

Development Control Committee – 19th June 2017

Application Number:	CM/18/17
Title:	Retrospective (Part) application for remedial works to level and re-cap an area of exposed historic domestic landfill through the importation on inert sub soils and top soil at Great Moor Sailing Club
Site Location:	Great Moor Sailing Club Gawcott Road Twyford Buckinghamshire MK18 2GJ
Applicant:	Leigh Stephenson
Author:	Head of Planning & Environment
Contact Officer:	Anna Herriman aherriman@buckscc.gov.uk
Contact Number:	01296 382819
Electoral divisions affected:	Grendon Underwood
Local Members:	Angela MacPherson

Summary Recommendation(s):

The Development Control Committee is invited to APPROVE the planning application subject to:

- The conditions as set out in Appendix A to this report.

Appendices: **Appendix A: Conditions**



INVESTOR IN PEOPLE



Introduction

1. The application is a part retrospective planning application and is submitted by Leigh Stephenson. It was validated on 22nd March 2017 and sent out for consultation on 24th March 2017. The application was advertised by a site notice, neighbour notification and newspaper advertisement as a major development.
2. The target for determination of this application is 21st June 2017.

Site Description

3. Greatmoor sailing club is located approximately 11 miles to the north west of Aylesbury and approximately 6 miles to the east of Bicester. The sailing club site is situated to the west of Gawcott Road/Perry Hill on land that was formerly part of the brickworks at Calvert. The application site falls within the 52 hectares utilised by the sailing club and is located to the north of the village of Charndon and is accessed from Gawcott Road/Perry Hill.
4. To the west of Gawcott Road/Perry Hill, directly opposite the site, lies a BBOWT nature reserve which was created using another of the disused brickwork clay pits. The two lakes are connected via a tunnel which runs beneath Thame Road and maintains the water levels in each lake. Greatmoor Sailing Club is itself a Wildlife Site and there are a number of protected and notable species within it. The nearest residential properties lie approx. 470m to the south along School Hill, Charndon.
5. The size of the site including the access road is approximately 0.07 hectares. The location of the site can be seen below in Figure 1.

Relevant Planning History

6. The only planning history found relating to Greatmoor Sailing Club is for a previously approved restoration of the site which was completed in the 1970's.

