

DERBYSHIRE COUNTY COUNCIL

REGULATORY – PLANNING COMMITTEE

7 March 2016

Report of the Strategic Director – Economy, Transport and Environment

- 1 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 owner and operator of Dowlow Quarry (a limestone quarry near Buxton) 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 to which the above permissions relate, from 28 April 2016, as previously agreed, until 28 October 2016. The applicant's reason for making this request is to enable it to draft a new application for an alternative quarry waste tipping scheme that would be submitted along with the Review of Mineral Planning Permission (RoMP) submission. The six month postponement would enable the applicant to fully assess both the technical and environmental implications of the proposal in conjunction with those considered for the RoMP.

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 RoMP application.

(2) Information and Analysis This report relates to a request to agree a further extension of time for the submission of the Environment Act 1995 first periodic RoMP application at 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 area 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.

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. The mineral extraction associated with this permission has now been completed.

The quarry produces aggregates and industrial minerals which are distributed both by 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. In the case of Dowlow Quarry, the first periodic review submission was originally due on or before 28 April 2013. By agreement in writing with this Authority, that date was extended by a two year period to 28 April 2015, then extended by a further year to April 2016.

The Environment Act 1995 provides that the date for the making of an application may be extended by agreement in writing with the MPA. 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.

Request for Extension of Due Date

A third request, under Paragraph 7 of the Environment Act 1995, has been received from Hope Construction Materials Ltd for a further extension of the due date for the RoMP submission by another 6 months, that is, from 28 April 2016 to 28 October 2016. The reason for making this request is as follows:

- To enable a full assessment of the technical and environmental implications of a revised working scheme for the quarry 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 change the nature 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 an intention to compile a new application in relation to a proposal to place filter cake material on land between the quarry and the A515, and to amend the RoMP submission phasing and restoration plans, and related documents to accommodate this new proposal.

In considering the request, I think it is reasonable to take into account that, following its acquisition of the site in 2013, Hope Construction Materials Ltd has given consideration to alternative, more efficient 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 the new proposal, together with any consequent 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 initial approval. I do not consider that this would be desirable from this Authority's point of view.

I consider that the conditions relating to environmental impacts, such as noise, dust, blast vibrations, etc, approved in 1998, still 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 six month period to October 2016 would not appear to present any fundamental problems.

I note that 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 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 request for an extension of time would prejudice this process.

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 October 2016, as requested, and recommend 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.

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 and transport considerations.

(6) **Background Papers** File Nos. 1.640.R and 1.640.R1
Letter from Wardell Armstrong dated 17 February 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 to which planning permissions 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) at Dowlow Quarry are to be subject being 28 October 2016.

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

Mike Ashworth
Strategic Director – Economy, Transport and Environment

