



**19 September 2023**

**Agenda Item 5**

## **REPORT OF THE INTERIM CORPORATE DIRECTOR FOR PLACE**

**ASHFIELD DISTRICT REF. NO.: 4/V/2023/0424**

**PROPOSAL: VARIATION OF CONDITION 34 OF PERMISSION REF 4/V/2022/0876 TO PERMIT THE IMPORTATION OF 250,000 TONNES OF SAND FROM AN EXTERNAL SOURCE**

**LOCATION: TWO OAKS QUARRY, COXMOOR ROAD, SUTTON IN ASHFIELD, NG17 5LZ**

**APPLICANT: MANSFIELD SAND COMPANY LIMITED**

### **Purpose of Report**

1. To consider a planning application to vary condition 34 of planning permission 4/V/2022/0876 to allow sand to be imported for processing at Two Oaks Quarry. This is proposed as a one-off variation linked to a separate development project in Mansfield which is expected to yield up to 250,000 tonnes of sand as a precursor to building works. Currently condition 34 prohibits mineral from offsite sources from being brought into the quarry.
2. This application is being reported to committee because the quantity of additional importation (250,000 tonnes over a 12 month period) exceeds the 30,000 tonnes per annum threshold for delegated decisions as set out within the Committee's Code of Best Practice:  
  
*b) Section 73 variations [of planning conditions] on existing minerals or waste sites which involve increasing the rate of extraction/input by more than 30,000 tonnes per annum.*
3. The application does not give rise to any major issues however transport and haulage require consideration. The recommendation is to grant section 73 planning permission subject to the updated conditions set out in Appendix 1.

### **The Site and Surroundings**

4. Two Oaks Quarry is a silica sand quarry on the corner of the A611 Derby Road and Coxmoor Road, situated between Kirkby in Ashfield and the southern edge of Mansfield. The site lies in open countryside and is designated Green Belt.

Thieves Wood (managed by Forestry England) borders the quarry on the south-eastern and north-eastern boundaries and is a Local Wildlife Site (LWS). To the north-west, on the opposite side of the A611, is Coxmoor Golf Club, itself covered by a LWS designation. The woods form part of a wider area covered by a potential prospective Special Protection Area (ppSPA), owing to a population of Nightjar and Woodlark and suitable heathland habitats, but which has not been formally proposed for designation. The site and surroundings are shown on the appended Plan 1.

5. Access is taken from a dedicated access road off Coxmoor Road. Landscaping/screening bunds have been established along the boundaries with Coxmoor Road and the A611.
6. Extraction is currently in the latter parts of phase 1 in the north-eastern quadrant adjacent to Thieves Wood. Future phases 2 to 4 remain in agricultural use at this time.
7. The former farm (in the control of the applicant) is retained vacant to the centre-north. The nearest residential receptors are located at Forest Lodge (550m to the north within Thieves Wood); properties at Stonehills Farm, Derby Road (approx. 250m north-east from the future phase 3 area); Coxmoor House, Derby Road (approx. 300 east of future phase 2) and Forest Farm (800m to the south). The Sherwood Observatory is approx. 1km to the east, alongside residential properties lining this section of Coxmoor Road.
8. Within the centre of the quarry is a substantial array of processing plant and stocking areas (sand washing plant, sand drying plant, Fibresand mixing plant, soil steriliser, bagging plant, gravel plant, silos, conveyors etc). There is a complex of modular site offices, parking for staff and HGVs and a set of weighbridges at the end of the access road. Mineral products are delivered by road to customers across the UK including to industry, general construction, sports clubs and the equestrian sector.