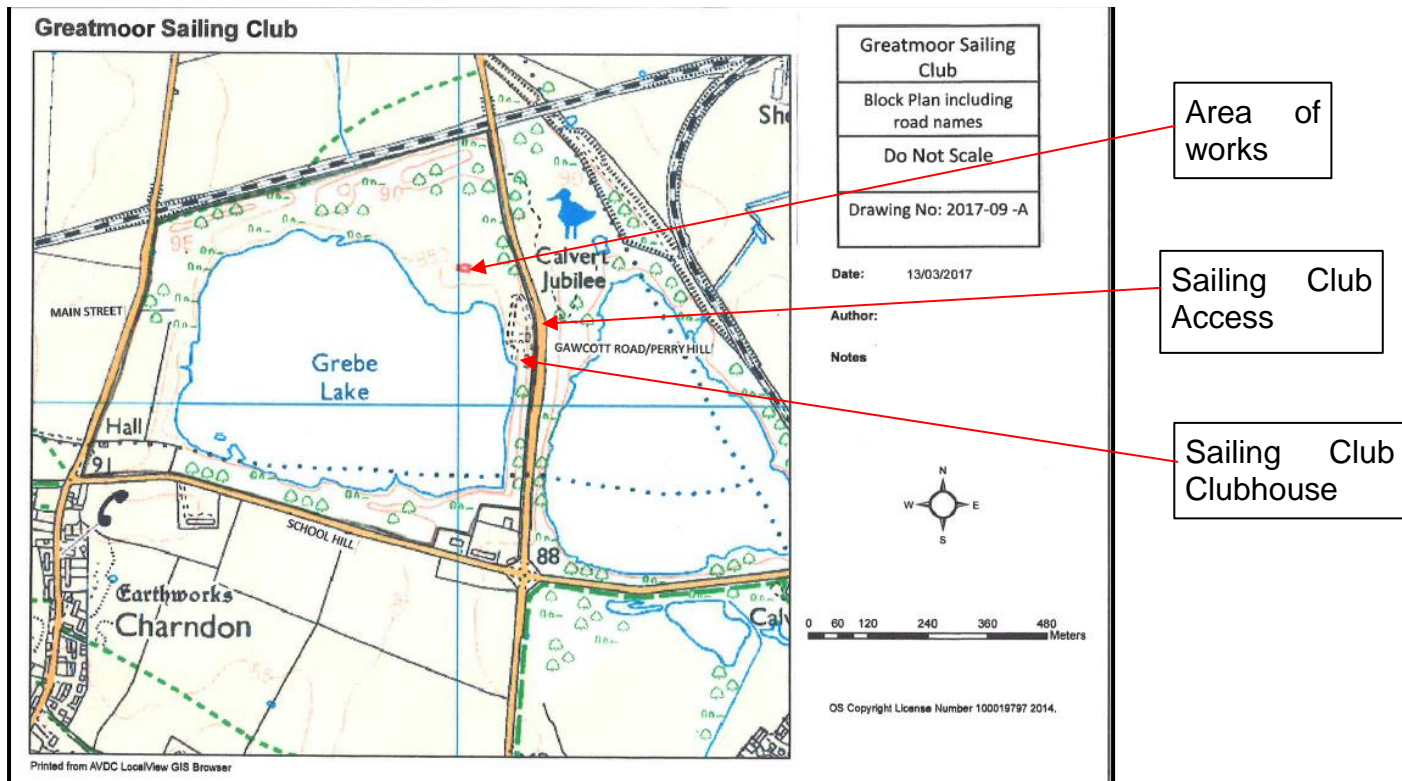


Figure 1 – Location of the site:

The Proposed Development

7. The planning application that has been submitted is part retrospective. That part of the development that has already been carried out comprises the importation of 400 cubic metres of locally derived sub soils from nearby residential developments. This was imported in forty lorry loads and spread onto the land using a mechanical digger to a maximum depth of one metre. The applicant states that the subsoil contents are inert but contain small amounts of builder's material, including parts of brick and small lumps of concrete. The subsoils were used as part of the restoration of the land to the previously approved restoration ground levels. Some of the domestic waste tipped in the 1970's had compacted leaving the surface uneven. This underlying domestic waste was also provided with little cover and, in places, had become exposed due to natural weathering.
8. The remaining work is the hand picking of the upper surface of the subsoil to remove any objects greater than 150 mm in diameter. These will be removed from the application site and used as hardcore in the construction of a new access. 15 lorry loads of topsoil would then be imported and spread over the site to a depth of 25 mm to enable the area to be grass seeded. Soils would only be spread when they are dry and friable and, if necessary, measures would be taken to ensure that dust does not drift beyond the development site. This would include ensuring that soils are not deposited in windy conditions and the dampening of any haul roads used.

9. It anticipated that the remaining works would take no more than 40 hours and be completed within one month during the summer. The work would not be carried out other than between the hours of 9.00 am and 5.00 pm Monday to Friday. There would, therefore, be no need for any lighting.
10. On completion of the topsoiling and seeding, the Sailing Club would utilise the land for the temporary storage of sailing boats while new boat berths and site access are constructed. This work is required to allow the realignment of Gawcott Road which will be carried out in association with the HS2 construction works.

Planning Policy

11. The development plan for this area comprises the Buckinghamshire Minerals and Waste Core Strategy (BMWCS) (Adopted 2012), the saved policies of the Buckinghamshire Minerals and Waste Local Plan (BMWLP) (2006) and the saved policies of the Aylesbury Vale District Local Plan (AVDLP) (2004).
12. The National Planning Policy Framework (NPPF) 2012 and the National Planning Policy for Waste (NPPW) (2014) are also material considerations.
13. The relevant policies from the Buckinghamshire Minerals and Waste Core Strategy (BMWCS) which would apply to this development are Policy CS15 – Landfill; Policy CS18 – Protection of Environmental Assets of National Importance; Policy CS19 – Protection of Environmental Assets of Local Importance and Policy CS22 – Design and Climate Change.
14. The only saved policies from the Buckinghamshire Minerals and Waste Local Plan (BMWLP) which would apply to this development are Policy 18 – Landfill and Landraising and Policy 28 – Amenity.
15. The relevant saved policies from the Aylesbury Vale District Local Plan (AVDLP) that would apply to this development are Policy GP.8 – Amenity and Policy RA.36 – Traffic on Rural Roads.

