

Application No: 14/5816W

Location: HOUGH MILL QUARRY, BACK LANE, WALGHERTON

Proposal: Application to complete restoration of Hough Mill Quarry over a period of four years by accepting inert fill, processing the material and utilising the processed clean inert fill to complete the restoration of the site

Applicant: ANTHONY CONSTRUCTION LTD

Expiry Date: 20-Mar-2015

SUMMARY:

This section 73 application seeks to vary the condition that covers the completion date of the restoration of the quarry, thereby enabling consented levels to be reached and the desired and consented restoration achieved. It is important to recognise that this application does not seek to increase the consented levels of the site or bring any additional inert materials in addition to that already approved by the previous consent.

The proposed extension of time would enable the restoration of a former sand quarry which has been worked and abandoned without restoration to a suitable standard, leaving areas of open voids and un-restored land. The application proposes to continue to import and process inert waste materials to achieve sensitive restoration for agricultural use.

Whilst a time extension would prolong associated impacts on residential amenity, these would be limited due to the topography of the site and nature of the proposal. There has been no history of complaints during the restoration of the quarry. Current planning conditions to aid the mitigation of noise and dust would be continued to ensure that there are no nuisance issues. The applicant proposes no increase in consented vehicle movements, which were significantly less vehicle movements than that originally permitted when it was an active quarry.

The proposal would be beneficial in terms of visual amenity as it would result in a significant improvement in the visual amenity of the site, with partially restored areas being completed, voids filled and machinery removed. The proposal would provide significant nature conservation benefits derived from the implementation of appropriate habitat management to enhance existing areas of ecological value.

The failure to grant planning permission would result in failure to remedy the original problem of restoring the site. It is considered that the proposed development, subject to appropriate conditions and an appropriate Deed under s106 would not have an unacceptable impact on any other material considerations. As such the proposal would

represents environmental, economic and social sustainable development and planning permission should be granted.

RECOMMENDATION:

Approve subject to entering into an appropriate Deed under s106 and subject to planning conditions.

PROPOSAL

This is an application to vary condition 3 of consent 7/P05/0217 to permit a further 4 years to complete the restoration of the site. This would permit works to continue until August 2019. No other amendments are proposed to the approved development apart from minor modifications to the restoration scheme to incorporate mitigation proposed in the amphibian survey.

The applicant has estimated that 40,000 m³ of restoration material is required to complete the operations which would enable a 2m thick layer of inert material to be placed across the site to achieve the approved restoration profile. No changes are proposed to the permitted working arrangements on site. These allow inert material to be screened and processed using mobile plant on site to produce sufficient soil making material for the project; with any remaining oversized/unsuitable material processed and exported to the local construction sector as a secondary aggregate. The hours of operation remain unchanged at 0730 – 1800 hours Monday to Friday 08.00 – 12.30 Saturday with no operations on Sunday or public holidays. Plant maintenance is permitted between the hours of 07.30 – 19.00 Monday to Saturday. Likewise no additional vehicle movements are proposed over consented movements of 72 vehicle movements in a day (36 in and 36 out).

SITE DESCRIPTION

Hough Mill Quarry is a former sand and gravel quarry situated on the southern edge of Wybunbury, approximately 4 miles south and south east of Crewe and Nantwich respectively.

Access to the site is from the A51 London Road which forms the south western site boundary. Land to the east, south and west beyond A51 is in agricultural use, whilst Wybunbury village lies to the north of the site. Lea Forge Trout Farm is situated directly to the south east of the quarry, whilst a commercial fishing lake borders the north eastern boundary of the site. A bridleway (Lea BR6) runs adjacent to the eastern edge of the site which would be unaffected by the development.

An order to divert Public Footpath Lea No.2 outside of the application site to accommodate the restoration activities was confirmed on 26th April 2012 and has been advertised.

The application site covers 27ha and includes the former quarry workings in the north east and north west, separated by Jerusalem Pool fishing lake, and Forge Brook, which flows through the centre of the site. The site also includes the former processing/stockpile areas, access road and land to the south of the access road.

Two Grade B Sites of Biological Importance are situated adjacent to the application site boundary: Jerusalem Wood on the northern boundary and Jericho Wood and Pasture situated adjacent to Jerusalem Pool. The site also lies within 1.6km of Wybunbury Moss, Ramsar Site, Special Area of Conservation, Site of Special Scientific Interest and National Nature Reserve.

A small number of residential and commercial properties lie in close proximity to the site, with the majority aligned along the western boundary. A derelict farm house lies adjacent to the western site boundary, whilst a further property is located adjacent to the trout farm.

