



24 May 2016

Agenda Item:

REPORT OF CORPORATE DIRECTOR – PLACE

BASSETLAW DISTRICT REF. NO.: 1/16/00410/VOC

PROPOSAL: VARY CONDITION 3 OF PLANNING PERMISSION 1/14/01625/CDM TO EXTEND THE TIME FOR RESTORATION FOR A FURTHER 12 MONTHS

LOCATION: HARWORTH COLLIERY SPOIL TIP, BLYTH ROAD, HARWORTH,

APPLICANT: 4R GROUP

Purpose of Report

1. To consider a planning application for the importation and spreading of a high alkaline/organic material on exposed colliery discard at Harworth Colliery Spoil Tip to reduce acidity levels. The planning application is being reported to Planning and Licensing Committee because Styrrup with Oldcotes Parish Council has objected to the application. The key issues relate to noise, contamination and visual impact. The recommendation is to grant planning permission subject to the planning conditions at Appendix 1.

The Site and Surroundings

2. Harworth Colliery Spoil Tip is located near to the northern boundary of Nottinghamshire, approximately 8km north-east of Worksop, 10km north-west of Retford and 10km south of Doncaster. The surrounding area is mainly dominated by agriculture, although there is urban and industrial development nearby, particularly to the north.
3. The site is bordered on the west by the A1 (M), beyond which are agricultural fields apart from in the north where the village of Styrrup is located (see Plan 1). The north of the site is bordered by Serlby Road, beyond which is an industrial estate, which stretches around the north-east corner of the spoil tip. Beyond the industrial estate is Harworth Colliery itself, which is not currently operational. The spoil tip used to be connected to the colliery by a conveyor, which ran in a north-east to south-west direction, although this has now been dismantled.
4. The villages of Harworth and Bircotes are separated by the industrial estate and former colliery. To the east of the site is Blyth Road, beyond which are agricultural fields. Agricultural land also lies to the south of the spoil tip.

5. The application site is a “hammer” shape and comprises a steep narrow face of the unfinished spoil tip (which lay beneath the now removed conveyor) and a flat area at the top of the face, which has yet to be treated. The face slopes down from the main spoil tip area to the corner of Blyth Road and Serlby Road and lies between areas of established woodland.
6. The nearest residential properties to the proposal site lie about 1.1km to the south east on Blyth Road; 850 m to the north on the southern edge of Harworth and on Pagdin Drive some 600m to the west, beyond the A1 (M) in Styrrup.
7. Vehicular access to the site is via Blyth Road, using an existing entrance approximately half way along the eastern side of the spoil tip. Blyth Road joins the A614 to the south, just north of a junction with the A1. To the north Blyth Road passes through the western side of the village of Harworth.
8. The application site is not within any area of designation as shown on the Bassetlaw Core Strategy Proposals Map, although it is of note that the ‘Development Boundary’ of Harworth runs along the northern and eastern corner of the spoil tip.
9. Styrrup Quarry Site of Special Scientific Interest (SSSI), a geological exposure, is located about 1km to the west of the application area. There are no other internationally or nationally designated sites within 2km of the site. There are a number of nearby Local Wildlife Sites (LWS) including Ash Holt, an ancient woodland supporting a characteristic flora 1.1km to the west of the application site; Styrrup Quarry, a sand quarry of botanical interest 1km to the west; Coronation Clump Sand Pit, a sand quarry supporting notable plant species and of faunal interest 850m to the south west; and Crow Wood, which is candidate ancient woodland, about 900 to the north- west.

Proposed Development

Site History and Background

10. Harworth Colliery has been in care and maintenance since it ceased production in 2006. Spoil disposal was originally carried out at the colliery under planning permission 1/66/76/13D issued in 1977. Since 1996 the colliery has disposed of spoil under planning permission 1/66/96/16, on the site known as Harworth Colliery No.2 Spoil Tip.
11. The site ceased receiving spoil in 2006 due to Harworth Colliery being mothballed. The spoil tip has since been under a scheme of maintenance. Planning permission for the spoil tip expired at the end of June 2013.
12. A separate planning application was submitted in June 2013 to extend the life of the spoil tip by 25 years, which would have been required if mining operations recommenced at Harworth Colliery. However, that application was formally withdrawn on 15 January 2015, due to the high probability that mining operations would not be recommencing.

