

DERBYSHIRE COUNTY COUNCIL
REGULATORY - PLANNING COMMITTEE

9 February 2015

Report of the Strategic Director – Economy, Transport and Environment

**4 AN ASSESSMENT OF THOSE MINING SITES WHICH SHOULD BE
SUBJECT TO A FIRST PERIODIC REVIEW UNDER SCHEDULE 14
OF THE ENVIRONMENT ACT 1995**

(1) **Purpose of Report** To seek the approval of the Committee to notify those mineral operators, landowners and other interested persons as to whether a first periodic review relating to their sites would be due.

(2) **Information and Analysis** All mining sites, including any extensions to sites granted after the initial minerals planning permission, are subject to periodic reviews of planning permissions. This is to ensure that quarries are subject to up-to-date environmental controls.

Previously, Schedule 14 of the Environment Act 1995 (the '1995 Act') required 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 Review of Old Mineral Permissions (ROMP). Under the 1995 Act, mineral planning authorities were under a duty to notify such persons of the forthcoming periodic review date no less than 12 months in advance of that review date.

Schedule 14 was amended by provisions in the Growth and Infrastructure Act 2013, which were introduced by the Government to reduce the burden of periodic reviews on mineral operators and mineral planning authorities. Section 10 and Schedule 3 of that Act have removed the former duty on authorities in England to cause 15 yearly periodic reviews to be carried out. Instead, mineral planning authorities have broad discretion as to whether to subject a site to a periodic review and as to its timing.

Any first periodic review must still be no earlier than 15 years after planning permission is granted or, in the case of an old permission, 15 years of the date of the initial review. Subject to this constraint, the Mineral Planning Authority can therefore now choose to notify a review date whenever, according to circumstances, it considers it to be expedient, and is under no obligation to notify a review date where it does not consider this to be necessary.

In seeking to assist mineral planning authorities on this matter, the National Planning Practice Guidance suggests that:

'Minerals planning authorities should usually only seek a review of planning conditions when monitoring visits have revealed an issue that is not adequately regulated by planning conditions, which the operator has been made aware of and has not been able to address'.

The following sites within the County may be required to become subject to first periodic review:

- Middle Peak Quarry
- Grangemill Quarry
- Bolehill Quarry
- Stancliffe Quarry

Following approval by this committee in August 2012, the relevant date for submission for the First Period Review of the following sites has been extended by agreement until 28 April 2015:

- Hindlow Quarry
- Hillhead Quarry

For both these sites, the operator, Lafarge Tarmac, has requested, an agreement under Paragraph 7 of schedule 14 to defer the submission of the First Periodic Review until 28 April 2028. It is now appropriate that the timing of the first period review for these sites is re-examined.

I will now consider the above sites in turn.

Middle Peak Quarry

Middle Peak Quarry is a major Carboniferous Limestone Quarry, located on the northern edge of Wirksworth, with significant reserves of good quality stone. In particular, the site contains the Matlock Limestone formations of aggregate quality and the Hoptonwood Stone of industrial quality. The site has been worked since 1900; it has had the benefit of two Interim Development Order (IDO) permissions granted in 1946 for Middle Peak Quarry and 1947 for Dale Quarry, and several planning permissions granted since 1949. The three separate quarries (Middle Peak, Limekiln and Dale) which subsequently became one unit, which together with ancillary plant areas, is known as the Middle Peak complex.

The last permission for mineral extraction was for a south-west extension of Middle Peak Quarry to the east of Broxendale Farm and was granted in 1986. With this permission, the opportunity was taken to secure improved conditions

relating, amongst other matters, to perimeter screen landscaping and the filling and restoration of Limekiln Quarry, and the old part of Dale Quarry (Dale Quarry east). Since that time there have been significant improvements with the implementation of screening and landscaping works, the reclamation of Limekiln Quarry and partial infilling as part of the reclamation of Dale Quarry west for eventual use as a town park. In 1992, the operator decided to close down the quarrying and drystone operations because of economic and market conditions. The new owner, Lafarge Tarmac, has confirmed that the quarry will remain mothballed for at least the next two years.

