



**10 December 2019**

**Agenda Item: 8**

## **REPORT OF CORPORATE DIRECTOR – PLACE**

### **PROPOSAL 1**

**ASHFIELD DISTRICT REF. NO.: 4/V/2019/0614**

**PROPOSAL: VARIATION OF CONDITIONS 5, 22, 31 AND 55 OF PLANNING PERMISSION 4/V/2017/0690 RELATING TO THE LOCATION AND DESIGN OF SILT LAGOONS, THE OPERATION OF A SECOND MOTOR SCRAPER AND CHANGES TO THE RESTORATION WITHIN PHASE 1 TO PROVIDE MORE DRY HEATHLAND**

### **PROPOSAL 2**

**ASHFIELD DISTRICT REF. NO.: 4/2019/0300**

**PROPOSAL: VARIATION OF CONDITION 13 OF PLANNING PERMISSION 4/V/2017/0690 TO INCREASE DAILY, WEEKLY AND ANNUAL HGV MOVEMENTS (MAX 380 MOVEMENTS PER DAY DURING APRIL, MAY, JUNE AND JULY AND MAX 320 PER DAY DURING REMAINDER OF THE YEAR. ANNUAL LIMIT OF 50,000 MOVEMENTS)**

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

**APPLICANT: MANSFIELD SAND COMPANY LIMITED**

### **Purpose of Report**

1. To consider two separate planning applications seeking to vary planning conditions on the current planning permission (reference 4/V/2017/0690) governing Two Oaks Quarry.
2. The first seeks to vary the provision and layout of various silt lagoons in phase 1 of the mineral extraction area, and thereafter for approval of a revised site restoration design and landform in this phase. Permission to operate a second motor scraper to transport mineral internally is also sought.
3. The second application seeks permission to increase the permitted daily, weekly and annual HGV movements serving the quarry.

4. The key issues relate to impacts to landscape, ecology, highway capacity, and local amenity. The recommendation (1) is to grant planning permission for the variations to conditions 5, 22, 31 and 55 with respect to the lagoons, restoration design and an additional motor scraper subject to the planning conditions, as varied, set out in appendix 1. It is further recommended (2) that planning permission for the increased HGV movements under condition 13 are approved subject to the planning conditions as further varied and as set out in appendix 2.

### **The Site and Surroundings**

5. Two Oaks Quarry is a 100 hectare 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 the Forestry Commission) 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 designated as a LWS. Rolling open countryside generally surrounds the remainder of the area. The wider area is affected by a possible potential Special Protection Area (ppSPA). The site and surroundings are shown on the appended plans 1 and 2.

### **Background**

6. Planning permission was granted for the development of the quarry by the Minerals Planning Authority (MPA) in March 2013 (Ref 4/2010/0178). Extraction is currently taking place in phase 1 at the north-eastern corner adjacent to Thieves Wood. Extracted minerals are processed through the on-site processing plant before road delivery to customers across the UK. A series of temporary silt and clean water lagoons are used as part of the processing and these are progressively created and filled as part of the extraction progress. Access is taken from a dedicated access road on Coxmoor Road. Landscaping/screening bunds have been established along the boundaries with Coxmoor Road and the A611. Much of the permitted site will remain in agricultural use until future phases of extraction. There are daily, weekly and annual limits to the numbers of HGV movements permitted under condition 13. There are also routeing controls as part of a Section 106 agreement. The routeing is shown on plan 3. Restoration of the overall site is envisaged at a lower level with roughly a half and half split between fields of agricultural pasture and areas of heathland and a shallow lake. The approved site restoration concept is shown on plan 5.

### **Planning history**

7. The original grant of planning permission was made subject to 62 conditions. There have been subsequent planning applications to vary condition No.13 granted in recent years which require noting.
8. Planning permission was granted in April 2016 (Ref 4/V/2016/0062) to vary condition No.13 for a one-off increase to HGV numbers in the months of May

and June of that year without increasing the annual limits. A number of planning conditions were also updated to incorporate approved details which had been discharged as the quarry was being established.

9. In March 2017 committee resolved to approve a planning application (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 by 22% 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 discontinued). This was subject to the prior completion of a legal agreement (deed of variation) which was completed in September 2017 allowing the decision to be formally issued on the 20 September 2017.
10. In March 2018 committee approved an application (ref 4/V/2017/0690) to further vary condition 13 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.

## **Proposed Development**

### Proposal 1 - vary conditions 5, 55, 22 and 31

11. Planning permission is sought under section 73 to vary several conditions of the operational planning permission as follows:
12. Variation of conditions **5** (list of approved plans) and **55** (restoration design) are sought in order to secure approval (part retrospective) for changes in phase 1 (north-east corner) of the site. This is in order to firstly create a series of further settlement lagoons following sand extraction in this phase and latterly to modify the approved restoration landform in this area.
13. The changes are proposed in response to the previously unforeseen significant amounts of silts which are being generated from the mineral extraction and processing, which has necessitated the development of additional temporary silt lagoons in this phase. The numbers and layout of these temporary lagoons is already different from the approved layout plans for phase 1 and the company now wish to create a series of high level, high capacity lagoons at the north-east corner. These would be progressively filled in, capped and restored to dry heathland upon this modified landform.
14. The revised restoration landform would result in a mid-level shelf of heathland, with an amended water body on the quarry floor at the base of a remnant sandstone face. These two levels would still sit within the overall quarry void, with sandstone cliff faces around the edges. The proposed lagoon layout is reproduced on plan 6 and the revised restoration concept on plan 4, which also depicts a cross section of the proposed shelf of heathland.
15. Variation of conditions **22** and **31** are also sought so to enable a second motor scraper to be operated (currently reference is only to a single motor scraper). This is required in response to the increasing haulage distances between the

extraction areas and the fixed hopper/conveyor feeding the onsite processing facility. The motor scraper is proposed to be similar to that already operated on site (a Cat 615).

