

Meeting: Planning and Rights of Way Committee

Date: Tuesday 18 April 2023 (commencing at 10:30am)

**Membership:****County Councillors**

Richard Butler (Chairman)  
Jim Creamer (Vice Chairman)

Mike Adams	Nigel Moxon
André Camilleri	Philip Owen
Robert Corden	Francis Purdue-Horan ( <b>apologies</b> )
Sybil Fielding	Sam Smith
Paul Henshaw	
Andy Meakin ( <b>apologies</b> )	

**Substitute Members**

None

**Officers and colleagues in attendance:**

Daniel Ambler	-	Planning, Monitoring and Enforcement Officer
Mike Hankin	-	Planning Applications Senior Practitioner
Jaspreet Lyall	-	Solicitor and Legal Advisor to the Committee
Adrian Mann	-	Democratic Services Officer
Joel Marshall	-	Principal Planning Officer
Jonathan Smith	-	Interim Group Manager for Planning
Daniel Sullivan	-	Highways Development Control Principal Officer

**Public speakers in attendance:**

Cllr Neil Clarke MBE	-	Variation of Planning Conditions for the Canalside Industrial Park, Cropwell Bishop (item 5)
Steve Cuthbert	-	Variation of Planning Conditions for the Canalside Industrial Park, Cropwell Bishop (item 5)
Reece Musson	-	Planning Permission for Misson Quarry, Misson (item 6)
Cllr Tracey Taylor	-	Planning Permission for Misson Quarry, Misson (item 6)

## **1. Apologies for Absence**

Andy Meakin	-	medical/illness
Francis Purdue-Horan	-	medical/illness

## **2. Declarations of Interests**

No declarations of interests were made.

## **3. Declarations of Lobbying**

No declarations of lobbying were made.

## **4. Minutes of the Last Meeting**

The minutes of the last meeting held on 28 February 2023, having been circulated to all Members, were taken as read and were confirmed and signed by the Chairman.

## **5. Variation of Planning Conditions for the Canalside Industrial Park, Cropwell Bishop**

Mike Hankin, Planning Applications Senior Practitioner, introduced application 8/23/00027/CMA by Mr Chris Allsop in relation to the Canalside Industrial Park, Cropwell Bishop to vary the conditions of Planning Permission 8/19/00378/CMA to allow a four-year extension for the completion of tipping operations beyond the current expiry date of 28 November 2022 and to remove the requirement to carry out highway improvement works at the site access on Kinoulton Road. The following points were raised:

- a) The Canalside Industrial Park is approximately 500 metres south of the village of Cropwell Bishop. The 1.9 hectare development site is at the rear of the industrial estate, with vehicle access from Kinoulton Road via the industrial estate's existing access road. The site is located within the Green Belt and had been designated as part of a Local Wildlife Site, but this designation was removed in 2020 following the natural loss of the ecologically important grassland habitats through the encroachment of denser scrub, which is of a much lower ecological value.
- b) Planning Permission was granted in November 2016 for the importation of around 60,000 tonnes of inert waste material over a three-year period to infill an excavated void at the site and reinstate the ground levels to match those of the surrounding land. A condition to the permission required that measures were put in place to improve the visibility of the existing industrial estate junction to the south along Kinoulton Road, to ensure safety when materials were delivered by heavy goods vehicles (HGVs). To date, however, only a limited quantity of material has been delivered using light goods vehicles, so the requirements for the junction improvements have not yet been triggered.
- c) An application has now been made to vary Conditions 3 and 12 to the existing Planning Permission for a four-year extension to fill the void and to remove the

requirement to undertake junction improvement works on Kinoulton Road. The applicant considers that the time extension to Condition 3 is necessary due to delays in implementing the existing Planning Permission resulting from the Coronavirus pandemic, problems in resolving technical considerations in relation to the improvement of the site access and delays in obtaining a waste permit from the Environment Agency. The proposed modification to Condition 12 seeks to remove the requirement to improve the visibility at the existing industrial estate / Kinoulton Road junction prior to it being used for HGV deliveries, and instead for the movement of the HGVs to be managed using a competent banksperson at the site entrance.

