

**For: PLANNING AND REGULATION COMMITTEE – 27 NOVEMBER 2017**

**By: DIRECTOR FOR PLANNING AND PLACE**

**Development Proposed:**

**Section 73 application to continue the operation of Dix Pit Recycled Aggregate Facility permitted by planning permission no. 16/04166/CM (MW.0140/16) without complying with condition 6 thereby allowing an increase in the maximum tonnage of waste material imported to site to 175,000 tonnes per annum**

**Division Affected:** Eynsham  
**Contact Officer:** David Periam **Tel:** 07824 545378  
**Location:** Sheehan Recycled Aggregates Plant site Dix Pit,  
Stanton Harcourt, Witney OX29 5BB  
**Application No:** MW.0073/17 **District Ref:** 17  
**Applicant:** Sheehan Haulage and Plant Hire Ltd  
**District Council Area:** West Oxfordshire DC  
**Date Received:** 15th September 2017  
**Consultation Period:** 28<sup>th</sup> September – 19<sup>th</sup> October 2017

**Contents:**

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- Part 3 – Relevant Planning Documents
- Part 4 – Analysis and Conclusions

**Recommendation Summary:**

Approval.

## 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 north west and north east 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 Areas. 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 is the existing recycling aggregates facility which covers an area of 5.1 hectares. The existing site comprises a processing plant for making recycled aggregate from construction and demolition waste (a 'wet' recycling plant or 'wash plant' involving washing the waste with water and separating it into different sized recycled aggregate via a series of conveyors). It adjoins to the east the Controlled Reclamation Landfill site (Con Rec).
3. In addition, there is a landfill site to the east, while further to the south there is a former block making works (Conbloc), 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.
4. Beard Mill, which is a grade II listed building, lies approximately 446 metres (320 metres to the property boundary) to the north-west of the existing Recycled Aggregates Plant site. It is separated from the application sites by the B4449 and a lake. There are other properties on the northern side of the B4449.
5. Stanton Harcourt Public Bridleway 12 has recently been permanently diverted from its previous route which was immediately to the north of and partly within the application site so that it now passes to the west of the recycling plant along the River Windrush.

### History

6. The original application for the recycled aggregates plant [Ref: MW.0091/09, DC Ref: 09/0330/P/CM] was refused on 28 September 2009 but granted on appeal on 23 March 2011. A revised application for the facility [Ref: MW.0184/12, DC Ref: 12/1638/P/CM] was granted planning permission on 21 March 2013. This is accompanied by a routeing agreement which requires lorries associated with

the facility to not travel through Sutton during the morning and afternoon peak hours. A section 73 application addressing changes to the site's lighting was approved in 2015 (Ref: MW.0069/13, DC Ref: 13/0837/P/CM). A further full planning application to planning permission for an extension to the recycled aggregates plant area [Ref: MW.0003/14, DC Ref: 14/0142/P/CM] along with commensurate variations of conditions attached to permission no. MW.0184/12 was refused planning permission but granted planning permission on appeal in early 2016. The most recent planning permission for variations to conditions and a small extension to the north to incorporate a wheel bath [Ref: MW.0140/16, DC Ref: 16/04166/CM] was granted in 2017 and is the planning permission to which variation of condition 6 is now applied for. This permission is also subject to the routing requirements set out above. A non-material amendment application [Ref: MW.0089/17 ] to the current planning permission in order to re-locate the fencing and gates to enclose the wheel bath area is currently under consideration.

### **Details of the Development**

7. The applicant proposes to vary condition 6 of the planning permission which currently restricts the facility to the importation of a maximum of 100,000 tonnes of waste material in any calendar year. It is proposed that the wording of the condition be varied to allow a maximum of 175,000 tonnes of waste material to be imported in any calendar year. No other changes to the planning permission are proposed. The applicant states that if planning permission is granted then a further 12 people would be directly employed.
8. In support of the application it is stated that since commissioning the plant the applicant has found it necessary to keep developing or altering the site to improve its efficiency and achieve the optimum outcomes in recycled aggregate production. To maximise efficiency it is now necessary to increase production and this can be done with no discernible additional impact on the environment. No more land or storage space and no further fixed plant would be required. It is advised that the Environmental Permit issued by the Environment Agency permits up to 250,000 tonnes of waste to be managed at the site. The applicant therefore considers that the Environment Agency believes that the Site can be effectively controlled and can operate safely and the environment within which it operates can be protected from harm even if it were proposed to operate at a much higher output than that proposed in this application. Because the proposal can be accommodated within the site's existing boundaries and by the plant's existing capacity the development may also overcome the need to establish other recycling plants perhaps on greenfield sites in less favourable locations.
9. The applicant considers that the only potential impact which the proposal could have arises from an increase in vehicle numbers going to and from the site. The proposal itself will not generate additional use of materials or more vehicles on Oxfordshire's roads because the need for construction materials at construction sites and the need to remove superfluous waste materials from those sites is determined, not by the availability of a waste site, but by the economy. This proposal would reduce the construction industry's reliance on virgin sands and gravels and reduce the numbers of vehicles travelling further afield to dispose of

construction wastes. It should reduce vehicle mileage overall on Oxfordshire's roads. The application is supported by a Transport Assessment which concludes that this would have no significant impacts on the highway. The additional lorries which will carry the extra waste materials entering the Site or processed materials leaving will be a maximum of 54 two-way movements per day (5 to 6 per hour) subject to daily variation, based on the assumption that the loaded lorry bringing raw materials leaves empty. This equates to an overall increase in traffic flow on the B4449 at any time of a maximum of around 3% at hours of lowest existing flows in late morning. In highway operational terms the B4449 currently operates well within capacity and could accommodate the small increase in HGV numbers.

