

For: PLANNING AND REGULATION COMMITTEE – 29 October 2018
By: DIRECTOR FOR PLANNING AND PLACE

Development Proposed:

Proposed extraction of mineral and restoration by infilling with imported inert materials to agriculture on land to the south east of Shipton on Cherwell Quarry

Division Affected: Kirtlington and Kidlington North

Contact Officer: Kevin Broughton **Tel:** 07979 704458

Location: Shipton-on-Cherwell Quarry, Bunkers Hill, Kidlington, OX5 3BA

Applicant: Shipton Ltd, 5-7 Grosvenor Court, Foregate East Street, Chester, Cheshire, CH1 1HG

Application No: MW.0046/18

District ref No: 18/00975/CM

District Council Area: Cherwell

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- **Part 1 – Facts and Background**

Location (see site plan Annex 1)

1. The quarry is situated 10km (6.2 miles) north-west of Oxford, immediately north of the village of Shipton-on-Cherwell and east of the A4260. Bletchington lies 2km (1.2 miles) to the east of the site. To the north-west of the site is the linear settlement of Bunkers Hill, separated from the quarry by the A4095. Oxford Airport lies 1km (0.6 miles) to the south west. The site lies within the Oxford Green Belt.

Site and Its Setting

2. Shipton-on-Cherwell Quarry is a 71 ha limestone quarry located to the immediate north of the village of Shipton-on-Cherwell, approximately 3km to the north of Kidlington and 10km north of the City of Oxford. It is accessed from the A4095 'Bunker's Hill' to the west of the quarry. The Oxford to Birmingham railway line borders the site to the east and Oxford Airport lies circa 800m to the southwest.
3. The quarry is located within the Green Belt.
4. The quarry is designated as Shipton-on-Cherwell and Whitehill Farm Quarries Site of Special Scientific Interest (SSSI), which is designated for its geological importance. The site also falls within an Impact Risk Zone (IRZ) for Rush Meadows, Blenheim Park and Weston Fen SSSI.
5. Shipton Quarry lies within the Lower Cherwell Valley Conservation Target Area (CTA), and is designated as a County Wildlife site.
6. Both the Hampton Gay, Shipton-on-Cherwell and Thrupp Conservation Area, and the Oxford Canal Conservation Area adjoin a small section of the site boundary along the southern edge of the extension area.
7. The deserted village of Hampton Gay is 340m to the south of the site, Shipton-on-Cherwell cross is 400m to the southwest of the site, and a long barrow is located 1.5km northwest of the application site. All three are scheduled ancient monuments. Blenheim Palace World Heritage Site lies 5.5km to the west of the site.
8. The north-western boundary of the quarry lies at approximately 90mAOD, the topography dips to 75mAOD in the south-east, with historic excavation within parts of the quarry to 55mAOD, leaving a ridge of land between the quarry and the River Cherwell along the northern boundary of the quarry.
9. The application site lies to the southeast of the existing quarry. It comprises 6 hectares of agricultural land.
10. The application site is bordered to the east by the Banbury to Oxford railway with open countryside beyond. To the north and north west the proposed extension area borders the existing quarry. The Oxford canal lies to the south with open countryside beyond. To the south and south east there lies a disused railway embankment and the village of Shipton on Cherwell just beyond.
11. A public footpath runs along part of the southern boundary of the site, along the line of the dismantled railway line.

12. The application site lies on a gentle, generally east-southeast facing slope, with an elevation of approximately 72m AOD at the highest point at the west, and an elevation of 67m AOD at the lowest point at the southeast.
13. A low voltage electricity cable crosses the site in a west to east direction.
14. The nearest residential properties are on Jerome Way, which are 30m from the application site boundary to the end of the gardens, and 55m to the houses themselves. The area of mineral working would be 70m to the end of the nearest garden and 95m to the nearest house.

Planning History

15. Shipton Quarry has a long history of mineral extraction and as a cement works since the 1920s.
16. In 2009 permission was granted for the extraction of limestone, infilling and restoration including to a temporary open car storage yard, new rail terminal, B8 storage warehouse buildings and rail aggregates depot. This has been subject to section 73 applications, and the site currently operates under permission MW.0001/18 (18/00060/CM).
17. Planning permission for an aggregate recycling facility was permitted under 11/01372/CM (MW.0119/11) in February 2015.

Proposed Development

18. This application seeks planning permission for the extension of mineral extraction to the south-east of Shipton-on-Cherwell Quarry. The application area is 6 hectares.
19. The proposed development would involve the extraction of limestone, followed by the restoration of the site using imported inert materials back to existing levels for agricultural afteruse.
20. The proposal for development is supported by an Environmental Impact Assessment.
21. The limestone would be worked in the same manner as the existing quarry. Limestone is currently being excavated heading in a southerly direction towards the proposed south-eastern extension. It is proposed that the extension area would be worked following on from the current area of working. A ridge would be left between the existing quarry void to the west of the extension area and the extension area, so as to retain a geological exposure as required under the existing planning permission.
22. Restoration of the extension area would be in an anti-clockwise direction during the infilling of Phase 2 of the main quarry.

