

Planning Report

For: PLANNING AND REGULATION COMMITTEE – 27 JULY 2015

By: Deputy Director for Environment and Economy (Strategy & Infrastructure Planning)

Development Proposed:

Proposed engineering operations for restoration of former landfill site and temporary provision of an area for topsoil recycling.

Division Affected: Eynsham

Contact Officer: David Periam **Tel:** Oxford 895151

Location: Controlled Reclamation Landfill Site, Dix Pit, Stanton Harcourt, Witney OX29 5BB

Application No: MW.0150/14 **District Ref:** 14/02397/CM

Applicant: Chris Sheehan, Controlled Reclamation (Oxford) Ltd

District Council Area: West Oxfordshire

Date Received: 5 December 2014

Consultation Period: 18 December 2014 – 12 January 2015 and 17 June to 8 July 2015

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• Part 1 – Facts and Background**Location (see Site plan 1)**

1. The village of Stanton Harcourt lies about 200 metres to the north east of the application site and the towns of Witney and Eynsham are located about 5 kilometres (3 miles) to the northwest and northeast respectively. Oxford is about 10 kilometres (6 miles) to the east. The West Oxfordshire District Local Plan landscape character assessment places the application site within the Lower Windrush Valley and Eastern Thames Fringes Landscape Character Area. The Oxfordshire Wildlife and Landscape Study identifies the site as falling within the landscape areas of Lowland Village Farmlands and River Meadowlands and the particular local landscape character of Stanton Harcourt.
2. The application site has previously been worked for sand & gravel extraction and subsequent landfilling with waste. The application area covers 15.4 ha. It adjoins to the west the Sheehans Recycled Aggregates Plant. The application site is the subject of an enforcement notice requiring the removal of material and its restoration to previously approved levels.
3. It is part of the Dix Pit Waste Management complex, about 150 Hectares of land to the east of the River Windrush that has been worked extensively for sand, gravel and clay. The central area has been restored to a lake, and the remainder has been, or is in the process of being, restored by land filling.
4. In addition to the Recycled Aggregates Plant to the south-west, there is a landfill site to the east, while further to the south there is a former block making works (Conbloc), a batching plant, a waste transfer station, a household waste recycling centre and various workshops and small scale industrial units. All these units are served by a purpose-built, tarmacked haul road running up to Blackditch near the junction with the B4449. Blackditch also provides access to the Lakeside (Oasis) Industrial Estate on the edge of Stanton Harcourt about 700 metres to the north-east of the application site. A fishing lake run by the Vauxhall Angling Club lies to the west. Agricultural land lies to the north-west and north-east.
5. Beard Mill, which is a grade II listed building, lies approximately 500 metres to the north-west of the application site and is separated from the application site by the B4449 and a lake. There are other properties on the northern side of the B4449, with the nearest being approximately 70 metres to the north-east. Keppel Cottage and The Old Vicarage lie, at a distance from the application site of approximately 165 metres to the nearest façade.

6. Stanton Harcourt Public Bridleway 12, runs immediately to the south-west of the application site and crosses the existing vehicle access to the recycled aggregates plant from the Blackditch access road.

History

7. Planning permission reference W98/0207 was granted in July 2000. This consolidated four existing planning permissions for mineral extraction and the infilling of the site with imported materials. The planning permission also allowed for the recycling of waste material. However, the planning permission expired in 2004. A further planning permission was granted in September 2009 (reference 09/0440/P/CD3) to enable waste materials to continue to be processed on the site to provide soils for the final restoration of the landfill site. The planning permission also provided for the disposal of some inert waste to complete the landfilling operations. This was anticipated to be completed by the end of 2009. Condition 3 of the 2009 planning permission required the complete restoration of the site by 30 September 2012.
8. Following correspondence with the applicant over a number of years with regard to the County Council's concern that the site had been tipped in excess of the approved contours, the County Council carried out a topographical survey of the site. This found that the site had been overtipped in excess of the approved contours by about 375,000 m³ of material. On 30th June 2014, an enforcement notice was served on the land against the deposit of this waste without planning permission, requiring in summary:
 - i) the cessation of importation and depositing of waste;
 - ii) the removal of material in excess of the approved contours with vehicles routed to avoid passing through Sutton;
 - iii) the provision of waste transfer notes or other evidence for the material removed;
 - iv) where necessary the removal of soils to allow the removal of material, again in accordance with the required routing;
 - v) the subsequent return of soils for site restoration to the approved contours.

A stop notice was also served. No appeal was made against this enforcement notice and it has come into effect. A second enforcement notice was served for a breach of condition on the 2009 permission with similar requirements to which an appeal was made, but the County Council subsequently withdrew this notice.

Details of the Development

9. The application proposes that existing material on site should be retained and partly re-graded to achieve revised contours within a 12 months period. The area to be regraded covers approximately 5 ha of the total site area (running north-westwards up from the site boundary with the Blackditch access road).

Approximately 52,000 m³ of waste would be regraded in this area. The rest of the application site would not be subject to any re-grading or any other works and so would remain as existing. Both the pre-settlement and post-settlement contours (no significant settlement is anticipated in this area) would be approximately three metres higher than the pre-settlement contours previously approved (and which are required under the provisions of the enforcement notice) at the highest part of the site, which is towards its centre. Within the area to be regraded, the contours would create a steeper slope, to the lower south-eastern part of the site than previously approved.

