radley Parish Council further representations

Background papers: Nil (All annexes available to view on the County Council's Planning and Regulation committee and application websites (MW.0023/21).

February 2021

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Annex 2

As requested, I am writing to provide you with an update with H Tuckwell & Sons Ltd's progress with the Thrupp Farm ROMP Planning Application and Environmental Statement (ES).

Further to the works described in my email to you dated 9th February 2021, I have attached email updates from the consultants who are contributing towards to the Planning Application and ES. Also attached is an email from the County Archaeologist agreeing the methodology to address archaeology. I can confirm that Oxfordshire Archaeology have been instructed to produce the Cultural Heritage Chapter for the ES.

I can also confirm that the Applicant has been speaking with local residents and objector groups about the ROMP Application including the restoration of the site.

You will note that the proposed actions stated at the March Planning Committee have been undertaken, just as the actions proposed at the August 2020 Planning Committee were undertaken.

The timetable to have the Planning Application and ES submitted, continues to be follows:

- Spring-Summer 2021- EIA investigations surveys undertaken including- ecological, noise, hydrological, landscape and visibility surveys;
- Winter 2021 to Spring 2022: ROMP Application and Environmental Statement prepared;
- Spring 2022: Pre-submission consultation held for the ROMP Application; and
- Spring-Summer 2022- ROMP Application (Including ES) submitted.

You will note that even after the unprecedented conditions of three lock downs and flooding at this site, the Applicant is still on track to meet the 2022 submission date, as per my previous correspondence.

Tuckwells have also provided you with the updated ecological information required for the determination of Planning Application Ref: MW.0075/20 to allow the mineral from the Thrupp Lane ROMP to be transported and processed at Tuckwells site at Thrupp Lane.

In considering how best to advise the Planning Committee in considering pursuing the Prohibition Order (PO), I would respectfully request that you consider the following past chain of events in the Officer's Report:

- This is the second attempt at serve a PO. This first was quashed in 2014 by the Secretary of State who also awarded full costs against OCC;
- The current decision to serve a PO was made at the meeting in September 2019. At this time, I provided tangible evidence of my ongoing works to Douglas Symes who was acting for J. Curtis & Son's Ltd. I understand that Douglas provided this evidence in writing and presented it at Planning

Committee. This evidence was disregarded. In contrast, the Prohibition Order was supported even though the recommendation was based on conjecture without any objective supporting evidence;

- Douglas Symes provided further evidence to your committee in January 2020. This was also disregarded and the decision to progress with the PO was again made without any objective supporting evidence;
- OCC's arguments for progressing with the PO were assessed in May 2020 by legal Counsel whose formal Opinion confirms that the Prohibition Order could not be sustained if put to the Secretary of State at another inquiry;
- In September 2020, part of your justification for continuing with the PO was to allow Planning Application Ref: MW.0075/20 to be determined. This argument is flawed, as the ROMP can be worked without Tuckwells yard. The use of this yard is simply an environmentally preferable option to using the existing road access and yard arrangements. As a result, the determination of Planning Application Ref: MW.0075/20 is not material to the ROMP, although it does show a genuine intention to extract minerals for the ROMP Area (as recognised by the Inspector in 2014);
- I spoke at the September 2020 and March 2021 Planning Committees requesting that PO should be quashed. The case presented was that sufficient evidence supported by Counsel had already been provided, while there was no evidential basis to support the PO. I also highlighted that delaying a decision was *'kicking the can down the road'* at the expense of creating more ongoing uncertainty and costs for Curtis and Tuckwells; and
- Regardless of the extensive evidence provided before the September 2020 and March 2021 Planning Committees, a decision was made not to rescind the PO. At Tuckwells' further expenses, this has resulted in this email and further update reports providing, again, evidence of the works to date towards the ROMP Application.

Please could you also consider the following statements from the Applicant in the Officer's Report:

'The evidence Tuckwells has provided to date clearly demonstrates that significant financial investments has, and continues to be , been made in the ROMP Area. This has cost 10s of thousands of pounds on top of the £40,000 plus spent on Planning Application Ref: MW.0075/20 to date. This investment has been made at a time when there is a significant economic turbulence caused by the ongoing pandemic which may take many years to remedy.'

As a Mineral Planning Authority (MPA) you have a duty to support sustainable mineral development and ensure a sufficient supply of aggregate in your County. This is what is being proposed at the Thrupp Lane ROMP by one of Oxfordshire's oldest family run mineral companies.

To achieve sustainable mineral development the MPA must work with and not against the Mineral Industry. In light of the positive planning approach required throughout the NPPF (2019) any further decision to continue with the PO must, to be reasonable and therefore necessary, be based on tangible evidence.

In light of the extensive cost and extent of the detailed evidence Tuckwells have provided to date, when compared against the complete lack of any tangible evidence to support the PO, the Tuckwells is of the strong opinion that OCC would not be acting reasonably by continuing to pursue the PO.

Tuckwells therefore respectfully request that you support the sustainable supply of minerals from a site that already has planning permission, by ending this ongoing uncertainty and unnecessary costs and make an evidence based decision to quash the PO'.

Dust and Air quality:

Nick,

I successfully completed my site visit on Wednesday 16th June.

You provided the draft survey and draft working plans on 25th May and I am awaiting the written development description and final plans before I will be able to make progress with the dust / air quality assessment.

Many thanks

Matt Stoaling
Director
Isopleth Ltd.

Arboriculture

Dear Nick

Following our recent site visit please find attached the Arboricultural Feasibility Report for Thrupp Farm ROMP.

If we can be of further assistance please do not hesitate to contact us.

Kind regards

Rachel
CBA Trees

Archaeology

Nick

Thank you for your email.

I can agree that evaluation of the site is likely to be problematic and that although geophysical survey may be able to highlight and post alluvial deposits on the site it is less likely that it could identify any features sealed by it.

As the cultural heritage chapter is going to be produced it would be prudent to undertake this at this stage to see how much of the archaeological interest of the site

can be identified from existing data. It would also be useful for this assessment to highlight any difficulties there would be in undertaking evaluation on the site.

Any agreed mitigation would need to contain provision for the physical preservation of any nationally important monuments encountered on site which may be a slight risk to the proposed extraction but this would also be the case for mitigation following an evaluation.

Regards

Richard Oram
Lead Archaeologist

Dear Richard,

I hope you are keeping well.

I am preparing the Thrupp Farm ROMP Application on behalf of H Tuckwells & Sons Ltd. This Application seeks modern Planning Conditions to allow the mineral working to recommence.

A similar ROMP Application was made over 10 years ago, but was not determined. The Scoping Opinion and the Archaeological Assessment from this old ROMP Application are attached.

Today's ROMP is very similar, in that it seeks to extract mineral from the same area, as shown on the attached draft working scheme. I note that the soils from Phase C have already been stripped which has created a seasonal lake. I also note the attached email from the Abingdon Area Archaeological and Historical Society.

I am in the process of instructing an archaeological consultancy to produce a Cultural Heritage Chapter for the Environmental Statement. In doing so, I would welcome a discussion with you about your expectations for this Chapter and the modern Planning Conditions you will require.

From a Planning perspective, the ROMP Application is simply to agree modern Planning Conditions for a development that already has planning permission. The right to extract the mineral and therefore remove the underlying archaeology has, therefore, already been established albeit a suitably modern Planning Condition is required to evaluate and record archaeology. I have also been advised that, due to the alluvial deposits within the site, it is unlikely that an archaeological evaluation would be able to sufficiently characterise the archaeological potential of the site. I therefore suggest a Cultural Heritage Chapter which characterises the likely heritage impacts using information currently available, as well as a considering setting, which recommends mitigation in the form of the Planning Condition. Here, the methodology for assessing/recording the underlying archaeology would be agreed with you prior to the commencement of soil stripping.

I do appreciate that I am not an specialist in this field, but I have spent the last two months working with a local consultancy trying to get them to have this discussion with you. My timescale for the submission is such that I have lost patience with this consultancy and come to you directly to have this discussion while I seek an alternative.

I would therefore be grateful if you could consider my proposals and let me know a time when I can call you to discuss, preferably early next week.

Kind regards,

Nick.

Ecology

Dear Nick,

In terms of ecology for the ROMP the following has been carried out to date:

- Phase 1 habitat survey (2018)
- Winter bird survey (2020-2021)
- Great crested newt eDNA survey of 5 waterbodies in and around the ROMP area (May 2021)
- Breeding bird survey (May 2021 - one more to follow)
- Bat survey (June 2021 - two more to follow)
- Invertebrate survey (May 2021 - two more to follow)

If you need more detailed information feel free to contact me.

Kind regards,

Jonathan

Jonathan Adey

BSc(hons) MSc MCIEEM CEnv FRES
Director

Hydrogeology

Nick

A quick email to confirm that we are continuing to monitor the boreholes and undertake water sampling at Thrupp Farm and Odey. Our next visit will be due w/c 12th July.

Many thanks

Paul

Paul Burfitt.
BCL Consultant Hydrogeologists Limited.

Nick

Just to update you on work to date:

- We have visited the site to review the situation with the various surface water bodies and watercourses,
- Arranged for boreholes to be levelled in to ordnance survey datum,
- Initiated a monthly water level monitoring programme
- Initiated a monthly water quality monitoring programme and review of historical data

Regards

Lawrence

Lawrence Brown MSc FGS CGeol
Principal Hydrogeologist

Landscape

Good morning Nick,

As regards our work on this one we have taken all the necessary winter photographs and are waiting on the working plans before we start the work so we know our scope of works.

All the best,

George

George Harley BA (Hons) MA CMLI
(Principal Landscape Architect)

Noise

Hi Nick.

WBM's progress is as follows:

WBM prepared a noise survey location and assessment methodology document for review and agreement with the relevant technical officer at the planning authority. This was sent to the planning department of Oxfordshire County Council on 24 May 2021.

WBM was advised on 27 May that Oxfordshire County Council do not have a noise specialist and to contact the South Oxfordshire Environmental Protection Team instead.

WBM sent the noise survey location and assessment methodology document to the environmental protection team at South Oxfordshire and Vale of White Horse District Council on 28 May 2021.

We received a response on 18 June 2021 that the environmental health officer (Alexandra White) agrees with our proposed locations and assessment methodology.

Now that we have agreement with the relevant technical officer that our noise survey locations and assessment methodology are acceptable, we intend to carry out the baseline noise surveys in July 2021.

I trust this is sufficient for your purposes but please get back to me or Robert if you require additional details.

Regards,
Rachel

Application plans

Good morning Nick,

In response to your email of 25-06-2021, I can confirm that 'final draft' versions of the latest plans for the application were submitted to Land & Mineral Management between the 4th and 13th May 2021. The various plans were as follows:

95034/TF/D/1 – Development Area (Draft 1).
95034/TF/O/1 – Illustrative Working Scheme (Draft 2).
95034/TF/O/2 – Conveyor / Haul Road Route (Draft 1).
95034/TF/R/1 – Restoration Concept Plan (Draft 1).

I have also attached the plans here for ease of reference.

Please let me know if you have any queries or if you would like me to make any further amendments to the plans.

All the best,

Clive.

Clive Thomas
Mapping & Illustration

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Annex 3

Proposed prohibition order in relation to the Radley ROMP area (MW.00023/21)

Submission by Radley Parish Council 6 July 2021

Summary

- Decisions on the prohibition order must be based solely on the legal tests in the Town and Country Planning Act 1990.
- If these tests are met the County Council is under a duty to make a prohibition order.
- Applying the criteria in these tests, there is:
 - weak evidence for the making of a prohibition order for most of the ROMP area, but.
 - incontrovertible evidence for making a prohibition order for the land in the north-west of the ROMP area (shaded yellow on the map).
- This is the case irrespective of future decisions on the processing of the minerals to be extracted.
- The legislation enables a prohibition order to be made for part only of a ROMP area.
- Oxfordshire County Council is therefore under a statutory duty to make a prohibition order for that part of the ROMP area marked yellow on the map.

Background

The map at the Annex shows the ROMP area and delineates in yellow the area to which a 'partial' prohibition order would apply. Sometimes it is referred to as 'the area north of the disused railway' but this can be confusing, so this submission refers to it as 'the north-western part of the ROMP area'. It refers to the remainder as 'the southern and eastern parts of the ROMP area'.

The P&R Committee has considered the case for a prohibition order on four occasions between September 2019 and March 2021. Radley Parish Council has supported the case for a prohibition order on all these occasions but latterly has argued for a 'partial'

order applying only to the north-western part of the ROMP area. RPC's most recent submission was in February 2021 and this still stands.

RPC welcomes the decision of the Committee on 8 March 2021 to review the case for a 'partial' prohibition order and look forward to reading officers' advice including legal advice. This submission is made without prior sight of that advice, but RPC has a good understanding of the legislation and of the duty it places on the County Council.

A partial prohibition order would have major benefits, unlocking a sterile impasse which has caused blight and benefited no one. It would enable:

- the minerals operators to plan ahead with more certainty for their proposed extraction at Nyatt (which would be outside the prohibition area);
- the Radley Lakes Trust to plan ahead with equivalent certainty for the implementation of the Radley Lakes masterplan (the whole of the ROMP area lies within the masterplan area, which provides a major opportunity for nature conservation and quiet recreation);
- the operators and the Trust to have a constructive dialogue about how their objectives can best be reconciled;
- the Vale of White Horse District Council to take planning decisions about the future of the north-western part of the ROMP area (currently prevented by the overhang of historic minerals permissions that have long been irrelevant).

However, these benefits will only be realised if the legal tests are met and that is what the rest of this submission addresses.

What are the legal tests?

The County Council are under a duty to make a prohibition order if

- planning permission has been suspended for two years for failure to provide an Environmental Statement or other relevant information, and;
- it appears to the council that minerals winning or working has occurred but has permanently ceased

Note, this is a *duty* not a discretion. The legislation was amended in 2008 to turn the previous discretion into a duty so as to prevent blight arising from inaction¹.

¹ The Town and Country Planning Act was amended by the Town and Country Planning Environmental Impact Assessment) (Minerals Permissions and Amendment) (England) Regulations 2008. The Explanatory Memorandum to those Regulations explains the rationale for creating the duty, especially the avoidance of blight – a consideration very relevant to the current ROMP circumstances.

The County Council may assume that minerals winning or working has ‘permanently ceased’ only when

- it has not occurred to any substantial extent at the site for at least 2 years, and;
- it appears to the council, on the evidence available to them at the time when they make the order, that resumption to any substantial extent at the site is unlikely.

The wording of the last bullet point is important. The Committee’s decision on resumption needs to be based on *likelihood* but not on certainty.

There are accordingly two questions to be answered;

- Has extraction ceased?
- Is extraction likely to resume?

Land in the south and east of the ROMP area

There is no dispute that extraction here has *ceased*. None has taken place since about 2000.

There is equally no dispute that there remain minerals reserves in this area – mainly below a field called ‘Nyatt’

The issue is whether extraction is *likely to resume*.

There has been a long history, which RPC has set out in earlier submissions, of extraction at Nyatt being promised but never actually happening. This has had the appearance of being a device to prolong the life of JCSL’s ‘temporary’ commercial activities within the ROMP area.

More recently, Tuckwells have secured a commercial agreement with JCSL to extract these minerals and have taken a number of preliminary steps (outlined in their submissions) to prepare an Environmental Statement which would be the precursor of an application to extract.

RPC accept that, in the light of these developments, it would be difficult for OCC to sustain a case for a prohibition order applying to this area.

Land in the north-west of the ROMP area

Again there is no dispute that extraction has *ceased*. None has taken place since 1979 (sic) and JCSL have made a statutory declaration on oath saying so.²

Nor is there any suggestion that mineral reserves remain. The same statutory declaration by JCSL said that the reserves are ‘exhausted’.

² JCSL statutory declaration April 2006

It follows that there can be no question of minerals extraction *resuming* and no claims have been made by anyone to that effect. The Tuckwells agreement with JCSL does not apply to this land and none of the preliminary studies by Tuckwells have taken place with respect to this land.

For this part of the ROMP area there can be no dispute that the legal tests for a prohibition order are met.

Might this position be altered by Tuckwells proposals for the processing on minerals to be extracted?

Tuckwells have applied for planning permission (MW.0075/20) for the processing of minerals to be extracted at Nyatt. This would be at their existing yard, which is within the ROMP area but well outside the area to which a partial prohibition order would apply (see map). On the face of it their processing plans do not impact on the case for a partial prohibition order.

Two suggested linkages have however been made, on which comment is needed.