10. Any permission granted to the application would be subject to the terms of the existing routeing agreement which restricts vehicles visiting the site from passing through Sutton at peak hours between 7.30 am and 9.00 am and 4.30 pm and 6.00 pm other than for local deliveries within Sutton or if directed, for example by the police due to an accident. There would therefore continue to be no movements through Sutton at peak hours as no movements are in any instance permitted in either direction. It is stated the applicant takes the routeing agreement very seriously and has recently purchased new software to combine with its existing vehicle tracking equipment so that any breaches of the routeing agreement can be readily identified and addressed. It is admitted that some breaches have been identified and the applicant is determined to prevent these from happening in future.
11. The applicant considers that the proposed variation of condition is in compliance with both development plan policies, including M1, W1 and C10 and national planning policy including section 4 of the National Planning Policy Framework which supports sustainable development.

## **Part 2 – Other Viewpoints**

### **Representations**

12. Three objections have been received to the application citing the following grounds:
  - i) The B4449 is of insufficient width, is bendy, has no cycle lane and is not designed to accommodate HGVs. The existing traffic causes considerable, ongoing damage to the road necessitating regular repairs and consequent expense to the OCC budget.
  - ii) There would be an increased danger to other road users including cyclists.
  - iii) The pavements in Sutton village are extremely narrow and pedestrians and school children alighting at the bus stop, and crossing the road, are regularly terrorised by HGVs speeding through the village well in excess of the 30 MPH limit inches from where they're walking.

- iv) The current 100 tonnes limitation should be scrapped altogether; permitting a 75% increase in tonnage would be a scandal and demonstrate beyond doubt the council favours the interest of commercial enterprises over the health and safety of the constituents it is elected to serve.
- v) Environmental damage to properties along the B4449;
- vi) Noise, vibration and other pollution to residents of properties along the B4449;

### **Consultations**

- 13. Transport Development Control: Oxfordshire County Council, as the Local Highways Authority, do not object to the application. The applicant has included a thorough Transport Assessment which includes a detailed turning count at the junction of Blackditch and the B4449. There were 67 HGV movements associated with Dix Pit HGVs, so a 75% increase would result in an additional 50 movements. A worst-case of 54 movements has been calculated assuming an even spread through the year, so it can be assumed that the count is representative. The count demonstrates that three-quarters of the Dix Pit HGVs travel to/from the east, through the village of Sutton. Therefore, this will equate to approximately 38 extra HGV movements over a 12-hour period. As these trips are banned during the peak hours by a routeing agreement, it will average out at around two additional movements per hour in each direction outside of peak hours. This represents an increase of roughly 14% in the total number of HGVs passing through Sutton in a 12-hour period (eastbound has the highest flows, up from 127 to 145). When compared to the overall traffic flow eastbound through Sutton, the additional HGV trips would result in a 1% increase in vehicles. Therefore, although the extra HGV movements may be noticeable, it is not considered to be reason for objection.
- 14. County Council's Ecology Officer – No objection.
- 15. West Oxfordshire District Council: Having considered the amendment, WODC has no objection. However, the District Council has concerns with the significant increase of waste being delivered to the site in any calendar year, specifically the impact of the increase in traffic, vehicular movements and noise on the amenity of those in the neighbouring villages.
- 16. No other consultation responses have been received on the application.

### **Part 3 – Relevant Planning Documents**

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

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

18. The relevant development plan documents are:
- Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy (OMWCS)
  - Oxfordshire Minerals and Waste Local Plan (saved policies) (OMWLP)
  - West Oxfordshire Local Plan 2011 (saved policies) (WOLP)
19. The OMWCS was adopted in September 2017 and covers the period to 2031. The Core Strategy sets out the strategic and core policies for minerals and waste development, including a suite of development management policies. It is anticipated that Part 2 of the Plan will include Site Allocations and any further development management policies that may be necessary in relation to the allocated sites.
20. The OMWLP was adopted in July 1996 and covered the period to 2006. 46 policies within the OMWLP were 'saved' until the adoption of the OMWCS and 16 of these policies continue to be saved until the Part 2 Site Specific document is adopted. The saved policies are non-strategic site-related policies.
21. Other material considerations are:
- i) The Emerging West Oxfordshire Local Plan 2011-2031 (EWOLP) was submitted to the Planning Inspectorate for independent examination in July 2015. The first hearing sessions were held in November 2015, following which the examination was suspended until December 2016 to allow further work to be undertaken in relation to housing need. The Council consulted upon the Proposed Modifications in December 2016. Stage 3 of the examination hearings took place in July 2017. The District Council is now undertaking further work. The plan is therefore at an advanced stage and it is appropriate to consider draft policies which are relevant to this development.
  - ii) The National Planning Policy Framework (NPPF) and National Planning Policy for Waste are also material considerations.

