

West Berkshire Minerals and Waste Local Plan Examination Hearings

Position Statement for West Berkshire Council

Word Count: 3035

Matter 3 – Construction Aggregates Supply and Allocated Sites (Policies 4, 30 & 31)

Issue 1 – Site Selection and Overall Supplies (Policy 4)

a. *Is the sharp sand and gravel site at Tidney Bed appropriately allocated:*

- i on the basis of a sound selection and assessment process, and*
- ii with particular regard to the North Wessex Downs AONB,*

with reference to the Site Selection Methodology [EB0005] and Sustainability Appraisal and its Appendix 6, Site Assessments [CD 0003 paragraph 5.1.2 and CD003G]?

- 3.1.1 The site selection process has been carried out on a consistent basis for all sites as evidenced in the Site Selection Methodology [EB005]. This has allowed a fair comparison between all sites, to ensure that the most suitable site(s) are chosen for allocation.
- 3.1.2 Taking into account all site selection matters and criteria, including deliverability and the outcome of SA/SEA, the site at Tidney Bed is considered to be the most suitable site to meet the identified need for sharp sand and gravel. Appendix 3 of the Site Selection Methodology sets out a summary of the site assessments [EB005, page12].
- 3.1.3 There are no 'show stoppers' on the site, with the only amber categories relating to flood risk, as the site is located within food zone 2 or 3 and within Source Protection Zone 2. However, sand and gravel extraction is a water compatible activity and site plant/structures can be located in the areas of the site at lowest flood risk. Appropriate mitigation will be required regarding the Source Protection Zone (SPZ), and the EA have not raised any specific concerns regarding the allocation of the site.
- 3.1.4 It is recognised that the site is opposite the Tyle Mill conservation area, however, the site is separated by the Newbury – Reading railway and the Council's conservation officer has determined that this should not prevent the site from allocation, although further assessment will be required at the planning application stage [EB004, page 20].
- 3.1.5 The SA/SEA [CD003 page 71 & CD003G page 109] for the site indicates that overall the site will have a neutral impact on sustainability, despite some potential negative impacts in the short term. In the long term, restoration of

the site could result in environmental benefits including biodiversity net gain which would help to mitigate climate change impacts.

3.1.6 It is recognised that the site is adjacent to the AONB and therefore, is considered to be within the setting of the AONB. Landscape work has been carried out to determine the suitability of the site for development. This has determined that the site is suitable for development in landscape terms, subject to mitigation measures which are set out in the landscape report [EB007K] and included in the site policy (Policy 30) [CD001, page 65].

3.1.7 A Main Modification is proposed to remove reference to the setting of the AONB from Policy 19 - Protected Landscapes (MM31), to make the policy consistent with the NPPF. Therefore, the exceptional circumstances test does not need to be met in order for this site to be allocated.

*b. Is the soft sand site at **Chieveley Services** appropriately allocated:*

i on the basis of a sound soft sand supply strategy and selection and assessment process

ii with particular regard to the North Wessex Downs AONB

with reference to the Site Selection Methodology [EB0005], Soft Sand Study [ME003] and Topic Paper including the AONB Exceptional Circumstances Test [ME004] and Sustainability Appraisal and its Appendix 6, Site Assessments [CD 0003 paragraph 5.1.2 and CD003G]?

3.1.8 Taking into account all site selection matters and criteria, including deliverability and the outcome of SA/SEA, the site at Chieveley Services is considered to be the most suitable site for allocation to contribute to the identified need for soft sand.

3.1.9 Appendix 3 of the Site Selection Methodology [EB005, page 12] sets out a summary of the site assessment. No “showstoppers” have been identified for the site, (unlike for the other proposed soft sand sites, both of which would be likely to have a significant negative impact on the landscape, plus a significant access issue in the case of one site) and it has been considered acceptable for development through the site selection process. The only ‘amber’ criteria relates to the public right of way (PROW) on the site, which will need to be diverted during the extraction phases and then reinstated as part of the restoration process.

3.1.10 The SA/SEA [CD003G, page 158] states that development of the site would be likely to have an overall neutral impact on sustainability. It recognises that there is potential for a number of negative impacts during the extraction phases, but that good restoration of the site would result in a number of positive impacts, such as biodiversity net gain.

