



Strategic Planning Board Updates

Date: Wednesday, 24th June, 2020

Time: 10.00 am

Venue: Virtual Meeting

The information on the following pages was received following publication of the Board agenda.

Updates (Pages 3 - 14)

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STRATEGIC PLANNING BOARD – 24th June 2020

APPLICATION NO: 19/3951W

PROPOSAL: South western extension to silica sand working, along with revisions to the development programme and restoration scheme approved under permission 09/2291W.

ADDRESS: ARCLID QUARRY, CONGLETON ROAD, ARCLID, CW11 4SN

APPLICANT: Mr David Robinson, Archibald Bathgate Group

Clarification and further information

Long term aftercare management

In respect of the request of the Nature Conservation Officer for a 25 years period of management of the restored land, the applicant has made the following additional points:

The existing permitted area is already managed as part of a comprehensive site wide restoration and habitat management scheme which requires 15 years of management. This has been secured by a legal agreement attached to the current mineral permission 09/2291W.

The applicant proposes the implementation of detailed habitat creation and design through a habitat aftercare and management scheme which would be secured by a legal agreement; and this would be integrated with the habitat management and monitoring already being undertaken at the site under the current consent.

The applicant's ecological advisor confirms that this current tried and tested regime which is being implemented on site at present is working and enables effective control over the implementation of the restoration proposals. The scheme includes a review of the management and monitoring regime every five years in consultation with the Local Planning Authority. This allows the identification of management priorities, the appropriate direction of resources and remedial actions where required.

The approach being advocated by the applicant is consistent with guidance in the NPPF which seeks to provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards through the application of appropriate conditions.

A 25 year aftercare is not a justified or proportionate requirement linked to the progressive development of the land proposed, nor is it specifically required

by policy SE10 of the Cheshire East Local Plan Strategy. It would also be difficult to accommodate this extended timescale as part of the integrated site wide progressive restoration which is envisaged to occur simultaneously alongside ongoing working.

In this context it would be unduly onerous and unnecessary to accommodate the small area of land covered by the proposed quarry extension under a longer aftercare than the current scheme which has proven to be effective. It will be unreasonable to insist upon a longer period for aftercare and management than is strictly necessary to achieve the after use of the site.

The applicant is proposing a scheme of biologically diverse wetland, woodland and grassland habitats surrounding newly created water bodies consistent with the existing scheme. As is the current situation, where ongoing management is necessary to ensure the establishment of more sensitive habitats, the applicant is proposing to voluntarily enter into an agreement to a further 10 years of post restoration management of habitats for each phase. This would be in addition to the statutory 5 year aftercare period, giving 15 years aftercare in total. This extended aftercare period would begin following the completion of the statutory 5 year aftercare period in each phase of working. This approach would make an ongoing commitment to the management of habitats created at the quarry until beyond 2052.

Even by 2037, a significant proportion of the application site would already be restored and subject to aftercare. Requiring aftercare until 2062 would be a significant financial and land use burden for the applicant, inconsistent with the identified need to undertake effective early restoration of mineral sites following working which is set out in planning policy.

On the basis of the points raised above by the Applicant, it is considered that the conclusions regarding the appropriate long term habitat management period as set out in the committee report remain the same. A 15 year period (5 years aftercare secured by condition and 10 years management secured by legal agreement) is considered reasonable and acceptable to meet planning policy requirements in NPPF and CELPS policy SE10 and ensure sufficient habitat establishment; and the request for a 25 year management period would be unlikely to meet the relevant statutory tests in the legislation which require that planning obligations are strictly necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

Public Rights of Way

A correction is made to page 28 of the committee report in the following paragraph. The sentence shown in strikethrough is deleted and the additional sentence is shown in italic.

The provision of the permissive routes would be secured under the Section 106 Legal Agreement. The long term, post restoration of the *diverted* Public Rights of Way network in terms of the ~~type, location and timescales~~

maintenance and management would also be secured by the Section 106 Legal Agreement.

The applicant has provided the following additional points of clarification in respect to the public right of way and permissive footpath provision across the site.

The consented mineral operations affect the route of Arclid Bridleway 11 and footpaths 9 and 7. Formal diversions were secured by the applicant as part of that planning permission and the works required to implement those public path diversion orders under section 257 of the Town and Country Planning Act 1990 are close to being finalised. It was the applicant's intention to finalise the confirmation of the diverted routes in late 2019 to early 2020 however inclement weather over a prolonged period and the recent pandemic have caused delays. The physical works to create the new routes have been carried out and just await final approval.

