

**Planning Report**

**For: PLANNING AND REGULATION COMMITTEE – 13 APRIL 2015**

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

**Development Proposed:**

**Spreading of sub and topsoil arising from construction works at the site of Greenacre, onto part of adjacent field.**

**Division Affected:** North Hinksey  
**Contact Officer:** Kevin Broughton **Tel:** 01865 815272  
**Location:** Greenacre, Stanton Road, Oxford, OX2 9AY.  
**Applicant:** Oxfordshire County Council  
**Application No:** MW.0021/15 District ref No: P15/V0149/CM  
**District Council Area:** Vale of White Horse  
**Date Received:** 9<sup>th</sup> January 2015  
**Consultation Period:** 22<sup>nd</sup> January – 112<sup>th</sup> February 2015  
**Recommendation:** Refusal

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**• Part 1 – Facts and Background**

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

1. North Hinksey is on the western side of Oxford, and the group of houses that the application site adjoins is on the southern edge of North Hinksey.

**Site and Setting (see site plan Annex 1)**

2. The site is part of an open field adjoining the rear of two houses currently under construction on Stanton Road. Stanton Road is a private road on which there sits large detached houses with substantial gardens. To the north east of the site there is what appears to be a paddock and stable area and on all other sides the land is open pasture. The land slopes down gently from the rear of the housing plots to a row of trees and small track about 240m from the site.
3. The site is within the Oxford Green Belt. It is also within the North Vale Corallian Ridge, an Area of High Landscape Value (AHLV) designated in the Vale of White Horse Local Plan.
4. The nearest houses will be those that are being built by the applicant on the adjoining site. The two houses either side of the houses under construction have gardens that adjoin the site, but the gardens are substantial and the houses themselves are over 50m from the site. There are substantial hedges on the boundaries of the neighbours gardens.
5. The stable building to the north west is approximately 30m from the site.

**Details of the Development**

6. The proposed development involves the spreading of subsoil and topsoil that has arisen from the construction of the houses on the adjoining site.
7. The material arose from the digging of the foundations of the houses on the adjoining site. Sandstone extracted as part of the excavation was used in the construction process and the soils were placed on the application site.
8. The soil is currently stored on the application site in bunds that are approximately 1m in height. It is predominantly subsoil, some of which has a substantial amount of rock in it, but there is also a separate bund of topsoil.
9. The applicant estimates the amount of material to be between 80 and 100 cubic metres in volume. The site is 0.1ha in size, so the soil would be spread to a maximum depth of 10cm (4 inches).
10. The applicants would then cover the material with topsoil and sow a grass and wildflower mix.
11. The Applicant does not accept that the development is inappropriate development in the Green Belt nor that it is a departure from the

development plan. Nevertheless they have made the case for very special circumstances, which they believe justifies the development if Oxfordshire County Council are minded to consider this application as inappropriate development.

12. The very special circumstances argument is two-fold:

- i. there would no longer be a need to remove the material from the site, which the applicant estimates to be 24 lorry movements.
- ii. there would be increased biodiversity because of the wildflower seeding afterwards.

• **Part 2 – Other Viewpoints**

**Representations**

13. There are 4 objections to the proposed development relating to: Green Belt, lack of very special circumstances, effect on the local landscape and other issues. Details of the objections are contained in Annex 2.

**Consultations**

14. West Oxfordshire District Council – no response yet received.

Oxford Green Belt Network

- If OCC are of the view that the spreading of topsoil is inappropriate development OGBN would support this position.
- If OCC are sympathetic, request that material is scrutinised to ensure that it is topsoils and not builder's rubble.
- The applicants describe it as subsoil which suggests that the soil would contain stones and other material unsuitable for spreading.

Natural England - no objection.

London Oxford Airport - no objection to a condition to prevent any increase in bird activity.

Scottish Southern Electricity - no objection but gives general advice to be passed on to the contractor.

Minerals and Waste Policy:

- not a significant amount of waste;
- consider against saved policy W7 of the OMWLP, policy W7 of the OMWLPCSCD and national policy on development in the Green Belt;

Archaeology - no archaeological constraints.

