

Agenda Item No.5.3

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

9 July 2018

Report of the Strategic Director – Economy, Transport and Environment

- 3 SCHEME FOR THE MANAGEMENT AND MAINTENANCE OF THE EASTERN AVENUE AT ELVASTON CASTLE UNDER AN OBLIGATION PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO PLANNING PERMISSION CM9/0805/73 FOR A PROPOSED NORTHERN EXTENSION TO ELVASTON SAND AND GRAVEL PIT, RESTORATION OF THE LAND FOR AGRICULTURE AND THE CREATION OF LAKES FOR AMENITY AND CONSERVATION, ELVASTON QUARRY, ELVASTON, NR DERBY**
APPLICANT: TARMAC LTD
SUBMISSION NO: SM2612

9.454.23

- (1) **Purpose of Report** To enable the Committee to determine the submission.
- (2) **Information and Analysis** This is a submission under an obligation of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, relating to planning permission CM9/0805/73 at Elvaston Quarry, Elvaston, Derby.

Planning Background

Planning permission (code number CM9/0805/73) for the extraction of 1.85 million tonnes of sand and gravel from 57.6 hectares of land situated between Elvaston Country Park and the village of Ambaston was granted by this Authority on 2 August 2013. The development area extends northwards from an earlier, now restored, phase of working known as Bellington Hill, west of Ambaston Lane. It is the latest permission for a number of similar sites, beginning west of the M1 in the 1950s and progressing westwards that, collectively, have become known as Elvaston Quarry. No mineral extraction operations have taken place at the quarry for 20 years, although site restoration operations continued into the mid-2000s.

The planning permission was subject to a number of planning conditions and was also accompanied by a legal agreement under Section 106 of the Town and Country Planning Act 1990, as amended.

The Site

The complex of former mineral workings, quarry infrastructure and future workings known as Elvaston Quarry is located south-east of the village of Elvaston and south and west of the village of Ambaston. The site, which is accessed from the south off the B5010, currently comprises the restored Bellington Hill site (referred to above) in the area between the B5010 to the south-west, Ambaston Lane to the east and the Thulston Brook to the north. Retained quarry infrastructure, including a vehicular site access, internal haul road, a conveyor route and silt ponds sit to the north and north-east of the Thulston Brook. This infrastructure has been retained on site to enable its use for the duration of operations associated with planning permission CM9/0805/73 after which it is to be removed and this central part of the quarry complex restored. Also in this area is a ready mix concrete plant which is still operational.

The northern extension area which is covered by planning permission CM9/0805/73 is on the floodplain between Ambaston Lane in the south, the River Derwent in the north, Elvaston Country Park in the west and Ambaston in the east. The site is adjacent to both sides of a double line of trees known as the Eastern Avenue ('the Avenue') that forms part of the wider Elvaston Castle estate. The Avenue extends from the Castle grounds eastwards towards the village of Ambaston and is considered to form part of its setting, providing an extended vista between the Castle and the village. It is subject to a number of designations including a Tree Preservation Order (South Derbyshire District Council) and, together with the Castle, gardens and park, is registered Grade II* on Historic England's Register of Historic Parks and Gardens in recognition of its status as being of outstanding national special historic interest. Except for a short section at its eastern end, where the haul road associated with planning permission CM9/0805/73 (see planning background section below) crosses it, the Avenue falls outside the planning permission area.

The submission under consideration here relates solely to the Avenue and is a requirement of the legal agreement because the Avenue falls outside the northern extension area planning permission site boundary.

The Submission

The legal obligation requires the submission to the County Council of a Scheme for the management and maintenance of the trees that make up the Avenue.

The submitted scheme is a Tree and Avenue Management Plan (TAMP) covering a 20 year period between 2018 and 2038. It updates a previous document, submitted to the Authority in 2015, which has been amended following detailed discussions with the Mineral Planning Authority regarding its content.

