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Tel: 01865 816526

Division(s): Kidlington & Yarnton

## **PLANNING & REGULATION COMMITTEE – 23 NOVEMBER 2009**

**PROPOSAL TO TEMPORARILY ALLOW THE USE OF THE EXISTING HAUL ROAD RUNNING TO THE SOUTH AND EAST OF THE SITE FOR THE TRANSPORT OF MINERALS AND WASTE MATERIALS TO AND FROM THE SITE WITHOUT DISTURBING SCHEDULE 1 PROTECTED SPECIES CURRENTLY PRESENT ON THE SITE FOR A PERIOD OF UP TO 12 MONTHS OR UNTIL THE LITTLE PLOVERS HAVE LEFT THE SITE AND THE CONSTRUCTION OF THE NEW HAUL ROAD THROUGH THE CENTRE OF THE SITE IS COMPLETED, WHICHEVER IS SOONEST**

### **LAND AT SHIPTON-ON-CHERWELL QUARRY, SHIPTON-ON-CHERWELL, OXFORDSHIRE**

#### **Report by Head of Sustainable Development**

**Location:** Shipton-on-Cherwell Quarry, Shipton-on-Cherwell, Oxfordshire.

**Applicant:** Alan Hadley Ltd, Fenton House, Deans Copse Road, Theale, Berkshire, RG7 4GZ.

**Application No:** 09/01180/CM

**District Council Area:** Cherwell

#### **Introduction**

1. This application flows from development permitted by Planning & Regulation Committee in January 2008 to allow comprehensive redevelopment of the site at Shipton on Cherwell Quarry. The application seeks to allow the operator to use an existing haul road at Shipton on Cherwell Quarry. It is currently not permitted to be used under planning permission 06/02046/CM which was issued on 4 April 2009. The proposal is for temporary planning permission for up to 12 months and has been submitted due to the presence of Little Ringed Plovers that are protected under Schedule One of the Wildlife and Countryside Act 1980. Their presence has caused significant delays in the construction of the new internal haul road.

## **Location**

2. The site lies just over 2km (1.2 miles) north of Kidlington east of the A4260. It is in the Green Belt between Bunkers Hill and Shipton on Cherwell. Oxford airport is about 1km (0.6 miles) south west of the site.

## **The Site and Its Setting (See Plan 1)**

3. The site is in open countryside and covers 71.3ha. To the north west lies the settlement of Bunkers Hill, whose main road (A4095) borders the site. To the north east the site abuts the River Cherwell. The Oxford to Banbury railway line runs along the eastern boundary and the village of Shipton on Cherwell lies to the south. Immediately to the west is arable farmland and the A4260.
4. The whole of the quarry (63ha) is designated a County Wildlife Site and a large proportion around the edges (the old quarry faces) is a SSSI designated because of its geological interest.
5. At the east end of the quarry site there is an area of unworked limestone and the derelict cement buildings which sit adjacent to the railway line. As it is a quarry, the majority of the site is set down from surrounding land levels.
6. There are some bodies of water within the site. The mineral was worked below the water table and the water is now kept artificially low by pumping into the River Cherwell.

## **Background Information and History**

7. Shipton-on-Cherwell quarry is a disused limestone quarry that was first operating before 1945. The site primarily produced limestone for use as cement and there is an extensive, albeit derelict, cement works complex on-site.
8. Planning permission was granted in April 2009 for comprehensive redevelopment of the quarry that would include mineral extraction, landfill of inert waste, aggregates depot, rail storage depot, industrial buildings and temporary car storage. Part of this development would be on the area of the former cement works and would result in demolition of the buildings and plan. The development permitted will run until 2033.

## **Details of the Development**

9. This application is to allow the temporary use of the southern haul road to allow materials to be imported on to the site without disturbing Schedule 1 protected species nesting on the site. The haul road is adjacent to 4 residential dwellings and is in close proximity to Shipton on Cherwell village. The closest property is 20 metres from the haul road. There is extensive planting between these properties and the haul road.