10. Should planning permission be granted an additional time period to allow for topsoil manufacture and placement of the soil until end of October 2016 would be required. The applicant advises that this is based on the following: The window for manufacture (and placement) of topsoil is from April to October; it can only be carried out in dry conditions; at least 14,000 additional tonnes of topsoil needs to be made at a maximum daily rate of 200 tonnes; and the earliest planning permission is likely to be forthcoming is early summer and re-grading works could not start until then, which reduces the first season for topsoil manufacture.
11. Following the placement of final restoration soils, the remaining approved planting for the landfill site, which has not already been carried out, along with some additional standard tree planting on the north-eastern boundary of the site, would be implemented in the first available planting season. The rest of the area would be sown to a species diverse grass mix. The whole area would be subject to a five years period of aftercare which would include replacement planting for any losses in the first two seasons and weed control.
12. Approximately 13,500 m³ of topsoil would be required for the uppermost 300 mm final restoration layer, of which about 5,500 m³ are available on the site either in stockpiles or stripped from land where it has already been placed but where it is now proposed to be re-graded. The shortfall of 8,000 m³ is proposed to be made up through manufacture of suitable on site materials set aside during the earth moving operations. Should there be insufficient material on site, the remainder would be sourced from material being brought to the Recycled Aggregates Plant site. It is proposed that an area of land covering about 0.3 ha at the western end of the application site would be used for topsoil recycling with a material stockpiling area covering an area of about 0.34 ha. The application originally proposed the retention of an area for ongoing topsoil recycling in association with the adjacent Recycled Aggregates Plant but following discussions with my officers, the application was amended to remove this part of the proposal.
13. As no material is proposed to be removed and topsoil would be sourced on site or from material imported to the adjacent Recycled Aggregates Plant site, no additional lorry movements would be generated. Hours of operation would be 7.00 am to 6.00 pm Mondays to Fridays and 7.00 am to 1.00 pm on Saturdays.

14. It is pointed out that the over-tipping only occurred because the applicant misinterpreted the existing approved pre-settlement contour plan for being a post-settlement contour plan and so carried on tipping to higher levels than the pre-settlement contours shown on the approved plan to allow for settlement to the approved contours.
15. Following discussions with the County Council's Countryside Access team, Bridleway 12 is proposed to be diverted around the waste operations to the west alongside the River Windrush which the applicant proposes to enhance with new landscaping and biodiversity measures. This would remove the crossing of the bridleway at the site entrance to the recycled aggregates plant and would enable the removal of the two crossings of the main Dix Pit access road. It is also proposed that a permissive bridleway link would be created along the northern boundary of the application site to connect Bridleway 12 and the B449 close to Cogges Lane. This would be provided as soon as possible and ideally within 12 months of the completion of restoration (two years from the grant of planning permission). It is also proposed that a financial contribution of £10,000 would be made to the Lower Windrush Valley Project to fund the initiatives of the Project for the area.
16. A landscape visual impact assessment has been submitted in support of the application which concludes that, in comparison to the previously approved contours to which the site is required to be regraded in accordance with the enforcement notice, there would be an overall landscape benefit to the application proposals. This concludes that overall, considering the landscape sensitivity and expected magnitude of change, the completion of site restoration as had been ongoing prior to the issuing of the enforcement notice will have a Slight Adverse to Neutral significance in terms of landscape character and a Slight Adverse to Neutral significance in terms of visual impact. The effects of complying with the enforcement notice will have a longer term Slight Beneficial significance in terms of visual impact but this will be at the expense of short to medium term Moderate to Major Adverse significance and a residual slight adverse landscape impact with the resulting landscape being incongruous with the setting. On balance, the assessment concludes that the slight longer term benefit of the enforcement proposals set against their moderate to major adverse impact in the short to medium term would not be sufficient to outweigh the slight adverse impact of the current restoration proposals. There is therefore considered to be compliance with relevant policies with regard to landscape character and visual impact. The applicant in any instance considers that compliance with the enforcement notice requirements would result in an irregularly shaped landform, out of character with the local landscape.
17. Also in support of the application, considerable benefits and compliance with national, development plan and developing planning policy are cited as opposed to compliance with the requirements of the enforcement notice. These include:

- i) The site's restoration would be achieved by 31st October 2016 as opposed to the enforcement notice requirements which would take four years and six months. The early restoration of the site would therefore be achieved in accordance with relevant policies.
- ii) To comply with the enforcement notice requirements would require the removal of the existing clay cap over about 6.5 ha of the site so as to access waste required to be removed from the site. This would allow rainwater into the landfill over a prolonged period of two years which is likely to lead to a considerable build-up of leachate. It would also release odours and landfill gas directly to the atmosphere. This would cause significant risk of environmental pollution, nuisance through malodour and harm to the workforce engaged in carrying out the requirements. Also, the enforcement notice does not require the clay cap to be replaced so causing a continuing risk of pollution and harm to health in the long term. It would also be contrary to the requirements of the Environment Agency's Environmental Permit and requiring the applicant to carry out action in breach of the Environmental Permit would be a criminal offence. No environmental permit would be granted which did not involve installation of a clay cap. To require the installation of a clay cap would require the withdrawal of the enforcement notice and the serving of a new one with such a step. This would be contrary to the requirements of relevant policies unlike the application proposal which would avoid these impacts.
- iii) As no further importation of waste material is proposed and any additional materials for recycling to create topsoils for restoration would be imported via the permitted Recycled Aggregates Plant within its annual limitation and subject to the routeing agreement for that facility which prevents vehicles travelling through Sutton at peak hours other than for access or as directed by traffic officers, there would be considerable benefits over the enforcement notice requirements which would generate a minimum average of 66 movements per day for two years and then 76 lorry movements per day for two years, including Saturdays. Also, as there is insufficient room on site to stockpile stripped soils, these would have to be removed for storage elsewhere generating a minimum average of 214 lorry movements per day including Saturdays for removal over a three month period and a minimum average of 334 movements per day including Saturdays for re-importation. Therefore there would be considerable additional volumes of heavy traffic, highway safety concerns, increased congestion and nuisance associated with elevated levels of noise, dirt and pollution on local rural roads contrary to relevant policies.
- iv) In relation to impacts on amenity including those identified in ii) & iii) above and the landscape impacts, the applicant considers that it is unlikely that there would be any material damage or disturbance to sensitive receptors, partly due to their distance from the site. This is contrasted with the works required by the enforcement notice and it is

argued that it is in fact unlikely that some of the requirements could be achieved within the periods proposed leading to extended periods for the impacts to be experienced over.

- v) The provision of a £10,000 contribution to the Lower Windrush Valley Project and bridleway creation and diversions are considered to be amenity benefits of the application and the bridleway diversion is considered to be in compliance with relevant policies.
- vi) The application complies with relevant policies with regard to flood risk.
- vii) In contrast with the enforcement notice requirements, the development is considered to be sustainable development because of the very significant additional carbon emissions that would be generated together with the lack of resource efficiency if the enforcement notice were to be complied with. The application is therefore considered to be in accordance with relevant policies, in particular it is considered to be the kind of development that the Government is seeking to secure and that planning permission should be granted without delay as it complies with relevant policies including core policy 17 of the NPPF.