23. Limestone would be extracted using excavators with a ripper hook or a hydraulic breaker, as appropriate, and taken by dump truck to the existing Plant Site for processing and then exported via the existing quarry access onto the A4095 Bunkers Hill.
24. It is anticipated that the extension area would yield 400,000 tonnes of limestone (120,000 tonnes - Cornbrash and Forest Marble Formation, and 280,000 tonnes – White Limestone), which is likely to take approximately 4 years to extract at the current rate of 100-120,000tpa.
25. The restoration of the extension area is anticipated to require circa 200,000 cubic metres of material. Once restored, the site would be returned to agricultural land, with the added benefit of a pond in the south-eastern corner and ecological enhancements, including a reedbed, native hedgerows and tree planting.
26. The soils stripped prior to extraction, would be stored in soil bunds or mounds, including a 5m high soil bund along the southern boundary of the extension area to provide visual, noise and dust mitigation to the nearest residential receptors. These soils would be used during the restoration of the site.
27. The existing quarry currently employs 48 full time members of staff, of which approximately 65% are involved in excavating limestone.
28. The access track which currently runs along the southern boundary of the main quarry, towards the eastern side of the quarry and the extension area, would be removed. The existing, but unauthorised, noise bund would be linked with the proposed bund along the southern boundary of the extension area.
29. The extraction limit of the extension area would give a stand-off of 5m to the operational railway line to the east, a 90m stand-off has been provided to the residential properties in Jerome Way, along with a 5m high soil storage and screening bund, to provide visual, noise and dust mitigation.
30. The extension area would not result in any change to the existing working hours of operation.
31. The proposed development would process the waste through the existing processing plant located in the existing quarry. That quarry uses the existing site access onto the A4095 Bunkers Hill and is subject to a condition limiting the number of daily HGV movements to 318 per day. The existing quarry is also subject to a vehicle routeing agreement, in which HGVs are required to turn left out of the site onto the A4095 Bunkers Hill and then access the A4260, with only 10% of HGV's turning right. A condition could be added to any permission given that restricts material to being processed by the plant in the existing quarry. The permission for the existing quarry has a restriction on import of

aggregates by road, and so any permission would also need to include that the material cannot be taken to the main site via any public highway. There would not be a need for any change to the planning permission to the existing quarry. A new routeing agreement would be required because the existing agreement would be tied to the existing site area of the quarry, this permission would lie outside that area, and would therefore not be covered.

32. The limestone would be worked to a maximum depth of 56m AOD, which accords with the permitted depth of the existing quarry.
33. The extension area would be dewatered, as with the existing quarry.
34. The restored landform would provide for surface water runoff to an attenuation pond at the lowest point of the site, in the south-east. Additional ecological habitats would be created, including a native hedgerow along the southern and eastern boundaries, a reedbed around the edges of the attenuation pond, and managed field margins.
35. The site would be restored as part of the phased restoration for the main quarry site which has planning permission for restoration of the mineral void until 2025.
36. Following restoration of the site to agriculture, there would be a 5-year aftercare and drainage scheme.

Part 2 – Other Viewpoints

Representations

37. There are 7 individual third-party responses which have been placed in full in the Members' Resources Area. The responses raised the following issues; the number of respondents is shown in brackets:
 - Increase in dust (6)
 - Increase in noise (5)
 - Quarrying would be too close to housing (3)
 - Increase in lorry movements on local roads (3)
 - Extra five years is the thin end of the wedge (2)
 - No need for the quarry (2)
 - The site is in the Green Belt (2)
 - Increased vibration (1)
 - Building of bund and scraping of soil is the worst time for noise, dust and vibration (1)
 - Proximity to Oxford Canal, a designated conservation area (1)
 - Conditions imposed on main quarry are not enough and ignored (1)
 - Will cause subsidence (1)
 - This is not an extension of the existing quarry (1)

38. There are three petitions that have been submitted, and each of them object to the application. Two are from local residents, and the other is from respondents from further afield who are leisure seekers who use local amenity facilities such as the Oxford Canal Conservation Area and the River Cherwell. The petitions have a total of 515 signatures, of which 222 are from local residents, and 293 are from leisure seekers. The petitions have been placed in the Members' Resource Room. They raise the following points:

- Intrusion into the Green Belt.
- The limit of excavation is just a few metres from the proposed limit of excavation.
- The amenity of the Oxford Canal and the River Cherwell would be affected.
- The amenity of the Canal Towpath would be affected.
- The bund would not afford any visual mitigation until it is built, and would affect views when it is built.
- Noise will be a problem, and will come from the HGVs and excavating machinery. Boats moored along the canal will be particularly affected at night when the dewatering pumps will continue to be operating.
- Dust will be a problem, both during mineral extraction and during the soil stripping.
- Dust complaints sent to the County Council have not been satisfactorily dealt with.
- The extraction site is an agricultural field.
- The site has never been part of the quarry.
- The field has been a barrier between the quarry and the Oxford Canal Conservation Area.
- Permission for this application would show disregard for the consequences of the Green Belt.
- The proposal would adversely affect the amenity of residents of Shipton on Cherwell and Bunkers Hill, as well as the users of the Oxford Canal and the River Cherwell.
- The planning statement says that the extension limit of the excavation area has been designed to maximise the amount of mineral worked, and proposes a stand-off of 90m. The properties of Jerome Way will only be 50m from the site.
- The applicants propose a 5m high bund. The existing bund took two years to build and the residents suffered from noise, dust and a reduction in air quality during its construction. The existing bund has yet to receive planning permission due to concerns from the Environment Agency.
- The operations would take place over 6 days a week, and the dewatering pump would operate outside those hours.
- The moving of material by dump truck will be outside the original quarry, and the limestone will be transported by dump truck which will contribute to the number of vehicle movements.

- There is no proposal to increase vehicles movements so the use of vehicle movements for mineral sales will affect the overall restoration of the quarry.
- The monitoring of dust and noise under current conditions is not enough to mitigate the effects on the local residents.
- The applicant uses terms such as 'likely to' and 'approximately' the timescales should be accurate and be adhered to.
- The 'shortage of suitable materials' as set out in OMWCS paragraph 4.81, and the effect it would have on timescales should be considered when determining this application.
- Crushed rock is not needed as there are reserves that could last until 2030. Paragraph 4.24 of the OMWCS excludes Shipton Quarry because of the limited areas of resource.

