

Applicant:	Tarmac Trading Ltd	
Proposal:	Temporary use of site as a rail unloading and aggregate storage and distribution facility, including use of existing rail link and development of new storage and lorry loading/unloading area incorporating offices, two weighbridges, lorry loading and parking areas, maintenance shed, aggregate storage bays and conveyors linking the storage bays to the rail unloading area to the north and the creation of a new vehicular access into Waterworks Road. (OCC Ref.: MW.0116/18)	
Ward:	Banbury Cross And Neithrop	
Councillors:	Cllr Hannah Banfield Cllr Surinder Dhesi Cllr Cassi Perry	
Reason for Referral:	County Council notification	
Expiry Date:	14 November 2018	Committee Date: 13 December 2018
Recommendation:	CDC to raise observations to the proposal	

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

The application relates to land to the west of the existing Tarmac site to the north of Banbury, east of the River Cherwell and Grimsbury Reservoir. The site is partly within a flood zone, there are public rights of way within proximity and there are ecological records.

The development proposed is to use the land for a temporary period as a rail unloading and aggregate storage and distribution facility. On the site itself, areas would be set aside for storage, lorry loading and unloading, offices, maintenance sheds and conveyors linking to the rail unloading area to the north through the existing Tarmac site. A new vehicular access is also proposed.

Consultations

As Cherwell District Council is a consultee only, the application has not been publicised (although OCC will have publicised the application as required). In order to inform the response CDC should provide, internal consultations have been undertaken and these are reported and referred to throughout the report.

Planning Policy

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The report concludes that it is recommended that CDC raise observations to the

consultation setting out serious concerns regarding the suitability of this particular site given the site constraints and impacts that are likely to arise.

RECOMMENDATION – RAISE OBSERVATIONS TO THE CONSULTATION REQUEST

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is to the north of Banbury town centre, accessed from Hennef Way and Water Works Road. The land is to the west of and adjacent to the existing Tarmac site, which sources construction materials, and which is adjacent to the railway line.
- 1.2. The Tarmac site is served by a rail depot which is safeguarded for the importation of aggregate into Oxfordshire by Policy M9 of the Oxfordshire Minerals and Waste Local Plan Core Strategy September 2017. To the west of the site is the River Cherwell and beyond this is Grimsbury Reservoir.
- 1.3. Part of the site sits within flood zone 2/3 including part within the functional floodplain and Grimsbury Reservoir is a District Wildlife Site. There are also protected and notable species that have been recorded within the vicinity. The land is potentially contaminated and a public right of way runs to the south of the site along the road.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This application is a notification from Oxfordshire County Council who are considering an application for the temporary use of the site as a rail unloading and aggregate storage and distribution facility with associated infrastructure on the land including storage bays, lorry loading, offices, weigh bridges, parking area and maintenance shed. A new vehicular access is also proposed from Waterworks Road.
- 2.2. The proposal seeks permission for a 7 year period (5 years for operation and 2 years for restoration works). The need for the expanded facility is to service a contract for planned national infrastructure projects including the HS2 development. The aggregate would arrive to the site by rail (and the existing rail link would be upgraded and enlarged to provide a higher capacity rail terminal) and then moved offsite, including to the HS2 construction compounds by road.

3. RELEVANT PLANNING HISTORY

- 3.1. The County Council are also considering an application for the existing Tarmac site, for the variation of a number of planning conditions. Cherwell District Council has also been notified of this application with comments sought and this appears separately on this agenda.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place by Cherwell District Council with regard to this proposal given this is a County Matter application.

5. RESPONSE TO PUBLICITY

- 5.1. Cherwell District Council have not publicised the application as this application is a consultation only. Oxfordshire County Council is responsible for publicising the application in accordance with the requirements of the Town and Country Planning (Development Management Procedure) Order 2015.

