APPLICATION NO: 13/0097/CWMAJM
DISTRICT REF: 14/00987/CPO
VALIDATION DATE: 20 February 2014
AGENT: Heaton Planning Ltd., 9, The Square, Keyworth, Nottingham NG12 5JT
APPLICANT: Aggregate Industries UK Limited, Frome Area Office, Edwin Sims House, Vallis Road, Frome BA11 3EG
SITE: Manor Farm Quarry, Washpool Lane, Kempsford, Fairford GL7 4NJ
PROPOSAL: Extension of sand and gravel extraction operations including the retention of all existing site administration, processing and access facilities, with restoration of the extension and existing site to agriculture and species rich grassland using imported inert materials to recreate the original landform.
PARISH OF: Kempsford
SITE AREA: 84.7 ha (154.2 ha total site area)
GRID REF: E: 417300 N: 198100

RECOMMENDATION: Subject to the Applicant entering into a Section 106 Legal Agreement to secure off-site monitoring of ground and surface water levels and bird management, that planning permission be GRANTED for the reasons set out in this report and summarised at paragraphs 7.130 and 7.131 and subject to the conditions in section 8.0 of this report.

1.0 SITE DESCRIPTION

1.1 The existing Manor Farm Quarry operated by Aggregate Industries (the Applicant) is located between the villages of Kempsford and Whelford, approximately 13 kilometres south east of Cirencester and 13 kilometres north of Swindon. The site also lies 4 kilometres west Lechlade on Thames and the A361.

1.2 The application site is relatively level standing at around 75 metres above ordnance datum (AOD). The 154.2 ha site comprises the existing quarry with its processing plant, ready mixed concrete plant, site offices, mineral stocking areas and water management lagoons. 84.7 ha of agricultural land to the north and east of the existing quarry where no quarry working has taken place is included as an extension area for the existing quarry site.
1.3 North of the application site lies the village of Whelford. RAF Fairford airbase lies to the west of the application site. The application site is approximately 120m east of the end of the main runway at the air base. South of the application site is another quarry site known as Stubbs Farm, Kempsford operated by Earthline/Multi-agg and agricultural land.

1.4 The site’s north/ northwestern boundary is defined by mature hedgerows to the south and east of Whelford village but is less well defined where the boundary sits in an open field and follows an alignment parallel to the north of the approach/landing lights for RAF Fairford (phases 1, 2 and 4).

1.5 The site’s north eastern boundary (phases 5 and 6) is agricultural land leading to the river bank of the River Coln. Agricultural land classification for the site is 3b and falls outside the ‘best and most versatile’ category. The extension site has a broadly square field pattern, separated by mature trees and hedgerows and some narrow woodland blocks.

1.6 The site’s southern boundary is formed by the hedgeline to the existing Manor Farm Quarry boundary and the Dudgrove Stream to the east. Beyond the southern site boundary, the Dudgrove Stream flows east towards the River Coln 150 metres at the closest point to the application site.

1.7 The western boundary of the extension is formed by the MoD Bomb Store, surrounded by a 3 metre high chain-link security fence. The facility is part of RAF Fairford.

1.8 There is one building known as Goosey Meadow barn within the extension site of the application site. This is a stone built barn with associated hard standing. The nearest residential properties are located on Whelford Road some 220 metres to the north/north west of the proposed extension site boundary.

1.9 Five public rights of way (PROW) cross the extension site and seven PROW are associated with the existing quarry site. Those PROW around the existing quarry site have been subject to diversion.

1.10 The application site is accessed from Washpool Lane which leads south from the A361. This route joins the villages of Kempsford and Whelford and links to the A417 to the north near Fairford and the A419(T) to the south near Cricklade.

1.11 The application site is located within the Cotswold Water Park. The nearest permanent lakes of the Cotswold Water Park are located approximately 500 metres from the closest point of the application site. The closest lakes are at Whelford Pools (also known as lakes 111 a-c in Water Park literature). These lakes lie on the northern bank of the River Coln, to the east of Whelford. Whelford Pool is former sand and gravel extraction managed as a nature reserve by Gloucestershire Wildlife Trust and part of the Site of Special Scientific Interest.

1.12 The Dudgrove Stream which flows from north to south along the western boundary of the site, turning eastwards to flow through the southern section of the currently permitted quarry. Dudgrove Stream joins the main channel of the
River Coln approximately 2.4 km east of the site. Dudgrove Stream is classified as a ‘Main River’ by the Environment Agency. Field observations suggest that the stream has been artificially widened and deepened and it receives discharge from field drainage through a series of pipes conveying flows southwards.

1.13 Due to the proximity of the site to the Dudgrove Stream, River Coln and low lying nature, large areas of the site are at risk of fluvial flooding. Some 30 ha of the extension site is within the highest risk Flood Zone 3 with approximately 24 ha within medium to high risk Flood Risk Zone 2. Historically flooding has affected the existing quarry, extending into the quarry void. This area of open water is subject to pumping into the Dudgrove Brook to the south.

1.14 The proposed northern extension contains a deposit of glacio-fluvial sand and gravel of Quaternary age which overlies a bedrock of Oxford Clay. The sand and gravel deposit is generally 3-4 m thick releasing an estimated 3.2 million tonnes of saleable sand and gravel. The river terrace deposits are part of a sub-regional aquifer classified as Secondary A by the Environment Agency.

2.0 THE PROPOSAL

Working Scheme

2.1 The proposal seeks permission for the northern and eastern extension of 84.7 ha of the Manor Farm Quarry site. Within this extension 80.4 ha would be extracted to provide 3.2 million tonnes of sand and gravel extending the life of the mineral excavation for a further 16 years until 2030. The existing quarry site has limited remaining permitted reserve, which is mainly located beneath the existing processing plant. This reserve would remain inaccessible throughout the period the processing plant is used to process the mineral in the proposed extension area.

2.2 The proposed scheme is phased such that operations will move progressively around the site. The extension would be worked in 6 phases with a seventh phase to remove the mineral from beneath the plant site on the existing quarry site prior to final restoration. Operations would commence in the northwest corner closest to RAF Fairford, in the area south of the airbase landing lights. Working would move progressively eastwards towards a major hedge line and a track before returning, in phase 2b, to the western limit of the site. Working would then progress from west to east moving southwards towards the existing site.

Plant and machinery

2.3 The existing quarry processing area has a ready mixed concrete plant for which permission would be extended if permission were granted for this application.

2.4 Sand and gravel would be excavated with the use of a hydraulic loading shovel and 360 degree excavator with sand and gravel taken to the processing plant by conveyor reducing the number of vehicle movements. Restoration would be
undertaken by a D6 Dozer or similar vehicle with importation materials delivered by road going tipper trucks.

**Restoration Process**

2.5 As mineral excavation progresses imported material will be introduced to the quarried void to bring back original levels. The imported material will comprise construction and demolition waste materials such as clays, broken bricks, concrete and stone, controlled by Environment Agency permit. This infill would be unloaded and spread by dozer and compacted to reduce settlement. Material would be transported along internal haul roads that will run alongside the conveyor.

2.6 The additional mineral processing will necessitate further silt lagoons following the washing of sand and gravel and it is proposed that these would be created in the floor of the existing quarry void. The existing lagoons are near capacity. However the lagoons would still require further fill material to cap the lagoons and provide a depth of soil suitable for agriculture. The importation of the fill material is permitted under the existing planning permission but a limited amount of material has been imported due the lagoons being in use.

2.7 Approximately 210,000m³ of silt would need to be removed from the sand and gravel in the proposed extension area. The lagoons would be constructed on a small cell structure to limit amount of open water in a system closed loop. All other site infrastructure remains as present on the Manor Farm site.

**Transport**

2.8 Sand and gravel would be exported from the site by road to Washpool Lane and onto Whelford Road. Most traffic from the site would turn south to Kempsford to access the A419 or Spine Road. Trip generation from the site includes both exports of sand and gravel but also imports of inert fill material for restoration of both the proposed extension area and the existing permitted quarry area which also forms part of the proposals. The importation of fill material will generate more vehicle movements than the export movements. Based on 250 working days a year and 200,000 tonnes per annum (tpa) production, there would be an average of 28 vehicle departures per working day with a payload of 28 tonnes. This would be similar to historic production levels at the site. The increase in movements would arise from the arrival of 200,000 tpa of inert backfill material generating 40 arrivals per day in smaller 20 tonne vehicles. The site would be operational between 0700 and 1900 hours between Monday to Friday and 0700 and 1300 hours on Saturdays.

**Flood Risk Minimisation Measures**

2.9 The following measures are to be undertaken for the minimisation of flood risk both within and outwith the application site boundary:

i. All vulnerable infrastructure and operations are to be sited outwith areas at risk of flooding.

ii. Some Dewatering Cells (minor sub-areas of individual extraction Phases,
each with approximately 3-month working life) will be temporarily bunded to prevent the inundation during fluvial flooding.

iii. Active pumping of Dewatering Cells for the control of groundwater level within extraction areas.

iv. Temporary suspension of off-site discharge whilst the Dudgrove Stream is flowing out-of bank.

v. Re-alignment of / provision of new ditches during extraction to maintain the existing generally north to south pattern of surface drainage.

vi. Restoration will return the lands subject to historical and proposed mineral extraction to pre-quarrying ground levels and thus there will be no raising of ground levels within the restored site.

vii. Provision of High Conductivity Pathways through the imported inert materials to maintain the north to south movement of groundwater through the site during typical groundwater level conditions.

viii. Installation of Groundwater Interception Ditches, cut to average historical groundwater level upon the northern boundary of infill within the proposed extension, to ensure that north to south flowing groundwater levels are not elevated north of the site by the potential impediment posed by the low permeability inert infill.

ix. Restoration will include an enhanced Surface Water Ditch Network, to include retention basins designed to accommodate (balance) additional volumes of rainfall runoff anticipated from the restoration surface.

Restoration Scheme

2.10 A restoration scheme covering both the proposed extension and the existing quarry area forms part of this planning application submission. This restoration would supersede the previously approved restoration under 12/0037/CWMAJM for Manor Farm Quarry. The currently permitted restoration includes an area to be restored to pre-quarrying ground levels and an area of low-level restoration to be drained by perpetual pumping. This application seeks to modify this so that the whole site is restored through inert landfill to pre-quarrying ground levels to be drained by conventional ditches. The proposed restoration would provide for the re-establishment of agricultural land and conservation habitat with public access, restoring Manor Farm to its original ground levels using imported inert materials. The whole site will require approximately 3.1 million cubic metres of inert material which would take approximately 30 years, or up to 2047 to complete.

2.11 While extraction of the extension area would take 16 years, longer would be required to restore fully both the extension area and the existing quarry area by the importation of inert fill.

2.12 The scheme has been developed taking account of the proximity of RAF Fairford and designed to ensure aviation safety by preventing large areas of open water to which birds would be attracted.

2.13 The details of the phasing of mineral working and progressive restoration by imported fill with proposed timescales is as follows:
Phasing

2.14 The proposed extension area would be worked in 6 phases with progressive restoration following each phase. The site is estimated to yield 3.2 million tonnes of saleable sand and gravel. The restoration would require the importation of 3.1 million cubic metres ($m^3$) of inert waste to return the site back to original levels. The anticipated annual output of 200,000 tpa is based on demand projections and an importation of 100,000 $m^3$ per annum of inert fill material has been calculated to keep in line with the pace of extraction.

Phase 1

2.15 This phase would yield 510,000 tonnes of sand and gravel and would take 2.5 to 3 years to extract, requiring 337,000 $m^3$ of infill material with the remainder being soils and overburden from the site. It is anticipated that it would take 3 years from commencement of phase 1 restoration to completion. Imported soils would be stored in the quarry void and transferred to this phase once a large enough void was available in order to facilitate the restoration.

Phase 2

2.16 This phase would be subject to 2 sub-phases, 2A yielding 197,000 tonnes and 2B yielding 164,000 tonnes of sand and gravel, taking 12 months and 9 months respectively to work. Restoration of phase 2 includes some soils from phase 1 and 281,000 $m^3$ of inert material imported. Restoration could be completed within 4-5 years of the commencement of work in phase 2A.

Phase 3

2.17 Phase 3 commences with the removal of topsoil to restore phases 1 and 2. This phase would yield 681,000 tonnes of mineral in 3-4 years. Restoration would require 341,000 $m^3$ of inert fill to be imported taking 5 years from the commencement of this phase.

Phase 4

2.18 Phase 4 would be worked in 2 sub-phases. Phase 4A commences with soil stripping to form a screening bund to the north of phase 4A. The bund would be removed after the working of phase 5. Phase 4A would yield 304,000 tonnes of mineral over 2 years, requiring 175,000 $m^3$ of fill material. Phase 4B would yield 230,000 tonnes over 12-18 months, requiring 125,000 $m^3$ of fill material taking 3 years to complete.

Phase 5

2.19 Phase 5 would be worked in 2 sub-phases. Phase 5A soils would be stripped and placed in a bund to the north phase 5A. Phase 5A would yield 290,000 tonnes over 2 years. Phase 5B would yield 275,000 tonnes over 2 years. Soils from phase 5A would be used in restoration of phases 4B and 5A while soils from phase 5B would be used in phases 3 and 4A. Importation of some 130,000
m³ of inert fill would be required for restoration so that restoration of phase 5 would take 5 years from the commencement of phase 5A.

**Phase 6**

2.20 Phase 6 would be worked in 2 sub-phases. Soils stripped from phase 6A would be used in the restoration of phases 4 and 5. Phase 6A would yield 300,000 tonnes of mineral in 2 years. Soils from phase 6B would be used to restore phases 4, 5 and 6A. Phase 6B would yield 300,000 tonnes of mineral in 2 years and require the importation of 383,000m³ of inert fill which would take 5 years to complete.

**Phase 7**

2.21 Phase 7 is the final phase located under the processing plant in the existing quarry area. The working of this phase would yield 260,000 tonnes of mineral in 1.3 years. As this area includes the existing quarry void, 1,080,000m³ of inert fill material would be required in addition to the 97,500m³ of soils already stored on site in order to restore the final phase. This final phase would take 10.8 years to complete from commencement.

2.22 The planning application has been supported by an Environmental Impact Assessment.

**Environmental Impact Assessment**

2.23 The Applicant has submitted an environmental assessment because the proposed mineral development falls within that detailed in Schedule 1, Section 19 “Quarries and open-cast mining where the surface of the site exceeds 25 ha” of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Prior to submission, the Applicant requested a scoping opinion from the County Council of the issues to be taken account of in the environment assessment under regulation 10 of the EIA Regulations. Gloucestershire County Council published its formal opinion for this site on 29th May 2012 following consultation with a number of statutory consultees.

2.24 In summary the topics covered in the Environment Impact Assessment are:

- Landscape and visual considerations
- Nature conservation and ecology
- Noise
- Dust and air quality
- Soils, Land Quality and Agriculture
- Archaeology, cultural heritage
- Impact on Water resources
- Flood Risk Assessment
- Transportation and Traffic
- Rights of Way
- Carbon Management
- Socio Economic Assessment
2.25 The Environmental Statement has considered the main potential negative
environmental and local amenity effects and concluded that subject to the
imposition of conditions /obligations to secure appropriate mitigation measures,
no unacceptably adverse impacts will arise. The potential environmental and
local amenity impacts are considered acceptable and accord with the
Development Plan policies. The site has been developed taking into account the
proximity of RAF Fairford and that no large areas of open water arise that might
increase risk of bird strike to an unacceptable level. The proposed scheme
brings a number of environmental and economic benefits which offset some
negative impacts including meeting the continued need for sand and gravel
production, benefits of local jobs, improvements to land quality, ecological
enhancement and facilities for local residents.

Pre-application Public Engagement

2.26 The Applicant held two public events in 2013 to explain the proposals to local
people and give the opportunity for comment before proposals were finalised for
submission. An event was held in Kempsford Village Hall on 3/10/2013 and in
Whelford Working Men’s Club on 30/9/2013. Between 60 and 70 people
attended expressing concerns about visual impact, noise, dust and traffic
generation. The Applicant also organises a twice yearly Liaison Committee to
which County, District and Parish Councillors are invited along with
representatives of the RAF Fairford, Gloucestershire County Council and
Aggregated Industries. The latest meeting held was 12th January 2015.

Submission of further information

2.27 The application including the Environmental Impact Assessment (“EIA”) was
submitted on 24th December 2013 and validated on 20th February 2014. The 16
week target date for determination was 12th June 2014.

2.28 The Applicant submitted revised information in the form of a revised Flood Risk
Assessment version 2, Landscape Report, Revised restoration concept plans,
policy update, letters from the Applicant’s air quality consultant and agent on 30th
September 2014. This information has been publicised in accordance with
Regulation 22 of the EIA Regulations 2011 for the second time on 9th October
2014.

2.29 The Applicant submitted further information in the form of a revised Flood Risk
Assessment version 3, Hydrometric Monitoring Scheme and letters from the
agent and the hydrogeological consultants on the 8th January 2015. This
information has been publicised in accordance with Regulation 22 of the EIA
Regulations 2011 for the third time on 15th January 2015.

2.30 A revised Concept Restoration Plan was submitted on 11th March 2015. This
information has been publicised in accordance with Regulation 22 of the EIA
Regulations 2011 for the fourth time on 19th March 2015 for consultees and the
public to provide the opportunity for further comment.
2.31 The County Council has tried to work proactively with the Applicant throughout this process as required by the National Planning Policy Framework to try to resolve problems and issues arising during the course of the application. This has lead to the time taken to determine the application being protracted with three time extensions having to be agreed from the original target determination date of the 12th June 2014. Time extensions were agreed until 1st October 2014, then 5th February 2015 and now until 21st May 2015.

2.32 The County Council has tried to balance the impact of this delay in determination with the need to be satisfied that the mineral extraction can be carried out with an acceptable impact on the amenity of local residents and environment with the needs of the Applicant to have continuity of supply of minerals.

3.0 PLANNING HISTORY

3.1 Planning permission for the extraction of sand and gravel was granted on 19th August 1992 under planning reference CT.6788/A subject to the development being carried out within 10 years. The commencement of development condition was varied to extend the time until 19 August 2002 under planning reference CT.6788/D. All the other planning conditions on CT.6788/A relating to the development remain extant. Extraction commenced on site on 16th August 2002.

3.2 A concrete batching plant was permitted on the site on 2nd December 2003 under planning reference CT.6788/J, whilst temporary importation of aggregate was permitted between 1st November 2003 and 31st May 2004 on 6th November 2003 under reference CT.6788/K. The aggregate was to be used in the development of RAF Fairford only.

3.3 A scoping request was received by the Mineral Planning Authority on 17th April 2012 setting out the scope of an Environmental Impact Assessment which would need to accompany the current planning application. A Scoping Opinion was issued on 29th May 2012.

3.4 In July 2012 an application was submitted to extend the life of the site to 31st December 2017 under planning reference 12/0037/CWMAJM. Permission was granted on 15th October 2012 and the current operations of the site are covered by this permission. The existing permission allows the importation of inert materials to be used to cap the former silt lagoons. This scheme permits the land to be restored to a mixture of agriculture and woodland by 31st December 2017.

3.5 As there is limited remaining permitted reserve on the site, planning permission was granted on 16th May 2013 under planning reference 13/0014/CWMAJM to import aggregate from the nearby Cleveland Farm Quarry (near Ashton Keynes, Wiltshire) as the fixed processing plant on that site had to be removed. This permitted the dug aggregate to be imported and washed at the Kempsford site before being sold. The output from the site has been between 180,000 and 220,000 tonnes per annum that has served the applicant’s concrete batching
Enforcement History

3.6 The existing quarry site has been subject to a complaint in 2012 regarding unauthorised hedge removal. The complaint was investigated but unsubstantiated. A further complaint relating to the failure of the Applicant to comply with agreed restoration conditions was received in 2013. The Applicant advised the Mineral Planning Authority that revised restoration proposals were to be shortly submitted as part of the current planning application. The application was received in December 2013.

4.0 PLANNING POLICY

National Planning Policy Framework

4.1 The National Planning Policy Framework (NPPF) issued on 27th March 2012 sets out the Government’s planning policies and replaced most of the existing Planning and Mineral Policy Guidance and Statements. The NPPF is a material consideration in planning decisions and must be taken into account. National Planning Practice Guidance (NPPG) to provide additional guidance including mineral planning was published on 6th March 2014, which cancelled most of the previous practice guidance documents.

4.2 The NPPF has replaced Mineral Planning Statement 1 and recognises that it is important to maintain a steady supply of material to provide infrastructure, buildings, energy and goods that the country needs. Paragraph 144 states that local planning authorities should provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, Scheduled Monuments and Conservation Areas.

4.3 When determining planning applications local planning authorities should ensure that in granting planning permission for mineral development that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety and take account the cumulative impact or multiple impacts from individual sites and/or from a number of sites in a locality. Paragraph 143 requires that worked land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites should take place including for agriculture, biodiversity, native woodland and recreation.

4.4 As set out in the NPPF it states that Mineral Planning Authorities are expected to ensure that plan proposals do not have an unacceptable adverse effect on the natural or historic environment or human health. Residents living close to mineral workings may be exposed to a number of environmental effects and particular care should be taken in respect of any conditions they attach to a grant of permission for working in proximity to communities.
4.5 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Paragraph 121 also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented.

4.6 Paragraph 128 of the NPPF requires developers to submit an appropriate desk-based assessment and where necessary field evaluation where a development site has the potential to include heritage assets with archaeological interest.

4.7 Paragraph 143 requires that worked land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites should take place including for agriculture, biodiversity, native woodland and recreation.

**National Planning Policy for Waste**

4.8 The National Planning Policy for Waste was issued in October 2014 and sets out national waste planning policies. It should be read in conjunction with the National Planning Policy Framework, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste, or any successor documents. All local planning authorities should have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management.

4.9 The primary aim is to guard against new or increased hazards caused by development. In testing the suitability of sites in determining planning applications, planning authorities should consider a number of locational factors set out in Appendix B which include:

"a. protection of water quality and resources and flood risk management
Considerations will include the proximity of vulnerable surface and groundwater or aquifers. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care."

"i. vermin and birds
Considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby. They can also provide a hazard to aircraft at locations close to aerodromes or low flying areas. As part of the aerodrome safeguarding procedure (ODPM Circular 1/20035) local planning authorities are required to consult aerodrome operators on proposed developments likely to attract birds. Consultation arrangements apply within safeguarded areas (which should be shown on the policies map in the Local Plan)."
National Planning Practice Guidance (NPPG)

4.10 The Department for Communities and Local Government (DCLG) launched the web-based National Planning Policy Guidance (NPPG) on 6 March 2014 to replace previous planning policy guidance documents and Technical Guidance to the National Planning Policy Framework 2012. The NPPG gives guidance on ensuring a steady and adequate supply of aggregate mineral and assessing a number of categories relevant to mineral planning including, dust and noise emissions. Paragraph 13 of the mineral chapter sets out issues that Mineral Planning Authorities (MPA) should address when considering mineral applications, not all of the issues raised in paragraph 13 will be relevant to each case and therefore must be applied on a case by case basis as appropriate. There are also a number of other sections in the NPPG relating to general planning matters which are relevant in the consideration of this planning application.

4.11 In the mineral planning chapter, significant environmental impacts are thought to be best addressed through consideration of an Environmental Statement to ensure mineral planning authorities have sufficient information on all environmental matters at the time the decision is made.

4.12 The NPPG requires those undertaking mineral proposals to carry out a noise impact assessment, taking into account the main characteristics and location of noise sensitive properties, assessing the existing acoustic environment including the background noise levels at nearby noise sensitive properties. The assessment should estimate future noise and identify proposals to mitigate or remove noise emissions at source and monitor noise to check compliance with noise conditions.

4.13 National Planning Practice Guidance, paragraph 21 recommends that mineral planning authorities should aim to establish a noise limit, through a planning condition, at the noise-sensitive property that does not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the Applicant, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field).

4.14 Increased temporary daytime noise limits of up to 70dB are permitted for periods up to 8 weeks in a year at specified noise sensitive properties to facilitate essential site preparation and restoration and construction of baffle mounds (i.e. noise bunds). Peak or impulsive noise, which may include some reversing bleepers, may also require separate limits that are independent of background noise (e.g. Lmax in specific octave or third-octave frequency bands – and that should not be allowed to occur regularly at night.) Care should be taken, however, to avoid any of these suggested values being implemented as fixed thresholds as specific circumstances may justify some small variation being allowed.

4.15 NPPG to the National Planning Policy Framework (NPPF) makes it clear that unavoidable dust emissions should be controlled, mitigated or removed at
A dust assessment should be undertaken by a competent person/organisation with acknowledged experience of undertaking such work. The scope, purpose and key stages of the dust assessment are all detailed within the guidance.

4.16 Paragraph 40 of the NPPG in the Minerals Chapter advises that the level of detail required on restoration and aftercare will depend on circumstances of each specific site and the expected duration of operations. A restoration scheme must be sufficient to demonstrate the overall objectives of the scheme are practically achievable. MPA’s should secure restoration and aftercare of a site through the imposition of suitable planning conditions which seeks a progressive or rolling restoration to minimise areas of land occupied at any one time by mineral working.

4.17 Paragraph 1 of the Flood Risk and Coastal Change Chapter of the NPPG sets out the main steps to be followed in the assessment of flood risk which should accompany planning applications for sites of more than 1 ha. There is a requirement to consult the Environment Agency and a role for the Lead Local Flood Authority in managing local flood risk, including from surface water, ground water and ordinary watercourses.

4.18 Flood risk vulnerability of the proposed development as defined in paragraph 66 is that sand and gravel working and the post restoration agricultural land and amenity area are water compatible development.

Development Plan for Gloucestershire

4.19 The relevant development plan policies for this mineral application are within the Gloucestershire Minerals Local Plan and because the development involves the importation of waste material to restore the site, policies within the Waste Core Strategy and policies saved from the Gloucestershire Waste Local Plan are also applicable.


4.20 Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that the Gloucestershire Minerals Local Plan, adopted in April 2003, status as part of the development plan for Gloucestershire must be considered. Following the direction by the Secretary of State on the 18th September 2007, certain policies from the Minerals Local Plan have been ‘saved’ until replaced by the Draft Minerals Local Plan (MLP). The replacement local plan has been through consultation of options in 2006 and preferred options in 2008. The most recent public consultation on MLP Site Options and Draft Policy Framework has taken place between 23rd June and 18th August 2014, which included parcels of land which are the subject of this planning application. No decisions have been taken on any of the draft policies or site options as a result of the consultation. The next stage would be a draft MLP subject to further consultation which is not anticipated being approved until later in 2015. Subsequently the Mineral Local Plan consultation document in its current form has little weight in the decision making process at this stage.
4.21 The following ‘saved’ policies of the Minerals Local Plan are considered to be generally or partially consistent with the NPPF and relevant to the determination of the proposed development:

**Policy A1**

*Subject to the assessment of the environmental, social and economic impact of mineral working, the Mineral Planning Authority will endeavour to maintain a landbank that reflects the local apportionment of the Regional Guidelines. The local apportionment during the Plan period is represented on an average annual basis as a provision of:*

1. 3.17 mt per annum of Crushed Rock [limestone]
2. 1.29 mt per annum of Sand and Gravel.

