

**CHERHILL/CALNE WITHOUT: SECTION 73 APPLICATION FOR EXTENSION TO A SAND QUARRY AND INFILLING WITH WASTE, WITHOUT COMPLYING WITH CONDITIONS 3 (END DATE) AND 5 (PHASING AND RESTORATION) OF N.04.3060 AT HILLS RESOURCE RECOVERY CENTRE, FOR HILLS MINERALS AND WASTE LTD**  
**(Application No. N.06.07008)**

**Purpose of Report**

1. To consider the above application and to recommend that planning permission be granted, subject to approval of Planning Application No. N.06.07009 (Low Lane Extension).

**The Site**

2. The site at Lower Compton has been used for sand extraction and landfilling since the late 1970s. The application site, known as the Old Camp Farm extension, lies approximately 3 km east of Calne, 2 km north of the A4 and is located just beyond the western extent of the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The centre of Compton Bassett lies around 1.3 km to the east. To the north of the application site is a bridleway and agricultural land, currently the subject of an accompanying application known as Low Lane (Application No. N.06.07009).
3. A location plan is attached at **Appendix 1** and a site plan at **Appendix 2**.

**Planning History**

4. In brief the history of the site is as follows:

<u>N.01.2803</u>	Extension to sand quarry and infilling with waste and variation of condition to amend restoration scheme. Planning permission granted 24 <sup>th</sup> May 2002.
<u>N.04.3060</u>	Section 73: Extension to sand quarry and infilling with waste without complying with Condition 2 of planning permission N.01.2803.
<u>N.06.07021</u>	Section 73: Extension to sand quarry and infilling with waste without compliance with Condition 8 of Planning Permission N.04.3060 (Operating Hours).

**Proposal**

5. This is the second of two applications being considered today. Mineral extraction and landfill at Old Camp Farm is permitted by permission reference N.04.3060. However, a further application (reference N.06.07009) has been made to work land to the north of the application site known as Low Lane. That application proposes to work Low Lane prior to Old Camp Farm as this would enable the routing of mineral and waste lorries across Old Camp Farm to the existing processing plant rather than along the public highway.

6. If the Low Lane application is approved, the end date for the working of sand at Old Camp Farm would need to be extended as it would be worked and restored after the Low Lane Site. The approved restoration scheme for Old Camp Farm would also need to change so as to fit in with that proposed for Low Lane.
7. This application seeks to develop Old Camp Farm without complying with two of the conditions previously imposed on the planning permission granted for the sand extraction and infilling with waste. It is proposed to modify Conditions 3 and 5 of planning permission N.04.3060 in the following manner:

**Condition 3** of planning permission N.04.3060 states:

*The extraction of sand shall cease on or before 24<sup>th</sup> May 2009.*

*Reason: To ensure that the development is carried out in accordance with the approved details.*

The applicant proposes the condition should read:

*The extraction of sand shall cease on or before 24<sup>th</sup> May 2018.*

*Reason: To ensure that the development is carried out in accordance with the approved details.*

**Condition 5** of planning permission N.04.3060 states:

*The working, restoration and aftercare of the site shall be carried out only in accordance with the working programme submitted in application N.01.2803 dated 24<sup>th</sup> May 2002 and Drawings Nos. COM 2500/G/20A and COM 2500/G/21A dated February 2001, 4142-2000-01 and 4142/2000/002 rev A dated July 2004 and 4142-2000-002 dated November 2004.*

*Reason: To enable the Local Planning Authority to adequately control the development and minimise its impact on the amenities of the local area.*

The applicant proposes the condition should read:

*The working, restoration and aftercare of the site shall be carried out only in accordance with Drawings Nos. 6304-5000-001 RRC Landfill Restoration Pre Settlement and 6304-5000-002 RRC Landfill Restoration Post Settlement.*

8. The applicant has submitted revised phasing and restoration plans showing how Old Camp Farm and Low Lane could be worked and restored as one site rather than two. Permission is sought to restore the application site to the revised rather than the original plans.

### **Planning Policy**

9. The following policies are considered relevant to this application:
  - Policy MSP3 of the Wiltshire and Swindon Structure Plan 2016
  - Policy 31 of the Adopted Wiltshire and Swindon Minerals Local Plan 2001
10. All relevant planning policies are set out in the attached **Appendix 3**.

