

PLANNING & REGULATION COMMITTEE

MINUTES of the meeting held on Monday, 7 September 2020 commencing at 2.00 pm and finishing at 4.28 pm

Present:

Voting Members: Councillor Jeannette Matelot – in the Chair
Councillor Stefan Gawrysiak (Deputy Chairman)
Councillor Ted Fenton
Councillor Mrs Anda Fitzgerald-O'Connor
Councillor Pete Handley
Councillor Bob Johnston
Councillor Glynis Phillips (In place of Councillor Damian Haywood)
Councillor G.A. Reynolds
Councillor Judy Roberts
Councillor Dan Sames
Councillor John Sanders
Councillor Alan Thompson
Councillor Richard Webber

Other Members in Attendance: Councillor Mark Gray (for Agenda Item 7)

Officers:

Whole of meeting G. Warrington and J. Crouch (Law & Governance);
D. Periam (Planning & Place)

Part of meeting

Agenda Item	Officer Attending
7	C. Kelham (Planning & Place)

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting, and decided as set out below. Except as insofar as otherwise specified, the reasons for the decisions are contained in the agenda and reports, copies of which are attached to the signed Minutes.

28/20 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

<i>Apology for Absence</i>	<i>Temporary Appointment</i>
Councillor Damian Haywood	Councillor Glynis Phillips

29/20 MINUTES

(Agenda No. 3)

The minutes of the meeting held on 20 July 2020 were approved for publication.

Minute 27/20 – Swannybrook Farm, Kingston Bagpuize, Abingdon

Officers advised that although all further investigation work requested by Committee in July had been done it had not been possible to complete all the analysis work. That had included the independent traffic survey, which had only been concluded recently and, therefore, it had not been possible to bring a report back to this meeting. A report would be made to the October meeting.

30/20 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 4)

<i>Speaker</i>	<i>Item</i>
Richard Dudding (Radley PC) Roger Thomas (Friends of Radley) Andrew Coker (Local Resident) Nick Dunn (Agent, Land Management)) 6. Serving of the Prohibition) Order for the review of the) Mineral Planning Permission) (ROMP) at Thrupp Farm and) Thrupp Lane, Radley,) Oxfordshire
Simon Rees (Agent) Councillor Mark Gray (Local Member)	7. White Cross Farm, Reading Road, Wallingford – MW.0033/18

31/20 SERVING OF THE PROHIBITION ORDER FOR THE REVIEW OF THE MINERAL PLANNING PERMISSION (ROMP) AT THRUPP FARM AND THRUPP LANE, RADLEY, OXFORDSHIRE

(Agenda No. 6)

The Committee considered (PN6) a report on the issue of the serving of the Prohibition Order for the Review of the Mineral Planning Permission (ROMP) at Thrupp Farm and Thrupp Farm, Radley and setting out whether or not the recent submission of a related planning application for a processing plant, conveyor and Bailey bridge for the removal of the mineral from part of the ROMP site and additional information provided with regard to the progression of the application for the review of mineral conditions on the ROMP planning permissions DD1 and DD2 changed the Committee's previous decision as to whether mineral working from the ROMP had permanently ceased or not and therefore the duty to serve a Prohibition Order or not.

Mr Periam presented the report. He and other officers responded to questions from members.

Councillor Johnston – Mrs Crouch advised that a Freedom of Information request had been received relating to the release of the Operator's Counsel's opinion. The assessment was that that had been supplied as confidential legal advice. A further request to review that decision was currently being considered.

Councillor Roberts referred to a suggestion from the parish council that there was an area not covered by any mineral extraction but part of the ROMP. Would it be possible to continue with the prohibition Order on just that section.

Mr Periam advised that the areas shown on the map were covered by the two relevant permissions and if a ROMP application came forward then that would have to relate to the whole area.

Roger Thomas spoke on behalf of the Friends of Radley. He referred to the Committee's decision in June 2020 to consider the future of the prohibition order in the light of counsel's opinion which had been received on behalf of the operator. That had not been made publicly available and, in his view, made it almost certainly unlawful to make a decision on the basis of a secret submission by the applicant. He did not agree with the decision not to release the document. The question facing the Committee now was would mineral working be likely to resume. A year ago the Committee had concluded that was not likely to be the case but it was now being suggested that it might at a future date. The Committee were being told a lot about Tuckwells and what they may do regarding a planning application and ROMP application but Tuckwells were not the landowner. Curtis were the landowners and extraction would only take place if Curtis wanted it to but what we have seen from them is 30 years of prevarication and obfuscation. He felt the real truth lay in a statement made under oath by the Managing Director of Curtis in 2007 that all extraction at Radley had been completed and reserves exhausted in 1990. Tuckwells have said they need an uninterrupted supply of gravel for their business but, lacking confidence that any extraction would resume at Radley, they are preparing 4

