

 Nottinghamshire County Council	Report to Planning and Licensing Committee
	10 January 2012
	Agenda Item:7
REPORT OF GROUP MANAGER PLANNING	
RUSHCLIFFE DISTRICT REF. NO.: 8/11/01544/CMA PROPOSAL: AN EXTENSION TO THE EXISTING MARBLAEGIS MINE OF AROUND 118 HECTARES FOR THE UNDERGROUND EXTRACTION OF GYPSUM LOCATION: MARBLAEGIS MINE, EAST LEAKE APPLICANT: BRITISH GYPSUM	

Purpose of report

1. To consider a planning application for an extension to the Marblaegis underground gypsum mine. The key issues relate to the need for the additional reserves, the extent of the planning application area compared to the area safeguarded in the Nottinghamshire Minerals Local Plan, and the potential for subsidence as a result of underground gypsum working. The application has been treated as a 'departure' from the Development Plan for the reasons set out in the report. The recommendation is to grant conditional planning permission subject to referral to the Secretary of State.

The site and surroundings

2. The area of land covered by this application for underground mining extends to 118 hectares and is located between East Leake to the north west where the underground mine entrance and the applicant's plaster works are located, Costock to the north east, and Rempstone to the south east (see Plan 1). The A60 Loughborough Road runs north to south to the east of the majority of the site, although a small segment of the application site is to the east of this road, an area which was omitted from previous application areas for underground working. The southern boundary of the site abuts the A6006 Melton Road which runs between Rempstone and Hathern while Leake Road/Costock Road runs east to west close to the northern boundary of the site. To the immediate west of the site are the extensive workings of East Leake sand and gravel quarry which extend to approximately 45 hectares with a planning application presently submitted for an extension of approximately eight hectares.
3. The application site is predominately in agricultural use, primarily arable with some fields in pasture towards the northern end of the site. There are a number of mature hedgerows bordering the fields. The land has some gentle undulations and rises gently from the northern boundary of the site to the centre

where it then flattens at a height of 76 metres above ordnance datum. The East Leake Mature Landscape Area (MLA) covers a small part of the western edge of the site, extending significantly further to the west.

4. The Sheepwash Brook flows east to west through the southern end of the site where there is also a small pond surrounded by woodland which is designated as the Sheepwash Brook Wetlands Site of Importance for Nature Conservation (SINC), designated for its 'valuable marsh and grasslands'. The brook flows into the Kingston Brook to the north which itself is a tributary of the River Soar. Another thin plantation of woodland lies approximately 200 metres to the north of the SINC.
5. Farm buildings associated with Elms Farm, which is located to the immediate north of the site, are located within the application boundary, albeit that a small area has been excluded around some of these buildings. One other building lies within the application site, a farm building associated with Manor Farm which itself is located close to the western boundary of the site.
6. There are a number of other properties in close proximity to the site including a small number of residential properties on the A60 Loughborough Road, Lings Farm, Rempstone Hall and Rempstone Hall Farm on the A6006 Melton Road, the aforementioned Manor Farm close to the western boundary and a number of properties on Leake Road and Costock Road. Also to the east of the A60 to the south east of the site is an oil well which operates in accordance with a planning permission granted by the County Council as Minerals Planning Authority.
7. Rempstone Footpath Number 1 crosses the southern part of the site from the A6006 towards the Sheepwash Brook Wetlands SINC where it connects with East Leake Footpath Number 1, while Rempstone Bridleway Number 11 is close to the south western boundary of the site (see Plan 1).
8. The underground mineral reserves presently being mined are within the Tutbury Seam and vary from between 30 and 90 metres below ground level. The Environmental Statement (ES) states that borehole data has revealed that the gypsum reserves in the application area are at depths of between 40 and 80 metres below ground level and range in thickness from between two and 3.5 metres.

Site and planning history

9. The ES states that the Marblaegis Company Limited was formed at the beginning of World War I and soon there were four companies mining gypsum in the county. These companies soon became part of British Plasterboard Industries Limited which eventually became British Gypsum Limited during the early 1960s. British Gypsum is now a subsidiary of the French multinational company Saint-Gobain SA which operates around the world. British Gypsum produces plasterboard and plaster from five sites in the United Kingdom.
10. The application site is a relatively small area of land compared to areas which have previously been worked (see Plan 2) and have already been permitted by previous planning permissions. The first planning permission for the Marblaegis

and Glebe mines was granted in 1951 and numerous permissions have been granted since. At the present time, the underground workings extend to approximately 580 hectares.

