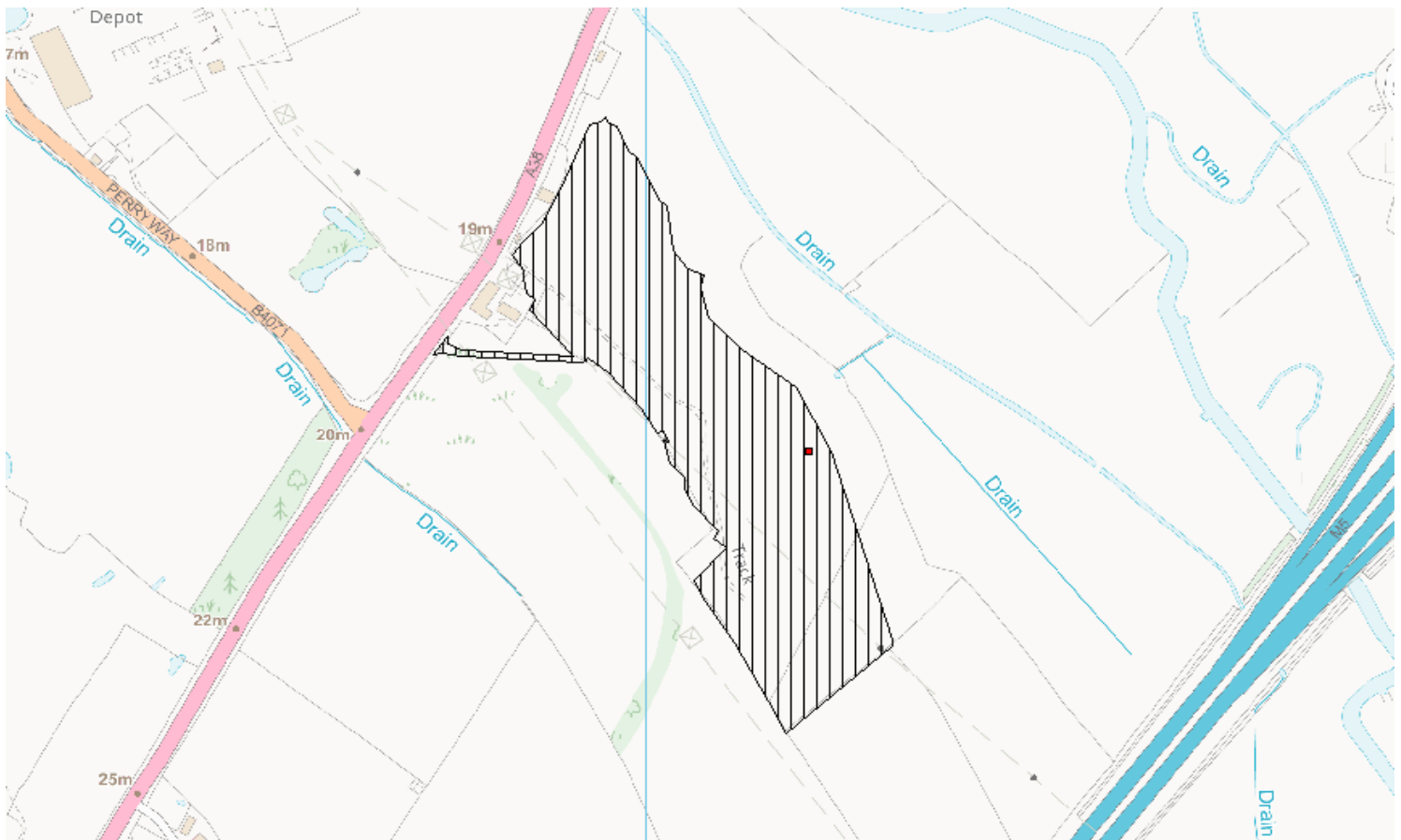




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Item No:	1
Application No.	S.20/2109/FUL
Site Address	Land At, Fromebridge, Whitminster, Gloucestershire
Town/Parish	Eastington Parish Council
Grid Reference	377133,206593
Application Type	Full Planning Application
Proposal	Agricultural improvement of old mineral excavation area with recontouring of land using imported subsoils and soils.
Recommendation	Permission
Call in Request	Councillor John Jones