Rights of Way - no comments.

County Ecologist /Planner – Initially a holding objection because the applicant had not provided sufficient details to show that the development would lead to a net gain in biodiversity and that it would contribute to the aims of the Conservation Target Area. The applicant has since then supplied more details of the seed mix and aftercare. The County Ecologist / Planner now has no objection.

• **Part 3 – Relevant Planning Documents**

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

15. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.

The relevant development plan documents are:

- The Vale of White Horse District Local Plan 2011
- The Oxfordshire Minerals and Waste Local Plan 1996

16. The Draft Oxfordshire Minerals and Waste Local Plan Core Strategy (OMWCS) has been out to consultation. This document is at an early stage of preparation and as such the weight which can be given to the policies it contains is very limited. At the meeting of the full County Council on 24<sup>th</sup> March 2015, the OMWCS was approved for publication and submission to the Secretary of State for independent examination following consideration of any representations received. Notwithstanding the limited weight that this plan currently has, it is appropriate to consider draft policies which are relevant to this development.

17. The Draft Vale of White Horse Local Plan 2029 Consultation is also a material consideration albeit that it also carries limited weight.

18. The Government's National Planning Policy Framework (NPPF) and the National Policy for Waste (NPPW) are material considerations in taking planning decisions.

**Relevant Policies**

19. Oxfordshire Minerals and Waste Local Plan 1996 - Saved Policies (OMWLP):

Policy W7 – Landfill

Policy PE3 – Buffer Zones

Policy PE13 – Restoration, After-use and Nature Conservation

Vale of White Horse Local Plan 2011 – Saved Policies (VWHLP):

- Policy GS3 – Green Belt
- Policy DC5 – Access and Parking
- Policy DC6 – Landscaping
- Policy NE7 – Protection of the North Corallian Ridge

20. Other Material Considerations:

Oxfordshire Minerals and Waste Local Plan Core Strategy – Proposed Submission Document (OMWCS):

- Policy W1 – Oxfordshire Waste to be Managed
- Policy W2 – Oxfordshire Waste Management Targets
- Policy W5 – Siting of waste management facilities
- Policy W6 – Landfill
- Policy C1 – Sustainable Development
- Policy C5 – Local Environment, Amenity and Economy
- Policy C6 – Agricultural Land and Soils
- Policy C7 – Biodiversity and Geodiversity
- Policy C8 – Landscape
- Policy C10 – Transport

Vale of White Horse Local Plan 2029 Consultation Draft (VWHLPCD)

- Policy CP1 – Presumption in Favour of Sustainable Development
- Policy CP13 – The Oxford Green Belt
- Policy CP44 – Landscape
- Policy CP45 – Green Infrastructure.
- Policy CP46 – Conservation and Improvement of Biodiversity

National Planning Policy for Waste (NPPW)

National planning Policy Framework (NPPF)

• **Part 4 – Analysis and Conclusions**

**Comments of the Deputy Director (Strategy and Infrastructure Planning)**

21. Policy C1 of the OMWCS states that a positive approach will be taken to minerals and waste development. Policy CP1 of the VWHLPCD states that applications that accord with the Local Plan, or where there are no relevant up to date policies, will be approved. This is in accordance with the principle of sustainable development in the NPPF.

22. The main issues in relation to this development are the nature of the development, Green Belt, waste disposal, biodiversity, landscape, transport and access, and local amenity.

#### Nature of the Development

23. There is some disagreement between the applicant and the objectors as to the precise nature of the development and whether the development is a departure from the development plan. The Landfill Directive was published in the Official Journal of the European Communities on 16 July 1999 (OJ L182, 16.7.1999). Article 2(g) of the Directive defines landfill as a waste disposal site for the deposit of waste onto or into land. The proposal is therefore a landfill operation.
24. The landfilling of waste is not defined in the NPPF as being not inappropriate development. I took the view that the development was therefore inappropriate and therefore the application was a departure from the development plan. In an appeal decision for a quarry, Pynesfield in Hertfordshire, the Inspector concluded that the infilling of the void would be inappropriate development in the Green Belt. The application is different in type and scale, but the principle of the development being inappropriate remains.
25. In conclusion the nature of the development is that it is a landfill operation and it is inappropriate development in the Green Belt.

