

Unrestricted Report

ITEM NO: 9

Application No.
15/00229/FUL
Site Address:

Ward:
Binfield With Warfield

Date Registered:
11 March 2015

Target Decision Date:
6 May 2015

Land At Felix Farm Fisheries Howe Lane Binfield Bracknell Berkshire

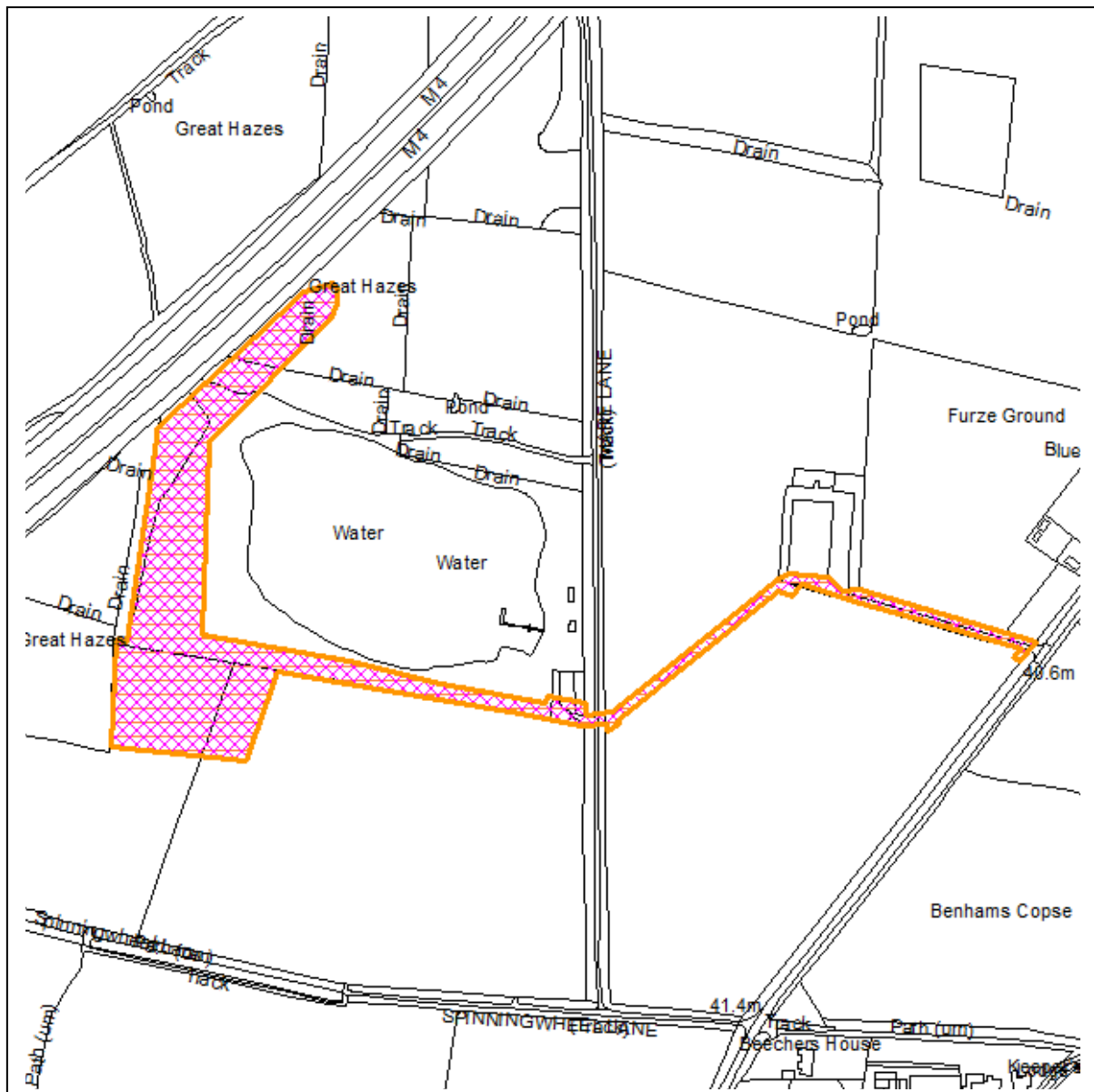
Proposal: **Erection of an acoustic barrier with access and ancillary works.
(This application is a revised version of 13/00869/FUL).**

Applicant: Felix Farm Fisheries

Agent: Land and Mineral Mangement

Case Officer: Sarah Fryer, 01344 352000
Development.control@bracknell-forest.gov.uk

Site Location Plan (for identification purposes only, not to scale)



OFFICER REPORT

1. REASON FOR REPORTING APPLICATION TO COMMITTEE

The application is reported to committee as more than 3 objections have been received.

