

19th April 2022**Agenda Item: 6****REPORT OF CORPORATE DIRECTOR – PLACE****GEDLING DISTRICT REF. NO.: 7/2022/002NCC**

PROPOSAL: SECTION 73 APPLICATION OF PLANNING APPROVAL 7/2018/0159/NCC (SOUTHERN EXTENSION AREA) RELATED TO THE VARIATION OF CONDITION 5 EXTENDING TIME FOR WORKING AND RESTORATION ALONG WITH THE DELETION OF CONDITION 9

LOCATION: DORKET HEAD QUARRY, WOODBOROUGH LANE, ARNOLD, NOTTINGHAM, NG5 8PZ

APPLICANT: IBSTOCK/FCC ENVIRONMENT (UK)

Purpose of Report

1. To consider a Section 73 planning application for an extension to the consented timescales associated with the working of the Southern Extension at the Dorket Head quarry. One of the Local Members, Councillor Michael Payne, has asked that the application be referred to Committee for determination.
2. The timetable originally approved for the working of the quarry was closely linked to the anticipated build programme for a residential development on land to the south of the quarry. This is to ensure that the mineral workings and subsequent restoration operations do not adversely impact the amenity of the future occupiers of these residential properties. The report documents that the build timetable for this residential development will now happen at a later date, thus allowing scope to extend the timescales for mineral extraction as set out in this report. In other respects, the planning submission does not seek to alter the previously approved working scheme and existing environment controls which protect amenity and the environment.
3. The recommendation is to grant planning permission subject to the re-imposition of the original planning conditions albeit with minor updates to acknowledge where schemes have been approved. The schedule of updated planning conditions are set out Appendix 1.

The Site and Surroundings

4. The Dorket Head Quarry and brickworks are located on the northern edge of Arnold adjacent to the B684 Woodborough Lane and Calverton Road. The site incorporates a brick making factory sited to the west of Calverton Road and a clay quarry and landfill to the east of Calverton Road. (see Plan 1). Clay is transported between the quarry and the brickworks using a conveyor which passes beneath Calverton Road and thus avoids the need for road transportation of clay.
5. This planning application relates to the quarry area of the Dorket Head complex, specifically the 'southern extension' area of the quarry (see Plan 2).
6. The southern extraction area is located immediately to the south of, and contiguous with, the main quarry workings at Dorket Head. The southern area site extends to around 6.6ha and is broadly rectangular in shape. It is bounded to the north and west by existing workings (with workings to the west having been restored utilising imported residual waste), east of a surface water settlement lagoon and is located north of open paddock and former grazing fields, to the south of which is the edge of Arnold. A public footpath originally existed across the southern extension site, but this has now been diverted around its southern boundary (see plan 3).
7. The application site is located within the Green Belt. The open fields to the south are allocated within the Gedling Local Plan for residential development (see Plan 4).

Background

8. The quarry currently extracts clay during a relatively short 'campaign' season which typically lasts some 6-8 weeks during the summer. The extracted clay is stockpiled adjacent to the Woodborough Lane frontage of the site in an area designed to hold enough clay for the year's supply to the brickworks. Clay is drawn from the stockpile as required for brick production and carried to the brickworks by a conveyor system utilising a tunnel beneath Calverton Road.
9. The clay is used for the manufacture of bricks. The plant has a production capability of some 94 million bricks per year and produces a range of brick types and finishes at the site. At maximum output, the Dorket Head factory supplies around 6% of the national output of bricks.
10. The consented clay quarry is progressively being worked and restored. The main extraction area is within the Eastern Extension area which has progressed to around midway through its consented 15-year limit. More historical areas of the quarry have been restored to agriculture and nature conservation uses following their restoration by landfill with imported non-hazardous waste. Operational areas within the site incorporate quarry clay extraction areas and clay storage areas. There are presently no operational landfill areas as these activities ceased approximately seven years ago and are now predominantly restored.

