

For: PLANNING AND REGULATION COMMITTEE – 18 MAY 2015

By: DEPUTY DIRECTOR (STRATEGY AND INFRASTRUCTURE PLANNING)

Development proposed:

Retrospective planning permission for minor changes in orientation to a limited part of and an extension to the footprint of the Materials Recycling Facility (MRF) building the subject of planning permission reference 10/00361/CM, changes to the surface water management system, the provision of boundary fencing and non-material amendments to the consented MRF building including the addition of doors, roof lights, signage, generators and air management equipment, external stairs, amendments to the offices and internal layout of the building and the variation of planning permission reference 10/00361/CM to remove Condition C24 (landscaping mitigation measures) and Condition C29 (relating to landfill engineering works).

Division Affected: Ploughley
Contact Officer: David Periam Tel: 01865 895151
Location: Finmere Quarry, Banbury Road, Finmere, Oxfordshire
MK18 4AJ
Application No: MW.0031/15 District ref No. 15/00245/OCC
Applicant: OPES MRF 2013 Ltd
District Council Area: Cherwell
Date Received: 30 January 2015
Consultation Period: 12 February – 5 March 2015

Contents

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

Recommendation Summary:

The report recommends that application MW.0031/115 be approved.

Part 1 –Facts and Background

Location (See Plan 1)

1. Finmere Quarry is located in the north-east of Oxfordshire adjacent to the boundaries with Northamptonshire and Buckinghamshire. It is accessed off the A421 which runs north of the quarry site. Finmere village lies 450 metres to the

north east from the edge of the landfill site and 7.4 miles (12km) north east of Bicester.

The Site and its Setting (See Plan 2)

2. Finmere Quarry comprises a non-hazardous landfill site within an area that has been worked for sand and gravel. The surrounding area is predominantly agricultural rural countryside and the site is located within the North Ploughley Area of High Landscape Value as designated in the Cherwell Local Plan 1996 (CLP, Policy C13). There is landfill gas utilisation plant on the southern flank of the landfill generating electricity. The site of the Materials Recycling Facility (MRF) which is the subject of this planning application is 200 metres south of the landfilled area.
3. Land immediately west of the landfill has permission for sand and gravel working and inert landfill and land to the south east has permission for clay extraction and filling back with inert material from the existing quarry area..
4. The nearest properties to the site are; Widmore Farm, approximately 700 metres to the north-west of the proposed MRF, Foxley Field Farm Bungalow (currently owned by the applicants) that lies just within the landfill site boundary on its eastern edge and approximately 300 metres north-east of the proposed MRF and Boundary Farm that lies approximately 400 metres south east of the MRF site.
5. The landfill is flanked by two rights of way. Immediately to the east is bridleway 6 running from Finmere village southwards passing approximately 190 metres from the proposed MRF at its closest point. Bridleway 7 is a southerly continuation of bridleway 6 which was diverted away from the MRF site in 2008. Bridleway 4 runs from Widmore Farm to Finmere village and was diverted in 2009 away from the quarry to run on the north west edge of the Landfill site. Part of the former railway line proposed for the High Speed 2 (HS2) passes along the western boundary of the non-hazardous landfill site and is approximately 200 metres from the proposed MRF at its closest point.

Background and History

6. Permission was originally granted for sand and gravel working and inert waste infilling on appeal in 1993. Permission for commercial and industrial landfill was granted in 1998. In 2005 permission was given to increase the height of the landfill based on advice from the Environment Agency that it was necessary to ensure run off from the landfill. The operator tipped to levels higher than those permitted in 2005 and an enforcement notice was served and upheld on appeal to remove the over-tipped waste.
7. In May 2008, in line with the enforcement notice, an application was made to remove the over-tipped waste to other waste cells within the site. The Environment Agency objected as levels of hydrogen sulphide detected from the landfill were above those regarded as acceptable to the health of people on and off the site. As a result the application was refused. Permission was then

given for retaining the over-tipped waste in 2009 (on advice from the Environment Agency).

8. Permissions for a MRF and for extraction of sand and gravel and clay and inert filling on adjacent land were granted on appeal in 2007. Permission was granted in 2009 to extend the life of the landfill and the MRF to 2020. Permission no. 10/00361/CM was granted in May 2010 for a variation to the MRF to include the provision of a ventilation stack. This permission includes condition C24 requiring that the MRF cannot be operated until landscape planting has been carried out and condition C29 requiring that the MRF cannot be operated until engineering works have been carried out to alleviate odour mitigation measures and that the permanent capping to cells 3,4,5 & 6 of the landfill site is in place.
9. In January 2012 permission 11/00015/CM was granted for the change of use of the MRF to add biodrying and gasification waste treatment technologies and associated power generation together with an extension to the operational life of the building until 2035. Condition 27 of this permission provided for similar landscape planting in line with condition C24 of permission no. 10/00361/CM but does not have a condition containing the requirements set out in condition C29.
10. In January 2012, permission 11/00026/CM was also granted for an extension of time for the life of the landfill site until 2035, to account for the slowdown in landfilling rates that would arise as a result of the improvements in the recycling process and gasification.
11. In December 2013, permission 13/00973/CM was granted to vary the order of landfilling, and to extend the timescale for capping Cells 4, 5 and 8 at the non-hazardous waste landfill to no later than 15th October 2014.
12. All existing permissions at the wider quarry and landfill site are subject to Section 106 legal agreements which include amongst other items a restricted hinterland for the importation of waste (Annex 1). The effect of the legal agreements is that no more than 25% of the waste received can be imported from outside the defined hinterland.

The Proposed Development

13. The proposed development is partly retrospective and is for a larger MRF building facility on a slightly different orientation to that approved in planning permission no. 10/00361/CM. The details and differences of the built development from the existing permission are as follows
 - i) The total application area is 2.82 ha. The area covered by the existing MRF building permission is 2.3 ha. This in part reflects changes to the hard surfaced area set out below but also that the gas utilisation plant previously permitted has now been implemented and so changes to accommodate access to the MRF around this have been included. Changes have also been made to address discrepancies between actual on site survey data

and Ordnance Survey data and the actual extent of the southern boundary of the MRF development.