4.22 There are considered to be some inconsistencies with this policy and the NPPF because it requires an annual local aggregate assessment, however the matters relating to updated need and supply of aggregates are considered further in this report. The NPPF replaces Mineral Planning Guidance 10, 13 and 15.

**Policy A2**

*The Mineral Planning Authority will endeavour to maintain a landbank of reserves for the winning and working of aggregate minerals throughout and at the end of the Plan period in accordance with National and Regional Guidance. This landbank will be:*

1. at least 7 years for Crushed Rock [limestone]; and
2. at least 7 years for Sand and Gravel.

4.23 Paragraph 145 of the NPPF requires a landbank of at least 10 years for crushed rock and it continues to recognise the need to maintain a landbank of at least 7 years for sand and gravel making policy A2 consistent in terms of sand and gravel extraction.

**Policy A3**

*Proposed aggregate mineral working within the Preferred Areas defined in this Plan will be permitted only where:*
1. they contribute to maintaining the County’s appropriate contribution to local, regional and national aggregate needs including the maintenance of a landbank in accordance with policy A2,
2. and the application satisfactorily fulfils the requirements of the Proposals for that Preferred Area as identified with the Inset Maps.
3. and they are in accordance with all other policies of this plan, in particular policies relating to Environment, Reclamation and Development Control.

4.24 Future Aggregates Mineral Development within Preferred Area policy is compliant but weakened by A3(3) above, by requiring it to be compliant with all other policies of the plan.
**Policy A7**

Additional land for aggregate working in the Upper Thames Valley to meet the future sand and gravel requirements of this Plan are identified as Preferred Areas at:

1. Dryleaze Farm,
2. Cerney Wick,
3. Horcott [including Lady Lamb Farm],

Areas of Future Sand & Gravel Aggregates Minerals Development in the Upper Thames Valley are considered compliant with paragraph 145 of the NPPF that replaced Mineral Planning Guidance 10, 13 and 15. It should be noted that the Secretary of State Direction on 2007 ‘saved’ all the Preferred Areas confirmed in the MLP including ‘Kempsford – Whelford’ (inset 9) in which the application site lies.

**Policy E10:**

In determining proposals for mineral development, the Mineral Planning Authority will be guided by the contribution to local biodiversity and where appropriate will seek long-term overall enhancement to local biodiversity through restoration or by other means i.e., by the attachment of conditions or negotiation of planning obligations.

This policy is considered compliant as weight is retained in paragraph 118 of the NPPF. EU Habitat Regulations and other protection under legislation still apply.

**Policy E11:**

Mineral development which is likely to have a significant negative quantitative and/or qualitative impact on the water environment will not be permitted unless appropriate measures can be imposed to mitigate any harmful effects.

Policy E11 supports the sustainable development principles of the NPPF.

**Policy E14:**

In order to safeguard sensitive land-uses, proposed mineral development will not be permitted within an appropriately defined buffer zone. The following matters will be taken into account when delineating the buffer zone at the application stage of development:

1. topography of the site and surrounding areas,
2. natural and manmade features, which may reduce the impact of development, for example landscape features, roads, railway lines etc.
3. the proximity of the proposed development to sensitive land-uses,
4. duration and direction of the proposed working, and
5. location of Plant and other ancillary development.
4.28 Policy E14 is considered to be consistent with the NPPF and in particular Policy 13 which recognises environmental criteria should be set in policies against which applications are assessed.

**Policy E15**

Proposed mineral development, which adversely impacts on local communities and other sensitive land-uses, will not be permitted within Settlement Protection Boundaries identified in the Cotswold Water Park.

4.29 Policy E15 is considered compliant with the NPPF, paragraph 143 and with the NPPG.

**Policy E16:**

The contribution or impact that proposals for mineral development are likely to make to the social and economic well-being or otherwise of local communities will be a material consideration in assessing their suitability.

4.30 This policy is considered compliant with the economy element of paragraph 19 of the NPPF. NPPG refers to the need to take account as far as is practicable of the potential impacts on the local community over the expected duration of operations.

**Policy E17**

Mineral development, which affects defined public rights of way, will only be permitted if provision is made for an appropriate diversion unless, in exceptional circumstances, the Mineral Planning Authority considers that such a diversion is not required. Wherever possible long-term reinstatement or suitable replacement of public rights of way will be secured. In addition, the Mineral Planning Authority will not permit proposals, which are likely to materially affect National Trails.

4.31 This policy supports paragraph 75 of the NPPF which refers to the protection of rights of way.

**Policy E18**

Where appropriate, proposals for mineral development should consider the scope to provide opportunities for:
1. the creation of new public rights of way and/or open space, or
2. the improvement of public access, or
3. the reconstruction, restoration and/or safeguarding of protected lines of affected canals

4.32 The policy is considered to be compliant with paragraph 75 NPPF.
Policy E19:

Proposed mineral development will not be permitted where the method of transporting minerals will give rise to an unacceptable impact on the local environment. Mineral operators must demonstrate, by a detailed transport appraisal, that the safest and least environmentally damaging methods of transporting minerals from extraction / production sites to markets, that are practically achievable, are used.

4.33 This policy is generally in conformity with the NPPF. Paragraph 32 of the NPPF explains that development should not be prevented or refused on transport grounds unless the residual cumulative impacts are severe.

Policy E20:

Mineral development will only be permitted when the provision for vehicle movement within the site, the access to the site, and the condition of the local highway network are such that the traffic movements likely to be generated by the development would not result in unacceptable impact on highway safety, the effective operation of the road network, residential amenity or the local environment. In assessing the likely impact of traffic movements, account will be taken of any highway improvements, traffic management or other mitigating measures which may be provided in association with the development.

4.34 This policy is generally in conformity with the NPPF. Paragraph 32 of the NPPF explains that development should not be prevented on transport grounds unless the cumulative residual impacts are severe.

Policy R1:

Proposals for mineral development will only be permitted if they are accompanied by a reclamation scheme that provides for the following matters to be taken into account:

1. the site will be operated to ensure that the proposed reclamation scheme will be successful;
2. waste materials arising from the extraction of minerals on site are utilised to restore the site;
3. the restoration is completed at the earliest opportunity and, where practicable, progressive restoration is carried out;
4. other measures to minimise the disturbance to adjacent land-uses are included;
5. harm arising from traffic generated by the reclamation is minimised;
6. the surrounding topography is considered to ensure that the site is sensitively reclaimed in keeping with the character of the local area;
7. where appropriate, measures to protect local, regional and national sites of acknowledged importance are included; and
8. the reclamation of the site provides for environmental and landscape enhancement as guided by Policy R2 of this Plan.
4.35 This policy is consistent with the NPPF and Technical Guidance which recognises the need for reclamation at the earliest opportunity under paragraph 143 of the NPPF.

Policy R2:

Mineral operators will be required to facilitate realistic proposals for after-use as part of the reclamation scheme. Proposals will, where appropriate:

1. enhance the local character of the area;
2. benefit the local community;
3. support and diversify the local economy;
4. improve the local environment by providing increased public access to the countryside and recreation and creating public open space;
5. support and enhance national, regional and local biodiversity;
6. restore best and most versatile agricultural land back to grade; and
7. be innovative.

All after-use proposals must be acceptable in terms of traffic impact, both on the highway and on local communities.

4.36 This policy is compliant with paragraph 33 and paragraphs 36-43 of the NPPF, bolstered by paragraph 49-51 in some circumstances.

Policy R3

Worked out mineral sites will be reclaimed at the earliest opportunity to an approved beneficial after-use, and wherever practicable progressive restoration will be required.

4.37 This policy is considered with the NPPF in that it recognises the need for reclamation at the earliest opportunity under paragraph 143.

Policy DC1:

Mineral development will only be permitted where the applicant has demonstrated, to the satisfaction of the Mineral Planning Authority in consultation with other relevant pollution control agencies, that any potential adverse environmental and / or pollution effects are capable of satisfactory control and / or mitigation, or elimination.

4.38 This policy is considered compliant in combination with paragraph 144 of the NPPF.

Policy DC2:

Ancillary development to proposed or permitted mineral development must satisfy the following requirements that:

1. it is directly related to the extraction of the mineral,
2. its design, size and location should, as far as practicable, be in keeping with the character of the surrounding area,
3. it does not have a significantly adverse impact on the amenity of adjacent landuses,
4. its life should be limited to that of the mineral working and where appropriate, is dismantled in accordance with the restoration proposal,
5. where appropriate it should allow for the processing of secondary (waste) minerals, and
6. it is in accordance with other policies contained in this Plan.

4.39 This policy is considered compliant in that it supports the aims of the NPPF.

Policy DC4:
Mineral development or reclamation proposals for worked out mineral sites, which may pose a hazard to any civilian or military aerodromes will not be permitted.

4.40 This policy is compliant with paragraph 144 of the NPPF which refers to aviation safety rather than safeguarding aerodromes.

Policy DC5:
The Mineral Planning Authority will seek to enter into planning obligations with mineral operators to mitigate the negative impacts of mineral development which cannot be satisfactorily resolved by conditions attached to planning permissions. The following may be considered appropriate matters, if they fall within the tests of Circular 1/97, for inclusion in a planning obligation where related to the proposal:

1. highways and access improvement (including maintenance),
2. traffic restrictions,
3. environmental enhancement [including landscaping, habitat and species protection and creation],
4. protection and/or replacement of locally, regionally and nationally important sites of acknowledged importance,
5. replacement of important environmental and landscape features,
6. protection of local amenity,
7. replacement of local community facilities, for example open space, sports and recreation facilities,
8. protection of other natural resources, for example, the water environment,
9. long-term management and restoration of site, afteruse and monitoring, and/or
10. revocation and consolidation of planning permission.

4.41 This policy has some consistency with the NPPF and recognises the ability to require planning obligations. However the guidance confirms that it will be exceptional circumstances where it will be reasonable for a MPA to seek financial guarantee to cover restoration.
Policy DC6:

*The Minerals Planning Authority will seek mineral operator contributions for road improvement if they fall within the tests of Circular 1/97, in proportion to the mineral anticipated to be extracted, where mineral development would generate lorry traffic on the Cotswold Water Park Eastern Spine Road.*

4.42 This policy is considered compliant with paragraphs 203-205 of the NPPF. Circular 05/2005 replaced 1/97 dealing with Planning Obligations which have been cancelled.

**Unsaved MLP policies**

4.43 Policy E7 Best and Most Versatile Agricultural Land – this policy was not saved because it repeated national policy at the time, however, the NPPF does now place an emphasis on the protection of soils (paragraphs 109 and 143) and this is now considered to have some material consideration. However it should be noted that the 'Kempsford – Whelford (Inset 9) proposals require the restoration back to agricultural land as far as practical to do so. Similarly Policy E12 relating to increased flood risk was not saved because of the publication of national flood risk policy. NPPF paragraph 100 confirms that development in areas at risk of flooding should be avoided but where development is necessary it is necessary to make it safe without increasing risk elsewhere. How much weight is attached to any unsaved policies is a matter for the decision makers to determine.

4.44 Whilst the deleted policies no longer form part of the 'Development Plan', the Council has sought legal opinion and has been advised that these may be a material consideration (where appropriate) in the determination of planning applications in the absence of new style plans. The case officer and the Planning Committee (as decision-maker) will need to come to a view as to what 'weight' to attach to such instances alongside any other material considerations. The weight of the material consideration is therefore a matter for the decision-maker. Soils are an important policy consideration within the NPPF and therefore should be a consideration when determining this application.

**Gloucestershire County Council Waste Core Strategy**

4.45 Gloucestershire’s Waste Core Strategy (WCS) was adopted 21st November 2012 and forms part of the Minerals and Waste Development Framework, providing a planning framework for waste management across the county of Gloucestershire for the period 2012 - 2027. It identifies a vision, objectives and strategy relevant to Gloucestershire compliant with the NPPF. As the development involves the importation of inert waste material for infilling, the following policy is considered relevant:

**Policy WCS1 – Presumption in Favour of Sustainable Development**

*When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can*
be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in the WCS (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:
• Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
• Specific policies in that Framework indicate that development should be restricted.

WCS8 - Landfill

Proposals for new landfill developments or extensions to existing landfill sites will only be permitted where it can be demonstrated that:

1. The waste cannot be managed further up the waste hierarchy through reuse, recycling and recovery; and
2. The proposed landfill would enable;
   i. restoration of current or former mineral sites (subject to technical suitability of the site); or
   ii. a demonstrable improvement in the quality of the land; or
   iii. facilitating an appropriate after use; or
   iv. engineering or other operations.

3. The proposed development would not compromise the permitted restoration of mineral sites or existing landfill sites by the diversion of significant amounts of material;
4. The site does not adversely effect the following designations – major aquifers, source protection zones and European Sites; and
5. Any proposal for new or extended landfill will need to indicate that it is for Gloucestershire’s waste needs unless it can be demonstrate, through a supporting statement, to be the most sustainable option to manage waste arisings from outside of the county at that facility.

WCS10 - Cumulative Impact

In determining proposals for waste related development for new or enhanced waste management facilities the Council will have regard to the cumulative effects of previous and existing waste management facilities on local communities alongside the potential benefits of co-locating complimentary facilities together. Planning permission will be granted where the proposal would not have an unacceptable cumulative impact.
In considering the issue of cumulative impact, particular regard will be given to the following:
1. Environmental quality;
2. Social cohesion and inclusion; and
3. Economic potential.

Within these broad categories this will, subject to the scale and nature of the proposal, include an assessment of the following issues: noise, odour, traffic (including accessibility and sustainable transport considerations), dust, health, ecology and visual impacts

WCS12 – Flood Risk

In order to reduce the likelihood and impact of flooding both on and off-site there will be a general presumption that all waste-related development will be located in areas of low flood risk, (Flood Zone 1) unless it can be demonstrated that there are no suitable, alternative sites available.

Only if no suitable sites are available in Flood Zone 1 will consideration be given to sites within Flood Zone 2 and only if no suitable sites are available in Zone 2 will consideration be given to sites within Flood Zone 3a. Proposals which are classified as 'less vulnerable' may come forward in Flood Zones 1, 2 and 3a although the sequential approach will still apply.

Proposals for 'more vulnerable' waste development including landfill/landraise and hazardous waste treatment and disposal will only be permitted in Flood Zone 3a where it can be demonstrated through application of the 'exception test' that:

- The development provides wider sustainability benefits to the community that outweigh flood risk having regard to the Gloucestershire Strategic Flood Risk Assessment (SFRA); and
- The site is previously developed or if not, that there are no reasonable and available alternative sites on previously developed land; and
- The development will be safe without increasing flood risk elsewhere and where possible, will reduce flood risk overall.

Proposals for waste-related development within Flood Zone 3b (the functional floodplain) will not be permitted other than 'water compatible' proposals such as sewage transmission infrastructure and pumping stations and, subject to the exception test, development which is classified as 'essential infrastructure'.

A Flood Risk Assessment (FRA) will be required for all development of 1 hectare or more and for any proposal located within Flood Zone 2 and 3a. The FRA should consider all sources of potential flood risk.

The design of all new development will be required to take account of current and potential future flood risk from all sources both on and off-site including in particular the use of Sustainable Drainage Systems (SUDS).
WCS14 - Landscape

Proposals for waste development will be permitted where they do not have a significant adverse effect on the local landscape as identified in the Landscape Character Assessment* or unless the impact can be mitigated. Where significant adverse impacts cannot be fully mitigated, the social, environmental and economic benefits of the proposal must outweigh any harm arising from the impacts.

WCS15 - Nature Conservation (Biodiversity & Geodiversity)

Sites of Special Scientific Interest (SSSI) and National Nature Reserves (NNR) will be safeguarded from inappropriate waste management development.

Planning permission for waste management development within or outside a Site of Special Scientific Interest (SSSI) or National Nature Reserve (NNR) will only be granted where it can be demonstrated that:
- The development would not conflict with the conservation, management and enhancement of the site unless the harmful aspects can be satisfactorily mitigated; and
- The benefit of the development clearly outweighs the impacts that the proposal would have on the key features of the site; and
- The proposal complies with other relevant policies of the development plan; and
- In the case of a SSSI, there would be no broader impact on the national network of SSSIs.

Local nature conservation designations will also be safeguarded from inappropriate development and planning permission will only be granted for development affecting such designations where it can be demonstrated that the impact of the development can be satisfactorily mitigated and that the benefit of the development clearly outweighs any impact.

Development proposals will be required to assess their impact on the natural environment and make a contribution to local nature conservation targets to ensure net gain for biodiversity.

Proposals that incorporate beneficial biodiversity or geological features into their design and layout will be favourably considered particularly where the proposal would result in a positive contribution to a Strategic Nature Area (SNA) as identified on the Nature Map for Gloucestershire.

WCS16 – Historic Environment

Planning permission for waste management that would have a significant adverse impact upon heritage assets including their integrity, character and setting will only be granted where it can be demonstrated that:
- The benefits of the development clearly outweighs the impacts that the proposal would have in the key features of the site; or
- The proposal includes adequate measures to mitigate adverse impacts; and
- The proposal complies with other relevant polices of the development plan.
There will be a presumption in favour of the conservation of designated heritage assets, and of those heritage assets with archaeological interest that are of demonstrably of equivalent significance.

**WCS19 - Sustainable Transport**

In the interests of sustainable development and minimising the impact of waste management on Gloucestershire's roads and the wider natural and historic environment, proposals for waste-related development that utilise alternative modes of transport such as rail and water will be positively supported. This is subject to compliance with other relevant development plan policies and the contribution to a sustainable waste management system for Gloucestershire.

Any development exceeding the thresholds set out in the Department for Transport publication 'Guidance on Transport Assessment' must be supported by a Transport Assessment (TA) and Travel Plan. Consideration will also be had to the location of the proposed development in determining whether a TA is required.

Development that would have an adverse impact on the highway network which cannot be mitigated will not be permitted.

Where a Travel Plan is required the developer will be expected to enter into a Section 106 or unilateral legal agreement to secure the development of the travel plan and any contributions required to support its implementation. A contribution towards costs of monitoring the travel plan will also be required.

**Gloucestershire Waste Local Plan 2002-2012**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that the Gloucestershire Waste Local Plan's status as part of the development plan for Gloucestershire must be the starting point for decision making. Gloucestershire Waste Core Strategy adopted 21st November 2013 replaced most of the policies within the Waste Local Plan; however several policies from the adopted Gloucestershire Waste Local Plan have been ‘saved’ and remain relevant to the determination of planning applications. As the development involves the importation of waste material for infilling, the following saved policies are considered relevant:

**Policy 37 – Proximity to other Land Uses**

Proposals for waste development will be determined taking into account such matters as the effect on the environment, occupants’ and users’ amenity and health, the countryside, the traditional landscape character of Gloucestershire, the local highway network, any hazardous installation or substance and any adverse cumulative effect in combination with other development in the area. Where appropriate, suitable ameliorative measures shall be incorporated in the proposals to mitigate, attenuate and control noise, dust, litter, odour, landfill gas, vermin, leachate and flue emissions.
4.47 This policy has no overall inconsistency with the NPPF however; the aim of sustainable development needs to be considered against this policy when dealing with applications.

POLICY 38 - HOURS OF OPERATION

The waste planning authority will where appropriate impose a condition restricting hours of operation on waste management facilities to protect amenity.

4.48 This policy helps contribute to sustainable development as encouraged by the NPPF paragraph 7 and 109 – 125.

POLICY 41 – PUBLIC RIGHTS OF WAY

Proposals for waste development should include, where appropriate, proposals to create new public rights of way and should safeguard existing public rights of way by incorporating measures to segregate or divert them, prior to commencing development. Where new public rights of way are created, operators will be asked to enter into a maintenance agreement. This will place a responsibility on the current and any future landowner to manage these rights of way.

4.49 This policy would broadly help to contribute to sustainable development as encouraged by the NPPF paragraph 7.

Cotswold District Local Plan 2001-2011

4.50 Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that the Cotswold District Local Plan’s status as part of the Development Plan must be considered. The following ‘saved’ policy is relevant to the proposed development and is considered by Cotswold District Council to be generally consistent with the NPPF and in particular paragraph 120 of the NPPF:

Policy 5 – Pollution and Safety Hazards

1. Permission will not be given for development that:
   (a) would result in an unacceptable risk to public health or safety, the environment, general amenity or existing land uses because of its location or due to the potential pollution of air, water, land or sky;
   (b) is likely to cause significant noise nuisance, unacceptable light levels and spillage, vibration, dust or smell, particularly if this is likely to harm an existing business or other neighbouring land use; or
   (c) lies within a protected area around sewage treatment works or similar installations.

2. The Council will seek, through conditions on planning permissions or legal agreements, to control the construction and operation of any development to minimise levels of pollution, of whatever type, and risk to:
   (a) public health or safety;
   (b) the environment;
5.0 REPRESENTATIONS

5.1 The proposal was advertised by site notice dated 6th March 2014 as a development accompanied by an Environmental Statement that was placed around the village and the site, with the closing date for comments as 31st March 2014. A similar public notice was placed in the Wiltshire and Gloucestershire Standard on 27th February 2014 with 20th March 2014 as the closing date for comments. Seventy eight letters dated 3rd March 2014 were sent to neighbouring residents and premises to notify them of the application requesting comments by 31st March 2014.

5.2 Following the consultation responses received, the Applicant submitted further information and a second round public consultation was carried out by advertising the new information under Regulation 22 of the Environmental Impact Regulations 2011 in the Wiltshire and Gloucestershire Standard on the 9th October 2014. All those who had originally contributed their views were notified requesting that if they would like to make any further comments on the information received that this should be submitted by the 3rd November 2014.

5.3 A third round of publicity was carried out when a further revision to the application was received by the MPA on 8th January 2015. A public notice was again placed in the Wiltshire and Gloucestershire Standard on 15th January 2015. All those who had originally contributed their views were notified requesting that if they would like to make any further comments on the latest information received that this should be submitted by the 9th February 2015.

5.4 A fourth round of publicity was carried out when a revised landscape concept plan was submitted on 11th March 2015. A public notice was again placed in the Wiltshire and Gloucestershire Standard on 19th March 2015. All those who had originally contributed their views were notified requesting that if they would like to make any further comments on the information received that this should be submitted by the 9th April 2015.

5.5 As a result of this publicity, the County Council received 92 representations sent by 60 local residents in nearby Whelford and Kempsford from all four consultation stages. These representations raised objections and concerns relating to the following matters:

- Possible flooding of homes with more frequent and severe flood events as a result of the removal of the gravel and infilling of the land with less porous material;
- Would be counter to the government’s stated concerns over climate change and the need to take positive action to prevent further flooding disasters before they take place;
- The Flood Risk Assessment may be inaccurate as it predates the latest extreme flood event;
- Inability of the Dudgrove stream and other waterways to drain the site;
• Supporting information on mitigation of groundwater flows is limited, little confidence in artificial drainage concepts that are not tried and tested, nor is maintenance and it is unacceptable to leave these matters until the restoration phase;
• Would like to see further investigation of how the development could provide a more direct route for drainage to the River Coln to reduce flood risk
• Birdstrike risk to aircraft at the nearby airbase from birds using lakes which would inevitably form from standing water on the site due to the high water table;
• Public safety issues from planes subject to birdstrike, loss of fields which have been used in the past for emergency landing of planes and possible loss of revenue from the air show held at the airbase every year when data shows birdstrike is at its peak;
• Traffic at Whelford Road junction with Top Road Kempsford cannot safely manage large lorries at the corner with an oncoming vehicle and the road needs to be upgraded and rerouted away from houses with a foot and cyclepath before any development is allowed. AI should pay for repairs to the road;
• Increase in quarry traffic will make walking and cycling down Washpool Lane unsafe;
• Additional hazard from speeding lorries and dust and fumes generated from passing lorries;
• C124 Kempsford to Latton Road should be raised to prevent flooding as it is critical emergency access route and increased damage to road surface;
• A 3 metre high bund are uncharacteristic in the area and will not screen large machinery from the first floor windows of residential property facing the site;
• Use of straw bales as a bund is inadequate, have safety issues, will deteriorate and could attract rats;
• Phases 1 and 2 should be removed due to impact and impacts up to 6 years are not considered to be short term and do not take account of seasons;
• Noise of quarrying, early morning starts and vehicle bleepers can be heard from the existing site and so closer working to residential property will be more intrusive;
• Increase in dust blowing towards village will affect health and quality of life;
• Land is inside the explosive, height and technical safeguarding zone and Inhabited Building Distance zone of the Ministry of Defence establishment;
• There is evidence that the existing quarry cannot be worked dry;
• The quarry face adjacent to the high security munitions storage areas at RAF Fairford could compromise safety;
• Loss of productive farmland which has been managed to increase wildlife;
• The quarry would be more visible to the public from the main road and impact negatively on the village and house prices, encroaching on the settlement boundary in the Water Park and setting of Whelford contrary to policy;
• Noise, dust, diesel fumes and disruption from additional lorries using the site;
• Experience has shown that restoration will not take place within the timescales given and company has a poor track record in keeping to current planning
conditions;
- Landfill operation on an unprecedented scale compared to previous quarries with possible odours and with lorries importing exceeding the gravel lorries and no control mechanism to limit traffic;
- Concern over extraction taking place so close to the River Coln and north of Phase 1,
- New hedgelines should be recreated with relevant drainage ditches as creation of soil bunds will destroy existing hedgelines,
- No details of drainage channels, size, content, future maintenance have been provided,
- Fields saturated and watercourses overflowing even after a relatively dry winter. The Dudgrove Stream cannot handle extra water from the quarry.
- Footpaths are welcomed especially circular ones which should be PROW.

6.0 CONSULTATIONS

County Councillor:

6.1 Councillor Ray Theodoulou of the Fairford and Lechlade on Thames Division was notified of the planning application and when new information was received.

Cotswold District Councillor for Kempsford and Lechlade:

6.2 District Councillor Sue Coakley wrote in support of Kempsford Parish Council’s objection, commenting:

"1. The FRA [Flood Risk Assessment] not being revised in the light of more recent flooding which suggests that the EA’s previous assessment of flood risk areas needs revision
2. The requirement for a commitment to reduce the final level of the ground post restoration to a lower level to ensure that at least as much flood water capacity remains post extraction as was proven to exist post extraction - likely to be in excess of 10%
3. A condition being included to provide an improved route for HGVs prior to any extraction commencing - specifically the redesign of the junction at Allotment Corner."

6.3 District Councillor Coakley commented on the further information on 19.1.15 requesting, “a specific condition requiring the full restoration of earlier phases before subsequent phases can be commenced. A reasonable approach would seem to be to condition phase 3 not to start before phase 1 has been restored, phase 4 not to start before phase 2 has been restored etc. This will ensure that the sections which will be excavated first, and which are closest to local housing, are restored in a reasonable timeframe.” Cllr Coakley would also prefer a greater margin to be left between local houses and the boundary of the excavation site.

Cotswold District Council (CDC):

CDC’s response to original consultation sent 3/3/2014
6.4 “In pursuance of their powers under the above Act, [The Town and Country Planning Act 1990] the Council OBJECTS to the above development for the following reason(s):

1. A Flood Risk Assessment (FRA) has been carried out and the following mitigation measures were recommended:-
   - The ditch system will be re-instated with enhanced capacity at restoration for the improvement of upstream drainage;
   - Restoration infilling to incorporate gravel north-west to south-east oriented drains for the maintenance of groundwater flow through the restored Site;
   - Groundwater interception ditches to be installed upon northern infill boundary, with invert levels dug to peak historical groundwater level to provide a fail-safe groundwater control measure;
   - Groundwater Interception ditches to be drained to re-instated and enhanced ditch system, ultimately discharging to the Dudgrove Stream;
   - Provision of attenuation capacity (Retention Basin[s]) within reinstated ditch network.