11. The southern extension area incorporates 690,000 tonnes of brickmaking clay which is programmed to be removed under 3 phases with restoration utilising imported inert waste closely following the extractive phases. The southern area planning permission was implemented in February 2019.
12. Planning conditions imposed under the southern extension planning permission restricted the full extraction of Phase 1 to its southern limit until such time that the public footpath was diverted. The footpath diversion works were carried out in the summer of 2020 following formal approval of NCC Rights of Way Team, meaning that the earliest the full extraction of Phase 1 could be completed was the 2021 clay extraction programme. The quarry achieved the limit of phase 1 to phase 2 boundary in the 2021 clay extraction programme, meaning that in 2022 the quarry wish to progress into phase 2 (see Plan 5).
13. The approved restoration scheme for the southern extension utilises imported inert waste to reinstate the site and closely reflect the pre-extraction ground levels. The landfill operations were closely linked to the timetable for mineral extraction and were to be undertaken over four phases with initial infill undertaken in the existing quarry before progressing into the southern extraction area to infill the void created by mineral extraction (see Plan 6). It is anticipated that up to 150,000 tonnes of inert materials would be imported per annum as part of the restoration works with infill operations occurring throughout the year. Based on the originally approved timetable with mineral extraction commencing in 2018 and being completed in 2021 it was anticipated that waste importation would commence in 2018/19 and continue progressively so as to ensure the southern most areas of the southern extension (end of Phase 3) would be restored by 2023 and the full completion of restoration in Phase 4 by the end of 2026. Inert waste disposal pursuant to the southern extension planning permission has not commenced.
14. The timetable for mineral extraction and subsequent restoration by landfill was closely linked to the development of housing allocated in the Gedling Local Plan Part 2 (Site H8 in Policy LPD 64) to the south of the quarry to ensure that waste importation was completed in the southern part of the southern clay extraction area before the H8 housing allocation development progressed into its phase 2 northern extension adjacent to the quarry boundary.

Proposed Development

15. Planning permission is sought under a Section 73 submission to vary the planning conditions originally imposed under Planning Permission 7/2018/0159/NCC (Southern Extension area) to approve an extension in the end date of the planning consent for mineral extraction and restoration utilising imported waste within the southern extension area.
16. The time limits in respect of mineral extraction and restoration works within the Dorket Head Southern Extension area are currently regulated by Planning Condition 5 of Planning Permission 7/2018/0159/NCC. This planning condition is set out below:

5. All extraction of clay from the southern extraction area identified in red on Drawing No. DHS 2/2: Application Site shall be completed/cease on or before 31st December 2021. Waste importation within infill phases 1, 2 and 3 shall be completed/cease on or before 31st December 2023, waste importation within phase 4 shall be completed/cease on or before 31st December 2026.

Reason: To ensure that minerals are extracted, and subsequent restoration works progress within an appropriate timescale and therefore do not unreasonably delay the commencement of house building proposed in allocation H8 of the Emerging Gedling Local Plan.

17. The requested modifications to Condition 5 would make the following changes to the approved timetable for working within the Southern Extension.
- A two-year extension to the end date for mineral extraction within Phase 2 of the Southern Extension until 31st December 2023 (currently limited to 31st December 2021).
 - A three-year extension to the end date for mineral extraction within Phase 3 of the Southern Extension until 31st December 2024 (currently limited to 31st December 2021).
 - An extension to the end date for inert waste disposal within Phases 1, 2 and 3 until 31st December 2024. (currently limited to 31st December 2023).
 - The final date for the completion of inert waste disposal within Phase 4 would remain unchanged at 31st December 2026.
18. The applicant states that the delay in extracting mineral from the Southern Extension was primarily because of delays in obtaining the necessary footpath diversion consent prior to the full extraction of mineral in Phase 1. The applicant has also referenced delays because of Covid 19.
19. The applicant's suggested modified wording of Planning Condition 5 is set out below:

Suggested Updated Condition 5

All extraction of clay up to and including phase 2 from the southern extraction area identified on Drawing No. DHS 3/3: (Extraction Phase 2) shall be completed/cease on or before 31st December 2023. Waste importation within infill phases 1, 2 and 3 (Drawing No DHS 3/7) shall be completed/cease on or before 31st December 2024.