Consultations

39. Cherwell District Council (Planning) - objects on the grounds that the increase in activity would lead to more noise, dust, visual, residential and environmental impacts which would be harmful to the character and visual amenity of its locality.

40. Shipton on Cherwell Parish Council – Objects for the following reasons:

- There is no need for additional crushed rock, as set out in the Oxfordshire Minerals and Waste Core Strategy, and the Local Aggregate Assessment 2017.
- The extension will not meet any strategic increase in the County's needs. 400,000 tonnes would equate to only just over 8 months supply of crushed rock for the County.
- Prematurity – the MW Local plan is in preparation, and sites have been nominated for inclusion. The applicant is seeking to avoid rejection in the future by seeking permission prematurely.
- Do not believe the argument that the mineral will be sterilised is credible.
- Employees currently carrying out extraction work could be used to restore the quarry, which is currently behind in its restoration.
- There have already been several extensions for the extraction of minerals on neighbouring land.
- Use of rail is advanced in the OMWCS, but is not included in this application, even though there is an existing permission for a railhead on the adjoining quarry.
- The parish has no faith that the applicant will stick to the four years timescale for extraction.
- The village would have to suffer a prolonged period of amenity problems including: visual intrusion of the bund; and noise and dust.
- Monitoring reports have shown concerns about dust, noise, and the lack of a revised restoration scheme for Area A of the existing quarry.
- The permitted extraction is already approaching maximum permitted levels, and the continuation into the more sensitive site would have unacceptable impacts on resident's amenity.

- Effect on landscape.
- Greenbelt.
- Views from the Canal footpath will be affected.
- The proposed bund along the southern boundary, adjacent to public footpath 342/10 that runs from Jerome Way to the bridge carrying pedestrians to the canal towpath will not offer much in the way of screening, and that any hedgerow planting will wait until after completion of the restoration.
- The proposed development would: cause undue visual intrusion; cause undue harm to important natural landscape features; be inconsistent with local character; impact on areas that have a high level of tranquillity.
- There is insufficient detail of flood risk assessment.
- There would be a detrimental effect on the Oxford Canal Conservation Area.
- The applicant states that the land would be returned to agriculture, and then that only half of it would be returned to agriculture, with the rest to reed wetland.
- The land is currently fallow which provides the biodiversity that the Conservation Target Area is designed to achieve. Inflicting four years of noise, two years of infill and five years of after-care is likely to be highly detrimental to local wildlife.
- Given the proximity of the working to the SSSI, conservation areas, and local wildlife site, it must have an impact on them.
- The traffic assessment does not allow for the growth in traffic from Upper Heyford, which was requested in the Scoping Opinion.
- This proposal would bring more traffic onto the roads.
- There are discrepancies in the application documents including: distance from the centre of Oxford to the site; how much of the site will be returned to agriculture; size of the site; number of HGV movements.

41. Environment Agency – no objections.

42. Natural England – no objections.

43. Network Rail – no objections subject to conditions relating to works that could affect the stability of the railway line. One of the conditions would require detailed plans of the development, including cross-sections, to be forwarded to Network Rail for assessment and comment before development commences. This would essentially be a pre-commencement condition.

44. Oxford Green Belt Network – Objects for the following reasons:

- The quarry should be restored as soon as possible.
- The extraction area is close to the Canal and Shipton on Cherwell.
- The development would be inappropriate because of the bund.
- The development would be noisy and visually intrusive and would affect the amenity of the Canal walk and the conservation area.

45. SSE – No objection, but draws attention to the dangers of digging near underground power lines and working under overhead power lines. Plans included with the response show buried power lines running north-south and east-west across the application site. States that the application site is crossed by a major transmission circuit or circuits which form an extremely important link in Scottish and Southern Electricity Networks' extra-high voltage system. Modifying circuits such as these is a major and costly undertaking which should be avoided if possible. Any development should therefore be designed to allow circuits of this nature to remain undisturbed and accessible in their present location if at all possible.
46. London Oxford Airport – objects due to the impact of restoration proposals on flight safety, but would consider withdrawing the objection if the area of water is netted to reduce the risk of bird activity and aircraft bird strikes.
47. OCC (Archaeology) – no objection subject to pre-commencement conditions relating to a written scheme of investigation.
48. OCC (Highway Authority) – no objection.
49. OCC (Rights of Way) – no objection as the rights of way would not be disturbed, diverted or otherwise obstructed.
50. OCC (Ecology) – states that further information is required prior to determination of the application. The requirements are:
- Up to date ecological assessment, including an updated Extended Phase 1 Habitat Survey and protected species surveys, most notably reptiles.
 - A net gain in biodiversity should be achieved. An appropriate Biodiversity Impact Assessment calculator should be used. The Thames Valley Environmental Records Centre calculator is recommended.
 - An Ecological Mitigation Strategy would be needed, following completion of updated surveys.
- OCC (Environmental Strategy) – no objection subject to conditions relating to soil storage, tree protection, and planting.

Part 3 – Relevant Planning Documents

Relevant planning policies (see Policy Annex to the committee papers)

51. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
52. The relevant Development Plan policies in this case are:

Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy (OMWCS)

M2: Provision for working aggregate minerals

M3: Principle locations for working aggregate minerals

M5: Working of aggregate minerals

M10: Restoration of Mineral Workings

W6: Landfill and other permanent deposit of waste to land

C1: Sustainable development

C2: Climate change

C3: Flooding

C4: Water environment

C5: Local environment, amenity and economy

C6: Agricultural land and soils

C7: Biodiversity and geodiversity

C8: Landscape

C9: Historic environment and archaeology

C10: Transport

C11: Rights of way

C12: Green Belt

Cherwell Local Plan 2011 – 2031 (CLP)

PSD1: Presumption in Favour of Sustainable Development

SLE4: Improved Transport and Connections

ESD8: Water Resources

ESD9: Protection of the Oxford Meadows SAC

ESD10: Protection and Enhancement of Biodiversity and the Natural Environment

ESD11: Conservation Target Areas

ESD 13: Local landscape protection and enhancement

ESD15: The Character of the Built and Historic Environment

The NPPF and the NPPW are also relevant material considerations. The Cherwell Local Plan Part 2 review is under way, but is at a very early stage and there are as yet no policies that would apply to this application.