• Part 2 – Other Viewpoints

Representations

- 18. The Vauxhall Angling Club which fishes the lake to the west has no objection.

Consultations

- 19. A summary of consultation responses received in relation to this application can be found in Annex 1.

Part 3 – Relevant Planning Documents

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

- 20. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
- 21. The relevant development plan documents are:
 - The West Oxfordshire District Local Plan (WOLP) 2011
 - The Oxfordshire Minerals and Waste Local Plan (OMWLP)1996
- 22. The Draft Oxfordshire Minerals and Waste Local Plan Part 1 - 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.

23. The Draft West Oxfordshire Local Plan (DWOLP) October 2012 is also a material consideration albeit that it also carries limited weight.
24. The Government's National Planning Policy Framework (NPPF) and the National Policy for Waste (NPPW) are material considerations in taking planning decisions.
25. The National Waste Management Plan for England 2013 is also relevant.

Relevant Policies

26. The relevant policies are:

OMWLP 1996

W3 – Location of waste re-use/recycling facilities
W4 – Location of re-use/recycling facilities in the open countryside
W7 – Landfill sites
PE3 – Buffer zones
PE4 – The water environment
PE11 – Rights of way network
PE13 – Restoration of landfill sites
PE14 – Sites of nature conservation importance
PE18 – Regulation of development through imposition of conditions. Code of Practice.
SH2 – Transport impact in Sutton

WOLP 2011

NE1 – Safeguarding the countryside
NE3 – Local landscape character
NE7 – Water Environment
NE11 – Water Quality
BE2 – General Development Standards
BE3 – Movement and parking
BE8 – Listed Buildings
BE18 - Pollution
T1 – Traffic generation

OMWCS

W1 – Oxfordshire waste to be managed
W2 – Oxfordshire waste management targets

W3 – Provision of waste management capacity and facilities required
W5 – Siting of waste management facilities
W6 - Landfill
C1 - Sustainable Development
C2 – Climate Change
C3 - Flooding
C4 – Water Environment
C5 – Local environment, amenity & economy
C6 – Agricultural Land and Soils
C7 - Biodiversity
C8 – Landscape
C9 – Historic Environment
C10 – Transport
C11 – Rights of Way

DWOLP

OS1 – Presumption in favour of Sustainable Development
EH1 – Landscape Character
EH6 – Environmental Protection
T1 – Transport and Movement

Part 4 – Analysis and Conclusions

Comments of the Deputy Director (Strategy and Infrastructure Planning)

27. This application has been made chiefly to regularise through some regrading works, a substantial amount of unauthorised tipping which has occurred at a previously consented landfill site. The application states that these regrading works would be carried out within a 12 months period with final topsoil manufacture and spreading being completed by October 2016 (assuming a grant of planning permission now).
28. As advised above, an enforcement notice has been served and is in effect requiring that the unauthorised material be removed from the site and that it be restored to the contours approved pursuant to earlier planning permissions. In support of the application, the applicant has put great emphasis on the benefits and compliance with relevant planning policies of the application proposal as opposed to the enforcement notice requirements. It is relevant to consider whether the application proposals would be acceptable in terms of planning policy and other material considerations. As part of this, I would advise that members should give consideration to the merits of the application proposals in their own right. But it is also necessary to consider them in the context of the operations that will be necessary to secure compliance with the terms of the enforcement notice and as an alternative solution to resolving the breach of planning control.
29. I consider that the main issues to be considered are compliance with planning policy with regard to the waste policy, the impacts on the open countryside,

the landscape and visual impacts, and the impacts on the local environment including amenity and highways impacts..

Waste Policy

30. 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. Draft policy C1 of the OMWCS also supports sustainable waste development. Draft policy OS1 of the DWOLP carries a general presumption in favour of sustainable development. Draft policy C2 of the OMWCS states that proposals for waste development, including restoration proposals, should take account of climate change for the lifetime of the development from construction through operation and decommissioning. Applications for development should adopt a low carbon approach and measures should be considered to minimise greenhouse gas emissions and provide flexibility for future adaptation to the impacts of climate change.
31. Draft 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. Draft 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 order to provide for the maximum diversion of waste from landfill. Draft policy W3 of the OMWCS states that provision will be made through this policy and other policies sufficient to meet the need for management of the principal waste streams identified in draft policy W1 and the waste management targets in draft policy W2, including any provision that needs to be made for additional waste management capacity that cannot be met by existing facilities. It goes on to say that landfill proposals will be considered in accordance with draft policy W6.
32. Policy W7 of the OMWLP seeks to control the release and location of landfill sites in such a way that satisfactory restoration is progressively achieved with the least possible harm to the environment. As such, applications are to be assessed against criteria including amongst other items:
 - i) that there is a definite need which cannot be met by existing or permitted sites;
 - ii) that the proposed access and transport routes are suitable for the volume and nature of traffic expected;
 - iii) that the site and the methods of operation proposed are capable of progressive restoration and completion within an acceptable period having regard to the particular circumstances;
 - iv) that proposals must meet with the hydrological and geological requirements for safe disposal of the waste concerned; and,

- v) where there would be damage to visual amenities, the site will be screened by earth mounding, tree planting or other techniques appropriate to the area.
33. Policy PE13 of the OMWLP states that landfill sites should be restored within a reasonable timescale to an after-use appropriate to the location and surroundings.
34. Draft policy W6 of the OMWCS states that provision for disposal of Oxfordshire's non-hazardous waste will be made at existing non-hazardous landfill facilities which will also provide for the disposal of waste from other areas (including London and Berkshire) as necessary. Further provision for the disposal of non-hazardous waste by means of landfill will not be made. Permission may be granted to extend the life of existing non-hazardous landfill sites to allow for the continued disposal of residual non-hazardous waste to meet a recognised need and where this will allow for the satisfactory restoration of the landfill in accordance with a previously approved scheme. The policy goes on to say that provision for the disposal of inert waste which cannot be recycled will be made at existing facilities and in sites that will be allocated in the Minerals and Waste Local Plan: Part 2 – Site Allocations Document. Provision will be made for sites with capacity sufficient for Oxfordshire to be net self-sufficient in the management and disposal of inert waste. Priority will be given to the use of inert waste that cannot be recycled as infill material to achieve the satisfactory restoration and after use of active or unrestored quarries. Permission will not otherwise be granted for development that involves the disposal of inert waste on land unless there would be overall environmental benefit. It also states that landfill sites shall be restored in accordance with the requirements of draft policy M10 for restoration of mineral workings. Draft Policy M10 requires that restoration should be to a high standard and in a timely and phased manner to an after-use that is appropriate to the location and delivers a net gain in biodiversity.
35. Paragraph 7 of the NPPW states that when determining waste planning applications, waste planning authorities should ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.
36. The principal part of the application proposal is for the disposal of 375,000 m³ of waste by landfill. Whilst some re-grading is proposed, this waste is in situ and so to this extent the application is retrospective. Whilst this waste has been imported to what was a consented landfill site, it has been tipped in excess of the approved pre-settlement contours and therefore is not development permitted by the previous planning permissions. As new development, I do not consider that this disposal of waste meets the aims of any of the above policies. It is waste disposal which clearly lies at the bottom of the waste hierarchy and clearly does not contribute to supporting sustainable development or reducing greenhouse gas emissions. It is not known how much of the waste deposited at the site had the potential to be

