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**Robin Rogers
Director of Economy and
Place**

Date: 05/03/2026

The Rt Hon Steve Reed OBE
Secretary of State for Housing, Communities and
Local Government
Planning Casework Unit
23 Stephenson Street
Birmingham
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By email: pcu@communities.gov.uk

Dear Mr Reed

Application for determination of the conditions to which a planning permission is to be subject (Permission numbers DD1 and DD2), Land at Thrupp Farm, Radley, Abingdon, Oxfordshire Grid Ref: SU 51539 97065 – request for Call-in of application

This is a request for the Secretary of State to use his power as set out in Schedule 14, paragraph 8 of the Environment Act 1995 to call in an application for determination of the conditions to which a planning permission is to be subject (reference MW.0041/23) concerning land at Thrupp Farm, Radley, Abingdon, Oxfordshire (“the site”).

The application was submitted to Oxfordshire County Council (“the Council”) on 26 January 2023 (validated on 22nd February 2023) under Schedule 14, paragraph 6 of the Environment Act 1995. The deadline presently agreed with the applicant for determination of the application is 27 March 2026. The application documents and all consultation responses and comments received are available to view on the council’s Planning Applications website here:

[Planning Register | Oxfordshire County Council](#)

The conditions proposed by the applicant are set out in Annex 1. The officer’s report and addenda to committee are set out at Annex 2 which includes as Annex 4 to the officer’s report the officer suggested conditions. On 23 February 2026 the Council resolved to request the Secretary of State call in the application for his own determination given the significant areas of legal and policy conflict and lack of precedent. The matter concerns national legislation and policy and would set a precedent in its own right for a large number of subsequent applications. For these reasons, and in the interests of promoting consistency in the interpretation of national law and policy, it is considered this is an application best determined by the Secretary of State.

There is no guidance on the exercise of the power to call in an application under Schedule 14 of the Environment Act 1995. Guidance formerly issued by the Office of the Deputy Prime Minister, “Minerals Planning Guidance 14: Environment Act 1995: review of mineral planning permissions” did consider, briefly, the equivalent power under paragraph 13 of Schedule 13 of the Environment Act 1995. That Guidance (when it was in force, now being replaced by the PPG) provided at §66:

“The Secretary of State may give directions requiring applications for the determination of conditions to be referred to him rather than being dealt with by the mpa. Such directions may relate either to a particular application or to a class of application (eg a particular mineral type). The Secretary of State intends to use this power vary sparingly along the same lines as his power of call-in for planning applications generally.”

That power to call-in planning applications generally is set out at s.77 of the Town and Country Planning Act 1990. The wording, with necessary modifications, of s.77 and Schedule 14, paragraph 8 are nearly identical. A written ministerial statement dated 26 October 2012 sets out a non-exhaustive list of the government’s criteria for calling-in planning applications. So far as relevant these (non-exhaustive) criteria are matters which, in the Secretary of State’s opinion:

- may conflict with national policies on important matters;
- may have significant long-term impact on economic growth...;
- could have significant effects beyond their immediate locality;
- give rise to...national controversy;

Paragraph 23 of Determining a Planning Application in the PPG confirms the Secretary of State is generally concerned with whether the application involves planning issues of more than local importance that warrant the decision being made by them rather than the local planning authority, but that each case will be considered on its merits.

The Secretary of State’s discretion under Schedule 14, paragraph 8 is very wide. Considering the equivalent power under s.77, in *R v Secretary of State for the Environment, ex p. Newprop* [1983] JPL 386 (at p.387), Forbes J. described it as “in essence a purely administrative discretion ...” In *R (Shirley) v Secretary of State for Housing, Communities and Local Government* [2019] EWCA Civ 22 at §58 the Court of Appeal confirmed the freedom to exercise the call-in discretion one way or the other was “considerable.”

Oxfordshire County Council considers that application MW.0041/23 satisfies the call-in criteria above for the reasons detailed below. Further, it considers this is an appropriate case for the Secretary of State to exercise his discretion in any event given the lack of legal precedent, the serious and widespread national implications of either legal interpretation, and uncertain and conflicting national law and policy with severe consequences either for economic development, or local government finances.