Does the processing application need to be determined before a decision is taken on the prohibition order?

The short answer is 'no'.

OCC have said that the current processing application should be determined before any decision to withdraw the currently proposed prohibition order. Tuckwells have challenged this view. RPC agree with Tuckwells. The Parish Council have set out a number of concerns about the application as it currently stands and believe that there is a need for dialogue to deal with these points. It would be very unfortunate to reach a rushed or premature decision on the processing application simply to enable a decision to be taken on the prohibition order. There is quite enough other evidence already available for that and no need to wait.

Does uncertainty about the processing application affect the case proposal for a partial prohibition order applying to the north-west of the ROMP area?

Again the short answer is 'no'.

Tuckwells have suggested that if their processing application was refused they might instead need to use the land in the north-west of the ROMP area which would be subject to a 'partial' prohibition order.

This however seems irrelevant as a matter of law. For a prohibition order not to proceed in a given area the 'winning' or 'working' of minerals must be 'likely to resume'. These terms are defined as below

'Winning a mineral means making the mineral available or accessible to be removed from land.'

Working a mineral means to remove it from its position in or under the land.'

The processing of minerals once extracted does not fall within these definitions, so processing would not amount to resumption of the winning or working of minerals.

Even if it was not for this definitional point the statutory test of *likelihood* would still apply and would not be met: it is highly unlikely that the land in the north-west of the ROMP area would in practice be required for processing.

In 2011 Tuckwells made an earlier planning application for processing of Nyatt minerals. This would have been at their own yard. This was a very well-developed application, was not opposed by RPC, and duly received planning permission. The permission is now time-expired but it is difficult to see why a similar application should not result in permission being granted. As has been noted above RPC have concerns about the current application, which - unlike the 2011 one – was not the subject of prior dialogue. But RPC entirely accept that if mineral activity at Nyatt is to resume then the Tuckwells yard is the most appropriate site for it to be processed. RPC are ready to work constructively with Tuckwells to that effect.

Can a prohibition order apply to part but not all of a ROMP area?

The short answer is ‘yes’.

The legislation in respect of prohibition orders (in the Town and Country Planning Act 1990) is quite independent of the legislation relating to ROMP reviews (in the Environment Act 1995). The prohibition order legislation applies simply to ‘land’ where minerals extraction has ceased and is unlikely to resume. That can be any land. There is no statutory link with the geographical areas of ROMP reviews or even with the areas covered by individual planning permissions.

In practice consideration of a prohibition order tends to arise as a result of a ROMP process. This is true in the present case where OCC initiated a ROMP review, the operators failed to provide a satisfactory Environmental Statement and the planning permissions were as a consequence placed in suspension.

But it does not follow that a prohibition order need apply to the whole ROMP area. Indeed in the context of the present case OCC officers have acknowledged (meeting with RPC on 10 May 2019 and advice to the P&R Committee meeting of September 2019) that it needs to be considered whether an order should apply to the whole ROMP area or only to part.

To remove any doubt on this point the Explanatory Memorandum to the 2008 Regulations states that the Regulations

*introduce a duty on a mineral planning authority to make a prohibition order in relation to the **whole or part** of a site subject to mineral permission review as they see fit where the required action has not been taken and automatic suspension has been in operation for two years.³*

³ Explanatory Memorandum to the Town and Country Planning Environmental Impact Assessment) (Minerals Permissions and Amendment) (England) Regulations 2008

The key words in the second line have been emboldened. Nothing could be clearer.

If therefore the land in the north-west of the ROMP area meets the statutory test for a prohibition order, which it does, the fact that it forms only part of the ROMP area is irrelevant.

The area is moreover very easy to delineate geographically (as shown by the map). It also has a distinct minerals history: extraction there started and finished much earlier than in the rest of the ROMP area. It is notable that the JCSL statutory declaration of 2006 treated it as a distinct and relatively historic area.

In an earlier meeting of the Planning and Regulation Committee, reference was made to an earlier proposal by OCC to make a prohibition order in relation to the land covered by permission DD2 but not DD1. This ran into difficulty because DD2 and DD1 contain an area of overlap (see map), making it inappropriate to deal with the DD2 area in isolation. That however is not the case here. The area to which the 'partial' prohibition order would apply falls wholly within DD2. There is no overlap.

RPC can therefore see no legal barrier to an order applying to the north-west of the ROMP area.

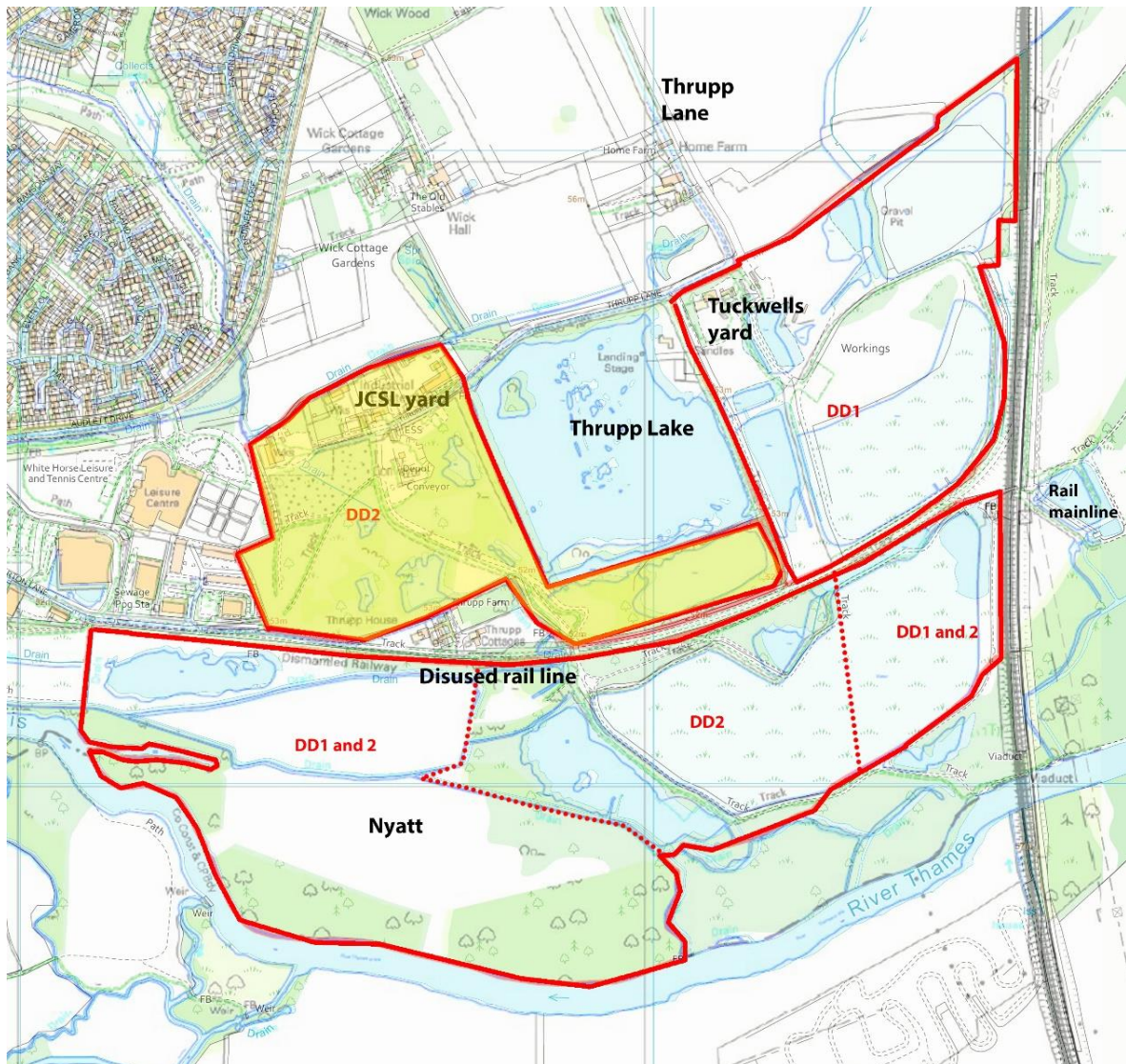
Conclusion

In conclusion RPC believe that:

- OCC are under a statutory duty to make a prohibition order applying to the north-west of the ROMP area;
- they should decide now to proceed on that basis;
- they should also decide now not to proceed with an order for the remainder of the ROMP area.

These decisions would bring a welcome end to the current uncertainty and blight.

Annex: Map



The ROMP area is delineated with a continuous red line.

The dotted red line show the boundaries of the current (suspended) planning permissions, DD1 and DD2, including the area of overlap

The area to which a partial prohibition order would apply is shaded in yellow.

**REVIEW OF OLD MINERALS PERMISSIONS
(PARTIAL PROHIBITION) CONCERNING LAND AT
THRUPP LANE AND THRUPP FARM, RADLEY**

ADVICE



Introduction and Factual Background

1. I am instructed by Ms Jennifer Crouch for and on behalf of the Director of Law & Governance of Oxfordshire County Council (“the Council”) in relation to the review of mineral permissions concerning two former minerals working sites (Radley – Thrupp Lane (“DD1”), and Radley – Thrupp Farm (“DD2”), collectively “Radley ROMP”). A firm called J. Curtis and Sons Ltd is generally associated with Thrupp Farm (DD2), and another firm, H. Tuckwell & Sons Ltd, with Thrupp Lane (DD1). Both firms have coordinated their activities and worked the overall Radley ROMP site collectively from time to time.
2. What I will subsequently refer to as Areas 1, 2, 6, 7 and 8 fall within DD2. Areas 3 and 4 fall within DD1. Areas 5, 9 and 10 fall within both DD1 and DD2.
3. Both DD1 and DD2 were mined for sand and gravel. I understand that workable deposits remain in Areas 5, 6 and 7. It is estimated that approximately one million tonnes of sand and gravel remain to be extracted from these areas.
4. There is an extensive planning history relating to the Radley ROMP site which those instructing are familiar with and so will not be repeated here. It suffices to note the critical decision of Inspector Elizabeth Ord, a former solicitor, at the public inquiry concerning a previous prohibition order. Inspector Ord refused to confirm the order and the Council was required to pay substantial costs (following the normal rule in cases concerning the removal of previously held rights – similar to a CPO – that costs ought to follow the event). Inspector Ord’s decision concerned DD2 but pointed out (at paragraphs 8.6-8.10) that the extant permission for a processing plant on the adjacent site (DD1) was relevant to her assessment that the winning/ working/ depositing of minerals at the Thrupp Farm ROMP site (DD2) had not permanently ceased. Thus, she could not confirm the order because it could have precluded the operation of a valid planning permission.
5. I also note correspondence with the Council concerning permissions for areas DD1 and

DD2 extending back to 1955. This includes a decision on revocation by the MPA at the time, Berkshire County Council, concerning part of the Radley ROMP site (covered by consent reference M1/55). Unfortunately, the files contain no further details on whether the decision on revocation was taken any further. Moreover and in any event, subsequent decisions have superseded previous decisions concerning the Radley ROMP site.

6. Turning to the present matter before the Council, the Council drafted (but did not serve) a fresh prohibition order on 19 September 2019. A number of additional events have since occurred and significant further information is before the Council.
7. Firstly, an agent acting for J. Curtis & Sons Ltd submitted written evidence on 19 September 2020 asserting that they were carrying out ongoing work and thus the winning and working of minerals had not permanently ceased. Further information was submitted by the agent in January 2020.
8. Secondly, a planning application was received on 27 April 2020 from H. Tuckwell & Sons Ltd (“the applicant”) for “*the use of existing processing plant site to process sand and gravel from the nearby 94 acre Review of Old Mineral Permission (ROMP) site (Ref: P/369/71), the installation of a field conveyor system to the site boundary and ancillary facilities for the transportation, storage and processing of the sand and gravel and the use of an existing haul road*” (reference MW.0075/20, “the application”). The plant is to be situated on Area 3 and used in association with the extraction of mineral (sand and gravel) from Areas 5, 6 and 7. The machinery would cross the disused railway line from Area 3 into Area 9. It must be noted that in order to access the mineral in Areas 5, 6 and 7 then the mineral would also have to pass through Area 8 to reach the crossing point. However, those details will only come forward in the finalised ROMP conditions application (concerning the extraction of the minerals in Areas 5, 6 and 7).
9. Thirdly, an appeal against the refusal of planning permission for the further temporary B1 (office) use of the Radley ROMP area known as Curtis’s Yard (within DD2), has now been determined. The appeal was allowed by the Inspector and temporary planning permission was granted on 18 November 2020 for a period of five years. I have

helpfully been provided with that decision but note the Inspector queried but (rightly) did not determine the background issue concerning the use of the site for minerals development. That was not a question for the Inspector pursuant to that appeal.

10. A meeting of the Council's Planning and Regulation Committee ("Planning Committee") on 8 March 2021 made the following resolutions:

"A) The Planning & Regulation Committee's previous conclusion from its meeting on 9 September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased and that there is a duty to serve a Prohibition Order is not rescinded but that the service of the Prohibition Order is held in abeyance pending:

i) the progression and determination of application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP permission areas DD1 and DD2; and

ii) H. Tuckwell and Sons Ltd providing an update, accompanied by documentary evidence, on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP permission areas DD1 and DD2 to the meeting of the Planning and Regulation Committee on 19 July 2021.

B) Officers are instructed to investigate whether it is possible to serve a partial Prohibition Order should it be concluded that mineral working has permanently ceased over part but not all of the ROMP permission areas DD1 and DD2".

11. The matter is to come before the Council's Planning Committee at its meeting on 19 July 2021.

12. Thus, to summarise: the Council must decide whether to revoke or serve the draft prohibition order presently held in abeyance (including whether to amend the prohibition order to apply to only part of the Radley ROMP site); progress determination of the application (MW.0075/20); and progress the ROMP conditions application and accompanying Environmental Statement ("ES").

13. On the partial prohibition order issue, officers are contemplating whether the

submission of the application which only affects Areas 3, 5, 6 and 7 (and a small amount of Area 9) invalidates members' previous conclusion that mineral working has ceased over the remainder of the Radley ROMP site. If not, the question is whether the Council remains under an obligation to proceed with the service of the prohibition order over the remaining area. This would secure the desired restoration of the remainder of the Radley ROMP, including Area 1, but allow the application to be granted and in due course for the development to take place. Even if such an approach is taken, however, officers are unclear how to address Areas which are only partially covered by the application or which appear likely to be necessary for minerals working in the future. Officers also query whether it is the case that once the Council have determined to treat minerals applications as pertaining to a single ROMP site, the same applies to any consequential prohibition order, (eg. whether a minerals site is severable in the manner contemplated).

14. This advice duly concerns the extant, but unserved, draft prohibition order. Essentially, I am asked to advise on resolution "B" above.

Advice

15. At the outset I must be clear that Council cannot both grant planning permission for development and prohibit that development. Nor can the Council serve a prohibition order when there is cogent evidence that the winning and working of minerals on that land has not permanently ceased. The submissions made by the agent for J. Curtis and Sons Ltd, the progression and award of planning permission for Curtis' Yard (there is no reason why B1 use could never be in connection with minerals operations elsewhere on the site), and the submission of an application for planning permission all clearly demonstrate an intention to continue to work the site.
16. In light of these facts, the Council is severely constrained in the options available to it by the terms of the legislation. It must base the decision on the likelihood of the resumption of the winning and working of material on all the evidence available at the time the Council makes the order (per paragraph 3(2)(b) of Schedule 9 of the Town and

Country Planning Act 1990 (“the 1990 Act”). Here, at the time any prohibition order would be finalized and served there will be further information on the landowners’ intentions, including extant consent(s) and/or an outstanding application. That is quite unlike the situation at the time the prohibition order was made in September 2019. The Council therefore acted within its powers to make the order then, but the factual context is now quite different.