11. All the gypsum mined underground is transported by underground conveyor to the East Leake Works, located to the north of the village, for manufacture into either plasterboard or bagged plaster. The present workings are located to the east of the application site close to the A60 with the resulting conveyor being approximately five to six kilometres long. The mine entrance at East Leake is one of two entrances into the mine with the other, called the Silver Seal, located to the east of the A60 at Bunny. Access to the Silver Seal mine entrance requires vehicles to pass through the Marblaegis Mine, Bunny SINC, designated for its 'valuable scrub grassland and short perennial vegetation with zoological interest'.
12. The planning application under consideration in this report is in fact a resubmission of a practically identical application submitted earlier in 2011. During the consideration of that application, it became apparent that the applicant had not undertaken the necessary publicity and notification required by the 'Town and Country Planning (Development Management Procedure) Order 2010'. For applications for underground mineral extraction, not only is the County Council as Minerals Planning Authority required to carry out publicity and notification measures once the application has been submitted, which are detailed in paragraph 38 below, but the applicant is also required to carry out similar publicity prior to the application being submitted. Once the first application had been submitted and sent out to consultation, it became apparent that the applicant had not carried out these publicity measures and the Order does not allow for the required measures to be applied retrospectively. Therefore, due to the possibility of any subsequent planning permission granted being subject to legal challenge, the applicant was advised to withdraw the application, carry out the necessary publicity, and then resubmit the application. This has been duly undertaken.

Proposed development

13. It is proposed to extract approximately three million tonnes of gypsum over a period of approximately six years. Subject to planning permission being granted, the application states that development would commence within the site in the summer of 2012 and end by 2018. Despite the existing permitted reserves extending over a large area, the application states that the position of the conveyor close and to the east of the application site (see Plan 3) provides part of the justification for applying for the extension at this time. If granted permission, it would be possible to extend the conveyor in a westerly direction into the extension area. If not permitted at this time, extraction would have to continue in other areas before returning to work the extension, adding significant costs in terms of the logistics of the conveyor line.
14. Plan 3 shows the proposed phasing of extraction, including the present location of the conveyor line. It is proposed to extend the conveyor beneath the A60 through existing permitted reserves and into the extension area. Extraction would take place in Phase 1 in the central eastern part of the site before

heading south and then north before finally extracting from the western part of the site.

15. It is proposed to continue the existing room and pillar method of extracting the gypsum which involves extracting only 75% of the mineral, leaving the other 25% in the form of support pillars. Gypsum would not be extracted directly beneath or within a certain distance of any buildings, a matter considered in greater detail in the Observations section of this report.
16. The gypsum used to be extracted by drilling and blasting but since 2006, machinery has been used to extract the mineral in order to eliminate any potential ground vibration issues caused by blasting. Blasting is not proposed under this application. Cutting machines remove the gypsum from the working face which is then fed into electrically powered shuttle cars which transport the gypsum to an underground mobile crusher. This reduces the size of the material and once it has been passed through a secondary crusher, it is at a size which allows it to be transported by conveyor to the main plant site at East Leake for further processing. The proposed extension, if granted planning permission, would require a further four kilometres of conveyor system to be constructed.
17. The ES states that the mineral extraction activities directly employ 15 people who work on a shift system allowing the mineral to be extracted 24 hours a day. In addition to this, around 500 people are employed at the East Leake Works manufacturing plasterboard and bagged plaster. The ES further states that, in addition to safeguarding these jobs, additional growth at the site would result in a further 20 jobs being created.
18. Water which enters the mine is presently pumped out and discharged at a rate of 0.75 million cubic metres per annum into the Kingston Brook. The discharged water is monitored by the Environment Agency. Once mining has ceased in the entire underground gypsum working complex, it is proposed to allow the mine to fill naturally with water. This process is expected to take a number of years. Although gypsum is sparingly soluble in water, the ES states that the supporting pillars would remain in place as the water in the area already has a high dissolved solid content and is naturally saturated with calcium sulphate which would prevent the pillars from dissolving. In addition to this, the ES states that the pillars are designed with a flooding safety factor included. Once the mine has closed, all entrances, ventilation shafts and boreholes would be appropriately sealed to prevent any unauthorised access.
19. The application has been submitted with an ES which includes details of the application site and the proposed development, planning policy considerations, and consideration of potential environmental issues including landscape, ecology, archaeology, noise, hydrology/hydrogeology, vibration, air quality, traffic, subsidence, radon, energy, public health, alternatives, and need. Appendices include geology and hydrogeology, the proposed mine design, a schedule of proposed draft conditions, a flood risk assessment, and details of the publicity and notification carried out by the applicant in accordance with the 'Town and Country Planning (Development Management Procedure) Order 2010' prior to the application being submitted (see paragraph 38 below).

