

REGULATORY COMMITTEE  
14<sup>th</sup> NOVEMBER 2007

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**ASHTON KEYNES: IMPORTATION OF INERT MATERIAL FOR THE CREATION OF  
TWO ISLANDS AND TWO FISH HOLDING PONDS TOGETHER WITH TWO  
BOARDWALK BRIDGES, PARKING AND AN AMENITY BUILDING ANCILLARY TO THE  
USE OF THE LAKE AS A 'PAY AND FISH' FISHERY AT  
LAKE 81, RIXON GATE, ASHTON KEYNES  
(Application No. N/07/07011)**

**Purpose of Report**

1. To comment on the application and recommend that planning permission be **refused**.

**The Site**

2. 'Lake 81' is one of the many former gravel workings within the Cotswold Water Park. Planning permission for sand and gravel extraction was granted in 1992 and the site had been worked and restoration substantially completed by 2002.
3. The lake is located to the east of the village of Ashton Keynes and immediately north and west of Friday's Ham Lane. A permissive bridleway makes up the eastern boundary of the site. To the west is another lake and to the north, active mineral working. The closest residential properties are 10 and 11 Rixon Gate, which overlook the lake. One of these properties is owned and occupied by the applicant. Rixon Farm is located opposite to Rixon Gate on the far side of Friday's Ham Lane and 12 Rixon Gate is located close to the north eastern boundary of the site.
4. A location plan is attached at **Appendix 1** and a site plan attached at **Appendix 2**.

**Site History**

5. N.89.2844 Extraction of sand and gravel with progressive restoration using limited importation of infill. Permission granted on 26<sup>th</sup> March 1992.

**The Proposal**

6. It is proposed to establish a 'Pay and Fish' facility at the lake. To create this facility, planning permission is sought for the following:
  - Importation of 146,400 cubic metres of inert waste material (clays, soils and sub-soils) to form two islands (2 hectares in area), two fish holding areas and eight promontories into the lake
  - Construction of two boardwalk bridges (wheelchair accessible)
  - Re-profiling of the lake bed and creation of a series of reedbeds
  - Construction of a timber amenity building
  - Creation of a car park for 20 cars

7. The applicant states that the existing 9 hectare lake is too 'open' and that a more interesting layout is required. The purpose of the formation of the islands and promontories is the reduction of the area of open water and the creation of a testing and demanding fishery, more conducive to specimen fishing.
8. A temporary access would be created to the east of the site for HGVs importing inert waste material. Following completion of the works, the access would be closed off. The applicant has stated that all HGVs would approach and leave the site via the Spine Road (east) and Friday's Ham Lane and none would pass through Ashton Keynes in either direction. The HGVs would need to cross the permissive bridleway to access the lake. Anglers would access the lake from the existing access to the south-west of the site, adjacent to the proposed amenity building and car park.
9. Inert waste material would be brought on to the site by HGV and progressively tipped into the water close to the point of the temporary access. The material would be tipped in a south-westerly direction to create a causeway to the southern shore. The causeway would need to be at least 50 metres wide so that vehicles could drive to the working face, tip, and leave without the need to reverse.
10. Following completion of the causeway, material would be tipped along both sides to create a single island towards the centre of the lake. Once the desired land levels are achieved, the centre section of the island would be excavated to create two islands. The islands would be no higher than the adjacent land.
11. The excavated materials and the materials from the redundant parts of the causeway would be reused around the lake to form the promontories and re-profile the lake bed to create the reedbeds. Following completion of all the tipping, topsoil would be spread over the completed islands and planting undertaken in the first available planting season.
12. The two islands would be linked to the mainland and each other by two boardwalk bridges. The bridges would be steel framed and timber-clad and allow both pedestrian and disabled access. The amenity building would be single storey, timber-clad and used solely in connection with the fishing lake. The building would comprise four bays which would be utilised for a boathouse, land maintenance machinery, a tackle store and an anglers' amenity room with toilet. The car park would provide parking for 20 vehicles and be surfaced with woodchip or similar material appropriate to the rural setting.
13. Due to the fluctuating supply of inert material, the applicant has not been able to specify an exact number of lorry movements per day. However, it is anticipated that to complete the development within a four year period, an average of 12 loads and a maximum of 50 loads a day would enter the site. This equates to between 24 and 100 lorry movements per day.
14. A wheel-wash would be installed on site to ensure that lorries leaving the site would have clean wheels. A road sweeper would be employed if mud or dust was tracked onto the road.

