

Application No: 13/5290W

Location: LAND AT LEE HILLS, CROKER LANE, SUTTON

Proposal: Periodic review of mineral permission 5/97/1502P under the Environment Act 1995

Applicant: R RATHBONE

Expiry Date: 09-Mar-2014

## **REASON FOR REPORT**

An application has been made under the Environment Act 1995 to seek a formal postponement of the periodic review of mineral permission at Croker and Lee Farm Quarry, Sutton, Macclesfield.

## **SITE HISTORY AND CONTEXT**

Croker and Lee Farm Quarry is located in a remote, elevated position approximately four miles to the south east of Macclesfield. Vehicular access is taken from A523 via the unclassified Old Leek Road.

One property lies adjacent to the quarry access road although it lies approximately 200m from the current working areas of the quarry. Three further residential properties lie within 150m and 200m (approximate) of the quarry. The Gritstone Trail crosses the site on its eastern fringe.

The site lies immediately adjacent to Ratcliffe Wood, Gawsworth Common and Whitemoor Hill Grade B Site of Biological Importance (SBI). It also lies in an Area of Special County Value on the Macclesfield Local Plan Proposals Map along with being partly located in the Green Belt.

Planning permission for the quarrying of silica stone was granted in 1952 which permitted the extraction of an area of 26ha for silica stone until 22nd February 2042. This permission was then reviewed in accordance with the Environment Act 1995 and a new set of planning conditions were issued in July 1999.

Silica stone is mainly used in road making materials and demand for this mineral has dropped in recent years. As such, extraction at the site has continued on a sporadic basis as and when there has been a demand for aggregates. The material is extracted using tracked hydraulic excavator and dump truck. The requirements of the extant planning permission are that the site is worked in a phased manner with rolling restoration such that each phase is restored immediately after the cessation of stone extraction prior to the next phase being worked; with no more than 3 hectares of land being stripped of soil at any one time.

The extant permission approved the restoration of the site to agricultural land. The outer flanks of Lee Hills have now all been restored and Croker is continuing to be quarried as and when contracts for stone are won with some restoration anticipated in 2015. Despite this, large sections of the site remain unworked. The applicant has indicated that there are substantial mineral reserves remaining at the sites, somewhere in excess of 5 million tonnes. Current extraction rates are low averaging between 10,000 to 20,000 tonnes per annum.

The planning permission provides for working between 0730 to 1800 hours Monday to Friday and 0730 to 1300 hours Saturday; and restricts heavy goods vehicle movements to 30 per day (15 in and 15 out). The conditions also provide controls over working practices, environmental impacts and site restoration.

## **BACKGROUND TO THE REVIEW OF MINERAL PERMISSIONS**

The Environment Act 1995 (Section 96) placed a duty on all Mineral Planning Authorities (MPAs) to review and update planning permissions for mineral sites which were granted planning permission under the Town and Country Planning Acts between 1948 and 1983; and to then undertake a periodic review of the conditions thereafter. This process is known as the Review of Old Mineral Permissions (ROMP).

The purpose of the ROMP review is to allow MPAs to update older mineral planning permissions to bring them into line with modern standards of environmental protection and planning control, and to impose modern restoration and aftercare conditions. Under the legislation this process cannot remove the right to extract minerals as it is only the nature and scope of the planning conditions which is under review. When the review is completed a new planning permission is issued with updated conditions attached.

The Environment Act 1995 placed an automatic duty on MPAs to require a periodic review of the planning conditions of mineral sites every 15 years following the determination of the initial review. Failure of land/mineral owners to submit applications for the determination of new sets of conditions would trigger an automatic suspension order and could then lead to a prohibition Order being issued which would mean the relevant permission would cease to have effect.

The Environment Act 1995 also allowed land/mineral owners to apply to the MPA to postpone this review where the existing planning conditions were judged to be satisfactory so as to avoid an unnecessary review. Mineral Planning Guidance 14 (MPG14) made it clear that applications for a postponement of the review should not seek a small extension of time, but should be for 'a reasonable number of years – e.g. 10 to 15 years'. MPG14 also identified that if the MPA did not consider the existing conditions satisfactory the application must be refused. Where the conditions were considered acceptable the application must be granted but the MPA could specify a different date for the new review from that proposed by the applicant. Where the MPA has not given notice of their determination within 3 months of receipt of the request for a postponement, the application is deemed to be approved.

In considering the ROMP review process, it is important to note that the Environment Act has compensation implications to the Authority if the MPA imposes new conditions following a review of the mineral permission that prejudice to an unreasonable degree the economic viability of the operations or the asset value of the site. Economic viability refers to the ability

of the site to produce sufficient revenue to cover all operating costs. Such circumstances may arise if any of the following are restricted:

1. the size of the area of winning and working or depositing of mineral waste;
2. depth of working;
3. height of deposit of mineral waste;
4. rate of extraction or deposition of mineral waste;
5. expiry date of the planning permission(s);
6. total quantity of mineral to be extracted or amount of mineral waste which may be deposited.

### Update to Legislation

The Growth and Infrastructure Act 2013 recently introduced further provisions in respect of the ROMP process. This new legislation removes the automatic duty placed on MPAs to undertake the periodic review every 15 years; and instead makes provision for a review to be undertaken at the discretion of the MPA, so MPAs are able to decide whether a review is required and when they take place. The legislation states that the review date may not be any earlier than 15 years from the date of the previous review.

The change in legislation means that MPAs may choose not to review the mineral permission at all, or may choose to review them less frequently than the 15 year review period stipulated under the Environment Act 1995; equally MPAs may also choose to review the mineral permission 15 years after the original review as per the original legislation required.