### **Relevant Policies**

22. The relevant policies are:

#### OMWCS

- M1 - Recycled and secondary aggregate
- W1 – Oxfordshire Waste to be managed
- W2 – Oxfordshire Waste Management targets
- W3 – Provision for waste management capacity and facilities required
- W4 – Locations for facilities to manage the principal waste streams
- W5 - Siting of waste management facilities
- C1 - Sustainable Development
- C2 – Climate Change
- C5 – Local environment, amenity & economy

C10 – Transport

OMWLP 1996

SH2 – Transport impact in Sutton  
SH3 – Routeing agreements

WOLP 2011

BE2 – General Development Standards  
BE3 – Movement and parking  
BE18 - Pollution  
T1 – Traffic generation

EWOLP

OS1 – Presumption in Favour of Sustainable Development  
EH6 – Environmental Protection

**Part 4 – Analysis and Conclusions**

**Comments of the Director for Planning and Place**

23. The reason given for the existing condition 6 which limits the importation to 100,000 tonnes per calendar year is: “To control the amount of HGV traffic on the local road network and in the interests of road safety.” I consider that the key issues to be considered are:
- i) whether the development is in general compliance with OMWCS policies with regard to waste management including increasing waste recycling and the production of secondary aggregate material;
  - ii) whether the additional impact of a further 75,000 tonnes per annum, which is a considerable increase on the existing limitation, would have an unacceptable impact in terms of highway safety and the capacity of the local road network; and
  - iii) whether there would be a significant and unacceptable additional impact on the amenity of local residents and other road users.

**Waste management**

24. The existing planning permission provides for the recycling of up to 100,000 tonnes of waste material per annum with the production of secondary aggregate material. The proposed development is to increase this to 175,000 tonnes per annum. It therefore accords with the aims of OMWCS policy M1 which states that so far as is practicable, aggregate mineral supply to meet the demand in Oxfordshire should be from recycled and secondary aggregate minerals in preference to primary aggregates, that provision will be made for facilities for the production and supply of 0.926 million tonnes per annum and that the production and supply of recycled and secondary aggregates will be encouraged so as to enable the maximum delivery of recycled and secondary aggregate within Oxfordshire. It also accords with the aims of OMWCS policy W1 which 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, and construction, demolition and excavation waste over the period to 2031. Further it accords with the aims of OMWCS policy W2 which states that provision will be made for capacity to manage Oxfordshire's principal waste streams to provide for the maximum diversion of waste from landfill. The target given for the period to 2030 is 70% for construction, demolition and excavation waste. It also follows that it is in compliance with the aim of policies.

25. OMWCS policy W3 sets out the need for at least 326,800tpa of additional waste management capacity up to 2031 and states that specific sites to meet this requirement will be allocated in the Minerals and Waste Local Plan: Part 2 – Site Allocations Document. This application would help the County meet its targets for the recycling of construction, demolition and excavation waste.
26. OMWCS policy W4 states that strategic waste management facilities, which are those managing 50,000 tonnes per annum of waste or more, should normally be located in or close to the county's major urban areas which includes Oxford. The site chiefly serves waste generated in Oxford and the surrounding area. OMWCS policy W5 supports the location of waste management sites at sites already in that use. As a variation to a planning permission for an existing facility, the application complies with that policy.
27. OMWCS policy W5 states that priority will be given to siting waste management facilities on land which is at an active mineral working or landfill site. This policy supports the location of an inert waste disposal facility at an active mineral working.

#### **Highway capacity and safety**

28. NPPF paragraph 32 states that all development that generates a significant amount of movements should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether opportunities for sustainable transport modes have been taken up, safe and suitable access to the site can be achieved and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. It goes on to state that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe.
29. Policy C10 of the OMWCS states that waste development will be expected to make provision for safe and suitable access to the advisory lorry routes shown on the Oxfordshire Lorry Routes Maps. Policy C10 goes on to state that waste management and recycled aggregate facilities should as far as practicable be in locations that minimise the road distance from the main source(s) of waste, using roads suitable for lorries, taking into account that some facilities are not economic or practical below a certain size and may need to serve a wider than local area. It also requires that proposals for waste development that would generate significant amounts of traffic will be expected to be supported by a transport assessment or transport statement,



as appropriate, including mitigation measures where applicable and that where development leads to a need for improvement to the transport network to achieve this, developers will be expected to provide such improvement or make an appropriate financial contribution. It also states that where practicable minerals and waste developments should be located, designed and operated to enable the transport of minerals and/or waste by rail, water, pipeline or conveyor.

30. 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. Saved OMWLP policy SH2 states that planning permission will not be granted for development which would significantly increase traffic in Sutton, or prolong significant traffic intrusion, unless the Sutton Bypass has been constructed and brought into use. Saved OMWLP policy SH3 states that the County Council will seek routeing agreements to limit the use of the A415 through Standlake and southwards over Newbridge.
31. The application is supported by a Transport Assessment and, as set out above, the Highways Authority considers that the proposed development would be acceptable and has no objection to the application. The B4449 through Sutton is one of the advisory lorry routes identified on the Oxfordshire Lorry Routes map. The existing waste management facility serves an area in the south of the county but includes Oxford.
32. Whilst I note the concerns raised by local residents with regard to the danger caused by HGVs passing through Sutton to pedestrians and cyclists I do not therefore consider that an objection to the application in terms of highway safety or capacity could be sustained. With regard to the provisions of policies SH2 and SH3, whilst these are saved policies and still part of the development plan, the more recent OMWCS policy C10 identifies the B4449 as an advisory lorry route and the site does benefit from a safe and suitable access to it via the Blackditch. Regarding sustainable transport modes, it is considered that there are no practical opportunities for more sustainable transport modes at this site which is not close to any railway or waterway.
33. It is therefore considered that the proposed development is generally in accordance with the NPPF and the above development plan policies with regard to highway capacity and safety.

### **Amenity**

34. Policy C5 of the OMWCS states that proposals for waste development shall demonstrate that it will not have an adverse effect on the local environment; human health and safety; residential amenity; and the local economy from impacts including noise, dust, visual intrusion, light pollution, traffic and air quality. 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 BE19 of the WOLP seeks to prevent development causing significant noise disturbance. EWOLP policy EH6 makes similar provision. Paragraph 7 of the NPPW states that in determining waste planning applications consideration should be given to the impact on amenity.

