

For: PLANNING AND REGULATION COMMITTEE – 9 MARCH 2020

By: DIRECTOR FOR PLANNING AND PLACE

Development Proposed:

Section 73 application for the continuation of development of Planning Permission no. 16/04159/CM (MW.0141/16) (engineering operations for the restoration of former landfill and temporary provision of an area for topsoil recycling) without complying with conditions, 1, 2, 3, 4 and 13, in order to revise levels of the approved landform to reflect final contours; to provide for additional time to complete final planting and grass seeding to complete final restoration and landscaping of the site; and for consequential amendment to the aftercare details.

Division Affected: Eynsham

Contact Officer: Emma Bolster **Tel:** 07775 824954

Location: Controlled Reclamation Landfill Site, Dix Pit, Stanton Harcourt, Witney OX29 5BB

Applicant: Controlled Reclamation (Oxford) Ltd

Application No: MW.0126/19 **District Ref:** P19/V2603/CM

District Council Area: West Oxfordshire

Date Received: 20 November 2019

Consultation Period: 19 December 2019 – 13 January 2020

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. The application site sits within the wider Dix Pit complex and lies approximately 0.5 mile (1 km) south west of the centre of Stanton Harcourt village and approximately 120m west of Stanton Harcourt Lakeside (Oasis) industrial estate. The closest town is Witney, approximately 4 miles (6 km) north-west. The village of Eynsham is approximately 3 miles (5 km) north-east. The city of Oxford is approximately 7 miles (11 km) to the east.
2. The wider Dix Pit complex includes commercial and household recycling and other dormant and restored landfill. These operations are almost all to the south east of the application site, other than the aggregate recycling facility immediately adjacent to the application site. In addition, there are a former concrete block making works (Conbloc), batching plant and various workshops and small-scale industrial units.
3. The closest residential properties to the application site are located approximately 200m north-east of the site off Barlin Close in Stanton Harcourt. Other residential properties of a similar distance are the Grade II listed Beard Mill, approximately 460m north west of the site, Keppel Cottage approximately 200m north east and The Old Vicarage is approximately 175m north east from the site. These three properties all lie on the northern side of the B4449.
4. The West Oxfordshire Local Plan 2031 (WOLP) landscape character assessment places the site within the Lower Windrush Valley and Eastern Thames Fringes Landscape Character Area. In addition to this, the Oxfordshire Wildlife and Landscape Study (OWLS) identifies the site as falling within the landscape area of Lowland Village Farmlands and the particular local landscape character of Stanton Harcourt. The site is within an identified Conservation Target Area (CTA).
5. The site is 15.4 hectares in total, a former sand and gravel working, which was landfilled with waste material when the mineral was worked out. To the north of the site is largely open countryside and agricultural fields. To the east is the Local Wildlife Site of Dix Pit Lake and to the south and west are the 'Linear fisheries' and other recreational lakes, all former mineral workings. The River Windrush is between 225m and 245m to the south west of the site.
6. The site is in Flood Zone 1, which is the area of least flood risk.
7. Public bridleway 362/12/40 follows the route of the River Windrush, following a permanent Diversion Order from the original legal line which ran along the south-western edge of the application site and so to the north-eastern boundary of the adjacent aggregate recycling facility.

8. The site access is via the main Dix Pit landfill haul road. This road runs from the B4449, via Blackditch to serve the Lakeside (Oasis) industrial estate before running around the western edge of Dix Pit Lake. The haul road serves the overall landfill site, Waste Transfer Station (WTS) and public access for the Household Waste Recycling Centre (HWRC).

