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Planning Regulation (Minerals & Waste),
Oxfordshire County Council,
Speedwell House,
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OXFORD. OX1 1NE

24709/A3/MK/dw

BY EMAIL & POST:
mineralsandwasteplanconsultation@oxfordshire.gov.uk

30th September, 2015

Dear Sir/Madam,

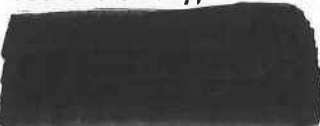
RESPONSE TO THE OXFORDSHIRE COUNTY MINERALS AND WASTE PLAN: PART 1 - CORE STRATEGY PROPOSED SUBMISSION DOCUMENT: REPRESENTATIONS SUBMITTED ON BEHALF OF GALLAGHER ESTATES LTD.

We are pleased to submit the enclosed representations on behalf of Gallagher Estates in response to the Proposed Submission Oxfordshire County Minerals and Waste Plan: Part 1 - Core Strategy. The representations have been prepared by Gallagher Estates' waste consultant, Wardell Armstrong.

Gallagher Estates control land immediately to the north of Wallingford which is being promoted through South Oxfordshire District Council's (SODC's) emerging Local Plan Review for residential-led development. This is in the context of SODC seeking to identify a significant additional supply for housing to meet the needs of the area.

We trust the enclosed representations are clear but please contact the writer on 0118 943 0000 should you wish to discuss or if there are any questions.

Yours faithfully,



MICHAEL KNOTT
Associate

Encs.

cc. S. Clay - Gallagher Estates Ltd. (w/encs.)
S. Barry - Wardell Armstrong (w/encs.)



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Part 1 – Respondent Details

1(a) Personal details		
Title	Mr	
First Name	Spencer	
Last Name	Claye	
Job Title (where relevant)	Project Director	
Organisation (where relevant)	Gallagher Estates Ltd.	
1(b) Agent details <i>Only complete if an agent has been appointed</i>		
Title	Mr	
First Name	Michael	
Last Name	Knott	
Job Title (where relevant)	Planning Associate	
Organisation (where relevant)	Barton Willmore LLP	
1(c) Contact address details <i>If an agent has been appointed please give their contact details</i>		
Address Line 1	The Blade	
Line 2	Abbey Square	
Line 3	Reading	
Line 4	Berkshire	
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Telephone No.	0118 943 0000	
Email address	Michael.knott@bartonwillmore.co.uk	
Are you writing as	<input type="checkbox"/> A resident <input checked="" type="checkbox"/> A local business <input type="checkbox"/> Minerals industry <input type="checkbox"/> Waste industry	<input type="checkbox"/> A parish council <input type="checkbox"/> A district council <input type="checkbox"/> A county council <input type="checkbox"/> Other (please specify)

Please tick the appropriate boxes if you wish to be notified of any of the following:	
That the Oxfordshire Minerals & Waste Core Strategy has been submitted for independent examination	Yes
Publication of the Inspector's report and recommendations	Yes
Adoption of the Oxfordshire Minerals and Waste Core Strategy	Yes

Please sign and date the form:			
Signature:		Date:	30 September 2015

Part 2 – Representation

Please complete this part (Part 2) of the form separately for each separate representation you wish to make.

You can find an explanation of the terms used below in the accompanying guidance on making representations.

2(a) State which part of the Oxfordshire Minerals and Waste Local Plan Core Strategy you are making a representation about

Part or policy no. or paragraph

Policies M3 and M8

2(b) Do you consider the Oxfordshire Minerals and Waste Local Plan Core Strategy is: (tick as appropriate)

- (i) Legally compliant? Yes No
- (ii) Sound? Yes No

If you have answered **No** to question 2(b)(ii), please continue to question 2(c). In all other cases, please go to question 2(d).

2(c) Do you consider the Oxfordshire Minerals and Waste Core Strategy is **unsound because it is not**: (tick as appropriate)

- (i) Positively prepared
- (ii) Justified
- (iii) Effective
- (iv) Consistent with national policy

On the following pages, please set out why you think the Minerals and Waste Local Plan Core Strategy is legally non-compliant and/or unsound and any changes you are suggesting should be made to it that would make it legally compliant or sound.

Please note your representation should include as succinctly as possible all the information and evidence necessary to support/justify the representation and the suggested change, as there will not normally be a subsequent opportunity to make further representations based on your representation at this stage. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

2(d) Please give details of why you consider the Oxfordshire Minerals and Waste Local Plan Core Strategy is not legally compliant or is unsound. Please be as precise as possible.

If you agree that the Oxfordshire Minerals and Waste Local Plan Core Strategy is legally compliant and/or sound and wish to support this, please also use this box to set out your comments.

Gallagher Estates Ltd (GEL) considers that the Core Strategy has not adopted a sound approach to the issue of mineral site allocation in policy M3 and to mineral safeguarding in policy M8.

Policy M3 states that the principal locations for aggregate minerals extraction will be within the strategic resource areas that are indicated on the Minerals Key Diagram which is at the end of chapter 4 of the Core Strategy, on page 62. The Key Diagram shows the whole county at a scale of approximately 1:550,000, so it is very generalised.