13. Chemical analysis undertaken in 2011 revealed that the site has a strongly acidic pH of 3.0, which poses a risk of significant amounts of acidic leachate for any water that percolates through the material and exits via drainage channels. One of the methods to reduce acidity is to spread alkaline rich material on the affected areas.
14. Permission was granted in October 2013 for “*the importation and spreading of a liming by-product at Harworth Colliery Spoil Tip No. 2 in order to reduce acidity levels*” (ref: 1/13/00639/CDM). The development subsequently took place between November 2013 and August 2014. The pH value was raised from around 2.2 to 4.2 at the discharge point. However, dilution is still required at the discharge point to achieve the consented level of 5.
15. A further planning permission was granted on 24 February 2015 for “*the importation and spreading of high alkaline/organic material on exposed colliery discard to reduce the acidity level of surface water run-off from the tip*” (Ref 1/14/01625/CDM). Condition 3 of the permission states that the development should cease 12 months after the commencement of development, which was 5 March 2016.

Proposed Development

16. The development proposal is a recovery operation involving the importation and spreading of a further 3,000 tonnes of high alkaline and organic material on the exposed colliery discard at Harworth Colliery Spoil Tip No. 2 for a period of up to 12 months. The application of lime based and organic materials will be applied to the exposed flank to the north-east of the site where the conveyor was sited.
17. The purpose of the proposal is to reduce the acidity levels in the surface water run-off and also further reduce the potential for polluting the local water environment. In addition it will allow for this highly visible part of the site to be seeded to make it less prominent.
18. The operations involve creating a surface layer treated with high alkaline material and organic matter to buffer the onsite acidification which is currently arising from the colliery spoil substrate. The aim is to stabilise the tip surface and buffer any potential for acid leachate production as water percolates through the mineral surface. This would reduce the acidity levels in the surface water run-off and the potential for polluting the water environment.
19. The proposed tonnage is based on the typical rates needed to counteract acidification as being between 450 and 1,000 tonnes per hectare depending on the material and the analysis of the substrate in specific areas. The total area to be treated measures about 2.5 ha. On the batter, the material would be mixed to a depth of 50-100cm.
20. The material would be delivered to the site and placed in stockpiles to allow efficient application of the materials onto the tip surface. The material additions would be applied to the site in a three stage process:

- (i) Application of the materials using a combination of dumper trucks to deposit the material and spreading using bulldozer or agricultural spreading operations;
 - (ii) Ripping and incorporation of the materials using deep tines attached to the bulldozer or using deep agricultural cultivation (i.e. heavy duty discs);
 - (iii) Rolling to level the surface. Planting of a temporary grass sward to encourage water infiltration and retention.
21. After the material is mixed into the surface and the levelling works and seeding have taken place, further operations will only consist of monitoring the site to ensure the process has been successful. The applicant states that the site would then have the potential to facilitate a longer term restoration strategy.
22. The applicant notes that while the previous operations have proved successful, there remains a need to import and spread further alkaline material to continue to reduce acidity levels of the spoil tip.
23. Table 1 below sets out the type of material proposed to be imported to the site as part of the proposal:

Table 1: Proposed Material to be imported

Material	Description	Use	Anticipated Tonnage
Cement kiln dust	Cement kiln dust and by pass dust from the manufacture of cement.	Used for pH adjustment of the areas (flanks and roadways).	No more than 1,000 tonnes.
Compost	Compost manufactured from source segregated wastes or non-source segregated wastes.	As above.	No more than 2,000 tonnes <u>in total</u> made up of compost/digestate/biosolids. The compost, digestate and biosolids have similar properties. Therefore if 1,000 tonnes of one material was utilised it would substitute 1,000 tonnes of another i.e. the total amount of imported material would be 2, 000 tonnes.
Digestate	Digestate manufactured from source segregated wastes or non-source segregated wastes.	As above.	
Biosolids	Biosolids derived from waste water treatment works.	As above.	

24. The importation of the material would take place within a maximum 12 month period but in reality would take no more than 3 months once started. It would be delivered using articulated lorries via the access off Blythe Road. It is not anticipated that more than 1500 tonnes will be imported in any one month, which would equate to about 4 HGV movements per day.
25. The proposed hours of operation would correspond with those worked when the colliery spoil tip was operational. The hours proposed are 07:00 – 19:00 Mondays to Fridays; 07:00 – 13:00 on Saturdays; and no working on Sundays, Public or Bank Holidays.