Planning History

9. There has been sand and gravel extraction at the Controlled Reclamation site since at least 1948, when application W123/48 (MW.008/48) was issued in September 1948, for an extension to the existing gravel workings. Planning application W98/0207 (MW.015/98) was submitted in January 1998 to consolidate the extant permissions for mineral extraction and landfilling with imported materials. This was issued on 27 July 2000. This permission also allowed for recycling of waste material, with operations to be completed by 31 December 2004 and restoration to be completed by 31 December 2005. This application has now expired.
10. Planning application 09/0440/CD3 (MW.0100/09) was submitted in February 2009, to allow for waste materials to continue to be processed on site, which would provide soils for the final restoration of the landfill and some waste to be used to complete the landfilling. Permission was issued on 28 September 2009. Operations and restoration were to be completed by 30 September 2012, with aftercare to finish by 30 September 2017. This permission has now been superseded.
11. The County Council had concerns regarding the overall restoration. This included an overtip of materials in excess of the approved contours, which were raised with the Controlled Reclamation (Oxford) Ltd from at least November 2005. A topographical survey was carried out at the application site in October 2013 to address these concerns, as raised by the Council's monitoring officers. This survey confirmed that the site had been overtipped in excess of the approved restoration contours by approximately 375,000 m³ of material. This had led to the landform being up to 6m above the approved contours in some places.
12. Enforcement Notice EN/0003/13/B was served on the land on 30 June 2014. This required, in summary for the cessation of importation and deposit of waste, the removal of the excess material with the production of the waste transfer notes or other evidence and the removal, where necessary of any soils to facilitate the excess material to be removed from the site. The notice also required the subsequent return of any removed soils with supporting waste transfer notes or other evidence to enable for site restoration to the approved contours. A Stop Notice was also served on the application site.
13. There was no appeal made by the applicant, Controlled Reclamation (Oxford) Ltd against Enforcement Notice EN/0003/13/B and it came into effect. A second Enforcement Notice, EN/0003/13/A was also served.

This was for a breach of condition on the 2009 permission, with similar requirements to which an appeal was made. The County Council subsequently withdrew this notice.

14. Application 15/02045/PDC (MW.0150/14) was submitted in December 2014. This was a stand-alone application submitted by the applicant to resolve the overtipping which was the subject of EN/0003/13/B. The application allowed for the overtipped material to be retained but re-graded to achieve revised contours within a 12-month period, with no further importation of waste to be permitted. The application was approved at the meeting of the Planning and Regulation Committee in July 2015. Following the signing of a Section 106 legal agreement to secure the provision of the proposed permissive bridleway and financial contributions to the Lower Windrush Valley Project, the permission was issued on 14 September 2015. The re-grading to the approved contours for the landform was to be completed by 31 October 2016, with the restoration and planting to be completed by 31 March 2017. The landform re-grading and restoration planting was not completed by the specified date. This permission has now been superseded.
15. Application 16/04159/CM (MW.0141/16) was submitted in December 2016. This was a Section 73 application, to revise the approved contours of the landform to a lower level due to a lack of material on site to achieve what had previously been approved. The application was also to allow for the import of additional top soils for final restoration, adjust the hedge-line and aftercare details and to extend the time period for this to be carried out. This application was approved and issued on 18 April 2017. There were conditions attached to the permission for the final contours and restoration to be as per the approved restoration and aftercare scheme, including the approved pre-settlement contours. The restoration was to be completed by 18 April 2018, with the planting and grass-seeding to be completed within the first planting and sowing seasons following final restoration.
16. The County Council continued to have concerns regarding the overall revised restoration and a compliance monitoring inspection on 29 June 2018 identified that the contours of the landform did not comply with the approved planning permission. A level survey was provided to the County Council by Controlled Reclamation (Oxford) Ltd. The survey confirmed that the achieved landform was not in accordance with the approved planning permission (16/04159/CM: MW.0141/16) and in places was approximately 2-3m higher than the approved contours. In addition, the surface that had been created on the landfill had not been sown with the approved diverse species diverse grass mix and the approved hedgerow running across the site had not been implemented.
17. Enforcement Notice EN/0007/18 was served on the land on 28 November 2018. This required, in summary for the restoration of the land, and to the approved contours including the hedge-planting and grass-seeding to be carried out in accordance with the approved

restoration and aftercare scheme approved under 16/04159/CM (MW.0141/16). The serving of Enforcement Notice EN/0007/18 was appealed by Controlled Reclamation (Oxford) Ltd. The appeal (APP/U3100/C/18/3218191) was allowed and EN/0007/18 quashed 31 October 2019, on ground e) that the notice was not served correctly on all owners/ occupiers. The planning merits of the enforcement action taken were therefore not considered by the inspector appointed by the Secretary of State.