35. Objection has been raised with regard to the amenity impacts of the application through traffic passing through Sutton in terms of noise, vibration and other pollution both to local residents and other road users but also to properties and through the proximity of traffic to pedestrians on narrow pavements.
36. Members will recall that at the meeting of this committee on 16th October 2017, an oral report was presented at the request of the local member with regard to alleged breaches of the existing routeing agreement. Since that time, your officers have carried out five periods of monitoring during peak hours when the routeing agreement restricts vehicles leaving or visiting the site passing along the B4449 through Sutton. On one of these, on 23<sup>rd</sup> October, officers recorded five breaches well within the 7.30 am to 9.00 am restricted period and three which were on the cusp of 9.00 am and which the applicant's tracking records record as having been just after 9.00 am. No breaches were recorded on any of the other four monitoring periods, three of which were subsequent to 23<sup>rd</sup> October. As set out above, the applicant has maintained their commitment to seeking to ensure compliance with the routeing agreement and following the breaches identified issued a note to all contractors as follows:

*"It has been noted that contractor lorries went through Sutton on 23<sup>rd</sup> October between 07:30 – 09:00.*

*This is strictly prohibited as stated on site signage when entering and exiting Dix Pit.*

***The routing restriction states that under no circumstance can any HGV vehicle visiting Sheehan's Dix Pit site travel through Sutton between 7.30am – 9.00am and 4.30pm – 6pm.***

***This includes during the school holidays.***

*Failure to comply with this restriction will result in an official warning, and subsequent financial penalties and ultimate site ban.*

*I appreciate this is a firm stance, however this is an obligation made by the company to the local planning authority which must be adhered to.*

*We appreciate your co-operation."*

37. The applicant has not requested that the routeing agreement be removed and so it will continue to apply should planning permission be granted to this application by virtue of a clause which states it will continue to apply to any planning permissions varying the terms of the permission. I am therefore

satisfied that the applicant is now using its best endeavours to secure compliance with the agreement. Clearly if no vehicles to or from the site pass through Sutton at peak times then they are not during those times causing any impact on amenity.

38. Clearly there would be additional HGV traffic associated with the site outside peak hours should planning permission be granted to this application and to it then being implemented. The application states that the maximum additional HGV traffic projected would be 54 movements per day, 27 in, 27 out, which equates to 5 to 6 additional vehicle movements per operational hour. The traffic associated with the current limitation of 100,000 tonnes per calendar year, which was originally attached to the first permission granted on appeal and which has been carried forward on each subsequent planning permission for the site, has clearly been judged to be acceptable previously although this is not to say that the concerns raised in objection by local residents are not reflective of the impact of traffic passing through Sutton. As officers have observed during their site monitoring, the B4449 is clearly a well-used road during peak hours and HGVs unconnected with the application site were observed passing through Sutton in both directions, some considerably larger than the tipper lorries which would generally be associated with the application site.
39. To suggest that there is no noticeable impact on the amenity of local residents from the existing traffic, particularly where the B4449 passes through Sutton is therefore unrealistic, but the vehicle movements associated with the application site are a relatively small proportion of these and even with the proposed increase, this would continue to be the case. For planning permission to be refused on amenity grounds it would therefore be necessary to demonstrate that the additional vehicle movements proposed, which would be outside peak hours, would have a significant and detrimental impact over and above the existing situation which has been considered previously to be acceptable. Whilst I have considerable sympathy with the concerns of local residents and which have been often expressed by the local member, I do not consider that a refusal of planning permission on this ground could be sustained on appeal.
40. Some consideration must also be given as to whether there would be any significant additional impact on amenity arising from the additional level of waste handling and processing works on site which would occur should the application be approved and implemented. The applicant has stated that there would be no requirement for additional fixed plant or additional storage areas. An extension to the site was granted on appeal following a public inquiry in January 2016 and this has been implemented and is in use. Other than the variation of condition proposed, all other conditions including those which require compliance with the approved drawings, hours of operation and noise levels would continue to apply. I do not therefore consider there would be any additional significant impact on amenity arising from the works on site as a consequence of this application.

### **Sustainability**

41. The NPPF sets out a presumption in favour of sustainable development, which is supported in policy OS1 of the EWOLP and policy C1 of the OMWCS. OMWCS policy C2 requires waste development to take account of climate change for the lifetime of the development from construction through operation and decommissioning. The proposed variation would clearly increase the use of fossil fuels through the generation of the additional vehicle movements proposed and to this extent it would make an additional albeit limited contribution to increased CO<sub>2</sub> emissions. In the balance however, it would facilitate up to a 75% increase in the amount of waste material imported and recycled as secondary aggregate materials, some of which could then be used to displace the need for primary aggregate materials to be extracted and used albeit in a limited way when the overall demand for mineral is taken into consideration. It is considered that the application would have limited impacts in Climate Change terms but overall it continues to be a sustainable development in economic, social and environmental terms which should be supported.

### **Conclusions**

42. The development proposed in application no. MW.0073/17 is acceptable. Therefore planning permission should be granted subject to the requested revised wording of condition 6 but with all other conditions continuing to apply other than as may be amended should Non-material amendment application no. MW.00889/17 be granted.

