

For: PLANNING AND REGULATION COMMITTEE – 12 JANUARY 2015

By: DEPUTY DIRECTOR FOR ENVIRONMENT AND ECONOMY (STRATEGY & INFRASTRUCTURE PLANNING)

Development Proposed:

Importation and deposit of waste soils in order to construct a 6 metre high landscaped bund to run either side of the M40 in the fields at Manor Farm, Tetsworth, creating a barrier of defence for the animals and the public

Division Affected: Thame and Chinnor

Contact Officer: Mary Thompson **Tel:** Oxford 815901

Location: Manor Farm, Tetsworth, Thame, OX9 7AY

Application No: MW.0112/14 **District Ref:** P14/S3045/CM

District Council Area: South Oxfordshire

Applicant: Oxfordshire County Council

Date Received: 16 September 2014

Consultation Period: 25 September to 16 October 2014

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Recommendation

The report recommends that the application be refused.

• Part 1 – Facts and Background

Location

1. The site is located approximately 800 metres west of the village of Tetsworth, 2.5 kilometres (1.5 miles) east of Milton Common and 5 km (3 miles) south west of Thame. The site includes land on either side of the M40 motorway, between junctions 5 and 6.

Site and Setting

2. The site comprises agricultural fields, used for pasture, lying on either side of the M40 motorway and connected by a bridge. The fields are on the same level as the motorway and separated from it with a wooden fence maintained by the Highways Agency.
3. Tetsworth Footpath 30 runs over the bridge between the two fields and east-west across the field to the south of the motorway.
4. Access to the site would be via the existing private farm access road from the A40.
5. The nearest residential properties to the site are Manor Farm and Gold Pits Farm, located adjacent to each other approximately 300 metres south of the site boundary. The Croft and Little Acre lie approximately 400 metres east of the site on the A40.

Details of the Development

6. It is proposed to construct a six metre high bund on either side of the M40 motorway near Tetsworth. The bunds would be approximately 630 to 660 metres long, six metres high and be comprised of waste soils. It is estimated that it would take five years to import and deposit the material and complete construction of the bunds. The bunds would have a 1 in 3 slope facing the motorway and a 1 in 5 slope facing the fields behind. Approximately 500,000 tonnes of inert material would be used in their construction.
7. The development is proposed in order to create an improved barrier between the motorway and the fields adjacent, which are used for livestock. This would improve the security of the field and prevent animals from escaping onto the motorway. The bund would also have the potential to reduce the noise impact of the motorway.
8. The development would give rise to an average of 6 vehicle movements per hour during the working day, although this would vary significantly. Access would be using the private drive from the A40 to Manor Farm, which includes a bridge across the motorway. This drive is not wide enough for two HGVs to pass each other.

9. It is proposed that waste would be imported on the M40. The site is located between junctions 6 and 7. However, junction 7 is a restricted junction which does not allow vehicles travelling from the north to exit, or for vehicles to join the northbound carriageway. Therefore, the applicant proposes that all incoming traffic would approach the site via junction 6 onto the B4009 and thence the A40.
10. Hours of operation would be 08.00 – 16.30 Monday to Friday and 08.00 to 13.00 on Saturdays, with no working on Sundays or bank holidays.
11. Topsoil would be stripped, stored on site to a maximum height of 1.2 metres and then used to cover the bunds which would also be seeded. There would be a stock proof post and wire fence running along the top of each of the bunds to an additional height of approximately one metre and sections of fencing running down the side of the bunds to tie in with existing field boundaries. Bunds would be seeded.

• Part 2 – Other Viewpoints

Representations

12. No letters of objection had been received from members of the public at the time of drafting the report.
13. A representation was received from the National Farmers Union, supporting the application because of the benefits in terms of the continued use of the land for agriculture and animal welfare.
14. A representation has been received from M40CEG (a pressure group concerned with traffic noise from the M40). This states support for the proposals due to the potential for noise reduction. It suggests that a solid fence on top of the bunds might be preferable to a post and rail fence as it could help prevent noise from rolling up and over the bund.