- d) Objections to the application have been received from both the Cropwell Bishop Parish Council and Rushcliffe Borough Council. The Parish Council is concerned that the banksperson arrangements are less robust than the junction improvement scheme approved previously. Rushcliffe Borough Council considers that it has not been demonstrated satisfactorily that the access arrangements are safe, and is concerned that there will be adverse impacts on amenity.
- e) The Environment Agency and the County Council's Highways team have not raised any objections to the application.
- f) The application does result in some minor changes to the original planning merits of the development in relation to the access road improvements. However, the overall planning balance still supports granting planning permission for the development to continue for a further four years as the scheme will bring benefits through the infilling of a despoiled area of land within the Green Belt (resulting in visual, landscape and ecological benefits), as well as providing additional disposal capacity for inert waste.
- g) Condition 12 was included originally to improve visibility for delivery traffic exiting the site. The policy test in terms of assessing whether the proposed new banksperson solution is acceptable is whether this alternative arrangement would still enable safe access. Advice has been received from the County Council's Highways team to confirm that the banksperson arrangements would enable HGVs to depart the site safely, so the proposals do satisfy the policy requirements within the County Council's Waste Local Plan and Rushcliffe Borough Council's Local Plan, which seek to ensure that developments are served by a suitable means of access that does not cause detriment to the amenity of adjacent properties, and that there would be no severe highway impacts.

With the permission of the Chairman, Councillor Neil Clarke MBE addressed the Committee in relation to the application. The following points were raised:

- h) The Parish Council and local residents need to be assured that the new access proposals will ensure that the HGVs delivering materials to the development site can do so safely, given that the access road to the industrial estate is at an angle to the main road and has restricted visibility. The applicant must comply fully with the safety requirements as set out in the Planning Conditions and implement the banksperson arrangements consistently and reliably. The applicant must also

ensure that the HGVs carrying the materials are properly washed following delivery, to ensure that mud is not left on the main road to cause a hazard.

With the permission of the Chairman, Steve Cuthbert addressed the Committee in support of the application. The following points were raised:

- i) The completion of the infilling of the void at the back of the industrial estate has been delayed due to the Coronavirus pandemic and the time taken to obtain a waste permit from the Environment Agency. The work can be completed effectively and without negative impacts on local amenity by using a safe, compliant and proportionate traffic management solution in the form of a banks person – which is considered to be appropriate by the local Highways authority. Although the visibility of the industrial estate access road is restricted, there have been no recorded traffic incidents to date.

Following the representations made in relation to the application, Committee members had an opportunity to ask questions of the representors and officers for the purposes of clarification. The Chairman then opened the application for debate. The following points were discussed:

- j) The Committee considered that it is important for the void-filling works to be completed so as to restore the land within the Green Belt. Members observed that the site is an industrial estate and so experienced regular HGV traffic without incident to date, so the management by a banks person of HGV access for the purposes of the development should be a safe alternative.
- k) The Committee was assured that measures to prevent materials being shed on the main road, such as wheel washing of the HGVs, were included as part of the proposed Planning Conditions. Members recommended that all appropriate steps are taken to ensure that these Conditions are implemented and complied with fully.

**Resolved (2023/007):**

- 1) To approve the grant of planning permission, subject to the conditions as set out in Appendix 1 to the report.

**6. Planning Permission for Misson Quarry, Misson**

Joel Marshall, Principal Planning Officer, introduced applications 1/22/00867/CDM, 1/22/00865/CDM and 1/22/00864/CDM by Misson Sand and Gravel Company Limited in relation to Misson Quarry, Misson for planning permission for a western extension to the Misson grey sand quarry and to amend the associated approved restoration schemes relating to the prior permissions 1/32/11/00020 and 1/15/01574/CDM. The following points were raised:

- a) Misson Quarry is located in the Idle Valley midway between the villages of Misson and Newington. It is a relatively small-scale quarry that produces aggregates, including a grey-coloured mortar sand. The quarry has undergone some small extensions previously.