There are seven planning permissions relating to mineral extraction and or the disposal of mineral waste at the site. These are:

- WIR/1048/4 dated 25 February 1949
- WIR/157/3 dated 17 June 1957
- WIR/1157/3 dated 11 September 1958
- WIR/1062/4 dated 1 January 1963
- WED/784/511 dated 25 April 1986
- CM3/697/24 dated 27 February 2001 – variation of Condition 2 of planning permission WED/784/511 to allow approved mineral extraction operations to take place until 22 February 2042
- CM3/1198/94 dated 27 February 2001 – variation of Condition 1 of planning permission WED/784/511 to extend the time allowed for the commencement of approved quarrying operations

The site also had an IDO permission (Code Number W/142) for which a schedule of conditions was also approved on 27 February 2001 (CM3/392/16). Unusually, this permission was time limited to a period of 60 years and expired in 2007, so is no longer relevant to this process.

All seven permissions were subject to an initial review (code number R3/0697/12) under Schedule 13 of the 1995 Act, and the quarry now operates under a single schedule of conditions which was approved on 27 February 2001. The scheme provides details of the proposed working of the site, the form of restoration and the suggested planning conditions under which the site should be worked. I am satisfied that the approved schedule of conditions would continue to control amongst other matters the environmental effects, method of working, screening and landscaping, restoration and aftercare of the quarry. In light of the above, it is not considered that it would be necessary or appropriate to notify the interested persons of the need for a periodic review at this time. I intend to keep this matter under review, and shall notify the interested parties accordingly.

Grangemill Quarry

Grangemill Quarry currently occupies approximately 21 hectares of land immediately south of the B5056, where it meets the A5012 (Via Gellia) at the

Grange Mill crossroads. The processing plant area, offices and access front onto the B5056 lies to the north, pastureland lies to the south and east, and the western boundary is shared with Longcliffe Quarry.

The quarry produces high purity limestone products for the industrial market. Planning permission for mineral extraction at Grangemill Quarry was first issued in 1951 and a series of further permissions were granted over the following half century. In 2000, these permissions were reviewed under the provisions of the Environment Act and a consolidating set of controlling conditions was issued in 2000 and then an amended permission was granted (Planning Permission Code Number CM3/1200/98); and this became the controlling planning permission for the quarry. This permission required, inter alia, that mineral extraction in the extension area, referred to as OS field 2913, should cease in April 2013. The rest of the quarry has permission that allows mineral extraction to 2042.

More recently, the County Council approved two applications in September 2013. Firstly, an application submitted under Section 73 of the Town and Country Planning Act 1990 to extend the continued working of the existing quarry extension (OS field 2913) to 22 February 2042; and secondly, a further lateral extension of 3.3 hectares to enable the continuation of the production of high purity industrial of adjacent land. Both applications were granted planning permission following the completion of a Section 106 Agreement. A permission under Section 73 application is, in effect, a new planning permission, so when implemented, it becomes the extant permission which is subject to a 15 year first periodic review.

The supporting information that accompanied both applications did not re-evaluate and update the environmental information that was originally considered during the initial review of all the permissions for the quarry complex. The applicant has given a written undertaking to submit the first period review, in response to the need to provide up-to-date information for the site, particularly in relation to the Via Gellia Site of Special Scientific Interest (SSSI).

Grangemill Quarry is near to the Via Gellia SSSI and the impacts of winning and working the mineral at the site below the water table have not, on the local hydrology, been fully evaluated. Whilst I understand the applicant is working on a joint hydrological assessment with the operator of the adjoining Brassington Moor Quarry, Longcliffe Quarries, I consider that it is important to assess the potential hydrological impacts on the adjoining Via Gellia SSSI, especially now that Grangemill Quarry is expected soon to be working below the water table. This environmental information will need to be carefully considered through the formal ROMP process to assess how any potential impacts may be reduced or avoided.