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Applicant's Details	Mr A Smith Alkerton Court, Alkerton, Eastington, Stonehouse, Gloucestershire GL10 3AQ
Agent's Details	Land & Mineral Management Suite 1 , 82C Security House, Chesterton Lane, Cirencester, Gloucestershire, GL7 1Y
Case Officer	Amy Robertson
Application Validated	06.10.2020
CONSULTEES	
Comments Received	The Environment Agency Biodiversity Officer HCC Highways - Development Coordination (E) GCC as Local Lead Flood Authority Contaminated Land Officer (E) Eastington Parish Council Frampton Parish Council HSE
Constraints	Article 4 Directive Consult area Neighbourhood Plan Eastington Parish Council SAC SPA 7700m buffer
OFFICER'S REPORT	

DESCRIPTION OF SITE

The application site comprises low grade agricultural land to the East of the A38. It is located adjacent to the petrol station to the north of the Fromebridge junction with the B4071 (Perry Way) that heads towards Frampton on Severn. The site was a former mineral extraction site that was infilled and is now used as grazing land due to the uneven nature of the site making it unable to allow traditional crop cultivation.

The site its self does not lie within any landscape nor conservation protection designations, however, the Industrial Heritage Conservation Area is in places is located approximately 150 metres to the north on the other side of the River Frome and Thomas and Severn Way path. The historic Listed buildings at Fromebridge Mills are also nearby within the Conservation Area but on the other side of the A38.

The site lies within Flood Zone 1, which has a low probability of flooding.

PROPOSAL

This application seeks planning permission for the improvement of agricultural land including the importation of waste soils from external of the site and the re-contour of site.



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REVISED DETAILS

None

REPRESENTATIONS

Statutory Consultees:

Eastington Parish Council – Objects on highways grounds, concern over residential amenity and work commencing at 0700, and drainage issues.

Frampton Parish Council – Request the application be taken to development control committee. Concerns over drainage and highways.

Senior Contaminated Land Officer – Acceptable subject to remediation condition.

Environmental Health: To be report

Senior Biodiversity Officer – no objection subject to conditions

Health and Safety Executive – does not advise against granting permission on safety grounds.

County Archaeologist – No further archaeological investigation or recording should be undertaken in connection to the scheme.

GCC as Local Lead Flood Authority – no objection

GCC Highways – No objection subject to conditions

The Environment Agency – requested the application be parallel tracked (planning application and the required Environmental Permit)

Public:

At the time of writing this report, one representation was made by a member of public, objecting to the application. The objector sited rising water levels at their property as a result of previous works to the application site.

Relevant Planning Policies

The adopted Stroud District Local Plan, November 2015 is the development plan for Stroud District.

Local Plan policies considered for this proposal include:

CP1 - Presumption in favour of sustainable development.

CP13 - Demand management and sustainable travel measures.

CP14 - High quality sustainable development.

CP15 - A quality living and working countryside.

EI12 - Promoting transport choice and accessibility.

ES1 - Sustainable construction and design.

ES2 - Renewable or low carbon energy generation.



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ES3 - Maintaining quality of life within our environmental limits.

ES4 - Water resources, quality and flood risk.

ES5 - Air quality.

ES6 - Providing for biodiversity and geodiversity.

ES7 - Landscape character.

ES8 - Trees, hedgerows and woodlands.

ES10 - Valuing our historic environment and assets.

Supplementary Planning Guidance is available on our website. The Stroud District Landscape Assessment SPG (2000) is of relevance.

The application sits within the boundary of the Eastington Neighbourhood Development Plan (October 2016) and the development should accord to this plan, as well as the Stroud District Council Local Plan.

PRINCIPLE OF DEVELOPMENT

The determination of a planning application should be made in accordance with the development plan unless any material planning considerations indicate otherwise, as described by Section 38 (6) of the Planning and Compulsory Purchase Act 2004. Therefore, this application should be considered against the policies contained within the Stroud District Local Plan (adopted 2015) and the adopted Eastington NDP.

Policy CP15 of the Local Plan (A quality living and working countryside) is perhaps the most fundamental and overarching policy to be used in the determination of this application. The policy seeks to protect the quality of the countryside and there is a presumption against development in these locations outside the defined settlement limits unless it met specific criteria eg meets a rural need.