Details of the Development

18. This application seeks to amend the existing restoration scheme and aftercare management as approved under 16/04159/CM (MW.0141/16). This is to reflect the contoured landform and existing planting that has been created at the application site to complete the restoration of the former landfill and which is not as per the approved plans.
19. The current landform remains higher in places by up to 3 metres than the previously approved contours, which were revised down from the original contour levels to take into account the applicant's assertion that there was insufficient material to create the original restoration contours.
20. The application seeks to vary conditions 1, 2, 3, 4 and 13 of planning permission 16/04159/CM (MW.0146/16), so that the final restoration contours are reflected prior to the final planting and grass seeding of the extant restoration scheme.
21. To reflect the restoration contours as achieved, condition 1 requires the list of approved drawings to be amended to include the Proposed Pre-Settlement landform drawings (DIX001) and Post-Settlement landform drawings (DIX001 REV E), submitted as part of this application. The wording of conditions 3 and 4 require the date to be removed and replaced with "*within the first planting season following the date of this permission*" and "*within the first sowing season following the date of this permission*" respectively.
22. Condition 2 requires deletion as it specifies the site to be restored in accordance with approved Restoration and Aftercare Scheme 187CRLR/11 REV D and approved Proposed Pre-Settlement Landform drawing DIX001 Rev C, which has not and cannot be achieved but rather recognises the completion of restoration to the pre-settlement contours as they exist on the ground other than the required planting and grass seeding. Condition 13 requires deletion of the cross-reference to condition 2.

• **Part 2 – Other Viewpoints**

Representations

23. No third-party representations have been received.

Consultations

24. *Stanton Harcourt Parish Council* – No response
25. *West Oxfordshire District Council* – No objection
26. *Environment Agency* – No comment

The application is in Flood Zone 1 and upon Secondary and Unproductive Aquifers. The proposal was assessed in relation to its potential environment impact on groundwater quality.

The proposal may require a revision of the site's environmental permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12. The applicant is advised to contact the Local Environment Agency office for advice.

27. *Natural England* – No objection

There is no objection to the application with regard to impacts on Best and Most Versatile agricultural land or minerals and waste reclamation, or the change in landform proposed in this application. However, the comments made in response to permission MW.0141/16 continue to apply.

28. *OCC Transport Development Control* – No objection

The application proposals are acceptable from a highway safety and traffic movement point of view.

29. *OCC Fire and Rescue Service* – No comment/ concern.

30. *OCC Rights of Way* – No objection

Stanton Harcourt Bridleway 12 runs along the western boundary of the site, having been diverted by Sheehan Haulage & Plant Hire Ltd in July 2017, which has not been reflected in the site plans included in the application. The bridleway as it now legally stands on the Definitive Map & Statement will not be affected by the proposals.

31. *OCC Countryside Access* – No comment.

32. *OCC Planning Policy Team* – No objection.

33. *OCC Lead Local Flood Authority* – No response.
34. *OCC Biodiversity* – No objection.
35. *OCC Landscape Specialist* – No objection

The overall height of the landfill is largely the same as previously approved, but the southwestern section has been filled with little care resulting in a noticeably lumpier and uneven landform than originally agreed. The contouring is of a lesser quality than approved, but these changes don't cause significant adverse landscape or visual effects.

The agreed restoration has been implemented in parts, but has yet to be completed. Where planting has taken place, it has not always been successful. It is important that the restoration scheme is implemented at the earliest opportunity in order to deliver the envisaged landscape and biodiversity benefits.

It is disappointing that only five years of aftercare is in place and no long-term management. The lack of long-term management could jeopardise landscape and ecological benefits in the long-term. The applicant is encouraged to consider options to ensure the ongoing management of the landscape areas.

36. *County Councillor* – Objection

I remain concerned that the changes to the restoration and previous decision is being changed for the second time, as the first revision has not been honoured and this application requests a further change of levels.

I strongly believe that earlier decisions should only be reversed or changed for good reason, if at all. If this is not so, I fear that the decisions of OCC's Planning and Regulation Committee will otherwise be a matter of considerable ridicule.