#### Green Belt

26. The issues on the landscape setting of the Green Belt will be considered in the section on landscape.
27. Policy W7 of the OMWLP states among other things that proposals for landfill sites should not conflict with the purposes of the Green Belt. Policy W5 of the OMWCS makes similar provision. Policy GS3 of the VWHLPCD states that development will only be permitted if it does not conflict with the purposes of including land in the Green Belt, and if it preserves the openness and the special character of Oxford. Policy CP13 of the VWHLPCD also states that the Green Belt will be protected to maintain openness, and that proposals will only be permitted in very special circumstances. Paragraph 6 of the NPPW seeks that waste planning authorities should look for sites outside the Green Belt for waste management facilities which, if located in the Green Belt, would be inappropriate development.
28. The purposes of the Green Belt are defined in the NPPF as:
- i. to check the unrestricted sprawl of large built-up areas;
  - ii. to prevent neighbouring towns merging into one another;
  - iii. to assist in safeguarding the countryside from encroachment;

- iv. to preserve the setting and special character of historic towns; and
- v. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

29. Although the proposed development would raise the height of the land by only a very small amount it is nevertheless inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt and so there is a need to prove very special circumstances.

30. The Very Special Circumstance argument put forward by the applicant is based on two points: the lack of need to take the material away by lorry; and the improvements to biodiversity that would result from the wildflower meadow.

#### Waste Disposal

31. Policy W1 of the OMWCS states that provision will be made for facilities so that Oxfordshire can deal with its own waste. Policy W2 of the OMWCS states that proposals should show that the waste cannot be managed through processes higher up the waste hierarchy. The material to be disposed of on this site has arisen on the site immediately next to it, it has had the useable stone extracted and is residual waste which would need to be disposed of to landfill. It therefore accords with policies W1 and W2 of the OMWCS.

32. Policy W6 of the OMWCS states among other things that further provision by disposal to landfill will not be made. The amount of waste is extremely small in proportion to the overall waste arising in the county, but the disposal would be contrary to policy W6 because there is no proven need to provide further landfill.

33. Policy W7 of the OMWLP states that the proposed development will be assessed against there being a definite need for facilities which cannot be met at existing landfill sites. Policy W6 of the OMWCS states that provision for disposal of non hazardous waste will be made at existing landfill facilities. The NPPW states that in determining planning applications, Waste Planning Authorities only expect applicants to demonstrate the quantitative or market need for new waste management facilities where proposals are not consistent with an up-to-date Local Plan. This proposal is not consistent with Development Plan.

34. Paragraph 4 of the NPPW states that in preparing plans Waste Planning Authorities should among other things give priority to the re-use of previously-developed land. The proposed development is a green field site and does not accord with the guidance, which although it is aimed at policy provision should nevertheless be borne in mind

when determining applications. This is reflected in policy W5 of the OMWCS.

35. There are existing landfill sites that could accommodate the small volume of waste that is the subject of this application. The waste could be used for the restoration of existing landfill voids. The volume of waste is extremely small and has arisen in close proximity to the proposed disposal site, but there is no provision in policy for small amounts of waste to be disposed of differently. The proposed development, though small is contrary to the waste policies in the development plan and the emerging core strategy.

#### Biodiversity

36. Policy DC6 of the VWHLPCD states that proposals will be required to include landscaping to maximise opportunities for nature conservation and wildlife habitat creation. Policy C7 of the OMWCS states that minerals and waste developments should conserve and where possible deliver a net gain in biodiversity. Policies CP45 and CP46 of the VWHLPCD respectively state that a net gain in green infrastructure, including biodiversity, will be sought, and that development conserving and enhancing biodiversity will be permitted.
37. The proposed development would include the sowing of the site with a grass and wildflower mix to increase the biodiversity of the site, and this would be maintained for five years in accordance with the submitted aftercare scheme which is in accordance with the seed supplier's guidance. The site is small and the wildflower mix is only required to be maintained for five years, but the development would not result in a reduction in biodiversity; it should lead to an increase in biodiversity.