- 5.2. The Banbury Civic Society have sent comments and these have been provided to OCC. Their comments are summarised as follows:

- The Transport Assessment conclusions are considered to be optimistic
- No current limits being placed on HGV movements should not be allowed to be taken as a precedent in relation to further expansion of the facility.
- What is the need for this proposal? A substantial contribution towards enhancing highway capacity should be required. The route is already heavily trafficked and limits on the number and times of movement of vehicles to and from the site should be imposed.

6. RESPONSE TO CONSULTATION

- 6.1. Internal consultations have been undertaken and the comments received are summarised as follows:

- 6.2. CDC LANDSCAPE SERVICES: Visual receptors on the public right of way to the south of the site will be affected by the visual intrusion and harm of the proposed storage area. The southern boundary should be planted with native trees and understory for the benefit of users of the PRoW. For the benefit of the landscape and ecological receptors, the existing hedgerows should be retained and protected during the use of the site. This includes the developing native structural vegetation on the northern and western boundaries. Root protection zones are to be identified and robust protective fencing erected to protect these zones against the storage of material and site vehicles.

- 6.3. CDC ENVIRONMENTAL PROTECTION: No comments in respect of contaminated land, odour, light or air quality. In respect of noise, mitigation is proposed including the use of Bottom Discharge Units rather than a grabber which should help (and could improve), the noise environment. A condition to require noise mitigation measures identified to be in place before overnight working begins would be required. If there is any failure of the mitigation, then work should cease until this is fixed. Further information is sought in relation to the proposed direction of travel of the trains, where the locomotive would be when the unloading is being carried out and whether the engine can be turned off during unloading. There is a concern that if the locomotive is idling south of the drop off site, then this will increase noise levels for the residents near the line south of Hennef Way. A condition should be imposed to restrict HGV movements.

- 6.4. CDC ECOLOGY: The site, whilst of relatively low intrinsic ecological value does form a valuable part of the towns green infrastructure and the importance of

retaining habitat close to rivers and waterways raises its overall value. Protection of the watercourse is not specifically mentioned and needs to be considered with buffer zones clearly in place during operation. Records show otter recorded to the north and west. The impact on otters and other fauna passing through the land should be accounted for in the lighting strategy and construction hours even where there is no suitable habitat on site. An unobstructed route should be maintained. The use of a biodiversity metric to show that a clear overall biodiversity gain will be achieved in the long term would be helpful. This can be used to aid the production of a fully agreed and funded restoration plan with management for when the use of the site for this proposal is complete.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- SLE5 – High Speed Rail 2 – London to Birmingham
- ESD6 – Sustainable Flood Risk Management
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Policy Banbury 11 – Meeting the Need for Open Space, Sport and Recreation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C5 – Protection of ecological value and rural character of specified features of value in the District
- C28 – Layout, design and external appearance of new development
- ENV1 – Development likely to cause detrimental levels of pollution

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Banbury Vision and Masterplan SPD (December 2016)
- Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy September 2017
- Saved Policies of the Oxfordshire Minerals and Waste Local Plan (1996)

8. APPRAISAL

- 8.1. The key issue for consideration in this case is the impact of the development upon the interests of the Cherwell District.

