

Environment and Communities Committee

Date of Meeting:	8 June 2023
Report Title:	Notice of Motion: Silica Sand Extraction Site Buffer
Report of:	Jayne Traverse, Executive Director of Place
Report Reference No:	EC/01/23-24
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. At the full Council Meeting of 22 February 2023, a Notice of Motion (NoM) was proposed in relation to the introduction of a Silica Sand Extraction Site Buffer. This report responds to that notice of motion.

2. Executive Summary

- 2.1. A NoM relating to the establishment of a 1,000 metre buffer around silica extraction sites was proposed to Council at its meeting on 22 February 2023. The motion was proposed by Councillor P Williams and seconded by Councillor J Buckley. Council referred the motion to the Environment and Communities Committee.
- 2.2. *Notice of Motion: Establishment of a 1,000 metre buffer around silica extraction sites*

Quarrying and extraction is important to the economy of our Borough with its rich deposits of salt, silica and sand. The industry is, quite rightly, well-regulated but there remain concerns about the health and environmental impacts. These concerns are particularly acute where quarrying silica extraction takes place close to residential areas. Airborne dust and noxious fumes can have serious health implications for people, particularly children, older adults and others with existing disease, exposed to them for prolonged periods.

Matt Western MP issued a Private Members' Bill in the UK Parliament in December 2021 calling for a buffer zone of at least 1,000 metres between new or proposed quarries of silicates and residential areas. The Bill is supported by a number of Labour, Conservative and Liberal Democrat MPs.

We ask that Cheshire East Council should implement a distance restriction of at least 1,000 metres when considering applications for quarrying or silica extraction. We propose that the relevant environmental and planning committees and the Council's emerging minerals strategy take account of this issue for the well-being of residents.

- 2.3.** Very fine Respirable Crystalline Silica dust (RCS) is generated when rock types containing crystalline silica are cut or crushed by industrial processes. If high levels of RCS are inhaled regularly over many years, such daily exposure can result in a risk of developing lung conditions such as silicosis. Silicosis is a disease that has only been seen in workers from industries where there is a significant exposure to silica dust, such as in quarries, foundries etc. Officers are not aware of any documented cases of silicosis among members of the general public in the UK. A situation that is confirmed by the Health and Safety Executive who conclude that environmental exposures to silica dust are not sufficiently high to cause this occupational disease.
- 2.4.** Paragraph 211 of the National Planning Policy Framework (NPPF) identifies that councils determining mineral planning applications should ensure that there are no unacceptable impacts on human health and ensure that any unavoidable dust and particle emissions are controlled, mitigated or removed at source. No specific buffer distances or particle size limits are identified for dust in planning guidance.
- 2.5.** As the local planning authority, the Council details its planning policies on minerals matters, including on air quality (dust & odour) through the Cheshire East Local Plan including the draft Minerals and Waste Plan (MWP) and saved policies in the Cheshire Replacement Minerals Local Plan 1999 (CRMLP). A consultation on the Council's draft MWP was undertaken for 6 weeks during November and December 2022. The responses to the consultation are currently being considered. The matter raised in this NoM was also submitted as an objection to the draft MWP and will be addressed through the established statutory procedure for preparing a Local Plan. A further public consultation is expected to be undertaken on the MWP later this year and the plan will eventually be subject to an independent examination where any outstanding objections will be considered.
- 2.6.** Officers do not consider it is appropriate to stipulate a set buffer distance from receptors as part of policy as the risk to those receptors would depend on many factors as described in the background section below and the Council would need to have relevant technical guidance/industry best practice as evidence. Officers are not aware of any planning authority who have stipulated a specific distance in their local plan. In fact, the Inspector at the recent Warwickshire Minerals Local Plan rejected an objection made on similar grounds to the NoM. Nor is it clear if the proposed 1000m buffer limit is based on any scientific evidence. Equally, as identified above, there is nothing in national planning policy that supports such an approach.

- 2.7. Officers consider that the proposed policies in the MWP together with the existing policies within the Local Plan Strategy (LPS), Site Allocations and Development Policies Document (SADPD) and CRMLP enable concerns around dust, including silica dust, to be fully considered and addressed at the planning application stage.

3. Recommendations

- 3.1. That the Committee note the national guidance and proposed local planning policy position in relation to air quality including crystalline silica dust.
- 3.2. That the Committee reconfirm the Council's proposed approach as set out in the draft Minerals and Waste Plan and that the matter be considered in the normal way through the statutory local plan preparation process.