3.1.11 The potential impact of development on the site in the AONB has been considered in the landscape assessment carried out for the site [EB007A]. This concludes that subject to mitigation part of the site is suitable for

development, despite being located within the AONB. In addition, the exceptional circumstances test has been carried out in line with NPPF paragraph 177¹, as set out in the Soft Sand Topic Paper [ME004, pp. 12-13]. In summary, it is considered that there is a demonstrated need for soft sand which cannot be met from elsewhere (either outside West Berkshire or within West Berkshire but outside of the AONB) or from alternative materials. Therefore, given that the SA/SEA and site assessment have identified Chieveley Services as a suitable site for development (taking into account mitigation), the Council has concluded that there are exceptional circumstances that justify development for soft sand on this site within the AONB.

c. Can the soft sand requirement realistically be met from the allocated soft sand site at Chieveley Services together with cross-boundary and windfall supplies?

3.1.12 The Soft Sand Topic Paper [ME004 pp. 13-14] sets out the worst case scenario regarding production from Chieveley Services and reliance on windfall sites/imports. This estimates that if 400,000 tonnes of soft sand is produced from Chieveley Services (with maximum landscape buffers), then West Berkshire would be relying on approximately 21,700 tpa to come from windfall sites within the soft sand areas of search and/or cross boundary supply. Although for confidentiality reasons the actual numbers cannot be provided, it can be confirmed that quarries in the south of Oxfordshire were exporting in excess of this amount to West Berkshire in 2019 when the soft sand study was undertaken. Therefore, due to the fact that these movements are already evidenced to occur, it is considered that they can reasonably be expected to continue to occur over the Plan period. Accordingly, the level of need for soft sand from windfall sites and/or imports can realistically be met.

3.1.13 In the strategic Statement of Common Ground, it is agreed that Oxfordshire County Council will plan for levels of sales of soft sand in line with their most recent LAA [CD007, page 8] and therefore cross boundary sales of soft sand will be taken into account in the provision of soft sand from Oxfordshire in future, thus also lending weight to the fact that cross boundary movements of soft sand between the authorities can continue to occur over the Plan period.

d. Should the degree of reliance on soft sand supplies from Oxfordshire be quantified and clarified to prioritise supplying soft sand from within West Berkshire itself? (potential MMs noted)

3.1.14 The degree of reliance on soft sand supplies from windfall sites and/or imports has been quantified as 6,667 – 21,667 tpa (MWLP para 4.44) [CD001, page 23]. In addition, several main modifications have been proposed to emphasise the priority order for the provision of soft sand (allocated site > areas of search > imports) in line with the examination

¹ Minerals development is generally accepted as 'major' development and therefore NPPF para 177 applies.

Statement of Common Ground with Oxfordshire County Council [SCG 001], particularly MM19:

MM19 (paragraph 4.44): 'It is acknowledged that the one allocated soft sand site is not sufficient to meet the identified requirement for soft sand in Policy 2 'Landbank and Need'. However, it is considered that the Council has undertaken all measures to identify potential soft sand supply options for the District as set out in the West Berkshire Soft Sand Study and Soft Sand Topic paper. The shortfall in soft sand supply of 120,000 - 390,000 tonnes, (6,667 – 21,667 tpa) is expected to be made up from windfall sites from the soft sand areas of search and if that does not result in sufficient permissions to meet the identified requirement, a Statement of Common Ground has been prepared with Oxfordshire which agrees some supply of soft sand. Supply from Oxfordshire.'

e. *Should Policy 4 be more permissive with respect to winning soft sand outside Areas of Search?*

3.1.15 The Soft Sand Topic Paper outlines the criteria and rationale for soft sand areas of search [ME004, page 14]. Deposits of soft sand within the District are contained within the Reading Beds, and it is these areas that the areas of search are based on, with other constraints removed (such as urban areas and protected areas). It is not reasonable to expect that proposals for soft sand extraction will come forward in areas where the mineral is not present. In addition, allowing a broad brush approach for soft sand proposals will not provide the certainty for West Berkshire residents that plan-making is intended to provide.

f. *Should the MWLP also designate Areas of Search for Sharp Sand and Gravel?*

3.1.16 It is considered that the allocated site for sharp sand and gravel will meet the provision requirement in the MWLP, with some additional headroom.