Principle of Development

- 8.2. The site sits within a recognised existing green space as shown within the Key Policies Map for Banbury within the Cherwell Local Plan Part 1 (2011-2031) and it is not allocated for employment or other uses. The site is considered to be an environmentally sensitive location close to the River Cherwell and Local Wildlife site at Grimsbury Reservoir and partially within an area of high flood risk. The green space in this area links through to Spiceball Park creating a green space that helps to improve access to the town centre and links through to the canal and river and new public spaces. This is therefore a recognised important green space and helps to assist in creating the setting of Banbury.
- 8.3. Policy C5 of the Cherwell Local Plan 1996 indicates that the Council will seek to protect the ecological value and rural character of specific key features within the District, including the River Cherwell and its setting. The aim of conserving and enhancing the natural environment including the green infrastructure network and ecology are also policy requirements within the Cherwell Local Plan Part 1 (ESD10, ESD13 and ESD17). This also includes improving sustainable connectivity between sites.
- 8.4. Policy Banbury 11 also looks to support the need for open space, sport and recreation and this includes *'retaining the long term objective of seeking to establish a series of open spaces based on the Oxford Canal and River Cherwell linked by public footpaths/ cycleways with the intention of creating a linear park and thoroughfare from the north of the town and Grimsbury Reservoir to the new park to be provided as part of the committed development south of Bankside. Development that would prejudice this objective will not be permitted.'*
- 8.5. The Banbury Vision and Masterplan SPD (December 2016) also identifies the land as green space and it identifies the north-south 'green lung' improving access, opening up the canal and river, connecting places together and creating a richer, more diverse bio-environment. The Masterplan confirms that the green space network within and around Banbury should be maintained, managed and enhanced as a unified multifunctional resource to deliver the true environmental, social and economic benefits required by the residents of Banbury.

Impact on green infrastructure

- 8.6. The proposal seeks to use the land for a temporary 5 year period for the purposes outlined at paragraph 2.1. This would involve the loss of this green space for this period, until it is restored. It is considered that this would undermine the District Council's ambitions with regard to the protection of existing green infrastructure networks through the town and the consequent benefits that these would bring as described by the Policy/ Masterplan. The restoration works would take time following the use of the land ceasing and it is possible that there could be pressure for the retention of the development at the end of the five year period should demand for aggregates continue that would benefit the applicant retaining a larger facility.

Landscape Impact

- 8.7. In terms of landscape impact, Policy ESD13 of the Cherwell Local Plan Part 1 seeks to secure the enhancement of the character and appearance of the landscape and for development to respect local landscape character. Policy ESD15 of the Cherwell Local Plan Part 1 and Policy C28 of the Cherwell Local Plan 1996 seek to ensure that development is sympathetic to the context of the development and to secure high quality design.

- 8.8. The Council's Landscape Officer, has identified that visual receptors on the public right of way to the south of the site will be affected by the intrusion and harm of the proposal. The Southern boundary should be planted with native trees and understorey for the benefit of users of the PRow. For the benefit of the landscape and ecological receptors, the existing hedgerows should be retained and protected during the use of the site. This should include developing native structural vegetation on the northern and western boundaries. It is also recommended that root protection zones must also be identified and robust protective fencing erected to protect these zones against the storage of material and site vehicles.
- 8.9. A detailed assessment of the landscape and visual impact of the development will be undertaken by the Case Officer at OCC and therefore it is considered appropriate to provide these detailed comments for consideration.

Environmental Impact

- 8.10. The proposed additional development at the site (and the associated removal of conditions, including those controlling working hours in the separate linked application) has the potential to raise environmental issues. Policy ENV1 of the Cherwell Local Plan 1996 confirms that development that is likely to cause materially detrimental levels of noise, vibration, smell, smoke; fumes or other types of environmental pollution should not normally be permitted. In addition, Policy SLE5 of the Cherwell Local Plan Part 1, relating to HS2, requires that the design and construction of the HS2 Rail Link must minimise adverse links on the environment, local economy and communities. Policy SLE1 also confirms that the construction of HS2 must be managed to minimise the impacts on communities and the environment.
- 8.11. In this respect, the Environmental Protection Team have concluded that additional information is required with regard to the proposed direction of travel of trains to assess the potential for impact by way of increased noise. There is also a recommended condition relating to HGV movements and to securing noise mitigation as set out within the noise report. There is the potential for there to be conflict with Policy SLE5 in this regard. The Environmental Protection Officers comments with regard to other environmental impacts are also recommended to be passed to OCC.

Impact on Ecology

- 8.12. In respect of ecology, comments have been received from the Council's Ecologist as set out at paragraph 6.4. It is suggested that the detailed points made are provided to OCC for consideration. It is also necessary to advise that a net biodiversity gain calculation ought to be carried out prior to a decision being made to inform the restoration plan and to allow assessment as to whether the requirements of Policy BSC10 of the Cherwell Local Plan Part 1 can be met.

