

Addendum – Planning and Regulation Committee 23rd February 2026

Land at Thrupp Farm, Radley MW.0041/23

1. Since the report was published, further representations have been received from members of the public including a request for information under the Environmental Information Regulations 2004 with regard to all information that will clarify what was said in the Addenda to the Planning & Regulation Committee agenda and reports for the 19 January meeting. These have referenced and queried the advice given by officers on the legal point which was addressed in paragraphs 1 to 4 of the addendum for item 6 of the Planning and Regulation Committee of 19th January 2026 with regard to whether the ROMP permissions DD1 and DD2 had ceased to have effect. A letter received from Taylor Wessing solicitors on behalf of a local resident in this respect is set out in full in Appendix 1.
2. Radley Parish Council has also advised that they consider it would be prudent that the County Council sought further advice on this matter from a barrister specialising in Planning law so as to avoid the possibility of any decision being subject to judicial review. They go on to state that if it does turn out that the permissions have expired that would surely give the County the opportunity to retain the rare habitats highlighted by your Biodiversity Officer without the necessity of compensating the Applicant.
3. Whilst the membership of the committee has changed with the passage of time, at the meeting of the Planning and Regulation Committee on 18th July 2022, a report with regard to the Radley ROMP was considered. Paragraphs 32 and 33 of that report addressed the concern raised that the planning permissions DD1 and DD2 had ceased to have effect. Counsel's advice was obtained at that time on this point which informed the Officer report. Paragraphs 32 and 33 of that report are produced below:

32. Subsequent to the meeting on 6th September 2021, officers received representations from a member of the public drawing their attention to a ROMP site in North Lincolnshire. In this case, the court refused to include a site on the official list of ROMP sites after the date for inclusion expired because of the strict wording in the relevant legislation. The wording referred to stated that a planning permission not included in the first list shall "cease to have effect" on the day following the last date that an application may be made and there is no provision in statute to extend that date. The member of the public queried whether this similarly applied to the rules relating to submission of a ROMP Application, which states that where a ROMP review is underway, then the mineral permission shall cease to have effect on the day following the review date or on such later agreed date as may be agreed at any time in writing. As the review process allows for the postponement of the submission date to any date and at any point in the process, and as the Council has been and is in discussion with the developer as regards submission of the ROMP Application, members are advised that the strict regime referred to in the North Lincolnshire case does not apply.

33. However, the terms of the relevant statute are such that it is advisable to formally agree an extension to a specified date. This does not preclude the Council from extending that date in the future, but does make the position as to the making and accepting a ROMP application clear.

4. The Resolution of the committee meeting on 18th July 2022 included that Officers seek to agree a date with H. Tuckwell and Sons Ltd. by which a ROMP Application would be submitted. In subsequent correspondence, the agent for H. Tuckwell and Sons Ltd. agreed

to submit the ROMP application by 28th February 2023. The valid submission was received on 22nd February 2023.

5. The Committee has therefore previously considered the substantive point raised with regard to whether the planning permissions have ceased to have effect, concluded that they remained live and instructed officers to nonetheless agree with the applicant a specific date by which the ROMP application should be submitted, which was done and the submission made within the time agreed.
6. Counsel's advice has similarly been sought on the point raised again by Taylor Wessing as set out above and with reference to the case of Vattenfall as referenced in the Taylor Wessing letter and addressed in the addendum to the meeting of the committee on 19th January 2026. Counsel's advice remains as set out in that addendum and specifically in relation to the Taylor Wessing letter, is that it raises no new points and that she would still distinguish Vattenfall from the present circumstances, as the legal framework for the acquisition of a right is very different from that concerning the loss of one.
7. To conclude on this point, the officer advice supported by Counsel advice to the committee remains as that provided to the committee at its meeting on 8th July 2022, which the committee agreed with and which informed the subsequent correspondence with the applicant. The applicant proceeded to make the submission in good faith, the submission has been widely consulted on with both the local community and technical consultees and the officer Recommendation remains as set out in the addendum to the Planning and Regulation Committee meeting on 19th January 2026
8. The points raised on the submitted conditions in the letters submitted by Taylor Wessing on behalf of their client in response to consultation on the submission and which are appended to their most recent letter as set out above have been considered. Along with all the other representations received from third parties, your officer has considered them in drafting the recommended conditions set out in Annex 4 to the committee report to the Planning and Regulation Committee on 19th January 2026. As members will appreciate, the purpose of advertisement of applications is to provide for public comment to be made on them and for the council to consider the comments made as may be material to the determination of applications; the council is not resourced to enter into ongoing correspondence with all individual parties who make comments on applications received.
9. A further representation has also been received raising further comments in relation to the ecology of the site and the recommended conditions. This is summarised below:

Given the level of impact arising from the installation of the conveyor on the habitats at the site, an amendment to the additional condition to address this is proposed:

*"No development shall commence in each phase **or for the construction/installation of the conveyor infrastructure** until up-to-date surveys for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments undertaken in line with best practice guidelines have been submitted to and approved in writing by the Mineral Planning Authority...."*

Or if previous suggested amendment to the condition is accepted:

*"No development shall commence in each phase **or for the construction/installation of the conveyor infrastructure** until an Ecological Mitigation Plan (EMP) has been submitted and approved in writing by the County Planning Authority. The EMP shall be informed by up-to-date surveys, undertaken by suitably qualified ecologist(s), recognised by a relevant professional body such as CIEEM, and in accordance with current survey guidelines. The*

surveys will include those for great crested newts, bats, birds, reptiles, otters, water voles, fish and habitat and botanical assessments. The EMP shall include:

- The methodology and results of the ecological surveys;
- Establish if there have been any changes in the presence and/or abundance of protected species;
- Identify any likely new ecological impacts that may arise from any changes;
- Details of protection of retained habitat and avoidance measures with regards to protected and notable species;
- A timetable for the implementation of mitigation measures.

The EMP shall thereafter be implemented in accordance with the approved details.”

10. Officers will consider the comments made with regard to the conditions and the amended officer Recommendation in the addendum to the Planning and Regulation Committee meeting on 19th January 2026 provides for amendments to be made to the conditions by the Director of Economy and Place if considered appropriate. For convenience, the officer Recommendation is set out again below:

RECOMMENDATION

It is RECOMMENDED:

- A** That in the absence of there being a position in law to refuse the application to determine the conditions to which planning permission numbers DD1 and DD2 are to be subject despite the significant effect identified through the loss of irreplaceable and priority habitats, refer the application to the Secretary of State for their consideration as to whether to call the application in for their own determination;
- B** Should the Secretary of State decline to call the application in for their own determination, authorise the Director of Economy and Place to determine the conditions to which planning permissions DD1 and DD2 are to be subject including those set out in Annex 4 and with any amendments as considered necessary including to provide greater clarity and precision as to the geographical areas which the conditions apply to, but without the condition restricting development in the areas of irreplaceable and priority habitats.

Appendix 1 – Taylor Wessing Letter

FAO David Periam
Oxfordshire County Council (the "**County Council**")
County Hall
New Road
Oxford
OX1 1ND

TaylorWessing LLP
5 New Street Square
London
EC4A 3TW

Tel: +44 (0)20 7300 7000
Fax: +44 (0)20 7300 7100
DX 41 London
www.taylorwessing.com

Direct Tel +44 (0)20 3077 7240
k.little@taylorwessing.com

BY EMAIL

David.Periam@Oxfordshire.gov.uk
David.Mytton@Oxfordshire.gov.uk
Jennifer.Crouch@Oxfordshire.gov.uk
SECC@oxfordshire.gov.uk

Date
18 January 2026

Our reference
DEL108.U5/UJT B

Your reference
MW.0041/23

Representations in relation to the application with reference MW.0041/23 concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (the "Property")

Dear Oxfordshire County Council

1. Background

- 1.1 We act for the owner of the Wick Hall Estate, Radley, Abingdon, OX14 3NF (our "**Client**" and our "**Client's Property**", respectively). Thrupp Lane runs along the eastern boundary of our Client's Property and is used to access various properties on the estate.
- 1.2 We write in relation to the application with the reference MW.0041/23 for "Determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)" (the "**ROMP Application**").
- 1.3 This letter follows our previous correspondence dated 25 April 2023 and 13 September 2024, copies of which are enclosed. Those letters proposed amendments to the conditions submitted with the ROMP Application and raised our Client's concerns, including in relation to the redline boundary; failure to restore land subject to the ROMP Application; and the applicant's failure to consider comments relating to conditions raised by consultees.
- 1.4 Our Client maintains all comments from those earlier letters and requests that the County Council reconsiders their content in advance of the Planning and Regulation Committee Meeting scheduled for Monday 19 January 2026 (the "**Committee Meeting**"), at which the ROMP Application is due to be considered. In addition, we request that the County Council considers as a matter of urgency whether it is legally able to determine the ROMP Application.

Taylor Wessing LLP is a limited liability partnership registered in England and Wales, registered number OC322935. A list of members is available for inspection at our registered office: 5 New Street Square, London EC4A 3TW.

Any reference to a partner in relation to Taylor Wessing LLP is to a member of Taylor Wessing LLP or an employee or consultant of Taylor Wessing LLP with equivalent standing as the members of Taylor Wessing LLP. Taylor Wessing LLP is authorised and regulated by the Solicitors Regulation Authority.