17. In short, on the facts available now the Council can no longer say there is no likelihood of the resumption of the winning and working of material at the site on the evidence available to them. It does not matter whether or not the draft prohibition order instigated the application(s); indeed, that appears to be one of the ulterior motives of the legislation (to spur operators to promptly work out and then restore their sites).
18. On the utility of progressing with a prohibition order which was validly made at the time, and notwithstanding the additional consent/ information/ application, it must be pointed out that an appeal against that prohibition order (and one must be contemplated here) is a *de novo* review. The Secretary of State is therefore entitled to consider such evidence as they see fit, (not being under any obligation similar to paragraph 3(2)(b) of Schedule 9). They will undoubtedly consider the evidence of a planning application, at the very least, to constitute clear evidence of an intention to continue the winning and working of material on the site. Therefore, even if there was no costs risk if the Council progressed with the prohibition order (I should be clear: there is significant risk of a costs award given the present circumstances), it would be futile because the Secretary of State would almost certainly refuse to confirm the order.
19. As to the service of a “partial” prohibition order concerning land to the north of the disused railway line (Area 1, which includes the area known as Curtis’ Yard), as noted earlier that area now benefits from temporary planning permission. Whilst that is for office use there is no reason why that office use cannot be in connection with the winning and working of minerals elsewhere on the Radley ROMP site. Further and in any event even if a partial prohibition order was served in relation to the land north of the disused railway line it could not stop the activity presently taking place on the site, which benefits from planning permission and it could not, in any event, be the subject

of any prohibition order. That is because a prohibition order can only preclude the winning and working or depositing of minerals. As defined in English Clays Lovering Pochin & Co v Plymouth Corp (1974) 1 WLR 742) to “win” a mineral is to make it available or accessible to be removed from the land, and to “work” a mineral is (at least initially) to remove it from its position in the land. Finally, there is also the question (for the Council) as to whether it is practicable and reasonable to sever a minerals site given the complexity that would result from a partially prohibited/partially permitted minerals site.

20. Further to this issue, I have been usefully taken to paragraph: 206 reference ID: 27-206-20140306 of the PPG which provides:

“How much of the site area is covered by a review of minerals conditions?”

Where an Environmental Statement is required, environmental information is required for the whole minerals site covered by that permission before new operating conditions can be determined.”

21. The Council has established that the submission of conditions for the entire Radley ROMP site is EIA development, and so the submission must be accompanied by an ES. The entirety of the Radley ROMP site is duly in suspension pending receipt of suggested conditions and the accompanying ES. Both documents must of course be considered and approved. The PPG’s clear guidance that an ES must encompass “the whole minerals site” covered by that permission does imply that any prohibition order should equally cover the whole of the ROMP area. This is because the potential environmental impacts could not be fully assessed in an ES if there is a partial prohibition order in place (which effectively removes part of the permitted area the PPG advises should be covered in the ES accompanying the ROMP application).
22. To conclude on this issue, paragraph 3 of Schedule 9 grants the power to issue a prohibition order in relation to “a site”. That is not defined, therefore it is up to the judgment of the Council what constitutes “the site”. In my view it would follow that the Council could theoretically sever a minerals site by way of a prohibition order but

this must be based on the evidence before the Council at the time and take into account any discussion with the landowners. The Council must be able to reach a defensible conclusion that the resumption of winning and working or the depositing of mineral “to any substantial extent” is considered unlikely. Following Inspector Ord’s decision, this includes consideration of consent and activity on adjacent sites which may be relevant. Based on the evidence I do not consider there to be such a conclusion open to the Council at the present time.

23. Because no action has been taken in relation to the Council’s decision to make the existing draft prohibition order there is no reason why the Council cannot reconsider that decision, though I would advise that the entire procedure is transparently carried out by members given the interests that are affected and the significant public concern regarding the Radley ROMP site.
24. If the applicant does not take advantage of any consent that may be granted the Council can of course commence the procedure afresh.
25. I trust this has addressed the questions posed by those instructing. If anything arises further please do not hesitate to contact me in the usual way.

8 July 2021
Nina Pindham
No5 Chambers

IN THE MATTER OF

**RADLEY: REVIEW OF OLD MINERALS
PERMISSIONS (PARTIAL PROHIBITION)
CONCERNING LAND AT THRUPP LANE
AND THRUPP FARM, RADLEY**

ADVICE

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Divisions Affected – Kennington and Radley

PLANNING AND REGULATION COMMITTEE

6 SEPTEMBER 2021

Use of the existing processing plant site to process sand and gravel from the nearby 94 acre Review of Old Mineral Permission (ROMP) site (Ref: DD1 and DD2), the installation of a field conveyor system to the site boundary and ancillary facilities for the transportation, storage and processing of the sand and gravel and the use of an existing haul road

Report by Assistant Director for Strategic Infrastructure and Planning

Contact Officer: David Periam Tel: 07824 545 378

Location: H Tuckwell And Sons Ltd, Thrupp Lane, Radley, Abingdon, Oxon, OX14 3NG

OCC Application No: MW.0075/20

SODC Application No: P20/V1757/CM

District Council Areas: Vale of White Horse

Applicant: H Tuckwell And Sons Ltd

Application Received: 29 June 2020

Consultation Period: 23 July 2020 – 13 August 2020

Contents

Part 1- Facts and Background

Part 2 – Other Viewpoints

Part 3 – Relevant Planning Documents

Part 4 – Assessment and Conclusions

Executive Summary

1. The report sets out the proposed development for which planning permission has been applied under application no. MW.0075/20. Having considered the report against the development plan and other material considerations including consultation responses and representations received it is recommended that subject to the completion of a section 106 Agreement for the provision of a permissive path and to conditions to be determined by the Assistant Director of Strategic Infrastructure and Planning, that the application be approved.

PART 1- FACTS AND BACKGROUND

Location (See Plan 1):

2. Thrupp Lane Quarry processing plant site is located approximately 700 metres to the east of the outskirts of Abingdon and 700 metres south of Radley. There is a concrete batching plant with permanent consent immediately to the north-west of the application site.

Site and Setting:

3. The wider Thrupp Lane quarry has been extensively worked for sand and gravel and progressively restored with pulverised fuel ash (pfa) The site is surrounded by land which has been worked for sand and gravel and restored. There is a separate area of land which has permission for sand and gravel extraction under the ROMP permissions DD1 and DD2 some of which has not yet been worked. This lies to the south west of the application site, adjacent to the River Thames.
4. The processing plant site area is in the north of the application site (Tuckwell's Yard), immediately south of Thrupp Lane from which road access is taken. The application area covers 1.8 hectares and includes the processing plant site, a conveyor which runs southwards from the processing plant adjoining a haul road and a Bailey Bridge which provides access into the ROMP permissions DD1 and DD2 area.
5. The development is located in the Oxford Green Belt on an area of land that is in part currently in use as a minerals stockpile area and a vehicular haul road along which line the proposed conveyor would run. At its southern end it would pass through a wooded area abutting the disused railway line where the proposed Bailey bridge would cross the disused railway line. There would be some limited loss of vegetation. The wider area is relatively rich in a range of habitats including water bodies and further woodland. Thrupp Lake lies approximately 50 metres to the west of the proposed line of the conveyor. The River Thames lies approximately 400 metres to the south. The area therefore contains wet lands and woodland. The land lies within

the Impact Risk zones to the Culham Brake Site of Special Scientific Interest approximately 1.6 Km to the south-west. The application site lies within a Conservation Target Area and within the Radley Gravel Pits Local Wildlife Site . There are two other Local Wildlife Sites in the area. The application site lies largely in Flood Zone 1 although a small area is within Flood Zone 2.

6. Two Scheduled Monuments are located in the vicinity of the site: Settlement East of Goose Acre Farm at approximately 260 metres to the north-east and Settlement Sites North of Wick Hall approximately 526 metres to the north. The nearest residential property is Home Farm approximately 120 metres to the north of the site's access onto Thrupp Lane. The site lies within a rural area with the village of Radley approximately 700 metres to the north and Abingdon approximately 700 metres to the west.

Relevant Planning History:

7. Planning permission no. MW.0001/12 was granted in July 2012 for similar development to that proposed in the current planning application being the use of the processing plant site to process sand and gravel extracted from the ROMP permissions DD1 and DD2 area and the installation of a field conveyor system to the site boundary and ancillary facilities for the transportation, storage and processing of sand and gravel. This planning permission has lapsed.
8. The ROMP permissions DD1 and DD2 area has permission for the extraction of sand and gravel until 2042; however this is currently suspended under the provisions of the Environment Act 1995 as no application for modern planning conditions to be attached to the old consents has been submitted. The council's consideration of the service of a full or partial Prohibition Order, which would prevent the remaining sand and gravel reserves being worked should it be confirmed by the Secretary of State, is the subject of a separate report to today's committee meeting.

Details of Proposed Development:

9. The development would cover an area of 1.68 ha. It is proposed solely for the removal of sand and gravel extracted from the existing ROMP permissions DD1 and DD2 area. Although these permissions are currently in suspension, if an application for new mineral conditions were to be submitted and approved, the extraction of mineral could re-commence. The total remaining reserves are approximately 1,000,000 tonnes and it is anticipated that it would take between 10 and 15 years for this to be extracted with output from the processing plant being between 80,000 and 150,000 tonnes per annum. The processing plant would be erected in the processing plant area. It is proposed to use modern low level plant to process the sand and gravel. This would include a washing plant which will use the existing silt lagoons, screens and a crusher. The maximum height of the processing plant would be approximately 8 metres. The stockpiled material would then be used to feed the concrete batching plant or sold as aggregate building products.
10. Following processing, any poor quality sand and gravel and clays would be stored on the plant site and taken by dump truck back to the ROMP permissions DD1 and DD2 area for its restoration using the haul road adjacent to the proposed field conveyor.

The haul road would also be used to allow plant and machinery access to the ROMP permissions DD1 and DD2 area for its development and restoration.

11. The proposed conveyor would be electrically driven. It would sit on steel legs sited on wooden stantions every 3 metres which would be to a height of 0.6 metre on which the conveyor would run on rollers. The total width of the conveyor would be 0.75 metre. The Bailey Bridge would be approximately 20 metres in length with 2 metres long ramp at either end, a running surface 5 metres wide and side panels 1.5 metres high. It would be supported at either end on base plates giving a total width of approximately 6 metres. The existing haul road which is 6.7 metres wide would be extended to provide access for plant and machinery to and from the ROMP permissions DD1 and DD2 area via the Bailey Bridge.
12. Operational hours would be 0700-1800 Mondays to Fridays and 0700-1300 Saturdays and additionally 1300-1800 Saturdays for plant maintenance only.
13. Five additional staff would be employed if the development were to be permitted and carried out.
14. The applicant envisages that new planning conditions will be agreed and mineral extraction recommenced in the ROMP permissions DD1 and DD2 area in 2025. At this point it is expected that mineral extraction at Oday Quarry, Sutton Wick (the CAMAS Land and any future extension), which is operated by the applicant, will have ceased. A 5 year commencement date, from the grant of planning permission, is therefore sought.
15. To reduce the visibility of the historic plant area from views from the north at Thrupp Lane, trees were planted in 2010-2011. These trees have established and, in combination with the existing hedgerows, provide a good visual screen. Trees have also been planted on the western boundary between Thrupp Lane Quarry and a footpath which are maturing to provide a visual screen.
16. It is proposed that the processing shall cease operation and the plant, Bailey Bridge, haul road and field conveyer be removed and other than that retained in association with the use of the concrete batching plant, the application site would be restored to a variety of habitats in keeping with those surrounding with the provision of a new permissive footpath to provide a link between Thrupp Lane and the disused railway line within 16 years of the re-commencement of extraction.
17. The application is supported by a dust management scheme. This identifies that the main cause of concern would be dust arising from the wheels of vehicles on dry roads and yards in windy weather which can be controlled by careful management. It is therefore proposed to adopt the dust management proposal should planning permission be granted.
18. A noise assessment has been provided with the application which has identified that a noise impact at the nearest residential property, Home Farm, is unlikely.
19. An ecological assessment has been provided which identifies that there would be no impacts on protected species or habitats. There is a potential impact on breeding birds through the removal of scrub and it is proposed that mitigation measures including removal of scrub outside the breeding season would be adopted.(Further

ecological information has been provided to address objections raised on biodiversity grounds.)

20. A Flood Risk Assessment has been submitted with the application due to a small part of the application site being within Flood Zone 2 where the conveyor would cross the disused railway line. It is considered that, in consideration of the sequential test which aims for development to be carried out in the least risk flood zone possible, it is not possible to not pass through Flood Zone 2. It is considered that the development falls within the classification of sand and gravel working, is appropriate in Flood Zone 2 and that no Exception test is required. As the conveyor would be sited on legs with a small footprint touching the ground, it is considered that it would not affect surface water flows and no surface water management plan is required. The operational part of the conveyor would sit above the estimated flood level and so would not require any extra flood resistance and resilience measures.
21. The applicant states that the proposed mobile wash plant would utilise the existing silt lagoons which are used to supply water to the concrete plant and for dust suppression on site and were used by the previous wash plant. This is a closed system in which water is allowed to settle in the silt lagoons to remove any suspended solids before being reused. As a result, there are no off-site discharges to controlled waters associated with this lagoon system.
22. The applicant considers that the proposed development would be in a landscape in which quarry and industrial features already occur. Due to the screening provided by surrounding landforms and vegetation, Thrupp Lane Quarry is and will continue to be predominantly well screened from public viewpoints. To ensure that this screening continues, the applicant will ensure that the woody vegetation will continue to be managed as thick and healthy screens.
23. With regard to traffic, it is estimated that the development would generate up to around 64 movements per day based on a maximum output of 150,000 tonnes per annum.
24. The applicant considers that the application accords with both national and development plan policy. This includes an assessment against Green Belt policy: The development proposed is considered to be necessary and integral to the extraction of mineral from the ROMP permissions DD1 and DD2 area and should therefore not be considered inappropriate development. The openness of the Green Belt would also not be affected as the development proposals are temporary, relatively small and low in profile, would not enclose any space or land and are focused within previously quarried and/or developed/industrial land which is well screened from inward views.

PART 2 – OTHER VIEWPOINTS

Consultation & Representations:

25. Responses from five members of the public have been received objecting to the application. One of these is written collectively on behalf of the residents of the hamlet of Thrupp. In addition, objections and comments raising concerns have been

received on behalf of the Friends of Radley Lakes and the Abingdon Naturalists Society. The main objections and issues raised by the responses are summarised as follows:

- Objections/concerns:
 - The information provided is inaccurate and it is not clear how the application proposal has been thought through in relation to the mineral extraction in the ROMP permissions DD1 and DD2 area which it would serve, for example how the haul road within the ROMP permissions DD1 and DD2 area would be located so as to connect to this application without the need for the removal of a mound of stored soil material which lies in Flood Zone 2 (the SOM Mound). The applicant should be encouraged to take a more co-ordinated approach to addressing the arrangements for the processing of the mineral with those for its extraction;
 - The assessments made with regard to the ROMP permissions DD1 and DD2 area submitted in support of the application have incorrectly included land owned by third parties;
 - The application should not be determined in isolation from any application that may come forward for new conditions for the ROMP permissions DD1 and DD2 area and so should be refused at the current time. Should permission be granted then it should be without prejudice to the determination of any application for new conditions for the ROMP permissions DD1 and DD2 area including should more appropriate access arrangements exist;
 - Should the application be granted it should include provision for the same environmental benefits as provided when permission was granted to the now lapsed permission in 2012;
 - The ecological assessments are insufficiently detailed with regard to the assessment of species present (including protected species e.g. Great Crested Newt) and habitats affected including the presence of water bodies and also including the detrimental impact on a Conservation Target Area, County Wildlife Site of the associated quarrying in the ROMP permissions DD1 and DD2 area. Further ecological survey work is required;
 - The application is alleged to be solely related to justifying the retention of the buildings in the Curtis's yard which currently benefit from a temporary planning permission (most recently granted on appeal by the Secretary of State) for uses unrelated to mineral working. The ROMP permissions DD1 and DD2 require the removal of these buildings on the cessation of mineral extraction and the service of the Prohibition Order should be pursued;
 - Alleged failures of the applicant and landowner in the past to work mineral and infill excavated areas without causing adverse environmental impacts;
 - Noise impact from the operation of the conveyor;
 - Traffic impact from the use of Thrupp Lane in the absence of any alternative access via Audlett Drive despite repeated requests for a new road;
 - Detrimental impacts on amenity from the associated mineral extraction in the ROMP permissions DD1 and DD2 area including for quiet public access to the area;
 - Detrimental impacts on scenic beauty from the associated mineral extraction in the ROMP permissions DD1 and DD2 area;
 - Detrimental impacts on drainage of surrounding waterbodies from the associated mineral extraction in the ROMP permissions DD1 and DD2 area;
 - Green Belt impact including that the development is inappropriate in the Green Belt and no Very Special Circumstances exist to justify the grant of planning permission to the application;
 - Contrary to the Radley Neighbourhood Plan; and

- The ROMP permissions DD1 and DD2 area is not included in the Oxfordshire Minerals and Waste Local Plan.
26. The local member (Councillor Bob Johnston) has not submitted a formal response to the application.
 27. Radley Parish Council objects to this application for three reasons.
 - It cannot sensibly be determined independently of decisions on the extraction of the gravel to which the application relates;
 - The proposals lack important environmental mitigations and safeguards contained in the previous 2012 planning permission; and
 - No account is taken of relevant provisions in the draft masterplan for the Radley Lakes area.
 28. The Vale of White Horse District Council is seriously concerned that this application is disingenuous, and is merely a tactic for the owner to seek deferral of the decision of the County Council to serve a Prohibition Order. The District Council therefore asks the County Council to consider carefully the application, particularly in light of the evidence of the applicant's previous pattern of behaviour provided by the previous permission for extraction, granted relatively recently on the site, and which interrupted the previous ROMP process being pursued by the County Council, and which then subsequently remained unimplemented and lapsed.
 29. The District Council Environmental Health Officer raises no objections to the proposed development.
 30. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites or landscapes and has no objection.
 31. The Environment Agency first response: object to the proposed development because the assessment of the risks to nature conservation is inadequate. We therefore recommend that the planning application is refused. We will maintain our objection until the applicant has supplied information to demonstrate that the risks posed by the development can be satisfactorily addressed.
 32. Second response following submission of additional ecological information: Thank you for re-consulting us on the above application on 29 September 2020 following the submission of additional detail from AD Ecology Ltd dated 14th September 2020. The above detail does not satisfactorily address our earlier concerns. We therefore maintain our objection. This latest detail states that a linear pond or waterbody was not found on site. This pond is clearly marked on OS maps and there are records for Great Crested Newts in and around that area. It is possible that this water feature could be subject to seasonal fluctuations, or may be succeeding to wet woodland, but it should not be discounted. The submitted photographs of this area, particularly Photograph 4, focus on the track itself and little beyond this. In addition, the latest detail now refers to a seasonal ditch within the area of scrub where the access track would cross the disused railway, but no further ecological assessment has been carried out. As the proposed extension of the haul road, conveyor and the proposed

Bailey Bridge may have a detrimental impact on priority species and habitat within the vicinity, an extended ecological survey is required to evaluate the level of risk posed by this activity and to show how any such risks will be prevented or mitigated.