15. The proposed hours of operation during the construction period are as follows:

|                                 |                   |
|---------------------------------|-------------------|
| Monday to Friday                | 07.30-17.00 hours |
| Saturday                        | 07.30-13.00 hours |
| Sunday and Bank/Public Holidays | Closed            |

Hours of operation of the completed fishery are proposed as follows:

Monday to Sunday Dawn to dusk and occasional night fishing.

### **Planning Policy**

16. The following Development Plan policies are considered relevant to the determination of this application:

- Policies RLT5 and W4 of the Wiltshire and Swindon Structure Plan 2016.
- Policies 2, 4, 6 and 20 of the Wiltshire and Swindon Waste Local Plan 2011.
- Policy NE22 of the North Wiltshire Local Plan 2011.

All relevant policies are set out in the attached **Appendix 3**.

### **Consultation**

17. **North Wiltshire District Council (Planning)** – no objection in principle but raise following concerns:

- There appears to be no real justification for the amenity building and the County Council should satisfy itself that it is absolutely necessary.
- Building could be located further from No.10 Rixon Gate and closer to the parking area.
- In the event of approval, consideration should be given to the adequacy of the point of access, hours of construction and the nature of the material to be used.

18. **North Wiltshire District Council (Environmental Health Officer)** – no objections.

19. **Ashton Keynes Parish Council** – raised the following concerns:

- (i) Could applicant use existing access to the north rather than create a new access on the narrow Friday's Ham Lane? Lorries would damage grass verges – who would repair?
- (ii) Use of amenity building should be linked to the fishing lake to prevent use as a dwelling.
- (iii) 7.30 a.m. start is too early given proximity to residential properties.
- (iv) Would the wheel wash use water from the lake?
- (v) What will be the affect of the access on the users of the bridleway? Appropriate signage must be in place.

- (vi) Would prefer planting to shield the site from the bridleway rather than restrictive fencing.
  - (vii) Overflow parking arrangement should be made within the site to prevent people parking on the road and/or verges.
  - (viii) No HGVs should travel through Ashton Keynes.
  - (ix) The number of fishing pegs must be limited to 40 at any one time.
20. **Local Member** – no comments received.
21. **Environment Agency** – no objection. Only clean inert soils and spoils should be deposited and a Construction Environmental Management Plan should be produced. Consider ecological impact assessment is satisfactory. Buffer zone to protect hedges should be fenced off to prevent lorries impacting on the habitat. Amenity building could be fitted with bat boxes to create bat roosts.
22. **Natural England** – consider proposal will hopefully increase biodiversity interest of existing lake. Would be useful if applicant could outline further areas where they could deliver the Cotswold Water Park Biodiversity Action Plan, e.g. construct bat boxes for Daubenton's bat.
23. **Cotswold Water Park Society** – consider that if project undertaken properly it could be beneficial to biodiversity. However, Ecological Clerk of Works should be on site to supervise works. Site would need to be monitored long term to ensure that biodiversity benefits are forthcoming. If they are not, monitoring programme must be revisited and amendments made.
24. **Ministry of Defence – Safeguarding** – no safeguarding objections provided that:
- All fox proof gates and fences are removed from the design to allow predation of the islands.
  - A long grass policy is adopted at the site to deter 'hazardous' birds from grazing.
  - The islands are planted with dense scrub to deny aerial access to 'hazardous' birds and
  - A Bird Management Plan is put in place to prevent the breeding and nesting of feral geese.
25. **Countryside Section** – the survey effort has been sufficient to determine any adverse impacts on groundwater flows with the site and within the surrounding area and the proposed mitigation measures are appropriate to the potential impacts. If the proposed mitigation is incorporated into the construction method statement, there should be no likely significant adverse impact on groundwater flows in the area.
26. **Local Highway Authority** – no objections subject to conditions to control the construction of the new access and wheel wash facility and the submission of an HGV routing plan.
27. **Rights of Way** – permissive bridleway is well used but as it would remain open, no problem is foreseen.