#### Landscape

38. Policy W7 of the OMWLP states that mineral and waste developments should not injure the visual amenities of the Green Belt or conflict with its purposes. Policy GS3 of the VWHLPCD states that the visual amenities of the Green Belt will be protected. Policy W7 of the OMWLP also states that developments should not damage the landscape of an AHLV. This is reinforced by policy NE7 of the VWHLPCD which states that development harming the appearance of the North Vale Corallian Ridge, an AHLV will not be permitted unless there is an overriding need.
39. Policy C8 of the OMWCS states that minerals and waste developments shall respect and where possible enhance the local landscape character. Policy CP44 of the VWHLPCD states that the Vale's landscape character will be protected, and where possible, enhanced.



40. Policy DC6 of the VWHL P states that developments will be required to include landscaping to protect the visual amenity of the area.
41. The proposed development would be a negligible change in land level with no long term effect on the landscape. It would therefore not result in any harm to the local landscape, and in particular to the North Vale Corallian Ridge. It would also result in no harm to the visual amenity of the Green Belt. It would therefore accord with the Development and emerging core strategies in terms of landscape.

#### Transport and Access

42. Policy W7 of the OMWLP states that proposals will be assessed in terms of suitable access to the sites and to suitable transport routes. Policy DC5 of the VWHL P states that developments will only be permitted where the road network can accommodate traffic arising from the development. Policy C10 of the OMWCS states that minerals and waste developments will be expected to make provision for safe and suitable access to Oxfordshire's advisory lorry routes.
43. The proposed development does not include any lorry movements of waste, but the application includes a justification on the grounds of reduced lorry movements. The traffic impact must therefore be assessed in order to weigh up the case for very special circumstances.
44. The A34 is a suitable lorry route and so the access to and from that road will be evaluated. The route from the site to the A34 would be along Stanton Road, Harcourt Hill / Westminster Way.
45. Stanton Road is a narrow private road with no footpath and direct access to the residential properties along it. The site is some 150m from the junction with Harcourt Hill.
46. Harcourt Hill leads to Westminster Way but they are essentially the same road. The road is a no through road that serves an Oxford Brookes campus, the housing along the road itself and the housing on the private roads that lead off it. It is wide enough for two cars to pass easily along most of its length, and lorries could pass with care. The distance from the junction of Stanton Road to the A34 would be approximately 760m.
47. The access to the site is not good, but the distance to the A34 is relatively short. If the proposed site was not used and the material had to be removed from the site, as contemplated in the planning application for the development of the houses, the number of lorry movements would be relatively few and would be for a relatively short period of time.

#### Local Amenity

48. Policy W7 of the OMWLP states that there should be no damage to amenities of residential or other uses. Policy C5 of the OMWCS states that proposals should demonstrate that they would have no adverse impact on residential amenity.
49. Policy PE3 of the OMWLP states that appropriate buffer zones will be safeguarded around waste disposal sites. The supporting statement points to a policy that the County Council has operated since 1971 which has a requirement for a distance of 100m between a waste disposal site and a small group of dwellings. The proposed development would be half that distance from the neighbouring development but the amount of waste and the nature of the operation are such that in my opinion the buffer zone between this development and the housing would be appropriate.
50. Policy PE13 requires that landfill sites should be restored within a reasonable timescale to an after-use appropriate to the location. Policy W7 of the OMWLP also states that proposals should be capable of progressive restoration within an acceptable period. The proposed development would result in the site being restored quickly to a wildflower meadow which would be appropriate to its surroundings. Once completed, the proposed development would have no adverse impact on residential amenity. The reduced number of lorry movements, due to the lack of need to remove the soil, would be a positive impact in terms of effect on the local amenity which would otherwise arise from the permitted residential development.
51. Policy C6 of the OMWCS states that proposals should make provision for the management of soils in order to maintain soil quality. The proposed development would involve the spreading of predominantly subsoil from the adjoining site to a depth of approximately 10cm. This would have the effect of reducing the quality of the soil at the surface over the short term, but is unlikely to have any long term effect on soil quality over the site in the long term. In addition the site itself is very small.
52. The proposed development would have no significant impact on the local amenity save for the positive benefit of not having the lorry movements from the site.