• **Part 4 – Analysis and Conclusions**

Comments of the Director for Planning and Place

53. Policy C1 of the OMWCS states that a positive approach will be taken to minerals development in accordance with the presumption in favour of sustainable development. This is echoed by policy PSD1 of the CLP which states that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. Ensuring that existing permitted mineral reserves can be extracted without adverse impacts is considered to be sustainable development.

54. Planning permission should therefore be granted unless there are policies or material considerations that indicate otherwise.
55. The main issues for this development are: Green Belt, minerals and waste management policies; and the effect on local amenity.

Minerals and Waste Management Policies

56. Policy M2 of the OMWCS makes provision for the working of aggregate minerals to meet the need identified in the most recent Local Aggregate Assessment (currently November 2018) in the period to 2031 and states that permission will be granted to maintain a landbank of at least ten years for crushed rock. OMWCS paragraph 4.41 states: 'At the current Local Aggregate Assessment requirement rate (0.584 million tonnes a year), permitted reserves of crushed rock remaining at the end of 2015 could on average last until 2030'; and paragraph 4.44 states: 'The Local Aggregate Assessment 2014 indicates no requirement for further areas for crushed rock working during the plan period, due to the relatively high level of permitted reserves of this mineral remaining to be worked. Actual sales of crushed rock in 2014 and 2015 were well above the provision rate of 0.584 million tonnes a year. Consequently, the level of permitted reserves remaining has fallen more than expected, as they have been extracted more quickly. If on-going annual monitoring shows this to be a continuing trend, additional permissions could be needed towards the end of the plan period and there could be a requirement for additional provisions to be made through the allocation of sites for working in the Site Allocations Document. If required, this additional provision should preferably be made through extensions to existing quarries rather than from new quarries, to make efficient use of existing plant and infrastructure, and minimise additional impact.'
57. The 2018 Local Aggregates Assessment has not changed this assessment: 'The LAA 2014 recommended that the future provision for crushed rock production in Oxfordshire should be set, initially, at 0.584 mtpa, but that this, again, should be kept under review in relation to the monitoring of actual sales. The 10 year sales average has increased to close to that level, although the 3 year sales average has increased significantly above it. On balance it is considered that, notwithstanding the large increase in sales in 2014 – 2016, it is too early in the monitoring period for the Plan to make changes to the LAA provision level for crushed rock. It is therefore considered that the provision level for crushed rock should remain at 0.584 mtpa for the period of this LAA but that monitoring should continue and the figure should be reviewed as and when the results of monitoring indicate this is appropriate.'
58. The 2018 Local Aggregates Assessment therefore still makes provision for 0.584 million tonnes per annum of crushed rock. It shows a landbank at the end of 2016 of 14.6 years (8.545 million tonnes at 0.584 million tonnes per annum).

59. Policy M3 identifies the principal locations for aggregate mineral extraction within identified strategic resource areas. The application site does not lie within an identified strategic resource area. It further states that in the Oxfordshire Minerals and Waste Local Plan: part 2 – Site Allocations Document (OMWSAD) extensions to existing mineral quarries might be allocated if they are in accordance with policy M4 including if they are outside the strategic resource areas. Paragraph 4.44 of the OMWCS clarifies this by stating that there are sufficient crushed rock reserves at present, but it might be necessary, towards the end of the plan period to allocate additional provision through the OMWSAD. The plan period runs from 2014 to 2031 and I therefore consider that the plan is still in its early years.
60. The proposed development is therefore contrary to policy M3 of the OMWCS.
61. Policy M5 of the OMWCS states that prior to the adoption of the OMWSAD, permission will be granted for the working of aggregate minerals where this would contribute towards meeting the requirement for provision in policy M2 and provided that the proposal is in accordance with the locational strategy in policy M3 and that the requirements of policies C1 – C12 are met. As set out above, there is no current identified need for the mineral to be extracted from the application site. It would only accord with these policies if there were an identified need when it would be considered as an extension to the existing quarry even though it lies outside the areas identified under policy M3. The proposed development is not in accordance with the locational strategy in policy M3 and so is contrary to policy M5.
62. The applicant has put forward the case that the mineral needs to be worked now in order for it not to be sterilised. This is due to the mineral not being viable to be worked without the existing plant on site. Policy M8 states that development would not be permitted within a mineral safeguarding area unless, among other things, the mineral will be extracted prior to development taking place. The proposed development is not within a mineral safeguarding area and so there is no policy reason to consider that the site should be worked at this time to avoid sterilisation of the mineral reserve.
63. Policy W2 of the OMWCS seeks to divert waste from landfill. OMWCS policy W6 states 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. The proposed development would be

compliant with policy W6 in that it would be used to restore a quarry, but it does not in itself give any justification for the development.

64. Policy M10 of the OMWCS requires that mineral workings shall be restored 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. The proposed development would be mainly restoration to the current use - agriculture, and an area of reedbed which would enhance nature conservation. This would be appropriate to the area and compatible with the Green Belt. The restoration would take place after a relatively short period of working and would therefore comply with policy M10 of the OMWCS.