In the case of this application, the proposal seeks to improve the quality of agricultural land within the application site from grade 4 (Poor Quality) to grade 3a level (Good Quality). In doing so, the quality of the land will be improved to match that of the surrounding fields and will allow for the land to be utilised for normal agricultural cultivation processes. At present, due to the way in which the land was covered at the end of the mineral extraction phase of the site, the land is uneven and not able to be affectively used for growing crops.

Therefore, as the proposal seeks to improve the agricultural nature of the land, it is considered that the application in this regard is acceptable as it complies with policy CP15, paragraph 1, whereby it is stated, application will be permitted where "it is essential for maintenance or enhancement of a sustainable farming enterprise within the district".

In addition to CP15, there are a number of other significant policies that relate to specific elements of the proposed development that will be discussed in turn below.



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CONTAMINATED LAND

The application in essence seeks to move material from external of the site, onto it in order to re profile the land to better suit agricultural practices. It is proposed that 57,000 m³ of material will be required to do so.

Local Plan Policy ES3 (quality of life within our environmental limits), paragraphs 2 and 6 are the most appropriate for assessing this aspect of the application. They require the assurance that there will be no harm caused to the environment, land or water courses in order for a development to receive planning permission.

As foreign material will be placed onto the land, it is critical that the LPA are content that there will be no polluting substances brought in that could cause harm to either humans or the environment. Although the planning statement suggests that the material will be clean and unpolluted, there is no strategy or monitoring schedule provided as part of the application to allow monitoring of this, and so the LPA cannot be confident that this will be the case. Whilst it was requested by the Contaminated Lands Officer that a document detailing how material will be screened for pollutants etc be submitted prior to determination of the application, this was resisted and not provided. The agent stated that the required Environmental Permit from the Environment Agency (EA) will effectively do the same thing and therefore this was not required under the planning process.

As Policy ES3 (paras 2 and 6) state, permission will not be granted for developments which would be likely to, or lead to, an unacceptable level of harm to the environment or human health. This stance is ratified within the National Planning Policy Framework (NPPF), at paragraph 170 (e), whereby it is stated that Local Planning Authorities (LPAs) should prevent development from contributing to unacceptable levels of soil, air, water, noise pollution of land instability. Whilst it is acknowledged that the EA will require similar information when the applicant applies for the relevant permits, Local Plan policy ES3 and the NPPF paragraph 170, make it quite clear that this information is required in order for LPAs to make informed decisions. It is therefore the LPAs view that the agents' assessment of this requested information not being required for the purposes of planning to be incorrect, and a pre-commencement condition requiring the information as requested by the Councils Contaminated Lands Officer be applied to any permission granted for this scheme.

The condition will enable the LPA to make a full and detailed assessment of the proposed remediation scheme, this will cover the material being brought onto the site, risk management actions and also require validation reports to demonstrate the effectiveness of the strategy and outcome contaminant levels to comply with policy ES3 of the Local Plan.

LANDSCAPE IMPACT

The proposed application seeks to re-contour the application site and therefore change the levels and appearance of the landscape. It is therefore crucial that the proposed change does not have a significant negative impact on the landscape of the site, or of the surrounding area.



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Policy ES7 of the Local Plan (Landscape Character) ensures that “in all locations development proposals should conserve or enhance the special features and diversity of the different landscape character types within the district”.

As stated above, the application site is not located within a conservation area, nor any Area of Outstanding Natural Beauty (AONB). This does not however preclude the site from having any intrinsic level of landscape character, which of course it has. The site is located within the Severn Vale landscape area as categorised within the Supplementary Planning Guidance note on Landscapes within the District (The Stroud District Landscape Assessment, 2000). Key characteristics of this area include varied flat to undulating landscapes, mixture of arable and pasture lands and strong field patterns of small/medium sizes in scale. Importantly, the document describes the area as being a semi-enclosed landscape with some distant views onto it.

In assessing this application against policy ES7, we have to be satisfied that the proposed application will not alter the landscape of the site to such a state that it no longer compliments the Severn Vale landscape character.

The application will if approved, bring in 57,000m³ of material from other sites within the district and re-contour the site. Inevitably the ground level will be increased as a result. The overall aim of the proposal is to level out the currently uneven land in order for it to be used for crop cultivation in the future. Whilst the landscape assessment states undulating landscapes within the Severn Vale, so too does it highlight flat ones. As such, it is not considered that the levelling off of this relatively small section of the countryside to be in opposition to Policy ES7. It is considered that the site will not look alien within its immediate setting, nor will it from further afield where limited views of it may be achieved.