- ii) The MRF building proposed provides 3632 m² of floorspace as opposed to the permitted building which would provide 3403 m².
- iii) The proposed MRF building is 100.9 metres long by 36 metres wide whereas the approved MRF building would be 91.3 metres long by 35.3 metres wide. The approved MRF building would also have an office and changing room attached to the northern elevation which would be 24 metres long by 7.5 metres wide (180 m² of the total 3403 m² floorspace). The proposed MRF building contains internal two and three storey offices, including changing rooms and welfare facilities, as well as the waste processing equipment. The three storey offices are accessed via an external staircase on the northern elevation.
- iv) The maximum pitched roof height of the proposed MRF building is 13.16 metres whereas the approved MRF building's would be 12.61 metres. As the proposed building has been constructed at a slightly lower ground level, the proposed building is calculated to be 0.22 metre higher above ground level than that currently approved.
- v) Both the proposed and approved MRF buildings have a ventilation stack 16 metres high on the southern side of the building.
- vi) The proposed MRF building has seven roller shutter doors for vehicular and operational access on its southern elevation and three on its western elevation. Doors for staff access including emergency exits are provided on all elevations. The approved MRF building has two roller shutter doors on the southern elevation and one personnel door on its northern elevation.
- vii) Roof lights are provided in the proposed MRF building covering about 10% of the total area which will reduce the need for artificial lighting and so energy consumption. These do not form part of the approved MRF building.
- viii) The proposed MRF building has walls of profiled steel cladding (coloured Van Dyke Brown) down to ground level whereas the approved MRF building would have concrete walls from ground level with steel cladding above. The roof in both the approved and proposed MRF buildings is of Olive Green profiled steel cladding.
- ix) The concrete surfaced area for the approved MRF building is 1.30 ha. That for the proposed MRF building (including the building itself) as constructed to date is 1.38 ha. The application includes a further 135 m² to the east of the MRF building and a possible 3500 m² extension westwards beyond the area for the approved MRF building, to provide for a surface water management system to meet Environment Agency requirements for storage of water should there be a fire requiring extinguishing. This includes a low level wall on the western boundary of the concreted

area.(The applicant is of the opinion that this element of the development could in any instance be carried out using permitted development rights).

- x) Electrical generators and associated fuel tanks and air management equipment would be located on the northern side of the proposed MRF building. Air from the air management equipment would be directed back into the MRF building and not discharged to atmosphere. These are not part of the existing MRF building permission.
 - xi) External recycle storage bays are provided on the southern boundary of the hard surfaced area for both the proposed and approved MRF buildings and there is no difference between that approved and proposed. The overall storage bay area is 5 metres high and 100 metres long constructed of concrete panels in a steel framework walls extending at the western and eastern ends 20 metres to the north.
 - xii) External lighting for the proposed MRF building has been installed comprising LED floodlights around the southern and western elevations of the MRF building to a height of about 8 metres and on the northern corners of the storage bays to a height of 5 metres all being angled to provide light to the concreted area. Other than in emergencies, these would only be used when required during working hours which are 7.00 am to 6.00 pm Mondays to Fridays and 7.00 am to 1.00 pm on Saturdays. Bulkhead lighting is provided around the northern and eastern elevations of the MRF building at a height of 3 metres to provide low level lighting for pedestrian and vehicle access. These lights would also only generally be used when required during working hours although they would be on a sensor outside of these hours to allow safe access and egress to and from the offices.
 - xiii) Palisade fencing, approximately 2 metres high with access gates, would be provided to enclose the approved MRF building and the hard surfaced area. These are not part of the approved MRF building permission.
 - xiv) The car parking and weighbridge which are approved for the existing MRF building are no longer required for the proposed MRF building as the main landfill site weighbridge is now proposed to be used.
 - xv) "Opes" signage would be provided on the northern, southern and western elevations of the proposed MRF building in accordance with details to subsequently be submitted for approval. This is not part of the existing MRF building permission.
14. It is proposed that up to 150,000 tonnes per annum of non-hazardous commercial and industrial waste (120,000 tonnes) and construction and demolition waste (30,000 tonnes) would be imported to the MRF facility. The existing approved MRF building was too small to accommodate the relevant waste treatment equipment hence the increase in size. The waste processing equipment would sort and process waste to produce Solid Recovered Fuel (SRF) or Refuse Derive Fuel (RDF) and to generate other recyclable materials from the components which cannot be used to produce SRF or RDF or which it

would be more valuable to recycle. The production of SRF and RDF is stated to also be compatible with the gasification waste treatment technologies and associated power generation consented under permission no. 11/00015/CM.

15. It is anticipated that based on the waste treatment infrastructure installed at the MRF only 16% (or 24,000 tonnes per annum) of the waste delivered to the MRF would be directed to landfill representing a significant reduction in the quantity of waste landfilled. It is anticipated that approximately 21% (32,000 tonnes per annum) of recyclable materials would be produced and 63% (or 94,000 tonnes per annum) of Solid Recovered Fuel (SRF) / Refuse Derived Fuel (RDF) would be produced. However, these proportions are forecasted averages and variances will inevitably occur. An important factor determining the degree of variance will be the amount of good quality recyclable material that is actually received from time to time at the facility. At times when there is a plentiful supply of good quality recyclable materials within the incoming waste stream the proportion of recyclates will be higher than the average set out above.
16. Wastes delivered would be predominantly plastics, cardboard, paper, timber, textiles, inert materials and other composite materials. These would be deposited on the concrete floor of the MRF building and transferred by wheeled loading shovels, chain conveyors or other suitable plant to the waste processing plant. The processing plant would comprise a range of screening and sorting equipment including screens, conveyors, trommels and picking stations together with magnetic and air separators and a pre-shredder. Following separation of materials, that suitable for production of SRF or RDF would be shredded to the correct size before entering baling and wrapping equipment. All delivery and processing of waste would be undertaken internally. Recovered materials would be collected in storage containers in the MRF building or in bays beneath the discharge points and kept in the building prior to removal from site. The open storage bay on the southern boundary of the MRF site would be used for the storage of wrapped SRF or RDF together and may also be used for storage of recyclates not likely to generate fugitive emissions of dust, litter or odour awaiting collection. Residual non-recyclable materials would be stored within the MRF building prior to disposal in the adjacent landfill site.
17. A total of 14 full-time and 4 part-time staff giving a full-time equivalent of 15 would be employed.
18. Vehicular access would be taken via the main landfill site reception area and the weighbridge and wheel cleaning facilities. It is also proposed that conditions C24 and C29 of permission no. 10/000361 be removed from any permission granted to this application. It is considered by the applicant that condition C24 is no longer required because the landscape planting is no longer necessary as planting has now grown up naturally such as to provide satisfactory screening.
19. It is considered that condition C29 is no longer required as there is no longer any over-filling or odour nuisance and the detailed sequence of the capping

and restoration of the landfill site is the subject of detailed conditions on the most recent non-hazardous landfill permission (13/000973/CM). Significant capping works were carried out at the site in 2014 including the northern flanks to Cells 4 and 5 which were historically overfilled and the northern flank to Cell 8. Approximately a third of the area which was overfilled in Cells 3, 4, 5 and 6 has been capped. It is the intention of the applicant to commence the preparatory works for capping the remainder of Cells 4, 5 and 8 together with Cells 3, 6 and 9 in early May 2015 with the objective of completing the capping works in 2015.

