

Our ref: Horton Grounds Quarry, Hornton  
Date: 22<sup>nd</sup> October 2020  
Your ref: 20/02453/F

Mr Bob Neville  
Planning and Building  
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**20/02453/F - Horton Grounds Quarry, Hornton.**

**Application for a Fuel Depot including ancillary offices, the installation of plant and hardstanding.  
Objection on Behalf of The Trustees of the Lord Bearsted – 1986 Settlement (the Upton Estate).**

Dear Bob,

On behalf of Fisher German's client, the Upton Estate, we write in response to the current live planning application (SDC/20CM009) at Horton Grounds Quarry, Hornton.

The application proposes the following development:

*"A fuel depot including ancillary offices, the installation of plant and hardstanding".*

Our client owns the Upton Estate which comprises of various land and property opposite to the application site. We object to the proposals for the reasons outlined in this letter, most notably:

- The proposals do not comply with the key policy consideration being SLE1 'Employment Development'.
- The proposals do not represent sustainable development and will lead to a reliance on the car for employees.
- There will be visual harm caused to the AONB and wider landscape by way of impact on dark skies and the rural setting.
- There is a high risk of contamination.
- The proposals will lead to significant impact on the highway network.

## Planning History of the Site and the 'Fallback Position'

It is noted that the site was granted outline planning permission on the 3<sup>rd</sup> September 2014 (LPA ref: 14/02186/CM) for the following proposed development:

*"Outline Planning Permission for the conservation stone yard area for the processing of stone as class B2 of the Town and Country Planning (Use Classes) Order 1987 (OCC Ref MW.0090/14)".*

Following this outline approval, a reserved matters approval was granted (LPA: ref: 17/02553/CM) on the 31<sup>st</sup> May 2018 for the following:

*"Reserved matters pursuant to condition 2 of planning permission 14/01286/CM which granted permission for B2 use OCC ref:- MW.0106/17."*

Condition 2 of the reserved matters approval and condition 3 of the outline approval states that the reserved matters must be implemented within 2 years of the date of approval (that is, by 31<sup>st</sup> May 2020).

It is accepted that the reserved matters approval for the B2 use has been implemented as approved by OCC reference MW.0042/20 on 26<sup>th</sup> May 2020.

It is therefore accepted that the B2 use is the existing and legal planning use for the site.

## Compliance with Development Plan

The adopted planning policy for Cherwell District Council comprises of the following:

- Cherwell Local Plan 2011 – 2031.
- Saved Policies of the Cherwell Local Plan 1996.

The site is located within the open countryside and is not subject to any policy designation.

Policy SLE 1 'Employment Development' in relation to employment proposals in the countryside states the following (an assessment of the proposals against the criteria has been included in bold where necessary).

"New employment proposals within rural areas on non-allocated sites will be supported if they meet the following criteria:

- They will be outside of the Green Belt, unless very special circumstances can be demonstrated.
- Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.
- They will be designed to very high standards using sustainable construction, and be of an appropriate scale and respect the character of villages and the surroundings.
- They will be small scale unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment. **It is considered that the proposals are not appropriate for this location. The site benefits from B2 use, however the use of the site as a fuel storage & distribution centre with 24/7 operations is an entirely different nature and will have a**

significant impact on the character of the rural area; it will create an urbanising effect as a result of the lorry movements and intense lighting.

- The proposal and any associated employment activities can be carried out without undue detriment to residential amenity, the highway network, village character and its setting, the appearance and character of the landscape and the environment generally including on any designated buildings or features (or on any non-designated buildings or features of local importance). **The proposals will have an adverse impact on the highway network due to a significant number of lorry movements (further detail is included below).** The main routes to the site along the A422 will involve going through the village of Hornton (via two tight right angle bends which mean HGV's have to occupy the opposite side of the carriageway) and up/down Sunrising Hill which has a 14% gradient which is unsuitable for HGV movements and frequently has incidents relating to HGV's and the gradient. Furthermore, the AONB is a protected landscape and is only circa 270m away. The intensification of the site, increased lighting and lorry movements will cause harm to the AONB. There is a risk of pollution from oil spillage.
- The proposal will not give rise to excessive or inappropriate traffic and will wherever possible contribute to the general aim of reducing the need to travel by private car. **The employees at the site are likely to rely solely on the car given that rail / bus links are poor.** It is considered the traffic both in terms of the number of employees and number of leaving and returning lorries is inappropriate.
- There are no suitable available plots or premises within existing nearby employment sites in the rural areas. **The Council must be satisfied that there are no alternative sites within the rural area.** In any event we are of the view that a site in or adjacent to Banbury would in fact be more appropriate than locating a business of this nature in the rural area.

The National Planning Policy Framework (NPPF 2019) is a material consideration in the determination of planning applications. The NPPF supports a prosperous rural economy in principle at paragraph 83, stating that "*planning policies and decisions should enable (a) the sustainable growth and expansion of all types of business in rural area, both through conversion of existing buildings and well-designed new buildings*". However, paragraph 84 notes:

*"Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.."*

It is considered that the proposals, whilst an expansion of employment offering in the local area, is in fact insensitive to its surroundings and will have an unacceptable impact on local roads. In order to be deemed sustainable to comply with paragraph 84 above, the development would require significant investment in and contributions towards making the site more sustainable, such as through cycleway / footpath provision. Contributions such as this would be immeasurable compared to the scale of the proposals, and therefore unachievable.

