

**For: PLANNING AND REGULATION COMMITTEE – 16 JANUARY 2017**

**By: ACTING DIRECTOR ENVIRONMENT AND ECONOMY (STRATEGY & INFRASTRUCTURE PLANNING)**

**Development proposed:**

Proposed extension of ironstone extraction, revocation of existing consented mineral extraction, export of clay, construction of temporary and permanent landforms, retention of an existing overburden store, relocation of consented stone saw shed, replacement quarry, farm and estate office building, erection of a new shoot store and multi-purpose building.

**Division Affected:** Chipping Norton  
**Contact Officer:** Matthew Case                      **Tel:** 01865 815819  
**Location:** Great Tew Ironstone Quarry, Butchers Hill, Great Tew,  
Chipping Norton  
**Application No:** MW.0078/15                      **District Ref:** 15/02678/CM  
**Applicant:** Great Tew Farms  
**District Council Area:** West Oxfordshire DC  
**Date Received:** 16 June 2015  
**Consultation Period:**

- 2 July to 23 July 2015
- 18 February to 10 March 2016
- 14 April to 5 May 2016
- 1 December to 22 December 2016

**Contents:**

- Part 1 – Facts and Background
- Part 2 – Other Viewpoints
- Part 3 – Analysis and Conclusions

## Part 1 – Facts and Background

1. The application was originally reported to Planning & Regulation committee on Monday 23 May 2016. The committee resolved to approve the application pending the signing of the Section 106 agreement subject to conditions including a number requiring the submission of schemes for approval prior to the commencement of the development. Following the chairman's update to the committee meeting on 11 July 2016, a slight amendment to the plans to be approved was agreed. At the present time the Section 106 Agreement is yet to be signed, hence formal planning consent is still to be issued. Discussions are ongoing between the Mineral Planning Authority's Legal Team and the applicant's legal representative.
2. On the 16 September 2016, a routine compliance monitoring visit was carried out at the quarry. The officer discovered the operator had started work on the western extension before planning permission was granted and the draft pre-commencement conditions discharged. Initially, a Temporary Stop Notice (TSN) was issued, and later an Enforcement Notice was issued to remedy the harm that had been caused. As work had started on the area which would have been the western extension to the quarry had planning permission been issued and any pre-commencement conditions discharged, it was considered that it would not now be possible for the applicant to discharge those conditions even if planning permission were to be granted in part retrospectively to the current application. Therefore, the case officer informed the applicant that all schemes required before commencement of development now needed to be revised to address the unauthorised works which had been carried out and then submitted as amendments before the application could be determined.
3. The operator has commenced work on the following which form part of the current application proposals:
  - i) Placement of over burden to create the north-east landform;
  - ii) Soil stripping and removal of overburden in Phase 4 (upper and lower) of the western extension; and
  - iii) Construction of the proposed office building.

*Please see the Committee Plan (Annex 1) to show the planning breach locations.*

The County Council has not taken enforcement action against points i) and iii) as it was not considered expedient to do so but this remains under review pending the determination of the current application.

4. The unauthorised work carried out hasn't been in accordance with the proposed working and restoration plans: As mentioned above, the operator has placed overburden to create the north-east landform before the creation of the permanent northern mound. The operator used the material extracted from the extension to temporarily backfill the existing extraction area with soil and overburden and to infill the north-eastern landform. As also mentioned above, work has also commenced on the new estate office. The altered scheme also delays the construction of the permanent northern mound and proposed surface water attenuation pond. Therefore as well as the schemes mentioned above, the

applicant has also submitted amendments to the application in order to address the changes brought about by the unauthorised developments.

5. The following schemes/amendments have been submitted:
- i) Groundwater and Surface Water Monitoring Scheme (GSWMS)
  - ii) Habitat Management Plan (HMP)
  - iii) Arboricultural Method Statement (AMS) with Tree Protection Plan (TPP)
  - iv) Non-Technical Summary
  - v) Environmental Statement
  - vi) Updated Topographic Survey
  - vii) Proposed Restoration - Drawing No. 2239/PA/7B
  - viii) Phase 5 Extraction - Drawing No. 2239/PA/6B
  - ix) Phase 5 Extraction - Drawing No. 2239/PA/5B
  - x) Phase 4 Extraction - Drawing No. 2239/PA/4B
  - xi) Phase 1D and 3C Stone, Phase 4 Clay and Overburden Extraction and Restoration Works Phase 1-3 Plan - Drawing No. 2239/PA/3
  - xii) Existing Conditions Plan - Drawing No. 2239/PA/2C.