Consultations

16. **Local Member** – No comments have been received from the Local Member
17. **District Council** – Aylesbury Vale District Council has no objection to the planning application.

Town\Parish Council

18. **Steeple Claydon Parish Council** – Steeple Claydon Parish Council has no objection to the work which has been carried out.

Statutory Consultees

19. **Environment Agency** – No comment has been received by the Environment Agency.
20. **Highways Development Management** – Have no objection to the planning application subject to informatives:
- It is an offence under S151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site.
 - No vehicles associated with the building operations on the development site shall be parked on the public highway so as to cause an obstruction. Any such willful obstruction is an offence under S137 of the Highways Act
21. **Right of way** – No comments have yet been received. If any comments are received then Members will be updated verbally at the Committee meeting.
22. **AVDC Environmental Health Officer** – No comments were received.
23. **Natural England** – Have no objection to the proposed development and consider that the development would not have a detrimental impact on designated sites and areas. Natural England has, however, expressed concern that an environmental assessment was not undertaken.
24. **Flood Management Team.** The Strategic Flood Management team has no objection to the proposed development. As the site is at low risk of groundwater and surface water flooding, and no hardstanding is proposed, it is not considered that the development would pose a flood risk.
25. **The Ecological Adviser** has pointed out that the site lies within the Brick Pits, Greatmoor Sailing Club Wildlife Site and that there are numerous protected and notable species records on or close to the site. There is, therefore, potential for ecological impacts to occur and there is insufficient information submitted with the application to be certain that this will not be the case. It is, therefore recommended that a Preliminary Ecology Appraisal (PEA) is carried out to establish the ecological value of the site. The PEA should, amongst other matters, identify mitigation measures, detailed management plans and opportunities for ecological enhancement.

(Full consultee responses available at

<http://publicaccess.buckscc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OMHUEIDS03F00>

Representations

26. One representation was received. This does not raise objection to the recapping of the historic landfill but does object to a retrospective planning application being

submitted to avoid enforcement action. The objection also states that the information submitted with the application is inaccurate as:- i) the tipping of the waste commenced six years ago, ii) it was unregulated and unrecorded with no supervision of the contractors, iii) the tip probably contains garden rubbish covered by a layer of subsoil and rubble, iv) the exposed edges show tarmac, wood, green waste and ash from combusted plastics and wood, v) the tip may contain the remains of an asbestos roof from a nearby demolished building vi) the area of tipping extends further and is a greater volume than that specified in the application and which has been recently capped. The additional area is now covered in undergrowth.

27. The objection also addresses other matters which are not issues for planning.

DISCUSSION

28. The key planning issues are:

- Principle of development
- Environment and Heritage
- Potential Amenity Impacts.
- Possible Flooding and Pollution
- Traffic
- Whether enforcement action is appropriate, or not.

Principle of development

29. The National Planning Policy for Waste seeks to encourage the recycling and reuse of waste, stressing that its disposal should be a last resort. This principle is reflected in the Waste Strategy set out in the BMWCS, which states:

“The County Council will plan for an equivalent amount of waste to that generated within the county (net self-sufficiency) in managing its wastes to 2026, and to meet prevailing targets for increased recycling and diversion from landfill”.

And

“The Council will plan for a reduction in the disposal of waste to landfill – including that imported from London – over the plan period”.

30. Policy 18 of the BMWLP also contains a presumption against landfill and landraising unless benefits arising from the proposal would demonstrably outweigh the harm. The disposal of inert fill to landfill or land raising without purpose other than disposal would not, therefore, accord with either the NPPW or the Core Strategy unless there were sufficient benefits arising to justify the proposal.

