OXFORDSHIRE
STRATEGIC RAIL FREIGHT INTERCHANGE

Environmental Statement

Chapter 11: Ground Conditions
Appendix 11.8: National and Local Policy Extracts

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Revision A

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On behalf of
Oxfordshire Railfreight Limited

Prepared by BWB Consulting Ltd
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Part IIA of the Environmental Protection Act, (1990)[1]

Part IIA of the Environmental Protection Act, (1990) and the supporting statutory guidance describes a regulatory role for Local Authorities in dealing with contaminated land.

Environment Act, (1995) creates a system whereby Local Authorities must identify, and if necessary, arrange for the remediation of contaminated sites. The provisions are set out in Section 57. In addition to these requirements, the operation of the regime is subject to regulation and statutory guidance.

Contaminated Land (England) (Amendment) Regulations (2012) - provides a definition of what constitutes 'contaminated land' and sets out the responsibilities of the Local Authority and the EA in the identification and management of contaminated land. Under the Regulations, contaminated land is defined as 'land' which is in the opinion of the Local Authority to be in such a condition by reason of substances in or under the land that:

- Significant harm is being caused or there is significant possibility of significant harm being caused; and/or

- Significant pollution of Controlled Waters is being caused or there is a significant possibility of significant pollution of Controlled Waters being caused'.

National Policy Statement for National Networks (NPSNN) 2024[2]

Issues relating to discharges or emissions from a proposed development which affect air quality, water quality, land quality, and the marine environment, or which include noise and vibration, may be subject to separate regulation under the pollution control framework or other consenting and licensing regimes. Relevant permissions will need to be obtained for any activities within the development that are regulated under those regimes before the activities can be operated (paragraph 4.46 of the NPSNN).

In deciding an application, the Examining Authority and the Secretary of State should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. They should assess the potential impacts of processes, emissions or discharges to inform decision making, but should work on the assumption that in terms of the control and enforcement, the relevant pollution control regime will be properly applied and enforced. Decisions under the Planning Act should complement but not duplicate those taken under the relevant pollution control regime (paragraph 4.50 of the NPSNN).

The Secretary of State should be satisfied that development consent can be granted taking full account of environmental effects. This will require close cooperation with the Environment Agency and/or the pollution control authority, and other relevant bodies, such as the MMO, Natural England, Drainage Boards, and water and sewerage undertakers, to ensure that in the case of potentially polluting developments (paragraph 4.55 of the NPSNN):

- The relevant pollution control authority is satisfied that potential releases can be adequately regulated under the pollution control framework; and

- The effects of existing sources of pollution in and around the project are not such that

[1]Department for Environment Food and Rural Affairs, Environmental Protection Act 1990: Part 2A, Contaminated Land Statutory Guidance; April 2012, https://www.gov.uk/government/publications/contaminated-land-statutory-guidance

[2] National Policy Statement for National Networks (NPSNN) 2014, Presented to Parliament pursuant to Section 9(8) and Section 5(4) of the Planning Act 2008, December 2024 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/387223/npsnn-web.pdf

the cumulative effects of pollution when the proposed development is added would make that development unacceptable, particularly in relation to statutory environmental quality limits.

Where necessary, land stability should be considered in respect of new development, as set out in the National Planning Policy Framework and supporting planning guidance. Specifically, proposals should be appropriate for the location, including preventing unacceptable risks from land instability. If land stability could be an issue, applicants should seek appropriate technical and environmental expert advice to assess the likely consequences of proposed developments on sites where subsidence, landslides and ground compression is known or suspected (paragraph 5.117 of the NPSNN).

A preliminary assessment of ground instability should be carried out at the earliest possible stage before a detailed application for development consent is prepared. Applicants should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable or can be made so as part of the development. The site needs to be assessed in context of surrounding areas where subsidence, landslides and land compression could threaten the development during its anticipated life or damage neighboring land or property. This could be in the form of a land stability or slope stability risk assessment report (paragraph 5.118 of the NPSNN).

Applicants should safeguard any mineral resources on the proposed site 'as far as possible' (paragraph 5.169 of the NPSNN).