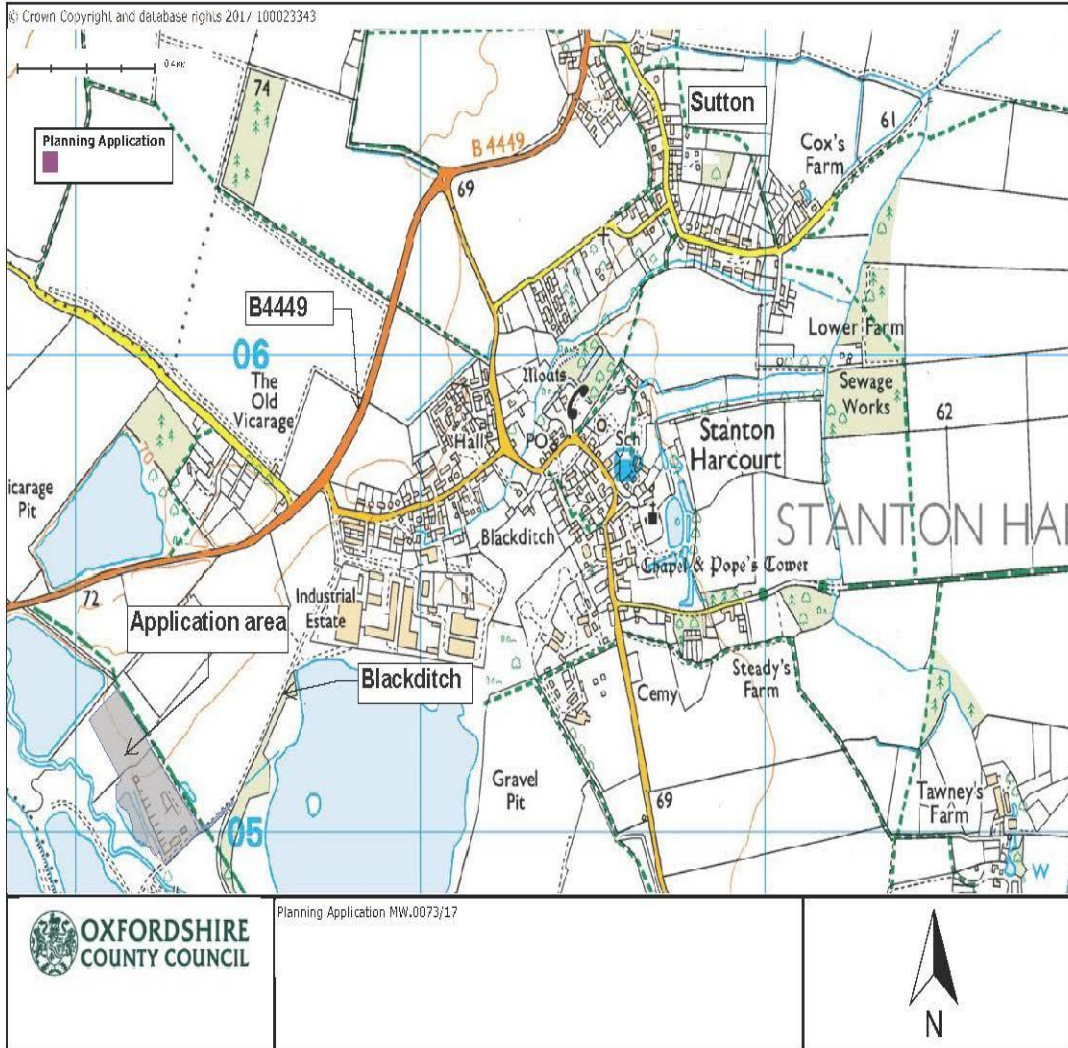
### **Recommendation**

- 43 The Committee is RECOMMENDED to approve Application MW.0073/13 subject to the existing conditions other than as may be amended should non-material amendment application no. MW.00889/17 be granted and to condition 6 reading as follows:**

**No more than 175,000 tonnes of waste shall be imported to the site in any calendar year. Records of imports, sufficient to be monitored by the Waste Planning Authority shall be kept on site and made available to the Waste Planning Authority's officers on request. Separate records shall be kept on site of any topsoil or other soil materials imported solely for use in the restoration of the Controlled Reclamation Site permitted subject to planning permission no. MW.0141/16 (16/04159/CM).**

SUE HALLIWELL  
Director for Planning and Place

November 2017



## **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 indicate that European Protected Species are unlikely to be present. Therefore no further consideration of the Conservation of Species & Habitats Regulations is necessary.

**48/17 SECTION 73 APPLICATION TO CONTINUE THE OPERATION OF DIX PIT RECYCLED AGGREGATE FACILITY PERMITTED BY PLANNING PERMISSION NO. 16/04166/CM (MW.0140/16) WITHOUT COMPLYING WITH CONDITION 6 THEREBY ALLOWING AN INCREASE IN THE MAXIMUM TONNAGE OF WASTE MATERIAL IMPORTED TO SITE TO 175,000 TONNES PER ANNUM AT SHEEHAN RECYCLED AGGREGATES PLANT, DIX PIT, STANTON HARCOURT, WITNEY, OX29 5BB - APPLICATION NO. MW.0073/17**

(Agenda No. 8)

The Committee considered (PN8) a Section 73 application to continue the operation of Dix Pit Recycled Aggregate Facility permitted by a previous permission without complying with condition 6 thereby allowing an increase in the maximum tonnage of waste material imported to site to 175,000 tonnes per annum.

Having presented the report David Periam, responding to a question from Councillor Reynolds indicated that there would be an additional 5-6 additional vehicle movements/hour during the off-peak period.

John Salmon, agent for the applicant, commended the report that he felt explained how the application met the Council's policies. It would result in a re-use of materials avoiding landfill and would provide a supply of local building materials. He outlined the efforts taken to monitor and control vehicle movements. Mr salmon responded to questions from:

Councillor Glynis Phillips – The plant was designed for a much higher capacity and the additional tonnage would use the plant efficiently with the only impact being on the numbers of vehicles on the roads.