For reference, condition 22 is currently worded as:

*Notwithstanding the hours of operation detailed in Condition 21 above, mineral extraction, including the operation of the single motorised scraper, a dozer and the conveyor, shall not take place between 6am and 7am within the 400 metre buffer zones identified on 'Plan R22-12 – Site Location and 400m Margin to Residential Properties' received by the MPA on 30 March 2012. Where mineral extraction is taking place in close proximity to any of the 400 metre buffer zones, the extent of the buffer zones shall be clearly marked in accordance with details previously submitted to, and approved in writing by, the MPA.*

*Reason: To minimise the noise impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

Condition 31 currently states:

*Mineral extraction shall only be carried out using a single motorised scraper and dozer. All excavated mineral shall be transported from the working phase to the processing plant area by field conveyor only. The conveyor shall be maintained throughout the life of the development hereby permitted to the satisfaction of the MPA.*

*Reason: To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.*

Proposal 2- vary condition 13 (HGV movements):

16. The second application seeks permission to further vary condition **13** of the current planning permission in order to raise daily, weekly and the annual permitted HGV movements to/from the quarry as follows:
  - Extend the peak period to include the months of April and July as well the as current May and June;
  - During April to July inclusive, increase the daily limit from 240 to 380 movements (190 in/190 out) with a consequential increase to the weekly limit from 1320 to 1950 movements (825 in/825 out);
  - For the remainder of the year an increase from 200 to 320 daily movements (160 in/160 out) and from 1100 to 1650 per week (675 in/675 out);
  - An increase in the annual maximum from 34,000 to 50,000 movements (25,000 in/25,000 out).
17. The current condition wording is shown below with the proposed changes annotated.

The number of HGVs entering and leaving the site shall not exceed the following:

- a) Except for the period 1 ~~May~~ **April** to ~~30 June~~ **31 July** inclusive there shall be no more than ~~200~~ **320** HGV movements to and from the site in any one working day (~~100-160~~ in, ~~100~~ **160** out) and no more than ~~1100~~ **1650** HGV movements to and from the site in any one week (~~550-675~~ in, ~~550-675~~ out).
- b) For the period 1 ~~May~~ **April** to ~~30 June~~ **31 July** inclusive there shall be no more than ~~240~~ **380** HGV movements to and from the site in any one working day (~~120-190~~ in, ~~120-190~~ out) and no more than ~~1320~~ **1950** HGV movements to and from the site in any one week (~~660~~ **825** in, ~~660-825~~ out).

Over the course of any calendar year, total HGV movements to and from the site shall not exceed ~~34,000~~ **50,000** (~~17,000~~ **25,000** in, ~~17,000~~ **25,000** out).

Written records shall be maintained of all HGV movements into and out of the site, including HGVs taking sand and sand-based products off site, HGVs delivering soils, compost and other materials into the site, and HGVs delivering plant and machinery to the site for operations such as soil stripping, with the records kept for a minimum period of two years. Copies of the HGV vehicle movement records shall be made available to the MPA within 7 days of a written request being made by the MPA.

Reason: To limit vehicle movements at the proposed quarry in accordance with Policy M3.13 of the Nottinghamshire Minerals Local Plan.

18. In justifying this level of change the application states that sales of sand products have increased over the last five years– in particular the specialist ‘fibre sand’ products which are subject to seasonal demand and, that in order to meet the present and anticipated sales requirements of approximately 400,000 tonnes per annum, the disposal of waste sands and gravels from site and the importation of essential supplies, an increase in the permitted daily, weekly and annual HGV movements is now sought. There would be no change to the total mineral reserve, or to the methods or sequence of quarrying operations or hours of working.
19. In a further submission in support of the proposal, the applicant states that the additional HGV movements are needed because the original estimations for the quarry envisaged a typical average HGV load of 26 to 27 tonnes (articulated type) whereas in reality there are a variety of vehicle types including four-axle tipper HGVs with an average load of 20 to 21 tonnes. Therefore the actual average load is around 22 to 23 tonnes per HGV, which over the course of a year dramatically affects the sales possible. A further factor given is the need to bring in other materials such as soils, compost and pallets. It states that the applicant is seeking to ‘future proof’ the output and the permissible HGV movements from the site and does not wish to come back to further vary the numbers.
20. The following table confirms both the changes to daily, weekly and annual HGV numbers previously approved along with the changes sought in this application.

	Daily limit	Weekly limit	Annual limit
Original permission 4/2010/0178 Granted 2013	200 (100 in 100 out)	1100 (550 in 550 out)	27,800 (13,900 in 13,900 out)
Variation 4/V/2016/0062 Granted 2016 (For one-off peak for 2016 only)	For May to June 2016 (only): 240 (120/120)  For remainder of year 200 (100/100)	For May to June 2016 (only): 1320 (660/600)  For remainder of year 1100 (550/550)	27,800 (13,900 in 13,900 out)
Variation 4/V/2016/0655 Granted 2017 For annual increase	200 (100 in 100 out)	1100 (550 in 550 out)	34,000 (17,000/17,000)
Variation 4/V/2017/0690 Granted 2018 Reintroduction of peak period permanently	For May to June (only): 240 (120/120)  For remainder of year 200 (100/100)	For May to June (only): 1320 (660/600)  For remainder of year 1100 (550/550)	34,000 (17,000/17,000)
New application Seeking extended peak period with increased daily, weekly and annual no.s	For April to July (inclusive) 380 (190/190)  For remainder of year 320 (160/160)	For April to July (inclusive) 1950 (825/825)  For remainder of year 1650 (675/675)	50,000 (25,000/25,000)

