

DERBYSHIRE COUNTY COUNCIL  
REGULATORY – PLANNING COMMITTEE

1 September 2014

Report of the Strategic Director – Economy, Transport and Environment

- 4 PROPOSED EXTENSION OF TIME FOR THE SUBMISSION OF AN APPLICATION UNDER THE ENVIRONMENT ACT 1995 (SCHEDULE 14) FOR APPROVAL OF CONDITIONS TO WHICH A PLANNING PERMISSION IS TO BE SUBJECT (FIRST PERIODIC REVIEW OF MINERAL PLANNING PERMISSIONS OR ‘ROMP’ APPLICATION) AT DOWLOW QUARRY, STERNDALE MOOR, BUXTON (PLANNING PERMISSION CODE NUMBERS 1986/9/10 (DISPOSAL OF MINERAL WASTE/MINERAL WINNING AND WORKING), HPK/680/675 (DISPOSAL OF MINERAL WASTE), CM1/1292/57 (DISPOSAL OF MINERAL WASTE) APPLICANT: HOPE CONSTRUCTION MATERIALS LTD (1.640.R1)**

**Introductory Summary** Hope Construction Materials Ltd, the owners and operator of Dowlow Quarry, a limestone quarry near Buxton, has asked for the agreement of the Mineral Planning Authority (MPA) to further postpone the date by which an application must be made to determine a new scheme of conditions to which the above permissions relate, from 28 April 2015 as previously agreed until 28 April 2016. The applicant's reasons for making this request are to enable detailed ecological and other survey work to be undertaken and submitted to the Mineral Planning Authority (MPA) as part of a single comprehensive Review of Mineral Planning Permission (RoMP) submission.

This report considers this request and the potential consequences of such an extension of time.

- (1) Purpose of the Report** To enable the Committee to authorise an extension of time for a RoMP application.

(2) **Information and Analysis** This report relates to a request for a further extension of time for the submission of the Environment Act 1995 first periodic RoMP application for Dowlow Quarry, Buxton.

Lafarge Aggregates Limited, the previous owner of Dowlow Quarry, was originally served with Notice under the RoMP procedures stating a due date for a submission of an application for new planning conditions subject to which the quarry would operate. Since the serving of that Notice, Dowlow Quarry has been acquired by Hope Construction Materials Ltd who have owned and operated the site since January 2013.

### **The Site and Surroundings**

Dowlow Quarry is the most southerly of a group of four quarries known collectively as the A515 quarries (the others being Hindlow, Brierlow and Hillhead quarries). The site, which extends to a total area of 93.8 hectares (ha), abuts Hindlow Quarry in the north-west. In the south-west, the site boundary is the ridge line which forms the County boundary with the Peak District National Park Authority (PDNPA) in this area. A railway line defines the north-eastern boundary and field boundaries mark its limits in the south-east.

The planning permission areas for mineral extraction and the deposition of mineral waste are to the south-west of the mineral railway. The nearest settlement is approximately 1 kilometre (km) to the north at Sterndale Moor, although a number of isolated farms and the applicant's own quarry cottages are close by.

The site can be divided into four distinct areas:

- the former waste tip (maximum area 11.14ha) which lies along the north-eastern boundary and which is plainly visible from the A515;
- the area of quarrying (65.4ha) which is located behind the active tip to the south-west and is largely screened by it;
- the former tip, known as the 'powders tip' which is some 15 – 20 metres (m) high and occupies a significant area to the rear of the industrial complex in the north-western part of the site; and
- the industrial complex near the 'powders tip' comprising lime kilns, milling plant, warehouse, and rail loading and unloading.

### **Planning Background**

The quarry was established during the first half of the twentieth century, although the principal planning permission for mineral extraction and waste disposal dates from 1951. Planning permissions were subsequently granted for two extensions to the waste tipping area and for the various buildings, structures and equipment which now comprise the industrial complex.

## **Public**

A further planning permission (CM1/0503/24), for an extension to the quarry to enable the siting of the process building at a lower level was granted in 2003, although the mineral extraction associated with this permission has now been completed.

The quarry produces aggregates and industrial minerals which are distributed by both road and rail.

Schedule 14 of the Environment Act 1995 requires that persons with an interest in the land make an application for the periodic review and update of conditions not later than 15 years after either the grant of planning permission or the approval of a previous RoMP.

The Environment Act 1995 further provides that the date for the making of an application may be extended with the approval of the MPA. There are two separate provisions for this, under paragraphs 5 and 7, as explained under 'Legal Considerations' Section below. The consequence of not making an application by the due date, or an agreed extension to it, is that the permission is effectively lost; it becomes invalid, except for any restoration and aftercare conditions.

In the case of Dowlow Quarry, the due date for the first periodic review of the approved RoMP submission was originally on or before 28 April 2013. By an agreement with this Authority, that date has been deferred by a two year period to 28 April 2015.

### **Request for Extension of Due Date**

A second request, under paragraph 7 of the Environment Act 1995 has been received from Lafarge Aggregates Limited, for a further extension of the due date for the RoMP submission by another 12 months, that is, from 28 April 2015 to 28 April 2016. The reason for making this request is as follows:

- The need to undertake seasonally dependent ecological assessments during spring and summer 2015 which would inform the Environmental Statement.