HIGHWAYS

The site is located near to the A38 and the busy Frampton junction and as such, highway matters are of critical importance to the assessment of this application and have been raised by the Parish Councils and local residents.

Within the Local Plan, Policies CP13 (Demand management and sustainable travel measures) and EI12 (Promoting transport choice and accessibility) are the two relevant policies that deal with access and highway related concerns.

CP13 requires all new development to not cause or contribute to significant highway related problems, be located where there are choices for different modes of travel and to where possible, enhance road safety.

EI12 is concerned more specifically with how each proposed new development will link into the existing highway network, either through delivering appropriate transport infrastructure, enhancing the accessibility where possible and adhering to parking standards.

Government guidance within the National Planning Policy Framework (NPPF) also outlines that development should only be refused on highway safety ground where the impact would be severe (NPPF Paragraph 109).



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Prior to this application being submitted, a new access road off the A38 was approved under a separate application (S.19/0230/FUL) with GCC Highways support and has now been constructed to allow better access onto the land. It is proposed that all works proposed under this application be done via this road.

Gloucestershire County Council Highways Department were formally consulted as part of this application and have provided their formal response in May 2021. The response states that the access road has been constructed to an acceptable standard to accommodate the anticipated movements in and out of the site, and also to accommodate the required 32 tonne lorries that will be moving the infill soil onto the site. The submitted swept path analysis demonstrates that this size of vehicle can use the access and minor alterations to the existing access to provide central island will direct traffic to turn left on exiting the site and not cross the solid white lines on the highway.

The local concern regarding the proximity to the busy A38 - Perry Way junction and the highway implications of the scheme are appreciated. The applicant's transport statement outlines that the work will be spread over 18-24 months with the material being used when it becomes available from other sites. It is therefore difficult to outline the number of daily visits as this will fluctuate with some days there being no movements. They have outline 10 lorries, 20 movements (in and then out again) per work day week. This is approximately 1 lorry per hour. To address the concerns, the routing of lorries has to be appreciated and with further information and alterations to the existing access the current scheme now provides additional reassurance of the avoidance of the need to cross the centre line of the A38 and improves the safety implications.

Whilst the concerns are still noted, the highways officer has raised no further safety issues with the expected daily lorry movements and with the access already having permission and appropriate visibility splays and amendments being provided, there is no evidence to show the highway safety impact would be severe.

It is therefore considered that the proposed scheme would be compliant with Policies EI12 and CP13 of the Local Plan and not cause conflict to the existing highway network and will enable safe and suitable access onto and off the site.

Whilst CP13 advocates the use of alternative methods of transport other than private vehicles such as busses and trains, given the location of the site being within the countryside, and its existing and intended use as farming land, this would not be appropriate or plausible.

RESIDENTIAL AMENITY

There is a small number of residential properties located immediately adjacent to the application site, on the A38 north of the petrol station, that could be impacted by the proposed development.

Policy ES3 (Maintaining quality of life within our environmental limits) is the policy within the local plan that is used most prominently to assess the impact a development will have on the residential amenity of neighbouring properties, members of public, or other visitors alike.



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The policy states that planning permission will not be granted where, amongst other things, the development would lead to an unacceptable level of “noise, general disturbance, smell, fumes, loss of daylight/sunlight” etc.

It should be noted that Eastington Parish Council raised concern over the proposed commencement of work on the site at 0700 and the noise impact this would have on the nearby residential properties.

The ongoing use of the land for agriculture proposed is unlikely to give rise to significant noise or disturbance. However, the temporary construction phase when the materials is being brought into the site has more potential to have an impact on residential amenity of local residents.

The access point is located way from the nearest residential properties located on the A38 but it is appreciated that part of the site is located close to the two nearby residential properties. Further technical input from the Environmental Protection Manager has been sought and will be reported to committee. Whilst it is generally accepted that all development has the potential to cause some disruption, it is considered that with appropriate mitigation and neighbourly behaviour this can be limited. Whilst further comments from Environmental Health will be reported it is anticipated that given the location adjacent to the A38 and nearby M5 and that the access and majority of the site is set away from the nearby properties this issue can be adequately addressed.