otherwise managed further up the waste hierarchy. Even if it is accepted that the waste was only suitable for disposal, there was and is plenty of alternative capacity available in alternative sites elsewhere in the county and so no need for the development at this site. Equally there was no need for the waste to be deposited in order to achieve the timely satisfactory restoration of the permitted landfill site in accordance with the approved scheme or to any other beneficial use; indeed it has only served to render the approved restoration of the landfill site within the permitted timescale impossible. The inert waste element should have been used more sustainably by being taken to other sites requiring it for restoration purposes.

37. Therefore I consider that the development is contrary to paragraphs 1 and 7 of the NPPW, policies W7 and PE13 of the OMWLP, draft policies C1, C2, W1, W2, W3 and W6 of the OMWCS and draft policy OS1 of the DWOLP.
38. With regard to the proposed topsoil recycling facility, 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. Draft policy W4 of the OMWCS states that, particularly in more remote rural areas, facilities should only be small scale, in keeping with their surroundings. Draft policy W5 of the OMWCS states that priority will be given to siting waste management facilities on land that:
- is already in waste management or industrial use; or
 - is previously developed, derelict or underused; or
 - is at an active mineral working or landfill site; or
 - involves existing agricultural buildings and their curtilages; or
 - is at a waste water treatment works.

Proposals for temporary facilities must provide for the satisfactory removal of the facility and restoration of the site at the end of its temporary period of operation, including at mineral working and landfill sites where the facility shall be removed on or before the cessation of the host activity which also accords with the aims of policy PE13 with regard to the restoration of landfill sites within a reasonable timescale. Temporary facility sites shall be restored in accordance with the requirements of draft policy M10 for restoration of mineral workings.

Waste management facilities will not be permitted on green field land unless this can be shown to be the most suitable and sustainable option for location of the facility.

39. Draft policy EH6 of the DWOLP states that planning permission will be granted for appropriately located development that makes provision for the management and treatment of waste and recycling, in accordance with the Oxfordshire Joint Municipal Waste Strategy and local waste management strategy.
40. As the application has been amended to only allow for the topsoil recycling facility to be located so as to serve the restoration of the landfill site should

consent be forthcoming to this application and would be removed such as to facilitate the completion of final restoration by 31st October 2016, I see no conflict with these policies in this respect.

Open countryside and Landscape

41. Policy W4 of the OMWLP states that waste re-use/recycling and ancillary proposals will not normally be permitted in the open countryside unless there is an established overriding need and there is no other suitable site available and the development is to form part of a mineral extraction/landfill site which is to be removed on completion of extraction/landfill. WOLP policy NE1 states that proposals located in the countryside should maintain or enhance the value of the countryside for its own sake: its beauty, its local character and distinctiveness, the diversity of its natural resources, and its ecological, agricultural and outdoor recreational values.
42. The impact in the countryside was found to be acceptable for the previous applications for the landfill site but these were of course permitted in the context of the site being a former mineral working requiring restoration and when disposal of waste by landfill was the normal approach to waste management. The regrading of the unauthorised tipping in excess of that previously permitted would lead to higher final contours to those previously permitted and required to be complied with under the enforcement notice. The location of the topsoil recycling facility would be temporary and solely to facilitate the restoration of the landfill site.
43. Although retrospective, the application must be viewed principally as a landfill operation to facilitate the final restoration of a former mineral working just as for the previous permission. Whilst the quantity of waste would be considerably greater and so the final landform would be higher than that currently permitted and arguably not necessary to secure the satisfactory final restoration, it seems to me that there is a strong argument to now secure the final restoration of the site at the earliest opportunity. If this development would secure that then I consider it can be argued that there is an over-riding need for the topsoil recycling facility and clearly the restoration cannot be achieved elsewhere. Provided the restoration and landscape planting were carried out as required then I do not think that it would significantly conflict with the aims of these policies.
44. 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.

45. WOLP policy NE3 states that development will not be permitted if it would harm the local landscape character of the District. Policy BE2 of the WOLP states that development will only be permitted if the landscape surrounding and providing a setting for existing towns and villages is not adversely affected and development in the open countryside will be easily assimilated into the landscape. Draft 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. Draft policy EH1 of the DWOLP seeks to conserve and enhance the District's landscape quality, character and distinctiveness.
46. The landscape impact of the previously approved contours which are now required under the provisions of the enforcement notice, were considered acceptable when that development was permitted. The contours proposed as part of this application would be higher than those previously approved, particularly on the south-eastern flank of the site. The applicant has provided a Landscape Visual Impact Assessment which draws the overall conclusion that the proposed development including its final contours would have less landscape and visual impact given the more substantial works involved with complying with the enforcement notice. The temporary topsoil recycling area would be largely screened from view by the landfill contours on three sides with the only close view point being from the bridleway to the south-west, which the applicant advises it is proposed will be diverted.
47. The West Oxfordshire Landscape assessment describes the lower Windrush valley and Eastern Thames Fringe as an area of low lying mainly meadow grassland, pastoral and riparian character. The restoration of the land as proposed would form a distinctive feature within this otherwise flat landscape. I do not consider that the restoration of the former mineral working by landfill to create a somewhat unnatural domed landform over a relatively confined area, could ever have resulted in a landform which would sit easily in the surrounding landscape. I am of the view that there is little to choose between the two final landforms other than that that proposed in this application would be higher in parts than that previously permitted. The landscape planting would be slightly greater with the proposed scheme but both would provide a similar degree of screening once the planting had matured.
48. There would inevitably seem to be more short term visual and landscape impact associated with the works to remove 375,000 m³ of waste from the site to those proposed here which only propose the re-grading of some 52,000 m³ along with the associated topsoil processing and laying of soils. The proposed scheme would result in a generally higher final landform as clearly there would be more waste left on the site than would otherwise be the case. Both the application proposal and compliance with the enforcement notice could have some limited beneficial impacts to the overall area through the associated planting.