## Consultations

(Consultation responses in respect of both applications have been brought together in the following section)

21. **Ashfield District Council** - *No objections are raised to either application subject to retaining a condition (21) restricting the hours that vehicles enter and leave the site.*
22. **NCC (Highways)** – *No objection is raised to Application 2 (increased HGV movements) subject to a condition requiring the applicant to provide/arrange for CCTV monitoring cameras at the two affected A611 junctions- prior to the increased HGV movements coming into effect.*

*The Highway Authority (HA) does not agree with the conclusions of the Transport Statement and supplementary report which states that the additional quarry traffic would be very modest and as such would have no material impact on the operation or safety of the local highway network.*

*The HA does not accept this view, especially as this has been the conclusion for last 4 successive applications that have increased HGV movements and overall quarry output with time.*

*Since the approval of the initial 2013 application, total daily HGV movements/allowable output has been progressively increased and is now proposed to be 380 for the peak season and 320 for the remaining months of the year. Justification for this has been that production output has increased and initial estimates of load sizes were too large.*

*Overall, this is a daily HGV increase in movements of 90% in the peak season and 60% in the off-peak season. Therefore, the HA considers this level of HGV movement will have a material impact and reduce performance of the nearby signalised junctions on the nearby A611 district distributor.*

*Currently, the junctions affected are fitted with the latest MOVA signal technology to maximise operational performance. Therefore, there is no scope to provide straightforward technology upgrades without significant physical engineering measures. The HA recognises the cost of any traffic engineering works/geometric changes to the junctions would be disproportionate to the reduction in capacity caused by the additional HGV movements.*

*Therefore, the HA suggests the installation of CCTV monitoring cameras to assist with managing traffic flow during congested peak hours. This would enable remote manual intervention of the junction control system allowing movement of vehicles through the most demanding arms of the junction. This would cost in the region of £10k per CCTV installation. The HA considers this to be a fair and reasonable form of mitigation to deal with the transport impact of the additional HGV movements on the A611 corridor.*

**23. Natural England - No objections.**

*Natural England has reviewed the Air Quality Statement in support of the proposed additional HGV movements (Application 2) and acknowledge that the report concludes that the impact of the proposal (in terms of vehicle emissions deposition on nearby heathland habitats) can be screened out when considered alone. The correct guidance and screening thresholds have been used.*

*However Natural England requested that this impact be considered in combination with other road traffic plans and projects locally before the impact can be conclusively screened out. Natural England stated that unless this work subsequently amends the proposal or materially affects any of their advice, it is not necessary to re-consult them.*

**24. NCC (Nature Conservation) – No objections.**

*In relation to Application 1 and conditions 5 and 55, the revised restoration will have no detrimental ecological impact, and actually delivers an increase in the area of heathland/acid grassland due to a reduction in the extent of standing water, which will benefit priority heathland species. Further, the retention of a sandstone face dividing the silt lagoons will provide habitat for species such as invertebrates and sand martins.*

*In relation to the use of an additional motor scraper, notes that condition 24 controls noise levels and will remain in effect. Additional emissions from the motor scraper will be negligible, noting Defra guidance.*

*In relation to Application 2, satisfied that the proposed increase in HGV movements would not give rise to a significant impact on nesting woodlark and nightjar within neighbouring conifer plantations.*

*The noise report states, for onsite noise, that: “the additional vehicle movements would have minimal influence on the noise environment and result in no adverse noise impact at the neighbouring properties or upon the protected bird species within the surrounding woodland”. Similarly, for off-site noise: “the small number of additional movements through the woods with the additional HGVs would not result in any adverse effects or disturbance upon the protected bird species within the woodland” – based on a less than 1dB(A) increase in noise levels.*

*The air quality report states that: “the total quarry related HGV movements are predicted to be +137 HGV AADT. This is well below the screening criteria of +200 AADT [the screening criterion used in the DMRB, above which further assessment is required]. The projected AADT increase due to the proposed increase in annual movements from 34,000 to 50,000 is substantially below the screening criteria.*

*Furthermore, these movements are only experienced at the site access and not necessarily along roads within 200m of the potentially sensitive habitats. Total movements along the stretch of B6139 alongside Thieves Wood are, at +32 HGV AADT, well below the screening criterion.*

**25. Nottinghamshire Wildlife Trust – Objection to Application 2 - variation of condition 13 (comments were made prior to additional air emissions information being submitted)**

*The increase in HGV traffic has the potential to increase adverse ecological effects in the area through increased noise disturbance to Annex 1 birds and bats and increased NOx emissions to nearby sensitive habitats. NWT do not consider that a robust assessment of the effects has been undertaken, given the proposed 47% increase in HGVs per annum.*

*Nitrogen deposited from NOx on sensitive habitats is one of the greatest threats to habitat quality in Europe. Heathlands are particularly sensitive, yet the application makes no rigorous assessment of the impacts on nearby sensitive habitats. The cursory assessment made of likely NOx emissions in this application, is taken against a baseline of the current approved number of HGVs, which is already more than that approved in the original application. Hence this is a further increase over the original permitted levels and represents a further increment of adverse effects, which might not have been permitted if they were in the original application at this scale.*

*There is also no assessment of cumulative effects of the increase in NOx that would result from this proposal in combination with other developments within the area.*

*The applicant has not provided information as to where the nightjar and woodlark are breeding in the area. This work should be undertaken to establish whether there would be increased impacts.*

*Impacts on the Coxmoor Golf Course heathland LWS should be assessed. Impacts on the Birkland and Bilhaugh SAC should also be assessed.*

