

To: Members of the Planning & Regulation Committee

Notice of a Meeting of the Planning & Regulation Committee

Monday, 21 September 2026 at 2.00 pm

Room 2&3 - County Hall, New Road, Oxford OX1 1ND

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



Martin Reeves OBE
Chief Executive

September 2026

Committee Officer: **Committees Team**
E-Mail: committeesdemocraticservices@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 Diana Lugova
Deputy Chair - Councillor Gavin McLauchlan

Councillors

Tony Worgan
Ron Batstone
Mark Cherry
Jenny Hannaby

David Henwood
Lesley McLean
Judy Roberts
Paul-Austin Sargent

Geoff Saul
Vacancy

Notes:

- ***Date of next meeting: 19 October 2026***

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 below**
- 3. Minutes of the Previous Meeting (Pages 7 - 14)**

To approve the minutes of the meeting held on 20 July 2026 and to receive information arising from them.

4. Petitions and Public Address

Members of the public who wish to speak on an item on the agenda at this meeting, or present a petition, can attend the meeting in person or 'virtually' through an online connection.

Requests to present a petition must be submitted no later than 9am ten working days before the meeting.

Requests to speak must be submitted no later than 9am three working days before the meeting.

Requests should be submitted to committeesdemocraticservices@oxfordshire.gov.uk

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 9am on the day of the meeting. Written submissions should be no longer than 1 A4 sheet.

5. National Scheme of Delegation of Planning Functions (Pages 15 - 34)

Report by Director of Law and Governance & Monitoring Officer

The Committee is RECOMMENDED to:

- a) Delegate implementation of the arrangements necessary to comply with the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (the "Regulations") to the Director of Law and Governance in consultation with the Director of Economy and Place**

- b) Appoint the Chair of Committee and the Deputy Chair of Committee to act as nominated Members for the purposes of Regulations 5 and 6 of the Regulations
- c) Appoint the Planning Development Manager and the Planning Applications Team Leader as nominated officers for the purposes of Regulations 5 and 6 of the Regulations
- d) Note that the Constitution will be amended by the Monitoring Officer to reflect the requirements of the Regulations

6. Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid (Ref: SU51539 97065) (Pages 35 - 338)

Report by Planning Development Manager

Application for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2).

Councillors declaring interests

General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed 'Declarations of Interest' or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your employment; sponsorship (i.e. payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest. If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members' Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member 'must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself' and that 'you must not place yourself in situations where your honesty and integrity may be questioned'.

Members Code – Other registrable interests

Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your other registrable interests then you must declare an interest. You must not participate in discussion or voting on the item and you must withdraw from the meeting whilst the matter is discussed.

Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person's quality of life, either positively or negatively, is likely to affect their wellbeing.

Other registrable interests include:

- a) Any unpaid directorships

- b) Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
- c) Any body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Members Code – Non-registrable interests

Where a matter arises at a meeting which directly relates to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, you must declare the interest.

Where a matter arises at a meeting which affects your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under other registrable interests, then you must declare the interest.

In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

Where a matter affects the financial interest or well-being:

- a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

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PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 20 July 2026 commencing at 2.00 pm and finishing at 4.05pm

Present:

Voting Members: Councillor Diana Lugova – in the Chair

Councillor Gavin McLauchlan (Deputy Chair)
Councillor Ron Batstone
Councillor Mark Cherry
Councillor Jenny Hannaby
Councillor Judy Roberts
Councillor Paul-Austin Sargent
Councillor Geoff Saul

Other Members in Attendance: Councillor Stefan Gawrysiak

Officers: Jack Ahier (Senior Democratic Services Officer), Jennifer Crouch (Principal Solicitor – Regulatory), David Mytton (Solicitor) David Periam (Planning Development Manager), Robin Rogers (Director of Economy and Place), Jason Sherwood (Head of Regulatory Planning Enforcement).

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

40/26 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS
(Agenda No. 1/26)

Apologies were received from Cllr Lesley McLean and Cllr Tony Worgan.

41/26 DECLARATIONS OF INTEREST - SEE GUIDANCE NOTE BELOW
(Agenda No. 2/26)

There were none.

42/26 MINUTES OF THE PREVIOUS MEETING
(Agenda No. 3/26)

The minutes of the meetings held on 13 April 2026 and 12 May 2026 were approved and signed by the Chair as a correct record.

43/26 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 4/26)

5. Update on Former Wicklesham Quarry, Faringdon, SN7 7PH

Richard Tamplin

6. Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid (Ref: SU 51539 97065)

Roger Thomas

Andrew Coker

Craig Woolhouse

Chris Henderson (Radley Parish Council)

Nick Dunn (Agent)

James Lodge (Applicant)

44/26 UPDATE ON FORMER WICKLESHAM QUARRY, FARINGDON, SN7 7PH

(Agenda No. 5/26)

The Chair introduced the item to the meeting and invited the Planning Development Manager and Solicitor to present a report updating the Committee on matters arising from its previous resolution to approve planning application MW.0151/23 for development at the former Wicklesham Quarry.

Officers reminded the Committee that, at its meeting on 19 January 2026, planning permission had been approved subject to further consideration of highway crossing arrangements on the A420, a 25-metre buffer zone to the Site of Special Scientific Interest (SSSI), and completion of a Section 106 agreement.

Officers explained that further work had since been undertaken regarding the highway arrangements and the implementation of the Committee's previous resolution, with highways officers advising that a Traffic Regulation Order was not required for a crossing across the A420.

Richard Tamplin addressed the Committee and raised concerns regarding the lawfulness of the previous decision-making process and the legal status of the application. He questioned whether the Committee had acted ultra vires when granting planning permission in January 2026 and argued that the development should have been treated as Environmental Impact Assessment (EIA) development, whilst also raising concerns regarding the screening opinion previously issued by the County Council and the wider legal basis for proceeding with the application.

Officers noted that the Council had exercised its delegated powers correctly when issuing the screening opinion and that whilst a third party had sought a screening direction from the Secretary of State, such a direction was not received.

Members discussed the proposed highway crossing arrangements and the relationship between the development and the adjacent SSSI. Members noted that

officers had continued discussions with highways colleagues and the applicant regarding the most appropriate crossing solution.

The Chair proposed that the recommendation to amend the resolution of the Committee as set out below be approved. The Deputy Chair seconded the proposal.

That subject to further consideration of satisfactory highway treatments for crossing the A420 by highways officers, with the applicant and planning officers; which would come back to the Chair for consideration and a 25m buffer zone on the SSSI and subject to a Section 106 agreement to cover the matters outlined in Annex 2, planning permission for MW.0151/23 be approved subject to conditions to be determined by the Director of Economy and Place, to include those set out in Annex 1.

RESOLVED: That subject to further consideration of satisfactory highway treatments for crossing the A420 by highways officers, with the applicant and planning officers; which would come back to the Chair for consideration and a 25m buffer zone on the SSSI and subject to a Section 106 agreement to cover the matters outlined in Annex 2, planning permission for MW.0151/23 be approved subject to conditions to be determined by the Director of Economy and Place, to include those set out in Annex 1, by a majority vote.

Cllr Diana Lugova stepped down from the Chair at this stage and viewed the Committee from the public gallery but did not participate in the debate or vote. Cllr Gavin McLauchlan (Deputy Chair) assumed the role of Chair for the remainder of the meeting.

45/26 LAND AT THRUPP FARM, RADLEY, ABINGDON, OXFORDSHIRE GRID (REF: SU 51539 97065)

(Agenda No. 6/26)

The Chair introduced the item to the meeting and invited the Planning Development Manager to introduce the application for the determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2).

The Chair noted that the Committee might need to take legal advice during the Committee, which would be legally privileged. In such circumstances, the Chair stated that he would propose for the Committee go into private session to allow legal advice to be sought.

The Planning Development Manager advised that the central issue for the Committee was whether the proposed conditions should include a restriction preventing development within areas of irreplaceable and priority habitat. Members were reminded that the Committee had previously received Counsel's advice indicating that the conditions could lawfully be determined and that the legal advice provided to the Council remained unchanged.

Officers noted that following the resolution of the Committee in February 2026, the Secretary of State had declined to call-in the application and therefore, the decision had been referred back to the Committee for determination.

Officers reported that additional correspondence had been received from Gregory Jones KC, submitted on behalf of a local resident through solicitors. Members were advised that they were entitled to consider that opinion but should note that it had been prepared for a party opposed to the proposal. Officers advised that, while the Committee could choose to defer determination to obtain a further Counsel's opinion, any additional legal advice would represent another opinion rather than a definitive resolution of the legal issues. Officers therefore continued to advise that the Committee could lawfully determine the application on the basis of the advice already before it.

The Planning Development Manager presented maps and photographs of the areas that would be affected by the application.

The Chair then invited speakers to address the Committee and noted that members may ask questions of clarification after they had finished.

Roger Thomas addressed the Committee on behalf of local objectors. He argued that Members were being presented with an unacceptable choice between allowing the loss of priority and irreplaceable habitat or risking significant compensation liability. He referred to the legal opinion of Gregory Jones KC, which, in his view, provided a strong basis for concluding that the mineral permissions had expired in 2016. He urged the Committee either to reject the application or defer consideration to allow officers to provide a full response to the KC's opinion before a decision was made.

Andrew Coker spoke on behalf of residents of Thrupp Lane and others who used and valued the local landscape. He criticised the handling of the matter over a prolonged period and argued that the original purpose of the ROMP legislation had been to provide certainty rather than extend long-standing uncertainty. He supported obtaining further independent legal advice in light of the Gregory Jones KC opinion and urged the Committee to seek a definitive resolution to the matter.

Craig Woolhouse, speaking on behalf of the Radley Lakes Trust, outlined the Trust's concerns regarding the ecological impacts of the proposal. He welcomed a number of the proposed planning conditions, which he considered addressed several of the Trust's objections, but maintained concerns regarding habitat loss. He highlighted the significance of Orchard Lake and the wider Radley Lakes area for wildlife and public recreation and argued that these environmental and community benefits should be afforded substantial weight.

Chris Henderson, on behalf of Radley Parish Council, stated that the Parish Council considered the legal opinion of Gregory Jones KC to be the more persuasive interpretation of the relevant legislation. He supported the proposed condition protecting irreplaceable habitats should permission be granted and requested amendments to restoration provisions relating to the former processing plant area, including a fixed deadline for the submission and implementation of restoration proposals

Nick Dunn, acting as planning agent for the applicant, supported the officer recommendation and advised Members that the planning permissions remained extant. He cautioned against placing undue reliance on the Gregory Jones KC opinion, noting that it had been prepared for objectors and was subject to qualifications regarding the information available to counsel. He outlined the planning history of the site and argued that the applicant had complied with agreed timetables for submitting the ROMP application.

James Lodge, the applicant, informed the Committee that the Secretary of State had declined to call in the application. He stated that the officer recommendation remained unchanged and was supported by legal advice obtained by the Council. He argued that the proposed ecological condition would render the quarry uneconomic to operate and therefore could not appropriately be imposed through the ROMP process. He also highlighted the mitigation measures proposed for Orchard Lake and the applicant's commitment to ongoing partnership working in the Radley Lakes area

Members questioned the applicant regarding the quantity and quality of minerals available at the site, the contribution the quarry would make to Oxfordshire's mineral landbank, the reasons for the delay in submitting the ROMP application, the practical effect of the proposed biodiversity condition, the applicant's intentions to work the site if permission were granted, arrangements for engagement with local residents, and matters relating to the site's historic operation and restoration responsibilities. The applicant responded that the quarry remained an important future source of local aggregate, that the disputed biodiversity condition would render extraction uneconomic, and that the applicant remained committed to working with local stakeholders and progressing the site following the cessation of operations at Sutton Wick.

Councillor Hannaby highlighted the importance of maintaining Oxfordshire's mineral landbank and sought assurances that the site would be worked if permission were granted. She also emphasised the need for continued engagement with local residents

The Chair thanked all speakers for their contributions.

The Chair noted that the Committee was now likely to need to take privileged legal advice. Councillor Sargent proposed and Councillor Hannaby seconded the following resolution:

RESOLVED: that the public be excluded for the part of item 5 since it is likely that if they were present during those items there would be disclosure of exempt information as defined in Part I of Schedule 12A to the Local Government Act 1972 (as amended) and specified below in relation to those items and since it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The Committee unanimously resolved the resolution as stated above and went into private session.

After taking legally privileged advice in private session, the Committee resumed in public session. The Chair thanked members of the public for their patience.

The Planning Development Manager read out correspondence that the Council had received for the benefit of the Committee and those attending.

During debate, Members acknowledged the complexity of the application and the significant legal issues that had been raised through the opinion of Gregory Jones KC. Several Members expressed concern that the Committee had received differing legal views and questioned whether they had sufficient certainty to proceed to determination.

Councillor Sargent noted the Gregory Jones KC opinion persuasive and considered that obtaining independent Counsel's advice would provide greater clarity. He noted that Members were not planning law specialists and argued that a short deferral would enable the Committee to reach a more informed and robust decision.

Councillor Roberts referred to previous legal advice provided to the Committee and observed that the recent correspondence appeared to contradict earlier advice. She stated that she found this position confusing and believed that further independent legal advice would assist Members in understanding the competing legal interpretations before making a final decision.

Councillor Cherry supported obtaining further legal advice, noting the complexity of the case and the extensive legal correspondence received. He considered that the matter should return to a future meeting once Members had the benefit of additional Counsel's opinion.

Councillor Saul acknowledged his reluctance to defer a matter that had already been under consideration for a considerable period but noted that the Committee owed it to all interested parties to ensure that any decision was taken on the strongest possible legal and evidential basis and therefore supported a short deferral to obtain further legal advice.

The Chair noted that, whilst some Members believed a decision could potentially have been reached on the day, there was merit in ensuring that the Committee had fully considered the legal issues before proceeding. The Chair also noted the frustrations associated with repeated delays but accepted that Members had a responsibility to ensure that any eventual decision was soundly based.

Councillor Batstone supported deferral but cautioned against imposing an unnecessarily restrictive timetable on officers. He considered it more important that any further legal opinion was properly prepared than obtained quickly and urged officers to proceed in a timely but thorough manner.

Members also discussed potential timescales for obtaining further legal advice. Officers advised that appropriately qualified Counsel would need sufficient time to review the considerable volume of material associated with the application and that the priority should be obtaining a fully reasoned opinion rather than seeking the

quickest possible response. Members further noted that the Committee's Constitution allowed for additional meetings to be arranged if necessary.

Councillor Sargent proposed that determination of the application be deferred to obtain further independent legal advice. This was seconded by Councillor Cherry.

RESOLVED: that the Committee unanimously deferred determination of the application to obtain further independent legal advice.

..... in the Chair

Date of signing

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Divisions Affected – All

PLANNING AND REGULATION COMMITTEE 21 SEPTEMBER 2026

NATIONAL SCHEME OF DELEGATION OF PLANNING FUNCTIONS

Report by Director of Law and Governance

RECOMMENDATION

1. **The Committee is RECOMMENDED to:**
 - a) Delegate implementation of the arrangements necessary to comply with the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (the “Regulations”) to the Director of Law and Governance in consultation with the Director of Economy and Place
 - b) Appoint the Chair of Committee and the Deputy Chair of Committee to act as nominated Members for the purposes of Regulations 5 and 6 of the Regulations
 - c) Appoint the Planning Development Manager and the Planning Applications Team Leader as nominated officers for the purposes of Regulations 5 and 6 of the Regulations
 - d) Note that the Constitution will be amended by the Monitoring Officer to reflect the requirements of the Regulations

Executive Summary

2. This report summarises the changes brought about by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 and invites Members to delegate implementation of arrangements for compliance with the National Scheme of Delegation to the Director of Law and Governance in consultation with the Director of Economy and Place.
3. The Regulations bring about reform of the operation of Planning Committees in England and introduce a mandatory national scheme of delegation setting out a framework for which planning applications will go to Committee for determination and which will be determined by officers.
4. The Regulations enable local planning authorities to appoint a nominated Member and a nominated officer who can decide whether to refer an application for planning permission to Committee if they agree that the application raises an issue of economic, social or environmental significance to the local area, or

raises a significant planning matter. The report recommends that the Committee appoint nominated Members and nominated officers.

National Scheme of Delegation of Planning Functions

5. Following public consultation in 2025 and early 2026, new regulations were made on 15th July 2026 bringing about reform of the operation of Planning Committees in England. The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 take effect on 31st October 2026 and introduce a mandatory national scheme of delegation setting out a framework for which planning applications will go to Committee for determination and which will be determined by officers.
6. The National Scheme of Delegation splits applications into two schedules which are set out in detail in Annex 2. Schedule 1 applications must be delegated to officers to determine, while there is a presumption that Schedule 2 applications will be delegated to officers to determine unless the nominated officer and nominated Member (see paragraphs 9 and 10 below for more details) agree that the application should be referred to committee for determination on the basis that it meets at least one of the following criteria:
 - (a) it raises one or more issues of economic, social or environmental significance to the local area, or
 - (b) it raises one or more significant planning matters having regard to the development plan and any other material considerations
7. In terms of the role of the Council as minerals and waste planning authority, all applications for planning permission will be Schedule 2 applications. Various other applications, including applications for non-material amendments, for lawful use certificates and to discharge conditions will be Schedule 1 applications and will have to be determined by officers.
8. There are additional provisions for applications described in the Regulations as “own interest applications”, such as the planning applications for roads, schools and children’s homes submitted and determined by the Council, often at Committee.
9. Guidance was issued by the Ministry of Housing, Communities and Local Government on 1st June 2026 to support local planning authorities in implementing the new Regulations. That guidance is set out in Annex 1. The Regulations make clear that this guidance must be taken into account when operating or making arrangements required under the Regulations.
10. The guidance recognises that there may be cases where, in the interests of transparency and public accountability, it is appropriate for “own interest applications”, irrespective of whether they are in Schedule 1 or Schedule 2, to be referred to Committee for determination without the need to apply the criteria set out in paragraph 4 above. Decisions on whether to refer such applications to Committee would again be made by the nominated officer and nominated Member.

11. The Regulations state that planning authorities may nominate a Member of the authority to act as the nominated Member and an officer of the authority to act as the nominated officer and also provide for substitute nominated Members and nominated officers. The guidance indicates that the nominated officer should be an officer who has extensive professional planning experience and that the nominated member should be the Chair of Committee or the Deputy Chair.
12. Officers consider that the nominated officer should be the Planning Development Manager and if they are not available or have a conflict the Planning Applications Team Leader. In line with the guidance, officers consider that the nominated Member should be the Chair of Committee and, if they are not available or have a conflict, the Deputy Chair.
13. It is open to the Committee to allow the nominated officer to decide which Schedule 2 applications should go to the nominated officer and the nominated Member to jointly apply the criteria and decide whether the application should go to Committee or be determined by an officer and which applications are clearly appropriate for officers to deal with and should just be determined by the officers. That is in line with current practice, though the criteria applied are different. Officers recommend the continuation of this approach so that not all Schedule 2 applications go for a joint decision.
14. The guidance states that the local planning authority should keep a record of the cases the nominated officer and nominated Member have considered for referral to Committee, the outcome of their consideration and the reasons for their decision. They should report this to the Planning Committee on a regular basis and make it available on their website.

Size of Committee

15. The Regulations state that a Planning Committee must not comprise more than 13 Members. The Planning and Regulation Committee currently has 12 Members and so that does not contravene this requirement.

Corporate Policies and Priorities

16. The actions identified in this report are needed to implement regulations introduced by the Secretary of State for Housing, Communities and Local Government.

Financial Implications

17. There is no budget required to implement the changes to the scheme of delegation for Planning and Regulation Committee.

Legal Implications

18. Under the Town and Country Planning Act 1990, the Council is a local planning authority and has responsibility for minerals and waste planning matters. Accordingly, the Council must comply with the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 as regards the operation of its Planning and Regulation Committee and apply the mandatory national scheme of delegation.

Staff Implications

19. The new regime will provide for more planning applications to be determined by officers and this should reduce the officer time spent handling this aspect of applications.

Equality & Inclusion Implications

20. The Regulations are mandatory for Local Authorities to implement. Should an equality impact assessment be required it should have been carried out by the Ministry of Housing, Communities and Local Government (MHCLG) but there do not seem to be any equality or inclusion implications arising from the legislation.

Local Government Reorganisation Implications

21. The three new unitary Councils will need to make their own arrangements for implementing the Regulations.

Sustainability Implications

22. The impact assessment published by the MHCLG alongside the Regulations states: There is expected to be an overall negative environmental impact from the embodied carbon in additional housing units encouraged by easier planning processes. The greater energy efficiency of new housing supports commitments to decarbonise and helps to minimise the carbon impact of additional housing.

Risk Management

23. Provided that the Regulations are implemented as required there should be no risk to the Council.

Consultations

24. No consultation is needed by the Council. Consultation was carried out by the MHCLG prior to the Regulations being made.

Anita Bradley
Director of Law and Governance and Monitoring Officer

Annex 1: Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England published 1 June 2026.

Annex 2: Extract setting out applications described in Schedules 1 and 2 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026

Background papers: Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026

Contact Officer: David Mytton, Solicitor
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September 2026

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Ministry of Housing,
Communities &
Local Government

Statutory guidance

Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England

Published 1 June 2026

Applies to England

Contents

Introduction

National Scheme of Delegation of Planning Functions

Size of committees



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Introduction

1. This guidance supports local planning authorities in England in implementing the provisions in sections 319ZZC to 319ZZF of the Town and Country Planning Act 1990

(<https://www.legislation.gov.uk/ukpga/1990/8/part/XV/crossheading/england-discharge-of-functions-of-local-planning-authority>) (introduced through section 54 of the Planning and Infrastructure Act 2025) and the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (the Regulations). These sections relate to the national scheme of delegation of planning functions and the size of planning committees.

2. Sections 319ZZC to 319ZZE of the Town and Country Planning Act 1990 apply to all local planning authorities except development corporations, Homes and Communities Agency, National Park Authorities and the Broads Authority. They also apply to mineral planning authorities where they exist (excluding those which are National Park Authorities).

3. As required by section 319ZZE(4) and (5) of the Town and Country Planning Act 1990, local planning authorities must have regard to this guidance in operating or making arrangements required under the Regulations.

4. For the avoidance of doubt, where local planning authorities do not comply with the Regulations from the date they come into force (31 October 2026) and their planning committees make decisions on applications which must be delegated officers, those decisions may be subject to judicial review by anyone aggrieved by the decision. This may lead to the quashing of the decision.

National Scheme of Delegation of Planning Functions

5. The government's aim behind the national scheme of delegation is to ensure that there is greater clarity and consistency about the role of planning committees in planning decision making. Committees should focus on the key proposals that matter to an area, enabling other, often more minor and technical, decisions to be made by planning officers.

6. Section 319ZZC of the Town and Country Planning Act 1990 gives the Secretary of State the power to set out which functions of a local planning authority should be delegated to planning officers for a decision and which should instead go to a planning committee or sub-committee.

7. The Secretary of State has exercised this power through the Regulations. These Regulations set out the following general approach to decision making:

- where applications fall under Schedule 1 decisions must be delegated to officers under regulation 4
- where applications fall under Schedule 2, there is a presumption under regulation 5 that decisions are delegated to officers unless the nominated officer and nominated member agree the application should be referred to a planning committee or sub-committee for determination and that it meets at least one of the criteria in regulation 5(3)

8. There is further specific provision under regulation 6 for own-interest applications i.e. an application made (whether or not jointly with any other person) by the authority or an officer or member of the authority or an application where the authority or any of its members or officers has an interest, to support transparency and propriety. These applications can be referred to a planning committee or sub-committee for determination if the nominated officer and nominated member of the planning committee agree. Where a planning function is not listed in either Schedule 1 or 2, it is for the local planning authority to decide whether it should be delegated to an officer or referred to a committee or sub-committee for a decision (as part of its local constitution).

9. Under the national scheme of delegation, current practices set out in local authority constitutions, such as the power for ward councillors to require cases to be called in for committee consideration or having trigger points for referral to committee if a certain number of objections is reached, will not be possible. Local authorities will need to amend their constitutions to align with the national scheme of delegation. Failure to do so may make decisions on whether to delegate applications to officers or refer them to committees for determination liable to judicial review.

Consideration for referral to committee

10. For the purposes of considering referral of applications to committee:

a. the nominated officer should be the Chief Planning Officer or equivalent officer who has extensive professional planning experience. However, local planning authorities will also need to ensure they have other senior planning officers who can provide cover if needed to avoid any unnecessary delays in the referral process (or where there is an own interest application and the Chief Planning Officer or equivalent officer has an interest in it).

b. the nominated member should be the chair of the planning committee or, where such a role does not exist, the vice chair or equivalent member. As in the case of nominated officers, the authority will need to ensure there are arrangements in place for other members to cover should the nominated member not be available (or where there is an own interest application and the nominated member has an interest in it).

11. Where local planning authorities have more than one planning committee, they may nominate different officers or members for each committee.

12. It is for individual local planning authorities to put in place their own arrangements for how the consideration of cases for referral to committee will operate in practice.

13. It is not a requirement of the national scheme of delegation that nominated officers and nominated members consider all Schedule 2 applications or all own-interest applications for potential referral to committee. Local planning authorities may, through their constitutions, decide which Schedule 2 or own-interest applications need to be considered for referral. The regulations provide for the option for Schedule 2 applications to be considered for committee against the gateway test but do not require all schedule 2 applications to be considered – they will otherwise be delegated to officer.

14. Where local planning authorities anticipate that there may be a significant number of Schedule 2 or own-interest applications which may need to be considered for referral to committee they may wish to put in place a triage system to ensure that the nominated officer and nominated member of the committee are not overwhelmed and to avoid any unnecessary delays in planning decision making.

15. Nominated officers and nominated members should make every effort to reach agreement on which cases should be referred to committee. However, where agreement is not possible, the case must be determined by officers in accordance with regulation 5(2) or regulation 6(3).

16. Further best practice advice is available from the Planning Advisory Service on the referral of applications to committee.

Schedule 1 functions

17. Schedule 1 of the Regulations sets out all the functions which must be delegated to officers for a decision (unless it is an own-interest application). These include a number of categories of applications for planning permission for:

- householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- minor residential development which is defined in the Regulations as:
 - development that includes only dwellings and development for the purposes incidental to the enjoyment of dwellings, comprises at least one but not more than nine dwellings, and is to be carried out on a site having an area smaller than 0.5 hectares
 - development of a building containing flats, or development within the curtilage of such a building, for any purpose incidental to the enjoyment of the flats or any of them but excludes development in respect of a building containing flats, or development within the curtilage of such a building, that involves either or both of a change of use or change to the number of flats
 - an application for any consent, agreement or approval required by or under a planning permission, development order or local development order for development within paragraph (a) or (b)

18. It also contains a range of other planning consents:

- to develop land without compliance with conditions previously attached) in respect of which the previous planning permission was a Schedule 1 planning permission (applications under section 73(1) of the Town and Country Planning Act 1990)
- reserved matters approval in respect of an outline planning permission other than a large outline phase permission (i.e. one which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 square metres or more) (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- discharge of conditions (applications under Article 27(1) of Town and Country Planning (Development Management Procedure) (England) Order 2015)

- prior approval for permitted development rights (applications under Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015)
- permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 1 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where local planning authority considers a planning obligation is connected to a Schedule 1 application, modification or discharge of a planning obligation (applications under section 106A(3) of the Town and Country Planning Act 1990)
- non-material changes to planning permission or permission in principle (applications under section 96A(4) of the Town and Country Planning Act 1990)
- certificates of lawfulness of existing use or development (under section 191(1) of the Town and Country Planning Act 1990)
- certificates of lawfulness of proposed use or development (under section 192(2) of the Town and Country Planning Act 1990)
- certificates of lawfulness for proposed works to listed buildings (under section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- biodiversity gain plan (duty to approve under paragraph 14 of Schedule 7A to the Town and Country Planning Act 1990)
- certificates of appropriate alternative development (applications under section 17 of the Land Compensation Act 1961)

19. However, applications which would otherwise fall under Schedule 1, will fall within Schedule 2 where:

- a local authority considers that the application for planning permission is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
- the application is made under section 73A of the Town and Country Planning Act 1990

Schedule 2 functions

20. The functions which fall within Schedule 2 of the Regulations are:

- applications for planning permission which are not householder, minor commercial or minor residential applications
- applications for planning permission which would otherwise fall into Schedule 1 but are connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
- applications to develop land without compliance with conditions previously attached in respect of which the previous planning permission was a Schedule 2 planning permission (under section 73(1) of the Town and Country Planning Act 1990)
- applications for development which has already been carried out (under section 73A(1) of the Town and Country Planning Act 1990)
- where it is related to a large outline planning permission, applications for reserved matters approvals (under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, application for modification or discharge of a planning obligation (under section 106A(3) of the Town and Country Planning Act 1990)
- applications for listed building consent (under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for the variation or discharge of conditions of listed building consent (under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for advertisement consent (under regulation 9 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007)
- applications for consent under tree preservation orders (under regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012)
- applications to which paragraph 19 above apply

21. The overriding presumption is that the applications listed in Schedule 2 will be delegated to officers. An application can be referred to a committee or sub-committee only where:

a. at least one of the criteria in regulation 5(3) is met **or** it is an own-interest application (regulation 6); **and**

b. the nominated officer and nominated member of the planning committee agree to the referral

Criteria which must be met before a case can be considered for referral under regulation 5

22. In determining whether a referral under regulation 5 is made, the presumption should be that decisions are delegated to officers and only exceptionally be referred to committee. At a minimum, at least one of the following statutory criteria must be met for a referral to committee to be considered to meet that threshold:

A. where the application raises an economic, social or environmental issue of significance to the local area

B. where the application raises a significant planning matter having regard to the development plan and any other material considerations

23. Applications for development which do not raise a significant planning matter can only be referred to the committee under criterion A if they raise a significant economic, social or environmental issue for the local area. It is for the nominated officer and member to assess whether the development proposal raises any such issue, providing an opportunity for local democratic oversight where necessary. What constitutes 'significant' will vary depending on the local area but examples could include:

- an application for outline planning permission for a large multi-phase residential development allocated in the local plan
- an application for planning permission for change of use of a community shop in a rural area
- an application for planning permission or listed building consent for changes to a notable listed building in a town centre

24. For the purpose of criterion B, the following circumstances are unlikely to raise a significant planning matter:

- where the application for development broadly complies with a detailed site allocation and other relevant policies set out in a local or neighbourhood plan and national decision making policies set out in the National Planning Policy Framework. Significant planning matters may arise if new material considerations are raised by the application
- where a specific planning matter (e.g. highways or flood risk) was initially raised by a statutory consultee as a concern, but the development proposal has been modified to make it acceptable in the view of the statutory consultee (unless the nominated officer has compelling reasons to consider otherwise)

Own-interest applications

25. Applications which are made (whether or not jointly with any other person) by the authority or an officer or member of the authority or it is an application where, in the view of the nominated officer and nominated member, the authority or any of its members or officers has an interest, are own-interest applications dealt with under regulation 6. We recognise that there may be cases where, in the interests of transparency and public accountability, it may be appropriate for some such applications whether they are in Schedule 1 or Schedule 2 to be referred to a planning committee or sub-committee. Where the nominated officer and nominated member agree, they can be referred to the committee without the need for consideration of the criteria set out in regulation 5(3). Where no such referral has been made, they must be determined by an officer.

26. Under regulation 10 of the Town and Country Planning General Regulations 1992, where a local planning authority is determining its own application for planning permission, it must not be determined by a committee, sub-committee or officer responsible for the management of the building or land to which the application relates. In addition to this restriction, where a planning application is made by a nominated officer or nominated member of the authority or they have an interest in it, in the interests of propriety, they should not be involved in the decision on whether to refer it to committee or not.

Treatment of reserved matters applications

27. We recognise that outline planning permission can be granted for largescale multi-phase development which can take place over many years. As such each related reserved matters application can represent substantial development in its own right and cover more issues of substance, for example, the provision of on site community infrastructure, which may, in exceptional circumstances, merit committee scrutiny. For this reason, we have distinguished between those reserved matters approval applications which relate to large outline planning permissions and those which do not, with the former being placed in Schedule 2 and the latter in Schedule 1.

28. A large outline planning permission for the purpose of these regulations is an outline planning permission which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 square

metres or more. A reserved matters application for such development must meet the criteria set out under regulation 5(3) for a committee to consider it.

29. When considering reserved matters approval applications which fall into Schedule 2 against the criteria in regulation 5(3), nominated officers and nominated members should only have regard to matters which are directly relevant to the reserved matters application before them.

Treatment of section 106 decisions

30. Specific provision has not been made for section 106 agreements themselves in the regulations. This is because, most of the time, appropriate section 106 planning obligations will be considered as part of the application process. In other cases, they can be entered into unilaterally by the landowner so there is no real 'function' for the local planning authority. We recognise that there may occasionally be section 106 planning obligations which are agreed outside of the context of a planning application but we consider that, in these cases, the decision on whether it should be delegated to officers or referred to committee should be left to the discretion of the local authority.

31. Where a local planning authority considers a section 106 agreement is connected to an application falling into either Schedule 1 or Schedule 2, and agreement is being sought to amend or discharge the planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990), the function of agreeing to amend or discharge the obligation should fall into the same schedule as the related application. This same approach applies to applications to modify or discharge an obligation under section 106A(3).

Treatment of special control applications

32. Applications for listed building consent, advertisement consent and consent under tree preservation orders are included in Schedule 2. In most cases, these types of application will not raise issues which would merit committee scrutiny. The presumption, therefore, is that decisions should be delegated to officers and only exceptionally referred to committee.

33. Whether such an application meets the criteria in regulation 5(3) will depend on the particular circumstances but an example could include where there are proposals for a change of use and works to a prominent listed building which makes an important contribution to a town centre.

Transparency and reporting

34. As a minimum, the local planning authority should keep a record of the cases the nominated officer and nominated member have considered for referral to committee, the outcome of their consideration and the reasons for their decision. They should report this to the planning committee on a regular basis and make it available on their website.

Size of committees

35. Regulation 7 provides for the number of members on a planning committee or sub-committee to be no more than 13. This is a maximum figure to accommodate local planning authorities where members are from multiple political parties. Local planning authorities should consider whether a smaller number of members would be more appropriate in their area to support effective decision making.



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ANNEX 2

Schedule 1 applications

- householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- minor residential development (consisting of up to 9 new dwellings (flats or houses) on a site smaller than 0.5 hectares and other minor development in relation to flats)
- reserved matters approvals for an outline planning permission other than a large outline permission (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- discharge of conditions (applications under Article 27(1) of Town and Country Planning (Development Management Procedure) (England) Order 2015)
- prior approval for permitted development rights (applications under Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015)
- permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 1 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 1 application, applications to modify or discharge a planning obligation (applications under section 106A(3) of the Town and Country Planning Act 1990)
- development of land without compliance with conditions previously attached, where the original permission was a Schedule 1 permission (applications under section 73(1) of the Town and Country Planning Act 1990)
- non-material changes to planning permission or permission in principle (applications under section 96A(4) of the Town and Country Planning Act 1990)
- certificates of lawfulness of existing use or development (applications under section 191(1) of the Town and Country Planning Act 1990)
- certificates of lawfulness of proposed use or development (applications under section 192(1) of the Town and Country Planning Act 1990)
- biodiversity gain plan (submissions under paragraph 13(2)(a) of Schedule 7A to the Town and Country Planning Act 1990)
- certificates of appropriate alternative development (applications under section 17 of the Land Compensation Act 1961)
- certificates of lawfulness of proposed works (applications under section 26H(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990)

However, the application will fall within Schedule 2 where:

- a local authority considers that a Schedule 1 application for planning permission is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
- an application would otherwise fall under Schedule 1 but is made under section 73A of the Town and Country Planning Act 1990

Schedule 2 applications

- applications for planning permission which are not householder, minor commercial or minor residential applications
- applications for development of land without compliance with conditions previously attached, where the original permission was a Schedule 2 permission (under section 73(1) of the Town and Country Planning Act 1990)
- applications for development which has already been carried out (under section 73A(1) of the Town and Country Planning Act 1990)
- applications for reserved matters approvals for a large outline planning permission (under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, applications for modification or discharge of a planning obligation (under section 106A(3) of the Town and Country Planning Act 1990)
- applications for listed building consent (under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for the variation or discharge of conditions of listed building consent (under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for advertisement consent (under regulation 9 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007)
- applications for consent under tree preservation orders (under regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012)

Division Affected – Kennington and Radley

PLANNING AND REGULATION COMMITTEE

21st September 2026

Application for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)

Update Report by Planning Development Manager

Contact Officer: David Periam

Location: Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid Ref: SU 51539 97065

OCC Application No: MW.0041/23

VOWH Application No: P23/V0630/CM

District Council Area: Vale of White Horse

Applicant: H Tuckwell and Sons Ltd

Application Received: 22nd February 2023

Consultation Periods: 23rd March 2023 – 24th April 2023
15th August 2024 – 15th September 2024
6th March 2025 – 5th April 2025
26th June 2025 – 26th July 2025

1. Members will recall that at the meeting of the Planning and Regulation Committee on 20th July 2026, the committee considered Agenda item 6 along with addendum for the determination of conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2) (the Radley ROMP application) (Annex 1). The committee resolved as follows:

that the Committee unanimously deferred determination of the application to obtain further independent legal advice.

2. Officers instructed David Forsdick KC in the matter. His opinion is set out in Annex 2. His conclusion is as follows:

Conclusion

38. *I have reached a clear conclusion that the legislation does not allow the permission here to be revived after para 7 is triggered. That seems consistent with*

all the relevant case law, the statutory purposes, the words used and the overall logic of the statutory scheme.

39. *On the facts, there are some areas which the Applicant should be given the opportunity to comment on. Further, given the change in position of the Council since the report to committee on this central issue, the Applicant should be given the opportunity to comment on this Opinion and Mr Jones' Opinion and especially the key paragraphs quoted above.*

3. The "para 7" referred to is paragraph 7 of Schedule 14 to the Environment Act 1995 which states as follows:

Where no application under paragraph 6 above in respect of a mining site has been served on the mineral planning authority by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral permission—

(a)relating to the site; and

(b)identified in the notice served in relation to the site under paragraph 4 above,

shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the first review date or, as the case may be, such later agreed date.

4. Mr Forsdick's Opinion is therefore aligned with that of Gregory Jones KC provided by a third party, which was included in the addendum to the committee meeting on 20th July 2026, and which is that the Council has no jurisdiction to determine the application. It is not aligned with the Opinion of Nina Pindham, which was provided to the Council previously and which was that an extension of time for submission of an application for the determination of conditions could be agreed at any time and was not time-limited as to when such agreement may be made.
5. In short, the advice is that as the ROMP application was not submitted by the first review date, which is 31 October 2016 and further, that as no extension of the date for submission was agreed before 31 October 2016, the mineral permission ceased to have effect on that date and cannot be revived by any agreement made after that date.
6. Officers have invited the applicant to comment as recommended by Mr Forsdick and the committee will be updated with any response received prior to or at the committee meeting.
7. As previously advised, any legal opinion obtained remains an opinion on the law and a definitive position on the law can only be provided through a decision of the courts following a legal challenge that may be made to any decision made on the application. However, the weight of legal opinion obtained from Counsel by the Council and third party clearly supports the position that the submission of an application for the determination of

conditions was made after the relevant planning permissions ceased to have effect and outside the time period when an extension of time could be lawfully agreed. Therefore, permissions DD1 and DD2 only now remain extant insofar as the existing planning conditions require restoration and aftercare.

8. Unless the Committee wishes to defer a decision for a further legal opinion to be obtained or to allow the applicant to make further representations, the decision now before it is whether to conclude that the Council has no jurisdiction to determine the application. Whilst there is no binding English authority directly determining the point, on the basis of the advice received, officers advise that the Council should not purport to approve or determine conditions on an application which it has no jurisdiction to entertain.
9. The Committee is therefore not being asked to determine the planning merits of the proposed conditions, or to choose between the alternative recommendation options previously set out in the 20th July 2026 report. However, those matters remain relevant, because they will need to be considered in the event that the applicant appeals the recommended decision or there is some other challenge to the Council's decision.
10. The arguments relating to the imposition, or omission, of a condition preventing development in areas of irreplaceable or priority habitat are fully set out in the report to Committee of 20th July 2026. Members' attention is also brought to the decision in *HSE v Wolverhampton City Council* [2022], which concluded that, when making its decision, a local authority had to take into account as one of the material considerations the compensation that it might have to pay. In the event the Council later determines the merits of the application and recommends proposed conditions for consideration at appeal, any compensation exposure would need to be weighed lawfully alongside the statutory ROMP framework, the development plan, national policy, the EIA conclusions and the environmental harm identified. However, because officers are recommending that the Council has no jurisdiction to determine the application, members are not being asked to make an assessment on the planning merits of the application at this meeting.
11. If the committee concludes that it does not have jurisdiction to determine the application then it simply needs to conclude as such. Mr Forsdick's advice is that the relief to the applicant to such decision would be through appeal to the Secretary of State.
12. At any such appeal the Inspector would first need to consider the jurisdiction point and whether there is a valid application capable of being determined. The council would make submissions on this point in accordance with the committee's decision. If an Inspector were to accept jurisdiction, the planning merits of the application and the proposed conditions would then be considered. Accordingly, in the event that an appeal is lodged, officers would bring a further report to Committee so that members could consider the appropriate conditions and the Council's position on the planning merits of the application. Such a decision would be needed to enable the council to make submissions to any such appeal.

Financial Implications

13. If, when the application is determined, it is concluded that the conditions restrict working rights and give rise to unreasonable prejudice, the MPA may

be liable to pay substantial compensation to the applicant under the ROMP compensation provisions. It is the view of officers that the council will be liable for compensation which is estimated to be in the region of £6m to £8m.

14. The Council does not currently hold any budget or reserves specifically allocated to meet such a liability. The Council's insurance also does not cover this liability. Therefore, the cost would need to be met from General Balances held by the council and would likely need to be replaced impacting on the council's ability to set a balanced budget. Therefore, the risk of such financial exposure needs to be carefully considered.
15. If the Committee concludes that it does not have jurisdiction to determine the application, there would be no direct compensation liability arising from the Council determining conditions under Schedule 14. There remains a financial risk if the applicant challenges that position, including appeal or other litigation costs. There is also a residual risk that an Inspector or Court could take a different view of jurisdiction and that, if conditions were ultimately determined elsewhere which restrict working rights, compensation exposure may still fall on the Council as Mineral Planning Authority. Should an appeal be lodged with the Secretary of State, there would also be the possibility of costs being awarded against the Council for unreasonable behaviour in the conduct of the appeal, following an application by the appellant.

Legal Implications

16. The principal legal implications are addressed in the report to the committee dated 20th July 2026 attached as Annex 1 and in the advice from Mr Forsdick KC attached to this report.
17. The application must be determined within the statutory framework for periodic review of mineral planning permissions in Schedule 14 to the Environment Act 1995. There remains an unresolved issue of statutory interpretation concerning the words "at any time" in Schedule 14, paragraph 7. No binding national precedent has been identified which directly determines that point. The advice of Mr Forsdick is that the effect of paragraph 7 is that as the application was not submitted by the first review date, and as there is no evidence of an agreement to amend the date for submission of the application prior to the date of the first review date, the council has no jurisdiction to determine the application. This is contrary to the counsel's advice previously reported to the council. However, as there is no binding decision on this point, any decision on the interpretation of paragraph 7 remains open to challenge.
18. The applicant may appeal a decision by the council that it has no jurisdiction to determine the application. If jurisdiction of the appeal is accepted, the application would also be determined at that appeal, and the Council would be a party to that appeal.
19. The Committee is not being asked to determine the planning merits of the proposed conditions at this meeting. If the applicant appeals or the Council's jurisdictional position is otherwise challenged, the council will have to come to a view as to how it would have determined the application for its submissions

to an appeal. These would need to be addressed in a further report in the event an appeal is lodged.

Equality & Inclusion Implications

20. In accordance with Section 149 of the Equality Act 2010, in considering this proposal, due regard has been had to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

21. It is not however considered that any issues with regard thereto are raised in relation to consideration of this application.

22. 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 such issues are raised in relation to consideration of this application.

Conclusion

23. It remains the case that there is no definitive judicial authority resolving the statutory interpretation issue discussed above and in the previous committee reports and addenda. The Secretary of State, when invited to do so, provided no guidance on that issue. The Committee must therefore reach its own decision on whether the Council has jurisdiction to determine the application. The officer advice is that the weight of legal opinion before the Committee supports the recommendation that the application for the determination of conditions was made outside the lawful time period further to Schedule 14 paragraph 7 of the Environment Act 1995, and that permissions DD1 and DD2 only remain extant insofar as they impose restoration and aftercare conditions. Therefore, the officer advice is that the Council does not have jurisdiction to determine the conditions and should resolve accordingly.

24. As the decision set out in Recommendation 1 below may be subject to appeal or other legal challenge, members should note that the planning merits of the proposed conditions are likely to need to be considered at that stage. If that occurs, officers would bring a further report to Committee, so that members can consider the appropriate conditions and the Council's position on the merits at that time. Members are not being asked to decide those matters at this meeting.

RECOMMENDATION 1

Based on the weight of legal opinion, it is RECOMMENDED that the Committee concludes that the time period for the submission of

application no. MW.0041/23 for the determination of conditions to which planning permissions DD1 and DD2 are to be subject was outside the lawful time period further to the provisions of Schedule 14 paragraph 7 of the Environment Act 1995, and that the Council does not have jurisdiction to determine the application.

RECOMMENDATION 2

It is further **RECOMMENDED** that the Committee notes that, if the applicant appeals or there is a challenge to Council's jurisdictional position, a further report would be brought to Committee to enable members to determine the Council's position on the merits of the application and the conditions that it would consider appropriate for the Council's submissions to any appeal or other challenge.

David Periam
Planning Development Manager

Annexes: Annex 1: Report to Planning and Regulation Committee
 and addenda 20th July 2026
 Annex 2: Opinion of David Forsdick KC dated 1st
 September 2026

**Annex 1 – Report to Planning and Regulation Committee and
addenda 20th July 2026**

Annex 2 - Opinion of David Forsdick KC dated 1st September 2026

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Division Affected – Kennington and Radley

PLANNING AND REGULATION COMMITTEE

20th July 2026

Application for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)

Report by Planning Development Manager

Contact Officer: David Periam

Location: Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid Ref: SU 51539 97065

OCC Application No: MW.0041/23

VOWH Application No: P23/V0630/CM

District Council Area: Vale of White Horse

Applicant: H Tuckwell and Sons Ltd

Application Received: 22nd February 2023

Consultation Periods: 23rd March 2023 – 24th April 2023
15th August 2024 – 15th September 2024
6th March 2025 – 5th April 2025
26th June 2025 – 26th July 2025

1. Members will recall that at the meeting of the Planning and Regulation Committee on 23rd February 2026, the committee considered Agenda item 5 along with addenda for the determination of conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2) (the Radley ROMP application) (Annex 1). The committee unanimously resolved as follows:

a) That in the absence of there being a clear position in law to refuse the application to determine the conditions to which planning permission numbers DD1 and DD2 are to be subject due to an absence of authority on the effect of Schedule 14 paragraph 7 of the Environment Act 1995 and despite the significant adverse effect identified through the loss of irreplaceable and priority habitats, refer the application to the Secretary of State to consider whether to call the application in for their own determination;

b) Should the Secretary of State decline to call the application in for their own determination, authorise the Director of Economy and Place to consider how to proceed with the determination of the application including as appropriate consideration of the conditions set out in Annex 4 and provide a further report to the committee for them to determine.

2. The Director of Economy and Place referred the application to the Secretary of State by letter dated 5th March 2026 (Annex 2). The response on behalf of the Secretary of State was received by letter dated 29th May 2026 (Annex 3). The Secretary of State declined to call the application in for his own determination citing that he considers that the application does not raise matters of more than local importance and there is no other material consideration that alters this view in respect of the ROMP Application. He is content that it should be determined by the Mineral Planning Authority.
3. Given that the Secretary of State has not called-in the application for his own determination, part b) of the committee resolution of 23rd February 2026 now comes into effect.
4. Members will recall that at the committee's meeting on 23rd February 2026, legally privileged advice was provided to them in private session. Following the receipt of this advice, the committee debated the Agenda item. This included consideration of the national importance of the ROMP application that was before them; the obscurity of the law in this particular area meaning that further legal opinions were only opinions; as well as how Area 'C' of the ROMP site would be managed into the future if it proved that it would not be able to be excavated. It was commented that the Council found itself in a difficult situation and referring the application to the Secretary of State seemed sensible to provide clarity on ROMP issues.
5. Along with declining to call-in the application for his own determination, the Secretary of State did not provide a substantive view on the issues raised in the Council's referral letter, including the interaction between the ROMP statutory framework, national and development plan policy relating to the protection of irreplaceable and priority habitats, and the potential compensation consequences of imposing conditions which restrict working rights. The decision not to call in the application should not be treated as legal advice or as an endorsement of any particular interpretation of Schedule 14 to the Environment Act 1995.
6. Members will also recall that at its meeting on 23rd February 2026, it heard conflicting points of view supported by legal opinion about the scope and meaning of "at any time" in Schedule 14, paragraph 7 of the Environment Act 1995 with regard to when an extension of time for the submission of a ROMP application could be agreed and that the benefit of any related mineral permission would cease to have effect other than with regard to restoration or aftercare conditions in the absence of any such agreed extension of time. The Council and the applicant agreed a later date after the first ROMP review date, relying on the ability in Schedule 14, paragraph 7 of the Environment Act 1995 to agree a later date in writing "at any time". Local residents have advanced the alternative interpretation that "at any time" means only at any time before the first review date expires. Schedule 14 to the Environment Act 1995 and the national planning practice guidance are the principal national statutory and guidance framework for ROMP reviews, but there is no national

legal precedent directly determining the correct interpretation of “at any time” in this context. The Council has obtained counsel’s advice on the point. That advice supports the view that the Council’s interpretation is lawful but recognises that the point has not been authoritatively determined by the Courts.

7. The Secretary of State also provided no substantive consideration or advice on the interpretation of Schedule 14, paragraph 7 of the Environment Act 1995, including the scope and meaning of the words “at any time”. The absence of comment from the Secretary of State should not be interpreted as resolving the legal issue either way.
8. It therefore falls to the Council as Mineral Planning Authority (MPA) to determine the application without further insight or guidance having been provided by the Secretary of State on the matters set out above. One option would be to seek a further legal opinion prior to the determination of the conditions on the effect of Schedule 14, paragraph 7 of the Environment Act 1995 and whether the agreed extension of time was lawful. However, any further opinion would not provide a definitive answer: only a decision of the Courts could finally determine the point. If the extension was lawful, the committee must determine the conditions to be attached to the ROMP permission. If the extension was not lawful, the benefit of the mineral permission would cease to have effect for the winning and working of minerals, save in relation to restoration and aftercare conditions, which would remain enforceable according to their terms.
9. As recorded in the Minutes of the committee’s meeting on 23rd February 2026 and as set out in paragraph 4 above, additional legal advice would be a further opinion to be considered alongside the advice already obtained by or submitted to the Council, by the applicant and local residents. It would not provide a definitive answer to the lawful position. The legal issue remains one of statutory interpretation under Schedule 14 to the Environment Act 1995 and, in the absence of identified binding precedent, can only be resolved definitively by the Courts. The committee should therefore proceed on the basis of advice received by the Council that they may determine the application before it.
10. Unless the committee wishes to defer a decision for a further legal opinion to be obtained then it must now determine the conditions. The conditions provided to the committee by officers previously with minor amendments to reflect comments raised in representations to the committee meeting on 23rd February are attached as Annex 4. The key question is whether or not the following condition should be included in those determined:

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

11. Should the Committee conclude that, in the planning balance, this condition is necessary to protect irreplaceable and priority habitats, to comply with national policy in NPPF paragraph 193 and the development plan policies set out in OMWCS policy C7 and VLP1 policy CP 46, and that a reasoned conclusion on the significant effects of the development on the environment has been reached, then this condition should be included. Attaching this condition would require the Council to issue a separate notice alongside the decision notice advising that the effect of the determined conditions is to restrict working rights

and that, in the MPA's opinion, unreasonable prejudice will arise and that there is a liability on the MPA for compensation. Such compensation is likely to be substantial and the Council has no reserves specifically allocated for that purpose. Compensation exposure is capable of being a material consideration in the planning balance, but it must be weighed lawfully alongside the statutory ROMP framework, the development plan, national policy, the EIA conclusions and the environmental harm identified. The Council's Strategic Finance Business Partner has commented on this liability in the Financial Implications paragraph of this report. The applicant would also have a right of appeal to the Planning Inspectorate in relation to this and any other condition imposed.

12. As a public body, the Council is entitled to take into account the cost to the public of imposing conditions where the consequence of that is that the Council may be liable to pay compensation and treat that as a material consideration in the planning balance. Should the committee consider that, in the planning balance, the compensation and financial consequences for the Council outweigh the harm to irreplaceable and priority habitats and the conflict with development plan policies and national policy set out in NPPF paragraph 193, OMWCS policy C7 and VLP1 policy CP 46, and having reached a reasoned conclusion on the significant effects of the development on the environment, then it should not include this condition. There would then be no need to issue the separate notice alongside the decision notice. A decision not to include the condition would be open to challenge by way of judicial review by a third party. Given the absence of identified binding precedent on the Schedule 14 issue, the contrary legal opinions already advanced, and the ecological harm identified, the officer advice is that such a challenge is a risk. A successful challenge could result in the decision being quashed.

Financial Implications

13. If the application is determined and it is concluded that the conditions restrict working rights and give rise to unreasonable prejudice, the MPA may be liable to pay substantial compensation to the applicant under the ROMP compensation provisions.
14. The Council does not currently hold any budget or reserves specifically allocated to meet such a liability. The Council's insurance also does not cover this liability.
15. This compensation could amount to potentially a material amount to the Council. Therefore, such financial exposure needs to be carefully considered.

Filipp Skiffins, Finance Business Partner, (Filipp.skiffins@oxfordshre.gov.uk)

Legal Implications

16. The principal legal implications are addressed in the report. The application must be determined within the statutory framework for periodic review of mineral planning permissions in Schedule 14 to the Environment Act 1995. There is an unresolved issue of statutory interpretation concerning the words "at any time" in Schedule 14, paragraph 7. No binding national precedent has been identified which directly determines that point. The Council's interpretation is supported by counsel's advice but remains open to challenge. Members may also take into account the compensation provisions which may

apply where determined conditions restrict working rights and, in the MPA's opinion, unreasonable prejudice arises. A decision to include or omit the habitat protection condition may be susceptible to judicial review by a third party, and any condition imposed may be appealed by the applicant. Members should therefore ensure that the reasons for the decision are clear, that the statutory tests for conditions are applied, and that a reasoned conclusion is reached.

Jennifer Crouch, Principal Solicitor (Regulatory Team),
(Jennifer.crouch@oxfordshire.gov.uk)

Equality & Inclusion Implications

17. In accordance with Section 149 of the Equality Act 2010, in considering this proposal, due regard has been had to the need to:
 - Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. It is not however considered that any issues with regard thereto are raised in relation to consideration of this application.
19. 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 such issues are raised in relation to consideration of this application.

Conclusion

20. There is no definitive judicial authority resolving the statutory interpretation issue discussed above and in the previous committee report and addenda. The Secretary of State has provided no guidance on that issue and the refusal to call in the application should not be treated as resolving it. The committee must therefore reach its own lawful planning judgment on the conditions now before it. The officer advice is that the identified loss of irreplaceable or priority habitats, the relevant development plan and national policy framework, and the EIA conclusions are material considerations. The substantial compensation and financial implications for the Council is also a material consideration. If, having weighed those matters, the Committee concludes that the financial implications for the Council outweigh the impact on irreplaceable and priority habitats, the conditions set out in Annex 4 should be determined without the following condition:

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

If the Committee concludes that the loss of irreplaceable or priority habitats outweighs the financial implications for the Council, the conditions set out in Annex 4 should be determined with the above condition included and a

separate notice should be issued alongside the decision notice advising that the effect of the determined conditions is to restrict working rights and that, in the MPA's opinion, unreasonable prejudice will arise and that there is a liability on the MPA for compensation.

RECOMMENDATION

It is RECOMMENDED that the Committee weigh the loss of irreplaceable and priority habitats, the relevant development plan and national policy framework, the EIA reasoned conclusion, the statutory ROMP compensation provisions and the financial implications for the Council. Having done so, and having reached a reasoned conclusion on the significant effects of the development on the environment, the committee should determine the application by selecting either option A or option B below:

- A. Application no. MW.0041/23 for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2) be APPROVED subject to the conditions set out in Annex 4 but omitting the following condition:**

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site; OR

- B. Application no. MW.0041/23 for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2) be APPROVED subject to the conditions set out in Annex 4 including the following condition:**

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

**David Periam
Planning Development Manager**

Annexes: Annex 1: Report to Planning and Regulation Committee and addenda 23rd February 2026
 Annex 2: Letter to the Secretary of State 5th March 2026
 Annex 3: Letter from the Secretary of State 29th May 2026
 Annex 4: OCC officer suggested conditions

Addendum – Planning and Regulation Committee 20th July 2026

Agenda Item 6 - Land at Thrupp Farm, Radley MW.0041/23

1. A representation has been received from Winston Taylor International LLP (solicitors) with attached Counsel Opinion from Gregory Jones KC on behalf of a local resident. This is set out in full in Appendix 1.
2. Members are entitled to give consideration to the KC Opinion provided. However, it should be noted that this has been provided by a third party opposed to the ROMP application whose instructions to Counsel as set out in paragraph 3 of the Opinion are recorded as follows:

My instructions explain that the client anticipates that any resumption of mineral extraction will cause harmful amenity impacts in the local area, and that the client's objective is to prevent the ROMP application being approved.

3. Should members be minded to, they could further defer determining the conditions to obtain the Council's own further Counsel's Opinion for which officers could instruct a KC. As previously recorded in the Minutes of the committee meeting on 23rd February 2026, additional legal advice would be a further opinion to be considered alongside the advice already obtained by or submitted to the Council, by the applicant and local residents. It would not provide a definitive answer to the lawful position.
4. The officer advice remains, taking into consideration the Council's own Counsel Opinion and advice previously provided to the committee and included in Appendix 1 to the Committee report, that the Committee can lawfully determine the conditions as set out in the Officer Recommendation.
5. Officers have also received correspondence from Layla Moran MP on behalf of local residents who has advised that she has written to the Secretary of State to ask for clarity over whether the issue of validity of the application was properly considered and what his conclusion was. She has also asked that the Council as Mineral Planning Authority meet with local residents to discuss their concerns and to better understand the interpretation of the ROMP permission.
6. Ms Moran's comments are welcomed and noted. However, if the Secretary of State was going to provide advice, officers would have expected them to do so with the response to the call-in request. With regard to engagement with the local community, officers have previously met with Radley Parish Council who are the elected representatives of the local community to discuss the ROMP application. Local residents have been able to comment on the application and their comments have included ones with relation to the validity of the ROMP permission and so the current application. Local residents also spoke at the Planning and Regulation Committee meeting on 23rd February and addressed this point before the committee. It is not therefore considered that local residents have not had the opportunity to raise their concerns directly with the Committee.

Local residents will also again have the opportunity to address the committee at its meeting on 20th July 2026.

Appendix 1 – Winston Taylor International LLP Letter

FAO David Periam
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Date
9 July 2026

Our reference
DEL108.U5

Your reference
MW.0041/23

Application for determination of conditions to which mineral permissions will be subject with the reference MW.0041/23 relating to land known as Thrupp Farm, Radley, Abingdon, Oxfordshire (the "ROMP Application")

Dear Mr Periam

1. We act for the owner of the Wick Hall Estate, Radley, Abingdon, OX14 3NF (our "**Client**").
2. We write further to our letters of 25 April 2023, 13 September 2024, 18 January 2026, and 12 February 2026, and in connection with the County Council's Planning and Regulation Committee meeting to be held on 20 July 2026, at which, we understand, the ROMP Application will be considered.
3. This follows the Secretary of State's refusal to call in the application for its own determination and confirmation that the matter must be determined by the County Council as the mineral planning authority.
4. Our Client has repeatedly opposed the ROMP Application on the grounds that the application is not capable of determination, and these arguments have been set out in detail in our earlier correspondence. Our Client has now instructed Gregory Jones KC of Francis Taylor Building, who has considerable expertise in mineral and planning law, to provide his expert opinion on these matters. Please find his opinion enclosed.
5. Mr Jones concludes that the underlying mineral permissions, to which the ROMP Application relates, ceased to have effect on 1 November 2016 (except insofar as they impose restoration or aftercare conditions), and that the statutory phrase "at any time" cannot revive lapsed mineral permissions. The ROMP Application is not a valid application,

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and it is not capable of determination by the County Council. The proper course, in the view of Mr Jones, is to inform the applicant that the application cannot be entertained, and that any future mineral working would require a fresh grant of planning permission or some other lawful basis.

6. Mr Jones further concludes that, should the County Council purport to determine the ROMP Application, a third party would have a realistic prospect of a successful judicial review claim.
7. We request that the ROMP Application is treated as incapable of determination by the County Council and is returned to the applicant. However, if the County Council requires further time to consider this matter, then the ROMP Application should be deferred at the Committee meeting on 20 July 2026, and no decision should be made until the County Council has carefully considered the legal opinion and taken legal advice on its conclusions. We also ask that the opinion be made public on the County Council's online register and appended to the officer's report to the planning committee.
8. If the County Council has any questions or wishes to discuss any matters raised in our previous correspondence or the enclosed legal opinion, please do not hesitate to contact Kate Little (Kate.Little@winston-taylor.com) and Emma Tait (Emma.Tait@winston-taylor.com) of this firm.

Yours sincerely

Winston Taylor International LLP

Winston Taylor International LLP

Enclosure: the legal opinion of Gregory Jones KC dated 8 July 2026

OPINION

RE: Land At Thrupp Farm, Radley, Abingdon, Oxfordshire

Introduction

1. I am instructed by Winston Taylor International LLP on behalf of the owners of the Wick Hall Estate, Radley, Abingdon, OX14 3NF, in relation to application MW.0041/23, described in the instructions as an application for the determination of conditions to which the underlying mineral permissions are to be subject.
2. The applicant is H Tuckwell & Sons Ltd. The mineral planning authority (“MPA”) is Oxfordshire County Council. The instructions explain that the client’s property is registered under title number ON259409 and that several industrial activities operate in the local area surrounding the client’s property, including on land at Thrupp Lane and Thrupp Farm Quarry to which the ROMP application relates.

3. My instructions explain that the client anticipates that any resumption of mineral extraction will cause harmful amenity impacts in the local area, and that the client's objective is to prevent the ROMP application being approved. The instructions also explain that my lay client and its advisers have been objecting to waste processing and other amenity-harming operations locally and have been engaging with the MPA and neighbours who live locally to the Thrupp Farm Quarry site. My instructions state that those same neighbours have engaged directly with elected members of the MPA and Layla Moran MP.
4. The immediate practical context is that the Secretary of State has declined to call in the ROMP application and that the matter is expected to return to Oxfordshire County Council's planning committee. The instructions state that the ROMP application is to be considered at the committee meeting scheduled for 20 July 2026. I am asked to prepare this Opinion in a form which can be shared with the MPA and, if appropriate, appended to the committee report or otherwise circulated to members before they determine how to proceed.

Principal Issue

5. The principal issue is one of statutory construction and jurisdiction. The question is whether, where the MPA served a review notice under Schedule 14 to the Environment Act 1995 requiring the submission of an application by 31 October 2016, and where no such application was submitted by that date, the mineral permissions ceased to have effect on 1 November 2016 by operation of paragraph 7 of Schedule 14, save insofar as they imposed restoration or aftercare conditions. If they did, the further question is whether they could be revived or treated as extant by a later agreement

between the authority and Tuckwell made in or after 2022, or by the later submission and validation of the ROMP application in 2023.

6. I am also asked to advise on the following: whether the documents disclose any written extension agreed before the Review Date; whether the phrase “at any time” in paragraph 7 permits a post-Review-Date extension; whether public law, legitimate expectation, human rights or any other mechanism can restore permissions which have already ceased to have effect; what consequences flow from the MPA’s failure to serve a written reminder before the Review Date; what assistance is obtained from *Vattenfall Wind Power Ltd v Scottish Ministers* [2009] CSIH 27; what procedural steps remain available to the authority if the permissions have ceased to have effect; and what risks, including judicial review and costs risks, would arise if the authority were nevertheless to approve or purport to determine the ROMP application.
7. I have considered the letter of instruction dated 12 June 2026 and the enclosures which have been identified in those instructions, including the title material, site plan, the mineral planning permission's schedule of conditions, the officer report, addenda, earlier representations to the MPA and Secretary of State, the MPA’s letter seeking call-in, the applicant’s representations resisting call-in, the Secretary of State’s decision not to call in, and the advice of Ms Nina Pindham dated 1 July 2022, 15 January 2026 and 6 February 2026. I have also considered the relevant statutory wording, the statutory and policy purpose of the ROMP amendments, Hansard material, MPG14, and the authorities referred to below.
8. I should make clear at the outset that this Opinion is necessarily based upon the documents supplied and identified in the instructions. The most

important factual qualification is this. If there exists, but has not been disclosed, a written agreement made before 31 October 2016 by which the MPA and Tuckwell agreed a later specific date for the submission of the Schedule 14 application, that document would be highly material and would require reconsideration of parts of this Opinion. Subject to that qualification, I set out my opinion below.

Executive Summary

9. In my opinion, on the material presently available, the correct view is that the underlying mineral permissions ceased to have effect on 1 November 2016 by operation of paragraph 7 of Schedule 14 to the Environment Act 1995, except insofar as they imposed restoration or aftercare conditions. The statutory language is mandatory. It provides that where no application has been served by the first review date, or by such later date as may at any time be agreed in writing, each identified mineral permission “shall cease to have effect” on the day following the first review date or, as the case may be, the later agreed date.
10. I do not consider that the phrase “at any time” permits the authority and the applicant to revive a mineral permission after it has already ceased to have effect. The phrase permits the agreement of a later date so that the statutory consequence does not arise on the first review date. It does not confer a free-standing power to reverse the statutory consequence once it has arisen. There is a fundamental difference between agreeing a later date before cessation and purporting to resurrect a permission after cessation.
11. On the documents provided, no ROMP application was submitted by 31 October 2016. The only pre-deadline request for an extension identified in

the 1 July 2022 advice was not accepted. Indeed, as recorded in the instructions, the MPA's own later addendum clarified that earlier references to correspondence "within time" were not an assertion that a specific agreement had been reached before the Review Date, but rather a shorthand reference to the Council's view that it could agree a date "at any time".

12. I further consider that regulation 54 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 did not suspend the permissions in November 2016, because that regulation is only engaged where the authority, Secretary of State or inspector is dealing with a ROMP application or appeal arising from such an application. If no ROMP application had been made, there was nothing to suspend under that regulation. On the material as instructed, that was also the conclusion reached in Nina Pindham's 1 July 2022 advice.

13. Nor do legitimate expectation, Article 8, Article 1 of the First Protocol, Article 6, *Marleasing*, or any general principle of fairness provide a mechanism by which a permission which has ceased to have effect under a statutory code can be revived. Public law may prevent unfair departure from an existing representation where an authority has power to act, but it cannot create jurisdiction where Parliament has removed it. If the permissions ceased to have effect on 1 November 2016, the later 2022 agreement and the 2023 validation cannot confer jurisdiction on the authority to determine new conditions under paragraph 6 of Schedule 14.

14. The statutory purpose of the ROMP amendments strongly supports that conclusion. MPG14 states that the Environment Act 1995 introduced "new requirements for an initial review and updating of old mineral planning permissions and the periodic review of all mineral permissions thereafter",

and explains that mineral working is different from other forms of development because it is temporary, can last many years, its impact can change over time, and social standards can change, so that there is a “need for regular review so as to ensure that modern standards are met”. The same guidance records that the earlier 1981 Act represented “a sea change” in minerals planning, but that the review and updating proposals “have not worked as well as intended”; that the Government undertook in the 1991 Environment White Paper to review the legislation and compensation arrangements; that the 1991 Act dealt with the oldest IDO permissions; and that it was then “essential to tackle the review and updating of permissions granted in the 1950s, 60s and 70s both to protect the environment and amenity, and to provide equal treatment between sites and mineral operators.”

15. That statutory purpose is inconsistent with a construction under which a mineral permission may be allowed to cease, remain dormant in legal uncertainty for years, and then be revived by an after-the-event agreement between the MPA and operator. The purpose was regularisation, modernisation, environmental protection, equal treatment and certainty, not indefinite administrative elasticity.

16. The Scottish decision in *Vattenfall Wind Power Ltd v Scottish Ministers* [2009] CSIH 27 is binding in Scotland. In England and Wales, it should be treated either as binding on a first instance judge where the point is one of construction of materially common statutory language, or at the very least as authority of such high persuasive force that for practical purposes there is no material difference. That conclusion follows from *Re Hartland* [1911] 1 Ch 459, *Brooks v IRC* [1913] 3 KB 398 and *Riordan*

17. The failure to serve a reminder under paragraph 4 of Schedule 14 does not, in my view, preserve the permissions indefinitely or prevent paragraph 7 taking effect, provided the original paragraph 4 notice was validly served and sufficiently identified the permissions, the site, the review date, the requirement to apply, the consequences of failure to apply, and the right to seek postponement. The reminder is an important procedural safeguard, but on the facts as presently presented it is unlikely to be construed as a condition precedent to the operation of paragraph 7. That conclusion is subject to checking the content and service of the original review notice.
18. The fact that an Inspector may in 2014 have referred to, or proceeded upon, the existence of an extant permission does not have the legal effect of a certificate of lawful existing use or development, nor does it conclusively determine the lawfulness or continuing existence of the permission for all future purposes. *Reprotech* is important in this respect. Lord Mackay expressly agreed that a planning authority considering the scope of a permission under section 73 might have the scope of the permission “in view”, but that “this does not mean” that it was making a statutory determination under section 64, “and still less, if the situation arose today under section 192”.
19. If my analysis is correct, application MW.0041/23 is not a valid ROMP application capable of determination. The authority should not purport to determine conditions under Schedule 14. The proper course would be to inform the applicant that the application cannot be entertained because the permissions to which it purports to relate have ceased to have effect, and

that any future mineral working would require a fresh grant of planning permission or some other lawful basis.

20. If the MPA nevertheless approves or determines conditions on the ROMP application, there would, in my opinion, be a real and substantial risk of judicial review. A claimant would have an arguable case, and in my view a case with realistic prospects of success, that the authority acted without jurisdiction, misdirected itself as to paragraph 7, wrongly treated the permissions as merely suspended, unlawfully proceeded on the basis that a later agreement could revive extinguished permissions, and wrongly treated earlier appeal reasoning as a conclusive determination of lawfulness.