Councillor John Howson – Mr Salmon explained that there were a wide range of third party contractors using the site. These could be single person operations and he explained the difficulty in controlling their vehicle movements. It was not possible to put trackers on third party vehicles but they used fines and bans as methods of control.

Councillor Charles Mathew, Chairman of Stanton Harcourt Parish Council and local councillor for Eynsham expressed concern over the impact on the B4449. The extra lorries were totally unacceptable with 1 extra hgv every 10 minutes, on a road that narrows at points to only 5.5m wide. He referred to breaches to the routeing agreement that had been notified. The planning conditions were aimed at mitigation but needed enforcement action. Councillor Mathew asked the Committee (if they were minded to agree the application) to consider a staged increase to see the effects on hgv movements. Councillor Mathew also asked for a quarterly email on vehicle movements and on breaches that had been notified. Councillor Mathew responded to questions from:

Councillor Jeannette Matelot – The Sutton bypass once constructed would ease the problems in Staton Harcourt but funding was not available.

Councillor Judy Roberts – He agreed that it would be better for lorries to turn left from the site to get to the A40 but the operators did not agree.

During discussion Members suggested that there was merit in considering a staged increase and Councillor Reynolds proposed, it was seconded and it was:

**RESOLVED:** (by 10 votes for to 1 against) to defer a decision to allow further negotiation with the applicant.



**For: PLANNING & REGULATION COMMITTEE – 8 JANUARY 2018**

**By: DIRECTOR FOR PLANNING AND PLACE**

**Development Proposed:**

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**Recommendation Summary:**

Approval.

**Part 1 – Facts and Background**

1. The application was originally reported to the meeting of the Planning & Regulation Committee on 27 November 2017 when consideration of the application was deferred to allow further negotiation with the applicant. This followed comments made by Councillor Charles Mathew who suggested that consideration be given to a staged increase such that permission would be granted for an initial increase of 137,500 tonnes per annum with a further increase dependent on some suitable mechanism to assess the impact of additional HGV movements using the B4449 through Sutton. A further consideration was whether the site operator's HGV movements records could

be required to be provided to the County Council on a regular basis by planning condition.

2. Following further correspondence, the applicant has advised that they are not prepared to consider a staged approach to the proposed tonnage increase. Whilst they accept that the road through the village is narrow, they point out that it must be recognised that it is designated as an advisory local lorry route by the County Council and has been assessed, in a thorough, independent and impartial traffic report, to have more than sufficient capacity to accommodate the additional traffic. Furthermore the small increase in traffic numbers which the proposal would generate was objectively assessed to have an almost negligible impact on residents. It is stated that the existing routeing agreement not to pass through the Sutton during peak hours is taken extremely seriously and is operated in full compliance.
3. The applicant advises that since the 27 November, they have discussed the application further with Councillor Mathew and, whilst his concerns are understood, there is an urgent need to increase recycling rates and to reduce the number of vehicles taking waste much further afield for disposal, as required by your Council's own planning policies, and to create more jobs. Consequently the applicant is unable to agree to reduce the level of increase for a temporary period to assess the impact when it is already known that the proposed volume of increased traffic, representing a maximum 3% of the total volume of traffic, would have a negligible impact. The applicant would, however, accept a condition requiring the full tracking details for its own vehicles to be submitted to the Council on a three monthly basis or as often as is required.
4. The applicant would also support a new initiative to construct the Sutton bypass funded by house-building, industry and government and would be happy to join with all operators in the Witney and Stanton Harcourt mineral and waste industries in lending their support to such an initiative.
5. In response to this, Councillor Mathew has advised that he regrets that the applicant is unwilling to move from their determination to seek an input into the site of 175,000 tonnes per annum up from 100,000 and although he is not of the opinion that this is locally desirable, he had suggested a staggered approach by introducing 137,500 tonnes for a period in order to be able to monitor the traffic effect on the B4449. He advises that he will pursue the Sutton Bypass project and set up progress as soon as he is able. He is grateful for the applicant's support in this matter and believes that his and others' contributions will smooth the funding considerably. He is unable to support the traffic report as showing the full increase as negligible, insignificant and imperceptible - the result would ensure an HGV through Sutton every average four and a half minutes. He advises that the Parish Council will continue strenuously to oppose the increase requested and that due consideration to local amenities and safety has not been given.

## Part 2 – Analysis and Conclusions

### Comments of the Director for Planning and Place

7. The further exchange of comments between the applicant's agent and the officers and with Councillor Mathew is summarised above. As set out in the original application report, there is no objection from the Highway Authority to the application on highway safety grounds and for planning permission to be refused on amenity grounds it would be necessary to demonstrate that the additional vehicle movements proposed, which would be outside peak hours, would have a significant and detrimental impact over and above the existing situation which has been considered previously to be acceptable. Whilst I have considerable sympathy with the concerns of local residents and which have been expressed by Councillor Mathew, I remain of the view that a refusal of planning permission on this ground could not be sustained on appeal. I would however accept the suggestion that should planning permission be granted, an additional condition be attached requiring that records of all HGV movements generated by the site including daily traffic numbers and full tracking details for those vehicles in the control of the applicant, be provided to the Waste Planning Authority on a quarterly basis.
8. With regard to the Sutton Bypass, whilst the applicant's willingness to lend its support to this is welcomed, the County Council as Highway Authority has advised that the Council's current position is that this scheme is not being progressed: It is not in LTP4, nor the capital programme; the scheme is unfunded and there is no apparent source to fully fund; and it would require third party land. As there is no project planned by the Council it would not be reasonable to receive monies from the applicant towards the provision of a bypass under section 106 of the 1990 Act.
9. It is not therefore considered that provision of the Sutton Bypass can be pursued further directly in relation to consideration of this application. However, I would recommend that the Chairman write to the Cabinet Member for Environment advising that it has been raised by Councillor Mathew in commenting on this application and advising of the applicant's expression of interest in working with other parties to help secure it.
10. The applicant has already expressed willingness to fund improved road signage at the junction of the Blackditch with the B4449 such that an additional advisory sign would be provided advising of the need for HGVs entering and leaving the application site not to pass through Sutton at peak hours and this is being pursued with the Highway Authority. I have also asked the applicant's agent to approach his client regarding whether there may be a willingness to contribute towards pedestrian safety measures such as additional pavements alongside the B4449 through Sutton if these could be safely accommodated. I will update the committee orally on this at the committee meeting.

