

For: PLANNING AND REGULATION COMMITTEE – 19 February 2018

By: DIRECTOR FOR PLANNING AND PLACE

REPORT ON PROPOSED PLANNING ENFORCEMENT ACTION AT ELM FARM QUARRY, STRATTON AUDLEY.

Division Affected: Ploughley Division

Contact Officer: Chris Hodgkinson Tel: 07899 065518

Recommendation

It is RECOMMENDED that the Committee:

1. notes the report; and
2. supports the carrying out of further ecological surveys to inform the council's consideration of the expediency of taking enforcement action and the steps to be specified as required in a planning enforcement notice to be served before 31st December 2018.

INTRODUCTION

- 1 This report updates members on an enforcement strategy for the above site to secure the best long term restoration at minimum cost to the public purse. There are options available in this regard; in terms of the type of planning enforcement notice we serve and the extent of the work required to remedy the breach of planning control.
- 2 Decisions on enforcement action under the terms of the Oxfordshire County Council's constitution are delegated to the Director of Planning and Place and from her onwards to the Service Manager Planning Regulation, in consultation with the County Solicitor.

SITE LOCATION AND DESCRIPTION (Annex 1)

- 3 The site is to the north of Bicester Airfield, access is situated on the unclassified road between the A421 and Stratton Audley village. The site is a partially restored quarry / inert landfill with two remaining voids (now water filled) and naturally developed open land, scrub, tall ruderal and wetland habitats. There are considerable piles of rubble and soils together with scrap materials left in situ, plus the remains of the wheel wash.
- 4 Adjoining the site to the north is a former County Council landfill, now with scrub and open water. Part of both sites is designated as the 'Stratton Audley Quarries' Site of Special Scientific Interest; the Geological SSSI was to be cut into the limestone (or blocks of limestone revealed for inspection) and has not been achieved. The two sites together are designated as Stratton Audley Quarry

Local Wildlife Site (LWS) (recent survey 2014). A belt of land around the perimeter of Bicester Airfield, which adjoins the site, is also designated an LWS.

RELEVANT PLANNING HISTORY

- 5 The last planning permission covering operations at the site and associated legal agreements is as follows: 97/01501/CM Infilling of existing limestone quarry with naturally occurring subsoils and other wastes to form a Country Park, Importation of Waste Aggregates for Recycling and Resale, Elm Farm Quarry, Stratton Audley.
- 6 A unilateral undertaking was given on 20th February 1998 to;
 - make a payment for highway improvements;
 - to restore the land;
 - upon restoration, to open the land to the public for use as a Country Park for 300 days each year;
 - to maintain the Country Park;
 - to cease all mining, quarrying and extraction operations.

STATUS OF THE DEVELOPMENT

- 7 The proper restoration of the Land was required to be completed no later than 31 December 2008 by planning permission no. 97/01501/CM. Restoration is not complete and this represents a serious breach of planning control.
- 8 The original limited liability company carrying out the development went into receivership and was subsequently dissolved. The land was then purchased by a company called Oaklane Properties Limited. The site remains dormant, un-restored and with residual heaps of waste present. The Geological SSSI was to be cut into the limestone (or blocks of limestone revealed for inspection) and has not been achieved with the drainage wetland turning into an overtopped lake. There are no monies, nor a bond available, for the long-term maintenance of a Country Park.
- 9 As stated, the site was required to be restored by 31st December 2008. The County Council has ten years from that date (by 31st December 2018) in which to bring formal enforcement proceedings for the on-going breach of planning control.
- 10 Officers tried in February 2016 to engage with the current land owners and this included a site meeting with an agent who purported to represent them. However, there has been no response to requests for further information following that meeting.

PLANNING AND ENFORCEMENT CONSIDERATIONS

- 11 The Town and Country Planning Act 1990 (as amended) provides the Council with discretionary power to take enforcement action if it is expedient to do so, having regard to the provisions of the development plan and to any other material considerations. Any works on site to remedy the breach would have to

be carried out in accordance with the provisions of the original planning permission but cannot be any more onerous.

- 12 When considering expediency, it is necessary to contemplate the following points:
- The harm or potential harm to amenity if the breach or breaches are allowed to continue;
 - The history of the operator's compliance with both formal and informal requests to take steps prescribed or requested by the authority to remedy planning breaches;
 - That the enforcement action proposed is commensurate with and proportionate to the breach to which it relates;
 - Any previous advice, correspondence and negotiations;
 - The consequences of non-compliance;
 - The likely effectiveness of the various enforcement options;
 - The public interest, and;
 - The availability of appropriate evidence to support the enforcement action proposed with due consideration to the likelihood of success.
- 13 The current requirements are for the site to be restored to a Country Park. The original site operator is no longer in existence. Given the lack of any pro-active engagement with officers to date with regard to resolving the restoration of the site, it would seem unlikely that the current landowners would be committed to running the site as a Country Park even if it were to be restored as required by the existing planning permission and legal agreement.
- 14 Since it was last active nearly ten years ago, the site has naturally regenerated with vegetation and so various habitats have formed. It is known that the site is home to 300 flowering plants including some county rarities as well as 12 species of dragonfly and 53 species of hymenoptera (bees, wasps and ants). Therefore, it would also seem likely that birds and animals will also be using the area as habitat for both hunting and breeding. It would be a defence to any enforcement action taken if the council were to require works to be carried out which would detrimentally affect a Protected Species. Before any enforcement action is taken, it is therefore important to establish in more detail through surveys what the current ecological interest of the site is. The council must in any instance have consideration to the impacts on biodiversity provided for in development plan policies and national policy in considering the expediency of any enforcement action.
- 15 As part of the expediency considerations therefore, the County Ecologist has been consulted on the long-term site restoration and management (Annex 2). Following a site visit and desk-based assessment of available records, she concludes that the site is species-rich, has a number of habitats of local and county level importance and that a more biodiversity focused restoration than the current requirements would be appropriate. This could represent a considerably lower investment than the current consented restoration plan and a more practical solution to achieving the satisfactory restoration of the site given the lack of activity since 2008 and difficulties with engaging with the current landowners. Consideration could still be given to providing public access to the

site if achievable, though less formally than would have been provided through restoration to a Country Park e.g. replacing the requirement for a boating lake with retention of existing water bodies for the benefits of wildlife.

- 16 A departure from the approved scheme as a Country Park would represent an under enforcement. Any enforcement notice served is liable to appeal to the Secretary of State. The alternative of the service of a breach of condition notice could not be appealed but, given the situation of apparent lack of interest or management by the current landowners at this site, it would seem that it may now be both more practical and beneficial to biodiversity to enforce a revised site restoration as discussed above, the only way to do this would be through the service of an enforcement notice.
- 17 Further professional surveying is to be commissioned to establish the extent of habitats and key plant species listed for each habitat with abundance values and also importantly for the possible presence of Protected Species. This needs to be done in the spring and summer; preferably over different months. There will inevitably be a financial cost and estimates of this are set out at the end of the report attached as Annex 2. Your officers' intention is therefore to await the outcome of these further surveys and to then conclude their consideration of the expediency of taken enforcement action and the details of what this should require with a view to then serving an appropriately worded enforcement notice in the latter part of 2018. This will ensure that the council's position is protected.

RECOMMENDATION

18. **It is RECOMMENDED that the Committee:**
 - (a) **note the report; and**
 - (b) **endorse the carrying out of further ecological surveys to support the officers' consideration of the expediency of taking enforcement action and the steps to be specified as required in a planning enforcement notice to be served no later than 31 December 2018.**

SUE HALLIWELL

Director for Planning & Place

February 2018