May conflict with national policies on important matters

The site has been inactive for some period of time, which has significantly increased its biodiversity interest. There are areas of irreplaceable (e.g. lowland fen) and national priority habitats (as recorded in ES Appendix C Ecological Impact Assessment V2 attached as Annex 3), and part of the site has been locally designated for its wildlife interest: Radley Gravel Pits Local Wildlife Site.

National law and policy indicate that mineral planning authorities such as the Council should not permit unacceptable harm to such areas of ecological importance (s.40 of the Natural Environment and Rural Communities Act 2006, paragraph 193 of the NPPF, in addition to local policy). The Council’s ecologist duly seeks a condition restricting the areas of operation to avoid this unacceptable harm:

Additional condition:

No development shall take place in areas of irreplaceable or priority habitats as recorded in ES Appendix C Ecological Impact Assessment V2 or Radley Gravel Pits Local Wildlife Site.

However, the applicant considers that the legal position is that any condition which materially reduces the area to be worked entitles them to compensation which in this case has been calculated as several million pounds. The Council concurs with this and reference is made to Paragraph: 213 Reference ID: 27-213-20140306 of the guidance on the planning for mineral extraction in plan making and the application process..

Therefore, the Council feels there is a severe conflict between the law on ROMP applications and national law and policy to protect significant areas of local ecological interest, because protecting such interests then also requires the Council pays out several million pounds in compensation. This is critical issue 1 on which it seeks a nationally coherent view from the Secretary of State.

May have significant long-term impact on economic growth

Either way the first critical issue is determined, there will be a significant long-term impact on economic growth. Losing several million pounds in compensation means the Council would be unable to financially support the resources needed to promote sustainable growth in its area; on the other hand, the wider issue in terms of ROMP applications and harm to irreplaceable / priority habitats may mean millions of tonnes of mineral resources are rendered inaccessible.

Could have significant effects beyond their immediate locality / Gives rise to national controversy

The above are clearly factors giving rise to national controversy and significant effects beyond the immediate locality. There is a second critical issue concerning the interpretation of Schedule 14, paragraph 7 of the Environment Act 1995. This provides:

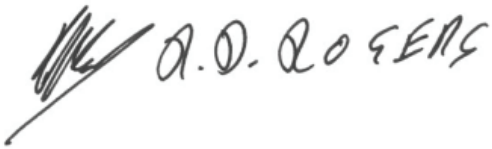
“Where no application under paragraph 6 above in respect of a mining site has been served on the mineral planning authority by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral permission—
(a) relating to the site; and
(b) identified in the notice served in relation to the site under paragraph 4 above,
shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the first review date or, as the case may be, such later agreed date.”

The Council and the applicant agreed a later date, but after the first review date in reliance on the ability to agree a later date in writing “at any time” A local objector asserts that was unlawful as the agreement which may occur “at any time” in fact means “at any time before the first review date expires”. There is no legal precedent on the correct interpretation of this provision. The Council sought counsel’s advice on the matter; her conclusions were that the Council’s interpretation was not unlawful but that there was significant legal risk due to the lack of precedent. The objector furnished a case on similar wording in the planning context (Vattenfall v Scottish Ministers [2009] CSIH 27) but this case concerned the acquisition of planning permission and not the loss of a very valuable minerals consent. The Council considers the legal context for interpretation of the latter is influenced by the legal duty set out in Case C-106/89 Marleasing SA v La Comercial Internacional de Alimentacion SA [1992] 1 CMLR 305 to

interpret domestic law in accordance with the wording and purpose of Community law, supplementing the obligation to interpret legislation in line with Convention rights in s.3 of the Human Rights Act 1998. It is considered the fact that valuable property rights would be lost on one interpretation but not on another means the latter interpretation is to be preferred.

As with critical issue 1, the scope and meaning of "at any time" in Schedule 14, paragraph 7 requires consistent interpretation across England and thus the consideration and determination of the Secretary of State in this respect would be appropriate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. D. ROGERS', with a stylized flourish to the left.

Robin

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