3.1.17 Minerals Planning Guidance outlines a priority order for planning for the steady and adequate supply of minerals (Paragraph: 008 Reference ID: 27-008-20140306). The first preference is for allocating specific sites where viable resources are known to exist, which is the situation in West Berkshire. It is understood that there is interest from industry in bringing the site into operation in the near future (the details of which remain confidential) which indicates deliverability of the site.

3.1.18 Policy 4 [CD001, page 22] does allow proposals to come forward where they are needed to maintain the provision requirements in Policy 2 [CD001, page 16] which may occur if an allocated site does not come forward as anticipated. This is acknowledged in the MWLP at paragraph 4.52 [CD001, page 25]. It is considered that this provision, along with 5 yearly reviews of the MWLP as required by the NPPF is sufficient to ensure that the identified level of provision in the MWLP will be met.

Issue 2 – Chieveley Services Soft Sand Allocation (Policy 31)

*Are the development principles stated for the allocated soft sand site at **Chieveley Services** appropriate, justified and potentially effective and will the site contribute sufficiently to the requisite supply and landbank of soft sand through the MWLP period, having regard to the following planning considerations, impacts and constraints?*

a. AONB - impact and exceptional circumstances test for major development (noting the Advearse judgment ref CD004lp60)

3.2.1 The site is located within the AONB, and therefore, the exceptional circumstances test has been carried out. The Soft Sand Topic Paper [ME004, page 12] demonstrates that the exceptional circumstances test has been met and, therefore, it is considered to be appropriate to allocate the Chieveley Services site. The potential impact of development on the site in the AONB has been considered in the landscape assessment of the site which concludes that subject to mitigation part of the site is suitable for development, despite being located within the AONB [EB007C, page 9]. It is understood that the exceptional circumstances test will again have to be applied at the planning application stage (consistent with the Advearse judgment²). If the site does not come forward as expected and monitoring demonstrates that the requirement for soft sand isn't being met, this would trigger a review of the MWLP and consideration of soft sand supply options again. Depending on the timing of this, it may be undertaken as a free-standing review or as part of the 5 yearly reviews required by the NPPF.

b. Biodiversity net gain

3.2.2 A biodiversity net gain of a minimum 10% is required on the site as part of the restoration. This is set out in the restoration part of the policy, and is included in the biodiversity policy (Policy 20) [CD001, page 49].

c. Flooding risk

3.2.3 The site is not at risk from fluvial flooding, with only a small area of the site at risk from surface or ground water flooding [SFRA EB006 & EB006A]. Sand and gravel extraction is a water compatible activity and therefore development of the site is considered acceptable, subject to mitigation measures including siting plant machinery and site facilities on areas of lowest flood risk.

d. Practical yield with respect to attenuation buffers

3.2.4 The site was promoted as having a potential yield of approximately 670,000 tonnes, although this is estimated to be approximately 400,000 tonnes if the suggested landscape buffers of the LVA are applied. A site specific LVIA will assist in determining the developable area of the site from a landscape point of view, but even if the worst case scenario is applied, it is considered that

² R (Advearse) v Dorset CC et al [2020] EWHC 807 (Admin) Paragraph 46

additional cross boundary supply is available to meet the shortfall in soft sand supply over the plan period (see response to Issue 1 c.).

e. Deliverability overall

3.2.5 It has been confirmed by the site promoter/operator that the site is deliverable from an operational point of view within the policy requirements. The site selection methodology has also demonstrated that there are no other reasons why the site should not be deliverable with regard to environmental outcomes [EB005, page 16] and therefore the site is considered deliverable overall.

f. Restoration and potential after-use and timescale

3.2.6 The site is to be restored to agriculture (as the current use) with biodiversity enhancements to achieve a minimum 10% net biodiversity increase as set out in the restoration/aftercare element of the policy.

g. Cumulative impact

3.2.7 The cumulative impacts of development of the site have been taken into account in the SA/SEA and site assessment work [CD003G, page 150]. The site is isolated in nature, with no other active quarry sites, known major planning applications or site allocations in the vicinity. Therefore it is not considered that there will be any adverse cumulative impacts from development of the site.

h. Previous appeal decision

3.2.8 Although a material consideration, the previous appeal decision³ with regard to Chieveley Services as an extension to the previous extraction site 'Old Kiln Farm' was made in light of different circumstances (including the fact that the site was being assessed as a planning application under the Replacement Minerals Local Plan for Berkshire, and not for allocation). The Council considers that the circumstances have changed sufficiently to sway in favour of allocating the site for development.

