

**Points raised in the applicants submitted needs assessment document.**

- There is a presumption in favour of sustainable development, and planning permission should be granted unless there is a clear reason for refusing, and that the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- The proposal would contribute 400,000 tonnes to the Oxfordshire's mineral reserve.
- The 10 year land bank is a minimum provision.
- The 10 year annual average used by Oxfordshire County Council is skewed by the figures for the recession, and recent sales figures are higher.
- The need is too urgent for the County Council to wait until the Site Allocations Document is published in 2020 before granting additional planning permissions.
- Paragraph 4.44 of the OMWCS contradicts policy M2 of the OMWCS.
- Since the OMWCS was published there has been an increase in crushed rock sales leading to an even greater need for crushed rock.
- Having a permitted reserve above the minimum land bank is not sufficient reason to refuse planning permission.
- The aggregate is approved by the highway authority for use on Oxfordshire's Roads and is used on local construction projects.
- Neither policy M3 nor the supporting text states that planning permission will not be granted for areas outside the strategic resource areas.
- Policy M3 makes particular reference to extensions at quarries outside the strategic resource areas.
- Policy M4 sets out the criteria against which extensions to quarries will be assessed.
- The proposal accords with policy M5 of the OMWCS as it would: contribute to the provision in M2; and it would meet with policy M3 in that it is an extension to an existing quarry supported by the policy.

**Officer Comments**

- The presumption in favour of sustainable development is covered in the report.
- It is accepted that if permitted the resource would contribute to the landbank.
- It is accepted that the landbank is a minimum provision.
- The County Council's Local Aggregates assessment 2018 has concluded that there is sufficient crushed rock and that there is now a need to change the provision made in the OMWCS. The Local Aggregates Assessment 2018 was approved by Cabinet on 20<sup>th</sup> November 2018. The applicant might not agree with the way the authority has reached that conclusion, but it is clear that the council's view as Minerals and Waste Planning Authority is that there is no need at this time for additional provision to be made and it would be contradictory for officers to provide contrary advice in the consideration of this application.
- The County will not wait until the Site Allocations document to determine further planning permissions, but any applications that come forward will

be determined on their merits, in advance of that document, with the development plan as it stands and any other material considerations including the most up-to-date Local Aggregates Assessment.

- I do not agree that paragraph 4.44 contradicts policy M2. Policy M2 sets out what the provision for crushed rock will be, policy M3 sets out where the principle locations for extraction will be, and paragraph 4.44 adds clarity to policy M3.
- The increase in crushed rock sales has been taken into account by the Council in the monitoring of the reserve. The council is currently of the opinion that sufficient reserves are permitted.
- All things being equal there is no reason to refuse planning permission just because the proposal would raise the landbank above the minimum requirement. However, other policy and material considerations are also relevant.
- Unless it can be demonstrated that this reserve is the only mineral that meets the Highway Authority requirement this does not add weight to the argument because other reserves will also provide adequate aggregates.
- Policies are now written in the positive. The application does not accord with policy M3. Where policy M3 makes reference to quarry extensions, it is in relation to the allocation of sites in the Local Plan part 2 – Sites Allocation Document. That there is no specific statement in the policy that planning permission will not be granted for areas outside the strategic resource areas, does not make the application accord with policy M3, nor does it add weight to the application being permitted.
- Policy M4 is not relevant to this application. It is a policy to be used in the formulation of the Sites Allocation Document if future monitoring shows that there is insufficient supply coming forward from the strategic resource areas.
- The proposal does not accord with policy M5, for the reasons set out in the main report.

Points raised in relation to the Green Belt in Letter dated 20<sup>th</sup> November 2018

**Assessment of Inappropriate Development**

- The development is not inappropriate development in the Green Belt. The NPPF does not provide a definition for ‘mineral extraction’, however, it would be nonsensical if essential components of mineral extraction, such as the use of plant and equipment; soil stripping and storage bunds; and the importation of infill material for restoration, were not also included within this definition. If these elements were considered inappropriate, why would the NPPF include mineral extraction within paragraph 146?
- As set out in *Europa Oil and Gas Ltd. v Secretary of State for Communities and Local Government* [2013] EWHC 2643 (Admin), “some level of operational development for mineral extraction, sufficiently significant as operational development to require planning permission has to be appropriate and necessarily in the Green Belt without compromising the two objectives. Were it otherwise, the proviso would always negate the appropriateness of any mineral extraction in the Green Belt and simply make the policy pointless” (paragraph 65)

- When considering the impact of a proposed development upon openness, one must first give consideration to how open the site is without the development. This matter is addressed within the Houndsfield Industrial Estate appeal decision (ref: APP/P1805/W/17/3175713) and in Turner v Secretary of State for Communities and Local Government [2016] EWCA Civ 466, which makes it clear that consideration must be given to “how built up the Green Belt is now and how built up it would be if redevelopment occurs”.
  - The proposed development, and in particular the soil bund, will not materially affect openness beyond the current situation for the following reasons:
    - The site is currently open to the north and east, but not to the south and west due to topography, garden fencing, housing and vegetation. This will be maintained.
    - The screening afforded by the existing boundary vegetation.
    - The changes to the bund made adjacent to the canal maintain openness from this location (VP3 in the LVIA).
    - The reduced height of the bund reduces its visual impact as experienced from properties in Jerome Way, thereby maintaining the experience of openness from these receptors.