The Factual Chronology

21. The material planning permissions are described in the officer materials as permissions permitting the extraction of sand and gravel at Radley. My instructions are that DD1 and DD2 are the schedules of conditions to an earlier ROMP application, which were approved by deemed determination. They were approved by default by the MPA in 2000. I am instructed that, in accordance with the MPA's review notice dated 9 October 2015, the underlying mineral permissions to which the current ROMP application relates have the following references: ABG R129/71; RAD/3963; RAD/5498/5; 65/51; M/1/55; M/1/69; and M/2/69 (the "mineral permissions"). The officer report states that the last active extraction was carried out in around 1995, and that the site has since developed into an area containing lakes, wetland, woodland and other habitats.

22. My instructions state that the mineral planning permissions schedules confirm that the winning and working of minerals must cease no later than 21 February 2042, following which restoration and aftercare requirements take effect. That date is important because the applicant and authority have treated the permissions as still capable of authorising future extraction, subject to the ROMP process and the determination of updated conditions.
23. I am instructed that the Council issued a notice of periodic review in October 2015 and that no ROMP application was received by the MPA by the stated review date of 31 October 2016. A historic operator then submitted a ROMP application in January 2023, several years after the Review Date, and the MPA validated it.
24. The officer report later described the site as having entered automatic suspension on 1 November 2016. That description is not determinative. The legal question is not what label the Council used in November 2016, but what consequence the statute attached to the absence of an application and the absence of an agreed later date.
25. The committee materials show that the Council had previously pursued or contemplated prohibition order steps, and that in July 2022 the committee resolved that officers should seek to agree a date with H Tuckwell & Sons Ltd by which a ROMP application would be submitted. The further addendum records that, in subsequent correspondence, the agent for H Tuckwell & Sons Ltd agreed to submit the ROMP application by 28 February 2023 and that the valid submission was received on 22 February 2023.

26. The disclosed historical material provides important context to the review process. Following the Inquiry concerning the proposed Prohibition Order, the Inspector concluded in July 2014 that the relevant Thrupp Farm ROMP application had been deemed determined on 28 July 2000. The Inspector recorded that Oxfordshire County Council and the principal objector had ultimately adopted a common position that the statutory deeming provisions had taken effect and that, accordingly, there was no stalled ROMP capable of supporting a Prohibition Order. The Inspector accepted that position and recommended that the Prohibition Order should not be confirmed.
27. The significance of that conclusion is increased by the Council's subsequent conduct. By its Review Letter issued in October 2015, the Council expressly stated that there were "currently two overlapping permissions that were deemed to have been granted by default". The Council further stated that DD1 had been granted by default on 1 July 2000 and DD2 on 28 July 2000, but that both permissions should be treated as having been granted on 28 July 2000 because of the overlap between them.
28. Consistently with that position, the Council served a formal Notice of Site Subject to Periodic Review dated 9 October 2015 pursuant to Schedule 14 of the Environment Act 1995. The Notice expressly identified both the material planning permissions as permissions "deemed to have been granted on 28 July 2000". The Notice required submission of a fresh application for determination of conditions by 31 October 2016 and warned that, absent such an application, the permissions would cease to have effect except insofar as they imposed restoration or aftercare conditions.

29. Those documents demonstrate that, by October 2015, the Council itself was proceeding on the basis that the mineral planning permissions existed as deemed permissions and that the operative statutory mechanism was the Schedule 14 periodic review process. The review deadline specified by the Council was 31 October 2016.
30. The pre-review correspondence presently disclosed does not appear to reveal any express agreement extending that deadline. On 1 December 2015, Mr Salmon, agent for the operator, sought an extension of time. On 11 December 2015 the Council responded by stating that the applicant was aware of the timetable for providing a ROMP application "which is to 31st October 2016" and stated that there remained sufficient time available for the Environmental Impact Assessment and submission to be completed by that date. That correspondence appears to show a request for an extension rather than an agreement to one.
31. By contrast, the clearest documentary evidence of an express agreement currently disclosed is the exchange of correspondence in August 2022. Following the Committee resolution of 18 July 2022, the Council sought confirmation that the application and Environmental Statement would be submitted by 28 February 2023. On 30 August 2022 the operator's representative responded: "I can agree to this submission date." Read objectively, that exchange is capable of constituting a written agreement for submission by 28 February 2023.
32. The chronology is therefore significant. The Council's formal review notice identified 31 October 2016 as the operative statutory deadline. The clearest extant written agreement presently identified was reached almost six years

later. Unless there exists additional material not presently disclosed showing that a later review date had lawfully been agreed before expiry of the 2016 deadline, the August 2022 agreement does not itself explain how the statutory consequences identified in the review notice were avoided.

33. The important point for present purposes is that the 2022 agreement was made more than five years after the Review Date. It can only assist the applicant if paragraph 7 permits the making of a later-date agreement after the first review date has passed and after cessation would otherwise have occurred. If paragraph 7 does not have that effect, the 2022 agreement was ineffective to revive the permissions.

34. The Secretary of State declined to call in the ROMP application. That refusal did not determine the legal status of the material planning permissions. The refusal simply returned the matter to the MPA for determination. In my view, the authority remains obliged to satisfy itself as to its jurisdiction before taking any substantive step on the ROMP application.

The Statutory Framework

Statutory Context

35. Paragraph 7 of Schedule 14 to the Environment Act 1995 is the central provision. It provides, so far as material, as follows:

“Where no application under paragraph 6 above in respect of a mining site has been served on the mineral planning authority by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral

permission—

(a) relating to the site; and

(b) identified in the notice served in relation to the site under paragraph 4 above,

shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the first review date or, as the case may be, such later agreed date.”

36. Three aspects of that language are of particular importance. First, the provision is triggered by the absence of an application served by the relevant date. Secondly, the relevant date is either the first review date or a later date agreed in writing between the applicant and the authority. Thirdly, the consequence is not discretionary. Each identified mineral permission “shall cease to have effect” on the day following the relevant date, save for restoration or aftercare conditions.

37. Paragraph 4 of Schedule 14 provides for service of the notice of first periodic review. The notice must identify the mining site, identify the mineral permissions relating to the site, state the first review date, state that the first review date is the date by which an application must be made for approval of the conditions to which the mineral permissions are to be subject, explain the consequences if no application is made by that date, and explain the right to apply for postponement of the first review date. It also provides for a written reminder where no paragraph 6 application has been received by the date falling eight weeks before the first review date.

38. Paragraph 5 contains a specific postponement mechanism. It enables an application to be made for postponement of the first review date and provides for the authority to agree to postponement where it considers existing conditions satisfactory. Paragraph 6 governs the application for determination of conditions. Paragraph 7 then supplies the statutory

consequence if no paragraph 6 application is made by the first review date or by such later date as may at any time be agreed in writing.

39. The structure is therefore coherent. The authority gives notice. The recipient is warned of the date and consequence. A postponement route is available. A later date may be agreed in writing. If no application is made by the operative date, the permission ceases to have effect save for restoration and aftercare. The statutory code is designed to produce a definite legal outcome, not continuing uncertainty.

40. It is necessary specifically to address the question whether, where the first periodic review date has passed, no application under paragraph 6 has been made, and no written agreement extending time has been reached before that date, the words in paragraph 7 of Schedule 14 to the Environment Act 1995 “or by such later date as may at any time be agreed upon in writing between the applicant and the authority” nevertheless permit the parties subsequently to agree a later date so as to avoid or undo the statutory consequence that the relevant mineral permissions “shall cease to have effect”. In my judgement they do not.

41. Paragraph 5 of Schedule 14 deals expressly with an application for postponement of the first review date. It provides that a qualifying owner or mineral interest holder may apply for postponement “no later than the day upon which expires the period of three months from the day upon which notice was served upon him under paragraph 4”. It further provides that the application must identify the existing conditions, explain why they are considered satisfactory, and state the proposed substituted date. Paragraph 5(5) then contains a deemed approval mechanism where the authority has not notified its decision within three months of receiving the

postponement application “or within such extended period as may at any time be agreed upon in writing between the applicant and the authority”. The phrase “at any time” therefore appears in a procedural context where there is already a pending application and a running period for determination. Its natural function is to allow flexibility in the management of that pending process, not to confer a free-standing power of revival after statutory default.

42. Paragraph 7 is different in operation but identical in legislative purpose. It provides that where no application under paragraph 6 has been served on the mineral planning authority “by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the authority”, each mineral permission relating to the site and identified in the paragraph 4 notice “shall cease to have effect”, save in so far as it imposes restoration or aftercare conditions, “on the day following the first review date or, as the case may be, such later agreed date”. The structure is important. The paragraph identifies the date by which the paragraph 6 application must be served; it then attaches an automatic consequence to non-service by that date. Once that date has passed without an application and without an agreed later date, the statutory consequence has occurred. The permission has ceased to have effect.

43. The contrary construction would treat the words “at any time” as authorising a retrospective agreement after lapse, thereby enabling the parties to undo the statutory extinction of the permission. That is not what the language naturally provides. The phrase “such later date” refers to a date by which the paragraph 6 application is to be served. It is concerned with substituting a later deadline before the sanction bites. It is not expressed as a power to reinstate a permission which has already ceased to

have effect. Had Parliament intended to confer such a striking power of revival, one would expect clear language to that effect.

44. That construction is reinforced by paragraph 4. The notice of first periodic review must state the first review date, state that it is the date by which an application must be made for approval of the conditions, and “explain the consequences which will occur if no such application is made by that date”. Paragraph 4 also requires the authority to explain the right to apply for postponement of the first review date and give the date by which such an application has to be made. The paragraph 4 notice is therefore framed around prospective compliance with known deadlines and known consequences. It is inconsistent with that scheme to say that the consequences explained in the notice are not final consequences at all but may be displaced indefinitely by a later agreement after default.

45. That conclusion is reinforced by ordinary principles of statutory construction. The court should construe the provision as part of the scheme as a whole. Paragraphs 4, 5, 6 and 7 together establish a sequence: notice of review; opportunity to seek postponement; application for determination of modern conditions; and, in default, cessation of the permission. The phrase “at any time” should be read within that sequence. It gives procedural flexibility as to the agreement of a later date; it does not confer a substantive power to undo the consequence which the Act states shall follow once the relevant date has passed.

46. I would therefore conclude that, on the proper construction of paragraph 7, where no application under paragraph 6 has been served by the first review date, and no later date has by then been agreed in writing, the relevant

permissions cease to have effect on the following day, except in so far as they impose restoration or aftercare conditions. The words “at any time” do not permit the parties to revive the permissions thereafter. They operate only within the machinery of an extant periodic review process, before the statutory consequence of default has taken effect.

47. If the applicant’s construction were right, there would be no finality in paragraph 7. A mineral permission which had ceased to have effect on the day after the review date could nevertheless be revived by agreement months or years later. That would be a surprising consequence in a regime whose object was to secure the “effective and speedy implementation” of review, to ensure “regular review” so that “modern standards are met”, and to remedy the failure of earlier legislation which had stalled because it lacked effective time limits. I turn to examine the statutory purpose.

Statutory Purpose

48. The view I take on the language of paragraph 7 is not a merely linguistic point. This conclusion is supported by the statutory purpose of the ROMP regime. The legislative purpose was to secure the timely review and modernisation of mineral permissions which, because of their age and inadequate conditions, could operate to environmental standards no longer acceptable. The Supreme Court’s description in *G Hamilton (Tullochgribban Mains) Ltd v Highland Council* [2012] UKSC 31 is directly in point. Lord Walker, giving the judgment of the Court, stated that “the principal legislative purpose of these provisions is to ensure that old mineral permissions are made subject to conditions meeting modern environmental standards”, and added that some such permissions were granted “subject to conditions less stringent and less precise than are

appropriate today”. He also identified a subsidiary purpose of achieving “better and more reliable records of old planning permissions for mineral working”.

49. The official Minerals Planning Guidance (“MPG”) issued after enactment is to like effect. MPG14 stated that the Environment Act 1995 introduced “new requirements for an initial review and updating of old mineral planning permissions and the periodic review of all mineral permissions thereafter”, and that the Secretaries of State attached importance to the “effective and speedy implementation” of the procedures and policies contained in the guidance. It explained that mineral working is different from other development because it may last for many years, its impact may change over its lifetime, and societal standards may also change; there is therefore a “need for regular review so as to ensure that modern standards are met”. It stated that “mineral working is different from other forms of development,” because it “can only take place where minerals are found to exist”; it is “a temporary use of land, although sometimes lasting for many years”; and consideration must be given to “ensuring restoration of the land to a beneficial after-use.” It further stated that the operation of a mineral site can significantly change its impact over its lifetime and that “the standards of society can also change.” The conclusion drawn in the guidance is that “there is therefore need for regular review so as to ensure that modern standards are met.”

50. MPG14 also explained the legislative history. It records that following the Stevens Committee in 1976, the Government reflected the need for review in the Town and Country Planning (Minerals) Act 1981, which imposed a duty on MPAs periodically to review mineral sites and make such orders as they considered necessary to update planning permissions. It then

records that the 1981 Act represented “a sea change in the approach to minerals planning”, but that the proposals for review and updating “have not worked as well as intended.” It then stated that, after dealing with IDO permissions under the 1991 Act, “it was essential to tackle the review and updating of permissions granted in the 1950s, 60s and 70s both to protect the environment and amenity, and to provide equal treatment between sites and mineral operators”. That statement is important because it confirms that the statutory structure was designed to secure review and updating, not to allow permissions to escape review through indefinite postponement or retrospective cure.

51. That ministerial and policy background is entirely inconsistent with treating paragraph 7 as a provision which permits indefinite revival by administrative agreement. The purpose was not to leave old permissions in a state of suspended animation until a later authority and operator chose to regularise them. The purpose was to impose a statutory discipline: either the operator engages with the review process by the review date, or by a lawfully agreed later date, or the permission ceases to have effect save for restoration and aftercare. The MPG14’s summary of the periodic review provisions is also inconsistent with the suggested broad construction of “at any time”. It states that land and relevant mineral owners of active Phase I sites must submit new schemes of conditions by the specified date “or the planning permissions will cease to have effect” and makes the same point in relation to active Phase II sites. The guidance thus treats the deadline and the consequence of non-compliance as real and operative.

52. Whilst guidance cannot, of course, change the law, MPG14 supports a purposive construction of paragraph 7. The words “or by such later date as may at any time be agreed upon in writing” should be read as permitting

the applicant and authority to agree a later date before the permission has ceased to have effect. They do not authorise the authority and operator, after the first review date has passed and after no paragraph 6 application has been served, to resuscitate the permission by a retrospective agreement. Such a reading would deprive paragraph 7 of its intended effect, undermine the statutory deadline, and frustrate the legislative purpose of securing timely review and modernisation of minerals permissions.

Parliamentary Material

53. Lastly, if and in so far as necessary, on the basis that the statutory words are at least arguably ambiguous in their application to the present question, and that the statements relied upon identify the mischief and legislative purpose rather than contradicting the statutory text¹. The judicial statement of the statutory purpose in *G Hamilton (Tullochgribban Mains) Ltd* is consistent with the Parliamentary material. In the House of Lords debate on 7 March 1995, Viscount Addison explained that the proposed provisions were directed at “the environmental problems of old mineral permissions granted between 1948 and 1981”. He said that such permissions “often lack proper working conditions, such as noise limits, and frequently contain no requirement for the restoration of sites”, and that by operating to lower standards than other mineral permissions “they also introduce distortions in the market”. He further stated that the issue required “urgent action” if

¹ The Parliamentary materials referred to above are only relied upon, if and insofar as necessary, in accordance with the principles stated in *Pepper (Inspector of Taxes) v Hart* [1993] AC 593 (HL). In that decision, the House of Lords relaxed the former exclusionary rule and held that reference may be made to statements in Hansard as an aid to construction where three conditions are satisfied: first, that the statutory provision is ambiguous or obscure or leads to an absurdity; secondly, that the material relied upon consists of statements by the responsible Minister or other promoter of the Bill; and thirdly, that those statements are clear as to the point at issue. The function of such material is not to contradict or override the statutory language, but to illuminate the mischief at which the provision is directed and to confirm the legislative intention where the statutory wording admits of more than one possible meaning.

“serious environmental consequences” were to be avoided, and that the introduction of a statutory time limit was designed to ensure that “real progress could be achieved”. That same debate is also significant because it identifies the failure of the earlier 1981 regime as being the absence of effective time limits. Viscount Addison stated that the Town and Country Planning (Minerals) Act 1981 had placed a statutory duty on mineral planning authorities to review mineral sites, but that those measures “have failed as they establish no time limit on the duty”, with the result that “very little progress has been made in reviewing permissions that cause damage”. That is relevant contextual material. It shows that the introduction of time limits was not incidental: it was central to the legislative remedy. A construction which allows the deadline to be extended after default and after lapse would reintroduce the very mischief which the 1995 Act was designed to cure.

54. During the Commons debate on 27 June 1995, Sir Paul Beresford, speaking for the Government, stated that the draft guidance would make clear that the Government intended industry and mineral planning authorities to follow the same principles for updating pre-1982 sites as had been followed for interim development orders, and that this would ensure “equal treatment between the sites and the operators”. He also stated that the Government recognised, as did the industry, “the importance of introducing conditions — and the industry is accepting those conditions for the sites — for environmental reasons”.

55. The Commons debate on “Guidance on Old Mineral Planning Permissions” is also material. Ms Ruddock described old mineral permissions as giving rise to “poor and outdated standards”, and said that local communities suffered from “dust, dirt, frequent and constant noise,

and from heavy lorries with heavy loads”, adding that rural communities “need and deserve the upgrading of old mineral planning permissions.” Sir Paul Beresford, responding for the Government, referred to consultation on draft guidance and said that the Government intended industry and MPAs to follow the same principles for updating pre-1982 sites as had been followed for IDO sites, to ensure equal treatment between sites and operators.

56. The proper conclusion to draw from the statutory scheme, the guidance and Hansard is that the ROMP regime is intended to secure certainty, modernisation and environmental control. It is not intended to provide operators with an indefinite opportunity to regularise old permissions after the statutory consequence of non-compliance has already occurred. Paragraph 7 is the enforcement mechanism which makes that statutory discipline effective.

57. If the applicant’s construction were correct, paragraph 7 would lose much of its practical force. An owner or operator could fail to submit a ROMP application by the Review Date, allow years to pass, and then invite the MPA to agree a later date on the footing that the permission had never truly ceased. Such a construction would create precisely the uncertainty that the statutory scheme was designed to remove.

Question (a): the status of the Mineral Permissions as at 1 November 2016

58. In my opinion, on the facts presently disclosed the mineral permissions ceased to have effect on 1 November 2016, save insofar as they imposed restoration or aftercare conditions. That conclusion follows directly from

paragraph 7 if, as appears to be common ground, no application was served by 31 October 2016 and no later date had by then been agreed in writing.

59. The words “shall cease to have effect” are ordinary mandatory words. They do not mean “shall be suspended”. They do not mean “shall remain capable of revival”. They do not mean “shall cease to authorise development unless and until the parties later agree a submission date”. Parliament used definitive language and included an express saving for restoration and aftercare conditions. That saving would be unnecessary if the permissions merely entered an administrative state of suspension.

60. The phrase “on the day following the first review date” is equally important. It identifies the time at which cessation occurs. If there is a later agreed date, the permission ceases on the day following that later agreed date. If there is no later agreed date, it ceases on the day following the first review date. On the presently available facts, that day was 1 November 2016.

61. I therefore do not accept that the permissions remained fully extant from 1 November 2016 merely because the authority later proceeded on the basis that they had entered suspension. The authority’s own legal advice of 1 July 2022 accepted that regulation 54 suspension was not available where no ROMP application had been made. That concession is in my view correct. It follows that the Council’s November 2016 description of the site as suspended cannot bear the legal weight placed upon it.

Question (b): whether there is evidence of an extension agreed before the Review Date

62. The subsequently disclosed Review Letter, Review Notice and Environmental Information Regulations material materially reinforce that conclusion. The Council's own documents show that it regarded the material planning permissions as deemed permissions and required a fresh Schedule 14 application by 31 October 2016. Yet the documents presently disclosed do not identify any written agreement reached before that date postponing the review deadline.
63. I have not seen any document which, in my opinion, evidences an agreement before 31 October 2016 to extend the date for submission of the ROMP application to a later specified date. The instructions record that the client is not aware of any further documents evidencing such agreement, despite requests to the MPA and Environmental Information Regulations requests made by neighbours.
64. The only exchange identified in the advice of 1 July 2022 was the 1 December 2015 exchange in which the applicant's agent asked whether the Council would agree an extension of time to provide the ROMP conditions. No date was proposed. The Council's officer responded that the applicant was aware of the timetable for providing a ROMP application by 31 October 2016 and that there was sufficient time available for the EIA to be carried out and the submission made by the due date. That exchange is not an agreement to a later date. It is, if anything, a refusal to extend. It states that there is sufficient time to meet the existing deadline. It does not identify any later date. It does not record agreement to postpone. It does

not purport to exercise paragraph 5. Nor does it satisfy paragraph 7 as an agreement upon “such later date”.

65. I have considered the point in the January 2026 addendum referring to correspondence “within time”. The subsequent addendum is said to have clarified that “within time” was shorthand for a course of conduct which led the Council to determine that it could agree a date “at any time” in accordance with paragraph 7, and not an assertion that a specific agreement had been reached before the Review Date.

66. If the MPA asserts that there was a pre-31 October 2016 written agreement to extend time, it should disclose it and identify the later date agreed. In the absence of such disclosure, committee members should proceed on the basis that no such agreement has been evidenced.

67. Indeed, the disclosed material tends in the opposite direction. The 2015 correspondence shows the applicant seeking additional time and the Council responding by reference to the existing deadline rather than by identifying a later agreed date. It is therefore difficult, on the present evidence, to identify any document satisfying the statutory requirement for a written agreement to a later review date before the occurrence of the statutory deadline.

Question (c): whether an extension could be agreed after the Review Date

68. In my opinion, an extension could not validly be agreed after the Review Date if, by that point, paragraph 7 had already operated to make the

permissions cease to have effect. The phrase “or by such later date as may at any time be agreed upon in writing” must be construed as referring to an agreement made before the statutory consequence occurs. It is a power to agree a later operative date, not a power to undo cessation after it has occurred. The disclosed material serves to sharpen the issue. The Council's formal Notice of 9 October 2015 expressly identified 31 October 2016 as the relevant deadline and identified cessation as the statutory consequence of non-compliance. On the presently disclosed documents, the first clear written agreement emerged only in August 2022. The practical effect of the applicant's and Council's construction is therefore not merely to permit a modest extension of time but to permit revival of permissions almost six years after expiry of the review date. That factual context, in my view, tends to reinforce rather than weaken the conclusion that paragraph 7 was not intended to operate retrospectively in the manner suggested.

69. For the reasons I have given above the grammatical structure of paragraph 7 supports that conclusion. The paragraph asks whether an application has been served by the first review date, or by such later date as may be agreed. It then provides that the permission shall cease on the day following the first review date or, as the case may be, such later agreed date. This contemplates two pathways. Either no later date exists, and cessation occurs after the first review date; or a later date exists, and cessation occurs after that later date if no application is made. It does not contemplate a third pathway in which cessation occurs, is then set aside by later agreement, and the permission is treated as having remained alive.

70. The contrary interpretation would produce serious uncertainty. A mineral permission could apparently cease to have effect for years or decades, only to be revived by private agreement between the authority and an operator

long after local residents, landowners, public authorities and the development plan process had proceeded on the basis that extraction rights had gone. Such an interpretation would be contrary to the evident object of the ROMP regime, which is to bring old mineral permissions under modern conditions within a certain statutory framework. In forming this view, I have not overlooked the words “at any time”. They must be given meaning. For the reasons I have given above, in my view, they mean that the agreement to a later date is not confined to the formal paragraph 5 postponement mechanism or to a narrow window shortly after service of notice. The authority and applicant may agree a later date at any time before paragraph 7 has operated to extinguish the permission. The words do not mean that a permission that has already ceased to have effect can be revived at any time in the indefinite future.

71. Accordingly, I respectfully disagree with Ms Nina Pindham’s conclusion that the Council could agree “tomorrow” an extended deadline ten years in the future. That analysis may give effect to the words “at any time”, but it does so at the expense of the equally important words “shall cease to have effect” and “on the day following the first review date”. A construction must give coherent effect to the whole sentence, not isolate one phrase from the statutory consequence which follows.

Question (d): revival, legitimate expectation, human rights and public law

72. I do not consider that there is any statutory mechanism by which a mineral permission which has ceased to have effect under paragraph 7 may be revived. The statute expressly saves restoration and aftercare conditions. It does not save the working permission. It does not provide for revival. It

does not provide that a later agreement may restore the permission. It does not provide that validation of a later ROMP application cures the failure to apply by the Review Date.

73. My conclusion is supported by the reasoning of the House of Lords in *R (Reprotech (Pebsham) Ltd) v East Sussex County Council* [2002] UKHL 8, [2003] 1 WLR 348. The case concerned an attempt to rely upon officer advice and a committee resolution as amounting, in substance, to a binding determination that no further planning permission was required. The House of Lords rejected that argument. The importance of the decision for present purposes lies in its insistence that, where Parliament has created a statutory mechanism for determining the legal status of land, that mechanism cannot be bypassed by informal representations, administrative assumptions, reliance, estoppel, or subsequent conduct.

74. Lord Hoffmann's reasoning is directly relevant to the present issue. His central point was that planning control is not an ordinary private law field in which the parties' mutual dealings can fix their legal position *inter se*. It is a public law regime, created by statute, operating in the public interest and affecting landowners, neighbours, public authorities and the wider public. For that reason, the legal status of land must be determined by reference to the statutory code, and not by treating informal statements or administrative dealings as if they had the legal effect of a statutory determination. Lord Hoffmann expressed the point in the well-known formulation that "it is unhelpful to introduce private law concepts of estoppel into planning law". In this case paragraph 7 of Schedule 14 does not merely regulate private relations between the mineral planning authority and the operator. It prescribes a statutory consequence affecting the status of the mineral permissions themselves. If no application is served

by the first review date, or by such later date as has been agreed in writing before the consequence takes effect, the identified permissions “shall cease to have effect”, except insofar as they impose restoration or aftercare conditions. Once that statutory consequence has occurred, there is no extant working permission to which a later paragraph 6 application can attach.

75. Accordingly, in my view *Reprotech* supports the distinction which I draw, namely, a planning authority may, while it still has power to act, make decisions which attract public law duties of fairness. It may also make representations which, in an appropriate case, are relevant to legitimate expectation. It cannot, by representation, agreement, conduct, validation, committee resolution, or informal administrative assumption, alter the legal effect which Parliament has attached to non-compliance with a statutory condition. If paragraph 7 caused the material planning permissions to cease to have effect on 1 November 2016, the mineral planning authority could not later confer upon itself jurisdiction by agreeing in 2022 that Tuckwell might submit an application by February 2023. The point is not simply that estoppel is unavailable as a technical plea. It is that the statutory scheme must be allowed to operate according to its terms. To hold otherwise would permit the authority and an operator, by a later bilateral arrangement, to undo the effect of a statutory provision designed to secure certainty, modernisation and finality in the review of old mineral permissions. That approach would be inconsistent with *Reprotech* because it would allow administrative conduct to achieve a result which the statute itself does not authorise.

76. The modern law of legitimate expectation is important, but it is concerned with fairness in public administration. It may arise where a public authority

has made a clear, unambiguous and unqualified representation, or has adopted a settled practice, and a person has relied upon it. The doctrine does not ordinarily permit a public authority to act contrary to statute. It is a constraint on the lawful exercise of public power, not a source of power where no power exists. That distinction was itself reflected in *Reprotech*. Lord Hoffmann did not deny that public law might protect legitimate expectations in appropriate circumstances. Rather, he rejected the transposition of private law estoppel into planning law and located any protection within public law principles. The consequence is that legitimate expectation may regulate the fairness of a decision which the authority has power to make. It cannot require or indeed allow the authority to exercise a jurisdiction which the statute has removed. In the present case, if paragraph 7 operated on 1 November 2016, there was thereafter no jurisdiction under paragraph 6 to determine conditions for continued mineral working.

77. In expressing her opinion, Ms Nina Pindham relied upon *Re Finucane* [2019] UKSC 7 for the proposition that where a clear and unambiguous undertaking has been made, the authority will not be permitted to depart from it unless it is fair to do so. That principle is not in dispute. The difficulty is its application here. Even if the Council had encouraged the operator to continue preparing a ROMP application, such encouragement could not override paragraph 7 if paragraph 7 had already extinguished the permissions. Moreover, a legitimate expectation ordinarily requires a clear and unambiguous representation. A course of correspondence and committee discussion which did not identify a later date before 31 October 2016 is a doubtful foundation for an expectation that the statutory consequence would never arise.

78. The point is reinforced by the distinction between an expectation as to procedure and an expectation as to substantive legal status. At most, the operator might say that it had an expectation that the Council would consider a ROMP application if submitted. But if in law the permissions had already ceased, the Council could not lawfully determine that application. A legitimate expectation cannot require or empower an authority to do that which the statute does not permit. If the operator has suffered prejudice by relying on the Council's encouragement, that may found an argument in private or public law in some other form or else a finding of maladministration against the Council. It does not however restore the permissions.

79. I accept that the applicant may say that it has incurred expenditure in preparing environmental material and may suffer prejudice if the permissions are treated as having ceased. That is relevant to forensic and litigation risk, but it does not answer the jurisdictional question. The applicant knew, or was fixed with knowledge, that the review notice required an application by 31 October 2016. It could have submitted an application, applied properly for postponement, or secured a written later date. If it did none of those things, the ensuing statutory consequence cannot readily be characterised as unfairness imposed without warning.

80. I also do not consider that Article 1 of the First Protocol to the European Convention on Human Rights requires a different result. A mineral permission may be a "possession" for Convention purposes. Article 1 of the First Protocol provides that "Every natural or legal person is entitled to the peaceful enjoyment of his possessions" and that no one shall be deprived of possessions except in the public interest and subject to the

conditions provided for by law. But the content of the possession is defined by the domestic legal framework which creates and regulates it.

81. A mineral planning permission is not an absolute private law estate. It is a statutory planning right. Its incidents, duration, conditions, reviewability and consequences of non-compliance are all defined by statute. If the Environment Act 1995 provides that a permission shall cease to have effect where no application is made by the first review date or later agreed date, that is part of the statutory definition of the right. The operation of paragraph 7 is therefore not an external expropriation of an otherwise unconditional right. It is the operation of the condition imposed by Parliament on the continuing effect of that right.

82. The same answer applies to Article 8. Article 8 protects private and family life, home and correspondence. It is difficult to see how the operator's Article 8 rights would be materially engaged by the loss of a mineral permission. If Article 8 were engaged at all, the interference would be in accordance with law, namely paragraph 7 of Schedule 14, and would pursue legitimate planning, environmental and public interest objectives. Conversely, the client and neighbouring occupiers may themselves point to amenity, environmental and home-life interests affected by the possible resumption of mineral extraction. Article 8 therefore does not provide any reason to construe paragraph 7 as containing an unstated revival power. Nor in my view does section 3 of the Human Rights Act 1998 alter the result. Section 3 requires primary and subordinate legislation to be read and given effect in a way which is compatible with Convention rights so far as it is possible to do so. That interpretive obligation is strong, but it does not permit the court to adopt a meaning inconsistent with a fundamental feature of the legislation. It does not allow the court to read

into paragraph 7 an unexpressed power to revive permissions which have already ceased to have effect. The same is true of *Marleasing SA v La Comercial Internacional de Alimentación SA* [1990] ECR I-4135. If retained or assimilated EU law or general interpretive principles are invoked, they cannot require a domestic court to contradict the operative language of a domestic statutory scheme where the consequence is clear. They may assist in choosing between available meanings. They cannot supply an omitted statutory mechanism of revival. In any event I can see no provision of retained EU that would engage the *Marleasing* principle.

83. The later 2014 Inspector's decision is also relied upon by Ms Nina Pindham in her January 2026 email. She states that the Inspector's decision on appeal very clearly concluded that there was an extant consent and that the decision stands because any challenge would be well out of time. That point requires caution. A 2014 decision pre-dated the 2015 review notice and the 2016 review date. It may establish that the mineral planning permissions were then extant. It cannot determine whether they ceased to have effect on 1 November 2016 after no application was submitted by the review date. Unless the 2014 decision decided some issue which legally precludes the operation of paragraph 7, and I have seen nothing suggesting that it did, it does not answer the present question. This point is also consistent with *Reprotech*. An Inspector's observations or reasoning in an earlier appeal may be relevant background, but unless the Inspector was exercising the statutory jurisdiction to determine lawfulness, or unless the matter forms part of the operative statutory decision in a way which binds the parties, such observations cannot have the same effect as a formal statutory determination. In particular an earlier statement that a permission was extant cannot preclude the later operation of paragraph 7 where the

statutory review date subsequently passed without a valid application or agreed later date.

84. The point is not that an Inspector's decision is legally irrelevant. It may be material. It may be a planning judgement which binds the parties as to the outcome of that appeal. It may also give rise to public law consequences if a party seeks to re-open what was actually decided. A statutory certificate of lawfulness under statutory procedure is contained in sections 191 and 192 of the Town and Country Planning Act 1990. Indeed, *Reprotech* concerned a waste treatment plant where the issue was whether electricity generation would amount to a material change of use requiring planning permission. No formal application for a statutory determination under section 64 of the 1990 Act was made. Instead, the authority considered a section 73 application to vary a condition. The House of Lords held that the committee resolution and officer views did not amount to a statutory determination that no further permission was required. Lord Mackay expressly addressed the point. He said that, in carrying out its section 73 duty, the authority would require to have in view the scope of the permission granted in deciding whether different conditions should be attached, and that in that case, if the committee had taken the view that generation of electricity was not permitted, it could not sensibly have resolved as it did. But he continued:

“But this does not mean that in doing so, they were making a decision under section 64 and still less, if the situation arose today under section 192 of the legislation now in force.”

85. That passage is directly applicable by analogy. An Inspector determining an appeal may need to proceed on an understanding of the planning history and the apparent scope of a permission. But that does not mean that the

Inspector is making a statutory determination under section 191 or section 192. It simply means that the Inspector is deciding the appeal before him or her on the basis of the matters relevant to that appeal. The distinction matters because a certificate of lawfulness is a specialised statutory mechanism. Under section 191 or section 192, the applicant must make a formal application for a certificate specifying the land and the use, operations or other matter in question. The local planning authority, or Inspector on appeal, determines the lawfulness of that specified use, operation or matter. If granted, the certificate has a statutory conclusiveness which an ordinary appeal decision does not have.

86. *Reprotech* also emphasises the importance of public law procedures in planning. Lord Mackay said that where public authorities are fulfilling statutory duties or exercising statutory discretions, the public interest in their activities and the effect on members of the public who are not parties to the particular process require the law to differentiate clearly between such activities and those in which only the interests of the directly involved parties are considered. He agreed with Lord Hoffmann that “the time has come for public law in this area to stand upon its own two feet.” That principle is important here. A CLEUD or CLOPUD procedure gives notice, defines the question, creates a certificate if lawfulness is established, and carries statutory consequences. An ordinary appeal decision letter does not necessarily perform those functions. The Inspector may express a view on the planning context or proceed on an assumption about extant permission, but that is not the same as issuing a certificate that conclusively determines lawfulness.

87. The fact that the period for challenging the decision letter has passed does not transform the decision letter into a certificate of lawfulness. It means

that the decision itself can no longer ordinarily be quashed by statutory challenge or judicial review. It does not convert every proposition of law or planning background contained in its reasoning into a conclusive statutory determination for all future purposes.

88. This is particularly so where the later question is different from the question before the Inspector. If the 2014 Inspector proceeded on the basis that the material planning permissions were then extant, that may have been correct as at 2014. But the present question is whether the permissions ceased to have effect on 1 November 2016 following the 2015 review notice and the failure to submit a ROMP application by 31 October 2016. The 2014 decision could not have determined that later statutory consequence. Even if the Inspector's 2014 reasoning included statements about the existence or lawfulness of the permission, those statements cannot preclude the operation of paragraph 7 in 2016. The statutory event post-dated the appeal decision. A decision that a permission existed in 2014 does not decide whether it ceased to have effect in 2016.

89. Accordingly, the MPA should not treat the 2014 Inspector's decision as if it were a CLEUD. If the applicant wished to obtain a conclusive determination of lawfulness, the statutory route was and remains the certificate procedure, subject to the limits of the statutory scheme. An Inspector's decision letter in a different appeal does not supply that conclusive status.

90. I therefore conclude that neither estoppel, nor legitimate expectation, nor human rights, nor the 2014 Inspector's decision, nor the Council's subsequent validation or conduct can restore permissions which, on the better construction of paragraph 7, ceased to have effect on 1 November

2016. The statutory question remains whether the permissions ceased on that date. If they did, there is no public law doctrine by which they can be revived.

Question (e): the failure to serve the written reminder

91. The instructions ask specifically about the MPA's failure to serve a written reminder under paragraph 4 of Schedule 14. Paragraph 4 provides, in substance, that where the authority has served notice and has received no paragraph 6 application by the date falling eight weeks before the first review date, it shall serve a written reminder on the person in question. The reminder must indicate that the land or mineral is included in a mining site, comply with the requirements of the review notice in certain respects, and be served on or before the date falling four weeks before the first review date.
92. In my opinion, the failure to serve a written reminder is a procedural error. It is not, however, likely to mean that the material planning permissions remained extant indefinitely or that paragraph 7 never operated, provided that the original paragraph 4 notice was validly served and gave the required information, including the review date and the consequence of not making an application by that date.
93. The reminder requirement is plainly intended as an additional safeguard against inadvertent loss of rights. It is not expressed in paragraph 7 as a condition precedent to cessation. Paragraph 7 asks whether an application has been served by the review date or later agreed date. It does not say that cessation occurs only if a reminder has also been served. If Parliament had

intended service of a reminder to be a condition of cessation, it could have said so expressly.

94. That said, failure to serve the reminder may be relied upon by the applicant as part of a fairness or legitimate expectation argument. The applicant may contend that the authority cannot rely on paragraph 7 where it failed to comply strictly with paragraph 4. The strength of that argument would depend on the content of the original notice, the knowledge of the applicant, any prejudice caused by the absence of the reminder, and the extent to which the statutory purpose of the reminder was otherwise achieved.

95. On the material presently available, I agree with Ms Nina Pindham that the omission is unlikely to be fatal to the process. It would be odd if an applicant who had been served with a valid review notice, knew the review date, requested an extension before that date, and was told that the due date remained 31 October 2016, could avoid paragraph 7 altogether because the later reminder was not sent. But I would check the original review notice before expressing this conclusion finally.

96. I therefore answer question (e) in this way. The failure to serve the reminder is a procedural error and a litigation risk factor. It does not, in my view, preserve the working permissions if a valid original notice was served and no application or later agreed date existed by the review date. It does not provide a basis for the authority to approve the 2023 ROMP application.

Question (f): *Vattenfall*

97. *Vattenfall Wind Power Ltd v Scottish Ministers* [2009] CSIH 27 was decided by the Inner House of the Court of Session. It concerned the time for appealing against non-determination of a planning application where the statutory language permitted an extended period to be agreed in writing between the applicant and the authority. The relevant wording included the phrase “within such extended period as may at any time be agreed upon in writing between the applicant and the authority”, which is closely similar to the language in paragraph 7 of Schedule 14.

98. In the earlier opinion to which my attention has now been drawn, I examined *Vattenfall* in the context of appeals against non-determination and extensions of time. That opinion records that the applicant applied on 10 April 2003 for planning permission for twelve wind turbines and related developments; that the applicant and the local planning authority later agreed in writing an extension of time to 31 December 2007; but that at the date of that agreement the time within which the authority should have determined the application had already passed by more than four years and two months.

99. The Inner House held that the applicant’s right of appeal to the Scottish Ministers had been irretrievably lost. The Opinion of the Lord Justice Clerk stated at paragraph 9:

“When an applicant submits a planning application, he has certain rights in relation to the planning authority and certain separate rights in relation to the Scottish Ministers. In relation to the planning authority, the applicant has the right to a decision within the statutory period; that is to say, the period prescribed ... or any extension of that period that may be agreed upon by the applicant and the planning authority. If the planning authority fails to make a decision within that period, the applicant is at once entitled to appeal to the

Scottish Ministers. His right to do so lasts for a period of six months from the date on which the statutory period has expired.”

100. The Court continued at paragraph 10:

“If the applicant appeals within that period, the jurisdiction to determine the application passes from the planning authority to the Scottish Ministers. If the applicant does not appeal within that period, the planning authority remains seised of the application and is obliged to make a decision on it. That principle was decided by the House of Lords in *London and Clydeside Estates Ltd v Aberdeen District Council* and was applied in the Outer House in *Bovis Homes (Scotland) Ltd v Inverclyde District Council*. Neither of these decisions deals expressly with the question whether in that event there is a point at which the authority’s continuing obligation to determine a planning application comes to an end. In my opinion, it is unnecessary for us to consider that question. Even if counsel for the appellant is right in submitting that that obligation subsists indefinitely and that the power of the applicant and the planning authority to agree to extend the time for the making of a decision is not subject to any time-limit at all, those principles apply only in a question between the appellant and the planning authority.”

101. At paragraph 11, the Lord Justice Clerk said:

“The applicant’s rights in relation to the respondents are an entirely separate matter. In my opinion, the clear meaning of the legislation is that in relation to an individual planning application the applicant has one single right of appeal, that that right emerges after the expiry of the statutory period ..., and that the respondents have no discretion to extend the six-month time-limit within which the appeal must be lodged.”

102. At paragraph 12, the Court concluded:

“The respondents would have had jurisdiction in this application only if the appellant had taken an appeal against a deemed refusal and had done so within the six-month time-limit. Since the appellant did not do so, I conclude that even if its right to a decision by the

planning authority still subsists, its right to invoke the jurisdiction of the respondents in this application has been irretrievably lost.”

103. The importance of those passages for present purposes is not that *Vattenfall* concerned a ROMP application. It did not. Its importance lies in the treatment of materially similar statutory words permitting an extended period to be agreed “at any time”. The Court treated the statutory consequence of expiry as real and not capable of retrospective displacement so as to revive a jurisdiction which had already been lost.

104. I accept that *Vattenfall* concerned the right to appeal against non-determination, whereas the present matter concerns the alleged cessation of a valuable mineral permission. That is a distinction. However, it does not in my view undermine the force of the analogy. The present statutory wording is, if anything, stronger because paragraph 7 expressly provides that the permission itself “shall cease to have effect”. The question is whether, after that consequence has occurred, the parties may by later agreement undo it. *Vattenfall* supports the answer that they may not.

105. The applicant and the MPA may say that *Vattenfall* concerned only the relationship between an applicant and the Scottish Ministers, and that the local planning authority remained seised of the application. That is true on the facts of *Vattenfall*, but it does not assist here. In the present case, paragraph 7 does not simply remove a route of appeal while leaving an application before the authority. It extinguishes the permission, save for restoration and aftercare. Once the permission has ceased to have effect, there is no extant permission to which a paragraph 6 application can attach.

106. The applicant and the MPA may also rely on *London & Clydeside Estates Ltd v Aberdeen District Council* [1980] 1 WLR 182 and *Bovis*

Homes (Scotland) Ltd v Inverclyde District Council 1982 SLT 473. Those cases show that a planning authority's duty to determine or issue a decision may continue notwithstanding expiry of the ordinary period. But they do not show that a separate statutory right once lost, or a statutory permission once ceased, can be revived after Parliament has attached a final consequence to non-compliance. In *London & Clydeside*, Lord Fraser stated:

“The expiry of the two months' period from receipt of the application is not, on any view, an absolute bar to issue of a certificate because the period can be extended by agreement: see s 26(4). Moreover, and this is a point of importance, an extension can be agreed on ‘at any time’. In my opinion those words mean at any time either during the period of two months or after the end of the period, and they are a positive indication that the power and duty of the local planning authority to issue a certificate do not cease at the end of the period.”

107. The passage does not show that a separate statutory right once lost can be revived. Indeed, *Vattenfall* made precisely that distinction. Even if the authority's obligation to determine continued, the applicant's right to invoke the jurisdiction of the Scottish Ministers had been irretrievably lost. The present case is stronger still because the permission itself is said to have ceased to have effect.

The binding or effectively binding status of *Vattenfall* in Scotland and England

108. It is also necessary to deal directly with the contention that *Vattenfall* may be dismissed because it is a Scottish case. In my view that contention should be rejected. It is true that not every Scottish decision binds an English court. But that general proposition requires important qualification

where the decision is one of the Inner House of the Court of Session, where the point was fully argued, where the decision was unanimous, and where the court is construing statutory language which is common, materially identical, or at least materially indistinguishable from the language before the English court.

109. As a matter of Scots law, *Vattenfall* is binding authority in Scotland. It was a decision of the Inner House, the appellate division of the Court of Session. It binds the Outer House and inferior Scottish civil courts unless and until departed from by the Inner House itself in an appropriate case or displaced by the Supreme Court. That is not merely a matter of persuasiveness. It is binding Scottish appellate authority.

110. The more subtle question is its effect in England and Wales. In my earlier opinion on extensions of time, I explained why *Vattenfall* should, at least for practical purposes, be treated as binding at first instance in England and Wales on the relevant point. The starting point is *Re Hartland* [1911] 1 Ch 459, where Swinfen Eady J stated:

“Where the exact point has been raised by a special case, and fully argued, and decided by an unanimous judgment of the Court of Session, and where the question is simply one that turns upon the construction of a statute which extends to Scotland as well as to England, I think my duty as a judge of first instance is to follow that decision, leaving the parties, if so advised, to have it reviewed elsewhere.”

111. That statement is of considerable importance. It is not enough to say that Scottish decisions are only persuasive. Where the conditions identified in *Re Hartland* are met namely, that the point is fully argued, the judgment is unanimous, and the question turns on a statute of common application, the English judge of first instance should follow the Scottish decision.

112. The same principle was considered in the planning context in *Riordan Communications Ltd v South Buckinghamshire District Council* [2000] 1 PLR 45. The judge there considered a unanimous decision of the Inner House on materially equivalent planning legislation and said:

“The case was argued by counsel on both sides on the basis that there was no decision which was binding on me, and that my duty was to treat them all with respect, even the unanimous decision of the Inner House. In the course of preparing this Judgment, it became clear to me that the unanimous decision of the Inner House was in fact binding on me (see *Re Hartland* [1911] 1 Ch. 459, *Brooks v IRC* [1913] 3 KB 398) for the relevant statutes are in effect in almost identical terms or, if not actually binding (for that rule may be restricted to revenue cases or to cases where the statute in question applies to both countries: see Halsbury’s Laws of England, 4th edition, 1999, Supplement Vol 26 at 585), should be treated with such a high degree of respect as makes in practice little difference to a judge of first instance in England.”

113. That passage is helpful for present purposes because it arises in the planning field and expressly recognises that, even if the strict binding rule is not universally applicable, the practical position may be the same. A unanimous Inner House decision on materially equivalent statutory provisions should be treated by an English judge of first instance with such a high degree of respect that there is in practice little difference.

114. Academic commentary also supports that approach. J.K. Bentil, in “Stare Decisis and Scottish Judicial Decisions” [1972] *Modern Law Review* 537, observed:

“Apart from the fact that some Scottish judicial decisions which go on appeal to the House of Lords may create binding precedents for the English Courts, the effect on English courts of certain Scottish judicial decisions in their own right appears to have received little or

no attention this side of the border. Theory has it that generally Scottish judicial decisions are not binding on the English courts but have persuasive effect only. But in actual practice, the weight of authority on this side of the border tends to suggest that certain Scottish judicial decisions, notably those concerned with the interpretation of statutes of common application on both sides of the border, are indeed binding on English courts.”

115. In summary therefore *Vattenfall* is binding Scottish appellate authority; that it is, on the *Re Hartland* principle, binding or arguably binding on an English first instance judge where the same statutory construction point arises under materially common legislation; and that, at the very least, under *Riordan*, it should be followed unless and until the Court of Appeal or Supreme Court decides otherwise.

116. Applying *Vattenfall* here, the MPA and Tuckwell could not agree in 2022 to extend the time for submission of a ROMP application if the effect of non-submission by 31 October 2016 was that the permissions had already ceased to have effect on 1 November 2016. An agreement made after the statutory consequence has taken effect cannot revive the right unless the statute expressly says so. Paragraph 7 does not say so.

North Lincolnshire and statutory finality

117. *R v North Lincolnshire Council ex parte Horticultural and Garden Sales (Humberside) Ltd* [1998] Env LR 295 concerned Schedule 13 rather than Schedule 14. It is therefore not directly determinative. Nonetheless, it is relevant for two reasons. First, the court in *North Lincolnshire* applied strict statutory language even though the outcome was harsh. The recorded formulation is that the judge reached the conclusion “with regret, but without hesitation”. That accords with the ordinary approach to statutory

schemes which attach specific legal consequences to failure to comply with prescribed steps. Secondly, *North Lincolnshire* identified the statutory purpose as “certainty and finality as to the sites enjoying mineral planning permission”. That purpose resonates strongly with the present issue. A construction under which permissions may be revived many years after cessation by later agreement would create uncertainty rather than finality.

118. I accept that Schedule 14 contains the later-date wording which Schedule 13 did not. That difference means *North Lincolnshire* cannot simply be transposed. But it does not follow that Schedule 14 permits indefinite revival. The better reconciliation is that Schedule 14 is more flexible before cessation because it allows a later date to be agreed, whereas Schedule 13 did not. Once cessation has occurred, the same concern for certainty and finality applies.

The ecological and planning context

119. The ecological background does not determine the paragraph 7 issue, but it explains why the question matters. The officer report records that the site is within the Oxford Green Belt, that the last active extraction was around 1995, and that the area has developed into a landscape containing lakes, wetland, woodland and a range of habitats. It records that Culham Brake SSSI lies approximately 500 metres away and that the site forms a large part of the Radley Gravel Pits Local Wildlife Site and the Thames Radley to Oxon Conservation Target Area.

120. The officer report also records that the Council’s Senior Biodiversity Officer maintained objections on the basis that the proposal would result in biodiversity loss and significant adverse impacts on priority and

irreplaceable habitats. The Council's own report identifies the tension between permitting mineral extraction under an old permission and meeting modern environmental standards.

121. The Council's dilemma is understandable. If it imposes a condition preventing development in areas of irreplaceable or priority habitat, the applicant says that such a condition would sterilise the site and give rise to a substantial compensation claim. If the Council omits such a condition, it may permit significant ecological harm contrary to national and development plan policy. The officer report recognises that this is an unusual and difficult situation.

122. However, the dilemma only arises if the permissions remain extant and the ROMP application is valid. If the permissions ceased to have effect on 1 November 2016, the Council is not required to choose between ecological harm and compensation within the ROMP regime. The applicant would need to seek fresh planning permission for mineral working, in which case the full modern planning, environmental, ecological, Green Belt, amenity, traffic and restoration issues would be considered through a conventional planning application.

C G Fry and the applicant's rights argument

123. The applicant has relied upon *C G Fry & Son Ltd v Secretary of State for Housing, Communities and Local Government* [2025] UKSC 35. That case concerned the effect of outline planning permission and whether later national *policy* concerning Ramsar sites could prevent discharge of

conditions in circumstances where the matters relied upon did not relate to the conditions requiring approval.

124. *C G Fry* may assist the general proposition that once planning permission is granted, the developer acquires statutory rights and later policy cannot simply reopen the principle of development. It does not, however, answer the present question. The present question is not whether later *policy* can cut down an extant permission. It is whether the statutory code governing periodic review itself caused the permission to cease to have effect because no application was made by the Review Date and no later date had been agreed.

125. A statutory planning right is defined by the statute which governs it. If that statute provides that the right shall cease to have effect upon failure to comply with a review requirement, then the right is inherently conditional upon compliance with that requirement. *C G Fry* does not establish that planning permissions are immune from express statutory cessation provisions. It therefore does not undermine the conclusion that paragraph 7, if engaged, brought the mineral permissions to an end.

Question (g): procedural steps if the permissions have ceased to have effect

126. If the mineral permissions ceased to have effect on 1 November 2016, the MPA should not determine the ROMP application. It should treat the application as incapable of determination because the permissions to which it purports to relate no longer exist for working purposes. The authority should notify the applicant that it has no jurisdiction under paragraph 6 of Schedule 14 to determine conditions.

127. The authority should in my view place a supplementary report before committee explaining the jurisdictional issue, the effect of paragraph 7, the absence of a pre-review-date extension agreement, the inapplicability of regulation 54 suspension, and the consequent inability to determine the application. It should invite committee to resolve that the application cannot be entertained or determined under Schedule 14.
128. The authority should also distinguish between the cessation of working rights and the survival of restoration and aftercare conditions. Paragraph 7 expressly preserves the permission insofar as it imposes restoration or aftercare conditions. The authority should consider separately what steps, if any, are available or required to secure restoration or aftercare obligations which survived cessation.
129. The authority may need to reverse or withdraw the validation of the application. The client's letters refer to section 327A of the Town and Country Planning Act 1990 and the principle that an authority may not entertain an application which does not comply with statutory requirements. Whether section 327A applies directly to a Schedule 14 ROMP application may require further procedural consideration, but the underlying point is sound: if the statutory jurisdictional basis is absent, validation cannot cure the defect.
130. The authority should make clear that a conclusion that the ROMP application is invalid does not prevent Tuckwell from applying for fresh planning permission for mineral extraction if it wishes to do so. Such an application would be determined on its merits under the statutory planning regime and by reference to current law and policy. That is not a reason to

treat the ROMP application as valid, but it is relevant to proportionality and fairness.

Question (h): judicial review and costs risk if the ROMP Application is approved

131. If the authority approves or purports to determine the ROMP application notwithstanding the matters above, I consider that the client would have a realistic basis for a successful judicial review. The strongest claim would be that the authority acted without jurisdiction because the mineral permissions had ceased to have effect under paragraph 7 on 1 November 2016 and there was no extant permission to which new Schedule 14 conditions could attach.
132. The grounds would likely include error of law in construing paragraph 7, failure to give effect to the words “shall cease to have effect”, unlawful reliance on a post-review-date agreement to revive permissions, misdirection as to regulation 54 suspension, failure to identify any written later date agreed before the Review Date, and failure to address whether the application was valid or capable of determination.
133. A further ground may be failure to take into account a mandatory relevant consideration, namely whether the authority had jurisdiction at all. If the committee is advised merely that there is a difference of legal opinion and that it may proceed, without being given a clear analysis of the status of the permissions as at 1 November 2016, the adequacy of the advice itself may be challenged.

134. There may also be grounds related to reasons. If committee proceeds despite the jurisdictional objection, it should explain why it accepts the post-review-date extension construction, why it considers any pre-review-date correspondence sufficient, why regulation 54 or any other mechanism preserved the permissions, why *Vattenfall* and *North Lincolnshire* do not alter the position, why the statutory purpose of the ROMP regime is not undermined by indefinite revival, and why any reliance on the 2014 Inspector's decision is consistent with *Reprotech*.

135. In my view, the prospects of a successful jurisdictional judicial review would be realistic. I would not of course put the prospects of success as certain. The applicant and authority may well seek to rely upon the "at any time" wording, the different language of Schedule 14 from Schedule 13, the previous 2014 Inspector's decision, alleged legitimate expectation, expenditure and prejudice, and Convention rights, or a selection of these points. However, for the reasons I have set out in this Opinion, the better view and one most likely to succeed is that the permissions are now out of time to be revived.

136. As to costs, the ordinary position in judicial review is that costs follow the event, subject to the Court's discretion. If the client brought a claim and succeeded, the authority would ordinarily be at risk of paying the claimant's costs, subject to any costs protection or Aarhus costs regime point if applicable. If the client brought a claim and failed, the client would ordinarily be at risk of paying the authority's and potentially an interested party's costs, again subject to any protective costs rules which may apply in environmental proceedings.

137. The authority would also face costs and delay. A claim would likely require acknowledgement of service, summary grounds of resistance, consideration of interim relief if works could otherwise proceed, and potentially a substantive hearing if permission were granted. If the decision were quashed, the matter would return to the authority. The applicant may also seek to participate as an interested party and resist the claim.

138. In my opinion it would be legitimate for the client to notify the authority that approval would give rise to a realistic prospect of judicial review. The focus should be that the authority must not knowingly assume a jurisdiction which is seriously disputed and, on the better view, absent.

Question (i): other matters which may assist the MPA

139. There are several matters which, in my view, should be drawn to the authority's attention. First, the authority should be asked to identify precisely the statutory power under which it says the mineral permissions were suspended on 1 November 2016. If the answer is regulation 54 of the 2017 Regulations, that is inconsistent with the Council's own advice that regulation 54 is not engaged absent a ROMP application.

140. Secondly, the authority should be asked to disclose any document evidencing an agreement before 31 October 2016 to extend to a specified later date. Without such a document, the authority should not be permitted to rely on vague references to being "within time" or on a course of conduct which post-dates the statutory deadline.

141. Thirdly, the authority should be asked to identify the status of the permissions between 1 November 2016 and the 2022 agreement. If they

were not suspended, not extinguished and not subject to a later agreed date, the authority must explain what statutory category they occupied. In my opinion there is none.

142. Fourthly, the authority should be asked to explain why an interpretation which permits revival years after cessation is consistent with certainty and finality in the minerals review regime. The authority's interpretation would have implications beyond this site because it could enable old permissions thought to have lapsed to be brought back into life by agreement long after the relevant review date.

143. Fifthly, if the authority relies upon the 2014 Inspector's decision, it should be asked to identify precisely what statutory jurisdiction the Inspector was exercising, what issue was actually determined, whether any certificate of lawfulness was applied for or granted, and how the decision could determine the later statutory consequence of a 2015 review notice and a 2016 failure to submit a ROMP application. In my opinion, *Reprotech* makes clear that reasoning about the scope or lawfulness of a permission in one statutory context is not to be treated as if it were a formal certificate of lawfulness in another.

144. Sixthly, if the authority rejects the jurisdictional objection, it must still address the site-boundary and condition-enforceability issues raised in the client's earlier letters. A valid ROMP application must relate to the relevant mining site and conditions must be clear, enforceable and properly connected to the land and permissions in question. Confusion between the whole ROMP site and the extraction area would be a further source of legal vulnerability.

145. Seventhly, if contrary to my view the authority proceeds to determine conditions, the ecological conflict must be addressed directly. The authority cannot simply say that because it fears compensation it will omit conditions which its own ecologist considers necessary to prevent unacceptable harm to priority and irreplaceable habitats. If such conditions are omitted, the reasons for doing so must be lawful, evidence-based and consistent with the Schedule 14 compensation regime and national and local policy.

146. My overall conclusion is that, on the documents presently available, the mineral permissions ceased to have effect on 1 November 2016, except insofar as they imposed restoration or aftercare conditions. No ROMP application was made by the Review Date. No written agreement to a later date before the Review Date has been evidenced. Regulation 54 suspension was unavailable because no ROMP application had been made. The later 2022 agreement could not revive permissions which had already ceased to have effect.

147. The statutory purpose of the ROMP regime reinforces that conclusion. The Environment Act 1995 introduced a disciplined system for initial and periodic review because old mineral permissions needed to be modernised, because mineral working may continue for many years, because social and environmental standards change, and because there was a need for regular review so that modern standards are met. That purpose would be undermined if a permission that had ceased to have effect could be revived years later by administrative agreement.

148. *Vattenfall* is binding in Scotland as a decision of the Inner House. In England and Wales, it should be treated as binding or effectively binding at first instance where the same or materially identical statutory wording arises, applying *Re Hartland, Brooks and Riordan*. The MPA should not be permitted to dismiss it as merely a Scottish authority. It is authority, at the least of very high practical force, that an “at any time” extension provision does not retrospectively revive a jurisdiction or right which has already been irretrievably lost.

149. The 2014 Inspector’s decision does not alter the position. Even if the Inspector proceeded on the basis that the mineral permissions were then extant, that was not a CLEUD or CLOPUD. It did not conclusively determine lawfulness for all future purposes. It could not decide whether, after a later statutory review notice and failure to submit a ROMP application by 31 October 2016, the permissions ceased to have effect on 1 November 2016. *Reprotech* confirms that merely having regard to the scope of a permission in one statutory context does not amount to a formal statutory determination under the certificate regime.

150. The MPA therefore has no jurisdiction to determine application MW.0041/23 under paragraph 6 of Schedule 14. Its validation of that application in February 2023 does not cure the absence of jurisdiction. The authority should treat the application as incapable of determination and should not approve or determine conditions under it.

151. The subsequently disclosed historical materials strengthen that conclusion. The Inspector's 2014 report, the Council's October 2015 Review Letter and the formal Notice of Site Subject to Periodic Review all demonstrate that the permissions were being treated as deemed

permissions subject to a fresh Schedule 14 review process. The documents presently disclosed do not reveal any written agreement postponing the review date before 31 October 2016. The clearest express agreement currently identified is the August 2022 agreement concerning submission by 28 February 2023. On its face, that agreement post-dated the review deadline by almost six years.

152. In my opinion, those documents materially strengthen the view that the real question is not whether an agreement existed in August 2022, but whether any legally effective agreement existed before the statutory deadline expired in October 2016. On the material presently available, no such agreement has been identified. If the authority nevertheless approves or purports to determine the application, the client would, in my opinion, have realistic prospects of a successful judicial review on the jurisdictional ground. The authority and applicant may well seek to rely upon the “at any time” wording, legitimate expectation and property-rights arguments. However, the client’s construction is, in my view, the better one and is supported by the mandatory language of paragraph 7, the statutory purpose of certainty and modernisation, the absence of a revival mechanism, the inapplicability of regulation 54, the binding or effectively binding authority of *Vattenfall*, and the distinction drawn in *Reprotech* between ordinary planning reasoning and a statutory certificate of lawfulness.

Gregory Jones KC
Francis Taylor Building
Temple

8 July 2026

Division Affected – Kennington and Radley

PLANNING AND REGULATION COMMITTEE

23rd February 2026

Application for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)

Report by Planning Development Manager

Contact Officer: David Periam

Location: Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid Ref: SU 51539 97065

OCC Application No: MW.0041/23

VOWH Application No: P23/V0630/CM

District Council Area: Vale of White Horse

Applicant: H Tuckwell and Sons Ltd

Application Received: 22nd February 2023

Consultation Periods: 23rd March 2023 – 24th April 2023
15th August 2024 – 15th September 2024
6th March 2025 – 5th April 2025
26th June 2025 – 26th July 2025

1. Members will recall that at the meeting of the Planning and Regulation Committee on 19th January 2026, item 6 was deferred to the meeting on 23rd February 2026, due to the insufficient time remaining to discuss the item, as the committee had run out of time. The report is therefore reproduced in full below along with the addendum provided to the 19th January committee meeting insofar as it relates to the item.
2. A further addendum is also presented updating the committee on any information not previously provided in the report or the addendum.

Division Affected – Kennington and Radley

PLANNING AND REGULATION COMMITTEE

19th January 2025

Application for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)

Report by Planning Development Manager

Contact Officer: David Periam

Location: Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid Ref: SU 51539 97065

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Contents

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

5. The nearest housing is a small group of houses including Thrupp Farm and Thrupp Cottages which are Grade II Listed historic buildings and are accessed via Barton Lane. These sit alongside the BOAT and are surrounded on all sides by the area that is the subject of this report.
6. Culham Brake Site of Special Scientific Interest lies approximately 500 metres to the south-west and the land lies within its Impact Risk Zones. The site also forms a large part of the Radley Gravel Pits Local Wildlife Site (LWS) and the Thames Radley to Oxon Conservation Target Area (CTA). Due to the ecological interest of the site it is also featured in the Oxfordshire Local Nature Strategy with a range of habitat measures.

Background

7. There is provision in law for Mineral Planning Authorities (MPA) to periodically review old mineral permissions (ROMPs) to see whether the conditions attached to the permissions provide adequate environmental control over the development such that they continue to operate to modern working practices and environmental mitigation strategies. The power to review mineral permissions is discretionary but can be carried out at any time the MPA may consider necessary provided the first review is at least 15 years after the date of the permission.
8. A ROMP is not a planning application, the premise of the development is not up for determination and the MPA cannot refuse to determine a ROMP application. The legislation governing the ROMP process is clear that the MPA cannot apply conditions that would unreasonably restrict the economic viability or asset value of the site. The Supreme Court has also recently confirmed in *CG Fry v SSHCLG* [2025] UKSC 35 that a developer's legal right to develop a site crystallises when permission is first granted, and planning authorities such as the MPA cannot subsequently cut down that right without paying compensation. The statutory framework for the determination of a ROMP application set out in Schedule 14 of the Environment Act 1995 (the Act) is in line with the Supreme Court's judgment. In addition to the requirement not to unreasonably restrict the development's economic viability, paragraph 13 of Schedule 14 of the Act explains that the MPA cannot impose new or amended conditions that restrict working rights in relation to the following specific aspects of the development: size of the mineral extraction or deposition area within the site; depth of the extraction; height of any mineral deposition; extraction rates; the final cessation date of the permission; and/or total quantity of mineral to be extracted or deposited.
9. The principle of the extraction operation does not form part of the review process as it has already been established. Therefore, policies of the Development Plan which related to the principle of the development at this location are not applicable to the determination of this application.
10. There are currently two ROMP permissions permitting the extraction of sand and gravel at Radley. Both have conditions granted by deemed determination in 2000 and will be referred to as DD1 (Thrupp Lane) and DD2 (Thrupp Farm).

The areas covered by DD1 and DD2 can be seen in Figure 1 and it can be seen that there are areas where the two overlap.

11. The site (DD1 and DD2) entered into automatic suspension on 1st November 2016. A site in suspension cannot resume minerals development until such time as the relevant ROMP application and accompanying Environmental Statement has been submitted and the conditions determined although works of restoration and aftercare can still be carried out. As the site is in suspension and cannot currently be worked, the estimated one million tonnes of sand and gravel reserves is not included in the council's landbank for sand and gravel but it would be at such time as new conditions are determined.
12. The County Council previously served a Prohibition Order in 2012 on DD1 which was appealed and considered by an Inspector appointed on behalf of the Secretary of State at a Public Inquiry in 2014. The inspector did not uphold it after it was determined that there was a deemed permission from 2000 concluding that the County Council therefore had no power to make the Prohibition Order.
13. At the meeting of the Planning and Regulation Committee on 19th September 2019, a report was presented with regard to the ROMPs for DD1 and DD2. The Committee resolved that mineral working had permanently ceased and that therefore there was a duty to serve a Prohibition Order.
14. 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.
15. 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.

16. A further report was provided to the meeting of the Planning and Regulation Committee on 6th September 2021. The Committee resolved to defer a decision to the July 2022 meeting of the Committee with the expectation being that the operator would by that time have submitted a ROMP application accompanied by an Environmental Statement for the whole of the Radley ROMP permissions area.

17. At its meeting on 18th July 2022, the Committee resolved that

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

b) Officers seek to agree a date with H. Tuckwell and Sons Ltd. by which a ROMP Application will be submitted.

18. It was also resolved at the Planning and Regulation Committee's meeting on 6th September 2022 to grant planning permission to application no. MW.0075/20 for processing plant, a conveyor and a Bailey Bridge for the removal of the mineral extracted from part of the ROMP areas DD1 and DD2 subject to the completion of a section 106 Legal Agreement for the creation of a permissive path to provide a link between Thrupp Lane and the disused railway line as part of the restoration of the site. This planning permission was issued on 19th June 2025.

The Application

19. Application no. MW.0041/23 is not a planning application but rather an application for the determination of the conditions which the mineral permissions DD1 and DD2 would be subject to for the winning and working of mineral and restoration of the land. The development is Schedule 1 development further to the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs) and so the application is accompanied by an Environmental Statement. The application was submitted on 26th January 2023 and validated on 22nd February 2023. There have been four formal periods of consultation including three following the submission of further information as required by Regulation 25 of the EIA Regs.

20. The application proposes a set of conditions which permissions DD1 and DD2 would be subject to. The conditions proposed by the applicant are set out in Annex 1. Whilst the proposed conditions would apply to the whole of the planning permission areas covered by DD1 and DD2, the applicant has focused the submission on the extraction of the remaining sand and gravel reserves (estimated one million tonnes) from the area shown in red on the drawing in Figure 3 below.

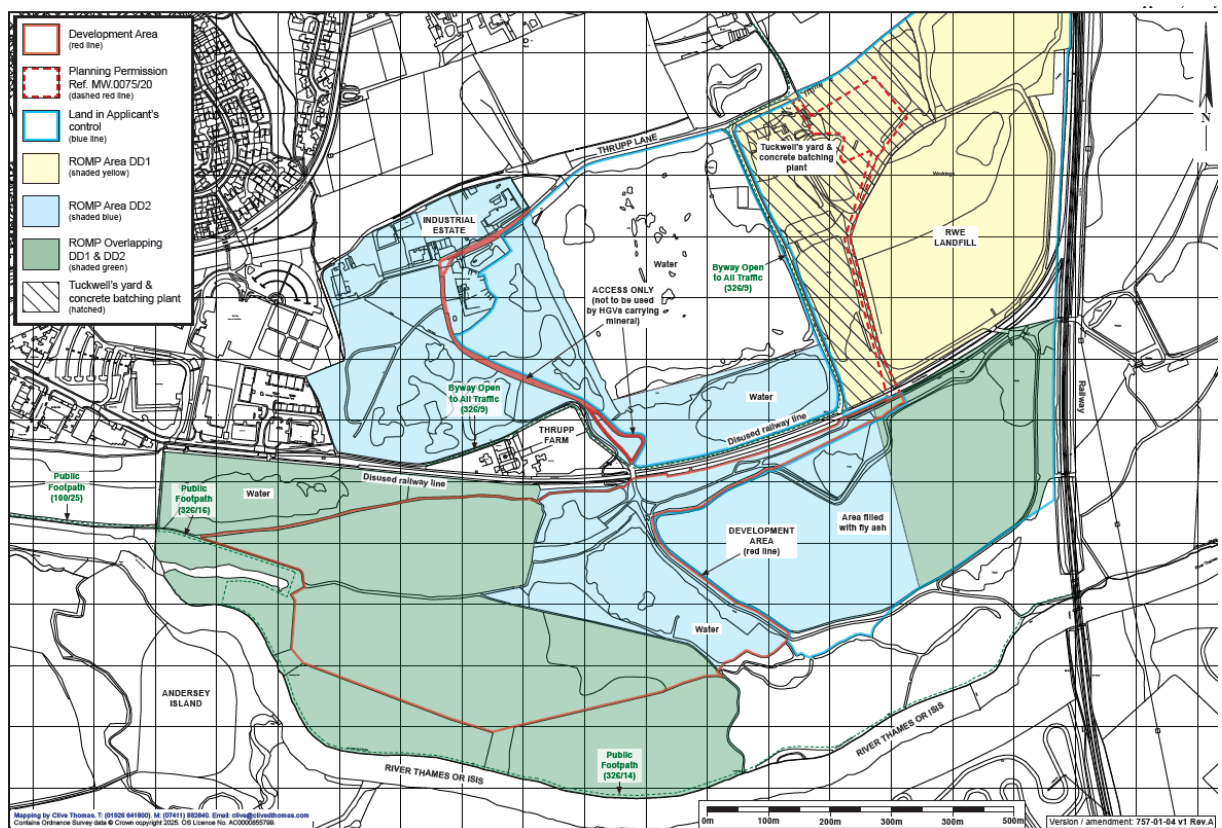


Figure 3: Area proposed for further sand and gravel extraction

21. The mineral would be subject to a phased working and restoration programme with the mineral extracted at a rate of 80,000 to 100,000 tonnes per annum. The applicant estimates that it would take ten to fifteen years to complete the extraction. The applicant expects the extraction to be completed within the 2042 end date legislated for ROMP sites (The phasing plans will be provided as part of the officer presentation to the Committee meeting). The route of the conveyor and adjacent access road from the Tuckwell's Yard would be cleared of vegetation and the soils from this route and Phase A and immediately used to construct screen bunds to the north of Phase A. To the north of the conveyor, where it is close to a public right of way, the existing vegetation would be gapped up with native scrub species to help screen the conveyor from this right of way. 16 metres width buffer zones would be provided between the screen bunds and the watercourse to the north and between the mineral extraction and the Radley Brook to the south. Working would start at the eastern end of Phase A and progress in a westerly direction. If required, to enable interim restoration, an internal 'barrier' would be built using the basal clay to broadly divide the phase into two halves. The purpose of the barrier is to allow the eastern end to be restored and to enable the shallows to be constructed 'dry'. When Phase A is completed the height of the barrier would be reduced to link the water areas. The proposed phasing plan is shown in Figure 4 below.