*The Noise Assessment states that there would be less than a 1 dBA increase in noise levels at sensitive receptor sites, but it has not made a distinction for the increased noise during the bird breeding season and has not considered effects to bats.*

**26. Via (Landscape)- No objection to application 1.**

*Via (Landscape) agree with the landscape appraisal conclusion that the proposed landform/restoration changes would result in a minor beneficial effect to the local landscape in the long term and a negligible impact on the local landscape character.*

*As a result of the proposed changes there will be a reduction in the area of open water and an increase in the area of heathland restoration. The landscape action for the Sherwood Lindhurst Wooded Farmlands Policy Zone is 'Conserve and Create' and includes an action to 'Create opportunities for restoring areas of heathland where appropriate'.*

*Visual impacts have been assessed at 6 viewpoints and Via (Landscape) agrees with the conclusions. From the public footpaths in the adjacent Thieves Wood a larger operational area will be visible for a longer period of time prior to restoration taking place that will result in a moderate adverse significance of effect for these recreational receptors. However the long term changes will be minor beneficial as there will be a reduction in the height of the residual exposed sandstone face at the completion of restoration. This will also have a minor beneficial significance of effect on views from passing traffic and a minor-moderate benefit when viewed at distance on the edge of Kirkby.*

**27. Via (Noise Engineer) - No objections to either application.**

*In respect of Application 1, having reviewed the supporting information and the original noise assessment for the quarry, the introduction of one additional motorised scraper would have a negligible impact on overall calculated noise levels at the nearest receptors.*

*In relation to Application 2, confirms that the proposed increases in traffic movements when considered in context with existing traffic flows on the surrounding road network will have a negligible noise impact at nearby sensitive receptors. Therefore no objections are raised to the proposed variation on noise grounds.*

**28. Ashfield District Council Environmental Health – No objection.**

*Agrees that the increase in vehicle movements would not lead to any exceedance of the Local Air Quality Management Objectives, subject to an*

*assessment of cumulative effects as requested by Natural England. No further comments have been received in response to the completion of this assessment. Any further response received will be orally reported to Committee.*

29. **Environment Agency** – *Does not wish to comment.*
30. No response has been received from **NCC Flood Risk**; or **Via (Reclamation)**. Any responses received shall be orally reported.

## **Publicity**

31. Application 1 has been advertised by way of a press notice and a site notice. Application 2 has been publicised by means of a site notice, press notice and through neighbour notification letters sent to 37 nearby occupiers which could be impacted by passing HGV traffic. These steps accord with the County Council's Adopted Statement of Community Involvement. One email query and one telephone query have been received in relation to application 2, however no formal representations have been made on either applications.
32. Cllr Samantha Deakin has been notified of the applications.

## **Observations**

### Introduction

33. These two section 73 applications seek to vary conditions of the operational planning permission as set out above. The principle of the quarry development is established and extraction well underway. Whilst there is now a history of previous variations to condition 13, as noted above, ultimately each new application must be considered on its individual merits in the present context and against current planning policy/guidance. Accordingly the report will go onto consider the issues in each instance and concludes with two separate recommendations.

### Landscape and Restoration matters

34. Chapter 4 of the adopted Minerals Local Plan deals with restoration matters and is relevant to considering the first application proposal.
35. Policy M4.4 requires restoration plans and landforms to harmonise with existing landscape character and should aim to promote strategic landscape features. Policy M4.2 allows for the submission and agreement to an overall concept restoration plan where it is impracticable to submit full and final details at the planning stage. This is subject to there being a sufficient level of detail (including contours and indicative landscaping), to demonstrate the scheme is feasible. It is further subject to requiring the full and final details to be submitted on a phase by phase basis.

36. Policy M4.13 (Heathland and acid grassland after-uses) recognises the prime opportunity for heathland restoration of Sherwood Sandstone sites and for its contribution to Local Biodiversity Action Plan targets.
37. Emerging Policy SP2 of the new Minerals Local Plan (Publication Version) - a material consideration- seeks the maximisation of biodiversity gains from the restoration of minerals sites in accordance with Notts Local Biodiversity Action Plan targets/opportunities. Coupled with this, Policy DM12 states that restorations should be in keeping with the character and setting of the local area and should contribute to the delivery of local objectives for habitats, biodiversity, landscape, historic environment or community use where appropriate.
38. Application 1 seeks partly retrospective permission for an increased number and varied layout of temporary silt lagoons within phase 1 and thereafter a change to the restoration design and landform in that area.
39. The original plans envisaged a series of three smaller and three larger lagoons being created, one being for clean water and the remainder for silt. The proposal involves an increase in the total number of silt lagoons to 11, and one clean water lagoon all within phase 1. Some of these are planned at a higher level than currently permitted at the northern most area to take advantage of the topography and to create high capacity lagoons.
40. These are all temporary features within the operational quarry and the first initial lagoons have now been filled and capped and this process will continue sequentially until the first area can be restored to dry heathland. However, the additional high level lagoons now sought would result in a delay to some of the first restoration works in areas of phase 1, the adverse landscape and visual impact of which is acknowledged. The new layout is shown on plan 6.
41. The approved restoration concept envisaged phase 1 being restored for biodiversity, generally as heathland around a bowl landform within the quarry area, with a naturalistic waterbody at its base.
42. The proposed landform still maintains the area for biodiversity but would leave a higher 'shelf' of heathland and bare ground across the area of the high-level silt lagoons, with a consequent smaller bowl and waterbody below. The overall area of heathland is increased in this way. There would be an approximately 10m difference in height separating these levels, where the remnant cliff between these levels would be allowed to naturally regenerate and would be attractive to nesting sand martins. The revised landform would however still sit below the pre-extraction levels, leaving remnant sandstone faces around the northern and eastern perimeters as shown on the cross section, but these would now not be as high, which is considered beneficial from a landscape and visual impact aspect as noted by the landscape comments above.
43. The provision of additional heathland is in line with the local landscape actions and the County ecologist also considers it advantageous to reduce the size of the envisaged waterbody and to consequently increase the area of heathland/acid grassland as these are priority habitats for the Sherwood Sandstone area under the new Minerals Local Plan. That plan also advises that

areas of standing water should now be minimised as far as possible in favour of the priority habitats for the locality.