20. The phasing of the landfilling operations is specified in condition 7 of planning permission reference 13/00973/CM (the landfill permission). Condition 7(iii) of the landfill permission states that:

'Cells 3, 6 and 9 shall be permanently capped within 12 months of the completion of the deposit of waste in the haul road area that cuts through Cell 6...'

The haul road area that cuts through Cell 6 is necessary to provide for the movement of soils to restore Cells 4, 5 and 8 hence the approach taken to condition 7(ii) which provides for the completion of topsoil placement in Cells 4, 5 and 8 before the haul road which cuts through Cell 6 is filled. The landfill permission clearly has been drafted with the objective of progressive landfill restoration taking into account the practicalities of soil placement rather than capping an area of historic overfilling which is not having any unacceptable environmental impact and in planning terms has been regularised, commencing with planning permission 08/02519/CM. Indeed the reason given for Condition C29 of the MRF permission is:-

'To ensure that nuisance caused by the overtipping at the existing landfill is remedied before the MRF begins and that priority is given to rectifying past problems to minimise the impact of the development on residents of Finmere.'

21. It was acknowledged at the recent liaison meeting that the site is the subject of very few, if any, complaints from the residents of Finmere hence the historic overtipping demonstrably is not causing a nuisance or having an unacceptable impact on the residents of Finmere. This is so precisely because it has since been regularised both in planning and remedial terms.
22. Although a theoretical reconciliation could be made of Condition C29 of the MRF permission and Condition 7 of the more recent landfill permission, they conflict in practical terms as they have been clearly drafted for different purposes. Condition C29 was seeking to address an issue that no longer applies and assumes a sequence of phased restoration which is also no longer applicable.
23. Given the development of the MRF which is now virtually complete it would be perverse if Condition C29 prevented the operation of the MRF while areas of the landfill which are not having any unacceptable environmental impact are

being capped and restored generally in accordance with revised phasing in the landfill permission. To do so would only act to divert waste from the brand new MRF which has been designed to move the management of a significant quantity of waste up the waste hierarchy to the landfill which is at the bottom of the waste hierarchy. Such an approach would be inconsistent with local and national planning policy.

24. The applicant cites that there no longer being a need for condition C29 was recognised when permission no. 11/00015/CM was granted without the attachment of an equivalent condition and the conditions of the MRF permission should be consistent with this.
25. The application is accompanied by a landscape and visual impact assessment which concludes that the proposed MRF building, although larger and differently orientated leads to no perceptibly greater impacts than the approved MRF building.
26. A noise assessment has also been carried out with regard to the addition of the external electrical generators and air management equipment. This concludes that the highest predicted noise levels at the nearest receptors would be at least 11 dB (A) (decibels) below background noise levels and so any complaints arising from noise are unlikely.
27. It is not considered that the changes in orientation of the MRF building or any other part of the development proposed in the current application would increase the potential for nuisance as a result of dust or other atmospheric emissions.
28. The applicant considers that the development is sustainable development which is in accordance with relevant national and local planning policies. It is also considered that the increase in the size of the building footprint could in any instance benefit from permitted development rights.

• **Part 2 – Other Viewpoints**

Third Party Representations

29. No Third Party Representations have been received.

Consultation Responses

30. Cherwell District Council -No objection
31. Finmere Parish Council - The Landfill site at Finmere has a long and unhappy history. Some of the more salient points are:
 - i. The site was inadequately regulated for a considerable period of time. It led to serious overtipping in 2004, 2005 and 2006. This overtipping was in breach of existing conditions. The Parish Council sought action from the regulatory bodies. Eventually action was taken. In the aftermath, a public

apology was sent to the Parish and residents of Finmere from Oxfordshire County Council (OCC). It was signed by the Chief Executive.

- ii. The actions taken included the service of an Enforcement Notice (EN). It sought the reduction in height of the overtipped mound. The operators appealed the EN and lost. In order to comply with this enforcement Notice, further planning permission was required. An intervention by the Environment Agency (EA) at this point effectively negated the EN. Their justification was the potentially hazardous nature of the decomposing overtipped material that would be moved. The EA insisted that the site be reprofiled to accommodate the overtipped waste. A further planning permission was required to revise the acceptable contours.
- iii. Whilst these procedures were taking place, the operators also applied for other planning permissions. These included the construction of a Material Recycling Facility (MRF). These applications were refused by OCC. The operators appealed, and all were upheld. In his findings in respect of the MRF, the Inspector specified condition C27. It stated:-

OVERFILLED WASTE

C27. The operation of the MRF shall not commence until the waste in excess of the pre-settlement restoration levels at the adjoining landfill has been excavated and relocated so as to accord with the pre-settlement restoration levels shown on plan number FQL 4/1B dated November 2000 approved under permission number 00/01480/CM.

Reason: to ensure that overtipping at the existing landfill is remedied before use of the MRF begins and that priority is given to rectifying past problems.

- iv. In his commentary on his findings, the Inspector wrote (in respect of this condition):-

Condition 27: I draw attention to this condition which requires the overtipping at the existing landfill to be remedied before use of the MRF begins. Given the history and current state of the landfill I consider this to be a reasonable and essential requirement to ensure that priority is given to rectifying past problems.

- v. Despite their disappointment at the EA intervention, the village were encouraged by this condition. We felt it would result in the “least bad result” in our attempt to constrain this alien landform. We felt that, at last, the authorities were supporting our cause. The inability to operate the MRF until the mound height was reduced should prove highly motivating to the operators.
- vi. Of course, the restoration levels to which this condition referred were no longer valid, due to the EA intervention. (See [2] above). The planning permission to revise the contours was submitted and subsequently granted.

- vii. From that point on, further planning permissions were submitted relating to various aspects of landfill operation. One of them related to the MRF (10/00361/CM or MW/00039-10). This is the subject of the application before you. This was granted on 10 May 2010. Amongst the conditions was C29 (one of the elements of the current application). C29 stated:-

There shall be no operation of the MRF until engineering works necessary to alleviate the odour nuisance and the permanent capping is in place on the overtipped mound area located within cells 3, 4, 5 and 6 to the requirements of the Waste Planning Authority in consultation with the Environment Agency.

Reason: To ensure that the nuisance caused by the overtipping at the existing landfill is remedied before MRF begins and that priority is given to rectifying past problems to minimize the impact of the development on the residents of Finmere (MWLP PE18).