Part 3 – Relevant Planning Documents

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

37. 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 Core Strategy (OMWCS)
 - Oxfordshire Minerals and Waste Local Plan 1996 (OMWLP) saved policies

- West Oxfordshire Local Plan 2031 (WOLP).
38. The OMWCS (Part 1) was adopted in September 2017 and covers the period to 2031. The Core Strategy set out the vision, objectives, spatial planning strategy and policies for meeting development requirements for the supply of minerals and the management of waste in Oxfordshire. The Part 2: Site Allocations Plan (upon adoption) will set out those mineral and waste sites needed to deliver the Core Strategy and may include further development management policies. The Site Allocations Plan is currently being prepared, and further consultation was carried out January – March 2020. At the current time only limited weight can be given to the Part 2 Plan.
 39. The OMWLP was adopted in July 1996 and covered the period to 2006. Of the 46 ‘saved’ policies, 16 remain saved following the adoption of the OMWCS. These 16 policies are non-strategic and site-specific, which will remain saved until the adoption of the Part 2 Plan.
 40. The WOLP 2031 was adopted in September 2018. This sets out the details of policies, sites and considerations for development within West Oxfordshire.
 41. The Government’s National Planning Policy Framework (NPPF) 2019 and National Planning Policy for Waste (NPPW) are also material considerations.

Relevant Policies

42. Oxfordshire Minerals and Waste Core Strategy (OMWCS):
 - M10 Restoration of mineral workings
 - C1 Sustainable development
 - C5 Local environment, amenity and economy
 - C7 Biodiversity and geodiversity
 - C8 Landscape
 - C10 Transport
 - C11 Rights of way.
43. Oxfordshire Minerals and Waste Local Plan 1996 (OMWLP):
 - SH2 Transport impact in Sutton
 - SH3 Routeing agreements.
44. West Oxfordshire Local Plan 2031 (WOLP):
 - OS1 Presumption in favour of sustainable development
 - CO14 Conservation and enhancement of the environment
 - EH2 Landscape character
 - EH3 Biodiversity and geodiversity
 - E8 Environmental protection.

• **Part 4 – Analysis and Conclusions**

Comments of the Director for Planning and Place

45. This application has arisen due to the applicant's continued failure to carry out the restoration of this landfill site in accordance with the planning permissions granted by the County Council, the most recent being the 2016 planning application referenced above. Both this and previous permissions have been for applications freely submitted by the applicant and to proposed pre- and post-settlement contour drawings which the applicant has proposed, most latterly after their then agent had entered into negotiations with your officers as a means of achieving an alternative to the enforcement action taken by the County Council in 2014, which required the removal of a large amount of over-tipped waste material. The permissions granted have therefore been to the applicant's benefit and it is extremely disappointing that the applicant has not complied with them and that no explanation for this failure to comply has been advanced.
46. The National Planning Policy Framework (NPPF) – Paragraph 58 states
Effective enforcement is important to maintain public confidence in the planning system.
47. The National Planning Practice Guidance (NPPG) - Paragraph 005 Reference ID: 17b-005-20140306 advises that effective enforcement is important to:
- *tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;*
 - *maintain the integrity of the decision-making process;*
 - *help ensure that public acceptance of the decision-making process is maintained.*
48. The background to this application is therefore that the County Council has taken enforcement action in line with national policy and guidance. The application must still be considered on its merits against the development plan and other material considerations. The site's history of significant breaches of planning control which have led to enforcement action being taken is a material consideration along with the other matters discussed below.

Landscape and Biodiversity

49. OMWCS policy C7 states that proposals for minerals and waste development should conserve and, where possible, deliver a net gain in biodiversity. Development should not cause significant harm, except where the need for and benefits of development at that location clearly outweigh the harm.