33. This objection is supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity in and around developments should be encouraged. While we understand that this application will be determined on its own merits, it is the applicant's intention to submit a further planning application for the ROMP site to the south. With this in mind, it would be helpful to understand how the proposed haul road is likely to be further extended into the ROMP site in relation to the species and habitat in that location.
34. Third response following the submission of further additional ecological information: We have reviewed the additional information submitted, particularly The Extended Phase 1 Ecology Survey and Preliminary Ecological Appraisal Version 5 final Report (AD Ecology Ltd, June 2021). The additional survey goes some way to address our concerns, with reference to the seasonally wet ditch. However, our primary concern with this application relates to where the haul road and Bailey bridge are located in relation to the pond/linear pond or ditch shown on OS mapping and in Figure 1 of the above survey (identified as pond 2) and the 2020 aerial photograph submitted separately. We therefore maintain our objection to this proposal. We request that a walkalong survey between a point west of the haul road crossing and pond 2 is carried out, with photographs provided along the entire route, with directional markings on a map. The ecological survey should identify whether the pond and ditch are present and look for signs of local biodiversity and not only great crested newts. We consider it is necessary and important to understand the environment around this location so we can assess holistically whether the location of the haul road and Bailey bridge as currently shown will compromise the future extension of the haul road into the ROMP site should the pond/linear ditch be identified and its habitat offer some value. If the additional survey is not carried out until the preparation of the ROMP application and a potential impact is identified, the route of the haul road as currently shown within this application may need to be revised to avoid the water feature. This objection is supported by paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity in and around developments should be encouraged.
35. Fourth response: We have received confirmation from you that your ecologist has visited the site and has undertaken a comprehensive site visit and has confirmed that they have carried out a visual inspection of the area between the proposed haul road crossing and pond 2. Your ecologist has confirmed that there is no evidence of a pond or waterbody within this area. On this basis, we withdraw our previous objection to this proposal. The majority of the development site is located in Flood Zone 1 with a small area of the proposed conveyor being located in Flood Zone 2. Due to the scale and design of the conveyor, which sits sufficiently above ground

level, we are satisfied that flood risk will not increase as a result of the proposal providing the development proceeds in accordance with the submitted plans.

36. The Ministry of Defence has no safeguarding objections to the application.
37. Network Rail has no objection in principle to the application.
38. The Highway Authority has no objection to the application. The Highway Authority continue to have significant concerns regarding any development proposals, particularly those associated with HGV movements, along Thrupp Lane; any increase in HGV movements along this particular carriageway would be detrimental to the safety of pedestrian and cycling users. For reference, in the vicinity of the site the carriageway is of poor construction/geometry. With reference to the submitted Planning Statement, it is apparent that whilst at present there are no quarrying activities associated with the site, the Thrupp Lane Quarry does currently import in the region of 75,000 tonnes/PA of sand and gravel (33 two-way daily HGV movements) to process for the adjacent concrete batching plant site. The reintroduction of quarrying at the Thrupp Lane site, the subject of a separate planning application, will mean the cessation of the importing of sand and gravel. However, it is understood, whilst the proposed reintroduction of a quarry at the Thrupp Lane Quarry will supply all the sand and gravel to the adjacent concrete batching plant, they will also export up to 75,000 tonnes/PA to other customers. As this is effectively the same annual tonnage as previously, then as there is no material intensification, then in this particular instance, the County Council as Highway Authority have no objection to this particular application. If however in the future, an increase in tonnage PA is proposed, the County Council as Highway Authority would wish to make suitable comment.
39. The OCC Public Health officer has no objection to the application providing that the applicant implement suitable dust management to mitigate dust, in particular during dry periods.
40. The OCC Archaeologist comments that the proposed outlined site has been heavily disturbed and would therefore not appear to have an invasive impact upon any known archaeological sites or features. As such there are no archaeological constraints to this scheme.
41. The OCC Rights of Way officer has no comments to make on the application.
42. The OCC Landscape Advisor comments that this application is similar to the previous consent to access, work and process minerals from the ROMP permissions area (MW.0001/12), which has lapsed. Whilst this previous application sought permission for the project in its entirety, the current application covers only part of the previous development with a further application for the extraction of the ROMP area currently being prepared. From a landscape and visual point of view splitting the application makes a comprehensive assessment of the effects more difficult and it would be better if one comprehensive application for all elements, i.e. including the extraction of the remaining ROMP area, was made. Looking at this application on its own merits, the proposed plant processing & storage area, conveyor belt and haul

road are not expected to cause additional significant landscape and visual effects. The processing & storage area and haul road are already existing and the boundary vegetation along Thrupp Lane provides a reasonably effective barrier in views. It is important that this vegetation does not get adversely affected by the development and adequate protection of all boundary vegetation e.g. by a sufficiently wide buffer (informed by the Root Protection Areas of existing boundary trees) should be ensured. Additional screen planting along the boundaries should also be considered where necessary. I have not been able to find information relating to the proposed height of storage mounds and a condition restricting the height of storage mounds is therefore likely to be required.

43. With regard to timing, operation and restoration of the development site she considers it particularly important that the development pays due regard to the Draft Radley Lakes Masterplan (NB now final May 2021), which is currently being prepared by several stakeholders including landowners, nature conservation organisations and local councils. The proposed restoration does not appear to cause conflicts with the Draft Radley Lakes Masterplan, which is welcomed. However, it is likely that further detail relating to the masterplan will be developed during the lifetime of the development, and it is therefore recommended that the restoration is kept under review and is coordinated with the Radley Lakes Masterplan proposals. In conclusion, she has no objection to the application but conditions relating to the protection of the existing boundary vegetation, height of storage mounds, and the restoration plan should be added to any potential consent.
44. The OCC Ecologist First response: advises that further information in respect of ecology is required. The ecology survey was undertaken in 2018 and is now considered out of date. Given the potential changes to the habitats on site since the survey was undertaken, an updated assessment and evaluation is required. The Environmental Impact Assessment with a chapter for ecology has not been submitted. The updated assessment should inform the necessary mitigation measures required and restoration proposals for the site. Aftercare will need to be demonstrated for 20 years beyond the 5 year aftercare period.
45. Second response, asks for confirmation with regard to Great Crested Newt surveys that the samples were taken by a GCN licence holder, that the 20 water samples were taken from evenly spaced locations, the weather during sampling and any limitations to the survey. No objection subject to the following condition: The works shall be undertaken in accordance with Section 7 of the Extended Phase 1 Habitat Survey & Preliminary Ecological Appraisal Version 5 produced by AD Ecology (June 2021). An Ecological Clerk of Works / Suitably Qualified Ecologist will be present prior to works commencing, to ensure no animals are present. Should any be found, the Ecologist will move them to a safe location.
Reason: To safeguard protected and notable species of conservation concern.

PART 3 – RELEVANT PLANNING DOCUMENTS

Relevant planning documents and legislation (see Policy Annex to the committee papers)

Development Plan Documents:

46. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise. The relevant development plan for this area comprises:
- The Oxfordshire Minerals and Waste Local Plan Part 1 Core Strategy 2031 (OMWCS);
 - The Vale of White Horse Local Plan 2031 Part 1 (VLP1)
 - The Vale of White Horse Local Plan 2031 Part 2 (VLP2)
 - Radley Neighbourhood Plan 2018-2031 (RNP) (However, neighbourhood plans cannot include policies specifically for county matters i.e. minerals and waste development).

47. The relevant Development Plan policies are:

Oxfordshire Minerals and Waste Local Plan Part 1 Core Strategy 2031 (OMWCS)

- M10 (Restoration of Mineral Workings)
- C1 (Sustainable development)
- C2 (Climate Change)
- C3 (Flooding)
- C4 (Water Environment)
- C5 (Local environment, amenity and economy)
- C7 (Biodiversity and geodiversity)
- C8 (Landscape)
- C10 (Transport)
- C11 (Rights of Way)
- C12 (Green Belt)

48. The VLP1 policies most relevant to this development are:

- Core Policy 1 – Presumption in favour of sustainable development
- Core Policy 13 – The Oxford Green Belt
- Core Policy 33 – Promoting Sustainable Transport and Accessibility
- Core Policy 42 – Flood risk
- Core Policy 44 – Landscape
- Core Policy 45 – Green infrastructure
- Core Policy 46 – Conservation and improvement of biodiversity

49. The VLP2 policies most relevant to this development are:

- Development Policy 23 – Impact of development on amenity
- Development Policy 25 – Noise generating development
- Development Policy 26 – Air quality
- Development Policy 30 – Water Courses
- Development Policy 31: Protection of Public Rights of Way, National Trails and Open Access Areas

50. The RNP policies which are most relevant are:

- PP.2 – Green Belt
- PP.8 – Radley Lakes
- PP.9 – Roads
- PP.13 – Site Drainage

Other Policy Documents and Material Considerations

51. The **National Planning Policy Framework** (NPPF) was first published in 2012 and revised in July 2018 with minor further revisions made in February 2019 and most recently in July 2021. This is a material consideration in taking planning decisions.
52. The **National Planning Practice Guidance** (NPPG) contains specific advice on matters including flood risk, conserving and enhancing the historic environment, determining a planning application and natural environment.
53. The **Radley Lakes Masterplan** was launched in May 2021 further to the provisions of the Radley Neighbourhood Plan. It does not form part of the development plan but it is a material consideration in the determination of the planning application to which limited weight should be attached.

PART 4 – ASSESSMENT AND CONCLUSIONS

Comments of the Assistant Director for Strategic Infrastructure and Planning

54. The key considerations are:

- i. Sustainable development;
- ii. Green Belt;
- iii. Traffic Impacts;
- iv. Amenity impacts;
- v. Landscape and visual Impacts and Restoration;
- vi. Water environment; and
- vii. Biodiversity impact;

Sustainable Development

55. Policy C1 of the OMWCS states that 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 the economic, social and environmental conditions of the area. VLP1 core policy 1 reflects the presumption in favour of sustainable development.
56. Policy C1 of the OMWCS also states that planning proposals which accord with the policies in the plan will be approved unless material considerations indicate

otherwise. The development will therefore only be in compliance with these policies if it is also generally in compliance with other development plan policies.

57. The proposed development is parasitic on the sand and gravel being extracted from the ROMP permissions DD1 and DD2 area. This could be worked and exported 'as dug' for processing elsewhere or it could be processed nearby. There would be potential advantages to the mineral being processed at Tuckwell's Yard which is within the ROMP permissions DD1 and DD2 area and where there is the existing concrete batching plant which has a permanent consent. If permitted and implemented then it would avoid the need to construct a new processing plant site closer to or at the extraction area close to the residences at Thrupp hamlet and would limit associated vehicle movements on Thrupp Lane to the north of the Tuckwell's Yard entrance. It would provide additional employment. The development would therefore have potential economic, social and environmental benefits to be weighed against the impacts as discussed below.
58. The rest of this section of the report assesses whether the key issues of the proposed development accord with development plan policy and so informs the conclusion as to whether it is sustainable development.

Green Belt

59. National policy set out in the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraph 150 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One of these exceptions is mineral extraction. Whilst this development is not in its own proposing mineral extraction it is a minerals related development against which the policies of the OMWCS are applicable.
60. OMWCS policy C12 reflects this but also states that 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. VLP1 Core Policy 13 reflects national policy. RNP policy PP.2 seeks to protect the Green Belt round Radley and inappropriate development will not be supported except in the very special circumstance as identified in the National Planning Policy Framework and Policy CP13. RNP policy PP.8 states that development which directly promotes nature conservation and/or quiet recreation in the Radley Lakes area will be supported, subject to certain criteria including compliance with policy CP13 with regard to the protection of the Green Belt.
61. The application is not for mineral extraction but is for development that would form ancillary development to the extraction of mineral permitted by the ROMP

permissions DD1 and DD2 which is currently in suspension pending the submission of an application for new conditions and accompanying Environmental Statement. The provision of such items as processing plant and conveyors elsewhere in the county has formed part of new applications for mineral workings including at Green Belt locations. It is therefore considered that this application should be viewed similarly against policy.

62. The low-level conveyor, the Bailey bridge, the haul road and any areas of hardstanding are not considered to impact on the openness of the Green Belt and so do not form inappropriate development in themselves. Whilst the assessment of the previous planning application MW.0001/12 concluded that the development was not inappropriate development in the Green Belt, that application proposed low-level plant, the details of which were to be provided subject to a submission to be made to discharge a planning condition. The current application proposes processing plant at a height of up to approximately 8 metres which it is considered would impact on openness and so cause potential harm. It is therefore considered that this renders the application to be inappropriate development for which Very Special Circumstances must exist for it to be granted planning permission.

63. The development would be temporary and so reversible provided conditions required removal of the processing plant once the mineral from the ROMP permissions area had been extracted and processed. As set out above, there are potential environmental benefits to permitting the development which would facilitate the processing of the mineral within the ROMP permissions area at greater removal from the residences at Thrupp and to limit associated vehicle movements to the upper part of Thrupp Lane. The application presents an opportunity to get permission in place for a more sustainable mechanism for the removal of mineral from the ROMP permissions area rather than potentially the mineral being removed by haul road within the site to Thrupp Lane to then be taken to the processing plant at Tuckwell's Yard (or elsewhere) or with a processing plant within the ROMP permissions area. If this application is refused then there is a risk that the proposal may not be pursued further. Provided any planning permission granted was conditioned such that the development was only implemented in association with the extraction of sand and gravel from the ROMP permissions DD1 and DD2 area, it is considered that, in line with OMWCS policy C12 these are other considerations which lead to the demonstration of Very Special Circumstances.

Traffic Impacts

64. Policy C5 of the OMWCS seeks to ensure that minerals and waste development do not have an unacceptable adverse impact on the local environment including from traffic and air quality. Policy C10 of the OMWCS states that mineral 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 road users including pedestrians, the efficiency and quality of the road network, and residential and environmental amenity including air quality. It also states that, where practicable, mineral development should be located, designed and operated to enable the transport of minerals by rail, water, pipeline or conveyor. Developments that would generate significant amounts of traffic will be expected to be supported by a transport assessment or transport statement, including mitigation measures where applicable. RNP policy PP.9 states

that new development will be supported where it complies with other development plan policies and can be satisfactorily accommodated within the existing highways network. Where appropriate new development should support the achievement of the Radley Roads Strategy and provide, financially or in kind, for the mitigation of the effects of the development on the road network.