- viii. Again the village was encouraged by the consistency of the response. They were of the opinion that this condition would lead to the earliest completion of the works required to yield the "least bad result".

Since then, the Operators have met regularly with village representatives at the quarterly Quarry Liaison committee. At every meeting we raised the subject of the capping of the mound. Progress was very slow. Eventually in 2014, work started on both MRF construction and mound capping. The MRF has been constructed and is now being commissioned, and will soon be ready to accept waste. The capping has made significant progress, but is not complete. This is obvious from the road.

At this moment, if the operators were to start accepting waste into the MRF, they would be in breach of condition C29. This application seeks to remove the condition.

At a recent village meeting held to discuss this application, there was unanimity of opposition to it. The overwhelming feeling was that C29 was the only action that acknowledged the "past problems" whose rectification should be accorded "priority". From [iii], [iv] and [vii] above, this was a view held by both OCC and an Independent Inspector.

The strength of the comments in both the Inspector's report and the reasons for C29 are compelling. If permission is granted and the condition removed, there will be no incentive to complete the previously mandated capping works. It is felt that a grant of permission would be a betrayal of all that Finmere has fought over the past eleven years.

Accordingly, Finmere Parish Council urges that the application be refused.

32. Environment Agency -No concerns raised
33. County Council as Lead Local Flood Authority – No objection.

34. Transport Development Control – No objection.
35. HS2: High Speed 2 Rail –No objection.
36. Aylesbury Vale District Council –No comments received.
37. Buckinghamshire County Council –No objection.
38. Natural England -No objection.
39. Thames Water -No objection.
40. Oxfordshire Fire and Rescue Service – No objection.
41. Ecologist Planner -No objection subject to condition C23 of permission no. 10/000361/CM being attached to any planning permission and to an informative with regard to protected species. It is also stated that the habitat on and around the proposed development site indicates that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.
42. Rights of Way Officer – No objection.
43. Campaign to Protect Rural England –No comments received.

• **Part 3 - Relevant Planning Documents**

Relevant Development Plan and other policies (see Policy Annex attached)

44. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
45. The Development Plan for this area comprises:
 - Oxfordshire Minerals and Waste Local Plan (saved policies) (OMWLP).
 - The Cherwell Local Plan 1996 (saved policies)
46. The Government's National Planning Policy Framework (NPPF) and the National Policy for Waste (NPPW) are material considerations in taking planning decisions.
47. The Draft Oxfordshire Minerals and Waste Local Plan Core Strategy (OMWCS) was subject to consultation in February/March 2014. This document is now at a more advanced stage of preparation and further weight can now be given to the policies it contains. At the meeting of the full County Council on 24th March 2015, the OMWCS was approved for publication and submission to the Secretary of State for independent examination following consideration of any representations received. It is therefore appropriate to consider draft policies which are relevant to this development.

48. Other documents that need to be considered in determining this development are:
- i. Non-Statutory Cherwell Local Plan 2011 to which little weight should be given;
 - ii. Cherwell Local Plan (2006-2031) Submission document January 2014 to which limited weight should be given.

Relevant Policies

49. The relevant policies are:

The Cherwell Local Plan (CLP)

- Policy C1 – Protection of sites of nature conservation value
- Policy C4 – Creation of new habitats
- Policy C7 - Landscape Conservation
- Policy C13 -Areas of High Landscape Value
- Policy C28 – Layout, design and external appearance of new development
- Policy ENV1 – Development likely to cause detrimental levels of pollution
- Policy ENV7 – Water quality

Oxfordshire Minerals and Waste Local Plan (OMWLP) 1996

- Policy W3 -Recycling facilities
- Policy W4 - Recycling facilities in the open countryside
- Policy W5 - Screening of waste treatment facilities
- Policy PE3 - Buffer zones
- Policy PE18 - Regulation of development through imposition of conditions. Code of Practice

50. 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 W3 – Provision of waste management capacity and facilities required
- Policy W4 – Location of facilities to manage the principal waste streams
- Policy W5 – Siting of waste management facilities
- Policy C1 – Sustainable Development
- Policy C4 – Water Environment
- Policy C5 – Local Environment, Amenity and Economy
- Policy C7 – Biodiversity and Geodiversity
- Policy C8 – Landscape
- Policy C10 – Transport

Cherwell Local Plan (2006-2031) Submission document January 2014
(CLPSD)

Policy PSD1 – Presumption in favour of sustainable development
Policy SLE1 – Employment development
Policy ESD7 – Sustainable Urban Drainage Systems
Policy ESD8 – Water Resources
Policy ESD10 – Protection and enhancement of biodiversity and the natural environment

Policy ESD13 – Local landscape protection and enhancement
Policy ESD16 – Character of the built environment

Non Statutory Cherwell Local Plan 2011 (NSCLP)

Policy EN3 – Pollution control
Policy EN12 – Water quality
Policy EN15 – Surface water run-off
Policy EN22 – Enhancement of biodiversity
Policy EN24 – Protection of sites & species
Policy EN27 – Creation of new habitats
Policy EN34 - Landscape
Policy TR4 – Traffic mitigation measures
Policy TR5 – Road safety

•Part 4 –Analysis and Conclusions

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

51. Whilst the application is for a MRF building and associated infrastructure, I do not consider that the differences outlined above between it and the currently permitted development are so minor that it should not be considered in its own right as a new proposal. I consider that key planning issues are how the proposed development fits with current waste policy, the impacts of the proposal on the open countryside and landscape and the amenity of the local population including how it relates to the other permitted developments at the wider Finmere Quarry site .
Other matters for consideration include traffic, the water environment and biodiversity

Waste Policy

52. Paragraph 1 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. Policy PSD1 of the CLPSD carries a general presumption in favour of sustainable development.