Green Belt

65. Policy C12 of the OMWCS states that proposals constituting inappropriate development in the Green Belt, will not be permitted except in very special circumstances. Policy ESD14 of the CLP states that development within the Green Belt will only be permitted if it maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.

66. Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

67. Paragraph 146 of the NPPF defines mineral extraction that does not affect the openness of the Green Belt as not inappropriate development provided it preserves its openness and does not conflict with the purposes of including land within it.

68. The proposed development includes a 4 metres high bund that, even though a practical means of storing the stripped soils, would be an above-ground structure and so nonetheless affect the openness of the Green Belt and would therefore constitute inappropriate development. The applicant must therefore demonstrate that Very Special Circumstances for this development exist.

69. The applicant does not consider the development to be inappropriate development in the Green Belt because the development would not conflict with the purposes of the Green Belt as set out in paragraph 134 of the NPPF because:

- The development does not include built development and would not contribute to permanent urban sprawl.
- The development does not lie between two towns and would not cause them to merge.

- The development would not lead to encroachment into the countryside: it does not include built development; is not on the edge of the countryside, but bordered by residential property, railway line and existing quarry; it is temporary and would be restored back to agriculture with biodiversity benefits.
- It would have a negligible effect on Hampton Gaye, Shipton on Cherwell and the Thrupp Conservation Area.
- The application site is not derelict or other urban land and therefore this development cannot assist in urban regeneration. The development is for mineral extraction and therefore can only be worked where it is found. It will ensure that the mineral resource is maximised and not sterilised, thereby reducing the requirement for new sites to be worked.

70. Even if it is considered to be inappropriate development, the applicant nevertheless considers that Very Special Circumstances exist for the development which are summarised as follows:

- The only aspect of the development that would impact upon openness is the proposed bund, and the bund would be needed to store the topsoil and would provide mitigation in terms of noise, dust and visual impact.
- The bund is partially screened visually by the existing mature vegetation along the old railway line. The bund would not therefore affect openness.
- There is a continuing need for mineral extraction to serve the construction industry, particularly in this area with increased development in Bicester, Banbury, Kidlington and Oxford.
- The extension area will be worked in line with the existing Shipton Quarry, making use of existing infrastructure and processing plant.
- The extension area will be worked with minimal effects upon the local environment and amenity.
- The development itself and the soil bund will be temporary and therefore any impact will be temporary and will cease upon restoration.
- The 400,000 tonnes of limestone that this site will yield will be sterilised if not worked at this time.
- Minerals are essential and can only be worked where they are found.
- The NPPF states that great weight should be afforded to the benefits of mineral extraction, including to the economy.
- There is a need for minerals supply, and the landbank for crushed rock is less than 10 years (8.5) if the apportionment figure is used. Significant growth is expected that would lead to additional need for the mineral.
- The extension to the existing quarry would allow additional extraction without additional impacts. Policy M4 of the OMWCS gives priority to the extension of existing quarries.
- Policy GB7 of the Non-Statutory Cherwell Local Plan states proposals for Shipton on Cherwell Quarry (Defined as a Major Developed Site in the Green Belt), will not be considered inappropriate development provided set criteria are met (although it is accepted that the application site is not actually within this area).

- Amenity impacts would be minimal.
- It would allow the continued supply to local markets, which would reduce transport and greenhouse gases.

71. I do not accept that the development would not conflict with the purposes of the Green Belt. I accept that there are no buildings proposed, and I understand that the storage of stripped soils in bunds is a usual part of mineral workings, but the NPPF does not make any explicit exception that such structures at mineral workings should not be considered when assessing the impact on the openness of the Green Belt or conflict with the purposes of including land within it. The proposal does nevertheless constitute inappropriate development in the Green Belt, and such development unchecked would lead to urban sprawl, cause settlements to coalesce, encroach into the countryside, and affect the historic setting of Oxford. The individual assessment of the impact on openness of each individual development is essential to ensuring that the overall integrity of the Green Belt is maintained. The purposes of the Green Belt would have been considered in designating the land as Green Belt.

72. The proposed development would be contrary to policy 12 of the OMWCS and policy ESD14 of the CLP. Although the bund is the only element of the development that affects openness, it is only necessary if there are very special circumstances for the development as a whole. Without the extraction the additional bund would not be necessary. The temporary nature of the development is noted, and though it is a consideration in weighing up Very Special Circumstances, it would nevertheless have an effect for four years, and it is not in itself Very Special Circumstances.

73. In recent caselaw (*Euro Garages Ltd v SoS for Communities and (1) Local Government (2) Cheshire West and Chester Council (2018)*) it has been established that in assessing openness there is a visual element. In this case, even though the bund would be partially screened by vegetation from the houses in Jerome Way and part of the bund has been designed to address visual impact from the footpath. The applicant has provided a visual impact diagram which shows that the visual impact of the bunds would be limited by surrounding topography and planting, however it would still have a visual impact that would affect openness.

74. The need to keep a steady supply of mineral has been considered in the OMWCS and the policies of that plan reflect that need. The plan was only adopted at the end of 2017 and is therefore not an out of date plan. The provision made for the supply of mineral including crushed rock in the plan continues to be reflected in the 2018 Local Aggregates Assessment. The great weight to be given to mineral extraction must be considered against the substantial weight to be given to any harm to and so the protection of the Green Belt, resulting in the need to demonstrate Very Special Circumstances.