44. The changes in levels are considered minor in the context of the wider quarry development and ultimately upon restoration, beneficial in landscape and visual terms by reducing the exposed face height of the remnant cliff faces around the north-eastern corner and by splitting the heights of the restored landscape. This would increase the apparent 'greenness' of the site when viewed from a distance and reduce the dominance of the sandstone cliff faces, particularly when viewed from the adjacent public footpath running through Thieves Wood. Such close views would however be adversely affected by the delay to the restoration of that corner of the site, thereby prolonging visual impacts of ongoing operations until the lagoons have been filled, completed and restored. This is identified as a moderate adverse visual impact as highlighted in the landscape comments, but one which is outweighed by the long term benefit of the new design.
45. The proposed change to the final restoration landform would result in a neutral impact to the openness of this Green Belt location when considered against the approved plans. Therefore it is not necessary to revisit this matter further.
46. It is considered the proposed restoration details are sufficiently detailed and achievable to satisfy the relevant planning policies. Final details are expected to come forward under planning conditions, which will be carried forward. These also provide for the appropriate aftercare arrangements for different after-uses across the wider site (for agricultural and biodiversity/heathland).
47. The proposed variations to conditions 5 and 55 (Application A) have been found to be acceptable and beneficial in landscape and visual terms and also beneficial for local biodiversity objectives. Therefore these variations are fully in accordance with the above local and emerging planning policies.

#### Mineral supply issues

48. The following is relevant to the consideration of Application 2.
49. National Planning Policy within the NPPF advises that a sufficient supply of minerals is essential in order to provide the infrastructure, buildings and goods the country needs. Best use also needs to be made of them to secure their long-term conservation. Paragraph 205 advises that great weight should be given to the benefits of mineral extraction, including to the economy when determining minerals planning proposals.
50. Two Oaks Quarry is an allocated site within the Nottinghamshire Minerals Local Plan under policy M7.6. Policy MP8 in the emerging New Minerals Local Plan (Publication Version) is proposing to continue to identify the quarry to provide for the landbank for silica sand which distinguishes this site from other Sherwood sand quarries. The quarry was first permitted as a replacement for Ratcher Hill quarry and with estimated reserves of 14 million tonnes across an extraction area of 95 hectares it was estimated that it would have a lifetime of between 40 and 50 years. Anticipated production rates were placed between 250,000 and

300,000 tonnes per annum (tpa) with the vast majority comprising silica sand and the remainder being gravel and waste silts.

51. There are no planning conditions expressly limiting the tonnage/rates of sand extraction. Instead condition 13 serves to cap the associated HGV movements and this in turn affects the intensity of operations. The subsequent applications in recent years to vary condition 13 demonstrate that the site is now being worked with a greater output, with sales figures of circa 320,000 tpa in 2017 and 376,000 tpa before that in 2015. The present Application 2 to vary the number of vehicle movements in condition 13 is based on further business expansion plans and a wish to 'future proof' the planning permission for circa 400,000 tpa sales.
52. Not all of this will be prime silica sand, however. As in previous applications there is mention of 'disposing' off-site certain 'waste' sands. Officers understand that this reflects the operator experiencing significantly reduced levels of quality silica sands than were previously anticipated in the original planning application and instead that greater volumes of general Sherwood sands are being encountered (a factor which also leads to the need for additional silt capacity, as proposed in Application 1). These sands are nonetheless being sold onto the local construction market and consequently count as part of the total HGV movements to and from the quarry. In order for the operator to maintain and increase supplies of the core silica sands range on which their business depends, there is a consequent increase in the resulting Sherwood sands and this is a factor in the need to seek an increase in HGV movements. Whilst there is no shortage locally of a supply of general Sherwood sands, clearly it would not be sustainable to retain these on site (subject to not being required for the final restoration landform) which would amount to sterilisation of a saleable mineral resource.
53. In addition the applicant is now also placing emphasis on the need to import essential supplies to the site which it states amount to some 670 vehicle movements per year. The current planning permission does not permit the importation of sands from other locations and it is understood that these movements are associated with soils, composts, fibres (for the fibre sand product), various packaging deliveries such as bags and pallets. All of these factors therefore result in total HGV movements which leads to the applicant requesting a further variation to condition 13 under Application 2.
54. The existence of a peak production period has been previously accepted as part of a previous variation to condition 13 which introduced a peak May to June period. This is typically when the company is seeking to meet seasonal demand for fibre sand products within the sports sector. The proposal to now extend the peak into April and to July and also to raise the daily and weekly caps during this period would further enable the company to respond to seasonable demands for its range of products including the specialist products used across the football sector (some 16 Premier League clubs, 16 Championship Clubs and 120 other league and non-league clubs are supplied) over 400 golf courses, as well as equestrian facilities and race tracks. It should be recognised that the professional sports sector is a multi-billion-pound part of the national economy and it is clear that the use of natural and well-draining surfaces as supplied from

this site make a key contribution to the economic and social success of these clubs and facilities.