Consultations

15. A summary of consultation responses received, including objections from South Oxfordshire District Council (Planning), Great Haseley Parish Council and CPRE in relation to this application can be found at Annex 1. They are also available to read in full on the eplanning website <http://myeplanning.oxfordshire.gov.uk> using the reference number MW.0112/14.

Part 3 – Relevant Planning Documents

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

16. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
17. The relevant development plan documents are:
 - The Oxfordshire Minerals and Waste Local Plan (OMWLP) 1996
 - South Oxfordshire Local Plan 2011 (SOLP) (saved policies)
 - South Oxfordshire Core Strategy (SOCS)
18. The Government's National Planning Policy Framework (NPPF), The National Planning Policy Guidance (NPPG) and the National Policy for Waste (NPPW) are material considerations in taking planning decisions.
19. A new draft Minerals and Waste Local Plan: Part 1 Core Strategy (OMWCS) was published in February 2014 and a consultation held between 24 February and 7 April 2014. A Proposed Submission Document was considered by Cabinet on 25 November 2014 who resolved to agree that document, in principle, as a basis for a complete amended version of the Part 1 Core Strategy to be recommended to the County Council for publication and comment. The County Council is due to meet to consider this on 27 January 2015. Relevant policies from the November 2014 Proposed Submission Document are outlined in this report.

Relevant Development Plan Policies

20. The relevant policies are:
 - Oxfordshire Minerals & Waste Local Plan (OMWLP) 1996
 - W7 – Control of landfill sites
 - PE3 – Buffer zones
 - PE11 – Protection of rights of way
 - PE13 – Restoration of landfill sites within a reasonable time
 - PE18 – Imposition of conditions to protect amenity
 - South Oxfordshire Local Plan (SOLP) 2011
 - G2 – Protection of countryside and environmental resources
 - G4 – Protection of the countryside for its own sake
 - D6 – Design against crime
 - C4 – Landscape setting of settlements
 - C9 – Loss of landscape features
 - R8 – Retention and protection of public rights of way
 - South Oxfordshire Core Strategy (SOCS)
 - CSEN1 – Landscape

Other Relevant Policies

- Draft Oxfordshire Minerals and Waste Plan Part 1 Core Strategy Proposed Submission Document (OMWCS)
 - W6 – Siting of waste management facilities
 - W7 - Landfill
 - C1 – Sustainable Development
 - C5 – General Environmental and Amenity Protection
 - C8 – Landscape
 - C11 – Rights of Way
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- National Planning Policy for Waste (NPPW)

Part 4 – Analysis and Conclusions

Comments of the Deputy Director for Environment and Economy (Strategy & Infrastructure Planning)

Waste Policy

21. Paragraph 1 and Appendix A of the NPPW supports sustainable development and moving the management of waste up the waste hierarchy of prevention, preparing for re-use, recycling, other recovery and disposal only as a last resort. Policy C1 of the OMWCS also supports sustainable waste development.
22. There are no specific policies relating to landraising, therefore the most relevant waste policies relate to landfill which is also for final disposal of waste.
23. OMWLP policy W7 sets criteria against which proposals for landfill sites should be assessed, including a definite need for the facilities, which cannot be met at existing landfill sites, and no material damage or disturbance to the environment, amenities, or any designated site. It also states that the access must be suitable for the volume and nature of traffic, methods of operation are suitable, the site must meet with hydrological and geological requirements for the safe disposal of waste and sites must be screened if waste disposal might damage visual amenities.
24. OMWLP policy W7 (a) states that there must be a definite need for the facility, which cannot be met by existing or permitted landfill sites. There is adequate void in other landfill sites in the County to dispose of the quantity of waste involved. However, the applicant has argued that there is a specific need for this waste to be deposited at this site rather than elsewhere, because of the benefits for the safety of livestock. Therefore, the strength and validity of that claimed need must be assessed.