## **Planning history**

9. Planning permission (Ref 4/2010/0178) was first granted for the development of the quarry by the Minerals Planning Authority (MPA) in March 2013 following the completion of a s106 legal agreement to secure various planning obligations. There have been several subsequent applications to vary planning conditions in the subsequent years, in particular condition 13 relating to maximum permitted HGV movements.
10. Permission was granted in April 2016 (Ref 4/V/2016/0062) to vary condition 13 for a one-off increase to HGV numbers in the months of May and June of that year without increasing the annual limits. This was to satisfy a seasonal demand in the sports sector.
11. In September 2017 permission was granted (Ref 4/V/2016/0655) for a permanent variation to condition 13 to increase the annual limits for HGV movements to and from the site from 27,800 to 34,000 (17,000 in 17,000 out)

but retaining the separate daily and weekly limits at existing levels. (The May/June peak was temporarily discontinued).

12. In March 2018 a further approval (ref 4/V/2017/0690) to vary condition 13 was granted in order to reintroduce a peak May/June increase of 20% to the daily and weekly HGV movements during these months every year (from 200 to 240 movements a day), whilst maintaining the annual limit as approved under planning permission 4/V/2016/0655.
13. In December 2019 two section 73 applications were granted. The first (ref 4/V/2019/0614) varied conditions 5, 22, 31 and 55 making changes to the layout and numbers of temporary silt lagoons in phase 1, with a consequential change to the restoration plan. This also permitted an additional motor scraper to be operated on site.
14. The second (ref 4/2019/0300) again amended condition 13 to increase the permitted daily, weekly and annual HGV movements with a maximum 380 movements per day during April, May, June and July and maximum 320 per day during the remainder of the year. The annual limit was raised to 50,000 movements. This permission was later brought into effect following the installation of traffic monitoring cameras at two nearby junctions, as required by a planning condition.
15. Variations to processing hours were approved in September 2021 (permission ref 4/V/2021/0397) allowing 24-hour processing Mondays to Saturdays, but leaving permitted HGV movement times unchanged. The permission was also varied to add a security cabin resulting in the current site planning permission (4/V/2022/0876).

### **Proposed Development**

16. In addition to the Two Oaks Farm sand quarry, the Mansfield Sand Company operate a separate concrete brick manufacturing facility located on Crown Farm Way, Mansfield. The company is looking to expand the brickworks but the site contours are currently sloped and variable and in order to create a suitable level site for the proposed development, sand must be removed. Up to 250,000 tonnes of sand could be won and removed from site. It is understood that a planning application, or planning applications, are shortly to be submitted for these works (whether this will be to Mansfield District Council and/or Nottinghamshire County Council is currently under discussion).
17. As sand is a valuable mineral commodity it is sustainable to ensure that the sand is put to beneficial uses. The company therefore wishes to haul this material over a 12 month period to their Two Oaks Quarry where it can be processed through the onsite processing facilities and sold as part of their range of sands and aggregates. However condition 34 as currently worded prohibits this:

*Only sand and gravel extracted from within the site, as detailed on 'Plan PA2 – Planning Application Area' received by the MPA on 30 March*

*2010, shall be processed on the site. No sand and gravel shall be imported into the site for processing.*

*Reason: To limit vehicle movements at the proposed quarry in accordance with Policy DM9 of the Nottinghamshire Minerals Local Plan.*

18. The applicant states that they do not in this instance need to further vary condition 13 as the required haulage of these sands can be undertaken within the current permitted HGV movements for the quarry site as confirmed by a recent automated traffic survey which has been carried out on the junctions through which quarry traffic presently passes. Additional estimations have also now been provided as evidence.
19. The route required to move the sand would follow established HGV roads from Crown Farm Industrial Estate via the A6117, A60, B6020 and B6139 (Coxmoor Road) to Two Oaks Quarry a distance of some 11 km (see Plan 2).
20. Working hours for the proposed sand importation would be as per the approved working hours for the quarry specifically in terms of approved hours for vehicles entering and leaving the site, which are 6.30 a.m. to 7.30 p.m. Monday to Friday and 7.30 a.m. to 12.30 p.m. on Saturday. (No traffic movements are permitted on Sundays, Bank or Public Holidays).
21. Access to the site would be via the existing quarry access roadway. There are no proposals to alter the terms of the mineral planning consent, which enables access to and from the quarry site, or the measures implemented to control environmental matters associated with the ongoing mineral extraction e.g. sweeping and cleaning of the access road.

