

Application No: 13/4683W

Location: White Moss Quarry Radway Green Alsager Crewe Cheshire CW1 1UJ

Proposal: Removal of Condition 11 (Hours of Operation) on Approved Application 7/2006/CCC/19 (Development for the winning and working of sand and peat). To allow plant maintenance 07.30 - 18.00 on Sundays.

Applicant: Land Recovery Ltd

Expiry Date: 30-Dec-2013

#### **SUMMARY:**

The NPPF states that in assessing development proposals, local planning authorities should apply the presumption in favour of sustainable development.

In terms of sustainability, the proposal would satisfy the economic sustainability role by helping to support the operation of the existing quarry business which provides both direct and indirect benefits to the local economy. However these considerations would not outweigh the harm to the local environmental and social sustainability considerations having regard to the impacts on residential amenity.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. The hours proposed do not conform with those stipulated in Policy 37 of CRMLP and no information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours nor any mitigation identified to address any associated impacts as required by this condition. The proposal therefore conflicts with policies 9, 26 and 37 of the CRMLP, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 144 of the NPPF.

**RECOMMENDATION: Refuse**

#### **PROPOSAL**

This is an application for the variation of condition 11 of planning permission 7/2006/CCC/19 at White Moss Quarry. The condition currently stipulates:

*'Operations authorised with this consent shall not be carried out other than between the hours of:*

*0730 – 1800 hours Monday to Fridays*

0730 – 1230 hours Saturdays

*Plant maintenance shall not be carried out other than between the hours of:*

0730 – 1800 hours Monday to Saturday

*On Saturdays moveable plant and vehicle maintenance will only be carried out within the designated buildings in the processing plant and stockpile area shown on plan 8/115/1A, except in emergencies. All emergencies will be notified to the Mineral Planning Authority on the next working day. Only plant and vehicles which are solely used within White Moss Quarry can be maintained on site.*

*No working shall take place on Sundays or Public Holidays’.*

The application seeks to vary this condition to allow plant maintenance on Sundays from 0730 – 1800 hours in addition to the hours currently stipulated by this condition.

## **SITE DESCRIPTION**

White Moss Quarry is located on Crewe Road (B5077), between the western extent of Alsager and the M6 motorway. Land to the north beyond Nursery Road comprises a number of residential properties, farms and agricultural land. To the east are fields beyond which are a number of properties on Close Lane and further properties forming the western edge of Alsager. To the south lies a garden centre and Crewe Road beyond which is the extensive development of Radway Green BAE Plant; whilst the M6 lies to the west beyond open fields.

The closest residential properties lie adjacent to the northern and western site boundary, and on Crewe Road, with further properties lying along Close Lane the closest of which is approximately 100m from the site. A public footpath runs along the southern and western site boundary. The site is within Open Countryside, as defined in the local plan, albeit the quarry boundary adjoins the settlement boundary of Alsager.

## **RELEVANT HISTORY**

Long planning history on the wider quarry site. Most relevant of which are:

7/2006/CCC/19	Variation of conditions of permission 7/P04/1054 granted February 2007
7/P04/1054	Extension of time until 2028 granted December 2004
13/4132N	Outline application for residential development – approved at SPB August 2014

## **NATIONAL & LOCAL POLICY**

### **National Policy:**

The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14, 143 and 144.

### **Development Plan:**

The Development Plan for this area is the Cheshire Replacement Minerals Local Plan 1999 and Crewe and Nantwich Local Plan 2011.

The relevant Saved Policies are: -

Cheshire Replacement Minerals Local Plan

Policy 9 – Planning Applications

Policy 12 – Conditions

Policy 26 – Noise

Policy 27 – Noise

Policy 37 – Hours of operation

Crewe and Nantwich Local Plan

NE.17 – Pollution Control

BE.1 – Amenity

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

**Cheshire East Local Plan Strategy – Submission Version (CELP)**

The following are considered relevant material considerations as indications of the emerging strategy:

SE12 – Pollution, Land Contamination and Land Instability

SD 1 Sustainable Development in Cheshire East

SE10 – Sustainable Provision of Minerals

**Other Considerations:**

National Planning Practice Guidance

Noise Policy Statement for England

**CONSULTATIONS**

**Environmental Protection:**

The current permission allows for maintenance during normal operating hours and in addition from 1230 to 1800 hours on Saturday. There is little information submitted for the requirement outside of these hours for further allowance for maintenance activities.

Plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The extant permission already allows for additional hours for this activity. This section considers that in order to safeguard residential quality of life, a period of respite for local residents from the potential of adverse noise impacts should remain.