Taylor Wessing is the trading name used by a number of distinct legal entities. Further information can be found on our regulatory page at www.taylorwessing.com

2. No legal basis for the ROMP Application

2.1 We have reviewed the report to the committee published by the County Council (the "**Committee Report**"). Following this review, we write on behalf of our Client to raise a fundamental concern relating to the ROMP Application's legal basis.

2.2 Based on the information in the Committee Report, it is our view that permissions DD1 and DD2 ceased to have effect in 2016. The County Council therefore erred in purporting to validate the ROMP Application and has no jurisdiction to proceed to determine the ROMP Application. We explain our position below.

3. DD1 and DD2 have ceased to have effect

3.1 The Committee Report states that a formal notice of review for the whole of the area covered by permissions DD1 and DD2 was served on 9 October 2015, giving the applicant until 31 October 2016 to submit the ROMP Application (the "**Review Date**"). Although not specified in the Committee Report, we assume that the notice was served under paragraph 4 of Schedule 14 to the Environment Act 1995 (the "**1995 Act**"), anticipating the submission of an application under paragraph 6 of the same Schedule.

3.2 The Committee Report states that no application was made by the Review Date. The ROMP Application was, in fact, not made until 26 January 2023.

3.3 It appears from the Committee Report that no extension of time to make an application was agreed between the Council and the Applicant prior to the Review Date, with the Committee resolving at its meeting on 18 July 2022 that it would seek to agree a date with the Applicant by which an application would be submitted. There is equally no reference in the Committee Report to any agreement with the applicant for postponement of the Review Date.

3.4 The consequence of no application having been submitted or extension of time or postponement agreed by the Review Date is that permissions DD1 and DD2 ceased to have effect on the day after the Review Date – i.e. in 2016. This is clear from paragraph 7 of Schedule 14 to the 1995 Act which provides:

Where no application under paragraph 6 above in respect of a mining site has been served on the mineral planning authority by the [review date], or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral permission—

(a) relating to the site; and

(b) identified in the notice served in relation to the site under paragraph 4 above

cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the [review date] or, as the case may be, such later agreed date.

3.5 The County Council appears to have proceeded on the basis that it was able to agree an extension of time to submit the ROMP Application during the course of 2022, some six years after the Review Date had passed. While paragraph 7 anticipates that an applicant and a minerals planning authority may agree an extension of time to submit such an application, it is our firm view that the County Council had no legal basis on which to do so after the Review Date. The 1995 Act equally does not provide a statutory means of reviving

a minerals permission which has ceased to have effect in accordance with paragraph 7, whether by agreement with the applicant or otherwise.

4. Invalid agreement to extension of time

- 4.1 We consider that, in order to be legally sound, extensions of planning time periods must be agreed before the prescribed determination period has expired. This principle is established by the Scottish case *Vattenfall Wind Power Ltd v Scottish Ministers* [2009] CSIH 27.
- 4.2 In *Vattenfall*, the planning authority failed to make a decision within the statutory determination period, and the applicant subsequently failed to lodge an appeal within the timeframe to do so. The planning authority and applicant then purported to agree to an extension of time, during which the authority again failed to make a determination. When the applicant lodged an appeal, it was rejected by Scottish Ministers as being out of time. The case confirms that any agreement to extend time must be made before the expiry of the prescribed period; retrospective agreements cannot revive rights that have already lapsed.
- 4.3 While *Vattenfall* was decided in the Scottish Courts and is not binding on the English Courts, the relevant statutory provisions are materially similar to those contained in paragraph 7 of Schedule 14 to the Act, including the reference to an extension which may "at any time be agreed". In the context of the Act, which has UK-wide application, we consider that the principle in *Vattenfall* is directly relevant. This does not appear to have been considered by the County Council.
- 4.4 Applying *Vattenfall* to this case, the County Council and applicant purported to agree an extension in 2022, six years after the Review Date had passed and the permissions had ceased to have effect. No such extension was available at this point. The County Council therefore erred when it subsequently purported to validate the ROMP Application and cannot now proceed to determine it. If this were not the case, mineral planning authorities and applicants could by agreement effectively "revive" minerals permissions which ceased to have effect decades ago, creating significant and widespread uncertainty for land use planning.

5. Next steps

- 5.1 We submit that the County Council must address these fundamental concerns regarding the legal basis of the ROMP Application before taking any further steps. Given the importance of this matter, we ask the County Council to:
- (a) defer consideration of the ROMP Application at the Committee Meeting scheduled for 19 January 2026 pending resolution of the issue;
 - (b) review the legal basis of the ROMP Application and consider seeking counsel's opinion on whether it has jurisdiction to determine the ROMP Application; and
 - (c) if the County Council concludes that there was no legal basis for the ROMP Application due to the underlying permissions having ceased to be in effect, as appears to be the case, it should treat the ROMP Application as invalid on that basis.