Although the FRA highlights these measures are required, it does not show how they are to be implemented on the site and the plans submitted with the application do not show if these measures have been incorporated. The site is approximately 154 hectares, over this large area, sands and gravels will be replaced with inert materials which will have a significantly lower percolation capacity. This is a significantly large area of potential water storage to be lost and no provisions have been made for this water after restoration works have been completed, such as providing storage areas, to not cause an increased flood risk to the locality. As mandatory with new developments, (NPPF Paragraph 100) there is an opportunity with this development to reduce the flood risk to Whelford by providing a more direct route for water through the site. This, and the potential for providing storage areas as part of the restoration works, should be investigated further.

Therefore, Cotswold District Council objects to the application as insufficient information has been submitted to demonstrate that the proposed development will not exacerbate flooding in the locality and the application fails to accord with the Cotswold Strategic Flood Risk Assessment, National Planning Policy Framework and the National Planning Policy Practice Guidance.

2. Cotswold District Council is concerned that the development could result in a noise nuisance to local residents and recommends that the following condition is applied should planning permission be granted:

The level of noise emitted from the site shall not exceed 45dB LAeq 1 hour, between 07:00hr to 19:00hr Monday to Friday and 07:00hr to 13:00 hr on a Saturday, as measured on the boundary of the site at Whelford road, Whelford adjacent to Queen’s Cottage. The only exception to this would be for temporary operations as defined by the national technical guidance to the National Planning Policy Framework. It is understood no working is to take place at the site on Sundays or Bank Holidays. The Applicant shall monitor noise and provide a report to demonstrate compliance with this condition upon request.
Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Cotswold District Council Plan Policy 5 and the National Planning Policy Framework.

3. With regard to dust, Cotswold District Council recommends the following condition is applied if planning permission is granted:

Prior to operations commencing on the site a detailed scheme of dust management and monitoring shall be agreed with the local planning authority. This shall incorporate the dust mitigation measures contained in the Advanced Environmental report prepared for planning application and dated December 2013. It shall include a proposal for proactive monitoring in order to demonstrate compliance with air quality standards and dust deposition, should this be requested by the planning authority.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Cotswold District Council Plan Policy 5 and the National Planning Policy Framework.

CDC’s response to the second consultation sent on 2/10/2014

“In pursuance of their powers under the above Act [The Town and Country Planning Act 1990], the Council OBJECTS to the above development for the following reason(s):

1. Cotswold District Council maintains its concern regarding the information submitted to demonstrate that the proposed development will not exacerbate flooding in the locality. The Council are in agreement with the content of the Environment Agency’s Letter dated 14th November 2014.

The revised Flood Risk Assessment (FRA) dated 25th September 2014 has been considered and specific comments are listed as follows: The revised FRA refers to the Dudgrove brook as a critical aspect of the drainage system but there is not a clear understanding of the way that the Dudgrove brook performs in accommodating the storm flow from the MOD site nor how the residential area’s drainage will be affected by the operational phase of the works. An expansion of 2.2.1.9 (paragraph iii) of the revised FRA would assist in this regard.

While a comprehensive groundwater monitoring programme has been carried out, unfortunately, that monitoring ceased in August 2013 before an extremely prolonged period of wet weather commenced, which resulted in a widespread surface water and groundwater flood event. Residential properties in Whelford did not flood during the winter of 2012/13, when the groundwater monitoring was in place, but did flood at Christmas 2013.

One of the main factors relating to the Christmas 2013 flood event was the breach of the river bank upstream of the village (as referred to in the revised FRA 2.2.2.6), although the backing up of the drainage channel on the south side of the main road (due to its inability to discharge water into the Dudgrove brook) was a significant factor. The culverts under the road have been checked and are clear but the Council agrees with the statement in the revised FRA (2.2.2.8) that the capacity of them may be inadequate to transfer severe storm flows from the residential side.
The aspect of isolating cells to sustain work is understandable but it is asked that the Environment Agency look closely at how the discharge rate of 81 litres per second would impact on the Dudgrove brook system during a flood event. The Environment Agency is also asked to look closely at the results of the “short circuiting” system proposed, as it is felt that even if the volumes entering the brook will be the same, the rate and concentrated entry may change the performance of the brook.

A phased timeline plan for the ditch diversion works, clearly showing the profiles of the existing and proposed ditches should be submitted. A plan of the “high conductivity pathways” (revised FRA 3.4.2.4i) showing long sections and construction detail would also be useful. This also applies to the groundwater interception ditches.

A plan of the proposed field drainage should also be submitted for future reference by the land drainage team (revised FRA 3.4.2.9).

With regard to 3.4.2.11 of the revised FRA it is worth noting that if the requirement of the Flood and Water Management Act 2010, to register any attenuation area of 10,000m³ or above as a reservoir, is activated then the proposal may fall under the provisions of that Act (depending on frequency, volume and duration of the attenuation).

Section 4.3 of the revised FRA is being considered by others, although 5.2.1.12 is of interest.

Cotswold District Council also draws attention to the work currently being undertaken by the Flood Defence Team in connection with proposals for a flood alleviation scheme for the parts of Whelford that suffered flooding during Christmas 2013. The task of the Flood Defence Team is primarily to look into instances of residential flooding and to lead in coordinating a response. This may include actions from other agencies or the delivery of a flood defence scheme by Cotswold District Council. It does not appear that the proposed mineral extraction would conflict with the effectiveness of the proposed scheme. The Council would be happy to share information about these proposals upon request.

Notwithstanding, for the reasons discussed above, Cotswold District Council maintains its objection to the application as insufficient information has been submitted to demonstrate that the proposed development will not exacerbate flooding in the locality and that the application fails to accord with the Cotswold Strategic Flood Risk Assessment, National Planning Policy Framework and the National Planning Policy Practice Guidance.

2. Regarding the potential for contamination is it noted that part of the proposed development relates to the restoration of the extension and existing site to agricultural and species rich grassland using imported inert materials to recreate the original land form. A previous planning decision for the site (Ref: 12/0037/CWMAJM) contained Condition 13 which stated that no materials, other than inert subsoil and top soils or other inert material as may be described in any environmental permit, shall be deposited within the site. Any material that is to be imported into the site for restoration purposes should be suitable for the proposed end use.

Cotswold District Council have not seen a copy of the environmental permit or the proposed screening criteria for inert material but would request that a condition be added to any grant of permission to ensure that materials imported for restoration purposes are
of a suitable quality to ensure compliance with Cotswold District Local Plan Policy 5 and Section 11 of the National Planning Policy Framework.

3 As per Cotswold District Council's previous response dated 14.05.2014 there remains concerns that the development could result in a noise nuisance to local residents and recommends that the following condition is applied should planning permission be granted:

The level of noise emitted from the site shall not exceed 45dB LAeq 1 hour, between 07:00hr to 19:00hr Monday to Friday and 07:00hr to 13:00 hr on a Saturday, as measured on the boundary of the site at Whelford road, Whelford adjacent to Queen’s Cottage. The only exception to this would be for temporary operations as defined by the national technical guidance to the National Planning Policy Framework. It is understood no working is to take place at the site on Sundays or Bank Holidays. The Applicant shall monitor noise and provide a report to demonstrate compliance with this condition upon request.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Cotswold District Council Plan Policy 5 and the National Planning Policy Framework.

4. As per Cotswold District Council's previous response dated 14.05.2014 with regard to dust, it is recommended that the following condition is applied if planning permission is granted:

Prior to operations commencing on the site a detailed scheme of dust management and monitoring shall be agreed with the local planning authority. This shall incorporate the dust mitigation measures contained in the Advanced Environmental report prepared for planning application and dated December 2013. It shall include a proposal for proactive monitoring in order to demonstrate compliance with air quality standards and dust deposition, should this be requested by the planning authority.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Cotswold District Council Plan Policy 5 and the National Planning Policy Framework.”

CDC’s response to the third consultation sent on 12/01/2015

6.5 Cotswold District Council had previously raised concerns that the proposed works would increase the flood risk to the existing residential area. The Council now considers that the proposed works would not increase the flood risk to the residential properties, or to the MOD site, either during the operational or restoration phase. However, the Council considers that the existing flood risk situation could be alleviated by significant improvements being made to the condition of the Dudgrove Brook. The District Council would urge the Applicant obtains the necessary EA consents to carry out the required work, advising,

“The Dudgrove Brook will (if correctly maintained) convey ground and surface water efficiently away from the MOD and residential area but that will mean that water will “arrive” at the area of the proposed works faster than it currently does. The proposed works should allow for this.
The Council also advises that the maintenance regime for the high conductivity pathways and watercourses should be tabulated and recorded by GCC as the Lead Local Flood Authority for future reference and enforcement if required. All the conditions recommended by the EA must be applied to the decision notice by GCC and must be fully complied with/adhered to.

The previous comments made by CDC in respect of noise, dust and contamination are still applicable."

**CDC response to fourth consultation sent on 16th March 2015**

6.6 CDC had no comments to make.

**Kempsford Parish Council (KPC):**

KPC's response to original consultation sent on 3/3/2014

6.7 Kempsford Parish Council objects to the proposals for the reasons set out below and ask that their concerns be given full consideration before determining the application:

"**1. FLOOD RISK**
1.1 The village of Whelford is vulnerable to flooding due to three key issues:

(1). **Flash flooding.** During heavy rain as experienced in 2007 and on the 24th December 2013 the increased volume of water from the air base and other drains within the village is unable to pass through the culverts under the Whelford Road.

(2). **Height of water level in the Dudgrove Drain.** When the water level is high it causes water to back up in the ditch and pipes alongside the cycleway of the Whelford Road, restricting the flow through culverts under the road.

(3). **River flooding.** When water is out in the flood plain the result is increased flows into the field ditches north of the village and through Church Farm, before the water works its way towards the Dudgrove Drain.

1.2 On the 24th December 2013 six properties in Whelford were flooded with two others experiencing flooding in their internal garages. Whelford Mill also experienced some flooding on the 4th Jan 2014.

1.3 A meeting of the various agencies and organisations, including RAF Fairford, Kempsford Parish Council, Gloucestershire Highways and Aggregate Industries was held in early February to discuss the recent flooding, and to look at ways to prevent a repeat in the future. A follow-up meeting is scheduled for the 2nd April 2014.

1.4 Gloucestershire Highways inspected the culverts under the Whelford Road in the days following the flooding and all were found to be clear, further
investigation work on the drainage along the Horcott Road in Whelford is scheduled for March 2014.

1.5 All parties agree that the de-silting and clearance of the Dudgrove Drain is necessary and that consent from the Environment Agency should be sought. It is proposed that joint applications by the relevant landowners, RAF Fairford and Aggregate Industries should be submitted.

1.6 During the construction of the cycleway alongside the Whelford Road a number of outlets from the piped section should have been included to allow water to flow into the field with the landing lights (Phase 1), when the ditch is full. Gloucestershire Highways investigated this and it appears that these outlets were not put in. Highways are to investigate further.

1.7 The Flood Risk Assessment accompanying this application refers to the widespread flooding of the existing site during December 2012. It is important to note that the report was produced prior to the repeat flooding experienced in December 2013 and January 2014.

1.8 The recent flooding is more extensive than the previous year and well in excess of the areas identified in the Environment Agencies Flood Map. Attached to this report is photographic evidence of the flooding, with dates and the relevant phase numbers included.

1.9 Following two consecutive years of flooding, the wettest winter ever recorded, and the much-publicised prediction of more regular extreme weather, one must question the accuracy of the flood risk assessment prepared prior to winter 2013/14.

1.10 Our main concern regarding increased flood risk relates to the restoration phase rather than the extraction itself. As witnessed over the last two winters, having an open, empty quarry that can be filled with excess water from the Dudgrove Drain can be beneficial. As restoration progresses we strongly believe that the flood risk to Whelford, and downstream of the extension area, would increase to an unacceptable level due to the following factors:

- The incorporated buried gravel drains would be incapable of taking the volume of groundwater resulting in it backing up on the northern boundary of the restored site (closest to the village), and restricting its ability to act as floodplain.
- The speed of the surface water run-off would increase significantly, putting more pressure on the Dudgrove Drain and reducing its capacity to take water from north of the Whelford Road.
- The change of the composition of the restored land will affect the ability of water to drain through to the north of the Dudgrove Drain and will increase the flow downstream. This has been evidenced during the recent flooding. The River Coln is restricted when the Thames rises which results in the River Coln spilling over into the Dudgrove Drain, due to the drain
being set at a lower level. This in turn can cause the Dudgrove Drain to back up further, yet again reducing its ability to drain Whelford.

1.11 We requested further information on the proposed gravel drains to be incorporated into the restoration. Apparently the Planning Consultant has advised that no specifications of these drains be included within the application documents as from past experience details are better agreed with the planning authority and EA at a later stage, once it is clear what sort of materials have been placed back into the quarry. We regard this as highly unsatisfactory. We would be grateful if answers to the following questions could be provided: -

1. How would the permeability of restored materials be analysed?
2. Is the effectiveness of these types of drains reduced over time due to soil and silt washing through the gravel?
3. If after restoration, the village of Whelford experienced more extensive flooding as a result, who would be responsible and how would it be rectified?

1.12 Overall we consider Whelford to be in a very fragile position in terms of flood risk, and any changes to the hydrology and geo-hydrology in the area would have huge adverse impact.

1.13 National Planning Policy Framework (NPPF) Paragraph 14 clearly states that for plan making and decision taking purposes, development should be restricted for locations at risk of flooding. It also states approval should not be given where ‘any adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole, or specific policies in this framework indicate development should be restricted (locations at risk of flooding).

1.14 In addition to the flood risk to Whelford, we ask that serious consideration be given to the potential bird strike risk to RAF Fairford as a result of the frequency of vast amounts of open water being created by extraction site flooding. Paragraph 144 of the NPPF states ‘When determining planning applications, local planning authorities should ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety’.

1.15 Following the December 2012 flooding, Aggregate Industries were unable to operate for many months and this is expected to be the case again this year. This questions the sustainability of the development in terms of staff employment and supply chain availability.

1.16 We consider the application to be contrary to the NPPF and that there are substantial grounds for Gloucestershire County Council to refuse this application.

2. IMPACT ON WATER RESOURCES
2.1 The river Coln floods its banks to a greater of lesser extent every winter. In places the riverbank is in a very poor condition, with breaches currently in need of repair. Given the relatively short distance between the active river and the gravel workings has natural seepage been considered? In the summer months
the river often runs very low, could the inevitable changes to the ground water levels through extraction and pumping result in the river running dry – a real concern given the closeness of the workings? Whether of not the Environment Agency considers this to be a source of concern, it is a source of concern to the local community and we require evidence that it has been properly addressed.

3. TRANSPORTATION AND TRAFFIC
3.1 We are deeply concerned about the projected increase in HGV traffic (61%) that would pass through Kempsford as a result of this application.

3.2 As stated in the Transport Assessment under section 2.5.2, the Cotswold Water Park Eastern Spine Road remaining schemes was reviewed in 2013. These include a historic scheme for the provision of a new offline carriageway linking Mt Pleasant and Top Road, Kempsford with the Whelford Road, bypassing ‘Allotments Corner’.

3.3 The Allotments Corner junction is unsuitable for the existing volume and size of vehicles using it. Lorries are unable to pass each other when they meet at the junction due to the large swing out required to navigate the corner, regularly resulting in vehicles backing up. This not only creates noise disturbance to residents but also increases air pollution.

3.4 The findings of the review referred to at 3.2 above recommended that the Allotments Corner Scheme (6978E) should be retained to address safety concerns associated with the movement of HGV traffic. As part of the Technical Appraisal & Findings it concluded that although a review of accidents has not indicated a safety issue in the immediate vicinity of the scheme, it is acknowledged that there are safety concerns at the Top Road/Whelford Road junction due to constrained turning manoeuvres by HGVs and perceptions of excessive speed. Cabinet approved the recommendation for the scheme to be retained at a meeting in Feb 2014.

3.5 Clearly the proposed intensification of HGV usage is unacceptable without any major improvements to the existing junction. We strongly disagree with the statement in paragraph 16.4.5 of the Environmental Statement that ‘The work has identified no road safety issues warranting mitigation as part of the development’, and paragraph 16.4.7 that ‘The transportation and traffic resulting from the proposed extension will not cause an unacceptable impact upon human beings’.

4. LANDSCAPE AND VISUAL CONSIDERATIONS
4.1 Properties situation along the Whelford Road, to the north of the site boundary, will be within 150 – 200 metres from Phase 1 and Phase 2A workings.

4.2 Views from these properties are currently across open fields and although for some it includes the aircraft landing approach lights, they are not considered obtrusive due to the height and size within the wider landscape.

4.3 It is proposed that a three-metre high soil bund be constructed to the north of Phase 1 as mitigation for noise and dust. This bund will be at a distance between 50 and 200 metres from properties along the Whelford Road closest to Phase 1.
4.4 A straw-bale bund is proposed to protect properties closest to Phase 2A, at an approximate distance between 220 and 250 metres.

4.5 The Landscape and Visual Conclusions stated in paragraph 8.4.1 of the Environmental Statement state ‘While certain visual effects were found to be significant, these were limited to only small portions of the overall development, each lasting for only relatively short periods of time’.

4.6 Phase 1 extraction is expected to take place over a 2.5 to 3 year period, with restoration achieved within 3 years of commencement. Therefore, providing extraction and restoration is as projected, properties along the Whelford Road could expect significant adverse impact for a minimum of 5.5 to 6 years.

4.7 Phase 2A extraction is expected to take approximately 1 year. Restoration time is only quoted for Phase 2A and 2B in total, but it is presumed that it would take a minimum of a further 1 year to complete. Therefore properties that have views over both phases could expect the total impact to last a minimum of 7.5 to 8 years.

4.8 These timescales cannot be regarded as a ‘relatively short period of time’. Past experience of quarry restoration, both with Aggregate Industries and other local operators, would indicate that in reality the periods of time are likely to be longer than those quoted. The value of the properties concerned would be severely affected by this development, in addition to the visual amenity.

4.9 Both soil and straw bunds must be judged to be just as intrusive as the mineral workings themselves, and, in any event, will fail to obscure the workings fully. The suitability of a straw-bale bund and its appearance after 2 years is also highly questionable, especially given the degradation of straw when in contact with water, be it from above or below.

4.10 We agree that the visual impact of work beyond Phases 1 & 2A is significantly reduced due to the mature hedges, trees and vegetation and request that any permission granted should exclude these early phases.

5. NOISE

5.1 Paragraph 30 of the Technical Guidance to NPPF states ‘Subject to a maximum of 55 dB(A)LAeq, 1 hr (free field), mineral planning authorities should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10 dB(A). It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10 dB(A) without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55 dB(A)LAeq, 1h (free field). Evening (1900-2200) limits should not exceed background level by more than 10 dB(A) and night time limits should not exceed 23 dB(A)LAeq, 1h (free field) at noise-sensitive dwellings.’

5.2 As stated in the Noise Impact Assessment, for the nearest separation distances, the calculated site noise levels for extraction and restoration
operations for all dwellings are below the normal daytime noise limit of 55dB LAeq, 1h (free field) but are more than 10 dB(A) above the average background noise level for daytime periods as measured at the locations for Top Road for the four selected dwellings in Whelford. This is unacceptable.

5.3 By removing Phases 1 and 2A from the application it would reduce the calculated site noise level to 45dB LAeq, 1h (free field, i.e. 10 dB(A) above the average background noise level, and within the limits suggested in NPPF Technical Guidance.

6. AIR QUALITY AND DUST

6.1 All the properties along Whelford Road, Whelford, are the nearest and most sensitive residential receptors to the extraction area.

6.2 The Air Quality and Dust Assessment accompanying this application identified the predominantly south-westerly winds observed in this area that have the potential to disperse dust towards these receptors. This is particularly important due to the very open landscape around Whelford created by the expanse of RAF Fairford. The report states that mitigation measures need to be instigated to reduce the impact to these properties.

6.3 As stated for Noise and Landscape & Visual Considerations above, the removal of Phases 1 and 2A would mitigate for this impact.

7. NATURE CONSERVATION AND ECOLOGY

7.1 We fully support the need to mitigate for the impact on species identified. In particular we consider the replanting of hedges using the same or similar native species should be carried out at the earliest opportunity.

7.2 The ecological report found no evidence of water vole or otter on the site. Water voles have been recorded in the ditch alongside the Whelford Road (north of Phase 1) and in 2013 an otter was killed on the road close to this location (by the road entrance to Phase 1 by the landing lights). The Cotswold Water Park Society are aware of these sightings and we therefore suggest their input in sought on this matter. Otter have also been regularly spotted on the River Coln.

8. RIGHTS OF WAY

8.1 Any opportunity to increase and connect the public rights of way network is welcomed. As a Parish we are very short of public rights of way and those we have are threatened by aggregate extraction.

8.2 Footpath BKD19/3 that runs from Washpool Lane along the southern bank of the Dudgrove Stream connecting to Footpath BKD19/2 does not appear on the final restoration works plan. As other footpaths outside the application area are shown, we seek urgent clarification that there are no plans to apply to close this footpath.

8.3 Results from a Parish Plan Questionnaire in 2012 show that 86% of respondents consider existing footpaths/bridleways within the Parish are important, and 80% are in favour of the creation of additional footpaths/bridleways.
8.4 We fully support the proposed diversion of path BKD28/2 around Phases 5 and 6 that creates a link to the terminal end of path BKD19/1.

8.5 The new section of footpath from the terminal end of path BKD19/1 to Dudgrove Farm is also welcomed, however we believe this footpath should be a Public Right of Way and not a Permissive Footpath. Currently, public rights of way exist from Whelford through to Dudgrove and we consider it important to protect this status.

8.6 We would also like to see the creation of a public footpath link from BKD19 north along the RAF airbase fence to connect with the replacement route in the phase 1 area that joins to the Whelford Road. This link is particularly important given the proposed increased lorry movement on Washpool Lane as a result of this development. Washpool Lane is a popular route for residents as it connects Kempsford to Whelford, avoiding the main road.”

KPC’s response to the second consultation sent on 2/10/2014

6.7 Kempsford Parish Council welcomes the additional information included in the updated Flood Risk Assessment (FRA version 2) however; they remain concerned about the proposed development. In their opinion the drainage in and around Whelford is extremely volatile and any increased pressure on the Dudgrove Stream, however minor, could make the difference between resident’s properties flooding or not. They have commented:

“1.3 The FRA is extremely detailed but as we have no technical experience in hydrology much of the data and calculations does not help us. We therefore put our trust in the County Council to validate the data and confirm that any permission granted will not increase further the flood risk to Whelford. Hopefully the additional background history and comments provided below will assist in the decision making.

1.4 The Dudgrove Stream is an engineered drain, constructed in the 1800’s. There have been significant changes since its construction, to the land use within its catchment, such as RAF Fairford, and also other drainage and watercourses including the loss of the Canal and its feeder.

1.5 The Flood Risk Assessment (FRA) considers flooding associated with the Dudgrove Stream arising from impeded drainage to the River Coln. During the previous two winters the River has repeatedly spilled over into the Dudgrove Stream at various locations.

1.6 It is suggested within 222.8 the FRA that the culvert under the elevated Whelford Road may be inadequately maintained or of inadequate capacity to manage peak flows. Following the flooding of 10 properties during winter 2013/14 culverts under the road (3 in total) were inspected and found to be clear and working.

1.7 After studying photographic and video evidence of the flooding it is considered possible that water flows the wrong way through the culvert by
Queens Cottage when the level in the ditch (point 15 on ditch survey) is full as a result of the Dudgrove Stream backing up.

1.8 The Ditch Survey carried out in July 2013 states that Ditch point 15 was dry. We cannot recall this ditch ever being dry, partially due to its link with the River Coln north of the Village.

1.9 Recently works have been carried out on the landing lights within the Phase 1 area of the proposed extension. The water level in the dug trenches was extremely high (see Appendix 1) considering there had been virtually no rain in September and a dry summer. This would appear to support our theory that there is significant seepage from ditch 15 southerly across the site to the Dudgrove Stream.

1.10 Paragraph 3.4 (Proposed Water Management) states that due to the close proximity to RAF Fairford, measures are to prevent the development of large open areas of water. This is contrary to what has happened over the last 3 years for the existing workings, when for the majority of the period a large lake has existed.

1.11 Appendix 2 includes photographs of the ‘lake’ within the existing workings as at the 3rd October 2014. To our knowledge two pumps have been in operation 24/7 since the flooding last winter. During this time the water has attracted a huge number of wildfowl and on some days as many as 200 geese. As the water level receded through pumping, and islands appeared, the likelihood of bird nesting increases.

1.12 The Parish Council are surprised therefore, that given the MOD’s consistent policy approach to disallow any local quarry restoration to water, there is such little regard to the current expanse of open water and the birdlife it now supports. Please see Appendix 3.

1.13 The current expanse of open water in the existing workings, which we understand to be part of the final phase to be restored, is, if the more recent weather patterns continues likely to remain in situ until well in to the 2040’s. As only parts of this void are proposed to be used for silt operations, soil storage for the extension and finally an attenuation feature, why can the remaining area not be restored earlier?

1.14 The existing EA Discharge Consent allows for an instantaneous discharge volume of 81 l/s. If we have understood the calculation of dewatering rates to provide dry workings correctly, it would appear that the maximum rates would exceed this limit for all but one phase, and phase 2a exceeding the limit at typical rate.

1.15 EA Historic Flood Data contained within the report only shows 1947 and 2007 as flood events. We are uncertain as to what qualifies as a ‘flood event’, but in our opinion the flooding during winter 2013/14, when 10 properties in Whelford flooded, should also be included. In addition to property flooding last winter the majority of the site in question has flooded during the past two winters.
1.16 The above leads us to question the risk category for certain areas of the site, in terms of whether 1 in 100 or 1 in 1000 is appropriate.

1.17 It is proposed to divert the existing ditch system throughout workings when required. Our confidence in management of ditch systems during mineral extraction is very low. There are three existing quarries within the Parish, all of which have examples of collapsed ditches that are yet to be rectified resulting in a change of water flow. It is uncertain whether the cause of these collapses is through infringement of buffer zones or inappropriate buffer zone distances approved when permission was granted.

1.18 Further information on the provision of high conductivity pathways is welcomed in paragraph 3.4.24 of the FRA. Is it possible to obtain more information of the effectiveness of such pathways in the long term? Our concern is that they may silt up and become ineffective over time. Are there any previous case examples to support their use in this type of situation?

1.19 The new proposed installation of a groundwater interception ditch to be dug upon the northern boundary of the infill, and therefore its acceptance that there is a potential risk of backing up, is welcomed. The groundwater levels identified during the recent trenching as part of landing light works confirms the need.

1.20 The maintenance and how this new groundwater ditch would work within the agricultural setting, by splitting the field in two does require further clarification.