separate applications for extraction at a separate site. That did not suggest to him that work would resume at Radley. Curtis was not a party to this current process and had made no statement. Why not? Their Counsel's opinion apparently discusses the intention of the landowner but we hadn't been able to see that. At the moment the Committee had every reason to uphold its original conclusion that working would be unlikely to resume and so the prohibition order should be progressed. He suggested Curtis be given one month to make a clear statement of their intentions as landowner as all the Committee had before it were the hopes of a contractor so concerned that extraction might never resume at Radley was busy making arrangements to extract elsewhere. He urged the Committee to progress the Order.

Responding to Councillor Johnston Mr Thomas confirmed that as an unregistered and non-practising barrister he felt qualified to have taken a view on the legal opinion had he been allowed to see it.

Andrew Coker who lived at Thrupp House spoke on behalf of those households south of the proposed conveyer system and extraction and, therefore, most affected by this application. He agreed with all the points made by Richard Dudding and Roger Thomas referring particularly to the statement made in 2007 by the Managing Director of Curtis under oath that all extraction had been completed and all reserves exhausted in the 1990s. If that was the case he asked why were we here today? He suggested that it had been because back in 2007 they had wanted a tarmac plant on their land so had been prepared to make such a statement but here we are 13 years later with a proposal to build a conveyor belt to help extract gravel that we all thought wasn't there. The truth was that this blight had been going on for decades with both Curtis and Tuckwells running rings around the planning authorities and, by playing one authority off against the other, enabling industrial units to continue to operate illegally in the Green Belt but if the Committee decided to say no now then that would begin the process to allow for removal of these unlawful activities and buildings and the return of land back into either agricultural land in line with the original condition of the permission or nature reserve. He considered the real reason for the application had been to continue the misuse of the Green Belt and the County Council should stop this application thereby supporting the District Council in securing removal of the illegal industrial units. Had these companies been responsible stewards and worked with the local community our objections would not have been so vociferous. He gave an example of that disregard for both community and environment citing the poisoning of ground water due to illegal infill north of their homes. That had resulted in 5 times the recommended levels of manganese rendering the well water unsuitable for drinking. The track record for these companies was not good and suggested to him they were likely to disregard planning law, string out their extraction for many more years than you allow and leave it in a disgraceful state. But then what was there to extract as according to their managing director extraction had been completed in the 1990s. He urged the Committee to put a stop to this now and end this continual merry go round of obfuscation and planning abuse.

Councillor Johnston advised that in the interests of transparency he had met Mr Coker but asked him whether in his opinion Counsel's opinion had been secured by the applicants purely to derail the ROMP prohibition order and the planning application submitted to stymie the appeal process against the Vale of White Horse District Council's decision to refuse further illegal use of the Curtis site.

Mr Coker replied that he considered that to be the case and if he had been able to see that opinion would have been better placed to give a more rounded view of it.

In response to the Chairman Mrs Crouch advised that the matter before the Committee was whether the Prohibition Order should be served and not the planning application that had recently been submitted. With regard to that and as had been mentioned the county council was currently waiting for the outcome on the screening direction from the Secretary of State. The matter of the planning application was not before the Committee and should not be considered at the present time.

As Richard Dudding had been unable to join the meeting due to technical difficulties his statement on behalf of the parish council was read out to the Committee by the Committee officer.

Statement by Richard Dudding

“The site being considered is in the Radley Lakes area, which has wonderful potential for nature conservation and quiet recreation. However, we recognise that this needs to be achieved by a transition which respects commercial interests and is based on dialogue with landowners.

The area with remaining gravel is owned by JCSL. The Parish Council had six times sought dialogue with them and had six times been rebuffed.

During the last 25 years JCSL have extracted no gravel in Radley. We believe that they have had no intention to do so. But rather to keep open the possibility of extraction and, thereby, persuade the Vale District Council to allow ‘temporary’ uses of their nearby industrial yard. In our view they have been gaming the planning system. In doing so they have blighted the area.

So what’s new?

Certainly not the Tuckwells planning application for processing gravel. It is a cut down version of an earlier application, for which permission was given in 2012. That permission did not result in an ounce of gravel being dug and the permission lapsed. It is hard to see why this new application changes things.

Tuckwells have a good record of openness and dialogue, but the officers report leaves important questions unanswered.