- 5.2 If it would assist the County Council to discuss any other matters raised in our letters, then please do not hesitate to contact Kate Little (K.Little@taylorwessing.com) and Emma Tait (E.Tait@taylorwessing.com) of this firm.

Yours faithfully

A handwritten signature in black ink that reads "Taylor Wessing LLP". The signature is written in a cursive, flowing style.

Taylor Wessing LLP

Enclosed:

- (a) TWL to the County Council dated 25 April 2023; and
- (b) TWL to the County Council dated 13 September 2024.

Oxfordshire County Council (the "**Council**")
County Hall
New Road
Oxford
OX1 1ND

Taylor Wessing LLP 5
New Street Square
London
EC4A 3TW

Tel: +44 (0)20 7300 7000
Fax: +44 (0)20 7300 7100
DX 41 London
www.taylorwessing.com

Direct Tel +44 (0)20 3077 7240
j.bassett@taylorwessing.com

Date
13 September 2024

Our reference
DEL108.U5/UJT B

Your reference
MW.0041/23

Further representations in relation to the application with reference MW.0041/23 concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (the "Property")

Dear Oxfordshire County Council

1. Introduction

- 1.1 We act for the owner of Wick Hall, Radley, Abingdon, OX14 3NF (our "**Client**" and our "**Client's Property**", respectively). Thrupp Lane runs along the eastern boundary of our Client's Property and is used to access various properties on the estate.
- 1.2 We write in relation to the above referenced application for "*Determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)*", the "**ROMP Application**".
- 1.3 We write further to our letter dated 25 April 2023 (our "**2023 Letter**") concerning the ROMP Application, a copy of which is appended to this letter. We write in response to the latest consultation period for the ROMP Application following the submission of further documentation by the applicant. We understand that documentation was submitted following a letter from the Council to the applicant dated 5 July 2024 requesting further information in relation to ecology, flood risk, groundwater, noise, and air quality (the "**Reg. 25 Letter**").
- 1.4 The Reg. 25 Letter also included the following paragraph:

"The section above comprises the request under Regulation 25. However, some consultation responses and comments received included suggestions for amendments and additional conditions. These should be considered and any commensurate amendments made to the application and the amended conditions submitted for review or otherwise provide details of the reasoning for not doing so."

1.5 For the avoidance of any doubt, our Client maintains all of the comments made in our 2023 Letter, and this letter focuses on the following:

- (a) the redline boundary of the ROMP Application;
- (b) securing restoration of the whole of the areas that remain to be worked and that have been worked but not yet restored;
- (c) the applicant's failure to respond to the Council's request that they consider the comments on conditions raised by consultees.

2. The redline boundary of the ROMP Application

2.1 We understand that the Radley Lakes Trust has raised concerns that the application boundary has not been drawn around the whole of the area covered by the original permission P/369/71 and thereafter DD1 and DD2 together, being the whole of the land shaded blue, green and yellow on drawing 757-01-04 (the "**Original Mining Area**").

2.2 We further understand from the applicant's planning statement that DD1 and DD2 were granted by deemed determination in 2000 but that:

"In recognition that the planning conditions were granted by default and were not the subject of an EIA, Oxfordshire County Council required a formal review for the whole areas covered by DD1 and DD2 in October 2015 giving until October 2016 for the submission of a ROMP application accompanied by an ES.

No ROMP application was received by that date and so the Site was entered into automatic suspension on 1st November 2016. As a result the mineral development cannot resume until a relevant ROMP application and accompanying ES is provided."

2.3 As referenced in the above quotation, the ROMP Application is being made further to a request from the Council for a review of the whole of the Original Mining Area. The ROMP Application only applies to the part of the Original Mining Area edged red on drawing 757-01-04.

2.4 Paragraph 9 of Schedule 13 to the Environment Act 1995 (the "**EA 1995**"), pursuant to which we understand the ROMP Application is being made, does not appear to allow for a ROMP Application in respect of part of the Original Mining Area. Paragraph 9(1) states that "*Any person who is the **owner of any land**, or who is entitled to an interest in a mineral, may, **if that land or mineral is or forms part of a dormant site or an active Phase I or II site**, apply to the mineral planning authority to determine conditions to which the relevant planning permissions **relating to that site** are subject"* (emphasis added). It therefore appears that the EA 1995 intentionally draws a distinction between the site (being the whole of the relevant Original Mining Area) and the land that an applicant may have an interest in, and requires any ROMP application to relate to the whole of the *site*.