## **Consultations**

22. **Ashfield District Council – No objections.**
23. *The impact of the proposal on the Green Belt will be a matter of planning judgement for the decision maker. Should the proposal constitute appropriate development in the Green Belt, and should it avoid harm to the Green Belt's openness, permanence and reasons for designation, Ashfield District Council would not wish to raise any objections.*
24. *The importation of sand is to take place on a temporary basis (12 months). It may be prudent to impose a condition which defines the temporary period.*
25. *An automated traffic survey has confirmed that the HGV movements for the sand importation can be undertaken within the parameters of the existing planning consent, in particular condition 13, which regulates HGV movements. Should the decision maker accept the validity of this finding, the proposal should not induce significant harm to residential amenity as the upper limits of condition 13 were found to be acceptable at the time of imposition. There does not*

appear, however, to be any evidence on file which might substantiate such claims. [This has since been provided].

26. **NCC (Highways) – No objections subject to reimposition of condition 13.**
27. *Highways are content with this proposal as long as the required HGVs are kept within the agreed limits as per the 2019 variation of planning permission. This variation increased daily, weekly and annual HGV movements to accommodate seasonal variation in sales.*
28. *According to the applicant's figures the quarry proposes to balance the outgoing exports and local incoming loads to be processed from Crown Farm Way, within the previously agreed 2-way movement limits. Furthermore, they intend to use the same lorry routing agreements established to limit any environmental nuisance to nearby residential urban areas. Therefore no objection is raised as the additional short term HGV movements cannot be considered material, as these will have minimal impact on the nearby critical junctions and highway links.*
29. **NCC (Planning Policy) - No objections.** *Condition recommended to tie the grant to the donor site (brickworks).*
30. *The Planning Statement details that the importation of the sand would not lead to any adverse impacts at Two Oaks quarry, with conditions already in place to limit any such impacts. The applicant also details that HGV movements to import the sand can be undertaken under the parameters of condition 13 which restricts vehicle movements. The case officer will need to be satisfied that there will be no further impacts and the Development Management Policies within Chapter 5 of the Nottinghamshire Minerals Local Plan are satisfied.*
31. *As the proposal would prevent the unnecessary sterilisation of the mineral resource and ensure its use, Policy SP7: Minerals Safeguarding, Consultation Areas and Associated Minerals Infrastructure would be supportive. However, any future application for the extension of the brickworks will need to consider Policy SP7 and demonstrate the need for the non-mineral development in the mineral safeguarding area to satisfy this policy.*
32. *Suggest that permission be tied to the granting of planning permission for the extension at the brickworks. Further comment from the Planning Policy team will be provided on any future applications made to Mansfield District Council and County Council for the incidental extraction of sand from the brickwork site and the applicant should consider and address the Nottinghamshire Minerals Local Plan within these applications, in particular Policies SP7 and DM13 (Incidental Mineral Extraction).*
33. *As detailed in the planning statement any application for the brickwork extension, which would be determined by Mansfield District Council, should be submitted at the same time as any separate planning application to the County Council for the extraction of sand to ensure the applications are compatible.*
34. **NCC (Nature Conservation) – No objections.**

35. *There will be no direct impacts on ecology, with the primary potential indirect impact being changes to air quality, particularly nitrogen deposition, due to additional HGV movements.*
36. *As the application states that the HGV movements for the proposed sand importation can be undertaken within the parameters of the present planning consent (condition 13) it is assumed that this means that there would not be a change in the conclusions of the air quality assessment previously undertaken for the site. No evidence has been provided to back up the assertion, such as the number of current HGV moments or anticipated additional HGV movements. [This has since been provided].*
37. **Environment Agency** – *No objections and no flood related concerns are raised.*

## **Publicity**

38. The application has been publicised by means of a site notice and a press notice in accordance with the County Council's adopted Statement of Community Involvement. No neighbours have been consulted in this instance owing to the existing traffic limits not being exceeded and no representations have been received.
39. Cllr Samantha Deakin has been notified of the application.