26. Three full time employees would be employed at the site.

Consultations

27. **Bassetlaw District Council:** Raise no objection.
28. **Styrrup with Oldcotes Parish Council:** Objects to the application on grounds that no more time should be given to restore the site.
29. **NCC (Nature Conservation):** Raises no objection.
30. **NCC (Reclamation):** Raises no objection, provided that the checks and controls on the material to be imported into the site and their application methods are maintained.
31. **NCC (Highways) Bassetlaw:** Raise no objection.
32. **NCC (Noise Engineer):** Raises no objection.
33. **EA (Land Contamination):** Raise no objections but refer to comments on the original application.
34. There has been no response received from the following consultees. Any late responses received will be reported verbally

Severn Trent Water Limited
Western Power Distribution
National Grid (Gas)
Anglian Water Services Limited
Northern Powergrid
NCC (Countryside Access)

Publicity

35. The application has been publicised by means of site notices, press notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement Review.
36. Councillor Sheila Place has been notified of the application.
37. No representations have been received.

Observations

Introduction

38. Planning permission is sought to import a high alkaline material to spread on Harworth Colliery Spoil Tip No. 2. The purpose is to reduce the acidity of surface water run-off. The proposal involves the importation of 3,000 tonnes of material over a 12 month period. In reality, however, it is likely that the operations, once

started, would only take a few months although it may then take some time waiting for appropriate ground conditions once the material has been delivered prior to incorporation and subsequent seeding. The application follows on from a previous permission to allow the spreading of up to 40,000 tonnes of alkaline material on the main spoil tip area during 2015.

39. Chemical analysis undertaken in 2011 revealed that the site has a strongly acidic pH of 3.0, which poses a risk of significant amounts of acidic leachate for any water that percolates through the material and exits via drainage channels. Previous acidity controls include surface water being fed through drainage channels and into a series of balance ponds. One of the balance ponds includes limestone blocks, which reduce the acidity of the water once it has passed through. However, dilution of the water is still needed following this process, which is achieved by pumping groundwater via boreholes into the run-off water prior to its discharge into the watercourse.
40. This is a section 73 application for the variation of a condition. Where such an application is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, although in this instance the original permission time limited the spreading of material to 5 March 2016 and would therefore be superseded by any new permission granted. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Therefore all the conditions from the 2015 permission can be re-imposed, amended, and if necessary, new conditions added.

Planning Policy Assessment

41. There are no policies within the Nottinghamshire Minerals Local Plan (MLP) which deal directly with the spreading of high alkaline material on a spoil tip to alter pH levels of surface water run-off. However, there are policies that relate to spoil tips and reclamation of existing sites.
42. Policy M12.3 (Colliery Spoil Disposal) of the MLP sets out measures that will be imposed where planning permission is granted for colliery tipping, namely:
 - a) Priority is given to early construction and reclamation of external, visible faces;
 - b) Tipping profiles avoid 'engineered' or other alien landforms;
 - c) Opportunities are taken to improve the appearance of existing adjacent tipping schemes;
 - d) Reclamation is phased to minimise visual impact and problems of surface run-off;
 - e) Opportunities are taken to reclaim sites to suitable level Biodiversity Action Plan priority habitats.

43. It is recognised that the proposed development does not strictly fall under Policy M12.3. However, as the development involves tipping material onto an existing spoil tip elements of the policy are applicable, particularly the promotion of early reclamation and minimisation of problems associated with surface water run-off.
44. Policy M4.8 states that alternative reclamation proposals will be granted which would result in the satisfactory reclamation and after-use of mineral workings where:
- a) current use and/ or appearance is unsatisfactory;
 - b) the existing provisions for reclamation are unsatisfactory, inappropriate or absent;
 - c) the proposals result in an improved environmental and/ or amenity after-use.
45. Similarly to policy M12.3 it is recognised that the proposed development does not strictly fall under Policy M4.8 as it is aimed at mineral workings controlled by old planning permissions. However, it is clear that the current appearance of the steep slope in particular is unsatisfactory.

Contamination and the Water Environment

46. The second relevant aspect of Policy M12.3 is the phasing of schemes to minimise surface water run-off problems. It is acknowledged that this proposal does not specifically relate to phasing, although it does represent the final “phase” of the spreading operations. Additionally the purpose of the proposal is to mitigate existing surface-water run-off problems. As such, the development is considered to be in line with the thrust of this section of Policy M12.3.
47. Surface water flows are currently controlled by drainage channels surrounding the spoil tip, which link balance ponds together. This method of managing surface water would not be altered. However, the development is proposed to reduce, and if possible remove, the need to abstract ground water to dilute the surface water run-off, thereby reducing the volume of water entering the local watercourse. The development is therefore in accordance with Part (a) of Policy M3.8 (Water Environment).
48. The proposed development would reduce, or even eliminate, the need to abstract groundwater for dilution purposes. This means that groundwater levels would no longer be affected by the treatment process, fully in line with Part (b) of Policy M3.8.
49. The proposed development would create a surface layer on the spoil tip comprising high alkaline material. This would buffer the acidification which is presently arising from the colliery spoil substrate, preventing the potential for acid leachate production as water percolates through the mineral surface. This would reduce the acidity levels in the surface water run-off and the potential for polluting the water environment. The development is therefore in accordance with Part (c) of Policy M3.8.
50. The County Principal Project Engineer has advised that the proposal is acceptable provided that the checks and controls on the material to be imported

into the site and their application methods are maintained. He has advised, however, that the sampling and discharge and reporting of such should form part of the surrender documentation once the restoration scheme is completed. This issue is covered under the environmental permit but will be placed on the planning permission as an informative.