In addition, DCLG released new National Planning Practice Guidance (NPPG) in March 2014 which is now a material consideration in planning decisions and replaces guidance contained in MPG14. In respect of the frequency of periodic reviews the NPPG states that MPAs should 'usually only seek a review of planning conditions where monitoring visits have identified an issue which is not adequately regulated by planning conditions, which the operator has been made aware of and has not been able to address'. It also explains that in respect of applications for postponement, such requests 'should be on the grounds that the existing planning conditions are satisfactory, and, if accepted, mineral planning authorities are encouraged to postpone reviews for 10 to 15 years'.

It is important to note the distinction between the NPPF which contains planning policy and NPPG which provides guidance on how to implement the framework in practice.

### Current status of this site

With respect to Croker Farm and Lee Hills Quarry, the initial review of the 1952 permission was undertaken in accordance with the Environment Act 1995 and a new schedule of revised conditions was issued on 12 July 1999 (ref: 5/97/1502P). Under the Environment Act the 15 year periodic review was required by 12th July 2014.

An application to postpone the review of the mineral permission has been submitted by the owner as they consider the existing conditions are both comprehensive and modern and will be adequate to maintain sufficient environmental standards in future years. They are therefore seeking to postpone the review for a 15 year period. The implication of this is that

the planning conditions imposed on consent 5/97/1502P would not be reviewed until 12th July 2029; a period of 30 years after they were originally imposed.

The relevant issue to consider is therefore whether the existing conditions are acceptable, whether there is a need to undertake a review, and whether the 15 year postponement period proposed is an appropriate period of time.

## **POLICIES**

### **National Planning Policy**

National Planning Policy Framework (NPPF)

### **Local Plan Policy**

Minerals Local Plan 1999 (MLP)

Policy 8 – Review  
Policy 12 – Conditions  
Policy 14 – ASCV  
Policy 15 – Landscape  
Policy 17 – Visual Amenity  
Policy 19 – Archaeology  
Policies 22 and 23 – Nature Conservation  
Policy 24 – Built Heritage  
Policy 25 – Water Resources  
Policies 26 and 27 – Noise  
Policy 28 – Dust  
Policy 33 – Public Rights of Way  
Policy 34 – Highways  
Policy 37 – hours of operation  
Policy 39 – Stability  
Policy 41 – Restoration  
Policy 42 – Aftercare

Macclesfield Borough Local Plan (MBLP)

Policy NE1 – ASCV  
Policy NE11 – Nature conservation interests  
Policy NE13 – SBI  
Policy BE3 – Conservation areas  
Policy BE24 – archaeology  
Policy GC2 – Green Belt  
Policy RT7 – Footpaths  
Policy DC3 – Amenity  
Policies DC13 and DC14 – Noise  
Policies DC17, DC19 and DC20 – Water resources

## **Other Material Considerations**

National Planning Practice Guidance March 2014

### **Cheshire East Local Plan Strategy – Submission Version**

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th February 2014, the Council resolved to approve the Cheshire East Local Plan Strategy – Submission Version for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

### **CONSULTATIONS (External to Planning)**

**Highways:** All of the current conditions are required to be retained and no changes are considered necessary, the access is acceptable as is the 30 HGV movement limit per day to the site.

**Environmental Health:** The application has been assessed by Environmental Protection Officers: Public Protection & Health, Air Quality and Contaminated Land. There are no objections to be raised and it is agreed that the current conditions are adequate and relevant as to continue to control any environmental protection issues.

**Landscape:** The covering letter provided by the applicant lists all the conditions (60) and also includes a plan (Lee and Croker Farms Sutton). There is minimal information on this plan. The Landscape Officer identified a range of information that was required to be submitted to discharge the planning conditions and considered that without the information it was not apparent how the site could be restored to the final contours; and this is the information needed to assess whether restoration can be completed prior to or at the end of the permitted extraction period.

**Nature Conservation:** None of the extant planning conditions attached to the permission relate to ecological or protected species issues.

Due to the size and location of the consented mineral extraction site there is potential for a number of protected and priority species to occur on site and be adversely affected by the proposed development.

In order to enable the Council to fully assess the ecological impacts of this development the applicant should provide the following, prior to the determination of the application:

- Extended Phase 1 Habitat Survey - Carried out to evaluate all habitats within 50m of the site and the access routes, for the presence of, or suitability for any Biodiversity Action Plan species/habitats, and any rare or protected plant or animal species. This survey should also include a full botanical survey with incidental records of any other species encountered. Where any uncommon, BAP or protected species or habitats, including semi-improved grassland, are found or suspected specific surveys should be carried out, by appropriately licensed or experienced surveyors, using appropriate methodology, at the optimal time of year.
- Desk based study including a search of biological records held by the Local Biological Record Centre.
- Great Crested Newt survey/assessment of any ponds within 250m.
- An assessment of the potential impacts of the proposed development In accordance with the IEEM guidelines (2006)
- Mitigation/compensation proposals for any adverse impacts identified during the above assessment.

There are a number of conditions relating to restoration, which seem to be geared to restoration to agricultural usage. Conditions 5 f (iii) and 24 prohibit the importation of materials to raise levels so the final contours will be based on what material can be moved internally with the previous sub and top soil replaced.

The restoration of the quarry provides an opportunity to create Biodiversity Action Plan priority habitats, particularly unimproved grassland. This would require the re-instatement of the subsoil and possibly a minimal volume of top soil and then either the sowing of an appropriate seed mix or allowing the site to recolonise naturally. The quarry is located adjacent to the 'Ratcliffe Wood, Gawsword Common and Whitemoor Hill Site of Biological Importance' consequently natural colonisation would be the favoured option from an ecological perspective.

There would be a need for some aftercare and long term management through an appropriate grazing regime to secure the long term viability of the resulting habitats.