49. I consider that the final landform proposed in the application would have both landscape and visual impacts but that it is not possible to advise that these would have a significantly greater landscape or visual impact in overall terms than that required by the enforcement notice and I consider that it would be acceptable on its own merits. I do not consider that objection to the application on the grounds that it would be contrary to the aims of development plan policies PE18 of the OMWLP, NE3 and BE2 of the WOLP, paragraph 7 & Appendix B of the NPPW and draft policies C8 of the OMWCS and draft policy EH1 of the DWOLP could be sustained.

Amenity & Traffic impacts

50. 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. Draft policy C5 of the OMWCS makes similar provision. Policy W7 b) of the OMWLP states with regard to proposed landfill sites that there should be no material damage or disturbance to the environment or to the amenities of residential and sensitive uses or buildings. 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) 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. Policy BE2 of the WOLP states that new development should clearly respect and, where possible, improve the character and quality of its surroundings and provide a safe, pleasant, convenient and interesting environment. Policy BE3 of the WOLP states that development should make provision for the safe movement of people and vehicles whilst minimising impact upon the environment. Policy BE18 of the WOLP seeks to prevent development which would generate unacceptable levels of pollution and policy BE 19 of the WOLP seeks to prevent development causing significant noise disturbance. Paragraph 7 of the NPPW states that in determining waste planning applications consideration should be given to the impact on amenity.
51. WOLP policy T1 states that proposals which would generate significant levels of traffic will not be permitted in locations where travel by means other than private car is not realistic. Draft policy T1 of the DWOLP makes similar provision. Draft policy C10 of the OMWCS seeks to limit the impact of lorry movements associated with waste management developments. OMWLP policy SH2 states that planning permission will not be granted for development which would significantly increase traffic in Sutton, or prolong traffic intrusion.

52. The site has no particularly close residential neighbours and I note that no objections have been received to the application. The impacts of the development proposed would be largely limited to the regrading works on the south-eastern flank, and the processing and spreading of soils. There would inevitably be some noise and possibly dust generation but I am of the view that these would largely be limited to those passing along the Blackditch access road and using the bridleway which already suffers from its proximity to the Recycled Aggregates Plant and for which a diversion to a better route is proposed. There would be greater impacts if the waste was not already at the site and had to be imported over the local highway network but no further vehicle movements are proposed beyond those associated with the topsoil recycling which would be associated if necessary with the permitted Recycled Aggregates Plan. Clearly it is not a satisfactory situation that the unauthorised tipping has occurred and these impacts have therefore also already occurred, but I do not consider that the remaining works proposed would have such significant impacts as to render the development contrary to the above policies.
53. The applicant has contrasted the amenity impacts of the proposed development with those which would be associated with the removal of waste as required by the enforcement notice. It may be the case that there would be greater odour impacts associated with removal of waste and potential for water to penetrate the landfill site, but I do not consider that the works proposed in the enforcement notice are such as would render the applicant unable to comply with the pollution control regime. The view of the Environment Agency is set out in Annex 1 to this report (the applicant has advised that they stand by their position on this point). It is indeed national policy set out in paragraphs 122 of the NPPF and 7 of the NPPW that, when making waste planning decisions, waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced (Counsel's advice on the service of the enforcement notice and its requirements was received before the notice was served).
54. I consider that the clearest impact on amenity, including to users of the local highway network, generated by compliance with the enforcement notice requirements would be the removal of 375,000 m³ of waste material along with any required movement of soil materials through the heavy goods vehicle movements which would be required. Whilst the requirements of the enforcement notice have been made such as to secure routing of vehicles away from Sutton in accordance with the aims of policy SH2, there would be a substantial number of heavy goods vehicle movements over a period of years which would not now arise as part of the remaining works proposed in the application. I would advise members that this is a material consideration in their determination of the application.

The water environment and biodiversity

55. Policy W3 d) of the OMWLP seeks to see that proposals for re-use/recycling will not pose an unacceptable risk to the water environment. Policies NE7 & NE11 and draft policy C4 of the OMWCS make similar provision. Policy W7 c) of the OMWLP states that proposed filling should not raise or impede the floodplain of rivers and streams or create risk of pollution of surface or underground water courses. Draft policy C3 of the OMWCS states that waste management should take place in areas at the lowest risk of flooding. Neither the Environment Agency nor the County Council in its capacity as Lead Local Flood Authority has any objection to the application.
56. Policy PE5 of the OMWLP seeks to avoid harm to the immediate setting and nature conservation value of watercourses of significant visual or nature conservation value. Policy PE14 of the OMWLP seeks to protect sites of nature conservation importance. Draft policy C4 of the OMWCS seeks to protect surface and groundwater resources required for habitats and draft policy C7 seeks to protect habitats and species and achieve maintenance of and enhancements to local habitats as part of developments.
57. The County Council's Ecologist Planner has raised no objection subject to either the receipt of additional information with regard to the planting and aftercare of the site or to a suitable condition being attached to any permission requiring that this information be submitted for approval. Natural England has no objections but would seek biodiversity enhancements. The applicant has requested some clarification from the Ecologist Planner but has agreed to amend the scheme to incorporate the further details identified. It is therefore considered that subject to these matters being required by conditions as appropriate attached to any planning permission which may be forthcoming, the development would be in accordance with these policies. If any additional information in response to the Ecologist planner's comments is received prior to the committee meeting then I will update members at the committee meeting.