53. Policy W1 of the OMWCS states that provision will be made for waste management facilities that allow Oxfordshire to be net self-sufficient in the management of its municipal waste, commercial and industrial waste, construction, demolition and excavation waste and agricultural waste over the period to 2030. Policy W2 of the OMWCS states that provision will be made for capacity to manage Oxfordshire's municipal waste, commercial and industrial waste and construction demolition waste in a way that provides for the maximum diversion of waste from landfill. Policy W3 of the OMWCS states that proposals for facilities for re-use, transfer and pre-treatment of waste will normally be permitted.
54. The applicant states that approximately 63% of the waste imported would be recovered for use elsewhere as SRF or RDF and 21% for further recycling of other materials with the remainder going for final disposal at the adjacent landfill site. The approved MRF provided for 60% of the waste received to be recycled and the remainder disposed in the site's landfill: none of the waste was to be recovered for use as SRF or RDF. I consider that the production of SRF or RDF is not a form of pre-treatment for the purposes of OMWCS policy W3, but rather a residual waste treatment process. It is a waste recovery operation which sits below recycling in the waste hierarchy. That said, the proposal would still divert waste from landfill and so up the waste hierarchy.
55. Policy W3 provides that proposals for residual waste treatment may be permitted if it can be demonstrated that they would not impede the achievement of recycling targets and that they would enable waste to be recovered in one of the nearest appropriate locations. The proposal would reduce the amount of recycling capacity available and add to the recycling capacity gap identified in the emerging Local Plan. However, the recycling rate that will be achieved by the modified MRF would be around 5% higher than that proposed to be achieved following the introduction of the approved gasification process under planning permission no. 11/00015/CM and I consider this is sufficient to overcome the concern about reduced recycling capacity.
56. Policy W4 of the OMWCS seeks to see strategic waste management facilities (greater than 50,000 tonnes throughput per annum) located close to the main centres of population with rural areas only like to be suitable for the location of smaller facilities (less than 20,000 tonnes per annum). The proposed throughput of the facility at 150,000 tonnes per annum would render it to be a strategic facility. Finmere Quarry unquestionably lies in a rural part of the county and so the development is in principal contrary to the aims of policy W4. The site does however take direct access from the A421 which is part of the Oxfordshire lorry route network and it would be located at a strategic landfill site at which the residual waste would be disposed. This would be in accordance with paragraph 4 of the NPPW and policy W5 of the OMWCS both of which encourage the co-location of waste management facilities. Whether or not planning permission is forthcoming to this application, there remain planning permissions for MRFs at the Finmere Quarry for the

processing of similar quantities of waste per annum. Taking this all together, I consider that there is justification for making an exception to the aims of policy W4 of the OMWCS.

57. Policy W4 of the adopted OMWLP does not envisage facilities being located in open countryside unless there is an over-riding need. It would clearly not be practically possible to operate more than one of the MRF permissions at the site as they are all located on much the same area of land. The applicant argues that the larger building proposed in this application is now necessary to house the waste processing equipment necessary to the MRF process. Although there is a concern that the production of SRF/RDF is a waste recovery operation which lies below recycling, the development would nonetheless serve to help reduce the amount of waste going to final disposal and so move the waste streams up the waste hierarchy in accordance with the aims of the NPPW. It will also add, albeit in a more limited way, to the recycling capacity currently available. I therefore consider that in principle, the application is in accordance with the stated aims set out in the NPPW and these policies.
58. I therefore consider that in terms of need there is a case for permission to be granted and there is an argument to justify the facility being located at the application site.

Open countryside and Landscape

59. Policy W4 of the OMWLP also states that waste re-use/recycling and ancillary proposals will not normally be permitted in the open countryside unless the development is to form part of a mineral extraction/landfill site which is to be removed on completion of extraction/landfill. Policy W5 of the OMWCS states that amongst other locations, priority will be given to siting waste management facilities on land that is already in a waste management use but that those at land in a temporary use as a mineral or landfill site should be removed before that other use is required to cease. Paragraph 7 of the NPPW states that waste planning authorities should ensure that waste management facilities in themselves are well-designed so that they contribute positively to the character and quality of the area in which they are located.
60. Policy W5 of the OMWLP seeks to see that waste facilities are appropriately screened. Policy C8 of the OMWCS states that proposals for minerals and waste development shall demonstrate that they respect and where possible enhance local landscape character and that they shall include measures to mitigate adverse impacts on landscape, including careful siting, design and landscaping. CLP Policy C7 states that development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape. Policies EN34 of the NSCLP and ESD13 of the CLPSD make similar provision. As designated by CLP Policy C13, Finmere Quarry Landfill is located within the North Ploughley Area of High Landscape Value. Policy C28 of the CLP states that control will be exercised over all new development to ensure that the layout, design & external appearance are sympathetic to the rural context. Policy ESD16 of the CLPSD states that all

development will need to meet high design standards and contribute positively to an area's character and identity by creating or reinforcing local distinctiveness

61. 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 and on amenity. 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.
62. The proposed building is both larger and slightly higher than previously permitted and it is hard to argue that it meets the aspirations of policies C28 and ESD16. The building is however functional and of a similar industrial design to that previously consented with a slightly larger concreted yard for the storage of processed materials, manoeuvring of vehicles and the storage of water used for fire control, should it be necessary, and associated fencing and storage bays. Despite the increase in size, the development is well screened by existing vegetation including Finmere plantation to the north and the contours of the landfill site which screen it from any views from Finmere. The application proposes that the additional landscape planting required to be carried out by condition C24 of the existing MRF permission to screen the development is no longer required as existing vegetation has grown up naturally to a point where it secures the desired screening. I concur with this position. It is hard to argue that the landscape impact of the development as opposed to the previous permissions is so additionally adverse as to support a refusal of permission on this ground.
63. The nature of the development is similar to that which has previously been judged acceptable for a limited period at the consented quarry and landfill site such that the development would cease operation and be removed and the site restored within the timescale of the wider site. Subject to any further permission being similarly limited, I consider that whilst it does not meet the requirements of policies C28 and ESD16 with regard to design, the application site is very well screened from view and would have a temporary and limited impact on the open countryside and local landscape.

Amenity

64. OMWLP policy PE18 states that in determining applications the County Council will have regard to the appropriate provisions in the Code of Practice. This sets out details of measures to protect amenity to dwellings and other noise sensitive buildings and uses, including buffer zones, landscaping, standard hours, noise, dust and odour. Policy C5 of the OMWCS makes similar provision. 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. OMWLP policy W3 c) of the OMWLP states that proposals for re-use/recycling will normally be permitted provided that it will not cause unacceptable nuisance in terms of noise, dust, fumes, smell, visual intrusion or traffic. Policies ENV1 of the CLP and EN3 of the NSCLP make similar provision.