I am also mindful of the potential noise impacts from site operations and milling the industrial minerals, in particular, any cumulative impacts that may arise from the adjoining Brassington Moor Quarry.

With the above in mind, it is therefore considered that there is a need to subject the site to a first periodic review in order to approve appropriate working and restoration schemes for the site.

Bolehill Quarry

Bolehill Quarry is located on the hillside to the east of Bolehill Lane, to the south-west of Wingerworth. The site covers 3.71 hectares of land of which includes a quarry area, stone waste tips, stone processing buildings/offices and a storage area for imported stone waiting processing/sale.

I am satisfied that there has been no significant change to the circumstances during the last 12 months at Bolehill Quarry. Little mineral extraction has taken place during the last 12 months. The main activity being undertaken there currently in relation to the planning permission is the on-going deposit of waste from the stone processing operations into the tip areas. Some minor outstanding matters are being dealt with via the existing conditions. In light of the above, it is not considered that it is necessary or appropriate to notify the interested persons of the need for a periodic review at this time. I shall, however, keep this matter under review, and shall inform interested persons accordingly.

Stancliffe Quarry

Stancliffe Quarry is a long standing source of building stone. The quarry benefits from a single ministerial permission which was granted in 1952. That permission is now subject to a set of conditions, from an Initial Review (under schedule 13 of the 1995 Act), of 1999.

I am satisfied that there has been no significant change to the circumstances at Stancliffe Quarry during the last 12 months. The most recent quarrying operations known to have taken place at the quarry took place in 2010; these operations may have contributed to a localised land slip and rock fall affecting land adjacent to the quarry face on the north-east side of the quarry, near to Stancliffe Hall.

Having regard to the set of conditions which now applies to the permission, including those relating to restoration and aftercare requirements it is not considered expedient to notify the interested persons of the need for a periodic review at this time. I shall however, continue to review the matter and intend to inform interested parties accordingly.

Hindlow Quarry

Hindlow Quarry, near Buxton, is currently an inactive limestone quarry that benefits from planning permission code number CHA/1156/3. The applicant's request to agree to extend the date for submission of a new scheme of conditions until April 2015 was approved by this Committee on 13 August 2013.

The operator has submitted a request for an agreement under Paragraph 7 of Schedule 14 of the Environment Act 1995, seeking to extend the latest date for the submission of the application of a new scheme of conditions until 28 April 2028, for the reasons set out below:

- the quarry is not currently in operation in terms of mineral extraction but continues to manufacture lime products from imported materials;
- the current conditions, reviewed and updated by the Initial Review under the 1995 Act in 1998, would still be capable of providing a robust set of controls for development at the site;
- that a deferment of a further review would, therefore, not result in a reduction of such control; and
- any mineral extraction beyond the current working area would require the submission of further reserved matters. This also applies to further mineral waste arisings and final restoration.

I am satisfied that the conditions approved in 1998 relating to environmental impacts, such as noise, dust and blast vibrations, are still robust, and that they still require the current screening and processing operations at the site to be controlled to acceptable modern standards. In addition, the approved conditions include a requirement for the submission, and subsequent assessment, of up-to-date schemes in respect of the placement of mineral waste, the phasing of future mineral extraction, and the final reclamation and restoration of the site prior to quarry operations extending into any new working area. In my view, such mitigations would generally provide sufficient and appropriate control over all matters of environmental concern. Mineral extraction is not taking place at the quarry, a situation that will continue for the foreseeable future, and that the operator has already undertaken substantial work to improve the landscape and visual impacts of the site.

I also note that the planning permission has been formally amended to include an additional condition that will ensure that appropriate ecological surveys are undertaken before the commencement of any winning and working of minerals. I consider that this will ensure further protection and impact on protected species.