Clay extraction within phase 3: Drawing 3/4 (Extraction Phase 3), shall be complete on or before 31st December 2024. Waste importation and final restoration within phase 4 (Drawing DHS 3/8) shall be completed/cease on or before 31st December 2026.

20. The applicant states in their supporting statement that the timescales imposed in the original planning permission for the Southern Extension were imposed to tie in with the anticipated build programme within the H8 housing allocation and were agreed with Gedling Borough Council as part of the Local Plan examination process. The main objective of the approved timetable is to ensure that mineral extraction from the Southern Extension is completed before residential development in the northern part of the H8 allocation is occupied and thus avoid having occupied residential properties directly adjacent to a working quarry which could be potentially noisy and dusty and impact on the amenity of the occupiers of these properties. The approved timetable therefore seeks to ensure that minerals do not become sterilised and unworkable by proximity to housing whilst ensuring that housing development comes forward in an appropriate timeframe.
21. The applicant confirms that as part of preparing this planning application they have held further meetings with Gedling Borough Council to ensure the revised timescales now sought planning permission are compatible with the updated build programme for the residential development. These meetings have confirmed that the H8 housing development is progressing behind the schedule set out at the Gedling Local Plan examination and that no planning application has been made for the H8 development at the present time. The earliest anticipated planning application submission date is now mid 2022 meaning the earliest commencement date would be late 2022 or early 2023. Since the residential build programme would progress the development in at least two phases commencing from the south with later phases built closer to the boundary of the southern extension, the houses nearest the quarry boundary would be built last. The applicant therefore states that the proposed amended Southern Extension extraction and restoration timetable is compatible with the updated build programme for the H8 housing allocation.
22. As part of the planning supporting statement the applicant acknowledges that there will be a need to update the original schedule of planning conditions to acknowledge where schemes have been approved and other prescribed works have been undertaken in compliance with the approved timetabling. The applicant specifically identifies Conditions 1 & 2 in relation to commencement and notification of commencement, Condition 9 to reflect the fact that the footpath diversion has now been completed, Condition 10 to reflect the fact that there is now an approved scheme of archaeological investigation and reporting, Condition 11 to reflect the fact that the boundary hedgerow has now received supplementary planting and is receiving ongoing management and Condition 12 to require the completion of the partially constructed screen bunding. These matters are picked up in the schedule of recommended planning conditions set out within appendix 1 of this report.

Consultations

23. Gedling Borough Council: *Do not object.*

24. *Land to the south of the Ibstock brickworks and quarry operations at Dorket Head is allocated as a housing site for approximately 230 homes under Policy LPD 64 of the Local Planning Document which was adopted in July 2018.*
25. *Housing will need to be phased to ensure that an appropriate standoff is maintained between the housing development and the active quarry. The Local Planning Document envisages that development will come forward in two phases starting with the southern part of the allocation and working northwards. The first phase of the development would comprise approximately 65 units confined to the south western part of the site in a line approximate to the extent of the existing built-up area (aligning with Brechin Close).*
26. *An extension of the mineral workings from the existing consented end date of 31st December 2021 for a period of 2 years to the 31st December 2023 for the southernmost extent of the site (Phase 2, Plan 3-3) and until 2024 for the mineral extraction in phase 3 would not have an undue impact upon any phased delivery of the housing allocation. It should also be noted that no planning application has yet been received by the Borough Council for residential development.*
27. *The Council's Environmental Health Service has been consulted and have no comments to make on the proposed extension of time for the mineral workings.*
28. Environment Agency: *No objection.*

Publicity

29. The application has been advertised by publishing a press notice in the Nottingham Post and the posting of site notices on Strathmore Road, Campbell Gardens, either side of the public footpath at Killisick Lane and Surgeys Lane and at the site entrance to Dorket Head Quarry in accordance with the County Council's Adopted Statement of Community Involvement. No representations have been received.
30. Councillor Michael Payne and Councillor Pauline Allan have been notified of the application.
31. The issues raised are considered in the Observations Section of this report.

