

Mary Hudson
Principal Planning Officer
Oxfordshire County Council
County Hall
New Road,
Oxford, OX1 1ND

Our Ref: LRS/WAL/110
Your Ref: MW.0115/21

4th October 2022

Dear Mary,

Planning Application for the Extraction and Processing of Sand and Gravel on Land at White Cross Farm, Wallingford, Oxfordshire.

Response to Environment Agency Letter dated 21st September 2022

In response to the latest incomprehensible objection from the Environment Agency (EA letter dated 21st September 2022) we attach a letter of response to Mrs Warriss-Simmons (EA planning advisor) from our specialist consultants Edenvale Young (EY). Also included is the previous correspondence from the EA and Edenvale Young that is referred to in the latest EY response to Mrs Warriss-Simmons. We sincerely hope that this makes clear that the requirements previously requested by the EA have been met.

From an applicant and planning perspective, we consider that the behaviour and position of the EA is wholly unacceptable and can only be viewed as unhelpful, inconsistent, confusing, muddled and hugely delaying to the planning process. It is quite apparent that their myopic approach and excessive demands for further data/detail/modelling is way out of all proportion with the nature of the proposed development and the determination of a planning application for a relatively small-scale, short-term sand and gravel operations in the River Thames Valley (where they are commonly located and considered acceptable development).

To be blunt, the EA has no evidence to support and maintain an objection to these proposals on flood risk grounds. The persistent references to flood modelling and data requirements have lost complete sight of what is actually proposed. It appears to reflect a complete lack of understanding or experience of what a sand and gravel extraction and restoration operation involves.

We consider that the following points need to be taken properly into account by the EA, as follows:

- The proposed sand and gravel and restoration operation is a water compatible development that involves no permanent built development on land located on the floodplain. The areas of extractive operations, along with the backfilling, soil replacement and restoration/riverside habitat establishment are not sensitive to flooding.
- The proposals do not involve essential infrastructure.
- Whilst sand and gravel extraction and backfilling operations are taking place on a phased and progressive basis there will always be constant areas of open void as the works progress across the site. The open void may actually provide flood water storage capacity during any major flood events, so, in fact, there will be a temporary positive effect to flood risk in the Thames valley during the operational period of around 5 years.
- Upon completion of phased backfilling and soil replacement the land will be restored to a mixture of original levels and lower areas – ditches and wet woodland, again with a slight positive long-term effect on flood risk and flood water storage capacity in the Thames Valley.
- Whilst this temporary, operational development is undertaken the temporary offices, weighbridge, fixed plant and stockpiles will all be located in flood zone 1, thus minimising flood risk and as per guidance and good practice.
- The soft end uses of agriculture and nature conservation with flood plain grazing marsh will not be sensitive to future flooding and will actually make a positive contribution in terms of flood water flows and flood water storage capacity. This is effectively the same patchwork of mixed habitats and land-uses that are currently present on the Whitecross Farm site.

It should be noted that our flood risk consultants, Edenvale Young, are experts in the field and, in fact, undertake modelling work for the EA. Their assessment and modelling on this case does not provide evidence to support a flood risk objection to the development. To the contrary, it evidences the acceptability of the proposals in flood risk terms. The maintaining of an objection by the EA is therefore considered spurious and unjustified and appears based on a complete inability to grasp the basics and persistent misunderstandings concerning data/modelling, which may have been exacerbated by frequent changes in personnel (see correspondence attached) and an apparent lack of experience in these fields.

Unfortunately, the EA's behaviour is running a real risk of either a refusal of the application on unjustified/un-evidenced flood risk grounds or, indeed, an appeal against non-determination of the application as a consequence of the wholly unacceptable delay being caused by the EA maintaining their objection. In either scenario that then runs the serious risk of litigation, which, if it were to occur, would most likely result in a claim for legal and consultancy costs against the EA who we strongly suspect could not provide robust evidence to support their objection in an appeal case particularly when cognisance is taken of the fundamentals of this proposal as outlined above.

In that regard we would point out that the EA does not always require hydraulic modelling for small- scale, temporary operations of this kind, probably as a consequence of the low sensitivity of the operations to flood events and the net benefit of the restoration to flood risk and climate change in the long-term. In our experience mineral operations of this kind, given their scale and nature, rarely result in refusals on flood risk grounds as they are compatible with the river valley location where sand and gravel workings are found.

We would respectfully ask that someone within the Mineral Planning Authority has a serious discussion with the EA to avoid all parties ending up in unnecessary litigation with resultant serious claims for costs. If the EA need to clarify matters, they should, as a matter of urgency, contact Edenvale Young directly in order to address any potential points. Previous engagement between John Young at EVY and Mr Swann at the EA seemed to raise the prospect of clarifying matters and removing the objection.

The latest response from the EA appears not to reflect that progress and has taken the situation backwards very late in the determination process. We require that this situation needs to be resolved urgently. Please therefore pass this letter to the EA to go alongside EVY's response (including the previous copies of correspondence between them and the EA).

We are more than happy to discuss with you how this regrettable situation can be addressed. However, we appreciate the difficult position the MPA finds itself, with, what we consider, the lack of understanding and behaviour/attitude of the EA.

The critical and combative tone of this letter is not directed at the MPA or its officers but is focussed on, what we consider, the wholly unacceptable functioning and approach of a non-accountable body who seem incapable of helping the mineral planning process with either sensible, proportionate advice or engaging effectively with the relevant participants in the process to clarify and clear-up certain areas of detail.

We sincerely hope that this unfortunate situation can be addressed by the EA rapidly.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'S J Rees'.

S J Rees B.Sc., M.Sc., C.Geol, FGS, MIQ
for Greenfield Environmental

cc Mr James Jeffries (London Rock Supplies Ltd)

Edenvale Young response dated 27th Sept 2022 to EA objection dated 21st Sept 2022.

27 September 2022

y/ref - MW.0115/21

Mrs Sarah Warriss-Simmons

Environment Agency
Wallingford

Re: Flood risk assessment (FRA) for Extraction And Processing Of Sand And Gravel Including The Construction Of New Site Access Roads, Landscaping And Screening Bunds, Minerals Washing Plant And Other Associated Infrastructure With Restoration To Agriculture And Nature Conservation Areas, Using Inert Fill

Dear Mrs Warriss-Simmons,

Further to your letter to Oxfordshire County Council on the 21 September 2022 concerning the Flood Risk Assessment for the Wallingford Mineral Workings: (Revision B: Jan 2022). I have the following comments in relation to your letter. Firstly, you note that:

Climate Change

In your letter you state:

"The latest model we have is the Thames Sandford to Pangbourne (2018) which only has 25%, 35% and 70% climate change extents so the applicant needs to explain how they have arrived at the 12% allowance."

Please refer to Section 5.5.1 of the FRA which explains the use of the 12% allowance. The use of the central climate change allowance was a specific request of the Environment Agency via Mr Alex Swann's letter of the 22 October 2021 under the heading "Overcoming our Objection 1" which stated that:

“Water compatible developments should be assessed to the central allowance of 1% annual probability (1 in 100) flood extent with a 14% climate change allowance.”

Please also be aware that the central allowance for the Thames and South Chiltern Management catchment is 12% as shown in Figure 5.1 of the FRA. Further explanation on the use of the central climate change allowance is given in my letter to Mr Swann (15 June 2022) which I believe is a true reflection of our telephone conversation.

The second objection raised by Mr Swann in his letter of the 22 October 2021 concerns potable water supply and is not a matter for the FRA. I am sure that you will agree that Revision B of the FRA addresses the reasons for the objections raised by Mr Swan and that no further explanation is required.

Development Lifespan

In your letter you state:

“Also, the development lifespan has been stated as five years but the application includes restoration to agriculture and nature conservation areas. We accept the use of the central climate change allowance but the stated development lifespan does not seem to include the restoration and therefore justification should be provided for the epoch used. The FRA states there will be offsite impacts, so the applicant should provide an assessment of those impacts.”

The modelling has been undertaken for a 1.0% AEP event with a central allowance for climate change for the 2020s (i.e. 2015 – 2039) which is in accordance with Mr Swann’s request as explained above. This climate change scenario covers the five-year lifespan of the mineral workings. There is no requirement in the guidance on climate change to consider additional return periods or climate change scenarios for water compatible development subject to fluvial flooding.

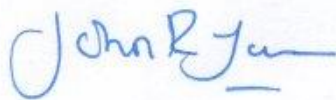
There is no reason to consider epochs beyond 2039 based on the fact that levels will be restored well before 2039. The restoration will have no impact on future flood risk. This is supported by the introductory paragraph in Mr Swann's letter of the 31 May 2022 which stated that:

"An assessment of climate change allowances has now been provided which shows the proposed works will have no material impact on flood risk."

Accordingly, it is considered that no further explanation on future flood risk or the consideration of additional epochs is required.

I trust that this is sufficient information for you to reconsider your objection to the works. However, if you have any further questions, please do let me know.

Yours sincerely

A handwritten signature in blue ink that reads 'John Young'.

John Young
Director

EA objection dated 21st Sept 2022

Ms Mary Hudson
Oxfordshire County Council
Planning Implementation
County Hall New Road
Oxford
Oxfordshire
OX1 1ND

Our ref: WA/2021/129358/03-L01
Your ref: MW.0115/21
Date: 21 September 2022

Dear Ms Hudson

***Amended Plan* Extraction And Processing Of Sand And Gravel Including The Construction Of New Site Access Roads, Landscaping And Screening Bunds, Minerals Washing Plant And Other Associated Infrastructure With Restoration To Agriculture And Nature Conservation Areas, Using Inert Fill**

Land At White Cross Farm, Wallingford, Oxfordshire

Thank you for re-consulting us on this application. We have reviewed the documents including the letter Re: Flood Risk Assessment from Edenvale Young to the Environment Agency, dated 15 June 2022.

Environment Agency position

In the absence of an acceptable flood risk assessment (FRA) we **maintain our objection** to this application and recommend that planning permission is refused.

Reason

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, in line with paragraph 167 of the National Planning Policy Framework and paragraphs 20 and 22 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- Consider how a range of flooding events (including extreme events) will affect people and property

Further explanation

The letter Re: Flood Risk Assessment from Edenvale Young to the Environment Agency, dated 15 June 2022 states the Environment Agency Abingdon Flood Scheme

model was used, but section 6.2 of FRA Revision B states 'limited modifications have been made to the model...' and therefore we would request that the applicant should provide us with model files for review.

The latest model we have is the Thames Sandford to Pangbourne (2018) which only has 25%, 35% and 70% climate change extents so the applicant needs to explain how they have arrived at the 12% allowance.

Also, the development lifespan has been stated as five years but the application includes restoration to agriculture and nature conservation areas. We accept the use of the central climate change allowance but the stated development lifespan does not seem to include the restoration and therefore justification should be provided for the epoch used. The FRA states there will be offsite impacts, so the applicant should provide an assessment of those impacts.

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted.

The applicant should also submit the model files in order for us to be able to review the model. I have attached to this letter a **Checklist of items that must be submitted to the Environment Agency for consultation & review.**

Advice to LPA - What is the sequential test and does it apply to this application?

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

Advice to LPA - Who undertakes the sequential test?

It is for you, as the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of search has been used. Further guidance on the area of search can be found in the planning practice guidance [here](#).

Advice to LPA - What is our role in the sequential test?

We can advise on the relative flood risk between the proposed site and any alternative sites identified - although your strategic flood risk assessment should allow you to do this yourself in most cases. We won't advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate. Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance [here](#).

Final Comments

Thank you again for consulting us on this application. Our comments are based on the best available data and the information as presented to us.

If you are minded to approve the application contrary to our objection, please contact us to explain why material considerations outweigh our objection. This will allow us to make further representations. Should our objection be removed, we would like to recommend the inclusion of condition(s) in relation to groundwater monitoring and groundwater resources on any subsequent approval.

In accordance with the planning practice guidance (determining a planning application, paragraph 019), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below. Please quote our reference number in any future correspondence.

Yours sincerely

Mrs Sarah Warriss-Simmons
Planning Advisor

Direct dial 0203 025 9855

Direct e-mail Planning_THM@environment-agency.gov.uk

**EVY correspondence with EA –15th June 2022 prior to submission
of revised FRA**

15 June 2022

y/ref - MW.0115/21

Mr Alex Swann
Environment Agency
Wallingford

Re: Flood risk assessment (FRA) for Extraction And Processing Of Sand And Gravel Including The Construction Of New Site Access Roads, Landscaping And Screening Bunds, Minerals Washing Plant And Other Associated Infrastructure With Restoration To Agriculture And Nature Conservation Areas, Using Inert Fill

Dear Mr Swann,

Further to your letter to Oxfordshire County Council on the 31 May 2022 and our conversation yesterday, you will recall that we discussed the flow scenarios and the status of the hydraulic model reported in our Flood Risk Assessment (Wallingford Mineral Workings: Revision B: Jan 2022).

In relation to flow scenarios I explained, and you agreed that the extraction of sand and gravel on the floodplain is water compatible development. This means that the Central climate change allowance must be used to evaluate flood risk at the end of the lifetime of the scheme.

Moreover, there is no requirement in the guidance to test water compatible against the Higher Central or Upper End climate change allowances. This approach agrees with the Environment Agency's guidance (Flood Risk Assessments: Climate Change Allowances).

I can confirm that the hydraulic modelling contained in Revision B of the FRA incorporates an assessment of the Central Climate change allowance.

In relation to the provenance of the hydraulic model, I can confirm that the Environment Agency's Abingdon Flood Schemes (AFS) River Thames model was used to evaluate flood risk as noted in Section 6.2 of the FRA.

There is some understandable confusion concerning the version of the model used for the scheme. You will recall that an application for a marina development on the same site in 2015 was based on a 1D-2D FMP-TUFLOW model developed by Edenvale Young using the original 1D FMP model of the Thames at Abingdon.

The AFS River Thames model became available after the submission of the planning application for the marina in (circa) 2019. Accordingly, the Environment Agency requested Edenvale Young to use the most up to date evidence to inform the FRA via your letter to Oxfordshire County Council (y/ref MW.0033/18: 6 March 2020). By implication this meant reverting to the AFS Thames model.

Whilst there is good agreement between the Edenvale Young and AFS Thames models, I reconfirm that the Environment Agency AFS River Thames model was used to evaluate flood risk for the sand and gravel workings for both Revisions A and B of the FRA for the sand and gravel workings. It is my understanding that the AFS River Thames Model was calibrated and comprehensively reviewed by the Environment Agency. Indeed, the following statement was included with the Product 7 data supply:

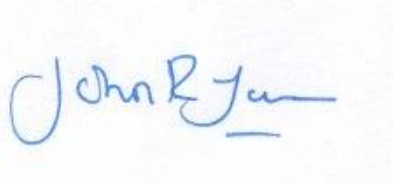
"The design hydrology for the supplied model has been re-evaluated using up to date data and techniques from when the modelling was undertaken.! The design hydrology for the supplied model has been re-evaluated using up to date data and techniques from when the modelling was undertaken. This has been reported in June 2017. The Thames is a large and complex catchment; this analysis was undertaken in cooperation with the EA and may be considered to be the best current understanding of flow probabilities for the area."

It is also worthwhile pointing out that:

- Sand and gravel workings are classified as water compatible development which is an acceptable form of construction within Flood Zone 3b in accordance with the NPPF.
- Sand and gravel workings are not classified as essential infrastructure and does not therefore require consideration of the Higher Central allowance.
- The lifespan of the development will be five years by which time site levels within the red line will be restored to original following completion of the mineral extraction phase.
- There is no measurable or material change in flood extent or peak flood level by virtue of the fact that existing ground levels will be reinstated following the completion of the mineral extraction.
- Offices which are less vulnerable uses are situated in Flood Zone 1 and will be at a low risk of flooding.
- Stockpiling of materials will be in Flood Zone 1 and there will be no issues with flood storage compensation.

I trust that this is sufficient information for you to reconsider your objection to the works. However, if you have any further questions, please do let me know.

Yours sincerely

A handwritten signature in blue ink that reads 'John Young'.

John Young
Director

**Initial EA objection to proposed minerals scheme at
Whitecross Farm - dated 31st May 2022**

Ms Mary Hudson
Oxfordshire County Council
Planning Implementation
County Hall New Road
Oxford
Oxfordshire
OX1 1ND

Our ref: WA/2021/129358/02-L01
Your ref: MW.0115/21
Date: 31 May 2022

Dear Ms Hudson

Extraction And Processing Of Sand And Gravel Including The Construction Of New Site Access Roads, Landscaping And Screening Bunds, Minerals Washing Plant And Other Associated Infrastructure With Restoration To Agriculture And Nature Conservation Areas, Using Inert Fill

Land At White Cross Farm, Wallingford, Oxfordshire

Thank you for re-consulting us with this application, we apologise for the long delays in responding to you. An assessment of climate change allowances has now been provided which shows the proposed works will have no material impact on flood risk. The FRA says the model has been approved and calibrated by the EA but we need proof of this to remove the objection.

Environment Agency

In the absence of an acceptable flood risk assessment (FRA) we **maintain our objection** to this application and recommend that planning permission is refused.

Reason

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraph 167 of the National Planning Policy Framework. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- consider how a range of flooding events (including extreme events) will affect people and property

We have reviewed the revised FRA for the proposal for extraction and processing of sand and gravel with associated works. We note the document states the model referenced has been approved and calibrated to the satisfaction of the Environment Agency. The applicant should provide confirmation through documentation so we can be satisfied the modelling demonstrates there is no material impact on flood risk, and it has been reviewed and approved by the Environment Agency.

Cont/d..

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

Final Comments

Thank you again for consulting us on this application. Our comments are based on the best available data and the information as presented to us.

If you are minded to approve the application contrary to our objection, please contact us to explain why material considerations outweigh our objection. This will allow us to make further representations. Should our objection be removed, we would like to recommend the inclusion of condition(s) in relation to groundwater monitoring and groundwater resources on any subsequent approval.

In accordance with the planning practice guidance (determining a planning application, paragraph 019), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below. Please quote our reference number in any future correspondence.

Yours sincerely

Mr Alex Swann
Planning Advisor

Direct dial 020 771 40593

Direct e-mail Planning_THM@environment-agency.gov.uk