

Agenda Item No.4.5

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

11 April 2016

Report of the Strategic Director – Economy, Transport and Communities

- 5 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 HINDLOW QUARRY, BUXTON (PLANNING PERMISSION CODE NUMBER CHA/1156/3 (DISPOSAL OF MINERAL WASTE/MINERAL WINNING AND WORKING OF MINERALS))**
APPLICANT: TARMAC LIMITED

1.776.R1

Introductory Summary Hindlow Quarry is an inactive limestone quarry near Buxton. The owner and operator, Tarmac Limited, has asked for the agreement of Derbyshire County Council, as Mineral Planning Authority (MPA), to further postpone the date by which an application must be made to determine a new scheme of conditions for the permission from 28 April 2016 to 28 April 2020.

I consider that the current conditions, reviewed and updated by the Initial Review under the 1995 Act in 1998, together with additional controls provided by a Non-Material Amendment (NMA) to the permission in 2014, would continue to be capable of providing a robust set of controls for operations at the site to 2020. I therefore recommend that the Council agrees to the request.

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

- (1) **Purpose of Report** To enable the Committee to authorise an extension of time for a Review of Mineral Permissions ‘RoMP’ application.
- (2) **Information and Analysis** Tarmac Limited, the owner of Hindlow Quarry, was served with notice under the RoMP procedures stating a closing date for the submission of an application for new planning conditions subject to which the quarry would operate.

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 Hindlow Quarry, Buxton.

The Site and Surroundings

Hindlow Quarry is one of four large limestone quarries (the others being Hillhead, Brierlow and Dowlow Quarries) which lie close to the A515 Buxton to Ashbourne road. The site is situated between Brierlow Quarry to the north-west and Dowlow Quarry to the south-east, and abuts both. The north-eastern boundary of the planning permission area is the A515 and the south-western, a green lane which runs to the rear of the three quarries.

The site, which has a surface area of 132 hectares (ha), is bisected into two parts by a railway line. The extraction area lies to the west of the railway and measures 67ha. To the east of the railway is the quarry's approved tipping area. The site abuts the A515 opposite Sterndale Moor and is screened from the road by a belt of tree planting.

A public footpath crosses the site between the A515 and the railway, and joins a further footpath skirting the northern boundary.

Planning Background

The quarry was established during the first half of the twentieth century, with the single planning permission for the site being granted in 1956. Production of stone at Hindlow Quarry was suspended in 1988, although the quarry processing plant has continued to be operational since that time, initially utilising onsite stockpiles of stone and, more recently, limestone imported from Tunstead Quarry. The site will continue to be used for the importation of limestone and the manufacture of lime products. Screening of imported limestone and the tipping of mineral waste created by the manufacturing process will also continue at the site.

On 27 November 2014, this Authority approved a NMA (Minute No. 10/15 refers) to planning permission CHA/1156/23 which introduced a new condition requiring an ecological survey of the Phase 1 area (as defined by the current approved development scheme and conditions), prior to the resumption of winning and working of minerals. In approving this amendment, the Council considered that this additional measure ensured that the conditions approved under the 1998 Review were robust and in accordance with current legislation and guidance.

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, however, 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 the '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 Hindlow Quarry, the first periodic review of the approved RoMP submission was originally due on or before 28 April 2013. By a subsequent agreement in writing between the Council and Tarmac Limited, that timing was extended to April 2016.

Request for Extension of Due Date

A request has been received from Tarmac Limited for an extension of the due date for the RoMP submission from 28 April 2016 to 28 April 2020.

Consultations

Extensions of time, such as requested here, are not subject to a requirement for consultation or 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 amend the terms of existing planning permissions. In the context of Hindlow 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.

In making the request to postpone the first periodic review, Tarmac Limited has made reference to the new provisions for greater flexibility in the scheduling of reviews of mineral permissions set out in the Growth and Infrastructure Act 2013. Stating that where the current conditions remain satisfactory, it would appear to be appropriate to seek a longer postponement of the first review date.

Whilst perhaps technically not applicable to this site at this time, as correspondence on the review was initiated before its enactment, the provisions of the Growth and Infrastructure Act are the most up-to-date guidance on the RoMP process. The Act clearly encourages MPAs to take a pragmatic and flexible approach to the scheduling of the review of mineral sites where the existing conditions are considered to be robust. Given that the 2014 NMA was considered by the Council to ensure the conditions at Hindlow

Quarry were robust, I consider that a deferral to 2020 would be in accordance with the spirit of this most recent relevant legislation.

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 mineral extraction and processing operations at the site to be controlled to acceptable modern standards. 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 to April 2020 would not appear to present any fundamental problems.

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 2020 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 MPA.

The requirement for the submission of an application for approval of new conditions for a mining site (RoMP) derives, in the case, from Schedule 14 of the Environment Act 1995. The time limit for 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 is normally a date 15 years from the date that the initial review schedule of conditions were approved.

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 a site owner or a person with an interest in the site makes an application for postponement in the three month period from the service by the MPA of the notice of the first periodic review. 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 a first periodic review date, that has already been set, or by any later date that is agreed under Paragraph 7, the planning 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 impacts on anyone's human rights under the European Convention on Human Rights as a result of an agreement being made as referred to in the Officer's Recommendation.

(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 1.776.R1
Letter from Tarmac Limited dated 21 January 2016.

(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 with the planning conditions to which planning permission CHA/1156/3 at Hindlow Quarry is to be subject, being deferred until 28 April 2020.

Mike Ashworth
Strategic Director – Economy, Transport and Communities

Title

NMA/1014/32 Hindlow Quarry