Observations

32. This Section 73 planning application seeks to amend the originally approved timetable for the extraction and subsequent restoration of Dorket Head Quarry. The changes sought planning permission are as follows:
 - A two-year extension to the end date for mineral extraction within Phase 2 of the Southern Extension until 31st December 2023 (currently limited to 31st December 2021).

- A three-year extension to the end date for mineral extraction within Phase 3 of the Southern Extension until 31st December 2024 (currently limited to 31st December 2021).
 - An extension to the end date for inert waste disposal within Phases 1, 2 and 3 until 31st December 2024. (currently limited to 31st December 2023).
 - The final date for the completion of inert waste disposal within Phase 4 would remain unchanged at 31st December 2026.
33. This planning application does not seek to make any further changes to the approved development (albeit the applicant acknowledges that there is a need to update a number of the original planning conditions following the approval of various schemes and submissions). It is not therefore necessary to re-examine the wider planning policy merits of the Southern Extension planning permission including the need for mineral reserves/inert landfill restoration and the environmental effects of undertaking this development except the implications of changing the timetable of works within the quarry.
34. A copy of the original report to committee which sets out the issues examined as part of the original planning appraisal of the Southern Extension development can be viewed using the following link:
- <https://www.nottinghamshire.gov.uk/dms/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/4089/Committee/519/SelectedTab/Documents/Default.aspx>
35. The original planning policy assessment for the Southern Extension acknowledged that normal mineral working practices aim to maintain a separation between residential properties and mineral workings to provide a buffer zone within which environmental emissions including noise and dust are dispersed.
36. At the time the Southern Extension planning application was originally considered by Nottinghamshire County Council, Gedling Borough Council were in the process of reviewing their Local Plan and identifying land for new housing development in the borough. As part of this process a residential allocation for a site known as Killisick Lane (H8) was proposed. The H8 housing allocation seeks to extend the residential boundary of Arnold further to the north up to the boundary of the proposed southern extension mineral working area, providing land for an anticipated 230 houses.
37. The original NCC Committee Report for the Southern Extension to Dorket Head Quarry acknowledged that the proximity of the H8 residential allocation could potentially restrict the ability to extract mineral from the Southern Extension due to its proximity, effectively sterilising the underlying clay resource which would be contrary to the objectives of the NPPF.
38. This issue was discussed in detail at the examination of the Gedling Local Plan in 2017 where evidence was presented by Gedling Borough Council, Ibstock

Brick, Nottinghamshire County Council acting in their role as Minerals Planning Authority, and the prospective housing developers.

39. Following the examination of the draft Gedling Local Plan a number of commitments were made to enable the mineral extraction and housing development to progress alongside each other. In summary Ibstock Brick provided a commitment to bring forward its proposals to seek planning permission for a southern extension to the existing quarry and develop this site in a timely period as set out within Planning Permission 7/2018/0159NCC. Alongside this, the housing allocation policy was modified in the adopted plan to incorporate a phasing strategy whereby the housing development would only progress in the northern phase adjacent to the quarry once clay extraction/restoration had progressed in the southern quarry extension.
40. The approved timeframe regulated by Planning Condition 5 of Planning Permission 7/2018/0158NCC incorporates an appropriate timeframe which enables the mineral extraction to be extracted in a phased manner in advance of the build timetable originally proposed for the housing development in the H8 allocation in accordance with these agreements.
41. The applicant states that the originally approved timetable for mineral extraction in the Southern Extension has been delayed due to the extent of significant works required in advance of the commencement of mineral extraction, particularly the period of time taken to formally agree the footpath diversion and also because of the shut-down of the factory due to the lockdown restrictions of the Covid Pandemic. These delays mean that the company is not able to complete the extraction of the remaining mineral and restoration of the site using imported inert waste in accordance with the originally approved timetable.
42. It is acknowledged that a planning application has not been submitted to Gedling Borough Council for the housing development within the H8 allocation and thus an imminent commencement of this housing is not anticipated. Even if a planning application was submitted for the housing development within the H8 allocation in the next few months it is unlikely there would be a commencement of the housing allocation until the later part of 2022/early 2023 at the earliest. With the residential development required to be undertaken in two phases it is extremely unlikely that there would be any occupation of dwellings on the northern boundary adjacent to quarry before the end 2024. The revised timetable requested within this planning application, which ensures the completion of mineral extraction and restoration works within phase 3 closest to the boundary by 2024, is therefore considered to be entirely consistent with this updated housing development build programme.
43. This position has been confirmed in the planning consultation response from Gedling Borough Council which does not object to the planning application and which has confirmed that the extension of the mineral workings from the existing consented end date of 31st December 2021 for a period of 2 years to the 31st December 2023 for the southernmost extent of the site and until 2024 for the mineral extraction in phase 3 would not have an undue impact upon any phased delivery of the housing allocation.