75. The benefits of using the adjoining infrastructure at the quarry, and the measures to mitigate the impact of the development are material considerations, but they do not constitute Very Special Circumstances.
76. The mineral would not be sterilised if this development were not permitted as the site is not in an area which OMWCS policy seeks to see safeguarded for mineral extraction.
77. Should monitoring of the supply of reserves at minerals sites show that there is a need to permit further extraction adjoining existing quarries it would be allocated through the OMWSAD in accordance with policy M4. At this stage the OMWCS has provided sufficient supply in the existing principal areas of extraction.
78. The Non-Statutory Cherwell Local Plan was adopted for development control purposes by Cherwell District Council, but had as the name suggests no statutory status and was at best a material consideration in County Matter decisions. The quarry therefore has no status as a Major Developed Site in the Green Belt, and the application site is in any case outside the main quarry site.
79. The applicant has provided further information in relation to the Green Belt issue. Much of the information reiterates issues covered in the report. For completeness I have addressed the issues raised in Annex 1 of this report. There is nothing in the further information that leads me to alter my conclusions or recommendations in this report.
80. In conclusion I do not consider that Very Special Circumstances have been demonstrated and the proposed development would be contrary to policy C12 of the OMWCS and policy ESD 14 of the CLP.

Effect on Local Amenity

81. OMWCS policy C5 states that proposals for minerals and waste development shall demonstrate that they will not have an unacceptable adverse impact on residential amenity and other sensitive receptors. Where appropriate, buffer zones may be required.
82. The proposed development would bring the development to 95 metres of the housing in the village. Issues have been raised by local residents about noise and dust in relation to the existing activities on the site. The processing of the stone would be at the existing plant within the site so the effects that would most affect the local residents would be from the extraction itself.
83. The Air quality and Dust assessment that accompanied the application concluded that provided there are appropriate mitigation measures, there would be, at most, slight adverse impacts at nearby receptors during site preparation and restoration.

84. Whilst the application proposes that the existing continuous noise level limitations (55 dB LAeq, 1 hour free field for normal quarrying operations, 70 dB LAeq, 1 hour free field for temporary operations such as bund formation and 42 dB LAeq, 1 hour free field for night-time noise e.g. pumps) would continue to be met, the noise assessment that accompanied the application found that the noise from the application site as experienced at the nearest residential properties for specific impact events e.g. breaking limestone is calculated to be between 47 and 63 decibels as compared to maximum existing noise levels of between 64 and 84 decibels. The noise level calculations include the mitigation from the proposed bund which would be in addition to the existing unauthorised bund which affected the monitoring on which the assessment was based.
85. Although calculated to be lower than the existing situation, levels up to 63 decibels seem high, and even taking into account the unauthorised bund for mitigation there have been complaints from local residents with regard to such impact noises from breaking limestone with the hydraulic breaker. The County's Monitoring Officer's sound readings have not found a specific reading above this, but constant repetitive noises have been noted, particularly from the hydraulic breaker used on the site. Such repetitive noises are certainly noticeable and in my view can impact adversely on the amenity of local residents.
86. Dust has also been a concern raised and has been monitored. There is some question about where the dust is emanating, however the provision of a bund and additional working within 100m of the neighbouring houses is likely to give rise to further complaints.
87. The proposed development would bring the mineral working within 100m of the nearest houses which seems a very limited buffer zone to the development for local residents particularly when the working of the existing site at its closest corner has clearly had noticeable impacts on their amenity. Whilst the applicant's assessments are noted, even with the proposed bund, the working of mineral would be carried out in close proximity to local residents and the potential for disturbance from both noise and dust is high. It is considered likely to cause harm to and have an unacceptable adverse impact to the local amenity of residents. Also, as set out below, it is considered that whilst the proposed bund would to some extent mitigate these impacts, its height and proximity to residents on Jerome Way would make it visually intrusive. The development would therefore be contrary to policy C5 of the OMWCS.
88. Although the bund would serve to reduce the impact of the working on the local amenity, it would not be necessary if the proposed development did not take place and as set out above, there is no identified need for the mineral to be extracted from this site at this stage of the OMWCS plan period.
89. The bund itself would have an impact on amenity. It would be obscured by existing trees and other planting from Jerome Way, but it would be seen

by local residents particularly in winter. Views of it would be seen from the footpath and from the rail line. These views would be transient, but it would nevertheless affect visual amenity. It would be for a relatively short duration, but that would mean there would be limited prospects for any significant planting on the bund to establish which could soften its appearance.

Landscape impact

90. Policy C8 of the OMWCS requires that proposals shall demonstrate that they respect and where possible enhance local landscape character, and are informed by landscape character assessment. Proposals shall include adequate and appropriate measures to mitigate adverse impacts on landscape, including careful siting, design and landscaping. Policy ESD13 of the CLP makes similar provision.
91. The final restoration for the site would respect the local landscape character, however the proposed bund during the working would be a stark and alien feature in the landscape. The applicant has submitted a visual impact assessment with the application and to address concerns raised by the County's Environmental Strategy Officer, a reverse Zone of Theoretical Visibility (ZTV) to assess the effect on views of the first floor windows of Jerome Way.
92. The County's Environmental Strategy Officer is satisfied with the revised scheme, and has no objection to in in terms of landscape. The conditions requested by the ESO could be added to planning permission if granted.
93. Given the setting of the site alongside the village, the rail line and the existing quarry, the effects on the landscape would be moderate. The proposal is therefore not contrary to policies C8 of the OMWCS and ESD13 of the CLP.

Soil Quality and Management

94. Policy C6 of the OMWCS states that proposals for minerals and waste development should make provision for the management and use of soils in order to maintain soil quality, including making a positive contribution to the long-term conservation of soils in any restoration.
95. The topsoils from the site would be stored in the mitigation bunds and would be used in the restoration of the quarry. The proposal, therefore, complies with policy C6 of the OMWCS.