Given the above reasons the section recommends that this planning application is refused.

**Alsager Town Council:** strongly object as it would cause serious harm to the well being of the residents within that area. The quarry already has extensive operating hours from Monday

through to Saturday, residents within the vicinity of the Quarry should be allowed one day a week free from the very noisy and dusty operations of the Quarry.

**Haslington Parish Council:** concerned at the requirement for plant maintenance covering 7 days a week, needing to balance the requirements of neighbours with one of the few remaining employment sites within Haslington. If absolutely essential then a compromise of restricted hours between 09:00 and 12:00 on Sundays would provide some quiet time for neighbours on Sunday afternoons.

#### **REPRESENTATIONS:**

Neighbour notification letters were sent to adjoining occupants, a press notice and site notice were posted.

At the time of report writing in excess of 49 representations have been received which can be viewed on the Council website. They express a number of concerns which include:

- Impact on residential amenity arising from noise and disruption
- Increased dust
- Need for respite
- Sunday is a religious day
- Potential for vibration
- Impact on quiet rural area
- Need for proposal not demonstrated and activities can be scheduled into normal operating hours
- Existing provisions in the conditions are adequate
- Non compliance with existing conditions and ability to effectively monitor any amended conditions
- Adequacy of monitoring and enforcement on the site
- Impact on health and wellbeing of residents and local people
- Impact on users of the footpaths
- Detrimental to public enjoyment of open countryside
- Health and safety issues particularity for footpath users
- Other quarries/businesses are not permitted such allowances
- Disturbance to wildlife
- Potential for additional traffic and impacts on highway network and highway safety.
- Impacts on condition of roads

One letter of support has been received which states that the proposal would support job opportunities and bring financial benefits to the area.

#### **APPRAISAL**

The key issues to be considered in the determination of this application are set out below.

##### Principle of development

The principle of mineral extraction has already been accepted by virtue of the long history of quarrying on this site. This application is to consider the variation of planning condition 11 attached to the current consent.

It is necessary that planning conditions satisfy six tests as identified at paragraph 206 of the NPPF which states that conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning and;
3. To the development to be permitted;
4. Enforceable;
5. Precise and;
6. Reasonable in all other respects.

The Planning Practice Guidance also states that in determining this application the local planning authority must only consider the disputed conditions that are subject of the application – it is not a complete re-consideration of the application.

### **Sustainability.**

The proposed development should be considered against the NPPF. The NPPF identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The NPPF defines sustainable development and states that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

***an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy*

***an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*

***a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*

*These roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.*

### **Social sustainability**

#### **Impact on amenity**

The applicant wishes to increase the hours permitted for plant maintenance to allow activity on Sundays from 0730 to 1800 hours. The application form states that this is required 'to allow flexibility for essential site maintenance of plant'. No other supporting justification has been provided.

The Cheshire Replacement Minerals Local Plan (CRMLP) policy 9 requires there to be an evaluation of all direct, indirect and cumulative impacts of the development. Policy 26 states that proposals will not be permitted where it would give rise to unacceptable levels of noise pollution, whilst policy 27 makes provision for controlling the hours of operation as a means of controlling noise emissions from the site.

The NPPF states that new and existing development should not contribute to unacceptable levels of noise pollution, nor give rise to '*significant adverse impacts on health and quality of life*' (paragraph 123). It should also be appropriate for its location, and the potential sensitivity of the area to adverse effects from pollution should be taken into account. With regard to mineral development, the NPPF advises that any unavoidable noise emissions from mineral development should be controlled and mitigated, and due consideration should be given to the cumulative effects of multiple impacts from individual sites and/or from a number of sites in the locality (paragraph 144).

The Environmental Health Officer notes that plant maintenance activities have the potential to cause noise impacts at sensitive receptors. The effect of this proposal would result in additional noise generating activities on Sundays which is one of the few days that local residents are not exposed to noise and disruption associated with the quarry and aggregate business. During weekend hours the background noise levels are lower and residents are more sensitive to adverse noise impacts. It is considered that a period of respite from any potential adverse noise impacts should remain in place in order to safeguard the quality of life for local residents.

There is a history of noise complaints associated with operations at White Moss Quarry, including noise complaints related to weekend working; although the source of noise generation is not always clear. It would be remiss of the Council not to consider the background of complaints received from local residents in relation to noise from current operations at the site; which provides an indication that further prolonged activities could lead to increased noise disturbance at the properties and increased loss of amenity.