25. OMWCS policy W6 states that amongst other locations, priority will be given to siting waste management facilities on land that is already in waste management use. It goes on to state that waste management facilities will not be permitted on green field land unless there is an over-riding need which cannot be met in any other way.
26. OMWCS policy W7 states that further provision for the disposal of non-hazardous waste by landfill will not be made. Priority will be given to the use of inert waste which cannot be recycled as infill material at active or unrestored quarries. Permission will not otherwise be granted for the disposal of inert waste unless there would be overall environmental benefit.
27. The fields adjacent to the M40 in this location are currently secured by fencing which is owned and maintained by the Highways Agency. The applicant has stated that the fence is not adequate to prevent a situation where a vehicle could leave the carriageway, break through the fencing and allow livestock to escape onto the motorway. However, this argument would suggest that soil bunds are necessary along the length of all motorways where they run adjacent to fields used for livestock. This does not appear to be the case as there are other locations throughout the country where motorways run adjacent to fields used for livestock. A secure fence should be adequate to contain livestock and if there are concerns about the current fencing this should be raised with the Highways Agency, or alternatively the farmer could erect an additional fence alongside the highway fence for the purpose of containing livestock.
28. The applicant has also claimed that the noise from the motorway disturbs the livestock. Again, it seems that if it were the case that noise made it impossible to graze animals in fields adjacent to motorways then this wouldn't be seen elsewhere. However, it is common to see animals grazing in fields next to the motorway, indeed the farmer at this application site has done so for a number of years.
29. Although it appears that the proposal would result in some benefits to livestock, it is not clear that the development is necessary for the continued use of the field for grazing livestock. I do not consider that a 'definite need' for this development in this location has been demonstrated or that an 'over-riding need' for the waste disposal operation to take place on a green field site has been shown. Neither do I think that an overall environmental benefit has been demonstrated as required by OMWCS policy W7. Therefore, I am not satisfied that the requirements of OMWLP policy W7(a) or OMWCS policy W6 and W7 are met. As set out elsewhere in OMWCS policy W7 this type of waste should be put to beneficial use in quarry restoration, rather than disposed of. In the absence of need for the final disposal of waste at the application site, I consider that the application conflicts with the aims of paragraph 1 and Appendix A of the NPPW and draft policy C1 of the OMWCS in that the proposed development lies at the bottom of the waste hierarchy and is not sustainable.
30. The development would not have any adverse impact on a SSSI, or a site of archaeological importance and is not in the Green Belt or AONB. Therefore, criteria contained in OMWLP policy W7 (d-g) are met.

31. The Environmental Health Officer has suggested that there should be a condition for an importation procedure to ensure that contaminated or hazardous soils are not deposited on the site. However, the development would also require a waste permit issued by the Environment Agency and this would include control of the types of waste imported. Therefore, a condition would not be required as it would duplicate controls imposed by another regulatory regime.

Impacts on Amenity

32. OMWLP policy W7(b) states that proposals for landfill will be assessed against the criterion that there should be no material damage to the amenities of residential or other sensitive uses or buildings by reason of noise, dust, vermin, smell, gas and other pollution, or long term damage to the visual amenities.
33. OMWLP policy PE18 states that in determining applications the appropriate provisions of the Code of Practice will be taken into account and development controlled by the imposition of conditions. This sets out details of measures to protect amenity to dwellings and other noise sensitive buildings and uses. Policy PE3 states that appropriate buffer zones will be safeguarded around waste disposal sites for protection against unacceptable losses of residential or natural amenity. The related text in paragraph 4.8 of the OMWLP suggests a minimum buffer zone of 100 metres to individual dwellings. Paragraph 7 of the NPPW states that in determining waste planning applications consideration should be given to the impact on amenity.
34. OMWCS policy C5 states that proposals for waste development shall demonstrate that they would not have an unacceptable adverse impact on the environment, residential amenity and other sensitive receptors.
35. The development is located some distance from the nearest sensitive receptors and it is not considered likely that there would be a significant adverse impact during construction. The noise assessment submitted with the application suggests that following construction there may be some benefit to some properties in terms of reduction of noise from the motorway. However, this would not be felt as far away as Tetsworth. There might be a minor positive effect at closest properties only, including those at Manor Farm. There would be some amenity impact on users of the footpath, although this would be temporary for the duration of the construction period and is not considered to be unacceptable.
36. The development is considered to comply with policies relating to the protection of amenity, including OMWLP policies W7 (b), PE3, PE18, OWMCS policy C5 and paragraph 7 of the NPPW.