65. As set out above, the proposed MRF building and its associated infrastructure is well screened from view by both the existing landfill site and the surrounding vegetation. The nearest residential property lies approximately 300 metres from the proposed development. The handling of waste would be carried out within the proposed building which would be equipped with a ventilation system. There would be external vehicle movements associated with the development and the storage of baled treated waste and recyclates in the external storage area to the south of the MRF building. There would also be electrical generators and associated fuel tanks and air management equipment located on the northern side of the proposed MRF. Given the distances involved from the nearest residential properties and the existing screening, I do not consider that there is likely to be any significant adverse visual impact arising from the development. The applicant has provided a noise assessment which concludes that noise levels would remain below existing background noise levels. As the types of waste proposed to be imported would be predominantly plastics, cardboard, paper, timber, textiles, inert materials and other composite materials which would be processed within the building with only sorted and treated material stored externally, I do not consider that there is likely to be any odour issue. The control of this would in any instance be a matter for the Environmental Permitting regime as it is for the landfill site. I also do not consider that the proposed external lighting, which would largely only be required during limited hours in the winter, would have any significant amenity impacts given the screening around the building and distance from the nearest properties. Similarly, given the nature of the handling of wastes and the processing being internal to the building, I do not anticipate that dust should be an issue. Nonetheless, I would recommend that conditions with regard to hours of operation, noise and dust control are attached to any new permission which may be granted.
66. There would be no increase in the maximum amount of waste proposed to be imported to the facility and the access to the public highway would be onto the A421 which is part of the Oxfordshire lorry network. I do not therefore consider that there would be any additional impact on amenity from vehicle movements over and above that which has been previously found to be acceptable.
67. The main concern raised in objection to the application is that it is proposed that the requirements of condition C29 of the previous MRF permission requiring that the MRF cannot be operated until engineering works have been carried out to alleviate odour mitigation measures and that the permanent capping to cells 3, 4, 5 & 6 of the landfill site is in place are no longer required and should therefore not be attached to any permission which may be forthcoming to this application. The requirements of condition C29 were

originally attached to the first permission granted on appeal by the Secretary of State for the MRF building in 2007. The applicant argues that these are no longer required as there is no longer any over-filling or odour nuisance and the detailed sequence of the capping and restoration of the landfill site is the subject of detailed conditions on the most recent non-hazardous landfill permission (13/000973/CM). The applicant cites that this has already been recognised when permission no. 11/00015/CM was granted without the attachment of an equivalent condition and the conditions of the MRF permission should be consistent with this. On the other hand, the Parish Council is of the view that the past history of the site and ongoing failure to cap landfill cells within the time scale required by the most recent landfill permission mean that such provision remains essential and without it the application should be refused.

68. In the report to the Planning and Regulation Committee for application no. 11/00015/CM, the officer advice at that time was that there did not seem to be any necessity to control the start date of the MRF as it would be screened more than adequately from the village behind the soon to be restored over-tipped landfill. I note the applicant's contention, however it seems to me that just because the condition was not attached to the 2011 permission for the gasification plant which in any instance relates to the MRF building as permitted and not now proposed, this does not necessarily mean that a similar requirement is no longer appropriate in relation to any permission which may be forthcoming to this application.
69. The site operator has now failed to meet the requirements of the 2013 landfill permission with regard to the capping of cells 4, 5 & 8, which are the cells which face towards Finmere village, by 15th October 2014. This in itself was already an extension permitted to the previous requirement for these cells to be capped by the end of 2012. A site visit carried out on 22nd April 2015 identified that to date cells 4, 5 & 8 have been partially capped but that capping remains to be completed and the applicant also advises this to be the case and that it is intended that the preparatory works for this capping, along with that to cells 3, 6 & 9, will be commenced in May with the objective of the completion of the capping during 2015. The most recent landfill permission does allow for access to be taken through cell 6 to serve the completion of cells 4, 5 & 8.
70. The reason given for condition C29 on planning permission no. 10/00361/CM is as follows:

“To ensure that nuisance caused by the overtipping at the existing landfill is remedied before MRF begins and that priority is given to rectifying past problems to minimise the impact of the development on residents of Finmere.”

I do not consider that the capping of cells 3 & 6 is now the priority but rather the capping of cells 4, 5 & 8. I also consider that the control of odour is a matter for the environmental permitting regime and that government guidance in the NPPW is clear that when determining applications, waste

planning authorities should not concern themselves with the control of processes which are a matter for the pollution control authorities.

71. Whatever the view taken when application no. 11/00015/CM was before this committee for determination, the situation now is clear that despite some considerable and welcome progress being made, there remains an impact to the amenity of residents of Finmere village due to the ongoing failure to complete the capping of cells 4, 5 & 8 within the extended timescale required which should be addressed prior to the MRF as now proposed in this application becoming operational. As set out above, the MRF is only considered acceptable at this location in terms of some policies because it is a temporary facility at an existing strategic landfill site. Therefore it seems equally entirely reasonable that any application must be considered holistically with the requirements of the existing permissions at the site. For the development proposed in this application to be acceptable, the over-due capping of these three landfill cells facing towards Finmere village should be completed prior to the MRF becoming operational. I consider that the delayed completion of the capping to cells 4, 5 & 8 is a material consideration for any application for further waste management facilities at the wider mineral extraction and waste management site. It is only once this capping is achieved that it can be considered that the impact on the amenity to the residents of Finmere has been sufficiently mitigated.
72. Although I appreciate that a delay to the MRF becoming operational may impact on the economics of it and delay the employment opportunities identified which are of course welcome and consistent with the provisions of draft policy SLE1 of the CLPSD and the NPPF, the applicant has chosen at its own risk to construct the larger building now proposed in advance of the receipt of planning permission.
73. Whilst I do not consider that planning permission should be refused, I do consider that a condition restricting the MRF building coming into operation until such time as cells 4, 5 & 8 have been capped should be attached in the wider amenity interests of the residents of Finmere. I consider that such a condition would meet the six tests set out in paragraph 206 of the NPPF in that it would be necessary, relevant to planning and the development permitted, enforceable, precise and reasonable in all other respects.
74. It is of course open to the County Council to consider the expediency of taking enforcement action to secure the completion of the capping of cells 4, 5 & 8 regardless of the decision made on this planning application.

Traffic

75. OMWLP Policy W3 b) states that proposals for recycling will normally be permitted provided that a number of criteria are met, including the site being well located to the appropriate parts of the transport network. Policy TR4 of the NSCLP seeks to see mitigation measures provided including highway improvements. Policy TR5 of the NSCLP seeks to see highway safety matters addressed and policy seeks to see vehicular traffic accommodated

within the application site and compliance with car parking standards. Policy C10 of the OMWCS requires that development has a convenient access and maintains the safety of road users, the efficiency of the road network and amenity.

76. The development would generate no more vehicle movements per day than presently permitted and would use the existing approved access to the wider mineral extraction and landfill site. No objection has been received to the application from the Highway Authority. Subject to a condition as for the existing MRF permission that commercial vehicles shall not enter the public highway unless their wheels and chassis have been cleaned, I consider that the development would be acceptable in highway terms and in accordance with the above policies.