51. The Environment Agency has been consulted on the proposal and has no objection, although reference is made to comments on the original alkaline spreading application in respect of not breaching the existing environmental permit and sampling. The applicant's attention will be drawn to the comments in the 'informatives' section of the decision notice should planning permission be granted.

Landscape and Visual Impact

52. The publicly visible area remaining to be tipped is a steeply sloping corridor from the roadside up to the top of the tip measuring about 300m x 40m. It appears unsightly and from a visual perspective needs to be improved to make it less prominent and obtrusive. Although there are no long distance visual implications for the development, the area in question is very prominent when viewed from Blyth Road and from Harworth Industrial estate opposite.
53. The proposals will help to improve the growing capacity of this untreated area and enable proper restoration of the site. This area is visually unattractive and needs to be seeded to green it up. Without this area being treated it is unlikely that seeding would be effective and the area would remain unrestored and unsightly.
54. Essentially the material is applied at the appropriate rate then incorporated into the existing spoil. After this the grass is seeded soon after to "knit" the surface together which should minimise any run off/erosion from the site. Once this is done the area will be more stable than in its currently un-vegetated state.
55. The proposal would therefore meet one of the requirements of Policy M12.3 in respect of minimising visual impact and problems of surface run-off; and Policy M4.8 in terms of improving the appearance of the site.

Noise

56. No noise assessment has been submitted with this application. However, a noise assessment was submitted with the 2013 application for spreading of a high alkaline material (Ref: 1/13/00639/CDM). The noise assessment considered the potential noise impact associated with any future short-term and operational activities on the spoil tip, including the loading of soil and spoil by wheeled loaders, transport of material around the site, and bund/tip shaping by a dozer. The area of land to be treated is at least 600m away from any of the 4 noise sensitive properties identified as part of the original 2013 application. The nearest occupied buildings are on the Harworth Park industrial estate off Blyth Road and the former British Coal Enterprise Park off Serlby Road and the County Noise Engineer advises on this issue follows:

57. "For temporary operations the NPPF technical guidance permits noise levels for temporary operations at sensitive receptors (residential) of up to 70dB LAeq, 1hr for up to 8 weeks in a calendar year. I've done a quick calculation of the worst case noise level at the business premises to the east with all plant operating (dump truck, dozer and a 360) in the area nearest the crossroads and the worst case combined noise level I get is 64dB (I took the levels from the 2014 noise assessment) . Given the context of the area which is primarily industrial and other noise sources, I do not think this is unreasonable given noise levels will then reduce further with increased distance."
58. It is also worth noting that over the 9 month duration that the previous spreading operation took place, no complaints were received.
59. The NCC Noise Engineer has therefore not recommended any specific noise conditions. However, it is considered pertinent to replicate the conditions on hours of working (see below) and limits and reversing alarms on vehicles/mobile plant.
60. The proposal would therefore comply with MLP Policy 3.5.

Traffic and Access

61. The development would involve the importation, by HGV, of 3,000 tonnes of material over a period of 12 months. In reality however the importation operations, once started would only take about 2-3 months to complete. The applicant has submitted, as part of the application the transport assessment that was undertaken for the previous planning application, as the daily HGV numbers would be similar to those generated by the previous proposal. The applicant does not anticipate that more than 1,500 tonnes will be imported in any one month. This would result in 50-60 loads per month (depending on payload) or an average of around 2 loads (4 movements) per day.
62. Compare to the 2015 operations this proposal would generate significantly less (75%) traffic movements in total due to the much lower tonnage of materials required, and it is considered that the conclusions of the previous transport statement (but also re-submitted as part of this application) set out below are applicable to this proposal.
 - I. The local highway network can safely and easily accommodate the volume of traffic likely to be generated by the proposals. Indeed the changes in traffic flow will be so small as to be unnoticeable given the normal day-to-day and seasonal variation in flows that takes place.*
 - II. The existing site access junction complies with current design standards and can safely accommodate the number and type of vehicles associated with the development proposals.*
 - III. There is no accident problem on the local highway network and the development proposals will not raise any safety concerns.*

63. The County Highways officer has raised no objection to the proposals. However, it is considered that the previous condition relating to retention of the visibility splay on the existing access will be re-imposed.
64. The proposal would therefore comply with MLP policies M3.12 (Highway Safety) and M3.13 (Vehicular Movements).