**Environment Agency:** raise no objection but make the following comments. As presented, the extant conditions, plan and correspondence do not appear to clearly define the basal level and the extent of the proposed mineral extraction, or provide evidence that any hydrogeological Impact assessment has been carried out in respect of the proposed development and its likely impact on water resources.

In 1997, within three months of grant of permission, Condition 5F required the developer to define the final depth of extraction and assessment of the volumes of stone to be extracted and spoil volume to remain on site.

It is not known if this has been done, but this plan would be useful in part to simply screen the likely impact of this development.

The size of the site suggests that an Environmental Impact Assessment (EIA) would probably be required, and the nature of the development, which includes excavation to depth, in aquifers where local properties may have a dependency on private non-mains water supplies, suggests that the EIA should incorporate a Hydrogeological Impact Assessment (HIA) and a water management plan.

If passive or active derogation of water levels or flows in local strata are likely to be caused by this development, the water management plan should include a programme of water monitoring and perhaps agreed mitigation measures to be implemented in the event of unacceptable impact on neighbouring interests. No operational water management plan is presented with this consultation, although existing Conditions 5B, 5C and 5D did require the applicant to address some aspects of the management of water and drainage in 1997.

It is not clear where the development currently obtains its water supply from for dust suppression or other quarry related activities, or where and how effluent and drainage from the working quarry area(s) is managed and disposed of. We currently have no record of any permits or permit applications in respect of abstraction of water for use at the site, or in relation to any discharges of effluent. Local properties are likely to be dependent upon groundwater-fed supplies that might be affected by the proposed development.

This quarry is also a site for which we have no record of a mining and mineral waste permit application, although the lack of information in this consultation does not make it clear if such a permit is likely to be required. Recent aerial photographs (April 2011) appear to show a mineral processing activity taking place in association with this permitted mineral extraction, but on land to the north of, and outside the permitted quarrying activity boundary (SJ 9285, 6959). It is not clear if this activity is an integral part of this planning permission, or something separate.

### For Information

A Hydrogeological Impact Assessment should clearly identify the geology, geometry and nature of the mineral deposit to be worked, and the groundwater levels associated with it and neighbouring strata and local water features.

The one drawing submitted with this consultation does not clearly define the proposed extent and basal level(s) of the intended excavation(s), or how these may relate to the geological structure or local water resources or their dependencies. If a modern water management plan, Hydrogeological Impact Assessment and a set of hydrogeological mitigation measures have not yet been established for this site, the review of conditions should be required to redress this failing as soon as possible, especially if there is an unconstrained depth of working that could impact upon local water dependencies.

Recent aerial photographs also appear to indicate that excavation may have taken place much closer to the site red-line boundary than allowed by condition 30, and the presence of standing water in lagoons in at least two places within the excavations suggests that the development has already encountered groundwater.

Further comments received 25th February 2014

In response to the views of the agent that the Environment Agency (EA) /Local Planning Authority has already historically been provided with the relevant information; they make the following comments:

If the applicant/agent feel we should already hold copies of Planning-related 'detailed reports' that qualify the hydrogeological impact of the proposed workings; and the current phasing and status of the workings etc, they should be made aware that we do not currently have copies of those reports; nor do we have a record of them, or having been asked to keep copies of them for long term future reference.

If these reports were supplied through the Town and Country Planning process, then perhaps as regulator Cheshire East can supply copies from their archive, or, if such reports were submitted in respect of Environment Agency permits for the site, then it would be helpful if the applicant would provide details of the relevant EA permits involved, so that we can interrogate the appropriate EA permit archives.

Otherwise, we would like the applicant to re-submit copies of these documents in support of the current application, along with updated monitoring data and phasing plans etc where appropriate.

**Natural England:** This application does not appear, from the information provided, to affect any nationally designated geological or ecological sites (Ramsar, SPA, SAC, SSSI, NNR) or landscapes (National Parks, AONB's, Heritage Coasts, National Trails), or have significant impacts on the protection of soils (particularly of sites over 20ha of best or most versatile land).

We understand from the applicant's letter that they are applying for a postponement of the periodic review of the conditions attached to the extant mineral permission 5/97/1502P dated 12 July 1999. We hold no detailed Agricultural Land Classification (ALC) survey information for this site. An alternative source of ALC information is the published 1:250,000 series Provisional ALC map. This shows your area of interest as lying within an area shown as Grade 4 and Grade 5 land.

However, this map is designed to give an indication of land quality at a strategic level. It does not show the breakdown of Grade 3 into Subgrades 3a and 3b, and it has a minimum map unit of 80ha. Consequently, it is not suitable for site specific assessments, for which a more detailed field survey may be needed.

The existing permission includes some 21 conditions that seek to ensure the eventual satisfactory restoration of the site and cover topics such as soil stripping and handling, methods of working, restoration and aftercare. In our view these conditions are satisfactory given the scope and detail of the matters they cover and meet the requirements for



restoration and aftercare of mineral sites as set out in the Technical Guidance to the National Planning Policy Framework (March 2012) and Annex M, MPG 142, with regard to reclamation conditions and schemes.

**Canal and Rivers Trust:** no comments

**Sutton Parish Council:** raises no objection

## **OFFICER APPRAISAL**

The NPPG outlines a range of matters to consider in respect to the imposition of mineral planning conditions. This includes:

- type of mineral;
- nature and extent of existing working;
- the location of the site;
- the length of time that minerals extraction has taken place at the site;
- land quality and proposed after-use; and
- the availability of suitable restoration materials.

Policy 12 of MLP also identifies aspects of mineral development that should be controlled by planning condition. Whilst this is largely applicable to new applications for mineral planning permission rather than ROMP reviews, it nonetheless outlines key considerations which include:

- timescales of operations;
- noise, dust, illumination and vibration levels;
- house of working and maintenance;
- satisfactory access, road safety and vehicular management;
- pollution control measures;
- impact of built development;
- satisfactory disposal of quarry waste;
- phased operation and restoration commensurate with the rate of extraction;
- visual impacts;
- stability and support of surrounding land;
- protection of public rights of way;
- satisfactory reclamation of the land;
- good soil handling practice.