### **Consultations**

11. **North Wiltshire District Council (Planning)** – no objection.
12. **North Wiltshire District Council (Environmental Health Officer)** – no comment received.
13. **Compton Bassett Parish Council** – objects to the application.
14. **Calne Without Parish Council** – no comment received.
15. **Cherhill Parish Council** – no objection.
16. **Environment Agency** – the Environment Agency's interests will not be adversely affected by this proposal.
17. **Ministry of Defence - Safeguarding** – no safeguarding objections.
18. **Natural England** – no ecological issues relating to Sites of Special Scientific Interest or protected species for non-compliance with Condition 3. However, for non-compliance with Condition 5, would like to see some biodiversity gains through final restoration.
19. **Local Member Mrs. N.S. Bryant** – no comment received.
20. **Countryside Section** – no objection.
21. **Highways Development Control** – no objection. Notes that all future access can be via the current location with no new access being required from the C15.
22. Copies of the consultation replies referred to above are available for inspection in the **Members' Room**.

### **Publicity**

23. The application has been advertised in the local press and by site notices. A neighbour notification exercise was also carried out. No letters of representation have been received.

### **Planning Considerations**

24. Applications to vary or modify conditions attached to a planning permission are properly known as Section 73 applications. The procedure for such applications requires the planning authority to consider only the question of the condition(s) subject to which planning permission should be granted. If it is decided permission should be granted subject to conditions differing from the previous permission, the planning authority may grant permission accordingly. Alternatively, if the planning authority decides that the permission should be granted subject to the same conditions as in the previous permission, then it should refuse the application. If the planning authority decides that permission should be granted, a new permission would be created and the applicant would have the choice of implementing the new permission or the one originally granted.
25. If this application is granted, the extraction of sand from Old Camp Farm would be required to cease in 2018 rather than 2009 and the site would be restored to a landform different to that currently approved.

26. In determining this application, it will be necessary to consider the condition, the reason for it, its function, the degree to which it makes the development acceptable and, therefore, whether non-compliance with that condition would be acceptable in this context.

### **Condition 3**

27. The reason for this condition is to ensure that the development is carried out in accordance with the previously approved details. The main impact of non-compliance with Condition 3 would be the later end date for sand extraction. Sand extraction is currently due to cease by 2009, but extracting Low Lane first would mean that extraction at Old Camp Farm would not commence until around 2013. If this application is granted extraction would not cease until 2018, although the actual timescale for extracting the sand would remain the same, i.e. five years. Working the sites in this order would enable site traffic to travel from the extraction area to the processing area within the site rather than along the highway and work both areas in a more logical manner. However, there is no proposal to change the existing end date for landfilling and restoration at Old Camp Farm, i.e. May 2022. Therefore, landfilling and restoration would be completed by the date currently approved by permission ref N.04.3060. The proposed change to this condition would simply alter the point in time extraction takes place and would not extend the duration of operations. The proposed change is therefore considered acceptable.

### **Condition 5**

28. The reason for this condition is to enable the Mineral Planning Authority to adequately control the development and minimise its impact on the amenities at the local area. The approved restoration plans have been revised in order to integrate Old Camp Farm into the site restoration and landscaping proposals for the proposed Low Lane extension. The final landform would be a permanent feature in the landscape and has been designed so as to reflect the character of the adjacent Compton Bassett Park.
29. The revised restoration plans incorporate only minor changes to the approved contours and neither Natural England nor the County Landscape Officer have objected to the revisions. As the restoration proposals provide for the satisfactory restoration of the site, and bio-diversity gain in the form of additional tree planting, the application is in accordance with Policy 31 of the Minerals Local Plan and MSP3 of the Structure Plan. Both the restored land at Old Camp Farm and Low Lane would be subject to a five year period of aftercare. The proposed change is therefore considered acceptable.

### **Conclusion**

30. This application seeks to extend the end date for sand extraction at Old Camp Farm to allow the proposed Low Lane extension area to be worked first. Phasing the work in this way is acceptable because it would reduce the impact on the local road network and also prevent the mineral at Old Camp Farm from being sterilised. Sand extraction would start and finish later than currently approved but the landfilling and restoration of the Old Camp Farm Site would still be completed by the date currently approved i.e. 24<sup>th</sup> May, 2022.
31. The revised restoration scheme is acceptable and the County Landscape Officer and Natural England welcome the additional planting.
32. As the revised conditions are considered acceptable, it is considered planning permission should be granted. However, if the related application for the site extension at Low Lane is refused, this application should also be refused as there would be no reason not to comply with Conditions 3 and 5 of N.04.3060.