Members will recall that this application was deferred at the previous committee to enable officers to seek clarification on how to control the length of the operation and type of material that is to be imported.

2. SITE DESCRIPTION

The site is a fishing lake surrounded by grass and vegetation. There is a small car park with access off an unmade track and two buildings on site. To the north the site is bounded by the M4, with wooded areas to the north and west. To the south and east is farmland.

3. RELEVANT SITE HISTORY

13/00869/FUL Formation of acoustic barrier with access and ancillary works
 Refused 25.02.2015 (Refused on highway safety grounds due to conflict with other users of a public bridleway which was used to provide access to the site.)

4. THE PROPOSAL

The proposal is for the construction of an acoustic barrier in the form of a 6.25m high bund and a temporary access road at Felix Farm Fisheries. The bund has been sited as to wrap around the western side of the lake, would be approximately 285m long and varying in width between 70m and 45m.

The acoustic barrier is proposed in order to reduce the noise generated by the M4 to the North West and would be created from inert waste from other sites. The bund would be subject to extensive planting of native shrub and tree species. The barrier would be constructed from inert material imported from surrounding development sites.

A noise assessment has been undertaken and submitted in support of the application. This states that the World Health Organisation (WHO) recommended day time noise levels in amenity areas should not exceed 50 dB and state that 55 dB is the threshold above which people get seriously annoyed. The noise level from the motorway as recorded on 1st February 2012 was typically 69 to 70dB. The bund has been designed to reduce noise levels to between 55 and 60 dB across the site.

The application includes the construction of a temporary access road, or haul road, to transport material on to the site. This would utilise an existing agricultural access onto Howe Lane which currently serves an agricultural building located to the east of the lake, from which a temporary access road would be constructed across the field, to the existing entrance of the fisheries, and around the southern side of the lake. The temporary road would be removed once the bund was constructed. The access route has been amended since the previous application was refused.

5. REPRESENTATIONS RECEIVED

Binfield Parish Council

Recommend refusal for the following reasons:

There would be too many movements of heavy duty lorries resulting in unacceptable increase in noise levels

It is more about commercial tipping than noise abatement.

Debris is likely to be a hazard on countryside roads.

Should the application proceed, vehicle movements should only be allowed during working hours, Monday to Friday 9am to 5pm.

Other representations

Bray Parish Council object to the proposal on the grounds of the increased vehicle movements through Holyport on the A330, Ascot Road.

9 representations have been received objecting to the proposal on the following grounds

Proposal would result in debris on the highway resulting in damage to vehicles.

M4 8 Lane smart Motorway improvements proposes new low noise road surface throughout reducing the need for the bund.

Severe consequences for other users of Howe Lane (i.e. dog walkers, horse riders)

Visibility splays could be improved by cutting back vegetation- is this contrary to Green Belt Policy?

Bund would be harmful to the visual amenity of the Green Belt.

Lorries crossing the narrow bridge on Howe Lane, to the north of the site, would be chaos and all traffic should be directed towards Binfield.

Proposal would result in the noise of the motorway being deflected towards other surrounding properties.

Other acoustic treatments available which would not necessitate the large number of vehicle movements.

Hours of operation would be detrimental to the nearby occupiers.

Transport report does not detail how HGV's will access Howe Lane.

Proposal is unacceptable due to noise and environmental pollution caused by the vehicular movements.

6. SUMMARY OF CONSULTATION RESPONSES

Highways England- No objections

Environmental Health- No objections

Environment Agency - No objections but informatives requested

Berkshire Archaeology- No objections subject to conditions

Highways Officer- No objections subject to conditions

Bio-diversity Officer-No objections subject to conditions

Rights of Way Officer - No objections subject to conditions

Wokingham Borough Council - No objections

Royal Borough of Windsor and Maidenhead- Objects on highway safety grounds

7. DEVELOPMENT PLAN

The Development Plan for this Borough includes the following:

Site Allocations Local Plan 2013 (SALP)

'Retained' Policies of the South East Plan 2009 (SEP)

8. PRINCIPLE OF DEVELOPMENT

SALP Policy CP1 refers to the presumption in favour of sustainable development as outlined within the National Planning Policy Framework (NPPF). SALP Policy CP1 states that the Council will act proactively and positively with applicants to seek solutions which mean that proposals can be approved wherever possible, and to improve the economic, social and environmental conditions within the area. Planning applications that accord with the policies in the development plan for Bracknell Forest should be approved without delay, unless material considerations indicate otherwise.