The conditions attached to the extant planning permission largely cover these considerations; albeit some in more depth than others. The conditions cover the broad approach of the NPPF (and the accompanying technical guidance document/NPPG), the MLP and the 'Good Practice Guide for Mineral Planning Conditions' produced by Planning Officers Society for Wales. They also provide some degree of control over the general quarry working and site restoration.

Whilst there is no statutory requirement to undertake consultation and publicise requests for postponement of the review date, the Authority has provided key consultees and

neighbouring properties with the opportunity to comment on proposed postponement of the periodic review. No representations have been received from local residents and there are no recent records of any complaints being received in connection with this quarry; indicating that the existing planning conditions are operating effectively to ensure no detrimental impact on residential amenity arises from the quarrying activities. In addition the statutory monitoring reports undertaken by the Monitoring and Enforcement Officer identify that the site has been operated in compliance with the planning conditions.

In such situations it is noted that the NPPG advises that a periodic ROMP review is not normally required. However the legislation still provides the MPA with the option of undertaking a review where the existing conditions are not considered satisfactory. It is also noted that the site has not been intensively worked for a long period of time, and the permission allows the site to be worked until 2042 at a much greater rate than is currently being experienced.

Planning legislation requires MPA to also have due regard to all the information about the likely effects of a development on the environment in the decision making process. The agent has provided the minimum information necessary to meet the statutory requirements for the ROMP postponement request; namely:

- a copy of the existing conditions;
- the reasons why the mineral operator considers the conditions to be satisfactory; and
- the date which they propose for the new review

Despite this, consultees remain concerned over the ability of the conditions to control the impacts of quarrying on the environment, in the absence of any up to date and comprehensive information on the current environmental conditions of the site and impacts of the development over the next 15 years. In particular these relate to the following matters.

#### Nature Conservation Impacts

The NPPF and MLP Policy 9 requires there to be an evaluation of the likely effects of any development on nature conservation assets; and where adverse effects are identified, provisions for appropriate mitigation to be secured.

The original planning permission for mineral extraction granted in 1951 (Ref: 5/5/842) contained no provisions for protecting nature conservation assets. Equally the extant consent does not include planning conditions to address the impacts of continued quarrying activities until 2042 on protected species and their habitats; nor does it provide any mechanism to secure mitigation where adverse effects may arise.

The quarry has significant mineral reserves remaining and large parts of the site remain unworked. The current planning conditions require that only those parcels of land which are about to be worked are stripped, with the remainder of land in future phases left undisturbed. Equally there are long periods of time where there is no activity on site due to the low demand for this mineral. In view of this, and given the location of the site in a rural landscape surrounded by open land and vegetation which could be of some ecological value, there is potential for a number of protected and priority species to be present on the site or to become re-established on site in periods of inactivity which could be adversely affected by the continued quarrying activities.

As such, in order to ensure that the full ecological impacts of the quarry activities have been appropriately assessed and mitigated, the Nature Conservation Officer considers that the following information is required:

- Desk based study including a search of biological records held by the Local Biological Record Centre;
- Extended Phase 1 Habitat Survey to evaluate all habitats within 50m of the site and the access routes, for the presence of, or suitability for any Biodiversity Action Plan species/habitats, and any rare or protected plant or animal species; and should these be found, specific surveys should be carried out;
- Great Crested Newt survey/assessment of any ponds within 250m;
- An assessment of the potential impacts of the proposed development in accordance with the IEEM guidelines (2006);
- Mitigation/compensation proposals for any adverse impacts identified during the above assessment.

Whilst the applicant has stated that environmental information was provided at the time of the original review to address the impacts of quarrying on nature conservation assets, this information is not available in the consideration of this application and as such the MPA is unable to ascertain if this issue has been properly considered. Furthermore, such environmental information would now be in excess of 15 years old and therefore would not present an acceptable baseline to assess the ecological value of the site and the implications of continued quarrying for a 15 year period on nature conservation assets.

In view of this, and in the absence of any conditions concerning nature conservation assets; it is considered that the planning conditions as currently drafted do not provide adequate protection for features of nature conservation interest on the site, nor do they provide for mitigation of any adverse effects arising from the quarrying through each phase of the development. This does not accord with the general approach of national planning policy and MLP.

#### Impact on water resources

The extant conditions require the submission of schemes detailing the methods of working; drainage arrangements for the site and final depth of extraction. The applicant has stated that this information has historically been provided to the Environment Agency although this was not supplied to the Authority to support the request for a postponement of the periodic review of the consent and is not available in the consideration of this submission.

The Environment Agency (EA) have raised concerns over the lack of information regarding the extent of the proposed mineral extraction including final proposed depths, volume of material to be extracted and spoil remaining on site. They identify evidence from aerial photographs of standing water in lagoons in at least two places within the excavations which suggests that the development has already encountered groundwater. Concern is also raised over the lack of evidence to demonstrate that a hydrogeological Impact Assessment has been undertaken; or that hydrogeological mitigation measures have been established, especially if there is an unconstrained depth of working that could impact upon local water dependencies. They also note the lack of clarity regarding operational water management on site and how

the effluent/drainage is disposed of. Whilst the applicant maintains that this information has historically been supplied to the EA, this is not available to inform the consideration of this submission, and the EA remain concerned that these issues have not been adequately addressed.