Flooding

- 8.13. Part of the application site is sat within flood zones 2/3 (including part of the land within flood zone 3b – the functional flood plain). A flood risk assessment and drainage strategy has been submitted with the application and consultations with the OCC Drainage Team and the Environment Agency have been undertaken. Officers note that the EA have raised objections to the proposal on the following main points – the proposed development falls within a flood risk vulnerability category that is inappropriate to the flood zone in which the application site is located and due to the submitted FRA not being acceptable and not complying with the requirements as set out in the PPG (in particular it fails to take the impacts of climate change into

account and to consider whether flood risk will be increased in the surrounding area as a result of this development). Officers recommend that the objections of the EA must be overcome.

Highway Safety

- 8.14. In respect of highway safety matters, OCC have consulted the Highway Authority directly and Officers have noted an objection has been raised which is available via the OCC website. The objections relate to concerns that the proposal does not demonstrate whether traffic arising from the site can be accommodated safely and efficiently on the highway network resulting from queries regarding the TA submitted. This includes concerns regarding the site access and parking arrangements. It is recommended that CDC raises concerns regarding the increase in movements along Hennef Way both in respect of air quality (upon the designated Air Quality Management Area) and noise, but also the impact of additional traffic on this already congested route.

Conclusion

- 8.15. To conclude, it is recommended that CDC acknowledge that the proposal is related to national infrastructure projects, including HS2 and that there would be some contribution to the local economy. The site's position adjacent to the existing Tarmac facility and the rail infrastructure is also recognised. However it is recommended that CDC raise serious concerns regarding the suitability of this particular site given the site constraints and impacts that are likely to arise. In addition, the comments of the Environmental Protection Officer should be reported to OCC.

9. RECOMMENDATION

That Cherwell District Council raises observations to the proposed development with the following comments made:

Cherwell District Council has serious concerns regarding the suitability of this particular site for the following reasons:

Green Infrastructure

- The site sits within a recognised existing green space as shown within the Key Policies Map for Banbury within the Cherwell Local Plan Part 1 (2011-2031) and it is not allocated for employment or other uses. The site is considered to be an environmentally sensitive location close to the River Cherwell and Local Wildlife site at Grimsbury Reservoir and partially within an area of high flood risk. The green space in this area links through to Spiceball Park creating a green space that helps to improve access to the town centre and links through to the canal and river and new public spaces.
- Policy C5 of the Cherwell Local Plan 1996 indicates that the Council will seek to protect the ecological value and rural character of specific key features within the District, including the River Cherwell and its setting.
- The aim of conserving and enhancing the natural environment including the green infrastructure network and ecology are also policy requirements within the Cherwell Local Plan Part 1 (ESD10, ESD13 and ESD17). This also includes improving sustainable connectivity between sites.
- Policy Banbury 11 also looks to support the need for open space, sport and recreation and this includes *'retaining the long term objective of seeking to establish a series of open spaces based on the Oxford Canal and River Cherwell linked by public footpaths/ cycleways with the intention of creating a*

linear park and thoroughfare from the north of the town and Grimsbury Reservoir to the new park to be provided as part of the committed development south of Bankside. Development that would prejudice this objective will not be permitted.'

- The Banbury Vision and Masterplan SPD (December 2016) also identifies the green space and it identifies the north-south 'green lung' improving access, opening up the canal and river, connecting places together and creating a richer, more diverse bio-environment. The Masterplan confirms that the green space network within and around Banbury should be maintained, managed and enhanced as a unified multifunctional resource to deliver the true environmental, social and economic benefits required by the residents of Banbury.
- The proposal would undermine the District Council's ambitions with regard to the protection of existing green infrastructure networks through the town and the consequent benefits that these would bring as described by the Policy/Masterplan. The restoration works would take time following the use of the land ceasing and it is possible that there could be pressure for the retention of the development at the end of the five year period should demand for aggregates continue that would benefit the applicant retaining a larger facility.

