

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

10 March 2014

Report of the Strategic Director – Economy, Transport and Environment

2 SUBMISSION UNDER CONDITION 9 OF PLANNING PERMISSION CM5/0206/178 AND CONDITION 8 OF THE ENVIRONMENT ACT 1995 INITIAL REVIEW SCHEDULE OF CONDITIONS (R5/0705/13) TO ENABLE THE EXPORT OF AGGREGATES FROM SITE DURING NIGHT-TIME HOURS AT WHITWELL QUARRY, SOUTHFIELD LANE, WHITWELL APPLICANT: LAFARGE TARMAC SUBMISSION CODE NUMBERS: SM2513 AND SM2551 (5.541.12 and 5.541.R)

(1) **Purpose of the Report** To enable the Committee to determine the submissions under condition.

(2) **Information and Analysis** Whitwell Quarry is a major quarry for the production of limestone, operated by Lafarge Tarmac. The original planning permission areas are to the west of Southfield Lane, south of the village of Whitwell, and north-east of the village of Creswell. The permissions now also extend to the east of Southfield Lane and are accessed via a specifically constructed underpass.

Planning Background

The quarry is subject to a number of planning permissions. The two older extant planning permissions (CLO/1156/3 granted in 1956 and BOL/1082/484 granted in 1984) relate to the main quarry void and were subject to the Environment Act 1995 Review of Old Mineral Permissions (ROMP) procedure under which new conditions were approved in July 2006 (R5/0705/13).

A later planning permission (CM5/598/7) for five extensions to the quarry was granted, subject to conditions, in July 2004. This permission was varied by a further planning permission (CM5/0206/178) changing the order in which the five extensions were to be worked and was granted in October 2006, and this is now the main planning permission for the extension areas.

Condition 9 of planning permission CM5/0206/178 and Condition 8 of R5/0705/13, together control the hours of operations at the overall quarry site.

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The conditions are structured identically to deal with operations which fall under the following areas:

- a) Site Development, Colliery Tip Removal, Colliery Material Transfer, and Tipping and Surface Restoration which are allowed between 0700 hours and 1900 hours Mondays to Fridays and 0700 hours to 1300 hours on Saturdays;
- b) Drilling, Mineral Extraction, Stockpiling and Conveyance, Kiln Waste Cell Construction and Disposal of Mineral (other than colliery and kiln) waste which are allowed to take place between 0600 hours and 1900 hours Mondays to Fridays and 0600 hours and 1300 hours to Saturdays;
- c) Disposal of Kiln Waste/Mineral processing (including the carriage and disposal of kiln waste) which can take place 24 hours a day, seven days a week; and
- d) Blasting which is permitted between 1000 hours and 1200 hours and 1400 hours and 1600 hours Mondays to Fridays.

The Proposals

The request from Lafarge Tarmac is for a temporary variation to the hours of operation relating to (b) above to allow for the export of up to 30,000 tonnes of Ministry of Transport (MOT) type 1 limestone from stockpiles located within the quarry void for use in the M1 Junction 28 to 32 Managed Motorway Upgrade works during night-time hours. The contract is expected to run until the end of 2014. In additional information provided by the Company, it is stated that, to date, Costain, the developer, has managed to keep deliveries to day time hours. The request for night-time working, whilst the least favoured delivery option, is therefore intended to provide sufficient flexibility to enable the Company to meet the requirements of the contract. Lafarge Tarmac has also requested that it be allowed a daily limit of 500 tonnes during the contract period.

The Company states that whilst the Works area is permitted to operate 24 hours a day, seven days a week, rather than moving stock into the works area, which would require double handling, it would like the flexibility of being able to take material directly from the stockpiles within the quarry.

Consultations

As the proposals have been submitted under conditions relating to existing planning permissions, there is no requirement for consultations to be undertaken. In this instance, however, consultations were sent to the Local Member, Bolsover District Council and Hodthorpe and Belfh Parish Council.

Local Member

Councillor McGregor has been notified.

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Bolsover District Council

The District Council raised no objection to the proposal.

Hodthorpe and Belph Parish Council

The Parish Council objected to the proposals on the grounds that it would bring unwanted noise pollution at night-time.

Planning Considerations

Both Condition 9 of planning permission CM5/0206/178 and Condition 8 of the ROMP schedule of conditions (R5/0705/13) are worded to allow for this type of temporary relaxation subject to the written approval of the Mineral Planning Authority. Such flexibility being designed to reflect the fact that exceptional requests of the type under consideration here may arise at major quarry sites such as Whitwell from time to time.