55. Raising HGV limits would enable the company to respond to the level of market demand currently being expressed and provide scope to expand the business in future years. Significant weight should be attached to the economic benefits from this planned business expansion and the supply of mineral in considering Application 2. Whilst the additional rates of output would lessen the overall expected remaining life of the quarry (now cited as 32 years remaining) it is important to meet the present demand of the market as per the objectives of national planning policy. Further, the reserves continue to provide a significant long-term resource/landbank and over its remaining life, it is inevitable that there will be peaks and troughs in demand as well as changes to the end user requirements. It is important that the planning system remains flexible to the needs of the economy, subject to there being acceptable impacts to the highway, and to the local environment.

### Highways

56. MLP Policy M3.13 states that permission for minerals development will only be granted where the highway network can satisfactorily accommodate the vehicle movements likely to be generated and would not cause unacceptable impact upon the environment and disturbance to local amenity. Policy M3.12 enables the MPA to require measures to prevent damage to the highway and mud or deleterious material from being deposited on the highway. Policy M3.14 enables HGV routing to be appropriately controlled.
57. Paragraph 109 of the NPPF states that development proposals should only be refused on transport grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts on the road network would be 'severe'.
58. The MPA has previously accepted and approved proposals to introduce a peak period within the scope of condition 13 to support the applicant in meeting a notable increase in demand for its sports sands products at that time of year. A relatively modest 22% increase to the annual maximum numbers was also previously approved and together these now form the basis of the current condition.
59. The present proposals amount to a more significant change. In particular the proposed annual cap of 50,000 would be an increase of 47% on the present annual cap of 34,000 and would be an 80% increase from the original cap of 27,800 movements.
60. The previous applications have evidenced a general decline in background traffic volumes using the A611, including HGV numbers, in recent years (since 2007 between 17% and 45% depending on counting location). The applicant's latest Transport Statement accompanying the application has updated the background traffic volumes from new survey counts. This pertains to show that background traffic volumes are fairly steady but there has been a further 4% decrease in flows on average over 12 hours, including light and heavy traffic.

61. However this level of traffic is still relevant in respect of the operation of the nearby signalised junctions on the A611. The effects of the proposed additional quarry traffic upon the A611/ Coxmoor Road junction at the peak periods has been tabled by the applicant's transport consultants. Projections have been made forward to 2023 to take into account a predicted increase in background traffic. The assessment pertains to show that the junction, whilst currently operating within its design capacity, does experience high degrees of saturation on some links and that by 2023 it will be at or over its capacity at peak hours. However the assessment concludes that this would result only in a marginal increase to queueing or delay. Subsequent highways assessment work has been submitted at the request of the County Highways Authority. This work concludes that the additional quarry traffic would be modest and have no material impact on the operation of the highway network- with a particular focus on the A611 junctions.
62. The Highways Authority disagrees with the presented level of impact to the signalised junctions and considers that there would be a material level of impact to their performance, which should be mitigated. In coming to that stance the HA notes the cumulative level of adverse impact to the junctions from previous rises in quarry traffic.
63. The HA (working with Via East Midlands) has identified a technical measure which would require the applicant arranging and paying for the installation of CCTV monitoring cameras at the two signalised junctions affected (the A611/Diamond Ave junction and the A611/Coxmoor Road junction). The cameras would feed into the County Council's traffic management operations and enable it to observe and manually intervene in the signal timings based on traffic conditions and levels of queueing at these junctions. A Grampian type planning condition is suggested to secure this work.
64. It is considered that this is a necessary and proportionate measure to ensure the additional quarry traffic can be satisfactorily accommodated on the highway network as required by MLP Policy M3.13 and so does not unduly affect its performance. In this case, Officers also consider a Grampian type condition to be possible as the off-site works would be within the public highway and is not dependent on other private land. The applicant has confirmed their agreement to the CCTV installation requirements and until such works are complete the quarry would be limited to the current HGV limits.
65. It is therefore considered appropriate to require this work by condition in order to render the proposal to vary condition 13 acceptable on highways grounds and in accordance with MLP Policy M3.13 and national planning policy. Other controls in terms of HGV routeing and a dilapidation survey on Coxmoor Road would continue to apply by virtue of the extant legal agreement and planning conditions.

#### Noise and local amenity

66. There are noise and local amenity considerations relevant to both planning applications being considered.

67. MLP Policy M3.13 as noted above provides for the assessment of the local amenity impacts of associated quarry traffic (in addition to highway network matters). Policy M3.5 applies to on-site noise and requires noise emissions arising from minerals development to be within acceptable levels when measured outside of quarry boundaries.
68. There are no immediate residential properties directly affected by the operation of the quarry. The former farmhouse and bungalow are under the applicant's ownership and are left vacant in order to facilitate the surrounding quarrying. There are a small number of outlying properties and rural businesses, some of which are situated alongside the main roads. The nearest properties are afforded protection from quarrying noise under planning conditions 23 to 26.
69. With respect to Application 1, there is no objection raised from the County Council's noise advisor to the addition of a second operational motor scraper (by varying conditions 22 and 31). This should have a negligible influence on noise to the outlying properties, which are afforded robust protections from planning conditions. These include specific noise limits at each property (under condition 24) and additional relief from early morning operations within 400m of each property (under condition 22). Condition 22 is proposed to be varied to remove reference to a single motor scraper, however the requirement would continue to apply to any additional motor scraper working within 400m.
70. In terms of the second application proposal to raise the HGV limits under condition 13, the County Council's noise advisor confirms that the additional quarry related traffic would be of negligible noise significance, as it would be absorbed into the prevailing levels of traffic on these main roads. Furthermore the quarry is subject to a legal agreement preventing HGVs utilising Coxmoor Road north of the cross-roads, thereby avoiding a ribbon of properties opposite the golf club. This would continue to be in force. Beyond this local context quarry traffic will naturally dissipate into the wider road network.
71. Consequently it is clear that the proposed variations to the permissible HGV movements (condition 13) would not lead to any noticeably adverse effect on local or residential amenity and the addition of a second motor scraper (under conditions 22 and 31) would also be acceptable. MLP Policies M3.13 and M3.5 are satisfied in this respect, subject to the conditions, as varied, being carried forward. Noise effects to ecology are considered below.