Consultations

20. **Rushcliffe Borough Council** has no objection to the application but requests that the application site be recorded and identified as a minerals consultation area.
21. **Rempstone Parish Council** has no objection to the application.
22. **Costock Parish Council** has no objection to the application.
23. **The Environment Agency** has no objection to the application, including the hydrogeological assessment submitted.
24. **The Health Protection Agency** does not expect there to be any impacts relating to noise or dust levels. Air from the mine is discharged through a number of ventilation shafts and no new shafts are proposed. The application sets out mitigation measures to control and minimise emissions from the site with monitoring/visual inspections being undertaken and action undertaken should odours, litter or dust be detected above set thresholds. The effectiveness of the control measures outlined in the application should be validated if it is granted planning permission.
25. **Natural England** has no comments to make on the application.
26. **Nottinghamshire Wildlife Trust** considers that the proposed development would be unlikely to have a significant direct adverse ecological effect subject to a condition being imposed requiring the discharge of pumped water into the Sheepwash Brook being restricted to the same volume and pollutant limits as presently consented, with any significant change requiring approval from the Minerals Planning Authority as well as the Environment Agency. It is not clear in the ES whether the discharge rate referred to in the ES is the actual discharge figure or the maximum permitted and whether it would accommodate any increase in output from the mine. When the mine closes, it is recommended that all ventilation holes and adits are converted to provide bat hibernacula. The proposal to work with the County Council and the Biodiversity Action Group to enhance the Silver Seal area for key invertebrate species is supported.
27. **NCC (Nature Conservation)** considers that the proposed condition put forward in the application regarding the carrying out of subsidence tests and any necessary remediation works to highways and drainage and drainage infrastructure resulting from subsidence damage should also include remediation to natural watercourses, areas of standing water including ponds, lakes and other features such as wetlands. This would provide suitable mitigation in case subsidence is an issue.
28. It is also noted that the Silver Seal Mine is to be used as a ventilation shaft. In keeping with 'Planning Policy Statement 9: Biodiversity and Geological Conservation', which states that planning decisions should aim to maintain and enhance, restore or add to biodiversity interests, it is considered that habitat enhancement works should be undertaken in this location which is designated as a SINC and which is not already covered by works secured under a previous planning permission. The enhancement works should concentrate on scrub clearance from grassland areas and should be secured through a suitable

condition or obligation. Whilst some funding has been secured to carry out this habitat management, the funding available is relatively small and relates specifically to works to benefit the Grizzled Skipper, a UK Biodiversity Action Plan butterfly species previously recorded at the site. Additional habitat management at this site would be of benefit to a wider range of habitats and species.

29. **English Heritage** considers that the application should be determined in accordance with national and local policy guidance and on the basis of local specialist conservation advice.
30. **NCC (Landscape)** has no comments to make as the works would all be carried out underground.
31. **NCC (Planning Policy)** states that the proposed extension largely coincides with a safeguarded area in the Nottinghamshire Minerals Local Plan, Policy M10.2. The safeguarding area is not an allocation and is not meant to define the acceptable limits of gypsum extraction, rather just what the applicant advised at the time as being the area which contained mineral. The fact that the planning application area is for a slightly larger area is not an issue in principle in planning policy terms.
32. The northern boundary of the safeguarding area in the Draft Minerals Local Plan was disputed by the owners of Elms Farm and the Inspector agreed with their concerns and drew the boundary back in line with their objection. As the planning application area extends slightly north into this disputed area, it is important that the owners of Elms Farm are notified of the application.
33. **NCC (Highways)** has no highways objection to the proposed development as there would be no material impact on the adjoining highway.
34. **NCC (Noise Engineer)** raises no objection and considers that, as all activities would take place underground without the need for blasting, no noise or vibration impacts would be experienced at residential properties. The working of the extension would not result in any increase in the number of HGV movements on the surrounding road network so traffic noise would not increase.
35. **Star Energy** has no comments to make on the application but advises that British Gypsum is aware of their oil wells and the two companies do have a working dialogue regarding their respective operations.
36. **East Leake Parish Council** and **NCC (Built Heritage)** have not responded on the application. Any responses received shall be orally reported.

Publicity

37. The applicant has undertaken a number of publicity measures prior to the application being submitted in accordance with the 'Town and Country Planning (Development Management Procedure) Order 2010'. This has included placing a notice in the local newspaper, erecting site notices around the site, and notifying all landowners within the application site of the proposed development. Confirmation of these details has been included in the ES.

38. The application has been publicised as a departure from the Development Plan by the County Council by means of seven site notices: one close to the main East Leake Works; one at East Leake Library, two on Costock Road/Leake Road to the north of the site; one on the A60 close to where the application site abuts the road; one on the A6006 opposite to the entrance to Rempstone Hall; and one on Mill Lane, East Leake close to Manor Farm. A press notice has been placed in the Nottingham Evening Post and neighbour notification letters sent to 28 residential properties in accordance with the County Council's adopted Statement of Community Involvement.
39. Anyone who had objected to the original application was sent a letter outlining the reasons why that application had been withdrawn and were notified that, if they wished to have their concerns considered under the new application, they would need to resubmit them so that they could be registered against the new application.
40. Two letters of objection and two letters of support have been submitted, raising the following matters:
- (a) Two letters have been submitted on behalf of the owner of a residential property on the A60 Loughborough Road raising concerns about the small segment of the application site to the east of the A60 which is detached from the remainder of the application site and which is within their ownership. Concerns are raised regarding the extraction of gypsum from beneath their property and it is suggested that the application area should be drawn back to avoid this property as an extension to it is being considered which would be compromised by underground mining. Concerns are also raised regarding subsidence, noise and impacts on the water table, all of which could make it difficult to sell the property in the future.
 - (b) Two employees at British Gypsum have submitted letters of support for the proposed extension as it would help secure jobs in the company.
41. One resident who made representations on the first application did not resubmit them for consideration on this application although the issues they raised perviously concerned the extraction of gypsum from beneath their properties and the possibility of subsidence.
42. Councillor Reg Adair and Councillor Lynn Sykes have been notified of the application.
43. The issues raised are considered in the Observations Section of this report.