## **Recommendation**

33. That, subject to the approval of planning application N.06.07009, planning permission be granted for the following reasons and subject to the following conditions:

The change to the end date in Condition 3 simply alters the point in time extraction takes place and would not extend the duration of operations. The proposed change is therefore considered acceptable.

The revised restoration scheme submitted for Condition 5 enables the restoration of Old Camp Farm to be tied into that of Low Lane. The revised restoration scheme is acceptable and has raised no objection from the County Landscape Officer or Natural England, who raised welcome the additional planting.

## **Commencement**

1. The development hereby granted shall be commenced within 5 years from the date of this permission.

*Reason: To comply with Section 51(1) at the Planning and Compulsory Purchase Act 2004*

2. Written notification of the date of commencement shall be sent to the Mineral Planning Authority within seven days of such commencement.

*Reason: To enable the Mineral Planning Authority to monitor the operations and to ensure compliance with this permission.*

## **End Date**

3. The extraction of sand shall cease on or before 24<sup>th</sup> May 2018.

*Reason: To ensure that the development is carried out in accordance with the approved details.*

4. The tipping/deposit of waste material and restoration operations shall cease on or before 24<sup>th</sup> May 2022.

*Reason: To ensure that the development is carried out in accordance with the approved details.*

## **Site Operations**

5. The working, restoration and aftercare of the site shall be carried out only in accordance with Drawings Nos. 6304-5000-001 RRC Landfill Restoration Pre Settlement and 6304-5000-002 RRC Landfill Restoration Post Settlement.

*Reason: To enable the Mineral Planning Authority to adequately control the development and minimise its impact on the amenities of the local area.*

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, replacing or re-enacting that Order) no fixed plant or machinery, buildings and structures shall be erected, extended, installed, re-arranged, replaced, repaired or altered at the site without planning permission from the Mineral Planning Authority.

*Reason: To enable the Mineral Planning Authority to adequately control the development and minimise its impact on the amenities of the local area.*

7. No topsoil, subsoil or overburden shall be exported from the site.

*Reason: To ensure the satisfactory restoration of the site.*

Hours of Operation

8. Except in emergencies to maintain safe working (which shall be notified to the Mineral Planning Authority in writing within seven days) no operations shall be carried out and no plant shall be operated other than during the following hours:

07.00-18.00 Monday to Friday  
07.00-13.00 Saturday

No working shall be carried out at any time on Sunday, Bank or Public Holidays.

*Reason: In the interests of local amenity.*

9. No minerals except sand shall be removed from the site.

*Reason: To ensure that the development is carried out in accordance with the approved details.*

10. No waste other than that defined as inert shall be tipped within the area shaded blue on Drawing No. COM/2500/G/21A dated February 2001 of planning permission N.01.2803 and this area shall be restored in accordance with Condition 19 below.

*Reason: To ensure that the development is carried out in accordance with the approved details.*

11. Topsoil and subsoil and soil making material shall only be stripped when they are in a dry and friable condition and no movement, spreading or levelling of soils shall occur:

- (a) During the months October to March (inclusive)
- (b) When the full depth of soil to be stripped has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS 1377:1975 - 'British Standard Method Test for Soils for Civil Engineering Purposes' or
- (c) There are pools of water on the soil surface.

*Reason: To prevent damage to soils.*

12. All topsoil, subsoil and soil making materials shall be stored separately and in separate mounds which shall:

- (a) Not exceed 3 metres in height in the case of topsoil, or 5 metres in height in the case of subsoils.
- (b) Be constructed with only the minimum amount of soil compaction to ensure stability and shaped so as to avoid collection of water in surface undulations.

- (c) Not be subsequently moved or added to until required for restoration.
- (d) Have a minimum 3 metre stand off, undisturbed around each storage mound.
- (e) Comprise topsoils on like texture topsoils and subsoils on like texture subsoils.

