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<b>APPLICATION NO.</b>	<a href="#">P09/W0727</a>
<b>APPLICATION TYPE</b>	FULL
<b>REGISTERED</b>	27.07.2009
<b>PARISH</b>	EWELME
<b>WARD MEMBER(S)</b>	Felix Bloomfield Sue Cooper
<b>APPLICANT</b>	Grundon Waste Management Limited
<b>SITE</b>	Ewelme Depot Goulds Grove Ewelme (In the parishes of Benson and Ewelme)
<b>PROPOSAL</b>	Removal of conditions to secure improvements to Clack's Lane and to provide new access (conditions 16 and 17 of P04/W1169). Retention of existing access.
<b>AMENDMENTS</b>	
<b>GRID REFERENCE</b>	464559/190327
<b>OFFICER</b>	Mrs S Crawford

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**1.0 INTRODUCTION**

- 1.1 The application has been referred to the Committee because the recommendation conflicts with the views of Ewelme and Benson Parish Councils.
- 1.2 The existing site has been used for a considerable period of time as a base by Grundons for their waste management collection service and for related personnel and finance offices. Grundons have been on the site since the 1940's. The site is situated in an isolated location in the open countryside within the Chilterns Area of Outstanding Natural Beauty (AONB). The surrounding land is mainly farm land in arable use and open countryside. The site lies approximately 4.5 km (2.8 miles) east of Wallingford. Access is from Icknield Way via Clack's Lane. The village of Ewelme is located 1 km (0.6 miles) to the north and the village of Benson 2.5 (1.5 miles) km to the northwest.
- 1.3 The site is identified on the Ordnance Survey Extract **attached** at Appendix 1.

**2.0 PROPOSAL**

- 2.1 The application seeks planning permission for the removal of conditions 16 and 17 from planning permission P04/W1169. This application granted planning permission for the redevelopment of the existing depot at Goulds Grove involving the construction of workshops and new offices, formation of car parking areas and access road and associated landscaping.
- 2.2 Condition 16 requires a series of improvements to Clacks Lane to be carried out before the commencement of any other development on the site. The improvements include cutting back the roadside vegetation, reinforcing haunches, road markings to be reinforced by reflective road studs, improvements to field access and re-alignment of a road sign. The improvements are fully detailed on drawing no 2004.1729.001
- 2.3 Condition 17 prevents the commencement of other development on the site until the new access is practically complete.
- 2.4 Grundons have reviewed their needs for the Ewelme site and set out their case in the supporting statement accompanying the application. Grundons no longer want to

construct the new office headquarters at Goulds Grove as they have recently gained planning permission to relocate these offices to the Gurney's garage site in Benson which offers greater flexibility for future growth of staff numbers (see application P09/W0652). The consented workshop buildings are also not required in the near future. Some of the internal re-arrangement of the site will go ahead to allow for the new Waste Transfer Station (WTS) which will implement the planning permission and allow the workshop element of the scheme to be built when it is required. The WTS will still operate from the site and the new WTS will be built once the legal agreement with the County Council has been signed and planning permission issued (P04/W1164/CM). As the offices and associated car parking will not be constructed Grundons maintain that there is no longer any need to provide a new access to the site; Grundons would like to continue using the existing access. Given the operational changes and plans for the site as a whole conditions 16 and 17 requiring a new access and improvements, are either not relevant or not reasonable in their view.

### 3.0 CONSULTATIONS & REPRESENTATIONS

3.1 County Archaeological Services No observations.

OCC (Highways) No observations to date.

Ewelme Parish Council Refuse, removal of the condition would result in the poor state of Clacks Lane not being sorted out. No problems with access.

Benson Parish Council Refuse. Benson PC is extremely keen that Clacks Lane should be improved; Grundon Lorries will still be using the site and Clacks Lane even if fewer cars are. There is no objection to the retention of the existing access.

### 4.0 RELEVANT PLANNING HISTORY

4.1 **P08/W0900** - Variation of condition 3 (landscaping) and condition 29 (phasing of development) of planning consent P04/W1169 to allow the relocation of a proposed new weigh bridge facility and removal of phasing. APPROVED.

4.2 **P07/W0749/CM** - Retention of existing hazardous waste recovery and transfer facility for a temporary period of two years – APPROVED.

4.3 **P04/W1169** – redevelopment of depot involving new workshop, offices, access, parking and associated landscaping – APPROVED.

4.4 **P09/W1164/CM** - Construction of replacement waste transfer station, formation of access and associated landscaping – **resolution to approve subject to a S106 agreement detailing contributions and road improvements.**

4.5 **Also relevant on Gurneys Garage site, Oxford Road, Benson.**

P09/W0652 - Internal modifications and change of use of former car showroom and workshops to office accommodation for Grundons - APPROVED.