The site is located in within the Green Belt on the Bracknell Forest Borough Policies Map (2013).

CSDPD Policy CS1 sets out a number of sustainable development principles including making efficient use of land and buildings where it protects the character and quality of local landscapes.

CSDPD Policy CS2 states that development will be permitted within defined settlements and on allocated sites. Development that is consistent with the character, accessibility and provision of infrastructure and services within that settlement will be permitted, unless material considerations indicate otherwise.

These policies are considered to be consistent with the sustainable development principles of the NPPF and as a consequence are considered to carry significant weight.

'Saved' Policy GB1 of the Bracknell Forest Borough Local Plan states:

Approval will not be given, except in very special circumstances, for any new building in the Green Belt unless it is acceptable in scale, form, effect, character and siting, would not cause road safety or traffic generation problems and is for one of the following purposes:

- (i) construction of buildings for agriculture or forestry; or
- (ii) construction of buildings essential for outdoor sport and recreation or other uses of land which preserve the openness of the Green Belt; or
- (iii) construction of buildings essential for cemeteries; or
- (iv) replacement, alteration or limited extension of existing dwellings; or
- (v) construction of domestic outbuildings incidental to the enjoyment of an existing dwelling.

'Saved' Policy GB1 is not considered to be entirely consistent with the NPPF. The NPPF does not change the statutory status of the development plan as the starting point for decision making. However, it is a material consideration.

The proposal is development not listed in saved Policy GB1 and is therefore contrary to 'Saved' Policy GB1 of the Bracknell Forest Borough Local Plan. However, as already mentioned, Policy GB1 is not entirely consistent with the NPPF. As it was adopted prior to 2004, the weight that can be given to this policy is diminished.

The NPPF states (para 90):

"Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:

- mineral extraction;
- engineering operations"

Under the NPPF the proposed bund and temporary access road is an engineering operation and could be considered acceptable in the Green Belt provided they do not affect the openness of the Green Belt. This is discussed below.

It is therefore considered that the proposal is acceptable in principle.

9. IMPACT ON CHARACTER AND APPEARANCE OF AREA

CSDPD Policy CS7 states that development will be permitted which builds upon the local character of the area, provides safe communities and enhances the local landscape where possible. BFBLP 'Saved' Policy EN20 states that development should be in sympathy with the appearance and character of the local area.

These policies are considered to be consistent with the objectives set out within the NPPF. In addition para. 56 of the NPPF states that good design is a key aspect of sustainable development and should contribute positively to making places better for people to live. Furthermore para. 64 of the NPPF states that development should only be granted when the design takes the opportunities where available to improve the character and quality of an area and the way it functions.

The earth bund would be barely visible from any public vantage point and it would be set back within the site which is well screened on all boundaries.

Given the applicants proposal to seed the earth bund with native species and it's existing setting in close proximity to the M4, a man-made structure, it is not considered that it would impact upon the visual openness of the Green Belt setting insofar as detracting from its natural topography so as to warrant a reason for refusal. It is recommended that landscaping conditions be imposed to ensure that a suitable planting scheme is implemented and retained.

It is therefore considered that the development would not result in an adverse impact on the character and appearance of the area and would be in accordance with CSDPD Policy CS7, BFBLP 'Saved' Policy EN20 and the NPPF.

10. RESIDENTIAL AMENITY

BFBLP 'Saved' Policy EN20 criterion vii, refers to the need to not adversely affect the amenity of the surrounding properties and adjoining areas. This is considered to be consistent with the core principle relating to design in paragraph 17 of the NPPF, which states that LPAs should seek a good standard of amenity for all existing and future occupants of land and buildings.

The closest dwelling is some 320m from the proposed bund. At such a distance it is not considered that the proposal would result in a loss of amenity to this dwelling.

Objections have been received regarding the potential deflection of noise by the bund increasing the noise levels at surrounding residential properties. The Environmental Health Officer has been consulted on this specific point and has stated that this would

be unlikely as the bund would have absorptive properties. It is considered that it would not be possible to sustain a reason for refusal on loss of amenity from the proposal.