Rights of Way and Lower Windrush Valley Project

58. Policy PE11 of the OMWLP states that any proposal for permanent diversion should fulfil the functions of recreational and communications use of the right of way and improvements to the rights of way network will be encouraged. Draft policy C11 of the OMWCS makes similar provision. The diversion of the existing bridleway is proposed such that it would run to the west of the application site alongside the River Windrush. Additional permissive bridleway provision is also proposed. These proposals would improve amenity of the area for users of the Rights of Way network and are clearly to be welcomed and in accordance with the above policy. But I do not consider that the benefit of any diversion or creation of new routes would outweigh any grounds that there may be for refusal of the application. Should planning permission be granted then the creation of the permissive path would not need to be secured through a section 106 legal agreement but through liaison with the County Council's Rights of Way team. The £10,000 financial contribution to the Lower

Windrush Valley Project would need to be made payable to the County Council for this purpose as the County Council cannot require that such payments be made to other bodies. This would need to be a requirement of a section 106 legal agreement and payable on completion of the agreement.

Listed Building

59. Policy BE8 of the WOLP states that development should not detract from the setting of a listed building. Draft policy C9 of the OMWCS seeks to protect the historic environment including listed buildings. Beard Mill is a listed building, but would be at a substantial distance away and separated by the fields and in lake. I do not therefore consider that there would be any impact on the setting of the listed building and the development would not be contrary to policy BE8 of the WOLP.

Conclusions

60. As set out above, this application has arisen as an alternative to compliance with the enforcement notice provisions which require compliance with the previously approved scheme. If this were a new application before the council for the tipping of 375,000 m³ of waste on top of an existing landfill site then, unless it was demonstrably the case that this was necessary to achieve the satisfactory restoration of the site, I can see no reason why the conclusion would be drawn that it was in compliance with relevant waste policies and it would no doubt be recommended for refusal on that basis. As discussed above, the development proposed in its own right is not sustainable development being principally for the disposal of waste which lies at the bottom of the waste hierarchy. The excess waste should never have been imported to the site and constitutes a significant breach of planning control against which the County Council has considered it expedient to take enforcement action. It would be a reasonable judgment for members to reach that the development is contrary to development plan national and developing policies and should be refused planning permission unless there are other material considerations to determine otherwise.
61. The County Planning Authority must weigh in the planning balance the fact that the development has already been carried out and whether there are benefits to be achieved through now approving it with the regrading proposed in comparison with the requirements of the enforcement notice. Whilst still clearly contrary to waste and other policies, I have to advise that I consider it would be difficult to argue that the application would result in a final landform which would have significant and unacceptable landscape and visual impacts or which would not be acceptable in the countryside when compared to the enforcement notice requirements. If carried out within a timescale such as to achieve the stated restoration at the earliest opportunity in accordance with paragraph 7 of the NPPW, the impact on amenity, including on users of the local highway network, would be significantly less through the re-grading of the site proposed in comparison with the impacts of removing the waste and

removing and returning soils that the enforcement notice requires. I consider that these are material considerations.

62. I therefore consider the overall planning balance is that, if carried out within a timescale such as to achieve the stated restoration at the earliest opportunity in accordance with paragraph 7 of the NPPW, the impacts of the development as proposed would be less than those which would result through compliance with the requirements of the enforcement notice. Overall I consider the longer-term benefit from timely completion of the restoration scheme proposed and the improved footpath access would compensate for the short-term reduction in amenity. The development should therefore be approved subject to completion of a Section 106 legal agreement to secure the provision of the £10,000 financial contribution to be used to fund the aims of the Lower Windrush Valley Project.

Recommendation

63. **Subject to the provision of a Section 106 legal agreement to secure the provision of a £10,000 financial contribution to be used to fund the aims of the Lower Windrush Valley Project it is RECOMMENDED that Application MW.0150/14 (14/02397/CM) be approved subject to conditions to be determined by the Deputy Director for Environment & Economy (Strategy & Infrastructure Planning) including:**
- i) **No HGV movements to be generated directly to or from the site other than for the provision and removal of any plant required for the development to be completed;**
 - ii) **Hours of operation to be not other than 7.00 am to 6.00 pm Mondays to Fridays and 7.00 am to 1.00 pm on Saturdays;**
 - iii) **No topsoil generated through the topsoil recycling area to be removed from the site and to be solely used in the restoration works hereby permitted;**
 - iv) **Other than planting and grass seeding, final restoration of the site and removal of all plant and machinery to be completed no later than 30th October 2016;**
 - v) **All landscape planting to be completed no later than 31 March 2017;**
 - vi) **All grass seeding to be completed no later than 31 May 2017;**
 - vii) **Five years period of aftercare including replacement planting of any trees or shrubs which die with others of the same size and species.**

BEV HINDLE

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

Consultation Responses

1. West Oxfordshire District Council raised no objections to the application as originally submitted but objects to the amended application on the following grounds:
 - i) Whilst the landscape and leisure improvements are considered acceptable, WODC would object to the application in terms of the likelihood of the proposal perpetuating/generating new traffic when the Council is promoting low key leisure and conservation after use. As such the proposal is considered contrary to Policies BE3 and T1 of the adopted West Oxfordshire Local Plan 2011 and Policy T1 of the emerging West Oxfordshire Local Plan.
 - ii) In the absence of a comprehensive after use strategy programmed, WODC objects to the incremental and ad hoc uncoordinated after use proposal that are considered to damage the amenity of the Lower Windrush Valley.
2. Stanton Harcourt Parish Council has not commented on the application.
3. Transport Development Control states that based on the transport assessment it appears that the proposal in the application a much lesser traffic impact than the required activity of the enforcement notice. Therefore there is no objection.
4. The County Council as Lead Local Flood Authority has no objection to the application.
5. The County Fire and Rescue Service has no objection to the application.
6. The Rights of Way Officer comments: In terms of the diversion itself an application has been received from Sheehan Haulage and Plant Hire Ltd for the diversion of Stanton Harcourt Bridleway No.12 from where it runs through the Controlled Reclamation Site landfill site and directly alongside the Aggregates Plant facility to a new route that runs alongside the River Windrush. Apart from running through the landfill site and past the plant facility the route also shares the haul road and the crosses the entrance to the aggregates facility. Further to the south the bridleway also makes two crossings of the main Dix Pit Complex haul road. The bridleway diversion is supported since a more pleasant route would be provided. Moreover there would be a vast improvement in public safety since the diversion would remove potential conflict between users of the right of way (especially equestrians) and vehicular traffic on the roads it currently crosses. The existing route has been difficult for users and many people have adopted a number of different routes to avoid conflict with traffic on the haul road. The

diversion to this location would remove this conflict and provide a much safer and pleasant route for all.