4. Reasons for Recommendations

- 4.1. The Cheshire East Council Constitution sets out the procedure for Notices of Motion submitted to Council. A motion referred to the relevant decision-making body must be considered within two meeting cycles. At the meeting to which the motion has been referred for consideration, the proposer of the motion if present shall be invited to speak first, followed by the seconder. The matter will then be opened up to wider discussion.

5. Other Options Considered

- 5.1. No other options were considered. In the interests of being open and transparent, the Notice of Motion to Council was referred to the relevant service committee for consideration in accordance with the Council's Constitution.

6. Background

- 6.1. Very fine Respirable Crystalline Silica dust (RCS) is generated when rock types containing crystalline silica are cut or crushed by industrial processes. If high levels of RCS are inhaled regularly over many years, such daily exposure can result in a risk of developing lung conditions such as silicosis. It is a disease that has only been seen in workers from industries where there is a significant exposure to silica dust, such as in quarries, foundries etc. Officers are not aware of any documented cases of silicosis among members of the general public in the UK. Because of this potential, activities involving exposure to RCS dust generated by a work process was added to the EU Directive "Protection of workers from the risks related to exposure to carcinogens or mutagens at work" (Directive 2004/37/ EC as amended) in 2017 and HSE therefore require mineral operators to accord with their H&S legislation and implement health and safety controls to manage the potential exposure to employees working on the site. These measures also assist to reduce the impact of dust outside the processing area, and the wider site.
- 6.2. The presence of silica dust beyond the boundary of a minerals site is dependent on the geology and the processing operations, along with local geography, climate and prevailing wind direction. Sand grade particles typically sold from our

quarries are significantly larger than the very fine (PM2.5) to fine (PM10) particulate matter (measured in microns) associated with RCS dust, which would only arise from grinding or milling processes or constant abrasion undertaken when silica is cut or crushed. This type of production is not normally a feature of the quarries in Cheshire East. Equally the method of extraction and mineral handling undertaken in Cheshire East assists in limiting potential for residual sand dust exposure.

- 6.3.** Paragraph 211 of the National Planning Policy Framework (NPPF) identifies that councils determining mineral planning applications should ensure that there are no unacceptable impacts on human health and ensure that any unavoidable dust and particle emissions are controlled, mitigated or removed at source.
- 6.4.** In addition, Minerals Planning Practice Guidance identifies that the planning system should ensure "that new development is appropriate for its location - taking account of the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution. In doing so the focus of the planning system should be on whether the development itself is an acceptable use of the land, and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under regimes. Mineral planning authorities should assume that these non-planning regimes will operate effectively" (Paragraph: 012. Reference ID: 27-012-20140306).
- 6.5.** No specific buffer distances or particle size limits are identified for dust in planning guidance. In addition, the Health and Safety Executive have produced guidance in relation to the exposure of fine dust containing crystalline silica and the potential associated lung disease "silicosis". Their website states that "It usually takes a number of years of regular daily exposure before there is a risk of developing silicosis. Silicosis is a disease that has only been seen in workers from industries where there is a significant exposure to silica dust, such as quarries, foundries, the potteries etc. No cases of silicosis have been documented among members of the general public in Great Britain, indicating that environmental exposures to silica dust are not sufficiently high to cause this occupational disease¹".
- 6.6.** The minerals industry has responded to calls for buffer controls by producing an information factsheet² and establishing a website on crystalline silica³ to contextualise and address the health concerns that have been raised.
- 6.7.** The Cheshire East Minerals and Waste Plan (MWP) details the Council's planning policies on minerals and waste matters. It is part of the suite of planning policy documents that once all approved will together form the Council's Local Plan. The MWP focuses on issues that are specific to minerals and waste matters

¹ [HSE - Quarries - Silica](#)

² [MPA Quarries and Dust Air Emissions 2022.pdf \(mineralproducts.org\)](#)

³ [FAQs Crystalline Silica and Silicosis | Safe Silica](#)

with the overall aim of achieving the sustainable provision of minerals and the sustainable management of waste within the borough. A consultation on the draft MWP was undertaken for 6 weeks during November and December 2022. The responses to the consultation are currently being considered. The matter raised in this NoM was also submitted as an objection to the draft MWP and will be addressed through the established statutory procedure for preparing a Local Plan. A further public consultation is expected to be undertaken on the MWP later this year and the plan will eventually be subject to an independent examination.