Observations

44. For a planning application seeking to extract a significant amount of mineral over such a large application area, there have been relatively few concerns raised through the consultation and publicity process, primarily due to the fact that the workings would take place underground. The usual environmental impacts associated with mineral extraction, such as noise, dust, impacts on the landscape and ecological impacts, would not occur in this instance. The

extracted gypsum would be transported back to the East Leake Works by underground conveyor so there would be no HGV movements associated with the proposed development, bar those HGVs which transport the bagged plaster and plasterboard off site as is the case at present. In addition to this, the applicant has, in recent years, changed their method of extraction so that blasting is no longer required. Despite this, there are some important concerns to address in addition to some key policy considerations.

Need for the extension area

45. The vast majority of the application area is identified in the Nottinghamshire Minerals Local Plan (MLP) adopted in December 2005. Policy M10.2 (Gypsum Mining – Safeguarded Area at Costock) of the MLP states:

101 hectares of land at Costock are safeguarded for future gypsum extraction by underground methods. Planning permission will only be granted where it can be demonstrated that the mineral is required to meet expected demand. Planning permission for surface development, which would materially prejudice the exploitation of this mineral resource will be refused.

46. In respect of need, the policy states that it needs to be demonstrated that the gypsum is required to meet expected demand. The MLP acknowledges, however, that British Gypsum's monopoly of natural gypsum production in the UK has resulted in the release of production figures being restricted to data provided in support of planning applications such as this.
47. The ES includes a table which shows how the output from the Marblaegis Mine has fluctuated over the years. In 1980, output was approximately 400,000 tonnes per annum which rose gradually throughout that decade to a peak of approximately 600,000 tonnes around 1990. Since then, output has significantly reduced, primarily as a result of the commencement of desulphogypsum (DSG) production at local power stations.
48. DSG is a by-product of the flue gas desulphurisation process that occurs at some coal fired power stations, including Ratcliffe on Soar, Cottam and West Burton in Nottinghamshire. Sulphur dioxide emissions pass through finely ground limestone or limestone slurry with the limestone capturing the sulphur before the emissions are released into the atmosphere. The DSG which results from this process can be used as a substitute for gypsum in the production of plasterboard.
49. DSG first became available in 1995 and the resulting impact on output from the Marblaegis Mine has been significant with output falling to less than 100,000 tonnes per annum in the last decade. This has risen slightly in the last few years but remains below 200,000 tonnes per annum. The ES anticipates that the three million tonnes of gypsum in the application area would be worked in six years at a rate of 500,000 tonnes per annum.
50. The ES states that the recent upturn in output is likely to continue due to a new bagged plaster plant at the East Leake Works, and a reduction in DSG output as a result of the use of low sulphur fuels such as very low sulphur coal and

biomass (wood chip etc), increased energy production from natural gas, Government carbon reductions policies, European directives aimed at reducing emissions, and the upgrading of power stations with more efficient turbines which would reduce coal burn and therefore DSG production.

51. Despite these factors, it should also be highlighted that recent upgrading works at Ratcliffe on Soar power station, which is one of the main suppliers of DSG to East Leake, has extended the life of this plant until 2028. This has been confirmed through an application submitted to the County Council as Waste Planning Authority to extend the life of the Winking Hill ash disposal site which is used by the power station for the disposal of pulverised fuel ash and DSG (although no DSG has ever been deposited at the site as it is all sold to British Gypsum for plasterboard manufacture). This site now benefits from a planning permission which does not expire until 2030.
52. The assessment of need for the additional reserves is not helped by the fact that there is no specified landbank requirement for gypsum, unlike for sand and gravel where 'Minerals Policy Statement 1: Planning and Minerals' (MPS1) states that there should be a landbank of seven years reserves with a ten year landbank for crushed rock. The ES makes reference to 'Minerals Planning Guidance Note 10: Provision of Raw Material for the Cement Industry' (MPG10) which states that "Mineral Planning Authorities should normally aim to maintain cement plant with a stock of permitted reserves of at least 15 years". However, it should be noted that the quantity of gypsum used in cement manufacture is low compared to the limestone (80-90%) and clay or shale (10-15%) content (figures from MPG10) and is added solely to control the setting time of the finished cement product. According to the British Geological Survey Mineral Planning Factsheet for gypsum, of the 3.9 million tonnes of gypsum used in the UK in 2004, three million tonnes were used for plasterboard and bagged plaster production and only 0.6 million tonnes were used in cement manufacture. It is therefore considered that the 15 year landbank figure set out in MPG10 is not particularly relevant for gypsum.
53. The Draft National Planning Policy Framework reiterates the landbank figures set out in MPS1 and detailed above but also states that longer landbanks may be justified in specific circumstances, such as the need to ensure the viability of proposed new investment. The recent installation of the bagged plaster plant is an example of such investment at the East Leake Works.
54. The existing permitted reserves are stated in the ES as being approximately four million tonnes. Based on an output level of 200,000 tonnes per annum, this would provide a landbank of 20 years while an output rate of 500,000 tonnes would provide a landbank of eight years. Based on these levels, the additional three million tonnes being sought through this application would provide a further six to 15 years of landbank giving a total landbank of anywhere between 14 and 35 years. These figures would suggest that the need for the additional reserves to be permitted now has not been demonstrated when compared to landbanks for other minerals and would appear to support the text in the MLP which states that existing permitted reserves are sufficient for the plan period. The plan period extends until the end of 2014.