1.21 We strongly believe that Phase 1 of the proposed development should be removed from the application to afford the village greater protection from flooding and the adverse impact of noise, dust and air quality.

1.22 The Parish Council has been working extremely hard with CDC’s Flood Engineers under the Repair and Renew Grant Scheme since last winter to identify wider community work projects to alleviate the future flood risk. It is hoped through discussions with our local County Councillor that GCC may contribute to such a scheme through match funding. As a result we would not wish to see the scheme compromised through any permission granted for this development.

2. Groundwater Monitoring

2.1 Could not find any additional information within the FRA on assessment and monitoring of the River Coln.

3. Phase 2A Straw Bale Bund

3.1 In our original comments we stated that the proximity of Phase 2A is too close to the residential properties and should be removed from the application. We maintain this comment.

3.2 If permission is granted, we would support the idea to extend the soil bund in to this phase, replacing the proposed straw bale bund as a more robust screen and safer alternative.

4. Surface run off and risks to MoD/USAF sites
4.1 The Agents response states that the face slippage around MoD Site 16 is understood to have resulted from high flood flows along the Dudgrove Stream. The Parish Council believe it occurred as a direct result of extraction taking place too close to the boundary. As mentioned previously in our Flood Risk comments, similar slippages have occurred in this and other quarries with watercourses and even highways (for example Dudgrove Lane).

4.2 It is essential that any permissions granted include strict conditions on stand-off distances, and that they are enforced when found to have been breached.

5. Justification for the delay in restoration timescales
5.1 The Agent’s response states that delay in restoration timescale is due to unavailability of fill material.

5.2 We are unaware of any previous mineral extraction permissions that have been restored within the original proposed timescale. Once extraction is complete there appears little incentive for timely restoration, when time extensions can be approved and no penalties imposed for the delay.

5.3 This application covers a large area, which will be worked in phases. We would like it conditioned that restoration of worked phases must be completed as per an agreed schedule, for example Phase 3 cannot commence until Phase 1 fully restored.

6. Footpaths
6.1 We welcome confirmation that there is no intention to stop up the section of BKD 19/1/-3 we queried in our earlier comments and that it is simply not shown on the plan.
6.2 In our earlier comments we stated the desire for a footpath link from BKD/19/3 on the southern boundary of Site 16 to the Whelford road alongside the Site 16 boundary. This would provide a valuable and safe route linking Whelford and Kempsford. We would welcome the opportunity to discuss with the MoD their security concerns.”

KPC's response to the third consultation sent on 12/1/2015

6.8 Kempsford Parish Council maintains its objection to the application, primarily due to the flood risk for the following reasons:

“1.2. The Dudgrove stream is an engineered drain installed for land drainage. When constructed the size and capacity was sufficient for the catchment area and the nature of the surrounding land. The stream now drains not only Whelford Village, and the surrounding land, but also RAF Fairford, with its acreage of run way and hard standing. This is a considerably larger area than the drain was built to deal with.

1.3. During any prolonger rainfall the stream fills rapidly and overspills, regardless of whether or not the River Coln is in flood. An example of this occurred on the 15th January 2015 following overnight rain, not what could be considered intense rainfall. It is important to note that this happened despite the relatively dry winter.”
1.4. The updated flood risk assessment is welcome. However it does not convince us that restoration using less permeable materials may not significantly increase surface run off towards the stream, and either flood different areas or cause the stream to 'back up'.

1.5. All mitigation measures included in the flood risk assessment direct water to the Dudgrove Stream whether through the existing ditch networks or as a result of the natural water course. We accept that this differs little, if at all, from the existing situation, but it is the speed at which it will occur that is of concern.

1.6. We note that for 6 out of 8 phases the maximum dewatering rates required to provide dry workings exceed the EA Discharge Consent. The 'typical' rate for phase 2a also exceeds this consent.

1.7. The 'adapted EA Flood Map' (Figure 18) claims that the entire currently permitted area south of the Dudgrove Stream lies outside the 1:100-yr fluvial flood plain. Certainly the area between the track and Washpool Lane is one of the first areas to flood when the Dudgrove Stream bursts its banks on the sharp bend south of the MOD Site. Historic maps show the levels decreasing towards the crossroads by the quarry main entrance. If restored levels are to be as per pre-quarrying, we cannot see how the classification of flood risk can change.

1.8. High conductivity pathways - we would like further information, ideally case studies, of sites where these types of drains have been successfully installed and managed.

2. Proposals
2.1. Given the scale of the proposed extraction and the acknowledged fragility of the hydrology, we suggest that the site be split in to smaller parcels for planning consideration.

2.2. This would provide an opportunity for the restoration proposals to be tested in a smaller area. As work in one area moves towards completion, the next area could be considered with any appropriate amendments made to the restoration plan as required. This would help address our concerns that if the proposed restoration methods fail there would be little or nothing that the County Council could do to rectify the situation. It would also ensure that restoration is completed as scheduled.

2.3. Alternatively, the removal of Phase 1 and Phase 2a from the application could be considered. This would afford the village protection from water backing up, and provide the necessary flood plain (that currently exists to the benefit of the Village). It might be possible to adapt Ditch number 15 to allow overflow into this flood plain should the Dudgrove Stream back up.

3. Conditions
3.1. If permission is granted for the application in its current form, we consider it essential that the following conditions be applied though a Section 106 agreement of similar legally binding agreement -
I. In order to ensure restoration is carried out at the earliest opportunity, in line with the NPPF, one phase must be fully restored before commencement of the next but one. For example, Phase 1 to be fully restored before Phase 3 commenced, phase 2 restored before phase 4 started and so on...

II. An aftercare and maintenance plan must be agreed for the high conductivity pathways and ditch network for a suitable length of time.

III. The groundwater interception ditch north of the development to be subject to regular inspection and maintenance, and under no circumstance be filled in.

IV. All footpaths within the site as shown on Figure 11 (Restoration Concept Plan) be Public Rights of Way and not permissive paths.

4. Clarification
4.1. Within Figure 11 (Restoration Concept Plan) land south of the Dudgrove Stream is shown as containing public access and woodland. Will this area remain under the applicant’s control/ownership and responsibility for management and maintenance?”

KPC’s response to Fourth Consultation sent on 16/3/2015

6.9 KPC queried whether new footpaths in the latest restoration would be Public Rights of Way or permissive paths. (Confirmed by agent on 9.4.15 that they would be PROW).

Lechlade on Thames Town Council:

6.10 Lechlade Town Council supports the views of Kempsford Parish Council and observe that the general state of disrepair of Whelford Road and would seek a contribution from the developer for on-going maintenance.

Environment Agency (EA):

EA’s Response to original consultation sent 3/3/2014

6.11 The Environment Agency objects to the proposals on flood risk grounds. This is due to insufficient detail being submitted in relation to the potential for flood risk impacts and how these will be mitigated but considered the objection could be overcome through the submission of further detailed information to address this matter.

“FLOOD RISK
Large parts of the site are located within Flood Zones 2 and 3, the medium and high probability Flood Zones, as defined in Table 1 of the Flood Risk and Coastal Change section of the National Planning Policy Guidance (NPPG) - NPPG reference ID 7-065-20140306, paragraph 065. In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and would recommend refusal on this basis of the following reasons:

Flood Risk Assessment (FRA)

The FRA submitted with this application does not comply with the requirements set out in the National Planning Policy Framework (NPPF) or the accompanying NPPG. The
submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. We consider that the level of assessment in the report is not proportionate to the scale and nature of the development. The desk based approach should be enhanced by applying site specific flood risk information to the development and where necessary providing suitable mitigation details.

The report identifies the Flood Zone classifications and makes reference to the Water Compatible nature of mineral workings in the context of the NPPF and the previous policy guidance Planning Policy Statement 25 Practice Guide. While Mineral and Gravel workings are considered as an appropriate development type within all Flood Zones, a Flood Risk Assessment still needs to demonstrate that the development itself will be safe and that risk will not be increased elsewhere. A sequential approach to development layout should be implemented for any ancillary works, including processing plant, topsoil and overburden bunds, mineral stockpiling etc, with these activities being located in the lowest risk Flood Zones.

The assessment should consider a range of flood return periods including the Functional Floodplain (Flood Zone 3b) and the 1% (Flood Zone 3a) flood extent and appropriate climate change allowances over the lifetime of the development.

We appreciate that planning policy guidance has recently changed with the release of the NPPG in March this year. At the time of writing the FRA, the PPS25 Practice Guide was still an extant planning document. Nevertheless, much of the technical flood risk guidance has remained consistent through the old PPS25 Practice Guide, the previous NPPF Technical Guidance and the new NPPG. Accordingly, we do not consider the FRA has included the necessary level of detail required by either the old or the new planning guidance. In any event, we would expect any updated FRA to be in line with the latest NPPF and NPPG.

**Floodplain Storage**

Section 2.9.1.1 states that Flood Defence Bunds will be constructed around the perimeter of each dewatering cell. Section 4.5.1 goes on to state that there will be net loss of floodplain storage as voids created during the operational phase will provide sufficient volumetric storage to offset any ‘infilled volume’. While this may be the case, it has not been demonstrated using site specific flood risk data applied to the operational programme for the extraction phase(s). A phasing plan including the location of any bunds and any other raised ground within the 1% flood extent should be provided, along with an assessment of any loss of floodplain storage associated with raised ground. This should demonstrate that at any time there will be no net loss of floodplain storage.

**Flood Flows**

The hydrological assessment of the site identifies the primary fluvial flood risk as being from the Dudgrove Stream/Brook but does not provide any detail of what impact the development would have on flood flows within the site.

As with the points raised in the section above on Floodplain Storage the phasing plan and any areas of raised ground should consider flood flows within the site.
**Recent Flooding and New Information**

Since the report was completed there has been significant flooding within the Thames catchment. The report highlights in section 3.5.1.3 that there may be a misalignment between the Flood Zone maps and current topographic levels within the site. Without the modelled data and evidence from recent flood events being applied to current ground conditions it is not clear whether this assertion is valid. We would recommend that information submitted by the Parish Council to the Minerals Planning Authority (MPA) is considered in the context of our comments.

Furthermore we have recently completed new hydraulic modelling of the Upper Thames which is available to purchase as a Flood Product but has not yet been included within the published Flood Zone map. This does alter the flood extents within the site and should be purchased by the developer and incorporated into any update or addendum FRA to properly inform on matters of flood risk. We appreciate that at the time of writing the FRA this latest modelling information would not have been available, but again the FRA should be based on the most up to date information wherever possible.

Flood Product Data can be obtained from our Customers and Engagement Team at WTEnquiries@environment-agency.gov.uk

**Surface Water**

We note that an assessment of the current site conditions has been made and also a volume of attenuation required to provide attenuation post restoration has been outlined. While we appreciate it may not be possible to undertake detailed design of attenuation features it is important that the scale and location of these features is identified at this stage in the planning process.

We also note that the proposed methodology for this assessment assumes there will be limited change to the prevailing ground conditions as top soil will be reinstated after restoration. It would be useful to understand the depths of topsoil which will be removed and how rainfall currently drains from the site. If there is a very shallow topsoil layer before the gravels are reached then inert infill material will likely generate a higher rate and volume of runoff than currently exists. Attenuation measures should be implemented to ensure the rates and volumes are maintained post restoration.

**Onsite Watercourses**

Under the terms of the Water Resources Act 1991, and the Thames Region Land Drainage Byelaws, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank or excavation within 16 metres of the Dudgrove Brook/Stream, designated a 'main river'.

We note that it is proposed to divert on site watercourses during the operational life of the quarry. While it is not strictly within our regulatory remit to provide advice on ordinary watercourses we would suggest that their function and any diversion should be clearly understood and agreed by the LLFA. Diversions, where essential, should be undertaken with no loss of channel capacity or linear length of the watercourse. If they can be reinstated to enhance their function for example by creating a more meandering channel this should also be considered.
**Flood and Water Management Act 2010**

Under the terms of the Flood and Water Management Act 2010, the Environment Agency has an overview of all forms of flooding, and our lead responsibility is on fluvial flood risk. As indicated above, the LLFA also has a responsibility for flood risk matters. For other sources of flooding such as ground and surface water flooding the LLFA has a lead responsibility. We have made our comments and assessment of the application in line with our overview role, but we recommend you seek comments from the LLFA in addition. Furthermore the LLFA should be consulted on any additional FRA work that is submitted.

**Overcoming our Objection**

To overcome our objection, the developer will need to submit an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application.

**PROTECTION OF GROUNDWATER**

We provided detailed advice in our response to the EIA Scoping Consultation on the aspects we considered necessary in the EIA to address matters of hydrology and hydrogeology and the protection of groundwater. Having reviewed the EIA and the Hydrogeological and Hydrological Impact Assessment Report, we are satisfied that the information and assessments we requested have been undertaken. Notwithstanding our above objection on flood risk, with regard to the protection of groundwater we are satisfied with the information submitted and the proposed mitigation measures.

We recognise that there are concerns locally regarding the potential for the infilling and restoration to cause flood risk and impact on water resources and natural seepage. These aspects have been considered through a full assessment carried out in the EIA. Mitigation measures have been proposed, which we are satisfied with, that include creating discrete dewatering cells to minimise dewatering effort. Groundwater monitoring measures have been proposed in section 5.7.3 in Appendix 2 (Technical Summary). We generally concur with these and consider a condition is necessary to secure the details of the monitoring.

However, we consider that the groundwater monitoring measures that are proposed also need to include monitoring of the River Coln, or at least groundwater levels close to the River Coln, outside of the quarry boundary. We consider this is necessary to ensure that there are no unacceptable impacts to the water environment beyond the site. Given the close proximity of the development to the River Coln and also bearing in mind the potential for cumulative impacts, we feel the monitoring regime should extend this small distance beyond the site to what is a sensitive receptor in terms of ground and surface water impacts. Comparison of groundwater levels within the site and outside of the site would be able to confirm whether the dewatering mitigation measures are working and whether there are any impacts on groundwater flow to the River Coln. Such a monitoring regime may also help to alleviate some of the local concerns that have been raised about this matter.
We would normally recommend a condition to be attached to any permission granted to ensure a detailed monitoring scheme is undertaken and implemented. However in this case as we are requesting off-site monitoring we consider it would be necessary to secure this through a planning obligation/Section 106 Agreement. We consider such an obligation would be relevant and necessary for the reasons given above, and we have had regard to paragraph 204 of the NPPF in considering this matter. We anticipate this matter may require discussion with the applicant, and to aid such discussions we have provided below an indication of the wording and aspects we would expect such a condition or planning obligation to contain.

Condition / Section 106 wording

Extraction from the sites shall not be commenced until such time as a monitoring and maintenance plan has been submitted for approval, and subsequently approved, the Mineral Planning Authority. The scheme shall include:

1. Location and programme for the monitoring and reporting of surface water and ground water levels for the duration of works, site restoration and after care period. Off-site locations shall be included to ensure impacts on the River Coln are included in the monitoring and maintenance plan;
2. Identification of trigger levels for monitoring sites where contingency measures would be required should those triggers be reached;
3. Identification of contingency measures needed should trigger levels mentioned above be reached;
4. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the Mineral Planning Authority.

On completion of the monitoring programme a final report demonstrating that any unacceptable impacts to the aquifer have be mitigated for and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Mineral Planning Authority.

Reason: To assess the risk of effects arising from changes in groundwater levels and that appropriate mitigation is carried out when required to reduce those effects, in the interests of protecting the water environment.

ECOLOGICAL PROTECTION AND ENHANCEMENT

Having reviewed the Nature Conservation and Ecology chapter of the EIA and the associated appendices relevant to the water-based species within our remit, we have no objections in principle to the proposed development on ecology grounds.

As this is a large, multi-year extension, conditions and knowledge of the site may change over the course of the development. We therefore recommend that, before the commencement of each phase, a detailed review of the recent and current circumstances is made which can inform any necessary changes to the restoration proposals or ecological mitigation required, including that for the relocation of the tufted sedge population found on site. Natural England lead on the majority of ecology matters related to development, however we have a lead role for otters, water vole, fish and white-clawed crayfish. We note that the Ecology Report has not found evidence of these species, however as identified above we consider up to date reports will need to be
conducted ahead of each phase. In addition, we note the comments of the Parish Council regarding otter sightings in the vicinity. Otters are highly transient animals and may forage in minor watercourses and wetlands for, amongst other things, amphibians. Females may also breed some distance away from watercourses. This underlines the importance of the up to date survey we have requested above.

In addition water vole populations can be displaced due to, for example, flood events such as the recent flooding (over the winter of 2013/14) and may therefore move onto the site and colonise. Therefore we consider it is necessary for a survey for these protected species to be repeated prior to operation of each phase where suitable foraging and sheltering habitat exist (not just if three years have elapsed, as per the recommendations given).

If our objection on flood risk can be overcome we would recommend conditions for these aspects to be secured in any permission granted.

WASTE MANAGEMENT AND ENVIRONMENTAL PERMITTING
The Mining Waste Directive brought in changes to the way Mining operations are regulated in England and Wales. If you manage extractive waste then this activity may be a mining waste operation, which is regulated under the Environmental Permitting (England and Wales) Regulations 2010 (EPR).

Extractive waste is defined as waste resulting from the prospecting, extraction, treatment and storage of mineral resources and the workings of quarries. In reality this means heaps/tips and ponds/lagoons used to contain and settle waste fines.
The proposed development will require an Environmental Permit from us under the EPR. The operator has a Permit for the existing quarrying operations in this location (the existing permit reference is EAWML 103524). The existing Permit for the site will not cover the proposed extension and activities so the operator will need to contact our National Permitting Service on 03708 506 506 to discuss their Permit application and how to apply.

The Permit will be for the waste operations only (i.e the infilling/deposit of waste, movement and storage of waste, and activities involving waste soils etc.) As part of that Permit we would regulate amenity issues such as dust and noise that arise from the waste aspects only. The mineral extraction operations themselves come under the Local Authority’s regulatory responsibility and amenity impacts from those activities are regulated through Council’s Environmental Health Department.

We have no objections in principle to the proposal from a waste management and Permitting perspective based on the information submitted. The operator will however need to submit relevant information to us in order to obtain a Permit for the activities, and we cannot pre-determine our decision on an EPR application.

We have been in discussions with the District Council’s Environmental Health Officer (EHO) and understand that the EHO has concerns regarding the potential for noise and dust impacts as a result of the mining operations. We understand that the EHO has requested further information be submitted regarding these matters. As we have a role for regulating amenity impacts from the waste activities of the proposal we would also welcome consultation on any further information submitted.
CONCLUSION
We object to the proposed development as the Flood Risk Assessment is not sufficiently detailed. As such the proposal could have unacceptable flood risk impacts. The FRA needs to be updated to incorporate the necessary detail, up to date flood risk information and policy. If an appropriately detailed FRA indicates the impacts of the development will be acceptable in flood risk terms we would be in a position to remove our objection.

We are satisfied in principle on matters of ground water protection, although we consider additional off-site monitoring is required. We consider this should be secured by a planning obligation/ Section 106 Agreement if a planning condition is unsuitable. We would welcome discussion of this now as if this cannot be secured we would object on the basis of insufficient groundwater protections being in place.
We are satisfied in principle on matters of ecology, although we consider additional survey work is required prior to each phase of operation. We consider this can be secured by condition.

We are satisfied in principle on matters of waste management and regulation. However we are aware the Environmental Health Department has requested additional information regarding amenity impacts and we would wish to be consulted on this information to ensure the regulation of the site is joined-up and amenity impacts are fully considered.”

EA’s response to the second consultation sent on 2/10/2014

6.13 The Environment Agency considers that the updated report provides a much more comprehensive assessment of the flood risk associated with the proposed extension of the Manor Farm mineral workings. They do however feel that there is some uncertainty over the details of proposed flood mitigation measures during the operational phase which needs to be addressed prior to determination of the application and as such maintain their objection.

“In our previous response we highlighted the need to consider both a sequential approach to layout and the vulnerability of the development, and also importantly whether the development would have any detrimental impact elsewhere. In relation to the first point, we note that the most vulnerable elements of the development are to be located, where feasible, in areas of the site with the lowest flood risk. As this is an extension of an existing operating site certain Less Vulnerable ancillary infrastructure is proposed to be retained in its current location.

While mineral operations are classed as a Water Compatible development type the NPPF highlights the need to ensure risk is not increased elsewhere as a result of the development. The starting point for any assessment, based on the sequential approach, is to avoid locating development in areas at risk of flooding. Where this is not practical, during the operational phase any loss of floodplain storage and alteration of flood flows must be considered and where necessary mitigation should be provided to offset their impact.

In order that floodplain storage is not compromised through development it is normal practice to provide floodplain compensation for all flood events up to the design (1% climate change where appropriate) flood level. Where feasible, level for level floodplain compensation should be provided. If this is not practical then other forms of compensation such as volumetric storage may be considered. Section 6.6 of the report.
provides details of the overall below ground excavation (volumetric compensatory floodplain storage) for both the existing consented and future phases of the operation. The report discusses recent flood events which were observed in the winter of 2013/14 and which resulted in ongoing dewatering activities.

We are concerned with the proposal to isolate cells for mineral extraction as it is normal practice to allow voids to flood and therefore provide the required volumetric benefit outlined in the report. If there is an overriding and justified need to exclude an area of floodplain then a more detailed assessment to demonstrate there will be no impact on nearby receptors, notably properties in Whelford and Kempsford, should be carried out. This should build on the assessment provided in section 6.6 and be applied to the site specific flood data supplied in the Product 4 information included in the FRA.

Section 6.6.1.1 concludes that there will be no material impact on flood flows (and presumably floodplain storage) as a result of temporary ground level changes within the design flood extent. We are unclear whether this is a valid conclusion as the volumetric losses against progressive volumetric gains are not outlined in the report. Material stored as bunds around the perimeter of the various phases should also be considered in the volumetric compensation assessment.

In a similar context it is unclear whether there will be any temporary impacts associated with the storage of materials within areas affected by flooding. The same approach should be considered for this element of the operation. Additionally, it is unclear whether the proposed lengths of topsoil/overburden bunding and cell isolation bunding will impact on flood flows as no assessment has been provided in the report. It may be appropriate to include breaks in bunds, or if there is a particular screening need, then overlapping the alignment of bunds to ensure they do not impede flood flows.

We note that a conveyor is proposed as part of the extension. The conveyor should be raised on stilts/stanchions which allow the free passage of water beneath them.

Section 3.4.1.1 iii. Makes reference to diversion of interior ditches. As these works have not been identified in detail it is unclear what impact this will have on the hydrology in the area. The applicant’s consultant should identify which watercourses are being considered for diversion.

We assume that no works affecting the Dudgrove Brook are proposed. We would welcome confirmation of this.

It should also be noted that under the terms of the Flood and Water Management Act 2010 and the Land Drainage Act 1981 the formal written consent of the Lead Local Flood Authority, in this instance Gloucestershire County Council, is required for certain works (including damming/diversion) affecting ordinary watercourses. We would suggest that any temporary diversion should include a channel of equal or greater linear length and equivalent hydraulic capacity.”

EA’s response to the third consultation sent on 12/1/2015

6.14 The Environment Agency removed their objection as they were satisfied with the revised Flood Risk Assessment (FRA) and made the following comments:
“FLOOD RISK
The key outstanding issues raised in our previous 14 November response related to demonstrating that there would be no net loss of floodplain storage, or impediment of flood flows, during either the operational phases or final restoration state. The updated report (version 3 of the FRA) addresses these concerns to our satisfaction.

This application is considered alongside the existing approved mineral extraction and its associated restoration scheme. It is therefore accepted that the current baseline ground condition allows for a flood risk benefit by providing temporary below ground floodplain storage within the current worked mineral area. Following restoration, the development will not result in a loss of floodplain storage and will provide a slight increase in storage by allowing restored levels to be set slightly below the surrounding ground level.

On this basis we confirm that we are now in a position to remove our objection on flood risk grounds, subject to the following condition being included with any planning permission which is granted:

Condition

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) undertaken by BCL Consultant Hydrogeologists Limited ref Manor Farm Quarry, Kempsford, Gloucestershire Version 3 dated 3rd December 2014 and the following mitigation measures detailed within the FRA:

1. There shall be no net loss of floodplain storage during any phase of the operational or restoration stage of the development as detailed in Table 9
2. Following final restoration, ground levels will be set below the existing approved restoration levels to provide an additional 120, 952 m$^3$ of floodplain storage.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the planning authority.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce flood risk to third parties.

With regards to the management of ground and surface water and the avoidance of flood risk from site runoff, as previously advised we have reviewed the application in accordance with our overview for all forms of flooding under the Flood & Water Management Act 2010. We are satisfied in principle with the application and the ground and surface water flood risk information submitted. We recommend you continue to consult with the Lead Local Flood Authority (LLFA) on the details of these aspects, in accordance with the LLFA’s lead responsibility for these sources of flooding under the Act. The LLFA may wish to secure further details of surface water drainage measures via a planning
condition for such at a later stage.

**PROTECTION OF GROUNDWATER**

As detailed in our 22 May 2014 response, we are satisfied in principle with the groundwater information submitted in support of the application, subject to planning conditions and/or a Section 106 Agreement (we previously advised that we consider groundwater monitoring is important for the development and that this is required both on and off site, either via condition or Section 106).

We are now in receipt of the Hydrometric Monitoring Scheme, Version 1 dated 23 September 2014 by BCL Consultant Hydrogeologists Ltd. that has been prepared following our 22 May 2014 letter.

Our previous condition/Section 106 regarding protection of groundwater has been met by the Hydrometric Monitoring Scheme provided by BCL. This provides acceptable monitoring frequencies and locations of both current and proposed monitoring borehole. It also provides details regarding identification of trigger levels for monitoring sites and contingency measures should those levels be reached.

On this basis we are satisfied that the previous recommended condition /Section 106 is not necessary, and would recommend instead that the following condition is included with any planning permission which is granted:

**Condition**

The development permitted by this planning permission shall only be carried out in accordance with the submitted Hydrometric Monitoring Scheme provided by BCL Consultant Hydrogeologists Limited ref Manor Farm Quarry, Kempsford, Gloucestershire Version 1 dated 23rd September 2014.

**Reason:** To assess the risk of effects arising from changes in groundwater levels and so that appropriate mitigation is carried out when required to reduce those effects, in the interests of protecting the water environment.

**ECOLOGICAL PROTECTION AND ENHANCEMENT**

With regards to ecological matters within our remit, as advised in our 22 May 2014 response we consider the ecological surveys should be revisited prior to operation of each phase of the development. Given that this request is likely to overlap with the advice of the local County Ecologist and/or Natural England, we have not recommended a specific set of wording for a planning condition to secure this as it may need to tie in with the requirements of these other consultees. However we can provide such wording if this would be helpful to you.”

**Highway Authority (HA):**

HA’s response to original consultation sent on 3/3/2014
6.15 No highway objection is raised and the County Highways adviser has commented that since planning permission was first granted in 1992 that the number of vehicles has never been restricted on any permission granted, albeit that vehicular access is restricted to Washpool Lane. The current application predicts an annual output of 200,000 tonnes which is based on demand projections. As a result the import of materials will be 200,000 tonnes per annum. Based on 250 working days per year and 28 tonne loads this equates to between 28 to 43 vehicles per day.