It is therefore considered that the development would not result in an adverse impact on the amenity of neighbouring properties, and is therefore in accordance with BFBLP 'Saved' Policy EN20 and the NPPF.

11. TRANSPORT IMPLICATIONS

CSDPD Policy CS23 states that the LPA will seek to increase the safety of travel. The NPPF seeks to achieve a safe and suitable access to new development sites for all people. The policy is therefore considered to be consistent with the NPPF.

The proposed bund would require the importation of 60,000 cubic metres of inert waste material on to the site. It is proposed that this will be completed over 2 years using HGV's at around 8-10 loads per day, and not more than 25 loads in a single day.

Access to the proposal has been amended from application 13/00869/FUL so that vehicles utilise an existing dairy access consisting of an 8m wide concrete road. The access road would pass south of the dairy unit building, and follow a new 150m haul road into the Felix Farm property where it would cross over Mare Lane at right angles, reducing the conflict with public rights of way.

The Highways Officer has noted that the existing dairy farm access is already used by large vehicles accessing the dairy farm and the 8m wide concrete surfaced access would enable additional large vehicles to access the site at its junction with Howe Lane. Sight lines in excess of 200m can be achieved in either direction at a set back of 2.4 metres, considered appropriate for the national speed limit road. The current access proposals would be acceptable to the Highway Authority subject to the following conditions:-

Details demonstrating on-site turning for large vehicles within the site so that vehicles can exit the site across Mare Lane in a forward gear.

Wheel washing facilities to prevent mud and debris being transported on to the public highway and causing a danger for other road users.

Specific details including the width, surfacing and drainage of the haul road, including signage to ensure the safe movement of large vehicles across a right of way.

The applicant has confirmed that vehicles would be able to turn within the site and it would be unlikely that any would reverse from the site. It is therefore not considered that this condition is necessary.

The applicant has raised concerns of practicality and cost to install wheel washing facilities at the exit on to Howe Lane. It is considered that given the length of the hard surfacing, minimal mud, and debris would transfer onto the public highway. The applicant has stated that it may be possible to clean the wheels at the agricultural building and therefore it is recommended that a condition be worded to require a scheme for the washing of wheels to be submitted, so a practical but effective solution can be found.

Objections have been received regarding vehicle movements on Howe Lane. This is an unnumbered classified road and not subject to weight restrictions and used by large farm vehicles and trucks. As no objection has been received from the Highways Officer, it is not considered that the increased vehicle movements by HGVs would be a sustained reason for refusal.

Royal Borough of Windsor and Maidenhead (RBWM) have objected to the proposal on highway safety grounds. They state that the increased use of the A330 Ascot Road, north of Strutt Green, by HGVs, would have a detrimental impact on road safety and the free flow of traffic. Sections of this road are characterised by substandard forward visibility splays and narrow carriageways. This has resulted in vehicles mounting the western footway and the RBWM Highway Authority cannot approve of any other proposal that would exacerbate the existing problems and increase harm to those that travel and reside in the area.

The RBWM Highway Authority is currently exploring various options to improve the safe and free flow of traffic in the area and therefore cannot approve of such a proposal which runs contrary to this aim.

The RBWM Highway Authority sees no reason why the applicant cannot explore other alternative routes and must question whether the applicant undertook a site assessment of the lorry routing arrangement, or whether this is purely a desk top assessment. The applicant is advised to consider the following two options:-

Option 1~ south bound journeys

Proceed north along Howe Lane, then turning east on Drift Road and south along the A330 Ascot Road and head south west on the A3095 to access the M3 via the A332.

Option 2 ~ north bound journeys

Proceed north along Howe Lane, then turning east on Drift Road and north along the A330 Ascot Road, then head east on the B3024 Forest Green Road/Oakley Green Road to access the M4 via the A308 Maidenhead Road/A332 Windsor relief road.

The objection cited by the RBWM is on the grounds of the impact of the increased vehicle movements caused by the transportation of the waste material onto the site on an unweight restricted classified 'A' road. Class A roads are defined as major roads intended to provide large-scale transport links and whilst there may be existing safety issues regarding a point on this road, given its classification and that other HGVs can use this route, it would be not be reasonable to refuse this application on these grounds.