It is noted that the proposals will enable the relocation of an existing business which in turn will allow the Canalside Regeneration allocation to come forward coherently. However, it must be stressed that despite the business needing to relocate to accommodate the allocation, the site ultimately relocated to must be acceptable in planning terms. The need for an allocation to come forward does not negate the need to consider these proposals and their acceptability in planning terms.

The proposal therefore conflicts with national policy and there are significant material considerations comprising of highway, landscape and contamination impacts in light of the criteria of Policy SLE 1 which outweigh any benefits the proposals may bring.

Policy ESD 12 'Cotswold Area of Outstanding Natural Beauty (AONB)' states that:

*"High priority will be given to the protection and enhancement of the Cotswolds AONB and the Council will seek to protect the AONB and its setting from potentially damaging and inappropriate development. The Cotswolds AONB Management Plan will be used as supplementary guidance in decision making relevant to the AONB".*

For the reasons outlined later in this letter, the proposals will cause significant impact on the setting of the AONB in terms of visual impact (urbanising effect), lighting impact in a dark sky area, and an adverse impact on air, noise and general environmental quality in the locality.

The assessment of the proposals must come down to the balance of expanding and intensification of an employment site against the relevant material considerations. For the reasons outlined below it is considered that the material considerations point to the development resulting in significant adverse impact which outweigh any benefits the proposals may bring.

### **Impact on Cotswold Area of Outstanding Natural Beauty and Light Pollution**

A desktop appraisal of the site indicates that the most western border of the application site is approximately 270m to the east of the border of the Cotswolds AONB adjacent to Stratford Road. Whilst the site is not within the AONB itself, it is important to note that proposals within close proximity to AONBs may have adverse impacts on the designated area.

A proposal of a similar nature to this application was previously refused on a different site (LPA ref: 19/01202/F). Whilst this live application must be considered on its own merits, the application site is similar to that for application 19/01202/F in that it is also in an area considered to be of relatively dark skies. Policy CE5 (Dark Skies) of the Cotswolds Area of Outstanding Natural Beauty Management Plan 2018-2023, advises that proposals that are likely to impact on the dark skies of the Cotswolds AONB should have regard to these dark skies, by seeking to (i) avoid and (ii) minimise light pollution.

The layout plan submitted with this application indicated 10no. 5m high lighting columns will be erected as part of the development. It is important to note that this is the same number of lighting columns proposed

for application 19/01202/F which was deemed unacceptable given the impact they would have on the dark skies of the AONB. The case officer's report for application 19/01202/F stated:

*"Being at a relatively elevated location in a rural location the proposed lights have the potential for significant visual impacts and being visually apparent from distance and detrimental to the night-time sky."*

The consented B2 use (albeit currently vacant) will naturally have some lighting associated with it, however this intensification and expansion of the site will likely lead to significantly more lighting being required. The proposals are therefore considered to have a detrimental impact on the landscape at this location, particularly in relation to the significant harm it will cause to the dark skies and rural setting of the nearby AONB.

### Highway and Noise Impact

We have significant concerns about the adverse highway impact that will arise as a result of these proposals. It is unclear whether sufficient visibility splays can be achieved onto the A422, as there does not appear to be an access drawing showing connection to the highway available. Furthermore, tracking is provided for movement into and out of the site, but no tracking is available for access and egress onto the A422 (as a side point the red line for the application site must adjoin the adopted highway).

In addition to questions over the safety of the access, the submitted transport statement states that some 158 lorry trips per week will occur. This is significant. The transport statement states that trips are to be contained to Class 'A' roads, however the A422 runs for example through Wroxtton, therefore the 158 trips per week through Wroxtton will have a detrimental impact on local residents. We understand the tankers are proposed to go through Warmington, however Warmington is only served by 'B' roads (the B4100 and B4086) whereas the transport statement is clear that only 'A' roads will be used. This matter needs to be clarified.

There is also a noise impact associated with the large number of trips running to and from the site and through Wroxtton. Again, this will lead to an urbanising effect of the rural landscape setting, the AONB, and the rural character of the village(s) nearby.

There is no sufficient evidence to justify the acceptability of the site in relation to access and highway impact.

### Contamination Risk

We have significant concerns about the risk of pollution and contamination arising from a fuel depot in this location. The risk to contamination would be present both throughout the lifetime of the development and when the use of the site ceases, should it come forward.

Section 8.3.3 of the submitted ground investigation report states that *"There is potential pollutant linkage from site to a surface water feature which may be connected to a diverted land drain from the site"*. The risk of contamination is hazardous both to the human population, the local natural environment and to wildlife. We have significant concerns about the risk of oil spill and the hazard this would pose. The proposals need to robustly demonstrate that the site and buildings are appropriately sealed to avoid oil and fuel spill.

### Conclusions

To conclude, we object to the proposals for a new fuel depot in this location for the reasons outlined in this letter. The proposals give rise to negative material considerations which outweigh any benefits arising from the proposals. The application will result in an expansion and intensification of the consented B2 use site for use as a sui generis fuel depot. A fuel depot brings greater hazardous risks relating to ground contamination,

highway impact, lighting impact, and it will lead to an urbanising effect on the AONB. The proposals will result in demonstrable harm.

We politely request that our comments are taken into consideration and that we are kept updated on the progress of the application going forward.

Yours sincerely,



**Melissa Balk MRTPI**

**For and on behalf of Fisher German LLP**

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