## **Part 2 – Other Viewpoints**

### **Representations**

6. No letters of objection have been received to the amended application.

### **Consultations on the amendments**

7. Arboricultural Officer: The Arboricultural Method Statement (AMS) submitted identifies appropriate mitigation practices, in accordance with BS 5837:2012 Trees in relation to design, demolition and construction, to adequately protect retained trees within the site. The following condition should be applied:
- i. All existing trees to be retained shall be protected by fencing specifications outlined in the Arboricultural Method Statement (Submitted October 2016). No materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence. In the event of any trees being damaged or removed by the development, it shall be replaced with a like species and be equivalent in size.
  - ii. The applicant has submitted a Restoration Scheme that outlines suitable practices taken to establish woodland for the mitigation of tree losses on the site.

I therefore have no objections from an arboricultural perspective.

8. West Oxfordshire District Council: No comments received
9. Archaeology: There are no archaeological constraints to this application
10. Environment Agency: No comments received

11. Natural England: No comments received
12. BBOWT: No comments received
13. Transport Development Control - No Objections, providing existing recommended condition is attached requesting 'No HGV movements associated with clay exportation during the harvest season (August to October)'.
14. Lead Flood Authority: No Objection
15. Ecologist Planner (OCC):  
Document titled 'Information as required by planning conditions 25 and 26' - Section 2 of this document 'condition 25 – reptile and amphibian translocation and mitigation strategy'. I request that the last sentence of paragraph 2.4 be deleted. I accept that it is meant to provide explanation, but the remainder of the paragraph is clear without it.

**Section 3 – Habitat Creation Strategy**

**Section 4 – Management Plan**

**Section 5, Appendix A – Implementation**

I am happy with the proposed actions outlined in these sections and recommend that the document be agreed with minor changes, as an approved document.

Under 4.5 'Dead wood' I would welcome a reference to creating space round veteran trees and potential veterans – known as 'haloing'.

I will also require an additional line in Appendix A specifying how often monitoring reports will be submitted to this authority.

**Groundwater and surface water monitoring scheme, Great Tew Quarry**

I am happy with the proposed actions to monitor water quality and quantity on the site. There is however, no apparent indication of the levels of tolerance that will be acceptable. I suggest that an acceptable variance of 10% of the baseline figures for conductivity and total suspended solids is adopted, and that this should be detailed in a table to be supplied as an appendix to the approved document, with the baseline figures to date. For pH, an acceptable variance will be  $\pm 0.5$  of a baseline of 7.5.

In Section 6 the end of the third paragraph should be amended to read:  
'...will be reduced or increased accordingly, in consultation with the planning authority.'

**Arboricultural method statement**

I am happy with the content of this document.

**Environmental Statement – update**

I have no comment to add on this.

**European Protected Species**

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

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of 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.

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.

**Final comment from Ecologist after reading the revised schemes**

**Document titled ‘Information as required by planning conditions 25 and 26’**

I am now in agreement with the content of this document. I have added conditions below to specify submission of monitoring information to this authority.

**Groundwater and surface water monitoring scheme, Great Tew Quarry**

I am happy with the proposed actions to monitor water quality and quantity on the site.

**Arboricultural method statement**

I am happy with the content of this document.

**Environmental Statement – update**

I have no comment to add on this.

16. I will update the committee orally at the committee meeting with any outstanding consultee comments.

## Part 3 – Analysis and Conclusions

### Comments of the Acting Director Environment and Economy

#### Arboriculture

17. Policy PE10 of the Oxfordshire Mineral and Waste Local Plan 1996 (OMWLP) states that mineral working should not damage or destroy woodland and forestry. Proposals which would affect woodland will be assessed by taking into account the importance of the affected woodland, economically, scenically and ecologically; the local abundance or scarcity of woodland; the remaining life of the woodland; the extent of replacement proposed; and the time which it can be expected to take for replacement woodland to make a positive contribution to the landscape. Policy NE6 of the West Oxfordshire Local Plan 2011 (WOLP) states that planning permission will not be granted for proposals that would result in the loss of trees, woodlands or hedgerows, or their settings, which are important for their visual, historic, or biodiversity value. Removal will only be allowed where it can be demonstrated that the proposed development would enhance the landscape quality and nature conservation value of the area.
18. Since the application went to committee, the applicant has submitted an AMS with a TPP. The schemes were originally requested as a draft pre-commencement condition. The County's Arboricultural Officer has read the submission, and has no objection to the proposed schemes subject to an additional condition stating that all existing trees should be protected in line with the AMS. The unauthorised work carried out on the site was assessed by the Senior Enforcement Officer and County Ecologist, and no trees or hedgerows were shown to be affected. Overall, the development would see an increase in trees on both the existing site and extension once restoration is complete. The application is considered to be in accordance with policy PE10 of the OMWLP and policy NE6 of the WOLP.