However, I do not consider that the Mineral Planning Authority should commit to extend the latest date for the first periodic review for Hindlow Quarry to the extent suggested by the operator. Whilst I do not doubt that the current

operator would engage with the Mineral Planning Authority, should it decide to recommence operations earlier, I consider that it is prudent for the Mineral Planning Authority to agree to extend the date by no more than a year ahead, on this occasion, my recommendation below is on this basis. This does not preclude a further extension to the date being agreed in due course depending on future circumstances.

Hillhead Quarry

Members will recall that Hillhead Quarry is currently an inactive limestone quarry near Buxton, and the applicant's request under Paragraph 6 of the Environment Act 1995 to postpone the date, by which an application must be made to determine a new scheme of conditions, to which planning permissions 1986/9/6, 1986/9/8, CHA/262/11 and CHA/865/17 from 28 April 2013 until 28 April 2015, was approved by this Committee on 13 August 2012. That report presented the planning background and the applicant's reason for making the request.

A request has been made for an agreement under Paragraph 7 of Schedule 14 of the Environment Act 1995, to extend the date for the submission of the application of a new scheme of conditions from 28 April 2015 to 28 April 2028. The reasons given are as follows:

- The current working status of Hillhead Quarry is largely inactive, other than the maintenance of quarry faces and blasts for Hillhead Show, which occurs every two years.
- The existence of an already extensive set of controls from the Initial Review which not only provide sufficient controls in respect of environmental impacts, such as noise and dust, but which would effectively require the submission of up-to-date schemes for the overall phasing and working of the site, and also landscaping and restoration prior to the re-commencement of full scale working at the site.

I consider that the conditions relating to environmental impacts, such as noise, dust and blast vibrations, approved in 1998, are still robust and that they would still allow for the quarry to be controlled to modern standards. Furthermore, the approved conditions include a requirement for the submission, and subsequent assessment, of up-to-date schemes in respect of phasing, the deposit of waste, landscape, reclamation and restoration prior to quarry operations extending into any new working area. In my view, such mitigations would generally provide sufficient and appropriate control over all matters of environmental concern, given also that the quarry is essentially inactive and will be for the immediate future.

However, I consider that the same approach should be taken by the Mineral Planning Authority to this request as is taken to the similar request in respect of Hindlow Quarry (see above).

My recommendation below is on this basis.

(3) **Financial Considerations** There are no financial considerations associated with this report.

(4) **Legal Considerations** There is no longer a single fixed period when periodic reviews under Schedule 14 have to take place. The first review cannot be earlier than 15 years after planning permission is granted or, in the case of an old permission, 15 years of the date of the initial review. Any further reviews should be at least 15 years after the date of the last review (Section 10 of, and Schedule 3 to, the Growth and Infrastructure Act 2013).

However a mineral planning authority can activate the power to only seek a review of longstanding planning conditions under Schedule 14 whenever it has reason to be concerned that the existing planning conditions are not sufficiently effective.

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, environmental, health, property and transport considerations.

(5) **Background Papers**

- Middlepeak Quarry file number 3.675.0
- Grangemill Quarry file number 3.670.0
- Bolehill Quarry file number 4.618.0
- Stancliffe Quarry file number 3.696R
- Hindlow Quarry file number 1.776.0
- Hillhead Quarry file number 1.520.0

(6) **OFFICER'S RECOMMENDATIONS** That the Committee resolves:

- 6.1 To approve notification of a first periodic review under Schedule 14 of the Environment Act 1995 in respect of Grangemill Quarry (planning permission code number CM3/1200/98).
- 6.2 To authorise an agreement in writing with the operator of Hindlow Quarry and Hillhead Quarry as provided for by paragraph 7 to Schedule 14 of the Environment Act 1995, that the latest date for first periodic review application submission for these sites under Schedule 14 becomes 28 April 2016.
- 6.3 Not to approve notification under Schedule 14 in respect of Middle Peat Quarry, Bolehill Quarry or Stancliffe Quarry at this time.

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