65. In accordance with paragraph 109 of the NPPF development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
66. The amenity impact of traffic from the development is addressed below. In terms of the suitability of Thrupp Lane for the proposed traffic generated by the development from a highways perspective, the council as Highway Authority has raised no objection to the application. As set out above, whilst the Highway Authority continue to have significant concerns regarding any development proposals, particularly those associated with HGV movements, along Thrupp Lane, the overall traffic generated is effectively the same annual tonnage as before and so there would be no material intensification. It is not therefore the case that it could be demonstrated that there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
67. The Radley Roads Strategy seeks to see a new access provided to the industrial and commercial sites at the foot of Thrupp Lane i.e. its western end via Audlett Drive or Barton Lane. It looks to see Thrupp Lane become safer for pedestrians and cyclists. This is clearly an aspiration that may be achieved in due course through permission being granted to other developments that may come forward for planning permission but it does not yet exist and it is not considered that this application could be refused against this policy. There is no objection from the Highway Authority and access needs to be maintained in any instance to the Tuckwell's Yard including the permanent concrete batching plant pending the provision of any future alternative at the western end of Thrupp Lane. It is however recommended that an informative be attached to any permission that may be granted to this application requesting that the applicant work with the Parish Council to look at what measures could be provided to mitigate impacts pending any delivery of an alternative in line with policy PP.9.

Amenity Impacts

68. Policy C5 of the OMWCS seeks to ensure that new development will not have an unacceptable or significant adverse impact on the local environment, human health and safety, or residential amenity and other receptors and the local economy including from noise, dust, visual intrusion, traffic, air quality, vibration and mud on the road. VLP2 policy DP23 makes similar provision. OMWCS policy C10 seeks to see residential and environmental amenity, including air quality maintained and if possible improved through suitable access provision to the county's advisory lorry routes. VLP2 policy DP25 states that noise generating development that would have an impact on amenity will be expected to provide an appropriate scheme of mitigation. VLP2 policy DP26 states that proposals that are likely to have an impact on air quality will need to demonstrate measures/mitigation incorporated into the design to minimise any impacts.

69. The main amenity concern from this development is the impact of traffic using Thrupp Lane which has to pass the residential properties between the Tuckwell's Yard and Radley Road. At present mineral is imported from elsewhere to the Tuckwell's Yard and for use in the concrete batching plant which is a permanent facility and could run regardless of the outcome of this application. The intention is that the processing of mineral extracted from the ROMP permissions DD1 and DD2 area would supersede the importation of mineral from elsewhere but up to 75,000 tonnes of processed mineral would be exported from the site along with similar output from the concrete batching plant. The overall balance of vehicle movements is therefore anticipated to be much the same as that which pertains. Whilst there would be no significant improvement there would be no significant unacceptable or additional adverse impact. Conditions could be attached to any planning permission granted to limit the maximum annual throughput of the processing plant to 150,000 tonnes per annum and maximum daily HGV movements to be no more than 64 per day in order to ensure amenity impacts were no greater than at present. Any permission granted could also be conditioned that no mineral was imported to the processing plant from elsewhere and requiring its removal on completion of the development.
70. The conveyor itself would be electrically driven. The applicant has provided a noise assessment which concludes that there would be no unacceptable noise impacts at the nearest property from the development, the nearest part being the processing plant itself. A dust management scheme has also been submitted and compliance with this could be provided for by condition. The Environmental Health Officer has not raised objection to the application.
71. Therefore, it is considered that subject to conditions as discussed above, the development would not have significant adverse impacts contrary to the aims of these policies.

Landscape and visual Impacts and restoration

72. OMWCS Policy C8 states that 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. VLP1 policy CP44 states that the key features that contribute to the nature and quality of the landscape will be protected including trees, hedges, watercourses, views, tranquillity and areas of cultural and historic value. RNP policy PP.8 states that development which directly promotes nature conservation and/or quiet recreation in the Radley Lakes area will be supported, subject to certain criteria including avoiding detriment to the wider landscape within which the site sits. The Radley Lakes Masterplan recognises the possibility of further mineral extraction in the area and seeks to see a transition to realise the potential of the area for nature conservation and quiet recreation. OMWCS policy M10 requires that 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. OMWCS policy C11 states that improvements and enhancements to the rights of

way network will generally be encouraged and public access sought to restored mineral workings, especially if this can be linked to wider provision of green infrastructure. Where appropriate, operators and landowners will be expected to make provision for this as part of the restoration and aftercare scheme.

73. The site is located partially within the existing Tuckwell's Yard, includes an existing haul road which extends southwards but would include new development extending outside the yard area through the provision of the conveyor, Bailey Bridge and extension to the haul road. There would be some loss of vegetation in order to facilitate the development. However, the site is an area which benefits from substantial existing vegetation some of which was carried out specifically to screen the processing plant site previously. The council's Landscape Advisor has no objection subject to conditions relating to the protection of the existing boundary vegetation, height of storage mounds, and the site's restoration being attached to any planning permission granted.
74. There are two parts to the consideration of landscape and visual impacts: when the site is operational and when the development has been completed and the site restored. Whilst operational the development would have some visual and landscape impact but on completion of the mineral processing, the plant and equipment would be removed and the land would be restored to a variety of habitats in keeping with those surrounding with the provision of a new permissive footpath to provide a link between Thrupp Lane and the disused railway line.
75. The application area falls within Masterplan Zones A and B in the Radley Lakes Masterplan (RLM). Zone A is recognised as the operational area linked to the permanent concrete batching plant and Zone B is largely that which has been previously worked for mineral and restored by the deposit of pulverised fuel ash and is subject to an existing management plan. Habitat Management Zones are then identified and the application area falls within Habitat Zones 8 and 11. The RLM proposal for Zone 8 is that the operational land be retained, with margins managed for woodland screening and wetlands managed for biodiversity. The RLM proposal for Zone 11 is to continue the existing management regime to retain grassland and other species of open habitat and to promote habitat for ground nesting birds such as lapwing and skylark.
76. The restoration plan provided with the application provides an outline for the site's restoration but it is considered that a more detailed final restoration plan should be required to be submitted by condition should planning permission be granted. It is reasonable that this should be in line with the aims of the RLM Habitat Zones referenced above. The provision of a permissive path linking Thrupp Lane to the disused railway line would be in accordance with this policy. A section 106 Legal Agreement would therefore need to be entered into to provide for this. Comment has been made with regard to the maintenance of public access along the disused railway line. Whilst it is known that this is used as a path, it is not part of the rights of way network and so the development would not cause any legal obstruction. It is not a permissive path although there is an aspiration for this in the Radley Lakes Masterplan. Its future provision as a permissive path would clearly link in with the provision of the permissive path proposed in support of this application but that would have to be with the agreement of the relevant landowners. It is not considered that it is a matter which could preclude the grant of planning permission to this application.

77. It is considered that subject to conditions as discussed, the development would be in line with the aims of these policies and support the aims of the Radley Lakes Masterplan.

The Water Environment

78. Policy C3 of the OMWCS requires development to take place in areas with the lowest probability of flooding wherever possible. VLP1 policy CP42 states that the impact of flooding will be minimised by directing new development to areas with the lowest probability of flooding. All development will be required to provide a drainage strategy. Sustainable drainage systems should seek to enhance water quality and biodiversity.
79. Policy C4 of the OMWCS seeks to resist development proposals which would adversely affect the quantity or quality of water resources. VLP2 policy DP30 seeks to protect watercourses. RNP policy PP.8 states that development which directly promotes nature conservation and/or quiet recreation in the Radley Lakes area will be supported, subject to certain criteria including compliance with policy CP42, which requires a site-specific flood risk assessment for all development in Flood Zone 2 and 3 and for appropriate mitigation and management measures to be implemented. RNP policy PP.13 states that development will be supported where it is demonstrated that surface water drainage will not add to the existing site runoff or cause any adverse impact to neighbouring properties and the surrounding environment.
80. The majority of the site lies within flood zone 1, the area of least flood risk. However, the application areas include a small area at the southern end that is within flood zone 2. It is necessary therefore for the sequential test to be carried out which aims for development to be carried out in the least risk flood zone possible. The development would be directly associated with the future working of the remaining sand and gravel from the ROMP permissions DD1 and DD2 area. The national Planning Practice Guidance states that a pragmatic approach should be taken to assessing the availability of alternatives when applying the sequential test. The mineral reserves within the ROMP permissions area lie with Flood Zones 2 and 3 and it is not otherwise possible to access them from Thrupp Lane for their removal without at least passing through Flood Zone 2. It is therefore considered that the development passes the sequential test. As the applicant has stated, the conveyor would be sited on legs with a small footprint therefore touching the ground, it is considered that it would not affect surface water flows and no surface water management plan is required. The operational part of the conveyor would sit above the estimated flood level and so would not require any extra flood resistance and resilience measures. The Environment Agency has not objected to the application on flooding grounds or to its impacts on water resources.
81. It is therefore considered that the development is in compliance with the above policies.

Biodiversity Impacts

82. OMWCS policy C7 states that minerals development shall, where possible, lead to a net gain in biodiversity. It also states that all minerals development shall make an appropriate contribution to the maintenance and enhancement of local habitats, biodiversity or geodiversity and satisfactory long-term management for the restored site shall be included in proposals.
83. VLP1 core policy 45 states that a net gain in green infrastructure, including biodiversity, will be sought. VLP1 core policy 46 states that development which will conserve, restore and enhance biodiversity in the district will be permitted, opportunities for biodiversity gain will be sought and a net loss of biodiversity avoided.
84. RNP policy PP.8 states that development which directly promotes nature conservation and/or quiet recreation in the Radley Lakes area will be supported, subject to certain criteria including avoiding detriment to the integrity of the local ecology by incorporating appropriate measures in development proposals. Where appropriate these will include avoidance measures, mitigation measures and compensation measures.
85. Objections and comments on ecology grounds have been received from a number of parties. Some of the comments received relate to the working of mineral under the ROMP permissions DD1 and DD2 area and these are therefore matters which would be considered when the application for new conditions for the ROMP permissions DD1 and DD2 area is submitted for determination. Comment has also been made that the application is so closely related to the extraction of mineral from the ROMP permissions area that it should not be determined until that application has been submitted and related impacts within the ROMP permissions DD1 and DD2 area considered.
86. The applicant has submitted further ecological information including an extended Phase 1 Ecology Survey & Preliminary Ecological Appraisal. This identified that whilst the site is in a Red Risk Zone for Great Crested Newts, there is no current DNA sampling evidence for the presence of Great Crested Newts but that a methodology would be put in place for further hand searching at the time of vegetation clearance for construction of the proposed development. Should they be identified at that time then work would be halted and a licence sought to move them from Natural England. The applicant has also concluded based on further walking of the site that the waterbody of concern to the Environment Agency and other respondents has scrubbed over and so is no longer present. The County Council's own ecologist has walked the site and looked at the situation on the ground. She has also considered and responded to some detailed comments received in objection to the application on ecological grounds. The applicant has provided the confirmation she requested in her comments above. Her advice is that the development is now acceptable subject to a condition as set out above. The Environment Agency has also withdrawn its objection.
87. With regard to the point made about the determination of the application in advance of the submission and determination of the application for new conditions for the ROMP permissions DD1 and DD2 area, firstly central government does expect

planning applications to be determined in a timely manner and each application has to be determined on its own merits against the development plan and other material considerations. In this case the existence of the ROMP permissions DD1 and DD2 is a material consideration as this application would not otherwise have been made and is parasitic on the winning and working of the mineral. However, this situation also pertained in 2012 when the council granted planning permission to application no. MW.0001/12. Also, whilst the county council formed a Screening Opinion that the current application was EIA development in cumulation with that permitted by planning permission nos. DD1 and DD2, the applicant sought a Screening Direction from the Secretary of State who disagreed and concluded that the development was not EIA development. It is considered that this is material to this point and that the application can be determined in advance of the submission of the application and accompanying Environmental Statement for new conditions for the ROMP permissions DD1 and DD2 at which point the ecological impacts of that development including the land which would be required to link through to the development proposed in this application would be considered.

88. If this application were to be refused then the applicant would have a right of appeal but equally would be under no obligation to do so nor to seek to revise the application and re-submit it. It is considered that if or when the mineral is extracted from the ROMP permissions DD1 and DD2 area, having the option of its removal via the proposed conveyor for processing at Tuckwell's Yard is likely to have environmental benefits over direct removal by vehicles from the extraction area as rehearsed above.
89. As set out above the county council's own ecologist recommends that the application be approved subject to a condition requiring that the works shall be undertaken in accordance with the submitted Extended Phase 1 Habitat Survey & Preliminary Ecological Appraisal Version 5 produced by AD Ecology (June 2021), an Ecological Clerk of Works / Suitably Qualified Ecologist will be present prior to works commencing, to ensure no animals are present and that, should any be found, the Ecologist will move them to a safe location. I also recommend that a condition be attached requiring that the development shall only be implemented at such time as a new set of planning conditions for the working of the ROMP permissions DD1 and DD2 site has been approved.
90. Subject to these conditions, it is considered that the application is in accordance with the aims of the above policies.

Financial Implications

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

Legal Implications

92. Legal comments and advice have been incorporated into the report.

Equality & Inclusion Implications

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

Conclusion

94. It is considered that subject to conditions, including those discussed above, the proposed development would accord with the development plan and that other material considerations raised could be addressed so as to render the impacts of the development acceptable. Conditional planning permission should therefore be granted subject to the entering into first of a section 106 Agreement for the provision of the permissive path.

RECOMMENDATION

It is RECOMMENDED that subject to the applicant first entering into a section 106 agreement for the provision of a permissive path to provide a link between Thrupp Lane and the disused railway line as part of the restoration of the site that planning application no. MW.0075/20 be APPROVED subject to conditions to be determined by the Assistant Director for Strategic Infrastructure and Planning to include those set out in Annex 1 to this report.

RACHEL WILEMAN

Assistant Director for Strategic Infrastructure and Planning

Annex: Annex 1: Conditions

Annex 2: European Protected Species

Plan 1: Site Location Plan

Background papers: Nil

Other Documents: Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy

PN7

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

The Vale of White Horse Local Plan 2031 Part 2 (VLP2)

Radley Neighbourhood Plan 2018-2031

Radley Lakes Masterplan

National Planning Policy Framework

National Planning Practice Guidance

Planning permission no. MW.0001/12

ROMP permissions DD1 and DD2

August 2021

Annex 1 - Conditions

1. Development shall be carried out in complete accordance with the approved documents and plans .
2. Commencement of the development within 5 years of date of consent.
3. The development to not be implemented prior to the grant of new planning conditions for the ROMP permissions DD1 and DD2 area.
4. The development to only be implemented in association with the extraction of sand and gravel and restoration of the ROMP permissions DD1 and DD2 area pursuant to the grant of new planning conditions.
5. No new fixed plant, machinery or structures to be erected on the land other than in accordance with the details set out in the application or in accordance with details to first be submitted and approved in writing.
6. Stockpiles within the flood plain shall be sited so as not to impede flow of flood water.
7. Details of the maximum height of stockpiles to be submitted and approved in writing prior to the commencement of the development and no stockpiles to exceed the approved maximum height.
8. Maximum annual throughput of the processing plant to be 150,000 tonnes per annum.
9. Maximum daily Heavy Goods Vehicle movements to not exceed 64 (32 in, 32 out) per day.
10. Details of the measures to be taken for the protection of existing boundary vegetation and its enhancement where any gaps exist to be submitted and approved in writing prior to the commencement of the development and implemented thereafter.
11. Submission and approval in writing of a detailed restoration plan prior to the commencement of the development.
12. Completion of restoration including the removal of plant and machinery no later than 16 years from the date of re-commencement of sand and gravel extraction pursuant to the grant of new planning conditions for the ROMP permissions DD1 and DD2 area.
13. The works shall be undertaken in accordance with Section 7 of the Extended Phase 1 Habitat Survey & Preliminary Ecological Appraisal Version 5 produced by AD Ecology (June 2021). An Ecological Clerk of Works / Suitably Qualified Ecologist shall be present prior to works commencing, to ensure no animals are present. Should any animals be found, the Ecologist shall move them to a safe location.

