

12th December 2017**Agenda Item: 6****REPORT OF CORPORATE DIRECTOR – PLACE****NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/16/01341/CMM**

PROPOSAL: VARY CONDITIONS 8 AND 9 OF PLANNING CONSENT 3/98/0800 TO ALLOW AN EXTENSION TO THE DURATION OF QUARRY WORKINGS UNTIL 31ST DECEMBER 2035 (CURRENTLY 31ST AUGUST 2016) WITH FULL SITE RESTORATION TO BE COMPLETED BY 31ST DECEMBER 2036. THE SUBMISSION ALSO INCORPORATES AN INTERIM RESTORATION SCHEME RELATING TO LAND TO THE SOUTH OF THE PLANT SITE.

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/16/01340/CMM

PROPOSAL 2: VARY CONDITIONS 7 AND 8 OF PLANNING CONSENT 3/04/00394/CMM TO ALLOW AN EXTENSION TO THE DURATION OF QUARRY WORKINGS UNTIL 31ST DECEMBER 2035 (CURRENTLY 31ST AUGUST 2016) WITH FULL SITE RESTORATION TO BE COMPLETED BY 31ST DECEMBER 2036.

LOCATION: GIRTON QUARRY, GAINSBOROUGH ROAD, GIRTON, NEAR NEWARK

APPLICANT: TARMAC TRADING LIMITED

Background

1. At the 18th April 2017 Planning and Licensing Committee meeting members resolved to support a granting of planning permission for two separate planning applications to extend the existing completion date for mineral working at Girton Quarry until 31st December 2036, subject to the applicant entering into a Section 106 legal agreement to control lorry routeing and to secure the archaeological investigation/survey of the site. The preparation of the Section 106 legal agreement has taken some time to complete, but it is now substantially finalised.
2. Because of the time taken to draft the legal agreement there has been an eight month period since the Planning and Licensing Committee resolution to support a grant of planning permission. Within this period the Council has decided to withdraw the draft Replacement Minerals Local Plan, the policies of which partly informed the original decision taken by committee in April.
3. Planning law requires the County Council to have regard to the Development Plan which is in place at the time the planning decision is issued and not as it stood when the committee resolution was made.

4. The purpose of this report is to review the original decisions taken in April 2017 which were informed in part by policies of the draft Replacement Nottinghamshire Minerals Local Plan and to reassess the merits of the planning applications in the absence of these policies.

Re-assessment of Planning Considerations of the Planning Applications

5. A copy of the original Planning and Licensing Committee Report is attached as Appendix 1 to this report. In the interest of brevity it is not proposed to re-evaluate the original report, except for those sections where reference is made to policies of the draft Replacement Nottinghamshire Minerals Local Plan. The following sections of the original report can therefore be taken as read:
 - The site and surroundings incorporating site history (Para's 2 – 10)
 - Proposed Development (Para's 11 – 19)
 - Consultations (Para's 20 – 44)
 - Publicity (Para's 45 – 46)
 - Other Options Considered (Para 97)
 - Statutory and Policy Implications (Para's 98 – 105)
 - Statement of Positive and Proactive Engagement (Para 111)
6. The draft replacement Nottinghamshire Minerals Local Plan was a material consideration in the original planning assessment of the development. This is evidenced within paragraphs 47 – 55 and 106 of the planning observations section of the original committee report wherein reference is made to Policy MP1, MP2 and SP1 of the draft replacement Nottinghamshire Minerals Local Plan to support the conclusion that there is a continuing need for the sand and gravel reserves within Girton Quarry
 - Policy MP1 required the County Council to identify sufficient sand and gravel reserves to maintain a 7 year landbank over the plan period (2012-2030) equating to 49.02 million tonnes.
 - Policy MP2 identified that the extraction of the remaining reserves from currently permitted quarries including Girton (referred to as site SGi – Girton) is a key part in meeting the landbank requirements of the new MLP Policy MP1.
 - Policy SP1 concerned itself with sustainable development and was identified because a refusal of planning permission would effectively result in the sterilisation of the Girton mineral resource.
7. The justification put forward under the above policies however was also supported by policies in the adopted Nottinghamshire Minerals Local Plan and the NPPF. In particular:
 - The need to maintain a minimum 7 year landbank of sand and gravel reserves is a requirement of the NPPF and Policy M6.2 of the adopted Nottinghamshire Minerals Local Plan.
 - Girton Quarry is identified as a consented mineral reserve within paragraphs 6.84 – 6.86 of the adopted Nottinghamshire Minerals Local Plan and its contribution towards maintaining an adequate landbank of