Very Special Circumstances

53. The reduction in lorry movements would be 24 in total, taking a total of 100 cubic metres off the site. The number of lorry movements reduced would be few and the distance to the nearest lorry route would be less than a kilometre (0.6miles).
54. The proposed wildflower / grassland mix should result in an increase in biodiversity, and this would be maintained for 5 years.

55. The proposed scale of development means that the level of harm to the Green Belt is minor, however the benefits of the proposal are also minor. If the development were to be scaled up, the harm to the Green Belt would be greater, but so too would the benefits. Therefore the scale of the development does not negate the principle of the need to show Very Special Circumstances.
56. The reduction in lorry movements and the increase in biodiversity for this application would be of positive benefit, but would not in my opinion be considered Very Special Circumstances.

### **Conclusion**

57. The proposed development would be inappropriate development in the Green Belt for which Very Special Circumstances have not been shown. The proposal should therefore be refused on the grounds that it is contrary to policy GS3 of the VWHLP, policy CP13 of the VWHLPCD, policy W7 of the OMWLP, policy W5 of the OMWCS and paragraph 6 of the NPPW.
58. The proposal would result in disposal of waste on a green field site and other than at an existing landfill site. The proposal is therefore contrary to policies W5 and W6 of the OMWCS, policy W7 of the OMWLP and paragraph 4 of the NPPW.
59. The proposed development would not cause harm to the landscape or local amenity.

### **Recommendation**

- 60. It is RECOMMENDED that planning permission for application no. MW.0021/15 be refused planning permission for the following reasons:**
- i. The proposed development would be inappropriate development in the Green Belt for which Very Special Circumstances have not been shown. The proposal is therefore contrary to policy GS3 of the Vale of White Horse Local Plan, policy CP13 of the Vale of White Horse Local Plan Consultation Draft, policy W7 of the Oxfordshire Minerals and Waste Local Plan, policy W5 of the Oxfordshire Minerals and Waste Local Plan Core Strategy – Proposed Submission Document and paragraph 6 of the National Planning Policy for Waste.**
  - ii. The proposal would result in disposal of waste on a green field site and other than at an existing landfill site. The proposal is therefore contrary to policies W5 and W6 of the Oxfordshire Minerals and Waste Local Plan Core Strategy –**