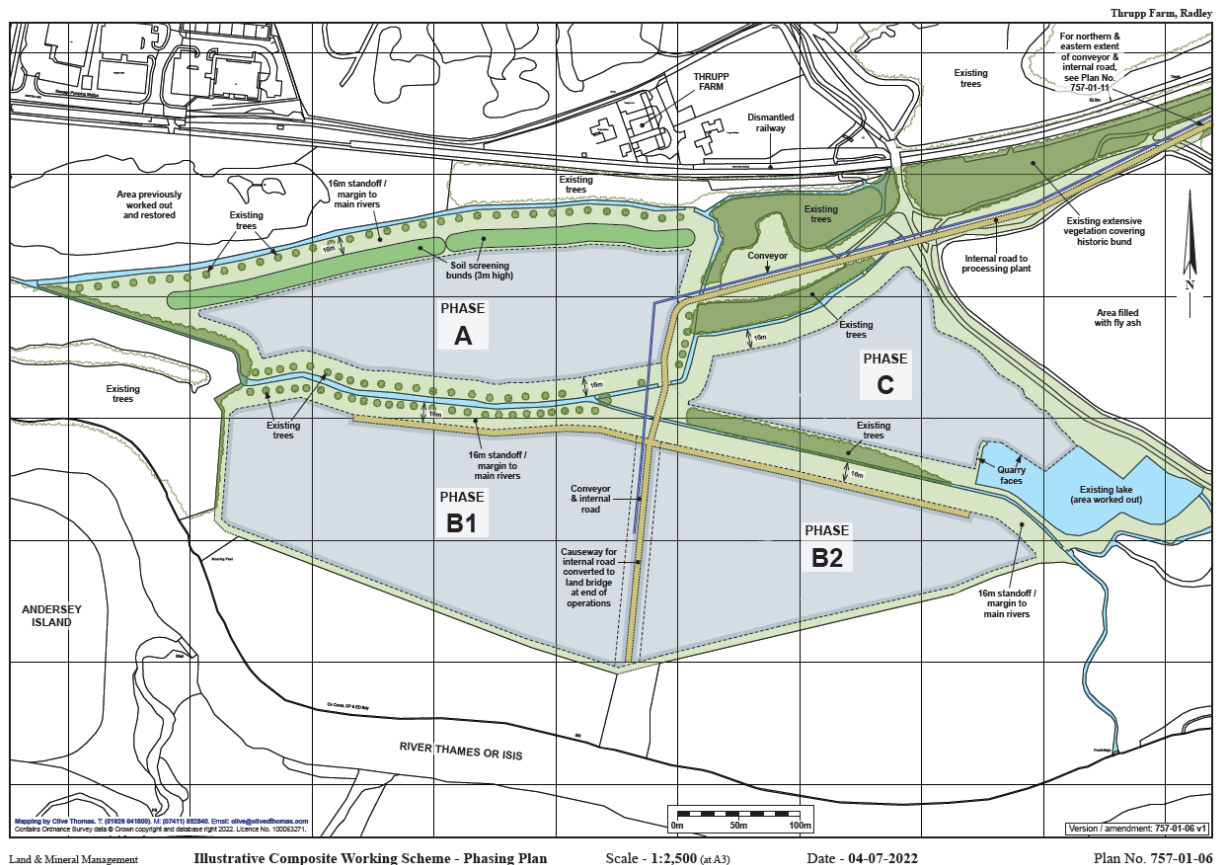


Figure 4: Proposed Phasing

22. Longmead Lake lies immediately to the northwest of Phase A. When working the western part of Phase A, low permeability natural material from the quarry floor (clay) of Phase A would be pushed against the northern side of the excavation to limit the ingress of groundwater into the working area which may be in connectivity with this lake.
23. Phases B1 and B2 would be worked in two halves, leaving a temporary narrow causeway down the middle to assist in dewatering as well as enabling Phase B1 to be restored as Phase B2 is being worked. The soils would be stripped from Area B1 and either used directly to restore Phase A or stored on the quarry floor until they are required for restoration. Working in Phase B1 would start at the eastern end and progress in a westerly direction. Phase A would be restored during the working of Phase B1 including the removal of the screen bunds which would no longer be required for noise attenuation. In Phase B2, soils would be stripped and either used directly to restore Phase B1 or stored on the quarry floor until required for restoration. Working would start at the western end and progress in an easterly direction. Phase B1 would be restored during the working of Phase B2. 16 metre-width buffer zones would be provided between the watercourse to the north and mineral extraction.
24. Phase C has already been mostly stripped of soils with only a small part remaining to be cleared. Any remaining soils would be stripped and stored on the quarry floor. Extraction would start in the south-eastern corner and head in the north-westerly direction and Phase B2 would be restored. 16 metre-buffer zones would be provided between the watercourse to the north, south and west and the mineral extraction area. If required, indigenous clay material extracted

from the quarry floor would be used to create a barrier between the lake to the south-east. This would avoid the ingress of water from the lake into the quarry void. When Phase C is completed the height of the barrier would be reduced to link the water areas.

25. The conveyor would be extended, as required, into the areas to be worked. It would be electrically driven, low in profile (approximately 0.6m above ground level) and run from the site to Tuckwell's Yard. The conveyor would be fed, in the area being extracted, using an excavator. Once the mineral had been transported to Tuckwell's Yard, it would be discharged to a surge pile and fed to a processing plant which would screen and crush the mineral to produce construction aggregates, as consented by Planning Permission ref: MW.0075/20.
26. The current access to the site is via an existing hardcore haul road, from Thrupp Lane to the north. This access would be used for plant and machinery to access the site. This would occur rarely as machinery would generally be stored on the site. This access would also be used for the management of the site but it would not be used for the transportation of minerals. An access road would be constructed adjacent to the conveyor which would be used by staff working at the site and for the maintenance of the conveyor. The accesses into the site would be regularly graded and dressed, when required, to maintain an even running surface free from potholes.
27. It is proposed to adopt the following working hours:
- 0700 - 1800 Monday to Friday;
 - 0700 - 1300 Saturday;
 - Saturday 1300 – 1700 for maintenance only; and
 - There would be no operations on Sundays or Bank/Public Holidays.
28. The site would be progressively restored to lakes, wetland areas and grassland which would consist of:
- Lakes including:
 - Phase A Lake: 2.95ha, of which:
 - Island: 0.01 ha.
 - Shallows / reed bed: 0.71 ha.
 - Shallow edges: 0.16 ha.
 - Open water: 2.07 ha.
 - Phase B1 Lake: 4.65 ha, of which:
 - Shallow edges: 0.1 ha.
 - Open water: 4.55 ha.

- Phase B2 Lake: 3.08 ha, of which:
 - Shallow edges: 0.12 ha.
 - Open water: 2.96 ha.
- Phase C Lake: 3.2 ha, of which:
 - Shallows / reed bed: 0.39 ha.
 - Shallow edges: 0.04 ha.
 - Open water: 2.77 ha;
- Wetland areas: 0.61 ha;
- Retained individual trees: 0.25 ha in total;
- Retained blocks of woodland / scrub vegetation: 2.26 ha;
- Retained ditches / streams: 0.82 ha;
- Retained tracks/haul road: 0.3.5 ha;
- Restored to grassland: 7.33 ha; and
- 600m of a new public right of way.

Figure 5 below shows the proposed restoration concept plan.

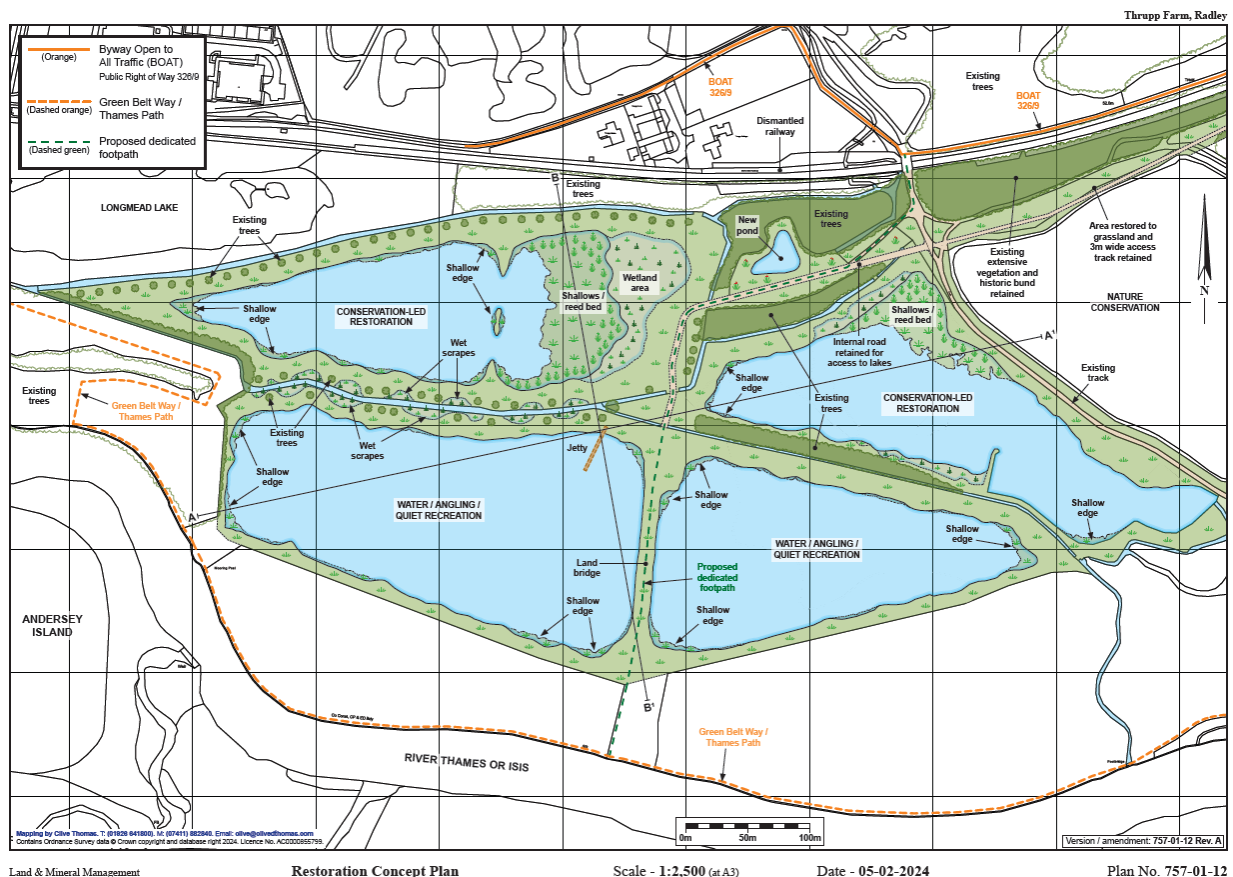


Figure 5: Restoration Concept Plan

29. The proposed landform can be achieved without importing restoration materials. If required, clay would be dug from the quarry floor, to create the wetland areas and shallows. To restore the dry land areas, the stored soils would be spread in their correct sequence and immediately sown with grass seed. The restored land would be entered into a 5-year aftercare period. At the completion of the aftercare period, the restored land would be handed back and managed by the landowner. The restored land would be accessed from the public highway by the existing haul road and proposed access road which will be retained.
30. It is proposed to submit a detailed Restoration and Aftercare Scheme two years before the completion of the restoration works in each phase in order to allow a more accurate assessment of the landform to be created as the extent of the restoration materials will be better known. Within 6 months following the cessation of mineral extraction, the conveyor would be removed. It is proposed that the access road adjacent to the conveyor would be reduced in size to around 3m in width and retained as an access track.
31. Part of the access track would be utilised as a dedicated public right of way which would join the existing right of way to the north (ref 326/9/10) to the existing right of way to the south (Green Belt Way/ Thames Path). This new dedicated footpath would be 600m in length and would link Thrupp Lane to the Green Belt Way/ Thames Path.
32. With the exception of the Curtis Yard Industrial Estate and the Tarmac Plant the applicant states that the areas within DD1 and DD2 outside of the Site have

either been restored to lakes/ponds or have successfully naturally regenerated to a mosaic of grassland, woodland and scrub. It is proposed that the naturally regenerated areas would also be subject to a 5 year Restoration Management Plan, which includes:

- Baseline ecological survey;
- Habitat management;
- Opportunities for tree/shrub planting;
- Control of invasive species; and
- Removal of fly tipped waste.

33. Within two years from the commencement of mineral extraction the 'Draft Restoration Management Plan' submitted with the application would be reviewed and updated if required and submitted to the MPA for approval.

34. Planning Permission ref: APP/V3120/W/20/3253584 consented the change of use of buildings A, C, D, F and G to business purposes at the Curtis Yard until 18th November 2025. The applicant understands that the landowner, J Curtis & Sons Ltd, is considering the permanent retention of this industrial estate for which a planning application would need to be made. Should this not occur, the applicant proposed that a Restoration and Aftercare Scheme would be submitted by 1st June 2028 for this area. This would include proposals for:

- The removal of buildings and hardstanding;
- Restoration treatments;
- Management;
- Timetable for implementation; and
- 5-year aftercare scheme.

35. Taking into account the environmental information set out in the Environmental Statement as supplemented by the additional information submitted by the applicant, the consultation comments and representations received and the officer's own assessment, your officer provided a suggested set of alternative conditions to the applicant which he considered would allow the development to be carried out to modern standards and reflect the requirements of the Development Plan and national policy and guidance. These are set out in Annex 4. The applicant responded that it is generally in acceptance of the proposed amendments but disappointed with two of the additional conditions in relation to biodiversity which are discussed further below in the Discussion section of this report.

PART 2 – OTHER VIEWPOINTS

36. The full text of the consultation responses can be seen on the e-planning website¹, using the reference MW.0041/23. These are also summarised in Annex 2 to this report.

37. 59 third-party representations were received. The points raised are summarised in Annex 3.

PART 3 – RELEVANT PLANNING DOCUMENTS

Relevant planning documents and legislation

Development Plan Documents:

38. The Development Plan for this area comprises:

- Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy (OMWCS)
- Oxfordshire Minerals and Waste Local Plan 1996 (Saved Policies) (OMWLP)
- Vale of White Horse Local Plan 2031 Part 1 (Strategic Sites and Policies)
- Vale of White Horse Local Plan 2031 Part 2 (Detailed Sites and Policies)
- Radley Neighbourhood Plan (RNP) (However, neighbourhood plans cannot include policies specifically for county matters i.e. minerals and waste development).

39. The Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy (OMWCS) was adopted in September 2017 and covers the period to 2031. The Core Strategy sets out the strategic and core policies for minerals and waste development, including a suite of development management policies.

40. The Oxfordshire Minerals and Waste Local Plan 1996 (OMWLP) was adopted in July 1996 and covered the period to 2006. Some policies of the OMWLP were replaced following adoption of the OMWCS in 2017 but 16 site specific policies continue to be saved, pending the allocation of new sites. None of these policies are relevant to this site, therefore, the policies of the OMWLP are not relevant for the consideration of this application.

Emerging Plans

41. The emerging Joint Local Plan 2041 has been prepared between Vale of White Horse and South Oxfordshire District Councils. The Plan was submitted to the Secretary of State for independent examination, held 03 – 05 June 2025. The Planning Inspector's letter dated 26 September 2025, found that the Plan had not met the Duty to Cooperate and gave the two councils two options, to either

¹Click here to view application [MW.0041/23](#)

withdraw their plan from examination, or ask the Planning Inspectorate to prepare a report setting out their conclusions. Subsequently and in light of the Ministerial Letter setting out central government's intention to remove the Duty to Cooperate in the new Local Plan making system and from plans in the current Local Plan making system, the two councils have written to the inspectors advising that they wish to resume the hearings and progress the Joint Local Plan through examination and, all being well, to adoption. A response from the inspectors is awaited, therefore the South and Vale Joint Local Plan 2041 is still considered as a submitted Local Plan. Upon adoption, the Joint Local Plan 2041 would replace the adopted Local Plans for Vale of White Horse District Council and South Oxfordshire District Council.

42. In December 2022, the Oxfordshire Minerals and Waste Local Development Scheme (13th Edition) (OMWDS) was approved at Cabinet. This set out a process for pursuing a new Minerals and Waste Local Plan which upon adoption would have replaced Part 1 and included Part 2: Site allocations. Since the publication of the OMWDS (13th Edition) central government have proposed significant changes to plan to make and also introduced a requirement for all Local Plans to be submitted by December 2026. It is considered the Council would be unable to meet this deadline and therefore in July 2025 Cabinet agreed to stop work on the new Minerals and Waste Local Plan and await the new plan making process. This is set out in the revised Minerals and Waste Development Scheme (14th Edition), which was published in July 2025. A revised Minerals and Waste Development Scheme will be published in due course. The Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy remains in place as part of the Development Plan for Oxfordshire.

43. The Oxfordshire Local Nature Recovery Strategy (OLNRS) is a coordinated strategy to develop a shared ambition to recover nature across the county, help wildlife to flourish, improve air and water quality, and mitigate the impacts of climate change. The strategy is part of a series to cover the whole of England and assist the delivery of the Environment Act 2021. The final version of the LNRs was approved by the Council at its Cabinet meeting on 21st October 2025. It is a material consideration in the determination of planning applications.

44. Other documents that are relevant to determining this application include:

- National Planning Policy Framework (NPPF) (as revised December 2024)
- Planning Practice Guidance (PPG)

45. On 16th December 2025, central government published a consultation on the NPPF and other changes to the planning system. This consultation runs until 10th March 2026. Whilst it does not therefore at this time replace the current NPPF, it does provide indication of the intentions of central government with regard to the planning system and some weight should be attached to the draft policies and changes set out in it.

46. 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)
- C9 (Historic environment)
- C10 (Transport)
- C11 (Rights of Way)
- C12 (Green Belt)

47. 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 37 – Design and Local Distinctiveness
- Core Policy 39 – Historic environment
- Core Policy 42 – Flood risk
- Core Policy 44 – Landscape
- Core Policy 45 – Green infrastructure
- Core Policy 46 – Conservation and improvement of biodiversity

48. 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
- Development Policy 36 – Heritage Assets
- Development Policy 38 – Listed Buildings

49. 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

50. 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, unlike the Neighbourhood Plan, but it is a material consideration to which limited weight should be attached.
51. The emerging Joint Local Plan 2041 has been prepared between Vale of White Horse and South Oxfordshire District Councils. The Plan was submitted to the Secretary of State for independent examination, held 03 – 05 June 2025. The Planning Inspector's letter dated 26 September 2025, found that the Plan had not met the Duty to Cooperate and gave the two councils two options, to either withdraw their plan from examination, or ask the Planning Inspectorate to prepare a report setting out their conclusions. A decision on the recommendations has not been made yet, therefore the South and Vale Joint Local Plan 2041 is still considered as a submitted Local Plan. Upon adoption, the Joint Local Plan 2041 would replace the adopted Local Plans for Vale of White Horse District Council and South Oxfordshire District Council.
52. Draft South Oxfordshire District Council and Vale of White Horse District Council Joint Local Plan (JLP):
- CE6 – Flood Risk
 - CE8 – Water Quality
 - DE5 – Neighbouring Amenity
 - NH1 - Biodiversity
 - NH2 – Nature Recovery
 - NH3 – Trees and Hedgerows in the Landscape
 - NH6 – Landscape
 - NH7 – Tranquillity
 - NH8 – Historic Environment
 - NH9 – Listed Buildings
 - NH11 – Archaeology
 - IN2 – Sustainable Transport and Accessibility

PART 4 – ASSESSMENT AND CONCLUSIONS

Planning Development Manager

Discussion

53. As set out above, this is not a planning application and the principal of the extraction of sand and gravel from planning permissions DD1 and DD2 is not a matter for consideration. The Development Plan and other policies are relevant insofar as the consideration of the conditions to be approved which should either be as submitted by the applicant or as the MPA may otherwise consider necessary such that the site will be worked subject to modern environmental standards.

54. Where a MPA determines conditions different from those submitted by the applicant and the effect of the new conditions, other than restoration or aftercare conditions, as compared with the effect of the existing conditions is to impose a restriction on working rights, then land and mineral owners whose interests have been adversely affected by the restrictions could be entitled to claim compensation from the MPA if they believe the restriction is such as that either the economic viability of operating the site or asset value of the site would be prejudiced adversely to an unreasonable degree. Should the MPA apply such conditions then it is required to issue a separate notice alongside the determined conditions stating that either:

- i) the effect of the conditions is to restrict working rights but that in the MPA's opinion unreasonable prejudice does not arise; or
- ii) that the effect of the conditions is to restrict working rights and that in the MPA's opinion unreasonable prejudice will arise and that there is a liability on the MPA for compensation.

There is a right of appeal to the Secretary of State against the determination of conditions different to those submitted and, in the first situation, against the MPA's decision that unreasonable prejudice does not arise.

55. The national Planning Practice Guidance defines economic viability in the context of review of mineral permissions as the ability of a site to produce sufficient revenue to cover all of its operating costs (including finance costs and depreciation) and produce an appropriate return on capital. It states that the key test is the extent to which the further restrictions imposed by new conditions would cause extra operating costs or restrict revenue to the extent that economic viability would be prejudiced adversely to an unreasonable degree.

56. In this instance the application is also accompanied by an Environmental Statement which is required by Regulation 18 of the EIA Regs to describe the likely significant effects of the development on the environment (as it would be subject to the submitted conditions) and a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment. Regulation 26 of the EIA Regs requires that the MPA must not positively determine the application unless it has reached an up to date reasoned conclusion on the significant effects on the environment, this being, in the opinion of the MPA, that it addresses the significant effects of the proposed development on the environment that are likely to arise as a result of the proposed development.

57. The matters covered in the conditions as amended by your officer are discussed below.

Duration of the Permission

58. The Environment Act 1995 requires that applications must include a condition that the winning and working of minerals or depositing of mineral waste must

cease not later than 21 February 2042, except where the original permission is already time-limited. This is the date set out in the proposed conditions.

Access, Traffic and Protection of the Public Highway

59. Policy C5 of the OMWCS expects proposals for minerals and waste development to demonstrate that they will not have an unacceptable adverse impact on the local environment, amenity, and economy including through traffic effects and mud on the road amongst other things. OMWCS policy C10 states that minerals and waste development will be expected to make provision for safe and suitable access to the advisory lorry routes shown on the Oxfordshire Lorry Route Maps.
60. VLP1 policy CP33 states that impacts of development on the strategic road network will be minimised, developments should be designed to promote sustainable transport access and transport improvements will be designed to minimise effects on amenities, character and special qualities of the surrounding area.
61. The conditions require that the mineral would be removed from the extraction area by conveyor and then taken via the conveyor consented under planning permission no. MW.0075/20 to the Tuckwells Yard for processing prior to it being exported from there. These movements would then be subject to the conditions of that planning permission which limit the daily HGV movements onto Thrupp Lane to 64 (32 in, 32 out) per day, require the use of wheel washing facilities, the sheeting of lorries for any stones below a size of 500 mm and the hours of use for vehicles entering and exiting the Tuckwells Yard to 7.00 am to 6.00 pm Mondays to Fridays and 7.00 am to 1.00 pm on Saturdays. Staff access would also be via an internal haul road running to the extraction area alongside the conveyor from the Tuckwells Yard. The only direct vehicle movements to the public highway that would otherwise be carried out would be via an existing hardcore haul road, from Thrupp Lane to the north. This access would be used for plant and machinery to access the site and for site management but it would be used rarely as machinery would generally be stored on the site. This access could not lawfully be used for the transportation of minerals as per the proposed conditions. The conditions require that accesses would be regularly graded and dressed to maintain an even running surface free from potholes and wheel cleaning facilities would be provided and no mud or debris carried onto the highway.
62. The access arrangements as would be controlled by the conditions are considered to be in compliance with the above policies.

Working Programme and Restoration

63. Policy M10 of the OMWCS expects mineral sites to be restored to a high standard and in a timely and phased manner to an after-use that is appropriate to the location. It lists the considerations that must be taken into account, including the character of the surrounding landscape and the enhancement of local landscape character, and the amenities of local communities.

64. The conditions would require that the site be worked in a phased manner in accordance with the submitted phasing drawings which show sequential working and restoration from through Phases A, B1, B2 and C. The conditions would also require the movement and handling of soils when in a dry and friable condition, separate storage of topsoil and subsoil, no removal of soils or mineral waste from the site, the control of weeds on stockpiles and other undisturbed areas, and construction of the conveyor and internal haul roads in accordance with the submitted plans. The conditions would require production to not exceed 150,000 tonnes per annum and for records of the amount of mineral worked and exported to be kept and provided to the MPA.
65. The conditions would require that the site is restored on a phased basis in accordance with the submitted phased drawings. The conditions would also require that a restoration and five-year aftercare scheme be submitted for approval within 24 months prior to the cessation of working in each phase and its implementation within 24 months of the completion of mineral extraction in each phase. With regard to the restoration of the rest of the areas covered by permissions DD1 and DD2, but where no further mineral extraction is proposed, the submission includes a Restoration Management Plan. The conditions would require that this shall be updated including a timetable for implementation, submitted for approval, and then implemented.
66. The conditions would also require that a restoration and aftercare scheme for the Curtis Yard shall be submitted for approval within 2 years of the recommencement of mineral extraction to include the removal of buildings and hardstanding, restoration treatments, management, timetable for implementation and a five-year aftercare scheme. The approved scheme is then required to be implemented.
67. It is considered that the proposed working and restoration of the site as would be controlled by the conditions would be in compliance with OMWCS policy M10.

Historic Environment

68. OMWCS policy C9 states that proposals for minerals and waste development will not be permitted unless it is demonstrated that they would not have an unacceptable adverse impact on the historic environment. Proposals for mineral working shall wherever possible demonstrate how the development will make an appropriate contribution to the conservation and enhancement of the historic environment. VLP1 policy CP39 states that development should conserve, and where possible enhance, designated heritage assets. VLP2 policy DP36 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight will be given to the asset's conservation and the more important the asset, the greater the weight that will be given. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harms to its significance. VLP policy DP38 states that proposals for development within the setting of a Listed Building must demonstrate that they will preserve or enhance its special architectural or historic interest and significance. Proposals within the setting of a Listed Building must demonstrate that they will: respect, preserve or enhance

features that contribute to the special interest and significance of the building. These policies are in line with national policy in the NPPF. The relevant national legislation under the Planning (Listed Buildings and Conservation Areas) Act 1990 (s.66) applies to decisions whether to grant permission or permission in principle, but in any event the same aims are achieved by Development Plan policy which does apply.

69. Thrupp Farm and Thrupp Cottages are Grade II Listed historic buildings and are surrounded on all sides by the area that is the subject of this report but separated from the proposed working area by the BOAT and some existing trees which would be maintained. The drawings submitted with the application and which would be approved under the conditions provide a buffer zone with three-metres high soil screening bunds to Phase A which would be the first phase to be worked and restored. An existing tree belt would be maintained and screen views of the conveyor and internal haul road. There would be no direct visual impact but there would be some temporary intrusion into the setting of the Listed Buildings. This would be for a relatively short period of time after which the site would be restored to lakes and associated wetland habitat. Given that the underlying planning permission for mineral extraction exists, the principle of development cannot be questioned. In light of the mitigation proposed it is considered that the conditions would respect and preserve the setting of the Listed Buildings. The conditions would also require that a staged programme of archaeological evaluation and mitigation be carried out prior to extraction with the ultimate provision of an accessible and useable archive and a full report for publication.
70. It is considered that the impact of the development as controlled by the conditions would be in compliance with the above policies.

Amenity

71. OMWCS policy C5 states that proposals for minerals and waste development shall demonstrate that they will not have an unacceptable adverse impact on the local environment, health and safety, residential amenity or the local economy, including from noise, dust, visual intrusion, light pollution, traffic, air quality, contamination or cumulative effects. VLP2 policy DP23 states that proposals should demonstrate that they will not result in significant adverse impacts on the amenity of neighbouring uses, taking into account factors including loss of privacy, visual intrusion, noise, dust, heat, odour, pollution, contamination and external lighting.
72. The conditions would require that the hours of working be restricted to 7.00 am to 6.00 pm Mondays to Fridays and 7.00 am to 1.00 pm on Saturdays with maintenance on Saturday afternoons from 1.00 pm to 5.00 pm. There would be no operations on Sundays or Public Holidays. There would also be requirements for the submission for approval and implementation of a dust management and monitoring plan, that no lighting be used other than in accordance with details to be submitted for approval, that noise levels at the nearest sensitive receptors do not exceed set levels, that a noise management plan be submitted for approval and implemented and that vehicles, plant and machinery be fitted with white noise reversing beepers or those that adjust

automatically to surrounding noise levels. Soil screening bunds would be provided to limit the impacts of working, including visual impacts to the Thrupp properties off Barton Lane. As set out above, the majority of daily HGV movements would be via the Tuckwells Yard and subject to the conditions attached to planning permission no. MW.0075/20 and the access for plant and machinery would be subject to the conditions set out above.

73. A condition would also require the submission of details for approval and implementation of a Local Liaison meeting. Such meetings are set up and held at other minerals and waste sites and serve to bring together the site operator and representatives of the local community and officers to discuss any issues arising with regard to the operations and their resolution. Such liaison meetings are usually chaired by the local County Councillor.
74. It is considered that the impacts of the development on amenity as controlled by the conditions would be in accordance with the above policies.

The Water Environment

75. The conditions would require controls over both the surface water and groundwater environment. Particular concern has been raised with regard to the potential for backing up of groundwater to the properties off Barton Lane at Thrupp leading to flooding and possible interference with their sewerage arrangements.
76. Following consultation with the Environment Agency and the Lead Local Flood Authority, the conditions have been amended and updated to address the potential in impacts arising on the water environment. These include conditions requiring details to be submitted for approval and implemented for groundwater monitoring, details of potential private water supplies that could be impacted, details of the proposed lining of the sides of the excavations and the risks in terms of groundwater mounding (backing up) and flooding, details of any aquifer storage and mitigation, measures to prevent any pollution from storage of liquids e.g. fuel, dewatering in accordance with the approved details, a hydrometric monitoring scheme, maintenance of buffer zones to watercourses, remediation of any contamination encountered, compliance with the submitted Flood Risk Assessment, submission approval and implementation of a surface water management scheme for each phase or sub-phase, and submission for approval and implementation of a Flood Warning and Evacuation Plan.
77. All further submissions for approval would be consulted on with the Environment Agency and the Lead Local Flood Authority. It is considered that the impacts of the development on the water environment as controlled by the conditions would be in accordance with the above policies.

Landscape and Biodiversity

78. Policy C8 of the OMWCS states that proposals for mineral and waste development shall demonstrate they respect and where possible enhance local landscape character. VLP1 policy CP 37 states that all development must be of high-quality design that responds positively to the site and the surroundings,

incorporates or links to high quality green infrastructure and landscaping to enhance biodiversity and meet recreational needs including rights of way and is sustainable and resilient to climate change. VLP1 policy CP 44 states that the key features which contribute to the nature and quality of the landscape will be protected from harmful development.

79. Policies C7 and M10 of the OMWCS taken together expect mineral and waste development, including the restoration of mineral workings, to deliver biodiversity net gain. OMWCS policy C7 also states that long term management arrangements for restored sites shall be clearly set out and included in proposals, which should include a commitment to ecological monitoring and remediation. VLP1 policy CP46 states that development that will conserve, restore and enhance biodiversity will be permitted. Opportunities for biodiversity gain will be sought. The level of protection and mitigation should be proportionate to the status of the habitat or species, however non-designated habitats and non-priority species can still have a significant biodiversity value within their local contexts and will be given due weight. VLP1 policy CP45 states that a net gain in green infrastructure, including biodiversity, will be sought. Proposals for new development must include adequate green infrastructure. The MPA is also under a large number of freestanding landscape and biodiversity obligations, including the obligation to further the general biodiversity objective under s.40 of the Natural Environment and Rural Communities Act 2006 (NERC Act); and where the exercise of its functions is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest, to comply with s.28G of the Wildlife and Countryside Act 1981.
80. The conditions would require the submission for approval of an Arboricultural Method Statement and accompanying Tree Protection Plan to ensure the protection of trees to be retained. The conditions would also require the submission for approval of a Construction Environmental Management Plan (CEMP) and its implementation and related to this that works should cease should any nesting birds be found. The conditions would also require the submission of details and certificate of a great crested newt District Level Licence or alternatively a great crested newt survey report and European Protected Species Licence, submission of a water vole survey report and mitigation licence, submission for approval of a Landscape Ecological Management Plan (LEMP) and its implementation and the submission for approval of a Habitat Management and Monitoring Plan (HMMP) and its implementation.
81. The applicant has expressed disappointment with the following two additional conditions set out in Annex 4:

Additional condition:

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

Additional condition:

No development shall commence in each phase until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the Mineral Planning Authority. The up-to-date surveys shall:

-Establish if there have been any changes in the presence and/or abundance of protected species; and

-Identify any likely new ecological impacts that may arise from any changes.

Where the surveys indicate that changes have occurred that will result in ecological impacts not previously addressed, a revised ecological mitigation scheme shall be submitted to and approved in writing by the County Planning Authority including a timetable for the implementation of mitigation measures. The scheme shall thereafter be implemented in accordance with the approved details.

82. With regard to the first of these conditions, the applicant considers that the legal position is that a condition which materially reduces the area to be worked would not be reasonable, as it would derogate from the underlying permission being reviewed. In this case the proposed condition would remove 12.32 ha of the 14.2 ha of extraction areas and effectively sterilise the site, rendering the permission unimplementable and as such it fails the legal and policy tests for conditions as it is both unreasonable and contrary to national guidance.
83. With regard to the second of these conditions, the applicant considers that a condition requiring additional ecological surveys appears in this case to be unnecessary unless the habitats have changed since the last surveys were undertaken and, if they have not, such a condition would fail the test of necessity.
84. It is the case that if the first of these conditions were to be included in those determined by the MPA that it arguably could be considered irrational to grant consent for mineral extraction with one hand while removing it with the other through a condition that prohibits very nearly all extraction.
85. It is likely that the conclusion would be that the effect of the condition would be to restrict working rights and that in the MPA's opinion unreasonable prejudice would arise, as well as a reduction in the permitted area to be extracted, and so there would be a liability on the MPA to pay compensation to the operator/landowner. Whilst an estimate of the potential compensation of this would need to be provided by a relevant expert, given that it is estimated that there is one million tonnes of sand and gravel remaining to be extracted, payment of compensation would create a considerable financial burden on the council available to it to pay such compensation. However, without such a condition there would be a loss of irreplaceable and priority habitats.
86. As noted above, s.40 of the NERC Act mandates that public authorities must have regard to the purpose of conserving biodiversity including the responsibility to consider what actions they can take to further the general biodiversity objective of the conservation and enhancement of biodiversity in England.

87. Paragraph 193 of the NPPF also states that development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

88. OMWCS policy C7 states that development that would result in the loss or deterioration of irreplaceable habitats will not be permitted except where the need for and benefits of the development in that location clearly outweigh the loss.

89. VLP1 policy CP 46 states that development likely to result in the loss, deterioration or harm to habitats or species of importance to biodiversity, 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.

90. As part of the additional environmental information submitted, the applicant provided a technical statement in response to the Council's Senior Biodiversity Officer's position that the applicant could seek to compensate for habitat losses on land out with the area of proposed extraction, for example, the creation of lowland fen habitat, a habitat that is considered to be irreplaceable. The applicant does not consider this to be viable due to the fact that the applicant does not own or control land suitable for the creation of lowland fen – a habitat that is reliant on suitable hydrological regimes and specific substrates in order to establish. The applicant advised that it has managed the area of land north and south of Radley Brook (areas identified as lowland fen habitat which includes Phases A, B1 and B2) through topping on a regular basis over the years in recognition that sand and gravel extraction would be undertaken. This has maintained the lowland fen habitat and prevented scrub and eventually wet woodland covering these areas through the process of natural succession. Without management intervention the lowland fen habitat would be outcompeted and shaded with scrub and wet woodland becoming the dominant habitats. This would be similar to much of the habitat in the wider area including areas within the ROMP application boundary to the north and east of the proposed phased working areas. With an existing permission in place the applicant had considered this was the appropriate course of management to allow future mineral extraction in these areas to take place without requiring clearance of woodland habitat. If the extraction is not further implemented there will be no requirement or benefit for the ongoing regular management and maintenance of these areas, and it is considered likely that lowland fen habitat coverage will reduce on site over time. In the medium to long term, it would be predicted that in the absence of sensitive and appropriate management, the overall ecological value of the ROMP area will be reduced. Primarily this will be

as a result of wet woodland dominance, resulting in a gradual reduction in habitat structure, diversity and availability of ecological niches.

91. The applicant considers that, whilst the habitat types that will result on site in the medium to long term are different in type and extent to the current baseline, the overall benefit of bringing all restoration and ROMP areas under environmentally sensitive management are considered to adequately compensate the reduction in extent of high quality and irreplaceable and priority habitats. For example, there would be significant retained areas of lowland fen habitat within buffers that will be suitably protected and brought under favourable management ensuring the long-term viability of this habitat on the site. Other priority habitats of high distinctiveness and quality are proposed to be created following extraction, and the applicant considers this to sufficiently compensate for unavoidable habitat losses resulting from the proposals.

92. The applicant considers that the mitigation hierarchy has, therefore, been followed in the design of the proposals as follows:

Avoid – The proposals retain the Radley Brook with a buffer that includes lowland fen habitat. Significant buffers are provided to boundary vegetation and proposals have sought to avoid the loss of trees and woodland wherever possible.

Mitigate – A comprehensive strategy for the long-term restoration and management of all habitats within the ROMP area is proposed to maximise habitat diversity and benefit biodiversity in the long term.

Compensate – Where unavoidable habitat losses occur as a result of the proposals these will be compensated through the creation of new diverse high-quality habitats as part of the restoration and management plans.

Enhance – It is proposed as part of the proposals to enhance habitats within the wider ROMP area through, for example, selective thinning and woodland management to enhance existing habitats. Furthermore, new opportunities for a range of wildlife are proposed through provision of artificial otter holts, barn owl boxes, reptile hibernacula and a variety of artificial bat and bird boxes suitable for a variety of species.

93. The council's Senior Biodiversity Officer's response was that the conclusions made at the mitigation and compensation stages are not considered appropriate to mitigate and compensate for the impacts of the development on biodiversity. Due to the high biodiversity value of habitats present, including priority and irreplaceable habitats, it is considered likely that an overall biodiversity loss will occur based on the current proposal. This is with consideration to instatement of the currently proposed restoration plan and other ecological enhancements proposed outside of the proposed extraction area within land controlled by the applicant. This is because the habitat types included within the restoration plan and proposed ecological enhancements outside of the proposed extraction area are different habitat types and generally considered of lower biodiversity value than those that are certain to be lost. A Local Wildlife Site will be significantly adversely impacted by the proposal including a number of priority habitats and an irreplaceable habitat. No significant harm should be caused to local wildlife sites, priority and irreplaceable habitats, unless the need for and benefits of the

proposal outweigh the harm, and the harm cannot be avoided, for example through location on an alternative site.

94. In consideration of the law and policies set out above it would be necessary to weigh in the planning balance the need for the mineral (the Council's landbank for sand and gravel is below the minimum seven years) along with any other benefits. In this case there would then be benefits in terms of the contribution to the sand and gravel land bank that would be made and some social and economic benefits through employment on site and indirectly to other businesses using the extracted mineral but this in turn could potentially be provided for at sites without loss of irreplaceable and priority habitats through the positive determination of other planning applications currently before the Council or which are yet to be made, albeit less immediate. There would be benefits in terms of securing an improved final restoration of the site with associated biodiversity benefits but this in turn would have to be weighed against the significant loss of the irreplaceable and priority habitats set out above and the overall reduction in biodiversity value on the site.

95. With regard to the second condition set out above, the applicant has queried if it seeks full detailed surveys or verification assessments for the presence and absence of species and habitats. The Senior Biodiversity Officer's response is that this will depend on when the surveys are undertaken and the results of the survey. For example, if a long enough time period is present between the initial surveys and the update ecological assessment or if the update assessment identifies the habitat present on site has changed then further full detailed surveys may be required in line with best practice guidelines. However, if the time period between the initial and update survey is small enough and/or the update survey shows no change in the suitability of the habitats present then further detailed surveys may not be required. He thinks the condition is suitably worded to provide this flexibility.

Financial Implications

96. If the application were to be determined and it be concluded that the conditions restrict working rights then and it be concluded that unreasonable prejudice will arise there would be a liability on the MPA for compensation.

Legal Implications

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

Equality & Inclusion Implications

98. In accordance with Section 149 of the Equality Act 2010, in considering this proposal, due regard has been had to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

99. It is not however considered that any issues with regard thereto are raised in relation to consideration of this application.

100. 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 such issues are raised in relation to consideration of this application.

Conclusion

101. Planning permission exists for the extraction of the mineral and it would be irrational to effectively sterilise the mineral reserve through including in the determined conditions, a condition which would not only effect the economic viability of working the mineral but would most likely prevent its working altogether. I do not believe it is the intention of the ROMP legislation that this should be the result of the determination of a review of conditions. Equally, the intention of the ROMP legislation is expressly to provide modern conditions such that quarries operate to modern working practices, environmental standards, and mitigation strategies. These include the aim of preventing significant harm to the environment through the loss of irreplaceable habitat.

102. Whilst Regulation 26 of the EIA Regs requires that the MPA must not positively determine the application unless it has reached an up-to-date reasoned conclusion on the significant effects on the environment that are likely to arise, it does not require that as part of this it has to be demonstrated that all the significant effects can be mitigated. A judgment is required, in line with relevant legislation, case law, and policy bearing in mind the applicant has an established right to work the site for mineral development. In the circumstances which pertain here, the applicant's proposed modern conditions would allow significant effects on the environment that would not be mitigated. The view is that this unmitigated harm is unacceptable; conditions are intended to make development that would otherwise be unacceptable, acceptable. There would be conflict with the national and Development Plan policies set out above.

103. It is not however considered that the suggested condition for the provision of updated ecological surveys prior to working in each phase is unreasonable or such that it would restrict working rights.

104. The ROMP legislation does not allow for the MPA to not determine a set of conditions for the working of the mineral at the site; there is no position of refusal as there would be to a planning application. To determine conditions without being satisfied that the loss of the irreplaceable and priority habitats is addressed, for example through compensatory provision elsewhere, does seem to run counter to the whole purpose of the ROMP legislation. To determine the conditions with a condition which effectively sterilises the mineral reserve would also seem to run counter to the purpose of the ROMP legislation.

105. It does seem that a circumstance exists with regard to this site which was not foreseen when the ROMP legislation came into effect in the 1990s and which similarly does not sit easily with the requirements placed on the Council by the ROMP legislation and the EIA Regs. It is the case though that the applicant has provided sufficient information for the MPA to consider the significant effects of the proposed development and their mitigation insofar as that is possible as required by Regulation 26 of the EIA Regs. In the absence of there being a position of refusal to the application, it is then a matter for judgment for the MPA to consider whether imposing the first condition set out above would likely render the development economically unviable and that the Council would then have to conclude that compensation would be required; it is your officer's advice that it would.

106. Given the above, committee could proceed as follows:

- i) That in the absence of there being a position in law to refuse the application to determine conditions despite the unacceptable significant adverse effect identified through the loss of irreplaceable and priority habitats, refer the application to the Secretary of State for their consideration as to whether to call the application in for their own determination;
- ii) Should the Secretary of State decline to call the application in for their own determination, authorise the Director of Economy and Place to determine the conditions to which permissions DD1 and DD2 will be subject including those set out in Annex 4 but without the condition restricting development in the areas of irreplaceable and priority habitats.

107. Should the Secretary of State decide to call the application in for their own determination, this would then place the matter for the determination of the conditions before the Secretary of State and would most likely be heard by an inspector appointed by them at a Public Inquiry. This would allow for full testing of the applicant's stated inability to offer acceptable compensation for the habitat loss through a restoration scheme, and the applicant, the Council and all other interested parties would have the opportunity to make their case and for legal representations to be made to the inspector.

RECOMMENDATION

It is RECOMMENDED:

- a) That in the absence of there being a position in law to refuse the application to determine the conditions to which planning permission numbers DD1 and DD2 are to be subject despite the significant effect identified through the loss of irreplaceable and priority habitats, refer the application to the Secretary of State for their consideration as to whether to call the application in for their own determination;**
- b) Should the Secretary of State decline to call the application in for their own determination, authorise the Director of Economy and Place to determine the conditions to which planning permissions DD1 and DD2 are**

to be subject including those set out in Annex 4 but without the condition restricting development in the areas of irreplaceable and priority habitats.

David Periam
Planning Development Manager

Annexes: Annex 1: Applicant's Proposed Conditions
 Annex 2: Consultation Responses
 Annex 3: Representations
 Annex 4: OCC officer suggested conditions

Annex 1 – Applicant’s proposed conditions (Including updates and additions following comments received on the application from technical consultees)

The updated Schedule of Proposed Conditions are as follows:

Duration of the Permission

1. The winning and working of minerals and the deposit of waste shall cease no later than 21st February 2042.

Access, Traffic and Protection of the Public Highway

2. Unless otherwise agreed in writing by the Mineral Planning Authority, mineral shall not be transported via the access titled ‘Access Only’ on Plan no: 757-01-02 Rev A.

3. Should mud or debris be carried onto the public highway by plant and machinery using the access titled ‘Access Only’ on Plan no: 757-01-02 Rev A, wheel cleaning measures will be agreed with the Mineral Planning Authority and implemented.

4. Unless otherwise agreed with the Mineral Planning Authority, mineral will be transported off site to the Tuckwell Yard shown on plan no: 757-01-11 via a conveyor.

Working Programme

5. No working shall be carried out except in accordance with the Working Plan Nos: 757-01- 06 to 757-01-10 and detailed in the Planning Statement dated January 2023, unless otherwise agreed in writing by the Mineral Planning Authority.

6. Soils shall be managed in accordance with the Planning Statement dated January 2023. Soils shall not be removed or handled unless they are in a dry and friable condition to prevent damage to the soil structure and contain sufficient moisture to prevent degradation of the soil structure, unless otherwise agreed with the Mineral Planning Authority.

7. All topsoil and subsoil shall be stored separately in accordance with the Planning Statement dated January 2023.

8. No minerals except sand and gravel shall be removed from the site.

9. No topsoil, subsoil, overburden or mineral waste shall be removed from the site.

10. No waste shall be imported onto the site.

11. Topsoil and subsoil not required for the screen bunding will be stored on the quarry floor at a height that does not exceed original ground levels.

12. All undisturbed areas of the site and all topsoil, subsoil and overburden storage mounds shall be kept free of agricultural weeds such as thistle, dock and ragwort. Cutting, grazing and spraying shall be undertaken as necessary to control plant growth

and prevent the production of seed and the spread of weeds to adjoining agricultural land.

13. Unless otherwise agreed by the Mineral Planning Authority no extraction of minerals or loading and operating of the conveyor shall take place except between the hours of 07.00 a.m. to 18.00 p.m. on Mondays to Fridays and 07.00 a.m. to 13.00 p.m. on Saturdays. No working shall take place on Sundays or Public Holidays. No operations shall take place outside these hours except for essential maintenance and the operation of pumps and other equipment to maintain the safe operation of the quarry. Thrupp Farm ROMP Planning Statement ND/v3. 18 10/06/2025

14. Unless otherwise agreed with the Mineral Planning Authority the field conveyor and adjacent access road shall be constructed in accordance with Plan nos: 757-01-11 and 757-01-15.

15. No lighting to be used other than in accordance with details of which shall first be submitted and approved in writing.

Production

16. No more than 150 000 tonnes of mineral shall be exported from the site in any 12-month period.

17. From the date of implementation of this permission, the operator shall maintain records of the quantities of mineral worked and exported from the site. These records shall be made available to the Mineral Planning Authority within 14 days of a request for them to be provided.

Environmental Protection: Archaeology

18. (Condition proposed by County Archaeologist in response dated 29/03/2023) Prior to any mineral extraction or enabling works a professional archaeological organisation acceptable to the Minerals and Waste Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Minerals and Waste Authority.

19. (Condition proposed by County Archaeologist in response dated 29/03/2023) Following the approval of the Written Scheme of Investigation referred to in condition 18, and prior to any mineral extraction or enabling works (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Minerals and Waste Authority within two years of the completion of the archaeological fieldwork.

Environmental Protection: Dust

20. Prior to the stripping of soils a Dust Management and Monitoring Plan shall be submitted to the Mineral Planning Authority for approval. The approved Dust Management and Monitoring Plan shall be adhered too at all times.

Environmental Protection: Ecology

21. (Update to the condition proposed by Biodiversity Officer in response dated 03/04/2025) No development shall take place (including ground works or vegetation clearance) until a CEMP (construction and environmental management plan) has been submitted to and approved in writing by the Mineral Planning Authority. The CEMP shall include (not exhaustively) the following:

- Risk assessment of all activities that may be damaging to biodiversity both on and offsite;
- Identification of “biodiversity protection zones”;
- Implementation of protected species licences;
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on species and habitats and designated wildlife sites;
- Lighting scheme and safeguards for light-sensitive wildlife;
- No soil storage mounds should extend into root protection zones of hedges and/or trees;
- The location and timing of sensitive works to avoid harm to biodiversity features;
- When a specialist ecologist needs to be present on site to oversee works;
- Responsible persons, roles and lines of communication;
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the consented development strictly in accordance with the approved details, unless otherwise agreed in writing by the Mineral Planning Authority.

22. (Condition proposed by Biodiversity Officer in response dated 03/04/2025) Prior to commencement of any development, details and certificate of a great crested newt District Level Licence or alternatively a great crested newt survey report and European Protected Species Licence shall be submitted to the Mineral Planning Authority.

23. (Condition proposed by Biodiversity Officer in response dated 03/04/2025) Prior to commencement of any development, details and certificate of a water vole survey report and mitigation licence shall be submitted to the Mineral Planning Authority.

24. (Condition updated from that proposed by Biodiversity Officer in response dated 03/04/2025) Prior to commencement of development, a fully detailed Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall provide further detail on the approved landscape and restoration schemes and shall include a detailed planting plan showing existing / proposed vegetation taking into account botanical mitigation, plant specifications noting species, plant sizes, proposed numbers/densities as well as seed mixes and their provenance. In addition, information on ground preparation, implementation and ongoing maintenance shall be provided. The development shall be implemented in accordance with the approved details.

25. (Condition updated from that proposed by Biodiversity Officer in response dated 03/04/2025) Prior to commencement of the development, a Habitat Management and

Monitoring Plan (HMMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The HMMP shall include the following and extend until the cessation of the 5 year aftercare:

- Description and evaluation of all features to be managed within the site;
- Ecological trends and constraints that might influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives; Thrupp Farm ROMP Planning Statement ND/v3. 21 10/06/2025
- Prescriptions for management actions;
- Preparation of a work schedule;
- Details of ecological enhancements;
- A botanical mitigation strategy;
- Details of the body or organisation responsible for implementation of the plan, and
- Ongoing monitoring and remedial measures to ensure the development delivers the objectives set out in the approved scheme.

The development shall thereafter be carried out in accordance with the approved details.

26. If nesting birds are found in areas to be worked or restored, then work in the immediate vicinity should stop and an ecologist consulted. Actions will be embedded within the Construction Environmental Management Plan (CEMP) required by Condition 21.

Environmental Protection: Groundwater and Surface Water Protection

27. (Condition 1 updated from that proposed by the Environment Agency in their response dated 29/06/2023) No development shall commence until a scheme has been submitted to the Mineral Planning Authority for the provision of a continuous and up to date baseline groundwater data set.

28. (Condition 2 updated from that proposed by the Environment Agency in their response dated 29/06/2023) No development shall commence until a comprehensive baseline groundwater quality monitoring scheme has been submitted to the Mineral Planning Authority. The scheme should include potassium, boron, pH, phosphorus, ammoniacal nitrogen, copper and vanadium.

29. (Condition 3 updated from that proposed by the Environment Agency in their response dated 29/06/2023) Prior to the commencement of mineral extraction a scheme shall be submitted to the Mineral Planning Authority for approval for the provision of a groundwater monitoring scheme with a wider baseline data spatial coverage to provide sufficient spatial representation of Working Area Phase C shown on Plan no: 757-01-10 and the south eastern edges of the site boundary.

30. (Condition 4 updated from that proposed by the Environment Agency in their response dated 29/06/2023) Prior to the commencement of mineral extraction, a scheme shall be submitted to the Mineral Planning Authority for approval detailing the locations of all private water supplies which have the potential to be impacted by activities within the site boundary.

31. (Condition 5 updated from that proposed by the Environment Agency in their response dated 29/06/2023) Prior to the commencement of mineral extraction, a

scheme shall be submitted to the Mineral Planning Authority for approval which details the method of lining of the sides of the excavation areas where required with low permeability materials. Details should include the depth/thickness of lining material that would be removed from the base of the phases, whether the lining is intended as a short- or long-term barrier and the risks in terms of groundwater mounding and flooding.

32. (Condition 6 updated from that proposed by the Environment Agency in their response dated 29/06/2023) Prior to the commencement of mineral extraction, a report shall be submitted to the Mineral Planning Authority for approval which calculates the loss of aquifer storage, the impact of this loss and whether any mitigation is proposed.

33. Oil, fuel, lubricants or other bulk stored liquids (other than water) shall be handled on site in a manner that prevents the pollution of any watercourse or aquifer. Oil and fuel shall be stored in appropriate bunded containers which shall be housed in an area surrounded by bund walls of sufficient height and construction so as to contain 110% of the total volume of the contents of the container and associated pipework. The floor and walls of the bunded area shall be impervious to both water and oil, and pipes shall vent downwards into the bunded area. The facility shall be maintained to prevent ingress of fluids. Thrupp Farm ROMP Planning Statement ND/v3. 23 10/06/2025

34. The site shall be dewatered in accordance with the Planning Statement dated January 2023, unless otherwise agreed in writing by the Mineral Planning Authority.

35. Prior to the commencement of mineral extraction a Hydrometric Monitoring Scheme which includes monitoring of Longmead Lake shall be submitted to the Mineral Planning Authority for approval. The approved scheme shall be adhered too.

36. The buffer zones to watercourses shown on Working Plan Nos: 757-01-06 to 757-01-10 will be adhered to at all times.

37. No development shall commence until a scheme has been submitted to the Mineral Planning Authority for the provision and installation of robust ground markers around the site boundary delineating the maximum extent of working. The approved scheme shall be implemented and the ground markers shall be retained throughout the period of this permission. No extraction shall take place beyond these markers.

Environmental Protection: Flood Risk

38. (Condition updated from that proposed by the Environment Agency in their response dated 29/06/2023. Condition only required if the EA's objection to flood risk cannot be addressed) Prior to the commencement of mineral extraction, details shall be submitted to the Mineral Planning Authority for approval of any proposed structures (such as the conveyor) and any changes in land levels for all phases of the development and the restoration scheme.

39. (Condition updated from that proposed by the Environment Agency in their response dated 29/06/2023- Condition only required if the EA's objection to flood risk cannot be addressed) Prior to the commencement of mineral extraction, details shall be submitted to the Mineral Planning Authority for approval including:

- Showing the impacts of the proposed 3m screening bund on flood risk;

- Taking the impacts of climate change into account by using detailed flood modelling; and
- Demonstrating how flood risk will change and be managed over the lifetime of the site.

40. Within 3 months of the recommencement of mineral extraction a Flood Warning and Evacuation Plan shall be submitted to the Mineral Planning Authority for approval. The approved scheme shall be adhered to.

Environmental Protection: Surface Water Management Scheme

41. (Updated Condition proposed by the LFFA in the response dated 16/03/2023) Prior to the commencement of the development, a detailed Surface Water Management Scheme for each phase or sub-phase of the proposed operations, shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be in accordance with the principles contained within the; Hafren Water Environmental Water Management, FLOOD RISK ASSESSMENT, THRUPP FARM QUARRY, Version 3, February 2025. The scheme shall be implemented in accordance with the approved details and timetable.

Environmental Protection: Sustainable Drainage Scheme

42. (Updated from the condition proposed by the LFFA in the response dated 16/03/2023) Prior to mineral extraction a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document the completed installation of the drainage structures on site; and
- d) The name and contact details of any appointed management company information.

Environmental Protection: Landscape & Visual Impact

43. The Landscape and Ecological Management Plan required by Condition 24 shall also include the mitigation and enhancement measures proposed in the Landscape and Visual Impact Assessment in Appendix F of the Environmental Statement. The approved scheme shall be adhered too at all times.

44. Prior to the commencement of the development the linear distances and protection methods required to protect retained trees will be defined in accordance with by BS5837: 2012. These methods shall be adhered too at all times.

45. In the first planting season following the recommencement of mineral extraction, the 'native scrub planting for repair and visual mitigation' will be undertaken in accordance with the details shown on Plan no: 757-01-16 Rev A and in Section 7 of the Landscape and Visual Impact Assessment in Appendix F of the Environmental Statement.

Environmental Protection: Noise

46. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specifications at all times and shall be fitted with, and use, effective silencers. No reversing beepers or other means of warning of reversing vehicles shall be fixed to, or used on, any mobile site plant other than white noise alarms or beepers whose noise levels adjust automatically to surrounding noise levels.

47. Except for temporary operations, the free field Equivalent Continuous Noise Level, dB LAeq, 1-hour, free field, due to daytime operations for routine operation on the site, shall not exceed the specified noise limits below.

Position	Suggested Site Noise Limit dB LAeq, 1-hour, free field
1 – Home Barn Farm	54
2 – Warren Farm	43
3 - Thrupp House	47
4 – Kingfisher Barn/Rye Farm	48
5 – Quaker Meeting House/Audlett Drive	53

48. During the permitted working hours the free field Equivalent Continuous Noise Level, dB LAeq, 1 hour, free field, due to temporary operations, shall not exceed 70 dB LAeq 1 hour. Temporary operations which exceed the normal day-to-day criterion shall be limited to a total of 8 weeks in any 12-month period.

49. (Condition to address the Environmental Protection Officer's response dated 08/06/2023) Within 3 months of the date of this planning permission, a Noise Management Scheme shall be submitted to the Mineral Planning Authority for approval which shall include:

- Noise monitoring and reporting proposals to check compliance with the noise limits in Conditions 47 and 48; and
- Complaints procedure detailing the investigation, resolution, reporting and recording of complaints.

Environmental Protection- Trees

50. (Condition proposed by OCC Senior Tree Officer consultation response 31/10/2024) Prior to the commencement of any works on site, an Arboricultural Method Statement (AMS) and accompanying Tree Protection Plan (TPP), in accordance with BS 5837:2012, shall be submitted to and approved in writing by the Mineral Planning Authority which shall include:

- a) Location and installation of services/ utilities/ drainage;
- b) Details and Methods of works within the root protection area (RPA as defined in BS5837: 2012) of the retained trees or that may impact on retained trees;
- c) A full specification for the installation of boundary treatment works;
- d) A specification for protective fencing to safeguard trees during site works including all phases and a plan indicating the alignment of the protective fencing;

- e) A specification for ground protection within tree protection zones;
 - f) Tree protection during works indicated on a TPP and works and work activities clearly identified as prohibited in this area;
 - g) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires;
 - h) Boundary treatments within the RPA;
 - i) Arboricultural supervision and inspection by a suitably qualified tree specialist;
 - j) Reporting of inspection and supervision;
 - k) Methods to improve the rooting environment for retained and proposed trees and landscaping; and
 - l) Veteran and ancient tree protection and management.
- The development thereafter shall be implemented in strict accordance with the approved details.

Restoration and Aftercare

51. The site shall be restored in phases in accordance with Plan Nos: 757-01-07 to 757-01-10, 757-01-12 Rev A and 757-01-16 Rev A.

52. Within 24 months prior to the permanent cessation of mineral extraction in each phase, unless otherwise agreed in writing by the Mineral Planning Authority, a restoration and five-year aftercare scheme demonstrating how the site will be restored in accordance with Plan Nos: 757-01-12 Rev A and 757-01-16 Rev A shall be submitted for approval. The scheme will be implemented as approved and each phase will be restored in accordance with the approved restoration and aftercare scheme within 24 months of the completion of mineral extraction.

53. Within 2 years from the commencement of mineral extraction the 'Draft Restoration Management Plan' in Appendix 5 of the ROMP application shall be reviewed and updated if required and submitted to the Mineral Planning Authority for approval. The scheme will be implemented as approved.

54. A restoration and aftercare scheme for the Curtis Yard shown on Plan no: 757-01-05 Rev A shall be submitted to the Mineral Planning Authority within 3 years of the recommencement of mineral extraction unless planning permission is granted for its continued retention. The submitted scheme will be implemented as approved and include consideration of:

- The removal of buildings and hardstanding;
- Restoration treatments;
- Management;
- Timetable for implementation; and
- 5- Year aftercare.

Annex 2 - Consultation Responses Summary

Vale of White Horse District Council - Planning

Final Response

No comment.

Second Response

No comment from a planning perspective. It is noted that the district council has provided comment through the district Environmental Protection Team, and the matters of ecology, biodiversity and landscape are being considered by the county officers.

First response

Ecology and Biodiversity - The ROMP application site contains the Radley Gravel Pits Local Wildlife Site (LWS) (site code: 59103). The LWS is designated for the mosaic of valuable aquatic and terrestrial habitats present, which include irreplaceable lowland fen and priority habitat waterbodies and reedbeds. The LWS is species rich in aquatic plants and invertebrates. - The site also falls within the Thames: Radley to Abingdon Conservation Target Area (CTA). CTAs form Oxfordshire's ecological network and are strategically important for nature's recovery within the county. - There are multiple records of protected species within the ROMP application site, including European protected species (GCN and otter). The site likely contains priority habitats of principle importance for the purpose of conserving biodiversity in England. - The ongoing working of the area will likely have notable ecological impacts which will need to be carefully considered in the planning balance against national and local policies.

Landscape conditions - Conditions 20/ 28 require a Landscape and Ecological Management Plan (LEMP). These usually cover a timescale of approximately 20 years. The expectation of the required timescale covered by the document (LEMP) needs to be clear in the condition wording.

- Condition 30 covers the planting to be included in the first planting season following recommencement of mineral extraction. The plan does not show sufficient detail with regards to the implementation, maintenance, and protection of the area, for example, from rabbit or deer grazing. This additional detail will need to be submitted, but could form part of the LEMP.

- Conditions 34 and 35 only refer to a 5 year maintenance period, post implementation. These conditions should be linked to the LEMP and have a longer timescale.

Curtis Yard - An application was submitted to the VoWH in November 2021 for the continued use of premises as a yard for the contractor, Terrafirma (use sui generis). This site falls within the ROMP area (DD2) and is referred to in condition 37 as Curtis Yard. The district council concluded that the continued use could affect restoration of the site and was therefore a county matter. The application was returned to the

applicant in December 2023, to be resubmitted for consideration by OCC. It is understood that the use is due to cease 18 November 2025.

Neighbourhood Plan Policies - In drawing up the detail of the restoration plan(s) for the wider site, covered by the ROMP, due consideration should be given to the priorities and aspirations of the Radley Neighbourhood Plan (2018-2031)

Vale of White Horse District Council – Environmental Protection

Final Response

Thank you for consulting the Environmental Protection Team regarding the above application identified as MW.0041/23. As noted previously, additional consideration has also been given to the fact that the site already has planning permission for extraction, and that this application is to consider how permitted activities are to be carried out on site. Please refer to my previous responses for further information regarding the application as a whole.

Third Response

As noted previously, additional consideration has also been given to the fact that the site already has planning permission for extraction, and that this application is to consider how permitted activities are to be carried out on site. Please refer to my previous responses for further information regarding the application as a whole, as in this consultation I am responding to further information provided in regard to dust impacts, with particular reference to ecology. The Environmental Protection Team considers only the potential adverse impacts of a development (such as noise, artificial lighting, and odour) based on the principle of safeguarding public health. Such public health impacts would be primarily on residents in highly sensitive locations (such as residential dwellings). As such if comments are sought regarding ecology specifically, please contact Planning at Vale of White Horse District Council specifically so it can be re-directed as necessary.

Second Response

Having reviewed the submitted planning application and supporting documentation, I have extensively considered Environmental Protection matters related to noise, odour and dust, with particular reference to Appendix H Technical Note (Noise) as prepared by WBM Acoustic Consultants (Walker Beak Mason Limited). This response also gives consideration to previous responses documents and responses made as part of this application in 2023. As noted previously, additional consideration has also been given to the fact that the site already has planning permission for extraction, and that this application is to consider how permitted activities are to be carried out on site. Furthermore, this response relates specifically to the request for further information

required by Oxfordshire County Council under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as dated 5 July 2024. This request for further information falls broadly under the following categories:

- Further information on how calculations have been used in a previous noise impact assessment in support of the application.
- A noise contour map and/or further information on calculations used and estimated noise levels with and without the proposed mitigation identified previously.
- Further information on noise impacts on users of local primary schools, and of users of Public Rights of Way adjoining the site.

Appendix H explains in further detail how BS 5228-1: 2009 + A1: 2014 - Code of practice for noise and vibration control on construction and open sites has been used to provide data as part of the Noise Impact Assessment (and the subsequent clarifying Technical Note), with particular reference to Annex F - Estimating noise from sites. I have no objections to the calculations used or the further information (particularly relating bunding height) provided as an explanation.

A noise contour map has been prepared and provided as part of Appendix H, and it appears to be in support of the additional and previous information provided as part of the application. The impact on local schools is, due to proposed mitigation measures, distances between source/receptor and existing barriers identified as being likely inaudible, of which I have no additional comments.

The impact on users of the nearest public rights of way is identified to be higher at 66 dB LAeq, 1 hour, during Phase A, and 59 dB LAeq, 1 hour, during Phase B at a separate right of way. Appendix H also notes that the impact on actual users of the right of way will be lower than this due to the transient usage of the route. The document also notes that there is no specific legislation regarding the impact of noise from mineral sites on public rights of way, of which I have no additional comments.

Please refer to my response dated 8 June 2023 for further information regarding the application as a whole.

First Response

Having reviewed the submitted planning application and supporting documentation, I have extensively considered Environmental Protection matters related to noise, odour and dust, with particular reference in my initial review to Appendix G Noise Impact Assessment (Thrupp Farm Quarry, Abingdon, Oxfordshire Review of Old Mining Permission (ROMP) Noise Assessment) as prepared by WBM Acoustic Consultants (Walker Beak Mason Limited). Additional consideration has also been given to the fact that the site already has planning permission for extraction, and that this application is to consider how permitted activities are to be carried out on site. Appendix G identifies that noise produced by activities on site will primarily comprise of mineral extraction, and vehicle movements associated with mineral movement and removal (including

associated noise e.g., reversing beepers). The Noise Assessment identifies within Section 8 that bunding and stand-off distances are one of the main mitigation measures in controlling noise from the site. Section 6.4 refers to calculations that are provided in the Appendix G of the Noise Assessment, but further information on how these calculations have been used to identify specific bunding height would be required to comment further. The provision of a noise contour map and/or an updated or separate report with further information on the calculations used and estimated noise levels with and without the proposed mitigation should address these concerns. Relating to this, the proposed bunding between Phase A and Thrupp House is identified within Section 6.4 as being at a height of 2.5 metres above ground level, but the map within Appendix B (continued) of the Noise Assessment appears to suggest the proposed bunding will be 3 metres high. Confirmation on this should be included in any updated information provided. Based on this I would like to request further information on the above noise mitigation measures, without which I will have to object to the proposed application on the grounds that the proposed mitigation measures may not be sufficient.

Radley Parish Council

While in some measure we welcome the arrival of a ROMP application, as it provides the potential to address many issues that have blighted the Thrupp Lane area since the initial granting of mineral permissions in 1954, we do have a number of objections to the current application.

We feel that much more clarity is needed in dealing with the restoration, particularly for the northern section of the site where mineral working is not proposed.

We also feel that the Ecological Appraisal is seriously deficient, especially in its consideration of Orchard Lake. There are also numerous other smaller problems with the application. As this application offers a once in a century opportunity to resolve the future of the area we want to get everything right.

We will expand on our objections as follows:

1 Restoration Radley Parish Council have been in discussion with County Council Officers for many decades about restoration of the north west portion of the site, since extraction of gravel ceased in the late 1970s. Lack of action by the County has resulted in the area being used for a number of non-mineral related industrial activities who have managed to secure a succession of temporary planning permissions otherwise unthinkable in the Green Belt as a result of the uncertain mineral situation. Most recently we have proposed a partial prohibition order for the area, but County Officers argued that conditions attached to the ROMP application would be sufficient to deal with this matter. We are therefore disappointed by the vague and flimsy proposition of condition 37. To start with it gives the incorrect date for end of the current permission for the JCSL industrial estate. This should be 18th November 2025 and not 2027 as claimed by the applicant, an error that is reproduced throughout all their documentation. We think it is incredibly unlikely that the industrial estate would be

granted permanent planning permission. It has only ever managed to secure temporary permissions based on the premise that the site might be necessary for future gravel processing which is clearly no longer the case. We therefore think that the restoration and aftercare scheme for the JCSL site should be prepared before the current permission expires. If a date of six months after the expiry of permission is used we know from bitter experience that it will be missed. The Landowner has constantly gamed the planning system with the estate operating for several periods without planning permission, including long periods between 1977 and 1984, and subsequently between 2011 and 2018. The situation has been exacerbated by a lack of communication between County and District Council Officers. The most recent permission was refused by the district, only to be overturned on appeal, but the Inspector in para 15 of his report stated that Oxfordshire County would have been able to insist on removal of the buildings under the terms of the 1954 permission. We will later be proposing a community liaison group to try to avoid problems in the future. We also feel there is not enough attention paid to restoration of other parts of the northern ROMP area not including the JCSL site. Indeed the application primarily focused on the extraction site and does not really give us the comprehensive coverage of the entire ROMP site that was promised at the Planning and Regulation meeting in September 2021.