#### Local air quality

72. The NPPF seeks to ensure that new and existing developments do not contribute to unacceptable levels of air pollution (para 170). Wherever possible proposals should help to improve local environmental conditions including air quality. Planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas (para 181).
73. Emerging Policy DM1 of the new Minerals Local Plan (Submission Version) seeks to protect local amenity from the various impacts from minerals

developments including through avoiding unacceptable and/or mitigating air emissions impacts.

74. In relation to Application 2 (variation of condition 13) and the local air quality issues, the area is not subject to any Air Quality Management Areas and background conditions are generally good and compliant with UK objectives.
75. The submitted air quality statement has considered the emissions implications of both the *proposed additional* quarry HGVs and also *total* numbers of quarry HGVs on nearby properties situated on the approach roads to the quarry. It has considered in particular where there are residential properties directly /close to such roads at the A611/B6020 Blidworth Road junction.
76. It uses appropriate guidance provided from the Institute of Air Quality Management and employs a threshold of a change of more than 100 AADT (annual average daily traffic) HGV flows as indicating when an air quality assessment may be required where outside an AQMA and on local roads with relevant (residential) receptors.
77. The air quality statement relies on the quarry related traffic dissipating in different directions to/from the quarry meaning that at no residential receptor/property is the +100 AADT criteria exceeded – both in terms of the proposed additional traffic and total/cumulative quarry traffic. In doing so it has applied certain assumptions with respect to the traffic distribution which are unfortunately not quite correct and not fully reflective of typical operations from the quarry.
78. Officers note there is an error in the assumed traffic distribution which presumes HGVs can travel north up Coxmoor Road (this is a prohibited route under the terms of the section 106 agreement). Also a recent manual traffic count (within the highways assessments) indicates a greater proportion of quarry traffic is routing to/from the south on the A611, than north. The Transport Statement explains that it was originally estimated that 54% of HGVs would route to and from the north via the A611 and 42% would route south. The count was undertaken over the course of a week and identified that for that period 34% routed north and 56% south (the balance on Coxmoor Road south).
79. Ideally this finding should have flowed through into the air quality assessments, however it is clear that if the assessment was adjusted by reassigning the traffic from Coxmoor Road (north) to the A611 south, along with 14% additional traffic reassigned from the A611 north to the A611 south (reflecting the recent observed flows), then the +100AADT threshold by which further assessment would be required is still not reached at any residential receptor. The only point at which the threshold is breached is at the junction of the access road, where no properties are situated. Beyond this traffic still dissipates into different directions. Therefore taken with the already good standard of background air quality, the overall conclusions of the air quality statement – that there would be no significant adverse impacts to local air quality from the additional HGV movements-are considered still correct.
80. Application 2 is therefore compliant with emerging Policy DM1 and whilst the additional traffic clearly does not assist in improving local air quality, national

planning policy does not advise that this would justify a refusal of the permission variation. Road haulage is in this case an essential component of the mineral extraction operations and an important economic contributor. Local air quality can be expected to improve over future years through the national/European tightening of vehicle emissions and fleet renewals.

81. The proposed operation of a second motor scraper within Application 1 would result in no discernible addition to local air emissions and is therefore acceptable against the above policy context.

#### Ecological Impact

82. In addition to the air quality implications for local residents as assessed above, Application 2 for increased HGV movements also has air quality implications for local ecological receptors.
83. MLP Policy M3.17 states that planning permission will not be granted for minerals development which would adversely affect the integrity or continuity of habitats or features identified as priorities in the UK and/ or Nottinghamshire Local Biodiversity Action Plan, unless an overriding need for development is demonstrated. Policy M3.20 affords protection to local wildlife sites.
84. The National Planning Policy Framework (NPPF) sets out that planning decisions should protect and enhance sites of biodiversity value (in a manner commensurate with their statutory status or identified quality); minimise ecological impacts generally and provide net gains for biodiversity; and prevent new and existing developments from contributing to unacceptable levels of soil, air, water or noise pollution. Paragraph 175 states that in determining applications, if significant harm to biodiversity cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
85. The wider Sherwood area continues to be subject to guidance issued by Natural England in respect of a possible potential Special Protection Area for populations of breeding Nightjar and Woodlark. Suitable habitats are present in the adjacent Thieves Wood/ Nomanshill Woods which is next to Coxmoor Road utilised by a proportion of quarry traffic. A precautionary, 'risk-based' approach is advised to planning authorities to take reasonable and proportionate steps to avoid or minimise potential adverse impacts to these populations. Such impacts can be direct, indirect and cumulative and can include disturbance, mortality from road traffic, and air pollution and nutrient enrichment of their habitats. Thieves Wood (and additionally Coxmoor Golf Course) are also denoted as Local Wildlife Sites (LWS).
86. In recognition of the risk-based approach, the applicant has undertaken air quality assessment work to support Application 2 for raising HGV movements. In particular this work considers the distribution of quarry traffic on the immediate road network and the possible increase of associated Nitrous emissions upon the heathland/woodlands which lie beside them (the main focus being effects to Nomanshill Woods at Coxmoor Road to the south of the access

and Blidworth Road). From this the levels of quarry traffic, both in terms of the increase now proposed, but also in terms of cumulative total quarry traffic are at levels well below the screening level which would raise concerns or require further detailed air quality impact assessment.