31. The information supporting the application, however, advises that the waste material that has been imported and spread onto the application site is to return the land to previously permitted levels. Household waste which had been tipped

in the 1970's had compacted leaving an uneven surface. The importation of additional material was also needed to cover the underlying material which had an inadequate protecting layer and was, in places, exposed through weathering.

32. The site inspection that was carried out when the tipping was initially investigated appeared to corroborate the supporting statement. The area of the recent tipping has not been raised significantly above that of the surrounding land, therefore, appears to be no more than that necessary to restore the land, using waste for a beneficial purpose as a form of waste recovery rather than disposal.
33. The NPPW also seeks to ensure that landfill sites are restored to beneficial afteruses. As returning the previously unused land to an area that can be utilised by the sailing club, the development can be considered to accord with the underlying principles of acceptable waste development outlined in the NPPW, the BMWCS and the BMWLP as it would amount to waste recovery (using waste for a beneficial purpose) rather than waste disposal.

Environment and Heritage

34. Policies CS18 and CS19 of the MWCS and state that permission will not be granted for waste development that would be likely to endanger or have a significant adverse affect on the character, appearance and setting of designated locally importance landscapes, nature reserves, heritage assets and water resources. Paragraph 109 of the NPPF advises that the planning system should contribute to and enhance the natural and local environment with paragraph 118 seeking to ensure Local Planning Authorities conserve and enhance biodiversity interests.
35. Natural England raised no objection to the development as it considers that it will have no significant adverse impact on designated sites. Natural England did, however, express its disappointment that an environmental assessment was not carried out in view of the BBOWT nature reserve in close proximity to the application site. The County Council's ecological adviser was subsequently consulted on the application. The ecological adviser considers that a Preliminary Ecology Appraisal should be carried out as part of any planning permission granted which, amongst other matters, should identify key constraints to the development, mitigation measures and opportunities for ecological enhancement.
36. The National Planning Policy for Waste advises that waste planning authorities should when determining planning applications for waste facilities, consider the adverse effects on Natural Improvement Areas, ecological networks and protected species. However, the NPPW also emphasizes that when testing the suitability of sites and areas for waste developments in relation to these matters, waste planning authorities are to bear in mind the envisaged waste management facility in terms of type and scale.
37. In this case, the area of tipping at 720 square metres, is very small when compared to the 52 hectares of the former brick pit. The operations were short term and will be completed within a further month of activity. The effect on the

ecology of the brickpit as a whole will have been marginal and it is very likely that the benefits of the restoration, when completed, will rapidly outweigh any harm caused by the operations. This should be compared to the previous situation where underlying waste was becoming exposed and, thereby, likely to be harmful to surface dwelling flora and fauna. This would have continued had remedial work not been undertaken. In the circumstances, it is not considered appropriate that a detailed ecological survey is carried out as a requirement of any planning permission granted.

38. However, the NPPW and the Core Strategy expect biodiversity gains to be brought about together with development. It is, therefore, considered appropriate that a planting scheme, which will enhance the biodiversity of the application site and its surroundings, is submitted and approved as a condition of planning permission.
39. There is no record of the application site and its surroundings containing anything of archaeological or historic importance. Had there been such, these would have been identified during the clay extraction from the site during the 1970's. There are, therefore, no heritage concerns in relation to the development.

Potential Amenity and Traffic Impacts

40. Policies 28 and 29 of the MWLP seek to protect those who may be affected by waste development proposals from any significant adverse levels of disturbance both near the site and on routes to and from it, including noise, lighting, dust and vibration, and require that adequate buffers should exist between the waste development and neighbouring sensitive uses. Supplementary Planning Guidance Note 7 (SPG Note 7) provides indicative distances between waste landfill activities and sensitive uses, including residential properties and rights of way. The recommended minimum distance for filling operations, which are likely to create similar effects to mineral workings, is 200 metres over open land. Additionally, policy GP.8 of the AVDLP and policy CS22 of the MWCS seek to ensure that regard is given to the efficient use of land, including amenity of neighbouring uses, and that development safeguards the future amenity of residents and those of surrounding land including traffic noise and disturbance.
41. Paragraph 123 of the MWCS sets out the planning policy approach to noise when determining planning applications. It states that decisions should aim to:
- Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
 - Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development including through the use of conditions;
 - Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
 - Identify and protect areas of tranquillity which will remain relatively undisturbed by noise and are prized for their recreation in amenity value for this reason.