sand and gravel within Nottinghamshire is identified within Table 6.4 of the plan.

- Sustainable development is a key objective of the NPPF and Policy M2.1 of the adopted Nottinghamshire Minerals Local Plan.
8. It is therefore concluded that whilst the draft replacement Nottinghamshire Minerals Local Plan was a material consideration in the original assessment of the planning application, its policies insofar that they were relevant to the planning merits of the two Girton planning applications were not taken in isolation and generally supplemented and reinforced established policies within both the NPPF and the adopted Minerals Local Plan. The removal of the draft Replacement Minerals Local Plan therefore does not alter any of the conclusions reached in terms of the continuing need for minerals from Girton Quarry.
 9. There has been no other changes since the original decision was taken by Planning and Licensing Committee that would materially affect the original decision.

Obligations imposed within the Section 106 Agreement

10. The existing Section 106 legal agreements at Girton Quarry regulate:
 - Lorry Routeing - requiring all HGV traffic to access and exit the site to and from the north along the A1133 and thus avoid trafficking through Collingham village.
 - Archaeological Investigation and Recording - requiring the quarry operator to carry out an archaeological scheme of investigation and recording secured through a financial contribution. The financial contribution was set at a maximum of £172,000 plus VAT with a requirement to contribute a further £30,000 in the event of a major archaeological discovery requiring additional investigation. The figures payable were subject to RPI growth (from 1999). There was also a requirement to produce a report of the archaeological investigation findings.
11. Archaeological investigations are undertaken at the time soils are stripped and therefore a significant proportion of the original archaeological investigation works have been carried out including those parts of the site where mineral extraction has been undertaken and the plant site area which has been stripped of soils. The Council has no records of any report of archaeological findings having been submitted for these parts of the site. To ensure that this report is submitted it is recommended that the Section 106 agreement incorporates a clause requiring the report's submission within 12 months of the decision notice being issued.
12. The preparation of the new Section 106 agreement has identified an issue in terms of identifying the remaining level of financial payment necessary for the completion of the archaeological investigation works on those parts of the site which have not been stripped of soils. It is unclear how much of the original £172k budget has been spent and how much additional money should be set aside to complete the archaeological works. Furthermore, if a figure can be established RPI and changes in labour rates since 1999 would impact this cost

estimate. Furthermore, archaeological evaluation methodologies have moved on a great deal since 1999, the archaeological scheme that was originally envisaged would therefore require review since the approved evaluation technique focussed on the investigation and recording of Roman settlements where as more modern investigations would usually have a wider brief to also investigate prehistoric and early medieval material which tend to be more scattered and diffuse.

13. Going forward, to avoid the complications associated with setting a financial contribution for the remaining archaeological investigation works within the Section 106 agreement, and to ensure that archaeological information is recovered for a range of historical periods, it is recommended that archaeological investigations are regulated by planning condition, worded to impose a requirement to submit a programme of archaeological investigation scheme for each phase of stripping for future mineral extraction areas (excluding the plant site area which has already been stripped of soils), thus removing these controls from the S106 legal agreement.
14. Members are requested to approve this alteration to the heads of terms of the Section 106 legal agreement, subject to the addition of the following planning conditions to those previously set out within Appendix 1 of the April 2017 committee papers.