Air Quality/Dust

65. The proposed activities (i.e. placing of high alkaline material and ripping activities) has the potential to generate dust, particularly during dry and windy conditions. However, the "slope" area would be spread with compost/digestate, rather than cement kiln dust, which is less likely to result in dust emissions. Also this area should only take around one month to be treated and thus the potential to cause a problem with dust would be very limited. Nevertheless, in order to safeguard the nearby industrial estate and the public highway conditions will be attached to suppress dust generation in line with Policy M3.7 of the MLP.
66. Any odour emissions will be controlled through the environmental permit.

Residential amenity

67. No residential properties would be affected by the proposals. The nearest neighbouring development is on the industrial estate/business park opposite the area to be treated.

Operating Hours

68. Operating hours will reflect those of the previous permission but without the restriction relating to spreading of material near to Kirk View Kennels, which would no longer be affected. Therefore transport and spreading of material would be permitted 0700 to 1900 Mondays to Fridays and 0700 to 1300 hours on Saturdays. No operations would be allowed on Sundays or Bank or Public Holidays.

Parish Council Objection

69. The Parish Council has objected to the application on the following grounds: "The tipping of spoil to the spoil tip was performed by an overhead gantry system known as the aerial flights. Once the gantry system was removed it was clear that no more tipping by that method or any other method was possible. Therefore the clock was ticking for the re-instatement of the tip. By removing the gantry the owners should have been aware of the planning condition requiring reinstatement to agriculture and thereby should have planned for said works. By applying for a second extension of time they are failing in their duty. Furthermore it feels like ten years since the pit closed. Ample time for action following the example of other sites".

70. It is regrettable that the spreading operations were not completed within the permitted timeframe and the Parish Council's frustrations in this regard are understandable. It is understood that it was not possible to complete this final area as at the time the conveyor system was still in place and was therefore excluded from the permitted area of application in the Environment Agency Permit. Nevertheless, the majority of the site has been treated and only 3,000 tonnes remains to be spread. It is considered that the operator has made a concerted effort to complete the works but unfortunately ran out of time in terms of the planning permission deadline due to the issues with the conveyor.

Other Options Considered

71. 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

72. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service 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

73. With regard to crime and disorder there have been instances of trespass on the spoil tip. An operational presence on the site may help to deter unauthorised access to the site.

Human Rights Implications

74. 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 6.1 (Right to a Fair Trial) are those to be considered. The proposals have the potential to introduce impacts such as noise and dust upon the occupiers of the nearby industrial estate. However, these potential impacts need to be balanced against the wider benefits the proposals would provide such as restoration and improvement of the visual aspect of the site. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Implications for Sustainability and the Environment

75. There are no sustainability implications. However the spreading of the lime based material will reduce surface water run-off and acidity on the site and so

improve the localised environment. It will also enable grass seeding to take place, which will make the site visually more attractive.

76. There are no service user, financial, equalities, safeguarding of children or human resource implications.

Conclusion

77. The proposed development involves the spreading of 3,000 tonnes of alkaline based material on the former Harworth Colliery Spoil tip. This follows on from a previous permission which enabled the spreading of around 32,000 tonnes on the main spoil site. The application is for 12 months although in reality it is likely to be completed within 2-3 months.
78. There will be no residential properties affected by the proposal but the tip face to be treated lies opposite Harworth Industrial estate. There may be some noise and dust impacts from the operations but these will only be for relatively short periods of time and will be controlled through planning conditions attached to any permission.
79. The slope face will benefit from the treatment as it will prevent run-off and enable the face to be seeded up thus making it more visually appealing. The proposal would only generate an average of 2 HGV loads per day using the existing access and there would therefore be no adverse traffic or highway impacts.
80. The proposal for completion of spreading of a high alkaline material for a further period of up to 12 months is unlikely to have a significant impact on overall restoration timescales. In the interim the treatment of the slope facing Blyth Road will significantly improve the visual aspect of that part of the spoil tip.

Statement of Positive and Proactive Engagement

81. 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. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

82. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

TIM GREGORY

Corporate Director – Place

Constitutional Comments

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

SLB 22/4/2016

Comments of the Service Director - Finance

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

SES 04/05/2016

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

Councillor Sheila Place: Blyth and Harworth.

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