42. The nearest residential property is approximately 470 metres away to the south of the site on School Hill. The proposed remaining development would involve an additional 30 small HGV movements (15 in, 15 out) importing topsoil which would access the site via the existing entrance off Gawcott Road / Perry Hill.
43. The applicant is requesting a maximum of 40 working hours over one calendar month during the summer to import the top soil and make good the area. This work would only be carried out on weekdays between 9.00 am and 5.00 pm. This low level of activity will not have a significant adverse effect on local amenity and, therefore, would be in compliance with policies 28 and of the Mineral and Waste Local Plan, CS22 of the Mineral and Waste Core Strategy and GP.8 of the Aylesbury Vale District Local Plan in this regard.
44. Policy RA36 of the AVDLP states that in considering proposals for development in rural areas, the Council will have regard to the desirability of protecting the characteristics of the countryside from excessive traffic increasing and routing unsuited vehicles to rural roads.
45. The completion of the development will require an additional 30 vehicle movements over a one month period. This will not bring about a significant detrimental impact. The District Council and the highways adviser have not objected to the development. It is, therefore considered to be compliant with policy.

Possible flooding and pollution

46. Policy CS22 of the MWCS states that waste developments should only be permitted providing there are no detrimental effects on the quality or quantity of groundwater or water surface drainage and the flow or level of groundwater on, or in the vicinity of, the site. The also NPPF requires local planning authorities to ensure, when determining planning applications, that developments would not cause flood risk to be increased elsewhere. No objections to the development have been received from the Environment Agency and the County Council's Flood Management Team.
47. In view of no concerns being raised by the Environment Agency and the Flood Management Team and that the land has only been returned to previously approved levels using only inert waste, it is considered that the development is in accordance with Policy CS22 and the provisions of the NPPF.

Enforcement Matters

48. The planning application has been submitted retrospectively following an enforcement investigation. The filling operations have ceased while the planning application is being considered.
49. An objection to the planning application has been received which, amongst other matters, expresses concern that the planning application has been submitted to

avoid enforcement action being taken. However, retrospective planning applications, whether in whole or in part, are commonplace. Those who have undertaken development without planning permission are encouraged to regularise matters with a planning application if the development is, in principle, acceptable.

50. Those carrying out unauthorised development have the right to appeal against any enforcement notice issued by a planning authority and may, in effect, be granted planning permission by the Planning Inspectorate if it considers the development to be acceptable. It is not, therefore, appropriate for enforcement action to be taken where the unauthorised development is, or can be made, acceptable. As detailed above, planning permission in this case, could be granted and it is the officer's recommendation to do so.
51. The objector also claims that the extent of the tipping is greater than that detailed in the planning application. However, if this is the case, there remains little evidence of this on the ground. It is possible that the imported waste has been spread over a wider area but this has no obvious detrimental impact. In the circumstances any tipped waste that exceeds that specified in the planning application may be regarded as "de minimus" and its retention would not be subject to planning control.
52. The third area of concern of the objector is that the tipped waste contains some materials other than inert builders waste due to the lack of supervision during the operations. This is, however, normally a matter for the Environment Agency which has been consulted on the application and no objection has been received. During the site investigation, no evidence was seen of significant quantities of non-inert waste which would cause pollution.
53. The Committee is therefore advised that there are no grounds for refusal on the basis that this is a retrospective application or that it contains inaccurate information.