While still on the subject of restoration we were disappointed to see that para 3.2.2 of the Ecological Appraisal referring to Oxfordshire Planning Policies does not seem to include the fact that the Minerals and Waste Core Strategy was adopted in 2017. I can only assume that they have copied and pasted from a much earlier report. This means that they give no consideration to policy M10 which calls for enhancement of conservation and biodiversity in all mineral site restoration. We would expect some use of metrics to assess biodiversity upgrade. Policy M10 also calls for consultation with local communities on options for after-care. We feel that any plans for the site should be based on the Radley Lakes Trust(RLT) masterplan, which received 98% public support when consulted upon in 2020/21, and be overseen by the community liaison group. We also agree with RLT that restoration of phase A and B should include more shallows, margins and islands to maximise biodiversity and landscape value. We would not support the importation of soil to facilitate this but would suggest using the material from the sandy overburden mound (SOM) . Para 2.10 of the planning statement claims that this mound has been naturally regenerated and does not propose to use it. In our experience the most common use of the SOM has been illegal racing by scrambler bikes and we would be happy to see it put to a better use.

2 Orchard Lake - We oppose the inclusion of Orchard Lake in the area proposed for excavation of gravel. Orchard Lake comprises a shallow wetland area and a deeper lake. The lake is the result of previous gravel and sand excavation. The wetland area is the result of the past removal of topsoil. This work was undertaken over 25 years ago and in the intervening period the area has evolved to create valuable areas for wildlife. The area is described in the Radley Lakes Masterplan (May 2021) as one that "... is in particular notable for its scenic beauty and diversity of wildlife". Orchard Lake is different to, and of a higher scenic quality than, the other areas of proposed gravel

extraction in the view of those who know the Radley Lakes area. Its value for wildlife and biodiversity is seriously underestimated in the Ecological Appraisal. One might almost think that AD Ecology had been primed by the applicant to downplay its value in the knowledge that it's loss would be locally unpopular. AD make an enormous issue about the presence of New Zealand Pigmyweed in the lake. Their elaborate proposed control methods seem excessive as it is also present elsewhere in the Radley Lakes area. As part of Orchard lake has already been worked out it is not at all clear from the application how marginal an effect removal of Orchard lake would have on the potential yield of gravel.

3 Traffic on Thrupp Lane - It has long been our view that the level of HGV traffic on Thrupp Lane is unacceptable and causes significant conflict with cyclists and pedestrians. The fact that material will no longer be imported from Oday, along with the potential to remove the other industrial sites, should mean a reduction in traffic, which we welcome. However we would probably prefer the suggested extraction rate in para 4.20 of the Environmental statement to be set at 80,000-120,000 p/a to more accurately correspond with the amount currently being processed at the Tuckwell site to avoid the necessity for any material to be exported for processing elsewhere. We agree with para 5.7 of the environmental statement that it is preferable in climate terms to process the gravel from the local site than to import from afar, but that does open the question as to how sustainable the Tuckwell processing site is once the ROMP site is exhausted.

4 Groundwater and Surface water issues - We agree with RLT that not enough measures have been envisaged for assessing and mitigating the effects of dewatering on site on the neighbouring water based habitats, particularly Barton Fields, Longmead Lake and Bruney lagoon. We would like to see evidence that the applicant had discussed this with the Abingdon Naturalists, who manage Barton Fields on behalf of the Vale of White Horse DC, and with the owner of Longmead Lake.

5 Liaison Group - As referred to above we would like to see a liaison group set up to deal with any issues that arise over the period of extraction and restoration. This should include representatives of the County and District Councils, Radley Parish Council, Radley Lakes Trust and Tuckwells. All other local landowners should be invited to attend but their attendance should not be considered necessary for the group to operate as when the previously short lived liaison group fell apart when Redacted refused to attend.

Radley Lakes Trust

Final Response

Thank you for your consultation. RLT has previously commented on this proposal and made comments to the authority in our responses dated 24/04/23, 15/9/24, and 4/4/25. The comments provided in our previous responses applies equally to this amendment and we maintain our Objection.

A key concern for the trust is that the issues we raised in our original submission and subsequent responses have not been addressed by the applicant. The only changes to the application that we can determine are related to statutory consultees, and we

note that the concerns of the County Ecologist in relation to the loss of irreplaceable or Priority habitats have not been addressed.

We are concerned that the ROMP application, EIA and proposed conditions focus heavily on the proposed extraction area, do not adequately cover the whole ROMP site, and it is not clear enough which condition apply to which areas, or how satisfactory restoration of previously worked areas will be achieved.

As we and others have previously commented the Environmental Statement does not fully assess, mitigate or provide compensation for the ecological impacts and there are a number of inaccuracies. For example the non technical summary states that: '1.6 In the EIA process, environmental information has been researched and, where required, analysed by specialist consultants. The information gained in the assessment process has identified the environmental constraints of the Site, together with any mitigation measures to determine the way in which the Development Proposals can be developed in an acceptable manner and in accordance with modern environmental standards.'

As the applicant's representative notes in the letter from Land and Mineral to the LPA dated 29/5/25, Priority habitats predominantly cover the entirety of the mineral extraction area, with only 13% (1.88ha) of the extraction area not a Priority habitat. In our view the loss of 87% of the irreplaceable habitat from the site is not 'acceptable' or 'in accordance with modern environmental standards.' It also states '3.6 The Site is not located in or adjacent to an area designated for its landscape or for the protection of biodiversity.'

The nearest protected area is the Culham Brake SSSI which lies over 560m to the southwest' Radley Lakes Trust registered charity number 1192259 2 This is incorrect Orchard Lake and Calfney's Marsh are part of the wider 'Radley Gravel Pits Local Wildlife Site', designated in 2006. Although not a technically a policy designation it should be noted that the Thames Valley Environmental Records Centre and Wild Oxfordshire have designated the whole of the Radley Lakes area including the proposed quarry area as a "Conservation Target Area" from which the proposed quarrying will remove 14.2 ha.

As well as stating under '5.36 The Site includes discrete areas of high botanical interest although most of the site supports only moderate botanical interest, with a number of HPI's being present.'

This is incorrect 87% of the site is classed as irreplaceable habitat. Our own records which have been shared with the applicant indicate an increasing botanical value in the Nyatt Field area with large areas of high botanical interest.

These inaccuracies in the presentation of the findings, along with the gaps in the ecological surveys highlighted in previous responses from RLT and others, raise questions about whether the assessment undertaken can be relied upon, and result in an under playing of the magnitude of the ecological impacts.

We appreciate the applicants argument in relation to viability, however we would argue that there is significant biodiversity value in the site which if it were to be quantified through the DEFRA Biodiversity Net Gain assessment metric would translate to a significant monetary value in habitat units. The applicant has argued that as there is no requirement for Biodiversity Net Gain under the Environment Act 2021 for ROMP applications, there is no requirement to undertake a BNG assessment with the application. However both the NPPF and local mineral policies apply to this application, and both require biodiversity to be enhanced and Priority habitats to be protected, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. This has not been satisfactorily demonstrated or quantified by the applicant.

It is unclear how OCC, in issuing a notice of determination for the ROMP, will be applying their duty to not only conserve but also enhance biodiversity at the site at Radley. This is particularly pertinent given the presence of irreplaceable habitat, Priority habitats, the presence of the Local Wildlife Site designation, and biodiversity more generally. In respect to the aftercare conditions given the loss of an area of Priority habitats and high biodiversity value, the applicant should be going above and beyond the standard 5 year management requirements, and be proposing an extended regime of management and monitoring of the site and any additional habitat compensation areas that might be agreed, to ensure that their scheme will deliver as they are purporting. We would appreciate the opportunity to discuss our comments with you and the County Ecologist further.

Third Response

We have reviewed the additional information submitted. The additional material does not address the issues raised in our previously submitted response dated 15/9/24. The extent of quarrying and restoration proposals are unchanged and our objection remains. We agree with OCC's senior biodiversity officer who states that the 'local wildlife site will be significantly adversely impacted by the proposal including a number of priority habitats and an irreplaceable habitat.' As previously commented the tree and ecological survey data is incomplete and should be completed to enable a full assessment of effects to be completed. The mitigation and compensation referred to in Section 7 of the Ecological Impact Assessment in Appendix C of the Environmental Statement should be updated to reflect the findings of these surveys. It is also a concern that APPENDIX 2617/FRA/A5 Flood Emergency Response Plan is silent on how any non-mobile equipment or oil, fuel, lubricants or other bulk stored liquids etc on the site would be safeguarded in the event of flood and the pollution risk managed. This should be addressed. We expect an opportunity to review and comment on the proposed conditions and the opportunity to raise any significant outstanding concerns directly with the Committee. Restoration of the North-West area remains a significant concern and we will look to see if our suggestions (from our original objection submission) to improve Conditions 36 and 37 are adopted so as to achieve effective and timely restoration of the NW area.

Second Response

Comments

Radley Lakes Trust has reviewed the additional EIA information and amended plans submitted by Tuckwells in July 2024 in response to the OCC Regulation 25 letter dated 5th July 2024. The revised plans fail to address the majority of the issues outlined in our previous comments and the Trust therefore maintains its earlier **OBJECTION**, with the following additional comments in relation to the issues previously raised.

Issue 1 - Orchard Lake. The revised plans still propose for this to be quarried in the final phase. The revised plans do not ensure that no significant harm would be caused to the existing and established priority habitats forming part of the Local Wildlife Site. We maintain that this precious habitat and scenic landscape which falls within the Local Wildlife Site should be **excluded** from extraction proposals. The additional EIA information evidences that this is an important habitat with otters

(European Protected Species) using the lake area. Orchard Lake is also considered to be of County importance for its dragonfly and damselfly assemblage, and toads (a priority species).

Issue 2 – Biodiversity Net Gain. The applicant states that this does not apply to ROMP applications, so this has not been undertaken. We note that, although the Environment Act

2021 excludes ROMPs from providing 10% net gain, the NPPF and local mineral policies still apply to this application. Both require some biodiversity net gain to be provided. The application area also lies within the Thames Radley to Abingdon' Conservation Target Area which seeks to maintain and improve Priority Habitats. There should certainly be no question of a biodiversity net loss here.

To measure this net gain, the Statutory Metric is now the standard. This should inform the appropriate restoration for the site including an understanding of the overall balance of the loss of habitats and those delivered through restoration, taking into account factors such as the time taken for habitats to establish, risks to success and trading between habitat types.

From review of the habitats proposed to be created in the restoration plans we anticipate that a BNG assessment would struggle to satisfy the habitat trading rules within the application boundary. The proposed restoration plans show a permanent loss of terrestrial habitats including locally rare botanically diverse grassland in Nyatts Field, formerly managed under a Countryside Stewardship Scheme arrangement, which is proposed to be replaced with locally common aquatic habitats including open water and wetland habitats.

In addition on a separate point related to protected species we note that there are deficiencies in the surveying methods used particularly with respect to bats and Great Crested Newts. No bat roost assessments have been undertaken. As a minimum, we would consider that Tuckwells should undertake a bat roost assessment of the initial areas where works are to be undertaken including the trees along the conveyor belt and haul road route.

Issue 3: - Groundwater and Surface Water Protection There is a commitment to a quarterly monitoring regime of boreholes with reports sent to OCC. The working plan has also changed so clay lining of the ponds is no longer undertaken other than for the western edge of A1. This ensures that groundwater flows in future are as undisturbed as possible.

Since the gravel extraction will now be done without clay lining of the pits the groundwater flow/quality situation will be changed to what was previously expected. Post excavation the situation is better without lining; but during excavation both Longmead and Orchard Lake will be impacted and measures must be put in place to protect the water levels and quality during quarrying operations.

Issue 4: - Restoration of Lakes/ restoration proposals. The restoration plans submitted have changed and now propose:

- that the two northern lakes will have a conservation-led restoration with areas of shallows, with the two southern lakes being managed for angling and quiet recreation.
- incorporating better protection of the 16m buffer either side of Radley Brook along with measures to create a more naturalised channel with berms, benches and a variation of in-channel features;
- that greater ecological enhancements are incorporated
- a new 200 sq m pond (fenced off from the public).

As noted under issue 2 above the restoration proposals should be informed by a comprehensive biodiversity net gain assessment of the overall balance of the loss of habitats and those delivered through restoration, taking into account factors such as the time taken for habitats to establish. Without this assessment we cannot comment fully on the restoration proposals.

Nevertheless we note that the inclusion of the features outlines above are a betterment on the previously submitted plans, however, all four lakes still lack sufficient islands which are important for nesting birds as they provide undisturbed places for nesting and roosting, where they are safe from terrestrial predators and disturbance by people and dogs. Otter holts would be better on islands for the same reasons. There is only one island shown (as compared to over twenty islands in Thrupp Lake) and the two southern lakes also lack areas of shallows. Additional islands (ideally clustered) should be provided in all four lakes.

With respect to Radley Brook the measures to create a more naturalised channel with berms, benches and a variation of in-channel features are welcomed but we suggest that there may be better less intrusive methods than desilting to increase water depths, using a leaky dam system.

Restoration proposals should be designed to maximise the habitat value of the waterbodies created and should be informed by a BNG assessment and include mitigation/ compensation proposals for the loss of grassland in Nyatts Field.

Issue 5: Traffic on Thrupp Lane: We note no change in proposals in the revised submission and our objection remains. There is no commitment to reduce mineral HGVs on Thrupp Lane which forms part of National Cycle Route 5.

Issue 6 & 7: Curtis Yard & Restoration of North-West area: We note no change in proposals in the revised submission and our objection remains. The restoration of the north-west part of the ROMP site, including the Curtis industrial yard, is long overdue. Plans for this are not sufficiently certain. This is a matter of considerable concern, and affects matters which are the province of the local planning authority (VWHDC) as well as OCC. The proposed ROMP conditions are the only chance to secure the restoration of this area, and failure to secure this will have very serious long-term planning consequences for the whole area. An objection letter from Redacted deals with this in more detail. We are appending a copy of this letter to this objection (see Appendix 2), and the Trust endorses all the points he makes.

Issue 8: Liaison Group: We note no change in proposals in the revised submission and our objection remains.

Issue 9 & 10: Sounding Bridge Path & Orchard Lake access routes: We note no change in proposals in the revised submission and our objection remains.

A proposed bailey bridge is shown for the haul road over the Sounding Bridge path. Further details are needed of this bridge structure and the adjacent conveyor belt showing how they cross the path, and the vegetation removal required to construct them.

The current access to Orchard Lake and the River Thames should be kept open and access provided over or under the conveyor belt.

We support the proposed dedicated footpath between the western and eastern lakes connecting to the Thames Path. As previously commented we believe a further east west path between the northern and southern lakes should also be incorporated.

Issue 11: The application as a whole: We note no change in proposals in the revised submission and our objection remains.

Conclusion

For all of the reasons stated above, Radley Lakes Trust considers that the application is not yet in a fit state to be determined, and the Trust therefore wishes to maintain its previous objection to the application.

If OCC, and /or the applicants, wish to discuss with us in more detail how our objections might be overcome, please let us know. In any event, we request that you keep us informed about the progress of this application, including any possible dates on which it might be taken to Committee.

Thrupp Farm ROMP (MW.0041/23): Comments by Redacted¹

Headline

The ROMP application of 10 March 2023 is confused, failing to deal properly with the ROMP area as a whole and in particular the restoration of the area in the north-

west. OCC's REG 25 request for further information (5 July 2024) does not address this and the information provided in response perpetuates the confusion.

The application is not in a fit state for determination and needs revision.

The ROMP area and its ownership

The ROMP area is the whole of the land covered by the planning conditions DD1 and DD2 of 2000. These conditions are those proposed by the applicants. They came into force by default as OCC had not taken the necessary action in response.

The majority of the ROMP area is owned by John Curtis and Sons Ltd (JCSL), almost all the remainder by Tuckwells. The ROMP application has been made by Tuckwells. Their focus is primarily and understandably on the area south of the disused railway line where they propose to extract gravel. For this purpose they have a management agreement with JCSL, who own the land. This agreement is not believed to cover other JCSL land: In particular it does not cover the north-west part of the ROMP area to the north of the disused railway line.

The north-west area

The north-west area is owned by JCSL and was worked by them. Extraction of commenced shortly after WW2 and was complete by 1979 (sic). Void space has been filled by unregulated and undocumented waste but the land has never been restored.

The land is subject to DD2. While the DD2 area is wider in its geographical scope, the conditions include ones applying specifically and solely to the north-west area. Condition 13 reads as follows.

'Within 12 months of the anticipated date of completion of mineral working north of the disused railway a restoration scheme shall be submitted to and agreed with the MPA, such scheme to include,

- removal of all plant and machinery associated with the development.
- areas that are to be left as water and those areas that are to be restored to land.
- the surface treatment of the land to achieve satisfactory gradients prior to replacing soil materials.
- the details of soil handling and respreading to agreed thicknesses of topsoil and subsoil materials.

¹ I have in the past represented Radley Parish Council in evidence to OCC's Planning and Regulation Committee and have also been a trustee of the Radley Lakes Trust. Neither now applies. These comments are personal based on my knowledge of the land, its commercial and environmental potential, and OCC's legal responsibilities.

- the grading of the sides of the excavated areas to form suitable bank profiles,
- measures to ensure support to the adjoining land.
- the details of the landscape planting such details to include treatment of placed soils to achieve a suitable seed bed, location, species and density of trees and shrubs to be planted, specification and density per hectare of grass seed to be sown.'

This condition has not been complied with. Instead, the land today comprises:

- a commercial yard for uses unconnected with minerals extraction (most of which have temporary planning permissions);
- open land, sometimes known as the 'Quarry land', which is not only unrestored but badly fly-tipped.

Confusion in the ROMP application

The application documents are muddled as between the ROMP area as a whole and the area within it now proposed for extraction (including ancillary activity). Under the ROMP legislation the 'site' is the whole ROMP area. The application documents are unclear in their geographical extent, but appear to regard the 'site' as being solely the area now proposed for extraction. This same confusion has been carried through into the reports by specialist consultants

As the confusion arises not just in the underlying reports but in the proposed conditions it is not possible to discern what conditions apply to what land. This might seem pedantic but it matters as the ROMP conditions will effectively have the force of law. The lesson of DD1/2 (where the conditions became law by default) is that proposed conditions will become actual conditions unless something is done about them.

The confusion also betrays a serious imbalance in the ROMP proposals. There is very little about the restoration of the north-west land. The Environmental Statement Non-Technical Summary does not even mention it. But it is the land most crying out for restoration given the very long time period (about 45 years) since extraction was complete, the failure to implement the existing DD2 conditions and the very poor state into which the land has fallen.

The report at Appendix 5 to the application does, it is true, address the restoration of the north-west area, but the proposed Condition 36 then makes a nonsense of this by linking action to the commencement of gravel extraction whereas there is no gravel in the area to extract.

The issues here are not just environmental but commercial. Operators, and anyone considering purchase, need absolute clarity as to the liabilities that go with the land.

The ROMP should be the means to create this clarity. Without it there will be yet more years of blight.

Why OCC need to put this right

In September 2019 OCC's Planning and Regulation Committee decided that a prohibition order should be served on the whole ROMP area for the reason that minerals activity had ceased and was unlikely to resume. Subsequently Tuckwells provided evidence that they would resume extraction on the land to the south of the disused railway line (as is proposed in the current ROMP application).

At its meeting of July 2022 the Committee reviewed the position. In their advice officers accepted that Tuckwells were likely to resume extraction on this land and proposed withdrawal of the prohibition notice. Radley Parish Council (RPC) also accepted that extraction was likely to resume on this land but pointed out that there was nil prospect of resumption in the north-western area, where the gravel deposits had been exhausted. They argued that a prohibition order should still be pursued for this area. This would enable OCC to require appropriate restoration to bring blight to an end without waiting for the statutory default date of 2043 that would otherwise apply.

The Planning and Regulation Committee fully supported this objective but were persuaded by officers that the best way of pursuing it was not through a prohibition order but through the ROMP process. This would result in an Environmental Assessment for the whole ROMP area, as they believed to be required by Planning Guidance. They assured the Committee that the ROMP process would apply to the whole area and would include appropriate restoration conditions for the north-west area.

RPC thought this was mistaken. A prohibition order can (as did DD2) make separate provision for the north-western area, and it can be served on the relevant owner. The ROMP process by contrast is being led by Tuckwells, who have no control over the land in question.

Notwithstanding this difference of view, the decision to pursue the ROMP route was taken. OCC now need to make good on their undertaking - by ensuring that the ROMP does indeed address the whole of the ROMP area and does make appropriate provision for the restoration of the north-west area.

Conclusion

The Reg 25 process indicates that some 18 months after the ROMP application, there is still confusion over the ROMP area. OCC - as far as is visible - have not taken the necessary action to remedy this. They need to ensure that the ROMP process covers the whole area, resulting in conditions that are clear in their extent and apt to all land that warrants it including the north-western area.

The best way of achieving this is through the actions proposed by the Radley Lakes Trust in their submission of 24 April 2023, highlighted in the Annex that follows.

Annex. RLT's submission of 24 April 2023. Issue 11

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type – Objection
Issue – 11. The completeness, accuracy and clarity of the application
Reason for objection The ROMP process needs to provide a comprehensive assessment of the whole ROMP site, resulting in clear and appropriate conditions for each parcel of land. The application does not enable this to be achieved. The 'site' and areas within it The 'site' for the ROMP review is the whole ROMP area (i.e. the area covered by the mineral planning permissions listed in the 2015 Notice of Review). However, the application frequently uses the term 'site' for conditions which seem to be intended only for the proposed extraction area. This could have substantial unintended consequences. We suggest that 'site' be reserved for the whole ROMP area, with the term 'extraction area' (or similar) being used for land on which extraction and associated works are proposed. Conversely, the application does not propose conditions for parts of the site falling outside the extraction area, but nevertheless meriting them. This issue applies in particular to Tuckwell's operational land in the north-east. Part of this has a permanent permission for concrete batching, part has a permission agreed but not finalised for minerals processing. Part is simply unrestored mineral land. The ROMP process needs to ensure appropriate and internally consistent coverage of this land. The application is also silent on other areas within the ROMP site. We would not expect conditions for land within the ROMP site which has not been, and will not in future be, subject to mineral operations; nor for land which has been subject to minerals operations, but which has since been satisfactorily restored. However, to provide a sound basis for decisions, any such land needs to be explicitly identified, with reasons why no new conditions are considered necessary. Our views on the need for comprehensive coverage of the whole ROMP site accord with the approach promised by OCC officers at the meeting of the Planning & Regulation Committee on 6 September 2021 and with the Committee's own resolution made at that meeting. ROMP landowners The ROMP site is in multiple land ownership and the ability to deliver ROMP conditions is therefore complex. The original application did not list all the landowners. Those omitted, as well as holding land within the ROMP site, would be directly affected by the extraction proposals. A revised application has now been submitted correcting the omissions. But there is no accompanying map or commentary, so it is not clear how far delivery of the proposed conditions is dependent on other owners. For example, the proposed (and welcome) dedicated path between the extraction area and the Thames seems to include a stretch not in the applicant's ownership or control; it is relevant to know whether that is the case and if so whether the landowner concerned has agreed to the proposal.

Consultation meeting held on 12 January 2023

The planning statement (para 6.8) says that Radley College was represented at this meeting. This is not right. Redacted, was present in his capacity as chair of the Radley Lakes Trust. They also give the wrong location for the meeting, which was at Tuckwell's Thrupp Lane premises. RLT's own note of the meeting, sent to Tuckwell soon after (18 January), is attached as Appendix 1. We believe that our note, which was not queried by Tuckwell, is a more complete reflection of the discussion.

Our objection can be overcome if:

- the application documents are withdrawn and revised to deal with all the points above and any others of a similar nature;
- the revised documents are accompanied by:
 - a map showing who owns each parcel of land;
 - a map showing which parcels of land are covered by each of the proposed conditions;
 - a reconciliation against the spatial coverage of the existing conditions in DD1 and DD2;
 - a map showing parcels of land that are not covered by any proposed conditions;
 - a brief statement as to why conditions are not in these cases considered to be warranted.

This will enable it to be assessed whether the ROMP process is comprehensive in its coverage.

First Response

Summary

Radley Lakes Trust OBJECTS to this application on 11 grounds, namely:

- **1: Orchard Lake:** Area C falls within a designated Local Wildlife site and includes Orchard Lake. These precious habitats and scenic landscape should be excluded from extraction proposals.
- **2: Biodiversity Net-Gain:** The submission does not make provide evidence to demonstrate that Oxfordshire County Council Minerals Policy M10 has been met.
- **3: Groundwater and Surface Water Protection:** Extraction is likely to have an adverse impact on water related habitats and biodiversity, within and outside the site. Proposals to mitigate these impacts are inadequate.
- **4: Restoration of Lakes:** The restoration proposals for lakes A, B1 and B2 do not include sufficient shallows, margins and islands to maximise biodiversity and landscape value.
- **5: Traffic on Thrupp Lane:** There is no commitment to reduce mineral HGVs on Thrupp Lane. This misses a big opportunity as there should no longer be a need to import mineral from outside the ROMP site.
- **6 & 7: Curtis Yard & Restoration of North-West area:** The restoration of the north-west part of the ROMP site, including the Curtis industrial yard, is long overdue. Plans for this are not sufficiently certain.
- **8: Liaison Group:** formal arrangements are necessary to ensure the applicant and interested parties can resolve concerns as the work progresses.

- **9 & 10: Sounding Bridge Path & Orchard Lake access routes:** existing footpaths need to be kept open
- **11: The application as a whole:** The application contains significant omissions and errors and is unclear on important points. It does not provide a sound basis on which to take decisions.

We have also made 2 COMMENTS on this application, namely:

- **1. Restoration of North-West Area:** advice to clarify scope of the plan
- **2. Consultation with Local Communities on Options for After-Use (Policy M10):** advice on use of Radley Lakes Masterplan to inform submission.

Full details of the Objections and Comments and relevant background information, are set out below.

Radley Lakes Trust – Who we are

The Radley Lakes Trust (RLT) is a registered charity (number 1192259) established in 2021. Its aims include conserving the Radley Lakes area and its wildlife, advancing education and science in relation to the area, and promoting activities at the Lakes which contribute to human health. A full statement of the Trust's charitable aims in its can be found [here](#). The Trust is managed by a board of trustees and you can find information about us [here](#). A number of the trustees have been involved in the Radley Lakes area for several decades and have a wealth of experience and expertise on the history and potential of the area.

The Radley Neighbourhood Plan identifies Radley Lakes as an area for nature conservation and quiet recreation. The work of the Trust and the future management of the Lakes is guided by a Masterplan, published in May 2021, which is available [here](#). The Masterplan sets out a long-term vision for the Lakes. It proposes improved access to the Lakes for walkers and cyclists, and walking trails within the area. It also outlines how the wildlife and habitats of the Lakes should be cared for.

One of the Trust's main activities is to carry out projects. Projects in the Masterplan are funded by the 'Community Infrastructure Levy' (payments made to Radley Parish Council by the developers of new housing estates in Radley), and by other grants and donations. Volunteers help with carrying out projects as do landowners of the Radley Lakes area. The Thrupp Farm ROMP (Review of old minerals permissions) application from Tuckwell is entirely within the area of interest of the Radley Lakes Trust.

Approach to our Response

This application is significant for the Trust as it will affect the Radley Lakes area for many years to come. We have based our response around the proposals and ideas within the Radley Lakes Masterplan. This Plan reflects the interests of the local community and was the subject of major public engagement and consultation exercise in 2020 and 2021, when it received support from 98% of respondents, including strong support from 63%.

The RLT Board of Trustees considered the potential for the application in February 2022 and concluded that it should "pursue proposals consistent with its charitable

objectives: these included the preservation of Orchard Lake, appropriate restoration of land that was worked, and completion of masterplan projects.'

We published a draft of our proposed response on the Radley Lakes Trust website on Friday 14 April. A number of comments were shared with us and we have incorporated these into our response. We also provided David Perriam at Oxfordshire County Council with an initial assessment of points of accuracy with regards to the application.

We have spoken with Tuckwell on two occasions, 12 January and 6 April 2023, to understand their proposals and explain our objections and ideas.

Our response contains 11 **objections** and 2 **comments**. These are detailed in the following sections.

Our objections

In summary, we object to the application for the following 11 reasons:

- **1: Orchard Lake:** Area C falls within a designated Local Wildlife site and includes Orchard Lake. These precious habitats and scenic landscape should be excluded from extraction proposals.
- **2: Biodiversity Net-Gain:** The submission does not make provide evidence to demonstrate that Oxfordshire County Council Minerals Policy M10 has been met.
- **3: Groundwater and Surface Water Protection:** Extraction is likely to have an adverse impact on water related habitats and biodiversity, within and outside the site. Proposals to mitigate these impacts are inadequate.
- **4: Restoration of Lakes:** The restoration proposals for lakes A, B1 and B2 do not include sufficient shallows, margins and islands to maximise biodiversity and landscape value.
- **5: Traffic on Thrupp Lane:** There is no commitment to reduce mineral HGVs on Thrupp Lane. This misses a big opportunity as there should no longer be a need to import mineral from outside the ROMP site.
- **6 & 7: Curtis Yard & Restoration of North-West area:** The restoration of the north-west part of the ROMP site, including the Curtis industrial yard, is long overdue. Plans for this are not sufficiently certain.
- **8: Liaison Group:** formal arrangements are necessary to ensure the applicant and interested parties can resolve concerns as the work progresses.
- **9 & 10: Sounding Bridge Path & Orchard Lake access routes:** existing footpaths need to be kept open
- **11: The application as a whole:** The application contains significant omissions and errors and is unclear on important points. It does not provide a sound basis on which to take decisions.

Our reasons for these objections are provided below.

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type – Objection
Issue – 1. Orchard Lake
Reason for objection The excavation of gravel and sand within the Radley Gravel Pits Local Wildlife Site, which was designated by Oxfordshire County Council in 2006 and which is also in the Conservation Target Area in the Vale of White Horse Local Plan, will lead to the loss of Orchard Lake which is a highly valued landscape with particular scenic quality formed from a diverse range of habitats supporting many aquatic species. Orchard Lake comprises a shallow wetland area and a deeper lake. The lake is the result of previous gravel and sand excavation. The wetland area is the result of the past removal of topsoil. This work was undertaken over 25 years ago and in the intervening period the area has evolved to create valuable areas for wildlife. The area is described in the Radley Lakes Masterplan (May 2021) as one that “... is in particular notable for its scenic beauty and diversity of wildlife”. Orchard Lake is different to, and of a higher scenic quality than, the other areas of proposed gravel extraction in the view of those who know the Radley Lakes area

Because most of Orchard Lake is shallow (mainly less than 0.5 m depth) it hosts far more species of amphibian, invertebrate and plants than would a flooded gravel pit, which are typically 4m deep or more. Deep water lakes predominate in the Radley Lakes area so retention of a shallow lake helps secure biodiversity in the area.

Common Toads breed in Orchard Lake and naturalists have recorded adults coming to this lake in March and April since 2012. In some years over 2000 adult Toads have been counted visiting the lake.

Dragonflies are attracted to Orchard Lake because they breed mainly in shallow water. Many dragonfly recorders visit Orchard Lake from throughout Oxfordshire to observe these insects. These observations are recorded on the British Dragonfly Society's Oxfordshire website where there are 156 records to date of 21 species including a new species (the Willow Emerald Damselfly) found there in August 2020.

Orchard Lake hosts good numbers of aquatic invertebrates, which have been recorded during informal pond dipping sessions organised by Abingdon Naturalists Society with species identified by Jeremy Biggs (Director of the Freshwater Habitats Trust). Fish in the lake attract birds such as Osprey which visit occasionally on passage. Bittern are often recorded there or nearby in winter and a Common Crane was spotted nearby on 19 April 2023 and this iconic species has the potential to become a more frequent visitor if the habitat of Orchard Lakes is preserved.

Calfneys' Marsh is also located in the 'Radley Gravel Pits' Local Wildlife Site and is an undisturbed wetland area west of Orchard Lake comprising a mixture of habitats including: sedge fen, wet woodland and reedbed. The fen is rich in sedge species and Adder Tongue fern was recorded in the past on the edge of the fen. Reed Warbler and Reed Bunting breed there and Woodcock, Snipe and Teal have been recorded there in winter.

Orchard Lake is also considered to be of a "high scenic quality" because of the surrounding trees, reedbed and the large stands of Yellow Flag Iris which bloom there. The sense of beauty and tranquillity is enhanced by the song of Reed Warbler and other birds in spring.

The Landscape and Visual Impact Assessment (LVIA) fails to sufficiently assess the baseline situation and recognise the landscape, recreational and wildlife value of the eastern part of the site (Phase C and eastern part of B2) and the contribution it makes to the Green Infrastructure within the River Thames floodplain. A more detailed site analysis would have differentiated this part of the site which is more sensitive to the effects of quarrying because:

- "The loss of tree cover during Phase B2 and C represents the loss of a feature which contributes positively to the local landscape character ... its loss will still represent a notable change to the predevelopment condition of the landscape resource" (LVIA Section 5.1.5)
- "Phases B2 and C will see more significant vegetation loss ... The vegetation loss during the later phases of the operations will have a greater effect on the landscape resource, opening up what is currently a largely enclosed part of the site, as well as seeing the removal of more diverse habitats" (LVIA Section 5.1.9).

Our objection can be overcome if:

- the application is revised to limit gravel and sand extraction to Phase A and B only.

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type - Objection
Issue – 2. Biodiversity Net Gain
Reason for objection The Environmental Statement and supporting documents do not use an appropriate methodology to evaluate whether the application meets the requirements of Oxfordshire County Council's Policy M10 on biodiversity net gain. Adopted in 2017, the Oxfordshire Minerals and Waste Core Strategy sets out the vision, objectives, spatial planning strategy and policies for meeting development requirements for the supply of minerals over the period to 2031. Policy M10: RESTORATION OF MINERAL WORKINGS states 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 <u>delivers a net gain in biodiversity</u>." Such an approach, would fit very well with the Local Nature Recovery Strategy for Oxfordshire which the Council has been appointed to prepare. The proposed extraction, including the creation of the conveyor route, should not result in a net loss of biodiversity. Biodiversity can be measured in accordance with DEFRA Biodiversity Metric 3 or 4. This methodology is required by the Vale of White Horse District Council (https://www.whitehorsedc.gov.uk/vale-of-white-horse-district-council/planning-and-development/wildlife-trees-and-landscape/wildlife/biodiversity-and-accounting/). This approach will bring all the biodiversity issues into a single sum and take account of the time lapse before restoration takes place and settles in. Our objection can be overcome if: the applicant submits a suitable assessment of revised proposals (see Objection 4) to demonstrate a net gain in bio-diversity.

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type - Objection
Issue – 3. Groundwater and Surface Water Protection
Reason for objection The proposed conditions for protection of the aquatic environment do not sufficiently protect streams, ditches, lakes, ponds and other water features from the consequences of dewatering activity during the extraction of sand and gravel and the initial restoration period as the lakes establish themselves. The Hydrogeological and Hydrological Assessment does not consider: 1) the impact on either Barton Fields or Bruney Lagoon. These valuable water-dependent habitats are situated just outside the proposed development area but have not been considered within the assessment. Both sites are dependent on the ditches flowing westwards from the development area and local groundwater flows. Abingdon Naturalists', who manage Barton Fields on behalf of the Vale of White Horse DC, were not approached for advice by the applicant. Flows and silt levels in the Radley Brook and the other ditch flowing westwards through the excavation site do not appear to have been measured. Without this data conclusions that the use of dewatering inputs alone will

compensate for any losses are difficult to justify. The nature of downstream habitats might require reassessment of the "sensitivity" assessments in Table 2617/HIA/T13. Overall, the consequences of extraction, and the development of suitable mitigation, needs to be addressed in a revised submission

- 2) Longmead Lake is considered to be in hydraulic connection with the gravel aquifer" (p.19 of the Hydrogeological and Hydrology Report) whereas in the Planning Statement it is described as "which maybe in connectivity" (s 3.38 of the Planning Statement). This ambiguity needs to be addressed and the proposed mitigation for Longmead Lake revised to provide effective mitigation under a range of possible impacts
- 3) dewatering may lead to changes in groundwater flow causing water to be drawn in more rapidly from the Thames. River water contains high levels of nitrates, phosphates and other pollutants which will adversely affect aquatic species such as Variable Damselfly which breed in Bruney Lagoon. Mitigation plans need to be developed to manage this risk
- 4) the possibility that with only a limited range of surface water and groundwater data to analyse, the assessment of impacts is likely to be inaccurate. A more precautionary water quantity and quality mitigation plan needs to be developed to manage the uncertainty in natural systems that cannot be fully assessed
- 5) as the wetland and lake restoration programme is initiated then monitoring of water quality and quantity in the lakes will be appropriate to ensure understanding of how they are developing. This is particularly important as clay lining of open lakes has not been used in the Radley Lakes area before
- 6) hydrometric and groundwater monitoring to assess the actual, rather than assumed, impacts and the effectiveness of any mitigation measures is inadequate. The sharing of data with third parties so a shared assessment of impacts and mitigations can be made also needs to be covered.

Our objection can be overcome if:

- the Hydrogeological and Hydrological Assessment is resubmitted with appropriate and more considered analysis of the impacts on Longmead Lake, Barton Fields and Bruney Lagoon, improved mitigation plans and enhanced monitoring proposals
- conditions 22 & 23 are revised so the quantity and quality impacts of dewatering can be measured and evaluated by relevant parties and mitigations adjusted as work progresses to maintain agreed flows, levels and specific quality criteria
- draft permits and licences are developed with the local community before approval by the Environment Agency.

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type - Objection
Issue – 4. Restoration of Lakes
Reason for objection
The current proposals for restoration of the excavated lakes fail to provide sufficient areas of shallow wetlands, marginal shelves and islands in order to maximise biodiversity and landscape value. The Radley Lakes area already has a number of deep-water lakes but a much smaller range of shallow wetlands. The range and diversity of species found in Orchard Lake, a shallow wetland area, far outnumber that found in the deeper lakes and illustrate what can be achieved through more inspiring and thoughtful restoration proposals.

The current proposals lack diversity in the landscapes that will be created and limit the opportunities for local communities to visit and enjoy a vastly more interesting nature site for quiet recreation. They fail to deliver the biodiversity gains that could be achieved and that are needed to off-set the biodiversity loss caused by the proposed extraction.

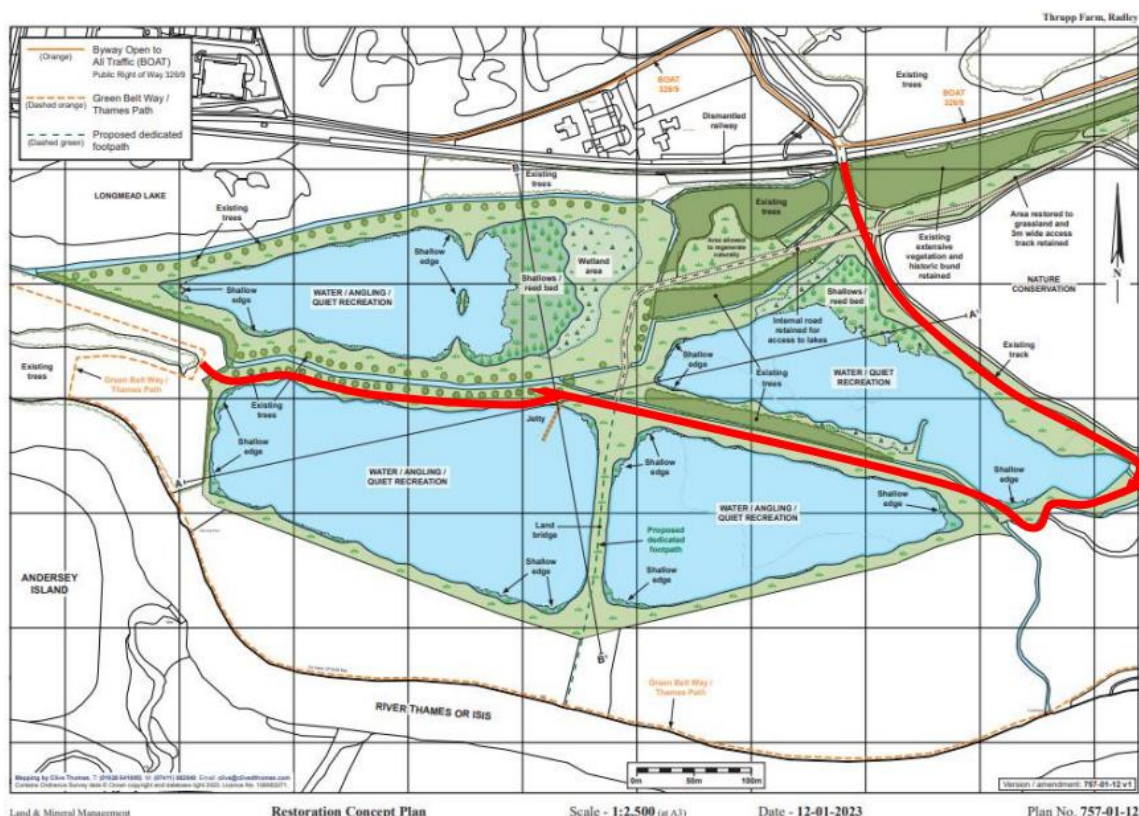
The gravel extraction will lead to large voids that will need filling if they are to be made into shallow wetlands. We appreciate that the overburden and soils removed from the gravel workings will only make a limited contribution to filling the lakes, hence the lack of shallow wetlands.

We do not propose that fill is imported into the area to achieve a greater level of filling and therefore shallow wetlands, islands and margins. There is however an area of previously stored sand and soil known as the SOM (Sandy Overburden Mound) which could be used to restore the lakes. The SOM is located within the proposed development area and within 600m of all the areas to be filled. This material was intended for restoration of other lakes but never used.

The Environmental Statement does not attribute a particular ecological or landscape value to the SOM area although further assessment will be necessary. Radley Lakes Trust consider that the diversity of habitats created by reuse of the SOM as fill material for the excavations will be of much greater value to the community and local wildlife in the medium to long term. However, the Environmental Statement will need to cover this issue in full. Lake A should be restored predominantly for ecological use with no angling/quiet recreation opportunities.

Lakes B1 and B2 are proposed to have less than 3% of their surface area as islands/marginal shallows/wetlands. We recognise that angling will be a large part of the benefit provided by these restored lakes but a greater effort to add ecological potential to these areas is necessary. A mixed community of fish species is our preferred stocking for the lakes. The applicant should define the range of quiet recreation opportunities.

The proposed footpath running from the BOAT to the river Thames is supported. We believe that a further permissive path, shown in red on the plan below, should be incorporated into the restoration plan. This will help ensure the development meets Oxfordshire County Council's Minerals Policy C11 which 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."



Section 3.64 in the Planning Statement indicates the timetable for the submission of a detailed Restoration and Aftercare Scheme for each phase is “2 years before the completion of the restoration works in each phase”. It is difficult to see how this can be reasonably judged with any certainty.

Our objection can be overcome if the applicant:

- reconsiders the restoration options through reuse of the SOM material to create a more diverse set of habitats and landscapes
- extends the range of permissive footpaths proposed and restricts angling and quiet recreation to lakes B1 and B2
- provides a more definitive way of defining the timing and scope of restoration and aftercare proposals
- describes the scope of the restoration and aftercare plan for the gravel extraction as, ensuring they contain habitat creation, landscaping, environmental monitoring and public access elements.

Application Number – MW.0041/23

Name – Radley Lakes Trust

Response Type - Objection

Issue – **5. Traffic on Thrupp Lane**

Reason for objection

The application lacks an assessment of the extent to which extraction of Thrupp Farm gravel and sand will reduce imports of mineral from other sources and hence reduce the number of lorry movements to and from Tuckwell's Yard along Thrupp Lane.

It is widely agreed that Thrupp Lane is currently unsafe for pedestrians and cyclists accessing Radley Lakes and that this is a major local concern. The Radley Neighbourhood Plan and Lakes Masterplan have both made proposals to segregate pedestrians and cyclists from other road

traffic, but the problem remains. It also seems to be agreed that mineral lorry movements on Thrupp Lane should be capable of reduction once gravel starts to be extracted at Thrupp Farm. This is a clear benefit from the proposal. However, the applicant has not taken the opportunity to assess and offer a proposal on this matter.

Our objection can be overcome if:

- an assessment is made by the applicant of expected reductions in traffic levels and a condition, or form of agreement between the applicant and interested parties, is created so that traffic levels are seen to reduce.

Application Number – MW.0041/23

Name – Radley Lakes Trust

Response Type - Objection

Issue – **6. Curtis Yard**

Reason for objection

Condition 37, which relates to Curtis' Yard at the end of Thrupp Lane, inaccurately states when current temporary planning permissions expire and is too uncertain about subsequent restoration.

The Planning Inspector's decision of 18 November 2020 consents the retention of temporary uses on Curtis Yard until 18th November 2025, and not 18th November 2027 as stated in the Planning Statement. Likewise, therefore, the Restoration and Aftercare Scheme needs to be submitted by 1st June 2026 and not 1st June 2028.

The Planning Statement indicates the expectation that this area "will include proposals for ..." restoration but in Condition 37 this has been changed to "will ... include consideration of proposals for ...". Restoration, as required by the existing permission for this land, is already long overdue and the looseness of this wording creates a risk that key issues in any Restoration and Aftercare Scheme will not be addressed.

Our objection can be overcome if:

- 1) Condition 37 is revised to read as follows:

"A restoration and aftercare scheme for the Curtis Yard shown on Plan no: 757-01-05 shall be submitted to the Mineral Planning Authority by 1st June 2026 unless permanent planning permission has by then been granted for its continued retention. The submitted scheme will be implemented as approved and include proposals for:

- The removal of all buildings and hardstandings;
- Restoration treatments;
- Management;
- Timetable for implementation; and
- 5-Year aftercare"

Application Number – MW.0041/23

Name – Radley Lakes Trust

Response Type - Objection

Issue – **7. Restoration of North-West Area**

Reason for objection

There is insufficient urgency in the start to restoration of the north-west area (the area west of Thrupp Lake and north of Thrupp Farm shown as Previous Workings on Plan No. 757-01-05).

The applicant has submitted a Restoration Plan prepared by AD Ecology for the relevant area. We have included separate comments on this plan. Our objection is over the start of its implementation. This area has been awaiting clean-up, restoration and management, as required by the existing consents, for many years and there appears to be no operational reason why implementation should not proceed at the earliest opportunity. The removal of fly-tipped material is particularly urgent.

Our objection can be overcome if Condition 36 is revised to read as follows:

“Within 12 months from the approval of the new ROMP conditions the ‘Draft Restoration Management Plan of area to the north of the disused railway line’ in Appendix 5 of the ROMP application shall be reviewed and updated if required and submitted to the Mineral Planning Authority for approval. The scheme will be implemented as approved within six months of approval.”

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type - Objection
Issue – 8. Liaison Group
Reason for objection
The application lacks formal arrangements for on-going liaison between the applicant and interested parties on the operation and restoration of the Thrupp Farm ROMP site in accordance with the requirements of the approved permission.
A group that meets under the leadership of Oxfordshire County Council on at least a quarterly basis to discuss and resolve any practical issues associated with the operation and restoration of Thrupp Farm would be appropriate. This group could work alongside routine informal discussions between key parties on an ad-hoc basis.
Our objection can be overcome if a new Condition is included as follows: “The applicant and OCC agree terms for a suitable liaison group to ensure any issues with the operation and restoration of Thrupp Farm are resolved regularly.”

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type - Objection
Issue – 9. Sounding Bridge Path
Reason for objection
Plan no. 757-01-11 shows a Bailey Bridge blocking access along the Sounding Bridge Path (which runs along the line of the disused railway line) at the southern end of Tuckwell’s Yard.
The proposed bridge carries a haul road and conveyor across the footpath and would block the existing access route from Radley & Lower Radley to the south-eastern corner of Thrupp Lake.

The applicant indicated to us on 6 April 2023 that the Bailey Bridge would be replaced by a concrete culvert which would take the conveyor under the level of the footpath. A bridge across the top of the culvert would maintain the existing level footpath access along the Sounding Bridge Path.

On a related point the ROMP conditions needs to ensure consistency between Tuckwell's current intentions (i.e. no bailey bridge) and the earlier permission for the processing plant (MW.0075/20), which did include a bailey bridge.

Our objection can be overcome if:

- the applicant submits a suitably revised version of plan no. 757-01-11 and a General Arrangement drawing of the proposed culvert and bridge, and
- a new Condition is included as follows "The applicant ensures open and level access along the Sounding Bridge Path."

Application Number – MW.0041/23

Name – Radley Lakes Trust

Response Type - Objection

Issue – **10. Orchard Lake Access Route**

Reason for objection

The proposed conveyor shown on plan no. 757-01-07 would block the existing access route from the south-west corner of Thrupp Lake through to Orchard Lake.

The applicant indicated to us on 6 April 2023 that there was a possibility of building a foot bridge over the conveyor at this point.

Our objection can be overcome if:

- the applicant submits a suitably revised version of plan no. 757-01-07 and a General Arrangement drawing of the proposed footbridge, and
- a new Condition is included as follows "The applicant ensures that the Orchard Lake access route remains open at all times."

Application Number – MW.0041/23

Name – Radley Lakes Trust

Response Type – Objection

Issue – **11. The completeness, accuracy and clarity of the application**

Reason for objection

The ROMP process needs to provide a comprehensive assessment of the whole ROMP site, resulting in clear and appropriate conditions for each parcel of land. The application does not enable this to be achieved.

The 'site' and areas within it

The 'site' for the ROMP review is the whole ROMP area (i.e. the area covered by the mineral planning permissions listed in the 2015 Notice of Review). However, the application frequently uses the term 'site' for conditions which seem to be intended only for the proposed extraction area. This could have substantial unintended consequences. We suggest that 'site' be reserved for

the whole ROMP area, with the term 'extraction area' (or similar) being used for land on which extraction and associated works are proposed.

Conversely, the application does not propose conditions for parts of the site falling outside the extraction area, but nevertheless meriting them. This issue applies in particular to Tuckwell's operational land in the north-east. Part of this has a permanent permission for concrete batching, part has a permission agreed but not finalised for minerals processing. Part is simply unrestored mineral land. The ROMP process needs to ensure appropriate and internally consistent coverage of this land.

The application is also silent on other areas within the ROMP site. We would not expect conditions for land within the ROMP site which has not been, and will not in future be, subject to mineral operations; nor for land which has been subject to minerals operations, but which has since been satisfactorily restored. However, to provide a sound basis for decisions, any such land needs to be explicitly identified, with reasons why no new conditions are considered necessary.

Our views on the need for comprehensive coverage of the whole ROMP site accord with the approach promised by OCC officers at the meeting of the Planning & Regulation Committee on 6 September 2021 and with the Committee's own resolution made at that meeting.

ROMP landowners

The ROMP site is in multiple land ownership and the ability to deliver ROMP conditions is therefore complex. The original application did not list all the landowners. Those omitted, as well as holding land within the ROMP site, would be directly affected by the extraction proposals.

A revised application has now been submitted correcting the omissions. But there is no accompanying map or commentary, so it is not clear how far delivery of the proposed conditions is dependent on other owners. For example, the proposed (and welcome) dedicated path between the extraction area and the Thames seems to include a stretch not in the applicant's ownership or control; it is relevant to know whether that is the case and if so whether the landowner concerned has agreed to the proposal.

Consultation meeting held on 12 January 2023

The planning statement (para 6.8) says that Radley College was represented at this meeting. This is not right. Redacted, was present in his capacity as chair of the Radley Lakes Trust. They also give the wrong location for the meeting, which was at Tuckwell's Thrupp Lane premises. RLT's own note of the meeting, sent to Tuckwell soon after (18 January), is attached as Appendix 1. We believe that our note, which was not queried by Tuckwell, is a more complete reflection of the discussion.

Our objection can be overcome if:

- the application documents are withdrawn and revised to deal with all the points above and any others of a similar nature;
- the revised documents are accompanied by :
 - a map showing who owns each parcel of land;
 - a map showing which parcels of land are covered by each of the proposed conditions;
 - a reconciliation against the spatial coverage of the existing conditions in DD1 and DD2;
 - a map showing parcels of land that are not covered by any proposed conditions;
 - a brief statement as to why conditions are not in these cases considered to be warranted.

This will enable it to be assessed whether the ROMP process is comprehensive in its coverage.

Our Comments

We have made comments on 2 items:

- **1. Restoration of North-West Area:** advice to clarify scope of the plan
- **2. Consultation with Local Communities on Options for After-Use (Policy M10):** advice on use of Radley Lakes Masterplan to inform submission.

Details are provided below.

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type - Comments
Issue – Restoration of North-West Area: Scope of Plan
The applicant has submitted a Restoration Plan prepared by AD Ecology for the relevant area. The following comments should be addressed before a revised and updated version is submitted to the planning authority: • the overall aims of the plan include to “provide a pleasurable and safe environment for people using the site” (p.5). Details on how this aim will be delivered in practice need to be included in the plan • specific advice on how to achieve landscape objectives for this site should be prepared and included within the plan. The Radley Lakes Masterplan (May 2021) includes objectives that will be useful in improving the Restoration Plan before it is submitted.

Application Number – MW.0041/23
Name – Radley Lakes Trust
Response Type - Comments
Issue – Consultation with Local Communities on Options for After-Use (Policy M10)
The applicant does not appear to have made use of the 2021 Masterplan for the future of the Radley Lakes area, which was built around public engagement and consultation. Radley Lakes Trust were shown A4 plans of restoration proposals on 12 January 2023. We could not take copies of these plans away and did not see or receive any written material. Our comments to the applicant of 18 January 2023 did not result in any of the changes we proposed being incorporated. No further engagement with the Trust on this issue was undertaken before the application was made. We do not consider that this constitutes reasonable “consultation with local communities on options for after-use” as expected in Minerals Policy M10.

Appendix 1

Email of 18 January 2023 from Redacted, Chairman of Radley Lakes Trust to Redacted, Managing Director of Tuckwells following meeting on 12 January.

Dear James,

Many thanks for giving us sight of your plans for the proposed gravel workings at Nyatt Field and Orchard Lake. It was very helpful to discuss some of the details and share with you our initial thoughts. I hope we will continue to work productively together although there will of course be times when we have different opinions on issues.

At this stage we would like to respond positively to:

- the phased approach to extraction and restoration, pit by pit, which allows the return of land to recreational and wildlife purposes as soon as possible
- your desire to commence work by 2024 and see extraction and restoration progress rapidly
- your plan to keep the Sounding Bridge permissive footpath route open on its existing line
- your plan for a permissive footpath from the NCN route to the Thames Path between Lakes A and B1, and Lakes B2 and C
- your positive response to our idea to include additional islands and spurs in the restored lakes to enhance their wildlife value
- your positive response to our idea for a footbridge over the enclosed gravel conveyor system to allow access alongside Orchard Lake towards the river Thames.

Your approach to Orchard Lake is our main concern. We value its ecological interest and contribution to the quality of the landscape. We will also look closely at the detail of your proposed mitigations to ensure the water systems in the locality continue to perform appropriately during and after excavation. We will be very interested to see your proposals for the north-western area.

We noted also your preference for future management of the lakes as a single entity.

The Radley Lakes Masterplan (May 2021 – see extract below) will be our main reference point for shaping our comments on your proposals. We hope we can continue to discuss relevant matters with you in the spirit of co-operation demonstrated at the meeting on 12 January. We would be especially pleased to comment on your proposed Conditions prior to their development/submission so that we might most constructively input to the process. Our understanding of the procedural steps is that when you submit your Environmental Statement next month it needs to be accompanied by your proposed Conditions. If this is the case, then we are willing to work with you as quickly as needed.

Best wishes

Redacted

Chairman, Radley Lakes Trust

Extract from the Radley Lakes Masterplan

“There are several external factors that could influence the management of the Lakes habitats, chief among them being the ongoing planning issues relating to various parts of the site. In particular, habitat zones 16-19 could be subject to mineral extraction at some point in the future. Any permission needs to be accompanied by conditions and/or legal agreements to minimise loss of existing habitats. The future of Orchard Lake is a matter of particular concern. Unlike the other lakes or those that might be created by fresh extraction it is a shallow waterbody underlain with gravel giving it an ecology that is unique to the Lakes area. It is also of great scenic beauty. Unless it is excluded from future workings there would be an irreplaceable loss to the ecology and amenity of the Lakes area. For areas where extraction is permitted there need to be restoration conditions which create a diversity of new habitats. These should include areas which are marshy/seasonally flooded and waterbodies which are shallow or at the least have shallow margins. The aim should not be to replicate what was there before extraction but to create a net ecological gain, contributing to the wider ecology of the Lakes area.”

Final Response

Abingdon-on-Thames Town Council would like to thank Oxfordshire County Council for informing us of this application and will defer to the officers' decisions.

Second Response

Abingdon Town Council notes the comments from the county officers and welcomes their expertise.

First Response

Abingdon-on-Thames Town Council is concerned that compliance with the traffic management plan is monitored and are informed of any infringement on these conditions.

Environment Agency

Final Response

The letter dated 22 May 2025 (with cross reference to the updated Flood Risk Assessment version 3, by Hafren Water, dated February 2025) has addressed our previous flood risk concerns. Subject to the conditions below, we therefore withdraw our previous objection, dated 03 April 2025.

Environmental Protection: Ecology - We welcome condition 24 in the Planning Statement (version 3, dated 10 June 2025) which was previously condition 20 in the version 2 Planning Statement (dated 02/02/2023, prepared by Land & Mineral Management). However, we request that more details are provided with regards to elements which the landscape and ecological management plan (LEMP) should include, please see below. Additionally, we note condition 21 in the latest Planning Statement (version 3, dated 10 June 2025) refers to a CEMP, please see our recommendation below.

Condition 21 should also be revised to also include our requirements.

Condition – LEMP - Prior to the recommencement of mineral extraction a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority. The scheme shall include the following elements:

- details of maintenance regimes
- details of any new habitat created on-site
- details of treatment of site boundaries and/or buffers around water bodies
- details of management responsibilities
- details of the phasing of the pond enhancements
- the amount of time the habitat is secured for

Reason(s) To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for enhancing the site's nature conservation value in line with paragraphs 187 and 193 of the National Planning Policy Framework and adopted policies 44: Landscape and 45: Biodiversity of the Vale of White Horse Council Local Plan.

Condition – CEMP - Prior to the recommencement of mineral extraction a method statement/construction environmental management plan shall be submitted to and approved in writing by the local planning authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. Such a scheme shall include details of the following:

- The timing of the works.
- The measures to be used during construction in order to minimise the environmental impact of the works including potential disturbance to protected species.
- A map or plan showing habitat areas to be specifically protected during construction.
- Construction methods.
- Any necessary pollution prevention methods.
- Information on the Project Ecologist and/or Ecological Clerk of Works responsible for particular activities associated with the CEMP.
- Details of how the river bank and riparian zone will be restored and enhanced following construction. The works shall thereafter be carried out in accordance with the approved CEMP.

Reason(s) To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for enhancing the site's nature conservation value in line with national planning policy and adopted policies: 44 Landscape and 45: Biodiversity of the Vale of White Horse Council local plan.

Environmental Protection: Groundwater Protection The proposed mineral extraction presents a potential risk to groundwater which is particularly sensitive in this location because the proposed development site is located upon secondary aquifer A with shallow groundwater.

The Hydrogeological and Hydrological Assessment in Support of a Romp at Thrupp Farm Quarry, Abingdon (ref: 2617/HIA, Final Version 2, July 2024, prepared by Hafren Water Ltd) submitted in support of this planning application provides us with confidence that it will be possible to suitably manage the risks posed to groundwater resources by this development. We have reviewed the applicant's proposed conditions 27-33 in the Planning Statement (Version 3, dated 10 June 2025, prepared by Land and Water). We are generally satisfied that these relevant suggested conditions in the statement are in keeping with the intention of the points we raised in June 2023. However, we recommend the following amendments to conditions 28 and 33. Furthermore, we recommend an additional condition is included should previously unidentified contamination be found.

Condition 28 should be amended to state: No development shall commence until a comprehensive baseline groundwater quality monitoring scheme has been submitted to the Mineral Planning Authority. The scheme should include, but not limited to potassium, boron, pH, phosphorus, ammoniacal nitrogen, copper and vanadium.

Condition 33 should be revised as follows: Prior to the recommencement of mineral extraction a scheme for the following shall be submitted to, and approved in writing by, the local planning authority.

- the proposed method of working;
- the proposed phasing of development;
- the provision of road and wheel cleaning facilities;
- the storage of materials;
- the storage of hazardous materials;

- the storage of oil, fuel, lubricants or other bulk stored liquids (other than water) shall be handled on site in a manner that prevents the pollution of any watercourse or aquifer:

- o secondary containment that is impermeable to both the oil, fuel or chemical and water, with no opening used to drain the system

- o a minimum volume of secondary containment at least equivalent to the capacity of the tank plus 10% or, if there is more than one tank in the secondary containment, at least equivalent to the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest

- o all fill points, vents, gauges and sight gauge located within the secondary containment

- the proposed maintenance and after-care of the site; The scheme shall, where necessary, be supported by detailed calculations and include a programme for future maintenance. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or any details as may subsequently be agreed, in writing, by the local planning authority. Reason(s) To ensure that the proposed development, including mineral extraction, does not harm the water environment in line with paragraph 187 of the National Planning Policy Framework and Position Statement A of the 'The Environment Agency's approach to groundwater protection'.

We understand that the maintenance, after-care and restoration of the site may form other conditions.

Condition - Unexpected contamination If, during development, contamination (or land or controlled waters) not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 187 of the National Planning Policy Framework.

Environmental Protection: Flood Risk - We have also provided comments below regarding proposed conditions 11, 38, 39 and 40 in the Planning Statement (Version 3, dated 10 June 2025, prepared by Land and Water). Please note, condition 15 on planning permission ref: P/369/71 refers to stockpiles in the flood plain, our condition below supersedes this condition and therefore condition 15 is no longer necessary.

Condition – Flood Risk Assessment (FRA) - The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) and appendices by Hafren Water, dated February 2025, and letter from Hafren Water, dated 22 May 2025, and the following mitigation measures it details:

- Section 5.3.1 of the FRA: the bund in place during phases A and B1 will be removed prior to the working of phase B2 and additional flood storage volume created during phase A.

- Letter from Hafren Water which states: no further land raising is to take place beyond pre-existing levels, other than those areas required to store material during the operational phases when mineral is being extracted.

Reasons This condition is in accordance with paragraph 181 of the NPPF and seeks to ensure that there will be no increased risk of flooding to other land/properties due

to impedance of flood flows and a reduction of flood storage capacity during and after site development.

Condition 11 - Condition 11 states: 11. Topsoil and subsoil not required for the screen bunding will be stored on the quarry floor at a height that does not exceed original ground levels. This is covered by the phasing of the bund and no land raising beyond pre-existing ground levels in the FRA condition above. Condition 11 is therefore not necessary and can be removed. Condition 38 The letter dated 22 May 2025 states that no further land raising is to take place beyond pre-existing ground levels, other than those areas required to store material during the operational phases when mineral is being extracted. This is addressed in our FRA condition above and condition 38 is therefore not necessary.

Condition 39 - The latest version of the FRA was prepared in February 2025 (Ref: 2617/FRA, Version 3) and was supported by hydraulic modelling. The hydraulic modelling concluded that the proposed bund has the potential to increase flood levels at Thrupp Farm for the 1% annual exceedance probability plus 43% climate change and 0.1% annual exceedance probability flood events, with potential impact on flood levels downstream of the site was also indicated.

The letter dated 22 May 2025 explained the potential increases from the bund shown in the hydraulic modelling during the 1% annual exceedance probability plus 43% climate change and 0.1% annual exceedance probability flood events, at Thrupp Farm was up to 10cm with an increase across site of between 0.01 and 0.05 m (1-5 cm), with potential impact on flood levels downstream of the site. This was explained as negligible relative to the resolution of the model and considering the vertical accuracy of LIDAR data of +/- 15cm. The clarification on the phases of working and construction of betterment in relation to construction of the bund, the hydraulic modelling and calculation of compensation from the FRA, overcomes our last objection. Condition 29 is therefore no longer relevant and can be removed because the updated FRA (version 3, by Hafren Water, dated February 2025) and letter dated 22 May 2025 covers the risk, impact and mitigation of the bund.

Condition 40 - The applicant has proposed the following Condition 40 in the Planning Statement (Version 3, dated 10 June 2025, prepared by Land & Mineral Management): Within 3 months of the recommencement of mineral extraction a Flood Warning and Evacuation Plan shall be submitted to the Mineral Planning Authority for approval. The approved scheme shall be adhered too. We agree that this condition should be included and note that the Flood Emergency Response Plan included in Appendix 2617/FRA/A5 Flood Emergency Response Plan of the FRA includes the removal of all mobile plant to an area of Flood Zone 1. This is important because plant/machinery remaining in areas of flood risk could impact flood flows and storage.

Whilst we do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood, the Planning Practice Guidance (PPG) states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their

decisions. As such, we recommend you refer to 'ADEPT/EA Flood Risk Emergency Plans for New Development | ADEPT' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 173 of the NPPF and the guiding principles of the PPG.

Dewatering – derogation on local water supplies Dewatering is the removal/abstraction of water (predominantly, but not confined to, groundwater) in order to locally lower water levels near the excavation. This can allow operations to take place, such as mining, quarrying, building, engineering works or other operations, whether underground or on the surface. The dewatering activities on-site could have an impact upon local wells, water supplies and/or nearby watercourses and environmental interests.

This activity was previously exempt from requiring an abstraction licence. Since 1 January 2018, most cases of new planned dewatering operations above 20 cubic metres a day will require a water abstraction licence from us prior to the commencement of dewatering activities at the site.

Third Response

The additional information does not address our earlier concerns. We therefore maintain our objection set out in our responses dated 16 September 2024 and 29 June 2023. We recommend that planning permission should be refused on this basis. Reasons -The FRA by Hafren Water dated February 2025 submitted with this application does not comply with the requirements set out in paragraph 30 part 7 of the Planning Practice Guidance to the National Planning Policy Framework (NPPF). The FRA does not therefore adequately assess the flood risks posed by the development because it fails to ensure flood risk is not caused elsewhere. The application is therefore contrary to paragraph 181 of the NPPF.

The majority of the site is located within Flood Zone 3, and risk of fluvial flooding occurring at the site is high. The applicant has undertaken hydraulic modelling and assessed the impact of the proposals, specifically the screening bund, on flood depths, extents, and storage.

The FRA states there is an increase in flood depths in flood events greater than 1% annual exceedance probability (AEP) (1% AEP plus all climate change events and 0.1% AEP event) at Thrupp Farm, and downstream of the site. Additionally, the FRA states there is an increase in flood depths of over 0.1 metres at the site.

The FRA states the volume of flood storage provided by Phase 2 is sufficient to offset the volume of the bund within the floodplain and therefore not cause an unacceptable increase in flood risk, both at the site and elsewhere. The calculation using modelling shows the offset the bund volume by creation of the subtraction of the gross gain in floodplain storage from the estimated volume extracted in Phase A. However, there is no specific comparative illustration table.

The applicant states the offset will be a betterment of 880m³. However, to ensure this betterment:

- the void to provide compensation must be implemented before any bund materials are placed in the floodplain.
- this compensation should remain during the lifetime of the bund, with no infill placed in this or subsequent excavation until the removal of the bund or further compensation.

- no land raising should take place. There is mention of further excavation in subsequent phases to offset the bund, but no details are provided. The FRA states because of modelling with the bund in place:
 - that flood depths will increase of between 1cm and 5cm at Thrupp Farm, (during events greater than 1% AEP).
 - flood levels will increase on site by 10cm. Therefore, we maintain our objection due to an increase in flood risk elsewhere.
- Overcoming our objection - To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. Specifically, the FRA will need to detail how flood compensation or other mitigation will prevent localised increase in flood depths at Thrupp Farm, throughout the site and elsewhere. If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted.

Second Response

The additional information does not address all of our earlier concerns. We therefore maintain our flood risk objection set out in our response dated 29 June 2023. We recommend that planning permission should be refused on this basis. Please note, subject to our flood risk objection being overcome, we have planning conditions we would recommend in regards to biodiversity and groundwater protection. Objection – Inadequate FRA The FRA by Hafren Water dated July 2024 submitted with this application does not comply with the requirements set out in paragraph 30 part 7 of the Planning Practice Guidance to the National Planning Policy Framework (NPPF). We therefore object to this application as it does not provide a suitable basis for an assessment of the flood risk arising from the proposals for minerals abstraction and related works at Thrupps Farm, as it fails to adequately assess these risks posed by the impacts of this development.

In particular, the FRA fails to:

- ensure flood risk is not caused elsewhere, resulting from this development.
 - demonstrate that there is a betterment of flood storage throughout the lifetime of working phases and completion of the development. (site restoration)
 - demonstrate how people working on the site are kept safe from flood hazards during a flood emergency including evacuation of people, with safe access and escape routes.
 - demonstrate the measures in flood emergency response contingencies to machine/plant/equipment/materials management during flooding to allay risk of flooding and pollution elsewhere.
- Overcoming our objection To overcome our objection, the applicant should consider the below points and submit a revised FRA and relevant information, which addresses the objection highlighted above. In particular the FRA will need to:
- detail what flood compensation (and betterment) from mineral abstraction is achieved by illustration of level for level increased flood storage, to offset the deposition of the bund on the floodplain, throughout the lifetime of the works and on restoration of this development.
 - detail how flood compensation will prevent localised increase in flood levels at Thrupp Farm, throughout the site and elsewhere.
 - detail how flood flows from the bund's positions are mitigated, so it will not increase flooding elsewhere.
 - provide a Flood Hazard Plan, required for access, or escape for all persons working on site during the proposed phases.
 - provide a Flood Emergency Response Plan, explaining contingencies during flooding of the site, as to materials management and plant/machine movement to

allay effect on flood flows and pollution risk. If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted.