## **Observations**

### Planning policy assessment

40. Condition 34 currently limits the quarry to processing site won minerals and prohibits any importation of minerals from elsewhere. The reason for the condition is to safeguard against any traffic growth over and above that previously assessed.
41. In principle there is nothing unusual about importing off site won mineral to a quarry for processing and not all quarries necessarily have their own processing facilities. There are instances where mineral operators choose to share the capacity of a processing plant between different extraction sites, or where there is a need to blend different minerals to create a certain end product.
42. In the case of temporary incidental mineral extraction sites associated with a construction project, as is foreseen by the applicant at Crown Farm Way, it could be unfeasible to establish anything other than a basic screening operation to screen as dug mineral and even then there may not be the space or time to undertake this around the pressures of a construction programme. There are also potential environmental impacts associated with processing the as dug mineral at that site. Hauling the as dug mineral a short distance and employing the full range of washing and screening facilities as are present at Two Oaks

Quarry would be economically and operationally feasible and could actually be sustainable development as not only would this potentially avoid sterilisation of the mineral, (for example if the material was simply disposed of or poorly utilised) but by transporting this mineral to the nearest appropriate processing facility a range of aggregate products could then be created for differing end uses and customers. This would assist with maximising the recovery of the mineral resource and provide greater benefits to society. There would also clearly be benefits to the applicant as a local business and local employer (approx. 75 full time staff) in adding value to the mineral and supporting existing sales through the quarry business as well as for contracted haulage services.

43. The importation of the sand would not affect the overall operations at Two Oaks Quarry, its timescales (which are controlled by a separate condition), or delay restoration works. No physical works are proposed and no other changes to planning conditions are required or being sought. There would be neutral impacts for Green Belt purposes.
44. A one-off relaxation of the condition would indirectly facilitate the prospective development to expand the brickworks at Crown Farm Way and would help realise an opportunity to undertake incidental mineral extraction ensuring the mineral is recovered for society's benefit. It should be noted however that a decision on varying the condition will have no bearing on the separate planning application(s) that will be required to actually undertake the expansion of the brickworks and the incidental mineral extraction as part of that development. Varying the condition would however provide the applicant with some certainty to inform the decision whether to proceed with planning the expansion project.
45. Overall this is a straightforward proposition which supports the objectives of the Minerals Local Plan in safeguarding minerals as per Strategic Objective 4 and Policy SP7.

#### Traffic and Access

46. A safeguard against increased traffic was the reason for the imposition of condition 34 prohibiting the importation of minerals from elsewhere. However condition 13 appears to be the main way these traffic movements are regulated by the planning permission.
47. The applicant claims that the calculated importation can be undertaken within the approved maximum HGV figures as set out in condition 13 and as such they have no requirement to vary this condition. As noted in the planning history, condition 13 has been subject to previous variations to increase permitted HGV movements and so some 'headroom' will have been created for the applicant. Officers have had sight of company estimates which shows that the HGV limits would only be in danger of being exceeded in an exceptionally busy month for sales, well in excess of previous peaks. This has also been shared with NCC Highways.
48. During the quieter business months, typically either side of the summer, the sand importation could, depending on sales, make up around half of the total

HGV movements in/out of the quarry- around 50 HGVs per day (100 two-way movements) out of around 100 in total (200 movements). This would be well within the 160 movements permitted under condition 13 from August through to March. Whilst during the peak period the exports of processed sand would take over as the dominant share with total movements in excess of 150 a day (300 movements) of which around 40 could be importing sand, but the total would still be within the 190 movements as permitted under condition 13 during the period April to July.