The water environment and biodiversity

77. Policy W3 d) seeks to see that proposals for re-use/recycling will not pose an unacceptable risk to the water environment. Policies ENV7 of the CLP, EN12 of the NSCLP, C4 of the OMWCS & ESD8 of the CLPSD make similar provision. Policy EN15 of the NSCLP seeks to secure appropriate source control and/or mitigation measures where developments will generate increased surface water run-off. Policy ESD7 of the CLPSD makes similar provision.
78. Neither the County Council as Lead Local Flood Authority nor the Environment Agency has raised objection to the application. I consider that the proposed surface water drainage and fire water containment is acceptable.
79. Policy PE14 of the OMWLP seeks to protect sites of nature conservation importance. Policies C1 of the CLP and EN24 of the NSCLP make similar provision as does policy ESD10 of the CLPSD. Policy C4 of the CLP supports the creation of new habitats. This is reflected in policies EN22 & EN27 of the NSCLP, policy C7 of the OMWCS & again in policy ESD10 of the CLPSD.
80. All existing trees and hedgerows surrounding the site would be retained and maintained. The County Council's ecologist planner has no objection subject to an appropriate condition. I consider that the application is in accordance with the above policies.

Conclusion

81. As set out above, I consider that the development is generally in accordance with relevant policies and other material considerations. Subject to conditions including that the MRF cannot become operational until the capping of cells 4, 5 and 8 has been completed, I consider that the application should be approved. As this is a new planning application a new Section 106 Legal Agreement will need to be entered into to include this development along with the others already permitted and should be entered into prior to any planning permission being granted.

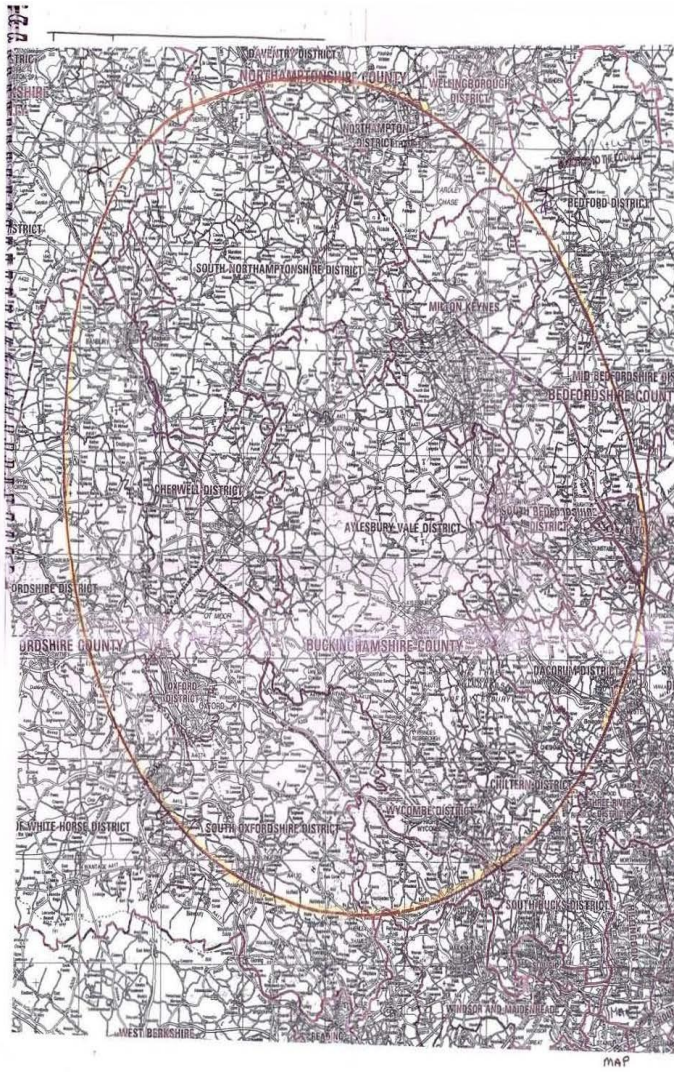
RECOMMENDATION

82. It is **RECOMMENDED** that subject to the applicant first entering into a Section 106 Legal Agreement to secure that the development will be carried out in accordance with the same requirements of the existing legal agreements including the hinterland from which the majority of waste can be imported Application MW.0031/15 be approved subject to conditions to be determined by the Deputy Director for Environment & Economy (Strategy & Infrastructure Planning) but in accordance with those set out in Annex 2 to this report.

BEV HINDLE

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

May 2015



Annex 2–Proposed Conditions:

1. The development shall be carried out strictly in accordance with the particulars of the development, plans and specifications contained in the application except as modified by conditions of the permission;
2. The development shall not become operational until such time as the capping of cells 4, 5 & 8 of the landfill site permitted by planning permission no. 13/00973/CM has been completed;
3. The acceptance of waste shall cease by 31 December 2020. All buildings, plant and machinery to which this permission relates shall be removed and restoration shall be completed by 31 December 2021;
4. No waste transfer/recycling operations or unloading or deposit of waste shall take place on site outside the confines of the building approved for this purpose. No loose waste materials shall be deposited or stored outside the storage bays or the building;
5. Waste imported to the site that cannot be recycled at the site shall not be taken off-site other than to the land the subject of planning permission 13/00973/CM or any superseding planning permissions provided that it is suitable for deposition on that land;
6. The external materials to be used for the building shall be Van Dyke Brown for the walls and Olive Green in colour for the roof and ventilation stack;
7. The maximum height of the ventilation stack shall not exceed 16m above ground level;
8. Recyclates (i.e. waste that has been processed in the building other than residues that are going to be landfilled) shall not be stored on site except in the building or in the storage bays unless otherwise approved in writing by the Waste Planning Authority. The height of any stockpiles or stacks of reclaimed or salvaged materials shall not exceed the height of the walls of the bays in which they are stored;
9. The storage of any skips on the land shall only be incidental to the recycling use of the site and shall not take place except in accordance with details that have been submitted to and approved by the Waste Planning Authority;