First Response

The application site is located within Flood Zone 3. This is defined as areas having a high probability of flooding in accordance with Table 1 'Flood Risk' of the Planning Practice Guidance. The Application site is also adjacent to a statutory main river, the River Thames. This is a review of old mineral permission (ROMP) proposes to extract approximately 1,000,000 tonnes (1MT) of sand and gravel from the areas outlined in red on plan no: 757-01-02. There are significant risks in relation to groundwater quality, flood risk, and biodiversity and nature conservation that could occur as a result of this permission being approved without alterations. Therefore, we request that additional information be submitted under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 Regulation 25. Environment Agency Position We have three objections to the proposed development as submitted. They are:

1. Inadequate Flood Risk Assessment
2. Unacceptable risk to groundwater quality
3. Unacceptable assessment of the risks to nature conservation

Flood Risk - In addition to being located in Flood Zone 2 and 3, most of the application site lies within the 5% and 3.3% annual exceedance probability (AEP) flood outlines which are identified by the Oxfordshire County Council Minerals and Waste Level 1 Strategic Flood Risk Assessment (SFRA) dated August 2015 and the Planning Practice Guidance, respectively, as within Flood Zone 3b (the functional floodplain).

Fluvial (river) flood risk is not discussed within the Hydrology and Flood Risk section of the Environment Statement. Due to the location of the site within an area of high fluvial flood risk and the scale of the proposed development, the works could have a significant impact on fluvial flood risk. A Flood Risk Assessment (FRA) is included within Appendix E of the Environment Statement, however this does not assess the impacts of the proposed development on fluvial flood risk.

Objection 1 – Inadequate FRA - In the absence of an acceptable flood risk assessment (FRA) we object to this application and recommend that planning permission is refused. Reasons The submitted FRA (reference 2617/FRA, version F1, dated January 2023 and prepared by Hafren Water) does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- take the impacts of climate change into account
- use information from the best available detailed flood model
- consider how a range of flooding events (including extreme events) will affect people and property
- demonstrate the development will not increase flood risk elsewhere

Whilst an appropriate climate change allowance is discussed in the FRA, this has not been applied to an assessment of fluvial flood risk. The 1% Annual Exceedance Probability (AEP) plus an appropriate allowance for climate change flood extent and levels should be included in the FRA. Detailed flood modelling is available in this

location and should be used to inform the FRA. This information may help to inform the applicant's assessment of the impacts of climate change.

Works such as land level raising and building within the 1% AEP plus an appropriate allowance for climate change flood extent can impede flood flows and reduce available floodplain storage, leading to increases in flood risk elsewhere. Details of any proposed structures (such as the conveyor) and any changes in land levels should be provided, for all phases of the development and the restoration scheme. The impacts of these proposed works should be assessed within the FRA, and mitigation should be proposed where required to prevent increases in flood risk offsite. Please note that, where possible, ground levels within the 1% AEP plus an appropriate allowance for climate change flood extent should not be raised to prevent increases in flood risk elsewhere. Locations of where spoil and topsoil will be stored and moved to should be provided, and the applicant should demonstrate how flood risk will change and be managed over the lifetime of the site.

The FRA sets out that a 'temporary 3 m high screening bund will be placed along the northern boundary of Phase A'. From the submitted Illustrative Composite Working Scheme – Phasing Plan (number 757-01-06, dated 4 July 2022), this bund is within the 1% AEP plus an allowance for climate change flood extent in accordance with the Thames (Sandford to Pangbourne) 2018 model. The impacts of the proposed bund on flood risk have not been assessed within the submitted FRA and no mitigation is proposed. The bund will therefore obstruct flood flows and lead to a loss of floodplain storage, which is likely to increase flood risk elsewhere contrary to paragraph 167 of the NPPF.

A network of main rivers lies within the development site. We welcome that the works will be set 16m back from the main river. The applicant should confirm whether any new or replacement bridges are required as part of the works, such as for the conveyor and internal road.

Overcoming our objection - To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection. Specifically the FRA will need to:

- assess a range of flood events, including the 1% AEP plus an appropriate allowance for climate change
 - demonstrate that any impedance of flood flows and loss of floodplain storage within the 1% AEP plus an appropriate allowance for climate change can be directly compensated for to prevent an increase in flood risk elsewhere
- Flood risk information

The impacts to and from the development over a range of flood events should be assessed, including the 1% annual exceedance probability (AEP) plus an appropriate allowance for climate change flood event.

Floodplain storage -Any increase raising of existing ground levels should be compensated up to the 1% AEP plus an appropriate allowance for climate change flood level. Level for level floodplain compensation is the preferred method of mitigation and should be considered within the FRA.

Level for level floodplain compensation is the matching of floodplain storage volumes lost with new floodplain storage volume gained through the reduction of ground levels. We recommend that level for level floodplain storage calculations are provided in a table that sets out the change in volumes across the site using 100mm or 200mm slices (dependent on site specific considerations), stating the losses and gains for each slice. The location of the changes in floodplain storage should also be clearly identified in a plan or drawing that demonstrates the scheme would be

hydraulically connected for each slice. Excavation of the proposed flood plain compensation scheme should be completed prior to the construction of development to ensure flood plain capacity is maintained.

Objection 2 – unacceptable risk to groundwater quality - We object to the planning application, as submitted, because the risks to groundwater from the development are unacceptable. The applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed. We recommend that planning permission should be refused on this basis in line with paragraph 174 of the National Planning Policy Framework.

Reasons - This application and Hydrogeological and hydrological assessment has given details of the site and the context and background. There have been six boreholes installed across this site and groundwater elevation and quality data has been produced. Having reviewed the report and the site setting, we wish to raise some points/data gaps that need to be addressed before we can find the application acceptable.

1. Baseline data range.

The site specific data that is reported does not extend beyond 2021. We would expect monitoring data to be presented at least quarterly and continuously to present to give the most reliable and representative baseline possible.

2. Baseline analysis.

It is noted that the groundwater quality baseline data is not consistent or comprehensive. PFA deposits in the region are known to give rise to impacts to groundwater: potassium, boron and high pH, phosphorus, and ammoniacal N can be elevated. Metals are highly variable, dependent on the source of the coal, but copper and vanadium have been highlighted to be elevated in the area. We would expect the water analysis suite in the baseline analysis to cover the above in addition to any other pertinent determinants.

3. Baseline data spatial coverage.

The 6 boreholes that were installed across the site in 2020 do not give sufficient spatial representation of the proposed phase C in the eastern and south eastern edges of the site boundary. There is a lack of data to present a wide baseline. We would therefore endorse additional monitoring boreholes to cover these areas, particularly given that there is a PFA landfill to the east. Additional locations should be fully incorporated into the baseline monitoring scheme and can also be used to cover the site in the operational stages.

4. Private water supplies.

The report has not covered the potential for private (unlicensed) water supplies in the area and the risks and impacts from the application to such. These need to be considered and investigated.

5. Lining the sides of the excavation areas with low permeability materials.

It is not clear what the specification will be for the lining that is to be placed in the phases to reduce groundwater ingress during dewatering. More details are needed and these should also include the depth/thickness of material that would be removed from the base of the phases. Will the lining materials provide a long term or short term barrier to groundwater flow in the area? What are the risks in terms of groundwater mounding and flooding in this area as a result?

6. Loss of aquifer storage.

The area that the site covers is currently comprised of sands and gravels that hold groundwater and form a Secondary A aquifer. The permanent loss of aquifer storage from this development is not covered by this report, and should be addressed. This relates to the point above. What will the impacts of the loss of storage be in the area? Are any mitigations proposed?

Our approach to groundwater protection is set out in 'The Environment Agency's approach to groundwater protection'. In implementing the position statements in this guidance we will oppose development proposals that may pollute groundwater especially where the risks of pollution are high and the groundwater asset is of high value. In this case position statement A5 applies. Groundwater is particularly sensitive in this location because the proposed development site is located upon secondary aquifer A.

To ensure development is sustainable, applicants must provide adequate information to demonstrate that the risks posed by development to groundwater can be satisfactorily managed. In this instance the applicant has failed to provide this information and we consider that the proposed development may pose an unacceptable risk of causing a detrimental impact to groundwater quality.

Overcoming our objection - In accordance with our approach to groundwater protection we will maintain our objection until we receive a satisfactory risk assessment that demonstrates that the risks to groundwater posed by this development can be satisfactorily managed.

Objection 3 – unacceptable assessment of the risks to nature conservation - We object to the proposed development as submitted because the assessment and mitigation of the risks to nature conservation are 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. We wish to be consulted on the results of any survey submitted in connection with this application, on any design changes, additional mitigation, compensation or enhancement measures that might subsequently be proposed.

Reasons - Government policy on minimising impacts on biodiversity set out in the National Planning Policy Framework (NPPF) paragraph 174, requires local planning authorities to aim to conserve and enhance biodiversity when determining planning applications. This has not been demonstrated in the present application. The assessment/mitigation measures submitted with the application are inadequate and do not properly address the risks. In particular, the proposals do not:

- Give adequate details of the restoration proposed. The drawings nos. 757-01-07 to 757-01-10, 757-01-12 and 757-01-16 which detail the restoration of the site. o Just having drawings is not sufficient information to show the plans for the restoration of the site.
- Assess the rivers which are onsite, such as the Radley Brook. In section 7.2 of the planning statement, it states: "Radley Brook and other streams. Excluded from the application area and protected with 16m wide exclusion buffers along both banks, maintenance of an appropriate hydrogeological/hydrological regime and good site working practices." The Radley Brook cannot be excluded from the application area as it is within the red line boundary, so it cannot be excluded from assessment and restoration, as it is within the applicant's control, meaning the applicant has an obligation to assess and enhance it.

While we appreciate the implementation of a buffer zone, however, this needs to be an ecological buffer zone which benefits wildlife, not just an unmaintained buffer zone.

Overcoming our objection - An ecological survey of the Radley Brook is required prior to the development of detailed plans, to enable an assessment of the level of risk posed by the development. The detailed design, construction, mitigation and compensation measures should be based on the results of a survey carried out by a

suitably experienced surveyor using recognised survey methodology. The survey and risk assessment should:

- identify any rare, declining, protected or otherwise important flora, fauna or habitats within the site;
- assess the importance of the above features at a local, regional and national level;
- identify the impacts of the scheme on those features;
- demonstrate how the development will avoid adverse impacts
- propose mitigation for any adverse ecological impacts or compensation for loss;
- propose wildlife/ habitat enhancement measures;
- propose post-project appraisal, management plans and management responsibilities with details of how biodiversity enhancement will be incorporated into the development and maintained over the long term.
- Identify the impacts to the biological elements at risk of deterioration

There also needs to be provided a detailed text about the restoration of the ponds, including species of fauna which will be planted, when they will be planted, how they will be maintained and by whom. This needs to be provided in text to show how these activities align with the drawings 757-01-07 to 757-01-10, 757-01-12 and 757-01-16.

Suggested Conditions - Notwithstanding our objections to the application, we appreciate that this is a ROMP and therefore the principle of the development is set. Therefore, we have provided a list of suggested planning conditions to be added to those provided in the submitted Planning Statement:

1. No development shall commence until a scheme has been submitted to the Mineral Planning Authority for the provision of a continuous and up to date baseline groundwater data set. The site-specific data that is reported does not extend beyond 2021. We would expect monitoring data to be presented at least quarterly and continuously to present to give the most reliable and representative baseline possible.
2. No development shall commence until a scheme has been submitted to the Mineral Planning Authority that covers baseline groundwater quality analysis. It is noted that the groundwater quality baseline data is not consistent or comprehensive. PFA deposits in the region are known to give rise to impacts to groundwater: potassium, boron and high pH, phosphorus, and ammoniacal N can be elevated. Metal concentrations are highly variable, dependent on the source of the coal, but copper and vanadium have been highlighted to be elevated in the area. We would expect the water analysis suite in the baseline analysis to cover the above in addition to any other pertinent determinands.
3. No development shall commence until a scheme has been submitted to the Mineral Planning Authority that details a wider baseline data spatial coverage. The 6no. boreholes that were installed across the site in 2020 do not give sufficient spatial representation of the proposed phase C in the eastern and south eastern edges of the site boundary. There is a lack of data to present a spatially representative baseline. We would require additional monitoring boreholes to cover these areas, particularly given that there is a PFA landfill to the east. Additional locations should be fully incorporated into the baseline monitoring scheme and can also be used to cover the site in the operational stages.
4. No development shall commence until a scheme has been submitted to the Mineral Planning Authority that details the locations of all private water supplies that could be impacted by this application activities. The HHIA report has not covered the potential for private (unlicensed) water supplies in the area and the risks and impacts from the application to such. These need to be considered and investigated.
5. No development shall commence until a scheme has been submitted to the Mineral Planning Authority that details the method of lining of the sides of the

excavation areas with low permeability materials. It is not clear what the specification will be for the lining that is to be placed in the phases to reduce groundwater ingress during dewatering. More details are needed and these should also include the depth/thickness of material that would be removed from the base of the phases. Will the lining materials provide a long term or short term barrier to groundwater flow in the area? What are the risks in terms of groundwater mounding and flooding in this area as a result?

6. No development shall commence until a scheme has been submitted to the Mineral Planning Authority that assesses the loss of aquifer storage. The area that the site covers is currently comprised of sands and gravels that hold groundwater and form a Secondary A aquifer. The permanent loss of aquifer storage from this development is not covered by this report and should be addressed. This relates to the condition above. What will the impacts of the loss of storage be in the area? Are any mitigations proposed?

7. No development shall commence until details of any proposed structures (such as the conveyor) and any changes in land levels has been provided, for all phases of the development and the restoration scheme. The impacts of these proposed works should be assessed within the FRA, and mitigation should be proposed where required to prevent increases in flood risk offsite.

8. The development hereby permitted must not be commenced until such time as a scheme to:

- Ensure no raising of ground levels. Works such as land level raising and building within the 1% AEP plus an appropriate allowance for climate change flood extent and the impacts of these works;
 - Show the impacts of the proposed 3m screening bund on flood risk;
 - take the impacts of climate change into account by using detailed flood modelling;
 - demonstrate how flood risk will change and be managed over the lifetime of the site.
- has been submitted to, and approved in writing by, the local planning authority.

Comments on existing conditions Condition 20 and Appendix C – Ecological impact assessment.

7.4 Mammals ❖ Topsoil stripping and vegetation removal will proceed with care to allow animals to naturally disperse; - Rather than start strimming, then stop if there is any animals, it would be better to do surveys immediately before the stripping is carried out to ensure there is no mammals in the area. This would ensure there is no mammals damaged or disturbed.

❖ If hedgehog or other small animals are found - This should be carried out by an ecologist.

7.6 Nesting birds Irrespective of time of year or findings of previous surveys, if nesting birds are found in areas to be worked or restored, then work in the immediate vicinity should stop and an ecologist consulted. Actions will be embedded within an overall Construction Environmental Management Plan (CEMP).

7.12.2 Biodiversity Monitoring - there should be some fish and river condition surveys and enhancements as well, as the rivers are an important habitat which run through the site, which at the moment seem to be ignored, although given a buffer zone, but not sure what this buffer zone is for or the management of it. Monitoring frequency would be established within the LEMP, but is likely to be more intensive in the first 5 years and then reducing in frequency thereafter as habitats establish. Monitoring must be linked to clear targets which will trigger adaptive management actions as required. Intervention will generally only be undertaken if remedial work is needed due to unexpected changes that have occurred to create a significant and unwanted risk. For example: failure of habitat establishment; or presence of invasive, exotic or undesirable plant species. Monitoring the work will lead to carefully-planned

management procedures which will not adversely impact upon successfully restored habitats or protected/notable wildlife. An annual report presenting a record of aftercare management operations undertaken, a review of the monitoring results, and a schedule of planned work should be produced, including recommendations for any remedial action.

Condition 28 - There is no mitigation for the ponds or rivers proposed. They are an important habitat and need assessment and enhancement as well. Need to include Radley Brook especially.

Wetland Areas 7.6.4 Wetland meadows should be established around the lakes in the areas identified as 'Wetland Areas' on WHL-1525-08. A suitable seed mix should be used (e.g. Emorsgate EM8 or similar), that provides a mix of appropriate native wild flowers and slow growing grasses. Seed should be sown and managed to the supplier's specifications. The rest of the planting species is shown for the rest of the site.

7.4 New planting will be used to create new riparian habitat areas, specifically 'Reedbeds', 'Shallows' and 'Wetland Areas' around the lakes. Additionally large areas of grassland restoration will take place to repair land where it has been overrun by vehicles associated with quarrying operations. In addition to the planting around the lakes. - How will this planting take place and what will be planted and how will it be maintained?

Condition 34 The site shall be restored in phases in accordance with Plan Nos: 757-01-07 to 757-01-10, 757-01-12 and 757-01-16. These are all just drawings, there is no detail provided about how this will actually be achieved, the time frames, management etc. This is really important to get right for such a destructive activity. There needs to be a plan with text which will set out the details of this.

Condition 35 Again, these are only plans and there is no text provided about how this will work, who will manage and how often etc. Condition 37 • 5- Year aftercare - needs long term after care, up to 30 years rather than just 5.

CPRE

Fully supports the objections raised by Radley Lakes Trust.

OCC Transport Development Control

There are no Transport related implications and therefore no objection is made.

OCC Rights of Way

Final Response

No additional comments.

First Response

Thank you for this opportunity to provide comment on the application for determination of conditions to which planning permission is to be subject regarding the land at Thrupp Farm near Abingdon. I have reviewed the Restoration Concept Plan, the Environmental Statement, the Landscape Mitigation & Enhancement Strategy (LMES). The following comments relate to the application's potential impact on human health, landscape and amenity in terms of users of the public rights of way network.

The applicant has indicated within the site plan and Environmental Statement that there are a selection of public rights of way and public routes in and around the site. These must remain open and easy to use for lawful users during operational and restoration phases – which for the byway may also include mechanically powered vehicles, walkers, cyclists, equestrians and horse-drawn carriages.

I am concerned about the LMES indicating the track as potential secondary access route. This is a key junction and route for walkers, cyclists and equestrians and any vehicle access, especially HGV needs to be reduced or ideally prevented in order to maintain public amenity and safety. More detail on levels of vehicles and mitigation measures may need to be provided if it intended to use this work works vehicle access.

The proposal to create a footpath route through the middle of the site at restoration is welcomed. Clarification needs to be given about if this will be dedicated as a public right of way along with proposed width, gradient, surfacing, infrastructure (seats, signs, information, viewpoints etc)

Standard measures/conditions for applications affecting public rights of way

1. **Correct route of public rights of way:** Note that it is the responsibility of the developer to ensure that their application takes account of the legally recorded route and width of any public rights of way as recorded in the definitive map and statement. This may differ from the line walked on the ground and may mean there are more than one route with public access. The legal width of public rights of way may be much wider than the habitually walked or ridden width. The Definitive Map and Statement is available online at www.oxfordshire.gov.uk/definitivemap.
2. **Protection from breaks in public rights of way and vehicle crossings/use of public rights of way:** Many public rights of way are valuable as access corridors and as continuous wildlife and landscape corridors. As a matter of principle, PRoW should remain unbroken and continuous to maintain this amenity and natural value. Crossing PRoW with roads or sharing PRoW with traffic significantly affects wildlife movements and the function of the PRoW as a traffic free and landscape corridor. Road crossings of PRoW should be considered only as an exception and in all cases provision must be made for wildlife access and landscape, and with safe high quality crossing facilities for walkers, cyclists and equestrians according to the legal status of the PRoW. Vehicle access should not be taken along PRoW without appropriate assessment and speed, noise, dust and proximity controls agreed in advance with OCC Countryside Access
3. **Protection, Mitigation and Improvements of routes.** Public rights of way through the site need to be integrated with the development and provided to a standard to meet the pressures caused by the development. This may include upgrades to some footpaths to enable cycling or horse riding and better access for commuters or people with lower agility. The package of measures needs to be agreed in advance with OCC Countryside Access. All necessary PRoW mitigation and improvement measures onsite need to be undertaken prior to commencement to ensure public amenity is maintained.

4. **Protection of public rights of way and users.** Routes must remain usable at all times during a development's construction lifecycle. This means temporary or permanent surfacing, fencing, structures, standoffs and signing need to be agreed with OCC Countryside Access and provided prior to the commencement of any construction and continue throughout. Access provision for walkers, cyclists and horseriders as vulnerable road users need to be maintained. This means ensuring noise, dust, vehicle etc impacts are prevented.
5. **Temporary obstructions and damage.** No materials, plant, vehicles, temporary structures or excavations of any kind should be deposited / undertaken on or adjacent to the Public Right of Way that obstructs the public right of way whilst development takes place. Avoidable damage to PRoW must be prevented. Where this takes place repairs to original or better standard should be completed within 24hrs unless a longer repair period is authorised by OCC Countryside.
6. **Route alterations.** The development should be designed and implemented to fit in with the existing public rights of way network. No changes to the public right of way's legally recorded direction or width must be made without first securing appropriate temporary or permanent diversion through separate legal process. Note that there are legal mechanisms to change PRoW when it is essential to enable a development to take place. But these mechanisms have their own process and timescales and should be initiated as early as possible – usually through the local planning authority. Any proposals for temporary closure/diversion need to have an accessible, level, safe and reasonably direct diversion route provided with necessary safety fencing and stand-off to ensure public amenity is maintained for the duration of the disturbance.
7. **Gates / right of way:** Any gates provided in association with the development shall be set back from the public right of way or shall not open outwards from the site across the public right of way.

The applicant responded as follows:

Footpath Crossing

As per Paragraph 4.11 of the ES, only plant and machinery will access the site via the access road from Thrupp Lane. This will be sporadic and occasional, as the plant will be kept on site in the void for the majority of the time. Please note that this access road is regularly used as an agricultural access for plant and machinery.

I note the further ES Paragraphs:

4.52 The current access to the Site is via an existing hardcore haul road, from Thrupp Lane to the North, shown on Plan no: 757-01-02.

4.53 This access will be used for plant and machinery to access the Site. This will occur rarely as machinery will generally be stored on the ROMP site. This access will also be used for the management of the ROMP Areas. It will not be used for the transportation of minerals.

4.54 An access road will be constructed adjacent to the conveyor as shown on Plan no: 757-01-15. This will be used by staff working at the Site and for the maintenance of the conveyor.

4.55 The accesses into the Site will be regularly graded and dressed, when required, to maintain an even running surface free from potholes.

As a result, the access which crosses the right of way will not be used by HGVs.

Dedication of Footpath

I note the following Paragraphs from the ES:

5.29 The Development Proposals do not require the diversion or closure of a public right of way.

5.30 As shown on Restoration Plan no: 757-01-12, a new dedicated public right of way is proposed which will join the existing right of way to the north (ref 326/9/10) to the existing right of way to the south (Green Belt Way/ Thames Path).

OCC Rights of Way response: Provided that 'plant and machinery' is occasional, is self-propelled and not carried on HGV/LGV transport then this is acceptable. Noted re the dedication of a permanent public right of way. This is also acceptable subject to agreeing route, width, surface, gradient and furniture – which can be a condition.

OCC LLFA

Final Response

If the EA have removed their objection then the LLFA has no comment, subject to the previously recommended LLFA conditions

Second Response

Our response remains the same as for our previous response dated 16/3/23, with no objection subject to conditions

First Response

No Objection Subject to Conditions

Key issues:

- A surface water drainage strategy demonstrating compliance with OCC LLFA Local Standards to be submitted for technical assessment and approval.
- Insufficient information has been provided in accordance with Local Standards to enable a technical assessment of the proposal to be undertaken. The currently submitted information is descriptive only and does not provide a robust surface water drainage strategy or evidence that flood risk will not be increased either on or off site. It is therefore not possible to establish whether a sustainable surface water drainage strategy can be delivered on the site.

Conditions:

Surface Water Management Scheme (Phases):

Prior to the commencement of operations and approval of any related reserved matters, a detailed Surface Water Management Scheme for each phase or sub-phase of the proposed operations, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the principles contained within the; Hafren Water Environmental Water Management, FLOOD RISK ASSESSMEN, THRUPP FARM QUARRY, Report Reference: 2617/FRA, Final version F1, January 2023. The scheme shall be implemented in accordance with the approved details and timetable.

Reason:

To ensure development does not increase the risk of flooding elsewhere; in accordance with Paragraph 155 of the National Planning Policy Framework (NPPF) and Local and National Standards.

SuDS As Built and Maintenance Details

Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- (a) As built plans in both .pdf and .shp file format;*
- (b) Photographs to document each key stage of the drainage system when installed on site;*
- (c) Photographs to document the completed installation of the drainage structures on site;*
- (d) The name and contact details of any appointed management company information.*

Reason:

In accordance with section 21 of the Flood and Water Management Act 2010.

OCC Ecology

Final Response

Recommendation: Objection

The applicant has submitted a statement detailing their response to the following proposed conditions. Further justification has been provided for their inclusion:
Condition: No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site. Reason: To protect priority habitats in line with the Natural Environment and Rural Communities (NERC) Act (2006), Section 40(1), irreplaceable habitats and a designated Local Wildlife Site.

The applicant has previously submitted a statement detailing how the mitigation hierarchy has been applied to the development. The conclusions made at the mitigation and compensation stages are not considered appropriate to mitigate and

compensate for the impacts of the development on biodiversity. Due to the high biodiversity value of habitats present, including priority and irreplaceable habitats, it is considered likely that a biodiversity loss will occur based on the current proposal. This is with consideration to instatement of the currently proposed restoration plan and other ecological enhancements proposed outside of the proposed extraction area within land controlled by the applicant. This is because the habitat types included within the restoration plan and proposed ecological enhancements outside of the proposed extraction area are different habitat types and generally considered of lower biodiversity value than those proposed to be lost.

A local wildlife site will be significantly adversely impacted by the proposal including a number of priority habitats and an irreplaceable habitat. No significant harm should be caused to local wildlife sites, priority and irreplaceable habitats, unless the need for and benefits of the proposal outweigh the harm, and the harm cannot be avoided, for example through location on an alternative site. The need and benefits aspects are not ecological matters and therefore I cannot provide a view on whether the application is appropriate in these terms.

Condition: No development shall commence until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the County Planning Authority. The up-to-date surveys shall:

- Establish if there have been any changes in the presence and/or abundance of protected species; and

- Identify any likely new ecological impacts that may arise from any changes. Where the surveys indicate that changes have occurred that will result in ecological impacts not previously addressed, a revised ecological mitigation scheme shall be submitted to and approved in writing by the County Planning Authority including a timetable for the implementation of mitigation measures. The scheme shall thereafter be implemented in accordance with the approved details.

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 2017 (as amended) which identifies 4 main offences for development affecting European Protected Species (EPS).

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of a EPS including in particular any disturbance which is likely a) to impair their ability – i) to survive, to breed or reproduce, or to rear or nurture their young, or ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or b) to affect significantly the local distribution or abundance of the species to which they belong.
4. Damage or destruction of an EPS breeding site or resting place. The Local Planning Authority are also required to ensure that the proposed development actions are licensable regarding The Wildlife and Countryside Act 1981 (as amended) and The Protection of Badgers Act 1992. This requires compliance with best practice guidance when undertaking surveys. This proposed condition wording is designed to ensure surveys are undertaken in line with best practice guidelines and are licensable. In addition, this proposed condition wording is designed to ensure survey data is up to date in line with best practice guidelines (Advice note on the

Lifespan of Ecological Reports and Surveys | CIEEM) and are therefore representative of current site conditions.

Condition: Prior to commencement of any development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the County Planning Authority. The HMMP shall include the following and cover a minimum of 30 years:

- Description and evaluation of all features to be managed within the site
- Ecological trends and constraints that might influence management
- Aims and objectives of management
- Appropriate management options for achieving aims and objectives
- Prescriptions for management actions
- Preparation of a work schedule
- Details of ecological enhancements
- A botanical mitigation strategy
- Details of the body or organisation responsible for implementation of the plan, and
- Ongoing monitoring and remedial measures to ensure the development delivers the objectives set out in the approved scheme.

The development shall thereafter be carried out in accordance with the approved details. Reason: In the interest of the visual amenity and restoration of the natural environment.

The following habitats have been proposed with an estimated time longer than 5 years required to reach the target habitat (Statutory biodiversity metric tools and guides - GOV.UK):

-Fen (in poor ecological condition) – 10 years

-Tree (in poor ecological condition) – 10 years

A minimum of 10 years is therefore required to ensure that all of the proposed restoration scheme habitats are delivered as proposed. In order to ensure the biodiversity benefits of the proposed habitats are secured and delivered once they have been created long term it is requested that a minimum of 30 years management and monitoring is undertaken. This time period will also allow the applicant to achieve habitats in better ecological condition than would otherwise be achievable again helping to deliver the long term biodiversity benefits as outlined in the submitted documentation.

Fourth Response

Recommendation: Objection

The applicant has submitted a statement detailing how the mitigation hierarchy has been applied to the development. The conclusions made at the mitigation and compensation stages are not considered appropriate to mitigate and compensate for the impacts of the development on biodiversity. Due to the high biodiversity value of habitats present, including priority and irreplaceable habitats, it is considered likely that a biodiversity loss will occur based on the current proposal. This is with consideration to instatement of the currently proposed restoration plan and other ecological enhancements proposed outside of the proposed extraction area within land controlled by the applicant. The proposed plan does not include the habitat types included within the

restoration plan and proposed ecological enhancements outside of the proposed extraction area are different habitat types and generally considered of lower biodiversity value than those proposed to be lost.

A local wildlife site will be significantly adversely impacted by the proposal including a number of priority habitats and an irreplaceable habitat. No significant harm should be caused to local wildlife sites, priority and irreplaceable habitats, unless the need for and benefits of the proposal outweigh the harm, and the harm cannot be avoided, for example through location on an alternative site. The need and benefits aspects are not ecological matters and therefore I cannot provide a view on whether the application is appropriate in these terms.

Conditions

Should you be minded to approve, the following conditions are suggested:

Condition: No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site. Reason: To protect priority habitats in line with the Natural Environment and Rural Communities (NERC) Act (2006), Section 40(1), irreplaceable habitats and a designated Local Wildlife Site.

Condition: No development shall commence until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the County Planning Authority. The up-to-date surveys shall: -Establish if there have been any changes in the presence and/or abundance of protected species; and -Identify any likely new ecological impacts that may arise from any changes. Where the surveys indicate that changes have occurred that will result in ecological impacts not previously addressed, a revised ecological mitigation scheme shall be submitted to and approved in writing by the County Planning Authority including a timetable for the implementation of mitigation measures. The scheme shall thereafter be implemented in accordance with the approved details. Reason: To protect notable and protected species and habitats in accordance with The Conservation of Species & Habitats Regulations 2017, The Wildlife and Countryside Act 1981 (as amended) and The Protection of Badgers Act 1992.

Condition: No development shall take place (including ground works or vegetation clearance) until: A CEMP (construction and environmental management plan) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include (not exhaustively) the following: a. Risk assessment of all activities that may be damaging to biodiversity both on and offsite; b. Identification of "biodiversity protection zones"; c. Implementation of protected species licences; d. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on species and habitats and designated wildlife sites; e. Timing and scope of additional protected species surveys; f. Lighting scheme and safeguards for light-sensitive wildlife; g. No soil storage mounds should extend into root protection zones of hedges and/or trees; h. The location and timing of sensitive works to avoid harm to biodiversity features; i. When a specialist ecologist needs to be present on site to oversee works; j. Responsible persons, roles and lines of communication; k. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and l. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout construction strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority. Reason: To ensure the protection of flora and fauna and

to ensure that the development does not result in the loss of biodiversity in accordance with the Wildlife & Countryside Act 1981, Conservation of Species & Habitats Regulations 2017.

Condition: Prior to commencement of any development, details and certificate of a great crested newt District Level Licence or alternatively a great crested newt survey report and European Protected Species Licence shall be submitted to the County Planning Authority. Reason: to ensure the protection of flora and fauna and to ensure that the development does not result in the loss of biodiversity in accordance with the Wildlife & Countryside Act 1981, Conservation of Species & Habitats Regulations 2017.

Condition: Prior to commencement of any development, details and certificate of a water vole survey report and mitigation licence shall be submitted to the County Planning Authority. Reason: to ensure the protection of flora and fauna and to ensure that the development does not result in the loss of biodiversity in accordance with the Wildlife & Countryside Act 1981.

Condition: Prior to commencement of development, a fully detailed landscaping scheme shall be submitted to and approved in writing by the County Planning Authority. The scheme shall provide further detail on the approved restoration scheme and shall include a detailed planting plan showing existing / proposed vegetation taking into account botanical mitigation, plant specifications noting species, plant sizes, proposed numbers/densities as well as seed mixes and their provenance. In addition, information on ground preparation, implementation and ongoing maintenance shall be provided. The development shall be implemented in accordance with the approved details. Reason: In the interest of the visual amenity and restoration of the natural environment.

Condition: Prior to commencement of any development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the County Planning Authority. The HMMP shall include the following and cover a minimum of 30 years:

- Description and evaluation of all features to be managed within the site · Ecological trends and constraints that might influence management
- Aims and objectives of management
- Appropriate management options for achieving aims and objectives
- Prescriptions for management actions
- Preparation of a work schedule
- Details of ecological enhancements
- A botanical mitigation strategy
- Details of the body or organisation responsible for implementation of the plan, and · Ongoing monitoring and remedial measures to ensure the development delivers the objectives set out in the approved scheme. The development shall thereafter be carried out in accordance with the approved details. Reason: In the interest of the visual amenity and restoration of the natural environment

Third Response

Recommendation: Objection

Due to the high biodiversity value of habitats present, including priority and irreplaceable habitats, it is considered likely that a biodiversity loss will occur based on the current proposal. This is with consideration to instatement of the currently proposed restoration plan and other ecological enhancements proposed outside of the proposed extraction area within land controlled by the applicant. This is because the habitat types included within the restoration plan and proposed ecological enhancements outside of the proposed extraction area are different habitat types and generally considered of lower biodiversity value than those proposed to be lost. The applicant may wish to consider the mitigation hierarchy when considering how to minimise the impacts of the proposals on biodiversity including the consideration of both onsite and offsite creation, enhancement and translocation of habitats that are the same or similar habitats to those to be lost.

A local wildlife site will be significantly adversely impacted by the proposal including a number of priority habitats and an irreplaceable habitat. No significant harm should be caused to local wildlife sites, priority and irreplaceable habitats, unless the need for and benefits of the proposal outweigh the harm, and the harm cannot be avoided, for example through location on an alternative site. These aspects are not ecological matters and therefore I cannot provide a view on whether the application is appropriate in these terms.

Second Response

Recommendation: Additional information required

Protected and notable species –

It is noted that static bat detectors were only deployed once per season for 5 nights. Current bat survey guidelines indicate that as habitat with moderate suitability to support foraging and commuting bats has been recorded on site, static bat detectors should be deployed for at least 5 nights each month (April to October). It is therefore recommended that further reasoning is required to explain the approach undertaken. In the absence of sufficient evidencing and reasoning, updated surveys should be carried out to inform how bats use the site to determine if the proposed mitigation is appropriate in line with best practice guidance to avoid contravention of the Conservation of Species & Habitats Regulations 2017 (as amended) and inform subsequent mitigation measures as necessary.

The survey area used when bat potential roost assessment were undertaken should be defined and justified, with particular consideration of the sensitivity of barbastelle bat roosting immediately adjacent to the site.

Clarification is sought on whether artificial lighting will be used.

Clarification is requested regarding the survey area undertaken regarding badgers, due to the nature of the development it is recommended that this area is at least 30m from the application site boundary in line with best practice guidelines.

Clarification is requested regarding the survey area undertaken regarding otters and water voles, with consideration to the nature of the development it is recommended that this area is at least 250m from the application site boundary in line with best practice guidelines.

It is noted that a number of water bodies have been scoped out over 250m from the application site but under 500m from the site. Further clarification is requested which water bodies have been scoped out of further survey requirements due to barriers. It is understood that other waterbodies 250m from the application site but under 500m

from the site have been scoped out of further survey requirements due to other reasons and further information is requested to clarify this.

Details of the number of bottle traps deployed at each water body should be provided when undertaking GCN surveys.

Tables 9.4 and 9.5 should be reviewed to ensure consistency of population size classes. For example P6 returned a peak count of 11 individuals suggesting a medium rather than small population size.

Details of the proposed GCN translocation site should be provided by the applicant, including its location, current and future uses.

Further details are requested regarding consideration of mitigation for the loss of habitat suitable to support toads.

The start and end temperatures of each of the reptile surveys undertaken and a map of refugia deployment locations should be provided. Justification should also be provided regarding the timing of surveys and why this deviates from best practice guidelines.

Further justification is requested to explain why the first breeding bird survey was undertaken on 28th May and why this is not considered a limitation to the conclusions made. In the absence of further justification it is recommended that breeding bird surveys be repeated to account for the beginning of the breeding season.

Further details are requested regarding consideration of mitigation for the loss of breeding bird territories including skylark. Two wintering bird survey visits of the site undertaken over the winter of 2020/21, however, these results are now considered out of date (Advice note on the Lifespan of Ecological Reports and Surveys | CIEEM). It is requested that, in the absence of further justification as to why this is not considered a limitation on the conclusions made, that update wintering bird surveys be undertaken in line with best practice guidelines.

The results of the invertebrate surveys presented are over 3 years old and are now considered out of date (Advice note on the Lifespan of Ecological Reports and Surveys | CIEEM). It is requested that, in the absence of further justification as to why this is not considered a limitation on the conclusions made, that update invertebrate surveys be undertaken in line with best practice guidelines.

Further information is requested regarding how impacts to fish will be mitigated, including details of the proposed translocation mentioned.

Impacts on habitats and wildlife sites - Further information is requested, in line with the response received from Natural England, regarding the potential hydrological impacts on Culham Brake SSSI that considers the potential changes groundwater and surface water flows and water quality by the proposed development.

An air quality assessment is requested, in line with comments received from Natural England, that considers impacts to sites including Cothill Fen Special Area of Conservation, Little Wittenham SAC and Oxford Meadows SAC.

A local wildlife site will be impacted by the proposal including a number of priority habitats and an irreplaceable habitat. No significant harm should be caused to local wildlife sites, priority and irreplaceable habitats, unless the need for and benefits of the proposal outweigh the harm, and the harm cannot be avoided, for example through location on an alternative site. These aspects are not ecological matters and

therefore I cannot provide a view on whether the application is appropriate in these terms.

Phased restoration is proposed as a way to mitigate the loss of biodiversity at the site through maintained ecological connectivity using this approach. Further information is therefore requested regarding the anticipated time between restoration of phases.

Further information is requested to justify why not all watercourses present within the impact zone of the proposed development have not been assessed for their ecological condition, such as those within the northeastern end of the site. In the absence of suitable justification it is requested that a habitat condition survey is undertaken in these areas.

Due to the high biodiversity value of habitats present on site to be lost due to the proposals, it is considered likely that a biodiversity loss will occur with instatement of the currently proposed restoration plan and the habitat types included which are generally considered of lower biodiversity value than those lost. Whilst the recent guidance regarding BNG indicates that ROMPs will remain out of scope of mandatory BNG, and instead an approach based on appropriate ecological outcomes is proposed, it is considered that a calculation of biodiversity losses and gains using the Defra biodiversity metric could help inform appropriate restoration for the site. In order to demonstrate that the proposals do not result in a loss of biodiversity and appropriate mitigation regarding the impacts to the local wildlife site, priority and irreplaceable habitats is provisioned, a biodiversity net gain assessment is therefore recommended and requested including submission of a metric spreadsheet. It is considered that a calculation of biodiversity losses and gains using the Defra biodiversity metric could help inform appropriate restoration for the site. Such a calculation could help with an understanding of the overall balance of the loss of habitats and those delivered through restoration, taking into account factors such as the time taken for habitats to establish, risks to success and trading between habitat types. As the site is located within Thames Radley to Abingdon Conservation Target Area (CTA) alignment with the management objectives of this CTA should be considered when designing the restoration scheme.

It is noted that the waterbodies in the restoration scheme are identified for water/angling/quiet recreation on the restoration plan; given the impacts of the scheme on the LWS and the strategic importance of this area in providing ecological connectivity, I request that the restoration is biodiversity-led and that the design and use of the waterbodies and surrounding habitats is primarily for biodiversity, and not stocked with fish for angling.

The submitted botanical report identifies areas of high botanical interest where no further mitigation has been proposed including the northern haul route, margins of orchard lake and areas of fen meadow in phases A, B1 and B2. It is recommended that appropriate mitigation measures are proposed for these areas such as the consideration of translocation.

First Response

Recommendation: Further information required

Comments

Further survey work is required to support this application to inform the conditions required to protect and enhance biodiversity. Phase C, part of Phase B2 and the conveyor belt route all impact part of the Radley Gravel Pits Local Wildlife Site. Further survey work - The EcIA should be supported by an up-to-date data search from the Thames Valley Environmental Records Centre. The majority of areas A, B1

and B2 are reported in the Ecological Impact Assessment as semi-improved grassland. It is noted that TVERC have mapped this area as Coastal Floodplain Grazing Marsh priority habitat. Records from other consultees (e.g. Abingdon Naturalists Society) add to the botanical species list for these fields, suggesting greater species richness. Further information is therefore sought to understand the botanical value and classification of these grasslands through a NVC survey.

Working of Phase C and part of Phase B2 will involve excavation within part of the Radley Gravel Pits LWS, including loss of Orchard Lake, clarification of the status of habitats within this area is sought, particularly the BAP priority status (habitats of principal importance under the NERC Act) of habitats including the lake, and any fen, swamp, wet woodland or reedbed habitats. This should be supported by botanical data such as NVC survey.

The conveyor route also passes through the Local Wildlife Site; further information is requested with regard the woodland and grassland habitats through which the conveyor will pass. Recent LWS survey data indicates there are areas of wet woodland and neutral/calcareous grassland priority habitats in this area.

Bat transect and static monitoring were undertaken through the period June – August. This is a fairly restricted period to gain an understanding of the use of the site by bats, industry standards (Bat Surveys for Professional Ecologists Good Practice Guidelines) advise a spread across the seasons from April to October. The surveys reported in the Ecological Impact Assessment were undertaken in 2021; CIEEM guidance (Advice note on the Lifespan of Ecological Reports and Surveys) indicates that surveys older than 18 months are likely to need updating particularly where mobile species are under consideration. I therefore request that further bat survey work is undertaken to cover the spring, summer and autumn period in line with the Good Practice Guidelines and to update the bat data. This is particularly relevant given that the rare barbastelle bat was recorded in late summer. Information regarding which trees will be removed and an assessment of their potential to support roosting bats is requested.

It is stated that both otter and water vole are assumed present in surrounding ditches, otter and water vole surveys of the site are therefore requested.

The site has been identified in the EcIA as having potential to support reptiles, in particular grass snake; reptile surveys are therefore requested to support the application.

Some ponds within the site have been subject to eDNA sampling for GCN, with presence only reported from pond 6 in 2022. A Habitat Suitability Index for all ponds within 250m of the application site is requested, with further eDNA sampling of all suitable ponds. Clearer justification is required as to where use of Reasonable Avoidance Measures is proposed instead of a derogation licence; this could be achieved through use of the Rapid Risk Assessment tool included within the Natural England GCN method statement template.

Alternatively, should the District Licence approach be used, I request that the whole application site (not just Phase C) is assessed by NatureSpace, an initial report will be required to inform the application, and either a certificate or a condition requiring provision of a NatureSpace certificate so that OCC can authorise use of the District Licence. The use of the District Licence requires the use of specific conditions to enable authorisation for use of the licence, therefore the applicant will need to

provide direction as to whether this is the licencing route they wish to implement so that the correct conditions can be attached.

Whilst it is reported that Orchard Lake will be drained, and fish translocated elsewhere, no assessment has been made of the fish species supported. Further information is requested.

The EcIA reports that Cetti's warbler is likely to breed on site, although it was not reported from the breeding bird survey. As a species listed under Schedule 1 of the Wildlife and Countryside Act, which has been recorded within the LWS, it is important to determine whether Cetti's warbler is breeding on site so that appropriate avoidance and mitigation measures can be put in place. Further breeding bird data from this season would be useful in improving understanding of the value of the site for breeding birds since the summer bird assemblage is a feature of the Local Wildlife Site.

The above requested surveys should inform proposed mitigation or compensation measures, which would need to be secured by condition. As well as considering direct impacts, the indirect effects of the operational phase of the quarrying on adjacent habitats and species, such as noise and lighting needs to be addressed.

Radley Gravel Pits Local Wildlife Site (LWS) - Whilst the restoration of the site looks to deliver a mosaic of open water, wetland, grassland and woodland/scrub habitats, the scheme results in the loss of existing, established priority habitats forming part of the LWS, as well as potential lowering of water levels in Longmead Lake (also within the LWS). According to the mitigation hierarchy (NPPF para 180 (a), MWCS C7), biodiversity losses should be avoided or mitigated, with compensation only considered as a last resort. Therefore, options to avoid impacts on the LWS and priority habitats should be fully explored to identify measures to avoid or reduce impacts.

Culham Brake SSSI - The application site falls within the Impact Risk Zone for Culham Brake SSSI; information should be presented to demonstrate that there will be no adverse effect on the SSSI through indirect impacts such as alteration of the hydrological regime. Natural England should be consulted on the application.

Restoration Whilst the recent government response to a consultation on BNG indicates that ROMPs will remain out of scope of mandatory BNG, and instead an approach based on appropriate ecological outcomes is proposed, it is considered that a calculation of biodiversity losses and gains using the Defra biodiversity metric could help inform appropriate restoration for the site. Such a calculation could help an understanding of the overall balance of the loss of habitats and those delivered through restoration, taking into account factors such as the time taken for habitats to establish, risks to success and trading between habitat types.

It is noted that the waterbodies in the restoration scheme are identified for water/angling/quiet recreation on the restoration plan; given the impacts of the scheme on the LWS and the strategic importance of this area in providing ecological connectivity, I request that the restoration is biodiversity-led and that the design and use of the waterbodies and surrounding habitats is primarily for biodiversity, and not stocked with fish for angling. I advise that a condition should be included requiring the submission of a detailed restoration plan, including design of waterbodies to provide variety in depth and variation in the margins and islands, including areas of shallow water to reflect those that would be lost at Orchard Lake with reference to guidance from the Freshwater Habitats Trust Ponds Creation Toolkit Aggregates Factsheets, and Nature After Minerals advice. The restoration should also seek to reflect other habitats lost, based on the further information requested regarding classification of

existing habitats. The EcIA indicates use of locally-derived seeds to establish habitats, however this is not reflected in the Landscape Mitigation and Enhancement Strategy which refers to the use of seed mixes

OCC Landscape

Recommendation: Further information required

Landscape & Visual Impact Assessment (LVIA) - A landscape and visual impact assessment has been submitted as part of the application. Overall, I agree with the findings of the assessment that the quarrying will not cause significant adverse effects subject to appropriate mitigation.

Arboricultural Survey - An Arboricultural Report for Feasibility has been submitted as part of the application. This offers initial observations on the feasibility of quarrying in the area but is not an Arboricultural Impact Assessment to BS 5837:2012 standards. Whilst the report concludes that quarrying should be feasible without being arboriculturally detrimental to the majority of the site it also highlights the need for adequate protection of existing trees. An Arboricultural Survey to BS 5837:2012 and an Arboricultural Method Statement (AMS) are required to ensure that trees and their roots protection areas (RPA) are defined and adequately protected. This should not only consider trees and hedgerows within the application boundary but also adjacent to the site where the proposal has the potential to adversely affect existing vegetation. The information is necessary to inform distances between existing vegetation and excavation areas and the haul road respectively and provide details on protection fencing and working methods. This information should be provided prior to determination of the application.

2 Landscape Mitigation and Enhancement Strategy / Restoration - The proposed mitigation and restoration are outlined on the Landscape Mitigation and Enhancement Strategy drawing and the Restoration Concept Plan drawing respectively. The retention of the existing boundary vegetation and new planting are key, but the mitigation proposals should also provide detail on the timing and management of new planting to ensure that it is carried out early enough to offer mitigation during construction.

I also have observations on the proposed restoration plan:

- I am surprised to see that the restoration plan does not reference or take account of the Radley Lakes Masterplan by Cranley Environmental, which was endorsed by the Radley Parish Council, the Abingdon-on-Thames Town council and the Radley Lakes Trust. Being mindful to the extensive local knowledge and work that has gone into the preparation of the plan and the existing ecological interest, I would expect the restoration reflect and align with the masterplan proposals.
- Without the tree survey information it is difficult to judge whether or to what degree the restoration scheme will address the need for tree planting to compensate for vegetation lost. Whilst not in conflict with the landscape character I am not convinced that the proposed restoration to open waterbodies is the most appropriate restoration

for this site but am guided by the ecologist's comments since the ecological interest is a key consideration for this site.

- The LVIA states in para. 8.6 that mitigation Further mitigation is primarily provided by off-site planting, not part of the application but on land in the control of the applicant, but no information has been provided on location, amount and type of planting. Further information is requested.
- The use of native species for planting is welcomed but care will have to be taken sufficient species diversity is provided to ensure resilience against climate change and pests and diseases. A condition for Detailed Landscaping scheme are required.
- Further detail is requested on the level of public access – what exactly is proposed, how will it be managed and how will such as right be secured in the long-term. Managing sites for public recreation and nature conservation can also cause conflicts and will need to be carefully managed.
- I note that the proposals only offer a five-year maintenance scheme. I consider this not sufficient time to ensure the successful establishment of proposed habitats. Conditions: Having looked at the proposed conditions in chapter 5 of the Planning Statement I consider that some of the proposed will require rewording to provide more detail. For example this applies to conditions lighting (15), aftercare scheme and LEMP (condition 28, can be combined with ecological requirements). In addition, condition for a Detailed Landscaping Scheme including phasing is required.

OCC Archaeologist

Final Response

We previously commented on this application (comments dated 29/3/2023) wherein we recommended archaeological conditions that would appropriately secure matters of archaeological importance on the site should planning permission be granted.

The applicant has now submitted an amended Thrupp Lane Farm ROMP Planning Statement Version 3, dated 10/6/2025, that has now adopted these previously proposed archaeological conditions (proposed Conditions 18 and 19), and we would therefore confirm that these conditions as now proposed (18 and 19) be attached should planning permission be granted.

First Response

The applicant has submitted an Environmental Statement, this informed by a Cultural Heritage Environmental Impact Assessment (CHEIA) produced by Oxford Archaeology, dated December 2022. The CHEIA identifies the application site to contain a high potential for below ground archaeological remains and palaeo-environmental deposits dating from the early prehistoric to medieval period to be present, these variously sealed by deposits of alluvium and therefore likely to be well preserved and to potentially contain waterlogged remains. The CHEIA further identifies that any such remains/deposits will be subject to a high degree of impact resulting from the mineral extraction works proposed.

In view of the high potential for archaeological remains to be present that would be significantly disturbed/removed by development, we would not accord with the

mitigation approach and condition (18) proposed by the applicant in their submitted Planning Statement as this does not provide for an appropriate mitigation response to the noted potential archaeological and palaeo-environmental resource present on the site. We would however accord with the mitigation approach provided in Section 15 Mitigation Measures of the submitted CHEIA of the ES that sets out a staged process of investigation to more fully determine and understand the significance and potential of the archaeological resource present and therefore enable an appropriately informed mitigation response to be agreed.

As such, we would therefore recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be undertaken in advance of and during the period of construction/extraction. This can be ensured through the attachment of a suitable negative condition along the lines of:

1. Prior to any mineral extraction or enabling works a professional archaeological organisation acceptable to the Minerals and Waste Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Minerals and Waste Authority. Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2021).
2. Following the approval of the Written Scheme of Investigation referred to in condition 1, and prior to any mineral extraction or enabling works (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Minerals and Waste Authority within two years of the completion of the archaeological fieldwork. Reason - To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2021).

OCC Public Health

Final Response

No further comments.

Second Response

The Public Health team welcomes the opportunity to provide further comment on the application for determination of conditions to which planning permission is to be subject regarding the land at Thrupp Farm near Abingdon. The following comments relate to the application's potential impact on human health.

We acknowledge that the applicant intends to extract sand and gravel from this site and has now submitted additional documents for our review.

Air Quality - We note the provision of a Technical Note with revised wording to reflect previous comments. The rationale for not specifically including Thomas Reade Primary School, St Edmund's Catholic Primary School, and the ward of Abingdon Caldecott within the list of receptors is accepted. Due to the prevailing south-westerly winds, this would further reduce any risk of dust pollution from impacting these receptors.

Noise - We note the provision of a Technical Note for noise which provides response to our previous concerns about the impacts of noise on the two primary school and users of PRow. We accept the consultant's reasoning and are satisfied that the primary schools will not be exposed to harmful noise.

Public Rights of Way - Routes must be kept open or adequately diverted during construction, and be safe and enjoyable for non-motorised users on completion of the works. We have some concern about the applicant's proposal to potentially use part of PRow 326/9/10 as a secondary access route. However, it has been clarified that this route will not be used by HGVs to transport minerals, and other uses will be occasional.

The Public Health team are satisfied with the updated planning documents and associated rationale in response to earlier comments

The Public Health team welcomes the opportunity to provide comment on the application for determination of conditions to which planning permission is to be subject regarding the land at Thrupp Farm near Abingdon. The following comments relate to the application's potential impact on human health.

We acknowledge that the applicant intends to extract sand and gravel from this site and has submitted their application with accompanying documents including an Environmental Statement, Air Quality Assessment and Noise Assessment.

Public Rights of Way - The applicant has indicated within the site plan that there are a selection of public rights of way in and around the site. These include footpaths 326/14/10, 326/16/10 and 326/9/10. These must remain open to those engaging in active travel, both during construction and following the completion of any works. Where necessary, alternative routes should be made available in situations where PRow need to be temporarily diverted.

Environmental Impact - We acknowledge the applicant's inclusion of sensitive receptors such as schools within the Air Quality Assessment. However there appears to be no mention of the nearby schools which include Thomas Reade Primary School and St Edmund's Catholic Primary School, which are within 1km of the application site.

The Noise Assessment makes reference to noise-sensitive properties in the vicinity of the site area but fails to mention how noise might impact those using the PRow which surround the site.

The Public Health team require further information in order to be supportive of this application:

- The applicant must make it clear that all relevant PRow will remain open to those engaging in active travel, both during construction and the subsequent operational phase of the quarry.
- Noise and Air Quality Assessments should include reference to specific vulnerable receptors including local primary schools and notable areas of higher deprivation, such as the Caldecott ward which falls within the top 20% most deprived in England, and provide information on appropriate mitigation measures to reduce harmful impacts during construction or operation

OCC Tree Officer

It is noted that within the Arboricultural Report For Feasibility it states 'Therefore, it is our advice that a more detailed survey/assessment of the trees on site, in particular where development proposals are close to trees is undertaken for the conveyor/haul road, so that a fully informed assessment can be made to identify which trees would need to be removed and which could be retained'.

The project arboriculturist also appears to be recommending a more detailed tree survey and assessment.

If given the type of application this request for a tree survey and arboricultural impact assessment is not possible, please attach the following condition, to secure tree protection information to minimise impact to retained trees:

Prior to the commencement of any works on site, an Arboricultural Method Statement (AMS) and accompanying Tree Protection Plan (TPP), in accordance with BS 5837:2012, shall be submitted to and approved in writing by the Mineral Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Details and Methods of works within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees or that may impact on retained trees.
- c) a full specification for the installation of boundary treatment works.
- d) A specification for protective fencing to safeguard trees during site works including all phases and a plan indicating the alignment of the protective fencing.
- e) a specification for ground protection within tree protection zones.
- f) Tree protection during works indicated on a TPP and works and work activities clearly identified as prohibited in this area.
- g) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- h) Boundary treatments within the RPA
- i) Arboricultural supervision and inspection by a suitably qualified tree specialist
- j) Reporting of inspection and supervision
- k) Methods to improve the rooting environment for retained and proposed trees and landscaping
- l) Veteran and ancient tree protection and management

The development thereafter shall be implemented in strict accordance with the approved details.

Abingdon Naturalists Society

Final Response

Objection Mitigation Measures If this Application were to be approved, the measures suggested below would compensate for the loss of biodiversity. 1. Provide islands in all three lakes (3 or 4 per lake) for breeding birds such as Common Tern, Oystercatcher and Little Ringed Plover, all of which have bred at Radley Lakes in the past. Material for this would be available from the overburden removed from the proposed quarrying operation. In addition the existing 'Sandy Overburden Material'* could be used (shown on the accompanying, map north of Thrupp Green). 2. Provide extensive shallow areas in all the lakes. Material for this would be available from the overburden from the proposed quarries and from the existing 'Sandy Overburden Material*', north of Thrupp Green (the restored pit now filled with PFA) 3. Provide more extensive reedbed, riparian herbaceous planting and wetland meadow. 4. Create herb-rich grassland locally or more widely where land is available. 5. Translocate herb-rich turf to other appropriate local sites. *The 'Sandy Overburden Material' (SOM) was proposed to be left untouched in the Halfen report. This bund composed of overburden, removed from Thrupp Green before quarrying in the 1990s, is 200 m long and maybe 7 to 10 m in height. It occupies roughly 6000 m2 of floodplain and is estimated to contain tens of thousands of cubic metres of material . It is presumed that some of this would need to be removed to accommodate the conveyor track which will take material from the proposed quarry to Tuckwells works. As the SOM occupies roughly 6000 m2 of former floodplain it should be removed in accordance with Environment Agency regulations.

Second Response

Abingdon Naturalists Society is objecting to Application MW.0041/23 because the effects that quarrying will have on the wildlife of the Radley Lakes area. Also quarrying will blight the wider Lakes area for a period of 10 to 20 years and reduce public amenity. We oppose the proposed quarrying at Radley Lakes because it will result in:

- Serious loss of biodiversity, including loss of scarce and declining habitats and species
 - Loss of a public amenity
 - Degradation of the scenic beauty of the area
 - Draining and pollution of waterbodies in the vicinity of the quarry during excavation
- The proposed quarrying of Orchard Lake, Calfreys Marsh, Nyatt Field and Bruney Fields and the streams crossing the site, will result in destruction of important habitats replacing a large area of semi-improved grassland, a shallow lake and a fen area, which are all rich in wildlife, and replacing them with 5 m deep lakes, which are a common habitat in South Oxfordshire, and like other such lakes will lack diversity of flora and fauna. We are particularly concerned about the proposed excavation of Orchard Lake and Calfney's Marsh (Fig 1) which are part of the wider 'Radley Gravel Pits Local Wildlife Site', designated in 2006. The 15 James Valley Environmental

Records Centre and Wild Oxfordshire have designated the whole of the Radley Lakes area including the proposed quarry area as a “Conservation Target Area” from which the proposed quarrying will remove 14.2 ha. During the 10 to 15 years (or more) of quarrying, adjacent areas will be degraded due to noise, haulage traffic movements, dewatering of nearby waterbodies and human disturbance. In the recent Application, there has been no evaluation of the biodiversity loss due to destruction of existing habitats, nor possible gains from the proposed mitigation measures. No BNG evaluation has been reported. Global Views on Biodiversity Loss Habitat destruction and fragmentation are the most important cause of biodiversity loss globally. Some views of International Organisations are listed here: World Wildlife Fund: “Habitat loss poses the greatest threat to species. The world’s forests, swamps, plains, lakes, and other habitats continue to disappear as they are harvested for human consumption and cleared to make way for agriculture, housing, roads, pipelines and the other hallmarks of industrial development. Without a strong plan to create terrestrial and marine protected areas important ecological habitats will continue to be lost.” COP15: “Goal A - Substantially increase the area of natural ecosystems by maintaining, enhancing or restoring the integrity, connectivity and resilience of all ecosystems. Reduce by tenfold the extinction rate and risk of all species and increase the abundance of native wild species. Maintain the genetic diversity of wild and domesticated species and safeguard their adaptive potential.” UNESCO “Biodiversity is the living fabric of our planet. It underpins human wellbeing in the present and in the future, and its rapid decline threatens nature and people alike. It is vital to transform people’s roles, actions and relationships with biodiversity, to halt and reverse its decline.” UK Government: The Environment Act 2021 Part 6 and Part 7 – Nature and Biodiversity “This Act includes provisions to strengthen and improve the duty on public bodies to conserve and enhance biodiversity, including mandating a net gain biodiversity through the planning system.” Under UK leadership the global target to protect 30% of land and sea by 2030, known as 30 by30, agreement for nature has been adopted by the UK and nearly 200 countries at the 2022 UN Biodiversity summit. In 2024 the previous Government announced that the Nature recovery was to be accelerated as the government on measures to protect land and sea. Local and County Views The Radley Neighbourhood Plan, for Radley Lakes states that the area be used for “Quiet Recreation and Nature Conservation.” The proposed quarrying would restrict access to most of the area. The Wildlife Trusts report on HS2: “It finds that HS2 Ltd has hugely undervalued natural habitats and the wildlife that is being destroyed by the construction along the route – while simultaneously overvaluing the impact of its nature compensation measures.” Similarly on a smaller scale the wildlife value of the Application area has been undervalued and mitigation and enhancement measures in no way compensate for the habitats and species that will be lost. Oxfordshire County Council: “The Council has been appointed provisional Responsible Authority for production of a Local Nature Recovery Strategy (LNRS) for the County. The LNRS will establish priorities and map proposals for nature’s recovery and wider environmental benefits across Oxfordshire, as set out in the Environment Act (2021).” Loss of biodiversity The Radley Lakes area has a very wide range of habitats which have developed by a process of rewilding over many decades, resulting in a high biodiversity level.

Orchard Lake and Calfreys Marsh (Area C in the Application) These areas are part of the 'Radley Gravel Pits' Local Wildlife Site designated by Oxfordshire County Council in 2006. Because most of this Orchard Lake is shallow (mainly less than 0.5 m depth) it hosts far more amphibian, invertebrate and plant species of than a much deeper (likely to be 4 m plus in this case) flooded gravel pit would. Deeper water hosts fewer species, and if the proposed gravel extraction were to go ahead the resulting deep-water lake would have much decreased biodiversity. Common Toad breed in this lake and there are many records of adults migrating to this lake in March and April since 2012. In some years over 2000 adult Toads were counted visiting the lake with maxima of nearly 600 per visit. Dragonflies are attracted to Orchard Lake because their need shallow water with numerous invertebrates prey species. Many dragonfly recorders visit Orchard Lake from throughout Oxfordshire to observe these insects. These observations are recorded on the British Dragonfly Society's Oxfordshire website (Stephen Burch is the Recorder for Oxfordshire). On this website there are 218 records of 22 species, for Orchard Lake. The second record for Oxfordshire of a new Odonata species (the Willow Emerald Damselfly) was recorded there in August 2020. A summary of these records, accompanies this submission. The lake hosts good numbers of aquatic invertebrates, which have been recorded during informal pond dipping sessions organised by Abingdon Naturalists Society between 2016 and 2023. The species were identified by Jeremy Biggs (Director of the Freshwater Habitats Trust) – the list accompanies this submission. The Lake contains fish which attracts birds such as Osprey which visit occasionally on passage. Bittern are sometimes recorded there or nearby in winter. Calfreys Marsh is an undisturbed wetland area, west of Orchard Lake comprises a mixture of habitats including: sedge fen, wet woodland and reedbed. The fen is rich in sedge species and Adder Tongue fern was recorded in the past on the edge of the fen. Reed Warbler and Reed Bunting breed there in summer and Woodcock, Snipe and Teal have been recorded there in winter. Halfen's Report (page 32) states: "Dewatering in Phases A and B2 will reduce water levels in Orchard Lake, the impact of which will be more significant in the shallow water areas where only soils have been stripped. The existing configuration of the lake will be lost when the remaining mineral is removed, so an assessment of the temporary dewatering impact is not considered relevant." If quarrying of areas A, B1 and B2 were permitted but it was concede that Orchard Lake and Calfrey's Marsh (Areas C and part of B2) should not to quarry because of their high ecological value, this area would need protection during the prior phases, as proposed for Longmead Lake. The shallow Orchard Lake is a breeding site for hundreds of Common Toad (*Bufo bufo*) and is among the best sites in Oxfordshire for Odonata with 22 species recorded there. Protection of the habitats and species in this area is vital. Nyatt & Bruney Fields (Areas A B1 & B2 in the Application) This is the largest part of the proposed quarry area. These extensive floodplain meadows host a number of plant species, typical of floodplains, including: Early Marsh Orchid, Southern Marsh Orchid, Pyramidal Orchid, Meadow Rue, Yellow Loosestrife, Hemp Agrimony, Tufted Vetch and Grass Vetchling. All these species (excluding Grass Vetchling) were recorded by GE Consulting. The orchids are found in hundreds in certain areas. Two hundred Pyramidal Orchids were recorded in a central area in 2024. Yellow Loosestrife is dominant in two large areas. Meadow Rue, a typical

floodplain meadow plant is locally abundant. GE Consulting admit this is an area of high biodiversity, yet no BNG metric for loss has been calculated. Abingdon Naturalists Society, has surveyed butterflies in this meadow over a period of nine years up till 2021. The site was divided into a number of transect sections, surveyed weekly from April to September. A total of 26 mainly grassland species, have been recorded there. Butterflies are particularly abundant bordering Calfreys' Marsh, where surrounding trees shelter this sunny, flower-rich part of the meadow. In 2019 a pair of Stonechats nested in Nyatt Field in a woodstack and raising four young. This was witnessed by several recorders (N Gregory, G Bateman, B Carpenter and D Guyoncourt). This was one of very few occasions when this species has been recorded as breeding in Oxfordshire. In 2021 a Wasp Spider was recorded and photographed in Nyatt Field by Wayne Bull (Fig 8). It had been recorded there in 2019 by Adrian Allsop which was the first record for Oxfordshire north of the Thames. John Campbell recorded insects in Nyatt Field in 2023 and 2024. (John, now retired, worked for the Oxfordshire County Museum Services as curator of natural sciences and started the Oxfordshire Biological Recording Scheme which has become TVERC, with money from Natural England, and Berkshire District Council.) John writes: "Only a few visits have been made to Nyatt Field in 2023 and 2024 which have been limited to the existing tracks and to collecting by sweep netting and beating. Recording has been limited mostly to Heteroptera (Bugs) and some families of Coleoptera (Beetles), especially the Chrysomelidae (Leaf Beetles). To date 141 species of invertebrates have been recorded of which the tumbling flower beetle *Mordellistena neuwaldeggiana* is classified nationally as PRDB1, the leaf beetle *Psylliodes luteola* as PRDBK. A further three species *Sympetrum sanguineum*, the Ruddy Darter, *Conocephalus discolor*, the Long-winged Conehead and *Longitarsus dorsalis* a flea beetle are all classified as Notable B. The leaf beetle *Agelastica alni* is present and is classified as RDBK, illustrating that rarity classifications are not up to date. Such limited recording illustrates the potential richness of Nyatt Field and studies of the Diptera (Flies) and Hymenoptera (Bees and Wasps) would undoubtedly prove to be of interest. Nyatts Field carries a rich flora, including stands of *Lysimachia vulgaris* (Yellow Loosestrife), and *Thalictrum flavum* (Common Meadow –Rue), and a full botanical survey would prove to be of value. Nyatts Field is rare in the local Thames and Ock flood plains in that it is not under an agricultural regime. All of the important local flood plain sites from Yarnton Meads southwards to Little Wittenhamj are either cut for hay or silage, or are grazed mostly by sheep but in a very few cases cattle. From the limited information available Nyatts Field must be considered an important nature conservation site, and well deserving much further study." John Campbell plans to do more recording this autumn. A list of JC's records accompanies this submission Streams Two streams cross the site: Thrupp Water and Bruney Water (Fig 1). These flow respectively north and south of Bruney Field. These streams are reed filled and attract good numbers of Reed Warbler and Reed Bunting which nest there in summer. It is encouraging that GE Consulting found Water Vole in Radley Brook (the southern stream). They used to be abundant in these streams, particularly in Thrupp Water (the northern stream) and Longmead Lake. Water Vole are better able to survive predation if there are areas of tall herbage in the vicinity in which to escape predators. Such herbage refuges would be removed by the

quarrying and Water Vole would then be more vulnerable to predation by American Mink. Water Vole are legally protected in Britain and recent evidence indicates that they have undergone long term decline in Britain, disappearing from 94% of their former sites. Water Shrew are found in the Barton Fields section of Radley Brook and have been seen widely in the Radley Lakes area. It is very likely that they inhabit the two streams. These streams are presently unpolluted, as the catchment covers uncultivated land, not subject to pollution by agricultural run-off. These streams should not be allowed to dewater during gravel extraction and when water from the workings is pumped out, it should be divided between the two streams. Silt generated in the quarrying must be allowed sufficient time to settle out in a pool within the quarried area before being introduced to the streams. However from Halfen's calculations it is questionable whether it is possible at all for these two streams to be saved from drying out completely.

Water Violet This rare aquatic plant was present in Radley Brook in the Barton Fields reach and upstream in the wood south of Orchard Lake until 2022 and is probably still present in these reaches. Dewatering of Radley Brook would certainly result in its extermination. This plant is classified as "Vulnerable" on the England and GB Red Lists. Water Violet photographed in Radley Brook

Bruney Lagoon (adjacent to areas A & B1) This inlet of the Thames is formerly a Thames channel which ran along the present course of Bruney Water (otherwise known as Radley Brook) is close to the proposed workings. Water will be drawn from it when the nearby gravel pits are dewatered. This will cause polluted water from the Thames to be drawn in, increasing nitrate, phosphate and other pollutants likely to kill scarce aquatic life, leaving just a few pollution tolerant species. This was the first site in Oxfordshire where Cetti's Warbler bred and was designated a County Wildlife Site (now Local Wildlife Site) by the OCC, on that account. At least 18 species of dragonfly including the scarce Variable Damselfly are regularly recorded from this site. (A list of the Odonata for this site, reproduced from the Oxfordshire branch of the British Dragonfly Society's can be provided). This beautiful, undisturbed site has in the past been leased to an angling club whose members valued its beauty and wildlife. If quarrying were to be allowed, the site would endure pollution from the river, noise from nearby excavating plant and vehicle movements, together with human disturbance from the workers and consequently its biodiversity and scenic quality would be degraded.

General Considerations

Loss of Public Amenity To quote the Wildlife Trusts – "Evidence shows that a thriving, wildlife-rich environment benefits both physical and mental health. People with nature on their doorstep are more active, mentally resilient and have better all-round health." The need for green places has been demonstrated on grounds of mental health. People have always used Radley Lakes as a place to relax, exercise and appreciate nature and numbers using the site are growing as the population of the catchment area increases. The whole area of the proposed gravel abstraction and haulage track is presently frequented by numerous members of the public on a daily basis. The track on the east side of Orchard Lake is particularly popular because the lake is so beautiful. A significant proportion of users are dog walkers and dogs often bathe in the lake. There are also well used paths in Nyatt Field which the public appreciate because it is such a large open grassland area surrounded by woodland. The openness of the site engenders a sense of space and tranquillity. The demand for wild places in which to walk, exercise

and relax has been demonstrated during the Covid-19 lockdown period when the number of people visiting the Lakes area increased several-fold. This is a foretaste of future demand for green spaces, when the planned local housing estates are built in the coming decade. There will be several thousand new dwellings within the Lakes catchment area including in Abingdon, Radley and Kennington.