In respect of the impacts of this application, this proposal would also directly affect the recently approved diverted route of Arclid footpath 7 and bridleways 10 and 11. A scheme of footpath and bridleway diversions is incorporated as part of the progressive working and restoration scheme. This will be implemented as the work progresses across the site. This scheme will ensure a coherent network of public rights away is maintained throughout the working life of the quarry.

The proposals also include for the retention of an existing permissive footpath which was secured under the previous mineral permission. This permissive footpath lies to the South of Congleton Road and links Arclid footpath 3 and Arclid footpath 9 and its route on site has already been created.

Additionally, as part of this application a further permissive footpath is proposed which would provide an east to west link across the quarry; and on the completion of the restoration works would enable a circulatory route for footpath users around the restored landscape. The permissive footpath would be provided at the earliest opportunity as mineral extraction and restoration progresses; which is anticipated to be during the period of 2032 to 2035 and the route would be retained throughout subsequent quarry working and restoration.

The Definitive Map Officer has indicated a desire to establish the existing permissive footpath to the South of Congleton Road as a legally defined route to allow the safe pedestrian access to an existing bus stop and links to the wider rights of white network.

Both permissive routes interact with the existing working quarry. They will therefore potentially be subject to some degree of change owing to the dynamic and unpredictable nature of mineral extraction. The proposed permissive footpath routes are an indication of the applicant's proactive

approach to establishing and supporting a coherent network of rights of way at and close to Arclid quarry.

The ongoing requirements to separate and protect users of the public rights of way network from an active quarry means that maintaining permissive footpaths is the only practical solution. This offers the flexibility required for the mineral operator to safely continue its operations whilst accommodating improved public access across the quarry.

In order to provide confidence to Cheshire East Council that these routes will be established it is proposed to include this requirement for permissive footpaths as a clause of any planning obligation. This follows the approach that was adopted on the previous grant of mineral permission.

On the basis of the points raised by the applicant above, no amendments to the conclusions of the committee report in terms of impacts on public rights of way and footpaths are considered necessary.

Correction to Recommendation: Page 47

An amendment is proposed to the Recommendation on page 47 of the committee report, along with following additions and corrections to the proposed conditions.

The revised wording is as follows:

RECOMMENDATION:

Approve subject to the following conditions and a Section 106 Agreement to secure:

- a) the provision of 10 year habitat management for the proposed north western and south western blocks in accordance with the detailed aftercare scheme required by this permission which will be implemented following completion of the 5 year statutory aftercare required by this permission; along with the continuation of the existing 15 year management on all other areas of the site as approved under 09/2291W;
- b) annual monitoring and reporting of protected and Cheshire BAP species during the 15 year aftercare and management plan period,
- c) Provision of scheme for permissive footpaths to include location, type, timescale to be agreed with LPA; and footpath maintenance and management during the 15 year aftercare and management plan period for any diverted routes
- d) The replacement of permission 09/2291W and the associated Section 106 Agreement with permission 19/3951W and its associated Section 106 Agreement.

The following additional condition is proposed:

The development shall be carried out in accordance with all relevant conditions attached to 09/2291W except where superseded by this permission

Reason: for the purposes of clarity

The following corrections are made to the wording of the proposed conditions (amended wording shown underlined):

Condition 3

The winning and working of minerals from South Arclid shall cease no later than 31st December 2041. All buildings, roads, plant, machinery and other structures used in connection with this development hereby approved shall be removed within a twelve month period following this date, or within 12 months of the permanent cessation of mineral extraction at South Arclid, whichever is the sooner and the restoration works, as required under condition 29, shall be completed accordingly.

Reason: To define the life of the development and to ensure the site is restored at the earliest opportunity.

Condition 10

Within 3 months following the commencement of development, an inaugural meeting during initial site preparation works for the South Western Extension and thereafter an annual progress and review meeting and report of progress and works to be carried out in the following year shall be undertaken and the reports submitted to the mineral planning authority for written approval within one month from the date each meeting takes place. The meetings and reports shall continue annually until the completion of the Landscape and Ecological Management Plan (as set out in condition 19) and aftercare period (as set out in condition **30). The review shall set out any unplanned alterations or mitigation works to the operations, the programme of restoration, planting and aftercare works, and timescales.**

Reason: To assist compliance and monitoring of the development with the planning permission and to provide a mechanism for non-material alterations which may arise as operations progress to ensure a high-quality restoration and aftercare is carried out.

Condition 17

No tree works, ground clearance or soil stripping shall take place in the South Western Extension Area until a Tree Protection Scheme and Arboricultural Method Statement has been submitted and approved by the Mineral Planning Authority.