28. Copies of the consultation responses will be available for inspection in the **Members' Room**.

### **Publicity**

29. The application was advertised in the local press, by site notices and neighbour notification. Twenty-eight letters of objection and one letter of support have been received.
30. The concerns expressed relate to:
- (i) Additional HGV traffic and related noise.
  - (ii) Inappropriate location of access on narrow road used by cyclists, walkers and horse riders – potential for accidents.
  - (iii) Potential for mud and dust on Friday's Ham Lane and damage to grass verges.
  - (iv) Impact on permissive bridleway – will dissuade people from walking or cycling to Ashton Keynes.
  - (v) Potential of waste material to pollute water – who will monitor and how?
  - (vi) Waste disposal operation rather than creation of islands for fishery.
  - (vii) Concern over match fishing and the additional traffic this would entail – overflow parking along Friday's Ham Lane.
  - (viii) Already good provision for fishing lakes in the Water Park – over 70 in existence.
31. The Cotswold Water Park Villages Society objects on the grounds of increased HGV movements in the vicinity of Ashton Keynes and the impact this would have on local residents.
32. Copies of the representations are available for inspection in the **Members' Room**.

### **Planning Considerations**

33. This planning application is being dealt with by the County Council as the proposals encompass the deposit of significant quantities of waste material. Planning applications in relation to use of land for the depositing of waste constitute 'County Matters'.
34. The planning application must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
35. Having taken into account the consultation responses, letters of representation, National Planning policy and Development Plan policies, it is considered that the issues in the determination of this application are:
- The principle of the Change of Use to a 'Pay and Fish' facility

- The principle of the use of recyclable materials for the formation of islands and promontories
- The potential impact of the proposal on the amenity of local residents and users of the highway and permissive bridleway

#### The Principle of the Change of Use to a Pay and Fish facility

36. Lake 81 was created by the extraction of sand and gravel, with the workings being restored 'as a lake area with water based recreation as the possible after use'. The lake is currently stocked with fish and used for small-scale informal fishing.
37. The Change of Use of the lake to a 'Pay and Fish' facility would bring about a more formal and intensive use of the lake and the potential impacts of this must be taken into consideration.
38. Policy RLT5 of the Structure Plan states that provision should be made for water based recreation in the Cotswold Water Park, having regard to the impact on local communities and the environment. The likely impacts of the proposal on local residents and the community are increased traffic and potential disturbance from cars entering and leaving the site, car doors slamming early morning or late at night, etc. Whilst parking would be created for 20 cars, there is a concern more formal match-style fishing would lead to overflow parking along the verges of Friday's Ham Lane.
39. With regard to the concern expressed by the District Council concerning the justification for the amenity building, officers have discussed the requirement for such a building with the applicant. Officers are satisfied that there is a need for this type of building. The building would provide a sheltered area for anglers to eat, drink and wash. The size and design of the building is considered to be appropriate to its location.
40. Objectors have pointed out that there were a significant number of fishing lakes within the Cotswold Water Park (over 70 at present) and question the case for an additional facility. Aside from wanting to create a more 'demanding' fishery, the applicant has not provided information in support of the need for an additional fishing facility in the Cotswold Water Park of the nature proposed.
41. Officers are concerned that the creation of a formal fishing facility as proposed, whose formation and operation could have a negative impact on the local community, has not been fully justified in an area already well served by similar facilities. Based on the information that has been made available, it is not possible to judge whether the facility would bring any benefit sufficient to outweigh its impact on the local area.

#### Deposit of waste material into water

42. The formation of the islands and promontories through the tipping of waste material into water is essentially a landfill operation. The applicant suggests that there is an increasing need for inert waste disposal and that this proposal would make a constructive use for inert fill from the local area. If approved, this development would result in the disposal of some 145,000 cubic metres of inert waste material over a four year period.