## **Conclusions**

11. The development proposed in application no. MW.0073/17 is acceptable. Therefore planning permission should be granted subject to the requested revised wording of condition 6 an additional condition requiring the submission of HGV movement records quarterly and with all other conditions continuing to apply other than as may be amended by Non-material amendment application no. MW.00889/17.

## **Recommendation**

12. The Planning & Regulation Committee is **RECOMMENDED** that:

- (a) Application MW.0073/13 be approved subject to:

- (i) the existing conditions including the amendment made under Non-material amendment application no. MW.00889/1 to condition 6 reading as follows:

**No more than 175,000 tonnes of waste shall be imported to the site in any calendar year. Records of imports, sufficient to be monitored by the Waste Planning Authority shall be kept on site and made available to the Waste Planning Authority's officers on request. Separate records shall be kept on site of any topsoil or other soil materials imported solely for use in the restoration of the Controlled Reclamation Site permitted subject to planning permission no. MW.0141/16 (16/04159/CM); and**

- (ii) an additional condition requiring that the operator's records of heavy goods vehicle movements to and from the site including daily traffic numbers and tracking details for those vehicles controlled by the operator be provided to the Waste Planning Authority on a quarterly basis.

- (b) that the Chairman of the Planning & Regulation Committee write to the Cabinet Member for Environment advising that provision of the Sutton Bypass has been raised by Councillor Mathew in commenting on this application and advising of the applicant's expression of interest in working with other parties to help secure it.

SUE HALLIWELL  
Director for Planning and Place

December 2017

**5/18 SECTION 73 APPLICATION TO CONTINUE THE OPERATION OF DIX PIT RECYCLED AGGREGATE FACILITY PERMITTED BY PLANNING PERMISSION NO. 16/04166/CM (MW.0140/16) WITHOUT COMPLYING WITH CONDITION 6 THEREBY ALLOWING AN INCREASE IN THE MAXIMUM TONNAGE OF WASTE MATERIAL IMPORTED TO SITE TO 175,000 TONNES PER ANNUM AT SHEEHAN RECYCLED AGGREGATES PLANT, DIX PIT, STANTON HARCOURT, WITNEY, OX29 5BB - APPLICATION NO. MW.0073/17**

(Agenda No. 7)

The Committee considered PN7 an application to increase the amount of waste imported to the existing Dix Pit Recycled Aggregates Facility from 100,000 to 175,000 tonnes per calendar year through a variation of condition 6 of planning permission no. 16/04166/CM (MW.0140/16). No other changes to the existing conditions had been proposed. This matter had been deferred at the 27 November 2017 meeting to allow further negotiation with the applicant.

Mr Periam presented the report together with the addenda sheet tabled at the meeting.

The Committee also noted a late submission from the residents of Deans Farmhouse, Evergreen Cottage, Tudor Cottage and The Green all objecting to any increase in the already high volume of HGVs on a road which they considered not fit for that type of traffic.

Responding to Councillor Johnston Mr Periam confirmed that the applicants had not been prepared to consider a staged approach to the proposed increase in vehicle movements to the site for the reasons set out in paragraph 2 of the officer report.

Mr Salmon for the applicants advised that the application supported Council policy on recycling, production of secondary aggregates and maximum diversion of waste from landfill. The route to the site followed a designated lorry route and a recent traffic consultancy report had shown that impact on Sutton village from this increase would not be as severe as had been suggested. Although there were currently over 3,000 daily movements on the road the predicted number of additional vehicles to or from Dix Pit as a result of this application would equate to one every ¼ hour with none of the extra vehicles in any event travelling through Sutton. Similarly, as the number of vehicle movements resulting from the application were considered insignificant the applicant felt any need to agree a staged increase was impractical. Sheehans were happy to comply with conditions requiring information and notification of any breaches of the routeing agreement every 3 months and had also agreed a contribution of £5,000 towards a feasibility study to determine the most effective way to improve highway safety. Contrary to what had been suggested Sheehans took its role regarding local amenity and safety seriously. They were accredited under the Fleet Operator Recognition Scheme and trained their drivers to a high standard. They had an exemplary safety record and adhered to the routeing agreement to avoid Sutton during peak hours despite the alternative route requiring a 20 mile diversion, which was both time consuming and environmentally costly and not required by other operators who used the site. Sutton village was not a typical village centre but had 24 residences spaced out on both sides of the road, over a distance of 600 meters, and

set well back from the road itself. It had a 30 mph speed limit with adequate signing and 2 HGVs were able to pass each other. The County Council's own highways department considered the road acceptable as a local lorry route. Therefore, bearing in mind that the application supported Council policies, used a designated lorry route, avoided Sutton at peak hours in accordance with the routeing agreement and had been supported by county planning and highway officers he urged the Committee to approve the application bearing in mind that the report also recognised that a refusal of permission could not be sustained on appeal.