2.5 We note that the Council will have more background on the Original Mining Area than we and our Client have, and accordingly there may be an explanation as to why the entire Original Mining Area is no longer considered to be part of the "site" for the purposes of the EA 1995. We should therefore be grateful for an explanation as to how the Council is satisfied that the ROMP Application boundary does not need to extend to the whole of the Original Mining Area.

- 2.6 If the Council is not satisfied that the application boundary has been drawn correctly, it should require the applicant to correct the application before proceeding any further.

3. Securing restoration of the whole of the Original Mining Area

- 3.1 A further wrinkle arising from the limited application boundary is that there are areas that have not yet been restored that fall outside of the redline.
- 3.2 The areas identified on drawing 757-01-05 in orange as "*Areas previously worked / naturally regenerated*" largely fall outside of the application boundary and the applicant is proposing that these areas will be subject to a five year "Restoration Management Plan".
- 3.3 We understand that the areas shaded orange are within the control of the applicant, and therefore the Town and Country Planning Act 1990 allows for conditions to be appended to the permission issued following the ROMP Application to bind that land. However, notwithstanding this we consider that the restoration condition may be open to challenge on the grounds that it is not "*relevant to the development to be permitted*" (being development wholly relating to other land) unless that land is brought within the redline boundary of the ROMP Application.
- 3.4 Further, Curtis Yard also falls outside of the application boundary and as referenced in our 2023 Letter, the appellant proposes to agree conditions relating to that land. We understand that Curtis Yard also falls outside of the applicant's control. Therefore, it should be brought within the boundary of the ROMP Application in order to ensure that condition 37 is properly enforceable. Our comments on condition 37 raised in our 2023 Letter still stand.
- 3.5 Accordingly, even if the Council is satisfied that the ROMP Application does not need to be made in respect of the whole of the Original Mining Area, it should be extended to incorporate the areas shaded orange on drawing 757-01-05 and Curtis Yard within its redline boundary.

4. Applicant's failure to consider comments by consultees on conditions

- 4.1 We are grateful to the Council for requesting that the applicant responds to comments that had been raised on conditions, and for specifically requesting that if the applicant disagreed with those comments it explained why.
- 4.2 Disappointingly, the applicant does not appear to have responded to any of the comments on the conditions that we raised in our 2023 Letter. We consider the requested amendments to be necessary, fair, and reasonable. We therefore ask that the Council liaise with the applicant to secure a full response to all comments raised on conditions to date.

5. Conclusion

- 5.1 As expressed above, we ask that the Council consider and confirm whether the ROMP Application should properly extend to the whole of the Original Mining Area. If the Council does not consider this to be necessary, we request an explanation.
- 5.2 Even if the Council is satisfied that the application boundary does not need to extend to the whole Original Mining Area, we consider that it must extend to the areas shaded orange on drawing 757-01-05 and Curtis Yard. We ask that you keep us updated on this.

- 5.3 Finally, we look forward to seeing that the proposed conditions have been updated in line with the requests made in our 2023 Letter, or receiving a comprehensive response from the applicant as to why this is not necessary.
- 5.4 If officers are not minded to incorporate any of our suggestions, or to request such amendments from the applicant, we request that a full explanation as to why officers do not consider this to be necessary is provided.

Yours faithfully

A handwritten signature in black ink that reads "Taylor Wessing LLP". The signature is written in a cursive, flowing style.

Taylor Wessing LLP

Enc. 2023 Letter

Oxfordshire County Council
County Hall
New Road
Oxford
OX1 1ND

Taylor Wessing LLP 5
New Street Square
London
EC4A 3TW

Tel: +44 (0)20 7300 7000
Fax: +44 (0)20 7300 7100
DX 41 London
www.taylorwessing.com

Direct Tel +44 (0)20 3077 7240
j.bassett@taylorwessing.com

Date
25 April 2023

Our reference
DEL108.U5/UJT8

Your reference
MW.0041/23

Representations in relation to the application with reference MW.0041/23 concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (the "Property")

Dear Oxfordshire County Council

1. Introduction

- 1.1 We act for the owner of Wick Hall, Radley, Abingdon, OX14 3NF (our "**Client**" and our "**Client's Property**", respectively). Thrupp Lane runs along the eastern boundary of our Client's Property and is used to access various properties on the estate.
- 1.2 We write in relation to the above referenced application for "*Determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2)*", the "**ROMP Application**".
- 1.3 Our Client's principal concern is with the impact that the extraction and processing of minerals from the Property will have on Thrupp Lane. We have reviewed the conditions proposed to be attached to the application with reference MW.0075/20 and the schedule of proposed conditions submitted with the ROMP Application and set out below our suggested amendments to those conditions, and the additional conditions and obligations which we consider should bind the development.
- 1.4 Please note that these representations assume that the proposed conditions to the application with reference MW.0075/20 as set out in the committee report for the meeting dated 6 September 2021 remain the conditions to be attached to the eventual permission (which we understand has not yet been granted). If these conditions have or are expected to change please advise us as our Client may wish to make representations on those revised conditions and / or it may impact their representations on the ROMP Application.