43. Policy 2 of the Waste Local Plan provides that waste management proposals will only be permitted where there is a demonstrated need to cater for Wiltshire and Swindon's waste arisings or, in the case of landfill, the development is needed for operational or restoration purposes. Policy 20 of the Waste Local Plan states that in terms of new landfill sites, priority will be given to proposals that demonstrate that there are no other practical options for achieving beneficial restoration and after-use of a proposed site (usually worked out minerals sites or previously used or developed land) within an acceptable timescale.
44. As the lake has been restored, the material is not needed for operational purposes. The applicant has not demonstrated that there is no other practical alternative to landfill to achieve the aim of providing 'a more demanding fishery'. Lake 81 is some four metres deep and the proposed islands would rise two metres above the water level. This represents the use of a considerable amount of waste material to create a relatively small amount of land above water.
45. The Environment Agency and North Wiltshire District Council have stated that they have no objection to the proposal subject to the County Council being satisfied that the amount and nature of the waste material tipped are appropriate. Officers are concerned that the proposed method for constructing the islands and promontories (i.e. loose tipping into open water) will make it extremely difficult to monitor the amount of waste being tipped into the lake or the contents of that waste.
46. It is not clear how the amount of waste needed to construct the islands could be limited to 146,400 cubic metres as suggested. Soils and clays would experience variable compaction and slumping as they are tipped into the water. Furthermore, large amounts of material would have to be tipped into the lake to create a surface over which plant and machinery could travel, only then to be re-excavated to form the islands and promontories in their proposed shapes. During the course of construction, approximately 7 hectares of the 9 hectare lake floor would have material deposited upon it. Whilst the applicant has provided some information as to how the island construction could be undertaken, officers are not satisfied that the project can be successfully achieved in practice. Although fishing lakes containing islands do exist, these are more usually lakes which have been designed and excavated from dry land, or existing lakes that have been de-watered to allow islands to be formed in a more controlled manner.
47. Whilst Lake 81 does not contain any rare or protected species of fish, officers do note that the Environment Agency's publication '*Constructing Coarse Fisheries*' advises that new fisheries should be allowed to mature for a minimum period of one summer before fish are released; this being to ensure that aquatic flora and fauna are sufficiently established to provide food and shelter for the fish. The proposal to deposit waste material into Lake 81 and the impact this might have on existing fish stocks does not appear to have been considered fully by the applicant.
48. The applicant contends there is an increasing need for inert waste disposal in the local area, but has not provided any information to support this claim. The Waste Local Plan records that in general the landfill capacity for construction and demolition waste is thought to be adequate, with sufficient void space until 2011-2012.

49. Officers are concerned that overprovision of landfill capacity could result in waste materials being diverted away from sites that require such materials for restoration works. A number of sites within the Cotswold Water Park are committed to importing inert waste to complete approved restoration schemes. A pertinent example is Cleveland Farm Lakes, located adjacent to Lake 81 along Friday's Ham Lane, which is subject to a restoration scheme that requires importation of inert waste materials.
50. The restoration of Lake 81 has previously been completed and no case has been made to demonstrate that there are operational or restoration imperatives to deposit the amount of waste material proposed. Officers consider the proposed deposit of some 145,000 cubic metres of waste materials in the lake to be unjustified.

#### Potential Impact on Local Amenity

51. Policy W4 of the Structure Plan and Policy 6 of the Waste Local Plan state that proposals for waste management facilities should have regard to the effects on local amenities, nearby land uses, landscape, the natural and historic environment and traffic generation.
52. The majority of objectors to the proposal are concerned that Friday's Ham Lane is too narrow to safely accommodate HGV traffic, particularly when two HGVs would be required to pass each other. However, the location and design of the proposed temporary HGV access from Friday's Ham Lane has been agreed in principle by the Local Highway Authority, who confirm that the proposed access arrangements are satisfactory in relation to highway capacity and engineering standards.
53. Despite this, and bearing in mind that the access is expected to be operational for four years, officers are concerned about the environmental impact that the HGV movements could have on the users of the permissive bridleway and the narrow stretch of Friday's Ham Lane along which vehicles would need to travel to access the site. Both the road and bridleway are well used by horse riders, cyclists and pedestrians and so there is potential for conflict with HGV traffic. Due to a covenant on the bridleway, the applicant cannot close the route, despite it being a permissive rather than a definitive route. Whilst the applicant has stated that the site could be closed on those Saturdays when cycling competitions occur in the area, this would not protect the safety of the road and bridleway users at other times. Furthermore, as the supply of inert waste material is generally inconsistent, it is likely to be imported on a campaign basis, with few or no vehicles importing waste some days and high numbers of vehicles queuing to enter the site on other days. The latter can be particularly intimidating for other road users. Therefore, officers are concerned that the anticipated vehicle movements associated with this development could compromise the enjoyment and safety of those using these routes. It should be noted that the applicant has found it difficult to provide an estimate of vehicle numbers.
54. The potential impacts of the proposed scheme on the hydrology of the local area have been assessed by an independent hydrologist. The report concludes that without mitigation, there is a risk of water pollution from the accidental spillages of fuels and lubricants by construction plant and the increase in suspended solids and accidental contamination of water from the imported fill. The risk of water pollution could be mitigated by daily inspections of plant and machinery for fuel leaks and ensuring that the source of all inert materials is known and confirmed to be uncontaminated prior to acceptance at the site.