Responding to Councillor Reynolds he confirmed an additional 40 vehicles per day over and above the current 54.

Councillor Mathew expressed regret that the applicants had been unwilling to consider a compromise staggered approach and continued to pursue their aim for an immediate increase to 175,000 tonnes. That increase equated to a vehicle through Sutton village every 4½ minutes and could not be perceived in any way as insignificant. He advised that breaches of the routeing agreement continued to occur and only that morning 5 lorries had passed him on the B4449 outside the permitted hours. He questioned the integrity of specialist reports and in his opinion all such reports should be conducted by independent specialists appointed by the county council and paid for by applicants. The carriageway was not wide enough for 2 HGVs to pass comfortably and any moves to improve the pavements would merely result in a further narrowing of the carriageway. The situation was completely unacceptable to local residents when there was a perfectly adequate alternative route via Hardwick through to Ducklington. The parish council had not been approached on proposals to improve the footpath and he had only learned of the £5,000 offer from the applicants 5 minutes before the meeting. He asked the Committee to refuse the application.

He then responded to questions from:

Councillor Johnston – the offer of £5,000 was unusual and in his view inadequate in that it wouldn't deliver a great deal. He would prefer to see any available money spent on drainage works to the south side between the 30 mph sign and Dean Farmhouse.

Councillor Fitzgerald-O'Connor – he advised that costings on drainage works had been done by OCC 6 months previously.

Mr Plater advised that footpath improvement works would involve cutting back vegetation on the existing pathway and not widening into the carriageway.

Councillor Gawrysiak – there had been regular breaches of the am hours agreement regularly since 2012 and he agreed that by implication and in his experience more lorries would inevitably mean more contraventions.

Responding to Councillor Webber Mr Periam explained that unlike planning conditions routeing agreements were legal agreements containing various clauses which an operator needed to comply with. The County Council could request details of movements from company records or could sit and observe movements and if

breaches occurred they could then be followed up. That had been done in this particular case after the November meeting but bearing in mind available staffing resources and the number of mineral and waste sites in the county which are monitored, there was a limit to how much officer time could be devoted to this at any one site. If there were persistent breaches then action would have to be taken through the civil court process.

Councillor Webber then asked whether it was right under the current system for developers to be able to appoint their own experts to undertake reviews or would it be better to have a list of approved consultants/contractors from which appointments could be made.

Mr Mytton confirmed that it would not be permissible to prevent applicants from appointing their own experts although officers could, if they wished, obtain a second opinion but at the county council's expense.

Responding to Councillor Fox-Davies who considered that there should be a break clause in any permission where an operator persistently breached the terms of an agreement Mr Periam advised that where a permission had been granted subject to an agreement the county council would seek to ensure that operators complied with the terms of that agreement. However, Mr Mytton advised that permission could not be revoked because of breaches of a routeing agreement. There would be substantial costs involved in the revocation of permission.

Councillor Sames suggested a S106 type agreement for permissions to ensure an annual contribution from operators to repair damage to roads. Mr Periam advised that that would be difficult to achieve not least of all because of the difficulties in proving what vehicle had caused damage.

Councillor Walker considered the £5,000 derisory. The carriageway was clearly not wide enough and to have a further 40 plus vehicles was a concern. He felt the applicants should have considered a staged approach and could not support the application as it stood.

Councillor Gawrysiak agreed that the contribution offered was too low and the number of vehicles proposed significant. It seemed the routeing agreement was not being enforced now and he could only see that situation worsening if this application was agreed.

Councillor Johnston understood the concerns expressed but did not think a refusal could be successfully defended on appeal.

Mr Periam advised that it was open to the applicant to appeal if the application were refused. The highway authority had not objected as a statutory consultee and so any refusal would need to be based on amenity grounds due to increased traffic movements with a demonstration of severe harm to residents.

The Chairman then moved the revised recommendation as set out in the addenda sheet as follows:

“Subject to the applicant entering into a Section 106 Legal Agreement to secure the payment of £5,000 towards highway improvement works along the B4449 through Sutton, application MW.0073/13 be approved subject to the existing conditions including the amendment made under Non-material amendment application no. MW.00889/17 to condition 6 reading as follows:

No more than 175,000 tonnes of waste shall be imported to the site in any calendar year. Records of imports, sufficient to be monitored by the Waste Planning Authority shall be kept on site and made available to the Waste Planning Authority's officers on request. Separate records shall be kept on site of any topsoil or other soil materials imported solely for use in the restoration of the Controlled Reclamation Site permitted subject to planning permission no. MW.0141/16(16/04159/CM).

and

An additional condition requiring that the operator's records of heavy goods vehicle movements to and from the site be provided to the Waste Planning Authority on a quarterly basis.”

The motion seconded by Councillor Johnston was put to the Committee and lost by 6 votes to 5 with 2 abstentions.

Recognising that the Committee seemed minded to refuse the application there was a short adjournment to consider reasons for refusal. On resumption it was **RESOLVED** (on a motion by Councillor Walker seconded by Councillor Gawrysiak and carried by 7 votes to 0 with 6 abstentions) that Application MW.0073/17 be refused as there would be an unacceptable adverse impact on the amenity of residents in Sutton village arising from the additional HGV movements proposed by the application, contrary to policy C5 of the adopted Minerals & Waste Core Strategy and that the offer of £5,000 for highway improvements could not overcome that concern.