National Planning Policy Framework (NPPF)[3]

The National Planning Policy Framework (NPPF) (20246) sets out the Government's planning policies for England and supersedes the previous ~~NPPF published in 2012 and updated in 2018~~versions. It makes the following reference to ~~Contaminated Land and~~ ground conditions in ~~the s~~Section 17 ~~entt~~itled ~~Conserving and enhancing the natural environment~~pollution, public protection and security:

~~Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:~~

~~*e) "Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*~~

~~*f) Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."*~~

~~Paragraph 183 of the NPPF also makes the following references to ground conditions and pollution by stating that planning policies and decisions should ensure that:~~

~~*a) "A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*~~

~~*b) After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*~~

~~[3]The National Planning Policy Framework (NPPF) was first published on 12 March 2012 and updated on 24 July 2018, 19 February 2019, 20 July 2021, and 12 December 2024. This sets out the government's planning policies for England and how these are expected to be applied. https://www.gov.uk/guidance/national-planning-policy-framework~~

~~c) Adequate site investigation information, prepared by a competent person, is available to inform these assessments."~~

~~Paragraph 184 sets out that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.~~ Policy P2: Ground Conditions

1. Sites proposed for development should be suitable for their proposed use taking into account:

    a. Ground conditions, including any risks arising from land instability or contamination (whether due to natural hazards or current and former activities such as mining or fuel storage); and

    b. The extent to which any such risks can be mitigated, and the potential impacts on the natural environment arising from remediation.

2. Where land is remediated it should, as a minimum, not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

3. Adequate site assessment information, prepared by a competent person, should be available to inform these considerations.

4. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Section 12 titled making effective use of land refers to contaminated land in Policy L2: Making effective use of land and stated:

1. Substantial weight should be given to the benefits where a development proposal would achieve one or more of the following:

    a. Remediating despoiled, degraded, derelict, contaminated or unstable land;

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Local Policies and Relevant Guidance

Assessment of the impact of the Proposed Development will also be undertaken in accordance with, but not limited to, the below policies:

- Adopted Cherwell Local Plan 2011-2031 (Part 1) adopted by the Council on 20 July 2015. Policy Bicester 13 was re-adopted on 19 December 2016;
- Cherwell District Council Water Cycle Study (WCS) was published in November 2017 and its addendum;
- Oxfordshire Minerals and Waste Local Plan adopted on 12th September 2017;

Adopted Cherwell Local Plan 2011 - 2031 Part 1[4] - Policy ESD08: Water Resources

Paragraph B.221 states:

- *"Research carried out by the Environment Agency and set out in the Catchment Abstraction Management Strategies (CAMs) shows that Cherwell District lies within an area of serious water stress and the Upper Cherwell area (including Banbury) has been over-abstracted. Policy ESD 8 will be used to ensure that new development is located in areas where adequate water supply can be provided from existing and potential water supply infrastructure.*
- *The Council will seek to maintain water quality, ensure adequate water resources and*

promote sustainability in water use. 100 Cherwell Local Plan 2011-2031 Part 1 Section B – Policies for Development in Cherwell Water quality will be maintained and enhanced by avoiding adverse effects of development on the water environment. Development proposals which would adversely affect the water quality of surface or underground waterbodies, including rivers, canals, lakes and reservoirs, as a result of directly attributable factors, will not be permitted.

- *Development will only be permitted where adequate water resources exist or can be provided without detriment to existing uses. Where appropriate, phasing of development will be used to enable the relevant water infrastructure to be put in place in advance of development commencing".*

Adopted Cherwell Local Plan 2011 – 2031 Part 1 - Policy ESD10: protection and Enhancement of Biodiversity and the Natural Environment

This policy states:

"Protection and enhancement of biodiversity and the natural environment will be achieved by the following:

- *The reuse of soils will be sought.*
- *If significant harm resulting from a Development cannot be avoided (through locating*

[4]Adopted Cherwell Local Plan 2011-2031 Part 1 (incorporating Policy Bicester 13, Development Plan Document Adopted December 2016 https://www.cherwell.gov.uk/downloads/download/45/adopted-cherwell-local-plan-2011-2031-part-1-incorporating-policy-bicester-13-re-adopted-on-19-december-2016

on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then Development will not be permitted.

