

For: PLANNING AND REGULATION COMMITTEE – 3 June 2019

By: DIRECTOR FOR PLANNING AND PLACE

Development Proposed:

Section 73 application to retrospectively vary condition 1 of planning permission P17/V2812/CM (MW.0084/17) to reflect the restoration as carried out on the site

Division Affected: Faringdon

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

Location: Wicklesham Quarry, Sandshill, Faringdon, Oxon, SN7 7PQ.

Applicant: Grundon Sand & Gravel Ltd.

Application No: MW.0038/19 **District Ref:** P19/V0969/CM
District Council Area: Vale of White Horse District Council

Date Received: 13 March 2019

Consultation Period: 18 April – 14 May 2019

Recommendation: **Approval**

The report recommends that the applications be approved.

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• **Part 1 – Facts and Background**

Site and Setting (see site plan Annex 1)

1. Wicklesham Quarry is immediately south of the A420, approximately 1km (0.6 miles) south of Faringdon.
2. The site is within the area designated as the Great Western Community Forest.
3. The site is within and surrounded by open countryside and within the landscape character area of 'North Vale Corallian Ridge'. The specific landscape character type of the site and its immediate surrounding area is defined as Rolling Farmland.
4. The nearest properties to the site (the Gardens and Wicklesham Lodge Farm) are immediately adjacent to the quarry at its furthestmost south-east corner.
5. The entire site lies within the Wicklesham and Coxwell Pits Site of Special Scientific Interest (SSSI). This SSSI has been designated for its geological interest due to the geological exposures on its perimeter. A public footpath crosses the access road to the quarry. Public bridleways run along its southern boundary and link to further bridleways to the south and east.
6. Two ponds created by the quarry support a small Great Crested Newt population.
7. The main vehicle access into the site is from a slip road immediately to the west of the junction of the A417 (Park Road) and the A420.
8. The quarrying activities have lowered the landform by some 8 metres over an area of approximately 8 hectares.

Planning History

9. Planning permission was granted in 1986 for the extraction of sand and gravel from the quarry.
10. Since then the County Council has granted several permissions for the site mainly to extend the time period to complete extraction of minerals and then restore the site but also for the importation of materials to be used in connection with construction of golf courses together with operations for the blending of imported and indigenous quarried materials. The then permission for the quarry (**MW.0134/15**) required the restoration of the quarry by 30th September 2016.

11. Mineral extraction has ceased and all buildings, machinery and hard standings have been removed. The site is required to be restored to agriculture.
12. The site had not been restored within the timeframe, and the County Council served a breach of condition notice on 9 November 2016 requiring the site's restoration to be completed in accordance with the approved plans by 30 June 2017.
13. Soil placement had taken place on the site, but not in accordance with the approved plans. The site failed to achieve a natural slope from the north-west to the south-east and instead was restored too flat in places, which led to some water logging issues in some areas and low water levels in the ponds. However, the two ponds on the site had been retained, and the SSSI conservation faces have been established.
14. The applicant sought to regularise the development by submitting a planning application that was approved on 6 July 2018 (**MW.0084/17**). Again the restoration actually carried out was not in accordance with the approved plans, and so a further retrospective application has been submitted to regularise the restoration as carried out on the site.
15. Should the application be approved, no further work would be required on the site to achieve the approved contours on the site.

Details of the Development

16. The application seeks to vary condition 1 of permission P17/V2812/CM (MW.0084/17).
17. The applicant states that the approved restoration contours were not achieved because of the physical condition of the site, such as the rock deposits underlying the soil surface, and the overarching need to protect the SSSI, have put a limit on the amount of material that could be moved on the site. This effect on the cut and fill has impacted on the land gradient that can be achieved such that it varies but is generally less than a metre difference to the approved contours.
18. The hedgerows have been re-established and new grass seeding has taken place across the entire site. Fencing has been placed around the two ponds to protect them and the buffer zone around them.
19. The applicant has submitted a hydrological statement in support of the application which concludes that the contours would still enable surface water runoff to drain towards the southern edge of the site, and that the hydrological regime of the Great Crested Newt protected ponds would be preserved.

• **Part 2 – Other Viewpoints**

Representations

20. There have been 14 third party responses objecting to the application. The reasons for the objection are:
- Grundon repeatedly failed to comply with conditions, and have failed to protect the ponds and the protected species within them.
 - The ponds have been destroyed by deliberate damage.
 - Grundon are deliberately damaging the ponds and dragging out the restoration until there is no species left to protect.
 - The landowners long term aim is to turn the site into an industrial estate.
 - The application should be rejected and compliance monitored.
 - Grundon must put right the damage or have the condition lifted.
 - The application should be rejected until the ponds are restored.
 - The original planning approval required the restoration to have retained or improved habitat, the current restoration must include the same.
 - The new ponds must be restored back to the condition they were in prior to 2016.
 - Respondent does not agree that the only change sought from the restoration plan is the gradient of the quarry base.
 - There has been criminal damage to the ponds.
 - Wicklesham quarry is important for its biodiversity as well as its geodiversity.
21. There is one third party response in support of the application, from the landowner of the application site, raising the following points:
- The site has been restored to a satisfactory condition, and that aftercare should start as soon as possible.
 - Grundons ceased mineral extraction from Wicklesham Quarry and moved its operation to Faringdon Quarry in September 2015. The site has still not been restored and returned to the landowner.
 - The business has suffered and it is not yet clear whether the grass currently sown will need to be ripped up again for further restoration works.
 - Over a distance of some 500m, there is a discrepancy of less than 0.6m. As a farmer who deals daily with the tucks and folds Nature has woven into our landscape, he cannot comprehend why such a light undulation causes concern.
 - Experience as a farmer suggests that it is the soil structure rather than the levels that will dictate how water runs and settles.