Degradation of Scenic Beauty The scenic quality of the Radley Lakes area is endorsed by its ability to attract people in large numbers and by the numerous photographs taken and subsequently post on websites such as the Radley Lakes Trust website, Facebook and Instagram pages, showing how much the area is appreciated. Orchard Lake in particular is considered beautiful by most visitors because of surrounding trees, reedbed and the large stands of Yellow Flag Iris which bloom there Figs 2, 3 and 4. The sense of beauty and tranquillity is enhanced by the song of Reed Warbler and other birds in spring. Nyatt and Bruney Fields are open flower-rich grassland areas appreciated by walkers because of the sense of openness and freedom they engender. Their scenic quality is enhanced by trees surrounding these fields. Access to this open area will be denied for at least 16 years during quarrying.

Health & Wellbeing The Wildlife Trusts recognise the importance of wild green places for people. Their website states: "Daily contact with nature is linked to better health, reduced levels of chronic stress, reductions in obesity and improved concentration". For sixty years or more, people have used Radley Lakes as a place to relax, exercise and appreciate nature. The number of people using the area is growing as the population of the catchment area increases due to new dwellings being built. If this proposed excavation work proceeds, people will inevitably be excluded by fencing from the quarrying and haulage areas for 10 to 15 years and will be deterred from visiting the remainder of this beautiful site because of their dismay at the destruction that will have been wrought there. There is no other wild green space of similar size in the area where they can go.

Working Period & Restoration Hafren Report Appendix D Hydrology Page 31 "The quarry may draw in low quality water from the surrounding area. In particular this may include poor quality water associated with the landfills to the north and former PFA lagoons to the east." Existing groundwater flow is from the Thames into the Application area, this flow will be enhanced once a pit has been quarried. River water has high levels of phosphate and nitrate pollutants which will flow into the quarried pit. In particular, Phases A and B1 pits are very close to Bruney Lagoon, (about 40 m) which connects directly to the Thames. Polluted river water will flow through Bruney Lagoon into the quarried pit and subsequently will be pumped into Radley Brook and Thrupp Water. This stream hosts Water Vole (*Arvicola amphibious*) and Water Violet (*Hottonia palustris*) The Freshwater Habitats Trust state: "The submerged nature of Water-violet make it very susceptible to water quality"*.

Both mammal and plant are classed as "Vulnerable" on England's Red List. Nitrate and phosphate levels were measured in Radley Brook by Abingdon Naturalists five times between March 2015 and April 2016. Readings were all below detection level (10 ha in total) locally or more widely where land is available for this.

- Translocate herb-rich turf to other appropriate local sites

Objections to Application MW.041/23 - Abingdon Naturalists Society

Abingdon Naturalists Society is objecting to Application MW.041/23 because the effects that quarrying will have on the wildlife of the Radley Lakes area.

Also quarrying will blight the wider Lakes area for a period of 10 to 20 years and reduce public amenity.

We oppose the proposed quarrying at Radley Lakes because it will result in:

- Serious loss of biodiversity, including loss of scarce and declining species
- Loss of a public amenity
- Degradation of the scenic beauty of the area
- Draining and pollution of waterbodies in the vicinity during gravel extraction

The proposed quarrying of Orchard Lake, Calfreys Marsh, Nyatt Field and Bruney Fields and the streams crossing the site, will result in destruction of important habitats replacing a large area of semi-improved grassland, a shallow lake and a fen area, which are all rich in wildlife, replacing with 5 m deep lakes, which are a common habitat in South Oxfordshire, and like other such lakes will lack diversity of flora and fauna.

We are particularly concerned about the proposed excavation of Orchard Lake and Calfrey's Marsh (Fig 1) which are part of the wider 'Radley Gravel Pits Local Wildlife Site', designated in 2006. The Thames Valley Environmental Records Centre and Wild Oxfordshire have designated the whole of the Radley Lakes area including the proposed quarry area as a "Conservation Target Area" from which the proposed quarrying will remove 14.2 ha. During the 10 to 15 years (or more) of quarrying, adjacent areas will be degraded due to noise, haulage traffic movements, dewatering of nearby waterbodies and human disturbance.

In the Application, there has been no evaluation of the biodiversity loss due to destruction of existing habitats, nor possible gains from the proposed mitigation measures.

Global Views on Biodiversity Loss

Habitat destruction and fragmentation are the most important cause of biodiversity loss globally.

Some views of International Organisations are listed here:

World Wildlife Fund: "Habitat loss poses the greatest threat to species. The world's forests, swamps, plains, lakes, and other habitats continue to disappear as they are harvested for human consumption and cleared to make way for agriculture, housing, roads, pipelines and the other hallmarks of industrial development. Without a strong plan to create terrestrial and marine protected areas important ecological habitats will continue to be lost."

COP15: "Goal A - Substantially increase the area of natural ecosystems by maintaining, enhancing or restoring the integrity, connectivity and resilience of all ecosystems. Reduce by tenfold the extinction rate and risk of all species and

increase the abundance of native wild species. Maintain the genetic diversity of wild and domesticated species and safeguard their adaptive potential.”

UNESCO “Biodiversity is the living fabric of our planet. It underpins human wellbeing in the present and in the future, and its rapid decline threatens nature and people alike. It is vital to transform people’s roles, actions and relationships with biodiversity, to halt and reverse its decline.”

UK Government: The Environment Act 2021 Part 6 and Part 7 – Nature and Biodiversity “This Act includes provisions to strengthen and improve the duty on public bodies to conserve and enhance biodiversity, including mandating a net gain biodiversity through the planning system.”

Local and County Views

The Radley Neighbourhood Plan, for Radley Lakes states that the area be used for “Quiet Recreation and Nature Conservation.” The proposed quarrying would extinguish these aspirations.

The Wildlife Trusts new report on HS2: “It finds that HS2 Ltd has hugely undervalued natural habitats and the wildlife that is being destroyed by the construction along the route – while simultaneously overvaluing the impact of its nature compensation measures.” Similarly on a smaller scale the wildlife value of the Application area has been undervalued and mitigation and enhancement measures do not compensate for what will be lost.

Oxfordshire County Council: “The Council has been appointed provisional Responsible Authority for production of a Local Nature Recovery Strategy (LNRS) for the County. The LNRS will establish priorities and map proposals for nature’s recovery and wider environmental benefits across Oxfordshire, as set out in the Environment Act (2021).”

Health & Wellbeing

The Wildlife Trusts recognise the importance of wild green places for people. Their website states: “Daily contact with nature is linked to better health, reduced levels of chronic stress, reductions in obesity and improved concentration”. For sixty years or more, people have used Radley Lakes as a place to relax, exercise and appreciate nature. The number of people using the area is growing as the population of the catchment area increases due to new dwellings being built. If this proposed excavation work proceeds, people will inevitably be excluded by fencing from the quarrying and haulage areas for 10 to 15 years and will be deterred from visiting the remainder of this beautiful site because of their dismay at the destruction that will have been wrought there. There is no other wild green space of similar size in the area where they can go.

Loss of biodiversity

The Radley Lakes area has a very wide range of habitats which have developed by a process of rewilding over many decades, resulting in a high biodiversity level.

Orchard Lake (Area C in Application) - This area is part of the ‘Radley Gravel Pits’ Local Wildlife Site designated by Oxfordshire County Council in 2006.

Because most of this lake is shallow (mainly less than 0.5 m depth) it hosts far more amphibian, invertebrate and plant species of than would a flooded gravel pit, which is likely to be four metres deep or more. Deeper water hosts fewer species, and if the proposed gravel extraction were to go ahead the resulting deep-water lake would have much decreased biodiversity.

Common Toads breed in this lake and there are many records of adults migrating to this lake in March and April since 2012 (B Carpenter's records are included in this submission). In some years over 2000 adult Toads were counted visiting the lake in a season with maxima of nearly 600 per visit.

Dragonflies are attracted to this lake because their need shallow water with numerous invertebrate prey species. Many dragonfly recorders visit Orchard Lake from throughout Oxfordshire to observe these insects. These observations are recorded on the British Dragonfly Society's Oxfordshire website (managed by Stephen Burch the Recorder for Oxfordshire). On this website there are 218 records of 22 species, for Orchard Lake. The second record for Oxfordshire of a new Odonata species (the Willow Emerald Damselfly) was recorded there in August 2020. A summary of these records, accompanies this submission.

The lake hosts good numbers of aquatic invertebrates, which have been recorded during informal pond dipping sessions organised by Abingdon Naturalists Society between 2016 and 2023. The species were identified by Jeremy Biggs (Director of the Freshwater Habitats Trust) – the list accompanies this submission.

The Lake contains fish which attracts birds such as Osprey which visit occasionally on passage. Bittern are sometimes recorded there or nearby in winter.

The plants of the marginal strip of land on the east side of the lake and Calfrey's Marsh were surveyed by Camilla Lambrick and Margaret Abel in 2014 and this list accompanies this submission.

Calfreys Marsh (Area C in Application) This area is part of the 'Radley Gravel Pits' Local Wildlife Site designated in 2006.

This undisturbed wetland area, west of Orchard Lake comprises a mixture of habitats including: sedge fen, wet woodland and reedbed. The fen is rich in sedge species and Adder Tongue fern was recorded in the past on the edge of the fen. Reed Warbler and Reed Bunting breed there and Woodcock, Snipe and Teal have been recorded there in winter.

Nyatt & Bruney Fields (Area B & A in Application) This is the largest area of the proposed gravel extraction area. These extensive floodplain meadows host a number of plant species, typical of floodplains, including: Early Marsh Orchid, Southern Marsh Orchid, Pyramidal Orchid, Meadow Rue, Yellow Loosestrife, Hemp Agrimony, Tufted Vetch and Grass Vetchling. The orchids are found in hundreds in certain areas. Yellow Loosestrife is dominant in two ~0.5 ha areas. Meadow Rue is abundant in other areas.

Abingdon Naturalists Society, has surveyed butterflies in this meadow over a period of nine years up till 2021. The site was divided into a number of transect sections, surveyed weekly from April to September at 22 of 26 mainly grassland species,

have been recorded there. Butterflies are particularly abundant bordering Calfreys' Marsh, where surrounding trees shelter this sunny, flower-rich part of the meadow.

In 2019 a pair of Stonechats nested in Nyatt Field in a woodstack and raising four young. This was witnessed by several recorders (N Gregory, G Bateman, B Carpenter and D Guyoncourt). This was one of very few occasions when this species has been recorded as breeding in Oxfordshire.

In 2021 a Wasp Spider was recorded and photographed in Nyatt Field by Wayne Bull (Fig 8). It had been recorded there in 2019 by Adrian Allsop which was the first record for Oxfordshire north of the Thames.

Streams Two streams cross the site: Thrupp Water and Bruney Water (Fig 1). These flow respectively north and south of Bruney Field. These streams are reed filled and attract good numbers of Reed Warbler and Reed Bunting which nest there in summer.

A decade ago Water Vole were abundant in these streams, particularly in Thrupp Water and Longmead Lake. However it is not certain whether they are still present, as American Mink can quickly deplete a site. Water Vole are better able to survive predation if there are areas of tall herbage in the vicinity of the stream in which to escape predators. Such herbage refuges would be removed partly if quarrying took place and Water Vole would then be more vulnerable to predation. Surveys need to be undertaken to determine if this threatened species is still present. The Mammal Society state that: "Water Vole are legally protected in Britain and recent evidence indicates that they have undergone a long term decline in Britain, disappearing from 94% of their former sites." BBOWT, the local Wildlife Trust survey these two streams from time to time.

Because the catchment of these two streams is uncultivated land, they are unpolluted by agricultural run-off and should not be allowed to dewater during gravel extraction. If water from the workings is pumped into these streams, its silt content should be allowed sufficient time to settle out before being introduced to the streams.

Bruney Lagoon (adjacent to areas A & B1) This inlet of the Thames (formerly a Thames channel which ran along the present course of Bruney Water) is close to the proposed workings. Water will be drawn from it when the nearby gravel pits are dewatered. This will cause polluted water from the Thames to be drawn in, increasing nitrate, phosphate and other pollutants which will kill scarce aquatic life, leaving just a few pollution tolerant species.

This was the first site in Oxfordshire where Cetti's Warbler bred and was designated a County Wildlife Site (now Local Wildlife Site) by the OCC, on that account. At least 18 species of dragonfly including the scarce Variable Damselfly are regularly recorded from this site. A list of the Odonata for this site, reproduced from the Oxfordshire branch of the British Dragonfly Society's website, accompanies this submission.

This beautiful, undisturbed site has in the past been leased to an angling club whose members valued its beauty and wildlife. If quarrying were to be allowed, the site would endure pollution from the river, noise from excavating plant and vehicle

movements, together with human disturbance from the workers nearby and consequently its biodiversity and scenic quality would be degraded.

Loss of Public Amenity

To quote the Wildlife Trusts – “Evidence shows that a thriving, wildlife-rich environment benefits both physical and mental health. People with nature on their doorstep are more active, mentally resilient and have better all-round health.” The need for green places has been demonstrated on grounds of mental health.

People have always used Radley Lakes as a place to relax, exercise and appreciate nature and numbers using the site are growing as the population of the catchment area increases. The whole area of the proposed gravel abstraction and haulage track is presently frequented by numerous members of the public on a daily basis. The track on the east side of Orchard Lake is particularly popular because the lake is so beautiful. A significant proportion of users are dog walkers and dogs often bathe in the lake.

There are also well used paths in Nyatt Field which the public appreciate because it is such a large open grassland area surrounded by woodland. The openness of the site engenders a sense of space and tranquillity.

The demand for wild places in which to walk, exercise and relax has been demonstrated during the

Covid-19 lockdown period when the number of people visiting the Lakes area increased several-fold. This is a foretaste of future demand for green spaces, when the planned local housing estates are built in the coming decade. There will be several thousand new dwellings within the Lakes catchment area including in Abingdon, Radley and Kennington.

Degradation of Scenic Beauty

The scenic quality of the Radley Lakes area is endorsed by its ability to attract people in large numbers and by the numerous photographs taken and subsequently post on websites such as the Radley Lakes Trust website, Facebook and Instagram pages, showing how much the area is appreciated.

Orchard Lake in particular is considered beautiful by most visitors because of surrounding trees, reedbed and the large stands of Yellow Flag Iris which bloom there Figs 2, 3 and 4. The sense of beauty and tranquillity is enhanced by the song of Reed Warbler and other birds in spring.

Nyatt and Bruney Fields are open flower-rich grassland areas appreciated by walkers because of the sense of openness and freedom they engender. Their scenic quality is enhanced by trees surrounding these fields. Access to this open area will be denied for at least 16 years during quarrying.

Drawdown of Water Table

Because the gravel working will be dewatered in order to extract gravel, the surrounding water table will drawn down also, (because water flows freely through the gravel layer) causing water levels in neighbouring waterbodies to fall significantly. Orchard Lake and Longmead Lake are ~~being~~ ^{being} groundwater fed, will be

seriously affected. The two streams, Bruney Water and Thrupp Water are slow flowing and will also be affected particularly in summer. All of these waterbodies have been shown to be pollution free (Tests conducted by Abingdon Naturalists 2015 & 2016). Tests were carried out for nitrate and phosphate pollutants on behalf of the Freshwater Habitats Trust and showed most waterbodies in the area to be below detection levels (nitrate <0.2 ppm & phosphate <0.02 ppm).

Historic England

Final Response – No comments.

Third Response – No comments.

Second Response – No comments.

First Response – Offers no advice.

National Grid – No assets in area.

BBOWT

Final Response

Objection:

1. Significant harm to Local Wildlife Site (LWS)
2. Loss or deterioration of irreplaceable habitat (fen)
3. Significant harm to priority habitat (wet woodland)
4. Significant harm to notable and priority species
5. No evidence of a net gain in biodiversity

1. Significant harm to Local Wildlife Site (LWS) Oxfordshire County Council's Minerals and Waste Core Strategy adopted September 2017 Policy C7 states: ".... (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" As stated at paragraph 6.2 of the applicant's EIA: "Radley Lakes Local Wildlife Site covers part of the ROMP excavation site and all of the remaining wider ROMP area. Excavation Phase C (Orchard Lake and scrub) and part of excavation Phase B2 (scrub) is covered by the local designation. Therefore, part of the habitat covered by this will be removed temporarily during the mineral extraction phase, which includes much of Orchard Lake and its associated marginal habitats and much of the fringing scrub to the south, east and west of the lake." Radley Gravel

Pits LWS is designated for a series of former gravel workings and adjacent areas on the floodplain of the River Thames. Some pits have now been filled with landfill or pulverized fuel ash (PVA), while others remain as open water (including Orchard Lake mentioned above). Hedges, ditches and a disused railway divide the site. Terrestrial habitats include open ground, grassland (neutral to calcareous), scrub, sedge and reed bed, fen and wet woodland. The applicant's hydrology report states at paragraph 8 (p36): "lowered groundwater levels around the extraction area will impact on the nearby waterbodies which lie within the Radley Gravel Pits LWS." Given the removal of habitat and lowered groundwater levels it is our view that the proposed development will result in significant harm to the Radley Gravel Pits LWS and the applicant has not demonstrated the need for and benefits of the development outweigh the harm, in accordance with Policy C7 quoted above.

2. Loss or deterioration of irreplaceable habitat (fen) Fen forms part of the habitat in both Radley Gravel Pits LWS (see above) and Abbey Fishponds LWS and Local Nature Reserve (LNR) which is located less than 600m north of the proposed development site. The NPPF states at paragraph 180: "When determining planning applications, local planning authorities should apply the following principles... c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;" The glossary at Annex 2 of the NPPF lists lowland fen as an example of irreplaceable habitat: "Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen." This suggests that the lowland fen habitat of the Radley Gravel Pits LWS and Abbey Fishponds LWS meets the definition of irreplaceable habitat. The fen habitat is fragile and extremely vulnerable to changes in water quality and water quantity. We do not consider that the applicant has demonstrated that there are wholly exceptional reasons for this development and that a suitable compensation strategy exists and we therefore consider the application to be contrary to the NPPF as well as Oxfordshire County Council's Minerals and Waste Core Strategy adopted September 2017 Policy C7 quoted above which states that, "Development that would result in the loss or deterioration of irreplaceable habitats.....will not be permitted except where the need for and benefits of the development in that location clearly outweigh the loss."

3. Significant harm to priority habitat (wet woodland) Wet woodland is a habitat of Principal Importance, as listed on the NERC Act (2006) and is present on the proposed development site. Given the removal of habitat and lowered groundwater levels referred to above it is our view that the proposed development is likely to result in significant harm to priority habitat wet woodland and the applicant has not demonstrated the need for and benefits of the development outweigh the harm, in accordance with Policy C7 quoted above.

4. Significant harm to notable and priority species As stated at paragraph 4.1.3 of the applicant's EIA: "Notable species recorded [within Radley Gravel Pits LWS] include

water vole, otter, bats, harvest mouse, great crested newt, red list and nationally protected birds, slow worm, adder, grass snake, and RDB/nationally notable/scarce invertebrates (bees, wasps, mayflies, trueflies, crickets/grasshoppers, beetles and moths) and five Red List moss/plants” Given the removal of habitat and lowered groundwater levels referred to above it is our view that the proposed development is likely to result in significant harm to priority species on the proposed site and the applicant has not demonstrated the need for and benefits of the development outweigh the harm, in accordance with Policy C7 quoted above. Restoration to nature conservation Oxfordshire County Council’s Minerals and Waste Core Strategy adopted September 2017 places a very high priority on nature conservation outcomes from minerals restoration including making it a key objective e.g. “Minerals Planning Objectives: 3.4 The Oxfordshire Minerals Planning Vision is supported by the following objectives which underpin the minerals strategy and policies in this plan..... x. Implement a biodiversity-led restoration strategy that delivers a net gain in biodiversity, and contributes to establishing a coherent and resilient ecological network, through the landscape scale creation of priority habitat.” Paragraph 4.77 then explains what a biodiversity-led restoration strategy is: “4.77 A biodiversity-led restoration strategy should include: a) treating biodiversity as the primary consideration in the restoration of mineral sites; b) giving preference to allocating and/or permitting mineral development in areas where it will have the greatest potential to maximise biodiversity benefits (i.e. within Conservation Target Areas) (policy M4c)); c) creation of priority habitat at a landscape scale, either on individual sites or on clusters of sites in close proximity; d) integration of habitat creation on restored mineral sites into the existing ecological network in the surrounding area; and e) targets for the area of priority habitat that will be created on sites identified for mineral working in the Site Allocations Document.” Given the clear Minerals Planning Objective to implement a biodiversity-led restoration strategy in the Minerals Local Plan Core Strategy it is our view that restoration of the site should aim to maximise the benefit to wildlife and be restored to a high-quality nature reserve. The restored habitats should be subject to 20-year long-term management (in addition to 5 years of aftercare). The applicant should provide details of the proposed restoration and management which should include ecological monitoring proposals and details of any remedial action that will be taken to ensure a successful biodiversity restoration.

5. No evidence of a net gain in biodiversity Oxfordshire County Council’s Minerals and Waste Core Strategy adopted September 2017 states at paragraph 6.43: “Minerals and waste development should conserve and, where possible, deliver a net gain in biodiversity.....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).” The applicant has not demonstrated how a net gain in biodiversity will be achieved as required by local planning policy

Second Response

Objection:

1. Significant harm to Radley Gravel Pits Local Wildlife Site
2. Loss or deterioration of irreplaceable habitat (lowland fen)
3. Significant harm to priority habitat
4. Significant harm to notable and priority species

1. Significant harm to Radley Gravel Pits Local Wildlife Site The applicant's EIA version 2 July 2024 5.1.2 confirms that the proposed "mineral excavation activities will result in the loss/removal of habitats present within these areas for the duration of each phase. This includes much of Orchard Lake and its associated marginal habitats and much of the wet woodland and mosaic of scrub/reedbed which bounds the lake and watercourses which separate the two phases." The applicant's hydrology report states at paragraph 8 (p41): "Lowered groundwater levels around the extraction area will impact on the nearby waterbodies which lie within the Radley Gravel Pits LWS.... Longmead Lake is at Moderate risk of impact from lowered water levels." We therefore maintain objection 1 set out in our previous response.

2. Loss or deterioration of irreplaceable habitat (lowland fen) The applicant's EIA version 2 July 2024 confirms at paragraph 5.2 that much of the areas Phase A, Phase B1, B2 and around the lakeshore are lowland fen (irreplaceable habitat). We therefore maintain our objection 2 set out in our previous response.

3. Significant harm to priority habitat The applicant's EIA version 2 July 2024 confirms at paragraph 5.2 that the following Habitats of Principal Importance as identified by the detailed Botanical Survey "will be impacted either permanently (in the case of the terrestrial habitats) or temporarily (for aquatic habitats)... • Wet woodland • Lowland fens • Lowland reedbeds • Open mosaic habitats on previously developed land • Lowland meadows • Mesotrophic lakes We therefore maintain our objection 3 as set out in our previous response.

4. Significant harm to notable and priority species The applicant's EIA version 2 July 2024 confirms that the site provides habitats for GCN in their terrestrial phase and surveys confirm an exceptional population of common toad, at least seven species of bat (including Annex II barbastelle which is both rare in the county and nationwide), 42 species of breeding birds (17 were notable species) including Cetti's warbler and evidence of water vole and otter. We therefore maintain our objection 4 as set out in our previous response Restoration to nature conservation Given the clear Minerals Planning Objective to implement a biodiversity-led restoration strategy in the Minerals Local Plan Core Strategy it is our view that, in the event the authority is minded to approve the application despite our concerns, restoration of the site should aim to maximise the benefit to wildlife and be restored to a high-quality nature reserve. Please see the relevant section in our previous response, which we continue to stand by, for more detail on this matter.

First Response

Objection:

1. Significant harm to Local Wildlife Site (LWS)

2. Loss or deterioration of irreplaceable habitat (fen)
3. Significant harm to priority habitat (wet woodland)
4. Significant harm to notable and priority species
5. No evidence of a net gain in biodiversity

1. Significant harm to Local Wildlife Site (LWS) Oxfordshire County Council's Minerals and Waste Core Strategy adopted September 2017 Policy C7 states: ".... (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" As stated at paragraph 6.2 of the applicant's EIA: "Radley Lakes Local Wildlife Site covers part of the ROMP excavation site and all of the remaining wider ROMP area. Excavation Phase C (Orchard Lake and scrub) and part of excavation Phase B2 (scrub) is covered by the local designation. Therefore, part of the habitat covered by this will be removed temporarily during the mineral extraction phase, which includes much of Orchard Lake and its associated marginal habitats and much of the fringing scrub to the south, east and west of the lake." Radley Gravel Pits LWS is designated for a series of former gravel workings and adjacent areas on the floodplain of the River Thames. Some pits have now been filled with landfill or pulverized fuel ash (PVA), while other remain as open water (including Orchard Lake mentioned above). Hedges, ditches and a disused railway divide the site. Terrestrial habitats include open ground, grassland (neutral to calcareous), scrub, sedge and reed bed, fen and wet woodland. The applicant's hydrology report states at paragraph 8 (p36): "lowered groundwater levels around the extraction area will impact on the nearby waterbodies which lie within the Radley Gravel Pits LWS." Given the removal of habitat and lowered groundwater levels it is our view that the proposed development will result in significant harm to the Radley Gravel Pits LWS and the applicant has not demonstrated the need for and benefits of the development outweigh the harm, in accordance with Policy C7 quoted above.

2. Loss or deterioration of irreplaceable habitat (fen) Fen forms part of the habitat in both Radley Gravel Pits LWS (see above) and Abbey Fishponds LWS and Local Nature Reserve (LNR) which is located less than 600m north of the proposed development site. The NPPF states at paragraph 180: "When determining planning applications, local planning authorities should apply the following principles... c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;" The glossary at Annex 2 of the NPPF lists lowland fen as an example of irreplaceable habitat: "Irreplaceable habitat: Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient

woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.” This suggests that the lowland fen habitat of the Radley Gravel Pits LWS and Abbey Fishponds LWS meets the definition of irreplaceable habitat. The fen habitat is fragile and extremely vulnerable to changes in water quality and water quantity. We do not consider that the applicant has demonstrated that there are wholly exceptional reasons for this development and that a suitable compensation strategy exists and we therefore consider the application to be contrary to the NPPF as well as Oxfordshire County Council’s Minerals and Waste Core Strategy adopted September 2017 Policy C7 quoted above which states that, “Development that would result in the loss or deterioration of irreplaceable habitats.....will not be permitted except where the need for and benefits of the development in that location clearly outweigh the loss.”

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and e) targets for the area of priority habitat that will be created on sites identified for mineral working in the Site Allocations Document.” Given the clear Minerals Planning Objective to implement a biodiversity-led restoration strategy in the Minerals Local Plan Core Strategy it is our view that restoration of the site should aim to maximise the benefit to wildlife and be restored to a high-quality nature reserve. The restored habitats should be subject to 20-year long-term management (in addition to 5 years of aftercare). The applicant should provide details of the proposed restoration and management which should include ecological monitoring proposals and details of any remedial action that will be taken to ensure a successful biodiversity restoration.

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Thames Water – No comments.

Network Rail – No comments or objections.

Natural England

Final Response

The advice provided in our previous response applies equally to this amendment. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Third Response

Natural England has previously commented on this proposal and made comments to the authority in our response dated 13/08/2024 reference number 484371. The advice provided in our previous response applies equally to this amendment. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Second Response

Natural England has previously commented on this proposal and made comments to the authority in our response dated 03 May 2023 reference number 426467. We have no further comments to make on this application.

First Response

As submitted, the application could have potential significant effects on Culham Brake Site of Special Scientific Interest as well as designated European sites. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- Further assessment of the potential hydrological impacts on the SSSI from changes to groundwater and surface water flows and water quality.
- An in-combination air quality assessment of the potential impacts of the development, particularly on designated Special Area of Conservations (SAC).

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained

Additional Information required - Hydrological Impacts Culham Brake Site of Special Scientific Interest (SSSI) is located downstream, 600m to the south west of the proposed development site. Comprising of willow car and containing a large population of the rare summer snowflake plant, the SSSI is located along a stretch of backwater of the river Thames and is enriched by flooding every year. Therefore it is potentially vulnerable to changes in water quantity and quality. Natural England will require further information from the applicant in regards to the potential impact pathways from groundwater and surface water pollutants and changes to groundwater and surface water hydrology which may impact Culham Brake SSSI as a result of the proposed development, during both the extraction and restoration phases. The assessment of any potential impacts should be based on the nature of the pollution pressure, status of the water environment and specific ecological and other goals relevant to the SSSI. We would also advise a surface water management plan for the site be provided for review, detailing the locations of proposed sumps, silt busters and outfalls, including the water monitoring and management arrangements to be in place during both phases of the development.

Air Quality - Natural England notes that the applicant has provided an air quality assessment which concludes there is likely to be no additional traffic generated as a result of the development when considering the cessation of current vehicle movements to Oday Quarry and that this will result in a neutral impact. This application will need to be considered individually for its own impacts against the background existing levels, moving to an in-combination assessment where appropriate. On the basis of information provided, Natural England advises that there is currently not enough information to rule out the likelihood of significant effects from the development in combination with other development plans and projects which may be coming forward within the local area. Therefore Natural England advises that the following information should be provided to enable us to provide advice on the likelihood of significant effects from the proposal upon the designated sites.

- the predicted pollution in combination with other relevant plans and projects

The in-combination assessment should consider other mineral extraction operations, AD plants (if relevant), Local Plans and development coming forward in this area. The Natural England road traffic emissions guidance can be useful to consider the types of plans and project to include. The assessment should consider sites including Cothill Fen Special Area of Conservation, Little Wittenham SAC and Oxford Meadows SAC.

Protected Landscapes - The proposed development is for a site close to a nationally designated landscape namely North Wessex Downs Area of Outstanding Natural Beauty. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below. Your decision should be guided by paragraphs 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape. Page 3 of 7 Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

Biodiversity Net Gain - BNG We encourage all developments to achieve a net gain in biodiversity. We note that the proposals do not appear to provide quantitative evidence of delivery of a BNG at the site and we strongly encourage the use of Natural England's Biodiversity Metric 4.0 to calculate biodiversity losses and gains at this site. One method to ensure net gain is achieved is to compile a Biodiversity Mitigation and Enhancement Plan (BMEP) or similar document that aims to protect and improve the local ecology. This can help to strengthen ecological networks and wildlife corridors. Such a plan can bring together specific avoidance, mitigation and any compensatory measures to address impacts on species and habitats, detail how biodiversity net gain will be achieved, plus detail additional enhancement measures for wildlife (such as bat and bird boxes, habitat refuges etc.) Such a plan should be agreed with district ecologist / biodiversity officer and appropriately secured via condition.

Restoration Plan - We strongly advise that restoration plans for sites such as these incorporate the findings of Biodiversity Net Gain assessment which will enable the correct baseline for habitat value on site to be established and then subsequent mitigation and enhancement required in order to provide a net gain for the project. The current restoration plans do not appear to reflect any quantitative assessment as this has not been provided with the application.

The restoration plan should also consider the local area and any conservation objectives such as those within the Thames Radley to Abingdon CTA (Conservation Target Area). There are several Biodiversity Action Plan targets associated with this CTA including eutrophic standing waters, wet woodland and floodplain grazing marsh management and opportunities to maintain and improve the quality of these habitats should be explored and considered within the restoration plan submitted with the proposals.

Priority Habitat - This application will potentially result in the loss of floodplain grazing marsh and deciduous woodland priority habitat, as listed under Section 41 of the NERC Act 2006. Please refer to Natural England's standing advice on Priority habitats. Page 4 of 7 You should be aware that Section 40 of the Natural Environment and Rural Communities Act (2006) provides a duty to conserve and enhance biodiversity stating that, 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'. Biodiversity 2020: A strategy for England's wildlife and ecosystem services and Making Space for Nature (2010) also provide strong drivers for the inclusion of biodiversity enhancements through the planning process.

Ministry of Defence – No objections.

Annex 3 – Public Representations

- Significant harm to and opposition to the destruction of Orchard Lake, a designated Local Wildlife Site (LWS) contrary to development plan policies including OMWCS C7 which should be excluded from the area of proposed extraction.
- Ecological value: the site supports rare and protected species.
- Loss of irreplaceable and priority habitats: restoration cannot replicate the unique shallow-water habitat.
- Significant biodiversity loss and inadequate mitigation measures.
- Failure to demonstrate biodiversity net gain.
- Loss of public amenity and recreational space.
- Concerns about generation and control of noise and dust, and increased HGV traffic on Thrupp Lane.
- Potential disruption to footpaths and cycle routes.
- Risk of flooding including to the properties at Thrupp including to their sewerage and groundwater disruption due to clay-lined lakes.
- Insufficient hydrological modelling and lack of clear mitigation measures.
- Application boundary may not comply with statutory requirements.
- Proposed conditions criticised as unclear and unenforceable; strengthen and clarify planning conditions for enforceability.
- Deficiencies in surveys for protected species and habitats.
- Restoration plans lack ambition and detail.
- Failure to secure restoration of Curtis Yard and north-west area and the need to do so.
- Need for improved access arrangements.
- Require updated ecological and hydrological assessments.
- Need to maintain and enhance public access and amenity.

Annex 4 – OCC Officer suggested conditions (Same numbering used for comparison with those proposed by the applicant in Annex 1 with additional proposed conditions).

Duration of the Permission

1. The winning and working of minerals and the deposit of waste shall cease no later than 21st February 2042.

Access, Traffic and Protection of the Public Highway

2. Mineral shall not be transported via the access titled 'Access Only' on approved Plan no: 757-01-02 Rev A. In addition, this access shall not be used other than for the delivery and removal of plant and machinery and management of the land the subject of this permission.

3. No mud or debris shall be carried onto the public highway by plant and machinery using the access titled 'Access Only' on Plan no: 757-01-02 Rev A. Prior to the further use of this access, details of wheel cleaning measures and measures to maintain the surface of the access and the repair of any potholes shall be submitted to and approved in writing by the Mineral Planning Authority and implemented thereafter.

4. No mineral shall be transported off site other than to the Tuckwell Yard shown on approved Plan no: 757-01-11 via the conveyor as permitted by planning permission no. MW.0075/20.

Working Programme

5. No working shall be carried out except in accordance with the approved Working Plan Nos: 757-01-06, 757-01-07, 757-01-08, 757-01-09 and 757-01-10 and detailed in the approved Planning Statement Version 3 dated 10/06/2025, unless otherwise approved in writing by the Mineral Planning Authority.

6. Soils shall be managed in accordance with the approved Planning Statement Version 3 dated 10/06/2025. Soils shall not be removed or handled unless they are in a dry and friable condition to prevent damage to the soil structure and contain sufficient moisture to prevent degradation of the soil structure, unless otherwise approved in writing by the Mineral Planning Authority.

7. All topsoil and subsoil shall be stored separately in accordance with the Planning Statement Version 3 dated 10/06/2025.

8. No minerals except sand and gravel shall be removed from the site.

9. No topsoil, subsoil, overburden or mineral waste shall be removed from the site.

10. No waste shall be imported onto the site.

11. (Condition not required following final Environment Agency consultation response)

12. All undisturbed areas of the site and all topsoil, subsoil and overburden storage mounds shall be kept free of agricultural weeds such as thistle, dock and ragwort. Cutting, grazing and spraying shall be undertaken as necessary to control plant growth and prevent the production of seed and the spread of weeds to adjoining agricultural land.

13. Unless otherwise approved in writing by the Mineral Planning Authority no operations including the extraction of minerals and loading and operating of the conveyor shall take place except between the hours of:
07.00 a.m. to 06.00 p.m. on Mondays to Fridays;
07.00 a.m. to 01.00 p.m. on Saturdays; and
01.00 pm to 05.00 pm on Saturdays for maintenance of plant and machinery only.
No operations shall take place on Sundays or Public Holidays.
No operations shall take place outside these hours except for the operation of pumps and other equipment to maintain the safe operation of the quarry.

14. Unless otherwise approved in writing by the Mineral Planning Authority the field conveyor and adjacent access road shall be constructed in accordance with approved Plan nos: 757-01-11 and 757-01-15.

15. No lighting shall be used other than in accordance with details which shall first be submitted to and approved in writing by the Mineral Planning Authority.

Production

16. No more than 150 000 tonnes of mineral shall be exported from the site in any 12-month period.

17. From the date of recommencement of mineral extraction, the operator shall maintain records of the quantities of mineral worked and exported from the site. These records shall be made available to the Mineral Planning Authority within 14 days of a request for them to be provided.

Environmental Protection: Archaeology

18. Prior to any further mineral extraction or enabling works a professional archaeological organisation acceptable to the Mineral Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Mineral Planning Authority.

19. Following the approval of the Written Scheme of Investigation referred to in condition 18, and prior to any further mineral extraction or enabling works (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Mineral Planning Authority within two years of the completion of the archaeological fieldwork.

Environmental Protection: Dust

20. Prior to the stripping of soils a Dust Management and Monitoring Plan shall be submitted to and approved in writing by the Mineral Planning Authority. The approved Dust Management and Monitoring Plan shall be adhered too at all times.

Environmental Protection: Ecology

21. Prior to the recommencement of the development (including any groundworks or vegetation clearance) a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Mineral Planning Authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. The scheme shall include details of the following:

- The timing of the works;
- Identification of biodiversity protection zones;
- Implementation of protected species licences;
- The measures to be used during construction in order to minimise the environmental impact of the works including potential disturbance to protected species, habitats and designated wildlife sites;
- The measures to be taken if nesting birds are found in areas to be worked or restored;
- A map or plan showing habitat areas to be specifically protected during construction;
- Construction methods;
- Any proposed lighting scheme and safeguards for light-sensitive wildlife;
- Soil storage mounds located so as to not extend into root protection zones of hedges and/or trees;
- Location of protective fences, exclusion barriers and warning signs;
- Any necessary pollution prevention methods;
- When a specialist ecologist needs to be present on site to oversee works;
- Responsible persons, roles and lines of communication;
- Information on the Project Ecologist and/or Ecological Clerk of Works responsible for particular activities associated with the CEMP;
- Details of how the river bank and riparian zone will be restored and enhanced following construction.

The approved CEMP shall be adhered to and implemented throughout the consented development strictly in accordance with the approved details, unless otherwise approved in writing by the Mineral Planning Authority.

22. Prior to recommencement of the development, details and certificate of a great crested newt District Level Licence or alternatively a great crested newt survey report and European Protected Species Licence shall be submitted to the Mineral Planning Authority.

23. Prior to recommencement of the development, details and certificate of a water vole survey report and mitigation licence shall be submitted to the Mineral Planning Authority.

24. Prior to recommencement of the development, a fully detailed Landscape and Ecological Management Plan (LEMP) including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the mitigation and enhancement measures proposed in the Landscape and Visual Impact Assessment in Appendix F of the approved Environmental Statement and details of the following:

- new habitat created on-site including ground preparation, existing and proposed vegetation taking into account botanical mitigation and plant specifications including species, sizes, numbers and densities and seed mixes and their provenance;
- treatment of site boundaries and/or buffers around water bodies;
- management responsibilities;
- the phasing of the pond enhancements;
- the amount of time the habitat is secured for and maintenance regimes.

The approved LEMP shall be adhered to and implemented throughout the consented development strictly in accordance with the approved details, unless otherwise approved in writing by the Mineral Planning Authority.

25. Prior to recommencement of the development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The HMMP shall include the following and extend until the cessation of the 5 years aftercare:

- Description and evaluation of all features to be managed within the site;
- Ecological trends and constraints that might influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions;
- Preparation of a work schedule;
- Details of ecological enhancements;
- A botanical mitigation strategy;
- Details of the body or organisation responsible for implementation of the plan, and
- Ongoing monitoring and remedial measures to ensure the development delivers the objectives set out in the approved scheme.

The development shall thereafter be carried out in accordance with the approved details.

26. If nesting birds are found in areas to be worked or restored, then work in the immediate vicinity shall stop and an ecologist consulted and the measures embedded within the Construction Environmental Management Plan (CEMP) approved pursuant to Condition 21 shall be implemented prior to any further work.

Additional condition:

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

Additional condition:

No development shall commence in each phase until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the Mineral Planning Authority. The up-to-date surveys shall:

- Establish if there have been any changes in the presence and/or abundance of protected species; and

- Identify any likely new ecological impacts that may arise from any changes.

Where the surveys indicate that changes have occurred that will result in ecological impacts not previously addressed, a revised ecological mitigation scheme shall be submitted to and approved in writing by the County Planning Authority including a timetable for the implementation of mitigation measures. The scheme shall thereafter be implemented in accordance with the approved details.

Environmental Protection: Groundwater and Surface Water Protection

27. No further development shall commence until a scheme has been submitted to and approved in writing by the Mineral Planning Authority for the provision of a continuous and up to date baseline groundwater data set.

28. No further development shall commence until a comprehensive baseline groundwater quality monitoring scheme has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include potassium, boron, pH, phosphorus, ammoniacal nitrogen, copper and vanadium.

29. Prior to further mineral extraction a scheme shall be submitted to and approved in writing by the Mineral Planning Authority for the provision of a groundwater monitoring scheme with a wider baseline data spatial coverage to provide sufficient spatial representation of Working Area Phase C shown on Plan no: 757-01-10 and the south eastern edges of the site boundary.

30. Prior to further mineral extraction, a scheme shall be submitted to and approved in writing by the Mineral Planning Authority detailing the locations of all private water supplies which have the potential to be impacted by activities within the site boundary.

31. Prior to further mineral extraction, a scheme shall be submitted to and approved in writing by the Mineral Planning Authority for approval which details the method of lining of the sides of the excavation areas where required with low permeability materials. Details shall include the depth/thickness of lining material that would be removed from the base of the phases, whether the lining is intended as a short- or long-term barrier and the risks in terms of groundwater mounding and flooding.

32. Prior to further mineral extraction, a report shall be submitted to and approved in writing by the Mineral Planning Authority which calculates the loss of aquifer storage, the impact of this loss and whether any mitigation is proposed.

33. Prior to further mineral extraction a scheme for the storage of oil, fuel, lubricants or other bulk stored liquids (other than water) and setting out how they shall be handled on site in a manner that prevents the pollution of any watercourse or aquifer shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the following details:

- secondary containment that is impermeable to both the oil, fuel or chemical and water, with no opening used to drain the system;
- a minimum volume of secondary containment at least equivalent to the capacity of the tank plus 10% or, if there is more than one tank in the secondary containment, at least equivalent to the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest
- all fill points, vents, gauges and sight gauge located within the secondary containment.

The scheme shall, where necessary, be supported by detailed calculations and include a programme for future maintenance. The scheme shall be fully implemented and subsequently maintained for the duration of the development subject to any amended details as may subsequently be submitted to and approved in writing by the Mineral Planning Authority.

34. The site shall be dewatered in accordance with the approved Planning Statement Version 3 dated 10/06/2025 unless otherwise approved in writing by the Mineral Planning Authority.

35. Prior to further mineral extraction a Hydrometric Monitoring Scheme which includes monitoring of Longmead Lake shall be submitted to and approved in writing by the Mineral Planning Authority. The approved scheme shall be adhered to thereafter.

36. The buffer zones to watercourses shown on approved Working Plan Nos: 757-01-06, 757-01-07, 757-01-08, 757-01-09 and 757-01-10 shall be adhered to at all times.

37. No further development shall commence until a scheme has been submitted to and approved in writing by the Mineral Planning Authority for the provision and installation of robust ground markers around the site boundary delineating the maximum extent of working. The approved scheme shall be implemented and the ground markers shall be retained throughout the period of this permission. No extraction shall take place beyond these markers.

Additional Environment Agency condition:

If, during development, contamination (or land or controlled waters) not previously identified is found to be present at the site then no further development (unless otherwise approved in writing by the Mineral Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Mineral Planning Authority. The remediation strategy shall be implemented as approved.

Environmental Protection: Flood Risk

38. (Condition not required following final Environment Agency consultation response)

39. (Condition not required following final Environment Agency consultation response)

40. Within 3 months of the recommencement of mineral extraction a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Mineral Planning Authority. The approved scheme shall be adhered to thereafter for the duration of the development.

Environment Agency additional condition

The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) and appendices by Hafren Water, dated February 2025, and letter from Hafren Water, dated 22 May 2025, and the following mitigation measures it details:

- Section 5.3.1 of the FRA: the bund in place during phases A and B1 will be removed prior to the working of phase B2 and additional flood storage volume created during phase A.
- Letter from Hafren Water which states: no further land raising is to take place beyond pre-existing levels, other than those areas required to store material during the operational phases when mineral is being extracted.

Environmental Protection: Surface Water Management Scheme

41. Prior to the recommencement of the development, a detailed Surface Water Management Scheme for each phase or sub-phase of the proposed operations, shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be in accordance with the principles contained within the approved Hafren Water Environmental Water Management, FLOOD RISK ASSESSMENT, THRUPP FARM QUARRY, Version 3, February 2025. The scheme shall be implemented in accordance with the approved details and timetable.

Environmental Protection: Sustainable Drainage Scheme

42. Prior to further mineral extraction a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Mineral Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document the completed installation of the drainage structures on site; and
- d) The name and contact details of any appointed management company information.

Environmental Protection: Landscape & Visual Impact

43. (Condition not required following final Environment Agency consultation response)

44. Prior to the recommencement of the development the linear distances and protection methods required to protect retained trees shall be defined in accordance with by BS5837: 2012 and submitted to and approved in writing by the Mineral Planning Authority. The approved protection methods shall be adhered to at all times thereafter for the duration of the development.

45. In the first planting season following the recommencement of mineral extraction, the 'native scrub planting for repair and visual mitigation' shall be undertaken in accordance with the details shown on approved Plan no: 757-01-16 Rev A and in Section 7 of the Landscape and Visual Impact Assessment in Appendix F of the approved Environmental Statement.

Environmental Protection: Noise

46. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specifications at all times and shall be fitted with, and use, effective silencers. No reversing beepers or other means of warning of reversing vehicles shall be fixed to, or used on, any mobile site plant other than white noise alarms or beepers whose noise levels adjust automatically to surrounding noise levels.

47. Except for temporary operations, the free field Equivalent Continuous Noise Level, dB LAeq, 1-hour, free field, due to daytime operations for routine operation on the site, shall not exceed the specified noise limits below at the sensitive receptors listed.

Position	Site Noise Limit dB LAeq, 1-hour, free field
1 – Home Barn Farm	54
2 – Warren Farm	43
3 - Thrupp House	47
4 – Kingfisher Barn/Rye Farm	48
5 – Quaker Meeting House/Audlett Drive	53

48. During the permitted working hours the free field Equivalent Continuous Noise Level, dB LAeq, 1 hour, free field, due to temporary operations, shall not exceed 70 dB LAeq 1 hour, freefield at the sensitive receptors listed in condition 47 . Temporary operations which exceed the normal day-to-day criterion shall be limited to a total of 8 weeks in any 12-month period.

49. Within 3 months of the date of this planning permission, a Noise Management Scheme shall be submitted to and approved in writing by the Mineral Planning Authority which shall include:

- Noise monitoring and reporting proposals to check compliance with the noise limits in Conditions 47 and 48; and
- Complaints procedure detailing the investigation, resolution, reporting and recording of complaints.

The approved scheme shall be implemented thereafter for the duration of the development.

Environmental Protection- Trees

50. Prior to the recommencement of any works on site, an Arboricultural Method Statement (AMS) and accompanying Tree Protection Plan (TPP), in accordance with BS 5837:2012, shall be submitted to and approved in writing by the Mineral Planning Authority which shall include:

- a) Location and installation of services/ utilities/ drainage;
- b) Details and Methods of works within the root protection area (RPA as defined in BS5837: 2012) of the retained trees or that may impact on retained trees;
- c) A full specification for the installation of boundary treatment works;
- d) A specification for protective fencing to safeguard trees during site works including all phases and a plan indicating the alignment of the protective fencing;
- e) A specification for ground protection within tree protection zones;
- f) Tree protection during works indicated on a TPP and works and work activities clearly identified as prohibited in this area;
- g) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires;
- h) Boundary treatments within the RPA;
- i) Arboricultural supervision and inspection by a suitably qualified tree specialist;
- j) Reporting of inspection and supervision;
- k) Methods to improve the rooting environment for retained and proposed trees and landscaping; and
- l) Veteran and ancient tree protection and management.

The development thereafter shall be implemented in strict accordance with the approved details.

Restoration and Aftercare

51. The area of the site the subject of further winning and working of mineral shall be restored in phases in accordance with Plan Nos: 757-01-07, 757-01-08, 757-01-09, 757-01-10, 757-01-12 Rev A and 757-01-16 Rev A.

52. Within 24 months prior to the permanent cessation of mineral extraction in each phase, unless otherwise approved in writing by the Mineral Planning Authority, a restoration and five-year aftercare scheme demonstrating how the site the subject of further winning and working of mineral will be restored in accordance with Plan Nos: 757-01-12 Rev A and 757-01-16 Rev A shall be submitted to and approved in writing by the Mineral Planning Authority. The approved scheme shall be implemented as approved and each phase shall be restored in accordance with the approved restoration and aftercare scheme within 24 months of the completion of mineral extraction in each phase.

53. Within 2 years from the recommencement of mineral extraction the 'Draft Restoration Management Plan' in Appendix 5 of the approved Planning Statement Version 3 dated 10/06/2025 shall be reviewed and updated including a timetable for implementation, and submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be implemented as approved.

54. A restoration and aftercare scheme for the Curtis Yard shown on approved Plan no: 757-01-05 Rev A shall be submitted to and approved in writing by the Mineral Planning Authority within 2 years of the recommencement of mineral extraction. The submitted scheme shall be implemented as approved and include :

- The removal of buildings and hardstanding;
- Restoration treatments;

- Management;
- Timetable for implementation; and
- 5- Year aftercare scheme.

The approved scheme shall be implemented in accordance with the timetable for implementation.

Additional condition

No development shall recommence until details of a Local Liaison Committee have been submitted to and approved in writing by the Mineral Planning Authority. The Local Liaison Committee shall then take place in accordance with the approved details.

Additional condition

XX Condition listing the approved documents and drawings.

Addendum – Planning and Regulation Committee 19th January 2026

Agenda Item 6 - Land at Thrupp Farm, Radley MW.0041/23

1. Since the report was published, further representations have been received from members of the public. The first of these raises a legal point.
2. The first representation argues that the planning permissions in question DD1 and DD2, “ceased to have effect” on 1 November 2016 in the light of the fact that no ROMP application at all had been submitted by the review date of 31 October 2016 and refers to the case of Vattenfall (2008) which they state supports their position. There are statutory time limits within which applications must be determined, but planning authorities and applicants can agree to extend that time. In the Vattenfall case, the applicant and the Council did agree to extend the time for determination, but this agreement was made after the statutory time period for determining the application had expired. This meant that the date that the right of appeal arose was when the date at which the statutory time period for determining the application initially expired and was not the date for determination that was agreed at a later date (some 4 years after the statutory time limit for determination). Note – there was no suggestion that the parties could not agree a later date for determination after the statutory time limit had expired – but this expiry of time was relevant to the date the right to appeal arose.
3. By contrast the correspondence between the Council and the applicant at Radley ROMP indicates that the Council agreed an extension within time although no precise date was specified. Legislation must be interpreted in a way that is compatible with the Human Rights Act and as the Radley Romp concerns an existing planning permission, the legislation should be read in a way that complies with the right to property and the right not to be deprived of that property other than in accordance with the law. This is why it is considered that agreement to extend the time without actually setting a precise date is in compliance with the statutory language in the Environment Act 1995.
4. The Vattenhall case concerned a right to appeal a refusal which the applicant didn’t take up in time, but there was no planning permission in existence and so no property rights under consideration. This is a different legal context to the present case and officers are content that the approach the Council has taken in the Radley Romp case is correct.
5. The second representation considers that the conditions in Annex 4 do not adequately deal with the requirements for specific areas to be addressed in the conditions as may be considered necessary. As a consequence conditions intended by Tuckwells for the area to be worked, or directly affected by those works, will apply to the whole DD1/DD2 area. At best this will lead to confusion. At worst it will have totally perverse and unintended consequences. The issue can be seen for example in Conditions 4, 8, 9, 12, 13,15 and 16. At face value they could prevent Tuckwells (and Tarmac) from operating their concrete batching businesses and also prevent the removal of historic

contaminated spoil from the ROMP area leading to possible further litigation and delay.

It is understood why the report gives greater space to the issues about habitat protection, but the issues identified with the Annex 4 Conditions need to be put right. The matter is not new and should not be contentious as between Tuckwells and those taking a contrary view. All have an interest in ensuring that the ROMP process leads to a clear and certain outcome for all parts of the DD1/2 area.

It is suggested that something be added on the following lines to the recommended actions at the end of the report.

‘C) Before the proposed conditions at Annex 4 are forwarded to the Secretary of State the Director of Economy and Place shall make such amendments as are necessary to ensure that those intended for part only of the ROMP area do not apply to the whole area.’

Officer response: To provide additional clarity and precision to the conditions including with regard to which parts of the areas of planning permissions DD1 and DD2 they refer to the committee Recommendation is amended to read as follows:

RECOMMENDATION

It is RECOMMENDED:

- A** That in the absence of there being a position in law to refuse the application to determine the conditions to which planning permission numbers DD1 and DD2 are to be subject despite the significant effect identified through the loss of irreplaceable and priority habitats, refer the application to the Secretary of State for their consideration as to whether to call the application in for their own determination;
- B** Should the Secretary of State decline to call the application in for their own determination, authorise the Director of Economy and Place to determine the conditions to which planning permissions DD1 and DD2 are to be subject including those set out in Annex 4 **and with any amendments as considered necessary including to provide greater clarity and precision as to the geographical areas which the conditions apply to**, but without the condition restricting development in the areas of irreplaceable and priority habitats.

6. The third representation raises a further set of comments in relation to the ecology of the site and documents submitted by the applicant has been received which is summarised as follows:

1. Ecological Survey Adequacy

- Survey work is outdated and not aligned with industry best practice.
- Site habitats have changed, invalidating previous baseline assessments.
- Updated, compliant surveys are required before any determination.

2. Significant Adverse Impacts Likely

- Loss of irreplaceable habitats including lowland fen and wet woodland.
- Orchard Lake, a biodiverse habitat, would be largely destroyed.
- Priority species such as common toad are inadequately assessed.

3. Unsupported Claims in Applicant's Technical Note

- Assertions of habitat integrity retention are not credible.
- Proposed positive long-term effects are unsubstantiated.
- No detailed invasive species control or credible restoration strategy.

4. Insufficient Restoration Proposals

- Replacement habitats will not compensate for losses.
- Claims of 'conservation-led' restoration are misleading.
- Existing high-value habitats would be removed.

5. Conflict With National and Local Policy

- Loss of irreplaceable habitats fails NPPF and Local Plan policy tests.
- No demonstration of 'wholly exceptional circumstances'.

6. KC Review Does Not Resolve Ecological Concerns

- It does not demonstrate surveys remain valid.
- Need for updated surveys and enhanced aftercare remains.

7. Errors in the Non-Technical Summary

- Mis-states ecological designations.
- Omits key impacts (e.g., woodland clearance, conveyor effects).
- Mischaracterises habitat types and restoration benefits.
- Uses outdated socio-economic data.

8. Overall Conclusion

- The ROMP proposal is ecologically unsound.
- Current data cannot support reliable assessment or mitigation.
- Determination should not proceed until robust updated surveys and a credible ecological appraisal are provided.

Officer response: The council's Senior Biodiversity Officer has considered this further representation and advises that he agrees with it and that it largely reflects his own response highlighting the inadequate information in the current submission. The conditions he has proposed are designed to request the information that is considered inadequate in the current application. These conditions cover the points raised in the representation.

It is considered that this supports the case for referring the application to the Secretary of State.

In addition to the above, a further late representation has been received adding to the above ecological comments which is summarised as follows:

1. Review of KC Note:

- Several assertions made by the KC lack supporting evidence, including claims of sterilisation of mineral resource and impacts on viability due to loss of irreplaceable habitats.
- Tension noted between claimed high mineral demand and assertion that reduced extraction area is non-viable.
- Assertions regarding compliance with environmental policy are unsubstantiated.
- Legal interpretation regarding surveys, BNG applicability, and restoration feasibility of irreplaceable habitats is questioned.
- Inconsistencies identified in statements about whether ecological surveys are up to date.
- Claims that conditions would be unreasonable or sterilise the permission remain unproven.

2. Review of Planning Development Manager's Draft Conditions:

- Condition 12 should be clarified to require EA approval for herbicide use near watercourses.
- Condition 26 on nesting birds may be unnecessary, duplicative, or should be reworded with emphasis on Schedule 1 species.
- Condition 36 requires strengthened wording to prevent any infrastructure within buffer zones and include barrier fencing.
- Condition 52 should reference ecological surveys prior to restoration design.
- Additional condition recommended requiring an Ecological Mitigation Plan (EMP) based on current surveys.
- Further conditions proposed: invasive species eradication plan (Japanese knotweed, New Zealand pygmyweed) and fencing details.

The proposals set out by the applicant reflects the legal advice they have received and it is considered that relevant issues have been addressed in the committee report. Officers will consider the comments made with regard to the conditions and the amended officer Recommendation provides for amendments to be made to the conditions by the Director of Economy and Place if considered appropriate .

7. The applicant has advised on reviewing the Committee Report, that they note that the Council Ecologist has provided clarity on the ecological monitoring sought in Additional Condition 2. In light of this clarity, the Applicant can now support the inclusion of Additional Condition 2.
8. The applicant does however continue to contest the imposition of Additional Condition 1 which seeks to avoid the loss of irreplaceable and priority habitat and which would restrict working rights which would conflict with planning legislation for a ROMP Application, resulting in the quarry becoming economically unviable. The applicant is pleased to see this has been accepted in the Committee Report in the recommendation that ROMP Application Ref: MW.0041/23 should be determined without the Additional Condition 1.

NB – The applicant's KC Opinion and accompanying ecological technical note are appended below for reference.

**AND IN THE MATTER OF
LAND AT
THRUPP FARM QUARRY,
THRUPP LANE, RADLEY,
ABINGDON.**

OPINION

1. I am asked to advise H Tuckwell & Sons Ltd ['Tuckwells'] in respect of an application for the Review of Old Mineral Permission ['ROMP'] to Oxfordshire County Council ['the Council'] as Minerals Planning Authority on land at Thrupp Farm Quarry, Thrupp Lane, Radley, Abingdon ['the site'], which is designated a 'dormant' site for the purposes of Sch 13 of the Environment Act 1995. Specifically, I am asked to advise in three conditions proposed by the Council's ecologist. These concern: 'irreplaceable/priority habitat'; 'renewed ecological surveys'; and 'aftercare period'. I am also asked to consider the import of Reg 26(2) of the EIA Regulations 2017.

'irreplaceable/priority habitat':

2. The proposed condition reads:

'No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.'

3. The area within the application site identified for mineral extraction is 14.2ha. It is in four lobes: Phase A, Phase B1, Phase B2 and Phase C. I have been provided with overlay plans which show the extraction area together with priority and irreplaceable habitat. Within the 14.2ha there is 12.32ha of priority habitat, of which there is 6.36ha of irreplaceable habitat. Within the totality of the site (including haul roads etc) of 26.25ha, there is 20.8ha of priority habitat, of which 7.84ha is irreplaceable habitat.
4. To exclude the priority and irreplaceable habitats from the mineral extraction area would leave only 1.88ha of the 14.2ha available, rendering the mineral resource effectively sterilised. Prohibiting development of any kind within the area of priority/irreplaceable habitat within the site as a whole effectively prevents utilisation of the minerals permission under review.
5. *R (oao Sergeant) v Essex CC and Cemex Ltd* [2009] EWHC 2232 (Admin) is support for the proposition that an MPA has a wide discretion in imposing conditions on ROMP applications to protect the environment, but subject '*to the conditions being appropriate for the development permitted by the permissions under review*' [para 76]. A condition which has the effect of nullifying the underlying minerals permission would not be a reasonable condition to impose; it would be a derogation of the grant itself.
6. This is reinforced by national guidance where the PPG indicates that conditions imposed on ROMPs '*should not affect the economic viability of the operation (eg conditions which restrict the total quantity of mineral for extraction)*' [PPG ID: 27-186-20140306].
7. By contrast, the ecology officer appears to be approaching the question of impact on the habitats as if this were an application for planning permission *de novo*. That is not appropriate, as planning permission has already been granted. The condition does not merely regulate the implementation of the permission so as to control harm on the environment; it strikes at the heart of the very permission itself. That fails the legal test of 'reasonableness' and is expressly contrary to the PPG, as indicated above.
8. I should also note, in this context, that the site is some 26.25ha in size,

considerably wider than the 14.2ha identified for mineral extraction, and it is proposed to be

developed in a phased manner over a c.20 year period, with progressive restoration and ecological enhancement as shown on the Concept Restoration Plan.

9. I have been provided with a Technical Note from Tuckwell's ecologist, dated 13th October 2025, which sets out how, as a matter of fact, the application taken as a whole has indeed followed the policy 'hierarchy' for avoidance of harm to habitats: *avoid, mitigate, compensate and enhance* [see p.10 thereof]. Consequently, while not strictly applicable, mineral planning officers at the Council can take comfort that policies for the protection of the environment have been fully taken into account in the development strategy.

Renewed ecological surveys:

10. The proposed condition reads:

'No development shall commence until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the County Planning Authority. The up-to-date surveys shall...'

11. This requirement, it will be noted, is in addition to any survey requirement under the protected species licencing regime.
12. The Ecological Technical Note, October 2025, tabulates the survey work undertaken and when [Table 1, p.2]. In respect of all of those surveys listed, it is noted that they are 'Likely to be valid unless habitats have changed'. Specifically for Great Crested Newts, updated surveys will be required for protected species licencing purposes and for River Condition Assessment, it is stated that this will be updated/validated report will need to be undertaken for BNG purposes.
13. As such, it appears that nothing is required except to establish whether the habitats have changed since the various surveys were undertaken. If they have not, there would be no necessity for the condition to be imposed in the terms sought.

Extended aftercare period:

14. The proposed condition reads:

*'Prior to commencement of any development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the County Planning Authority. The HMMP shall include the following and cover a minimum of 30 years:
...'*

15. A 30 year aftercare provision is in excess of the 5 year aftercare provision which may be imposed without the consent of the operator. It appears to derive from the standard approach to BNG habitat creation/management. However, as ROMP applications are not applications for planning permission, they are not caught by the statutory requirement for BNG. In addition, I am Instructed that Tuckwells do not consent to an aftercare period in excess of 5 years.

16. The Ecological Technical Note summarises the phased working of the site, with progressive restoration to each phase over a period of c.20 years. Thus the 'aftercare' provision would only be applicable to the period once all extraction had ceased. By then, restoration of the earlier phases could be up to 20 years of maturity and managed for that period. With an aftercare provision of 5 years, the habitats in question will, therefore have been managed, progressively, for between 5 to 25 years.

17. In that context, it would be unreasonable to downplay the effectiveness of the restoration proposals in the absence of an extended aftercare provision to 30 further years. Rather, the condition for an HMMP (or similar) should concentrate on what is to be done in the restoration phases and how it is to be managed within the lifetime of the permission to become well established as the habitat intended.

Regulation 26(2) of the EIA Regs 2017:

18. The phrase highlighted by officers as a matter of concern within Reg 26(2) is that significant effects have been 'addressed'. It appears that they read this as meaning that such effects have been 'resolved' – ie overcome by sufficient mitigation. If so, that is a misreading of Reg 26(2).

19. The context is that Reg 26(2) provides for how a decision-maker concludes that the findings of an ES are 'up to date'. If the significant effects have been 'addressed' in the ES, the decision-maker can so conclude.
20. An ES is required to assess the environmental impacts of a proposed development, with and without mitigation. The decision maker must take that and other environmental information into account when considering whether or not to permit the scheme. It is, thus, an informative, evidential tool to evaluation. What is not required of an ES (or wider environmental information) is that 'solves' an identified impact. For example, it might conclude that there is an impact and that no mitigation is available or proposed or that the proposed mitigation is inadequate to wholly mitigate the impact in question. It then records the residual effect and its significance in EIA terms. The decision-maker is then obliged to take those residual effects into account in making the decision to determine the application.
21. Unlike the effect of the Habitats Regulations, therefore, within an EIA, a unresolved impact is not a bar to the grant of consent. It is a negative which is taken into account in the planning balance. In addition, the context of a ROMP is that permission has been granted, and the conditions (as discussed above) can regulate the manner of its implementation, but cannot derogate from that grant.
22. The test in Reg 26(2) of whether or not the significant effects are 'addressed' is not, therefore, a matter of establishing that the impacts have been removed; rather it is to ensure that the ES records what the significant residual impacts are predicted to be.

Conclusion:

23. A ROMP condition which materially reduces the area to be worked would not be reasonable, as it would derogate from the underlying permission being reviewed. In this case the proposed condition would remove 12.32ha of the 14.2ha of extraction areas and effectively sterilise the site, rendering the permission unimplementable. It fails the legal test as being unreasonable and

is contrary to national guidance.

24. A condition requiring additional ecological surveys appears in this case to be unnecessary unless the habitats have changed since the last surveys were undertaken. This can be verified by Tuckwell's ecological consultants and, if they have not, such a condition would fail the test of necessity.
25. A condition imposing aftercare in excess of 5 years is not agreed to by Tuckwells as the applicant; further, given the phased programme of working and restoration, confidence can be placed in the effective provision of the restored habitat without resorting to a 30 year timeframe applicable to BNG, which does not apply to ROMP applications.
26. The ES is required to record the residual impacts of the scheme; it is up-to-date for the purposes of Reg 26(2) of the EIA Regs 2017 if it 'addresses' the significant effects. Reg 26(2) does not require that those effects (whatever they are) be resolved.
27. For the reasons given above, none of the three conditions proposed by the County Ecologist is appropriate, and Reg 26(2) has been complied with by the ES.

CHRISTOPHER BOYLE KC

16th October 2025

Landmark Chambers, 180 Fleet

Street, London,

EC4A 2HG.

Ecological Technical Note Radley Lakes, Thrupp, Oxfordshire

1 Introduction

This technical note has been prepared by GE Consulting and presents a summary of Ecology Information for Radley Lakes, Thrupp, Oxfordshire (central OS grid reference: **Error! Reference source not found.** H. Tuckwell and Sons Ltd and the result from the Ecological Impact Assessments submitted as part of the Environmental Statement for the Thrupp Farm Review of Mineral Planning Permissions (ROMP).

2 Ecological Surveys

A range of ecological surveys have been undertaken to inform the ecological baseline, and inform the assessment. **Table 1** below summarises the surveys. Full details can be found in ES Appendix C Ecological Impact Assessment v2. dated July 2024 which formed the 25-07-2024 ES updates to address 05/07/2024 Regulation 25 Request for Further Information referred to from hereon as the EcIA.

It is important that planning decisions are based on up-to-date ecological reports and survey data. However, it is difficult to set a specific timeframe over which reports or survey data should be considered valid, as this will vary in different circumstances. In some cases there will be specific guidance on this (such as for the age of data which may be used to support an EPS licence application). In circumstances where such advice does not already exist, the Chartered Institute of Ecology and Environmental Management (CIEEM) has produced an Advice Note – On the Lifespan of Ecological Reports and Surveys (CIEEM, 2019)¹.

Table 1: Baseline Data Collection

Survey Type	Date (s)	Survey Validity (based on CIEEM, 2019)
Desk Study	May 2023 and April 2024	12-18 months - Likely to be valid in most cases. Unlikely that significant further contextual data could be gained via updating the desk study, considering the extent of Site specific surveys undertaken.
Extended UK Habitat Classification Survey and Detailed Botanical Survey	UKHab May 2023 (With ad-hoc updates during further surveys). Botanical Survey May & July 2023.	18 months to 3 years. Update walkover required to validate baseline prior to determination.
Bat Activity Surveys	June, July and August 2021 (AD Ecology) May, June and September 2023	18 months to 3 years – Likely to be valid unless habitats have changed. Extensive data collected since 2021. Further data collection unlikely to provide any further quantitative benefit to mitigation scheme.
Breeding Bird Surveys	2021 and 2022 (AD Ecology) May to August 2023	18 months to 3 years – Likely to be valid unless habitats have changed. Key ecological constraint, but extensive data (both from surveys and via records) that further survey is unlikely to be necessary.
Wintering Birds Surveys	November 2020 & January 2021 (AD Ecology)	More than 3 years – Likely to be valid unless habitats have changed.
Reptile Surveys	July to October 2023	18 months to 3 years – Likely to be valid unless habitats have changed.

¹ <https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf>

Survey Type	Date (s)	Survey Validity (based on CIEEM, 2019)
Riparian Mammal Survey	June and October 2023	18 months to 3 years – Likely to be valid unless habitats have changed.
GCN Surveys (eDNA)	2022 (AD Ecology), and May 2023	18 months to 3 years. Extensive sampling of waterbodies undertaken, providing good coverage of extent of GCN metapopulation presence/absence in various waterbodies. Updates unlikely to provide further useful information unless habitats have changed
GCN Population Class Size Assessment Survey	May – June 2024	12-18 months - Likely to be valid in most cases unless habitats have changed. Update surveys will be required to inform a European Protected Species Mitigation Licence.
Fish Survey	October 2023	18 months to 3 years – Likely to be valid unless habitats have changed. Further fish surveys considered unlikely to provide further data re: fish presence/populations which could have a material impact on scheme proposals/mitigation unless habitats have changed.
River Condition Assessment	November 2023	18 months to 3 years – Likely to be valid unless habitats have changed. Will need to be updated/validated prior to submission (for BNG purposes).
Invertebrate Surveys	2021 (AD Ecology) Extensive contextual records from Abingdon Naturalist Society	More than 3 years. Extensive records available. Further survey unlikely to provide significant benefit unless habitats have changed.

3 Ecological Input into the ES

3.1 Impacts to Statutory Designated Sites (Section 5.1.1 of EcIA)

There are no internationally designated Sites within proximity to the Site, the nearest being Cothill Fen SAC c. 5.3km to the northwest and Little Wittenham SAC c. 5.9km to the southeast. No direct impacts are anticipated upon either site, though Little Wittenham SAC (and its component SSSI) has some potential for hydrological connectivity with the Site via the River Thames/Isis. However, the SAC is designated solely for its population of GCN utilising two ponds within Little Wittenham Wood, and the only threat/pressure associated with the site is invasive/undesirable species, with hydrological impacts not highlighted.

There are a number of nationally designated sites within the locality, though due to the nature of the scheme, only one – Culham Brake SSSI c. 500m southwest, is considered to be at risk of potential indirect impacts from the scheme. The ROMP Site falls within the Impact Risk Zone for the SSSI, which highlights ROMP applications as posing a likely risk to the SSSI. Culham Brake comprises a small area of willow carr adjacent to a channel directly watered by the River Thames/Isis. The SSSI contains one of

the largest British populations of summer snowflake *Leucojum aestivum* a red databook plant. As such, the SSSI has the potential to be impacted due to its hydrological connectivity with the ROMP Site, with pollution events potentially resulting in adverse effects upon the SSSI.