Open Countryside and Landscape

37. SOLP policy G4 states that the need to protect the countryside for its own sake is an important consideration when assessing proposals for development. Paragraph 4 of the NPPW identifies that priority should be given to previously developed land, sites identified for employment uses and redundant agricultural and forestry buildings and their curtilages.
38. SOLP policy G2 states that the district's countryside, settlements and environmental resources will be protected from adverse developments.
39. The application site consists of green fields in the open countryside and so does not meet the NPPF definition for previously developed land. As identified above, there is no definite need for this development to be carried out for the purposes proposed. The proposed development would neither maintain nor enhance the countryside for its own sake and is contrary to the above policies.
40. Policy PE18 of the OMWLP and its associated Code of Practice requires applications, where appropriate, to include a landscaping scheme to screen the proposed development from dwellings, roads, footpaths, recreation areas and important viewpoints. Paragraph 7 of the NPPW states that in determining waste planning applications consideration should be given to the impact on the local environment. Appendix B of the NPPW states that locational criteria for waste management facilities should include consideration of design-led solutions to produce acceptable development which respects landscape character.
41. SOCS policy CSEN1 states that landscape character and key features will be protected against inappropriate development and where possible enhanced.
42. OMWCS policy C8 states that proposals for waste development shall demonstrate that they respect and, where possible, enhance local landscape character. Proposals shall include measures to mitigate adverse impacts on the landscape including careful siting, design and landscaping.
43. SOLP policy C4 states that development which would damage the attractive landscape setting of settlements will not be permitted. The development is located some distance from the nearest settlements and it is considered that there would not be a significant impact on their setting as a result of this development.
44. SOLP policy C9 states that any development that would cause the loss of landscape features will not be permitted where those features make an important contribution to the local scene, and/or provide all or part of an important wildlife habitat and/or have important historical value. Landscape features include trees and there would be some hedgerow loss as a result of this development as short sections of hedgerows on field boundaries crossing the application site would be removed. Although this is not a significant loss in terms of the length of hedgerow removed, the development would disrupt the existing pattern of field boundaries. Replacement planting was originally proposed. However, Oxfordshire County Council's Ecologist Planner has

advised that it would be more appropriate for the bund to be seeded rather than planted.

45. The proposal would introduce a prominent and alien feature into the landscape which would not be in keeping with the flat and open landscape in this location and have a detrimental impact on the existing landscape character. The bund itself would not be a natural feature and the fence on top of the bund would have additional visual impact due to its height above the surrounding landscape.
46. The landscape in this area is already affected by the M40 motorway which is itself a prominent and alien feature and has a significant landscape and noise impact. However, the fact that the landscape has already been compromised does not mean that further harm is acceptable. The bunds would also block views into the landscape from the M40 in this location, to the detriment of the visual amenity of drivers and passengers.
47. Overall, I consider that this development would not be sympathetic to the countryside or the local landscape character. It would cause a degree of harm to the open countryside that is not outweighed by the need for it as set out in the application. It has not been demonstrated that there is an overriding need for this waste disposal operation to be permitted on green field land. Therefore, I consider it contrary to policy PE18 of the OMWLP, SOLP policies G2 and G4 and SOCS policy CSEN1. It would also conflict with emerging plan policy C8 and paragraphs 4 & 7 and Appendix B of the NPPW.

Restoration

48. OMWLP policy PE13 states that landfill sites shall be restored within a reasonable timescale to an appropriate afteruse. OMWCS policy W7 states that priority will be given to the use of inert waste which cannot be recycled in quarries where it is required to achieve a satisfactory restoration. The NPPW paragraph 7 states that waste planning authorities should ensure that landraising sites are restored to beneficial after uses at the earliest opportunity to high environmental standards.
49. Proposals for restoration include placing the topsoil from the site on top of the bund and seeding it. This is considered to be an appropriate restoration scheme for this type of development in this location. Should the development be permitted the restoration proposals are considered adequate in line with OMWLP policy PE13 and NPPW paragraph 7.
50. Inert waste soils such as those proposed to be used in this development are useful in restoring quarry workings, particularly when the working has lowered the land beneath the water table but the agreed restoration requires land to be raised closer to original levels. Further information was sought from the

applicant to demonstrate that the use of this quantity of soils in this project would not adversely impact the availability of material for approved quarry restoration schemes. The applicant has confirmed that there is not a shortage of material and they do not consider that there would be one in the future. However, they have not provided evidence to support this view. Although evidence has not been provided to quantitatively demonstrate that there would be sufficient inert material available to carry out this development without prejudicing quarry restorations, neither is there clear evidence that there would be a shortage of this type of material in the future. Therefore, the proposals are not considered to be contrary to OMWLP policy PE13 in this regard.