The details shall include:

- All tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required), including stages at which actions and monitoring will be reported to the Mineral Planning Authority,
 - Details of the precise location of the 'no dig' surfacing for the diverted footpaths / utility infrastructure and the mineral extraction area,
 - A site specific 'no dig' design for the surfacing of any diverted public rights of way and utility infrastructure within tree and hedgerow root protection areas including an illustrative cross-section drawing.
- The development thereafter shall be implemented in strict accordance with the approved details.

Reason: To protect and enhance landscape character and ecological interests.

Condition 18

No ground clearance, tree works or soil stripping shall take place within the South Western Extension Area until a Landscape and Ecological Management Plan (LEMP) addressing landscape and biodiversity protection, enhancement and management during the extraction of silica sand hereby permitted has been submitted to and approved in writing by the Mineral Planning Authority. The issues which shall be addressed in the LEMP include:

- i. Measures to be taken to protect habitat and species present on site as identified in the South Western Extension Ecological Impact Assessment by ERAP Consultant Ecologists Ltd [ref: 2018-151];
- ii. Details of Habitat Creation as shown on the approved drawing: Plan no. ABG/SWE/08 – Restoration Masterplan, comprising phasing and method statements for the creation, establishment and aftercare management of each habitat type to include:
 - a. Islands
 - b. Trees and hedgerows
 - c. Ponds
 - d. Sand martin banks
 - e. Wetland habitats including shallows/reedbeds and smaller ponds
 - f. Lowland meadows
 - g. Installation of bat and bird boxes (including barn owl).
 - h. Creation of gently sloping banks (1:20) in the vicinity of the proposed wetland
 - i. Habitat creation areas
 - j. Habitat for Yellow Wagtail

iii. A timetable detailing:

- a. The carrying out of all habitat protection and creation measures,
- b. The implementation of habitat and species management for the duration of silica sand extraction hereby permitted,
- c. The duration of the subsequent aftercare period for each habitat created and timescales for the completion,
- d. Details of the annual review and update of the LEMP.

The development shall be carried out in accordance with the approved LEMP including any revisions as agreed in writing by the Mineral Planning Authority thereafter.

Reason: To protect and enhance landscape character and ecological interests.

Condition 21

No extraction of sand shall commence from the South Western Extension hereby permitted until boreholes 2019/01, 2019/02, and BH P11R as shown on Hydrogeological Impact Assessment & Flood Risk Assessment:Figure 22: Proposed New Monitoring Locations (Ref: 2443 BSS Arclid \ FIG 22 NEW BH) have been drilled, replaced or deepened as appropriate.

Reason: To allow for the monitoring and protection of groundwater.

Condition 22

No extraction of sand shall commence from the South Western Extension hereby approved, until the groundwater level recording in the locations as shown on Hydrogeological Impact Assessment & Flood Risk Assessment:Figure 22: Proposed New Monitoring Locations (Ref: 2443 BSS Arclid \ FIG 22 NEW BH) has commenced. The monitoring undertaken shall:

- i) Record groundwater levels within each borehole shown on Figure 22,
- ii) Record the water level in, and the location of, each quarry sump at the same intervals as the groundwater level monitoring,
- iii) Record the quantity of water removed from each sump identified at ii) during the preceding month,
- iv) Record the location water was transferred to.

All recorded levels, locations and abstractions shall be included in an annual monitoring report. The groundwater monitoring scheme shall be maintained for the duration of the permitted operations.

Reason: To allow for the monitoring and protection of groundwater.

Condition 24

Trees T6, T7, T10 and T18 as identified in Technical Appendix 4: Licensed Bat Survey and Assessment: Trees (ERAP (Consultant Ecologists) Ltd, June 2019) Bat Survey and Assessment of Tree' shall not be removed until a bat survey has been undertaken and submitted to the Mineral Planning Authority for approval. The submission shall record any evidence of roosting bats and include appropriate mitigation and compensation measures. The approved details shall be implemented in full in accordance with the approved timescales.

Reason: To safeguard biodiversity.

Condition 27

No trees or hedgerows shall be removed within the bird nesting season (1st March to 31st August inclusive), unless the site is surveyed for nesting birds by a qualified ecologist prior to their removal. If nesting birds are found, a scheme to protect nesting birds shall be submitted to the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved scheme.

Reason: To avoid harm to nesting birds during the bird breeding season.

