

**For: PLANNING & REGULATION COMMITTEE – 1 June 2020**

**By: DIRECTOR FOR PLANNING AND PLACE**

**Serving of the Prohibition Order for the Review of the Mineral Planning Permission (ROMP) at Thrupp Farm and Thrupp Lane, Radley**

**Division Affected:** Kennington and Radley

**Contact Officer:** David Periam **Tel:** 07824 545378

**Location:** Land at Thrupp Lane and Thrupp Farm, Radley.

**District Council Area:** Vale of White Horse

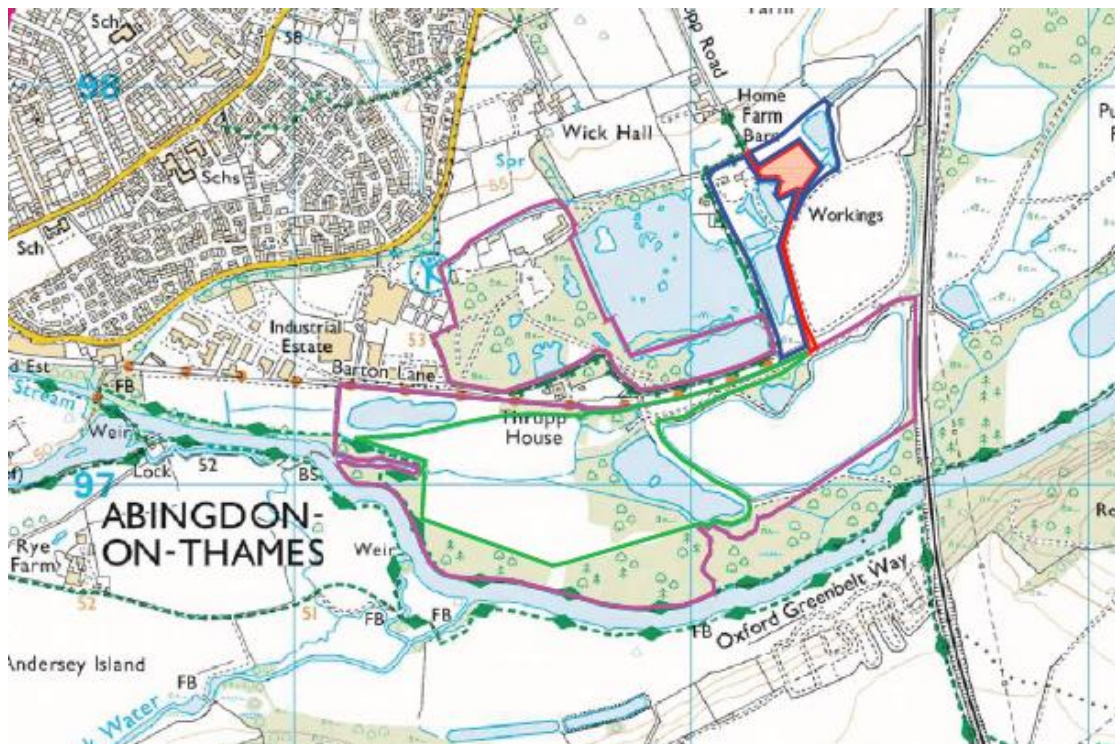
**Recommendation:**

**It is RECOMMENDED that the Planning & Regulation Committee's previous conclusion from its meeting on 9 September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased and that there is a duty to serve a Prohibition Order be reviewed in the light of the new planning application submitted for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP permission areas DD1 and DD2.**

1. The committee will recall that at its meeting on 9<sup>th</sup> September 2019, a report was presented with regard to the Review of the Mineral Planning Permissions DD1 and DD2 at Thrupp Farm and Thrupp Lane, Radley (the Radley ROMP site) and whether or not mineral working had permanently ceased. This report is appended as Annex 1. The committee resolved that mineral working had permanently ceased and that accordingly there was a duty on the Mineral Planning Authority to serve a Prohibition Order on the Radley ROMP site.
2. Subsequent to the committee meeting, the agent for the landowner contacted your officers and advised that the landowner was in active negotiation with a mineral company, H. Tuckwell and Sons Ltd, with regard to them being the contractors for the extraction of the mineral from the Radley ROMP site and that work was actively being undertaken for the submission of a planning application for processing plant and a conveyor to transport the mineral from the ROMP permissions for processing at their yard on Thrupp Lane. This was reported to the Planning and Regulation committee at its meeting on 9 December 2019 as an update on the minutes of the meeting on 9 September. A further update was given to the Planning and Regulation Committee at its meeting on 27 January under Chairman's

Updates that no further substantive information had been received and it was confirmed that the service of the Prohibition Order would proceed. A further update was provided under Chairman's Updates to the meeting of the Planning and Regulation Committee on 9 March and again it was confirmed that no further information had been received.

3. Officers proceeded with drafting the Prohibition Order although this was held up by the need to try to establish the lessee interests in the Curtis's Yard industrial area of the site. The Covid-19 lockdown then came into effect shortly afterwards and officers were instructed to work from home and all site visits were suspended amid concerns that officers might either contract or pass on the virus during the service of notices.
4. A planning application has now been received from H. Tuckwell and Sons Ltd for processing plant, a conveyor and a Bailey Bridge to be used in association with the extraction of mineral from part of the area covered by the Radley ROMP site shown outlined in green on the extract from the submitted application Site Location Plan below.