3.2.9 For the previous application, in the absence of an up to date position on need within the district (the requirement for LAAs was newly introduced), assessing the need for the site was a key issue for the proposal. It was concluded that the site would provide in excess of what was at that time required, and the need for the site was not justified on the basis that there were other soft sand producing sites within the AONB in West Berkshire at the time. It was also considered there was a reasonable prospect that other proposals would come forward outside of the AONB that could supply the West Berkshire market.

3.2.10 In reality, since the appeal decision, no further sites have since come forward in West Berkshire. In addition there are currently no producing soft

³ Appeal Ref. APP/W0340/A/12/2173977, 06th November 2012.

sand sites in the District, and so the need argument for further supplies of this mineral becomes a stronger argument for allocation in the light of the exceptional circumstances test. The Council now considers that the need for a supply of building sand in West Berkshire exists such as to justify allocation of Chieveley Services in line with the exceptional circumstances test (also taking into account the other requirements of the test in NPPF 177b and c) [ME003, page 12].

Issue 3 – Tidney Bed Sharp Sand and Gravel Allocation

Policy 30

*Are the development principles stated for the allocated sharp sand and gravel site at **Tidney Bed** appropriate, justified and potentially effective and will the site contribute sufficiently to the requisite supply and landbank of sharp sand and gravel through the MWLP period, having regard to the following planning considerations, impacts and constraints?*

a. AONB - impact and exceptional circumstances test for major development (noting the Adverse judgment – CD004/p60)

3.3.1 The site is located adjacent to (but not within) the AONB, and therefore, is considered to be within the setting of the AONB. National Policy (NPPF para 176) states regarding AONBs that “development within their setting should be sensitively located to avoid or minimise adverse impacts on the designated areas”. Given that NPPF para 177 is only concerned with major development “within” AONBs, there is no requirement to carry out the exceptional circumstances test for sites outside of the AONB, including within its setting. Landscape work has been carried out for the site which takes into account the setting of the AONB and the requirement in NPPF para 176, and considers that development of the site, subject to mitigation measures, is acceptable [EB007K, pp. 8-9].

3.3.2 A Main Modification is proposed to remove reference to the setting of the AONB from Protected Landscape Policy 19 (MM31), in order to be consistent with the NPPF. Therefore, the exceptional circumstances test would not need to be met in order for this site to be allocated.

b. Access

3.3.3 Access to the site can be delivered, and will be subject to a road safety audit as set out in the site policy. The Council’s Highways team are content that satisfactory access to/from the site can be provided.

c. Biodiversity net gain

3.3.4 A biodiversity net gain of a minimum 10% is required on the site as part of its restoration. This is set out in the restoration part of the policy, and is included in the biodiversity policy (Policy 20) [CD001, page 49].

d. Tyle Mill Conservation Area

3.3.5 The proximity of the site to the Tyle Mill Conservation Area has been considered as part of the site assessment process. The Council's conservation officer has reviewed all the sites has determined that this should not prevent the site from allocation, although further assessment will be required at the planning application stage [EB004, page 20].

e. Proximity to main railway line

3.3.6 The site is adjacent to the railway line, however, network rail have not raised any objection to the site and adequate buffers, as required, would be provided. West Berkshire has a history of sites successfully being extracted adjacent to the railway line.