Whitwell Quarry is one of the closest operational quarries to the stretch of the M1 motorway affected by the works and would be well placed to meet the requirements of the contract (Bolsover Moor Quarry is also located close by but that site has not been operational since mid-2008), and would represent a more sustainable option than importing materials from further afield. The contract will also bring an economic benefit (albeit small) to the local area.

In general, I am satisfied that the proposed relaxation on working hours to enable the removal of mineral from the stockpiles during night-time hours would not result in adverse environmental impacts. The quarry complex already benefits from 24 hours working for certain activities in the Works area and these are not dissimilar from those proposed by the current request i.e. the removal and loading of material from a stockpile and its transport across site. The contract would be for a maximum of 30,000 tonnes and would continue until the end of 2014. The requested daily limit of 500 tonnes would equate to approximately 60 days activity within the 12 month period, although I consider it likely that the need for aggregates would be on an 'as and when required' basis and that, as a result, there would be periods of time when there would be little or no night-time activity and others when activity would be more intensive. Either way, a daily maximum of 500 tonnes would not equate to more than a few movements per hour. It is further worth noting that, to date, the developer has managed to ensure that stone deliveries have been made during the day time. The applicant has stated that it would be its preferred option to be able to deliver during normal working hours but that, in order to meet the demands of the contract if those should change in the future, it would like to have the flexibility to export stone from site outside these hours.

In addition to the conditions relating to the hours of operation at the site, planning permission CM5/0206/178 and the ROMP schedule of conditions also include conditions relating to the control of noise, dust, vehicle reversing

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alarms and HGV routeing. Such conditions have been imposed to ensure that the quarry operates in an environmentally acceptable manner. All operations associated with this contract would be controlled by these conditions. In this respect, I note that the Company has confirmed that all heavy goods vehicles (HGVs) would use the existing approved vehicular route (which would see vehicles turning right out of the quarry onto Southfield Lane, left onto Hennymore Lane (B6042) and from there onto the A60) and would not travel through Whitwell, Clowne or Creswell, or close to the community at Belph.

In light of the above, and considering the temporary and intermittent nature of the contract, I do not consider that the potential impacts associated with the current proposals, viewed singly or in cumulation with existing night-time activities at the site, would be so significant as to adversely affect the amenity of nearby communities as a result of night-time noise. I would not, however, want to see night-time working and the export of materials becoming a permanent feature of operations at Whitwell.

On the basis of all of the above, I therefore recommend that the County Council, as Minerals Planning Authority, agrees to this request subject to the following:

- that the operator's attention be drawn to the other requirements of the planning permission, particularly with regard to the conditions relating to noise control, vehicle reversing alarms and HGV routeing; and
- that the relaxation of night-time working hours only relates to the request dated 18 November 2013 and that a permanent relaxation of workings hours at the site would represent a material change and would require the submission of a full planning application. Any such application would be considered on its own merits.

(3) **Financial Considerations** The correct fee of £97 has been received.

(4) **Legal Considerations** This is an application submitted under Part III of the Town and Country Planning Act 1990 which falls to this Authority to determine as the Mineral Planning Authority.

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.

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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 5.541.12 and 5.541.R

Emails from Lafarge Tarmac dated 18 November 2013. Letter from Bolsover District Council dated 23 December 2013. Email from Hodthorpe and Belparish Parish Council dated 19 December 2013.

(7) OFFICER'S RECOMMENDATIONS That the Committee resolves to:

- 7.1 Authorise acceptance by the Council as Mineral Planning Authority for temporary relaxation of the working hours restrictions in conditions of the planning permissions relating to Whitwell Quarry to allow night-time working there in accordance with the request by Lafarge Tarmac by email dated 18 November 2013, provided that (i) the working under the extra hours of working allowed by the relaxation is only for the purposes specified in the request, and (ii) that the acceptance applies to the period up to 31 December 2014 only, and shall be subject to immediate termination if the contract referred to in the request is terminated within that period.
- 7.2 Approve the sending of a message from Mineral Planning Authority to the operator of Whitwell Quarry to (i) remind it of the other requirements of the planning permissions relating to Whitwell Quarry, particularly with regard to the conditions relating to noise control, vehicle reversing alarms, and heavy goods vehicle routeing, and (ii) advise it that any permanent relaxation of working hours for the site would represent a material change for which planning permission would be required, and that any application for any such permission would be considered on its own merits.

Mike Ashworth
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