55. However, it is considered that there are a number of other factors which should be considered alongside the existing permitted reserves when considering whether planning permission should be granted for the proposed extension. First, there is the location of the proposed extension in relation to the existing permitted reserves and the location of the existing working face. Plan 4 shows the application area, those areas which have been previously worked including the location of the present working face, and those areas which have permitted reserves which have yet to be worked.
56. The working face and conveyor system is presently relatively close to the application area (see Plan 3) and, if the application area is not worked as the next phase of extraction, continuing further south to existing permitted reserves and then having to return back to the application area would add significant costs and the ES argues that this could actually sterilise the application area as it would not be economically viable to return to that area at a later date. The ES states that working the application site at a later date would add a cost of 'several million pounds' although no justification for this figure is given. However, it can be seen from the plan how isolated the application area would become if reserves up to it were worked before heading south, taking into account how far further east the conveyor system needs to be routed to avoid the villages of Costock and Rempstone further to the south.
57. Policy M2.1 (Sustainable Development Objectives) of the MLP states that:
- Planning permission for minerals development will only be granted where it has been demonstrated that the Plan's sustainable development objectives have, where appropriate, been fully addressed.*
58. One of these objectives is to prevent the unnecessary sterilisation of minerals resources and the potential for this nationally important resource to become sterilised if not worked whilst underground infrastructure is relatively close by is an important planning policy consideration and, in this instance, it is considered should be afforded significant weight.
59. In addition to the above, it should be highlighted that the application area covers an area which is considered to be the western limit of practical underground working. It is therefore worth highlighting that any return to the application area at a later date would only be to work that area and would not be part of a wider phase of extraction that would also include reserves further to the west which do not have planning permission at the present time.
60. These additional costs that would be incurred if the application area is not worked in the near future also need to be set against the importance of the East Leake Works to the local economy. Whilst the underground gypsum extraction itself only employs around 15 people, the plasterboard manufacturing and bagged plaster plant at the East Leake Works employs around 500 people. The works are located on a large site so it is envisaged that significant investment is required at the site on a continuous basis. As the extracted gypsum (and the DSG from the power stations) is the key product in maintaining the works, it is considered that significant weight should be attached to a secured supply of gypsum to justify this necessary and continued investment.

61. Finally, the scarcity of gypsum nationally also needs to be taken into consideration. Unlike other minerals found in Nottinghamshire such as sand and gravel and clay, which are widespread throughout the UK, gypsum extraction is confined to just a few counties. The British Geological Survey Mineral Planning Factsheet on gypsum confirms that gypsum production is confined to Nottinghamshire, Leicestershire, Cumbria, Staffordshire and East Sussex, with the East Midlands being the most important region.
62. In conclusion in respect of the need for the additional gypsum reserves, it is considered that there are significant existing permitted reserves to the south of the application area and, based on the most recent rates of extraction, it cannot be wholly demonstrated that the mineral is required during the plan period to meet expected demand at the present time. The application is therefore considered to be a departure from Policy M10.2 of the MLP and has been advertised accordingly (see paragraph 38 above). However, there are significant advantages in working the application area now in terms of where the application area is located in relation to the existing working face and the remaining permitted reserves. In addition to this, significant weight is attached to the importance of the East Leake Works to the local economy in terms of local employment and to the wider economy due to the relative scarcity of gypsum mines. Furthermore, despite the medium term future of Ratcliffe on Soar power station now being secure, it is accepted that there are a number of factors which bring a degree of uncertainty to future supplies of DSG which point towards ensuring that sufficient gypsum supplies are maintained.
63. It is therefore considered that these arguments in favour of the development outweigh the significant existing reserves which benefit from planning permission. It is recommended that, subject to other matters assessed in this report being satisfactorily addressed, a condition should be attached to any planning permission requiring the mineral extraction to be completed by the end of 2025, which is the end date for the planning permission for the reserves to the south of the application site.