- b) The report concerns three planning applications for the quarry, including for a western extension and two consequential section 73 applications for variations to previously approved restoration schemes and Planning Conditions. The proposed extension area incorporates 3.4 hectares of arable farmland and is anticipated to yield around 400,000 tonnes of minerals over five years. The extension would be worked in three broad phases, with the operator likely to work in sub-phases to allow continued farming of areas until they are required for quarrying. The existing materials processing area will continue to be used, with the extracted minerals being worked in a dry state using a range of mobile plant and then screened prior to loading onto lorries. Access to the site will remain from the west, with lorries restricted from travelling east through Misson village.
- c) A group of residential properties are located approximately 0.4km to the west at Norwith Hill (600m from the materials processing area), and the nearest residential property in Misson village is 0.4km to the east (about 800m from the processing area and 900m from the proposed western extension). However, an existing solar farm is within 10m of the proposed western extension boundary, and a bridleway runs along the quarry's northern boundary.
- d) The proposed extension affects the final restoration levels of the two previous permission areas (a previously worked area to the south and the current operational area to the north), so it is proposed to amend the restoration schemes so that the levels across the wider site tie into the proposed western extension more effectively.
- e) The proposed restoration scheme will provide for a variety of habitat enhancements with the quarry floor returned to low-lying agricultural pasture, the addition of wildlife ponds and areas of shrub planting. The banks of the western extension will be restored to grassland and heather, with pockets of woodland. The western site boundary will be defined by a 760m linear hedgerow, which could include the transfer of some of an existing 200m of young hedgerow to be removed as part of the new extension. A 60m-long bank retained for nesting sand martins is within the proposed area for the extension, but as it has been unsuccessful in attracting these birds, it is proposed to relocate this habitat.
- f) Objections to the application have been received from Misson Parish Council and the Nottinghamshire Wildlife Trust. The Parish Council had not objected initially, but submitted concerns regarding the potential ecological impacts of the proposed extension following the return of the Wildlife Trust's consultation response to the application.
- g) Further information was provided by the applicant in response to the Wildlife Trust's and the Parish Council's concerns including surveys, mitigation measures and an improved restoration scheme. These details were reviewed by the County Council's ecologist, who raised no objections to the proposals, subject to the proposed Planning Conditions being implemented. The Wildlife Trust has not returned a response to the updated information. As such, it is considered that the ecological concerns have been addressed satisfactorily and that appropriate safeguards can be provided by way of the Planning Conditions.

- h) The restoration of this site will provide a number of beneficial habitats whilst also providing agricultural grazing, so is considered to meet the restoration policy objectives as set out in the County Council's Minerals Local Plan, where the proposed western quarry extension is formally allocated. The extension is being implemented slightly earlier than anticipated in the Plan and the rates of output may be higher than forecast, but the need for the mineral extraction is clearly evident in order to maintain the continuity of supply to the local construction sector, including of a distinctive grey sand produced by the quarry.
- i) There will be some visual impact to users of the bridleway along the northern boundary of the quarry. However, this is a passing view that would only be impacted whilst the area is being worked, with woodland planting proposed ultimately as part of the restoration scheme. The existing Planning Conditions will continue to adequately address other matters including archaeology, traffic and its routing, mud and dust control, and noise. However, a number of the Conditions have been updated to reflect the status of the permission areas, as well as incorporating previously approved schemes and documents.

With the permission of the Chairman, Reece Musson addressed the Committee in support of the application, endorsing the recommendations made by officers as set out in the report.

With the permission of the Chairman, Councillor Tracey Taylor addressed the Committee in relation to the application. The following points were raised:

- j) The local community has lived alongside the quarry for many years and considers that everything possible should be done to mitigate the ecological impact of the quarry's operation and extension. The work carried out by officers with the applicant to develop the mitigation measures and improve the restoration scheme was welcome, but assurance is needed that effective monitoring will be put in place to ensure that the ecological mitigation, replacement and restoration measures are carried out as required by the Planning Conditions.