87. However as noted above in respect of air quality impacts to local residents, there is an error in the assumed traffic distribution which presumes HGVs can travel north up Coxmoor Road (this is a prohibited route north of the traffic lights). However if the assessment was recalculated and if all of the assumed traffic was reassigned to Blidworth Road or alternatively to Coxmoor Road (which both pass the woodland habitats) the movements would still be substantially below the screening criterion to warrant further analysis, in much the same way as for the residential receptor assessment above.
88. For full completeness (and as advised by Natural England and Nottinghamshire Wildlife Trust (NWT) the applicant was also required to investigate other potential local developments or associated traffic flows, for any potential cumulative or in-combination effects of concern. The applicant has undertaken such a review and identifies no nearby projects which would meaningfully add to HGV use and their emissions on these particular roads and adjacent woodlands. This appears to be a satisfactory and proportionate investigation given the low levels of quarry traffic against the assessment criteria.
89. In considering the submitted Air Quality Statement and letter regarding noise, NCC Nature Conservation is satisfied that the proposed additional HGV movements would not give rise to any significant or unacceptable impacts or disturbance to the population of Woodlark or Nightjar within the adjacent woodlands. In particular it is noted that the quarry traffic is only experienced at its maximum level at the point of the quarry access road and not necessarily along the part of Coxmoor Road passing by the woodland habitats. Traffic rapidly disperses on to the highway network with consequential dispersion of noise and air quality emissions.
90. A number of concerns were raised by NWT, to which the applicant has provided a response through the submission of additional information. No further response has been received from NWT after re-consulting with them. Officers are satisfied with the supplementary information provided (save for the error noted above). In particular, given the proposed total flows are well below the air quality screening criteria, no further assessment is deemed necessary in relation to effects to Coxmoor Golf Course LWS or to the Birklands and Bilaugh SAC (some 13km distant). The supplementary information considered not just the effects arising from the proposed change in quarry traffic, but also total quarry traffic, thereby accounting for the cumulative addition of quarry traffic from its previous green field state. Any concerns in relation to noise can be discounted. Noise and its potential adverse ecological effects are subject to annual monitoring under planning condition 26, as well as the noise limits for operations set by condition 24. The quarry company and the MPA undertake regular site monitoring and receives the annual report for condition 26, all of which continues to demonstrate compliance with the stated noise limits and there is no reason to doubt this will still be achievable with the additional motor scraper and traffic.

91. Consequently both planning applications have been found to be acceptable and the proposals would not give rise to any significant or unacceptable impacts or disturbance to the adjacent woodland habitats in terms of noise, or traffic emissions in particular. They can be adjudged to accord with MLP policies M3.17 and M3.20 and the objectives of national planning policy. The restoration of the site, including to a greater proportion of priority heathland habitats as proposed, will ultimately provide overall ecological net gains, which weighs in favour of the first application and the revised restoration design for phase 1.

#### Conclusions and decision ordering process

92. With respect to the first application seeking variations to the silt lagoons (condition 5), the restoration concept plan (condition 55) and for the operation of an additional motor scraper (22 and 31), the changes have been found acceptable against landscape, ecology, and local amenity considerations. Should Committee resolve to approve the first application as recommended, permission would be granted subject to the carrying forward of the planning conditions governing the life of the quarry and its restoration, with amendments to conditions 5, 22, 31 and 55. These are set out in appendix 1.
93. With respect to the second application to vary the permitted HGV movements, Officers identify no reason to withhold the additional HGV traffic sought under condition 13, which would support the growth plans for this local business, however this is subject to first securing necessary and reasonable technical mitigation (installation of CCTV) to two nearby junctions on the A611 in order to satisfactorily accommodate the additional traffic on the local highway network. The resulting environmental and amenity impacts from the additional traffic volumes are considered entirely acceptable. Should Committee resolve to approve this second application as recommended, permission would be subsequently granted subject to the planning conditions being carried forward with an amended condition No. 13, along with the variations to conditions 5, 22, 31 and 55 if the first application is also permitted. It should be noted however that the increased HGV movements would only come into effect upon the satisfactory completion of the CCTV installation works to the A611 junctions. These conditions are set out in appendix 2.

#### Legal Agreement

94. A legal agreement is in place as part of the original grant of planning permission which provides for:
- i) HGV routing 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
95. A deed of variation was completed to this as part of the previous permitted grant of planning permission to vary condition 13. The legal advice is that this agreement will continue to have effect.

### **Other Options Considered**

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

### **Statutory and Policy Implications**

97. 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

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

#### Human Rights Implications

99. 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

100. 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

101. These have been considered in the Observations section above, including impacts to ecology/habitats and with respect to the proposed restoration design.
102. There are no crime/disorder; human resource; financial or children safeguarding implications arising. There are no implications for NCC service users.

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

103. In determining these applications the Minerals Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; 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**

#### RECOMMENDATION 1

104. It is RECOMMENDED that planning permission be granted for Planning Application 4/V/2019/0614 (Proposal 1) subject to the conditions set out in Appendix 1.

Members need to consider the issues set out in the report and resolve accordingly.

#### RECOMMENDATION 2

105. It is RECOMMENDED that planning permission be granted for Planning Application 4/V/2019/0300 (Proposal 2) subject to the conditions set out in Appendix 2.

Members need to consider the issues set out in the report and resolve accordingly.

**ADRIAN SMITH**

**Corporate Director – Place**

### **Constitutional Comments [RHC 27/11/2019]**

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

## **Financial Comments [RWK 20/11/2019]**

With respect to the second application to vary the permitted HGV movements, the report proposes the installation of CCTV to two nearby junctions on the A611 in order to satisfactorily accommodate the additional traffic on the local highway network. The cost of installing CCTV will be met by the applicant.

## **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 and Member Affected**

Sutton Central & East - Cllr Samantha Deakin

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