- Do Tuckwells have a firm agreement with JCSL to extract on their land?
- Would they be able to start extraction if JCSL continued to want delay?
- Would they go ahead with extraction at Radley if their new areas at Sutton Wick looked more advantageous?
- Would they close business entirely in Radley if they got an attractive offer from Arnold White Estates, who have included their site in development proposals recently submitted to the Vale?

Overall, there is plenty of cause for scepticism and no new evidence of substance that extraction will resume. We consider that the legal tests for the prohibition order continue to be met. Some caution might be understandable, but it is not cost free. Holding back prolongs blight.

We do however have one suggestion. The area to the north of the disused railway has no gravel resources and no one is claiming that the land is needed in connection with extraction. OCC could proceed anyway with a prohibition order for this area even if they believe that the area to the south of the railway line justifies a further review of the evidence. This is a second best but would be progress.”

Nick Dunn (Land & mineral management) then spoke on behalf of H Tuckwell and Sons. The Thrupp Farm ROMP area was owned by J. Curtis and Sons Ltd and Tuckwells had entered into a legal contract with them to work this mineral subject to first submitting the ROMP application for modern planning conditions. He had worked on this application and the required environmental impact assessment since June 2018. In 2014 the Secretary of State had quashed an earlier Prohibition Order and awarded full costs against Oxfordshire County Council. Principal to that decision had been a planning application to transport and process the mineral from the ROMP Area to Tuckwells’ site at Thrupp Lane and the Inspector had considered, in part, that this planning application provided evidence of a genuine intention to extract minerals for the ROMP. Today we are in the same position as Tuckwells had invested around £30,000 in making the planning application to transport and process the mineral at their Thrupp Lane site. Nevertheless, unlike 2014, Tuckwells and Curtis had entered into a legally binding contract to extract the mineral subject to planning conditions being approved. This and other evidence showed that that there was a genuine and even stronger intention to extract minerals than had existed in 2014 when the Prohibition Order had been quashed. That evidence had also been assessed by legal Counsel whose formal Opinion confirmed that the Prohibition Order could not be sustained if put to the Secretary of State at another inquiry. In stark contrast, the 2019 recommendation to issue the Prohibition Order by both your advisors and local objectors had been based on conjecture without any objective supporting evidence and made without any consideration of the available evidence and any consultation with Curtis or Tuckwells who could have provided details of the work undertaken on the ROMP to date. Furthermore, when evidence had been provided to Committee in January 2020 it had been simply disregarded. A recommendation had now been made that the Prohibition Order should be delayed rather than quashed, so that the planning application to process the mineral at Thrupp Lane could be determined.

However, although the processing application provided evidence that the ROMP area was intended to be worked, the working of the ROMP was not reliant on the grant of this planning application. For example, the mineral from the ROMP would be taken off site by road and processed elsewhere or at Thrupp Lane if the processing application was not granted. Transporting mineral to Thrupp Lane without using the road was simply an environmentally preferable option rather than a precursor to the viability of mineral extraction in the ROMP. The outcome of the processing planning application should, therefore, not be used to support the Prohibition Order.

Your officers have also recommended delaying the service of the Order until March 2021 so Tuckwells could provide further information. This was considered

unreasonable, as sufficient evidence, supported by Counsel, had already been provided. There was simply no evidential basis to support the Prohibition Order and we do not understand why county officers were persisting with their assumptions and not listening to the facts. The order should be quashed whereas a decision now supporting the officer recommendation would simply be 'kicking the can down the road' at the expense of creating more ongoing uncertainty and costs for Curtis and Tuckwells who were due to make significant financial investments in the ROMP Area with the installation of piezometers and the start of hydrological and ecological monitoring costing tens of thousands of pounds all at a time when there had been a significant economic downturn and uncertainty caused by the ongoing pandemic, which might take many years to remedy. As a Mineral Planning Authority you have a duty to support sustainable mineral development and ensure a sufficient supply of aggregate in your County which is what was being proposed at the Thrupp Lane ROMP. We therefore respectfully request that you support the sustainable supply of minerals from a site already with planning permission by ending this ongoing uncertainty and cost and make an evidence based decision to quash the Prohibition Order today rather than delaying a decision for another 6 months. Finally it should be noted that representations from local residents are the same as those made to the Inspector in 2014. They had been rejected then as being irrelevant and not based on evidence so those same arguments should, therefore, not be given more weight at this time as they were still wrong and would be likely to result in the award of costs against them and the county council at any further inquiry.

Mr Dunn then responded to questions.