Traffic

51. OMWLP policy W7(h) states that proposals for landfill will be assessed against the criterion that the proposed access to the site and transport routes for carrying waste to it are suitable for the volume and nature of traffic which may be expected.
52. OMWCS policy C10 states that waste development will be expected to make provision for safe and suitable access to the advisory lorry routes in ways which maintain and where possible lead to improvements in: the safety of all road users, the efficiency and quality of the road network and residential and environmental amenity. Where development leads to a need to improve the transport network to achieve this, developers will be expected to provide the improvement or make an appropriate financial contribution. Waste facilities should, as far as possible, be in locations that minimise road distances from the main source of waste, using roads suitable for lorries.
53. The site has an access directly onto the A40, which is a road suitable for lorries. However, the access road itself is narrow and involves a crossing over a bridge over the M40 which can only take one vehicle at a time. The increased traffic that would result from this development would increase the chances of there being two vehicles on the bridge at one time. Although the bridge is not wide enough for two vehicles to pass each other travelling in different directions it is long enough for two vehicles travelling in the same direction to be on the bridge at once. This could have safety implications for the bridge and for the motorway below.
54. There has been no objection from Transport Development Control. However, this is subject to a contributions for highway mitigation works. The applicant has confirmed that they would be willing to enter into a legal agreement to provide the contributions. Transport Development Control has also requested that should permission be granted, this should be subject to a condition requiring the submission of a Construction Traffic Management Plan. This would include details of traffic management on the motorway bridge to ensure safety. There has been no objection from the Highways Agency who is responsible for the safety and maintenance of the M40 motorway. I therefore consider that subject to these provisions, the development would accords with these policies.

Rights of Way

55. OMWLP policy PE11 states that the rights of way network shall be maintained and individual rights of way retained in situ. Diversions should be safe, temporary and convenient and any proposal for permanent diversion should fulfil the functions of recreational and communications use of the right of way. Improvements to the rights of way network will be encouraged.
56. OMWCS policy C11 states that the integrity of the rights of way network shall be maintained and, if possible, retained in situ in safe and usable condition. Diversions should be safe, attractive and convenient. If permanent diversions are required these should seek to enhance or improve the network. Improvements and enhancements to the rights of way network will generally be encouraged.
57. SOLP policy R8 states that the retention and protection of the existing public rights-of-way network will be sought and where appropriate proposals to improve it supported.
58. This development would have a significant impact on the footpath which runs in the fields to the south of the motorway as the proposed bund would obstruct the legal alignment of the footpath as it runs from the motorway bridge to the fields. Therefore, a temporary traffic regulation order would be needed to temporarily divert the path around the operational area of bund construction and a permanent diversion to route the footpath around the bund once constructed. There would also be an impact on users of the right of way over the M40 bridge as the volume of traffic using the bridge would increase significantly during the construction period.
59. The Rights of Way team have no objection to the proposals subject to a requirement for the applicant to apply for the necessary diversions necessary to avoid the bund and construction area. They also require new kissing gates to be installed in three locations. The permanent diversion must be sought through the provisions of s.119 of the Highways Act 1980.
60. The proposed diversion would not have any adverse impact on users of the footpath. Additional vehicles on the bridge during construction would have an impact but this would be temporary for the 2.5 year period where the southern bund was under construction and there has been no objection to this from the Rights Of Way team. The addition of kissing gates would offer an enhancement. Subject to the diversion and new gates there has been no objection from the Rights of Way team. Therefore, it is considered that the development complies with relevant policies in relation to the rights of way network, including OMWCS policy C11, OMWLP policy PE11 and SOLP policy R8.