- *Development which would result in damage to or loss of a site of international value will be subject to the Habitats Regulations Assessment process and will not be permitted unless it can be demonstrated that there will be no likely significant effects on the international site or that effects can be mitigated.*
- *Development which would result in damage to or loss of a site of biodiversity or geological value of national importance will not be permitted unless the benefits of the Development clearly outweigh the harm it would cause to the site and the wider national network of SSSIs, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity."*

Oxfordshire Minerals and Waste Local Plan 2017[5]

This document sets out the following relevant policies.

Policy M2: Provision for working aggregate minerals states:

"Provision will be made through policies M3 and M4 to enable the supply of:

- *Sharp sand and gravel - 1.015 mtpa giving a total provision requirement of 18.270 million tonnes*
- *Soft sand - 0.189 mtpa giving a total provision requirement of 3.402 million tonnes; and*
- *Crushed rock - 0.584 mtpa giving a total provision requirement of 10.512 million tonnes from land-won sources within Oxfordshire for the period 2014 – 2031 inclusive."*

In terms of locations for working aggregate minerals, the plan states:

"Minerals can only be extracted where they exist in the ground. The identification of locations where extraction is likely to be able to take place acceptably provides greater certainty of where mineral working will take place and where it will not take place. Policy M3 identifies the broad locations –strategic resource areas – within which it is proposed that future working for sharp sand and gravel, soft sand and crushed rock should take place" (paragraph 4.22).

And…

"The Local Aggregate Assessment 2014 indicates no requirement for further areas for crushed rock working during the plan period, due to the relatively high level of permitted reserves of this mineral remaining to be worked. Actual sales of crushed rock in 2014 and 2015 were well above the provision rate of 0.584 million tonnes a year. Consequently, the level of permitted reserves remaining has fallen more than expected, as they have been extracted more quickly. If on-going annual monitoring shows this to be a continuing trend, additional permissions could be needed towards the end of the plan period and there could be a requirement for additional provisions to be made through the allocation of sites for working in the Site Allocations Document. If required, this additional provision should preferably be made through extensions to existing quarries rather than from new quarries, to make efficient use of existing plant and infrastructure, and minimise additional impact. It is unlikely that any new quarries will be

[5]Oxfordshire Minerals And Waste Local Plan 2017 adopted on12 December 2017.
https://www2.oxfordshire.gov.uk/cms/sites/default/files/folders/documents/environmentandplanning/planning/mineralsandwaste/September2017/AdoptedMineralsWasteCoreStrategySept2017.pdf

needed during the period of this plan. In view of this, and given that crushed rock resources in Oxfordshire – in particular the resources of limestone outside of Areas of Outstanding Natural Beauty – are extensive, strategic resource areas for possible future crushed rock working are included in policy M3" (paragraph 4.44).

Policy M5: Provision for working aggregate minerals states:

"Permission will exceptionally be granted for borrow pits to supply mineral to associated construction projects, having due regard to policies C1 – C12, provided that all of the following apply:

- *The site lies on or in close proximity to the project area so that extracted mineral can be conveyed to its point of use with minimal use of public highways and without undue interference with footpaths and bridleways;*
- *The mineral extracted will only be used in connection with the project;*
- *It can be demonstrated that supply of the mineral from the borrow pit would have less environmental impact than if the mineral were supplied from an existing source;*
- *The borrow pit can be restored without the use of imported material, other than that generated by the project; and*
- *Use of the borrow pit is limited to the life of the project"*

Policy M8: Safeguarding mineral resources states:

"Mineral resources in the Mineral Safeguarding Areas shown on the Policies Map are safeguarded for possible future use. Development that would prevent or otherwise hinder the possible future working of the mineral will not be permitted unless it can be shown that:

- *The site has been allocated for development in an adopted local plan or neighbourhood plan; or*
- *The need for the development outweighs the economic and sustainability considerations relating to the mineral resource; or*
- *The mineral will be extracted prior to the development taking place.*

Mineral Consultation Areas, based on the Mineral Safeguarding Areas, are shown on the Policies Map. Within these areas the District Councils will consult the County Council on planning applications for non-mineral development."