f. Flooding risk

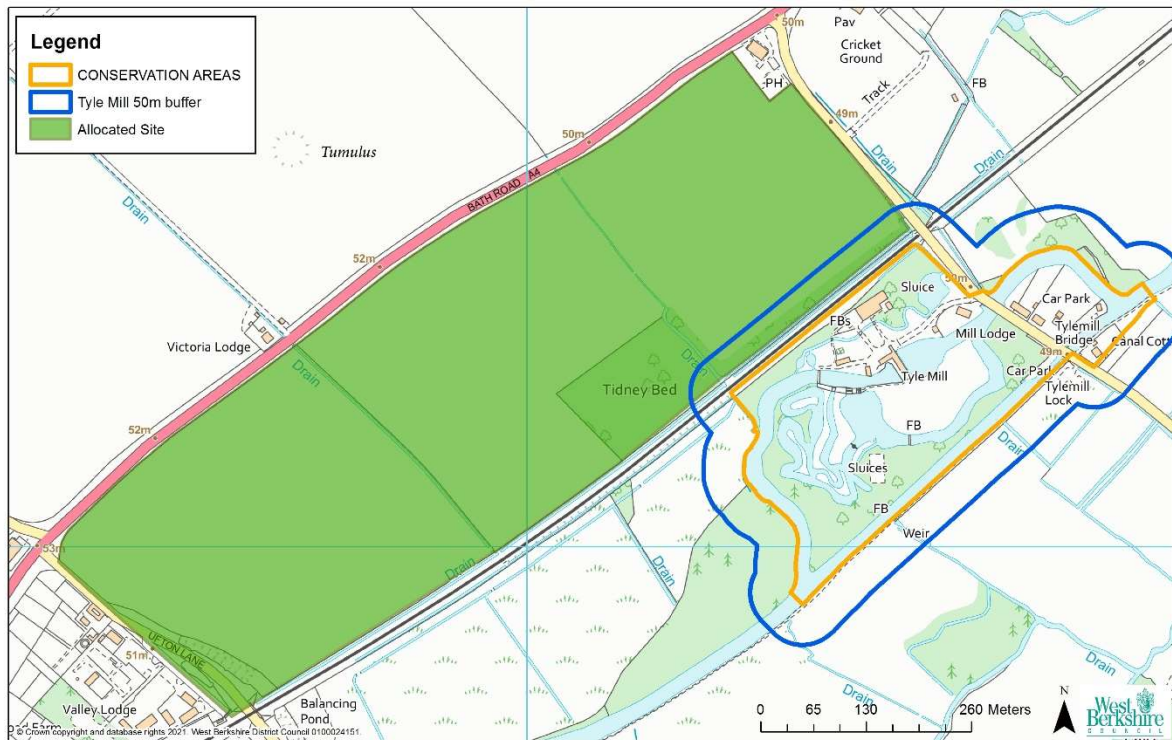
3.3.7 The site is located partly within flood zone 2 and 3. However, mineral extraction is a water compatible activity and therefore development of the site is considered acceptable, subject to mitigation measures including the siting of plant machinery and facilities on areas of lowest flood risk. Restoration of the site using imported materials falls under the regulatory control of the Environment Agency, who have confirmed support in principle for restoration of the site using inert materials.

g. Groundwater protection

3.3.8 Environment Agency data shows the site is in SPZ 2. EA guidance⁴ does not specifically restrict the proposed activity within this zone, although a hydrogeological risk assessment will be required. It is also understood that there is a private water supply borehole at Tyle Mill. EA guidance⁴ suggests an inner protection zone (SPZ 1) of 50m around the source where the intended use is for human consumption or food production. As the location of the bore hole is unknown, a 50m buffer has been drawn around the outline of the conservation area for the site to demonstrate a worst case scenario. It would be expected that at the planning application stage the location of the bore hole and the required mitigation would be taken into account. The EA have confirmed that the MWLP is acceptable from a groundwater quality perspective and that hydrogeological risk assessments would be required to support any planning application coming forward.

4

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692989/Environment-Agency-approach-to-groundwater-protection.pdf



h. Deliverability overall

3.3.9 The site Agent has confirmed that the site is deliverable within the timescales set out in the plan and subject to the policy requirements. They have also confirmed that operator interest to work the site in the near future has been received, the details of which remain confidential.

i. Restoration and potential after-use and timescale

3.3.10 The site is to be worked and restored to agriculture (as the current use) in phases, with biodiversity enhancements to achieve a minimum 10% net biodiversity increase as set out in the restoration/aftercare element of the policy.

j. Cumulative impact

3.3.11 The cumulative impacts of development of the site have been taken into account in the SA/SEA and site assessment work [CD003G, page 101]. The site is isolated in nature, with no other active quarry sites, known major planning applications or site allocations in the vicinity. Therefore it is not anticipated that there will be any adverse cumulative impacts from development of the site. Cumulative assessment features in the Environmental Impact Assessment work that will be required to support any planning application and will assess the situation as it is at that moment in time.