Other Relevant Policy

61. The NPPF contains a presumption in favour of sustainable development, which is also reflected in paragraph 1 of the NPPW and OMWCS policy C1. The development would not be sustainable and so would be contrary to this presumption as set out in paragraph 28 above.
62. SOLP policy D6 states that the design and layout of development will be encouraged in ways which will reduce the opportunity for crime and promote suitable means of improving the security of premises.
63. The NPPF's presumption in favour of sustainable development applies only when the proposals accord with the development plan. As set out in this report the proposal conflicts with a number of relevant policies.
64. SOLP policy D6 is of some relevance because part of the applicant's justification for the development is to prevent people from trespassing onto the land from the M40 and stealing animals. However, although there might be a slight benefit in terms of reducing the opportunity for crime if the openness of the site to the motorway was reduced, this is not a strong enough reason to justify the policy objections to this development.

Conclusions

65. The development accords with development plan policies in relation to amenity. It is acceptable in terms of impact on highways, subject to a legal agreement for mitigation and acceptable in terms of impact on rights of way, subject to the requirement for a minor diversion to the legal route of a footpath.
66. However, it has not been demonstrated that there is a definite need for the proposed development which lies at the bottom of the waste hierarchy and is not sustainable contrary to the aims of the NPPF, paragraph 1 and Appendix A of the NPPW and draft policy C1 of the OMWCS. As it has not been demonstrated that there is a definite need for this waste development in this location, the proposal is also contrary to OMWLP policy W7a. As it is not accepted that the proposals would lead to an overall environmental benefit and this type of waste should be used for quarry restorations, the development is contrary to OMWCS policy W7.
67. The proposal would introduce a prominent and alien feature into the open countryside and landscape, contrary to policies aimed at protecting the countryside and landscape, including policy PE18 of the OMWLP, SOLP policies G2 and G4, SOCS policy CSEN1, emerging plan policies OWMCS W6 and C8 and paragraphs 4 and 7 and Appendix B of the NPPW.
68. Therefore, there is no overriding need to weigh against the harm to the objectives of sustainable development and protecting the open countryside and landscape that the development would cause and planning permission should be refused.

Recommendations

69. It is **RECOMMENDED** that Application MW.0112/14 (P14/S3045/CM) be refused planning permission for the following reasons:
- i) It has not been demonstrated that there is a need for the final disposal of waste in this location. The proposed development lies at the bottom of the waste hierarchy and is not sustainable. This is contrary to Oxfordshire Minerals and Waste Core Strategy policy W7, the aims of the National Planning Policy Framework, paragraph 1 and Appendix A of the National Planning Policy for Waste.
 - ii) The development would be in the open countryside and would neither maintain nor enhance the countryside for its own sake and would not be on previously developed land, contrary to the provisions of South Oxfordshire Local Plan policies G2 and G4, and Oxfordshire Minerals and Waste Core Strategy policy W6 and National Planning Policy for Waste paragraph 4.
 - iii) The development would introduce a prominent and alien feature which would have an adverse impact and so cause harm to the landscape and countryside contrary to the provisions of South Oxfordshire Core Strategy policy CSEN1, policy C8 of the Draft Oxfordshire Minerals and Waste Local Plan Core Strategy and paragraph 7 and Appendix B of the National Planning Policy for Waste.
 - iv) It has not been demonstrated that there is a definite need for the disposal of waste in this location, therefore the proposal is contrary to Oxfordshire Minerals and Waste Local Plan saved policy W7(a) and there is no overriding need which could weigh against the harm to countryside and landscape, and to the objectives of sustainable development, that the development would cause.

BEV HINDLE

Deputy Director for Environment & Economy (Strategy & Infrastructure Planning)

December 2014

Annex 1 – Consultation Responses

1. **South Oxfordshire District Council** –

Planning – Object. The proposed bunds would be of an inappropriate form and scale in relation to their natural landscape setting and are considered to be inappropriate development contrary to SOCS Policy CSEN1 and SOLP Policy G4 in particular.

Environmental Health – Concern about potential for the importation of contaminated soils. There should be a condition for an importation procedure.

2. **Tetsworth Parish Council** – Support the application. At present there is little protection from vehicles leaving the carriageway and no reduction in noise levels. The visual appeal of the bund would be enhanced by planting with wild flowers. Given the prevailing wind directions, this should result in a reduction in noise levels in Tetsworth. The development would support the retention of good quality farmland.