Taylor Wessing LLP is a limited liability partnership registered in England and Wales, registered number OC322935. A list of members is available for inspection at our registered office: 5 New Street Square, London EC4A 3TW.

Any reference to a partner in relation to Taylor Wessing LLP is to a member of Taylor Wessing LLP or an employee or consultant of Taylor Wessing LLP with equivalent standing as the members of Taylor Wessing LLP. Taylor Wessing LLP is authorised and regulated by the Solicitors Regulation Authority.

Taylor Wessing is the trading name used by a number of distinct legal entities. Further information can be found on our regulatory page at www.taylorwessing.com

- 1.5 Our Client also shares the concerns expressed by the Radley Lakes Trust, in particular with regards to Curtis Yard and the destruction of Orchard Lake and the habitats surrounding it. We expand on these below.

2. Thrupp Lane - Proposed Conditions

- 2.1 We set out below the relevant conditions proposed as part of the ROMP Application with our suggested amendments in green (to show re-located text) and red (to show proposed new text).

2.2 *Access, Traffic and Protection of the Public Highway*

- 2.3 The application documents are express that minerals shall not be transported via the access road and shall instead be transported within the site by a conveyor. As drafted the proposed condition 2 affords an unnecessary degree of flexibility to the owner. It would enable the transport of minerals along the "Access Only" road by agreement between the owner and the minerals authority without public consultation. This would materially impact traffic on Thrupp Lane and would properly necessitate a new application and a Transport Assessment to be submitted and consulted upon. Accordingly we suggest the following amendment to remove the scope for such a significant change to occur without those steps being taken.

2. ~~Unless otherwise agreed in writing by the Mineral Planning Authority, Mineral shall not be transported via the access titled 'Access Only' shown on Plan no: 757-01-02.~~

- 2.4 The proposed condition 3 as drafted risks mud and debris being carried onto the highway for a period before an agreement on wheel cleaning measures is reached. There is no need for such a reactionary approach to be taken. Therefore we recommend the below amendments are made so that wheel cleaning measures are agreed prior to implementation of the permission, and applied thereafter.

3. *Wheel cleaning measures to prevent mud or debris being carried onto the public highways by plant and machinery accessing the development* ~~Should mud or debris be carried onto the public highway by plant and machinery using the access titled 'Access Only' on Plan no: 757-01-02,~~ *will be agreed with the Mineral Planning Authority and implemented prior to the implementation of the permission.*

- 2.5 Our amendments to the proposed condition 4 make the requirement for the minerals to be transferred via the conveyor more robust, and expressly provide that no mineral be imported by road.

- 2.6 Our changes reflect the processes described in the application documents. As with condition 2, we consider that the wording "*unless otherwise agreed with the Mineral Planning Authority*" risks public consultation on, and the proper assessment of, a change in arrangements being circumvented.

4. ~~Unless otherwise agreed with the Mineral Planning Authority Mineral will be transported off site to the Tuckwell Yard **only** via the conveyor shown on plan no: 757-01-11 via a conveyor. and no mineral will be imported by road to the processing plant site area for processing.~~

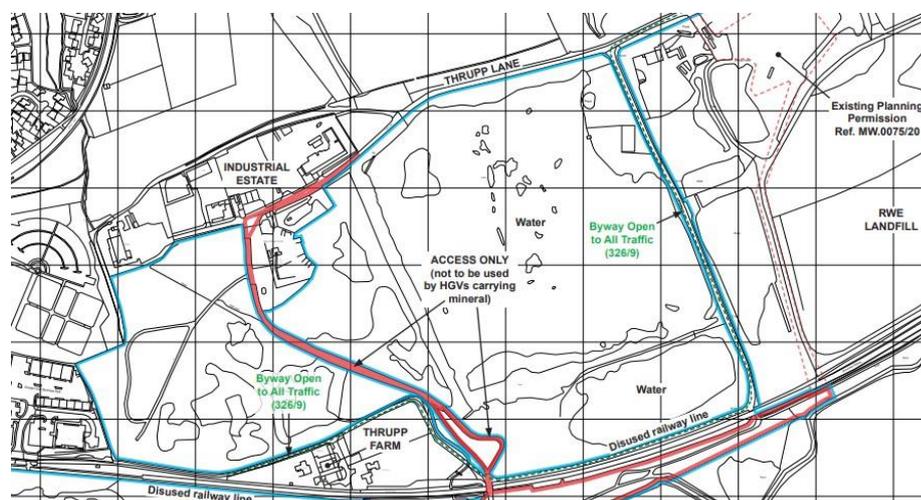
- 2.7 We also proposed that the three following additional conditions relating to access and vehicle movements are included.