- Wildlife is now returning to the quarry.

Copies of all the third-party representations are in the Members' Resource Room.

Consultations

22. Vale of White Horse District Council (Planning) – no observations
23. Vale of White Horse District Council (EHO) – no objection.
24. Little Coxwell Parish Council – objects because the restoration of the ponds has not been met. A survey by Enzygo is requested to inform current conditions and restoration works required.
25. Faringdon Town Council – No objections.
26. Environment Agency – no objection.
27. Natural England – no comment.
28. OCC (County Ecology Team) – no objection.

Part 3 – Relevant Planning Documents

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

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

The relevant development plan documents are:

- Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy 2017
 - Vale of White Horse Local Plan 2031.
 - Saved policies of the Vale of White Horse Local Plan 2011.
30. The Vale of White Horse Local Plan 2031 Part 2: Detailed Policies and Additional Sites (VoWHLP 2031 Part 2) was submitted to the Secretary of State on Friday 23 February 2018 for independent examination. Whilst a material consideration, in accordance with paragraph 216 of the NPPF, these policies are at an early stage and should be given limited weight in any decision made.
 31. The Government's National Planning Policy Framework (NPPF) is also a material consideration.

Relevant Policies

32. Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy (OMWCS)
- Policy M10: Restoration of mineral workings
Policy C1: Sustainable development
Policy C2: Climate change
Policy C4: Water environment
Policy C5: Local environment, amenity and economy
Policy C7: Biodiversity and geodiversity
Policy C8: Landscape
33. Vale of White Horse Local Plan 2031 Part 1: Strategic Sites and Policies (VLP1)
- Core Policy 1: Presumption in Favour of Sustainable Development
Core Policy 44: Landscape
Core Policy 46: Conservation and Improvement of Biodiversity
34. Saved Policies of the Vale of White Horse Local Plan 2011 (VLP2011)
- Policy DC6: Landscaping
Policy DC9: Impact of development on neighbouring uses
Policy DC12: Water quality and resources
Policy NE7: North Vale Corallian Ridge
Policy NE12: Great Western Community Forest
35. The Vale of White Horse Local Plan 2031 Part 2: Detailed Policies and Additional Sites (VLP2)
- Development Policy 23: Impact of Development on Amenity
Development Policy 31: Protection of Public Rights of Way, National Trails and Open Access Areas

• Part 4 – Analysis and Conclusions

Comments of the Director for Planning and Place

36. Policy C1 of the OMWCS states that a positive approach will be taken to minerals and waste development in Oxfordshire, reflecting the presumption in favour of sustainable development contained in the National Planning Policy Framework. This presumption in favour of sustainable development, is also set out in Core Policy 1 of the VLP1.
37. Policy M10 of the OMWCS states that mineral workings shall be restored to a high standard in a timely manner to an after-use that is appropriate to the location. The proposed development seeks a change to the

approved restoration scheme to that which is currently on the site, which would effectively complete the restoration of the site to agriculture, albeit to contours that differ from the existing permission.

38. The proposed development should therefore be approved unless there are policy reasons or material considerations arising from the proposed changes. The main issues for this development are local environment, amenity and landscape, and biodiversity.

Local Environment, Amenity and Landscape

39. Policy C5 of the OMWCS states that proposals for mineral development shall demonstrate that they will not have an unacceptable adverse impact on the local environment, human health and safety, residential amenity and other sensitive receptors, and the local economy. Policy DC9 of the VLP2011 and Development Policy 23 of the VLP2 also seek to protect the amenities of neighbouring uses and the wider environment.
40. The proposed changes would not significantly alter the local environment in that there would be relatively minor changes to the contours of the site. The change would mean there was no requirement for any further restoration work on the site. This would be beneficial to the amenity of the residents of the nearest houses and would have no effect to receptors beyond that. There would be no effect on the local economy.
41. Policy C8 of the OMWCS seeks to protect the local landscape character from the adverse effects of minerals development. Core Policy 44 of the VLP1 also seeks to protect the landscape of the Vale of White Horse, as does policy DC6 of the VLP2011. Policy NE7 of the VLP2011 states that development that harms the character and appearance of the North Corallian Ridge will not be permitted. Policy NE12 of the VLP2011 states that developments that would prejudice the aims and objectives of the Great Western Community Forest will not be permitted.
42. The proposed development is within the area of worked out quarry, which is set well below the surrounding ground level. It would result in changes to the former quarry floor and along some edges of the former quarry, but there would be no wider effect on the landscape. There would specifically be no harm to the character and appearance of the North Corallian Ridge, and the aims and objectives of the Great Western Community Forest would not be prejudiced.