50. OMWCS policy C8 states that proposals for minerals and waste development should demonstrate they respect and where possible enhance local character. Proposals shall include adequate and appropriate measures to mitigate adverse impacts on landscape.
51. WOLP policy CO14 states that development should conserve and enhance the character and significance of West Oxfordshire's high quality natural, historic and cultural environment. It should also recognise and promote a wider contribution to people's quality of life and social and economic wellbeing, within the District and beyond.
52. WOLP policy EH2 states that development should conserve and enhance the quality, character and distinctiveness of West Oxfordshire's natural environment, including its tranquillity, geology, countryside soil and biodiversity. Proposals which would result in the loss of features, important for their visual amenity, or historic value will not be permitted unless the loss can be justified by appropriate mitigation and/or compensatory measures which can be secured. Special attention and protection will be given to the landscape and biodiversity of the Lower Windrush Valley Project, the Windrush in Witney Project Area and the Wychwood Project Area.
53. WOLP policy EH3 states that the biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity and minimise impacts on geodiversity, including promoting the conservation, restoration and re-creation of priority habitats, including the Conservation Target Areas (CTAs) and taking all opportunities to enhance the biodiversity of the site or locality and ensuring that development incorporates biodiversity improvements.
54. The overall restoration contours of the former landfill are of a lower quality than the approved contours and there is a difference of up to 3 metres in parts. The south-west corner of the application area has been filled with less care than the remainder of the site, and there is a lumpy and uneven appearance to the landform which is contrary to the approved contours on both previous permissions to address the overall restoration.
55. The approved restoration scheme has been partially implemented but has not been completed as approved. Although the alternative landform that has been created has been seeded with grass, this does not appear to be the species-diverse mix as specified as part of the previously approved restoration. The planned hedge to be planted across the landfill has also not been implemented as per the approved plans, therefore the original biodiversity net gain currently required under the existing planning permission has not yet been achieved.
56. The lack of long-term management for the landfill once restored could mean that the ecological and biodiversity benefits long-term could be

reduced and impact on the landscape and landform which has been created on the application site. However, the landscape adviser has not raised objection to the application proposals. Despite what is a lower-quality landscape and current biodiversity planting, as the seed mix has not been sown as approved, taken together with the overall landform which differs from the approved plans, she does not consider that these lead to significant adverse landscape or visual impacts.

57. There are no new engineering works proposed by this application, as the application is to regularise the existing contours as carried out as an alternative to the previously approved restoration landform. The previously approved grass seeding and planting is still to be implemented, which would complete the overall restoration. Any permission granted should therefore be subject to conditions requiring the previously approved grass seeding and planting to be completed. Subject to this, it is considered that the restoration which would then be achieved and so the application proposal is broadly in accordance with OMWCS policies C7 and C8 and WOLP policies CO14, EH2 and EH3.

Site Restoration

58. OMWCS policy M10 states that minerals workings will be restored to a high standard and in a timely, phased manner to an after-use which is appropriate to the location and delivers a net gain in biodiversity. The restoration and after-use of the minerals workings needs to take into account various factors. This includes a site's characteristics, landscape, local amenity, water-quality, biodiversity, geodiversity and historic environment.
59. This application is to regularise the contours as already carried out and to gain further time in which to then complete the grass seeding and planting to then move into the aftercare period.
60. This is the fourth restoration scheme submitted for the overall restoration of the former landfill, where active landfill and restoration should have been originally completed by 2005, then by 2012 with aftercare finished by 2017. The subsequent permissions granted as an alternative to the enforcement action taken by the County Council in 2014 against the significant overtipping of the site then required restoration to be completed by April 2018 with planting and grass seeding in the subsequent planting and sowing seasons. If the development had been carried out as permitted, then these would have been completed by now. Therefore, the restoration of the site as carried out to date arguably does not comply with policy M10 as being timely restoration; it is still not complete or to a high standard. The planting and grass seeding as approved has also not been completed to date. This is extremely disappointing given the good faith that was shown by the County Council in granting the further planning applications which were freely brought forward by the applicant at the time, as an alternative to requiring

compliance with the 2014 enforcement notice which required the removal of a substantial amount of waste material.

61. Nonetheless, given the unsuccessful further enforcement action taken in 2018, it is considered that it is desirable to bring this matter to a close through the restoration of the site at the earliest opportunity. The application for the restoration of the site to the currently tipped contours together with the completion of the outstanding planting and grass seeding within the next planting and sowing seasons would achieve this. To this extent it would now therefore be timely, given the current position on site. To this extent the restoration and so the application proposals would be broadly in accordance with the aims of OMWCS policy M10.

Amenity

62. OMWCS policy C5 states that proposals for waste development shall demonstrate that there would be no adverse impact on the local environment, human health or residential amenity and the local economy.
63. WOLP policy EH8 states that proposals likely to cause pollution or risk to safety will only be permitted if measures can be implemented to minimise these to a level which provides a high standard of protection for health, environmental quality and amenity. Specifically, any waste development needs to accord with the OMWLP.
64. There are no further engineering or landfilling works being proposed as part of this application, as the existing landform contours would be retained. There would be some further planting and sowing to be carried out, but this would not be on the same scale as the previous engineering and contouring operations, so should have a minimal impact on the amenity of the local residents whilst being implemented, as noise and visual intrusion should be limited.
65. There would be minimal impact on the closest residences and the development is considered to be in accordance with OMWCS policy C5 and WOLP policy EH8 with regards to impacts on amenity.