The inclusion of the permissive bridleway is a very welcome addition indeed. However after closer inspection I was like to request that maybe some alterations could be made to its exit location onto the main road. The exit comes out onto a particularly narrow section in respects to verges, of the B4449. I notice that the extent of the applicant's boundary could mean that there is a potential for extending this further along, providing an exit closer to the single track road to Cogges and where the verge starts to widen. In addition to this maybe an agreement could be met with the neighbouring landowner to extend it further so users could come out opposite the exit to the Cogges road. Whilst I would not want to see this removed from the application, some small changes would possibly make this a more popular route for people to use. In addition, I am sure the applicant is aware that all maintenance responsibilities for the permissive route would rest with them.

7. County Council's Ecologist Planner comments as follows:

First response - I understand from the application form that there would be no working on the site before 7.00 a.m. or after 6.00p.m. and on this basis I have not suggested any conditions in relation to lighting. Whether the site is restored as per this application proposal, or in accordance with the original planning permission, I would like to remind the operator that they should ensure that they meet their legal duties in relation to protected species (which includes all reptiles and breeding birds). Also, that they must ensure that the rabbits on the site are treated humanely (as must any other mammals) in line with the Wild Mammals Protection Act (1996).

If you are minded to permit this application, please attach the following conditions (to ensure a net gain in biodiversity in line with NPPF paragraphs 9, 109 and 118) and informatives:

Condition

Within 2 months of this permission an aftercare scheme for agriculture that promotes the use of the site for nature conservation shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall provide for:

- a) A five year period of aftercare following the restoration of each phase or discrete area of restoration, specifying the steps to be taken and the period during which they are to be taken, and who will be responsible for taking those steps. The scheme shall provide for any drainage measures and an annual meeting between the applicant, Waste Planning Authority and any other body appointed by either party.
- b) The location and management of retained / newly planted trees and shrubs. In the event of the failure of any trees or shrubs planted, such trees or shrubs shall be replaced in the next planting season (November to March) with others of the same size and species.

Any scheme that is approved must be implemented.

Reason: to ensure that the site is restored and managed appropriately in accordance with Oxfordshire Minerals & Waste Local Plan policy PE13 and that the development results in biodiversity enhancement in accordance with NPPF paragraphs 9, 109 and 118.

Final response: In my previous comments I explained that I had no objection to the application, subject to conditions, one of which related to an aftercare scheme for the site: An aftercare scheme and plan have now been submitted by the applicant. From the Aftercare Scheme I understand that there is a planting plan in the Landscape & Visual Impact Assessment:

However, I consider that the Aftercare Plan should clearly show the aftercare of the site and not need to be read alongside another plan.

Please can you ask the applicant to amend the Aftercare Plan to clearly show the proposed aftercare with annotations, including:

- the location of tree planting
- which species will be planted where
- the area to be seeded
- the seed mix

Overall, the proposed landscape planting shown in the planting plan could better reflect the post restoration landform. The relatively thin strips of boundary planting would benefit from having a greater depth of understorey planting to improve winter-time screening when there is no leaf cover. 1m wide hedgerows provide little opportunity for bird nesting habitat when in regular maintenance, 3m wide hedges at the base would be more effective. There are opportunities to extend tree and shrub planting in the corners of the site which would provide increased bird nesting habitat.

The purpose of the hedgerow across the middle of the site is not clear. There is no indication of gates, fence lines or fence type to either control stock or manage access.

Aftercare Scheme: Further details on the proposed grassland seed mix should be included. The restoration plan should indicate the expected sward type at the end of the restoration period to ensure that the desired end result is achieved. Pre-sowing cultivation should be as required to provide a suitable seedbed for grassland establishment (very fine seeds) and may require additional cultivation beyond the use of a tined cultivator e.g. discs to break up the larger soil lumps.

The use of an annual fertilizer top dressing would seem inappropriate with the aim of establishing a species rich sward and is likely to lead to run-off of nutrient rich water into the local catchment.

Tree shelters and mulch-mats, should include provision for removal of mulch mats when trees are established and removal of tree shelters and guards when the trees are beyond the point at which pest damage would prove threatening to tree survival.

Please note that the following comments still stand:

I understand from the application form that there would be no working on the site before 7.00 a.m. or after 6.00p.m. and on this basis I have not suggested any conditions in relation to lighting.

Whether the site is restored as per this application proposal, or in accordance with the original planning permission, I would like to remind the operator that they should ensure that they meet their legal duties in relation to protected species (which includes all reptiles and breeding birds). Also, that they must ensure that the rabbits on the site are treated humanely (as must any other mammals) in line with the Wild Mammals Protection Act (1996).

If you are minded to permit this application, please attach the following conditions (to ensure a net gain in biodiversity in line with NPPF paragraphs 9, 109 and 118) and informatives:

Conditions & Informatives

Condition

I consider that insufficient information has been submitted on the aftercare scheme and therefore, if minded to permit, please attach the condition suggested above (In the first response). If a suitable updated Aftercare Scheme and Plan are submitted then please reconsult me and I can comment on whether I consider that this condition is still necessary.

Informatives

Protected Species

If any protected species [e.g. bats, badgers, dormice, otters, water voles, reptiles, amphibians, breeding birds] are found at any point, all work should cease immediately. Killing, injuring or disturbing any of these species could constitute a criminal offence. Before any further work takes place a suitably qualified ecological consultant should be consulted for advice on how to proceed. Work should not recommence until a full survey has been carried out, a mitigation strategy prepared and licence obtained (if necessary) in discussion and agreement with Natural England.

Breeding birds

All bird nests, eggs and young are protected under the Wildlife & Countryside Act 1981 (as amended) which makes it illegal to intentionally take, damage or destroy the nest of any wild bird while it is use or being built. Therefore, no removal of vegetation should take place between 1st March and 31st August inclusive to prevent committing an offence under the Wildlife & Countryside Act 1981 (as amended).

Badgers

All deep excavations should be suitably ramped and any pipe-work associated with the development covered overnight to minimise the risk of

badgers being inadvertently killed and injured within the active quarry after dark. This is to ensure the protection of badgers and avoid committing a criminal offence under the Badger Act 1992.