- 2.8 The first incorporates a condition to be included on permission MW.0075/20, but expands it to cover Light Goods Vehicle ("LGV") movements as well as Heavy Goods Vehicle ("HGV") movements. We consider it necessary to include for the ROMP Application to ensure that there is no intensification of the use of Thrupp Lane.
- 2.9 When assessing "Traffic and Transportation" the application documents refer to comments made in the committee report for MW.0075/20. The clear inference is that no additional traffic would be generated beyond what is associated with MW.0075/20. As no transport assessment or statement has been submitted with the ROMP Application it is necessary to ensure that the conditions to which the ROMP Application is granted incorporate limits on HGVs imposed for MW.0075/20 so that there can be no doubt that the development pursuant to the ROMP Application will not generate more HGV movements. Likewise, it would be absurd for the applicant to be able to circumvent this by using LGVs so we refer to those too.

Proposed condition:

The maximum daily Light or Heavy Goods Vehicle movements associated with the development shall not exceed 64 (32 in, 32 out), inclusive of any vehicle movements associated with any other permissions related to the DD1 and DD2 area including, for the avoidance of doubt, the permission with reference MW.0075/20 and any variation or replacement permission.

- 2.10 The second condition incorporates statements made in the Planning Statement submitted with the ROMP Application which have not been reflected in the proposed conditions. Plan 757-01-02 indicates that the access to the Property will be as highlighted in red on the plan below.



- 2.11 However, there is no condition which prohibits other routes incorporating Thrupp Lane from being used for access, including the Byway shown in dashed green on the same plan.
- 2.12 Further, the Planning Statement provides (at paragraphs 3.52 – 3.55) that the access will be used for plant and machinery to access the site, and for the management of the "ROMP Areas".
- 2.13 Finally, paragraph 3.53 of the Planning Statement states "This access will be used for plant and machinery to access the Site. This will occur rarely as machinery will generally be stored on the ROMP Site."
- 2.14 The proposed condition drafted below incorporates the three points raised above.

Proposed Condition:

The access titled 'Access Only' shown on Plan no: 757-01-02 shall be the only vehicular access to the site via Thrupp Lane and will be used only for the delivery of plant and machinery to the site and for the management of the ROMP Areas. Where practicable plant and machinery shall be stored on the ROMP site.

- 2.15 Paragraph 3.55 of the Planning Statement states that "*The accesses into the site will be regularly graded and dressed, when required, to maintain an even running surface free from potholes*", however no condition requiring this is proposed. We consider that such a condition or obligation should be imposed, and it should also provide for regular reviews of the road conditions on Thrupp Lane to be carried out, with remedial work carried out to mitigate the impacts of the HGV movement running along it.
- 2.16 We understand that Thrupp Lane is a highway maintainable at public expense. The most straightforward way to deal with damage to Thrupp Lane may be to secure a contribution by way of planning obligation which would be applied towards such surveys and works, with provision for further contributions to be recovered from the owner as necessary.
- 2.17 *Working Programme*
- 2.18 Paragraph 3.56 of the Planning Statement sets out the proposed working hours at the Property. However, condition 13 as drafted specifies working hours for "*extraction of minerals or loading and operating of the conveyor*". We are concerned that this would permit other disruptive works to be carried out at the Property outside of these hours.
- 2.19 We also note that there is nothing to prevent vehicular movements associated with the development from using Thrupp Lane and the proposed access outside of these hours. We therefore suggest the following amendments to the proposed condition.

Working Programme

13. ~~Unless otherwise agreed by the Mineral Planning Authority~~ No extraction of minerals or loading and operating of the conveyor, or other noisy works, shall take place except between the hours of 07.00 a.m. to 18.00 p.m. on Mondays to Fridays and 07.00 a.m. to 13.00 p.m. on Saturdays and there shall be no Light or Heavy Goods Vehicle movements on Thrupp Lane associated with the development outside of these days and hours. No working shall take place on Sundays or Public Holidays. No operations shall take place outside these hours except for essential maintenance and the operation of pumps and other equipment to maintain the safe operation of the quarry.