Transport and Rights of Way

66. OMWCS policy C10 states that waste development will be expected to make provision for safe and suitable access to the advisory lorry routes as shown on the Oxfordshire Lorry Routes Map. Development should maintain and, where possible, improve the efficiency and quality of the network, residential and environmental amenity and improve safety for all road users. Development which generates significant amounts of traffic should provide mitigation measures where appropriate.
67. Policy C11 of the OMWCS sets out that the integrity and amenity value of the rights of way network shall be maintained and if possible, retained

in situ in safe a useable condition. Improvements and enhancements to the rights of way network will generally be encouraged and public access sought to restored minerals workings, especially if this can be linked to wider provision of green infrastructure

68. OMWLP saved policy SH2 states that development for intensifying existing waste disposal will not be permitted where this would lead to a significant increase in traffic in Sutton, unless the Sutton bypass has been constructed and brought into use.
69. OMWLP saved policy SH3 states that the county council will seek routing agreements with operators in order to limit the use of the A415 through Standlake and southwards over Newbridge. The preferred routes will be the A415 north of Standlake to the Ducklington bypass, or the B4449 via the Blackditch, Sutton and Eynsham bypasses.
70. There are no further HGV movements being proposed as part of this development, as no further engineering or contouring work is being proposed. There could be some very limited vehicle movements connected to the outstanding planting to be carried out and with any aftercare requirements, but these are unlikely to be vehicles of a sufficient weight or intensity that would require to be subject to a routing agreement.
71. There are no changes to the extent of the application area, and the re-routed bridleway is now to the west of the application site and would not be affected by any further planting on site.
72. There are no further engineering works proposed with this application and no significant vehicle movements. Therefore, the application is in accordance with OMWCS policies C10 and C11 and OMWLP saved policies SH2 and SH3.

Other Issues

Sustainable Development

73. The NPPF (2019) contains a presumption in favour of sustainable development. This has environmental, economic and social roles, reflected in OMWCS policies C1 and C2 and WOLP policy OS1.

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 to improve economic, social and environmental conditions, unless other material considerations dictate otherwise.

74. Policy OS1 of the WOLP states that applications that accord with the Local Plan 2031 and, where relevant, Neighbourhood Plans will be approved, unless material considerations indicate otherwise.

75. The final completion of the restoration of the former landfill would improve the environmental impact of the site as the remaining grass-seeding and planting would add to the biodiversity of the immediate area.
76. This application does not propose any further engineering works and would complete the outstanding planting and grass seeding as has already been approved, facilitating the effective completion of the landfill's restoration, which accords with OMWCS policy C1 and WOLP policy OS1.

Conclusion

77. The landform contours as proposed are the fourth revision, having subsequently been lowered from the contours proposed most recently in the 2016 application as being unachievable due to the lack of material to do so, as stated by the applicant at the time. The landform contours have now been created up to 3 metres higher in places to what was previously proposed, in contradiction to the reasoning to reduce the overall landform. It is not at all clear therefore how this situation came about. However, this change to the approved landform is not deemed as causing a significant adverse impact in landscape and visual terms although the restoration of the former landfill is still not completed to a satisfactory standard. The biodiversity planting and seeding completed to date is not the species-mix as previously approved. However, subject to the planting and grass seeding still being completed as is proposed in the application, the development broadly conforms to policies M10, C7 and C8 of the OMWCS, and policies CO14, EH2 and EH3 of the WOLP.
78. The impacts of the landform and any further restoration work which needs to be completed would only impact marginally visually as the planting, once completed, should improve the appearance of the landform slightly. As no further engineering works are proposed to change any of the achieved, currently unapproved contours, there should be minimal noise or dust to impinge on local residents and the development would therefore conform to policies C5 of the OMWCS and policy EH8 of the WOLP.
79. There is no anticipated increase in HGV movements, as no further engineering works or material importation is proposed. There would be no direct impact on the public rights of way adjacent to the site and the application would therefore conform to policies C10 and C11 of the OMWCS and saved policies SH2 and SH3 of the OMWLP.
80. The proposal would allow for final restoration of a former landfill, reducing overall development impacts locally and eventually improving the environmental and biodiversity impacts. This would be in line with policy C1 of the OMWCS and policy OS1 of the WOLP.