RELEVANT HISTORY

The extraction of sand and gravel at this quarry has been undertaken since the mid 1960's. The historical permission for the site approved a restoration to agriculture and nature conservation through the importation of inert material. The site was worked sporadically by a number of owners who left the land with significant open voids and in a poor, semi-restored state.

A time limited consent was granted in 2005 (ref 7/P05/0217) to fully restore the site to agriculture and nature conservation by April 2010, using inert fill material and top soil. The consent permitted the importation of 400,000 m³ of clean inert waste material to act as a 2m containment layer for the previously poorly restored surfaces, which was to be overlain by top soils and planted in accordance with the approved restoration scheme. The consent was subject to a section 106 legal agreement to provide for extended management and aftercare of the nature conservation and wetland area of the central portion of the site for a 15 year period in accordance with an agreed management plan.

In June 2014, an application (10/1149W) was granted to vary condition 3 of the consent to allow further 5 years to complete restoration of the site. This was due to the economic downturn and subsequent lack of available fill material for the restoration. The economic downturn continued for some time leading to this application to allow for a further 4 years to complete the restoration of the site.

The restoration of the site has progressed with the north western section being filled to permitted levels and re-seeded. The north eastern section is mid-restoration and requires further fill material, whilst work is yet to start on the central section and some restoration has taken place on the southern sections. Due to the economic downturn and subsequent lack of available fill material for the scheme, a large proportion of the site remains un-restored.

NATIONAL & LOCAL POLICY

National Policy:

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

The National Planning Policy for Waste (NPPW) seeks sustainable management of waste.

Local Plan Policy***Cheshire Replacement Waste Local Plan (CRWLP)***

Policy 1: Sustainable Waste Management

Policy 2: The Need for Waste Management Facilities

Policy 12: Impact of Development Proposals

Policy 14: Landscape

Policy 17: Natural Environment

Policy 18: Water Resource Protection and Flood Risk

Policy 20: Public Rights of Way

Policy 23: Noise

Policy 24: Air Pollution; Air Emissions Including Dust

Policy 27: Sustainable Transportation of Waste and Waste Derived Materials

Policy 28: Highways

Policy 29: Hours of Operation

Policy 32: Reclamation

Cheshire Replacement Minerals Local Plan (CRMLP)

Policy 9: Planning Applications

Policy 41: Restoration

Policy 42: Aftercare

Borough of Crewe and Nantwich Adopted Local Plan 2011

BE.1: Amenity

BE.4: Drainage, Utilities and Resources

NE.2: Open Countryside

NE.5: Nature Conservation and Habitats

NE.8: Sites of Local Importance for Nature Conservation

NE.9: Protected Species

NE.12: Agricultural Land Quality

NE.17: Pollution Control

RT.9: Footpaths and Bridleways

National Planning Policy Framework***Planning Policy Statement 10: Planning for Sustainable Waste Management*****Other Material Considerations**

Government Review of Waste Policy in England 2011

Waste Management Needs Assessment – For Cheshire East Borough Council – Final Report 6th November 2014

Planning Practice Guidance - Waste

CONSULTATIONS:**Highways:**

No objections subject the existing access being used.

Environmental Protection:

The planning proposal is for a further extension of time for restoration activities. Existing controls are in place at this site to mitigate the impacts of noise and dust from restoration operations to acceptable levels.

The planning conditions relating to noise and dust controls includes the setting of noise limits agreed in Planning Permission 10/1149W in 2010 are considered relevant and all should be attached to any planning approval given for this proposal.

Natural England:

No objection.

Environment Agency:

No objection.

Mid Cheshire Footpath Society:

Have no representations with respect to the proposed restoration. Should the application be approved however, we would ask that the applicant be made aware of his obligations to keep Walgherton BW 8 and Lea footpath safe for walkers and horses and open and walkable at all times.

Hatherton Parish Council:

On the basis that this application seeks only to extend the completion of a previous permission there was no objection, but comment that the restorations are completed and land settled before any further development is contemplated. Also that all the footpaths and the bridleway are fully restored in their original positions.

REPRESENTATIONS:

Neighbour notification letters were sent to neighbouring properties and a site notice posted.

At the time of report writing 2 representations have been received which can be viewed on the Council website. These include one from a nearby listed building and one from Cllr Janet Clowes. The representations express several concerns including the following:

- The quarry should be restored more quickly
- Other quarries have not had these issues
- Additional vehicle movements
- Continued disturbance and noise
- Adverse impact of vibrations caused by lorries on local roads such as damage to property
- Damage to local roads and verges

APPRAISAL

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

Principle of Development

The proposed variation is required to avoid the site being left partially restored and unfit for any beneficial purpose, as has been the case in the past. The scheme also allows for the continued long term management of the ecological and nature conservation assets on the

site including the SBI at Jericho Woodland and Pasture, Jerusalem Wood and Jerusalem Pool.