6.16 The proposal will continue to use the existing quarry access which has been designed and constructed to encourage vehicles to turn left when leaving the site, right turners are not prohibited. This also encourages predominance for vehicles to right turn in to the site albeit that vehicles can turn left in to the site. The distribution patterns from 2012 have been submitted as part of the Transport Assessment in support of the application. 97.5% of Aggregate Industries vehicles access the site via Kempsford and 2.5% via Whelford. Of the other vehicles that access the site 93% access the site via Kempsford and 7% via Whelford. This amounts to 6718 outbound trips per year through Kempsford and 243 outbound trips per year through Whelford. The Traffic Survey undertaken in June 2013 has identified that 81% of HGVs route south towards the A419 through Kempsford.

6.17 The proposal assumes the following based on 250 working days per year:

- 28 exports per working day based on exporting 200,000 tonnes per annum in 28 tonne loads per vehicle.
- 40 imports per working day based on 200,000 tonnes per annum in 20 tonne loads per vehicle.

This equates to 136 trips per working day. The 28 exports per working day is commensurate with the number of HGV trips already permitted. Therefore the net gain is 40 vehicles per working day or 80 trips. Over a 10 hour day this amounts to 8 trips per hour.

The increase in vehicles is low, the existing traffic flows on the local highway network are low therefore spare capacity is high, the use of the quarry is well established and there has never been a restriction on the number of vehicles that can access the quarry. No information has been put forward to legally justify a condition or obligation to restrict the number of vehicles now proposed.”

HA’s response to the second consultation sent on 2/10/2014

6.18 All highway matters remain as per my recommendation dated 19th March 2014.

HA’s response to the third consultation sent on 12/1/2015

6.19 All highway matters remain as per my recommendation dated 19th March 2014.

HA’s response to the fourth consultation sent on 16/3/2015

6.20 The HA advisor did not consider that the information changed the response dated 14th March 2014. The advisor provided an update on ‘The Kempsford - Allotments Corner’ capacity and safety improvement scheme, referred to by Kempsford Parish Council, identified as an A417 Corridor initiative scheme, in the County Council’s Local Transport
Plan Review (LTP3) Consultation Document. The scheme has been retained as identified in the existing Local Transport Plan (3); however the scheme is not within the Capital Programme and is expected to be funded by developer contributions. The impact of the proposal is not severe and therefore complies with paragraph 32 of the NPPF and contributions cannot be sought in this case.

Natural England

6.21 This application is in close proximity to Cotswold Water Park Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified.

6.22 The application has potential for further biodiversity enhancements and the authority should consider securing measures to enhance the biodiversity of the site from the Applicant, if it is minded to grant permission for this application, in accordance with Paragraph 118 of the NPPF. Part of the land proposed for quarry extension during phase 1 is currently under an environmental stewardship agreement. One of the targets for Higher Level Stewardship in the area is creating habitat for farmland birds, in particular Yellow wagtail, Tree sparrow and Lapwing. Whilst they do not anticipate a long term impact given land will be restored to agriculture, consideration could be given to inclusion of wild bird seed plots or pollen and nectar mixes within any arable restoration area.

Cotswold Water Park Trust

6.23 Cotswold Water Park Trust advised that they have liaised with Natural England and are happy with their comments and those of the County Ecologist.

Ministry of Defence Safeguarding (Defence Infrastructure Organisation)

MoD response to original consultation sent on 3/3/2014

6.24 The Ministry of Defence (MOD) has no statutory safeguarding objections to this application subject to the inclusion of a condition in any permission granted to establish a bird management plan for the quarry site until restoration has been completed. They advise us that the site of the proposed mineral extraction scheme will entail the agricultural land directly beneath the air traffic approach being excavated and then restored. The proposed quarry extension will extend around the land upon which the runway forward landing lights are located leaving an offset of approximately 25m between the limit of the excavations and lights. The applicant has taken account of the presence of these air navigation installations and confirmed that they will be retained throughout the proposed quarrying operation. However, the MOD is concerned by the potential for the lights and the associated cables to be disturbed or damaged by the proposed quarrying scheme. Under provisions of Part 28 of The Air Navigation Order 2009, a person must not alter the character of an aeronautical ground light which forms part of the lighting system for use by aircraft taking off or landing.

6.25 The principal safeguarding concern of the MOD in relation to mineral extraction in the vicinity of RAF Fairford relates to the potential increase in birdstrike risk to aircraft operations as a result of the creation of wetland habitats through the restoration of mineral extraction sites. The application identifies that the extraction area will be progressively
filled in with inert material to restore it to the original land levels. The completed site restoration will therefore not heighten birdstrike risk. However, the extraction phase will entail the establishment of new silt lagoons within the existing quarry area covering approximately 12.5ha. These appear to be rectangular water bodies approximately 65m wide. Taking into account the functional nature of these water bodies it seems unlikely that they will be highly attractive to large and, or, flocking bird species hazardous to air traffic. However, considering the proximity of the application site to the end of the main runway at RAF Fairford, the MOD considers it necessary that a basic bird management plan is put in place for the duration of the working of the site. This should obligate the Applicant to ensure that waterfowl are not allowed to breed at the site. In addition, if reasonably requested by the aerodrome operator, the quarry Applicant will carry out bird control at the site to disperse waterfowl, gulls or other birds considered a hazard to aviation and maintain control measures to prevent such birds from occupying the site.

MoD response to second consultation sent on 2/10/2014

6.26 MoD sent no response to this consultation.

MoD response to third consultation sent on 12/01/2015

6.27 MOD Safeguarding has no further comments to make on the information submitted but we note that the Applicant is willing to enter into a legal agreement for a ‘call-off’ bird management plan. According to the letter from the Applicant’s agents Heaton Planning a Heads of Terms for a legal agreement is currently being prepared. We would like to be consulted again once the Heads of Terms is received.

MoD response to fourth consultation sent on 16/3/2015

6.28 MoD Safeguarding has no safeguarding objections to the amended concept restoration plan.

RAF Fairford

6.29 Defence Infrastructure Organisation Land Management Services (DIO LMS) representing RAF Fairford wishes to ensure that the extension area is correctly restored in accordance with the terms and conditions of any formal consent and requests the ability to retain the scope to amend any restoration works (either during the statutory restoration period or thereafter) should there be a risk that military operations could be compromised. They also commented as follows:

“a) proximity to landing lights: Although the extraction proposals incorporate stand-off zones to protect boundaries there are concerns that in some instances that these might not be adequate. A request to review these limits to prevent site stability problems during and post extraction is strongly recommended to avoid slippage problems already experienced from the current quarrying works. The provisions of The Air Navigation Order 2009 (part 28) covering the protection of landing lights are to be noted.

b) footpaths: the MOD welcomes public access and the improvements and the proposals to maintain the existing footpath network is noted however the diversion or introduction of new public footpaths along the north western edge of
Site 16 is not acceptable and is to be discouraged for security reasons. Further consultation with the applicant will be necessary.

c) restoration/land stability: the MOD wish to be party to discussions regarding the management of future restoration plans in order to maintain site stability and minimise birdstrike in both the short and longer term. During the excavation period the managing of new water bodies created needs to be controlled not only to protect Site 16 which is adjacent to the proposed extension works but to minimise run off during extreme weather conditions which could impact on other USAF sites in the vicinity.”

Thames Water

6.30 Thames Water advises that with regard to sewerage infrastructure, they have no objection.

Lead Local Flood Authority:

6.31 Over the course of this application since it was received in 2013, the role of the County Council as the Lead Local Flood Authority (LLFA) has been evolving. The government confirmed that LLFA’s would be a statutory consultee on surface water drainage for major planning applications received after 15th April 2015. The Council’s Flood Management Team was asked prior to this date, for their views on the proposals as a non-statutory consultee. The Council engaged a hydrological advisor to review and to consider whether the Flood Risk Assessment adequately addresses the concerns raised by stakeholders. Therefore they have endorsed the advice given by the Council’s hydrological advisor and raise no objection on flood risk grounds.

6.32 The County’s Hydrological advisor comments that the revised Flood Risk Assessment version 3 provides additional detail regarding the management of groundwater and surface water and the risk of flooding from fluvial, surface water and groundwater sources. It is considered, based on the information provided, that the risks can be adequately managed. A section 106 agreement is recommended to be signed prior to commencement of mineral extraction to ensure that the Hydrometric Monitoring Scheme provided by BCL Consultant Hydrogeologists Limited ref Manor Farm Quarry, Kempsford, Gloucestershire Version 1 dated 23rd September 2014 is fully implemented and sustained for the duration of the operational and aftercare periods. This would ensure that the Monitoring Scheme, including the monitoring of off-site locations is secure. In the event of a grant of planning permission, the following conditions should be imposed:

“CONDITION:

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) undertaken by BCL Consultant Hydrogeologists Limited ref Manor Farm Quarry, Kempsford, Gloucestershire Version 3 dated 3rd December 2014 and the following mitigation measures detailed within the FRA:

1. There shall be no net loss of floodplain storage during any phase of the operational or restoration stage of the development as detailed in Table 9
2. Following final restoration, ground levels will be set below the existing approved restoration levels to provide an additional 120,952 m$^3$ of floodplain storage.
**REASON:** To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce flood risk to third parties.

**CONDITION:**

A Drainage Strategy Report shall be submitted to the MPA and approved in writing prior to commencement of development and shall then be implemented. The drainage Strategy Report shall provide full details of the proposed implementation of the measures set out in the Flood Risk Assessment (BCL Consultant Hydrogeologists Limited, December 2014. Manor Farm Quarry, Kempsford, Gloucestershire: Flood Risk Assessment (Version 3). Prepared for Aggregate Industries) and shall include:

- Details of how continuity of flow shall be maintained across the site at each stage of phase of the site’s development;
- The dimensions of ditches required to adequately manage flows of groundwater and surface water through and around the site, as identified in bullet 1 and a strategy for the maintenance of the same;
- The method of controlling the pumped dewatering discharge to the Dudgrove Stream to ensure that discharge is suspected when the stream is flowing out of bank as proposed in the Flood Risk Assessment;
- The method of ensuring that discharge to the Dudgrove Stream does not exceed 81 litres per second as proposed in the Flood Risk Assessment.

The report shall set out how continuity of flow across the site will be maintained at each stage of the site’s development and restoration, the size of ditches required to adequately manage flows and a strategy for maintenance of the same.

**REASON:** In order to prevent flooding and permit the MPA to monitor the implementation of the drainage controlled detailed by the Applicant in the Flood Risk Assessment 3.

**CONDITION:**

The development permitted by this planning permission shall only be carried out in accordance with the submitted Hydrometric Monitoring Scheme provided by BCL Consultant Hydrogeologists Limited ref Manor Farm Quarry, Kempsford, Gloucestershire Version 1 dated 23rd September 2014 which shall be updated to include:

- Setting of statistically robust numerical values (trigger levels) which shall take into account the need to manage flood risk from a variety of sources;
- Shall set out the contingency actions to be followed in the event that the trigger levels are breached which shall include reporting the breach to the MPA,
- Development of an action plan and provision of a verification report once the actions identified have been completed.

**REASON:** To prevent the increased risk of flooding to others.
CONDITION:

A groundwater management plan shall be submitted to the MPA and approved in writing prior to the restoration of each phase of working as set out in the approved phasing plan as identified on Drawing M12.163.D.004. The Groundwater Management Plan shall:

- detail the thickness and width of the high permeability drains through the site and the required hydraulic conductivity of the infilling materials (taking into account the likely deterioration of function over time) such that groundwater level rise is acceptable.
- take account of the monitoring of the performance of previous phases.

REASON: To ensure effective flow of groundwater during and after extraction.

CONDITION:

Detailed design of the control structures to limit discharge from the retention basins to the 1, 30 and 100 year greenfield runoff rates shall be submitted to the MPA and approved in writing prior to the installation of each of the retention basins shown on the Drawing entitled “Concept Restoration Drainage Scheme” included within the Flood Risk Assessment (BCL Consultant Hydrogeologists Limited, December 2014. Manor Farm Quarry, Kempsford, Gloucestershire: Flood Risk Assessment (Version 3). Prepared for Aggregate Industries). The design shall also verify the size of the pond, taking into account climate change.


7.0 OBSERVATIONS BY STRATEGIC INFRASTRUCTURE

Ecology:

Ecologist response to the original Consultation sent 3/3/14

7.1 The County Ecologist identified that the Restoration Concept needed to be revised to indicate some further biodiversity enhancement through some additional small habitat features in places. Details for full details of a restoration and aftercare scheme were recommended as a planning condition. Planning Conditions were also recommended to cover submission of a Biodiversity Mitigation Strategy, stand-off zones of 10 metres either side of hedgerows, Dust Mitigation and a Lighting Scheme.

Ecologist’s response to the Second Consultation sent on 2/10/14

7.2 The County Ecologist also comments that in the recommended condition for a detailed Restoration and Aftercare Scheme based information on species plus seed mixes and tree/shrub size will be needed. Annual aftercare meetings are proposed with the MPA and should be accepted. The proposals are acceptable and will contribute to future
biodiversity enhancement of this site once extraction has been completed and within the constraints of a bird strike area.

7.3 The County Ecologist is satisfied with the revised restoration concept (scheme) depicted in drawing M12.163.D.018B dated September 2014 and comparing this with the previous now superseded drawing M12.163.D.018 dated December 2013 which shows more small ponds and woodlands/copses. New drawing M12.163.D.018B also photographically depicts field margins of rough grassland which are planned for a number of the agricultural fields once re-instated after minerals extraction. In the south west corner between a water management balancing pond and the site entrance some areas of bare ground will be left. Given a bit of good fortune specialist plants such as for Euphorbia exigua and Scandix pectin-veneris may be able to colonise and persist here as well as in nearby arable land.

7.4 The County Ecologist is satisfied that overall the habitats plus hedgerows, species-rich and neutral grassland will benefit a range of species including plants, invertebrates, birds, mammals and amphibians. The habitat features are of a location and scale that as compared to the previous restoration concept would have an insignificant change in bird strike risk which is low. It is noted that as well as being small the proposed new ponds have been kept close to either trees, hedgerows or rough grassland to reduce their attractiveness to large numbers of larger wildfowl species. It is the Ecologist’s view that enhancement of local biodiversity has been maximised given a critical constraint on restoration options due to the location next to a runway and including a runway approach.

7.5 The County Ecologist is satisfied that overall the habitats plus hedgerows, species-rich and neutral grassland will benefit a range of species including plants, invertebrates, birds, mammals and amphibians. The habitat features are of a location and scale that as compared to the previous restoration concept would have an insignificant change in bird strike risk which is low. It is noted that as well as being small the proposed new ponds have been kept close to either trees, hedgerows or rough grassland to reduce their attractiveness to large numbers of larger wildfowl species. It is the Ecologist’s view that enhancement of local biodiversity has been maximised given a critical constraint on restoration options due to the location next to a runway and including a runway approach. He recommended appropriate amendments and additions to previously recommended conditions to reflect the new restoration documents.

Ecologist’s response to the Third Consultation sent on 12/1/15

7.6 The Ecologist notes that the Applicant accepts the imposition of a condition requiring detailed, ‘micro-design’ of restoration at certain stages throughout the quarry development, as he previously recommended and agrees that it may be achievable to provide wider hedgerows in certain areas and provide additional woodland blocks. A ‘call off’ bird management plan to deal with any acceptable bird strike is also being offered as part of a legal agreement for the development. This is probably a wise precaution to have in place.

Ecologist’s response to the Fourth Consultation sent on 16/3/15

has been submitted. It seems that Revision C of the Concept Restoration has been produced to better match the Concept Restoration Hydrology Plan which was submitted in October 2014, e.g. showing two water retention basins, intended watercourse (ditch) network and an additional hedgerow. The clarification gained by producing Revision C of the Concept Restoration Plan is welcomed and will probably have slightly better outcomes for biodiversity compared to Revision B. The drawing is however a basis for further restoration details to be submitted at a later date should the development be granted consent.

7.8 The County Ecologist recommends that as part of a consent that may be granted, the following conditions should be attached:

**Condition:**

“The measures of the Landscaping, Restoration, Habitat Management and Aftercare Scheme dated September 2014 are approved and shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason:** To conserve and enhance the environmental value and amenity of the land and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.

**Condition:**

No development shall take place until a Biodiversity Mitigation Strategy has been submitted to and approved in writing by the Mineral Planning Authority. The Scheme shall be based on the approved Restoration Concept Drawing M12.163.D.018C dated March 2015, Ecological Mitigation section of Technical Appendix B of the Environmental Statement. The Strategy should include details of measures for biodiversity mitigation, enhancement, aftercare, monitoring and contingency measures and be compiled by a suitably qualified ecologist. The Scheme shall include appropriate measures for:

(a) Update surveys and assessment of protected and priority species present (including any appearance of Scandix pectin-veneris and Euphorbia exigua on disturbed substrates or bunds) prior to each phase commencing;
(b) Mitigation plus maintenance of foraging, commuting and breeding habitat or features for bats, badger, grass snake, barn owl and other breeding birds;
(c) 10 metre stand offs for retained hedgerows, associated ditches and trees;
(d) Compensation, translocation and propagation of Carex elata and Populus nigra;
(e) Organisation or personnel responsible for implementation and supervision of the strategy;
(f) Submission of progress reports to the Mineral Planning Authority for approval prior to each phase commencing

The scheme shall be implemented as approved by the Mineral Planning Authority.

**Reason:** To ensure that important biodiversity is conserved and in accordance

**Condition:**

Not later than one month after the date of the completion of extraction operations within each phase a detailed Restoration and Aftercare Scheme for that phase of the quarry shall be submitted to and approved in writing by the Mineral Planning Authority. The detailed scheme shall provide for the following:

(i) A summary of all restoration and aftercare processes in progress or completed across the whole quarry site;
(ii) Ecological trends and constraints on site that might influence management.
(iii) The purpose, aims and objectives for the restoration and aftercare and management of the Manor Farm Quarry Extension phase in relation to the whole quarry site concept drawing M12.163.D.018C dated March 2015;
(iv) Details for ground forming, soil, substrate, mineral, rock preparation and habitat and species establishment;
(v) Sources of soil forming materials, plant stock and other species introductions;
(vi) Provisions for any public access and interpretation;
(vii) Extent and location of proposed works shown on appropriate scale plans;
(viii) Prescriptions and programme for initial aftercare of 5 years and long term management of a further 5 or more years;
(x) The organisation, body or personnel responsible for the work;
(xi) Timing of the restoration operations in relation to phased working of the mineral site overall;
(xii) Proposals for monitoring the success of all restoration works;
(xiii) Disposal of wastes arising from the restoration.

The Restoration and Aftercare Scheme shall also include details of the legal or funding mechanism(s) by which the long-term implementation of the scheme will be secured by the developer with the landowner or management body(ies) responsible for its delivery. The scheme shall be implemented as approved by the Mineral Planning Authority.

**Reason:** To conserve and enhance the environmental value and amenity of the land and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.
**Condition:**

A buffer or stand-off zone of at least 10 metres either side of all retained hedgerows and watercourses shall be marked, maintained, and protected from disturbance, compaction, or storage of materials. There shall be no activity ancillary to the extraction within 5 metres of any of these boundary features.

**Reason:** To protect the landscape and biodiversity importance of boundary features and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.

**Condition:**

Dust Mitigation Plan is shall be submitted for approval.

**Reason:** to protect against any adverse impact on Jenner’s Farm Key Wildlife Site.

**Condition**

Lighting Scheme that will limit use of lighting to normal working hours and only where needed shall be submitted for approval.

**Reason:** To ensure no impact on bats and potentially badgers and barn owls.

**Condition**

An Annual Report on excavation and restoration progress plus condition compliance and discharge shall be submitted to the MPA. On receipt of the report the MPA will decide whether a Review Meeting is needed to discuss any matters with the Developer. The Annual Review meetings triggered by the MPA will be organised by the Developer at their own expense and include an invitation to the MoD Estates and any other interested but relevant parties.

**Reason:** to maintain adequate control over the development”

**Archaeology:**

7.9 The County Archaeologist notes that this planning application is supported by an Environmental Statement, which in Section 13, considers the development impact on archaeology and cultural heritage. The application site has been the subject of a programme of archaeological assessment and evaluation, comprising desk-based assessment (Thames Valley Archaeological Services, report dated December 2007), geophysical survey (ADH Bartlett, report dated July 2010) and trial-trenching (Thames Valley Archaeological Services report dated September 2012).

7.10 The County Archaeologist is of the opinion that sufficient information is available regarding archaeological issues to allow an informed planning decision to be made. However, the three reports submitted are only the desk-based assessment and it would therefore be helpful if the Applicant could also provide the reports on the geophysics and trial-trenching in support of this scheme. The results of the evaluation were positive in
that the investigations located an assemblage of archaeological remains scattered widely across the site. The archaeology is represented by an extensive network of enclosure boundary ditches on an alignment unrelated to the existing field pattern and representing an earlier agricultural landscape. Associated activity is sparsely represented by post-holes, pits and linear gullies which would appear to represent areas subject small-scale agricultural activity, rather than domestic occupation.

7.11 Dating of the archaeological features is problematic; few datable finds could be recovered during the evaluation, and a few post-medieval finds from several of the enclosure ditches may have been introduced by later episodes of ploughing. However, the archaeology of the proposed extension area is best understood in the context of the archaeology revealed during investigation of the existing quarry to the south, where an agricultural landscape dating to the Roman period has been found, however it is the County Archaeologist’s view that the archaeological remains are not of the highest significance. Therefore, in view of the archaeological sensitivity of the application site, it is recommended that archaeological excavation should be undertaken during the development to allow the recording of any archaeological deposits or finds which may be adversely affected by mineral extraction.

7.12 To facilitate this recording, the County Archaeologist recommends the following condition to be attached to any planning permission which may be given for this development;

**Condition:**

‘No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority’.

**Reason:** to make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost, in accordance with paragraph 141 of the National Planning Policy Framework.”

**County Landscape Advisor:**

County Landscape Advisor’s response to the original consultation sent 3/3/14

7.13 The County’s landscape advisor commented that views of the extension area are primarily restricted to the few houses along Whelford Road and users of the internal footpaths. The existing properties have views south and east to the existing site and will have direct views of the operations in phases 1 and 2. The accompanying LVIA addresses the impacts on these receptors, however the assessment does not provide a thorough consideration of the cyclical nature of operations on residents. It is recommended that the alignment of soil bund 4 that provides a degree of screening to the properties situated along Whelford Road is extended in an easterly direction so that it occupies the area of proposed straw bales. The replacement of the bales with a soil bund will provide a more robust screening feature for the duration of the site operations, as he questions the integrity of the bales to provide an effective screening feature over the period of the works and restoration of phases 1 and 2.
7.14 The landscape advisor also noted the KPC comments on the duration of impact of the bunds. While the landscape advisor considered that the bunds would be in place for a relatively short duration, he wondered if a condition to address the outward facing face of the bund could give the bund a less engineered appearance. The advisor considered that a condition to facilitate annual monitoring of actual progress against phasing would allow any overrun on programme to be picked up early and may address KPC’s concern about the speed of restoration.

7.15 The restoration plan provides no details on the landscape restoration proposals, including the final landform details, proposed planting and seeding details or an aftercare programme. Further clarification should also be sought on the ‘stand-off’ distances of excavations and works from the existing hedgerows and trees affected during each of the respective phases. A detailed landscape scheme is recommended for approval prior to determination with aftercare and management to be discharged by condition at a later stage.

County Landscape Advisor’s response to the Second Consultation sent 2/10/14

7.16 The County Landscape Advisor considers that the revised restoration concept plan M12.163.D.018B submitted, whilst it does introduce some areas of copse and small ponds, still lacks much in the way of planting other than some thin hedgerows. It is clear from aerials and site visit that some of the existing hedgerows are of some width. Wider hedgerow planting and bigger woodland blocks would not be out of keeping with the area and should be requested. With the above exception, the landscape advisor is content that the Pleydell Smithyman Landscaping, Restoration, Habitat Management and Aftercare Report of September 2014 (ref M12.163.R.001) provides adequate planting and management detail on which to condition detailed landscape designs for each phase.

7.17 The agent’s letter dated 26th September 2014 supplied an explanation for the use of straw bales for screening in the proposal. It was explained that straw bales can provide a dense wall, 3 metres high but using only the fraction of the footprint of a bund. A 3m high earth bund with a 1:2 slope would have a base of at least 12-15 metres which with a maintenance track would sterilise 20 metres of mineral beneath. The use of straw bales it was explained, provide a good short to medium term solution consistent with the countryside location. The density of straw bales provides good acoustic and visual barrier that can be placed and moved quickly without the extensive earthworks associated with soil bunds. Whilst they can deteriorate over time, they can also be quickly replaced. The straw bales as a screen is only required during the stripping of phase 2A to the restoration phase, which is estimated to be 3 years.

7.18 The County landscape advisor was satisfied with the response from the Applicant considering this to be a rational justification of the use of bales in this situation. He recommended a condition requiring construction details to be supplied as the stack of bales at 3 metres in height require structural and Health & Safety certainty as well as regular maintenance/replacement of bales as necessary to maintain height and integrity of the screen.
7.19 The agent’s letter dated 26th September 2014 also explained that the difference in restoration timescales compared to extraction timescales is due to the area being restored is approximately twice the size of the area to be worked for sand and gravel. The proposed scheme seeks to restore both the existing site and the extension site to original ground levels. The existing low level restoration area has been flooded twice in last few years which suggests that flooding will be recurring concern and restoring the workings back to the original ground level to a long term agricultural use would reduce the risk of bird strike from birds attracted to the open water and be more consistent with the surrounding area. The rate of importation of fill material has been assessed on the Applicant’s knowledge of the availability of fill material and a pragmatic approach to infill rates. The landscape advisor considers that the justification for the delay in restoration timescales appears to be a sensible approach to likely quantities of inert fill material available is reasonable and hopefully will avoid future application for time extensions for this reason. Similarly the justification for restoring both the new and existing areas to approximately existing levels to avoid a repetition of recent flooding issues has merit however, the consequence of both is a considerable delay to the final restoration of the combined scheme and, in particular to the existing quarry. There would appear to be significant operational and other benefits to the Applicant in taking this approach but these are not reflected in any additional benefit to the public.

7.20 In respect of the existing area, there does not seem an operational justification for leaving the whole restoration until the last phase. The Landscape Advisor’s preference would be to see an emphasis placed on the restoration of a reasonable width of land abutting Washpool Lane and the internal path to allow early remediation of the visual impacts in this area, placing the paths within an establishing landscape context sooner than currently planned. It is suggested that this should happen within a time frame that allows the restoration phasing of new cells to remain in sequence and without additional delay. A width of 20m would seem reasonable to allow for buffer planting.