*Reason: To prevent the loss of soil for restoration and minimise damage to soil structure during storage.*

13. All undisturbed areas of the site and all topsoil, subsoil and overburden storage mounds shall be kept free of agricultural weeds such as thistle, dock and ragwort. Cutting, grazing and spraying shall be undertaken as necessary to control plant growth and prevent the production of seed and the spread of weeds to adjoining agricultural land.

*Reason: To prevent the spread of agricultural weeds.*

14. Noise levels from operations on the site shall not exceed 55 dB(A) LAeq (1 hour) at any residential or noise sensitive property, the measurement to be taken at not less than 3.5 metres from the façade and at a height of 1.5 metres above ground level except during temporary operations when the limit shall be 70 dB(A) LAeq (1 hour) measured in the same manner.

*Reason: To safeguard the amenity of local residents and adjacent properties and land users.*

15. Steps shall be taken to minimise the generation and emission of noise, dust and fumes from any use or operation authorised or required by this planning permission. Such steps shall include:

- (a) The spraying of water to lay dust on the surface of the site, access and haul roads as appropriate.
- (b) The spraying of water to lay dust on the surface of stockpiles within the site as appropriate.
- (c) The proper use of wheel cleaning facilities by vehicles leaving the site.
- (d) Fitting all plant, machinery and vehicles with effective silencers maintained in accordance with the manufacturers specifications.

*Reason: To safeguard the amenity of local residents and adjacent properties and land users.*

16. The scheme for controlling scavenging birds, approved pursuant to Condition 14 of planning permission N.01.2803 shall apply for the duration of all operations hereby permitted.

17. Within six months of the date of this permission being implemented, a detailed scheme to accommodate surface water run-off from the restored site shall be submitted to the Mineral Planning Authority for approval. Development shall be carried out in accordance with the approved scheme.

*Reason: To ensure the adequate drainage of the site.*

18. The site access and hard surfaced areas used by vehicles shall be watered or treated with approved dust laying agent at times as may be necessary to prevent dust nuisance arising from the site.

*Reason: To safeguard the amenity of the area and local residents.*

#### Restoration

19. Within a period not exceeding 12 months of a phase being tipped and sealed to its pre-final level, it shall be covered with a layer of subsoil at least 300 mm in depth and topsoil 150 mm in depth.

*Reason: To ensure the productive afteruse of the land.*

20. Within 12 months of the date of this permission, a landscaping scheme shall be submitted to and approved by the Mineral Planning Authority. The scheme shall include the following:
- (a) The position, species and sizes of all existing trees, shrubs and hedgerows to be retained and the proposal for protection throughout the operations.
  - (b) The position, species, spacing and initial sizes of all new trees, hedges and shrubs.
  - (c) The programme of implementation of the scheme.
  - (d) The arrangements for subsequent maintenance.
  - (e) Any tree or shrub which dies within five years of being planted shall be replaced with new stock to the satisfaction of the Mineral Planning Authority and be maintained for a period of five years.

*Reason: To improve the appearance of the site in the interests of visual amenity and to assist in absorbing the site back into the local landscape.*

21. On completion of the importation of all landfill material, all machinery, plant, buildings, structures and any other site facility not essential for restoration/aftercare or for continuing landfill gas/leachate monitoring and control shall be removed or demolished and removed from the site. Any hardcore or material likely to interfere with the restoration of the land shall be removed prior to the final seeding and cultivation of the land.

*Reason: To ensure the satisfactory restoration of the site.*

22. All internal haul roads shall be removed when no longer required or during the course of site restoration, whichever is the sooner.

*Reason: To ensure the satisfactory restoration of the site.*



23. Prior to the commencement of the development hereby permitted, an aftercare scheme showing the steps to be taken to restore the physical characteristics of the land to a condition suitable for agriculture shall be submitted to and agreed in writing by the Mineral Planning Authority. The submitted scheme shall specify the steps to be taken and the periods during which they are to be taken and related to the restoration of the site in accordance with the conditions of this permission. The steps to be taken shall cover a period of five years from the completion and reinstatement of topsoils over the site.

*Reason: In the interests of safeguarding and enhancing the visual amenities of the site.*

**GEORGE BATTEN**

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Report Author

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**The following unpublished documents have been relied on in the preparation of this Report:**

Consultation replies and correspondence