Equally, given the timescales when this information was supplied (provided to discharge planning conditions imposed 15 years ago) it is assumed that the age of this data would not fully reflect the current site and hydrological conditions given that mineral extraction has continued in the intervening period which would have modified the site's topography and associated hydrogeology. In view of the lack of environmental information on the current condition of the site and impacts of the quarrying in forthcoming years, it is not considered that the conditions on the extant consent are sufficient to ensure the quarrying activities over the next 15 years would not present unacceptable impact on ground and surface water quality, supply and flow and do not ensure that sufficient mitigation can be secured against any adverse impact generated in each phase of development as required by NPPF and MLP Policy 25.

#### Landscape impacts and restoration of the site

The conditions on the extant consent require the submission of a scheme outlining the method of working and final restoration contours, final depth of extraction, and phasing of restoration. This was necessary as insufficient detail was provided in the original ROMP submission in 1997 to ensure that the restoration of the site to agriculture could be achieved and that an appropriate landform would be created relative to the surrounding landscape given the resultant landform that would be created by quarrying activities on the site.

None of this information has been provided with this submission, nor is it available to inform the determination of this case, although the applicant states that this has historically been provided. The Landscape Officer considers that without such information, it is not apparent how the site could be restored to the final contours; and whether a satisfactory restoration scheme can be achieved at the end of the extraction period. Whilst it is noted that there are conditions in place to secure the submission of details of the final site restoration and how this would be achieved; it is not apparent from the information available that this issue has been fully addressed to demonstrate that the site can be restored to an acceptable level; and it is unclear whether additional conditions are required to address any gaps in provision of information, or matters yet to be resolved.

As such the MPA is unable to state with any degree of certainty based on the information available, whether the conditions will ensure a satisfactory restoration is achieved taking into account the availability of material and result landform created at the end of quarrying activities as required by NPPF and MLP Policy 41.

#### **Other matters**

The Environmental Impact Assessment Regulations 2011 require that planning authorities, before deciding whether to grant planning permission for new development which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects and takes this into account in the decision making process.

The 2011 EIA Regulations identifies those projects where an Environmental Impact Assessment (EIA) is mandatory (defined as 'Schedule 1 development'). This includes all quarries where the surface area of the site exceeds 25 hectares. In this case, the site covers an area of 32 hectares; and at the time of the original ROMP review, the active area for extraction was identified as 26 hectares. However, this is not a new application for planning permission but a review of the existing planning conditions.

When the initial ROMP review for this site was undertaken in 1999, the legislative guidance at the time considered that, because the reviews did not grant permission for mineral extraction but merely introduced up to date operating conditions, there was no need to apply the provisions of the EIA Directive because the consent which allows a quarry to operate is the mineral permission to which it is subject, the imposition of new operating conditions was not considered to be a 'development consent' within the meaning of the Directive. As such, despite falling within the definition of Schedule 1 of the EIA Regulations, the ROMP review was not screened for the need for an EIA and the provisions of the EIA Directive were not applied.

However, a High Court Judgement made shortly after this time determined that the imposition of new conditions by the mineral planning authority was a 'development consent' under the EIA Directive, and thus it was established that the need for an EIA also applied to the ROMP review process (and revised EIA Regulations were issued in 2000 as a result). The resultant guidance from DCLG (Environmental Impact Assessment and Reviews of Mineral Planning Permissions) makes it clear that new conditions may not be determined for the remaining permitted mineral development without the MPA having considered all the information about the likely effects of the development on the environment. It also identifies that in the case of periodic reviews, the need for an EIA should similarly be considered.

Due to the timescales of the original review of conditions on this site in relation to this change in legislation, the need for an EIA was not considered in the course of the original romp review. Should this application to postpone the periodic review be refused; the subsequent review of mineral conditions that would be undertaken would fall to be considered under the EIA Regulations.

## **CONCLUSION**

The operation of a mineral site can significantly change its impact over its lifetime and standards of society can also change; as such it is important to consider whether there is a need to review the planning conditions to ensure modern standards are met. The change in legislation brought about by the Growth and Infrastructure Act 2013 removed the automatic requirement for the periodic review of mineral permissions; but nonetheless provides MPAs with the power to undertake such reviews where the existing conditions are not deemed to be satisfactory.

The mineral operator has applied to postpone the periodic review of the mineral permission for a further 15 year period as they consider the existing conditions to be acceptable to control the impacts of development. Whilst it is accepted that there have been no recorded complaints and the monitoring officers reports do not indicate any problems with current activities; it is also noted that the site has not been worked intensively for some time but

quarrying activities can be heavily intensified at any point in the future until 2042 when the permission expires should a change in economic circumstances arise.

Planning policy is clear that authorities should have due regard to all the information about the likely effects of a development on the environment in the decision making process. It is the applicant's view that sufficient information has historically been provided through the initial ROMP review and in discharging conditions on the consent thereafter. However this information is not available to the MPA at the current time, and such information is unlikely to present an acceptable basis upon which to establish current site conditions given that the data was prepared to support an application 15 years ago; and the site has continued quarrying in the intervening period which has altered the environmental conditions of the site during this time.

It is the view of the MPA that a postponement of the periodic review of mineral permissions should not be determined without the MPA having considered all the information about the likely effects of the development on the environment and take this into account in the decision making process. For the reasons outlined above it is considered that insufficient information is available to demonstrate that the conditions which were imposed 15 years ago remain acceptable. On this basis it is considered that the request for the postponement of the periodic review of conditions for a further 15 year period should be refused; and that the full review of conditions should be progressed.

### **Recommendation**

That the Interim Planning & Place Shaping Manager be authorised to issue a letter of refusal for the postponement request detailed above and seek a full periodic review.