81. It is extremely disappointing that the applicant did not complete the restoration of the site to the lesser contours previously permitted which had been the subject of previous negotiation with your officers which was undertaken in good faith. The reasons for why it transpired that in fact higher contours have been worked to than were proposed and approved in the 2016 planning application have not been explained. The planning merits for the enforcement action taken by the council in 2018 were not considered by the inspector appointed by the Secretary of State and it would be legitimate for the committee to draw the conclusion that the situation had been unsatisfactory, that it had undermined the integrity of the decision-making process and the public acceptance of it, but that further enforcement action should now be reserved for failure by the applicants to complete the restoration currently proposed swiftly. It is considered that on balance, it is now in the best interest of the local environment and community for the long and unfortunate history of this site to now be brought to final closure and that planning permission should be granted to the application.

RECOMMENDATION

82. **It is RECOMMENDED that the Director for Planning and Place be authorised to approve application no. MW.0126/19 subject to conditions to be determined by the Director of Planning and Place including those set out in Annex 2 to this report.**

SUSAN HALLIWELL
Director of Planning and Place

February 2020

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 application was straight forward and there were no issues beyond clarification of some points of detail.

Annex 1 - 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 2017, 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 and consideration of the habitats within the site area indicate that European Protected Species are unlikely to be present. Therefore, no further consideration of the Conservation of Species & Habitats Regulations is necessary.

Annex 2 – MW.0126/19 – Conditions

1. The development shall not be carried out other than in accordance with the drawings approved pursuant to condition 1 and the approved plans and particulars listed below other than to the extent that the contours shown on any drawing conflict with those set out on the drawings approved pursuant to condition 1:
 - Planning Application form dated 13 November 2019
 - Planning Statement dated 11 November 2019
 - Appendix A – Decision Notice MW.0141/16
 - Appendix B – Appeal Decision
 - Appendix C – Landscape and Visual Appraisal
 - Restoration and Aftercare scheme reference 187CRLR/11 Rev D dated October 2016;
 - Location Plan drawing reference no. 187CRLR/1 dated November 2014;
 - Working Plan drawing reference no. 187CRLR/13 dated May 2015;
 - Proposed pre-settlement landform, drawing number DIX001Rev D
 - Proposed post-settlement landform, drawing number DIX001 REV E
 - Aftercare Plan drawing reference no. 187CRLR/12 rev D dated October 2016;
 - Rights of Way Plan drawing reference no. 187CRLR/10 Rev A dated 16/07/15.
2. All landscape planting shall be completed within the first planting season following the date of this permission.
3. All grass seeding shall be completed within the first sowing season following the date of this permission.
4. Other than vehicles necessary for the carrying out of the landscape planting, grass seeding and any maintenance, there shall be no further vehicle movements.
5. All vehicles, plant and machinery operated within the site shall be fitted with and use effective silencers.
6. No reversing beepers or other means of audible warning of reversing vehicles, other than those which use white noise, shall be fixed to or used on any vehicle operating at the site other than those transporting any plant required for the development to be completed.
7. No operations on site shall exceed 50 dBA LAeq 1 hour (free field) when measured at properties in Stanton Harcourt, The Old Vicarage or Beard Mill.

8. No operations authorised by this permission, shall take place except between the following times:

7:00 am to 6:00 pm Mondays to Fridays
7:00 am to 1:00 pm Saturdays

No operations shall take place on Sundays or Bank or Public Holidays.

9. No further topsoil or other soil materials shall be imported to the site.
10. A five years period of aftercare shall be carried out in accordance with the approved Restoration and Aftercare scheme reference 187CRLR/11 Rev D and the approved Aftercare Plan drawing reference no. 187CRLR/12 rev D including the the provision of the annual aftercare meeting at which the provision of under-drainage shall be reviewed. Should it be determined that under-drainage is required, a detailed scheme which shall include a programme for its implementation shall be submitted to and approved in writing by the Waste Planning Authority no later than three months from the date of the aftercare meeting. The approved scheme shall be implemented no later than six months from the date of its approval.