Enabling and extraction activities at the Site will be controlled via a Construction Environment Management Plan (CEMP), to ensure that works do not result in pollution to the aquatic environment, additionally, groundwater and rainfall will be captured in the quarry void (for each phase) and will be collected in a sump on the quarry floor. The water will be settled to remove any suspended solids, and then discharged into existing surface watercourses. This will be subject to an Abstraction Licence and Environmental Permit issued by the Environment Agency. On this basis no direct impacts upon statutory designated sites are anticipated and indirect impacts can be avoided with suitable working methods in place.

3.2 Impacts to Non-Statutory Designated Sites (Section 5.1.2 of EcIA)

Radley Gravel Pits Local Wildlife Site (LWS) covers part of the Site and all of the remaining wider Radley Lakes Site which is within the ownership of the client. Phases A, B1 and some sections of B2 lie outside of the LWS, and as such, no direct impacts upon the LWS are anticipated in respect to these phases.

The citation selection form describes the LWS as follows:

“This large site is a series of former gravel workings and adjacent areas on the flood plain of the River Thames. Some of the pits have been filled with landfill or pulverized fuel ash (PFA), while others remain as waterbodies. Parts of the site have been restored with a strong emphasis on wildlife, while some sections have been left to colonize naturally. Some adjacent areas are still in commercial use. A number of water bodies are present, some long established with low conductivity levels and high biodiversity interest. Others have higher conductivity levels. The emergent and aquatic plants are varied as are the invertebrates.

Some parts of the filled pits have been covered with topsoil and large areas have been left to colonize naturally. Some areas have been planted with trees. Areas developed for wildlife have scrapes with islands and plant introductions. Hedges, ditches, a cycle track and a disused railway track divide the site.

There are a variety of terrestrial habitats with areas of open ground with early successional vegetation, grassland, scrub, woodland, sedgebed, reedbed and small areas of wet woodland. The open ground includes freely drained and waterlogged areas, with a wide variety of ruderals species both native and introduced. The grassland is recent, over former arable or gravel areas. It has species which prefer neutral to calcareous and ungrazed conditions. The scrub is mostly over landfill and is composed of hawthorn and bramble with introduced species such as buddleia. The sedge beds are species rich and include many young willows.

The site also includes Barton Fields Jubilee Wildlife Site which is managed by a local group and includes grassland where the aim is to encourage plant diversity and ditches with records for water vole. Harvest mouse has also been recorded. They have introduced some uncommon wildflowers including spiny retharrow and lesser calamint.

The site provides valuable habitat for birds including summer assemblages of birds associated open water and fen and overwintering gadwall.”

The remaining areas of Phase B2 and Phase C lies within the LWS, and as such, mineral excavation activities will result in the loss/removal of habitats present within these areas for the duration of each phase. This includes much of Orchard Lake and its associated marginal habitats and much of the wet

woodland and mosaic of scrub/reedbed which bounds the lake and watercourses which separate the two phases.

Radley Lakes LWS has been subject to extensive and significant human interventions, both historically in connection with construction of the railway (now defunct), and throughout the 20th century in connection with firstly mineral extraction (sand and gravel) and then the use of the voids for the disposal of PFA. Large areas of the LWS are now dominated by PFA. While these areas are anthropogenic in their formation, they have become valuable habitat both for early successional flora, and for a range of invertebrate species as ecological succession progresses.

Due to the phased nature of proposals (i.e. each phase will be worked and then restored), habitat losses will be gradual and phased over the 10-15 year expected period of activity. As such, only a small proportion of the LWS will be impacted at any one time and the overall habitat structure, function and integrity of the site is considered to be maintained throughout the duration of the extraction phase, with alternative and connecting habitat available within the wider LWS and locality for displaced wildlife to move into for continues habitation and foraging etc.

In the medium to long-term the impacted/lost habitats within the ROMP excavation areas will be returned to a larger mosaic of habitats similar to those within the wider Radley Lakes site (i.e. open water lakes, wetland/riparian habitats, grassland, scrub and woodland) which are the result of previous mineral extraction activities. As such, while activities will result in short-medium term negative impacts on the LWS, in the medium-long term, following the phased restoration and subsequent establishment of restored areas and active long-term sensitive management coupled with specific interventions for protected species (as outlined in relevant sections), there will be a positive impact on the LWS.

As outlined above activities at the ROMP Site will be controlled via a Construction Environment Management Plan (CEMP), with any discharges subject to an Abstraction Licence and Environmental Permit issued by the Environment Agency.

Additionally, invasive species including New Zealand Pygmyweed (which is present in Orchard Lake), Himalayan balsam, zebra mussel and any other non-native species will be controlled as a result of extraction activities.

Additional direct or indirect impacts upon other non-statutory designated sites within the locality are not anticipated.

3.3 Impacts to Habitats and Flora (Section 5.2 of EcIA)

As well as direct impacts via loss of habitats within the four operation areas (albeit on a Phase by Phase basis), the scheme could result in both temporary and permanent effects on the ecological receptors associated with the Site. **Of the total 26.25ha ROMP Site it is anticipated that c. 14.2ha will be subject to extraction, as such habitats within the four Phases, will be impacted either permanently (in the case of the terrestrial habitats) or temporarily (for aquatic habitats).** These include a number of Habitats of Principal Importance as identified by the detailed Botanical Survey. These include the following:

- 👉 **Wet woodland:** Around the southern and western parts of the lake in Phase B2 and Phase 3
- 👉 **Lowland fens:** Much of the area of areas Phase A, Phase B1, B2 and around the lakeshore
- 👉 **Lowland reedbeds:** Predominantly in the two watercourses in the west of the site (Phase A and Phase B1) and along the northern edges of these two areas and the southern edge of Phase A. Also, along much of the northern and western edges of the lake.
- 👉 **Open mosaic habitats on previously developed land:** Predominantly along the northern half of the northern haul route but also over much of Area C in the southern section of the northern haul route.

- 👉 Lowland meadows: The open areas of Phase A, Phase B1 and Phase B2 which are not identified as fen, greater pond sedge swamp, or reedbed.
- 👉 Mesotrophic lakes: The lake comprising much of Phase C.

While the proposals will result in the loss of c. 54% of the total Site area, these losses need to be taken in the context of the scale and nature of the scheme, which will be undertaken in a phased manner over a period of c.20 years with each phase undergoing a comprehensive restoration following completion of extraction as outlined in the Concept Restoration Plan and discussed below. As such, habitat losses/gains will be incremental and phased over this period ensuring continuity of habitats in conjunction with the extensive retained areas around the periphery of the four phases, including minimum 16m buffers to Thrupp Water and Radley Brook (though they will functionally often be larger due to other features i.e. bunds etc.).

Restoration

Due to the nature of the scheme a comprehensive Restoration Strategy will be required to outline the measures and mechanisms to restore and enhance the Site following completion of mineral extraction activities and to ensure successful establishment of mitigatory/compensatory habitats, and to maintain the value of all ecological features in the long-term. Outline measures in relation to the sites restoration are detailed within a Landscape Mitigation and Enhancement Strategy (LMES) and Restoration Plan accompanying the application. Further updates to the LMES and Restoration Plan are expected to be required throughout the course of extraction activities to reflect the changing baseline conditions (as informed by monitoring surveys and licencing requirements as necessary) and provide suitable remediation measures and mitigation and enhancement strategies. Updates to these documents at appropriate intervals could be controlled through an appropriately worded planning condition.

The Restoration Strategy should be designed in anticipation of two aftercare uses; to the north, the focus is upon conservation and to the south a focus upon amenity where lakes will be focused on angling/quiet recreation. In order to achieve the desired landform and habitats desired post-development, the Site will be restored to a range of habitats, comprising:

- 👉 Four Lakes - two of which will be subject to conservation led restoration on two for angling/quiet recreation;
- 👉 Watercourses;
- 👉 Permanent and Ephemeral Ponds/Scrapes;
- 👉 Swales and Ditches;
- 👉 Reedbeds/Fen;
- 👉 Wet Grassland;
- 👉 Species Rich Grassland;
- 👉 Scrub, Tree and Hedgerow Planting.

In addition, enhancements for protected species will be provided in the form of:

- 👉 New Wildlife Pond (for GCN);
- 👉 Tree Mounted Bird Boxes;
- 👉 Tree Mounted Bat Boxes, to be erected in groups of 2-3);
- 👉 Barn Owl Boxes;
- 👉 Reptile Hibernacula;
- 👉 Artificial Otter Holts.

Indicative locations of these mitigation and enhancement measures are shown on the LMES.

Due to the possible variation in demand for aggregates, and the potential for delays to quarrying by flooding events, the exact start and end dates of each of the restoration phases are impossible to

predict. However, wherever reasonably practicable the restoration of each phase should be completed within one year of the completion of extraction within that phase.

Lakes

A wide bench will be incorporated at water level to allow for the creation of scrapes and micro-shoreline features. These should tie into the existing ground levels outside the extraction area by gentle gradients. The landform should be designed to facilitate the creation of bays, promontories and wider areas of shallow water for the establishment of wetland plant species, reedbed and wet grassland. There will be no import of materials from off-site to create shallows and benches within the new lakes.

Aquatic vegetation will be left to colonise naturally from existing ponds and ditches abutting the restored areas. Where necessary this will be supplemented from aquatic and marginal vegetation transplants derived from existing lakes and wetlands on site.

The lake will be monitored for the presence of invasive aquatic species such as Australian swamp stonecrop *Crassula helmsii* which is currently present within Orchard Lake.

Radley Brook

While the watercourse is to be retained and suitably buffered by a minimum of 16m interventions to improve condition, drainage function and value to biodiversity are proposed including:

- ✎ Removal of approximately 50% of existing bank top willow trees to reduce shading;
- ✎ Improved bank top water related features, allowing back waters or ponds to form following flooding of the river;
- ✎ Increasing the diversity of bank face gradient and structures; for example allowing the river to scour out sections of the bank to create overhanging sections;
- ✎ Introducing flow deflectors in the channel in the form of berms and benches, tree growth or wooden deflectors to increase the hydraulic and bed feature richness; and
- ✎ In terms of long-term management, it is important to be mindful on the diversity and richness of vegetation and tree type on both the bank tops and bank face; these include J shaded and slanting trees as these provide a variety of habitats.

Ponds

A new wildlife pond will be created in a woodland glade on the north east of the Site. The surface area should be a minimum of 200 m² with a minimum central depth of 1.5 m, and the margins will be graded to provide a shallow submerged shelf around the margin. The ponds will be lined with clay to ensure permanence and left to re-fill naturally.

Macrophyte cover will be encouraged to an optimal 70-80% cover, ideally 25-50% emergent cover and 50-75% submergent cover. This will be achieved by introducing aquatic vegetation along the margins. Vegetation will be imported from a local nursery.

Upon completion the pond will be stock-fenced c. 1m from the banks to discourage use by waterfowl and ensure the banks are not damaged by recreation/dog walking.

Following two years post-creation, if aquatic vegetation has not begun to colonise naturally from existing ponds and ditches abutting the restored areas, aquatic plants will be transplanted from existing on site stock and planted around the pond margins.

Swales and Ditches

Damp swales and ditches will be created and planted with linear blocks of water tolerant shrubs including white willow *Salix alba*, crack willow *Salix fragilis*, osier *Salix viminalis* and alder *Alnus glutinosa* in equal quantities. Planting should be planted on the upper margin of the swales/ditches, leaving a mixture of open and shaded/sheltered sections.

Reedbeds

The vegetation community will be created by planting common reed *Phragmites australis* stem cuttings at a density of 10 per m² and at a depth of 50 mm, in the period November through February.

Wet Grassland & Species Rich Grassland

Planting should look to replicate those habitats currently present. This should be through a combination of natural vegetation (as this will also allow the creation of Open Mosaic Habitats) and the spreading of green hay, cut from existing grassland areas within Phases A and B1, as well as any other particularly ecologically areas within the ROMP Site.

Where required this can be supplemented with overseeding via the use of appropriate seed mixes as outlined below:

- 🌱 Germinal Seeds RE2 Lowland Meadow (NVC MG9 Grassland);
- 🌱 Germinal Seeds RE3 River Floodplain / Water Meadow (NVC MG8 Grassland); and
- 🌱 Germinal Seeds RE10 Marginal Land (NVC U20 Grassland).

On-site assessment of pH and nutrient levels (prior to seeding) should be undertaken, and amendments to the mix made as required to ensure effective establishment and diversity. Furthermore, it should be noted that whilst every effort will be made to obtain this seed mix, due to fluctuations in availability individual species may have to be substituted or omitted if they are found to be unavailable in that seeding year.

Seeding should be performed in August through early September. If seeding at that time is not possible then a spring seeding in March through May will be necessary, but this is unlikely to be as effective. Where possible seed should be drilled at a sowing ratio of 3-5 g/m², but small sections may be manually broadcast.

Scrub, Tree and Hedgerow Planting

The trees and shrubs will be planted as a double staggered row with plants and rows 450 mm apart. All stock should be pit-planted into the loose substrate and fenced to protect from grazing stock. Where available, local provenance stock should be used as much as is practicable.

Hedgerow and scrub mix is to comprise an even mix of: hawthorn *Crataegus monogyna* (40%); blackthorn *Prunus spinosa* (15%); hazel *Corylus avellana* (10%); grey willow *Salix cinerea* (5%); goat willow *Salix caprea* (5%); field maple *Acer campestre* (10%); alder *Alnus glutinosa* (5%) and wild privet *Ligustrum vulgare* (5%).

Some of the habitats present within the Site require further consideration in relation to supporting protected and notable species as further discussed below.

Wider Radley Lakes Site

It is understood that the Oxfordshire County Ecologist supported the idea of a site wide restoration and management plan for these areas thus ensuring the protection and improvement of the Local Wildlife

Sites. As such the Environmental Statement (Land and Mineral, 2023) has included an outline for the restoration of wider Radley Lakes (outside of the ROMP Site), this is shown on Plan 757-01-05.

With the exception of the Curtis Yard Industrial Estate and the Tarmac Plant shown on Plan no: 757-01-05, the areas within ROMP Areas DD1 and DD2 outside of the Site have either been restored to lakes/ponds or have successfully naturally regenerated to a mosaic of grassland, woodland and scrub.

The naturally regenerated areas are titled 'Previously Worked/Naturally Regenerated' on Plan no: 757-01-05. It is proposed that these areas are subject to a 5-year Restoration Management Plan, which includes:

- 👉 Baseline ecological survey;
- 👉 Habitat management;
- 👉 Opportunities for tree/shrub planting;
- 👉 Control of invasive species; and
- 👉 Removal of fly tipped waste.

A 'Draft Restoration Management Plan' for this area has been included in the ROMP Application². Within 2 years from the commencement of mineral extraction the 'Draft Restoration Management Plan' shall be reviewed and updated if required and submitted to the Mineral Planning Authority for approval. This document is found in Appendix 5 of the submitted Environmental Statement.

Technical Note

Appendix J Technical Note- Ecology submitted for the 18-02-2025 ES updates to address the 27/01/2025 Regulation 25 Request for Further information was a rebuttal to a rebuttal to then Council Ecologist objection dated 04-12-2024. This rebuttal does not include Paragraph numbers. The relevant sections are as follows: A meeting was held at Oxfordshire Council offices on 13th January 2025 with Beccy Micklem (Principal Biodiversity Officer, OCC) and Jack Wheeler (Senior Biodiversity Officer, OCC) specifically to discuss this response and a way forward. In the meeting it was suggested that the applicant could seek to compensate for habitat losses on land out with the ROMP application boundary. This included, for example, the creation of lowland fen habitat, a habitat that is considered to be irreplaceable. This is not considered viable due to the fact that the applicant does not own or control land suitable for the creation of lowland fen – a habitat that is reliant on suitable hydrological regimes and specific substrates in order to establish.

The applicant has managed the area of land north and south of Radley Brook (areas identified as lowland fen habitat which includes Phases A, B1 and B2 on Plan 757-01-06) through topping on a regular basis over the years in recognition that sand and gravel extraction would be undertaken. This has maintained the lowland fen habitat and prevented scrub and eventually wet woodland covering these areas through the process of natural succession. Without management intervention the lowland fen habitat would be outcompeted and shaded with scrub and wet woodland becoming the dominant habitats. This would be similar to much of the habitat in the wider area including areas within the ROMP application boundary to the north and east of the proposed phased working areas. With an existing permission in place the applicant had considered this was the appropriate course of management to allow future mineral extraction in these areas to take place without requiring clearance of woodland habitat.

If the ROMP proposals are not implemented there will be no requirement or benefit for the ongoing regular management and maintenance of these areas, and it is considered likely that lowland fen habitat coverage will reduce on site over time. In the medium to long term, it would be predicted that in

² The Tarmac Plant is excluded from this scheme as this has permanent planning permission.

the absence of sensitive and appropriate management, the overall ecological value of the ROMP area will be reduced. Primarily this will be as a result of wet woodland dominance, resulting in a gradual reduction in habitat structure, diversity and availability of ecological niches. For example, ponds will become overshadowed and choked with vegetation reducing their suitability to support amphibian populations, as has already happened within areas to the north (refer to Figure 3 of the submitted EcIA – ref. 1957-EcIA-NH-VERSION2-REV1), whilst a reduction of grassland and fen habitat types will reduce habitat diversity and areas suitable for reptile basking and foraging. Whilst the habitat types that will result on site in the medium to long term are different in type and extent to the current baseline, the overall benefit of bringing all restoration and ROMP areas under sensitive long-term management are considered to adequately compensate the reduction in extent of high quality and irreplaceable habitats.

For example, there are significant retained areas of lowland fen habitat within buffers that will be suitably protected and brought under favourable management ensuring the long-term viability of this habitat on the site. Other priority habitats of high distinctiveness and quality are proposed to be created, and this is considered to sufficiently compensate for unavoidable habitat losses resulting from the proposals.

The mitigation hierarchy has, therefore, been followed in the design of the proposals as follows (refer to Section 5.2 of the submitted EcIA – ref. 1957-EcIA-NH-VERSION2-REV1 for further details).

Avoid – The proposals retain the Radley Brook with a buffer that includes lowland fen habitat. Significant buffers are provided to boundary vegetation and proposals have sought to avoid the loss of trees and woodland wherever possible.

Mitigate – A comprehensive strategy for the long-term restoration and management of all habitats within the ROMP area is proposed to maximise habitat diversity and benefit biodiversity in the long term.

Compensate – Where unavoidable habitat losses occur as a result of the proposals these will be compensated through the creation of new diverse high-quality habitats as part of the restoration and management plans.

Enhance – It is proposed as part of the proposals to enhance habitats within the wider ROMP area through, for example, selective thinning and woodland management to enhance existing habitats.

Furthermore, new opportunities for a range of wildlife are proposed through provision of artificial otter holts, barn owl boxes, reptile hibernacula and a variety of artificial bat and bird boxes suitable for a variety of species



Addendum – Planning and Regulation Committee 23rd February 2026

Land at Thrupp Farm, Radley MW.0041/23

1. Since the report was published, further representations have been received from members of the public including a request for information under the Environmental Information Regulations 2004 with regard to all information that will clarify what was said in the Addenda to the Planning & Regulation Committee agenda and reports for the 19 January meeting. These have referenced and queried the advice given by officers on the legal point which was addressed in paragraphs 1 to 4 of the addendum for item 6 of the Planning and Regulation Committee of 19th January 2026 with regard to whether the ROMP permissions DD1 and DD2 had ceased to have effect. A letter received from Taylor Wessing solicitors on behalf of a local resident in this respect is set out in full in Appendix 1.
2. Radley Parish Council has also advised that they consider it would be prudent that the County Council sought further advice on this matter from a barrister specialising in Planning law so as to avoid the possibility of any decision being subject to judicial review. They go on to state that if it does turn out that the permissions have expired that would surely give the County the opportunity to retain the rare habitats highlighted by your Biodiversity Officer without the necessity of compensating the Applicant.
3. Whilst the membership of the committee has changed with the passage of time, at the meeting of the Planning and Regulation Committee on 18th July 2022, a report with regard to the Radley ROMP was considered. Paragraphs 32 and 33 of that report addressed the concern raised that the planning permissions DD1 and DD2 had ceased to have effect. Counsel's advice was obtained at that time on this point which informed the Officer report. Paragraphs 32 and 33 of that report are produced below:

32. Subsequent to the meeting on 6th September 2021, officers received representations from a member of the public drawing their attention to a ROMP site in North Lincolnshire. In this case, the court refused to include a site on the official list of ROMP sites after the date for inclusion expired because of the strict wording in the relevant legislation. The wording referred to stated that a planning permission not included in the first list shall "cease to have effect" on the day following the last date that an application may be made and there is no provision in statute to extend that date. The member of the public queried whether this similarly applied to the rules relating to submission of a ROMP Application, which states that where a ROMP review is underway, then the mineral permission shall cease to have effect on the day following the review date or on such later agreed date as may be agreed at any time in writing. As the review process allows for the postponement of the submission date to any date and at any point in the process, and as the Council has been and is in discussion with the developer as regards submission of the ROMP Application, members are advised that the strict regime referred to in the North Lincolnshire case does not apply.

33. However, the terms of the relevant statute are such that it is advisable to formally agree an extension to a specified date. This does not preclude the Council from extending that date in the future, but does make the position as to the making and accepting a ROMP application clear.

4. The Resolution of the committee meeting on 18th July 2022 included that Officers seek to agree a date with H. Tuckwell and Sons Ltd. by which a ROMP Application would be submitted. In subsequent correspondence, the agent for H. Tuckwell and Sons Ltd. agreed

to submit the ROMP application by 28th February 2023. The valid submission was received on 22nd February 2023.

5. The Committee has therefore previously considered the substantive point raised with regard to whether the planning permissions have ceased to have effect, concluded that they remained live and instructed officers to nonetheless agree with the applicant a specific date by which the ROMP application should be submitted, which was done and the submission made within the time agreed.
6. Counsel's advice has similarly been sought on the point raised again by Taylor Wessing as set out above and with reference to the case of Vattenfall as referenced in the Taylor Wessing letter and addressed in the addendum to the meeting of the committee on 19th January 2026. Counsel's advice remains as set out in that addendum and specifically in relation to the Taylor Wessing letter, is that it raises no new points and that she would still distinguish Vattenfall from the present circumstances, as the legal framework for the acquisition of a right is very different from that concerning the loss of one.
7. To conclude on this point, the officer advice supported by Counsel advice to the committee remains as that provided to the committee at its meeting on 8th July 2022, which the committee agreed with and which informed the subsequent correspondence with the applicant. The applicant proceeded to make the submission in good faith, the submission has been widely consulted on with both the local community and technical consultees and the officer Recommendation remains as set out in the addendum to the Planning and Regulation Committee meeting on 19th January 2026
8. The points raised on the submitted conditions in the letters submitted by Taylor Wessing on behalf of their client in response to consultation on the submission and which are appended to their most recent letter as set out above have been considered. Along with all the other representations received from third parties, your officer has considered them in drafting the recommended conditions set out in Annex 4 to the committee report to the Planning and Regulation Committee on 19th January 2026. As members will appreciate, the purpose of advertisement of applications is to provide for public comment to be made on them and for the council to consider the comments made as may be material to the determination of applications; the council is not resourced to enter into ongoing correspondence with all individual parties who make comments on applications received.
9. A further representation has also been received raising further comments in relation to the ecology of the site and the recommended conditions. This is summarised below:

Given the level of impact arising from the installation of the conveyor on the habitats at the site, an amendment to the additional condition to address this is proposed:

*"No development shall commence in each phase **or for the construction/installation of the conveyor infrastructure** until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the Mineral Planning Authority...."*

Or if previous suggested amendment to the condition is accepted:

*"No development shall commence in each phase **or for the construction/installation of the conveyor infrastructure** until an Ecological Mitigation Plan (EMP) has been submitted and approved in writing by the County Planning Authority. The EMP shall be informed by up-to-date surveys, undertaken by suitably qualified ecologist(s), recognised by a relevant professional body such as CIEEM, and in accordance with current survey guidelines. The*

surveys will include those for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments. The EMP shall include:

- The methodology and results of the ecological surveys;*
- Establish if there have been any changes in the presence and/or abundance of protected species;*
- Identify any likely new ecological impacts that may arise from any changes;*
- Details of protection of retained habitat and avoidance measures with regards to protected and notable species;*
- A timetable for the implementation of mitigation measures.*

The EMP shall thereafter be implemented in accordance with the approved details.”

10. Officers will consider the comments made with regard to the conditions and the amended officer Recommendation in the addendum to the Planning and Regulation Committee meeting on 19th January 2026 provides for amendments to be made to the conditions by the Director of Economy and Place if considered appropriate. For convenience, the officer Recommendation is set out again below:

RECOMMENDATION

It is RECOMMENDED:

- A That in the absence of there being a position in law to refuse the application to determine the conditions to which planning permission numbers DD1 and DD2 are to be subject despite the significant effect identified through the loss of irreplaceable and priority habitats, refer the application to the Secretary of State for their consideration as to whether to call the application in for their own determination;**
- B Should the Secretary of State decline to call the application in for their own determination, authorise the Director of Economy and Place to determine the conditions to which planning permissions DD1 and DD2 are to be subject including those set out in Annex 4 and with any amendments as considered necessary including to provide greater clarity and precision as to the geographical areas which the conditions apply to, but without the condition restricting development in the areas of irreplaceable and priority habitats.**

Appendix 1 – Taylor Wessing Letter

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Date
18 January 2026

Our reference
DEL108.U5/UJT B

Your reference
MW.0041/23

Representations in relation to the application with reference MW.0041/23 concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (the "Property")

Dear Oxfordshire County Council

1. Background

- 1.1 We act for the owner of the Wick Hall Estate, Radley, Abingdon, OX14 3NF (our "**Client**" and our "**Client's Property**", respectively). Thrupp Lane runs along the eastern boundary of our Client's Property and is used to access various properties on the estate.
- 1.2 We write in relation to the application with the reference MW.0041/23 for "Determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)" (the "**ROMP Application**").
- 1.3 This letter follows our previous correspondence dated 25 April 2023 and 13 September 2024, copies of which are enclosed. Those letters proposed amendments to the conditions submitted with the ROMP Application and raised our Client's concerns, including in relation to the redline boundary; failure to restore land subject to the ROMP Application; and the applicant's failure to consider comments relating to conditions raised by consultees.
- 1.4 Our Client maintains all comments from those earlier letters and requests that the County Council reconsiders their content in advance of the Planning and Regulation Committee Meeting scheduled for Monday 19 January 2026 (the "**Committee Meeting**"), at which the ROMP Application is due to be considered. In addition, we request that the County Council considers as a matter of urgency whether it is legally able to determine the ROMP Application.

2. No legal basis for the ROMP Application

2.1 We have reviewed the report to the committee published by the County Council (the "**Committee Report**"). Following this review, we write on behalf of our Client to raise a fundamental concern relating to the ROMP Application's legal basis.

2.2 Based on the information in the Committee Report, it is our view that permissions DD1 and DD2 ceased to have effect in 2016. The County Council therefore erred in purporting to validate the ROMP Application and has no jurisdiction to proceed to determine the ROMP Application. We explain our position below.

3. DD1 and DD2 have ceased to have effect

3.1 The Committee Report states that a formal notice of review for the whole of the area covered by permissions DD1 and DD2 was served on 9 October 2015, giving the applicant until 31 October 2016 to submit the ROMP Application (the "**Review Date**"). Although not specified in the Committee Report, we assume that the notice was served under paragraph 4 of Schedule 14 to the Environment Act 1995 (the "**1995 Act**"), anticipating the submission of an application under paragraph 6 of the same Schedule.

3.2 The Committee Report states that no application was made by the Review Date. The ROMP Application was, in fact, not made until 26 January 2023.

3.3 It appears from the Committee Report that no extension of time to make an application was agreed between the Council and the Applicant prior to the Review Date, with the Committee resolving at its meeting on 18 July 2022 that it would seek to agree a date with the Applicant by which an application would be submitted. There is equally no reference in the Committee Report to any agreement with the applicant for postponement of the Review Date.

3.4 The consequence of no application having been submitted or extension of time or postponement agreed by the Review Date is that permissions DD1 and DD2 ceased to have effect on the day after the Review Date – i.e. in 2016. This is clear from paragraph 7 of Schedule 14 to the 1995 Act which provides:

Where no application under paragraph 6 above in respect of a mining site has been served on the mineral planning authority by the [review date], or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral permission—

(a) relating to the site; and

(b) identified in the notice served in relation to the site under paragraph 4 above

cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the [review date] or, as the case may be, such later agreed date.

3.5 The County Council appears to have proceeded on the basis that it was able to agree an extension of time to submit the ROMP Application during the course of 2022, some six years after the Review Date had passed. While paragraph 7 anticipates that an applicant and a minerals planning authority may agree an extension of time to submit such an application, it is our firm view that the County Council had no legal basis on which to do so after the Review Date. The 1995 Act equally does not provide a statutory means of reviving

a minerals permission which has ceased to have effect in accordance with paragraph 7, whether by agreement with the applicant or otherwise.

4. Invalid agreement to extension of time

- 4.1 We consider that, in order to be legally sound, extensions of planning time periods must be agreed before the prescribed determination period has expired. This principle is established by the Scottish case *Vattenfall Wind Power Ltd v Scottish Ministers* [2009] CSIH 27.
- 4.2 In *Vattenfall*, the planning authority failed to make a decision within the statutory determination period, and the applicant subsequently failed to lodge an appeal within the timeframe to do so. The planning authority and applicant then purported to agree to an extension of time, during which the authority again failed to make a determination. When the applicant lodged an appeal, it was rejected by Scottish Ministers as being out of time. The case confirms that any agreement to extend time must be made before the expiry of the prescribed period; retrospective agreements cannot revive rights that have already lapsed.
- 4.3 While *Vattenfall* was decided in the Scottish Courts and is not binding on the English Courts, the relevant statutory provisions are materially similar to those contained in paragraph 7 of Schedule 14 to the Act, including the reference to an extension which may "at any time be agreed". In the context of the Act, which has UK-wide application, we consider that the principle in *Vattenfall* is directly relevant. This does not appear to have been considered by the County Council.
- 4.4 Applying *Vattenfall* to this case, the County Council and applicant purported to agree an extension in 2022, six years after the Review Date had passed and the permissions had ceased to have effect. No such extension was available at this point. The County Council therefore erred when it subsequently purported to validate the ROMP Application and cannot now proceed to determine it. If this were not the case, mineral planning authorities and applicants could by agreement effectively "revive" minerals permissions which ceased to have effect decades ago, creating significant and widespread uncertainty for land use planning.

5. Next steps

- 5.1 We submit that the County Council must address these fundamental concerns regarding the legal basis of the ROMP Application before taking any further steps. Given the importance of this matter, we ask the County Council to:
 - (a) defer consideration of the ROMP Application at the Committee Meeting scheduled for 19 January 2026 pending resolution of the issue;
 - (b) review the legal basis of the ROMP Application and consider seeking counsel's opinion on whether it has jurisdiction to determine the ROMP Application; and
 - (c) if the County Council concludes that there was no legal basis for the ROMP Application due to the underlying permissions having ceased to be in effect, as appears to be the case, it should treat the ROMP Application as invalid on that basis.

- 5.2 If it would assist the County Council to discuss any other matters raised in our letters, then please do not hesitate to contact Kate Little (K.Little@taylorwessing.com) and Emma Tait (E.Tait@taylorwessing.com) of this firm.

Yours faithfully

A handwritten signature in black ink that reads "Taylor Wessing LLP". The signature is written in a cursive, flowing style.

Taylor Wessing LLP

Enclosed:

- (a) TWL to the County Council dated 25 April 2023; and
- (b) TWL to the County Council dated 13 September 2024.

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Date
13 September 2024

Our reference
DEL108.U5/UJB

Your reference
MW.0041/23

Further representations in relation to the application with reference MW.0041/23 concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (the "Property")

Dear Oxfordshire County Council

1. Introduction

- 1.1 We act for the owner of Wick Hall, Radley, Abingdon, OX14 3NF (our "**Client**" and our "**Client's Property**", respectively). Thrupp Lane runs along the eastern boundary of our Client's Property and is used to access various properties on the estate.
- 1.2 We write in relation to the above referenced application for "*Determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)*", the "**ROMP Application**".
- 1.3 We write further to our letter dated 25 April 2023 (our "**2023 Letter**") concerning the ROMP Application, a copy of which is appended to this letter. We write in response to the latest consultation period for the ROMP Application following the submission of further documentation by the applicant. We understand that documentation was submitted following a letter from the Council to the applicant dated 5 July 2024 requesting further information in relation to ecology, flood risk, groundwater, noise, and air quality (the "**Reg. 25 Letter**").
- 1.4 The Reg. 25 Letter also included the following paragraph:

"The section above comprises the request under Regulation 25. However, some consultation responses and comments received included suggestions for amendments and additional conditions. These should be considered and any commensurate amendments made to the application and the amended conditions submitted for review or otherwise provide details of the reasoning for not doing so."

1.5 For the avoidance of any doubt, our Client maintains all of the comments made in our 2023 Letter, and this letter focuses on the following:

- (a) the redline boundary of the ROMP Application;
- (b) securing restoration of the whole of the areas that remain to be worked and that have been worked but not yet restored;
- (c) the applicant's failure to respond to the Council's request that they consider the comments on conditions raised by consultees.

2. The redline boundary of the ROMP Application

2.1 We understand that the Radley Lakes Trust has raised concerns that the application boundary has not been drawn around the whole of the area covered by the original permission P/369/71 and thereafter DD1 and DD2 together, being the whole of the land shaded blue, green and yellow on drawing 757-01-04 (the "**Original Mining Area**").

2.2 We further understand from the applicant's planning statement that DD1 and DD2 were granted by deemed determination in 2000 but that:

"In recognition that the planning conditions were granted by default and were not the subject of an EIA, Oxfordshire County Council required a formal review for the whole areas covered by DD1 and DD2 in October 2015 giving until October 2016 for the submission of a ROMP application accompanied by an ES.

No ROMP application was received by that date and so the Site was entered into automatic suspension on 1st November 2016. As a result the mineral development cannot resume until a relevant ROMP application and accompanying ES is provided."

2.3 As referenced in the above quotation, the ROMP Application is being made further to a request from the Council for a review of the whole of the Original Mining Area. The ROMP Application only applies to the part of the Original Mining Area edged red on drawing 757-01-04.

2.4 Paragraph 9 of Schedule 13 to the Environment Act 1995 (the "**EA 1995**"), pursuant to which we understand the ROMP Application is being made, does not appear to allow for a ROMP Application in respect of part of the Original Mining Area. Paragraph 9(1) states that "*Any person who is the **owner of any land**, or who is entitled to an interest in a mineral, may, **if that land or mineral is or forms part of a dormant site or an active Phase I or II site**, apply to the mineral planning authority to determine conditions to which the relevant planning permissions **relating to that site** are subject*" (emphasis added). It therefore appears that the EA 1995 intentionally draws a distinction between the site (being the whole of the relevant Original Mining Area) and the land that an applicant may have an interest in, and requires any ROMP application to relate to the whole of the *site*.

2.5 We note that the Council will have more background on the Original Mining Area than we and our Client have, and accordingly there may be an explanation as to why the entire Original Mining Area is no longer considered to be part of the "site" for the purposes of the EA 1995. We should therefore be grateful for an explanation as to how the Council is satisfied that the ROMP Application boundary does not need to extend to the whole of the Original Mining Area.

- 2.6 If the Council is not satisfied that the application boundary has been drawn correctly, it should require the applicant to correct the application before proceeding any further.

3. Securing restoration of the whole of the Original Mining Area

- 3.1 A further wrinkle arising from the limited application boundary is that there are areas that have not yet been restored that fall outside of the redline.
- 3.2 The areas identified on drawing 757-01-05 in orange as "*Areas previously worked / naturally regenerated*" largely fall outside of the application boundary and the applicant is proposing that these areas will be subject to a five year "Restoration Management Plan".
- 3.3 We understand that the areas shaded orange are within the control of the applicant, and therefore the Town and Country Planning Act 1990 allows for conditions to be appended to the permission issued following the ROMP Application to bind that land. However, notwithstanding this we consider that the restoration condition may be open to challenge on the grounds that it is not "*relevant to the development to be permitted*" (being development wholly relating to other land) unless that land is brought within the redline boundary of the ROMP Application.
- 3.4 Further, Curtis Yard also falls outside of the application boundary and as referenced in our 2023 Letter, the appellant proposes to agree conditions relating to that land. We understand that Curtis Yard also falls outside of the applicant's control. Therefore, it should be brought within the boundary of the ROMP Application in order to ensure that condition 37 is properly enforceable. Our comments on condition 37 raised in our 2023 Letter still stand.
- 3.5 Accordingly, even if the Council is satisfied that the ROMP Application does not need to be made in respect of the whole of the Original Mining Area, it should be extended to incorporate the areas shaded orange on drawing 757-01-05 and Curtis Yard within its redline boundary.

4. Applicant's failure to consider comments by consultees on conditions

- 4.1 We are grateful to the Council for requesting that the applicant responds to comments that had been raised on conditions, and for specifically requesting that if the applicant disagreed with those comments it explained why.
- 4.2 Disappointingly, the applicant does not appear to have responded to any of the comments on the conditions that we raised in our 2023 Letter. We consider the requested amendments to be necessary, fair, and reasonable. We therefore ask that the Council to liaise with the applicant to secure a full response to all comments raised on conditions to date.

5. Conclusion

- 5.1 As expressed above, we ask that the Council consider and confirm whether the ROMP Application should properly extend to the whole of the Original Mining Area. If the Council does not consider this to be necessary, we request an explanation.
- 5.2 Even if the Council is satisfied that the application boundary does not need to extend to the whole Original Mining Area, we consider that it must extend to the areas shaded orange on drawing 757-01-05 and Curtis Yard. We ask that you keep us updated on this.

- 5.3 Finally, we look forward to seeing that the proposed conditions have been updated in line with the requests made in our 2023 Letter, or receiving a comprehensive response from the applicant as to why this is not necessary.
- 5.4 If officers are not minded to incorporate any of our suggestions, or to request such amendments from the applicant, we request that a full explanation as to why officers do not consider this to be necessary is provided.

Yours faithfully

A handwritten signature in black ink that reads "Taylor Wessing LLP". The signature is written in a cursive, flowing style.

Taylor Wessing LLP

Enc. 2023 Letter

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Date
25 April 2023

Our reference
DEL108.U5/UJT B

Your reference
MW.0041/23

Representations in relation to the application with reference MW.0041/23 concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (the "Property")

Dear Oxfordshire County Council

1. Introduction

- 1.1 We act for the owner of Wick Hall, Radley, Abingdon, OX14 3NF (our "**Client**" and our "**Client's Property**", respectively). Thrupp Lane runs along the eastern boundary of our Client's Property and is used to access various properties on the estate.
- 1.2 We write in relation to the above referenced application for "*Determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)*", the "**ROMP Application**".
- 1.3 Our Client's principal concern is with the impact that the extraction and processing of minerals from the Property will have on Thrupp Lane. We have reviewed the conditions proposed to be attached to the application with reference MW.0075/20 and the schedule of proposed conditions submitted with the ROMP Application and set out below our suggested amendments to those conditions, and the additional conditions and obligations which we consider should bind the development.
- 1.4 Please note that these representations assume that the proposed conditions to the application with reference MW.0075/20 as set out in the committee report for the meeting dated 6 September 2021 remain the conditions to be attached to the eventual permission (which we understand has not yet been granted). If these conditions have or are expected to change please advise us as our Client may wish to make representations on those revised conditions and / or it may impact their representations on the ROMP Application.

- 1.5 Our Client also shares the concerns expressed by the Radley Lakes Trust, in particular with regards to Curtis Yard and the destruction of Orchard Lake and the habitats surrounding it. We expand on these below.

2. Thrupp Lane - Proposed Conditions

- 2.1 We set out below the relevant conditions proposed as part of the ROMP Application with our suggested amendments in green (to show re-located text) and red (to show proposed new text).

2.2 *Access, Traffic and Protection of the Public Highway*

- 2.3 The application documents are express that minerals shall not be transported via the access road and shall instead be transported within the site by a conveyor. As drafted the proposed condition 2 affords an unnecessary degree of flexibility to the owner. It would enable the transport of minerals along the "Access Only" road by agreement between the owner and the minerals authority without public consultation. This would materially impact traffic on Thrupp Lane and would properly necessitate a new application and a Transport Assessment to be submitted and consulted upon. Accordingly we suggest the following amendment to remove the scope for such a significant change to occur without those steps being taken.

2. ~~Unless otherwise agreed in writing by the Mineral Planning Authority, Mineral shall not be transported via the access titled 'Access Only' shown on Plan no: 757-01-02.~~

- 2.4 The proposed condition 3 as drafted risks mud and debris being carried onto the highway for a period before an agreement on wheel cleaning measures is reached. There is no need for such a reactionary approach to be taken. Therefore we recommend the below amendments are made so that wheel cleaning measures are agreed prior to implementation of the permission, and applied thereafter.

3. *Wheel cleaning measures to prevent mud or debris being carried onto the public highways by plant and machinery accessing the development* ~~Should mud or debris be carried onto the public highway by plant and machinery using the access titled 'Access Only' on Plan no: 757-01-02, will be agreed with the Mineral Planning Authority and implemented~~ *prior to the implementation of the permission.*

- 2.5 Our amendments to the proposed condition 4 make the requirement for the minerals to be transferred via the conveyor more robust, and expressly provide that no mineral be imported by road.

- 2.6 Our changes reflect the processes described in the application documents. As with condition 2, we consider that the wording "unless otherwise agreed with the Mineral Planning Authority" risks public consultation on, and the proper assessment of, a change in arrangements being circumvented.

4. ~~Unless otherwise agreed with the Mineral Planning Authority Mineral will be transported off site to the Tuckwell Yard~~ *only via the conveyor shown on plan no: 757-01-11 via a conveyor. and no mineral will be imported by road to the processing plant site area for processing.*

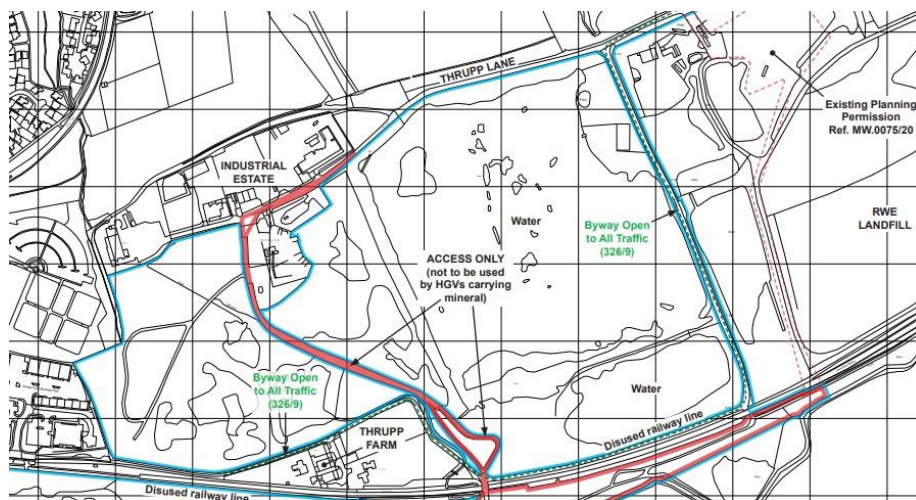
- 2.7 We also proposed that the three following additional conditions relating to access and vehicle movements are included.

- 2.8 The first incorporates a condition to be included on permission MW.0075/20, but expands it to cover Light Goods Vehicle ("LGV") movements as well as Heavy Goods Vehicle ("HGV") movements. We consider it necessary to include for the ROMP Application to ensure that there is no intensification of the use of Thrupp Lane.
- 2.9 When assessing "Traffic and Transportation" the application documents refer to comments made in the committee report for MW.0075/20. The clear inference is that no additional traffic would be generated beyond what is associated with MW.0075/20. As no transport assessment or statement has been submitted with the ROMP Application it is necessary to ensure that the conditions to which the ROMP Application is granted incorporate limits on HGVs imposed for MW.0075/20 so that there can be no doubt that the development pursuant to the ROMP Application will not generate more HGV movements. Likewise, it would be absurd for the applicant to be able to circumvent this by using LGVs so we refer to those too.

Proposed condition:

The maximum daily Light or Heavy Goods Vehicle movements associated with the development shall not exceed 64 (32 in, 32 out), inclusive of any vehicle movements associated with any other permissions related to the DD1 and DD2 area including, for the avoidance of doubt, the permission with reference MW.0075/20 and any variation or replacement permission.

- 2.10 The second condition incorporates statements made in the Planning Statement submitted with the ROMP Application which have not been reflected in the proposed conditions. Plan 757-01-02 indicates that the access to the Property will be as highlighted in red on the plan below.



- 2.11 However, there is no condition which prohibits other routes incorporating Thrupp Lane from being used for access, including the Byway shown in dashed green on the same plan.
- 2.12 Further, the Planning Statement provides (at paragraphs 3.52 – 3.55) that the access will be used for plant and machinery to access the site, and for the management of the "ROMP Areas".
- 2.13 Finally, paragraph 3.53 of the Planning Statement states "This access will be used for plant and machinery to access the Site. This will occur rarely as machinery will generally be stored on the ROMP Site."
- 2.14 The proposed condition drafted below incorporates the three points raised above.

Proposed Condition:

The access titled 'Access Only' shown on Plan no: 757-01-02 shall be the only vehicular access to the site via Thrupp Lane and will be used only for the delivery of plant and machinery to the site and for the management of the ROMP Areas. Where practicable plant and machinery shall be stored on the ROMP site.

- 2.15 Paragraph 3.55 of the Planning Statement states that *"The accesses into the site will be regularly graded and dressed, when required, to maintain an even running surface free from potholes"*, however no condition requiring this is proposed. We consider that such a condition or obligation should be imposed, and it should also provide for regular reviews of the road conditions on Thrupp Lane to be carried out, with remedial work carried out to mitigate the impacts of the HGV movement running along it.
- 2.16 We understand that Thrupp Lane is a highway maintainable at public expense. The most straightforward way to deal with damage to Thrupp Lane may be to secure a contribution by way of planning obligation which would be applied towards such surveys and works, with provision for further contributions to be recovered from the owner as necessary.
- 2.17 *Working Programme*
- 2.18 Paragraph 3.56 of the Planning Statement sets out the proposed working hours at the Property. However, condition 13 as drafted specifies working hours for *"extraction of minerals or loading and operating of the conveyor"*. We are concerned that this would permit other disruptive works to be carried out at the Property outside of these hours.
- 2.19 We also note that there is nothing to prevent vehicular movements associated with the development from using Thrupp Lane and the proposed access outside of these hours. We therefore suggest the following amendments to the proposed condition.

Working Programme

~~13. Unless otherwise agreed by the Mineral Planning Authority~~ No extraction of minerals or loading and operating of the conveyor, ~~or other noisy works~~, shall take place except between the hours of 07.00 a.m. to 18.00 p.m. on Mondays to Fridays and 07.00 a.m. to 13.00 p.m. on Saturdays ~~and there shall be no Light or Heavy Goods Vehicle movements on Thrupp Lane associated with the development outside of these days and hours~~. No working shall take place on Sundays or Public Holidays. No operations shall take place outside these hours except for essential maintenance and the operation of pumps and other equipment to maintain the safe operation of the quarry.

3. Curtis Yard

- 3.1 Condition 37 as currently proposed is insufficiently precise and derives from an error in the Planning Statement as to the date that the existing temporary permission for Curtis Yard will expire.
- 3.2 The condition as drafted risks being unenforceable as it provides for an aftercare scheme to be submitted to the Mineral Planning Authority by 1 June 2028 *"unless planning is granted for [Curtis Yard's] continued retention"*. The condition needs to be amended so that it is clear that planning permission for the retention of Curtis Yard needs to have been granted *before the date* that the trigger for submission of the aftercare scheme has passed.

- 3.3 Further, we consider that there should not only be one opportunity for an aftercare scheme to be required. If a further temporary permission for Curtis Yard is granted, condition 37 should be triggered by the expiry of that permission too.
- 3.4 The existing permission for Curtis Yard expires on 18 November 2025, five years after the decision date of 18 November 2020. The Planning Statement erroneously lists the expiry date as 18 November 2027. Accordingly, a date for submission of a restoration and aftercare scheme for the Curtis Yard of 1 June 2028 has been incorporated into the proposed condition 37, instead of 1 June 2026.
- 3.5 We therefore propose the following amendments to condition 37:

37. A restoration and aftercare scheme for the Curtis Yard shown on Plan no: 757-01-05 shall be submitted to the Mineral Planning Authority by 1st June 2026 unless planning permission has by that date been is granted for its continued retention.

If planning permission is granted for Curtis Yard's continued retention, a restoration and aftercare scheme shall be submitted to the Mineral Planning Authority by the date which is six months after the expiry of any subsequent temporary permission where a replacement planning permission for Curtis Yard has not been granted by that date.

The submitted scheme will be implemented as approved and include consideration of:

- The removal of buildings and hardstanding;
- Restoration treatments;
- Management;
- Timetable for implementation; and
- 5- Year aftercare

4. Orchard Lake

- 4.1 Phase C, and part of Phase B2, are within the "Radley Gravel Pits Local Wildlife Site", which extends to 171.7ha. The Ecological Assessment records that water vole, otter, bats, harvest mouse, great crested newt, red list and nationally protected birds, slow worm, adder, grass snake, nationally notable/scarce invertebrates, and five Red List moss/plants are present within the site.
- 4.2 We note that the Radley Lakes Trust are requesting that the ROMP Application is revised to limit gravel and sand excavation to Phase A and B only. Our Client endorses that request. Excavation from Phase C does not appear to be a necessary step towards achieving the longer-term positive impact of the ROMP development in a "County" context as identified in the Ecological Assessment. Our understanding is that the positive impact could be achieved without any work to Phase C (save to remove invasive species), and that this would lessen the identified negative medium-term effects in a "Local" context.
- 4.3 If the Council is not prepared to prohibit extraction on Phase C, we do consider that the proposed Condition 20 ("Environmental Protection: Ecology") should be amended so it is more robust.
- 4.4 We understand that the extraction is to occur in consecutive (rather than concurrent) phases, Phase A; Phase B1; Phase B2; and Phase C. Condition 20 requires a Landscape

and Ecological Management Plan to be submitted for approval prior to the commencement of mineral extraction. However, there is no requirement for updated Ecology Assessments and updated Landscape and Ecological Management Plans to be submitted prior to the commencement of each Phase. The extraction is permitted until 21 February 2042. If extraction on Phase C does not occur until 2035, over 12 years would have passed without such an assessment having been carried out, and the ecological profile of the site is likely to have changed significantly during that period.

- 4.5 We therefore propose the following amendments to the proposed Condition 20, and a new condition to deal with updated Ecological Assessments:

*20. Prior to the recommencement of mineral extraction **for each Phase** a Landscape and Ecological Management Plan shall be submitted to the Mineral Planning Authority for approval which includes the mitigation, compensation and enhancement in Section 7 of the Ecological Impact Assessment in Appendix C of the Environmental Statement, **or any updated recommendations made in the approved Updated Ecological Impact Assessment submitted under condition [X], as applicable.** The approved scheme shall be adhered to at all times.*

Proposed condition:

Prior to the commencement of mineral extraction for each Phase, if more than [2] years have passed since the last Ecological Impact Assessment for that Phase was carried out, an updated Ecological Impact Assessment for that Phase shall be submitted to and approved by the Mineral Planning Authority.

5. Conclusion

- 5.1 We consider that the above amended and new proposed conditions are necessary, relevant to the development to be permitted, enforceable and reasonable in all other respects. If officers are not minded to incorporate any of our suggestions, or would like to discuss the matter further, they are requested to contact Joanna Bassett of this firm at j.bassett@taylorwessing.com or on 020 3077 7240.

Yours faithfully



Taylor Wessing LLP

Further Addendum – Planning and Regulation Committee 23rd February 2026

Land at Thrupp Farm, Radley MW.0041/23

1. A further letter from letter from Taylor Wessing solicitors on behalf of a local resident was received on 12th February 2026 and is set out in Appendix 1 (copied previous letters are already included in the published Addendum to the committee report). Further e-mails have also been received by officers questioning the legal advice given by officers as informed by Counsel. The fundamental legal point being queried is with regard to whether the ROMP permissions DD1 and DD2 had ceased to have effect because no specific agreed extension of time for making the submission was received within a year of the service of notice of review of the conditions i.e. by 1st November 2016. If the permissions had ceased to have effect then there would no longer be any position for the council to consider the submission for the determination of conditions.
2. In the Addendum published with the committee papers, officers have referenced that whilst the membership of the committee has changed with the passage of time, at the meeting of the Planning and Regulation Committee on 18th July 2022, a report with regard to the Radley ROMP was considered. Paragraphs 32 and 33 of that report addressed the concern raised that the planning permissions DD1 and DD2 had ceased to have effect. Counsel's advice was obtained at that time on this point which informed the Officer report. Paragraphs 32 and 33 of that report are produced below:

32. Subsequent to the meeting on 6th September 2021, officers received representations from a member of the public drawing their attention to a ROMP site in North Lincolnshire. In this case, the court refused to include a site on the official list of ROMP sites after the date for inclusion expired because of the strict wording in the relevant legislation. The wording referred to stated that a planning permission not included in the first list shall "cease to have effect" on the day following the last date that an application may be made and there is no provision in statute to extend that date. The member of the public queried whether this similarly applied to the rules relating to submission of a ROMP Application, which states that where a ROMP review is underway, then the mineral permission shall cease to have effect on the day following the review date or on such later agreed date as may be agreed at any time in writing. As the review process allows for the postponement of the submission date to any date and at any point in the process, and as the Council has been and is in discussion with the developer as regards submission of the ROMP Application, members are advised that the strict regime referred to in the North Lincolnshire case does not apply.

33. However, the terms of the relevant statute are such that it is advisable to formally agree an extension to a specified date. This does not preclude the Council from extending that date in the future, but does make the position as to the making and accepting a ROMP application clear.

3. As set out in the published Addendum, the Resolution of the committee meeting on 18th July 2022 included that Officers seek to agree a date with H. Tuckwell and Sons Ltd. by which a ROMP Application would be submitted. In subsequent correspondence, the agent for H. Tuckwell and Sons Ltd. agreed to submit the ROMP application by 28th February 2023. The valid submission was received on 22nd February 2023.
4. The Counsel Opinion provided to the council in July 2022 which informed the officer advice to that committee meeting and so the committee's decision is set out in Appendix 2 along with the subsequent advice provided by exchange of e-mail with Counsel with regard to the more recent point raised with regard to the Vattenfall case which is

referenced in the original Addendum to the 19th January committee meeting and the more recent published Addendum.

5. It is clear that there is a difference of legal opinion between that provided by Counsel to the council and supported by your officers and that provided by third parties. It is not unusual for there to be contrary legal opinions provided with regard to Town and Country Planning matters. Such differences of legal opinion can arise when the law is open to interpretation. A definitive position is only likely to be reached should any party, the applicant or other party with an interest in the land or a third party, seek to challenge any decision the council takes on the ROMP application in the courts. It has been suggested by Taylor Wessing that a further counsel opinion be sought on whether the council has the jurisdiction to determine the ROMP application prior to the committee considering the officer report and its recommendation.
6. The option to defer consideration of the officer report for such a further legal opinion from Counsel is one that the committee can consider and the officer advice is that it is open to the committee to do having considered the legal points raised. A further counsel opinion would still be an opinion and no more a definitive position in law than that provided by the council's existing Counsel, that provided by Taylor Wessing or any other third party. The officer advice remains however that the Counsel opinion provided to the council has been provided by a barrister who specialises in environmental and planning law, her opinion is clear in the matter and the committee can reasonably rely on her advice in order to proceed to consider the officer report and its Recommendation. Should the committee defer consideration for further counsel opinion to be sought, there would be additional cost to the council and, whilst Taylor Wessing on behalf of their client have offered to fund this, this would not be appropriate any more than it would for it to be funded by the applicant or other party with an interest in the application site.
7. The applicant has the option of appealing against non-determination of the application and this will remain should the matter be deferred in order to seek further counsel opinion or for any other reason. The work associated with an appeal would incur further cost to the council and there would always be a possibility that the applicant or other third party may seek costs if the council is considered to have acted unreasonably, although the officer advice is that to date the council has not done so and the council may equally seek costs on the same basis. Similarly, should any decision made by the council be challenged in the courts there would be a risk of costs being awarded against the council but equally the council may successfully be awarded costs itself.
8. Taylor Wessing also raise concern with regard to that, if the committee proceeds to accept the officer Recommendation and refers the application to the Secretary of State for consideration of call-in for their own determination, the Secretary of State would be unlikely to call the application in and that officers should provide more advice to the committee. They refer to previous guidance provided in Minerals Planning Guidance 14: Environment Act 1995: review of mineral planning permissions as advising that the Secretary of State's call-in powers are used "sparingly". In other cases, such powers have typically been exercised in relation to planning applications which, for example: conflict with national policy; have effects beyond the immediate locality; give rise to national controversy; or involve interests of national security. They go on to state that whilst the ROMP Application is of significant local importance, it is not clear from the Committee Report how it would have effects that go beyond the immediate locality or otherwise meet the generally high threshold for call-in.
9. Whilst officers do not dispute the general pertinence of the above advice, MPG14 was in fact withdrawn as planning practice guidance on 7th March 2014 and replaced by the on-line planning practice guidance. The current planning practice guidance does not contain similar advice specifically in relation to ROMP applications. The planning practice guidance does contain general advice with regard to the call-in of planning applications

and the circumstances in which planning applications should be referred to the Secretary of State pursuant to the Town and Country Planning (Consultation) (England) Direction 2024. This applies to planning applications but does not reference being applicable to ROMP applications. The planning practice guidance goes on to say that the Direction is separate from, and does not affect or prejudice, the Secretary of State's general power under section 77 of the Town and Country Planning Act 1990 to direct that any particular planning application should be called in for determination by the Secretary of State.

10. There is then no specific guidance on the circumstances in which a ROMP application which is referred to the Secretary of State is likely to be called-in for their own determination. As set out in the committee report, the officer thinking behind recommending referral to the Secretary of State is that it seems that a circumstance exists with regard to this site which was not foreseen when the ROMP legislation came into effect in the 1990s and which similarly does not sit easily with the requirements placed on the Council by the ROMP legislation and the EIA Regulations. There is, in addition, a lack of legal authority on the correct interpretation of Schedule 14, paragraph 7. This lack of legal clarity is of significant national importance because of the legal consequences. Should the committee resolve to refer the ROMP application to the Secretary of State then the officer intention is that a covering letter would be provided with Counsel input to explain clearly to the Secretary of State the situation that pertains, that this is an unusual situation on which there is a lack of clear planning practice guidance and law as to how to proceed, and that in such a circumstance it does warrant the Secretary of State's consideration as to whether to intervene.
11. Finally, reference is made in paragraph 96 of the committee report that if the application were to be determined and it be concluded that the conditions restrict working rights and it be concluded that unreasonable prejudice will arise there would be a liability on the council as Mineral Planning Authority for compensation. The officer advice is that the scale of such compensation for a site containing an estimated one million tonnes of sand and gravel is likely to be of the order of several million pounds which would have to be met from the public purse and that this is a material consideration in the determination of the ROMP application.
12. As regards the use of the phrase "within time" as used in the addendum to the meeting of 19 January 2026, was effectively a 'short-hand' reference to a course of conduct by the Council that led it to determine that it could agree a date for submission of an application 'at any time' in accordance with Paragraph 7 of Schedule 14 and as set out in greater detail in the advice set out at Appendix 2 below.
13. The Council maintains that it is satisfied with the decision that was made in July 2022, but given the argument that has been forwarded by the objectors and on the basis that it is a point of national importance, a revised recommendation is proposed.
14. A revised recommendation is proposed

It is RECOMMENDED:

A That in the absence of there being a clear position in law to refuse the application to determine the conditions to which planning permission numbers DD1 and DD2 are to be subject due to an absence of authority on the effect of Schedule 14 paragraph 7 of the Environment Act 1995 and despite the significant adverse effect identified through the loss of irreplaceable and priority habitats, refer the application to the Secretary of State to consider whether to call the application in for their own determination;

B Should the Secretary of State decline to call the application in for their own determination, authorise the Director of Economy and Place to consider how to

proceed with the determination of the application including as appropriate consideration of the conditions set out in Annex 4 and provide a further report to the committee.

Appendix 1 – Taylor Wessing Letter

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Date
12 February 2026

Our reference
DEL108.U5/UJT B

Your reference
MW.0041/23

Representations on the ROMP application with the reference MW.0041/23 (for determination of conditions to which the mineral permissions will be subject relating to the land at Thrupp Farm, Radley, Abingdon, Oxfordshire) (the "ROMP Application")

Dear Mr Periam

1. Background

- 1.1 We act for the owner of the Wick Hall Estate, Radley, Abingdon, OX14 3NF (our "**Client**").
- 1.2 We write on behalf of our Client further to our letter of 18 January 2026 (our "**January Letter**"), which was submitted prior to the meeting of the Planning and Regulation Committee (the "**Committee**") on 19 January 2026. A report to the Committee was published in advance of that meeting (the "**Committee Report**"). Due to overrunning of the previous agenda item, consideration of the ROMP Application was postponed to the next meeting scheduled for Monday 23 February 2026 (the "**February Committee Meeting**").
- 1.3 Notwithstanding the representations made on behalf of our Client and others, there remains a fundamental question regarding the legal status of the mineral permissions which are the subject of the ROMP Application. We explained in our January Letter that these permissions appear to have ceased to have effect on 1 November 2016 in accordance with paragraph 7 of Schedule 14 to the Environment Act 1995 (the "**1995 Act**") and accordingly it is not open to the County Council to determine new conditions for these minerals permissions pursuant to the ROMP Application.
- 1.4 As the County Council is aware, paragraph 7 provides that where no ROMP application has been served by the review date (or by such later date as may at any time be agreed upon in writing between the applicant and the authority), the relevant mineral permission

shall cease to have effect (except insofar as it imposes any restoration or aftercare condition) on the day following the review date or later agreed date. In this case the review date was 31 October 2016.

- 1.5 Since our January Letter we have reviewed the Addenda to the Committee Report (the "**Addenda**") and have been provided with a copy of the legal opinion by Nina Pindham of No5 Chambers dated 1 July 2022. This additional information does not, in our view, resolve the fundamental question above but rather raises further questions. We understand that the County Council intends to take further legal advice and accordingly we set out below the questions we consider must be answered (and our view in relation to the same) in order for the County Council to reach a sound conclusion on how to proceed. We continue to urge the County Council to defer any further steps in relation to the ROMP Application until all such matters have been resolved in full.

2. Question 1: What was the status of the minerals permissions as at 1 November 2016?

- 2.1 Neither the County Council nor its legal advisors appear to have engaged with the question of the status of the minerals permissions **as at 1 November 2016**, this being the day after the review date. This is fundamental as, if appears to be the case, the minerals permissions ceased to have effect on this date then there would appear to be no legal basis for subsequently treating the minerals permissions as in effect and capable of being the subject of the ROMP Application.
- 2.2 We consider it clear that paragraph 7 of Sch 14 operated to bring the minerals permissions to an end on 1 November 2016 on the basis that on the review date:
 - (a) No ROMP application had been served on the County Council, with the ROMP Application in fact not being submitted until 26 January 2023.
 - (b) No later date for service of the ROMP application had been agreed between the County Council.
- 2.3 It follows from the above, applying paragraph 7, that the minerals permissions to which the ROMP Application relates ceased to have effect on 1 November 2016. Subject to our comments at paragraph 3 below, we do not consider that this point can be open to debate. However, it is essential that the County Council reaches its own definitive conclusion about the legal status of the mineral permissions as of 1 November 2016 to inform any decision on the ROMP Application. Failure to do so risks resulting in a fundamental legal error in the determination or otherwise of the ROMP Application. The question of whether the minerals permissions could subsequently be treated as being in effect is a separate matter which we consider at paragraph 4 below.

3. Question 2: Was an extension of time agreed *before* the review date?

- 3.1 We understand that no extension of time to submit a ROMP application was agreed between the applicant and the County Council before the review date of 31 October 2016, whether by reference to a specific future date for submission or generally.
- 3.2 This is apparent from the 1 July 2022 legal opinion of Nina Pindham which records that the County Council had reviewed all correspondence with the applicant and that the only relevant exchange identified was an email from the applicant to the Council on 1 December 2015 requesting an extension of time to submit a ROMP application, to which a Senior Planning Council Officer responded "*you are aware of the timetable for providing a ROMP*

application which is to 31st October 2016. Therefore, it is considered that there is sufficient time available for the Environmental Impact Assessment to be carried out and the submission made by the due date." This extract, if anything, appears to be a refusal of an extension of time and certainly cannot be read as agreement that a ROMP application could be served on a date later than 31 October 2016.

- 3.3 The absence of an agreement between the County Council and the applicant for an extension of time is also reflected in the officer's report to the 18 July 2022 meeting of the Committee which recommended that officers seek to agree a date with the applicant by which a ROMP application will be submitted – i.e. at this point some 5+ years after the review date no later date had been agreed.
- 3.4 We have reviewed various reports to the Committee concerning the minerals permissions dating back a number of years. While it is apparent that, from at least 2019-2020 onwards, there were discussions between the County Council and the applicant regarding the submission of a ROMP application (in the context of a potential prohibition order) we have not found any reference to an extension of time having been agreed between the applicant and the County Council prior to the review date such that, on 1 November 2016, the minerals permits would have remained in effect.
- 3.5 We have since our January Letter had the benefit of seeing the Addenda which states, for the first time so far as we are aware, that there is in fact correspondence between the applicant and the County Council within time (i.e. before the review date of 31 October 2016) pursuant to which it was agreed that a ROMP application may be submitted at a later date.
- 3.6 The Addenda does not provide any further detail regarding the correspondence. However, the existence of such an agreement appears to be inconsistent with both the understanding of the author of the 1 July 2022 legal opinion, on whose advice the County Council relies, and previous reports to the Committee. Given the significance of this point, we would urge the County Council to disclose the correspondence relied upon and report it to the Committee in full. A failure to do so risks misleading the Committee as to the factual position and, in turn, whether or not the minerals permissions remain in effect such that the ROMP Application can be entertained.

4. Question 3: Could an extension of time be agreed *after* the review date?

- 4.1 It appears from the 1 July 2022 legal opinion that the County Council has been advised that the minerals permits did not cease to have effect on 1 November 2016 on the basis that paragraph 7 provides that the County Council and the applicant may "at any time" agree that a ROMP application can be submitted at a later date. On this interpretation, the review date could pass without agreement that a ROMP application could be submitted at a later date and the County Council could subsequently – potentially years or decades following the review date – agree with the applicant that a ROMP application may be submitted.
- 4.2 We understand why this interpretation may be attractive given the phrase "at any time"; however, it fundamentally fails to engage with the status of the minerals permissions between the review date and the future date when an extension to submit a ROMP application is agreed. We consider paragraph 7 to be unambiguous that minerals permissions cease to have effect on the day after the review date where no later date to submit a ROMP application has been agreed. Having ceased to have effect, it cannot be possible to in the future agree a date for a ROMP application to be submitted, as the

minerals permissions that would have been the subject of such an application have been extinguished.

- 4.3 The County Council appears to have taken the position on 1 November 2016 that, rather than ceasing to have effect, the minerals permissions instead entered into a dormant state of some description but remained sufficiently "live" that they could be the subject of a future ROMP application if and when a later date for submission of such a ROMP application was agreed.
- 4.4 It appears that the County Council misinformed itself at this juncture and applied Regulation 54 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (which provides for a site to be put into suspension where a ROMP application has been submitted but without an environmental statement) rather than paragraph 7 of Schedule 14 to the 1995 Act (which as explained above provides that a minerals permission will cease to have effect where a ROMP application has not been submitted and no later date for submission has been agreed). This is reflected in the County Council's letter of 11 November 2016 advising the applicant of the "suspension" of the site.
- 4.5 The County Council's approach was incorrect in law as suspension was not possible in this case given that no ROMP application had been made. This is confirmed by the 1 July 2022 legal opinion with which, in this regard, we agree. However, rather than correcting this error, the County Council appears to have perpetuated the error by continuing on the basis that the minerals permissions were suspended or otherwise dormant (rather than no longer being in effect per paragraph 7) and accordingly were capable of being the subject of a future ROMP application.
- 4.6 It appears to us that the County Council's approach is unsound. The 1995 Act does not provide any statutory mechanism to suspend or make dormant a minerals permission when paragraph 7 of Schedule 14 is engaged. Nor does it provide any statutory mechanism to subsequently "revive" a minerals permission which has ceased to have effect, whether through agreement at a later date that a ROMP application may be submitted or otherwise. We do not believe that that such a mechanism can be read into paragraph 7, which is clear that a minerals permit will cease to have effect on the day after the review date where no ROMP application has been submitted or later date for submission agreed.
- 4.7 In our view, it would be absurd to read paragraph 7 in a manner which allowed for a later date for submission of a ROMP application to be agreed at any time at all, including after the review date. As noted in our January Letter, this would create widespread uncertainty for land use planning as it would allow minerals permissions which had been extinguished to be brought back into effect years or decades after the review date, in circumstances where extraction activities have long since ceased and the use or nature of the site has moved on. This is manifestly inconsistent with the "evident statutory purpose" of the 1995 Act as identified in *R v North Lincolnshire Council ex p. Horticultural and Garden Sales (Humberside Ltd)* [1998] Env LR 295 which is that "there should be certainty and finality as to the sites enjoying mineral planning permission".
- 4.8 As explained in our January Letter, we consider that a more appropriate and reasonable interpretation of paragraph 7 is that a later date for submission of a ROMP application may be agreed at any time before the review date. This is consistent with the principle established in the Scottish case, *Vattenfall Wind Power Ltd v Scottish Ministers* [2009] CSIH 27, which found that any agreement to extend time must be made before the expiry of the prescribed period. This case concerned planning time periods and statutory

provisions which are materially similar to paragraph 7, including the reference to an extension which may "at any time be agreed".

- 4.9 The Addenda suggests that the County Council has since considered *Vattenfall* but concluded that it differs from the current case as in *Vattenfall* there was no planning permission in existence and so no property rights under consideration. We do not agree that there is a distinction as in the current case there is also no planning permission in existence, the minerals permissions in question having ceased to have effect on 1 November 2016. However, even if that were not the case, we consider that the principle in *Vattenfall* is at least persuasive, if not directly relevant, to applications under Sch 14 of the 1995 Act and we would urge the County Council to give it due consideration in taking further advice on whether an extension to submit the ROMP Application could be agreed after the review date.