Councillor Gawrysiak asked if the recommendation before the Committee today to pause serving the Order until March was agreed would that, since you'd been working on this since 2018, allow sufficient time to submit a full and frank planning application and secondly whether or not he would be willing to arrange to have the legal opinion released?

Mr Dunn advised that a planning application would need a full environmental impact assessment. Principal to that they would need at least one year for hydrological monitoring and sampling. The intention was to put in piezometers in the autumn with a year to collect data, move forward to design development and then to the planning application stage. That was a long way off but was a typical and responsible process for an EIA. He was not in a position to offer release of the legal opinion but would discuss the matter with his clients.

Councillor Johnston advised that Mr Dunn was the 7th or 8th consultant he had questioned over 38 years and as no gravel had been extracted for 20 years or so why did he feel it unreasonable for this Committee to ask his clients to wait until March 2021 to see if more evidence could be produced because to date there had been very little information of any substance?

Mr Dunn advised that his Company had worked for Tuckwells for 30 years and as they had now taken on the site with the legal agreement it was full steam ahead. He referred to other similar sites nationally that had opened and while he understood the concerns this situation was not uncommon.

Councillor Roberts asked why if the mineral deposit was specific to area DD2 why would you then object to a prohibition order on area DD1?

Mr Dunn advised that there was some interconnectivity between the 2 sites. There was also an appeal ongoing on one of the sites and how that all fitted together as far as the legal process was concerned would need to be looked at. His focus was getting gravel out of the ground.

Councillor Phillips referred to the claims by the objectors regarding the statement made under oath that no mineral remained on the site. Could you comment on that and confirm how much mineral there was and how long that would take to extract?

Mr Dunn felt unable to comment as he did not know the context in which that statement had been made. He confirmed that there was a good million tonnes of material which could take 10 years to extract depending on market conditions.

Councillor Gawrysiak asked if the applicants would be in a position, if this recommendation were agreed, to give the Committee a substantial and substantive case why this working should be considered in the future in the light of the legal statement stating there was no material and the site hadn't been worked for 20 or 30 years.

Mr Dunn replied that the mineral was there. The intentions of the applicant were clear as evidenced by the intention to install piezometers in 4 months with additional monitoring also costing £1000/1500 per month. He needed to design the site but couldn't do that until they were clear about hydrology on the site and that would take at least a year. There would also be a winter bird survey carried out. Pending that he felt it premature to say anything else.

Mr Periam drew the Committee's attention to paragraph 18 of the report in which the Inspector set out the context of the statement made on behalf of John Curtis and Son which read as follows: "Whilst Mr John J Curtis and Sons Ltd 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."

Councillor Fenton asked why were the applicants concerned at the current recommendation to delay until March 2021 when the surveys referred to were likely to take upwards of a year to complete?

Mr Dunn replied that the objection revolved around the uncertainty caused. His clients had provided clear evidence to Counsel that they wanted to work the site undertaking significant investment with the promise of more. The order should be quashed now. If it was felt later that nothing was being done then the Order could be served.

Councillor Phillips asked if the recommendation were agreed was it the intention to carry on doing this work? If that was the case then there had been ample opportunities to get this hydrology work and bird survey work done.

Mr Dunn replied that it was the intention to get this done but his clients were under pressure. He had been waiting for legal contracts between the two parties to be agreed. That had been done last summer but then we went into this prohibition order process and Tuckwells had had concerns regarding the merits of making this type of investment against the backdrop of uncertainty caused by that process.

Councillor Roberts considered that as no mineral existed in area DD1 it seemed sensible to move the plant on that site to DD2 and proceed with the order for DD1. That would also assist the Vale of White Horse District Council to resolve issues regarding enforcing permissions on the industrial site.

Councillor Johnston clarified that both sites were tied together insofar as if the order was served on DD1 then the plant would then have to be moved at a cost to the company. It was in their interests to keep the sites contiguous.

Councillor Gawrysiak accepted the need to pause this process until March but he did not go along with the case put forward by Mr Dunn to relieve the pressure on the companies involved. They had done nothing for years but it seemed to him that this process was now beginning to have an effect by making them focus on the issues. However, he felt the Committee needed to be aware that, without pre-empting what might happen at a future meeting, if there was no evidence of progress then consideration might need to be given to serving the order.

He moved the officer recommendation which was seconded by Councillor Johnston.

Councillor Phillips emphasised the need that come March it was imperative to see some progress which would either put the notice into operation or see it withdrawn. It was important to avoid further drift.

The motion was put to the Committee and carried by 12 votes to 0 (Councillor Handley was absent from the meeting during the vote).