## Annex A: Existing Planning Permission

### SCHEDULE OF CONDITIONS

FILE REF: 5/97/1502P

**MACCLESFIELD, SUTTON, LAND AT CROKER FARM. THE SUBMISSION OF REVISED CONDITIONS FOR QUARRYING AS REQUIRED BY THE ENVIRONMENT ACT 1995.**

**SCHEDULE OF REVISED CONDITIONS SUBMITTED IN ACCORDANCE WITH THE 1995 ENVIRONMENT ACT**

#### SCOPE OF PLANNING PERMISSION

- 1 This planning permission shall provide for the extraction of silica stone only from within the area edged red and identified as Area C on plan 1 which accompanies the application. No other material may be exported from the site.

#### DURATION OF THE PLANNING PERMISSION

- 2 The extraction of stone from this site shall cease by no later than 22 February 2042. Within a twelve month period following this date or within a twelve month period of the cessation of stone extraction or such other period as may be agreed in writing with the Mineral Planning Authority, whichever is the sooner the restoration and landscaping referred to below shall be completed.

#### APPROVED DOCUMENTS

3. The development hereby approved shall only be carried out in accordance with the following documents:-
  - A. Application Form dated 28 July 1997
  - B. Submitted Plans
    - i). Plan 1 Location Plan (Scale 1:10 000)
    - ii). Plan 2 Lee and Croker Farms Sutton, (Scale 1:2500) date 7.97 ✓
    - iii). Drawing 2888/1 Topographic Survey land at Croker Farm, Sutton
    - iv). Plan 3 Updating of mineral conditions - phasing. Scale 1:2500. Date Jan 1997.
  - C. Letter from the applicants to Cheshire County Council dated 21 January 1998 relating to phased working, soil handling, quarry waste, restoration., vegetation to be retained, noise annual report and hours of working. ✓
4. From the commencement of the development to its completion, a copy of this permission including all documents hereby approved and any other documents subsequently approved, in accordance with this permission, shall always be available at the site office for inspection during normal working hours.

5. Within three months of the date of this planning permission schemes making provision for the following matters shall be submitted for approval to the Mineral Planning Authority and agreement obtained in writing:
- a) the number and location of noise monitoring points and the frequency at which monitoring will be carried out and submission of results;
  - b) details of the drainage of the site including the treatment of surface water, the point of discharge, the construction of the proposed settlement pond, its dimensions and those of the pipes connecting it to the discharge point;
  - c) details of proposed location and specification of wheel cleaning facilities;
  - d) details of the measures to be agreed to prevent nuisance from windblown dust, including that arising from traffic on internal site roads, stockpiles, plant etc.
  - e) soil handling
    - i) the existing extent of subsoil and topsoil on the site;
    - ii) the areas in which this material is to be used for restoration;
    - iii) the depths of topsoil and subsoil to be stripped from the site;
    - iv) the manner and location in which the soils will be stripped, stored and replaced;
    - v) the specification of the grass seed mix to be used on any temporary soil storage mounds;
    - vi) definition of stockpile areas, position and height.
  - f) method of working and final restoration contours
    - i) an assessment of the volume of stone to be extracted and spoil to remain on the site;
    - ii) the final depth of extraction;
    - iii) the final contours of the site taking into account i) and ii) above; no importation of waste materials and the need to provide 150mm of topsoil. The site shall subsequently be restored in accordance with the reassessed final contours.
  - g) phasing of soil stripping, extraction and restoration
    - i) the identification of phases of soil stripping, extraction and restoration so that the site is capable of being operated in a manner such that no more than 3 hectares of land is stripped of soils at any particular time and all other conditions referred to within this document would be complied with.



- ii) the proposed phasing should allow for the restoration of extraction phases immediately after the cessation of stone extraction within that phase.
  - h) the number and location of blast monitoring points and the frequency at which monitoring will be carried out and submission of results;
- Following receipt of the written approval of the Mineral Planning Authority the schemes shall be implemented throughout the period of mineral extraction and restoration.
6. Within twelve months of the date of this planning permission, a detailed aftercare scheme for the entire site shall be submitted to the Mineral Planning Authority and agreement obtained in writing. The scheme shall include subsequent maintenance and aftercare for five years following the restoration of the site or after planting has been carried out, the weeding of the planted area, repairing any damaged fencing and the replacement of any plants which die.

Following receipt of the written approval of the Mineral Planning Authority the scheme shall be implemented throughout the period of mineral extraction and restoration.

#### WORKING PERIOD

7. Operations authorised by this permission, including heavy goods vehicles entering and leaving the site, shall be restricted to the following period:
- 0730 to 1800 hours Monday to Friday  
0730 to 1300 hours Saturdays
- Maintenance of plant and vehicles required in the operations of the site shall be restricted to the following periods:
- 0700 to 1900 hours Monday to Friday  
0700 to 1800 hours Saturday
- No such operations shall take place outside these hours or on Sundays or Public Holidays, without the prior written approval of the Mineral Planning Authority.

#### VEHICLES ENTERING AND LEAVING THE SITE

8. Vehicular access to and from the site shall only be from Leek Old Road as shown on approved plan 2.
9. Measures shall be taken to ensure that no mud or material is deposited onto the public highway. If necessary, additional cleaning equipment of a type to be agreed with the Mineral Planning Authority shall be utilised, such equipment if required, shall be used and maintained to ensure all vehicles leaving the site do not deposit mud or other material on the public highway.

10. Any deposit of mud or other material on nearby highways resulting from the development hereby approved, shall be removed as necessary to the satisfaction of the Mineral Planning Authority.
11. All loads of vehicles involved in the transport of mineral from the site shall be securely sheeted in such a manner that no mineral may at any time be spilled onto the public highway.
12. Heavy goods vehicle numbers involved in the transport of minerals from the site shall not exceed 30 vehicle movements per day (15 in and 15 out) when averaged over a calendar week, unless otherwise agreed in writing in advance with the Mineral Planning Authority.
13. Records shall be kept by the operator identifying the number of HGV's both entering and leaving the site and submitted to the Mineral Planning Authority at three monthly intervals during all periods when the quarry is active.