55. In terms of effects on the local ecology, an Ecological Impact Assessment, commissioned by the applicant concluded that the site supported common, widespread habitat and that there was an absence of critical habitats for rare or protected species. The overall ecological impacts of the proposal were considered to be positive due to the benefits provided by the creation of terrestrial and aquatic habitats in the longer term.
56. In terms of potential positive benefits on amenity, there is policy support for outdoor recreation proposals. However, the benefits of these proposals need to be considered against their potential impact on local communities. It is considered, in this case, that the proposal would have a negative impact on the local community.

### **Conclusions**

57. This application would entail the importation and tipping of 146,400 cubic metres of inert waste material to create two islands and a number of promontories in an established lake to create a 'pay and fish' venue. The purpose of the islands is the development of a more demanding fishing environment. However, the deposit of waste material for the purposes proposed is considered unjustified, particularly to create a facility of which there is no shortage in the Cotswold Water Park.
58. Whilst, the design and location of the temporary HGV access has been agreed in principle by the Local Highways Authority, it is considered that increased HGV movements on this narrow section of Friday's Ham Lane would be detrimental to the enjoyment and safety of the walkers, horse riders and cyclists who use the lane and the permissive bridleway on a regular basis.
59. It is not accepted that demand for an additional fishing facility as proposed in the Cotswold Water Park outweighs the adverse impacts that would be result from the importation and deposit of waste materials proposed for use in the construction of the islands. It is considered that the proposal is contrary to Development Plan policies set out in paragraph 16 of this report and that there are no material considerations to warrant a departure from the Development Plan.

### **Recommendation**

60. That planning permission be **refused** for the following reasons:
1. The proposed development would, by virtue of more intensive formal use for fishing, have an adverse impact on the amenity of the local community and adjoining residential properties and is therefore contrary to Policy RLT5 of the Adopted Wiltshire and Swindon Structure Plan 2016. The applicant has not demonstrated any overriding requirement for a formal fishing enterprise at this location which would outweigh any adverse environmental or other impact that the development would be likely to cause.
  2. It has not been demonstrated that the deposit of the quantity of waste material as proposed is needed for operational or restoration purposes or to meet a demonstrated need to cater for Wiltshire and Swindon's waste arising or to meet a cross boundary requirement. Consequently, the development is considered to be contrary to Policy 2 and Policy 20 of the Adopted Wiltshire and Swindon Waste Local Plan 2011. The deposit of waste material for the purposes proposed is considered unjustified.

3. The proposed development would, by virtue of the traffic movements resulting from the importation of waste materials have an adverse impact on the amenity and safety of users of Friday's Ham Lane and is therefore contrary to the provisions of Policy 6 of the Adopted Wiltshire and Swindon Waste Local Plan 2011 and Policy RLT5 of the Adopted Wiltshire and Swindon Structure Plan 2016.
4. Given that the proposal involves depositing waste into water, it is considered that it would be extremely difficult in practice to monitor both the quality of the materials deposited (i.e. to ensure they are uncontaminated) and the quantity deposited. The Waste Planning Authority considers as these matters cannot be adequately controlled by condition the application should be refused.
5. The applicant has not satisfied the Waste Planning Authority as to the feasibility of the proposed method of construction and the Waste Planning Authority is thus unable to be certain that the development would be completed successfully, or within the applicant's suggested timeframe.

**GEORGE BATTEN**

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**The following unpublished documents have been relied upon in the publication of this report:**

Consultation replies and correspondence.