14. Operating hours to not be other than 0700-1800 Mondays to Fridays, 0700-1300 Saturdays and additionally 1300-1800 Saturdays for plant maintenance only.
15. Sheeting of any lorries leaving the site except those carrying stone in excess of 500mm.
16. Reversing beepers shall use white noise only.
17. No lighting to be used other than in accordance with details of which shall first be submitted and approved in writing.
18. Dust control measures to be carried out in accordance with the submitted dust management scheme.
19. Noise level at the nearest residential property on Thrupp Lane to not exceed that calculated in the submitted noise impact assessment.
20. 5 years aftercare scheme for the restored area be submitted to and approved in writing no later than six months before the completion of restoration and implemented following completion of restoration.
21. No mineral to be imported by road to the processing plant site area for processing; only sand and gravel from the ROMP permissions DD1 and DD2 area which shall be brought by conveyor.

Informatives

1. Participation in liaison committee.
2. The applicant to work with Radley Parish Council to look at what measures could be provided to mitigate highway impacts pending any delivery of an alternative in line with policy PP.9.

Compliance with National Planning Policy Framework

In accordance with paragraph 38 of the NPPF Oxfordshire County Council takes a positive and creative approach and to this end seeks to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. We seek to approve applications for sustainable development where possible.

We work with applicants in a positive and creative 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 objections raised with regard to the ecological impact of the application were raised with the applicant and further information submitted.

Annex 2 - European Protected Species

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

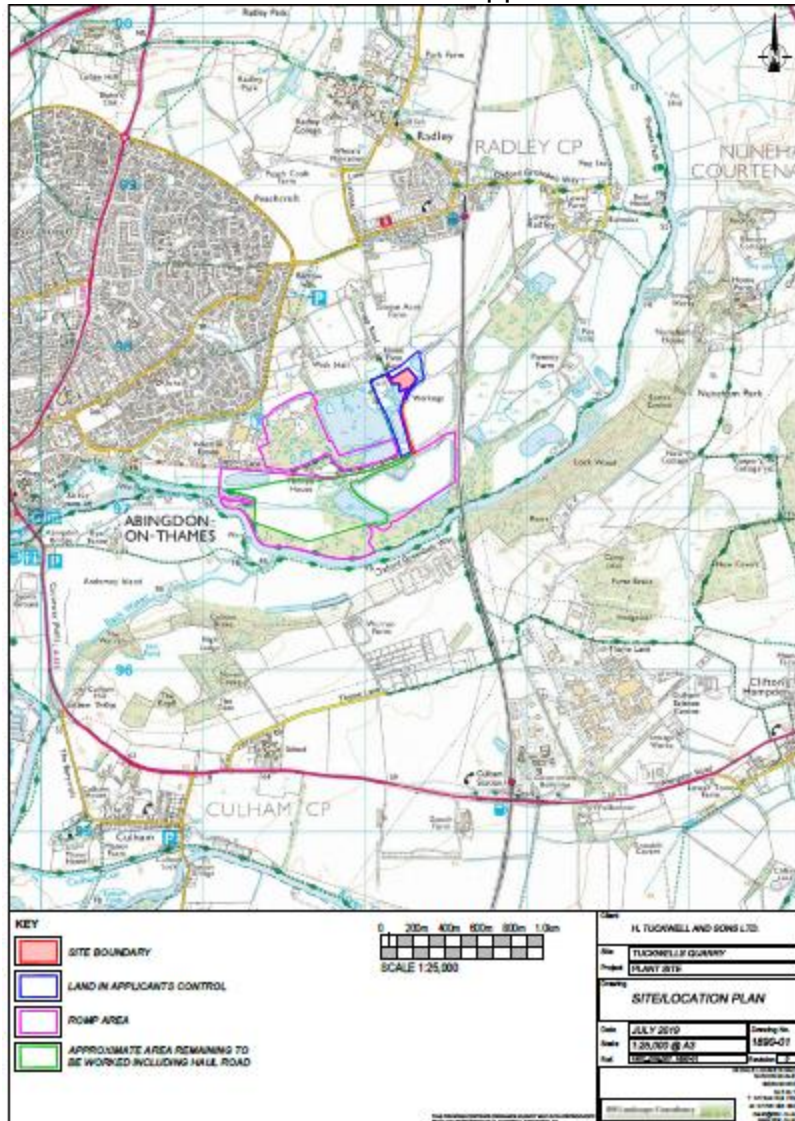
which identifies 4 main offences for development affecting European Protected Species (EPS).

- 1) Deliberate capture or killing or injuring of an EPS
- 2) Deliberate taking or destroying of EPS eggs
- 3) Deliberate disturbance of an 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.

No further consideration of the Conservation of Species & Habitats Regulations is necessary.

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Plan 1 – Site Location Plan from application MW.0075/20



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Division Affected – All

PLANNING AND REGULATION COMMITTEE - 19 JULY 2021

PROGRESS REPORT ON MINERALS AND WASTE SITE MONITORING AND ENFORCEMENT

Report by Assistant Director for Strategic Infrastructure and Planning

Contact Officer:

Neal Richmond

Tel: 0771 865 6922

The report recommends that the Schedule of Compliance Monitoring Visits in Annex 1 and the Schedule of Enforcement Cases in Annex 2 be noted.

Executive Summary

1. The report provides a summary of the work undertaken by the County's planning monitoring and enforcement team. It gives an update by way of a schedule of compliance monitoring visits for the period 1 April 2020 to 31 March 2021 (Annex 1). An update on the progress of planning enforcement actions is also provided (Annex 2).

Introduction

2. This report updates members on the regular monitoring of minerals and waste planning permissions for the financial year 1st April 2020 to 31st March 2021 and on the progress of enforcement cases.

Compliance Monitoring Visits

3. County Council officers endeavour to pursue and foster good working relationships with operators following the grant of planning permission. The effective monitoring of sites can avoid problems developing and by acting in a proactive manner we can be a positive educator of good practice. This approach can avoid the necessity to act in a reactive way after problems emerge and can avoid the need for enforcement action. Through our efforts we seek to:
 - I. identify potential problems early and avoid them developing;
 - II. minimise the need to resort to enforcement or other action;
 - III. encourage good practice in the first instance thus reducing the need to apply sanctions against bad practice;
 - IV. review planning decisions and agreements made with the County Council;

- V. facilitate regular liaison and dialogue between operators, the public/local community representatives and the council officers.
4. All sites with an active planning permission are scheduled to be visited on a formal basis. A written report is produced following any substantive site visit and shared with the site occupant. Where elements of non-compliance with a consent are identified this can result in subsequent compliance with matters that are outstanding or in a planning application being made to regularise unauthorised development on site. On occasion, should regularisation not occur, (and where it considered expedient to do so), formal enforcement action may be pursued.
5. Annex 1 provides a schedule of all the consented sites we monitor. It includes two columns, one which sets out the target visits for the fiscal year 1 April 2020 to 31 March 2021, and the second which sets out the number of compliance monitoring visits that were carried out during that period. **75%** of the total targeted number of visits were carried out with the majority of active sites in the county receiving at least one visit. The number of visits is not necessarily reflective of workload as site visits vary in their complexity, both in terms of responding to their planning history and in the action required. The number of site visits undertaken also varies according to the level of activity on site and the engagement of other stakeholders (such as the Environment Agency) with whom we work closely. Whilst there are some instances where target number of visits were not met; this is due to both the prioritisation of visits to more demanding sites (where new/unforeseen issues had been identified or complaints received) and more significantly, the backdrop of non-emergency site visits being curtailed in line with the Covid 19 restrictions. Unfortunately, a significant period of the monitoring year was adversely impacted upon due to Covid 19 (both directly and indirectly). Emergency/urgent enforcement visits were still undertaken, and 'desktop' planning audits conducted throughout the periods of lockdown. The inability to enter onto the land (and thus what could constitute a chargeable visit) has also reduced the level of income from monitoring fees to those landfill and mineral sites where legislation provides for a charge to be levied.
6. In order to try to achieve and maintain good environmental standards countywide, officers have committed to monitoring planning permissions across all of the mineral and waste related sites in Oxfordshire. However, you will see that some sites have a zero target, these are low risk, small scale or dormant sites (such as sewage treatment works) which we record but will typically only be visited every other year.
7. Out of a total of 108 sites, 45 are within the remit of Government Regulations that allow the council to charge a fee for conditions monitoring, in that they relate directly to the planning permissions for the winning and working of mineral or directly to landfilling permissions.

8. The remaining non-chargeable sites include such facilities as scrap yards, recycling operations, waste transfer stations, sewage works and composting operations.
9. The current charges are respectively £397 for an active site and aftercare visit, and £132 for a dormant site where activity is not taking place.
10. Officers determine the target number of visits for each site on a “risk assessment” basis for each site drawing on the following points:
 - I. sensitivity of location
 - II. size and type of development
 - III. number and complexity of planning conditions
 - IV. number of issues requiring monitoring input
 - V. the stage and pace of development
 - VI. breaches of planning control that are or have been observed
 - VII. complaints received for the site.
11. There is an opportunity for operators to enter into discussions on how the Council has reached its decision for the number of visits scheduled per year. Having set a target for the number of visits per annum, officers keep the frequency of actual visits under review and adjust the frequency particularly taking account of IV, VI, and VII and above.

Enforcement

12. Annex 2 of this report summarises active cases subject to ongoing investigation and formal enforcement action. It sets out alleged breaches of planning control and the progress toward remedying those substantive breaches of planning control.
13. All operators are made aware of an allegation of a breach in planning control that has been made against them.
14. When a case is closed it will appear on the progress report as ‘Case Closed’ with a summary of the outcome.
15. A glossary of terms used in Annex 3 is attached. The Senior Enforcement Officer can be contacted for further information in respect of any of these cases if necessary.

Monitoring and Enforcement Service

16. The adopted policy of Oxfordshire County Council Local Monitoring and Enforcement Plan commits to maintaining resources to effectively carry out the objectives and meet its aims. The routine monitoring programme continues to

foster greater compliance with planning conditions, and promotes identifying and rectifying matters where conditions are not being complied with on all mineral and waste planning permissions.

17. The service is generally well received by householders, liaison committees, parish and town councils with access to compliance reports providing a basis for discussions with operators on the progress on sites in their locality. It seeks to provide a timely response to local people's concerns and serves to pre-empt issues which are likely to affect the amenities of an area.
18. Officers in the team also provide key support in ensuring that details pursuant to permissions are submitted where these are required by planning conditions before a development starts. They often co-ordinate action between Development Management planners, Highways, Ecology and other County services and the operator. The aim is to ensure pre commencement works are completed in a timely manner and before the main development is started. Ultimately, the work of the county planning monitoring and enforcement team is fundamental to maintaining confidence in the planning system and protecting and enhancing the environment for all residents and businesses within Oxfordshire.

Financial Implications

19. Not applicable as the financial interests of the County Council are not relevant to the enforcement of planning control.

Legal Implications

20. There are no legal implications arising from this report.

Equality & Inclusion Implications

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

RECOMMENDATION

22. **It is RECOMMENDED that the Schedule of Compliance Monitoring Visits in Annex 1 and the Schedule of Enforcement Cases in Annex 2 be noted.**

RACHEL WILEMAN

Assistant Director for Strategic Infrastructure and Planning

July 2021

Annexes: Annex 1: Schedule of Compliance Monitoring Visits

Annex 2: Schedule of Enforcement Cases

Annex 3: Glossary of Terms

Background papers: None

Other Documents: Oxfordshire County Council Local Monitoring and
Enforcement Plan

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Minerals & Waste Compliance Monitoring Sites in Cherwell District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/19 to 31/03/20	Visits completed for the period 01/04/19 to 31/03/20
Alkerton CA & Landfill, Alkerton, Nr. Banbury, Oxon.	Alkerton Landfill	W	Aftercare	Full	1	1
	Alkerton CA	W	Active	Nil		
Barford Road Farm, Barford Road, South Newington, Banbury OX15 4JJ		W	Active	Nil	2	1
Hornton Grounds, Stratford Road, Hornton, Banbury, OX15 6AH.	Alkerton Quarry	M	Active	Full	4	3
	Hornton Grounds Quarry.	M	Active for stone processing			
	Wroxton	M	Active	Full		
Ardley Quarry, Ardley, Bicester, Oxon, OX27 7PH.	Ardley Landfill	W	Active	Full	3	2
	Ardley EfW	W	Active	Nil		
	Ardley Quarry	M	Active	Full		

Minerals & Waste Compliance Monitoring Sites in Cherwell District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/20	Visits completed for the period 01/04/21 to 31/03/21
Ardley Composting Site, Ashgrove Farm, Upper Heyford Road, Ardley, OX27 7PJ.	In-vessel Composting	W	Active	Nil	1	1
Belle Isle Farm, Sibford Road, Hook Norton		W	Active	Nil	0	0
Dewar's Farm, Ardley Road, Middleton Stoney.		M	Active	Full	3	3
Horsehay Quarry, Middle Barton Road, Duns Tew.		M	Active	Full	3	2
Ferris Hill Farm, Sibford Road, Hook Norton, Banbury, OX15 5JY.		W	Active	Nil	4	3
Finmere Quarry, Banbury Road, Finmere, Oxfordshire, MK18 4AJ.	Finmere (Landfill)	W	Active	Full	4	7
	Widmore	W	Aftercare	Nil		
	MRF	W	Dormant	Nil		
	Sand & Gravel	M	Not Implemented	Full		

Minerals & Waste Compliance Monitoring Sites in Cherwell District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/19 to 31/03/20	Visits completed for the period 01/04/19 to 31/03/21
Heneff Way - Batching, Heneff Way, Banbury.		M	Active	Nil	2	1
Heneff Way - Tarmac, Heneff Way, Banbury.		M	Active	Nil	2	2
L.C. Hughes Scrap Yard, London Road, Bicester.		W	Active	Nil	1	0
Spittle Farm WTS, Thorpe Road, Overthorpe Industrial Estate, Banbury		W	Active	Nil	2	1
Shipton on Cherwell Quarry, Shipton on Cherwell, Oxfordshire.		W	Active	Full	4	4
Smiths of Bloxham - WTS. Milton Road, Bloxham, Banbury.		W	Active	Nil	2	1
Stratton Audley, Elm Farm Quarry, Stratton Audley.	Landfill	W	Dormant	Low	1	1
White Hill Quarry, Tackley, OXON		M	Dormant	Low	1	1
Total	-	-	-	-	40	34 (85%)

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Minerals & Waste Compliance Monitoring Sites in Oxford.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Jackdaw Lane Scrap Yard		W	Active	Nil	1	0
Redbridge CA, Old Abingdon Road, Oxford.		W	Active	Nil	1	0
Total	-	-	-	-	2	0 (0%)

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Minerals & Waste Compliance Monitoring Sites in South Oxfordshire District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Ambrose Quarry, Ewelme, Oxon.		M	Dormant	Low	1	1
Battle Farm, Crowmarsh, Oxon, OX10 6SL.		W	Active	Nil	1	0
Caversham, Sonning Eye, Reading.	Caversham Main	M	Active	Full	3	2
	Caversham Triangle	M	In restoration	Full		
	Caversham Extension	M	Active	Full		
Chinnor Quarry.		M	Active	Full	1	1
Culham UKAEA		W	Active	Nil	0	0
Culham No 1		W	Active	Nil	0	0
Ewelme Landfill. Goulds Grove, Ewelme, Wallingford, Oxon.	Ewelme I (Buildings)	W	Active	Nil	3	2
	Ewelme I WTS	W	Active	Nil		
	Ewelme II MRF	W	Active	Nil		
	Ewelme II Landfill	W	Active	Full		
Eyres Lane Waste Transfer Site, Ewelme.		W	Active	Nil	3	1

Minerals & Waste Compliance Monitoring Sites in South Oxfordshire District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Greenwoods of Garsington, Scrap Yard, Pettiwell, Garsington, Oxford.		W	Active	Nil	1	0
Main Motors Ltd, Woodside, Old Henley Road, Ewelme, Oxon		W	Active	Nil	2	0
Hundridge Farm, Waste Transfer, Hundridge Farm, Ipsden, Oxon		W	Active	Nil	1	0
Menlo Industrial Park - Scrap Yard, Roycote Lane, Thame, Oxfordshire, OX9 2JB.		W	Active	Nil	1	0
Moorend Lane, Thame		M & W	Active	Full	2	1
New Barn Farm		M	Active	Full	3	2
Oakley Wood, Old Icknield Way, Crowmarsh		W	Aftercare	Nil	1	0

Minerals & Waste Compliance Monitoring Sites in South Oxfordshire District.**Contact Officer: Neal Richmond, Senior Enforcement Officer****Tel: 0771 865 6922**