RESOLVED: 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 is not rescinded but that the service of the Prohibition Order is held in abeyance pending:

- i) the progression and determination of application no. MW.0075/20 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; and
- ii) H. Tuckwell and Sons Ltd providing an update, accompanied by documentary evidence, on progress with regard to the work on the application and Environmental Statement for the review of conditions for the ROMP permission areas DD1 and DD2 to the meeting of the Planning & Regulation Committee on 8 March 2021.

32/20 PLANNING APPLICATION TO ALLOW THE DEVELOPMENT OF AN OFFLINE RIVER THAMES MARINA BASIN WITH FIXED AND FLOATING PONTOON MOORINGS FOR APPROXIMATELY 280 BOATS, SLIPWAY, SECURE AND PUBLIC CAR PARKING, REFUELLING AND PUMP-OUT DOCK, REFUSE AND RECYCLING AREA, MARINA OFFICE AND CAFÉ, TOILET AND SHOWER BLOCK AND LAUNDRY FACILITIES, BOAT HIRE BUILDING, PICNIC AND BARBEQUE AREA, OPEN WATER AREA, CIRCULAR FOOTPATH, BOAT WORKSHOP, NEW FOOTBRIDGE AND CREATION OF NEW GRAZING MARSH, GRASSLAND, POND, REEDBED AND WET WOODLAND HABITAT WITH A CONSTRUCTION PHASE INVOLVING THE EXTRACTION AND PROCESSING OF SAND AND GRAVEL, THE IMPORTATION OF INERT FILL AND THE CONSTRUCTION OF NEW SITE ACCESSES, LANDSCAPING AND SCREENING BUNDS - WHITE CROSS FARM, READING ROAD, CHOLSEY, OXFORDSHIRE - APPLICATION NO. MW.0033/18

(Agenda No. 7)

The Committee considered (PN7) an application for the extraction of sand and gravel for the creation of a marina on land at Whitecross Farm, Reading Road, Cholsey.

Catherine Kelham presented the report with updates as since publication of the report revised comments had been received from the County Council's highways team and Environment Agency resulting in a revised recommendation.

She then responded to questions.

Councillor Johnston suggested that in view of the County Council having passed a climate emergency motion this application should be opposed on those grounds in addition to those set out.

Catherine Kelham advised that one of the reasons for refusal was air quality but she would be happy to consider wording for an additional reason if the Committee so wished.

Responding to Councillor Fitzgerald-O'Connor she advised that the likely timescale for the project if approved would be between 5 – 7 years.

Simon Rees spoke in support of the application as a relatively simple, small-scale, low-level, sustainable development bringing a range of both short term and long-term benefits to the County and the local community in the area of Wallingford. It was considered to comply fully with both the National Planning Policy Framework (NPPF) and also local planning policy and had been submitted following an extensive period of consultation with river users, local community organisations followed by a series of public exhibitions and presentations in response to an identified need and demand for new boat moorings and marina facilities together with local community water-based recreation facilities on and adjacent to the Thames Valley. The construction phase of the marina development would provide additional valuable sand and gravel supply into the Oxfordshire market while noting the site had been promoted as a small-scale

mineral site and featuring in earlier iterations of the emerging Oxfordshire Minerals Plan document.

The positive benefits and support for the development included:

- The construction phase offered the recovery and supply to market of high quality sand and gravel that would meet a demonstrable local need noting that no valuable sand and gravel reserves situated within the marina basin would be sterilised by this development.
- The off-line (off-river) marina clearly met an identifiable need for additional boat moorings and associated facilities for various boating user groups in the Thames Valley and reduced pressure for on-river (riverside) boat moorings. These were policies from the EA (who controlled the Thames) and the C&RT (who controlled most other waterways) to restrict and reduce on-line moorings to reduce congestion on the waterways and also direct impacts from boat users on the riversides and towpaths due to the number of boats moored end to end along long stretches of the river.
- Support for the marina development had come from a range of local organisations including the Boys Brigade Canoe & Kayak club, Wallingford Accessible Boat club (organisation for Disabled and special needs river users) and Sport England due to the community facilities offered. There had been numerous statements of support during the exhibitions from the local community as well as river user groups due to the very limited amount of facilities available on the Thames between Oxford and Reading.
- The economic benefits of the proposal had also been supported by the South Oxfordshire District Council Economic Development Officer due to the income generated from both the leisure facility itself and the wider tourism benefits that such a scheme could generate. A 91 page submission to Oxfordshire CC in January 2020 reviewed the existing River Thames marina facilities, the river boat and cruiser markets and also the proposals for a 280 berth marina development with associated boathouse/workshop facilities at Wallingford and concluded that:

“The financial proposals confirm that a successful and sustainable marina business located within the growing Oxfordshire tourism sector can be developed at White Cross Farm, with long term revenues generated in excess of £28m over a 20 year period from both marina fees, (at occupancy rates of 80%) and from associated commercial operations, with about £1million per annum generated for the local economy during the five year construction phase”.