10. Its use is currently precluded by Condition 71 of planning permission 06/02046/CM which states:

*The road marked "haul-route-existing route to remain" as shown on approved plan K.0117\_25-1d shall not be used for the transport of minerals or waste materials or in connection with any activities approved by this permission. It shall revert to use as a track for agricultural, rail (but not in accordance with the rail storage depot or rail aggregate depot) and site security uses before the construction of the building shown as "Construction of 1Ha (2.5 acre) class B8 building..." is complete.*

**Reason:** *To protect the amenities of Shipton-on-Cherwell. (MWLP PE18).*

11. The applicant is seeking temporary planning permission for the use of this haul road for either:

- 12 months from the date of any permission given, or:
- Until the Little Ringed Plovers have left the site and the construction of the internal new haul road permitted under the 2009 consent is completed; whichever is sooner.

12. Little Ringed Plovers are protected under Schedule One (1) of the Wildlife and Countryside Act 1980 which lists prohibited activities with regard to this species. This Schedule states that one should avoid "*intentionally or recklessly disturb any wild bird listed on Schedule One while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird*".

13. The applicant states that it is necessary to create an exclusion zone of 100 metres around the proven and suspected nest site within the quarry. The haul road permitted under 06/02046/CM will run south west – north east traversing the site once construction has been completed. This cannot be completed whilst there are Little Ringed Plovers present in the quarry.

14. The current operations are permitted to operate between the hours of 7am and 6pm Monday – Friday and 8am – 1pm on Saturdays. The applicant states that the proposed use of the southern haul road would take place during restricted working hours of 7am – 5pm Monday to Friday only. The number of HGV movements that would use this haul road would not increase above currently permitted numbers of 318 movements on any day.

15. The application states that a speed limit of 10 mph would be implemented along this stretch of haul road and the road would be maintained in a state free of potholes.

## **Consultation Responses (consultation period ended on 18 September 2009)**

### **Cherwell District Council – Planning Officer**

16. The District Council objects on the grounds that it will adversely affect the amenities of the residents of Shipton-on-Cherwell and therefore run contrary to Policy ENV1 of the adopted Cherwell Local Plan and policies GB7 and EN3 of the Non-Statutory Cherwell Local Plan.

### **Cherwell District Council – Environmental Health Officer**

#### *First Response*

17. Objection on the grounds of detriment to the amenity of the properties in Shipton on Cherwell who are nearest the haul road. The loss of amenity would be due to adverse impacts of noise and dust.

#### *Second Response*

18. If the County Council is minded to recommend approval then conditions controlling noise and dust should be imposed. These should include:
- Control of working hours to between 07:00 – 17:00 Monday –Friday
  - Repair of the haul road prior to use and maintained thereafter.
  - Speed limit of 10mph on the haul road.
  - Approval of dust management scheme prior to commencement of development.
  - Use of the haul road to cease once the new haul road is completed.

### **Shipton-on-Cherwell and Thrupp Parish Council**

19. No comments.

### **Kidlington Parish Council**

20. No comments.

### **Bletchingdon Parish Council**

21. No comments.

### **Oxford Green Belt Network**

22. No objection. Welcome the protection of the Little Ringed Plovers but regret that future quarry development will seriously diminish the varied birdlife that has colonised the site.

### **Natural England**

23. No objection.

**Environment Agency**

24. No objection. The applicant should contact the Oxford Ornithological Society who would have an interest in this case.
25. If the applicant wishes to alter Condition 71 of the existing planning permission (06/02046/CM) then they would also need to vary conditions 26 and 36 of that permission.

**Transport Development Control**

26. No objection.

**County Ecologist**

27. No objection.

**County Archaeologist**

28. No objection.

**Third Party Representations**

29. No representations have been received at the time of drafting the report.

**Relevant Development Plan and other Policies**

30. The main policy considerations are (i) development in the Green Belt (ii) impact on ecology (iii) local amenity impacts.