10. Access and egress shall not be taken other than via the existing access to the permitted quarry and landfill site onto and from the A421 Stratford Road and thence via the haul road as shown on the approved plans;
11. No loaded vehicles shall leave the site unsheeted except those only carrying recyclates which do not have the potential to give rise to dust;
12. No commercial vehicles shall enter the public highway unless their wheels and chassis have been cleaned to prevent material being deposited on the highway;
13. No development shall take place except in accordance with the approved dust suppression measures specified in document PR/FI/AV/1347/01 unless otherwise approved in writing by the Waste Planning Authority.;
14. Between the hours of 07:00 and 18:00 the noise levels arising from the development shall not exceed 55 dB(LAeq) (1 hour) freefield at Warren Farm House, Hill Leys, Foxley, Widmore Farm, Boundary Farm or Gravel Farm;
15. All vehicles, plant and machinery operated within the site shall be fitted with and use effective silencers;
16. The noise emitted at any time from the site shall not contain any discrete continuous note, i.e. whine, hiss, scratch, hum etc or distinct pulses i.e. bangs, clicks, clatters or thumps (that are repeated as part of normal operations) distinguishable at the locations in condition 14;
17. No development shall take place except in accordance with arrangements for ensuring that reversing vehicles do not emit warning noise that would have an adverse impact on residential or rural amenity, as specified in the approved document PR/FI/AV/1347/01;
18. Any chemical or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the largest container's total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls;
19. Repair, maintenance and refuelling of plant and machinery shall only take place on an impervious surface drained to an interceptor;
20. The operation of the MRF shall not take place other than in accordance with the approved external lighting details and no other external lighting shall be installed except in accordance with the approved details unless otherwise

approved in writing by the Waste Planning Authority. The approved details shall be implemented for the life of the site;

21. Any external lights shall not be illuminated between the hours of 18:00 to 07:00 Mondays to Fridays and 13:00 to 07:00 Saturday and at no time on Sunday or National Holidays (save for security lighting activated by unauthorised entry by persons or vehicles);
22. The existing trees, bushes and hedgerows in Finmere Plantation to the north of the MRF site and the green lane feature to the east of the MRF site, as shown on approved plan M04.134.14 Revision A, shall be retained and shall not be felled, lopped, topped or removed without prior written consent of the Waste Planning Authority. Any such vegetation removed without consent, dying, being severely damaged or becoming seriously diseased shall be replaced with trees or bushes of such size and species as may be specified by the Waste Planning Authority in the planting season immediately following any such occurrences;
23. Except for plant maintenance and emergencies no operations authorised by this permission, including vehicles entering or leaving the site, shall take place except between the following times:

07:00 to 18:00 Mondays to Fridays
07:00 to 13:00 Saturdays

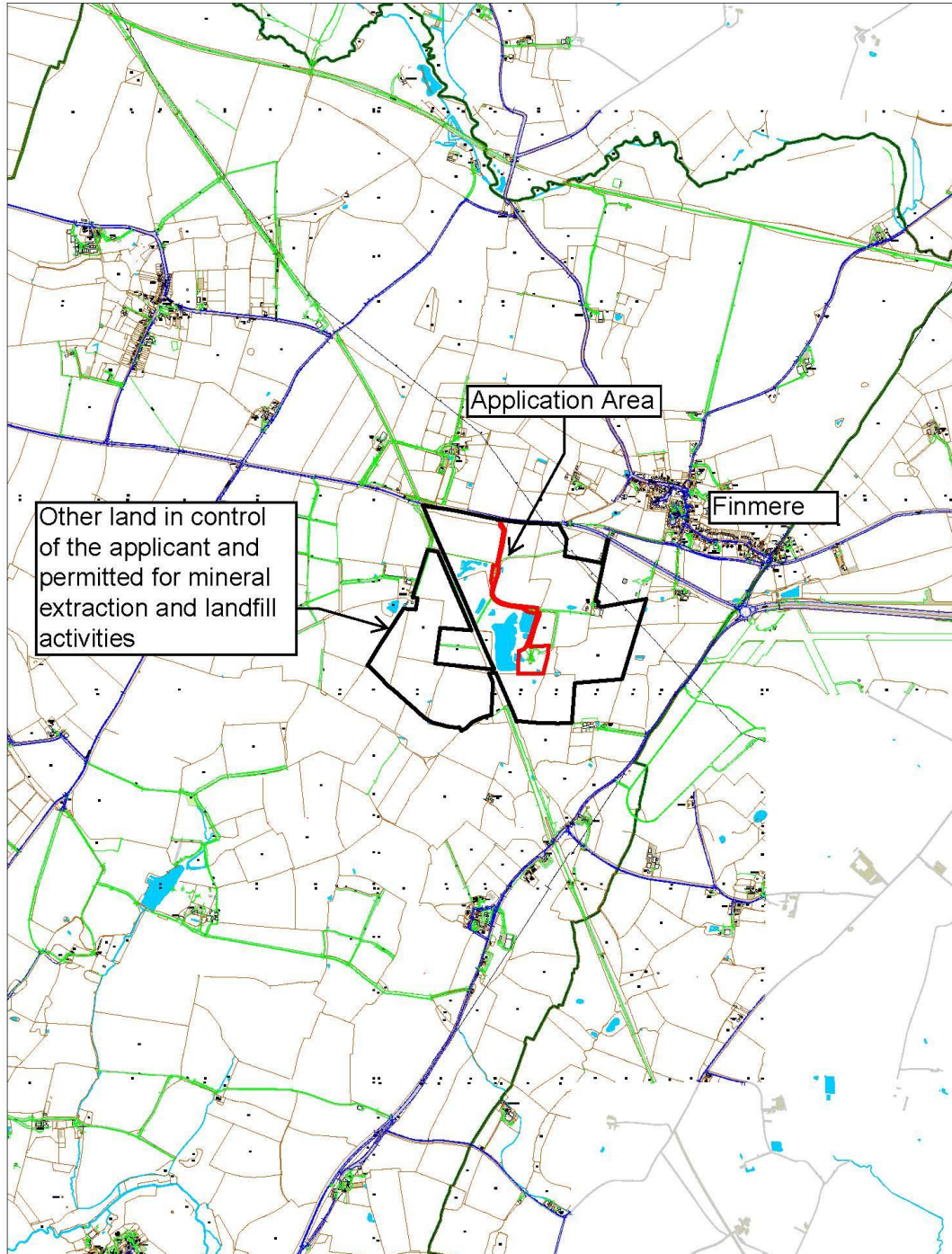
Except for plant maintenance and emergencies no operations shall take place on Sundays or Bank or Public Holidays unless otherwise agreed in writing by the Waste Planning Authority;
24. The site shall be restored in accordance with approved drawing PR/FI/09-10/15770 and aftercare shall take place in accordance with conditions 24, 25, 26 and 27 of planning permission 13/00973/CM or equivalent conditions in any superseding planning permissions;
25. The annual throughput of waste shall not exceed 150,000 tonnes per annum. Records shall be maintained of all inputs of waste. The records shall be held on site for inspection. Records of inputs of waste to the development shall be forwarded to the Waste Planning Authority quarterly;
26. No further steps shall be taken to implement or operate the recycling facility for inert wastes permitted under planning permission 00/01480/CM;

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. Any issues that occurred during the processing of the application were

raised with the applicant and this led to clarification including the amounts of waste to be recovered and recycled.

Plan 1



Plan 2