Landscape Impact

- Visual receptors on the public right of way to the south of the site will be affected by the intrusion and harm of the proposal. The Southern boundary should be planted with native trees and understorey for the benefit of users of the PRoW.
- For the benefit of the landscape and ecological receptors, the existing hedgerows should be retained and protected during the use of the site. This should include developing native structural vegetation on the northern and western boundaries. It is also recommended that root protection zones must also be identified and robust protective fencing erected to protect these zones against the storage of material and site vehicles.

Environmental Impact

- Policy ENV1 of the Cherwell Local Plan 1996 confirms that development that is likely to cause materially detrimental levels of noise, vibration, smell, smoke; fumes or other types of environmental pollution should not normally be permitted.
- In addition, Policy SLE5 of the Cherwell Local Plan Part 1, relating to HS2, requires that the design and construction of the HS2 Rail Link must minimise adverse links on the environment, local economy and communities. Policy SLE5 also requires the construction of HS2 to be managed to minimise the impacts on communities and the environment.
- The District Council's Environmental Protection Officer has requested further information with regard to the proposed direction of travel of the trains, where the locomotive will be when the unloading is carried out and whether the engine needs to be running or whether it can be turned off. The concern is that if the locomotive is idling to the south of the drop off site, then this will increase noise levels for residents near the line south of Hennef Way.
- It is also recommended that a condition is imposed to control HGV movements – this should restrict HGV movements to between 06:00 – 20:00 Monday – Friday, between 06:00 – 15:00 Saturdays and 08:00 – 15:00 Sundays and Bank Holidays – it is noted the start time on Sundays and Bank Holidays is later than proposed, but this is preferable.

- In respect of matters relating to light, odour, contaminated land and air quality, no comments are made by the District Council's Environmental Protection Officer.
- Planning conditions should be imposed with regard to noise mitigation as recommended within the Noise report, including the use of Bottom Discharge Units for the unloading of trains. This mitigation should be in place before any overnight working begins and it is suggested that if there is any failure of the mitigation, then overnight work should cease until the issue is resolved. Cherwell District Council considers there could be conflict with Policies ENV1 of the Cherwell Local Plan 1996 and SLE5 of the Cherwell Local Plan Part 1 if sufficient safeguards are not in place.

Ecology

- In respect of Ecology, the District Council's Ecologist considers that the Banbury Ornithological Society make some valid and important points on Ecology. The importance of retaining habitat and green infrastructure close to rivers and waterways raises its value.
- Protection of the watercourse is not specifically mentioned and needs to be considered with buffer zones clearly in place during operation. Records show Otter recorded 445m to the north and less than 200m to the West. The impacts on otters and other fauna passing through the land should be accounted for in the lighting strategy and construction hours even where there is no suitable habitat on site. An unobstructed route should be maintained.
- In addition, it is noted that there is no calculation provided regarding whether a net biodiversity gain can be achieved. Cherwell District Council would suggest that to understand whether the requirements of Policy BSC10 of the Cherwell Local Plan Part 1 can be met, a calculation, undertaken in accordance with a recognised biodiversity metric should be provided. This can then be used to aid the production of a fully agreed and funded restoration plan with management for when the use of the site for this proposal is completed.
- CDC notes that objections have been received from the Environment Agency and OCC Highways. CDC has concerns regarding the increase in movements along Hennef Way both in respect of air quality (upon the designated Air Quality Management Area) and noise but also the impact of additional traffic on this already congested route.

CDC acknowledges that the proposal is related to national infrastructure projects, including HS2 and that there would be some contribution to the local economy. The site's position adjacent to the existing Tarmac facility and the rail infrastructure is also recognised. However CDC has serious concerns regarding the suitability of this particular site given the site constraints and impacts that are likely to arise and these matters need to be fully considered by OCC.