(i) Development in the Green Belt

31. South East Plan (SE Plan) policy CO4 seeks to maintain the Green Belt around Oxfordshire. It states that development in the Green Belt will only be permitted if it maintains its openness and does not conflict with the purpose of the Green Belt or harm its visual amenities.
32. Non-Statutory Cherwell Local Plan 2004 (NSCLP) policy GB7 states that proposals in the worked area of Shipton-on-Cherwell quarry will not be considered inappropriate development in the Green Belt provided they meet the following criteria:
  - (a) The proposals would have no greater impact than the existing development on the openness of the Green Belt and the purposes of including land in it and where possible have less;
  - (b) The proposals would contribute to the achievement of the objectives for the use of land in the Green Belts;
  - (c) The proposals would secure acceptable environmental improvement of the major developed site;

- (d) The proposals would include the removal of all existing plant and buildings on the whole of the major developed site in accordance with a scheme of phased demolition;
- (e) The traffic and travel implications of the proposals are acceptable, taking account the previous levels of employment and traffic generated by the site;
- (f) The amount of new building floorspace would not occupy a larger area of the site than the existing building footprint;
- (g) The proposals maximise the opportunity to make use of the rail head and the oxford canal adjacent to the site;
- (h) The proposals would not result in damage to or loss of the site of special scientific interest, and would be compatible with the ecological value of the site;
- (i) The proposals would not injure the visual amenity of the Green Belt and (where new buildings are proposed) will include a significant reduction in height compared to the existing cement works;
- (j) No development is constructed below the level which is likely to flood naturally; and
- (k) The proposals would not have an adverse impact on the Oxford Canal.

Consent granted for redevelopment will include a requirement that any existing planning permission applying to the site be revoked without compensation.

(ii) Ecology

- 33. SE Plan policy NRM5 states that proposals shall avoid damage to nationally important sites of special scientific interest and seek to ensure that damage to county wildlife sites and locally important wildlife and geological sites is avoided.
- 34. Cherwell Local Plan 1996 (CLP) policy C2 Development which would adversely affect any species protected by Schedule 1, Schedule 5 and Schedule 8 of the Wildlife and Countryside Act, and by the E.C. Habitats Directive 1992 will not normally be permitted.

(iii) Local Amenity Impacts

- 35. Oxfordshire Minerals and Waste Local Plan 1996 (MWLP) policy PE3 states that appropriate buffer zones will be safeguarded around mineral working or waste disposal sites for protection against unacceptable losses of residential or natural amenity.
- 36. CLP policy ENV1 and NSCLP policy EN3 state that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not be permitted.

## Comments of the Head of Sustainable Development

37. The key planning issues for this proposal are i) whether the proposal is appropriate development in the Green Belt ii) ecological impacts and iii) harm to residential amenity.

(i) Development in the Green Belt

38. The proposal would involve utilising an existing haul road and would not involve construction of a new route. The proposal would not involve the erection of any new buildings that might harm the openness of the Green Belt. The proposed development in the existing site is not a major development in the Green Belt and as such would not cause harm to the openness of the Green Belt of its visual amenities. The proposal is consistent with the aims of policy CO4 of the SE Plan.

39. The development is temporary in nature for a maximum period of 12 months. The submission of this application is to prevent unlawful disturbance of protected species present at the site. The use of the haul road would not lead to a significant adverse impact on the Green Belt.

40. Cherwell District Council have raised concerns that the proposal does not comply with Part 'e' of NSCLP policy GB7 in that there is no mention of the likely number of vehicle movements on the haul road. The vehicle movements to and from the site would not change from those already permitted under 06/02046/CM and it is likely that the restricted hours of working would limit the numbers of vehicle movements.

41. Therefore, the proposed development meets the criteria set out in NSCLP policy GB7 and so would not be considered inappropriate development in the Green Belt

(ii) Ecological Impacts

42. The southern haul road is outside the 100m exclusion zone in place for the nesting Ringed Plovers. Use of this road would therefore mean that there would be no unlawful disturbance of protected species on the site whilst the importation of materials is underway.

43. At present the Ringed Plovers are not nesting on site. The full implementation of the development permitted has not yet commenced. The developer has been in discussion with Oxfordshire County Council and the Environment Agency about the submission of further details before commencement of the main elements of the development. However, the developer is authorised to begin constructing the new haul road and to work an 8Ha area (Phase 1) on the eastern side of the site (Appendix 1). The haul road construction has been significantly delayed whilst protected species have been present, and this proposal would allow further development to take place in the event that nesting birds return in the spring of 2010. If planning permission is granted for this proposal, a condition would be required to limit the use of the southern

haul road for a period to allow construction of the new haul road and for development in Phase 1 only.