Playhatch Quarry - WTS, Dunsden Green Lane, Playhatch, Caversham, Reading.		W	Active	Nil	2	2
Woodeaton Quarry, Woodeaton, OXON.		M	Active	Full	2	3
Total	-	-	-	-	27	15 (56%)

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Minerals & Waste Compliance Monitoring Sites in Vale of the White Horse District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Aasvogel, Waste Transfer Station, Grove Business Park, Grove.		W	Active	Nil	1	0
Bowling Green Farm, Stanford Road, Faringdon, Oxon.		M	Active	Full	3	3
Childrey Quarry, Childrey, Wantage, Oxon.		W	Active	Full	0	1
Prospect Farm, Chilton, Didcot, Oxfordshire, OX11 0ST.		W	Active	Full	2	1
Drayton CA Site, Drayton, Oxon.		W	Active	Nil	1	0
Composting Facility, Church Lane, Coleshill, Swindon, SN6 7PR.		W	Active	Nil	1	0
Farringdon Quarry, Fernham Road, Little Coxwell, Oxfordshire.		M	Active	Full	3	1

Minerals & Waste Compliance Monitoring Sites in Vale of the White Horse District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Glebe Farm Composting, Glebe Farm, Hinton Waldrist, Oxfordshire.		W	Active	Nil	1	1
Haynes of Challow, East Challow, Wantage, Oxon, OX12 9TB.		W	Active	Nil	1	0
Hatford Quarry, Sandy Lane, Hatford, Oxon, SN7 8JH.		M	Active	Full	4	3
Hill Farm - Woodchipping, Nr Didcot, Oxfordshire.		W	Active	Nil	2	1
Quelchs Orchard, Scrap Yard, Charlton, Wantage.		W	Active	Nil	1	0
Radley Sand and Gravel Plant, Thrupp Lane, Radley.	Curtis Yard & Tuckwell's Plant	M & W	Dormant	Nil	1	0

Minerals & Waste Compliance Monitoring Sites in Vale of the White Horse District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Harwell, UKAE, Harwell, Didcot, OX11 ORA.					1	1
	Business Park		Active	Nil		
	Catapult Pit		Active	Nil		
	Southern Storage		Active	Nil		
	Waste Management Complex (B462)	W	Active	Nil		
	Western Storage		Active	Nil		
Radley Ash Disposal Scheme	Lake E	W	Not Implemented	Nil	0	1
	Phase I	W	Aftercare	Full		
	Phase II	W	Aftercare	Full		
	ROMP area	M	ROMP	Full		
Sandhill Quarry, Sands Hill, Faringdon, Oxon, SN7 7PQ.		M	Dormant	Low	1	2
Shellingford Quarry, Shellingford Crossroads, Stanford In The Vale, Faringdon, Oxon, SN7 8HE.		W	Active	Full	3	4

Minerals & Waste Compliance Monitoring Sites in Vale of the White Horse District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Stanford in the Vale Waste Disposal and Civic Amenity Site		W	Active	Nil	1	0
Stone Pitt Barn, Kingston Road, Frilford, Abingdon, OX13 5HB		W	Active	Nil	2	3
Sutton Courtenay (Hanson), Appleford Sidings, Abingdon, Oxfordshire, OX14 4PW.	Batching Plant	W	Active	Nil	3	1
	Bridge Farm	W	Active	Full		
	Rail Head	W	Active	Nil		
	Tarmac plant	W	Active	Nil		
Sutton Courtenay (FCC), Appleford Sidings, Abingdon, Oxfordshire, OX14 4PW.	Composting	W	Active	Nil	3	2
	Landfill	W	Active	Full		
Sutton Wick Landfill, Bassett Lane, Oday Hill, Abingdon.		W	Aftercare	Full	1	0
Sutton Wick Sand and Gravel, Peep-O-Day Lane, Abingdon, Oxon.	Allen Land	M	Restoration	Full	3	2
	Sutton Wick Plant	M	Active	Nil		
	CAMAS	M	Active	Full		

Minerals & Waste Compliance Monitoring Sites in Vale of the White Horse District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Swannybrook Farm, Kingston Bagpuize		W	Active	Nil	3	6
Tubney Woods Sand Quarry and Landfill Site, Besselsleigh, Oxfordshire.		M	Restoration	Full	1	0
Upwood Park Sand Quarry and Landfill Site, Besselsleigh, Oxfordshire.		M	Active	Full	3	3
Whitecross Metals, Whitecross, Abingdon, Oxon.		W	Active	Nil	1	0
Wicklesham Quarry, Faringdon, Oxfordshire.		M	Aftercare	Full	1	2
Total	-	-	-	-	48	38 (79%)

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Minerals & Waste Compliance Monitoring Sites in West Oxfordshire District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
B & E Skips, 115 Brize Norton Road, Minster Lovell, Oxon, OX29 0SQ.	Minster Lovell	W	Active	Nil	1	0
Burford Quarry, Burford Road, Brize Norton, Oxfordshire.	Quarrying	M	Active	Full	3	1
	Manufacturing					
Castle Barn Quarry, Sarsden		M	Active	Full	2	3
City Farm, Eynsham.	City Farm I	W	Aftercare	Full	0	1
	New Wintle Farm	W	Active	Nil		
		W	Aftercare	Nil		
New Wintle Farm		W	Non-active	Nil	2	4
Controlled Reclamation, Dix Pit, Stanton Harcourt, Oxon.		W	Active	Full	2	1
Sheehan Recycled Aggregates, Dix Pit, Stanton Harcourt, Oxon.	Wash Plant	W	Active	Nil	2	2

Minerals & Waste Compliance Monitoring Sites in West Oxfordshire District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Crawley Scrap Yard		W	Active	Nil	0	1
Deans Pit CA Site, Chadlington.		W	Closed	Nil	1	0
Dix Pit, Stanton Harcourt, Oxon.	Conblock	W	Dormant	Nil	3	3
	Dix Pit CA	W	Active	Nil		
	Dix Pit Landfill Site	W	Active	Full		
	North Shore	M	Complete	Full		
	Premix - Hanson	M		Nil		
Enstone Airfield Waste Transfer. Unit 1, Enstone Airfield, Enstone, Oxon.	Waste Transfer (Unit 1)	W	Dormant	Nil	3	3
	Sound Attenuation Bunds	W	Active	Full		
Ethos Waste Transfer Lakeside Industrial Estate, Standlake, Oxon		W	Dormant	Nil	4	3

Minerals & Waste Compliance Monitoring Sites in West Oxfordshire District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
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Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Fraser Evans & Sons, Worsham Quarry, Minster Lovell, Oxon.	Tyre Recycling	W	Active	Nil	1	0
	Landfill	W	Aftercare	Full		
Worsham (Asthall)		W	Active	Nil	1	0
Gill Mill, Tar Farm, Gill Mill Complex, Ducklington, Oxfordshire.	Rushey Common	M	Aftercare	Full	3	2
	Gill Mill Quarry	M	Active	Full		
Great Tew Quarry, Butchers Hill, Great Tew, Oxon.		M	Active	Full	3	1
Hardwick Batching Plant,/ Hardwick Recycling Adj. B4449, Hardwick, Oxon.	CEMEX	M	Active	Nil	2	2
	Fergal Yard					
Hickman Bros Landscapes, Burford		W	Active	Nil	1	0
Alder & Allen, Lakeside Industrial Estate, Standlake		W	Active	Nil	1	0

Minerals & Waste Compliance Monitoring Sites in West Oxfordshire District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Manor Farm - Waste Transfer, Kelmscott, GL7 3HJ.		W	Active	Nil	1	1
Ubico, Downs Road WTS, Witney, Oxon.		W	Active	Nil	1	0
Mick's Skips (Hackett's Yard), Lakeside Industrial Estate, Standlake, Oxon.		W	Active	Nil	1	1
Mick's Skips (Witney)		W	Active	Nil	1	0
Sandfields Farm, Over Norton, Oxfordshire.		W	Active	Nil	2	0
Rollright Quarry, Chipping Norton.	Phase 1	M	Active	Full	4	3
	Phase 2	M	Active	Full		
Showell Farm, Chipping Norton, Oxon OX7 5TH.		W	Active	Nil	1	1
Slape Hill Quarry, Glympton.		W	Active	Nil	1	3
Old Railway Halt, Grt Rollright		W	Active	Nil	1	0

Minerals & Waste Compliance Monitoring Sites in West Oxfordshire District.

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Address	Sites	Type - Mineral or Waste	Status	Charge	Target Visits for year 01/04/20 to 31/03/21	Visits completed for the period 01/04/20 to 31/03/21
Steve Claridge Motor Salvage, Carterton		W	Active	Nil	1	0
Sturt Farm, Units 2A, 4 Sturt Farm Ind, Burford.		W	Active	Nil	1	0
Watkins Farm, Linch Hill, Stanton Harcourt, OXON. OX29 5BJ.	ROMP area	M	Aftercare	Full	1	2
	Stonehenge Farm	M	Dormant	Full		
	Ireland Land	M	Dormant	Full		
Whitehill Quarry, Adj. A40, Burford, OXON.		M	Active	Low	3	2
Worton Rectory Farm, Cassington, OXON. OX29 4SU.	Cassington Quarry	M	Active	Full	4	5
	Worton Composting	W	Active	Nil		
	M&M WTS	W	Active	Nil		
Total	-	-	-	-	58	45 (78%)

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Progress of Enforcement Cases

Contact Officer: Neal Richmond, Senior Enforcement Officer
Tel: 0771 865 6922

Location	Alleged Breach of Planning Control	Progress/Update summary.
South Oxfordshire District Council		
Land at Lower Icknield Way, Chinnor	Unauthorised deposit of waste	Waste soil and rubble not removed following previous housing development. Planning Contravention Notice (PCN) served. After recent threat of enforcement notice, waste has been removed to an authorised site, and land restored to previous condition. Case closed.
Land adj. Sewage Works, Clifton Hampton	Unauthorised deposit of waste	Waste soil; construction and demolition waste and wood deposited on hardstanding adjacent to the Culham Science Park. PCN served. Maintain watching brief.
Former MOD Warehouse, Pyrton Lane, Watlington	Unauthorised waste operations	Waste wood and carpet have been brought to the site, stored and processed (chipped) without planning permission. A PCN has been served. The waste activity ceased. Enforcement proceedings held in abeyance pending the clearance of the land. Maintain watching brief.
Vale of White Horse		
Swannybrook Farm, Abingdon Road, Kingston Bagpuize	Breach of Conditions – concrete crushing; operating beyond site boundary; excessive HGV movements; excessive stockpile height.	Waste operations were being carried out outside of the site boundary of the permitted waste soils recycling site, unauthorised use of concrete crusher, excessive height of stockpiles and excessive number of HGVs. Retrospective Planning applications MW.0135/19 & MW.0134/19 were submitted by the operator to regularise the unauthorised activities. Following a resolution to grant planning permission (October 2020) by OCC P & R Committee, (subject to a legal agreement relating to routeing of HGV's), upon completion and signing of the routeing agreement, new planning permissions with updated conditions for enhanced control of the site were issued. The site is now governed by the new

		planning permissions. Ongoing site visits (including a recent (June 2021) joint visit with the Environment Agency) have taken place. Maintain watching brief/ formal monitoring.
Cherwell		
Lower Nill Farm, Hook Norton Road	Unauthorised deposit of waste.	A planning enforcement notice (EN) was served requiring the cessation of importation of waste and the removal of previously imported waste from the agricultural land. The EN was not appealed by the landowner and therefore came into effect 15 th March 2021. Whilst importation of waste onto the land has ceased in line with the requirements of the EN, the removal of waste from the site has not yet taken place. The County Council is considering the expediency of prosecution proceedings to effect the removal of materials from site. This consideration will take into account the impact Covid 19 Lockdowns may have had on the ability of the landowner to organise the removal. Ultimately, should the materials not be removed from the land in line with the requirements of the EN, a criminal prosecution could be initiated. The landowner is continuing to be pressed on this matter, and ongoing monitoring of the site (including on possible unauthorised mineral extraction) continues to take place.
Shipton-on-Cherwell Quarry	Breach of Conditions – development not to plan; the deadline for the cessation of mineral extraction; import of aggregates, submission of aftercare schemes; breach of the approved mineral extraction area; breach of the depth of mineral working; submission of restoration schemes	Following a PCN being served on the operator in March 2020, a breach of conditions Enforcement Notice was served on the operator and all those with an interest in the land on 31/07/2020. The EN alleges breaches of Conditions 1,2,3,39,46,47 and 50 of planning permission ref MW.0001/19 dated 22/03/2019. The operator made an appeal against the EN to the Planning Inspectorate which has suspended the effect and requirements of the EN until the case is heard and decision reached by the Planning Inspectorate. The Planning Inspectorate had originally timetabled the appeal to be heard June 29 th -30 th 2021 by way of a hearing. This hearing was postponed at the agreement of the Planning Inspectorate given the EN appeal was agreed to be linked to a Section 78 planning appeal (refusal of planning permission) for a proposed south eastern extension at the Shipton-on Cherwell Quarry (and for which evidence has more recently been put forward by the Environment Agency). Alongside these developments in the cases, the appellant operator of the site has again requested to the Planning Inspectorate that this enforcement and linked Section

		78 appeal be heard via Public Inquiry. This request has most recently been denied by the Planning Inspectorate and instead, a 3 day appeal hearing will take place. We are now awaiting the revised dates for the hearing. In the meantime, the site is subject to ongoing monitoring and any necessary further enforcement action kept under review.
Land off Pound Lane, Sibford Gower	Unauthorised waste disposal on agricultural land.	PCNs have been served on the landowners of agricultural land in respect of alleged unauthorised waste disposal. Early contact with the landowners has resulted in waste disposal on the land ceasing and an early commitment to remove the waste materials from the land to an authorised site. The Environment Agency were informed by the County Council and are also taking action through their powers under the Environmental Protection Act. Ongoing monitoring of the site. Further enforcement action to be kept under review if waste materials are not voluntarily removed.
Land south of Barford Road, South Newington	Unauthorised deposit of waste	Waste soils imported on land from a development site in Hook Norton to fill a lake on agricultural land. PCN Served. The landowner asserts that the import of material is required to provide for an area of hard surface (for the storage of hay and straw), which is permitted development under Class A of Part 6 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The case was reported to the Environment Agency for their investigation. Investigations ongoing, maintain a watching brief.
Stratton Audley Quarry	Unauthorised deposit of waste and on-going breach of planning conditions – failure to restore	The site was required to be restored by 31 st December 2008. OCC has ten years from that date in which to bring enforcement proceedings for on-going breach of planning control as reported to Planning & Regulation Committee on 29 th October 2018. Enforcement Notice was served and withdrawn. Planning application MW.0120/18 was submitted by the landowner seeking to allow extension of time for the completion of the restoration and withdrawn. In both cases this was by agreement pending submission of a further application to address the need for a revised restoration scheme taking into account the presence of protected habitats and species. Pre-application discussions are to be held with a view to a further application being submitted by 28 th February

		2022. If no application is forthcoming and determined by December 2022 then a further enforcement notice would have to be served.
West Oxfordshire		
Land at 'Park Field', Tracey Barn Farm (North of Green Lane), Great Tew, Chipping Norton.	Unauthorised mineral extraction (quarrying) and waste infilling.	A Temporary Stop Notice (TSN) was served on the landowner and operator on 20 th May 2021 requiring the cessation of ' <i>The winning and working of mineral and any other activity carried out as part of, or associated with, the winning and working of mineral on the land; the removal of extracted minerals from the land; the importation and disposal of waste material onto the land</i> '. Further extraction and infill of this large and entirely unauthorised quarry was brought to an immediate halt following the service of this TSN. Meeting and negotiations with the landowner before the TSN expired in time have led to a written commitment not to further extract materials or infill the resultant void, pending a retrospective planning application seeking to regularise the development being submitted to and considered by the County Council.
Ethos (William Wyatt's Yard), Standlake Industrial Park	Unauthorised waste operations	Stockpiling and removal of previous deposit of unauthorised waste. PCN served. Immune from enforcement action. Site is continuing to be monitored by the Monitoring & Enforcement team in case of resurrection of waste importation.
Land West of Fish Hill Farm, Drakes Lane	Unauthorised disposal of waste	A small uncovered pit filled with a significant amount of waste bottles and cans with an adjacent larger area of spoil. PCN served. Landowner confirmed that stripping back of topsoil and excavation to improve the drainage of land is carried out and no import of waste took place. Fly-tipping of waste bottles and cans removed with evidence of proper disposal. Maintain a watching brief.
Manor Farm, High Street, Great Rollright	Unauthorised quarrying and deposit of waste	PCN served on the landowner and the operator. Ongoing monitoring to ensure no further waste importation or mineral extraction. Further formal enforcement action being kept under review.