Difference between the application area and the safeguarded area in the Nottinghamshire Minerals Local Plan

64. The application area extends to 118 hectares and Plan 5 shows the MLP safeguarded area compared to the application area. The application area extends beyond the safeguarded area to the west by almost 14 hectares and to the north by almost four hectares. The ES states that, since the safeguarded area was identified in the MLP, the additional areas have been identified as being geologically suitable for mineral extraction. As this application provides the only opportunity to work these additional areas, due to the underground network of conveyors required to transport the gypsum to the East Leake works, they have been added to the application area.
65. The County Council's Planning Policy Team has highlighted the fact that the safeguarded area is just that, a safeguarded area and not an allocation. The safeguarded area is not meant to define the acceptable limits of underground gypsum extraction in this area but instead safeguards the area that was identified by the applicant at that time. The fact that the applicant has identified

further areas is not an issue in principle in planning policy terms, particularly given that the majority of the application area falls within the safeguarded area.

66. Despite this, the additional area to the north of the safeguarded area which forms part of the application area is worth highlighting as this forms part of the area originally put forward by the applicant for safeguarding in the draft MLP. Plan 5 also shows that the draft safeguarded area originally extended further north, ending approximately 40 metres south of Leake Road in order to provide a strip of land close to the road which would not be constrained by underground mining and so could be subject to surface development in the future. The owners of Elms Farm objected to the draft safeguarding area on the grounds that it would restrict potential development opportunities at the farm and on land which fronts Leake Road. In light of this representation, the Inspector at the MLP public inquiry recommended that the northern boundary of the draft safeguarded area be drawn back. The County Council agreed with this recommendation and so the adopted MLP had a slightly smaller safeguarded area.
67. The owners of Elms Farm have been notified of this application, and indeed the previous application that was withdrawn, and have not raised an objection to the application area partially creeping back into this previously contested safeguarding area. The northern extent of the application area remains almost 150 metres from Leake Road at its closest point, thus providing scope for surface development in this area which would not be compromised by the underground gypsum extraction.

Impact of underground working on other residential properties

68. Concerns have been raised on behalf of a resident living close to the small area of the application site which is separate from the remainder of the site and close to the A60 Loughborough Road regarding the potential subsidence impacts of underground mining on this property and the limitations that could arise in terms of any future extensions to this and other properties. Whilst this part of the application site, and the thin segment on the other side of the A60, does look rather odd when viewed in isolation, these areas are simply filling in surrounding areas which are already permitted under a previous planning permission. What is more odd, perhaps, is that these areas were not part of this previous application when it was submitted.
69. The issue of subsidence needs to be considered against Policy M10.1 (Underground Gypsum Mining – Surface Support) of the MLP which states that:
- Where planning permission is granted for underground mining of gypsum, conditions will be imposed as appropriate to ensure adequate support pillars are left to protect isolated buildings and other surface features which could be adversely affected by subsidence. Planning permission for underground mining of gypsum will not be permitted from beneath settlements.*
70. The ES states that “it is company policy to leave large pillars of support to all dwellings to a dimension corresponding to 50% of the depth of workings below surface.” What this means is clearly set out in Drawing 1 which has been

provided by the applicant. In respect of those properties on the A60, the top of the gypsum deposit is approximately 80 metres below ground level, which is equivalent to the distance marked (d) on the drawing. For a distance of 40 metres (d/2) in any direction around the footprint of any of these properties, no extraction would take place. A further plan submitted with the ES clearly identifies the stand-off zone around these properties on the A60 (see Plan 3) and a condition would be attached to any planning permission requiring the development to be carried out in accordance with these details. Similar stand-off distances have been used in previous workings.

71. With these safeguards in place, it is considered that the proposed development would not impact on any residential properties or other surface features and so would accord with Policy M10.1 of the MLP.

Blasting

72. Regarding subsidence in general above areas of mining, the ES states that “British Gypsum is not aware of any subsidence that has occurred in the last 20 years in relation to Marblaegis Mine”. The last permission granted (reference 8/00/01321/CMA) has a condition attached requiring subsidence tests to be carried out on an annual basis and forwarded to the County Council as Minerals Planning Authority. The condition also requires remediation works to be carried out to any highways and drainage infrastructure damaged by subsidence. The test lines are along the A60 to the east of the site and along Wysall Road which runs from Costock to Wysall.
73. The report to the County Council’s Planning Committee dated 9 April 2001 for this previous permission stated that the test lines would be acceptable for the “purposes of monitoring for evidence of any general changes to ground levels brought about by blasting”. The planning application under consideration in this report is not proposing any blasting (see paragraph 16 above) so it is not considered necessary to include a similar condition to that attached to the previous permission. However, a condition is recommended requiring that no blasting takes place without the prior permission of the County Council in case unforeseen geological conditions necessitate the need for blasting. The recommended condition would require details of the blasting proposed to be submitted for approval and would also require details of subsidence testing that would be carried out to monitor the impacts of that blasting. This would allow the County Council to consider these important matters in detail.
74. In light of comments made by the County Council’s Nature Conservation Officer, it is considered that the subsidence testing would not only need to include the short section of the A60 which crosses the application site but also the Sheepwash Brook which crosses the site and the lake which is close to the western boundary of the site. It is considered that any blasting has the potential to impact upon these natural features as well as any man-made features so the monitoring of both is considered important, with the monitoring of the former ensuring compliance with Policy M3.8 (Water Environment) of the MLP.