It could clearly be demonstrated that both the short-term construction phase mineral extraction and the long-term marina development would meet the needs of the local economic agenda, support community organisations that currently could not access the river Thames and help support local tourism in the Wallingford and South Oxfordshire area.

Regarding mitigation of potential impacts the site had been carefully selected in terms of being situated in a preferred area of Oxfordshire for future sand and gravel supply, as well as being situated outside the Oxfordshire Green Belt, not within either of the two local AONB's and not containing any designated environmental designated site, such as SSSI's, SAM's etc. The development was low level and well screened from all residential properties and the Chilterns AONB. The existing riverside habitats also

restricted views into the site from the River Thames itself as there was a 30m stand-off between the edge of the marina and the riverbank. The proposed landscaping, planting and soft end-uses would quickly soften the appearance of the completed development and help it assimilate into the local landscape.

Detailed landscape assessment and evidence from very experienced professional landscape experts made it clear there would be no direct impact on the Chilterns AONB (which would reduce further as the site matured) and no impact on the North Wessex Downs AONB. There were no clear viewpoints of the application site from either AONB. The archaeological and heritage assessments also concluded that there were no direct impacts but that any would be indirect and not substantial. It should also be noted that the Mongewell site that contained the "heritage assets" had recently gained planning permission for over 166 dwellings and that the CABI site just to the north-east of the marina on the eastern river bank (within the AONB) is a permitted housing scheme of over 90 new dwellings.

The proposed marina landform and its surrounding habitats and areas of biodiversity had been designed following extensive consultation with the County Ecologist offering a clear Biodiversity net gain compared with the existing arable land and grazing land that formed the majority of this small area of farmland. It should be noted that the original farm had been split by the construction of the Wallingford by-pass that now formed the northern site boundary.

It was considered that this proposal was clearly a sustainable development having significant positive economic, environmental and social/community benefits; met the South Oxfordshire Local Plan policy R9 in supporting "off-river" boat moorings in "purpose built facilities" and would, therefore, reduce the pressure for "on-river" moorings in South Oxfordshire which Local Plan policy sought to specifically resist due to the congestion they caused in the river and the loss of amenity they caused to river bank walkers and other river users.

In conclusion the officer report placed far too little weight on the positive effects of the development in terms of both sand and gravel supply, which was a material consideration, nor on the long-term benefits of a marina in providing additional off-river moorings, as well as facilities for river user groups and an overall positive contribution to local tourism, the local economy and biodiversity and generally appeared to reduce the identified benefits while emphasising a range of "potential negative effects", often incorrectly using a suggested lack of need for the development as a justification for certain impacts being judged unacceptable. He considered this was not a proper approach and distorted the planning balance and the judgement to be made as the NPPF did not require the need for a development to be proved. Therefore, it was not accepted that there were any genuine reasons for refusing these proposals as there was no clear and robust evidence to demonstrate that the alleged impacts identified were significant, unacceptable or adverse, which were the criteria set out in NPPF. None of the key consultees had presented any clear evidence that there were any areas of potential impact that breached the threshold of unacceptability. He asked the Committee to either:

- i) grant permission subject to a range of planning conditions to provide control over both the mineral extraction and the development and operation of the proposed marina, or
- ii) defer a decision subject to a site visit to assess the potential impacts and also allow time to fully investigate further the benefits of the scheme.

Mr Rees then responded to questions.

Councillor Gawrysiak asked for comment on the responses from the Environment Agency and OCC Landscape Officer as set out on pages 88- 90 in the report. Firstly the EA had stated that the flood risk assessment supplied did not comply with requirements for site-specific flood risk assessments and there was a lack of detail with regard to pollution or unnecessary impacts to the water environment. Secondly the OCC landscape officer had considered that the development would cause unacceptable harm and impact on the landscape character and visual quality.