Suggested Archaeological Planning Conditions

1. No development shall take place within any phase of the site until the applicant has secured the implementation of a programme of archaeological work for the relevant part in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the WPA. The written scheme of investigation shall include:
 - the results of a geophysical survey;
 - the statement of significance and research objectives;
 - the programme and methodology of site investigation and recording; and
 - the programme for further mitigation, post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material.

All work is to be implemented in full accordance with the agreed written scheme of investigation and the condition will not be discharged until the final report on the archaeological work has been approved by the MPA.

Reason To ensure that that adequate archaeological investigation and recording is undertaken prior to mineral extraction taking place, in accordance with Policy M3.24 of the Nottinghamshire Minerals Local Plan.

2. Any archaeologist nominated by the MPA shall be afforded access to the site at all reasonable times, with reasonable notice and be allowed to observe operations on site and record items of interest and finds.

Reason: In the interests of archaeology and in accordance with Policy

Recommencement of Quarry Workings

16. Although the applicant states that it is intended to recommence operations at Girtton in 2018 or 2019 to coincide with the expected closure of Finningley Quarry, there is currently no guarantee that the site will go back into full production in this time period. If the site does not go back into production, this planning decision could potentially allow the retention of a non-working quarry up to 31st December 2035.
17. Whilst a level of visual impact associated with a working quarry is unavoidable, it is not the intention of this decision to allow the retention of an unused/derelict quarry in the countryside for an extended duration if there is no intention to imminently resume the use of the site.
18. The main visual impact of the site results from the retained processing plant site and the stockpiles owing to their height. Other aspects of the minerals development result in much lower visual impact due to their low level and the fact that the mineral working area has backfilled with water to create a lake.
19. To provide a level of control over the longer term retention of the buildings, structures and stockpiles in the plant site it is recommended that a further planning condition is incorporated as part of the approved schedule of planning conditions requiring an interim scheme of works be undertaken to reduce the visual prominence of these features in the event that the quarry does not recommence in the proposed timeframe. The following condition is proposed.

Condition - Interim Restoration of Quarry Plant Site.

In the event that mineral extraction and processing does not recommence within three years of the date of this planning permission, as required by Condition 1, then within three months of the receipt of a written request from the MPA, an interim restoration scheme shall be prepared and submitted to the MPA for approval in writing. The scheme shall aim to reduce the visual prominence of the buildings, plant and stockpiles in the plant site. The plant site interim restoration scheme shall be implemented in accordance with the agreed details and timetable.

Reason: To avoid the long term retention of unused buildings within the countryside and to minimise visual impacts in accordance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

Other Options Considered

20. 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

21. 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.
22. Crime and Disorder Implications: The development would allow an existing consented quarry to continue production, making use of existing security features within the site including the use of the established plant site.
23. Data Protection and Information Governance: No implications
24. Financial Implications: The preparation of the Section 106 agreements will require legal support from the County Council. The Council's reasonable costs associated with the preparation of these legal agreements would be recovered from the developer.
25. Human Resources Implications: No implications
26. Human Rights Implications: 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 and Article 6 may be affected. The proposals have the potential to introduce limited impacts of noise, dust, visual impact and disturbance from road haulage within the local area where the magnitude of impacts are generally assessed as minor. These potential impacts need to be balanced against the wider benefits the proposals would provide in terms of providing a continuity of mineral resources and avoiding the sterilisation of these resources. Members will need to consider whether these benefits would outweigh the potential impacts.
27. Public Sector Equality Duty Implications: No implications
28. Safeguarding of Children and Adults at Risk Implications: The quarry would comply with health and safety guidelines in terms of suitable boundary treatment to ensure the general public, and in particular young children, are safeguarded. Appropriate safeguarding would also apply in relation to footpath users.
29. Implications for Service Users: No implications
30. Implications for Sustainability and the Environment: The development would contribute towards the sustainable use of mineral resources which would contribute to the country's economic growth and quality of life. The extraction scheme has been designed on a phased basis to minimise the size of the active quarry and ensure that land is restored to beneficial purposes at the earliest practical opportunity. The issues have been considered in the Observations section above.