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5. This application is in the process of validation and your officers have gone back to the applicant's agent with some queries as set out in the e-mail attached as Annex 2.
6. Whilst the consideration of this application is at a very early stage, it is material to the council's assessment of whether or not mineral working pursuant to the ROMP permissions has permanently ceased. When the previous Prohibition Order was served in 2012, there was at that time a

planning permission in place for very similar development to that now proposed in this new application. That application expired without being implemented and so at the time that the report was written to the Planning and Regulation Committee on 9 September 2019, it was considered that the absence of any such extant permission weighed in favour of the conclusion that the mineral working had permanently ceased (please see paragraph 15 of Annex 1).

7. Although the 2012 Prohibition Order was quashed for other reasons, in her report, the planning inspector appointed by the Secretary of State did give consideration as to whether or not she was of the view that mineral working had permanently ceased. The relevant section of her report is as follows:

*“Whilst the PPG advises that there are unlikely to be many cases in which, after two years’ suspension, the MPA could not be considered to be acting rationally in assuming permanent cessation, this does not mean there can be no cases of this kind. Therefore, despite the two years’ suspension of permissions, it needs to be considered whether the working of minerals at Thrupp Farm is likely to resume.*

*Although the Thrupp Farm mineral has not been worked since the Enforcement Notice in 1995, once the enforcement issue was resolved, JCSL (J Curtis and Sons Ltd) consistently made clear that it would resume work at Thrupp Farm, after the mineral reserves at Sutton Wick were worked out. The arrangement for the remaining reserves (Area F) to be worked by HTSL and processed at HTSL’s Thrupp Lane plant demonstrates an intention to work Thrupp Farm. HTSL (H. Tuckwell and Sons Ltd) obtained planning permission in 2012 for this development and, in consideration, forwent its claim to a CLEUD and demolished existing plant on its site. HTSL has a reasonable expectation that it will be allowed to work the estimated 0.85 to 1 million tonnes of remaining reserves. A PO would put this in doubt.*

*Whilst Mr John Curtis made a Statutory Declaration in 2006 suggesting that work had been completed in 1990, I accept that this was a reference to the minerals dug to supply the Tarmac concrete plant and not a reference to all reserves within the ROMP site having been worked out. If there were no viable remaining reserves worthy of working, HTSL would not have gone to the expense and trouble of obtaining the 2012 planning permission.*

*Therefore, for the reasons given, I conclude that the winning/working/depositing of minerals at the Thrupp Farm ROMP site has not permanently ceased. Consequently, for the purposes of considering whether to confirm the PO, the tests have not been met and the PO should not be confirmed.”*

8. In the light of the previous inspector’s view and the weight she attached to the then extant permission for the conveyor and processing plant, it does

seem that, if the council were to proceed with the Prohibition Order prior to the determination of the current application (subject to it being validated) and it were to be appealed, then the council could find itself in a similar position again at a Public Inquiry. A further planning inspector may similarly consider a grant of planning permission further to this new application would be a material consideration that would weigh against supporting the council's position that mineral working had permanently ceased. In such circumstances, and in light of the previous inspector's view, it is your officer's assessment that that any planning permission that may be granted pursuant to this new planning application would be a material consideration in its assessment.

9. However, the new planning application only references the extraction of mineral from part of the Radley ROMP site; it does not provide any support of the intention to further work mineral from the rest of the site. No case is being put forward in the new application with regard to the working of mineral from the rest of the Radley ROMP site. Therefore, members may wish to consider whether or not the submission of this new application means that the previous conclusion that mineral working has permanently ceased needs to be reconsidered once the application has been determined by the County Council. In order to protect the council's position at any appeal, it is considered that any material consideration that comes to the council's notice prior to issuing the Prohibition Order is taken into account.

### **Conclusion**

10. The submission of the new planning application for processing plant, a conveyor and a Bailey Bridge to take the mineral extracted from part of the Radley ROMP site to the H. Tuckwell and Sons yard off Thrupp Lane, might be considered to be new evidence that there is actual intent to work the mineral within the part of the Radley ROMP site cited in support of the application and shown in green on the submitted application Site Location Plan. Therefore, subject to the application being validated, the committee should consider whether, pending the council's determination of the application, it wishes to remain of the view that mineral working has permanently ceased within this limited part of the Radley ROMP site and so that there remains a duty on the Mineral Planning Authority to serve a Prohibition Order.

### **Recommendation**

11. It is **RECOMMENDED** that the Planning & Regulation Committee's previous conclusion from its meeting on 9 September 2019 (Minute 39/19) that mineral working on the Radley ROMP site has permanently ceased and that there is a duty to serve a Prohibition Order be reviewed subject to the planning application submitted for processing plant, a conveyor and a Bailey Bridge for the removal of mineral extracted from part of the ROMP permission areas DD1 and

PN7

**DD2 being validated and pending the council's determination of the planning application.**

**SUSAN HALLIWELL**  
**Director for Planning and Place**

**May 2020**