44. It is therefore concluded that this Section 73 planning application for an extension of the existing permitted timescales associated with the working of the Southern Extension at Dorket Head Quarry would ensure the minerals working scheme can still be completed adjacent to the boundary of the proposed housing development well in advance of the residential properties being occupied, and thus ensuring that potential disturbance to amenity would be avoided.
45. The modification to the timetable for mineral extraction therefore ensures that the applicant continues to benefit from the ability to recover 690,000 tonnes of clay from the southern extension which provides a further three years brick making production at the brickworks and will assist in maintaining the existing economic and employment benefits which the quarry and factory provides including the direct employment of 73 people and its wider contribution to the local and regional economy in terms of producing 94 million bricks per year, equating to around 6% of the UK brick market.
46. The socio-economic benefits of the scheme are a material consideration in the determination of this planning application which the NPPF advises should be given great weight in the planning decision. The extension to the working timescales within the Southern Extension also ensures the minerals in this part of the site do not become sterilised and therefore MLP Policy SP7 is supportive of the development.

Other Options Considered

47. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

Statutory and Policy Implications

48. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

49. The southern extension is incorporated within the wider quarry area and enclosed by a perimeter security fence.

Data Protection and Information Governance

50. Given that no representations have been received from the public, it is considered that no data protection issues have been raised.

Financial Implications

51. None arising.

Human Resources Implications

52. None arising.

Human Rights Implications

53. 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 may be affected. The proposals have the potential to introduce impacts of visual impacts, noise and dust although operating practices would minimise the magnitude of impact upon nearby residents. However, these considerations need to be balanced against the wider benefits the proposals would provide in terms of securing the continuity of mineral supplies to serve the Dorket Head brickworks factory thus ensuring its long-term future, and the avoidance of minerals sterilisation which may occur if the mineral is not extracted at the present time. Members will need to consider whether these benefits would outweigh the potential impacts.

Public Sector Equality Duty Implications

54. None arising.

Safeguarding of Children and Adults at Risk Implications

55. None arising.

Implications for Service Users

56. None arising.

Implications for Sustainability and the Environment

57. The Southern Extension can potentially contribute to all three core objectives of sustainable development (as defined within the NPPF) in terms of its economic, social and environmental contribution wherein it is noted that the development would assist with building a strong and competitive economy, supporting jobs and prosperity within an existing established business which employs a local workforce that contributes to the general social wellbeing of the area. The

development makes prudent use of a mineral reserve, maximising the use of available brick clay for use in the nearby factory thereby minimising the use of road haulage and thus assisting with minimising CO₂ emissions.

Statement of Positive and Proactive Engagement

58. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

59. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 04/04/2022]

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

Financial Comments (SES 22/03/2022)

There are no specific financial implications arising directly from this report.

Background Papers Available for Inspection

The application file is available for public inspection by virtue of the Local Government (Access to Information) Act 1985 and you can view them at: www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=V/4385

Electoral Division(s) and Member(s) Affected

Arnold North	Councillor Michael Payne
Arnold North	Councillor Pauline Allan

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