County Landscape Advisor’s response to the Third Consultation sent 12/1/15

7.21 The agent’s letter dated 8th January 2015 considers that it may be achievable to provide wider hedgerows in certain areas and provide additional woodland blocks. A condition requiring details of design would be acceptable to the Applicant. The Applicant is also prepared to accept a condition requiring the construction details in order to ensure the safety and structural integrity of straw bales. In response, the landscape advisor was concerned at the reference to the restoration plan being a ‘concept’ plan. There will need to be a condition to provide for the submission of detailed planting plans. He was pleased to see that the Applicant is willing to consider additional, wider hedgerows and more woodland planting however, wishes to see the quantum of this shown on the restoration plans and agreed at this stage so that there is a confirmed scheme against which the condition can be assessed. In respect of the 20m buffer to Washpool Lane, he was not seeking sterilisation of the minerals but rather that the restoration scheme should be revised to ensure infill and planting of at least a 20m width was phased to give restoration of this buffer at the earliest achievable date. The advisor had concerns that the balance between economic and the mitigation of environmental impacts has not been met in landscape and visual...
terms. There would be a significant delay in the proposed restoration of the existing quarry from the currently approved scheme, which provides economic benefit to the Applicant in deferring costs. The Advisor considers there is a logic in phasing and looking to achieve a balance between the Applicant’s operational interests and the community’s desire for early restoration and he would support a condition which ties the completion of the restoration of one phase to the opening of the subsequent phase (or with an intermediate position of one phase restoration complete, one ongoing and one being opened up). He also advised that it may be prudent to require a written acceptance from the landowner and/or tenant that the restored land has been taken back into agricultural use on completion of any phase,

County Landscape Advisor’s response to Fourth Consultation sent 16/3/15

7.22 County Landscape Advisor queried two large, contoured ‘depressions’ that have appeared on the revised Concept Restoration plan M12.163.D.018C dated March 2015 submitted in response to his comments. These are shown in the key as water retention basins. Whilst previous drawing 018B showed drainage ditches, it did not show retention basins, weirs or the high permeability granular groundwater pathways. Revised drawing 018C appears to have co-ordinated features on Concept Restoration - Hydrology drawing M12.163.D.021, which the landscape advisor did not review at the time of his earlier comments. The landscape advisor requested further clarification of the period/duration/extent/depth of water retention.

7.23 The agent in an email dated 16th April 2015 clarified that the “The basins are designed for 1 in 100 year flood events. Therefore it is envisaged that these will not be required on a regular basis.” “...it is calculated that there will be little impact upon the agricultural landscape. The land has historically flooded in areas and retained an agricultural use. It is acknowledged practice within the SUDS manual for mixed use and retention basins.” “For those times that the retention basins are required it is difficult to quantify a precise length of time that water will be retained but it is more likely to be a few days and at the outset a couple of weeks.” It was further explained, “The function of all ditches during normal conditions on site is to convey water from the north to the south and into the Dudgrove Brook but preventing water arriving too quickly at Dudgrove Brook.” “The profile will be dependent on the final restoration profile but typically 1m wide at the bottom, 2m wide at the top and circa 0.75m deep.” “The FRA states that the flow control will be a multiple level orifice plate, gate valve or similar. The precise details are to be confirmed upon restoration of the site.” “The water table prior to commencement of quarrying and upon restoration has been and will be beneath the rooting zone of plant species. The groundwater pathways will be buried within the restored site and well beneath the restored soil profile. There will not be any changes in vegetation type or appearance resulting from the groundwater pathways.”

7.24 In response to this explanation, the landscape advisor is reassured that the retention basins are designed for only a 1:100 year flood event and notes that they should not preclude agricultural use. The landscape advisor is likewise reassured that the depth of the groundwater pathways should not reflect on the surface. The landscape advisor recommends the following conditions:
CONDITION:

In order to secure the earliest restoration to those areas closest to Washpool Lane, details of extraction, restoration groundworks, landscape and planting together with a programme of works shall be submitted within 6 months of this approval to provide for extraction to commence closest to Washpool Lane and then move away with restoration progressing immediately thereafter. As proposed by the applicant this should provide for Phase 2A to be worked from east to west; Phase 4A from south to north and Phase 4B from north to south.

REASON: to secure early provision of landscape and visual mitigation to impacts on the local community

CONDITION:

Full details of the following drainage elements to be submitted and approved in writing by the planning authority prior to the commencement of restoration works:

a. Anticipated annual period(s) of time the retention basins will hold water;

b. the profile and function is of each of the ditches that are shown to run through the centre of each basin;

c. how the restoration concept of restoring the whole of the extension area to a productive agricultural landscape will be achieved in the areas of the attenuation basins;

d. details of the weir and flow controls to each basin;

e. detail of the granular groundwater pathways and an assessment of how the design precludes these giving rise to seasonal or long term change in vegetation type/appearance as compared to the remaining restored landscape.

REASON: to ensure the restoration drainage scheme is compatible with the stated aims of restoration to agriculture, does not conflict with bird strike policy and ensures the successful landscape and visual restoration of the scheme in line with County planning policy.

Minerals and Waste Policy Officer:

7.25 The Mineral Policy Officer provided the following overview of mineral policies:

“The policy framework covering the provision of aggregate minerals in Gloucestershire is founded upon the saved policies of the adopted Gloucestershire Minerals Local Plan (1997 -2006) – Policies A1, and A2. All allocations from the 2003 Minerals Local Plan (MLP) were also saved by the Secretary of State’s direction. Any applications coming forward on these sites should be considered against Policy A3 and A7 as applicable.

The NPPF policies on aggregate minerals afford considerable material weight in light of the fact that a fair proportion of the saved MLP policies are based on either out of date evidence or seek to accord with revoked or superseded guidance. Aggregate policies of relevance locally include: - the expectation of facilitating the maintenance of a landbank of permitted reserves of seven years
for sand and gravel, the need to account for productive capacity and facilitating local competition; the necessity for the provision of assessment data through the publication of an annual Local Aggregate Assessment (LAA)\(^1\); and the preference, where practical, to facilitate non-energy (including aggregate) landbanks from outside of key designated areas – Area of Outstanding Natural Beauty (AONBs), Scheduled Ancient Monuments (SAMs) and Conservation Areas (CAs)\(^2\).

Asides from the landbank and preferred area status, some of the main policy concerns applicable to aggregate sites include highways, hydrology, amenity impacts, ecology and landscape/AONB, and minerals restoration.”

**Overview of Aggregate Mineral Policy in Gloucestershire - Sand &Gravel**

7.26 Following the publication of the latest Authorities Monitoring Report and 3\(^{rd}\) Local Aggregates Assessment (LAA) for Gloucestershire, both of which contain data. (Paragraphs 4.1 to 4.19 of the LAA relate to sand & gravel production.) As at 31/12/2013 the countywide reserves of sand and gravel in Gloucestershire at active and inactive permissions totalled 5.35mt, down from 6.02mt in 2012, representing just approximately 16% of the South West’s sand and gravel reserves. Most of these were sharp sand and gravel in the Upper Thames Valley resource area. The data held by the Council has not enabled it to identify separate reserves for sharp sand and gravel and for soft (building) sand. Based on the average of 10 years’ sales (0.83mt) the combined reserves of sand and gravel in 2013 equate to a landbank of 6.45 years.

7.27 The Mineral Planning Officer comments that it is evident that the landbank is currently below the 7 year minimum required by the NPPF and therefore any application could potentially contribute towards maintaining the landbank. One of the main policy issues currently associated with sand and gravel applications coming forward is related to minerals restoration in the Cotswold Water Park. Almost all of the unworked sand and gravel resources left in the Gloucestershire Upper Thames Valley will fall within the statutory birdstrike zone. There are also significant issues related to flooding in the same area. Therefore any potential restoration scheme will be challenging to ensure that neither birdstrike risk or flood risk is increased through minerals extraction.

“With regards to national policy sand and gravel extraction is classed as water compatible development however, importation of soils changes the flood risk potential. The Lead Local Flood Authority/Environment Agency, the MoD and the County’s Ecologist will be key stakeholders for advising in this respect. Importation of inert waste materials will also need to be considered against the adopted Waste Core Strategy policies as well as the saved MLP policies.”

**Public Rights of Way (PROW):**

7.28 The Council’s PROW Officer commented that this proposal could be an opportunity for current paths to be diverted to new routes which may be able to

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\(^1\) Paragraph 145, National Planning Policy Framework (NPPF) (March 2012)

\(^2\) Paragraph 144, National Planning Policy Framework (NPPF) (March 2012)
Planning Considerations

7.29 The submitted planning application is concerned with both the extension of an existing gravel extraction operation onto pasture land to the northeast of the existing site boundary and also to change the approved restoration of the existing mineral site through the importation of inert soils and fill material. The main considerations in the determination of this proposal are whether the restoration would have an adverse impact on future flood risk potential, impact on water resources, archaeology and cultural heritage, minimising the risk of bird strike in relation to the RAF Fairford, impact on the public highway and public access, noise and dust, landscape and visual impact, biodiversity, the need to maintain a steady and adequate supply of aggregates and extent to which the proposal complies with National Planning Policy and the Development Plan for Gloucestershire.

Flood Risk

7.30 The application site is large, covering over 154 ha in total. Large parts of the application site are located within areas with a medium and high probability of flooding as classified by the Environment Agency as Flood Zones 2 and 3. Whilst mineral and gravel workings are considered an appropriate development type within all flood zones, the National Planning Policy Framework still requires that a Flood Risk Assessment demonstrates that the development itself will be safe and that flood risk will not be increased elsewhere and there will be not be a net loss of floodplain storage.

7.31 Whilst the Applicant submitted a Flood Risk Assessment (FRA) as part of the Environmental Assessment of the proposals, Cotswold District Council’s drainage advisor, District Councillor Coakley, Kempsford Parish Council and the Environment Agency objected to the proposals on the basis that the information submitted did not adequately demonstrate that flood risk would not be increased elsewhere. Local residents who made representations were also concerned that the development could increase flooding to their homes. Anecdotal evidence of flooding events in recent years showed that flooding was becoming more frequent and more severe in the area. Many remained unconvinced by the FRA’s proposed mitigation measures that by the removal of a porous sand or gravel material and its replacement by a less porous inert backfill material would not lead to an increased flood risk to others in the vicinity of the site. It could be seen that the Dudgrove Brook and other waterways in the area were currently unable to drain the existing site.

7.32 Since the FRA was written and the planning application was submitted in December 2013, there has been significant flooding in the Thames catchment. Further hydraulic modelled data by the Environment Agency also became available and the National Policy Guidance in relation to flood risk changed. As
the FRA is required to be based on the most up to date information available, a revised version of the FRA was requested and submitted by the Applicant that was subsequently consulted upon.

7.33 Whilst the Applicant had tried to address concerns raised regarding the original FRA, Version 2 of the FRA still drew objections from Cotswold District Council’s drainage advisor, Kempsford Parish Council and the Environment Agency along with continued concerns from the public about increased flood risk. In particular, the consultees wished to see more certainty that the proposed mitigation measures would be effective prior to the determination of the application.

7.34 The Applicant tried to address the consultees’ concerns and submitted a third version of the FRA. Whilst Kempsford Parish Council remained unconvinced, they acknowledged their lack of expertise, the Environment Agency and Cotswold District Council’s drainage advisor removed their objections because the third version of the FRA had addressed their concerns, demonstrating that the development would not increase flood risk to others in the vicinity of the site.

7.35 Due to the complexity and technical nature of flood risk information, the Council obtained specialist hydrological advice on the flood risk, ground and surface water issues in this application. A meeting was held in the Council Offices with the Case Officer, the Council’s and the Applicant’s hydrological advisors to review the comments received including those from the EA and CDC to discuss where further clarification was required.

7.36 On receipt of the third version of the FRA, the Council’s hydrological advisor was satisfied with the information submitted and recommended a number of planning conditions to secure the on-going monitoring of water levels on the site which could help alleviate concerns. As this involved some off site monitoring points, this would have to form part of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). The proposal to extract mineral from the site and restore the land through the importation of inert fill is considered to comply with National Planning Policy on flood risk, Policy WCS12 of Waste Core Strategy for Gloucestershire in that the proposals have demonstrated that conditions can be attached to the proposal if granted that would not increase the risk of flooding elsewhere.

Water Resources

7.37 The site lies entirely within the surface water catchment of the Dudgrove Stream which flows north to south along the western site boundary, turning eastwards to flow through the existing quarry area to join the River Coln approximately 2.4 km east of the site. The Dudgrove Brook or Stream has been artificially deepened to enhance agricultural drainage. The riverine deposits of sand and gravels which underlay the site act as an aquifer and the Dudgrove Brook receives field drainage and groundwater discharge from the aquifer. The Applicant has submitted an assessment of the impact of the proposals on water resources in the Environmental Statement. The Applicant proposes the phased extraction of sand and gravel from both above and below the water table. Sub water table working will involve dewatering of the aquifer to facilitate the removal of the mineral, diverting interior drainage ditches. In order to minimize dewatering and impact on the water table, discrete dewatering cells of restricted size would be
created sufficient for 3 months of mineral extraction, lined with clay dug from the base of the mineral deposit. On completion of mineral extraction and restoration, pumped discharge of groundwater will cease, but the overall restoration incorporates buried gravel drains within the imported infill material aligned to the pre-dewatering groundwater flows across the site to provide a high conductivity pathway for groundwater, draining by seepage to the Dudgrove Stream. Perimeter groundwater interception ditches would be dug along the northern infill boundary to connect to the wider ditch system and act as a backup if groundwater on the upstream margin of the site exceeds anticipated levels.

7.38 Kempsford Parish Council (KPC) expressed concern about the impact of gravel working so close to the River Coln, whether this in summer months could lead to the river running dry if there are changes to the ground water levels through extraction. They were also concerned at the current poor condition of the riverbanks.

7.39 The Environment Agency (EA) commented that they recognised local concerns regarding the proposals potential impact on water resources and natural seepage. These aspects were considered in the full assessment carried out in the Environmental Assessment. Mitigation measures have been proposed which include creating dewatering cells to minimize dewatering. Groundwater monitoring is proposed and the Environment Agency considers that a detailed condition is necessary to secure the details of monitoring. They also consider that the monitoring regime should include levels in the River Coln or close to it, extending outside the quarry boundary. Comparison of groundwater levels both inside and outside the site would confirm whether dewatering mitigation measures were working and whether there are any impacts to the groundwater flows to the River Coln. The EA consider that this should help to alleviate some local concerns raised. The EA have suggested that the applicant enters into a legal agreement to secure the off-site monitoring of groundwater and that such an obligation would comply with paragraph 204 of the NPPF in being necessary and relevant to ensure a detailed monitoring scheme is undertaken and implemented.

7.40 The Council obtained specialist hydrogeological advice to assist in the review of the information submitted. The Council’s advisor is satisfied with the information provided and considers the mitigation measures could satisfactorily protect groundwater resources. He concurs with the EA in their view of the need to condition the monitoring of levels on the site and the precaution of taking off-site readings through a legal agreement. The LLFA having recently become a statutory consultee has reviewed the Council’s groundwater advisor’s comments and has confirmed that they endorse these.

7.41 Mineral Local Plan Policy E11 requires that mineral development which is likely to have a significant negative quantitative or qualitative effect on the water environment will not be permitted unless appropriate measures to mitigate harmful effects can be imposed. The assessment of water resource impact in the ES concludes that with the proposed mitigation measures in place the extension land could be worked without an unacceptable impact on the water environment. There are no objections from the EA or the LLFA to the proposed mitigation measures. Provided that these are secured by condition and
implemented with the appropriate monitoring, the proposals comply with Policy E11 of the MLP.

Archeology/Cultural Heritage

7.42 There are no Scheduled Ancient Monuments within the application area, no listed buildings within the site and no registered parks and gardens within 2 km of the development. The nearest Conservation Area in Kempsford is well removed from the quarry site.

7.43 The archaeological and cultural heritage impact of the proposals has been assessed as part of the Environmental Statement. This report comprised a desk based study, geophysical assessment and an intrusive trial trenching investigation in 2013 of 2% of the site agreed with the County’s Archaeologist. After evaluation of the site, the archaeological assessment could find no significant effects on the archaeology and heritage resource as a result of the proposed quarrying. Any remains encountered are likely to be limited and their loss to the quarrying can be mitigated through appropriate recording.

7.44 The County Archaeologist considers that sufficient information is available to allow an informed decision to be made. The County Archaeologist recommends that archaeological investigation should be undertaken during the development to allow for the recording of any deposits or finds and recommends a planning condition to secure a written scheme of investigation is imposed.

7.45 The provision of a programme of recording of any heritage assets is considered to comply with paragraph 141 of the NPPF, Policy WCS16 of Waste Core Strategy (WCS) in that impacts have been addressed through the Environmental Statement and Policy E4 of the MLP as the proposals would not have a significant effect on archaeological remains by the implementation of an agreed scheme of recording finds.

Safeguarding of Airbase Operations

7.46 The proposed restoration of the extension area and amended restoration proposal for the existing working area to be returned to arable farmland with hedges replanted to recreate the original field pattern and species rich grassland has been considered in order to remove bird strike risk to the approach path of aircraft into RAF Fairford. Birds are attracted to areas of open water but can be drawn into the engines of aeroplanes affecting safety.

7.47 The publicity for this application has drawn objections from local residents on the risk to aircraft from birds using the lakes which would inevitably form from standing water due to the high water table. The question of public safety was raised if aircraft subject to bird strike were unable to make an emergency landing in fields to be subject to excavation. This could lead to a potential loss of revenue from the air show held annually at RAF Fairford when bird strike is at its peak. (N.B. loss of revenue is not a material planning consideration).

7.48 Kempsford Parish Council (KPC) is also wishes serious consideration to be given to the potential for bird strike at RAF Fairford as a result of large amounts of
open water being created by the extraction site flooding. They commented that
AI was unable to operate from the existing site for many months following
flooding in December 2012.

7.49 The Ministry of Defence Safeguarding (MoD) Defence Infrastructure
Organisation (DIO) are a statutory consultee where development is close to
airports and airfields and advise on safeguarding issues. They have been
consulted along with the DIO Land Management Services (LMS) of RAF Fairford.

7.50 The MoD Safeguarding team has no objection to the proposals subject to the
inclusion of a condition in any planning permission granted to establish a bird
management plan for the quarry site until the restoration to arable land has been
completed. They note that the Applicant is willing to enter into a legal agreement
for a call off bird management plan and would like to be consulted once the
Heads of Terms of the legal agreement are prepared.

7.51 DIO LMS for RAF Fairford wishes to ensure that the extension area is correctly
restored and requests the ability to amend the restoration works should there be
any risk that a military operation could be compromised. They also would like to
see that new water bodies created during excavation are controlled to protect
nearby sites on their base and minimise run-off during extreme weather
conditions which could impact on operations.

7.52 National Planning Policy requires in paragraph 144 that local planning authorities
should ensure in granting planning permission for mineral development, that
there is no unacceptable adverse impact on aviation safety. Policy DC4 of the
Gloucestershire Minerals Local Plan requires that planning permission should
only be granted where it has been demonstrated that the mineral development
would not pose a hazard to any civilian or military aerodromes. Following
discussion with the relevant control agencies, in this case being DIO
Safeguarding as the statutory consultee and the management of the RAF
Fairford estate, the design of the proposals and inclusion of a bird management
plan in a legal agreement could effectively mitigate or eliminate the risks to the
military operations of the adjacent land user. Such plans would record bird
populations and risk reduction measures specific to threat posed by each
species to prevent flocking. The proposal to enter into a legal agreement to
cover the call-off bird management plan would be consistent with Policy DC5 of
the MLP as part of the long term management and restoration of the site and
protection of local amenity.

Highway Impact

7.53 The application predicts an annual output of 200,000 tonnes a year (tpa) based
on demand projections and similar amount of importation of backfill material,
equating to 136 vehicle trips per day or 8 trips per hour over a 10 hour day. The
proposal would continue to use the existing quarry access onto Washpool Lane.
The junction has been designed to encourage traffic to turn left, although right
turning is not prohibited. Traffic Distribution data submitted with the Traffic
Assessment (TA) show that since 2012 97.5% of AI vehicles access the site via
Kempsford and 2.5% via Whelford. The Traffic Survey undertaken in 2013
identified that 81% of HGVs leaving the site go south using the A419 through Kempsford.

7.54 Some local residents have objected on the grounds of increased traffic from the site. Kempsford Parish Council (KPC) were concerned about the projected increase in traffic that would pass through Kempsford village supported in this view by District Councillor Coakley, who asked for a condition to provide for an improved route for HGV traffic specifically designed to improve the junction at ‘Allotments Corner’, Whelford. KPC and local residents have commented that they consider the ‘Allotments Corner’ junction is unsuitable for the existing volumes of traffic and the sizes of vehicles using it. They refer to lorries being unable to pass each other when they meet at the junction resulting in vehicles backing up causing noise, disturbance and increased pollution for residents.

7.55 The Applicant submitted a TA in the Environmental Assessment. The TA review (under section 2.5) includes reference to a road improvement scheme linking Mount Pleasant and Top Road, Kempsford with the Whelford Road, bypassing ‘Allotments Corner’. The TA written in 2013 concluded in a review of the scheme that although the number of accidents had not indicated a safety issue, it recognised there were safety concerns due to constrained manoeuvres and perceptions of excessive speed and the scheme should be retained. KPC considers that because the Cabinet has subsequently approved the retention of the road improvement scheme at their meeting in February 2014, that the intensification of HGV usage is unacceptable without major improvement of the existing junction.

7.56 The Highway Authority does not object to the proposed development and commented that since planning permission was first granted in 1992, that the number of vehicles has not been restricted on any permission granted. The net increase in the number of vehicle trips associated with the development involves the importation of backfill material with 40 vehicle import movements or 80 trips per day. Over a 10 hour day, 8 trips per hour is considered by the Highway Advisor to be low and the existing traffic flows on the local highway network is low, giving plenty of spare capacity. The Highway Advisor can see no justification for the imposition of a condition or obligation to restrict vehicle movements from the site. NPPF considers that development should not be prevented on transport grounds unless the cumulative residual impact is severe. The proposal complies with paragraph 32 of the National Planning Policy, Policy E19 and E20 of the Gloucestershire Minerals Local Plan and Policy WCS19 of the Waste Core Strategy because the applicant has demonstrated through detailed TA that there would not be an unacceptable impact on highway safety, operation of the network or residential amenity.

7.57 Whilst KPC considers ‘Allotment Corner’ is unsuitable and disagrees with the TA, The Highway Advisor having considered the views about preventing development on the site until ‘Allotments Corner’ was improved, noted that other traffic used the route and the additional number of vehicle movements would not be so severe as to prevent development going ahead without the scheme. Paragraph 32 of the NPPF requires the cumulative residual impact to be severe before development is prevented.
Whilst the scheme to improve “Allotments Corner” appears in the latest Local Transport Plan, it does not appear in the Council’s Capital Programme and developer contributions would be expected to fund the scheme. The Highway advisor does not consider that developer contributions could be sought in this case as the impact of the proposal is not severe and it therefore complies with paragraph 32 of the NPPF.

Public Access

A number of Public Rights of Way pass around or through the existing mineral site. Footpaths in and around the extension site will be affected by proposed working and it will be necessary to divert and provide temporary and in some cases permanent replacement footpath routes to keep the footpaths away from the quarry and restoration operations. This will require a Diversion Order under the Town and Country Planning Act, separate to any planning permission.

Footpath BKD/34/1-2 runs from Whelford Road on the edge of Whelford heading south towards the approach lights to RAF Fariford, located in the middle of proposed phase 1. On reaching the boundary of proposed phase 1 and 2b, the footpath joins BKD/34/2 that heads south west towards RAF Fairford’s boundary. Both footpaths BKD/34/1 and 2 will need to be stopped up and a replacement route provided.

Footpath reference BKD/27/1 runs south south-east following a farm track from Townsend Farmhouse to Jenner’s Barn and Goosey Meadow Barn to join BKD/28/1-2. These follow an alignment bordered by mature trees which will remain throughout development, save for small sections where it will be necessary to break through to allow access to phases 5 and 6. A footbridge will be installed to enable walkers to cross the haul road and conveyor.

Footpath BKD/28/1-2 runs east to west from the junction with the BKD/34/1-2 being roughly parallel to the RAF landing lights, before continuing east following field boundaries until it reaches the track leading to Dudgrove Farm. It is proposed that this footpath is temporarily diverted during phase 1 to run along the northern boundary of the extension area, fenced off from excavation and screening mound. A new permissive route is proposed to connect paths BKD/28/2 and BKD19/1 along the bank of the Dudgrove Stream during phase 1. During phase 3 the final and permanent diversion of footpath BKD/28/1 will link Whelford Road that runs via the RAF base before turning eastwards to reach BKD/28/2 to the north of phase 3b. The route of footpath BKD/28/2 cuts through phases 5 and 6. A permanent diversion would take the route around phase 5 east and south of phase 6 and reconnect to existing alignment to Dudgrove Farm. This has the advantage of linking BKD/19/1 to the network where it currently terminates.

KPC welcomes any opportunity to increase the number of Public Rights of Way in the area, particularly which connect up. The maintenance of footpath routes and creation of new paths in the area has been shown to be important to local people through Parish Surveys. KPC would like to see a link from BKD/19 north along the airbase fenceline. They consider this would be beneficial given an
increase in traffic along Washpool Lane. However the MoD has expressed security concerns about footpath close to their property.

7.64 The Environmental Statement contains an assessment of the impact of the proposals on the public rights of way network and potential mitigation measures to both temporarily and permanently divert footpaths during the course of works which would have beneficial effect on the overall network. Where footpaths run close to the operations there will be limited negative impacts from the proximity of quarry workings but these are considered be temporary and of limited effect. No paths around the existing Manor Farm site would be directly affected more than has occurred over recent times.

7.65 The Council’s Public Rights of Way Officer welcomed the opportunity for current paths to be diverted and new routes created to link paths in the area. He commented that 8 weeks notice is required for an application to temporarily close a public right of way. An advisory note is recommended to indicate that works to the PROW require a separate application to the County Council.

7.66 The proposed development would affect a number of public rights of way during the various phases of development. The Applicant is proposing temporary and permanent diversions to the footpath routes which, where new routes are made, would improve the connectivity of the network in the area and increase public access which would be welcomed by the local community. These proposals would comply with the Minerals Local Plan policy E17 in that appropriate diversions of PROW can be made which would not involve a National Trail and Policy E18 in that improvement to public access can be made through the creation of some new public rights of way linkages.

Environmental Amenity

Noise

7.67 The application site is affected by local road noise, the existing quarry operations at Manor Farm and adjacent site, agricultural operations and operations linked to RAF Fairford. The existing background noise levels around Manor Farm are low. The average daytime background noise level is 35 dB L_{A90\text{15 minutes freefield}}.

7.68 The potential noise impacts in the proposal relate to the excavation and infilling in the extension area, the movement of material to the processing plant on the existing Manor Farm site by conveyor and HGVs travelling to and from the site on local roads on the nearest noise sensitive properties where noise sources associated with phases 1, 2a, 4a and 5a will come closer. The nearest noise sensitive properties are dwellings in Whelford, along Top Road to the north of the extension site, the nearest being 150 metres. Jenner’s Farm is closest being 50 metres east of the proposed extension but is a commercial property.

7.69 The Applicant submitted a noise assessment as part of the Environmental Statement. Noise monitoring was carried out at the noise sensitive properties of Queen’s Cottage, Winterwood and Willow Brook House, Woodcote, Jenners Farm and nearest dwellings in Kempsford. In all cases the predicted worst noise levels generated by the new operations will be below the 55dB LAeq t limits sets
in government guidance. The report notes that noise levels generated at the closest properties on Whelford Road during exaction and infilling in the northern half of phases 1 and 2a will exceed the suggested 10dB above background level in the guidance. Where this occurs the guidance promotes a more flexible approach to setting an acceptable limit subject to the maximum of 55dB (A) and higher 70dB (A) for short duration operations such as creation of soil bunds.