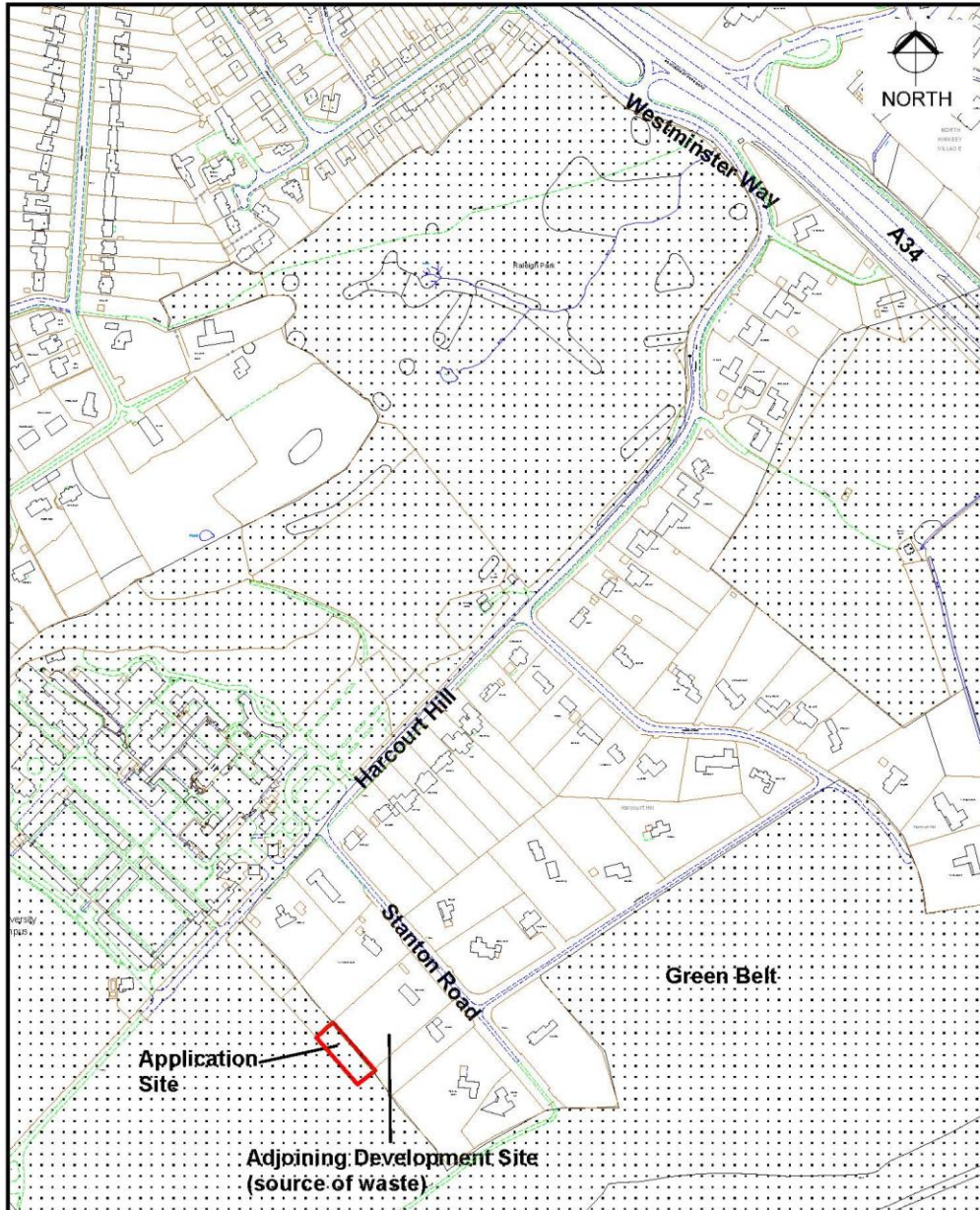
**Proposed Submission Document , policy W7 of the  
Oxfordshire Minerals and Waste Local Plan and paragraph  
4 of the National Planning Policy for Waste.**

BEV HINDLE

Deputy Director (Strategy and Infrastructure Planning)

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. In this case the applicant did not take advantage of the opportunity. Any issues that occurred during the processing of the application were raised with the applicant and this led to more detail of the wildflower mix in order to satisfy the County's Ecologist/Planner. Once it became clear that the case officer was minded to recommend refusal on Green Belt grounds, the applicant was informed and given the opportunity to amend the application.



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Green Belt

- Spreading of earth and spoil cannot be very special circumstances.
- This would set a dangerous precedent and would allow dumping of landfill anywhere in the Green Belt.
- The development conflicts with the purposes of the Green Belt.
- Very Special Circumstances have not been proven.

Lack of Very Special Circumstances (Transport of Soils)

- The number of lorry movements would be insignificant, particularly in relation to the number of lorry movements for the housing development.

Lack of Very Special Circumstances (Biodiversity)

- Long term management of the wildflower meadow will not be carried out.
- There are problems with Ragwort, Thistles and Hawthorn on the site. They would need to be removed before the soil is spread.
- Spreading of soil is not necessary for the creation of a wildflower meadow, in fact it might be detrimental to it.
- It is not clear whether the development would create a lasting wildflower meadow.
- The wildflower meadow meadow can be created without spreading the soil on the land.
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Effect on the local landscape

- The site is visible not only from the footpath but also from the track at the bottom of the fields.

Other issues

- The application should be described as retrospective because the soil is already dumped there.
- The waste material does not appear to include topsoil and this would have to be imported.
- The development is landfill, despite the agent's assertion.
- There is no environmental benefit in spreading the soils on the site.
- The site does not meet the locational requirements in policy W6 of the OMWLPCSD.
- The soil would be unsuitable for spreading.
- Any permission given would be difficult and expensive to enforce.