#### **PROTECTION OF PUBLIC FOOTPATHS**

14. Public footpaths Sutton 34 and 36, shall remain unobstructed at all times. Any damage to the footpath caused by the development hereby approved shall be rectified to the satisfaction of the Mineral Planning Authority.

#### **SOIL STRIPPING**

15. The operator shall give at least 2 days notice to the Mineral Planning Authority prior to the commencement of topsoil and subsoil stripping from any part of the site.
16. All topsoil and subsoil shall be stripped from any areas to be excavated, or used for the stationing of plant, the storage of overburden and haul roads prior to being traversed by heavy machinery. All topsoil is to be stripped from any area to be used for overburden storage.
17. Quarry plant and vehicles shall not cross areas of unstripped topsoil or subsoil except for the purpose of soil stripping.
18. The stripping and movement of topsoil and subsoil shall only be carried out when the material to be moved is sufficiently dry and friable to minimise structural damage and in dry weather conditions.
19. Topsoil and subsoil shall be stored in separate mounds which do not overlap and in a location and to a form and height identified in scheme submitted and approved pursuant to condition 5e. There shall be no contamination of the two types of soil and they shall be separated by an approved medium to the satisfaction of the Mineral Planning Authority.
20. No topsoil or subsoil shall be removed from the site.
21. Within 3 months of the topsoil and subsoil mounds having been formed they shall be grass seeded and/or planted in accordance with a specification and a scheme agreed beforehand with the Mineral Planning Authority.

22. Throughout the operational life of the site all soil mounds shall be maintained and kept free of noxious weeds.

#### **METHODS OF WORKING**

23. No materials from sources outside the site shall be imported into the site for processing, storage or treatment.
24. No waste materials shall be imported onto the site.
25. Prior to any material being imported onto the site for the purposes of maintaining the access/internal roads the type and quantity of such material, together with necessary storage arrangements, shall be agreed in writing with the Mineral Planning Authority.
26. The base of all storage mounds shall be located a minimum distance of 4m away from the outermost spread of the crown of the adjoining trees to be retained.
27. Depth of extraction shall not exceed those identified in the scheme required and approved by condition 5f.
28. The site shall be worked progressively in phases as indicated in the scheme submitted and approved by condition 5g above. No development, except the stripping of topsoil and subsoil shall commence in the working phase until all extraction and restoration has been completed in accordance with condition 49 in the previous restoration phase.
29. The angle of slope of the excavation along the boundary of the site edged red on plan 1 shall not be steeper than 60 degrees from vertical.
30. No mineral extraction shall take place closer than 20 metres of the planning permission boundary edged red on plan 1.
31. No mineral extraction shall take place within areas edged yellow on plan 2 dated July 1997.

#### **PLANT, MACHINERY AND BUILDINGS**

32. Notwithstanding the provisions of Part 19 of the Town and Country Planning General Development Order 1995 (or any order revoking or re-enacting that Order), planning permission shall be required under Part III of the Town and Country Planning Act 1990, for the erection, or re-siting of any building, fixed plant or machinery, structure or erection of the nature of fixed plant or machinery within the site.
33. All plant and machinery and buildings on site, with the exception of mobile plant shall be painted Woodpecker / Holly Green ( 12 B 29) as specified in BS 4800. Thereafter all such plant, buildings, structures and machinery shall be maintained in that colour.

#### **NOISE**

34. Except when soil stripping or soil placement operations are taking place, noise from the operations on the site shall not exceed 45 dB(A) Leq (1hr) 1m forward of the siteward side of the nearest noise sensitive property.
35. The best practicable means shall be used on site to minimise noise levels from all plant, equipment and vehicles. This shall include the silencing of plant and machinery, by use of factory fitted sound suppression equipment wherever practicable.
36. Noise levels from soil stripping, bund formation and soil replacement operations shall not exceed 70 dB(A) LAeq (1hour) when measured 1m forward of the siteward side of nearest noise sensitive property. These operations shall not exceed a total of 8 weeks in any one calendar year unless otherwise agreed in writing with the Mineral Planning Authority.

#### **DUST**

37. Measures shall be taken to prevent dust blowing off the site. This shall include the use of water bowser to spray access roads, working areas and stockpiles.
38. The water bowser/dust suppression equipment installed in accordance with condition 5d and 37 shall be kept within the site and in full working order at all times and shall be used to water areas within the site at such intervals as may be necessary to prevent the raising of dust.

#### **BLASTING**

39. Blasting shall only take place Monday to Friday, within the following hours 1000 hours to 1600 hours. No blasting shall take place on Saturdays, Sundays or Public Holidays.
40. No more than two blasts shall be used in any single working day unless agreed in writing in advance by the Mineral Planning Authority.
41. Audible warning shall be given prior to the commencement of any blasting operations.
42. Ground vibration as a result of blasting shall not exceed an average peak particle velocity of 6mm/second in 95% of the blasts, measured at the ground surface adjacent to the nearest sensitive property. No individual blast shall exceed a peak particle velocity of 10mm/second.
43. Air over pressure resulting from blasting operations shall not exceed 120 dB when measured at the nearest sensitive property.

#### **SURFACE WATER DRAINAGE, POLLUTION CONTROL**

44. All surface water from the site shall be discharged into the facilities approved pursuant to condition 5b prior to discharge into any ditch, stream, water course or culvert outside the site.
45. Oil, petrol, diesel oil, and lubricants shall only be stored within an impervious bund or enclosure with a capacity of at least 110% of the larger tank's capacity.
46. No water or other liquid carrying silt or other form of pollution shall be allowed at any time to enter any watercourse or onto adjoining land.
47. There shall be no open fires within the boundary of the site.