Following the representations made in relation to the application, Committee members had an opportunity to ask questions of the representors and officers for the purposes of clarification. The Chairman then opened the application for debate by Committee members. The following points were discussed:

- k) The Committee was assured that the proposed Planning Conditions were robust in mitigating the ecological impact of the quarry, with a system of monitoring in place whereby officers would visit the site regularly to ensure that the requirements of the Conditions were being carried out.

**Resolved (2023/008):**

- 1) To approve the grant of Planning Permission for application 1/22/00867/CDM for a western extension to the existing Misson Grey Sand Quarry (incorporating modifications to the previously approved restoration schemes 1/15/01574/CDM

and 1/32/11/00020), subject to the conditions as set out in Appendix 1 to the report.

- 2) To approve the grant of Section 73 Planning Permission for application 1/22/00865/CDM to amend the previously approved restoration scheme 1/32/11/00020 and to allow the implementation of the proposed western extension to the existing Misson Grey Sand Quarry, subject to the conditions as set out in Appendix 2 to the report.
- 3) To approve the grant of Section 73 Planning Permission for application 1/22/00864/CDM to amend the previously approved restoration scheme 1/15/01574/CDM and to allow the implementation of the proposed western extension to the existing Misson Grey Sand Quarry, subject to the conditions as set out in Appendix 3 to the report.

## **7. Response to the Department for Levelling Up, Housing and Communities on the Technical Consultation on Increasing Planning Fees and Performance**

Joel Marshall, Principal Planning Officer, presented a report on the Council's proposed response to the Department for Levelling Up, Housing and Communities (DLUHC) on the technical consultation paper 'Stronger performance of local planning authorities supported through an increase in planning fees'. The following points were discussed:

- a) Planning fees are paid to Local Planning Authorities (LPAs) so that they can deliver their statutory planning functions of determining planning applications, formulating planning policy and carrying out enforcement activity. The fees are set nationally and were last raised in 2018, by 20%. However, most of the fees paid do not cover a LPA's costs in processing an application.
- b) It is estimated that, nationally, there is a 33% shortfall in the fee income necessary to deliver the Planning system effectively. LPAs have reported challenges in the level of resources available and the ability to attract and retain experienced and specialist staff, particularly in the field of minerals and waste. As a result, developers have experienced delays in the Planning system and have called for increased resourcing and other strategies for improvement.
- c) The Government considers that the developers, as the main beneficiaries of land value uplift once Planning Permission has been granted, should bare the principal burden of funding the Planning system through the paying of appropriate fees – so the first part of the DLUHC's consultation seeks views on a proposed increase in the application fees. The fees for applications classed as a major development would increase by 35% and all other applications by 25%, with an annual inflationary uplift introduced to provide longer-term certainty for LPAs on income. Retrospective applications would incur a doubling of the usual Planning fee, and there is a further proposal is to cut back or remove an applicant's ability to have a 'free go' when making a subsequent second application of a similar nature. The new fees are intended to come into force during the summer of 2023 and will be ringfenced for the support of the Planning system.

- d) All minerals and waste development proposals are classed as major developments so even small-scale works would incur the 35% increase, though Planning application fees are often a small component of the overall costs for these projects. However, clarity is required from the DLUHC on some other types of application fees and whether they would increase, particularly in the context of Section 73 variation applications – as a Minerals and Waste Planning Authority, the Council process these applications routinely, and the current fee does little to cover the required processing and publicity costs.
- e) The Committee considered that it was appropriate that the Planning system should be funded properly through the payment of application fees. Members welcomed the doubling of the usual fee for retrospective Planning application as an extremely positive development, in addition to the proposed regular annual increase of the fees in line with inflation.
- f) The DLUHC is clear, however, that improved LPA performance should result from the proposed fee increase, as it will help LPAs to meet their costs and provide a better service for applicants. Nevertheless, there are still significant challenges for LPAs in recruiting and retaining Planning professionals with the right skills and experience, and the consultation paper does seek to better understand this issue. Currently, there is a lack of university-level course content on minerals and waste Planning matters in particular, and there is a national need for more ecologists to be trained to support measures such as Biodiversity Net Gain.
- g) LPAs are required to measure and report their performance to the DLUHC on a regular basis. The metrics considered are the speed of decision-making and the quality of decision-making based on the number of LPA decisions appealed against successfully. Councils assessed to be failing can have their Planning functions reduced or taken away.
- h) Currently, a Planning application is deemed to be determined in time if it has been decided within the target 8, 13 or 16-week period, or within an extended period of time agreed with the applicant. The consultation acknowledges that extensions of time can serve a valid purpose to support constructive negotiations, but it highlights a concern that the inclusion of these time extensions is masking actual performance in terms of the speed of decision-making.
- i) The DLUHC is proposing, therefore, to measure LPA's speed of decision-making based only on the 8, 13 or 16 week period, no longer including time extensions. The Council's experience, however, is that major applications can rarely be determined in 13 or 16 weeks, so do need an extension of time agreement in place to be resolved effectively – and so these agreements should still be taken into account. Many Section 73 applications also require a significant level of work and time investment, often needing to come to a meeting of a Planning Committee.
- j) The Committee queried whether the speed of concluding a Planning application could be considered as the best measure of performance, given that many