49. The above are indicative estimates, but in effect the quarry can and will need to continue to comply with condition 13 by balancing the mix of HGV traffic accessing the quarry site including those exporting sand and those importing unprocessed mineral over the envisaged temporary 12-month period. Given the applicant's involvement in both the brickworks expansion and as the operator at Two Oaks Quarry, backhauling may also be possible.
50. The applicant also notes that background traffic levels on the adjacent highways have not seen the growth that had previously been expected. Traffic surveys have shown there have been insignificant changes to traffic patterns when comparing data from 2015, 2018 and 2023.
51. The sand would be imported over a relatively local distance of 11km using suitable route(s) whilst continuing to comply with the HGV routeing agreement for the quarry as well as abiding by the existing hours of operation in terms of traffic movements.
52. On this basis NCC Highways raises no objection subject to reimposing and retaining conditions (including condition 13) and the routeing controls.
53. Condition 13 also requires the quarry to maintain written records of all HGV movements accessing the site for a two-year period. This is achieved through the weighbridge. The MPA can also request this data for monitoring compliance purposes and in the circumstances it may be appropriate for it to do so.
54. In conclusion the maximum permitted HGV movements would not be exceeded and so the traffic associated with importing the mineral to the quarry would not be 'additional' to the quarry and would abide by all the other requirements. The maximum permitted HGV movements set under condition 13 were previously found to be acceptable in terms of impacts to the local highway network (and local amenity). The proposals to import sand therefore would continue to ensure compliance with MLP Policy DM9 (Highways Safety and Vehicle Movements / Routeing).

#### Amenity

55. Two Oaks Quarry is situated in the open countryside with very few near neighbours. It operates largely without local complaint or concern. There are comprehensive planning conditions regulating its operation to protect local amenity including those relating to operational hours and traffic controls. A site liaison committee is also in place through the Section 106 Agreement.



56. The proposed importation of sand would take place within the current hours as specified under condition 21 relating to *vehicles entering and leaving the site for the purposes of collecting mineral or delivering soils, compost and synthetic fibres* which are specified as 6.30 am to 7.30 pm Monday to Friday and 7.30 am to 12.30 pm on Saturdays. No such movements are permitted on Sundays, Bank or Public Holidays. A minor textual change could be made for clarity purposes by rephrasing the term 'collecting mineral' to 'transporting mineral'. As noted above, the traffic levels would remain within the bounds of condition 13 and would abide by the routeing agreement. A routeing agreement could also be requested against any planning permission that might be granted for the expansion of the brickworks to ensure full compliance.
57. A range of HGVs and other commercial vehicles access the quarry and the types of vehicles utilised to import the sand would likely be similar and thus would not be readily distinguishable amongst the other site traffic. The only difference would be that these vehicles would be laden with mineral upon entering rather than not. Condition 10 will continue to require measures to keep the public highway outside of the quarry site free of mud and other deleterious materials. Condition 29 requires all HGVs entering the site *to deliver soil, compost, and synthetic fibres, and all HGVs leaving the site with sand and sand-based products*, to be fully sheeted. For completeness this can be amended to include HGVs entering with deliveries of sand.
58. Once delivered to the quarry the processing of the sand would be absorbed into the existing operations and is not expected to create any additional noise, dust or other local nuisance. The proposals therefore satisfy MLP Policy DM1 (Protecting Local Amenity).

### Ecology

59. The importation of sand would not lead to any direct ecological impacts and the mineral would be handled within the established processing and stocking areas of the quarry. The ecological impacts arising from the prospective expansion of the Crown Farm Way brickworks are not relevant for the current decision and are for that separate and subsequent planning application to consider.
60. The haulage operations associated with Two Oaks Quarry has potential to cause indirect ecological impacts to local woodland habitats through exhaust emissions and deposition of nutrients. These LWS woodlands and the heathland glades contribute to the Sherwood area's interest for breeding woodlark and nightjar and remain subject to Natural England advice regarding a potential prospective designation as a Special Protection Area, despite the UK leaving the EU. All previous changes to raise the permitted maximum HGV movements under condition 13 included assessments on air quality and impacts to these habitats and found acceptable.
61. As there is no requirement to vary or raise HGV traffic numbers permitted by condition 13 in this instance, and no changes to vehicle routeing, it can be concluded that there would be no further potential impacts to the nearby/surrounding habitats (or the species they support) through indirect

deposition of pollutants/nutrients. No other ecological issues arise and so the proposals accord with MLP policies SP5 (The Built, Historic and Natural Environment) and DM4 (Protection and Enhancement of Biodiversity and Geodiversity).