3. **Great Haseley Parish Council** – Object. This appears to be a thinly disguised attempt to make profit from dumping waste in the countryside rather than disposing of it at a proper site.

- Bunds will affect the landscape.
- Fencing could protect livestock.
- There has been no consideration of the safety of occupants of vehicles coming into contact with the bunds at high speeds.
- Concerned about effectiveness of controls on the material. Contaminated soils, asbestos or Japanese Knotweed might be included.
- The application site includes footpath 30 and this is not addressed in the application.
- The footpath shares the same motorway bridge as the access road, which would put walkers at risk.
- Concerns about safety at the junction where the access road meets A40.
- Concern that due to the location of prevailing winds snow would accumulate between the bunds rather than being blown clear.

4. **Environment Agency** –No objection. The development will require a bespoke environmental permit.

5. **Natural England** – No specific comments. The development is unlikely to affect any statutorily designated sites or landscapes.

6. **CPRE** – Object. The proposal would create inappropriate and unjustified landscape change and an alien and intrusive landform in open countryside. It would block distant and attractive views across the landscape from the M40 to the detriment of drivers. The containment of livestock could be done better by fences. The development would create a dangerous precedent for landscape change using waste materials with flimsy justification.

7. **Ecologist Planner** – No objection in principle. The bund design plan shows planting on the bund, more detail is required about this. Due to the location, both in landscape and safety terms, it might be sensible to avoid planting and instead seed the bunds. Weed control may be necessary on the bund to prevent invasive species. Suggests conditions to ensure compliance with the ecological recommendations in the submission, a breeding bird check and a landscaping plan. Suggests informatives to cover protected species and birds.
8. **Archaeology** – No objection. The scheme as outlined in the application will not affect any known archaeological sites or features.
9. **Highways Agency** – Initial Response - objection. No evidence has been submitted to justify the conclusion that there would be no impact on highway drainage. In addition it looks as if there could be as little as 1 metre between the foot of the bund and the M40 fence. It must be demonstrated that this is sufficient. The applicant should address these issues and permission should not be granted in the meantime.

Further response – No objection as the drain referred to in the application on the motorway side of the bund is an agricultural drain and not a highways drain.

10. **Highway Authority** – No objection subject to conditions and section 106 agreement to secure highways contributions. Suggested conditions include restriction to a five year period and a submission of a Construction Traffic Management Plan, provision of vision splays and improvements to access. No routeing agreement is required as the contributions would mitigate the potential impact of HGVs. The section 106 contribution requirements are £26 250 for highway mitigation works.
11. **Drainage** – No objection. However, the maintenance schedule for maintaining the filter drain should be submitted. Along with the construction details and method statement for construction of the bund. This is because if the filter drain is not maintained it will block with silt and roots and then water will run onto the highway and if the bund is not constructed properly it could slip onto the highway.
12. **Rights of Way** – First response – holding objection - This development will affect Tetsworth footpath 30. Part of the legal line of the path runs over the proposed location of the bund and in addition the proposed access route shares the M40 bridge with the footpath. Therefore, the applicant must proposed suitable safety measures to ensure the safety of path users.

Final Response – No objection subject to diversion of a section of the footpath that would be affected by the development and the provision of three kissing gates.

Annex 2 – European Protected Species

European Protected Species

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

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of an EPS including in particular any disturbance which is likely a) to impair their ability –

i) to survive, to breed or reproduce, or to rear or nurture their young, or

ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or

b) to affect significantly the local distribution or abundance of the species to which they belong.

4. Damage or destruction of an EPS breeding site or resting place. Our records and the habitat on and around the proposed development site indicate that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

Pond 1 is within 500m of the site and has good suitability for Great Crested Newts but the application site has relatively low potential as habitat for Great Crested Newts during their terrestrial phase. Whilst there are records of Great Crested Newt approximately 850m from Pond 2 (close to the proposed northern bund), this pond has been assessed as having poor suitability for Great Crested Newts.

Compliance with National Planning Policy Framework

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

- offering a pre-application advice service, which the applicant took advantage of in this case
- updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