The original timescales for the project were calculated on the basis of achieving average monthly loads of approximately 1200 tonnes. Following the prolonged economic downturn, the operator has struggled to obtain sources of suitable inert fill. Average monthly loads in 2014/15 were approximately 250, and whilst this represents a slow improvement, there still remains an estimated 40,000 m³ of restoration material required to complete the works. Should works on site cease before the scheme is completed, this would leave land partially restored with an unsympathetic landform and which lacks appropriate landscape treatment. It would also make the aftercare arrangements difficult to implement.

In addition, it is noted that the inert subsoils used for the restoration of this site enable a sustainable means of diverting Construction, Demolition and Excavation waste (CD&E) from landfill which is one of Cheshire East's largest waste streams (49% of the overall waste arisings). This helps to meet the requirements of the revised waste framework directive, targets in the Waste (England and Wales) Regulations 2011, and the planning objectives of the NPPW and the CRWLP. The Waste Management Needs Assessment (WMNA) Final Report 2014 forecasts that up to 2020 there will be waste arisings of 125,000 tonnes of CD&E per annum. The WMNA has also assessed in 2012 was currently 10,000 tonnes of capacity for inert waste in Cheshire as a whole, significantly lower than that which is required. The results from studies into construction waste conclude that there is a need to ensure that there is a broad distribution of appropriate sites to support the proper management of this type of waste. It is also noted that there are few similar facilities in the south of the authority able to provide an outlet for CD&E waste arisings and the scheme also accords with the approach of NPPF which requires minerals sites to achieve high quality restoration and aftercare schemes.

On this basis, it is considered that the proposal is in accordance with the overall objectives of CRWLP and PPS10, and supports the approach of PPS10 and NPPF.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

"Sustainable means ensuring that better lives for ourselves don't mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment"

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.

ENVIRONMENTAL SUSTAINABILITY

Landscape

The site is a former quarry and the proposal would allow for the final restoration of the site to take place. This would be a positive benefit to the local landscape and weighs in favour of the application.

Ecology

The proposed development is located over 1km of Wybunbury Moss which forms part of the Midland Meres and Mosses Phase 1 Ramsar and is also designated as a Special Area of Conservation (SAC) and SSSI.

It is noted that in their consultation comments Natural England advise that the proposed development is not likely to have an adverse impact upon the features for which the site was designated and they advise that an Appropriate Assessment under the Habitat Regulations is not required.

Under regulation 61 of the Habitat Regulations the Council is required to undertake an 'Assessment of Likely Significant effects'. This assessment has been undertaken is available to view on the Council's website. The assessment concludes that the proposed development is not likely to have a significant impact upon the features for which the statutory site was designated. Consequently, a more detailed Appropriate Assessment is not required.

An updated protected species survey has been undertaken and submitted in support of the application. It is considered that there are unlikely to be a significant impact on badgers arising from the current proposals.

Great Crested Newts were recorded on site during surveys undertaken in respect of the last application at this site (10/1149W). A suitable mitigation strategy was submitted in respect of this earlier application (dated July 2011, updated 2013) and made a condition of that application. It is considered that provided a similar condition is attached to the current

application the proposed development would be unlikely to have an impact upon Great Crested Newts and so it would not be necessary for the Council to have regard to the Habitat Regulations in respect of this protected species when determining this application.

Restoration and Aftercare

No amendments are proposed to the approved site restoration scheme aside from minor modifications to incorporate recommendations of the amphibian survey. This requires:

- a small strip of the land on the southern boundary to be left free from infilling to regenerate naturally,
- an area adjacent to the former settling ponds to be left undisturbed for the creation of an invertebrate habitat mound, and
- a larger area adjacent to the former settling pond left free from any infilling to secure a buffer of retained habitat for great crested newts.

Accordingly, the approved restoration plans were amended to reflect these provisions and are considered acceptable by the Landscape and Nature Conservation Officers.

The original extension of time consents were subject to a s106 legal agreement to secure a 15 year period of habitat management for those areas of the site identified to be of nature conservation value that are not subject to direct restoration works. This includes Jerusalem Pool fishing lake, Jericho Wood and Pasture SBI and the section of Forge Brook passing through the site. The legal agreement ensures that these nature conservation habitats are appropriately managed until December 2020, in accordance with an approved habitat management plan which was agreed in conjunction with the Nature Conservation Officer, Environment Agency and Natural England. Should planning permission be granted, it is proposed that this requirement will continue to be secured on any further consent by means of an appropriate Deed under s106.