Conclusion

31. The withdrawal of the draft Replacement Minerals Local Plan has not materially changed the planning merits which support a grant of planning permission for an extension to the time period for the completion of quarry workings at Girton.

Statement of Positive and Proactive Engagement

32. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; scoping the planning application and encouraging pre-application community engagement which the applicant acceded to by working proactively with the local community through its local liaison meeting and notifying the Parish Council of the company's intentions. The proposals and the content of the Environmental Statement have been assessed against relevant Development Plan policies, the National Planning Policy Framework, including the accompanying technical guidance and European Regulations. The Minerals Planning Authority has identified all material considerations; forwarded consultation responses that may have been received in a timely manner; considered any valid representations received; liaised with consultees to resolve issues and progressed towards a timely determination of the application. Issues of concern have been raised with the applicant, such as ecological effects and have been addressed through negotiation and by planning condition. The applicant has been given advance sight of the draft planning conditions and the Minerals Planning Authority has also engaged positively in the preparation of the heads of terms of the Section 106 legal agreements. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

PROPOSAL 1: VARY CONDITIONS 8 AND 9 OF PLANNING CONSENT 3/98/0800 TO ALLOW AN EXTENSION TO THE DURATION OF QUARRY WORKINGS UNTIL 31ST DECEMBER 2035 (CURRENTLY 31ST AUGUST 2016) WITH FULL SITE RESTORATION TO BE COMPLETED BY 31ST DECEMBER 2036. THE SUBMISSION ALSO INCORPORATES AN INTERIM RESTORATION SCHEME RELATING TO LAND TO THE SOUTH OF THE PLANT SITE.

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33. It is RECOMMENDED that the Corporate Director Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act to require the submission of a report of archaeological findings from areas previously stripped of soils within 12 months of the date that planning permission is issued and to impose controls over lorry routeing to require all HGV traffic to access and exit the site to and from the north along the A1133 and thus avoid trafficking through Collingham village.
34. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement before 12th March 2018, or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman, the Corporate Director Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of the April committee report, supplemented by the conditions set

out in paragraph 11 of this report imposing archaeological control. In the event that the legal agreement is not signed by 12th March 2018, or within any subsequent extension of decision time agreed with the Minerals Planning Authority, it is RECOMMENDED that the Corporate Director Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

PROPOSAL 2: VARY CONDITIONS 7 AND 8 OF PLANNING CONSENT 3/04/00394/CMM TO ALLOW AN EXTENSION TO THE DURATION OF QUARRY WORKINGS UNTIL 31ST DECEMBER 2035 (CURRENTLY 31ST AUGUST 2016) WITH FULL SITE RESTORATION TO BE COMPLETED BY 31ST DECEMBER 2036.

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35. It is RECOMMENDED that the Corporate Director Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act to impose controls over lorry routeing, requiring all HGV traffic to access and exit the site in a northerly direction along the A1133 and thus avoid trafficking through Collingham village.
36. It is FURTHER RECOMMENDED that subject to the completion of the legal agreement before 12th March 2018, or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman, the Corporate Director Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 2 of the 18th April 2017 committee report. In the event that the legal agreement is not signed before 12th March 2018, or within any subsequent extension of decision time agreed with the Minerals Planning Authority, it is RECOMMENDED that the Corporate Director Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 23/11/2017]

Planning & Licensing Committee is the appropriate body to consider the contents of this report.

Comments of the Service Director - Finance [RWK 09/11/2017]

There are no specific financial implications arising from the 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.

Electoral Division(s) and Member(s) Affected

Collingham

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