Ecological enhancement works

75. Any planning permission granted for this extension to the underground mine would clearly extend the timeframe for operations, including the use of the two mine entrances at East Leake and Silver Seal, Bunny. An area of land at the Silver Seal site is designated as a SINC for its 'valuable scrub grassland and short perennial vegetation with zoological interest' although scrub clearance works are required in these grassland areas to maintain their ecological interest. Some external funding has been secured to undertake habitat management works in this area to benefit the grizzled skipper, a UK Biodiversity Action Plan species of butterfly, with the works being managed by the Nottinghamshire Biodiversity Action Group. However, the County Council's Nature Conservation Team has indicated that the funding is limited and relates to works specifically to benefit this species of butterfly.
76. The applicant has agreed to these additional works being a condition of any planning permission granted with the condition requiring a scheme of works to be submitted within six months of the date of any permission. It is therefore considered that the proposed development would accord with Planning Policy Statement 9: Biodiversity and Geological Conservation which states that planning decisions should aim to maintain, and enhance, restore or add to biodiversity interest.
77. On a related matter concerning the ecological impact of the proposed development, the applicant has clarified matters raised by Nottinghamshire Wildlife Trust regarding the discharge of mine water. Water is not discharged into the Sheepwash Brook as claimed but instead is discharged into the Kingston Brook and the Fairham Brook. The applicant does not anticipate the proposed development resulting in any additional requirements for mine water discharge and highlights that the water is of a very good quality. It should be noted that the Environment Agency has not raised an objection to the proposed development. Regarding the issue of bat hibernacula, the applicant has confirmed that such a feature has already been constructed at the Silver Seal site whilst considering that the East Leake Works would not be a suitable location for such a feature as it is such a busy, industrial location. Nottinghamshire Wildlife Trust is satisfied with the applicant's response in respect of these matters.

Minerals consultation area

78. Rushcliffe Borough Council has recommended that the application area be recorded and identified as a mineral consultation area. District and borough councils have a duty to consult mineral planning authorities for any proposed development on land where notification has been given that it could affect, or be affected by, the winning and working of minerals. As detailed above, underground gypsum extraction effectively sterilises surface built development and it is important that district councils and the County Council as minerals planning authority liaise on potentially conflicting developments. Rushcliffe Borough Council should be aware of the safeguarded area through receipt of the adopted MLP and it would be notified of any planning permission granted. The County Council's Planning Policy Team, which notifies district and borough councils on this issue, has been made aware of this recommendation.

Other options considered

79. The ES has considered a number of other options such as working the application area once existing permitted reserves have been worked but, as detailed above, it has been argued that this could lead to the sterilisation of the reserves due to the increased costs involved in returning to the application area at a later date. The ES has also considered the option of not working the application area at all but this would require gypsum to be imported from overseas to serve the East Leake Works or plaster and plasterboard to be imported to meet demand in this country. One final alternative would be to supply the East Leake Works with gypsum from the Bantymock opencast near Newark but this would have significant impacts in relation to HGV movements as the Bantymock site is not connected to the rail network. It would also lead to the premature exhaustion of these mineral reserves.

Human Rights Act implications

80. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol are those to be considered. In this case, however, there are no impacts of any substance on individuals as it is considered that the potential impacts of subsidence have been addressed and therefore there would be no interference with rights safeguarded under these articles.

Conclusions and statement of reasons for the decision

81. The county's gypsum resource is considered to be of national importance and the East Leake Works, which is served by the gypsum extracted from the Marblaegis mine, is a significant employer in the local area. The rate of extraction at the mine has fluctuated greatly over the years and the landbank of supply that the proposed extension would bring varies significantly depending on whether previous high or low rates of extraction continue into the future. It is therefore considered that there is not necessarily a compelling need for the additional reserves at this time, as required by Policy M10.2 of the Nottinghamshire Minerals Local Plan. The application is therefore considered to be a departure from the Plan.
82. However, it is accepted that there are other significant considerations which support the application, above and beyond the economic importance of the East Leake Works both locally and nationally. The future supply of desulphogypsum, which has been the primary reason for the fall in gypsum extraction, is not entirely guaranteed while the present location of the working face at the mine would make working the proposed extension the next logical phase of extraction rather than working it after existing permitted reserves have been worked, which might not be viable therefore risking the sterilisation of the resource. On balance, it is considered that there is sufficient argument in favour of permitting the extension at this time, although it is considered that the application should be deferred to the Secretary of State via the National Planning Casework Unit as it has not been clearly demonstrated that the mineral is required to meet

expected demand as required by Policy M10.2 of the Nottinghamshire Minerals Local Plan.

83. The main environmental impact of the proposed extension, as with the existing mine, is the risk of subsidence but it is considered that there are sufficient safeguards in place to ensure that any built development above ground within the application area would not be subject to mining directly beneath it, as required by Policy M10.1 of the Nottinghamshire Minerals Local Plan. This matter would be secured through a suitably worded condition attached to any planning permission granted.