8. The County Archaeological officer advises that there are no archaeological constraints to the application.
9. The Environment Agency has no objection to the application but advises as follows:

An environmental permit (or variation to an existing environmental permit) is required for the proposed soil recycling facility (including temporary facilities). Should planning permission be approved the operator must ensure that the relevant environmental permit is in place prior to commencing the activity.

The changes to the proposed landfill restoration levels (including any importation of waste for restoration) may require a new environmental permit, variation to the existing permit or plans/procedures to be agreed by the Environment Agency before work commences. Where planning is approved the operator must contact the Environment Agency to discuss the permitting requirements and not commence work until all necessary permits/approvals are in place. Restoration of the site, including any future separate restoration such as any approved soil treatment area, may involve the use of materials that are considered to be waste and an environmental permit or equivalent may be required.

With regard to the enforcement notice which is in effect on the Controlled Reclamation Landfill site and the implications for the Environmental Permitting regime, the Environment Agency has advised as follows:

This site is subject to two environmental permits EPR/EP3599ES and EPR/EP3199EA for Landfills at Gravel Works at Stanton Harcourt 2 and 3 respectively. These permits are both still in force and are regulated by the Environment Agency. The landfills are no longer permitted to accept waste for disposal and are both in closure and aftercare.

Compliance with the Planning Enforcement Notice as we understand (i.e. potentially involving the excavation of existing restoration soils, cap and waste) would not in itself constitute a breach of the environmental permits. As such, the permits would not in principle be a barrier to compliance with the planning enforcement notice.

Where the planning enforcement notice impacts upon the deposited waste, capping, restoration or any other associated infrastructure, then the operator will still be required to comply with the extant conditions within the environmental permits.

There may be a need to vary the permits and/or a change the sites' closed status. If the Planning Enforcement Notice required removal or disturbance of the landfill cap, either fully or in part, then the operator would be required to engineer a replacement cap in accordance with the permit conditions.

Should there be a requirement to import waste to fill any residual void space, then the operator may be required to vary the permits where this amounts to a disposal activity, rather than restoration. Should permission be granted to operate a soil treatment facility on the application area, then either a variation to the existing permit(s), or application for a new permit, would be needed.

10. Natural England commented as follows with regard to the application as originally submitted:

Soils and Land quality

1. As far as is practicable a uniform soil profile should be restored across the site to facilitate management in the afteruse.
2. Care should be taken not to import plant or animal diseases onto the land. Throughout the period of working, restoration and Aftercare, the operator should have due regard to the need to adhere to the precautions laid out in the leaflet entitled "Preventing the Spread of Plant and Animal Diseases", published by MAFF.
3. Restoration should produce a restored soil profile without significant compaction, ideally to a depth of at least 1 metre. Soil and soil-forming material should only be handled when in a dry and friable condition (see Annex 1), when land conditions are dry and there are no pools of water on the surface.
4. The restored landform should facilitate drainage and provide for an outfall if any drainage system is required.
5. Defra's Good Practice Guide for Handling Soils provides detailed advice on the choice of machinery and method of their use for handling soils at various phases. Use of Sheets 1-4 are likely to enable high standards of restoration to be achieved.
6. More general advice for planning authorities on the agricultural aspects of site working and reclamation can be found in the Defra Guidance for successful reclamation of mineral and waste sites.
7. If differential settlement occurs during the restoration and aftercare period, the applicant should fill the depression to the final settlement contours specified with suitable imported soils, to a specification to be agreed with the MPA.
8. Our comments on the outline aftercare scheme are thus:
 Para 3.7 drainage – sufficient depth of soil/soil forming material should be replaced to enable a piped underdrainage scheme to be installed without disturbing the integrity of the landfill cap (see previous comment at 3). In our experience a piped underdrainage scheme is almost always required where there is an impermeable landfill cap or compacted fill materials. The need for piped underdrainage can be reviewed as part of the aftercare but the landform and final soil depths should be designed to allow for this, and provision for a suitable outfall (see point 4)
 Paras 3.8-3.10 Management of soil fertility, weeds etc - fertiliser application rates should be based on the soil analysis and advice from a FACTS qualified adviser. Similarly pesticide advice should be from a BASIS qualified adviser.

9. An Aftercare Scheme requiring that such steps as may be necessary to bring the land to the required standard for the use of agriculture should be submitted for the approval of the MPA not later than 6 months prior to the start of aftercare on all or part of the site. The submitted Scheme should:
 - a) Include provision of a field drainage system and provide for an annual meeting between the applicants and the MPA.
 - b) Provide for a detailed annual programme, in accordance with paragraph 058 of the Minerals Planning Practice Guidance (March 2014) to be submitted to the MPA not later than two months prior to the annual Aftercare meeting.
10. Detailed records should be kept of all operations, cultivations, grazing and stocking, fertiliser applications, pesticides and other treatments.

Biodiversity enhancements

It may be worth considering a more biodiversity focussed afteruse, since the complex history of landfilling and use of manufactured/imported soils on this site does not bode well for a highly productive agricultural afteruse.

The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Following consultation on the amended application, Natural England also commented that paragraph 3.13 of the revised restoration and aftercare scheme states that under drainage is not needed, but that this would be reviewed at the aftercare meetings. Natural England would advise that final soil depths should allow for a minimum 1 metre of clear soil in which to install an under drainage scheme should this be found to be required during the aftercare meetings.

11. Thames Water has no objection to the application.
12. The Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) has no objection to the application.

Annex 2

European Protected Species

The County 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 a EPS including in particular any disturbance which is likely
 - a) to impair their ability –
 - i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - b) to affect significantly the local distribution or abundance of the species to which they belong.

4. Damage or destruction of an EPS breeding site or resting place.

Our records and/ or the habitat on and around the proposed development site and/or ecological survey results indicate that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

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, and
- updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

Issues which arose in the processing of the application included the need for the topsoil recycling area to be amended such that it would be solely to facilitate the restoration of the landfill site to which end the application was amended.

Plan 1



- - - - Bridleway 12 to be diverted
- - - - Proposed route of diverted Bridleway
- - - - Proposed permissive Bridleway

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Note: Plan is indicative only, application
plans can be viewed on the eplanning
website using reference MWV.0150/14.