#### Hydrology & Biodiversity

19. Policy NE7 of the WOLP states that development should not have an adverse impact on the water environment. Initiatives which seek to restore or enhance the natural elements of this environment will be supported. Policy NE9 of the WOLP states that new development or the intensification of existing development will not be permitted where the additional surface water run-off would result in adverse impacts such as an increased risk of flooding, river channel instability or damage to habitats, unless appropriate attenuation and pollution control measures are provided. Policy NE11 of the WOLP states that development should not have an adverse impact on the quality of surface or ground water supplies and resources. Policy EH2 of the Draft West Oxfordshire Local Plan 2011-2031 (DWOLP) states that the biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity.
20. Policy PE4 of the OMWLP states that proposals for mineral extraction and restoration will not be permitted where they would have an impact on groundwater levels in the surrounding area which would harm existing water

abstraction, river flow, canal, lake or pond levels or important natural habitats. Proposals must not put at risk the quality of groundwater.

21. Policy PE14 of the OMWLP states that sites of nature conservation importance should not be damaged. Proposals which would affect a nature conservation interest will be assessed by taking into account the importance of the affected interest; the degree and permanence of the projected damage; and the extent to which replacement habitat can be expected to preserve the interest in the long-term. Draft Policy EH5 of the DWOLP states that sustainable drainage systems to manage run-off will be integrated into the site design, maximising their habitat value and ensuring their long term maintenance.
22. Valley West of Great Tew Local Wildlife Site (LWS) lies immediately adjacent to the application site and supports a range of priority habitats including wet woodland, lowland mixed deciduous woodland, lowland meadows and fen. The LWS includes the River Tomwell/Deddington Brook.
23. Since the application went to committee, the applicant has submitted a HMP and GSWMS. The schemes were originally requested as pre-commencement conditions.
24. The County Ecologist had no objections after minor amendments were made to the HMP and GSWMS. There are no objections from the Lead Flood Authority. The application is considered to be in accordance with Policies NE7, NE9 & NE11 of the WOLP, EH2 & EH5 of the DWOLP, and Policies PE4 & PE14 of the OMWLP.

### Landscape

25. WOLP policy NE3 states that development will not be permitted if it would harm the local landscape character. Policy NE1 of the WOLP seeks to maintain or enhance the value of the countryside for its own sake, in particular its local character and agricultural values. Draft Oxfordshire Mineral and Waste Core Strategy (OMWCS) policy C8 seeks to ensure that development respects and where possible, enhances local landscape character. Proposals should include adequate and appropriate 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.
26. Although the unauthorised development led to an amendment to the working scheme, the overall working scheme and restoration would remain unchanged other than the earlier completion of the north-eastern landform. Similarly, while the development proposal would see a short term detrimental impact on the landscape character, the long term restoration scheme would see a number of landscape enhancements with the inclusion of arable scrub and additional hedgerow and tree planting. Although not amended, it remains the case that the additional buildings, including shoot store, new office and workshops proposed to the east of the site in the existing quarry would be in keeping with the existing agricultural buildings, and would be well screened from the surrounding

landscape. Therefore the proposed development would enhance the value of the countryside as the proposed land use would match the character of the surrounding area and also enhance the agricultural value of the local area. I accordingly consider that the application is in accordance with policies NE1 and NE3 of the WOLP, draft OMWCS policy C8 and draft policy EH1 of the DWOLP.

## **Conclusions**

27. Since May 2016 (P&R Committee), the applicant has submitted three key schemes linked to draft pre-commencement conditions, and made some minor changes to the working scheme in order to address the unauthorised development which has occurred. The Arboricultural Officer and County Ecologist have no objections to the proposed schemes linked to arboriculture, hydrology and biodiversity. The proposed changes to the working scheme appear to be minor, and don't alter the overall scheme. There were no changes proposed to the restoration scheme. Subject to no overriding objections from any outstanding consultees, it is recommended that the proposed development is approved.

## **RECOMMENDATION**

**It is RECOMMENDED that subject to a legal agreement first being entered into to secure that the mineral permitted under the "clay bank" is not further worked, and a 20-year long term management plan that planning permission for application MW.0078/15 be approved subject to conditions to be determined by the Acting Director for Environment & Economy including those set out in Annex 2 to this report.**

BEV HINDLE  
Acting Director for Environment and Economy

January 2017