7.70 As operations in the northern part of phases 1 and 2a will exceed the 10dB above background level but not the 55dB limit, the Applicant proposes the erection of a temporary noise and visual screen between the northern boundary of phase 1 and Whelford Road, parallel with the landing lights to RAF Fairford in the form of a 3m high soil bund. The grassed bund will help limit noise from phase 1 and 2a operations on the nearest properties on Whelford Road. Similarly, bunds would be created north of phases 4 and 5 which would have a noise reducing effect on Whelford village and Jenner’s Farm.

7.71 Some local residents have expressed concerns that a 3m high bund will not screen upper floor windows, noise from quarrying vehicles bleepers can be heard now and so closer working would be more intrusive. KPC considers that the exceedance of the 10dB background noise level is unacceptable, who along with the District Councillor, have asked for a greater margin between the nearest properties and the removal of phases 1 and 2a from the proposals to reduce the noise impact of the proposals.

7.72 Cotswold District Council’s Environmental Health Officer (“EHO”) having reviewed the noise assessment, recommends a planning condition which limits the noise emitted from the site to 45 dB LAeq 1 hour between 07:00 and 19:00 hours Monday to Friday as measured on the site boundary at Whelford Road, adjacent to Queens Cottage with the exception of temporary operations as defined in the NPPF.

7.73 The Applicant’s noise assessment shows that the noise level with 3 metre high barriers (consisting of soil bund and straw bales) in place would be 50 dB (A) at Queens Cottage. The Applicant’s Noise Consultant notes that in order to achieve a site noise level for routine operations at Queens Cottage of 45 dB (A) that the barriers would need to be up to 6 metres in height. The consultant is of the opinion that setting noise limits in the range 45 to 50 dB $L_{Aeq}$ 1 hour free field for the nearest properties would not have a detrimental impact on amenity. This sound level could be achieved with the 3 metre high bund and would be more visually appealing than one up to 6 metres in height. The Applicant’s consultant is of the opinion that the creation of a 6 metre high barrier would represent an unreasonable burden on the developer in order to demonstrate calculated noise levels of 45 dB $L_{Aeq}$ 1 hour freefield at the nearest dwellings in Whelford.

7.74 The Planning Practice Guidance at paragraph 21 offers the following guidance for setting noise standards for normal mineral operations, “Where it will be difficult not to exceed the background level by more than 10dB A without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable.” This is particularly important in rural areas where the existing background noise levels are relatively low, e.g. below 45 dB (A) and site noise limits would be below 55 dB (A).
7.75 The Applicant has indicated that the removal of phases 1 and 2a from the development proposals as requested by Kempsford Parish Council and some objectors would lessen noise impacts for the nearest properties by moving development further from their property boundaries. However the removal of these phases would in the Applicant’s opinion affect the viability of the scheme, sterilising mineral resources. The Applicant’s Noise Consultant considers that setting noise limits in the range 45 to 50 dB $L_{Aeq}$, 1 hour free field for the nearest properties would not have a detrimental impact on amenity. The NPPG advises that it is possible to set a site noise limit below the 55 dB(A) maximum level in quieter areas. The District EHO recommends that the limit should be set at 45dB (A) which is 10dB (A) above the background level to protect amenity of the nearest dwellings. The Council’s noise advisor agrees with the EHO recommended lower noise limit set at 45 dB (A) for routine operations in order to protect residential amenity and minimise complaints. The Applicant’s Noise Assessment suggests mitigation measures to reduce noise which include increasing the height of barriers, reduction in plant height by working in benches 2 metres below the surface, increased separation distance from dwellings to working area show it should be possible to limit noise from extraction and infilling operations at Queens Cottage to a maximum of 45 dB (A).

7.76 A condition requiring the submission of a Noise Mitigation Scheme for approval by the MPA setting out the noise mitigation strategy the operator would employ could be attached to a planning permission. The Noise Mitigation Strategy should set out the mitigation measures to be employed and include the submission of regular noise monitoring information to the MPA that would allow the MPA to monitor that the operations on the site are within the 45 dB (A) $L_{Aeq}$ $L_{Aeq}$ 1 hour and demonstrate that the proposal would not cause an unacceptable impact on the nearest noise sensitive properties. The proposal is considered to comply with the NPPF and NPPG noise guidance for minerals as well as MLP Policies E14 and DC1.

Air Quality and Dust

7.77 The proposal has the potential to generate dust from soil stripping, overburden removal, the extraction of mineral, transportation on-site, processing, wind erosion of dry un-vegetated surfaces such as stockpiles, vehicle movements and restoration materials. As the proposal is to move excavation and infilling activities closer to Whelford, the level of risk from dust deposition will be higher. The NPPF sets out the requirement for dust impact assessment with the key principles relating to dust being that emissions should be as far as possible controlled, mitigated or removed at source.

7.78 The Applicant’s consultants consider that dust mitigation in general should be minimal due to the high moisture content associated with sand and gravel. The earth bunds and use of temporary straw bales along with foliage would give some mitigation to Whelford Road properties from phases 1 and 2 of the proposal. Similarly the bund proposed for phase 5 should along with existing vegetation assist in mitigating any impact on Jenner’s Barn. The report recognises that the creation of bunds have the potential for dust impact on the nearest properties and while their construction would be of short duration, this
would need to be managed to avoid further impact. Dust suppression will need to be actively managed by adoption of best practicable means which would include damping down haul roads and control of vehicle speeds, sheeting of vehicles, cleaning of highway and give regard to weather and ground conditions for processing and activities which could produce dust.

7.79 The dust and air quality of the proposals has been assessed as part of the Environmental Statement. The conclusion of the assessment has found that with appropriate mitigation measures the impacts of dust and air quality should be negligible and the proposed extension will not cause unacceptable impact on human beings, flora or fauna.

7.80 Local residents have expressed concerns about dust being generated from the proposals. KPC was concerned that the assessment noted the predominantly south-westerly winds have the potential to disperse dust towards properties in Whelford and suggested that removal of phases 1 and 2a would reduce the impact of dust to the nearest properties in Whelford Road.

7.81 Cotswold District Council’s Environmental Health Officer having reviewed the dust and air quality assessment is satisfied with the information and recommends a planning condition which requires the submission of a dust management and monitoring scheme to be submitted for approval incorporating dust mitigation measures set out in the report.

7.82 The Applicant does not wish to remove phases 1 and 2 from the proposals for economic reasons. It would appear from the information provided that the proposal with appropriate mitigation would not cause unacceptable impacts of dust and air quality. The assessment of the proposal is considered to comply with national planning policy and the proposal complies with Policy E15 of the MLP by not adversely impacting on local communities.

Landscape/Visual Impact

7.83 The landscape of the site and surrounding area is generally flat lying at around 75 metres above ordnance datum (AOD), comprising arable farmland and scattered trees and hedgerows. The application site is not situated within a landscape protected by statutory designation for reason of quality. Gloucestershire Landscape Character Assessment describes the key characteristics of the area as consisting of low lying, flat to undulating floodplain. The strong presence of water reflected in river, streams, ditches, lush wet meadow and wide floodplain pasture.

7.84 The Applicant’s Soil Resource Survey in the Environmental Statement indicates that none of the land in this mineral application site is of ‘best most versatile’ quality where the NPPF at paragraph 112 advises development should be avoided. The proposed after-use of the application site following mineral extraction is agriculture to the same grade as currently (3b). Woodland areas and species rich and rough pasture with a series of ditches and watercourses are to provide a combined water management regime for the site with reinstatement of footpaths and new footpaths to provide links to the surrounding network.
7.85 The Applicant has provided a Landscape Assessment as part of the Environmental Statement which considers the impact of the development during its operational life beyond the site perimeter and following the progressive restoration with inert fill.

7.86 The Landscape Assessment concludes that the development will not involve the introduction of new and uncharacteristic features into the local and wider landscape setting but will result in some loss and partial temporary disruption to the visual amenity to a limited number of properties abutting the site within Whelford as well as Jenner’s Barn to the east and receptors associated with the local footpath network. Overall despite the degree of significant effects, the location, scale, progressive nature and reversibility of the development, means that visual amenity and local landscape will not be adversely impacted in the short and medium term. In the longer term, the development is considered to benefit and strengthen the overall character of the landscape.

7.87 The existing properties situated along Whelford Road have views south and east to the existing site; and whilst these properties are limited in number they will have direct views of the operations under Phases 1 and 2. The visual impacts during extraction are mitigated by existing hedges around the site and within the site. However soil storage/noise attenuation bunds proposed along the northern part of the site will themselves be visible to these properties although they would be temporary and removed as part of phased development. The location of soil bunds and direction of working have been considered to keep environmental effects of the development including visual impacts to a minimum. Beyond phases 1 and 2 there will be few clear views of the mineral extraction from surrounding dwellings, although there will be views from within the site along the various footpaths as phased working progresses.

7.88 The County Council’s Planning Enforcement Officer has received complaints regarding the lack of restoration of the existing site and comments have been made about the appearance of the site since working ceased. Presently on site, there appears to be a lack of progressive restoration and a large water body from when the quarry flooded which is being pumped. No further action has been taken as the Applicant had advised us that he intended to submit revised restoration proposals for approval. The County Landscape advisor has commented that the slow progress of land fill has resulted in natural regeneration of scrub vegetation, particularly around the fringes of water bodies in the existing Manor Farm quarry site. This is creating an attractive landscape to users of the footpath network, albeit not in keeping with the design intent as outlined for the final restoration works. However, the proposed restoration of the existing site would if approved, supersede the previously approved scheme. No further action was considered expedient in the event of a forthcoming application.

7.89 Kempsford Parish Council (KPC) does not consider the visual impact of excavation and restoration of phase 1 and 2 to be short term and commented that it has been their experience applicants take longer than the periods indicated in their proposals. District Councillor Coakley and KPC called for a planning condition which required each phase to be fully restored before the next phase was commenced in order to ensure that restoration was carried out at the earliest opportunity.
7.90 While the Applicant has submitted a Block Phasing plan reference: M12.163.D004 and working and restoration plans, the landscape advisor has recommended a planning condition based on one recommended by the County Ecologist that would, following the completion of extraction within each phase, require a detailed restoration and aftercare scheme to be submitted and approved by the MPA. This could prevent the commencement of a new phase of extraction until infilling work of the preceding phase is in hand and proceeding in line with the timescales indicated on the submitted details. It should be noted that the Applicant indicates that the mineral extraction should be completed within 16 years from commencement. This is based on indicative average sales which may fluctuate with market conditions. However it is proposed to condition the mineral extraction to the 16 year timeframe proposed to ensure phased extraction with progressive restoration. A condition requiring the submission of an Annual Monitoring Report to the MPA would also help indicate if infilling works were falling behind schedule and where remedial action was required. The imposition of these conditions would assist in the monitoring of the site and in the progressive restoration of the mineral extraction area at the earliest opportunity in accordance with MLP Policy R3 and the NPPF.

7.91 KPC considers the straw bales to be as visually intrusive as the excavations themselves and fail to fully obscure workings. They also question the durability and appearance of straw bales after 2 years. They would like to see phases 1 and 2 excluded from the proposals and straw bales replaced with a more durable soil bund.

7.92 The landscape advisor initially shared the same concerns about the use of the straw bales on the site and preference for a soil bund, however the Applicant’s explanation of how the straw bales would be used and their advantages has satisfied the landscape advisor that the appearance and stability could be conditioned to ensure that they are properly maintained and safe.

7.93 Following a request from the Case Officer, the Applicant confirmed he is unwilling to remove phases 1 and 2 from the proposals for economic reasons and because it would sterilise more mineral resource. In view of the potential for visual impact of the proposals on the nearest properties on Whelford Road during phase 1 and 2, it is considered appropriate to attach a condition to ensure that this area is worked and restored as quickly as possible to minimize the impact on the local community. Whilst it is accepted in the Landscape Assessment, that there will be some adverse visual impact for a small number of houses on Whelford Road, these impacts are considered to be short term and reversible and not so severe to justify the removal of the phases closest to houses in Whelford. A condition which secures the working and restoration of these phases first to minimise any adverse impact on the amenity of the village is considered to comply with policies R3 and DC1 of the MLP.

7.94 After further discussion and submission of revised landscape restoration proposals, the Council’s Landscape Advisor, whilst generally content with the final concept restoration plan version C, following its revision to reflect his comments about the depth of hedgerow planting proposed to divide the extension site into a series of fields, has recommended a planning condition for
the submission of a programme of works to be submitted for approval to secure the early restoration of the site closest to Whelford Road properties. He has also requested details of the water retention basins, profiles and function of each ditch through the centre of the retention basins, details of flow control and details of seasonal and long term change in vegetation of the granular groundwater pathways to be submitted for approval.

7.95 The proposals are considered to comply with National Planning Policy sections 7 and 11, in that the landscape impacts of the proposal have been assessed and mitigated to an acceptable level. The imposition of planning conditions to secure the submission of further detailed information is considered to comply with Policy R1 and R3 of the MLP to secure the restoration at the earliest opportunity and enhances local character to the benefit of the local community in accordance with Policy R2 of the MLP.

Nature Conservation/Biodiversity

7.96 The dominant land use of the proposed quarry extension is arable with most of the biodiversity value of the site associated with the remaining good quality hedgerows and tree lines plus some ditches and small areas of copse/plantation and grassland. It should be noted however that the intended development site is of county and regional spatial importance because it lies within the Coln Corridor and Kempsford Strategic Nature Areas (SNAs). In these SNAs of the Gloucestershire Nature Map there is an objective of creating good quality coastal & floodplain grazing marsh or any other suitable habitats. Through minerals development at Manor Farm there should be delivery of biodiversity enhancements subject to the constraints of it being in an aerodrome safeguarding area.

7.97 An Environmental Statement has been produced with extensive ecological content much of which is presented in a series of specialist reports in Technical Appendices. The conclusion is that with suitable mitigation the proposed development should have little negative impact on most protected species although there will be a loss of badger setts that will be mitigated by the creation of new artificial setts within the restoration. The proposed development is not considered to have an unacceptable impact on flora and fauna.

7.98 The Environment Agency reviewed the associated appendices relating to water based species and did not have any objection in principle to the proposed development on ecology grounds. They do recommend a detailed review at the commencement of each phase of the development to see if details or circumstances have changed to the ecological mitigation required.

7.99 Natural England was consulted on the proposal and they had no objection to the proposals as submitted. Cotswold Water Park Trust had no objection to the proposals.

7.100 KPC fully support the need to mitigate the impact of the species identified in the surveys. They commented that whilst no water voles were recorded in the survey, these have been sighted in the ditch alongside Whelford Road and otters have been regularly spotted on the River Coln. They support the replanting of
hedges with the same or similar species and request that this is carried out at the earliest opportunity.

7.101 The nearest designated site for nature conservation is the Key Wildlife Site (KWS) of Jenner’s Farm Field which lies adjacent to the proposed extension in the north east. It is designated for the presence of *Scandix pectin-veneris* (Shepherd’s Needle – English priority species under S41 Natural Environment and Rural Communities Act 2006 (“NERC”) although this plant has not been recorded here since 1997. Given that there will be a Dust Mitigation Plan and that an adjoining hedgerow between the quarry site and the KWS will be retained the County Ecologist has agreed that a significant impact is unlikely.

7.102 Whelford Pools (GWT) Reserve, which is a component of the Cotswold Water Park Site of Special Scientific Interest (SSSI), is about 600m away. Due to the nature of the development proposals the County Ecologist agrees that no significant impacts are likely to the Reserve or to another lake at a similar distance away which is part of the Cotswold Water Park Key Wildlife Site.

7.103 At 1.3km distant is Whelford Meadow SSSI, this is too far to be able to conclude that any impact via any pathway would have an adverse effect on this nationally important site. Some distance away at 7.8km is North Meadow & Clattinger Farm Special Area for Conservation (SAC) which is a European Site protected under the Habitats Regulations/Directive. The County Ecologist concludes that there is no pathway or mechanism existing via air, land or water that would give rise to a likely significant effect on this European Site.

7.104 The mineral development proposes retention of many of the mainly species-rich hedgerows and there is scope to improve the condition of these through pruning, coppicing and gap filling. Retained hedgerows will have a standoff of 10 metre but unfortunately some (mainly internal) hedgerows would have to be (temporarily) lost to be able to extract sand and gravel from the land. As soon as possible after mineral extraction each phase will be subject to a rolling programme of replacement hedgerow planting that will ensure links with the wider landscape are maintained. Black poplar (*Populus nigra* – a Cotswold Water Park Biodiversity Action plan species) will suffer some small loss on site as a consequence of hedgerow removal in the latter stages of the development. This can be mitigated by early propagation and eventual planting out on site within restored areas we are informed. *Carex elata* (Tufted Sedge) has been found in a cross ditch of a field close to the Dudgrove Stream and it is intended to retain this scarce plant and introduce it elsewhere at Manor Farm. *Impatiens glandulifera* (Himalyan Balsam) is an invasive non-native species and occurs in a number of places across the site. Mineral operations will provide a mechanism that may cause it to spread to surrounding land so the promised mitigation scheme must cover the control of this and any other invasive non-native species.

7.105 A priority species *Scandix pectin-veneris* (Shepherd’s Needle) has previously been found at Jenner’s Farm Key Wildlife Site which is just outside the proposed quarry extension. Another scarce arable plant *Euphorbia exigua* (Dwarf Spurge) has been recorded within arable/field margins around Goosey Meadow. It will be impacted by the proposed development but the continued presence and creation
of disturbed land through arable cultivation and minerals extraction provides some potential for both these scarce species to reappear and spread.

7.106 A good range of priority bird species have been recorded on the site and are heavily associated with the hedgerows but will also be using other parts of the farmland from time to time. In the open fields some impact on breeding skylark (a priority species) is possible but only 2 probable breeding pairs have been recorded. Over a very large area this is a small number and a reflection of the intensive arable cultivation present. The phased approach to extraction and restoration will considerably limit impacts on these species together with appropriate timing of hedgerow/tree removal.

7.107 There is evidence that a tree on site, a barn surrounded by the site (Goosey Meadow Barn) and a barn to the north east (Jenner’s Barn) are being used by barn owls which are a protected species. Due to the poor quality and extent of small mammal habitat any barn owls currently present would be using a lot of habitat outside of the site to hunt over for their needs. A barn owl requires between about 15 to 20 ha of rough grassland and the site currently only provides about 3ha (excluding hedgerow/field margins). The proposed soil bunds might provide an important source of small mammals and other animals for barn owls and other birds for a time during the extraction phases. The phasing of mineral extraction progressively with restoration following on quickly afterwards should ensure similar or better populations of small mammals and other animals on the quarry site.

7.108 Extensive survey work has shown that around 10 different kinds of bat use the area for foraging particularly along hedgerow and tree lines present. A strategy to maintain use of the area by bats has therefore been proposed. This includes hedgerow and tree retention, sequential development and phased restoration that includes replacement hedgerows for those that need to be removed. Just beyond the proposed extraction areas there are two barns which support soprano pipistrelle and probably long-eared bats. Soprano pipistrelles are the most frequent bat recorded which is not surprising in a wetland area. Two trees with bat roost potential would be lost in Phase 6 but this is at least 10 years away should consent be granted for the development proposal. There is a commitment to re-survey these trees prior to Phase 6 commencing to inform any avoidance or mitigation measures should evidence of bat roosting presence be found at this time. This could be part of an ecological walkover update survey which is needed prior to each main phase of the development commencing.

7.109 Impacts on a local population of bats which are European Protected Species (EPS) are not considered to be significant as effects upon them can be avoided and reduced by the phased approach to the development as well as the proposed restoration concept. This would maintain sufficient and similar flyways and connections through the site during the operation phases. In case a licence from Natural England may be needed towards the end of this proposed development so as a precaution an assessment of bat impact in relation to the 3 derogation tests of the Habitats Regulations is recommended.

European Species and the 3 derogation tests of the Habitats Regulations (Directive)
7.110 As a planning authority we must consider the three tests in Regulation 53 of the Conservation of Habitats and Species Regulations 2010 before determining this application (ODPM Circular 06/2005, paragraphs 99, 112 & 116). Regulation 53(2) defines the circumstances where derogation is allowed for an affected EPS and a licence could be issued by Natural England. The judgement on the first test at Regulation 53(2)(e) below must be wholly made by the planning officer under delegated powers or the planning committee. To pass this test there must be a high degree of need for the development which will result in beneficial results to the local area that are likely to be in accordance with local planning policy requirement(s). If the planning committee agree that the first test can be met then the Ecologist believes a licence application for a European Protected Species licence would probably be successful and so consenting the planning application is possible.

“Firstly there is the justification of public health, public safety and an imperative reason of overriding public interest test which is Regulation 53(2)(e). This includes beneficial consequences of primary importance for the environment. Here we have economically important reserves of mineral present at a site identified in the Minerals Local Plan.

The second test set out in Regulation 53(9)(a) deems that there should be ‘no satisfactory alternative’. In this case the observations are that through the Minerals Local Plan alternatives were looked at but that the Manor Farm Quarry extension was still deemed to be a viable option and adopted as a strategic site for minerals extraction.

The third test set out in Regulation 53(9)(b) deems that the development should have no detrimental effect on the favourable conservation status of an EPS. As indicated above the view is that this development, if implemented as described, would conserve and may have potential to enhance the local bat populations present.

Therefore it is possible to consent the application in accordance with the planning authority’s obligations of Regulation 53 of the Conservation of Habitats and Species Regulations 2010 (as amended).”

7.111 The site probably only supports a few grass snakes and there are no records of other reptiles. Again the sequential phasing of the development and gradual restoration should make it possible for grass snakes to persist and potentially increase their numbers once restoration is underway. A general advice note on protected species that includes reptiles is recommended in addition to careful vegetation removal particularly within phases 2 and 4.

7.112 Most of the ditches are considered unsuitable for water voles (which are a protected species) although the nearby sightings by Kempsford Parish Council are noted. Five ditches that may have just been suitable have been searched but negative results for the presence of this species were returned in the 2008 and 2013 surveys. A few disused burrows were found in 2013 that were potentially of a size for water voles, water shrews or even young brown rats. The site could support water voles again however with some ditch enhancement and
creation of a few small ponds. There is a good local population of otter (European Protected Species) in the Cotswold Water Park but this proposed quarry extension site is not very suitable for them. The ditches have little open water and levels and flow varies greatly throughout the year. Surveys undertaken in 2008 and 2013 could find no signs of otter presence and no other records for this species exist very close to the site. It cannot be ruled out however that otters would enter the site from time to time, e.g. from the River Coln. A protected species advice note should therefore make reference to otters as well as water voles.

7.113 There does not seem to be any suitable breeding habitat for great crested newts (European Protected Species) in the form of ponds or ditches on this site. Foraging habitat is present but mainly limited to the hedgerow and tree lines/plantations present. The nearest known breeding pond is 1.8km away and the closest potential breeding pond is some 400m away. Due to barriers such as roads, runways of RAF Fairford, the River Coln and widespread winter flooding it is assessed that great crested newts are unlikely to be present and no reasonable probability of them being adversely affected by the proposed development.

7.114 The Cotswold Water Park Biodiversity Plan (2007-2016) identifies that in development schemes involving hedgerows strong consideration should be given to introducing barberry plants so that there is foodplant available for the scarce barberry carpet moth (Pareulype berberata – a priority species). The introduction into the new hedgerow species mix of Berberis vulgaris for the barberry carpet moth is therefore recommended. The sequential phased development and restoration should ensure the value of the site for other invertebrates is maintained. There is scope to establish an enhanced invertebrate fauna at Manor Farm through the restoration scheme and incidentally during minerals operative phases.

7.115 A lot of survey work and assessment has been focused on badgers (Protection of Badgers Act 1992) as they are active on and around this proposed quarry extension site. Badgers are a common species in the county and so despite some recent flooding it is not that surprising that this species is present. It is probable that 4 different social groups of badger in the vicinity will be affected by the different phases of the proposed mineral development. The development site represents a significant proportion of territory for some of the badger groups. The sooner the existing adjacent Manor Farm quarry is restored and earlier phases of the extension completed then the less residual impact on badgers will accrue. Additionally retained hedgerows will be buffered and so landscape features used by badgers will be maintained. The Environmental Statement puts forward a mitigation strategy for badgers that should achieve maintenance of the social groups present and in the long-term the restoration of the land could provide improved habitat for this mammal.

7.116 The County Ecologist has recommended conditions for the submission of a Biodiversity Mitigation Strategy and also a detailed Restoration and Ecological Aftercare Scheme (which should run from commencement of the development to at least 5 to 10 years after the site has been finally restored). This will focus on such things measures for protected species conservation, tree and shrub species
to be introduced, appropriate grassland mixes, plus the maintenance of all
establishing vegetation.

7.117 The proposals are considered to comply with NPPF paragraphs 7, 9, 17, 109,
118, 165, 176 and 187. MLP Policy E8 and E10 are also relevant to this
planning application. The development is not considered to have a significant
long–term effect on protected or valuable sites, habitats, wildlife corridors or
species and in the opinion of the statutory consultees and the County’s Ecologist
satisfactorily mitigates predicted and potential impacts. The proposal seeks
overall enhancement of local biodiversity through land restoration which are
recommended to be secured by planning condition in accordance with Policy
E10. As with MLP policies there is a requirement to ensure proposals for waste
disposal do not have an unacceptable adverse impact and where they do arise
they can be appropriately mitigated. The proposals accord with WCS 15 in that
final restoration will recreate original or improved biodiversity such that impacts
will be temporary only.

Planning Policy Considerations

Need and Landbank

7.118 The NPPF retains the policy for providing a 7 year landbank for sand and gravel.
When planning for a steady and adequate supply of minerals the NPPF states
that MPAs should prepare a Local Aggregate Assessment (LAA) based on a 10
year average, participate in aggregates working party and take account of
published national guidelines. Gloucestershire has now published its 3rd LAA
and Annual Monitoring Report, both of which contain data up to and including the
end of 2013 on sand and gravel. It is evident from the LAA that the landbank is
currently below the 7 year minimum required by the NPPF and therefore this
application could contribute to the landbank.

7.119 The policy framework covering the provision of aggregate minerals in
Gloucestershire is to be found in the saved policies of the adopted
to aggregate minerals and are relevant to this proposal. The allocated sites from
the Minerals Local Plan have been saved by the Secretary of State’s direction.
This application has come forward on an existing allocated site and therefore
should be considered against Policy A3 and A7. However NPPF policies on
aggregate minerals are afforded considerable material weight in the light of some
of the MLP policies being based on out of date evidence or revoked or
superseded guidance. The existing MLP (adopted 2003) is currently undergoing
a review process. However the replacement Minerals Local Plan has only
undergone early consultation and currently has little weight in determination of
planning applications.

7.120 The proposal to permit the extraction of sand and gravel on the site would
contribute to the maintenance of a steady and adequate supply of material for
building in accordance with the NPPF paragraph 144 that refers to the need to
maintain landbanks of non energy minerals on land outside the AONB. MPAs
must ensure that there are no unacceptable adverse impacts on the natural and
historic environment, human health or aviation safety. The must also ensure that
any unavoidable noise, dust and particles are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties. They must provide restoration and aftercare at the earliest opportunity.