**If the LPA still considers that the development is inappropriate, the case for Very Special Circumstances**

- Minerals are an essential resource that can only be worked where they are found.
- Mineral extraction is temporary, and the site can be restored to an appropriate afteruse.
- Paragraph 144 of the NPPF sets out that when determining planning applications, LPA's should “give great weight to the benefits of mineral extraction, especially to the economy”. This extension will enable the continued supply of essential construction materials to the local market.
- The NPPF makes it clear that Mineral Planning Authorities (MPA's) should plan for a steady and adequate supply of aggregates. Using an average of the last 3 years of sales data (0.897mtpa from 2014 to 2016), there is a landbank of less than 10 years.
- The proposal would allow the continuation of supply to current local markets to support housing and other development.
- Further reserve would be extracted without additional impacts, as existing infrastructure and HGV movements would be used.
- Policy M3 of the Core Strategy sets out that extensions to existing mineral sites may be allocated within the Site Allocations Document, as long as they accord with Policy M4. Policy M4 gives priority to the extension of existing quarries.
- The main quarry is defined as a ‘major developed site in the Green Belt’ within Policy GB7 of the Non-Statutory Cherwell Local Plan (NSCLP).
- The site is located adjacent to an existing active quarry, a railway line and an old railway embankment. It is located adjacent to similar types of development, in an industrial / brownfield setting. It is not surrounded by open countryside.
- The proposed soil bund will form a continuation of an existing screen bund along the southern boundary of the main quarry. This bund was erected to

minimise noise disturbance from quarrying activities within the permitted quarry and has resulted in reduced noise levels.

- The application is supported by environmental assessments which prove that environmental and amenity impacts associated with the development will not be significant.
- The site is viewed and experienced in the context of the existing quarry operations and adjacent railway line. There will be minimal impacts upon the environment and amenity and in any case, the design of the development provides noise, dust and visual mitigation.
- The bund is designed to minimise harm. It will be set back from the properties in Jerome Way and will be well screened by existing mature vegetation. It will not have a significant visual impact.
- The development is temporary for four years, and would be small scale.
- The supply to local markets reduces transportation miles and minimises greenhouse gas emissions.
- The limestone will be sterilised if not worked at this time.

### Officer Comments

#### **Assessment of Inappropriate Development**

- Paragraph 146 of the NPPF sets out that mineral extraction is not inappropriate in the Green Belt provided it preserves openness and does not conflict with the purposes of including land in it. There is no set definition, but the policy implies that there are cases when both apply otherwise it would just state that mineral extraction is not inappropriate full stop, but it does not. Your officer's interpretation is that where the mineral can be extracted without the need for bunds and processing plant within the Green Belt it would not be inappropriate.
- The Europa Oil and Gas Ltd. v Secretary of State for Communities and Local Government [2013] case related to an Inspector's decision to consider exploration of mineral to be different to extraction of mineral. The judgement ruled that they should be considered the same. It mentioned the "paraphernalia" that goes with extraction, but in the case in question it was referring to oil and gas exploration.
- The case of Turner v Secretary of State for Communities and Local Government [2016] related to a case where the visual element of openness had not been considered. It was in relation to an infill development where the footprint of the building would have been larger, but visually there would have been no impact. It does not follow that development in the Green Belt does not affect openness because it is screened by trees, or other landscape features.

#### **If the LPA still considers that the development is inappropriate, the case for Very Special Circumstances**

- Minerals can only be worked where they are found, but it is not a Very Special Circumstance if they can be found elsewhere.
- All mineral extraction is temporary, and is expected to be restored. This is not a Very Special circumstance.

- In accordance with the NPPF great weight is given to the benefits of mineral extraction, but also taking into account the great importance that the Government attaches to the Green Belt.
- The MPA has planned for a steady supply of minerals as set out in the policies of the OMWCS. Currently it believes there is sufficient supply.
- The OMWCS takes into account the need for local supply and has provided adequate provision.
- The extraction could be done within the existing permitted HGV movements, but there would be additional impacts in that the mineral extraction would come closer to the housing and to the public footpath, requiring the creation of a bund which would itself have an impact.
- The issue of policies M3 and M4 are set out in the report. This is not a Very Special Circumstance argument.
- The site has never had any status as a 'major developed site in the Green Belt.' The existing quarry was defined as such by policy GB7 of the Non-Statutory Cherwell Local Plan which as the name suggests was never part of the development plan. This proposal is a green field development.
- The site surroundings are set out in the report. Site surroundings do not in themselves make a Very Special Circumstance argument.
- The existing screen bund along the southern boundary of the main quarry is currently unauthorised and inappropriate development in the Green Belt and is part of a planning application currently under consideration. The operator has stated that the existing bund was erected to minimise noise disturbance from quarrying activities within the permitted quarry. Extending it might be necessary to mitigate the impacts of the extension area should planning permission be granted to the application for additional mineral working, but is not in itself a Very Special Circumstance.
- The application requires the bund to mitigate its impacts, but that is not a Very Special Circumstance argument for carrying out the development, without which the bund, which is inappropriate development, would not be necessary.
- The context of the site will be weighed in the decision, but it is not a Very Special Circumstance.
- As stated above, the bund is a mitigation measure that would not be necessary if the development is not carried out.
- The temporary nature is noted, but would still have an impact on openness for four years, and would be of such a scale to have a significant impact.
- The supply to local markets has been considered in the OMWCS.
- The limestone will not be sterilised as there is no development proposed that would sterilise it. It may be less viable to work in the future, but not sterilised.