### Conclusions

62. The variation of condition 34 to allow sand to be imported into Two Oaks Quarry for processing and onward sale can be supported and in the circumstances is a sustainable solution to process incidental minerals arising from a prospective local development project, i.e. an expansion of the applicant's brick factory in Mansfield. Although subject to separate planning permission, a variation to condition 34 would provide developer certainty and indirectly facilitate the subsequent factory development proposal. Around 250,000 tonnes of sand could be safeguarded and recovered over some 12 months for the wider public benefit as well as supporting the ongoing quarry business and its local employment.
63. The applicant can undertake the importation within the existing approved HGV traffic limits for the quarry under condition 13 and so there are no proposals to raise the quarry's permitted HGV traffic levels or alter any other operational controls such as operational hours, or HGV routing. Subject to the reimposition of these controls it follows that there would be no additional local amenity or environmental impacts over and above that previously assessed and found acceptable.
64. The proposed variation is therefore supported by development plan policy and principally by the following policies of the Nottinghamshire Minerals Local Plan: policies SP5, SP7, DM1, DM4, and DM9.

### Updates to conditions

65. The applicant is not seeking the complete removal of condition 34 and is instead seeking its variation. The applicant has not tabled any suggested revised wording for the condition as part of their submission, however the recommended revised wording (as included in Appendix 1) has been agreed. This will make an allowance to import mineral arising as an incidental part of an expansion of the brick works on Crown Farm Way. However it is not considered necessary to specify a time limit, other than allowing 3 years to commence.
66. As noted above, a minor change should be made to conditions 21 and 29. Condition 1 is also updated.
67. Some minor updates are also required to conditions 7 and 14 to incorporate recently approved non-material amendments concerning site fencing and the location of a security cabin respectively.

### Legal Agreement

68. A legal agreement is in place covering the matters listed below and it will continue to have effect should the variation be granted.
- i) HGV routeing scheme preventing HGVs travelling up Coxmoor Road, north of the crossroads junction with Derby Road, as well as preventing the use of Little Ricket Lane, Ravenshead and the B6020 east of the A60.
  - ii) Maintenance of the site access.
  - iii) An annual dilapidation survey of the B6139 Coxmoor Road and repair if necessary.
  - iv) Prevention of queueing on the highway prior to site opening.
  - v) Lizard translocation.
  - vi) Additional aftercare.
  - vii) A site liaison committee.

### **Other Options Considered**

69. 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**

70. 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.

#### Data Protection and Information Governance

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

#### Human Rights Implications

72. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a

Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

#### Public Sector Equality Duty Implications

73. The report and its consideration of the planning applications has been undertaken in compliance with the Public Sector Equality duty and there are no identified impacts to persons/service users with a protected characteristic.

#### Implications for Sustainability and the Environment

74. These have been considered in the Observations section above. Processing the sand through the Two Oaks Quarry processing plant would enable recovery of the mineral and its production into a range of products for the benefits of society whilst minimising further environmental impacts.
75. There are no implications with regards to crime and disorder, safeguarding children/adults at risk; finance; human resources; or for service users.

#### **Statement of Positive and Proactive Engagement**

76. In determining this application, the Minerals Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

#### **RECOMMENDATIONS**

77. It is RECOMMENDED that section 73 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.

**DEREK HIGTON**

**Interim Corporate Director for Place**

#### **Constitutional Comments (JL 07/09/2023)**

78. Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference set out in the Constitution of Nottinghamshire County Council.

#### **Financial Comments (SES 06/09/2023)**

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

### **Background Papers Available for Inspection**

80. 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/4538](http://www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=V/4538)

### **Electoral Division and Member Affected**

Sutton Central & East - Cllr Samantha Deakin

Report Author/Case Officer

Joel Marshall

0115 9932578

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