As the broad restoration proposals and aftercare arrangements remain as per previously approved, the scheme is considered to accord with policies 41 and 42 of CRMLP, policy 14 of CRWLP and paragraph 143 of NPPF.

Highways

No changes are proposed to the permitted working arrangements on the site, in particular vehicle movements. These will remain at a maximum of 72 per day (36 in and 36 out). As such the Head of Strategic Infrastructure raises no objection to the proposal on highway grounds.

The objection from the occupier of Thatchers Cottage, London Road, Walgherton has expressed concerns about vibration and degradation of the roads caused by heavy lorries. However this could not be solely attributed to this site and its associated vehicle movements.

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’

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

‘The economic benefits of the development need to be balanced against the impact upon the open countryside.

With regard to the economic role of sustainable development, the proposed development will help to maintain employment at the site.

SOCIAL SUSTAINABILITY

The restoration of the site would retain existing employment for a period of time and would result in the restoration of the site to the benefit of the local area.

There are a number of Grade II and Grade I Listed Buildings around the edge of this large site and the proposed restoration works would serve to improve the setting of these buildings.

Residential Amenity

There are no changes proposed to the hours of operation of the site, these are 0730 – 1800 hours Monday to Friday, 0800 – 1230 hours Saturday with no operations on Sunday or public holidays. Plant maintenance would still only take place between the hours of 0730 – 1900 Monday to Saturday. It is considered that these restrictions are adequate to protect the residential amenity of nearby properties.

NPPF and policies 12, 23, 24 of the CRWLP require that the impacts of noise and dust emissions are suitably assessed and controlled in accordance with Government guidelines.

The noise assessment concludes that the noise generated by site operations remain below established noise levels, controlled by condition on the existing consent.

The dust assessment identifies that the current dust emissions are considered negligible. The only potential source of significant dust emissions are those associated with the movement of vehicles on the internal haul road and the site operates in accordance with an approved dust mitigation scheme.

With the continuation of existing mitigation procedures the level of impact is considered to be negligible and regular monitoring ensures that noise and dust levels generated by operations at the site accord with current environmental standards. There is no history of

complaints during the restoration phase and the Environmental Health Officer does not object to this application.

On the basis that the current mitigation procedures will remain in place, it is considered that the scheme will not generate any significant detrimental noise or dust impacts that would impact on human health or the natural environment. As such, it accords with NPPF paragraphs 17, 123 and 144, Policies 12, 23 and 24 of the CRWLP, along with the NPPW and NPPF paragraphs 120 and 123.

Conclusion – The Planning Balance

The proposed extension of time would enable the restoration of a former sand quarry which has been worked and abandoned without restoration to a suitable standard, leaving areas of open voids and un-restored land. The application proposes to continue to import and process inert waste materials to achieve sensitive restoration for agricultural use.

Whilst a time extension would prolong associated impacts on residential amenity, these would be limited due to the topography of the site and nature of the proposal. There has been no history of complaints during the restoration of this development. Current planning conditions to aid the mitigation of noise, dust, would be continued to ensure that there are no nuisance issues. The applicant proposes no increase in consented vehicle movements, which were significantly less vehicle movements from that originally permitted when it was an active quarry.

The proposal would be beneficial in terms of visual amenity as it would result in a significant improvement in the visual amenity of the site, with partially restored areas being completed, voids filled and machinery removed. The proposal would provide significant nature conservation benefits derived from the implementation of appropriate habitat management to enhance existing areas of ecological value.

The failure to grant planning permission would result in failure to remedy the original problem of restoring the site. Overall, there appear to be no significant planning reasons to warrant refusal of this application. It is considered that the proposed development, subject to appropriate conditions, and an appropriate Deed under s106, would not have an unacceptable impact on any other material planning consideration. As such, planning permission should be granted.

RECOMMENDATION

That the application be APPROVED subject to the following:

(1) An appropriate Deed under s106 to continue the management of nature conservation land in accordance with an approved habitats and fisheries management plan for a period until 12th December 2020.

(2) Planning conditions covering in particular: -

All the conditions attached to permission 7/P05/0217 unless amended by those below;

**Approved plans;
Completion of the restoration works by August 2019; and
Implementation of the mitigation identified in the ecological surveys
Protection of breeding birds**

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 Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, 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 Head of Planning (Regulation) in consultation with the Chairman of the Strategic Planning Board 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.