Condition 29

Aftercare shall be carried out for a period of five years following the completion of restoration in each phase. The aftercare shall be carried out in accordance with a detailed aftercare scheme which shall be submitted to and approved in writing by the Mineral Planning Authority, six months prior to the completion of restoration works in each phase or as otherwise agreed in writing with the MPA

Additionally, no later than the 31st December 2040 or within 6 months of the permanent cessation of the silica sand extraction hereby approved, whichever occurs sooner, a detailed aftercare scheme of management for a maximum duration of 10 years following on from the five year aftercare period, shall be submitted to the Mineral Planning Authority. The aftercare scheme shall account for the phasing of the approved development and address actions outstanding from the LEMP (condition 19), provide for annual inspections and the carrying out of any necessary remedial measures, including the replacement of any planting failures, cultivating, fertilising, seeding, watering, drainage and other treatment of the land. An annual report of the management works shall be forwarded to the Mineral Planning Authority no later than the 31st March during each year of the management period.

Reason: To ensure the positive restoration and aftercare of the site to delivery environmental enhancement.

APPLICATION NO: 20/0901C

LOCATION: Phase 4B and 1B Ma6nitude, OFF ERF WAY, MIDDLEWICH

PROPOSAL: Part full/part outline application proposing: 1: Full planning application for an employment development (Use Class B2 & B8 with ancillary Use Class B1 floorspace), and security gatehouse and weighbridge, the provision of associated infrastructure, including a substation, plant, pumping station, service yards, car and HGV parking, cycle and waste storage, landscaping, ecological enhancement area, drainage attenuation, access from Erf Way and re-alignment of the River Croco tributary. 2: Outline planning application for an employment development (Use Class B2 & B8 with ancillary Use Class B1 floorspace) with all detailed matters except for access reserved for future determination.

KEY ISSUES

Watercourse

As set out in the Officers Report plans have been agreed in principle with the Environment Agency, for the re-alignment of the watercourse, which is understood to already be an engineered channel, and the proposals should there bring with it benefits both in terms of it's function as part of the floodplain and it's management, and in terms of ecology. At the time of writing this report formal agreement is still awaited from the Environment Agency and as such this will need to be reported in a verbal update to Members.

Ecology

The application has submitted the following documents;

- Reptile Mitigation Report
- Updated Badger Strategy Report
- Invasive Species Report
- Conservation Payment Certificate (District License from DEFRA for newt mitigation)
Proposals for Biodiversity net gain

At the time of writing this Update Report the Council's Ecologist was seeking clarification on some relatively minor matters, but it now understood that the first four items are now effectively resolved and he is happy with the proposals. Formal confirmation and any suggested additional conditions will be given to Members at Committee.

With regards to Biodiversity net gain, the "amount" (8.5 units) has now been agreed, and whilst the matter is being discussed with the Cheshire Wildlife Trust, the applicant has proposed the following wording for a payment at part of a Section 106 Agreement as follows:

“Prior to the commencement of development a scheme for offsetting biodiversity impacts on the site shall be submitted to and approved by the local planning authority. The proposed offsetting scheme shall include:

- Details of the offset requirements of the development in accordance with the current Defra biodiversity metric, which has been calculated to comprise 8.5 units conservation credits of grassland;
- The identification of a receptor site or sites which generate a minimum 8.5 units available conservation credits;
- The provision of evidence of arrangements that secures the delivery of the offsetting scheme;
- A management and monitoring plan (which shall include for the provision and maintenance of such offsetting measures for a period of not less than 25 years from commencement of development)’.

The Council's Ecologist is satisfied this achieves the required net gain but the exact wording will need to be finalized.

Economic Benefits

The applicant was keen for the benefits of the proposals to be highlighted to Members, and whilst no doubt they will include this in any presentation in brief they are as follows:

- Economic Investment - The initial investment for land, phase 1 development and infrastructure and machinery will be in the region of £40M.
- Job Creation - It is anticipated that the Phase 1 requirements would be in the region of 65 employees with a longer-term requirement for future Phases to rise to a total of over 150 employees.

CONCLUSION:

There are no proposed changes to the recommendation, however there are two matters with regard to the proposed Section 106 that need to be clarified/included.

Firstly as set out in the report there is a requirement to contribute to the Middlewich eastern Bypass or A54/Leadsmithy Street junction (not the A34 as set out in the report), however the phasing of the development has since been clarified which sets the triggers for the payment as follows:

Prior to occupation of:

- Plot 4B phase 1;
- Plot 4B phase 2
- Plot 4B phase 3; and
- Plot 1B

The basis of the payment will be £30 per sq m as set out in the report, and Highways have clarified this is based on Gross internal area.

Secondly there will need to be a Biodiversity offset payment as set out above in the Ecology section.

Finally there may need to be an additional condition with regards to ecology.

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