Policy M3 goes on to state that specific sites for working aggregate minerals will be identified within these strategic resource areas in the Minerals & Waste Local Plan: Part 2 – Site Allocations Document.

Policy M8 states that Mineral Safeguarding Areas (MSAs) will be defined in the Part 2 document, covering, *inter alia*, sharp sand and gravel in the main river valleys including the strategic resource areas identified in policy M3, and other areas of proven resource. It then states that

“Mineral resources in these areas [i.e. the strategic resource areas] 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.”*

GEL considers that this part of the policy creates confusion and ambiguity for the following reasons. The first sentence in M8 states that MSAs will be defined in the Part 2 document, so it is apparent that MSAs have not yet been defined. Then in the middle of M8, the policy states that *“Mineral resources in these strategic resource areas are safeguarded for possible future use”*. So on the face of it, this policy states that mineral resources in the “strategic resource areas” are already safeguarded but the Mineral Safeguarding Areas within the strategic resource areas will not be defined until the Part 2 Site Allocations Document is prepared at an unspecified time in the future.

The second issue is that the strategic resource areas are shown on a diagram rather than a map, and at a scale which make it impossible for the layman to identify with any precision where they are without expert assistance from a mineral surveyor or geologist. That cannot be helpful for other forms of development.

The third issue is that the conditions that would allow incompatible development in a MSA are very narrow and do not take account of the fact that some or all of the minerals in a strategic resource area may be unsuitable for extraction. In particular, the list of conditions does not allow for incompatible development where the mineral deposit is not economically viable, for instance in cases where it is too small or too thin to be worth extracting or where it is of unacceptable quality. Similarly, the conditions do not take into account that in some areas, mineral extraction may be unacceptable for amenity or environmental reasons.

The fourth issue is that this lack of clarity is likely to last for several years. The County Council's website states that a timetable for preparation of the Part 2 Site Allocations document will be available in 2016. If the timetable is not due to be published until 2016, it is clear that publication and adoption of the Part 2 Document identifying MSAs will not occur until several years hence.

The Practical Impact of These Problems

AS an example, GEL has acquired an interest in promoting a site in the Thames Valley for residential development. GEL has already taken professional advice from a Mineral Surveyor who has advised the company that its site appears to be in a strategic mineral resource area where, according to Policy M8, the mineral resources are safeguarded for possible future use, but the mineral resources are not in a Mineral Safeguarding Area (MSA) because MSAs have not yet been identified. It is therefore impossible to determine with any certainty what the safeguarding status of this site is.

The website of the British Geological Survey shows the location of four boreholes around the site and the borehole logs provide the following information.

- Borehole SU69SW 10: 4 metres of “very clayey” sandy gravel with 21% fines and 54% sand. The fines content is much too high to be an economically viable deposit.
- Borehole SU59SE 12: 1.3 metres of clay overburden then 1.4 metres of clayey pebbly sand with 14% fines and 71% sand. The ratio of overburden to sand is too high to be economically viable and the proportion of fines plus sand renders it uneconomically non-viable.
- Borehole SU69SW 264 has less detail, recording 15 feet (4.6m) of sandy clay and gravel. The reference to sandy clay, in the context of the detailed borehole logs above, indicates that the deposit is unlikely to

be viable.

- Borehole SU59SE 235 also has less detail, recording 11.5 feet (3.5 metres) of gravel and patches of sand.

It is apparent from these borehole logs that the mineral in GEL's area of interest is not an economically viable resource due to an unacceptably high content of fines (silt and clay) and an excessive proportion of sand compared to gravel. However, this demonstrable lack of viability is not specified in the list of conditions which would permit incompatible development.

The implications for the developer are significant because the safeguarding status of the site is unclear, which makes it difficult to justify further investment in promoting the site for housing development. This is not just a problem for GEL – it has the potential to occur anywhere in the mineral areas shown on the Key Diagram and could cause significant problems as the District Councils try to allocate land for much-needed housing developments.

Continue on a separate sheet or expand the box if necessary

2(e) Please set out the changes(s) you consider necessary to make the Oxfordshire Minerals and Waste Local Plan Core Strategy legally compliant or sound, having regard to the reason you have identified at 2(c) above where this relates to soundness. You should say why this change will make the Core Strategy legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Proposed Modifications

The three conditions listed above that would permit incompatible development should be amended by the addition of a further condition that would allow incompatible development if it was shown that the mineral resource was not economically viable or that it was not practicable to extract it. This type of condition occurs in virtually all Mineral Local Plans.

GEL considers that the two stage approach to mineral safeguarding is confusing and unhelpful to the development industry, because it creates uncertainty and blight. The County Council has determined that mineral safeguarding will be dealt with in the Part 2 document, so it should not appear in the Part 1 document. GEL suggests that Policy M8 should be amended to simply state that MSAs will be identified in the Part 2 Document, without starting to partially identify in Part 1 possible areas where it might be imposed.

Continue on a separate sheet or expand the box if necessary.