**Preferred Area**

7.121 The proposal is located in a Preferred Area in the existing MLP (adopted 2003). MLP Policy A3 requires proposals to be considered in relation to their contribution to regional aggregate needs including maintenance of the landbank; that proposals are in accordance with policies of the MLP; and the proposals satisfactorily fulfil requirements of Proposals for that Preferred Area.

7.122 The Environmental Statement contains assessments of all the key areas. The requirements for Preferred Area listed for Inset 9 have been considered in the aforementioned sections of this report. The proposals are considered to satisfy the requirements of this Preferred Area in the following ways: the site is to be restored to agricultural use of the same land quality; the impact on any archaeological remains would be mitigated through investigation; hedges and biodiversity would be preserved and protected; highway impacts are not considered to be severe so as to require a developer contribution to road improvements; ground and surface water monitoring forms part of the proposal and secured by conditions and legal agreement; the restoration concept is acceptable showing landscape can be enhanced in the longer term; buffer zones around settlements can be maintained; the County Ecologist, Cotswold Water Park Trust and Natural England are satisfied with the proposals to increase biodiversity.

7.123 The benefit of providing a secure supply of mineral which contributes to the County’s apportionment is considered to outweigh the negative visual impact for a small number of properties in Whelford and these impacts are temporary and reversible. This proposal would accord with the Development Plan by virtue of the fact that the effects on neighbouring users (in terms of noise and dust) can be mitigated through planning conditions and would ensure the continued operation of the quarry and its satisfactory restoration. It is considered that the proposal would contribute to the objectives and guidance principles as detailed in NPPF and would not be to the detriment of increased flood risk to others. Therefore, the proposal is not considered to be contrary to the objectives of Development Plan policies.

**Other considerations:**

**Town and Country Planning Act 1990 - Section 106 Legal Agreement**

7.124 The Defence Infrastructure Organisation (DIO) Safeguarding has stated that the proposed operations are acceptable subject to the completion and implementation of a Section 106 Agreement involving owners Aggregate Industries UK Ltd., Bruce John Arkell of Whelford and Janet Ann Cope of Witney and appropriate planning conditions. The Applicant has submitted draft ‘Heads of Terms’ which include a Bird Hazard Management Scheme due to the proximity of the RAF Fairford airbase, the scheme would need to be implemented at the
commencement of the development scheme and maintained throughout its duration. The Bird Hazard Management Scheme would need to be prepared by the Applicant and approved in writing by the MPA in consultation with the DIO Safeguarding prior to the commencement of any quarrying in Phase 1A.

7.125 The management scheme which shall provide for the following both on and off the application site:

i) Site Information.
ii) Bird Hazard Management Context.
iii) Target Bird Species, monitoring and habitat management.
iv) Deployment of bird species scaring techniques.
v) Bird Hazard scheme – additional actions and reporting.
vi) Scheme reviews and updating.

7.126 The Council’s Hydrological advisor acting on behalf of the Lead Local Flood Authority has recommended that a surface and groundwater monitoring and management plan for off-site monitoring of water levels should be secured through a legal agreement and appropriate conditions. The surface and groundwater monitoring and management plan would be prepared by the Applicant for approval by the MPA prior to the commencement of quarrying in Phase 1A. The scheme shall include:

i) Location and programme for the monitoring and reporting of surface water and ground water levels for the duration of works, site restoration and after care period. Off-site locations shall be included to ensure any impacts on the River Coln are included in the monitoring and management plan.
ii) Identification of trigger levels for monitoring locations where contingency measures would be required should those triggers be reached,
iii) Identification of contingency measures needed should trigger levels be reached.
iv) Clearance and improvement works to the Dudgrove Brook.

The scheme shall be fully implemented and subsequently maintained in accordance with the scheme or any changes as may subsequently be agreed in writing by the MPA.

Human Rights

7.127 From 2nd October 2000 the Human Rights Act 1998 has the effect of enshrining much of the European Convention on Human Rights in UK law. Under 6(1) of the Act, it is unlawful for a public authority to act in a way, which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1), and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.

7.128 The main Convention rights relevant when considering planning proposals are Article 1 of the First Protocol (the peaceful enjoyment of property) and Article 8 (the right to a private and family life). Article 1 of the First Protocol guarantees
the right to peaceful enjoyment of possessions and Article 8 of the Human Rights Act 1998 guarantees a right to respect for private and family life. Article 8 also provides that there shall be no interference by a public authority with the exercise of this right except in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the freedom of others.

7.129 Ninety-two representations have been received from 60 local residents concerned at the impacts of the proposal on the locality. For the reasons set out in ‘Planning Considerations’ it is not considered there would be any breach of the convention rights. Even if there was to be an interference with convention rights then, in this case, it is thought that the interference would be justified for the economic well-being of the country by provision of an additional mineral resource which has restrictive occurrence in the County. Accordingly, it would not be unlawful to grant planning permission for this development.

Conclusions and summary reasons for grant of planning permission and relevant Development Plan Policies

7.130 The extension to Manor Farm Quarry would allow the natural progression of working using the existing site infrastructure. The site would provide and secure future sand and gravel reserves for the county until 2030 which are needed as the landbank has fallen below the government requirement to maintain a rolling 7 years landbank supply. The application has attracted objections from Kempsford Parish Council and local residents on the grounds of increased risk of flooding, visual impact, noise, dust and traffic generation. The potential environmental and amenity impacts were considered by the Applicant through the EIA process. Following the submission of three sets of further information, statutory consultees have withdrawn their objections. Whilst it is recognised that local residents and the Parish Council remain concerned about the impacts of the planning application, it is considered that the proposal to excavate sand and gravel and backfill with inert fill to restore the original ground levels would be acceptable subject to the imposition of conditions considered to accord with the policies of the Development Plan and not conflict with the NPPF.

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

8.0 RECOMMENDATION

8.1 It is recommended that subject to the Applicant entering into a Section 106 Legal Agreement to secure off-site monitoring of ground and surface water levels and bird management, that planning permission be GRANTED for the reasons set
out in this report, summarised at paragraphs 7.130 and 7.131 and subject to the following conditions:

**Commencement**

1. The development hereby authorised shall begin no later than the expiration of 3 years from the date of this permission. Written notification of the date of commencement of development shall be sent to the Mineral Planning Authority within 7 days of such commencement.

**REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2. Extraction of minerals on the site shall cease no later than the 16th anniversary of the date of commencement as notified to the Mineral Planning Authority in Condition 1

**REASON:** To comply with the requirements of Section 72(5) of and Paragraph 1 of Part 1 of Schedule 5 to the Town and Country Planning Act 1990.

**Working Programme and Phasing**


- M12.163.D.004 - Block Phasing, December 2013;
- M12.163.D.008 Phase 1 Working and Restoration, December 2013;
- M12.163.D.018C - Concept Restoration, March 2015;
4 The working and restoration of the site shall be implemented in full and carried out in the order of the approved phases of development in accordance with details shown on the following drawings:

- Phase 1 Working and Restoration – M12.163.D.008
- Phase 2 Working and Restoration – M12.163.D.009
- Phase 3 Working and Restoration – M12.163.D.010
- Phase 4 Working and Restoration – M12.163.D.011
- Phase 5 Working and Restoration – M12.163.D.012
- Phase 6 Working and Restoration – M12.163.D.013
- Phase 7 Working and Restoration – M12.163.D.014
- Phase 8 Working and Restoration – M12.163.D.015

There shall be no departure permitted from the approved plans unless required by another condition on this permission.

Reason: To restrict the number of active phases of development on the site at any time to ensure the progressive restoration of the site in accordance with the approved scheme in order to comply with Policy R3 of the Gloucestershire Minerals Local Plan 1997-2006.

5 The Mineral Planning Authority shall be notified in writing by the operator within 7 days of the occurrence of the following events in each of the development phases set out in condition 4:

- a) Commencement of development;
- b) Completion of mineral extraction; and
- c) Completion of restoration works.

Reason: To ensure that the development is carried out in accordance with the submitted details and to comply with Policy R3 of the Gloucestershire Minerals Local Plan 1997-2006.

6. No extraction of sand and gravel shall be permitted in phase 2A or subsequent phases 2B-7 until the operations shown on the approved phasing plan listed in condition 4 have been completed and approved in writing by the Mineral Planning Authority.
**Reason:** To ensure that the development is carried out in accordance with the submitted details in accordance with Policy R3 of the Gloucestershire Minerals Local Plan 1997-2006.

7. An Annual Report of quarry development and restoration progress shall be submitted to the Mineral Planning Authority every 12 months from the date of commencement notified in condition 5a. The Annual Report shall outline whether mineral extraction rates and infilling are progressing in accordance with the approved phasing plans as outlined in condition 4. Any deviation from or cessation of operations shall be reported and brought to the Mineral Planning Authority’s attention. On receipt of the Annual Report, the Mineral Planning Authority shall decide whether to hold a Review Meeting to discuss any matters with the Applicant. Any Review Meeting requested by the Mineral Planning Authority shall be organised by the Applicant at their own expense and include an invitation to MoD Estates and any other interested and relevant parties as directed by the Mineral Planning Authority.

**REASON:** To ensure that the development is carried out in accordance with the submitted details and to ensure that remedial action can be taken in order to comply with Policy R3 of the Gloucestershire Minerals Local Plan 1997-2006.

**Archaeology**

8 No development shall take place within the application site until the Applicant, or their agent’s or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to the Mineral Planning Authority and approved in writing. The programme of works shall be implemented as approved.

**REASON:** To make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost, in accordance with paragraph 141 of the National Planning Policy Framework.

**Flood Prevention and Water Resources**

9. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (“FRA”) undertaken by BCL Consultant Hydrogeologists Limited, ref: Manor Farm Quarry, Kempsford, Gloucestershire Version 3, dated 3rd December 2014 and the following mitigation measures detailed within the FRA:

(i) There shall be no net loss of floodplain storage during any phase of the operational or restoration stage of the development as detailed in Table 9

(ii) Following final restoration, ground levels will be set below the existing approved restoration levels to provide an additional 120,952 m$^3$ of floodplain storage.

The mitigation measures shall be fully implemented prior to occupation and in accordance with the timing/phasing arrangements embodied within the scheme.
agreed in writing by the Mineral Planning Authority.

**REASON:** To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce flood risk to third parties.

10. A Drainage Strategy Report shall be submitted to the Mineral Planning Authority and approved in writing prior to commencement of development and shall be implemented as approved. The Drainage Strategy Report shall provide full details of the proposed implementation of the measures set out in the Flood Risk Assessment (BCL Consultant Hydrogeologists Limited, 3rd December 2014, ref: Manor Farm Quarry, Kempsford, Gloucestershire: Flood Risk Assessment (Version 3) (Prepared for Aggregate Industries) and shall include:

   i) Details of how continuity of flow shall be maintained across the site at each stage of phase of the site’s development;
   ii) The dimensions of ditches required to adequately manage flows of groundwater and surface water through and around the site, as identified in bullet 1 and a strategy for the maintenance of the same;
   iii) The method of controlling the pumped dewatering discharge to the Dudgrove Stream to ensure that discharge is suspected when the stream is flowing out of bank as proposed in the Flood Risk Assessment;
   iv) The method of ensuring that discharge to the Dudgrove Stream does not exceed 81 litres per second as proposed in the Flood Risk Assessment.
   v) The report shall set out how continuity of flow across the site will be maintained at each stage of the site’s development and restoration, the size of ditches required to adequately manage flows and a strategy for maintenance of the same.

**REASON:** In order to prevent flooding and permit the Mineral Planning Authority to monitor the implementation of the drainage controlled detailed by the Applicant in the Flood Risk Assessment 3.

11. Prior to the commencement of development, an updated Hydrometric Monitoring Scheme provided by BCL Consultant Hydrogeologists Limited ref Manor Farm Quarry, Kempsford, Gloucestershire Version 1 dated 23rd September 2014 shall be submitted to the Mineral Planning Authority for approval in writing. The Hydrometric Monitoring Scheme shall be updated to include:

   i) Setting of statistically robust numerical values (trigger levels) which shall take into account the need to manage flood risk from a variety of sources;
   ii) Shall set out the contingency actions to be followed in the event that the trigger levels are breached which shall include reporting the breach to the Mineral Planning Authority, development of an action plan and provision of a verification report once the actions identified have been completed.

The updated Hydrometric Monitoring Scheme shall be implemented as approved.

**REASON:** To prevent in increased risk of flooding to others.
12 A Groundwater Management Plan shall be submitted to the Mineral Planning Authority and approved in writing prior to the restoration of each phase of working as set out in the approved phasing plan as identified on Drawing M12.163.D.004 and listed in condition 4. The Groundwater Management Plan shall:

i) Detail the thickness and width of the high permeability drains through the site and the required hydraulic conductivity of the infilling materials (taking into account the likely deterioration of function over time) such that groundwater level rise is acceptable.

ii) Take account of the monitoring of the performance of previous phases.

The Groundwater Management Plan shall be implemented as approved.

**REASON:** To ensure effective flow of groundwater during and after extraction in accordance with Policy E11 of the Gloucestershire Minerals Local Plan 1997-2006.

13. Detailed design of the control structures to limit discharge from the retention basins to the 1:30 and 100 year greenfield runoff rates, shall be submitted to the Mineral Planning Authority and approved in writing prior to the installation of each of the retention basins shown on the Drawing entitled “Concept Restoration Drainage Scheme” included within the Flood Risk Assessment (BCL Consultant Hydrogeologists Limited, December 2014. Manor Farm Quarry, Kempsford, Gloucestershire: Flood Risk Assessment (Version 3). Prepared for Aggregate Industries). The design shall also verify the size of the pond, taking into account climate change. The structures shall be implemented and maintained as approved.

**REASON:** To ensure effective flow of groundwater during and after extraction in accordance with Policy E11 of the Gloucestershire Minerals Local Plan 1997-2006.

14. There shall be no discharge of water containing sand, gravel, oil, grease or any other offensive or injurious matter into any watercourse either from excavation or dewatering.

**REASON:** To protect surface and ground water quality in the area in accordance with Policy E11 of the Gloucestershire Minerals Local Plan 1997-2006 and Policy 5 of the Cotswold District Local Plan 2001-2011.

**Groundwater Protection**

15. Any oil, fuel, lubricant and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of the aquifer. For any liquids other than water this shall include above ground storage tanks sited on an impervious base and surrounded by a suitable liquid tight bunded compound. No drainage outlet shall be provided. The bunded area should be capable of containing 110% of the volume of the largest tank and all pipes, draw pipes and sight gauges should be enclosed within its curtilage. The vent pipe should be directed downwards onto the bund.

Noise

16. Prior to the commencement of development a Noise Mitigation Strategy shall be submitted to the Mineral Planning Authority and approved in writing which demonstrates how levels of noise emitted from the site shall not exceed 45dB LAeq 1 hour, between 07:00hr to 19:00hr Monday to Friday and 07:00hr to 13:00hr on a Saturday, as measured on the boundary of the site at Whelford Road, Whelford adjacent to Queen's Cottage. The Noise Mitigation Strategy shall include details of a regular sound monitoring regime which shall be submitted to the Mineral Planning Authority to demonstrate compliance. The only exception to this would be for temporary operations as defined by the national technical guidance to the National Planning Policy Framework. The Noise Mitigation Strategy shall be implemented as approved for the duration of the development.

REASON: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Policy DC1 of the Gloucestershire Minerals Local Plan 1997-2006, Policy 5 of the Cotswold District Council Plan 2001-2011 and the National Planning Policy Framework.

Dust

17 Prior to development commencing on the site, a scheme for dust management and monitoring shall be submitted to the Mineral Planning Authority and approved in writing. This scheme shall be implemented as approved and incorporate the dust mitigation measures contained in the Advanced Environmental Report prepared in respect of the planning application and dated December 2013.

REASON: To protect the amenity of the locality, prevent adverse impact on Jenner’s Farm Key Wildlife Site in accordance with policy DC1 of the Gloucestershire Minerals Local Plan 1997-2006, Cotswold District Council Plan 2001-2011, Policy 5 and the National Planning Policy Framework.

Lighting Scheme

18 The Applicant shall provide a Lighting Scheme that will limit use of external lighting to normal working hours and only where required on the application site for the purposes of safe working. Within three months of the date of commencement of development, the lighting scheme shall be submitted to the Mineral Planning Authority for approval in writing and thereafter be implemented and maintained for the duration of the development.

REASON: in the interests of amenity of the area and in order to limit the impact of working on bats and potentially badgers and barn owls in accordance with policy DC1 of the Gloucestershire Minerals Local Plan 1997-2006.
Biodiversity

19 Prior to the commencement of development a Biodiversity Mitigation Strategy shall be submitted to the Mineral Planning Authority and approved in writing. The Strategy shall be based on the approved Restoration Concept Drawing M12.163.D.018C dated March 2015, Ecological Mitigation section of Technical Appendix B of the Environmental Statement. The Strategy should include details of measures for biodiversity mitigation, enhancement, aftercare, monitoring and contingency measures and be compiled by a suitably qualified ecologist. The Strategy shall include appropriate measures for:

(a) Updating surveys and assessment of protected and priority species present (including any appearance of Scandix pectin-veneris and Euphorbia exigua on disturbed substrates or bunds) prior to each phase commencing;
(b) Mitigation plus maintenance of foraging, commuting and breeding habitat or features for bats, badger, grass snake, barn owl and other breeding birds;
(c) 10 metre stand-offs for retained hedgerows, associated ditches and trees;
(d) Compensation, translocation and propagation of Carex elata and Populus nigra;
(e) Organisation or personnel responsible for implementation and supervision of the Strategy;
(f) Submission of progress reports to the Mineral Planning Authority for approval prior to each phase commencing.

The Strategy shall be implemented as approved by the Mineral Planning Authority.

REASON: To ensure that biodiversity is conserved in accordance with ODPM Circular 06/2005, National Planning Policy Framework paragraphs 109 and 118.

20 A buffer or stand-off zone of at least 10 metres either side of all retained hedgerows and watercourses shall be marked maintained and protected from disturbance, compaction or storage of materials. There shall be no activity ancillary to the extraction within 5 metres of any of these boundary features.

REASON: To protect the landscape and biodiversity importance of boundary features and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.

Straw Bales

21 Construction details of the straw bales used to buffer operations in phase 2B including details of how these will be inspected, maintained and replaced when necessary shall be submitted to and agreed in writing by the Mineral Planning Authority prior to their installation on the site.
REASON: To ensure the safety and integrity of the screen in the interests of protecting the amenity of the local area in accordance with policy DC1 of the Gloucestershire Minerals Local Plan 1997-2006.

Restoration and Aftercare

22 Not later than one month after the date of the completion of extraction operations within each phase notified in compliance with condition 5, a detailed Landscape Restoration and Aftercare Scheme for that phase of the quarry shall be submitted to and approved in writing by the Mineral Planning Authority before commencement of the next phase. The detailed scheme shall provide for the following:

(i) A summary of all restoration and aftercare processes in progress or completed across the whole quarry site;
(ii) Ecological trends and constraints on site that might influence management.
(ii) The purpose, aims and objectives for the restoration and aftercare and management of the Manor Farm Quarry Extension phase in relation to the whole quarry site concept drawing M12.163.D.018C dated March 2015;
(iii) Selection of appropriate measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management for maintaining or introducing target habitats and landscape features. These to reference those items specified in the separate Biodiversity Mitigation Strategy and approved Landscaping, Restoration, Habitat Management and Aftercare Scheme dated September 2014. Measures to include species-rich hedgerows and some introduction of barberry plants, rough wildflower grassland at field margins, pond complexes, woodland copses, watercourses/ditches, wild bird seed mixes within margins of any arable or disturbed areas and retained bare substrate;
(iv) Details for ground forming, soil, substrate, mineral, rock preparation and habitat and species establishment;
(vi) Sources of soil forming materials, plant stock and other species introductions;
(vii) Provisions for any public access and interpretation;
(viii) Extent and location of proposed works shown on appropriate scale plans;
(ix) Prescriptions and programme for initial aftercare of 5 years and long term management of a further 5 or more years;
(x) The organisation, body or personnel responsible for the work;
(xi) Timing of the restoration operations in relation to phased working of the mineral site overall;
(xii) Proposals for monitoring the success of all restoration works;
(xiii) Disposal of wastes arising from the restoration.

The Restoration and Aftercare Scheme shall also include details of the legal or funding mechanism(s) by which the long-term implementation of the Scheme will be secured by the Applicant with the landowner or management body(ies) responsible for its delivery. This will include the written acceptance of the
landowner and/or tenant that the land has been appropriately returned to agriculture/pasture. The Scheme shall be implemented as approved by the Mineral Planning Authority.

**REASON:** To conserve and enhance the environmental value and amenity of the land and in accordance with ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109 and 118.

**RAF Fairford**

23 Upon formal notification of future hostilities, or a period of transition to war all personnel shall be excluded from the "inner safeguarded area" (as defined by the Ministry of Defence) and the Applicant shall ensure that, whilst such emergency continues, no persons work or otherwise congregate in that area.

**REASON:** To ensure the effective operation of RAF Fairford and in accordance with Policy E11 of the Gloucestershire Minerals Local Plan 1997-2006 and Policy 5 of the Cotswold District Local Plan 2001-2011.

24 No permanent construction shall be erected within the "inner safeguarded area" (excluding such buildings as Portacabins, sheds or processing plant which is to be removed on completion of the period of extraction).

**REASON:** To ensure the effective operation of RAF Fairford in accordance with Policy DC4 of the Gloucestershire Minerals Local Plan 1997-2006.

25 Upon notification by the Ministry of Defence the Applicant shall ensure that they avoid interference with the operations of RAF Fairford, including periods of exercise. Such steps required of the Applicant shall include the cessation of all works on site.

**REASON:** To ensure the effective operation of RAF Fairford in accordance with Policy 5 of the Cotswold District Local Plan 2001-2011.

26 Notwithstanding the provisions of Part 2, 4, 7 and 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, replacing or re-enacting that Order), no additional lights or fences shall be installed, no extensions or alterations to buildings, no fixed plant or machinery, buildings or structures shall be erected, extended, installed or replaced on any part of the site hereby permitted without planning permission from the Mineral Planning Authority.

**REASON:** To enable the Mineral Planning Authority to adequately control the development and to minimise its impact of noise, dust and disturbance on residential properties and the operations at RAF Fairford in accordance with Policies DC1 and DC2 of the Gloucestershire Minerals Local Plan.

**Hours of Working**
Except in emergencies to maintain safe quarry working (which shall be notified to the Mineral Planning Authority as soon as practicable), no vehicle shall enter or leave the site and no mineral extraction or other working shall take place on the application site other than between the hours of 07:00 to 19:00 Mondays to Fridays, and 07:00 to 13:00 on Saturdays. There shall be no mineral or other working and no vehicles entering or leaving the site on Sundays, Bank Holidays and Public Holidays.

**REASON:** To enable the Mineral Planning Authority to adequately control the development and to minimise its impact of noise, dust and disturbance on residential properties in accordance with Policy DC1 of the Gloucestershire Minerals Local Plan 1997-2006.

**Highways**

Vehicles associated with works on the site shall gain access to the site via Washpool Lane only and not via any other highway or track going west or south from the site.

**REASON:** In the interests of highway safety and to ameliorate the effects of the proposal on the amenity of the area in accordance with Policy E20 of the Gloucestershire Minerals Local Plan 1997 – 2006 and Policy 5 of the Cotswold District Local Plan.

The access road (Washpool Lane) from the site to the metalled carriageway shall be maintained throughout the period of development.

**REASON:** In the interests of highway safety in accordance with Policy E20 of the Gloucestershire Minerals Local Plan 1997 – 2006.

Prior to the commencement of this consent as notified in condition 1 wheel cleaning facilities shall be provided on site and thereafter be used and maintained for the duration of the development as approved.

**Reason:** To ensure that mud and earth deposits are not brought onto the public highway in the interests of highway safety in accordance with Policy E20 of the Gloucestershire Minerals Local Plan 1997 – 2006.

No loaded lorries shall enter the public highway unsheeted except those only carrying stone in excess of 500mm in size.

**REASON:** In the interests of local amenity and to prevent mud and dust from being deposited onto the highway.

No commercial vehicles shall enter the public highway unless their wheels and chassis have been cleaned to prevent material being deposited on the highway.

**REASON:** In the interests of highway safety and to prevent mud and dust getting on the highway in accordance with Policy DC1 of the Gloucestershire Minerals Local Plan 1997-2006.
No mud or debris from this development shall be deposited on the public highway.

**REASON:** In the interests of local amenity and to prevent mud and dust from being deposited onto the highway.

### Cessation of Mineral Working

Prior to the commencement of development of Phase 8, a final restoration scheme including a 10 year aftercare scheme shall be submitted to the Mineral Planning Authority for approval in writing and implemented as approved.

**REASON:** In the interests of amenity and appearance of the proposed development and to secure the operation of RAF Fairford in accordance with Policies DC4, R1 and R3 of the Gloucestershire Minerals Local Plan 1997-2006.

All plant, machinery, buildings and structures shall be removed from the site within 12 months of the cessation of mineral extraction.

**REASON:** In the interests of amenity and appearance of the proposed development and to secure the operation of RAF Fairford in accordance with Policy DC2 of the Gloucestershire Minerals Local Plan 1997-2006.

### Applicant Advisory Notes:

1. **If a protected species (such as any bat, badger, reptile, water vole, otter, great crested newt, barn owl or any nesting bird) is discovered using a feature on site that would be affected by the development work all activity which might affect the species at the locality should cease. If the discovery can be dealt with satisfactorily by the implementation of biodiversity mitigation measures already approved by the Mineral Planning Authority under planning condition then these should be implemented. Otherwise a suitably qualified ecological consultant or Natural England should be contacted and the situation assessed before operations can proceed. This action is necessary to avoid possible prosecution and ensure compliance with the Wildlife & Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 (as amended) and/or the Protection of Badgers Act 1992. This advice note should be passed on to any persons/contractors carrying out the development/works.**

2. **In relation to the County Council’s Service Level Agreement with the Local Biological Records Centre and to assist in the strategic conservation of countywide biodiversity, all species and habitat records from the ecological work commissioned by the applicant should be copied [preferably in electronic format] to the Gloucestershire Centre for Environmental Records (GCER).**

3. **The site is traversed by a public right of way and this permission does not authorise additional use by motor vehicles, or obstruction, or diversion. The Applicant should submit a formal application under the Town and Country Planning Act (S.257) (“TCPA”) for the footpaths to be diverted /extinguished. (Alternatively the application may be made under Section 118/119 Highways Act 1980 but only if, for legal reasons, it cannot be processed under the TCPA). The application should be submitted and confirmed before the development begins to**
affect the existing footpaths. The Applicant is advised to contact the Public Rights of Way Team at Gloucestershire County Council.

4. Under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws within the Thames area, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank or any excavation within 16m of the Dudgrove Brook, designated a ‘main river’.

BACKGROUND INFORMATION:

Planning Application 13/0097/CWMAJW is available to view on the Council’s Public Access website showing the planning application, Environmental Impact Assessment with accompanying plans, consultation responses from statutory consultees and representations made electronically via Public Access. A paper copy of all responses from both consultees and the public is available to view in the planning file by appointment with the case officer below.

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