The application does not propose bringing any material onto the site that will cause any significant smell, fumes, or environmentally harmful substances and as such, it is considered that the application complies with policy ES3 in that there will be no adverse effect on the land or risk to human health.

ECOLOGY

Through Local Plan Policies ES6 (Providing for biodiversity and geodiversity) and ES8 (Trees, hedgerows and woodlands), the natural and ecological domain is protected from harmful forms of development.

This application was submitted alongside ecological reports highlighting the presence of great crested newts (GCN) and an outlier badger set located on the edge of the application site. Both GCN and Badgers are protected under the Conservation of Habitats & Species Regulations 2017 and the Badgers Act 1992.

The application proposes the retention of mature trees and pond in situ, with the creation of a rough grassland around the pond, improvement of boundary hedges, infilling gaps and a 3m grassland strip. These measures have come from the recommendations made within the ecological reports.

The Biodiversity team have assessed the submitted documentation and assessed the plans and are satisfied with the proposed measures. Conditions have been recommended to ensure the submitted mitigation scheme is fully implemented in accordance with the Policies ES6 and ES8 of the Local Plan as well as National biodiversity legislation.



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FLOOD RISK

Local Policy ES4, (Water resources, quality and flood risk) is the overarching policy that seeks the protection of water courses within the district, as well as ensuring developments can demonstrate that the proposals will be safe, not increase the risk elsewhere, and maximise the opportunities to reduce flood risk. The application site lies within flood zone 1, the Environment Agencies' lowest level of flood zoning.

As the application is submitted alongside a Flood Risk Assessment (FRA) that assesses the current status of the site, as well as the likely outcome from the proposed development. The results from this FRA concluded that the proposed re-contouring of the site has a low risk of flooding.

The FRA also provided details of the proposed drainage strategy should the application be permitted. The strategy proposes that surface water collected on site be directed through swales and stored in an onsite pond before discharging into the River Frome.

This modelling included rainfall events up to and including 100 years, taking account of existing and proposed runoff rates and climate change consideration at 40%. The storage in the pond (905m³) would allow controlled discharge into the watercourse at greenfield rates.

The drainage engineers at GCC as the Lead Local Flood Authority (LLFA) have assessed the submitted information. The LLFA are content that the proposed drainage strategy is compliant with requirements and that the swales and pond will manage water quality and will be sized to accommodate increases of rainfall as a result of climate change. The LLFA are also content with the proposed application in terms of its impact on water courses and impact on flooding and have provided no objections.

It is noted that one objection from a member of Public was received throughout the course of the application citing rising water levels for their property as a result of other works carried out on this site and the Parishes concerns regarding drainage issues.

In light of the statutory consultee, the LLFA provided technical input and being satisfied with the submitted information, the site being in flood zone 1 and providing an appropriate drainage strategy whilst the concerns are noted there is no evidence that this proposal will cause any significant drainage and flood issues, it is therefore considered that the application is compliant with Local Plan policy ES4.

HERITAGE ASSETS

Local Plan Policy ES10 (Valuing our historic environment and assets) seeks the protection of the districts historic assets, and great weight is given to ensure that development proposals do not harm their setting or importance within the landscape, nor reduce their historic importance.

As stated above, the application site is located some 150m away from the Conservation Area including Fromebridge Mill (Grade II listed building) to the North. The application site is located on the opposite side of the A38 and at some distance to the Listed building, and is screened by a number of mature vegetative boundaries between both locations. The rural nature of the proposal and limited scale and height are also appreciated.



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Therefore, it is considered that the proposed development would not cause harm to Fromebridge Mill, the Conservation Area or impact their setting in any significant way and as such, the application is deemed to comply with the provisions to protect and value our historic environment and assets under Policy ES10 of the Local Plan.

PLANNING BALANCE AND CONCLUSION

Each element of the application has been addressed above in relation to the detail submitted and its compliance with the policies contained within the Local Plan.

Whilst concerns have been raised about highway safety, the amended access and technical assessment by the highway officer has address these and it is considered the proposal will not have a severe impact on highway safety.

Concerns have also been raised regarding the potential impacts on site drainage and flooding. However, the scheme includes an appropriate drainage strategy which storage water to allow for an appropriate greenfield runoff rate.