- 6.8.** The Council's draft MWP proposes a general policy (Policy DM 1) to ensure that planning proposals do not have any unacceptable impacts. Criterion i. specifically refers to local amenity and health (including noise levels, odour, air quality, dust, litter, vermin, light pollution and vibration).
- 6.9.** A more detailed policy on air quality is proposed by Policy DM 9 (Air Quality: Dust and Odour) as follows:
1. Proposals for new minerals and waste development, and for the expansion of existing operations, will only be permitted where the applicant can demonstrate that the proposed development will not have a unacceptable adverse impact on amenity, human health, air quality and the natural and historic environment, with regard to dust, odour, bioaerosols and other emissions (including no detrimental impact on the AQMAs). All emissions should be controlled, mitigated or removed at source and should not have a significant detrimental impact on residential amenity or human health.
 2. Where relevant, a site-specific impact assessment may be required to determine existing/ambient levels, identify potential impacts and appropriate avoidance and/or mitigation measures to be implemented. Where applicable, a site management and monitoring plan should be developed to ensure the implementation and maintenance of mitigation measures throughout operations. Applicants should liaise with appropriate personnel within the Environment Agency and the Council's Environmental Protection Team prior to the submission of a planning application to establish the scope of any assessments required.
- 6.10.** Part of the justification for the proposal in the NoM is the Quarries (Planning) private members Bill by Matt Western MP. The Parliamentary website indicates that "The 2021-2022 session of Parliament has prorogued and this Bill will make no further progress". Therefore, it has no legal or planning status.
- 6.11.** Officers do not consider it is appropriate to stipulate a set buffer distance from receptors to put in the policy as the risk to those receptors would depend on many factors as described in the background section above and the Council would need to have relevant technical guidance/industry best practice as evidence. Officers are not aware of any organisation who have stipulated a specific distance. Nor is it clear if the proposed 1000m buffer limit is based on

any scientific evidence. Equally, as identified above, there is nothing in national planning policy that supports such an approach. Overall, it is considered that existing and proposed policies will provide the necessary means to address the concerns raised within the context of appropriate national planning guidance and legislation.

6.12. A similar concern was raised recently at the Warwickshire Minerals Local Plan (WMLP) Examination. The WMLP has adopted a similar approach to that proposed by the Council by having a general development management policy (DM 4 - Health, Economy and Amenity - Minimising the impacts of Mineral Development) to cover off these matters. Paragraph 83 of the Inspector's report (June 2022) identifies that "Whilst the Plan does not specifically refer to crystalline silica, I am satisfied that it provides an appropriate approach to the consideration of any such issues as part of any subsequent planning application pursuant to the provisions of Policy DM 4. Consequently, I do not consider that the potential, or otherwise, for the health implications of sand and gravel working giving rise to crystalline silica emissions is a matter that is required to be considered in any detail in the Plan. I am satisfied that the Plan, when taken as a whole, provides an appropriate policy basis for such matters to be addressed". The Plan was adopted in July 2022.

6.13. Proposed policies DM 1 and DM 9 in the Council's draft Minerals and Waste Plan identify the issue of health and air quality as determining factors for the Council when considering planning applications. Adopted LPS Policy SC 3 (Health and Well-Being) and SADPD policies ENV 12 (Air Quality) & HOU 12 (Amenity) are also relevant. As are saved policies in the CRMLP that relate to controlling the impact of dust from minerals related development i.e. Policy 9 (Planning applications) and Policy 28 (Dust). These provide appropriate policy hooks for the issues raised in the NoM to be dealt with at the planning application stage. The Council would at the planning application stage include the HSE as a statutory consultee, along with the UK Health Security Agency (formerly Public Health England), Environment Agency, and of course the Council's environmental health and public health officers. The Council would rely on them to advise on any risks and identify the necessary mitigation.

7. Implications

7.1. Legal

7.1.1. This Report notes that no specific buffer distances or particle size limits are identified for dust in planning guidance. National Planning Policy also makes it clear that when considering relevant planning applications, mineral planning authorities should ensure that there are no unacceptable adverse impacts on the environment or on human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality.

7.2. Finance

7.2.1. There are no financial implications arising from this report. Any update to planning policy can be considered as part of the planned activity to review and update the Minerals and Waste Plan.

7.3. Policy

7.3.1. There are no policy implications arising from this report.

7.4. Equality

7.4.1. There are no equality implications arising from this report.

7.5. Human Resources

7.5.1. There are no Human Resources implications arising from this report.

7.6. Risk Management

7.6.1. The recommendations of the motion propose to influence planning policy that would be contrary to national planning guidance. This could result in the MWP failing to get through independent examination.

7.7. Rural Communities

7.7.1. There are no implications for rural communities arising from this report.

7.8. Children and Young People/Cared for Children

7.8.1. There are no implications for children and young people arising from this report.

7.9. Public Health

7.9.1. There are no implications for public health arising from this report.

7.10. Climate Change

7.10.1. There are no implications for climate change arising from this report.

Access to Information	
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Appendices:	None
Background Papers:	None