Biodiversity

43. Policy C7 of the OMWCS seeks a net gain in biodiversity from mineral developments. It also states that proposals shall make an appropriate contribution to the maintenance and enhancement of local habitats and biodiversity. Core Policy 46 of the VLP1 also seeks to conserve and enhance biodiversity, as does policy DC6 of the VLP 2011.

44. The proposed changes are retrospective, and the changes would not have any effect on the newt habitat in the ponds. The council's ecology officer has no objection to the application. The lack of need for any further works to the site would have the benefit of not disturbing any biodiversity interest that has returned and is continuing to return to the site.

Other Issues

45. Policy C2 of the OMWCS states that proposals for minerals restoration should take account of climate change. The proposed development would bring to a close the restoration of the site resulting in there being no further need for earth moving thereby reducing carbon emissions.
46. Policy C4 of the OMWCS states that there should be no unacceptable adverse impacts on the quantity or quality of surface or groundwater resources required for wildlife. Policy DC12 of the VLP2011 also seeks to protect water quality.
47. The applicant's hydrology consultant predicts that the majority of the runoff generated within the site area will drain towards the existing ditch, along the southern edge of the site, and be conveyed to the southwestern corner of the site. Additionally, they state that the hydrological regime of the Great Crested Newt protected ponds will be preserved, thereby ensuring suitable conditions for the enhancement of the GCN habitat are provided. They did this following further advice from Enzygo which was received in January 2019.
48. The proposals would result in little change to the water environment. There would be some change in the way the water flows on the site, but this would be marginal, and the proposal largely follows the existing permitted scheme.
49. The concerns raised in third party representations are entirely based on concerns about the ponds. The ponds are now fenced to protect the buffer areas and have not changed since the committee made its decision to grant the permission to which this section 73 application relates. The hydrological assessment submitted shows that water would still be fed to the ponds with the existing contours.
50. Policy C7 of the OMWCS states that development that would be likely to have an adverse effect on a Site of Special Scientific Interest will not be permitted except where the benefits of the development clearly outweigh the impacts. It also states that all proposals for mineral working shall demonstrate how the development will make an appropriate contribution to the maintenance and enhancement of geodiversity, including fossil remains. The proposed scheme is partially because the geological faces need to be maintained.

51. I have addressed the individual points raised by the representations on the pond in Annex2 of this report.

Conclusion

52. The proposed changes to the existing permission would allow for a satisfactory restoration of the site. There would be no significant harm caused by the proposed changes which would warrant refusal of the application, and the proposal should therefore be permitted in accordance with the presumption in favour of sustainable development.

RECOMMENDATION

53. It is **RECOMMENDED** that planning permission for application no. **MW.0038/19** be approved subject to conditions to be determined by the Director for Planning and Place but to include the following:

- 1) The development shall be carried out strictly in accordance with the particulars of the development, plans and specifications contained in the application (and letters/e-mails of amendment) except as modified by conditions of this permission. The approved plans and particulars comprise:

- Application form dated 11/03/2019
- Letter dated 14/12/2018
- Ecology Statement dated 29/08/2017
- Enzygo Method Statement dated 31/05/2018
- Hydrological statement - Ref No. JF051218 dated 11/03/19
- Site Restoration Plan - Drawing no. DG/QO/WIC/RES/01 Rev E
- Site Location Plan - Drawing No: DG/OO/WIC/TEMP/02.
- Aftercare Scheme set out in paragraph 3.0 onwards in the approved Restoration and Aftercare Scheme dated December 2012.
- Conservation of geological interest features of SSSI Plan – Dated October 2012 subject to revised restoration plan - DG/QO/WIC/RES/01 Rev E.

SUSAN HALLIWELL
Director of Planning and Place

May 2019

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. In this case the applicant did not take advantage of the opportunity. Any issues that occurred during the processing of the applications were raised with the applicant and this led to improvements rendering the developments acceptable. In this case no issues were raised.

European Protected Species

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

1. Deliberate capture or killing or injuring of an EPS
2. Deliberate taking or destroying of EPS eggs
3. Deliberate disturbance of a EPS including in particular any disturbance which is likely
 - a. to impair their ability –
 - i. to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - b. to affect significantly the local distribution or abundance of the species to which they belong.
4. Damage or destruction of an EPS breeding site or resting place.

Our records, the habitat on and around the proposed development site and ecological survey results indicate that a European Protected Species is likely to be present.

The mitigation measures detailed within this application and previous applications are considered to be convincing and in your officer's opinion will secure "offence avoidance" measures.

The recommendation:

Your officers consider that sufficient information has been submitted which demonstrates that measures can be introduced which would ensure that an offence is avoided. The application is therefore not considered to have an adverse impact upon protected species provided that the stated mitigation measures are implemented.