3. Curtis Yard

- 3.1 Condition 37 as currently proposed is insufficiently precise and derives from an error in the Planning Statement as to the date that the existing temporary permission for Curtis Yard will expire.
- 3.2 The condition as drafted risks being unenforceable as it provides for an aftercare scheme to be submitted to the Mineral Planning Authority by 1 June 2028 "*unless planning is granted for [Curtis Yard's] continued retention*". The condition needs to be amended so that it is clear that planning permission for the retention of Curtis Yard needs to have been granted *before the date* that the trigger for submission of the aftercare scheme has passed.

- 3.3 Further, we consider that there should not only be one opportunity for an aftercare scheme to be required. If a further temporary permission for Curtis Yard is granted, condition 37 should be triggered by the expiry of that permission too.
- 3.4 The existing permission for Curtis Yard expires on 18 November 2025, five years after the decision date of 18 November 2020. The Planning Statement erroneously lists the expiry date as 18 November 2027. Accordingly, a date for submission of a restoration and aftercare scheme for the Curtis Yard of 1 June 2028 has been incorporated into the proposed condition 37, instead of 1 June 2026.
- 3.5 We therefore propose the following amendments to condition 37:

*37. A restoration and aftercare scheme for the Curtis Yard shown on Plan no: 757-01-05 shall be submitted to the Mineral Planning Authority by 1st June ~~2026~~ unless planning permission **has by that date been is** granted for its continued retention.*

If planning permission is granted for Curtis Yard's continued retention, a restoration and aftercare scheme shall be submitted to the Mineral Planning Authority by the date which is six months after the expiry of any subsequent temporary permission where a replacement planning permission for Curtis Yard has not been granted by that date.

The submitted scheme will be implemented as approved and include consideration of:

- *The removal of buildings and hardstanding;*
- *Restoration treatments;*
- *Management;*
- *Timetable for implementation; and*
- *5- Year aftercare*

4. Orchard Lake

- 4.1 Phase C, and part of Phase B2, are within the "Radley Gravel Pits Local Wildlife Site", which extends to 171.7ha. The Ecological Assessment records that water vole, otter, bats, harvest mouse, great crested newt, red list and nationally protected birds, slow worm, adder, grass snake, nationally notable/scarce invertebrates, and five Red List moss/plants are present within the site.
- 4.2 We note that the Radley Lakes Trust are requesting that the ROMP Application is revised to limit gravel and sand excavation to Phase A and B only. Our Client endorses that request. Excavation from Phase C does not appear to be a necessary step towards achieving the longer-term positive impact of the ROMP development in a "County" context as identified in the Ecological Assessment. Our understanding is that the positive impact could be achieved without any work to Phase C (save to remove invasive species), and that this would lessen the identified negative medium-term effects in a "Local" context.
- 4.3 If the Council is not prepared to prohibit extraction on Phase C, we do consider that the proposed Condition 20 ("Environmental Protection: Ecology") should be amended so it is more robust.
- 4.4 We understand that the extraction is to occur in consecutive (rather than concurrent) phases, Phase A; Phase B1; Phase B2; and Phase C. Condition 20 requires a Landscape

and Ecological Management Plan to be submitted for approval prior to the commencement of mineral extraction. However, there is no requirement for updated Ecology Assessments and updated Landscape and Ecological Management Plans to be submitted prior to the commencement of each Phase. The extraction is permitted until 21 February 2042. If extraction on Phase C does not occur until 2035, over 12 years would have passed without such an assessment having been carried out, and the ecological profile of the site is likely to have changed significantly during that period.

- 4.5 We therefore propose the following amendments to the proposed Condition 20, and a new condition to deal with updated Ecological Assessments:

20. Prior to the recommencement of mineral extraction for each Phase a Landscape and Ecological Management Plan shall be submitted to the Mineral Planning Authority for approval which includes the mitigation, compensation and enhancement in Section 7 of the Ecological Impact Assessment in Appendix C of the Environmental Statement, or any updated recommendations made in the approved Updated Ecological Impact Assessment submitted under condition [X], as applicable. The approved scheme shall be adhered to at all times.

Proposed condition:

Prior to the commencement of mineral extraction for each Phase, if more than [2] years have passed since the last Ecological Impact Assessment for that Phase was carried out, an updated Ecological Impact Assessment for that Phase shall be submitted to and approved by the Mineral Planning Authority.

5. Conclusion

- 5.1 We consider that the above amended and new proposed conditions are necessary, relevant to the development to be permitted, enforceable and reasonable in all other respects. If officers are not minded to incorporate any of our suggestions, or would like to discuss the matter further, they are requested to contact Joanna Bassett of this firm at j.bassett@taylorwessing.com or on 020 3077 7240.

Yours faithfully



Taylor Wessing LLP