Conclusion

54. Application CM/18/17 is a part retrospective planning application for the remedial works to level and re-cap an area of exposed historic domestic landfill through the importation of inert soils and top soil at Greatmoor Sailing Club. The carrying out of any development without first obtaining planning permission is regrettable. However, it is not considered that the proposed development would have significant adverse impacts on the local amenity, the environment or highway safety. It meets the requirements of policies CS18, CS19 and CS22 of the BMWCS, policy 28 of the BMWLP, policies GP.8 and RA.36 of the AVDLP and the provisions of the NPPW and NPPF. Subject to the conditions below, I therefore recommend that planning permission be granted.

BACKGROUND PAPERS

Planning application CM/18/17
Buckinghamshire Minerals and Waste Core Strategy

Buckinghamshire Minerals and Waste Local Plan
Aylesbury Vale District Local Plan
National Planning Policy Framework
National Planning Framework Waste
Consultation and representation replies dated: March – May 2017

SUPPORTING INFORMATION

Compliance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

In determining this planning application, the County Planning Authority has worked with the applicant in a positive and proactive manner based on seeking resolutions to problems arising in relation to dealing with the planning application by liaising with committees, respondents and applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirements of the NPPF as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

APPENDIX A

Recommendation:	Approve subject to the following conditions
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1. The development hereby permitted shall not be carried out other than in accordance with the following drawings:
 - Drawing No: 2017-01-B Location Plan (1:25,000) (date unknown)
 - Drawing No: 2017-02-A Block Plan including access (1:1250) (date unknown)
 - Drawing No: 2017-03-B Application site showing Cross Sections (1:500) (date unknown)
 - Drawing No: 2017-04-B Cross Section A-B (1:200) (date unknown)
 - Drawing No: 2017 05-B Cross Section C-D (1:200) (date unknown)
 - Drawing No: 2017 06-B Cross Section E-F (1:200) (date unknown)

Reason:

To define the development that has been permitted and so to control the operations (Buckinghamshire Minerals and Waste Local Plan Policy 28).

2. No vehicle associated with the development hereby permitted shall enter or leave the site other than between 9.00am and 5.00pm Mondays to Fridays. No vehicle associated with the development hereby permitted shall enter or leave the site on Saturdays, Sundays or Bank/Public Holidays.

Reason:

In the interests of the local amenity (Buckinghamshire Minerals and Waste Local Plan Policy 28)

3. No operations authorised by this planning permission shall be carried out other than between 9.00am and 5.00pm Mondays to Fridays. No operations shall be carried out on Saturdays, Sundays and Bank/Public Holidays.

Reason

In the interests of the local amenity (Buckinghamshire Minerals and Waste Local Plan Policy 28).

4. The total maximum number of vehicle movements associated with the development hereby approved shall not exceed 30 (15 in and 15 out).

Reason:

To reduce the level of disturbance caused to local residents and to minimise any adverse traffic impact (Buckinghamshire Minerals and Waste Local Plan Policy 28).

5. No illumination shall be erected or operated on the development site for the duration of the development hereby permitted.

Reason:

In the interests of the local amenity (Buckinghamshire Minerals and Waste Local Plan Policy 28).

8. Noise generated by plant and machinery used in the operations hereby approved shall not exceed 55dBa when monitored at the nearest noise sensitive property in proximity to the application site.

Reason:

To minimise injury to the amenities of the area (Buckinghamshire Minerals and Waste Local Plan Policy 28).

9. Within three months of the date of this planning permission, a scheme detailing planting to enhance the biodiversity of the development site shall be submitted to and approved in writing by the County Planning Authority. The scheme shall include details of the timetable for implementation of the scheme as well as measures that shall be taken to maintain the planting for 5 years following implementation. The approved scheme shall thereafter be implemented in accordance with the timetable set out in the scheme.

Reason:

To ensure the enhancement of local biodiversity (Buckinghamshire Minerals and Waste Core Strategy Policy CS 22)

10. The development hereby permitted, including the proposed topsoiling, shall be completed by 31st July 2017.

Reason:

To minimise injury to the amenities of the area and to ensure the satisfactory restoration of the site within a reasonable timescale. (Buckinghamshire Minerals and Waste Local Plan Policy 28 and Buckinghamshire Minerals and Waste Core Strategy Policy CS 22)