RECOMMENDATIONS

84. It is RECOMMENDED that no objection be raised and that the application be referred to the Secretary of State as a departure from the Development Plan.
85. It is FURTHER RECOMMENDED that, should the Secretary of State not wish to intervene, the Assistant Chief Executive be authorised to grant planning permission for the above development subject to the conditions set out below. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

SALLY GILL

Group Manager (Planning)

Constitutional Comments [SHB 15.12.11]

Committee have power to decide the Recommendation.

Financial Comments (P.B 23-12-2011)

There are no specific financial implications arising from these proposals.

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Division(s) and Member(s) Affected

Ruddington Councillor Reg Adair

Soar Valley Councillor Lynn Sykes

Report Author/Case Officer
Jonathan Smith
0115 9772104

For any enquiries about this report, please contact the report author.

W000331
PSP.JS/RH/EP5323
14 Dec 2011

RECOMMENDED PLANNING CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the requirements of Section 91(as amended) of the Town and Country Planning Act 1990.

2. The Minerals Planning Authority (MPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of development.

Reason: To enable the MPA to monitor compliance with the conditions of the planning permission.

3. The development hereby permitted shall be carried out in accordance with the following documents, unless otherwise agreed in writing with the MPA, or where amendments are made pursuant to other conditions below:

- (i) Planning application forms and Environmental Statement received by the MPA on 29 September 2011;
- (ii) 'Drawing Number 1, Revision 1.2 – Application Area' received by the MPA on 29 September 2011;
- (iii) 'Drawing Number 6, Revision 1.3 – Phasing of Extraction' received by the MPA on 29 September 2011;
- (iv) Drawing entitled 'Marblaegis Mine: Design of Half Depth Pillar to Dwellings' received by the MPA on 24 November 2011.

Reason: For the avoidance of doubt.

4. The extraction of minerals from the area outlined in red on 'Drawing Number 1, Revision 1.2 – Application Area' received by the MPA on 29 September 2011 shall cease on or before 31 December 2025.

Reason: For the avoidance of doubt.

5. No extraction shall take place within the green area highlighted as the 'area excluded from extraction' on 'Drawing Number 6, Revision 1.3 – Phasing of Extraction' received by the MPA on 29 September 2011 or from beneath any other built development, notably associated with The Elms Farm and Manor Farm, within the area outlined in red on 'Drawing Number 1, Revision 1.2 – Application Area' received by the MPA on 29 September 2011.

Reason: To prevent damage to surface structures in accordance with Policy M10.1 of the Nottinghamshire Minerals Local Plan.

6. Pillars of support shall be retained beneath all residential, industrial and commercial buildings within the area outlined in red on 'Drawing Number 1, Revision 1.2 – Application Area' received by the MPA on 29 September 2011.

The area of pillar support shall accord with the details contained in the drawing entitled 'Marblaegis Mine: Design of Half Depth Pillar to Dwellings' received by the MPA on 24 November 2011.

Reason: To prevent damage to surface structures in accordance with Policy M10.1 of the Nottinghamshire Minerals Local Plan.

7. Every two years, commencing with the date of the commencement of the development hereby permitted, as notified under Condition 2 above, a plan shall be submitted to the MPA detailing the area that is proposed to be worked in the following five-year period.

Reason: For the avoidance of doubt and to allow the MPA to monitor the progress of the development.

8. Unless otherwise agreed in writing with the MPA, mineral extracted under this planning permission shall only be brought to the surface at the East Leake Works site, as highlighted on 'Drawing Number 7, Revision 1 – Reserves and Resources' received by the MPA on 29 September 2011.

Reason: To minimise surface traffic associated with the development in accordance with Policy M3.15 of the Nottinghamshire Minerals Local Plan.

9. No blasting shall take place for the purposes of the development hereby permitted without the prior written consent of the MPA. Should blasting be required, it shall not take place until details of the blasting proposed have been submitted to and approved in writing by the MPA. The details shall include, but not be limited to:

- (i) The level of explosive charge;
- (ii) The maximum vibration limit;
- (iii) The hours during which blasting shall take place;
- (iv) The monitoring of blast vibration levels in sensitive locations and the submission of regular blast level reports to the MPA;
- (v) The monitoring of subsidence test lines which shall be located on the A60 and the Sheepwash Brook, including the pond through which it flows, and the submission of monitoring results to the MPA.

The blasting and subsidence monitoring shall be carried out in accordance with the approved details.

Reason: To minimise the impacts of blasting in accordance with Policy M3.6 of the Nottinghamshire Minerals Local Plan.

10. Within six months of the date of this permission, a scheme for the ecological enhancement of the Marblaegis Mine, Bunny Site of Importance for Nature Conservation shall be submitted to the MPA for its approval in writing. The scheme shall allow for the maintenance, restoration and expansion of areas of species rich grassland on areas not included in the works already approved

pursuant to Condition 11 of Planning Permission 8/00/01321/CMA. The scheme shall be implemented in accordance with the approved details.

Reason: To protect, enhance, restore and add to biodiversity interest of the Marblaegis Mine, Bunny Site of Importance for Nature Conservation in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation.