OXFORDSHIRE COUNTY COUNCIL

REFUSED

DATE: 03/09/2024
APPLICATION No: P21/S3961/CM, (MW.0115/21)

Greenfield enviro

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

6th March 2023

Dear Mrs Hudson,

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

Please find enclosed two detailed statements responding to the points contained in the EA's latest letter of 12 January 2023, which covered:

- A further "in-principle" policy based objection
- Modelling Issues
- Off-site impacts

The first statement attached prepared by our Mineral Planning Consultant, Simon Heaton, deals directly with the new in-principle objection raised by the EA for the first time in their latest letter. The second statement, prepared by John Young of Messrs Edenvale Young, deals in detail with questions over the modelling and the assessment of potential off-site impacts. As you will see, these documents consist of detailed and robust rebuttals and clarification of points raised by the EA. In light of their content, we consider that there is no clear evidence to demonstrate that the development does not meet positively with the necessary policy tests on flood risk and therefore there is no justification to the EA's continued objection. In summary, we wish to highlight a series of points to demonstrate that the objection is unjustified in planning terms having regard to the content of the two detailed assessments attached. As follows:

In-principle objection

We refute and rebut strongly this new issue raised by the EA late in the determination process. The attached statement from our planning consultant confirms that the policy and legislative evidence does not support the EA's belated "in-principle" objection. The objection is therefore unjustified in planning terms.

We consider that the properly considered policy/legal position is that backfilling of the proposed sand and gravel workings with clean inert imported material to secure restoration of a mineral site located in the floodplain is anticipated, and allowed for, as a positive means of waste recovery, land reclamation and quarry restoration to suitable end-uses. This backfilling ensures that the site is not restored back to open water.

In this case the Development Plan, which the NPPF makes clear has primacy, confirms that it is necessary to identify and deliver new sand and gravel sites in the floodplain of the River Thames to maintain aggregate supply (having carried out SFRA and sequential testing) and that the strategic sand and gravel resources area (SRA) within which the application site is situated falls within the bird-strike hazard zone of RAF Benson. It is therefore necessary to avoid open water restoration and to restore the land to best and most versatile agriculture and biodiversity net gain (floodplain grazing marsh and wet woodland).

The national planning and development plan policy framework supports this approach and makes clear that infilling in these circumstances is not classed as "landfill" development. Regrettably and incorrectly, the EA letter and approach has classed the restoration element of the proposals as "landfill" development, but proper consideration of relevant planning policy, legislation and case law does not support the EA's interpretation or their objection.

We respectfully ask that the EA removes this new objection.

Flood Modelling

The Edenvale Young (EVY) Statement specifically addresses in detail some of the suggested issues with modelling raised by the EA including the items contained in the EA's review spreadsheet. The document explains in some depth the benefits of the cell size used in the EVY modelling, issues faced with model stability, sensitivity testing and re-assessment of the phasing of the works and provision of results.

In brief summary the points to highlight are as follows:

- All the hydraulic modelling, including the EA base models for the River Thames, have instabilities, inaccuracies, mathematical anomalies and mass balance errors. In terms of the latter, the previously modelled potential increases in floodwater in the floodplain of 18mm to 25mm (in a 1 in 100 year event, plus 12% for climate change, taking place in the operational phases) could, in fact be decreases in level. The document makes clear that measurements to millimetres accuracy using the EA's supplied model with a grid of 10m is not possible and is certainly not suitable for accuracies of less than 48mm. The modelling is only therefore suitable for providing indicative characteristics of a modelled future flood event, which is subject to numerous variables. The models can therefore only provide a good indication of what might occur in the case of a particular flood event and fine detail measurements (below 48mm) should not be interpreted as clear evidence.

- A re-assessment of the scheme, using 10 phases of excavation with a 10m grid shows both tiny increases and decreases in water level in the flood water levels in the floodplain in a 1 in 100 year event (+12% for climate change). All of these fractional, theoretical increases and decreases fall within the modelling error range of +/- 12mm and cannot be treated as clear evidence of either an increase in flood depths or a decrease in flood depths.
- In assessment terms, taking account of the issues identified with hydraulic modelling, they should be considered as neutral or inconclusive findings of the fresh modelling – neither an adverse effect nor a positive effect on flood levels.

Off-site impacts

The Oxfordshire Minerals Plan 2017 policy test is "not to increase the risk of flooding elsewhere" (i.e. off-site). The NPPF 2021 test is to "ensure that flood risk is not increased elsewhere". The PPG – Flood Risk and Coastal Change 2022 states that "flood risk is a combination of probability and the potential consequences of flooding". In considering potential off-site impacts we must therefore look at both elements.

Probability

The proposed development is operational, short-term/temporary with completion of phased extraction and backfilling within 5 years. It is substantially different to normal forms of permanent development and there is much case law dealing with this issue. Given the operational/temporary nature of the development the probability of a 1 in 100 year event or greater occurring during the operational phases is particularly low.

When assessing potential impact, it is important to identify the potential sensitive receptors to that impact and to also have regard to their tolerance to that impact and their potential to recover from that impact – these are accepted parts of EIA methodology. The latest EVY assessment confirms that potential sensitive receptors are located in the flood plain. Therefore, in both probability terms and tolerance terms it must be noted that these potential sensitive receptors are in locations that will be flooded (to varying degrees) in any 1 in 100 year flood event (i.e. without the presence of the proposed sand and gravel development).

The probability of these sensitive receptors being flooded by a 1 in 100 year event has relevance in terms of the potential consequences and their tolerance to any potential impact (positive or negative) from the proposal scheme.

The receptors whilst already likely to experience flooding have a low probability of experiencing a 1 in 100 year flood event whilst the sand and gravel operations are taking place due to the short time-frame of these temporary operations taking place in the floodplain.

Potential Consequences

As the potential receptors would be inundated by a 1 in 100 year event the question is whether the sand and gravel operations will increase flood risk.

The evidence provided by EVY is detailed and robust and their modelling confirms that any increase or decrease is so negligible that is beyond the mathematical tolerance of the models (which have instabilities/anomalies) and not practically measurable.

In other words, there is no clear, reliable evidence to confirm whether flood depths would decrease or increase at the sensitive receptors in the floodplain during the 5 year operation of the proposed site. Therefore, even though the site potentially provides additional temporary flood water storage capacity during its period of operation there is no clear modelled evidence to show a benefit of this, and, as the receptors would be flooded in a 1 in 100 year event there is no reliable/accurate evidence to demonstrate that flooding would be worsened with measurable increases in flood depths in these location should that event occur during the operational phases.

The site is to be restored progressively to a mixture of original levels (arable agriculture/grazing marsh) and lower levels (wet woodland/open ditching) over a relatively short time period. There is therefore no potential/probability of any off-site increase in flood risk /flooding post-restoration and therefore no likelihood of any adverse flood risk consequences either inside or outside the floodplain once the development is completed.

In fact, it is considered that there may be a slight benefit due to the lower lying wet areas combined with the soft-end uses.

Overall

The latest PPG advice on flooding (dated August 2022) helpfully defines what constitutes flood risk. The evidence demonstrates that the proposed mineral development does not increase the probability or risk of flooding elsewhere during its 5 year operational time frame, either during the operations or post restoration.

In the event of a 1 in 100 year event taking place during the course of operations the evidence demonstrates that flooding that is experienced by receptors in that location is neither decreased nor increased to a measurable amount by the presence of the temporary quarry operations. Therefore, the evidence demonstrates that the proposals meet the important policy tests set within the legislative and policy framework.

We therefore respectfully ask that the EA removes their unjustified objection concerning potential off-site impacts.

The client for this planning application wishes to avoid conflict and litigation in this case. We therefore maintain our request for an urgent meeting with the EA to engage in proper professional dialogue over the assessment work and the evidence in the case. We also believe it is in the public interest that such a meeting takes place as rapidly as possible.

It is common practice for Planning Inspectors and Planning Officers to insist that the parties make efforts to overcome issues and objections where there is a risk of refusal of planning permission on grounds that could potentially be overcome.

We hope you will agree that the attached statements provide a clear indication that the EA's areas of objection are not properly justified and that follow up dialogue is needed rapidly.

We look forward to hearing from you.

Yours sincerely,

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

cc Mr James Jeffries (London Rock Supplies Ltd)

Attachments:

1. Rebuttal - EA In Principle Policy Objection - Simon Heaton MRTPI
2. Rebuttal - Flood Risk Assessment comments – Edenvale Young
3. Excel spreadsheet: Hydraulic Model Review - Edenvale Young