PN8

Awaiting DP	-	Details pursuant to a planning condition must be approved by OCC prior to commencement of development.
BCN	-	Breach of Condition Notice – A summary procedure for the enforcement of planning conditions. Where there has been a failure to comply with a condition attached to a current planning permission the Local Planning Authority may serve such a notice.
CDC	-	Cherwell District Council
CLEUD	-	Certificate of lawful use / development. A procedure to allow a person to ascertain whether; (a) the existing use of land or buildings is lawful; (b) any operations carried out in, on, over or under land are lawful; or (c) any other matter constituting a failure to comply with a condition of a planning permission is lawful.
COU	-	Change of Use
EA	-	Environment Agency
EN	-	Enforcement Notice
Expediency	-	A judgment of the merits of an activity against planning policy.
LBA	-	Letter before action - a formal letter which sets out the alleged breach in planning control and suggested remedy.
OCC	-	Oxfordshire County Council
PCN	-	Planning Contravention Notice – A formal notice requiring a recipient to provide information about development on land so far as they are able.
Pd	-	permitted development
Pp	-	planning permission
SODC	-	South Oxfordshire District Council
VoWH	-	Vale of White Horse District Council
WODC	-	West Oxfordshire District Council

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PLANNING & REGULATION COMMITTEE – 6 SEPTEMBER 2021

Policy Annex (Relevant Development Plan and other Policies)

Oxfordshire Minerals and Waste Local Plan – Core Strategy 2031 (OMWCS)

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 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 C2: CLIMATE CHANGE

Proposals for minerals or waste development, including restoration proposals, should take account of climate change for the lifetime of the development from construction through operation and decommissioning. Applications for development should adopt a low carbon approach and measures should be considered to minimise greenhouse gas emissions and provide flexibility for future adaptation to the impacts of climate change.

POLICY C3: FLOODING

Minerals and waste development will, wherever possible, take place in areas with the lowest probability of flooding. Where development takes place in an area of identified flood risk this should only be where alternative locations in areas of lower flood risk have been explored and discounted (using the Sequential Test and Exceptions Test as necessary) and where a flood risk assessment is able to demonstrate that the risk of flooding is not increased from any source, including:

- an impediment to the flow of floodwater;
- the displacement of floodwater and increased risk of flooding elsewhere;
- a reduction in existing floodwater storage capacity;
- an adverse effect on the functioning of existing flood defence structures; and
- the discharge of water into a watercourse.

The opportunity should be taken to increase flood storage capacity in the flood plain where possible, particularly through the restoration of sand and gravel workings.

POLICY C4: WATER ENVIRONMENT

Proposals for minerals and waste development will need to demonstrate that there would be no unacceptable adverse impact on or risk to:

- The quantity or quality of surface or groundwater resources required for habitats, wildlife and human activities;
- The quantity or quality of water obtained through abstraction unless acceptable provision can be made;
- The flow of groundwater at or in the vicinity of the site; and
- Waterlogged archaeological remains.

Proposals for minerals and waste development should ensure that the River Thames and other watercourses and canals of significant landscape, nature conservation, or amenity value are adequately protected from unacceptable adverse impacts.

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 C11: RIGHTS OF WAY

The integrity and amenity value of the rights of way network shall be maintained and if possible it shall be retained in situ in safe and useable condition. Diversions should be safe, attractive and convenient and, if temporary, shall be reinstated as soon as possible. If permanent diversions are required, these should seek to enhance and improve the public rights of way network.

Improvements and enhancements to the rights of way network will generally be encouraged and public access sought to restored mineral workings, especially if this can be linked to wider provision of green infrastructure. Where appropriate, operators and landowners will be expected to make provision for this as part of the restoration and aftercare scheme.

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.

Vale of White Horse Local Plan Part 1

CORE POLICY 1: PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

Planning applications that accord with this Local Plan (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 permission unless material considerations indicate otherwise, and unless:

- i. 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
- ii. specific policies in that Framework indicate that development should be restricted.

CORE POLICY 13: THE OXFORD GREEN BELT

The Oxford Green Belt area in the Vale, as amended following the local Green Belt Review, will continue to be protected to maintain its openness and permanence.

Development will be permitted in the following settlements, which are inset to the Green Belt (as shown on the Adopted Policies Map). Where the proposed development is within the existing built area of the village and in accordance with **Core Policies 3 and 4**:

- Appleton
- Botley
- Cumnor
- Kennington
- North Hinksey
- Radley, and
- Wootton

Proposals for inappropriate development will not be approved except in very special circumstances*.

The construction of new buildings in the Green Belt is considered inappropriate except where they are:

- i. buildings for agriculture or forestry
- ii. provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it
- iii. the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building
- iv. the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces
- v. limited infilling in Shippon, South Hinksey, Wootton Old Village and Wytham
- vi. limited affordable housing for local community needs as set out in **Core Policy 24**, or
- vii. limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The following forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt:

- mineral extraction
- engineering operations
- local transport infrastructure that can demonstrate a requirement for a Green Belt location
- the re-use of buildings, provided that they are permanent and of substantial construction, and
- development brought forward under a Community Right to Build Order.

*'very special circumstances' will not exist unless the potential harm, is clearly outweighed by other considerations (NPPF, Paragraph 88)

CORE POLICY 33: NATURAL RESOURCES

All development proposals will be required to make provision for the efficient use of natural resources, including:

- i. making adequate provision for the recycling of waste
- ii. using recycled and energy efficient materials
- iii. minimising waste
- iv. maximising passive solar heating, lighting, natural ventilation, energy and water efficiency and reuse of materials

- v. causing no deterioration and, where possible, achieving improvements in water and air quality
- vi. ensuring that the land is of a suitable quality for development and that remediation of contaminated land is undertaken where necessary, and
- vii. re-using previously developed land provided it is not of high environmental value.

CORE POLICY 42: FLOOD RISK

The risk and impact of flooding will be minimised through:

- i. directing new development to areas with the lowest probability of flooding
- ii. ensuring that all new development addresses the effective management of all sources of flood risk
- iii. ensuring that development does not increase the risk of flooding elsewhere, and
- iv. ensuring wider environmental benefits of development in relation to flood risk.

The suitability of development proposed in flood zones will be strictly assessed using the Sequential Test, and, where necessary, the Exceptions Test. A sequential approach should be used at site level.

A site-specific flood risk assessment will be required for all developments of 1 hectare and greater in Flood Zone 1 and, for all proposals for new development, including minor development and change of use in Flood Zone 2 and 3 and, in Critical Drainage Areas, and also where proposed development or a change of use to a more vulnerable class that may be subject to other forms of flooding. Appropriate mitigation and management measures will be required to be implemented.

All development proposals must be assessed against the Vale of White Horse and South Oxfordshire Strategic Flood Risk Assessment and the Oxfordshire Local Flood Risk Management Strategy to address locally significant flooding. Appropriate mitigation and management measures must be implemented.

All development will be required to provide a drainage strategy. Developments will be expected to incorporate sustainable drainage systems and ensure that run-off rates are attenuated to greenfield run-off rates. Higher rates would need to be justified and the risks quantified. Developers should strive to reduce run-off rates for existing developed sites.

Sustainable drainage systems should seek to enhance water quality and biodiversity in line with the Water Framework Directive (WFD).

CORE POLICY 44: LANDSCAPE

The key features that contribute to the nature and quality of the Vale of White Horse District's landscape will be protected from harmful development and where possible enhanced, in particular:

- i. features such as trees, hedgerows, woodland, field boundaries, watercourses and water bodies
- ii. important landscape settings of settlements
- iii. topographical features
- iv. areas or features of cultural and historic value
- v. important views and visually sensitive skylines, and
- vi. tranquillity and the need to protect against intrusion from light pollution, noise, and motion.

Where development is acceptable in principle, measures will be sought to integrate it into the landscape character and/or the townscape of the area. Proposals will need to demonstrate how they have responded to the above aspects of landscape character and will be expected to:

- vii. incorporate appropriate landscape proposals that reflect the character of the area through appropriate design and management
- viii. preserve and promote local distinctiveness and diversity and, where practical, enhance damaged landscape areas.

High priority will be given to conservation and enhancement of the natural beauty of the North Wessex Downs AONB and planning decisions will have regard to its setting. Proposals that support the economy and social wellbeing of communities located in the AONB, including affordable housing schemes, will be encouraged, provided they do not conflict with the aims of conservation and enhancement.

CORE POLICY 45: GREEN INFRASTRUCTURE

A net gain in Green Infrastructure, including biodiversity, will be sought either through on-site provision or off-site contributions and the targeted use of other funding sources. A net loss of Green Infrastructure, including biodiversity, through development proposals, will be resisted.

Proposals for new development must provide adequate Green Infrastructure in line with the Green Infrastructure Strategy. All major applications must be accompanied by a Statement demonstrating that they have taken into account the relationship of the proposed development to existing Green Infrastructure and how this will be retained and enhanced. Proposals will be required to contribute to the delivery of new Green Infrastructure and/or the improvement of existing assets including Conservation Target Areas in accordance with the standards in the Green Infrastructure Strategy and Habitats Regulations Assessment.

CORE POLICY 46: CONSERVATION AND IMPROVEMENT OF BIODIVERSITY

Development that will conserve, restore and enhance biodiversity in the district will be permitted. Opportunities for biodiversity gain, including the connection of sites, large-scale habitat restoration, enhancement and habitat re-creation will be actively sought, with a primary focus on delivery in the Conservation Area Target Areas. A net loss of biodiversity will be avoided.

The highest level of protection will be given to sites and species of international nature conservation importance (Special Areas of Conservation and European Protected Species). Development that is likely to result in a significant effect, either alone or in combination, on such sites and species will need to satisfy the requirements of the Habitat Regulations*.

Development likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity or of importance for geological conservation interests, either directly or indirectly, will not be permitted unless:

- i. the need for, and benefits of, the development in the proposed location outweighs the adverse effect on the relevant biodiversity interest;
- ii. it can be demonstrated that it could not reasonably be located on an alternative site that would result in less or no harm to the biodiversity interests; and
- iii. measures can be provided (and are secured through planning conditions or legal agreements), that would avoid, mitigate against or, as a last resort, compensate for, the adverse effects likely to result from development.

The habitats and species of importance to biodiversity and sites of geological interest considered in relation to points i) and iii) comprise:

- Sites of Special Scientific Interest (SSSI)
- Local Wildlife Sites
- Local Nature Reserves
- Priority Habitats and species listed in the national and local Biodiversity Action Plan
- Ancient Woodland and veteran trees
- Legally Protected Species
- Local Important Geological Sites

The level of protection and mitigation should be proportionate to the status of the habitat or species and its importance individually and as part of a wider network.

It is recognised that habitats/areas not considered above (*i.e. Nationally or Locally designated and not priority habitats*) can still have a significant biodiversity value within their local context, particularly where they are situated within a Conservation Target Area and/or they have good potential to be restored to priority habitat status or form/have good potential to form links between priority habitats or act as corridors for priority species. These habitats will be given due weight in the consideration or planning applications. If significant harm to these sites cannot be avoided (through locating on an alternative site with less harmful impacts) it will be expected that mitigation will be provided to avoid a net loss in biodiversity or, as a last resort, compensation will be required to offset the impacts and achieve a net gain in biodiversity.

*Habitats Directive 92/43/EEC of 21 May 1992.

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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^a.

Noise-sensitive Development

Noise-sensitive development in locations likely to be affected by existing sources of noise^b 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.

^aCurrently set out in British Standards 4142:2014 and 8233:2014. The Council is currently developing guidance relating to noise mitigation.

^bBusy roads, railway lines, aerodromes, industrial/commercial developments, waste, recycling and energy plant, and sporting, recreation and leisure facilities.
Development Policy 24: Noise Pollution.

DEVELOPMENT POLICY 26: AIR QUALITY

Development proposals that are likely to have an impact on local air quality, including those in, or within relative proximity to, existing or potential Air Quality Management Areas (AQMAs) will need to demonstrate measures/mitigation that are incorporated into the design to minimise any impacts associated with air quality.

Where sensitive development is proposed in areas of existing poor air quality and/or where significant development is proposed, an air quality assessment will be required.

The Council will require applicants to demonstrate that the development will minimise the impact on air quality, both during the construction process and lifetime of the completed development, either through a redesign of the development proposal or, where this is not possible or sufficient, through appropriate mitigation in accordance with current guidance.

Mitigation measures will need to demonstrate how the proposal would make a positive contribution towards the aims of the Council's Air Quality Action Plan.

Mitigation measures will be secured either through a negotiation on a scheme, or via the use of a planning condition and/or planning obligation depending on the scale and nature of the development and its associated impacts on air quality.

DEVELOPMENT POLICY 30: WATERCOURSES

Development of land that contains or is adjacent to a watercourse will only be permitted where it would not have a detrimental impact on the function or setting of the watercourse or its biodiversity, or the detrimental impact can be appropriately mitigated.

Plans for development adjacent to or encompassing a watercourse should include a minimum 10 m buffer zone along both sides of the watercourse to create a corridor of land and water favourable to the enhancement of biodiversity.

Proposals which involve culverting a watercourse are unlikely to be considered acceptable.

Development which is located within 20 m of a watercourse will require a construction management plan to be agreed with the Council before commencement

of work to ensure that the watercourse will be satisfactorily protected from damage, disturbance or pollution.

DEVELOPMENT POLICY 31: PROTECTION OF PUBLIC RIGHTS OF WAY, NATIONAL TRAILS AND OPEN ACCESS AREAS

Development on and/or over public rights of way will be permitted where the development can be designed to accommodate satisfactorily the existing route, or where the right of way is incorporated into the development site as an attractive, safe and continuous route. Alternative routes will need to be made equally or more attractive, safe and convenient to rights of way users.

The Council will actively seek opportunities to improve the accessibility and the addition of new connections and status upgrades to the existing rights of way network including National Trails. Proposals of this nature will be supported where they would not lead to increased pressure on sensitive sites, such as those of important ecological value.

Development will not be permitted where proposals remove, narrow or materially impair the approved line of the Thames Path or Ridgeway National Trails, key connecting routes, and/or public access to them.

Radley Neighbourhood Plan

POLICY PP.2. GREEN BELT

The Green Belt round Radley will be protected to maintain its openness and permanence. Inappropriate development outside the strategic sites and the Green Belt 'inset' area will not be supported except in the very special circumstance as identified in the National Planning Policy Framework and Policy CP13 of the Vale of White Horse Local Plan 2031 (Part 1).

POLICY PP.8. RADLEY LAKES

Development which directly promotes nature conservation and/or quiet recreation in the area will be supported, subject to the following criteria:

- comply with CP13, which sets out limited circumstances in which Green Belt development might be appropriate;
- avoid detriment to the wider landscape within which the site sits, and be accompanied by any natural screening needed to achieve that;
- comply with CP42, which requires a site-specific flood risk assessment for all development in Flood Zone 2 and 3 and for appropriate mitigation and management measures to be implemented;
- avoid detriment to the integrity of the local ecology by incorporating appropriate measures in development proposals. Where appropriate these will include avoidance measures, mitigation measures and compensation measures; and
- include appropriate transport mitigation.

Development which creates new or revised access routes to or through the area will be supported, subject to the five criteria above if it, directly or indirectly:

- improves the safety and amenity of access to the area by pedestrians and cyclists; and
- contributes to the promotion of nature conservation and quiet recreation in the Radley Lakes area.

Any other development will be supported only if it meets the five criteria above and

- is confined to currently built-up land;
- is served by a suitable and safe access route that avoids conflict between vehicles accessing the site and pedestrians and cyclists accessing the wider area.

POLICY PP.9. ROADS

New development will be supported where it complies with other development plan policies and can be satisfactorily accommodated within the existing highways network.

Where appropriate new development should support the achievement of the Radley Roads Strategy and provide, financially or in kind, for the mitigation of the effects of the development on the road network.

POLICY PP.13. SURFACE DRAINAGE

Development will be supported where it is demonstrated that surface water drainage will not add to the existing site run-off or cause any adverse impact to neighbouring properties and the surrounding environment. Unless demonstrated to be inappropriate sites should incorporate Sustainable Urban Drainage (SUDs), with run off rates no greater than greenfield sites. SUDs where possible should be designed so as to contribute towards the landscaping and biodiversity of the sites and provision should be made for their future maintenance.