44. The proposal would therefore be compliant with SE Plan policy NRM5 and CLP policy C2.

(iii) Impact on Residential Amenity

45. The proposal would involve HGV movements directly adjacent to residential properties. The use of this haul road is precluded in planning permission 06/02046/CM because of its close proximity to dwellings. This proposal would have some impact on residential amenity, particularly in terms of noise. However, the developer has proposed to use the haul road during restricted working hours and for a temporary period only.
46. Cherwell District Council has objected to the proposal on the grounds of adverse impact to residential amenity. At the time of writing this report, there have been no objections from the three Parish Councils or from local residents.
47. In my view, there is potential for an adverse impact on local residential properties. However, no objections have been raised. The reduced working hours and no working at weekends would limit the impact of this proposal. The haul road should be regularly maintained to prevent potholes and other damage that may increase the potential for noise nuisance to residents. Furthermore, the development is for a temporary period and would allow the development to progress in a timely manner. If planning permission is granted, suitable conditions can be attached to reflect these elements and mitigate potential adverse impacts in line with the suggestions of the Environmental Health Officer.
48. Therefore, in my view, subject to the imposition of planning conditions, this proposal is acceptable in the context of CLP policy ENV1, NSCLP policy EN3 and MWLP policy PE3.

## **Conclusion**

49. The application site is located within the Green Belt. However, this proposal does not constitute major development and would not impact significantly on the openness or visual amenity of the Green Belt. This proposal is in accordance with NSCLP policy GB7.
50. The proposal would allow a permitted development to continue without unlawfully disturbing Schedule 1 protected species, in accordance with SE Plan NRM5.
51. There would be some impact on local residential amenity. The application proposes suitable mitigation measures that would be conditioned to ensure that impacts are minimised. No objections have been raised by the three

Parish Councils. Therefore, in my view, this proposal is compliant with CLP policy ENV1, MWLP policy PE3 and NSCLP policy EN3.

## **RECOMMENDATIONS**

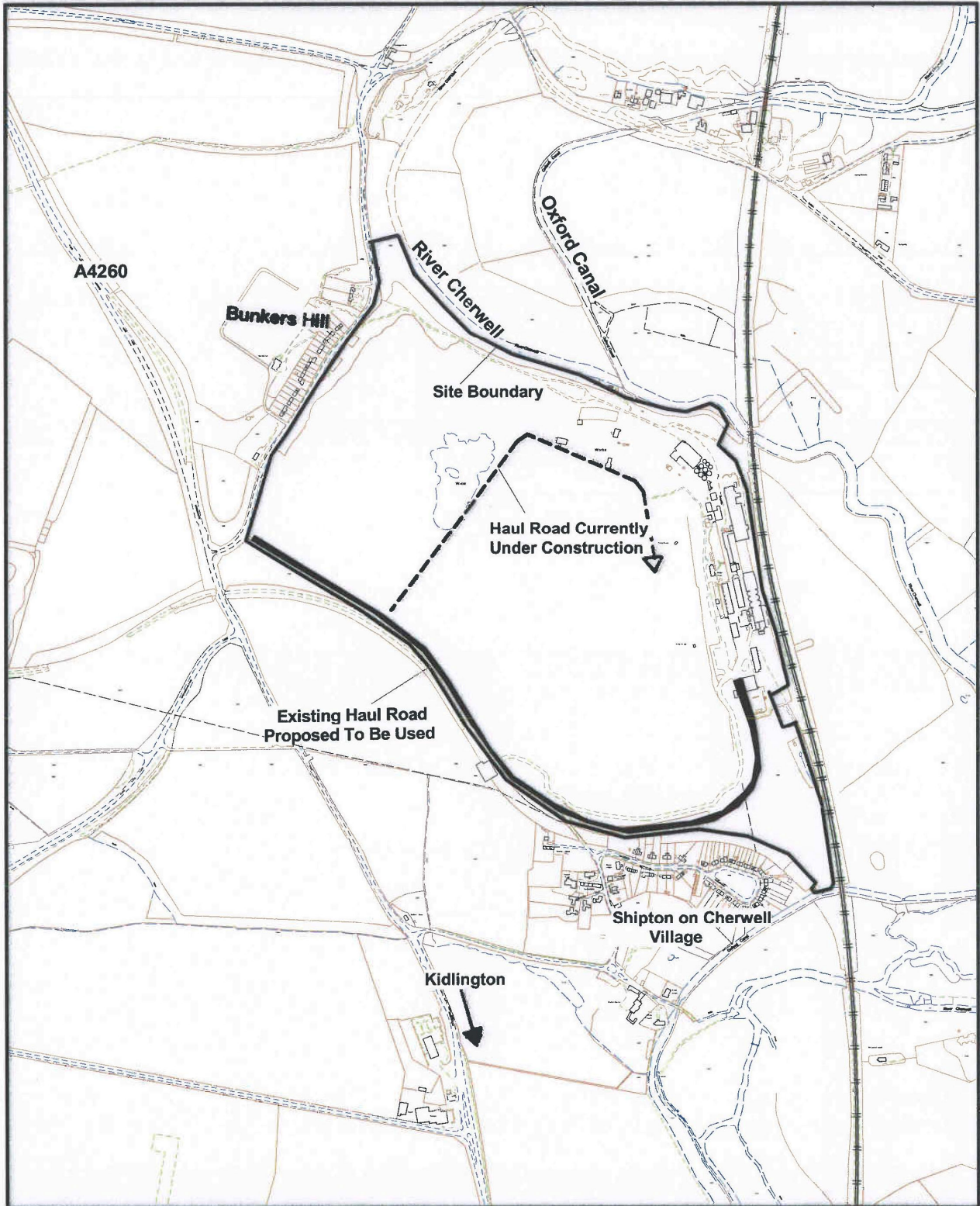
52. **It is RECOMMENDED that planning permission for the development outlined in Application 09/01180/CM be approved subject to conditions to be determined by the Head of Sustainable Development but to include those matters set out in Annex 1 this report.**