applications could be complex – and the LPA might have to wait to receive a formal response from other statutory bodies before making a decision, meaning that it was not in complete control of the timetable. Members considered that a quick decision did not inherently represent a good decision – and that an application granted at appeal did not, of itself, reflect a bad decision having been made by the LPA, as the difference between an application meeting or not meeting the tests for approval could be marginal. Members considered, therefore, that care should be taken that the information reported by LPAs is assessed by the DLUHC fairly and in the right context, and that the national Planning Inspectorate should have due regard to local decision-making when considering appeals.

- k) The DLUHC is also seeking initial views on the reshaping of the performance reporting regime to measure a wider range of metrics, including performance in the context of the effective monitoring and enforcement of Planning Conditions post-decision – which could consider the number of enforcement notices issued, implemented or quashed by appeal.
- l) The Committee noted that, although this particular consultation did not consider the development of new or enhanced powers for LPAs to enforce Planning Conditions, the issue was being reviewed at the national level and new powers might arise in the future via the Levelling Up Bill. Members considered that it was vital for all relevant development details to be resolved properly as part of the approval process, with the right powers in place to ensure that developers complied with the required Planning Conditions.
- m) A further idea being considered by the DLUHC is the reporting of customer satisfaction, but it is unclear how this would be measured, and LPAs may not be able to require applicants to return a satisfaction response post-decision.
- n) The Committee noted that Nottinghamshire had LPAs at both a County and District/Borough level, with some applications needing to be considered at both tiers of local government – which could increase complexity within the Planning system.

### **Resolved (2023/009):**

- 1) To endorse the proposed response to the Department for Levelling Up, Housing and Communities' (DLUHC) technical consultation on 'Stronger performance of local planning authorities supported through an increase in planning fees', as set out in Appendix A to the report, subject to the following points:
  - i. that reporting on performance in the context of the monitoring and enforcement of Planning Conditions post-decision is recommended to the DLUHC as part of the wider range of metrics, such as the number of enforcement notices issued, implemented or quashed by appeal;
  - ii. that it is emphasised that the speed of concluding a Planning application should not be used as the only measure of good performance, given that

many applications are complex and that the Local Planning Authority (LPA) does not have full control of the timetable; and

- iii. that it is emphasised that it is too narrow a measure to consider the granting of an application at appeal as an indication of poor performance by the LPA, as the difference between an application meeting or not meeting the tests for approval could be marginal.

## **8. Development Management Progress Report**

Jonathan Smith, Interim Group Manager for Planning, presented a report on the Planning applications likely to come to the Committee for consideration at its future meetings. The following points were discussed:

- a) The regular Development Management Progress Report would normally contain details of the new Planning applications received by the Council, and the decisions taken by officers, since the last report to the committee. However, had not been possible to compile this information in time for the meeting, on this occasion. As such, the full list of Planning applications received and determined by officers since last reported will be submitted to the next meeting of the Committee.

### **Resolved (2023/010):**

- 1) To note the Development Management Progress Report and confirm that the no additional actions were required in relation to its contents.

There being no further business, the Chairman closed the meeting at 11:45am.

**Chairman:**