Mr Rees advised that a full EIA had been supplied in 2018 and there had been objection at the 1st phase of consultation. They then went through a Regulation 25 submission in January 2020. The EA then came back in March/April saying that the flood risk assessment was out of date because the River Thames Flood Risk Model had been updated. We recommissioned a revised flood risk assessment in July and the latest position as he understood it was that the EA had not reviewed that data and so were upholding their objection until that had been done. With regard to pollution he felt that there had been some confusion over how sewage would be dealt with. It was not intended to dispose of sewage into the Thames but either through access to main sewage for which there was capacity or through a tank system which was normal for such developments. On landscape they felt that a lot of work had gone into this but felt that, in principle, the landscape officer had not liked the scheme but had not carried out any assessments or produced any evidence to support that view and without that they could not accept that there would be adverse impact. There had been a lot of subjective and negative comments but no evidence to support that.

Catherine Kelham confirmed that further information submitted in relation to the flood risk modelling had been submitted to the Environment Agency and that the Agency had not yet had time to consider that and respond to it. However, at this point it had not been demonstrated that the flood risk was acceptable but that might change when the EA had reviewed the data.

Councillor Johnston – Mr Rees advised that this was a 280 berth marina with provision for 50 - 80% who paid for a mooring and 20% river traffic. That was about normal for this type of marina development. It would not in itself create additional river traffic. The Thames was a fluid system with boats moving back and for but there was a lot of pressure on mooring space.

Councillor Phillips asked why these applications had been conflated and not separated between County (for extraction) and the District Council (marina development).

Mr Rees advised that in 2015/16 he had dealt with South Oxfordshire District Council. That had involved a pre-application meeting and scoping but because the application

involved minerals the matter had been called in by the County Council as a county matter.

Catherine Kelham confirmed that an application for the winning and working of materials on or under the ground or for machinery proposed in connection with that work was a county matter. Therefore, because the application was for the winning and working of material even if at the end of that work it was proposed to create a marina it fell within the remit of a county application. It could have been viewed as a mineral extraction with restoration to a marina but that is not how the application had been presented.

Councillor Thompson – Mr Rees confirmed that there would be a phased working scheme over 4 years with around 120,000 tonnes pa. There was a clear market locally for the material.

Councillor Sanders referring to the need for the material pointed out that the report indicated that there was no need for further sharp sand and gravel now?

Mr Rees advised that at the time of the application there had been a perceived need but it had taken so long to get to this point things had moved on. At the time of the application there had been a clear emphasis in county policy for extraction of gravel in the south of the county away from West Oxfordshire and the application complied with that. This was essentially a short-term development for a marina with the bonus of a windfall site offering opportunities for economic development and material into the local market. It should not be seen as a site adding to the landbank.

Councillor Mark Gray the local member advised that there was a massive amount of local opposition to this application including both Wallingford Town and Cholsey Parish Councils. Support by comparison was small. There was already a gravel site operating nearby which challenged the question of need for the material. There were huge environmental issues from a dramatic change of land use on what was the longest uninterrupted stretch of the Thames and much prized by rowing clubs. The path alongside was in constant use and not just for recreation with otters sighted in the area. He was surprised that the SODC Economic officer supported the proposed development as it had been opposed in the Local Development Plan. This had dragged on and he urged the Committee to bring that to an end and refuse the application.

He then responded to questions from:

Councillor Sanders – he was not aware of any moorings on that stretch of river. There were a few around Wallingford and while there was a need for a few more in Wallingford there was no demand for 280 or anything like that number.

Councillor Johnston - he supported an additional reason for refusal based on the potential carbon footprint of the development.

Councillor Webber advised that some 30 years ago he and his family had hired a boat from a boathouse on this stretch of water but that had now closed as it was not

financially viable. Would you agree that brought into question the financial viability of this scheme?

Councillor Gray could not recall the specific detail as to why the boathouse had closed but agreed it was likely that economics would have played a part in its closure.

The Committee noted the following comments from County Councillor Peter Sudbury (Wallingford) who supported the officer recommendation for refusal of the development which he considered were well-argued reasons. The development would be a dreadful eyesore, creating pollution and unwanted extra river traffic. The process of building it would cause years of disruption to already overloaded roads and represented in his view wasteful environmental vandalism.

On the advice of officers Councillor Johnston advised that he would not pursue an additional reason for refusal based on the climate emergency motion as passed by Council.

Councillor Handley expressed some concern that refusing the application might be premature bearing in mind the potential demands in connection with the SODC Local Plan projected housing development.

Catherine Kelham advised that the current landbank figure indicated that there was sufficient material being produced to maintain a 7 year projection. The Committee needed to take a decision in accordance with policies which currently implied there was sufficient material.

Councillor Webber agreed that there was little justification for the extraction of gravel and on those grounds alone the application should be refused.

Responding to Councillor Fitzgerald-O'Connor Catherine Kelham confirmed that there would be 58 HGV movements in and out of the site with a one-way system to avoid crossing lanes of traffic. Those roads were not part of the main strategic network for lorry movements but were connecting roads and seen as suitable for that type of vehicle. With regard to the size of the site SODC had provided substantial comments on that. The original proposal had been for 300 – 350 moorings but that had been reduced by the applicant. No further reduction had been discussed.

Councillor Sanders felt it unfortunate that due to current restrictions the Committee had been unable to visit the site which made consideration of some of the reasons for refusal such as 2 and 3 quite difficult. He was sure this development would be welcomed by some people but nevertheless he could not support it. He moved the officer recommendation as amended by the deletion of refusal reason 8 in the printed papers and the addition of the following reason:

“It had not been demonstrated that the development would not increase flood risk elsewhere as required by paragraph 163 of the NPPF and contrary to draft policy EP4 of the SOLP2034. “

The motion seconded by Councillor Phillips was put to the Committee and –

RESOLVED: (10 votes to 1, Councillor Sames recorded as voting against and Councillor Handley as having abstained) that subject to no additional material

comments being received by the completion of the consultation period, that application no. MW.0033/18 for Planning Application to allow the development of an offline River Thames marina basin with fixed and floating pontoon moorings for approximately 280 boats, slipway, secure and public car parking, refuelling and pump-out dock, refuse and recycling area, marina office and café, toilet and shower block and laundry facilities, boat hire building, picnic and barbeque area, open water area, circular footpath, boat workshop, new footbridge and creation of new grazing marsh, grassland, pond, reedbed and wet woodland habitat with a construction phase involving the extraction and processing of sand and gravel, the importation of inert fill and the construction of new site accesses, landscaping and screening bunds be refused for the following reasons:

- 1) There was no identified need for a 280 berth marina of which 80% of the moorings would be for permanent moorings. The development was therefore contrary to saved policy R9 of the South Oxfordshire Local Plan 2011, policy CSS1 of the South Oxfordshire Core Strategy 2012 and policy ENV4 of the South Oxfordshire Local Plan 2034.
- 2) The proposed development would constitute a dramatic land-use change that was both discordant with the landscape character of the area and detracted from the open and undeveloped countryside setting of the River Thames and Chilterns AONB. It was therefore contrary to policies CSEN1 of the South Oxfordshire Core Strategy 2012, C4 and C8 of the Oxfordshire Minerals and Waste Local Plan – Part 1 Core Strategy and C3 of the South Oxfordshire Local Plan 2011.
- 3) The development would harm the setting of listed buildings and the public benefit of the development was not considered to outweigh that harm. It was therefore contrary to policies CON5 of the South Oxfordshire Local Plan 2011, CSEN3 of the South Oxfordshire Core Strategy 2012 and C9 of the Oxfordshire Minerals and Waste Local Plan – Part 1 Core Strategy and Section 66(1) of the Listed Buildings and Conservation Areas Act 1990.
- 4) The development was not considered to be a well-designed place and did not accord with policies D1 of the South Oxfordshire Local Plan 2011 or policy CSQ3 of the South Oxfordshire Core Strategy 2012.
- 5) There would be a loss of Best and Most Versatile agricultural land contrary to policy C6 of the Oxfordshire Minerals and Waste Local Plan – Part 1 Core Strategy.
- 6) The accessibility of the site for non-vehicular modes was not considered to comply with policies T1 of the South Oxfordshire Local Plan 2011 and TRANS 2 of the South Oxfordshire Local Plan 2034.
- 7) It had not been demonstrated that the development would not have an unacceptable impact on air quality, pollution and human health contrary to elements of policy EP1 of the South Oxfordshire Local Plan 2011 and policy C5 of the Oxfordshire Minerals and Waste Local Plan – Part 1 Core Strategy.
- 8) It had not been demonstrated that the development would not increase flood risk elsewhere as required by paragraph 163 of the NPPF and contrary to draft policy EP4 of the South Oxfordshire Local Plan 2034
- 9) It had not been demonstrated that the development would not have an unacceptable impact on groundwater contrary to policies C4 of the Oxfordshire

Minerals and Waste Local Plan – Part 1 Core Strategy and policy SP7 of the South Oxfordshire Local Plan 2011.

- 10) It had not been demonstrated that the development would not have an unacceptable impact on the enjoyment of existing recreational users of the river though additional water traffic generation and is contrary to policy R4 of the South Oxfordshire Local Plan 2011.

..... in the Chair

Date of signing