Protection of Groundwater

96. Policy C4 of the OMWCS requires that proposals for minerals and waste development will need to demonstrate that there would be no unacceptable adverse impact on or risk to the quantity or quality of surface or groundwater resources required for habitats, wildlife and human

activities; the quantity or quality of water obtained through abstraction unless acceptable alternative provision can be made; and the flow of groundwater at or in the vicinity of the site. Policy ESD 8 of the CLP makes similar provision. The application was accompanied by a hydrological and hydrogeological report that did not show any significant impacts on the water environment or flood risk from the proposed development. The proposed application therefore complies with policies C4 of the OMWCS and ESD8 of the CLP.

Biodiversity

97. OMWCS policy C7 requires that minerals and waste development should conserve and, where possible, deliver a net gain in biodiversity. It further states that development shall ensure that no significant harm would be caused to Local Wildlife Sites. Policies ESD9, ESD 10 and ESD 11 of the CLP make similar provision for all development.
98. The County Ecologist has raised concerns in relation to the need for an up to date ecological survey of the site, the need for an appropriate biodiversity impact calculator, and the need for an ecological mitigation strategy.
99. The applicant is intending to carry out a survey and address these concerns and any further information will be presented to the committee as an addendum. Although it is not the right time of year for a full ecological assessment, the County Ecologist has requested further details will help to inform the Committee's decision.
100. The proposed development would be on a site that is currently subject to wildlife interest, but is an agricultural field. The proposed use would be part agriculture and part wetland which could well lead to an increase in biodiversity. The proposal at this stage has not shown compliance with policy C7 of the OMWCS but I will update the committee further at the meeting.

Health and safety

101. Policy C5 of the OMWCS requires that mineral and waste applications should demonstrate that they would not have an unacceptable adverse impact on human health and safety including from birds. The application site lies within the safeguarding zone to London Oxford Airport who have objected to the proposal on the grounds of flight safety from possible bird strike. As it stands, the proposal is therefore contrary to policy C5 of the OMWCS.
102. The applicant is seeking to address this with London Oxford Airport. Should any further information be forthcoming it will be reported to the committee in an addendum. A condition could be added to any permission given that prior to any development taking place a scheme to reduce the likelihood of bird strike be submitted and approved. This would be reliant

on the applicant agreeing to the attachment of a pre-commencement condition.

Transport

103. Policy C10 of the OMWCS seeks to secure safe and suitable access from minerals and waste sites to the advisory lorry routes shown on the Oxfordshire Lorry Routes Map. The A4260 and A4095 are designated as non-strategic roads. 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. Policy SLE4 of the CLP states that new development will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development and policy.
104. The Highway Authority has not objected to the application. The proposed development would use the existing plant site which is subject to the control of vehicle movements. The additional extraction would continue to use the same plant, and would therefore not involve any increase in daily vehicle movements, and would therefore have no additional impact on the road network although in total terms additional vehicle movements exporting mineral would be greater than if permission were to be refused. A condition could be added to any permission given to ensure that link, and subject to such a condition, the proposal is therefore compliant with policy C10 of the OMWCS and policy SLE4 of the CLP.

Historic Environment

105. Policy C9 of the OMWCS states that proposals for minerals and waste development will not be permitted unless it is demonstrated, including where necessary through prior investigation, that they or associated activities will not have an unacceptable adverse impact on the historic environment. CLP policy ESD 15 makes similar provision.
106. The proposed development has scheduled ancient monuments around it, but would not have an impact on them due to its position between the existing quarry, the railway line and the village. It is therefore compliant with policies C9 of the OMWCS and ESD15 of the CLP.

Rights of Way

107. Policy C11 of the OMWCS states that the integrity and amenity value of the rights of way network shall be maintained and, if possible, it shall be retained in situ in a safe and useable condition.
108. The proposed development would be alongside the public footpath but would not involve the closure or diversion of it. The amenity value of it would be affected during the period the extraction was taking place, particularly by the 5m bund that would run alongside it. However, the

temporary nature of the development would mean that there is not a permanent effect on the rights of way network.

Other issues

109. Policy C2 of the OMWCS requires that all minerals and 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. This would encompass addressing the areas set out above but would also include the economic role.
110. The application states that the operator of the proposed development would continue to make use of existing low energy plant and machinery where possible; avoid running empty vehicles; and attenuation on site of water on site.
111. There is little in the way of climate change mitigation and adaptation, but some measures are set out and the proposal therefore complies with policy C2 of the OMWCS.
112. Policy C5 of the OMWCS states that the cumulative impacts of mineral and waste developments will need to be considered and that they would not result in unacceptable adverse impacts on the local environment, human health and safety, residential amenity and other receptors and the local economy.
113. The proposed development would follow on from the existing mineral extraction on the site and would not be in addition to it. The proposed development would mean the use of the existing plant within the site and would not involve any additional vehicle movements. However, using the plant and mineral movements for extraction could cause delay in restoring the main quarry site. The amount of extraction is relatively low, and the time period relatively short so this should not have a significant impact on the programme of restoration.
114. Policy M10 of the OMWCS requires mineral working to be restored in a timely manner. The proposed extraction would last for four years and the restoration would be complete by 2025. A condition could be attached to any permission given to clarify that restoration is required by that date.
115. Concern was raised that the application was premature. The NPPF sets out the presumption in favour of sustainable development and the NPPG provides guidance on the circumstances where it may be justifiable to refuse planning permission on the grounds of prematurity (paragraph 14): ‘...arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse

impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

116. Paragraph 50 of the NPPF states that refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.'

117. With regard to part a) the OMWCS does not identify a need for further crushed rock permissions and this proposal would not undermine the plan-making process by predetermining decisions central to the emerging Local Plan part 2.

118. Further, it is not considered that part b) is met. The Part 1 plan is adopted and the Part 2 plan is not yet published in draft form.