### 5.0 POLICY & GUIDANCE

5.1 Adopted South Oxfordshire Local Plan Policies;

C2 – development within AONB

T1 – Transport requirements

Circular 11/95 – The use of conditions in planning permissions

6.0 **PLANNING CONSIDERATIONS**

6.1 The main issues in this case are;

- To consider the tests set out in Circular 11/95.
- To consider the case to justify the removal of the conditions

6.2 **Circular 11/95 tests.** Conditions should only be imposed where they are necessary and reasonable; conditions also need to be enforceable, precise and relevant both to planning and to the development to be permitted. Conditions should only be imposed if planning permission would have to be refused if the requirements of that condition were not imposed. If not, then the condition needs special and precise justification.

Where circumstances change between the granting of planning permission and implementation Section 73 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. A condition should not be retained unless there are sound and clear-cut reasons for doing so. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under section 73.

In some cases a condition is clearly unnecessary, such as where it would repeat provisions in another condition imposed on the same permission. In other cases the lack of need may be less obvious, and it may help to ask whether it would be considered expedient to enforce against a breach-if not, then the condition may well be unnecessary.

It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature of the development permitted or its effect on the surroundings. For example, if planning permission is being granted for the alteration of a factory building, it would be wrong to impose conditions requiring additional parking facilities to be provided for an existing factory simply to meet a need that already exists, and similarly wrong to require the improvement of the appearance or layout of an adjoining site simply because it is untidy or congested; despite the desirability of these objectives in planning terms, the need for the action would not be created by the new development. Nevertheless it is proper for conditions to secure satisfactory access, for example, or parking facilities, genuinely required by the users of the proposed development.

6.3 **The case to justify removal of conditions.** Conditions 16 and 17 pose particular problems for Grundons because they prevent any other development to implement the planning permission until the improvements to Clacks Lane have been carried out (16) and the new access has been provided (17). Both conditions are unduly restrictive in Grundons' view and in the case of condition 16 include a time trigger for works to be carried out by a third party.

Grundons assert that condition 16 is not reasonable. Whilst they have agreed to make the contribution to fund the improvements Grundons do not have control of the programming or construction of the works which will be carried out by the County Council. The condition restricts Grundons from implementing their planning permission until action is carried out by a third party over which the applicant has no control.

In your officer's view there is also a question of reasonableness in respect of the non implementation of the office part of the scheme. Without the offices there is no increase in traffic generated from the redevelopment proposal in connection with the District

Council controlled development. The condition to require improvements to Clacks Lane is no longer justified by the nature of the development permitted as it seeks to secure something that is in excess of the need generated.

The improvements to Clacks Lane are required in connection with the new WTS (being dealt with by the County Council) and the legal agreement associated with that application will secure the contributions and phasing details of those works. Negotiations on the legal agreement are ongoing. The Parishes concerns about the state of Clacks Lane and their desire for improvements as soon as possible are valid planning objectives but are not justified by the nature of the development permitted by SODC (this issue is rightly dealt with by the County Matter application).

Condition 17 is not now necessary in your officer's view. There is an acceptable existing access to the site that can accommodate the existing traffic using the site. There is no objection to the retention of the existing access. Its retention would mean that the offices and associated car parking can not be built. If however, the office accommodation is provided in the future (once the permission is implemented the permission for the offices would remain in perpetuity) then an amended condition requiring the new access as approved under the original application is justified as detailed below.

#### 7.0 **CONCLUSION**

- 7.1 There has been a change in circumstances since the original planning permission was granted and a new access to the site is no longer required. The planned provision of the new WTS will ensure that necessary road improvements are carried out on Clacks Lane. In the circumstances there is no objection to the removal of conditions 16 and 17 of planning permission P04/W1169.

#### 8.0 **RECOMMENDATION**

- 8.1 **That planning permission for the removal of condition 16 and 17 of P04/W1169 and the following condition is suggested to replace condition 17.**

1. **In the event that the new offices are constructed in the future, the new site access junction onto Icknield Way detailed on the plans approved under P04/W1169 shall be constructed strictly in accordance with the Local Highway Authority's specifications prior to the first use of the offices.**

**Reason: As the new offices and parking to serve the offices are in the location of the existing access and the provision of the offices would require a new access for the site to be created in accordance with Policy T1 of the adopted South Oxfordshire Local Plan**

**NB: All the other conditions on planning permissions P04/W1169 and P08/W0900 are still relevant.**

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