#### **SITE MAINTENANCE**

48. From the date of this permission until the restoration of the site, the following shall be carried out:-
  - i) the site haul roads from Old Leek Road as coloured purple on plan 2 and dated July 1997 shall be kept free of mud and other deleterious material throughout the operational life of the site. All such material shall be removed immediately to the satisfaction of the Mineral Planning Authority;
  - ii) all plant and machinery on site shall be regularly maintained;
  - iii) the maintenance of fences in a stock proof condition between any area used for authorised by this planning permission and any adjoining agricultural land;
  - iv) all the site including the amenity bunds shall be maintained and kept free of noxious weeds and necessary steps shall be taken to destroy noxious weeds at an early stage of growth to prevent seeding;
  - v) blasting operations shall be monitored by the site operators in accordance with the scheme submitted and approved pursuant to condition 5h;
  - vi) noise from the operations shall be monitored by the site operators in accordance with the scheme submitted and approved pursuant to condition 5a.
  - vii) on the 1 April of each year that the quarry is operational the operators shall submit a plan to the Mineral Planning Authority recording in detail the extent of quarrying and restoration operations carried out on the land during the previous 12 months and setting out the intended operations for the next 12 months. Every four years the report shall be accompanied by a topographical survey

#### **RESTORATION**

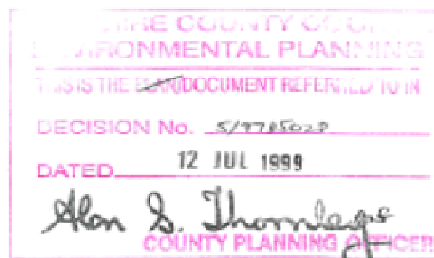
49. The Croker Farm Quarry as edged red on plan 1 shall be restored in full accordance with the schemes to be submitted and approved pursuant to condition 5f

50. All plant, machinery and buildings erected in accordance with this permission shall be:
- a) removed from the site by the end of the restoration completion period specified in condition 2; or
  - b) removed from the site within 12 months of the cessation of mineral extraction.
51. As areas become available for progressive restoration, internal haul roads/access roads/areas of hardstanding within the area edged red, except those to retained for agricultural purposes, shall be broken up and removed from the site and the land restored in accordance with condition 49.
52. All available overburden shall be spread evenly over the graded surface of the excavation. So that after the replacement of subsoil and topsoil the contours of the restored land conform to the approved scheme and plans required by condition 5f.
53. The subsoil where available shall be spread evenly at a depth of 300mm in thickness in those areas to be restored to pasture. The layer of subsoil shall be ripped to relieve compaction. Stones or other objects greater than 150mm dimension which will impede normal agricultural activities shall be removed from the site or buried on site not less than 2m below final surface.
54. The Mineral Planning Authority shall be notified when Condition 53 has been complied with and shall be given an opportunity to inspect the surface before further restoration work is carried out.
55. After the replacement of the subsoils, topsoil shall be respread evenly at a depth of 150mm over the site the topsoil shall be cultivated to relieve compaction, stones or other objects greater than 150mm dimension which will impede normal agricultural activities shall be removed from the site or buried on site not less than 2m below final surface contours.
56. All operations involving soil replacement and cultivation treatment shall only be carried out when the full volume of soil involved is in a dry and friable condition to minimise soil damage and to maximise the effects of the ripping operations and the ground onto which it is to be placed are dry.
57. The Mineral Planning Authority shall be notified when Condition 55 has been complied with and shall be given an opportunity to inspect the surface before further restoration work is carried out.
58. Following compliance with Condition 55, the land shall be worked to prepare a seedbed suitable for the sowing of grass seeds, and then sown in accordance with the approved seed mix and rate.
59. Topsoil, subsoil and overburden shall not be mixed.

#### AFTER-CARE

60. The aftercare of the site shall be carried out for a period of 5 years following restoration in each phase in accordance with the approved aftercare scheme or as may be subsequently amended in writing and with the approval of the Mineral Planning Authority.

NB Nothing in these conditions shall relieve the developer from obtaining such consents and approvals to his proposals as may be required from any Public, Local or Statutory Authority or Undertaker, complying with any bye-law, statute or enactment for the time being in force not from observing common law rights.



1,23,24,27 For the avoidance of doubt.  
28,29, 30.

2 In accordance with the Town and Country Planning (Minerals) Act 1981.

3,4,8,6,7 To ensure the development is undertaken in accordance with the approved documents and plans.

5e,6,16,17 To ensure the eventual satisfactory restoration of the site.  
18,19,20,21,  
22,27,48iv,  
49,50,51,52  
53,55,56,57  
58,59

5a,5d,5h,7 In the interests of the amenity of local residents.  
12,13,34,35  
36,37,38,39  
40,41,42,43  
47,48ii

5c,8,9,10 In the interests of highway safety.  
11,12,13,  
48i

14,29,30 In the interests of public safety.

21,22,33 In the interests of visual amenity.  
48iv

13,23,24 In the interest of amenity and to enable the Mineral Planning Authority to control  
32 the implications of the proposed development

14,48iii For the reasons of safety.

5b,27,44 To prevent adversely affecting watercourses.  
45,46

26,30 To protect land outside the site.

5f,5g,15 To ensure the development is carried out in an orderly manner.  
25,27,28  
29,30,31  
48v,48vi,  
48vii,54

6,60 To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by the Town and Country Planning (Minerals) Act.



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LEE + CROKER FARMS - UPDATE CONDITION  
LOCATION PLAN AREA AC

Scale 1:10,000  
Drawing No. PLAN 1

SHESHIRE COUNTY COUNCIL  
ENVIRONMENTAL PLANNING

THIS IS THE PLANDOCUMENT REFERRED TO IN

DECISION NO. 5/97/15028

DATED 12 JUL 1999

Alan S. Thornley  
COUNTY PLANNING OFFICER