It is therefore considered that the proposal is in accordance with CSDPD Policy CS23 and the NPPF.

12. BIO-DIVERSITY

CSDPD Policies CS1 and CS7 seek to protect and enhance biodiversity. This is considered to be consistent with the NPPF which states that planning should contribute to "minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures."

The ecological appraisal shows a good population of reptiles on site. An outline mitigation plan has been included along with the survey results. However, details are missing from this and a full mitigation strategy for reptiles should be prepared and submitted.

Some details are included for a planting and management plan for the bund. More details are required including a timetabled and costed management plan for the bund.

Further details of how this plan would contribute to the Biodiversity Opportunity Area are required. Consideration to ecological connectivity should also be given when designing the planting scheme. A planting and management plan could also be a condition of planning permission.

Therefore the following conditions are required to cover bio-diversity:

- Protection of nesting birds
- Bio-diversity enhancement scheme
- Hard and soft landscaping
- Reptile mitigation scheme

Accordingly, subject to the above conditions the proposal is not considered to harm the bio-diversity of the site and therefore is considered acceptable on grounds of bio-diversity, and the proposal accords with Policies CS1 and CS7 of the CSDPD.

13. PUBLIC RIGHT OF WAY

'Saved' Policy R8 of the BFBLP seeks the protection, extension and enhancement of public rights of way. This is considered to be in accordance with the NPPF's objectives of promoting sustainable transport and improving local health.

The revised proposed access would cross Mere Lane, a restricted byway (byway 23) at right angles opposite the existing access to the fisheries. The proposal has been amended to reduce the conflict with Binfield Restricted Byway 22 to a crossing point. The Right of Way Officer has supported the Highways Officer request for details of signs, visibility splays at the crossing point of the proposed haul road and byway.

Subject to the imposition of suitability worded condition to reduce the impact of the proposed haul road on users of the public by way, then there are no objections from a public right of way perspective and the proposal is considered to comply with 'Saved' Policy R8 of the BFBLP.

14. ARCHAEOLOGY

'Saved' Policy EN7 seeks protect important archaeological remains, and where appropriate will require an assessment of the site. The NPPF seeks the preservation of heritage assets in an approach proportionate with their significance .

The lake at Felix Farm Fisheries was originally a gravel pit providing gravel in the construction of the M4. An archaeological desk based assessment was undertaken in 1994 in relation to the widening of the motorway. This confirmed that a significant part of land on which the bund will be placed has lost any archaeological potential. The applicants have suggested laying a temporary track system which would negate the need to remove any topsoil and therefore leave any archaeological remains in situ. Following the submission of this information the Archaeologist has removed the requirement for a archaeological desk top assessment, and has requested a condition relating to the construction of the haul road.

Subject to a condition to ensure that the haul road is constructed so not as to remove the top soil, the proposal would be unlikely to adversely affect any archaeological remains and therefore the proposal is considered to comply with 'Saved' Policy EN7 of the BFBLP.

15. COMMUNITY INFRASTRUCTURE LEVY (CIL)

Bracknell Forest Council introduced charging for its Community Infrastructure Levy (CIL) on 6th April 2015. CIL is applied as a charge on each square metre of new development. The amount payable varies depending on the location of the development within the borough and the type of development.

CIL applies to any new build (except outline applications and some reserved matters applications that leave some reserved matters still to be submitted) including extensions of 100 square metres of gross internal floor space, or more, or new build that involves the creation of additional dwellings.

As this development does not involve new build, it is not CIL chargeable.

16. OTHER ISSUES

At the previous committee concerns were raised regarding what material would be brought onto the site and that the site would not become a waste transfer station which material would also be exported from. The proposal would use inert or 'chemically inactive' material that is waste from surrounding development sites. Before commencing development the applicant has to be granted by the Environment Agency a permit to import inert material onto the site. This permit will control the type of material the bund would be constructed from, and only allows the importation of the material onto the site. The Environment Agency has powers to enforce should the terms of the permit be broken or material also be removed from the site.

To ensure that the bund is completed as expediently as possible a condition is recommended ensuring that the importation of materials cease after 2 years from the start of the operation. It is also thought prudent to phase the implementation of the planting scheme to ensure that, as sections of the bund are completed, they are landscaped to ensure that the bund assimilates into the landscape as quickly as possible.