### **Consultations**

Extensions of time, such as requested here, are not subject to a requirement for consultation and publicity. However, the local Member of the County Council (Councillor Bisknell) has been notified.

### **Planning Considerations**

The RoMP process seeks to ensure that all mineral permissions are subject to a set of modern conditions and environmental controls. The process does not result in a new planning permission and neither is there scope within it to

## Public

amend the terms of existing planning permissions. In the context of Dowlow Quarry, the first periodic review would allow the schedule of conditions approved as a result of the 1998 Initial Review to be revisited and, if necessary, revised and updated.

The request to postpone the submission of the RoMP application is based on the need to undertake a range of detailed ecological surveys and assessments which can only be undertaken during the spring and summer months. In considering the location of the quarry close to a number of statutory designated sites (including the Peak District Dales Special Area Conservation and the Peak District Moors Special Protection Area), the nature of those designations (breeding bird assemblages and aquatic alkaline fen habitats amongst others), and the range of potential impacts associated with mineral extraction operations at the site, the information provided by such assessments would be essential to the provision of an Environmental Statement with the RoMP application. I further consider that, rather than receiving supporting information in respect of the RoMP application piecemeal, it would be preferable for both the Mineral Planning Authority and the applicant, to receive all relevant information at the same time. This would ensure that the application could be dealt with in a timely and efficient manner.

I consider that the conditions relating to environmental impacts, such as noise, dust, blast vibrations etc, approved in 1998, are still robust and that they would allow the current mineral extraction and processing operations at the site to be controlled to acceptable modern standards. In addition, a submission under Condition 16 of the approved 1998 conditions providing a new scheme of working, reclamation, landscaping and aftercare was approved by this Authority in late 2012. In my view, such mitigations would generally provide sufficient and appropriate control over all matters of environmental concern. In that context, the deferment of the first periodic review for a further twelve month period to 2016 would not appear to present any fundamental problems.

The site is one of the four 'A515 quarries' which, cumulatively, could potentially result in significant landscape/visual and other impacts on the surrounding area (including the nearby Peak District National Park). During the Initial Review process, this Authority made the decision to consider all four Initial Review RoMP applications at the same time to ensure a consistency of approach. Such an approach would also be desirable when considering the forthcoming applications for first periodic review. I do not consider that the proposed extension of time for this RoMP application would not prejudice this approach.

I am also aware that, following its recent acquisition of the site in early 2013, Hope Construction Materials Ltd has needed the time not only to familiarise itself with the site but also to give consideration to alternative, more efficient

## Public

ways of working that would better suit its day to day operational needs. With that in mind, I am of the opinion that it would be preferable to allow the Company its request in order to enable it to finalise any revisions to the approved working schemes. To do otherwise could potentially lead to a situation where the working scheme would need to be amended within a short period of its approval. I do not consider that this would be either efficient or desirable from this Authority's point of view.

In light of the above, I do not foresee any immediate threat to the environment which would call for a more urgent reconsideration of the schedule of conditions approved in 1998 than would be the case with the RoMP due date being extended to 28 April 2016, as requested and have recommended accordingly.

(3) **Financial Considerations** No fee is payable for the request of an extension of time.

(4) **Legal Considerations** This request falls to the County Council to determine as the Mineral Planning Authority.

The requirement for the submission of an application for approval of new conditions for a mining site (RoMP) derives, in the case of later permissions from Schedule 14 of the Environment Act 1995. The submission of an application for a first periodic review at a mining site where the site consists of an aggregate of two or more permissions, must be made by a date 15 years from the date that the initial review schedule of conditions were approved or such later date as may have been agreed with the MPA.

Schedule 14 has two provisions for the extension of the due date for submission. Under paragraph 5, an extension of time may be agreed by a postponement of the 'first review' date. This is possible only if the MPA agrees that the existing conditions applying to the relevant planning permission(s) are satisfactory. Under paragraph 7, a later date for a RoMP application may be agreed in writing between the applicant and the Authority, and there is no corresponding limitation.

Schedule 14 also provides that if an application is not made by the due date, as set by the date of the planning permission or extended by agreement, the permission ceases to have effect on the following day, except insofar as it imposes any restoration or aftercare condition.

I do not consider that there would be any disproportionate impact 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 Recommendation.

## Public

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

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

(6) **Background Papers** File 1.640.R and 1.640.R1  
Letter from Wardell Armstrong dated 4 July 2014

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves to **authorise** the Strategic Director – Economy, Transport and Environment to agree in writing to the due date for the submission of an application under paragraph 6 of Schedule 14 of the Environment Act 1995 for approval of new conditions to which planning permissions 1986/9/10 (disposal of mineral waste/mineral winning and working), and HPK/680/675 (disposal of mineral waste), CM1/1292/57 (disposal of mineral waste) at Dowlow Quarry are to be subject of becoming 28 April 2016.

Signed.....Date.....

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**