The updated TAMP includes a detailed survey of the existing trees and their individual condition/quality, as well as general site conditions. Management objectives based on that survey are also set out in the TAMP. It states that management objectives for the Avenue are focussed on preserving its integrity as a landscape feature; the retention of historic and veteran trees and the public safety of the users of the public highway at the western end of the Avenue. The TAMP suggests that the above objectives would be met through a) the management of individual trees and b) the management of the Avenue in its entirety in acknowledgement of the role it plays as a local landscape feature. Detailed management specifications are provided for including replacement tree planting, tree protection fencing, hedgerow management, and the management of grassland that would be located within fenced enclosures. Provision for annual review is also provided that would include tree condition, assessment of risk to public safety (where required), monitoring tree protection measures implemented as part of the TAMP, the success of newly planted trees and any consequential amendments to the TAMP that would be required as a result of the review.

Consultations and Publicity

There is no statutory requirement for consultations or publicity with respect to this submission, however, the following consultations have been undertaken.

Councillor Atkin (Aston)

Has been consulted and no comments have been received.

South Derbyshire District Council (Tree Officer and Planning)

Have been consulted. At the time of writing, no comments have been received. Any comments received will be reported at the meeting.

Planning Considerations

The potential impacts of the northern extension to Elvaston Quarry on the environment, including impacts on the historic landscape and the setting of the registered park and garden, were considered in the report of the Strategic Director dated 16 May 2011 (Minute No. 54/11 refers). The commitment to undertake management and maintenance of the Avenue was put forward by the applicant company as part of a package of '*further mitigation and enhancement proposals to secure the future of the Avenue and its landscape*' in response to an initial objection from English Heritage (now Historic England) relating to the impacts of the proposals on the Avenue and its setting. English Heritage accepted the revised scheme, including the current proposal, and withdrew its objection as a consequence.

This submission is seeking approval for a plan for the management of the trees that form the Eastern Avenue at Elvaston Quarry, which is a requirement of a legal obligation associated with planning permission CM9/0805/73.

The Avenue is an important historic landscape feature in its own right, as well as contributing towards the setting of other designated heritage assets. At the present time, the Avenue has suffered generally as a result of lack of management to the trees themselves, as well as the grazing regime on the surrounding land. The submitted scheme has provided an assessment of each of the trees that make up the Avenue, as well as the feature as a whole. The scheme makes a number of recommendations that I consider would ensure that the stated management objectives of preserving its integrity as a landscape feature, retaining historic and veteran trees and maintaining public safety would be achieved.

In conclusion, I am satisfied that the updated and amended TAMP would provide a structured approach to the management of this landscape feature over the next 20 years to ensure its integrity. The submission is considered acceptable and, accordingly, is recommended for approval.

(3) **Financial Considerations** No fee is required in respect of this submission.

(4) **Legal Considerations** This scheme has been submitted in accordance with the requirement of an obligation pursuant to an agreement under Section 106 of the Town and Country Planning Act 1990.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(6) **Background Papers** File No.9.454.23
Submission documents received from David Walker Associates Ltd on behalf of Tarmac Ltd dated 4 August 2014, as amended by the document entitled 'Elvaston Castle Eastern Avenue 20y Tree and Avenue Management Plan

2018 – 2037' (Report ref version 3) produced by Ecus Ltd (April 2018) received from David Walker Associates Ltd on 18 May 2018.

(7) **OFFICER'S RECOMMENDATIONS** That:

- 7.1 The Committee resolves to **approve** the scheme submitted in respect of obligation 2.1.3 of the Deed of Agreement pursuant to Section 106 of the Town and Country Planning Act 1990, as amended, relating to the management and maintenance of the double line of trees known as the Avenue at Elvaston Castle, subject to the applicant being informed that all works to the Avenue be undertaken in accordance with the following document:

Elvaston Castle Eastern Avenue 20y Tree and Avenue Management Plan 2018 – 2037' (Report ref 8559 Revision V03) produced by Ecus Ltd dated April 2018.

- 7.2 The applicant be informed that any works to the Avenue will also need to be the subject of an application for tree works, subject to a Tree Preservation Order (TPO) which will need to be made to the local planning authority which, in this instance, is South Derbyshire District Council prior to any works associated with the management of the Avenue being undertaken.

Mike Ashworth
Strategic Director – Economy, Transport and Environment