119. The Council sought Counsel's advice on the concerns relating to prematurity on applications at Fullamoor Farm and New Barn Farm. Having taken into account the legal advice as well as the NPPG, the NPPF, the ongoing need to plan for mineral extraction, and the representations concerning prematurity, I consider that this application would not undermine the emerging local plan process in the circumstances, particularly in light of the very early stage of Part 2 of the Core Strategy, and that a refusal on prematurity grounds would not be justified.

Conclusions

120. The site is in neither the principal locations for aggregates minerals extraction nor the mineral safeguarding areas identified in the OMWCS. The proposed development would be contrary to policies M3 and M5 of the OMWCS.

121. The bund is inappropriate development in the Green Belt, and very special circumstances have not been demonstrated. The proposal is therefore contrary to policy C12 of the OMWCS and policy ESD14 of the CLP.
122. The proposed development would cause harm to the local amenity and be contrary to policy C5 of the OMWCS.

RECOMMENDATION

123. **It is RECOMMENDED that planning permission for application no. MW.00046/18 be refused on the grounds that:-**
- 1. The site is situated neither within the principal locations for aggregates minerals extraction nor the mineral safeguarding areas. The development is therefore contrary to policies M3 and M5 of the Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy;**
 - 2. The development would constitute inappropriate development in the Green Belt for which Very Special Circumstances have not been demonstrated. It is therefore contrary to policy C12 of the Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy and policy ESD14 of the Cherwell Local Plan 2031; and**
 - 3. The development would cause harm to the local amenity of residents on Jerome Way through noise, dust and visual intrusion contrary to policy C5 of the Oxfordshire Minerals and Waste Local Plan Part 1: Core Strategy.**

SUSAN HALLIWELL
Director of Planning and Place

December 2018

European Protected Species

The habitat on and around the proposed development site indicate that European Protected Species are unlikely to be present. Therefore, no further consideration of the Conservation of Species & Habitats Regulations is necessary.

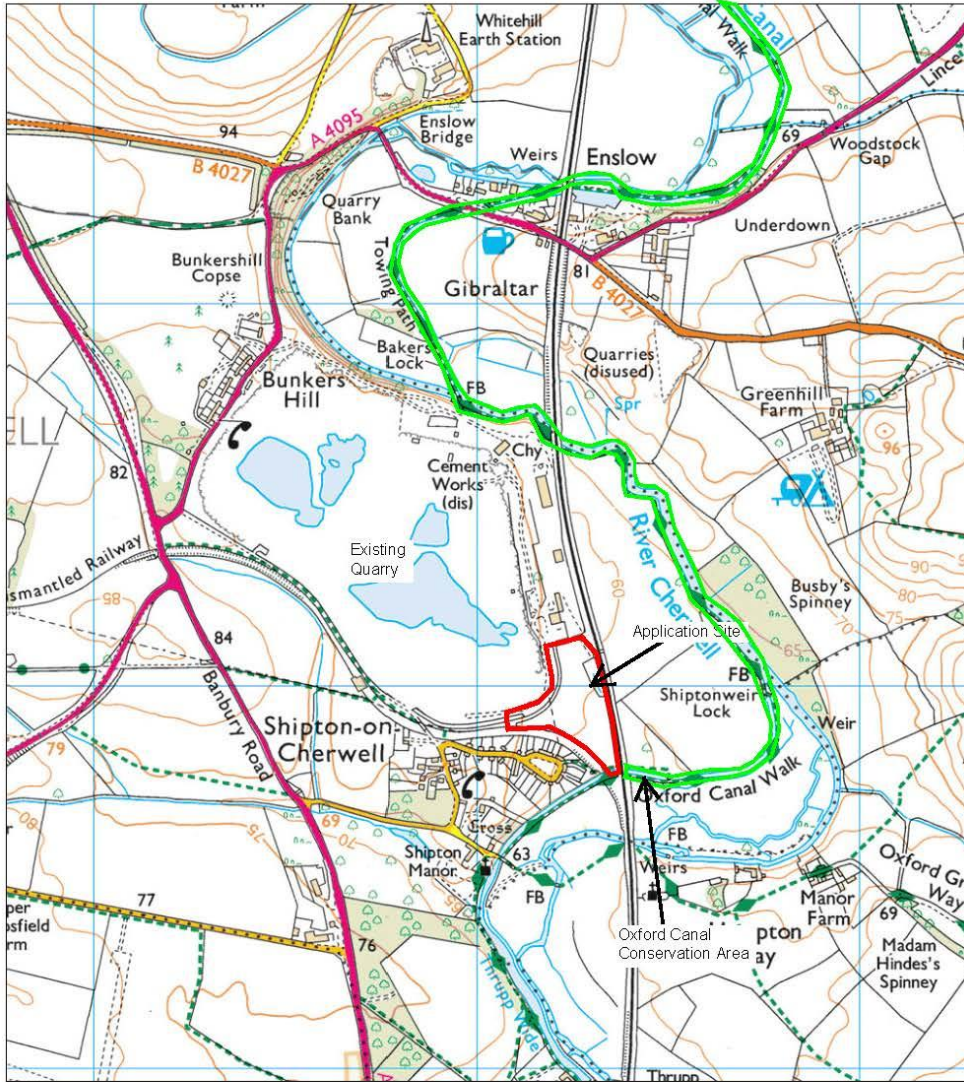
Compliance with National Planning Policy Framework

In accordance with paragraph 38 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; by updating applicants and agents of any issues that may arise in the processing of their application and where possible suggesting solutions. Objections were passed to the applicant and they were given the opportunity to address them prior to the decision taking place. The concerns included airport safeguarding, landscape, Green Belt and biodiversity.



MW.0046/18 Shipton on Cherwell Quarry



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