CHRIS COUSINS

Head of Sustainable Development  
Environment & Economy

Background Papers: MW.024/07: Comprehensive restoration and development scheme for Shipton on Cherwell Quarry. The description of the scheme for 'hybrid' comprehensive planning application has been revised and is now as follows: Demolition and recycling on site of derelict buildings, structures and works; Extraction of limestone (as aggregate and building stone) within permitted mineral extraction area; Re-establishment of rail sidings and construction of new vehicular access roads; Importation and deposit of inert materials to raise ground levels above groundwater level to facilitate quarry restoration for commercial habitat creation and amenity use; Construction of Rail Aggregate Depot on 2.6 hectares (6.5 acres) with associated concrete batching plant (class B2) and aggregate storage and ancillary structures; Change of use of 6.1 hectares (15 acres) to Rails Storage Depot comprising of storage of rail freight materials; Temporary change of use of 16.3 hectares (40.2 acres) of disused quarry to class B8 storage and distribution for motor vehicle storage for a period of 15 years operation; and erection of one temporary Class B8 storage building (to include use as motor vehicle Pre-Delivery Inspection (PDI)), including construction of hardstanding, fencing, and other ancillary works (floorspace totalling 3,716 sq.m.) for a period of 15 years operation; Permanent change of use of 2.5 hectares (6.2 acres) of disused quarry to Class B8 storage and distribution, and erection of two Class B8 storage buildings, including construction of hardstanding, fencing and other ancillary works (floorspace totalling 7,435 sq.m); Establishment of wildlife and geological conservation and restoration areas on 35.7 ha; Change of use of 16.3 hectares (40.2 acres) of disused quarry to forestry timber cropping (after cessation of temporary B8 use); Improvements to A4260/A4095 junctions; Associated landscape and infrastructure works.