The potential impacts of any noise and disruption on neighbour properties has not been quantified or assessed through an appropriate noise survey and as such there is insufficient information to determine whether there would be significant adverse impacts and whether these could be sufficiently mitigated. This does not accord with the approach of policies 9 and 26 of CRMLP, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan. As stated in paragraph 8 of NPPF, the three dimensions to sustainable development should not be undertaken in isolation and the impact of additional, potentially unacceptable levels of noise would not satisfy either the environmental or social roles of sustainable development.

#### Compliance with policy 37

Policy 37 of the Cheshire Replacement Mineral Local Plan states that plant maintenance activities will normally be permitted until 1800 on Saturdays and no workings will be permitted at any time on Sundays or Public Holidays. The existing condition already makes provision for plant maintenance in accordance with this policy, with such activities restricted to being undertaken within buildings or certain areas of the site to protect against adverse impacts on residential amenity. The supporting text to this policy explains that where economic or technical reasons require operations outside of the normally permitted hours, applicants would need to demonstrate special circumstances and the mitigation methods to be used to

minimise any adverse impacts. The application does not detail any information to demonstrate that such exceptional circumstances exist nor does it identify suitable mitigation, therefore the proposal does not accord with Policy 37 of CRMLP.

### **Environmental Sustainability**

The proposal has the potential to pose determinant impacts on the environment by means of increasing noise pollution in the local area. Such impacts have been considered in the above section.

### **Economic sustainability**

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that: *'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'*. Paragraph 143 also states that minerals are essential to support sustainable economic growth and our quality of life and it is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs.

Any economic benefits of the development need to be balanced against the impact on residential amenity arising from this scheme. With regard to the economic role of sustainable development, the proposed development will enable the applicant to carry out maintenance of essential plant and machinery on Sundays, which in turn would help support mineral extraction at the site, and in particular the top dressing products created at the site which serves the golf course market. This provides both direct and indirect economic benefits to the local economy.

### **Response to Objections**

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised, particularly around additional noise disturbance, are addressed within the individual sections of the report

### **Conclusion – The Planning Balance**

Taking account of Paragraph 14 and 143 of the NPPF there is a presumption in favour of the sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits.

The proposal is contrary to development plan policies 9, 26 and 37 of the Cheshire Replacement Minerals Local Plan, and policies NE.17 and BE.1 of Crewe and Nantwich Local Plan and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The development would provide additional provision for plant maintenance, thereby supporting an existing business which provides both direct and indirect benefits to the local economy. However this should be balanced against the conflict with policies of the Cheshire

Replacement Mineral Local Plan and Crewe and Nantwich Local Plan, and potential harm to the amenity of nearby residential properties arising from noise and disruption caused. These matters are considered sufficient to outweigh the benefits derived from this proposal.

The restrictions imposed by the condition as currently worded are considered to satisfy the six tests in paragraph 206 of the NPPF in that they are relevant, necessary, precise and reasonable as they enable any adverse impacts on residential amenity associated with noise and disruption arising from this activity to be controlled. In particular the existing condition is both 'reasonable' and 'necessary' as it would not present unjustifiable or disproportionate burden on the applicant (NPPG paragraph 004) given that there are existing provisions in the condition for plant maintenance outside of the normal hours of operation for the quarry and it complies with the hours stipulated in policy 37; furthermore no evidence has been provided to demonstrate why existing permitted hours are not adequate. Equally its retention is necessary to ensure the amenity of local residents is protected.

The noise and disruption generated during these extended hours has the potential to present an unacceptable impact on residential amenity, and this impact has not been quantified or assessed through a noise survey. No information has been provided to demonstrate the exceptional circumstances to justify such an increase in hours as required by Policy 37, nor any mitigation identified to address any associated impacts. The proposal therefore conflicts with policies 9, 26 and 37 of the CRMLP, policies NE.17 and BE.1 of Crewe and Nantwich Local Plan, along with paragraph 144 of the NPPF.

## **RECOMMENDATION**

**Refuse for the following reasons:**

- 1. The proposed hours of plant maintenance do not conform with those stipulated in the development plan and special circumstances have not been demonstrated to justify any deviation from the policy. As such the proposal conflicts with the provisions of policy 37 of the Cheshire Replacement Minerals Local Plan;**
- 2. Insufficient information has been provided to demonstrate that the proposed variation would not have an adverse impact upon the amenity of nearby residential properties which is contrary to policies 9 and 26 of Cheshire Replacement Minerals Local Plan, and policies and NE. 17 and BE.1 of Crewe and Nantwich Local Plan and guidance within the NPPF.**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**

**Should this application be the subject of an appeal, authority be delegated to the Principal Planning Manager in consultation with the Chairman of the Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.**



(c) Crown copyright and database rights 2015. Ordnance Survey  
100049045, 100049046.