5. Question 4: What is the status of the ROMP Application if the minerals permissions have ceased to have effect?

- 5.1 If the County Council concludes that the mineral permissions have ceased to have effect, as we consider must be the case for the reasons above, the ROMP Application will become incapable of determination. We therefore recommend that the County Council should consider how to deal with the ROMP Application procedurally in such circumstances.
- 5.2 It is our view that the ROMP Application was likely never valid from the outset as the minerals permissions to which it purports to relate had ceased to exist. Local planning authorities have no discretion to determine planning applications which fail to comply with statutory validation requirements. Section 327A of the Town and Country Planning Act 1990 (the "**1990 Act**") provides that local planning authorities must not "entertain" an application that fails to comply with statutory requirements. Validity is therefore a matter of law, not discretion. We consider that this principle applies equally to applications to determine the conditions of a minerals permission under Sch 14 of the Act (in the same way as it applies to an application to amend or vary the conditions of an existing planning permission pursuant to the 1990 Act).
- 5.3 According to the Committee Report, the ROMP Application was validated on 22 February 2023. Given the statutory position that no invalid application can be entertained, we consider that an erroneous validation should be capable of reversal. This is a view shared by legal commentators.¹ This would result in the ROMP Application being invalidated and the application and associated fee being returned to the applicant.
- 5.4 The reversal of validation must be possible to give effect to the intention of the statute. If an application is validated but a procedural error or legal deficiency is later revealed, it must be open to the authority to correct that error. To allow a legal deficiency to persist just because validation has already occurred cannot be right. We are not aware of the County Council having taken any legal advice on the steps that should be taken if the ROMP Application is in fact invalid, despite concerns about its validity having been raised on behalf of our Client and in other third party representations. We would encourage the County Council to do so, as it may be that the most appropriate route is to simply reverse the validation and return the ROMP Application to the applicant.
- 5.5 The above approach may appear onerous but it does not mean that the applicant cannot continue to pursue its proposals for extraction activities at the ROMP Application site. Indeed, it is open to the applicant at any time to submit an application for planning

¹ See for example the following commentary: [Solid foundations: avoiding problems with registration and validation - No5 Barristers' Chambers](#)

permission for mining operations. Such an application could be informed by, and reuse where appropriate, the material already prepared by the applicant for the ROMP Application. As was the case in *R v North Lincolnshire County Council*, it would be open to the County Council to agree with the applicant, through a planning performance agreement or otherwise, the timescales within which any such application would be determined to provide the applicant with certainty that the process will be brought to a conclusion. This may well be the safest option for both the applicant and the County Council and appears to us to be a reasonable position to take, noting that the applicant was aware that the application was required to be submitted by 31 October 2016 and elected not to do so.

6. Question 5: Is there a realistic prospect of the ROMP Application being referred to the Secretary of State?

- 6.1 The Committee Report proceeds on the basis that there is an absence of a position in law to refuse the ROMP Application. It accordingly sets out the recommendation of officers in two parts: (i) to refer the ROMP Application to the Secretary of State for its consideration as to whether it will call in the application for determination; and (ii) should the Secretary of State decline to call in the application, to authorise the Director of Economy and Place to determine the conditions to which the minerals permissions will be subject which will not include conditions restricting development in areas of irreplaceable and priority habitats (the "**Recommendations**").
- 6.2 We are concerned that the Committee Report does not properly inform the Committee with regards to the legal position, noting that the finding there is no position in law to refuse the ROMP Application does not take into account the possibility that the ROMP Application was never valid and should be returned to the applicant for the reasons we outline above.
- 6.3 Even if that were not the case, we remain concerned that the Committee Report may erroneously lead the Committee to believe that referral to the Secretary of State is a panacea to both the County Council's reluctance to approve an "*unacceptable significant adverse effect...through the loss of irreplaceable and priority habitats*" and to the legal and procedural irregularities. The Committee Report presents referral to the Secretary of State as a reasonable basis on which to proceed, while failing to inform the Committee about matters such as the grounds on which the Secretary of State could call in the ROMP Application and, crucially, the likelihood of the Secretary of State exercising such powers.
- 6.4 The 'Minerals Planning Guidance 14: Environment Act 1995: review of mineral planning permissions' states at paragraph 66 that the Secretary of State's call-in powers are used "sparingly". In other cases, such powers have typically been exercised in relation to planning applications which, for example: conflict with national policy; have effects beyond the immediate locality; give rise to national controversy; or involve interests of national security. Whilst the ROMP Application is of significant local importance, it is not clear from the Committee Report how it would have effects that go beyond the immediate locality or otherwise meet the generally high threshold for call-in.
- 6.5 Further, should the Secretary of State decline to call in the ROMP Application, the Recommendations would require the Director of Economy and Place to determine the conditions, rather than referring the matter back to the Committee. To leave the Recommendations as they stand risks, in our opinion, amounting to a virtual determination of the ROMP Application. The combination of an unlikely call-in and automatic Director determination effectively removes meaningful Committee oversight of the final outcome. Accordingly, should the County Council reach a different view to us on whether the ROMP Application is valid and capable of determination, we suggest that the Committee Report is supplemented to ensure the Committee is properly advised of the realistic prospects of

call-in and to provide for the matter to be returned to the Committee in the event the ROMP Application is not called-in, should the Committee resolve this to be appropriate.

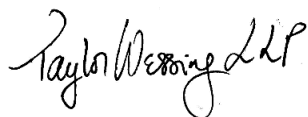
7. Next steps

- 7.1 We understand that the Committee will consider the same Committee Report and Recommendations at the February Committee Meeting as were prepared for last month's meeting.
- 7.2 This does not preclude officers from presenting updates by way of a further addenda to the Committee Report including on the legal issues raised in this letter. We would urge the County Council not to rush this process, but to ensure that the complex legal issues surrounding the ROMP Application are fully considered. It may well be appropriate and necessary for a decision on the ROMP Application to be deferred until full advice on the legal position can be put before the Committee to inform its decision making. Notwithstanding the existing Recommendations in the Committee Report, officers should ensure that it is made clear to the Committee that deferral is an option open to members and supported by officers (if that is the case).
- 7.3 We would also be grateful if this letter would be passed on to the Committee.

8. Conclusion

- 8.1 Failure to consider the fundamental legal issues which surround the ROMP Application exposes the County Council to avoidable challenge (by both the applicant and third parties) and associated costs. We urge the County Council to obtain comprehensive legal advice on the legal status of the ROMP Application before taking any further steps, including on the question of whether the ROMP Application should be treated as invalid and the applicant invited to submit a fresh application for planning permission for mining operations. It should be made expressly clear to the Committee that it is open to members to defer consideration of the ROMP Application until these matters have been resolved.
- 8.2 We trust that the County Council will give the legal issues the serious consideration they require and we should be grateful to receive a response to the questions posed in this letter. To the extent that we or our Client can be of any further assistance in resolving these matters please do not hesitate to contact Kate Little (K.Little@taylorwessing.com) and Emma Tait (E.Tait@taylorwessing.com) of this firm.

Yours sincerely



Taylor Wessing LLP

Enclosed

TWL to the County Council dated 18 January 2026

Appendix 2 – Counsel Advice to Oxfordshire County Council

Introduction and 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, and Radley – Thrupp Farm, collectively “the site”). Viable deposits of sand and gravel lie within the site and H. Tuckwell & Sons Ltd is presently in the process of putting together an environmental statement to accompany a ROMP application so as to work out the remainder of the deposits.
2. As I have previously advised on this matter, I do not propose to repeat any of the relevant background details here. It suffices to note the latest position, being the decision made at the Council’s Planning and Regulation Committee meeting of 6 September 2021 to defer a decision on whether to make a partial prohibition order over the parts of the site which were not going to be worked out to the July 2022 meeting of the Committee, with the expectation being that the operator would by that time have submitted the ROMP application accompanied by an environmental statement for the whole of the site. The date of the July meeting to which the decision is deferred is 18 July 2022.
3. Following this decision, officers received correspondence from the Parish Council and from one particular respondent, Mr Roger Thomas. Mr Thomas reviewed the case of R v North Lincolnshire Council ex p. Horticultural and Garden Sales (Humberside Ltd) [1998] Env LR 295 and argues that the effect of paragraph 12 of Schedule 13 of the Environment Act 1995 (“the 1995 Act”) (as applied in the case of North Lincolnshire) applies to the present situation under Schedule 14 of the 1995 Act. Despite the harshness of the outcome, the judge held (“with regret, but without hesitation”) in that case that the statute meant precisely what it said, and that the permission had been statutorily extinguished. Here the operator has not made an application as required within the statutory time limit. Thus, in his opinion the wording “ceases to have effect” in paragraph 7 of Schedule 14 means that the extant planning permission falls away.
4. For completeness, I note the process carried out by the Council (in accordance with Schedule 14) was as follows:

- (1) the review notice was served on 13 October 2015 setting out that the first review date was 31 October 2016.
- (2) the written reminder, which is required to be sent 4 weeks before the first review date was not served. I have previously advised that I do not consider that this was fatal to the process in light of all the circumstances and applicable case law.
- (3) A letter notifying the District Council and owners of the suspension of the site was sent on 11 November 2016.

5. Instructing solicitor's view is that Schedule 14 operates as follows:

- (1) Paragraph 4 allows the Council to serve a notice informing the operator of the date by which they have to submit a ROMP application (the Council has done this);
- (2) Paragraph 5 enables the operator to apply for that date to be postponed by up to 3 months (the operator has not done this);
- (3) Paragraph 6 sets out the 'rules' around making and determining a ROMP application;
- (4) Paragraph 7 set out what happens if a ROMP application is not made.

6. I highlighted a difference in relevant Schedules to the 1995 Act above. Instructing solicitors note the use of the words "or by such later date as may at any time be agreed upon in writing between the applicant and the authority" in paragraph 7 of Schedule 14 does not appear in paragraph 12 of Schedule 13. I pause here to confirm my view this means that, notwithstanding the statutory framework for extension of time in paragraph 5 of Schedule 14, the Council and operator are able to agree a later date for submission of a ROMP application "at any time". The consequences of this are dealt with below in my advice.

7. However, I am instructed that the Council has reviewed all of the correspondence with the operator and its advisers since 13 October 2015 and has not found anything that it is confident considers complies with either paragraphs 5 or 6 of Schedule 14 to the 1995 Act.

8. There was one email exchange that the Council considers warrants my opinion. This consists of an email exchange between the Council and John Salmon, the agent for the applicant. Mr Salmon emailed the Council on 1 December 2015 and in paragraph 6 asked for an extension of time: "Would you be willing to agree an extension of time to provide the ROMP conditions...". No date was actually proposed, and Kevin Broughton, Senior Planning Officer, responded for the Council: "you are aware of the timetable for providing a ROMP application which is to 31st October 2016. Therefore it is considered that there is sufficient time available for the Environmental Impact Assessment to be carried out and the submission made by the due date."

9. Accordingly, officers are of the view that a ROMP application has not been made and no extension of time has formally been agreed between the parties. I agree. I certainly do not consider this email correspondence would satisfy a court that it is an agreement to an extension in writing.
10. The question therefore becomes whether there is any other agreement in writing to delay submission, and particularly, whether the decision of the Committee might amount to an agreement in writing for paragraph 7 of Schedule 14, or whether there is any other reason why the courts would consider the permission cannot be said to be extinguished.
11. A final matter arises. Regulation 54 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the 2017 Regulations”) puts a ROMP site into suspension where an environmental statement has not been submitted with a ROMP application. It is only once a site then remains in suspension for two years that the duty to make a prohibition order arises, but only where the authority is satisfied that the winning and working of minerals has permanently ceased. It appears to those instructing to say that suspension only applies where, as is set out in reg 54(1), the authority (or the Secretary of State or an inspector) is dealing with a ROMP application (or an appeal arising from a ROMP application).
12. In light of the above I am instructed to advise on the following:
- a) The effect of paragraph 7 of Schedule 14 and does *North Lincolnshire* apply to the interpretation of paragraph 7;
 - b) Whether suspension under reg. 54 possible if no ROMP application has been made;
 - c) If I consider that the permissions DD1 and DD2 have ceased to have effect, or that *R V North Lincolnshire* is persuasive of the fact that this is the likely effect of Paragraph 7, advice is sought on what action the Council should take and what challenges might be faced;
 - d) Whether Mr Thomas’ interpretation is correct, that is, is it the case that the Council cannot now determine any ROMP application despite its public statement at P&R Committee that it intends to consider the ROMP application which the operator has said they intend to submit in June or July of this year;
 - e) Whether either the statements at P&R Committee or any of the correspondence supplied amount to an agreement in writing such that the effect of paragraph 7 is delayed, and if so, can Counsel confirm the date (for the purposes of that agreement in writing) by which she considers a ROMP application must be made;
 - f) If the effect of the *North Lincolnshire* is that paragraph 7 means that the permissions have ceased to have effect and no ROMP application may now be

lawfully made and determined (or that the application of Para 7 is delayed until a date agreed in writing for the submission of a ROMP application), the Council would propose that Counsel prepares a legal opinion to be given to the operator (in advance of the next committee meeting at which a decision is intended to be made), setting out the position and asking them for their opinion of the legal position;

- g) Should the Council decline to consider any ROMP application on the basis that as a result of Paragraph 7 the extant permission no longer exists, does the operator have any means of challenging the Council's decision other than via judicial review;
- h) If the Council accepts and determines a ROMP application, is the Council vulnerable to judicial review from an objector who considers that, as set out by Mr Thomas, the permission ceased to have effect when the first review date expired without submission of a ROMP application and that the Council had not power to determine a ROMP application from the operator;

Advice

13. I can be quite clear at the outset. The Council cannot declare that under paragraph 7 of Schedule 14 the permissions relating to the entire Radley ROMP site cease to have effect. There are a number of reasons for this which I deal with in more detail below. But the key point is this: the statute entitles the Council to agree an extended deadline to serve the application under paragraph 6 of Schedule 14 of any date at any time. That agreement can be made tomorrow with a deadline of ten years from now: the statute gives that much discretion to the Council. It need only be exercised in a Wednesbury rational manner.

14. The procedure here, as opposed to that in the North Lincolnshire case, was carried out under Schedule 14. The statutory language is materially different. It therefore follows that the case is of limited relevance, though I accept entirely Mr Thomas' point that the same language used in one part of a statute ought to be interpreted the same elsewhere in the statute unless the context indicates otherwise. He is absolutely correct. But the Council's decision has to be based on the relevant statutory language, applied to the relevant facts.

15. Starting with the statutory language, paragraph 7 of Schedule 14 states:

"Where no application under paragraph 6 above in respect of a mining site has been served on the mineral planning authority by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral permission—

(a) relating to the site; and

(b) identified in the notice served in relation to the site under paragraph 4 above,

shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the first review date or, as the case may be, such later agreed date."

16. For completeness, in comparison, paragraph 12 of Schedule 13 says:

“A relevant planning permission which relates to a Phase I or II site not included in the first list shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the last date on which an application under sub-paragraph (1) of paragraph 6 above may be made in respect of that site”

17. Further, under paragraph 5 of Schedule 14 if, within the period of three months of the mineral planning authority having received an application under paragraph 5 (or within any agreed extended period), the authority have not given notice to the applicant of their decision on the application, the authority shall be treated as having agreed to the first review date being “postponed” to the date specified by the applicant in their submission (paragraph 5(5)). Paragraph 6(8) contains a provision to similar effect in relation to the conditions: the conditions specified in the application being proposed are given statutory effect if the authority does not determine the application in time.

18. There is no option to extend time in Schedule 13 and it has no relevance here. The two Schedules serve entirely different purposes. Schedule 13 operates as the imperative initial review of old mineral permissions, which would not be subject to modernised conditions. A strict regime was therefore accordingly imposed. Whereas Schedule 14 applies to any subsequent periodic review of permissions which have already been through the modernisation process. I therefore do not consider Schedule 13 further. Schedule 14 allows any minerals planning authority to agree an extended date “at any time...in writing”. There is nothing to stop the Council from writing to the applicant here and formally agreeing an extension to a specified date to make the application. That is advisable to put the matter beyond doubt, secure the Council’s position against a potential judicial review from objectors, and cease any further hares from running (on this matter at least). I make this suggestion because in my view as a matter of public law the applicant would have several grounds to challenge a decision by the Council to declare the permissions ceased to have effect. In making this statement I have taken into account that statutory language always applies irrespective of the behaviour, statements, or agreements made by any individual actors and irrespective of any perceived or actual unfairness that may arise. The law, as always, takes precedence.

19. In legal terms, a clear and obvious legitimate expectation has been raised that the Council has agreed an extension to submit the application in principle. So the full force of paragraph 7 does not yet apply because an extension exists, albeit there is no specified date. The reason I consider a clear deadline to that extension is required is because the statute states

that the agreement to extend is to be to “such later date as may at any time be agreed upon in writing between the applicant and the authority”. But the failure to specify a date is not fatal because the statute also says this agreement can be made at any time. As I said above, if agreement is forthcoming that time can be tomorrow or any date in the future.

20. There is a particular danger of legal challenge here as the law on legitimate expectations is continuously developing. This means the courts have historically applied the legal duty to ensure fairness whenever the established categories require expansion. Even now however, the settled law is clear on what would happen in these circumstances. The Council cannot, as a matter of law, in the circumstances declare that the permission ceases to have effect based on paragraph 7 of Schedule 14.
21. Where a clear and unambiguous undertaking (this does not mean a formal legal undertaking) has been made, the authority giving the undertaking will not be allowed to depart from it unless it is shown that it is fair to do so (Re Finucane’s application for judicial review [2019] UKSC 7 per Lord Kerr). Here the relevant undertaking is that the Council will entertain the ROMP application being progressed by the applicant. Prejudice is also a factor in determining whether a legitimate expectation has arisen, and here the extensive list of work the applicant has already carried out in relation to the environmental statement helpfully provided in my instructions proves beyond doubt that huge prejudice would be caused (not to mention the loss of valuable planning permission).
22. Those instructing also raised human rights considerations and I agree that there would potentially also be a breach of A1P1 of the ECHR (as enshrined domestically through the Human Rights Act 1998, “the 1998 Act”) and possibly Article 8. “Possessions” as used in A1P1 are not limited to physical goods (Gasus Dosier-und Fordertechnik GmbH v The Netherlands (1995) 20 EHRR 403) and will include the benefit of planning permission here in light of the lengthy case law on the meaning of “possessions”. Any interference with these rights must be “in the public interest”. The public interest here is, in my view, set out in national and local planning policy. That is to exploit the nation’s minerals wherever they are found provided that can be made acceptable as a matter of planning. I cannot see how declaring permission to be of no effect could be considered to be of benefit to the wider public. Finally on the human rights point, s.3 of the 1998 Act provides that all legislation must be must be read and given effect in a way which is compatible with the Convention rights so far as possible. This means the courts would read paragraph 7 in the applicant’s favour, as noted earlier by those instructing.

23. Turning to reg. 54 of the 2017 Regulations, this provides (so far as relevant):

“54.— Suspension of minerals development

(1) Where the authority, the Secretary of State or an inspector is dealing with a ROMP application or an appeal arising from a ROMP application and notifies the applicant or appellant, as the case may be, that—

- (a) the submission of an environmental statement is required under regulation 11(1), 13(3) or 14(5), then such notification must specify the period within which the environmental statement and compliance with regulation 20(6) is required; or
- (b) a statement should contain further information under regulation 25(1), then such notification must specify the period within which that information is to be provided.

(2) Subject to paragraph (3), the planning permission to which the ROMP application relates shall not authorise any minerals development

if the applicant or the appellant does not—

- (a) write to the authority or Secretary of State within the 6 week or other period agreed pursuant to regulation 11(4), 13(6) or 14(7);
- (b) submit an environmental statement and comply with regulation 20(6) within the period specified by the authority or the Secretary of State in accordance with paragraph (1) or within such extended period as is agreed in writing;
- (c) provide additional information within the period specified by the authority, the Secretary of State or an inspector in accordance with paragraph (1) or within such extended period as is agreed in writing; or
- (d) where a notification under regulation 6(5), 7(3), 15(3) or 16(3) has been received, provide the additional information requested within 3 weeks beginning with the date of the notification, or within such extended period as may be agreed in writing with the authority or Secretary of State, as the case may be.

(3) Where paragraph (2) applies, the planning permission shall not authorise any minerals development from the end of—

- (a) the relevant 6 week or other period agreed in writing as referred to in paragraph (2)(a); and
- (b) the period specified or agreed in writing as referred to in paragraph (2)(b), (c), and (d),

until the applicant has complied with all of the provisions referred to in paragraph (2) which are relevant to the application or appeal in question.”

24. ROMP application is defined in reg. 2 of the 2017 Regulations as:

“an application to a relevant mineral planning authority to determine the conditions to which a planning permission is to be subject under—

- (a) paragraph 2(2) of Schedule 2 (registration of old mining permissions) to the 1991 Act;
- (b) paragraph 9(1) of Schedule 13 (review of old mineral planning permissions) to the 1995 Act; or
- (c) paragraph 6(1) of Schedule 14 (periodic review of mineral planning permissions) to the 1995 Act.”

25. It follows that where there is no application to the Council to determine the conditions to which a planning permission is to be subject (as here under paragraph 6 of Schedule 14) reg. 54 is not triggered.

Conclusion

26. The effect of paragraph 7 of Schedule 14 means that the Council is entitled to agree an extension at any time (including now and in the future). If it does not agree to an extension, then paragraph 7 would be triggered.
27. North Lincolnshire applies to the interpretation of paragraph 7 insofar as the language should be read consistently across the entirety of the 1995 Act unless otherwise indicated.
28. Suspension under reg. 54 is not possible if no ROMP application has been made because the statutory wording is clear: "Where the authority, the Secretary of State or an inspector is dealing with a ROMP application or an appeal arising from a ROMP application". If there is no application, reg. 54 does not apply.
29. I do not consider the relevant permissions have ceased to have effect because the statutory language allows an applicant and authority to work out a bespoke timeline between themselves (quite unlike the regime at issue in North Lincolnshire). That said, a belt and braces approach warrants a clear and unambiguous confirmation in writing that an agreement to extend time for the submission of the ROMP application to a specified date exists between the Council and the applicant here.
30. It follows that the Council can determine the ROMP application in line with its public statement at Committee that it intends to consider the ROMP application that will be submitted.
31. I consider the statements at Committee (as recorded in the relevant documents) amount to a partial agreement such that the effect of paragraph 7 is put in abeyance. There is clearly an agreement, though the date (for the purposes of serving the application) has not been specified and there is nothing directly between the applicant and the Council which serves that purpose. To be clear, public statements, in writing, and a lengthy period of correspondence concerning an application, clearly indicate there is an agreement in place but it would put the matter beyond doubt if a simple agreement to submit the application by X date was put down in writing directly between the Council and the applicant.

32. The effect of North Lincolnshire is not that paragraph 7 means that the permissions have ceased to have effect and no ROMP application may now be lawfully made and determined. Schedule 14 allows for a far more flexible approach to be taken between the parties; that approach simply is not available under Schedule 13.
33. It follows that the Council cannot decline to consider any ROMP application on the basis of paragraph 7. If that happened the operator would have a large number of legitimate grounds of challenge to the Council's decision via judicial review.
34. To put the Council's acceptance and determination of the ROMP application beyond the scope of an application for judicial review from an objector, I advise a simple agreement be made as set out above.
35. I trust that I have addressed the question posed by those instructing. If I may be of any further assistance please do not hesitate to contact me in the usual way.

Advice provided 15th January 2026

Third Party Representation received on which Counsel Advice was sought:

REDACTED

15. January 2025

Dear David,

I write to you as the officer in charge of the Radley ROMP and copying in the Chair and Vice Chair of the Committee prior to the meeting

It is clear from your report that OCC officers feel that the ROMP application should not be approved, because of the level of ecological harm involved. I intend to address this issue on Monday at the committee meeting.

There are, however, also legal reasons why, on Monday, the application should be dismissed (or, more strictly, should not be entertained).

It has previously been suggested that the planning permissions in question "ceased to have effect" on 1 November 2016 in the light of the fact that no ROMP application at all had been submitted by the review date of 31 October 2016.

OCC took counsel's advice on this point, and was advised that the words "at any time" in para. 7, Sch. 14, Environment Act 1995, allowed OCC and the applicant to agree a new review date, even long after the original review date had passed.

We have received informal advice on this from an experienced planning counsel. As part of that, our attention has been drawn to the case of *Vattenfall* (2008). I attach a photocopy of a report on it. This is a Scottish case, but involves the same statutory language as is found in the English planning statutes. The case was about the time frame for lodging a planning appeal and it turned on the interpretation of the words:

"Within such period as may be prescribed by regulations or a development order or within such extended period as may at any time be agreed upon in writing between the applicant and the authority."

The planning authority failed to make a decision within the prescribed period of four months. The applicant then had six months in which to lodge an appeal, but did not do so. Some significant time after the expiry of the six months, the applicant and the local authority made (or purported to make) an agreement in writing to extend the time within which a decision could be made. After the planning authority failed to make a decision in the extended period, the applicant then lodged the appeal, but this was rejected by Scottish Ministers as being out of time.

The court rejected the argument that an applicant and local planning authority can agree a new period for making a decision, when that agreement is made after the end of a period defined by law. This was despite the fact that the relevant statutory power to extend time could be exercised *at any time* (see paragraph 6). As one would expect, the right to appeal having arisen in 2004, it could not be appealed in 2008.

The parallels with the Radley ROMP are clear. If *Vattenfall* is right, it is clear that the mineral permissions which OCC is proposing to consider on Monday have ceased to have effect. The first review date was 31 October 2016. Para. 7, Sch. 14 says that, if no ROMP application is submitted by the review date or "by such later date as may be agreed [etc]" then the permission ceases to have effect on the following day. *Vattenfall* is clear authority for the proposition that any agreement to extend time must be made before the expiry of a prescribed period.

Your Counsel was apparently unaware of *Vattenfall* which accordingly was not considered in the advice; if *Vattenfall* is correct, the advice must be wrong.

It is not possible to extend the time for making a decision on a ROMP application when the old mineral permissions involved have already ceased to have effect. As one would expect, the mineral permissions having ceased to be of effect in 2016, they cannot be revived by an agreement to extend time in 2022.

Such an interpretation accords with both the purpose of the ROMP legislation (which was to bring 'certainty and finality' to the question of which sites enjoy mineral permission) and with logic. OCC's interpretation, if upheld, could lead to widespread uncertainty, because it opens up the possibility of long-dead mineral permissions being revived, simply by a mineral planning authority and an operator agreeing to a new review date, even many years after the original review has passed and the permission have lapsed.

This could give rise to all manner of undesirable consequences, such as mineral extraction being recommenced in locations where it is plainly inappropriate, because of changes in circumstance since the old permissions were extinguished for failure to submit a ROMP application in time.

This is, in fact, exactly, the position at the Radley ROMP. Since 2016, when the permissions lapsed, the ecological value of the proposed extraction area seems likely to have increased significantly, and awareness of the need to protect and maintain biodiversity has certainly grown substantially, including at the level of law and policy.

The ROMP legislation is designed precisely to prevent the recommencement of extraction in such a situation.

In summary, OCC has no basis for proceeding to consider the ROMP applications on Monday. OCC needs to consider the implications of *Vattenfall* for what it proposes to do. In all the circumstances, we suggest that OCC should take further advice from a KC who is experienced in minerals planning, before proceeding any further.

Please let me know if you would like to discuss any of the above.

Yours sincerely,

Andrew Coker

REDACTED

Counsel Advice:

First, the correspondence between the parties at the relevant time indicates the Council implicitly accepted an extension within time notwithstanding the failure to specify a precise date. A broad interpretation of "at any time" is capable of accommodating these unusual circumstances. Indeed such an interpretation of the specific legislation in question is arguably legally mandatory in order to protect Article 8 and A1P1 rights for reason 2 below: Marleasing confirms that legislation must be read in a way that renders it compatible with such rights. *Vattenfall* concerned an extension which was only granted after time had run out and there were no acquired rights at issue.

Second, following on from that, I do not consider *Vattenfall* is at all relevant. It concerns a right to appeal a refusal which the appellant failed to take up in time. No property rights were lost. Here the matter concerns an extant permission that would be lost. The courts will take a different approach to interpretation based on the very different legal context of these two situations.

Advice provided 6th February 2026

Counsel advice in relation to Taylor Wessing letter dated 18th January 2026 is that no new points had been raised further to the above advice.

**Oxfordshire County Council
New Road
Oxford
OX1 1ND**

**Robin Rogers
Director of Economy and
Place**

Date:05/03/2026

The Rt Hon Steve Reed OBE
Secretary of State for Housing, Communities and
Local Government
Planning Casework Unit
23 Stephenson Street
Birmingham
B2 4BH

By email: pcu@communities.gov.uk

Dear Mr Reed

Application for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2), Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid Ref: SU 51539 97065 – request for Call-in of application

This is a request for the Secretary of State to use his power as set out in Schedule 14, paragraph 8 of the Environment Act 1995 to call in an application for determination of the conditions to which a planning permission is to be subject (reference MW.0041/23) concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (“the site”).

The application was submitted to Oxfordshire County Council (“the Council”) on 26 January 2023 (validated on 22nd February 2023) under Schedule 14, paragraph 6 of the Environment Act 1995. The deadline presently agreed with the applicant for determination of the application is 27 March 2026. The application documents and all consultation responses and comments received are available to view on the council’s Planning Applications website here:

[Planning Register | Oxfordshire County Council](#)

The conditions proposed by the applicant are set out in Annex 1. The officer’s report and addenda to committee are set out at Annex 2 which includes as Annex 4 to the officer’s report the officer suggested conditions. On 23 February 2026 the Council resolved to request the Secretary of State call in the application for his own determination given the significant areas of legal and policy conflict and lack of precedent. The matter concerns national legislation and policy and would set a precedent in its own right for a large number of subsequent applications. For these reasons, and in the interests of promoting consistency in the interpretation of national law and policy, it is considered this is an application best determined by the Secretary of State.

There is no guidance on the exercise of the power to call in an application under Schedule 14 of the Environment Act 1995. Guidance formerly issued by the Office of the Deputy Prime Minister, “Minerals Planning Guidance 14: Environment Act 1995: review of mineral planning permissions” did consider, briefly, the equivalent power under paragraph 13 of Schedule 13 of the Environment Act 1995. That Guidance (when it was in force, now being replaced by the PPG) provided at §66:

“The Secretary of State may give directions requiring applications for the determination of conditions to be referred to him rather than being dealt with by the mpa. Such directions may relate either to a particular application or to a class of application (eg a particular mineral type). The Secretary of State intends to use this power vary sparingly along the same lines as his power of call-in for planning applications generally.”

That power to call-in planning applications generally is set out at s.77 of the Town and Country Planning Act 1990. The wording, with necessary modifications, of s.77 and Schedule 14, paragraph 8 are nearly identical. A written ministerial statement dated 26 October 2012 sets out a non-exhaustive list of the government’s criteria for calling-in planning applications. So far as relevant these (non-exhaustive) criteria are matters which, in the Secretary of State’s opinion:

- may conflict with national policies on important matters;
- may have significant long-term impact on economic growth...;
- could have significant effects beyond their immediate locality;
- give rise to...national controversy;

Paragraph 23 of Determining a Planning Application in the PPG confirms the Secretary of State is generally concerned with whether the application involves planning issues of more than local importance that warrant the decision being made by them rather than the local planning authority, but that each case will be considered on its merits.

The Secretary of State’s discretion under Schedule 14, paragraph 8 is very wide. Considering the equivalent power under s.77, in *R v Secretary of State for the Environment, ex p. Newprop* [1983] JPL 386 (at p.387), Forbes J. described it as “in essence a purely administrative discretion ...” In *R (Shirley) v Secretary of State for Housing, Communities and Local Government* [2019] EWCA Civ 22 at §58 the Court of Appeal confirmed the freedom to exercise the call-in discretion one way or the other was “considerable.”

Oxfordshire County Council considers that application MW.0041/23 satisfies the call-in criteria above for the reasons detailed below. Further, it considers this is an appropriate case for the Secretary of State to exercise his discretion in any event given the lack of legal precedent, the serious and widespread national implications of either legal interpretation, and uncertain and conflicting national law and policy with severe consequences either for economic development, or local government finances.

May conflict with national policies on important matters

The site has been inactive for some period of time, which has significantly increased its biodiversity interest. There are areas of irreplaceable (e.g. lowland fen) and national priority habitats (as recorded in ES Appendix C Ecological Impact Assessment V2 attached as Annex 3), and part of the site has been locally designated for its wildlife interest: Radley Gravel Pits Local Wildlife Site.

National law and policy indicate that mineral planning authorities such as the Council should not permit unacceptable harm to such areas of ecological importance (s.40 of the Natural Environment and Rural Communities Act 2006, paragraph 193 of the NPPF, in addition to local policy). The Council’s ecologist duly seeks a condition restricting the areas of operation to avoid this unacceptable harm:

Additional condition:

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

However, the applicant considers that the legal position is that any condition which materially reduces the area to be worked entitles them to compensation which in this case has been calculated as several million pounds. The Council concurs with this and reference is made to Paragraph: 213 Reference ID: 27-213-20140306 of the guidance on the planning for mineral extraction in plan making and the application process..

Therefore, the Council feels there is a severe conflict between the law on ROMP applications and national law and policy to protect significant areas of local ecological interest, because protecting such interests then also requires the Council pays out several million pounds in compensation. This is critical issue 1 on which it seeks a nationally coherent view from the Secretary of State.

May have significant long-term impact on economic growth

Either way the first critical issue is determined, there will be a significant long-term impact on economic growth. Losing several million pounds in compensation means the Council would be unable to financially support the resources needed to promote sustainable growth in its area; on the other hand, the wider issue in terms of ROMP applications and harm to irreplaceable / priority habitats may mean millions of tonnes of mineral resources are rendered inaccessible.

Could have significant effects beyond their immediate locality / Gives rise to national controversy

The above are clearly factors giving rise to national controversy and significant effects beyond the immediate locality. There is a second critical issue concerning the interpretation of Schedule 14, paragraph 7 of the Environment Act 1995. This provides:

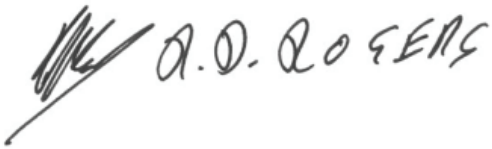
“Where no application under paragraph 6 above in respect of a mining site has been served on the mineral planning authority by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral permission—
(a) relating to the site; and
(b) identified in the notice served in relation to the site under paragraph 4 above,
shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the first review date or, as the case may be, such later agreed date.”

The Council and the applicant agreed a later date, but after the first review date in reliance on the ability to agree a later date in writing “at any time” A local objector asserts that was unlawful as the agreement which may occur “at any time” in fact means “at any time before the first review date expires”. There is no legal precedent on the correct interpretation of this provision. The Council sought counsel’s advice on the matter; her conclusions were that the Council’s interpretation was not unlawful but that there was significant legal risk due to the lack of precedent. The objector furnished a case on similar wording in the planning context (*Vattenfall v Scottish Ministers* [2009] CSIH 27) but this case concerned the acquisition of planning permission and not the loss of a very valuable minerals consent. The Council considers the legal context for interpretation of the latter is influenced by the legal duty set out in Case C-106/89 *Marleasing SA v La Comercial Internacional de Alimentacion SA* [1992] 1 CMLR 305 to

interpret domestic law in accordance with the wording and purpose of Community law, supplementing the obligation to interpret legislation in line with Convention rights in s.3 of the Human Rights Act 1998. It is considered the fact that valuable property rights would be lost on one interpretation but not on another means the latter interpretation is to be preferred.

As with critical issue 1, the scope and meaning of "at any time" in Schedule 14, paragraph 7 requires consistent interpretation across England and thus the consideration and determination of the Secretary of State in this respect would be appropriate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. D. ROGERS', with a stylized flourish to the left.

Robin

Robin Rogers
Director of Economy and Place
Mobile: 07789923206
callto:robin.rogers@oxfordshire.gov.uk



Ministry of Housing,
Communities &
Local Government

David Periam
Planning Development Manager
Oxfordshire County Council

By email only:
David.Periam@Oxfordshire.gov.uk

Please ask for: Jamie Kam

Email: Jamie.kam@communities.gov.uk

Your ref: MW.0041/23

Our ref: PCU/RARE/U3100/3378141

Date: 29 May 2026

Dear David Periam

Application by H Tuckwell & Sons Ltd for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2) at Land at Thrupp Farm, Radley, Abingdon, Oxfordshire
(Application no: MW.0041/23)

I refer to the above Review of Old Mineral Permissions ("ROMP") application which has been the subject of request to call in for determination by the Secretary of State for Housing, Communities & Local Government.

The Secretary of State has carefully considered the matters raised in the above request from the Oxfordshire County Council (the Mineral Planning Authority - "MPA"). The Secretary of State also invited representations from the interested parties on 18 March and 8 April 2026 respectively to inform his decision in respect of the jurisdictional question of whether or not to call in the ROMP Application. Following the close of the consultation, he has further considered the representations received from the following parties.

- Letters of 1 April, 10 April and 20 April from Michelmores LLP on behalf of the applicant;
- Letter of 8 April from Natural England;
- Letter of 31 March from Taylor Wessing LLP on behalf of the owner of the Wick Hall Estate; and
- Letter of 1 April from Mr Coker, on behalf of the residents of Thrupp.

Following his review of all documentation sent by the parties, the Secretary of States declines to call in the ROMP Application for his determination. He considers that the application does not raise matters of more than local importance and there is no other material consideration that alters this view in respect of the ROMP Application. He is content that it should be determined by the MPA.

I have copied this letter to the applicant's representative.

Yours sincerely

MA Hale

Mike Hale (decision officer)
Head of Environmental Casework
Planning Casework Unit

This decision was made by officials on behalf of the Secretary of State, and signed on his behalf

Annex 4 – OCC Officer suggested conditions (Same numbering used for comparison with those proposed by the applicant in Annex 1 of the 23rd February Committee report with additional proposed conditions).

Duration of the Permission

1. The winning and working of minerals and the deposit of waste shall cease no later than 21st February 2042.

Access, Traffic and Protection of the Public Highway

2. Mineral shall not be transported via the access titled 'Access Only' on approved Plan no: 757-01-02 Rev A. In addition, this access shall not be used other than for the delivery and removal of plant and machinery and management of the land the subject of this permission.

3. No mud or debris shall be carried onto the public highway by plant and machinery using the access titled 'Access Only' on Plan no: 757-01-02 Rev A. Prior to the further use of this access, details of wheel cleaning measures and measures to maintain the surface of the access and the repair of any potholes shall be submitted to and approved in writing by the Mineral Planning Authority and implemented thereafter.

4. No mineral from the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A shall be transported off site other than to the Tuckwell Yard shown on approved Plan no: 757-01-11 via the conveyor as permitted by planning permission no. MW.0075/20.

Working Programme

5. No working shall be carried out except in accordance with the approved Working Plan Nos: 757-01-06, 757-01-07, 757-01-08, 757-01-09 and 757-01-10 and detailed in the approved Planning Statement Version 3 dated 10/06/2025, unless otherwise approved in writing by the Mineral Planning Authority.

6. Soils shall be managed in accordance with the approved Planning Statement Version 3 dated 10/06/2025. Soils shall not be removed or handled unless they are in a dry and friable condition to prevent damage to the soil structure and contain sufficient moisture to prevent degradation of the soil structure, unless otherwise approved in writing by the Mineral Planning Authority.

7. All topsoil and subsoil shall be stored separately in accordance with the Planning Statement Version 3 dated 10/06/2025.

8. No minerals except sand and gravel from the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A shall be removed from the site.

9. No topsoil, subsoil, overburden or mineral waste from the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A shall be removed from the site.

10. No waste shall be imported onto the site.

11. (Condition not required following final Environment Agency consultation response)

12. All undisturbed areas and all topsoil, subsoil and overburden storage mounds within the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A shall be kept free of agricultural weeds such as thistle, dock and ragwort. Cutting, grazing and spraying shall be undertaken as necessary to control plant growth and prevent the production of seed and the spread of weeds to adjoining agricultural land.

13. Unless otherwise approved in writing by the Mineral Planning Authority no operations within the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A including the extraction of minerals and loading and operating of the conveyor shall take place except between the hours of:
07.00 a.m. to 06.00 p.m. on Mondays to Fridays;
07.00 a.m. to 01.00 p.m. on Saturdays; and
01.00 pm to 05.00 pm on Saturdays for maintenance of plant and machinery only.
No operations shall take place on Sundays or Public Holidays.
No operations shall take place outside these hours except for the operation of pumps and other equipment to maintain the safe operation of the quarry.

14. Unless otherwise approved in writing by the Mineral Planning Authority the field conveyor and adjacent access road shall be constructed in accordance with approved Plan nos: 757-01-11 and 757-01-15.

15. No lighting within the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A shall be used other than in accordance with details which shall first be submitted to and approved in writing by the Mineral Planning Authority.

Production

16. No more than 150 000 tonnes of mineral shall be exported from the from the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A in any 12-month period.

17. From the date of recommencement of mineral extraction, the operator shall maintain records of the quantities of mineral worked and exported from the site. These records shall be made available to the Mineral Planning Authority within 14 days of a request for them to be provided.

Environmental Protection: Archaeology

18. Prior to any further mineral extraction or enabling works a professional archaeological organisation acceptable to the Mineral Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Mineral Planning Authority.

19. Following the approval of the Written Scheme of Investigation referred to in condition 18, and prior to any further mineral extraction or enabling works (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Mineral Planning Authority within two years of the completion of the archaeological fieldwork.

Environmental Protection: Dust

20. Prior to the stripping of soils a Dust Management and Monitoring Plan shall be submitted to and approved in writing by the Mineral Planning Authority. The approved Dust Management and Monitoring Plan shall be adhered to at all times.

Environmental Protection: Ecology

21. Prior to the recommencement of the development (including any groundworks or vegetation clearance) a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Mineral Planning Authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. The scheme shall include details of the following:

- The timing of the works;
- Identification of biodiversity protection zones;
- Implementation of protected species licences;
- The measures to be used during construction in order to minimise the environmental impact of the works including potential disturbance to protected species, habitats and designated wildlife sites;
- The measures to be taken if nesting birds are found in areas to be worked or restored;
- A map or plan showing habitat areas to be specifically protected during construction;
- Construction methods;

- Any proposed lighting scheme and safeguards for light-sensitive wildlife;
- Soil storage mounds located so as to not extend into root protection zones of hedges and/or trees;
- Location of protective fences, exclusion barriers and warning signs;
- Any necessary pollution prevention methods;
- When a specialist ecologist needs to be present on site to oversee works;
- Responsible persons, roles and lines of communication;
- Information on the Project Ecologist and/or Ecological Clerk of Works responsible for particular activities associated with the CEMP;
- Details of how the river bank and riparian zone will be restored and enhanced following construction.

The approved CEMP shall be adhered to and implemented throughout the consented development strictly in accordance with the approved details, unless otherwise approved in writing by the Mineral Planning Authority.

22. Prior to recommencement of the development, details and certificate of a great crested newt District Level Licence or alternatively a great crested newt survey report and European Protected Species Licence shall be submitted to the Mineral Planning Authority.

23. Prior to recommencement of the development, details and certificate of a water vole survey report and mitigation licence shall be submitted to the Mineral Planning Authority.

24. Prior to recommencement of the development, a fully detailed Landscape and Ecological Management Plan (LEMP) including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the mitigation and enhancement measures proposed in the Landscape and Visual Impact Assessment in Appendix F of the approved Environmental Statement and details of the following:

- new habitat created on-site including ground preparation, existing and proposed vegetation taking into account botanical mitigation and plant specifications including species, sizes, numbers and densities and seed mixes and their provenance;
- treatment of site boundaries and/or buffers around water bodies;
- management responsibilities;
- the phasing of the pond enhancements;
- the amount of time the habitat is secured for and maintenance regimes.

The approved LEMP shall be adhered to and implemented throughout the consented development strictly in accordance with the approved details, unless otherwise approved in writing by the Mineral Planning Authority.

25. Prior to recommencement of the development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The HMMP shall include the following and extend until the cessation of the 5 years aftercare:

- Description and evaluation of all features to be managed within the site;
- Ecological trends and constraints that might influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions;
- Preparation of a work schedule;
- Details of ecological enhancements;
- A botanical mitigation strategy;
- Details of the body or organisation responsible for implementation of the plan, and
- Ongoing monitoring and remedial measures to ensure the development delivers the objectives set out in the approved scheme.

The development shall thereafter be carried out in accordance with the approved details.

26. If nesting birds are found in areas to be worked or restored, then work in the immediate vicinity shall stop and an ecologist consulted and the measures embedded within the Construction Environmental Management Plan (CEMP) approved pursuant to Condition 21 shall be implemented prior to any further work.

Additional condition:

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

Additional condition:

No development shall commence in each phase set out on approved Plan no. 757-01-06 until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the Mineral Planning Authority. The up-to-date surveys shall:

-Establish if there have been any changes in the presence and/or abundance of protected species; and

-Identify any likely new ecological impacts that may arise from any changes.

Where the surveys indicate that changes have occurred that will result in ecological impacts not previously addressed, a revised ecological mitigation scheme shall be submitted to and approved in writing by the County Planning Authority including a timetable for the implementation of mitigation measures. The scheme shall thereafter be implemented in accordance with the approved details.

Environmental Protection: Groundwater and Surface Water Protection

27. No further development shall commence until a scheme has been submitted to and approved in writing by the Mineral Planning Authority for the provision of a continuous and up to date baseline groundwater data set.

28. No further development shall commence until a comprehensive baseline groundwater quality monitoring scheme has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include potassium, boron, pH, phosphorus, ammoniacal nitrogen, copper and vanadium.

29. Prior to further mineral extraction a scheme shall be submitted to and approved in writing by the Mineral Planning Authority for the provision of a groundwater monitoring scheme with a wider baseline data spatial coverage to provide sufficient spatial representation of Working Area Phase C shown on Plan no: 757-01-10 and the south eastern edges of the site boundary.

30. Prior to further mineral extraction, a scheme shall be submitted to and approved in writing by the Mineral Planning Authority detailing the locations of all private water supplies which have the potential to be impacted by activities within the site boundary.

31. Prior to further mineral extraction, a scheme shall be submitted to and approved in writing by the Mineral Planning Authority for approval which details the method of lining of the sides of the excavation areas where required with low permeability materials. Details shall include the depth/thickness of lining material that would be removed from the base of the phases, whether the lining is intended as a short- or long-term barrier and the risks in terms of groundwater mounding and flooding.

32. Prior to further mineral extraction, a report shall be submitted to and approved in writing by the Mineral Planning Authority which calculates the loss of aquifer storage, the impact of this loss and whether any mitigation is proposed.

33. Prior to further mineral extraction a scheme for the storage of oil, fuel, lubricants or other bulk stored liquids (other than water) and setting out how they shall be handled on site in a manner that prevents the pollution of any watercourse or aquifer shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include the following details:

- secondary containment that is impermeable to both the oil, fuel or chemical and water, with no opening used to drain the system;
- a minimum volume of secondary containment at least equivalent to the capacity of the tank plus 10% or, if there is more than one tank in the secondary containment, at least equivalent to the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest
- all fill points, vents, gauges and sight gauge located within the secondary containment.

The scheme shall, where necessary, be supported by detailed calculations and include a programme for future maintenance. The scheme shall be fully implemented and subsequently maintained for the duration of the development subject to any amended details as may subsequently be submitted to and approved in writing by the Mineral Planning Authority.

34. The site shall be dewatered in accordance with the approved Planning Statement Version 3 dated 10/06/2025 unless otherwise approved in writing by the Mineral Planning Authority.

35. Prior to further mineral extraction a Hydrometric Monitoring Scheme which includes monitoring of Longmead Lake shall be submitted to and approved in writing by the Mineral Planning Authority. The approved scheme shall be adhered to thereafter.

36. The buffer zones to watercourses shown on approved Working Plan Nos: 757-01-06, 757-01-07, 757-01-08, 757-01-09 and 757-01-10 shall be adhered to at all times.

37. No further development shall commence until a scheme has been submitted to and approved in writing by the Mineral Planning Authority for the provision and installation of robust ground markers around the site boundary delineating the maximum extent of working. The approved scheme shall be implemented and the ground markers shall be retained throughout the period of this permission. No extraction shall take place beyond these markers.

Additional Environment Agency condition:

If, during development, contamination (or land or controlled waters) not previously identified is found to be present at the site then no further development (unless otherwise approved in writing by the Mineral Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Mineral Planning Authority. The remediation strategy shall be implemented as approved.

Environmental Protection: Flood Risk

38. (Condition not required following final Environment Agency consultation response)

39. (Condition not required following final Environment Agency consultation response)

40. Within 3 months of the recommencement of mineral extraction a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Mineral Planning Authority. The approved scheme shall be adhered to thereafter for the duration of the development.

Environment Agency additional condition

The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) and appendices by Hafren Water, dated February 2025, and letter from Hafren Water, dated 22 May 2025, and the following mitigation measures it details:

- Section 5.3.1 of the FRA: the bund in place during phases A and B1 will be removed prior to the working of phase B2 and additional flood storage volume created during phase A.
- Letter from Hafren Water which states: no further land raising is to take place beyond pre-existing levels, other than those areas required to store material during the operational phases when mineral is being extracted.

Environmental Protection: Surface Water Management Scheme

41. Prior to the recommencement of the development, a detailed Surface Water Management Scheme for each phase or sub-phase of the proposed operations, shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be in accordance with the principles contained within the approved Hafren Water Environmental Water Management, FLOOD RISK ASSESSMENT, THRUPP FARM QUARRY, Version 3, February 2025. The scheme shall be implemented in accordance with the approved details and timetable.

Environmental Protection: Sustainable Drainage Scheme

42. Prior to further mineral extraction a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Mineral Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document the completed installation of the drainage structures on site; and
- d) The name and contact details of any appointed management company information.

Environmental Protection: Landscape & Visual Impact

43. (Condition not required following final Environment Agency consultation response)

44. Prior to the recommencement of the development the linear distances and protection methods required to protect retained trees shall be defined in accordance with by BS5837: 2012 and submitted to and approved in writing by the Mineral Planning Authority. The approved protection methods shall be adhered to at all times thereafter for the duration of the development.

45. In the first planting season following the recommencement of mineral extraction, the 'native scrub planting for repair and visual mitigation' shall be undertaken in accordance with the details shown on approved Plan no: 757-01-16 Rev A and in Section 7 of the Landscape and Visual Impact Assessment in Appendix F of the approved Environmental Statement.

Environmental Protection: Noise

46. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specifications at all times and shall be fitted with, and use, effective silencers. No reversing beepers or other means of warning of reversing vehicles shall be fixed to, or used on, any mobile site plant other than white noise alarms or beepers whose noise levels adjust automatically to surrounding noise levels.

47. Except for temporary operations, the free field Equivalent Continuous Noise Level, dB LAeq, 1-hour, free field, due to daytime operations for routine operation on from the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A, shall not exceed the specified noise limits below at the sensitive receptors listed.

Position	Site Noise Limit dB LAeq, 1-hour, free field
1 – Home Barn Farm	54
2 – Warren Farm	43
3 - Thrupp House	47
4 – Kingfisher Barn/Rye Farm	48
5 – Quaker Meeting House/Audlett Drive	53

48. During the permitted working hours the free field Equivalent Continuous Noise Level, dB LAeq, 1 hour, free field, due to temporary operations from the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A, shall not exceed 70 dB LAeq 1 hour, freefield at the sensitive receptors listed in condition 47 . Temporary operations which exceed the normal day-to-day criterion shall be limited to a total of 8 weeks in any 12-month period.

49. Within 3 months of the date of this planning permission, a Noise Management Scheme shall be submitted to and approved in writing by the Mineral Planning Authority which shall include:

- Noise monitoring and reporting proposals to check compliance with the noise limits in Conditions 47 and 48; and
- Complaints procedure detailing the investigation, resolution, reporting and recording of complaints.

The approved scheme shall be implemented thereafter for the duration of the development.

Environmental Protection- Trees

50. Prior to the recommencement of any works within the Application/proposed development area outlined in red on approved Plan no. 757-01-02 Rev A , an Arboricultural Method Statement (AMS) and accompanying Tree Protection Plan (TPP), in accordance with BS 5837:2012, shall be submitted to and approved in writing by the Mineral Planning Authority which shall include:

- a) Location and installation of services/ utilities/ drainage;
- b) Details and Methods of works within the root protection area (RPA as defined in BS5837: 2012) of the retained trees or that may impact on retained trees;
- c) A full specification for the installation of boundary treatment works;
- d) A specification for protective fencing to safeguard trees during site works including all phases and a plan indicating the alignment of the protective fencing;
- e) A specification for ground protection within tree protection zones;
- f) Tree protection during works indicated on a TPP and works and work activities clearly identified as prohibited in this area;

- g) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires;
- h) Boundary treatments within the RPA;
- i) Arboricultural supervision and inspection by a suitably qualified tree specialist;
- j) Reporting of inspection and supervision;
- k) Methods to improve the rooting environment for retained and proposed trees and landscaping; and
- l) Veteran and ancient tree protection and management.

The development thereafter shall be implemented in strict accordance with the approved details.

Restoration and Aftercare

51. The area of the site the subject of further winning and working of mineral shall be restored in phases in accordance with Plan Nos: 757-01-07, 757-01-08, 757-01-09, 757-01-10, 757-01-12 Rev A and 757-01-16 Rev A.

52. Within 24 months prior to the permanent cessation of mineral extraction in each phase, unless otherwise approved in writing by the Mineral Planning Authority, a restoration and five-year aftercare scheme demonstrating how the site the subject of further winning and working of mineral will be restored in accordance with Plan Nos: 757-01-12 Rev A and 757-01-16 Rev A shall be submitted to and approved in writing by the Mineral Planning Authority. The approved scheme shall be implemented as approved and each phase shall be restored in accordance with the approved restoration and aftercare scheme within 24 months of the completion of mineral extraction in each phase.

53. Within 2 years from the recommencement of mineral extraction the 'Draft Restoration Management Plan' in Appendix 5 of the approved Planning Statement Version 3 dated 10/06/2025 shall be reviewed and updated including a timetable for implementation, and submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be implemented as approved.

54. A restoration and aftercare scheme for the Curtis Yard shown on approved Plan no: 757-01-05 Rev A shall be submitted to and approved in writing by the Mineral Planning Authority within 2 years of the recommencement of mineral extraction. The submitted scheme shall be implemented as approved and include :

- The removal of buildings and hardstanding;
- Restoration treatments;
- Management;
- Timetable for implementation; and
- 5- Year aftercare scheme.

The approved scheme shall be implemented in accordance with the timetable for implementation.

Additional condition

No development shall recommence until details of a Local Liaison Committee have been submitted to and approved in writing by the Mineral Planning Authority. The

Local Liaison Committee shall then take place in accordance with the approved details.

Additional condition

XX Condition listing the approved documents and drawings.

OXFORDSHIRE COUNTY COUNCIL

LAND AT THRUPP FARM, RADLEY, ABINGDON, OXFORDSHIRE

OPINION

1. I am asked to give Oxfordshire County Council (“OCC”) as mineral planning authority (“MPA”) my opinion on a matter of statutory construction under sch 14 paras 4 - 7 of the Environment Act 1995 (“EA 1995”) and the consequences of that interpretation on the facts of an application by H Tuckwell & Sons (“the Applicant”) purportedly under those provisions in respect of mineral workings on land at Thrupp Farm, Radley (“the Site”).
2. I have been providing with Opinions of Nina Pindham (for OCC) and Greg Jones KC (for an objector to the proposals – Wick Hall Estate - “WHE”) which reach opposite conclusions on the meaning of “at any time” in sch 14 para 7. I deliberately reached my own view on the central issue before considering those other Opinions. Having then considered those Opinions I found nothing to suggest the view that I had formed was incorrect.
3. I am aware that the conclusion on the statutory interpretation is likely to be determinative of the jurisdiction to make and determine this application and that any decision of OCC that it does not have jurisdiction will be likely to be disputed on appeal¹ by the Applicant and any decision that it does have such jurisdiction may be subject judicial review by WHE.

The Statutory Scheme

4. In short summary:
 - a. a purposive approach to statutory construction is required – *R (Quintavalle) v. Secretary of State for Health* [2003] 2 AC 687 @ [8];
 - b. section 96 of the EA 1995 gives effect to schedules 13 and 14 – schedule 13 concerns old mineral permissions² and sch 14 concerns review of mineral permissions generally. The two schedules have to be understood consistently with each other;
 - c. sch 13 para 12(1) contains the same words as in dispute in sch 14 para 7 and the two must therefore be read consistently;

¹ A finding by OCC that it does not have jurisdiction can be the subject of an appeal and so the correct route for an applicant to pursue if OCC decides it does not jurisdiction is to appeal. If OCC decides it does have jurisdiction it seems to me that any objector would have to challenge that decision by way of judicial review (particularly if OCC decided to grant the application).

² This concerns deemed provisions under the TCPA 1947 - s.22(1) PCA 1991 and is not directly relevant here.

- d. sch 13 has two stages – the first stage concerns the compilation of the lists of permitted mineral sites *inter alia* to clear old dormant sites which could otherwise be revived years later and to provide a definitive list of those which can apply for the second stage; and second stage is the fixing of the conditions for such old permissions;
- e. as to the first stage under sch 13, para 6(1) provides for the owner of land to apply for it to be included in the list on a strict timetable with para 12(4) then providing that absent such application the old permission ceases to have effect if it is not on the list. There is no equivalent to “at any time” in the provisions with which we are concerned. This provision was in issue in *R v North Lincolnshire Council* *ex parte Horticultural and Garden Products Sales* [1997] Env LR 295 (“North Lincolnshire”). The Court held that there was no power to extend time after the permission had ceased to exist. The Council could not by agreement revive an already statutorily extinguished planning permission;
- f. at the second stage (and still in sch 13), the structure is very similar to the relevant provisions of sch 14 to which I turn below. The key phrase – “at any time” is included in para 12 (1) in essentially the same form as in sch 14 para 7. In *R (Payne) v Caerphilly CBC* [2002] EWHC 866 (Admin) (“Caerphilly”) Sullivan J (as he then was) considered a position where no application had been made in respect of a permission which had expired. Para 9 could not revive a permission which had ceased to exist [23]. It would be “absurd” to require an MPA to decide conditions for a lapsed permission. The lapsing in that case though was by virtue of the terms of the permission itself and not by virtue of para 12(1) and I do not think this case is authority directly on point. The proposition that, in another factual context, para 9 could not revive a permission which has ceased to exist is, though, of some significance. In *Stancliffe Stone Company Limited v Peak District NPA* [2005] EWCA Civ 747 the Court appeared to have assumed to the contrary - that an application could be made under sch 13 para 9 after the cessation of permission under para 12(1) - see [50]. But the point was not addressed in any detail and the claim was in any event rejected for other reasons. I do not think that case provides any support either way;
- g. turning to sch 14, it introduces periodic reviews of conditions on all mineral permissions including those in sch 13;
- h. para A1 of sch 14 provides that an MPA may require a periodic review;
- i. para 2A provides for the setting by the MPA of a first review date (“FRD”);
- j. para 4 provided for the MPA to serve a notice on mineral owners a year in advance of the FRD. The notice must state the FRD; that an application for approval of conditions “must be made” by the FRD; the consequences of no such application being made; and the ability to apply for postponement of

the FRD. There are various procedural requirements if no application is made eight weeks before the FRD – including a reminder notice (para 4(3))³.

- k. under para 5, an owner served with a para 4(1) notice may “no later than” three months from the giving of the notice, apply for postponement of the FRD including setting out the substituted FRD sought. There is no right to apply outside that period for a postponement of the FRD;
- l. para 6 provides for the making of the application - which under para 4 must be made before the FRD. Subject to agreement as to extensions, the MPA has three months to determine the application - absent a decision within those 3 months or agreed extension the application is deemed to be granted;
- m. para 7 is the central provision – it provides for the consequence of not making an application. “Where no application under paragraph 6 above.... has been served... by the [FRD] or by such later date as may at any time be agreed upon in writing between the application and the authority” each mineral permission shall cease to have effect except insofar as it imposes any restoration or aftercare condition on the day following “the first review date or, as the case may be, such later agreed date”.

The Correct Interpretation of para 7

- 5. The central issue is whether “at any time” includes an agreement after para 7 has already been activated – namely where the FRD has passed without any prior agreement to an extension such that the mineral permission has ceased to have effect.
- 6. If so, that would mean that an MPA could by agreement after the cessation effectively revive a permission which has otherwise ceased to exist. That is a novel proposition at odds with approach albeit in different circumstances in *North Lincolnshire* and *Caerphilly* above.
- 7. There is no English authority directly on point.
- 8. Under a different statutory scheme and in Scotland, the words “at any time” have been considered in *Vattenfall Windpower Ltd v. Scottish Ministers* [2009] CSIH 27. The issue there was whether time to appeal had expired. S47 of the Town and Country Planning (Scotland) Act 1997 provided for an appeal to the SoS if no notice of its decision had been given by the planning authority within a prescribed time “or within such extended period as may at any time be agreed upon in writing

³ In contrast to sch 13 para 8(11) where a failure to serve a reminder notice extends time, there is no such extension here

between the applicant and the authority”. Under secondary legislation the planning authority could agree to extend the statutory six months in writing. The application had been made in 2003. By August 2007, the planning authority was already 4 years and 2 months beyond the statutory period. It was then agreed that the planning authority be given an extension to December 2007. That was held to be ineffective. Once the statutory period for determination had expired there was a single right to appeal which was within 6 months of the expiry of that time. There was no discretion to extend the time limit in which an appeal had to be lodged [11]. The time for determination could be extended by agreement before the right to appeal was triggered but once that right was triggered there was 6 months to exercise the right and that period could not be extended by retrospectively extending time for determination. In other words, once the ability to appeal had been triggered (the statutory consequence of non-determination within the agreed time) there was no ability to avoid the statutory consequence.

9. I consider that authority to be of some assistance – it is consistent with the general proposition in e.g. *North Lincolnshire* and *Caerphilly* that once a statutory consequence (Y) of X is triggered it is not possible to retrospectively extend X so as to avoid Y.
10. However, there is no authority directly on point and I therefore start from first principles.
11. The legislative scheme has to be read as a whole in its context and against its purposes. The statutory purpose is to be discerned from the words used, the context and the vice to which the legislation was directed.
12. The purpose of *sch 13* is clear. Old Mineral Permissions tended not to be subject to up to date environmental conditions which ensured an appropriate scheme of environmental protections. I agree that the central legislative purpose was to secure the timely review and modernisation of mineral permissions, which, because of their age and inadequate conditions could operate to environment standards no longer acceptable [GJ/48]: see *G Hamilton v. Highland Council* [2012] UKSC 31. A further purpose was to clear out the potential for future arguments in respect of whether there existed permissions for “dormant sites”.
13. The situation covered by *sch 14* is less stark because *sch 13* will have already applied to bring the most out of date permissions up to date (and dormant sites are not in issue under it). In short, it requires a first review at a date fixed by the LPA and periodic reviews thereafter 15 years since the last review or the grant of permission. However, the statutory purpose remains the same – to ensure that

mineral sites operate to up to date environmental standards as embodied in the updated conditions and that they do not continue to operate under the old conditions.

14. The legislative history leading to sch 13 and 14 confirms the statutory purpose.
15. I do not think that the subsequent MPG14 can be relied on as an aid to statutory construction or understanding the statutory purposes but I note that it is consistent with the above summary.
16. To deliver on the statutory purpose there had to be a route to force applications for review of conditions or there would be no incentive for relevant owners to apply – they could simply continue with their existing (less strict) consent conditions.
17. Hence deadlines were imposed in both sch 13 and sch 14 by which applications had to be made and the consequence of non-compliance with that deadline set out. Those two aspects (the deadline and the consequence of non-compliance) are the means to ensure that mineral sites are subject to up-to-date permissions and operate only under up-to-date permissions.
18. The mandatory structure is clear: para 1 – the LPA “shall” cause periodic reviews to be carried out; para 3(3) defines the review date is defined – “is the date”; para 4(1) the LPA “shall” give notice of the date by which an application “must be made” (para 4(2)(d)); any postponement application complying with the statutory requirements “must” be within 3 months (para 5).
19. The mine owner then has the choice as to whether to apply for a first review or not – para 6(1) – “may”.
20. If the owner wishes to apply a mandatory suite of provisions applies: para 6(2). If the owner does not wish to or fails to apply, para 7 sets out the mandatory consequence – the mineral permission shall “cease” to have effect.
21. That framework does not provide a direct answer to the central issue here however. The failure to apply would force the cessation of the activity because there would be no ongoing permission for it, but it does not expressly tell us that there is no scope for a later agreement to extend time to revive the right to work the site.

22. It is thus necessary to attempt to construe the words “cease to have effect” – do those words denote permanent cessation or are they apt to describe temporary cessation thus permissive of later reviving of the permission?
23. I think that those words denote permanence rather than a potentially temporary suspension for the following reasons:
- a. that is the normal meaning of the word “cease”;
 - b. that is consistent with the overall framework of the legislation as described above; and
 - c. that is consistent with the statutory purpose of both sch 13 and sch 14.
24. I think that interpretation is confirmed by the fact that once para 7 is triggered, mineral extraction must cease (there will be no permission for such extraction) and, fundamentally, the restoration and aftercare conditions will then bite. The consequence of triggering para 7 is that the site necessarily moves into restoration and aftercare. That seems to me to be statutory confirmation that the extraction phrase is permanently over – to restore a mineral site is axiomatically the opposite of having the ability thereafter to revive extraction.
25. What then of the words “at any time”? What is their purpose and effect? The normal position is that the owner must apply before the first review date. The owner can seek to secure a postponement of that date in the three months after the service of the notice 12 months before the FRD (reg 5). If the owner does not do so, there is no ability to apply for a postponement under reg 5 after those three months.
26. However, para 7 means that that does not preclude a later application to provide for a later date for the application (after the three months to ask for a postponement has expired). The failure to apply for a postponement within the three months does not mean the FRD is the final date if it is thereafter agreed extend the time for making an application. “At any time” therefore is apt to describe the period up to the FRD. On the day before the FRD, the authority could extend time and para 7 would not be triggered until that later agreed date.
27. That interpretation of the two phrases seems to me to be internally consistent, to deliver the statutory purpose and to respect the mandatory nature of the statutory scheme and its time limits.
28. It also avoids the situation where apparently at any time after a permission has ceased to have effect, it can be revived by an agreement for extension of time for

a para 9 application to be made. To my mind, that position cannot have been intended. It would mean that many years after a site had ceased to operate under para 7 and after any restoration and aftercare conditions had been triggered (and potentially complied with) the permission could be revived albeit on new conditions. That makes no sense of the statutory scheme and is inconsistent with its purposes. As to the latter, a key part of the purposes of the legislation is remove old dormant permissions out – it would be inconsistent with that for para 7 to be construed as generating a potential for new dormant sites to emerge in the future.

29. I recognise that that would mean that a procedural mistake by the owner of a mineral site could lose a possession within article 1 of the First Protocol (“A1P1”) of the European Convention of Human Rights (the benefits of the original permission). It might be said that the legislation should be construed to avoid that effect. I do not think any such argument is correct:

- a. the legislative purpose is clear – and the state has a wide margin of appreciation as to what is the appropriate and proportionate response to a policy dilemma under A1P1;
- b. similar arguments under the same scheme albeit in a different context were run in *North Lincolnshire* and were rejected for reasons which I respectfully adopt;
- c. the mineral right is derived from and subject to the statutory scheme – it is not possible to treat the “possession” as somehow existing irrespective of the statutory provisions for its continued existence; and
- d. there is no objection under A1P1 to time limits or to loss of X if Y is not done.

Conclusion on Statutory Interpretation

30. I therefore conclude that there is no jurisdiction in a mineral planning authority to extend time after para 7 has been triggered. I therefore agree with paragraphs 9, 10, 59 and 60 and 10 of Mr Jones’ Opinion of 8th July 2026 and with the views of officers which led to the original instructions to Ms Pindham. I disagree with the fundamental conclusion in the Opinions of Ms Pindham.

31. I have not been provided with any representations on behalf of the Applicant in respect of this jurisdiction point. The Council appears to have been acting (until recently) on the basis that there was jurisdiction to extend time *after* para 7 had been triggered and so the Applicant had no reason to provide such representations. I therefore think that the Council should invite representations from the Applicant on Mr Jones’ Opinion and the fundamental propositions in paragraphs 9, 10, 59 and 60 and on this Opinion.

Consequences on the Facts

32. The last extraction occurred here in 1995. The two permissions for extraction here were subject to the schedule 13 process in 2000. There were no further workings.
33. A valid sch 14 review notice was sent in October 2015 with a FRD of 31st October 2016.
34. No application was made, no postponement sought and no extension agreed before 31st October 2016 – or at least to date there is no evidence of any such agreement in writing to an extension. The Applicant should be asked whether it claims there is any such agreement, para 9 application and/or an application for a postponement. As to the 1st December 2015 exchanges I agree with paragraph 64 of Mr Jones' Opinion.
35. I understand that no reminder notice was served – see para 4(2) of the Ms Pindham's Opinion of 1st July 2022. This should be confirmed. She advised that that was not “fatal” to para 7 being triggered. The reminder notice is there to mitigate the severity of what is a substantial interference in A1P1 rights by giving the mine owner a final chance to apply. I note that in sch 13 para 8(11) the consequence of non-service of the reminder notice is that time is extended until after such reminder notice is sent. There is no equivalent in sch 14. Applying standard principles of statutory construction that difference between sch 13 and sch 14 must be taken to have been deliberate. Therefore the issue is what is consequence of non-compliance with the reminder notice requirements. That will turn on prejudice to the mine owner. I have seen nothing to suggest any such prejudice. This is a matter for the Applicant to raise if it contends that the non-service of a reminder notice has any legal consequence here. It may be arguable on the facts that it does but I cannot advise further on the material I have.
36. Subject to that, para 7 was triggered on 1st November 2016. The Council later referred to that as a “suspension” – but I do not agree. The statutory effect was that the permissions ceased to have effect on that date and cannot be revived. The Council cannot estop itself into reviving a permission it had no power to revive and no legitimate expectation can arise after the event that a statutory consequence will not arise.
37. The Council's “agreement” in 2022 has no legal effect in my view. I note that it relies on an unstated assumption that a permission can be revived 6 years after it has ceased to have effect. I do not agree that the statute permits that.

Conclusion

38. I have reached a clear conclusion that the legislation does not allow the permission here to be revived after para 7 is triggered. That seems consistent with all the relevant case law, the statutory purposes, the words used and the overall logic of the statutory scheme.

39. On the facts, there are some areas which the Applicant should be given the opportunity to comment on. Further, given the change in position of the Council since the report to committee on this central issue, the Applicant should be given the opportunity to comment on this Opinion and Mr Jones' Opinion and especially the key paragraphs quoted above.

David Forsdick KC

Landmark Chambers

1st September 2026

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