# Plan 1



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Scale:1:10000  
Plot Date:5/11/2009  
By: t  
Dept:

### Heads of Conditions

1. Development in complete accordance with approved plans.
2. Restricted hours of use from 7am to 5pm Monday – Friday only.
3. Time limits - a) 12 month duration b) until Little Ringed Plovers have left c) upon completion of the new haul road; whichever is the sooner.
4. Development shall be carried out in strict accordance with the letter from OCC dated 15 September 2009 until otherwise authorised in writing.
5. Upon completion of the new haul road, use of the southern haul road shall cease immediately.
6. Prior to commencement of development the haul road shall be repaired to be free of potholes. This state shall be maintained thereafter.
7. Vehicles shall not travel at speeds greater than 10mph. Signs shall be erected to reflect this.
8. Prior to commencement of development a dust management plan shall be submitted for approval.

**Relevant Development Plan and other Policies**

**Regional Policy**

Regional Spatial Strategy for the South East of England (SE Plan)

CO4, NRM5

**Oxfordshire Minerals and Waste Local Plan 1996**

PE3

**Cherwell Local Plan 1996**

C2, ENV1

**Non-Statutory Cherwell Local Plan 2004**

GB7, EN3

**APPENDIX 1**

*Do not type recipient's address in this cell*

Veronique Bensadou  
Enzygo Environmental Consultants  
The Smithy  
Woodend Lane  
Cromhall  
Gloucestershire  
GL12 8AA

Speedwell House  
Speedwell Street  
Oxford  
OX1 1NE

Tel: 01865 815700  
Fax: 01865 815085

15 September 2009

Ref. MW.024/07

**Direct line: 01865 816526**

**Please ask for: James Irvine**

e-mail: james.irvine@oxfordshire.gov.uk

Dear Veronique,

**Re: Condition 26 of Planning Permission 06/0246/CM at Shipton on Cherwell Quarry, Oxfordshire.**

I have been in further discussion with the Environment Agency and I now confirm that you may commence the following stages of development:

- Identified improvements to the internal haul road in accordance with the Environment Agency Waste Management Exemption; and
- The preparation engineering and infilling of the Phase 1 of the landfill (Phase 1 being the area shown on approved plan K.0117\_25-3d as 'Fill of initial 8 hectare storage area').

I have attached approved plan K/0117\_25-3d for reference. Please be aware, however, that further details are still required (you are fully aware of the details necessary) to allow clearance of condition 26, 31, 35a and 36 in full. The site will be monitored by Officers from the Monitoring Team and any progress beyond the stages mentioned above in this letter without prior written approval of Oxfordshire County Council may lead to enforcement proceedings against you.

Yours sincerely,

John Hamilton  
Development Control Team Leader

cc. Sarah Green (Environment Agency)  
Gillian Davies (Environment Agency)  
W. T. Stewart-Jones (OCC)



**Fill & Operations**

- Existing quarry area
- Fill of initial 8 hectare (20 acre) storage area continues to approx 69.0m AOD with imported material
- Rail storage depot (7ha/15 acres) completed
- Aggregate depot (2.5ha/6.5 acres) operational, 2 silos @ up to 14m high and 2 water tanks @ 10m high
- BB development platform in place (1ha/2.5 acres)
- Commence fill with imported material in this location

**Transport**

- Haul routes - aggregate depot and rail depot traffic commences
- Haul route - existing route to remain
- Existing public right of way
- Phase one rail development - new rail link and rail head terminals operational
- Rail connection
- Rail connection (potential/passive)

**Ecology & Landscape**

- Existing tree cover, scrub, woodland and other vegetation retained and protected during construction
- Existing species rich grassland
- Existing grassland
- Proposed structural landscaping/tree cover
- Reptile receptor area for translocation
- Retained pond - protected during construction
- New pond
- Completion of geological windows (rock faces) in quarry sides
- Reprofiling of fill for reclamation area - progressively restored to terraced grasslands
- Proposed limestone grassland with scrub
- Proposed rank grassland with stone outcrops
- Wetlands habitat/attenuation area constructed

OXFORDSHIRE COUNTY COUNCIL  
**APPROVED**  
 DATE 03 APR 2009  
 APPLICATION No 06/02046/CM

**Context**

- Application Redline Boundary/ES Study Area
- Option Land
- Green Belt boundary

North

0 250 500m

**Phasing:**  
**Development Construction Programme - Phase 3**

Scale as shown @ A3

**REVISED** K.0117\_25-3d

DATE: 07/05/09

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