Objections have been received on the grounds that there are other engineering solutions to reducing the noise levels within the area of the lake. Whilst this might be the case, the application should be considered as submitted. Whilst the proposal would not achieve the WHO recommended noise levels across the whole of the site, the noise report demonstrates that a significant reduction in the noise levels across the site would be achieved with the construction of the bund.

17. CONCLUSION

It is not considered that the proposed bund would detrimentally affect the visual amenity of the area, nor would the proposed vehicle movements required to import the material result in a detriment to highway safety. The proposal is not considered to detrimentally affect the safe continued use of the public by-way which it crosses nor detrimentally affect the bio-diversity of the area. The proposal is therefore considered to comply with Policies CS1, CS2 CS7 and CS23 of the CSDPD and 'Saved' Policies EN7, R8, GB1 and EN20 of the BFBLP, and the NPPF.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:-

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

02. The development shall be carried out in accordance with the following plans and details received by the Local Planning Authority on 09.03.15:

Location plan (scale 1:1500), Site plan (scale 1:5000), 0856/1464/01C (redesigned screening bund showing three cross sections)

REASON: To ensure that the development is carried out only as approved by The Local Planning Authority.

03. No development shall take place until details of the proposed construction of the new haul road, including details of how the junction with Mere Lane shall be managed, have been submitted and approved in writing by the Local Planning Authority. The haul road shall then be implemented in accordance with the approved details.

REASON: In the interests of highway safety.

[Relevant Policies: Core Strategy DPD CS23]

04. Prior to the commencement of development a scheme for the cleaning of wheels of the construction vehicles, to prevent the transportation of mud, stones, and debris from the site onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall then be implemented in accordance with the approved detail and shall not be removed until the proposed bund is constructed.

REASON: In the interest of highway safety.

05. The development shall not be begun until a scheme depicting soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a 3 year post planting maintenance schedule.

All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved scheme, which will include a phasing schedule. As a minimum, the quality of all soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved.

REASON: In the interests of good landscape design and the visual amenity of the area.

[Relevant Policies: BFBLP EN2 and EN20, CSDPD CS7]

06. No site clearance shall take place during the main bird-nesting period of 1st March to 31st August inclusive, unless a scheme to minimise the impact on nesting birds during the construction of the development has been submitted to and approved by the Local Planning Authority. This shall be implemented as approved.
REASON: In the interests of nature conservation
[Relevant Plans and Policies: BFBLP EN3 CS1, CS7]
07. The development shall not be begun until a scheme for the provision of biodiversity enhancements (e.g. reptile refugia, nest boxes etc), including a plan or drawing showing the location of these enhancements, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be performed, observed and complied with.
REASON: In the interests of nature conservation
[Relevant Plans and Policies: CSDPD CS1, CS7]
08. The development (including site clearance and demolition) shall not begin until a scheme to mitigate the impact of the development on reptiles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:
- o measures to avoid harm to reptiles
 - o features provided to mitigate the loss of habitat (e.g. hibernacula)
 - o habitat enhancements (not mitigation)
 - o on-going management of new features/habitat
- The mitigation scheme shall be implemented in accordance with the approved details.
REASON: In the interests of nature conservation
[Relevant Plans and Policies: CSDPD CS1]
09. The developer shall notify the LPA in writing within 21 days of:
- i the commencement of works on site
 - ii the date on which waste is imported for construction of the acoustic bund
- Within 2 years of the notice period provided to the LPA under part ii, the construction of the acoustic bund authorised by this permission shall cease, and the haul road be removed and the land over which it extended returned to its former condition.
REASON: To ensure that the development is completed in a timely manner and to ensure that the impacts on the amenities in the area are kept to a minimum.
[Relevant Plans and Policies: BFBLP EN20.

Informative(s):

01. Your attention is drawn to the conditions attached to this permission. Conditions 4, 5, 6, 7, 8 and 9, require details to be submitted prior to commencement of development. All conditions must be complied with.
02. This development will require an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency.

We recommended producing a site waste management plan (SWMP). you must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care.

03. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
04. Condition 4 requires details of how the junction between the Haul Road and Mare Lane will be constructed. These details should include, signage making drivers aware of the public driveway and possibly requiring them to stop before crossing, especially from an easterly direction and the visibility splays onto Mare Lane especially for vehicles travelling in a westerly direction.

Doc. Ref: Uniform 7/DC/Agenda

The application file to which this report relates can be viewed at the Council's Time Square office during office hours or online at www.bracknell-forest.gov.uk