The scheme is in affect further remediation to the previous historical gravel extraction on the site and appropriate controls of the import material are required to protect the nearby residents and the environment.

The site seeks to improve the existing agricultural land, the hedges and trees will be retained and buffer and pond provided. It is therefore considered ecological impacts have been mitigated and the wider landscape will not be significantly affected.

Given the above, it is considered that the development as a whole is in accordance to the policies contained within the Local Plan, and as such, the application is recommended approval subject to conditions.

Subject to the following conditions:	<ol style="list-style-type: none"><li data-bbox="456 1420 1503 1675">1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.<li data-bbox="456 1675 1503 2042">2. The development hereby permitted shall be carried out in all respects in strict accordance with the approved plans listed below: SM/244/03 - Site Location Plan - Received 6.10.2020 SM/244/04 - Level Survey - received 6.10.2020 Preliminary Ecological Appraisal, by Wild Service, dated April 2019 Great Crested Newt Surveys and Risk Avoidance Method Statement, by Wild Service, dated September 2020 Flood Risk Assessment, by Amber Planning, dated September 2020
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Transport Assessment, by I M A transport planning, dated September 2020

Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of good planning.

3. The development hereby permitted shall not commence until the existing vehicular access have been amended, constructed and completed in accordance with the submitted IMA Highways Technical note 1 and amended drawing (Drawing No. IMA-19-217-104 submitted on 30 Apr 2021).

Reason: In the interest of highway safety in accordance with paragraphs 102 and 108-111 of the NPPF and Policy CP13 of the Stroud District Local Plan 2015.

4. No development shall not begin until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measuring perpendicularly), for a distance of 160m in each direction measured along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected, and/or allowed to grow on the triangular area of the land formed which would obstruct the visibility described as such.

Reason: In the interest of highway safety in accordance with paragraphs 102 and 108-111 of the NPPF and Policy CP13 of the Stroud District Local Plan 2015.

5. The development hereby permitted shall not begin until a remediation scheme has been submitted and approved by the Local Planning Authority. The scheme shall include how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end-point of the remediation should be stated, such as site contaminant levels or a risk management action, as well as how this will be validated. No deviation shall be made from this scheme without prior written approval from the Local Planning Authority.

No part of the development hereby permitted shall be used for the growing of crops/ grazing of livestock until a verification report detailing the remediation works undertaken and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology has been submitted to, and approved by, the Local Planning Authority. Details of any post-remedial sampling and analysis to show that the site has reached the required contaminant levels shall be included,



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together with the necessary documentation detailing what waste materials have been removed from the site, prior to deposition.

Reason: To protect the health of future users of the site from any possible effects of contaminated land in accordance with the guidance within the NPPF in particular, paragraph 120.

6. All works shall be carried out in full accordance with the recommendations contained in the Great Crested Newt Surveys and Risk Avoidance Method Statement, by Wild Service, dated September 2020, as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To protect and enhance the site for biodiversity in accordance with paragraph 174 of the National Planning Policy Framework, Policy ES6 of the Stroud District Local Plan 2015 and in order for the Council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

7. No development shall take place (including ground works, vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

- Measures that will be taken to protect the ditches and pond from surface run-off during the construction phase.
- The locations of where machinery and materials will be stored
- Details as to where excess spoil will be stored and distributed
- Methods and Timings for the removal of vegetation likely to support breeding birds.
- Full details of measures that will be taken when clearing vegetation with potential to support reptiles and great crested newts.
- Details explaining how badgers will be safeguarded during clearing of the site and the implementation of the proposed works.
- The role and responsibilities on site of an ecological clerk of works ECOW or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that protected and priority species are safeguarded in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and



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Countryside Act 1981 as amended, Circular 06/2005, the National Planning Policy Framework, and Policy ES6 of the Stroud District Local Plan 2015, and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

8. No construction site machinery or plant shall be operated, no process shall be carried out and no construction related deliveries taken except between the hours of 08:00hrs and 18:00hrs on Monday to Fridays, between 08:00hrs and 13:00hrs on Saturdays and not at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality, especially for the people living/ or working nearby, in accordance with Stroud District Local Plan Policy ES3.

Informatives:

1. The construction of an upgraded access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Gloucestershire Highways on 08000 514 514 or highways@gloucestershire.gov.uk before commencing any works on the highway.