



**13 March 2018**

**Agenda Item: 7**

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

**ASHFIELD DISTRICT REF. NO.: 4/V/2017/0690**

**PROPOSAL: VARIATION OF CONDITION 13 TO ALLOW AN INCREASE IN DAILY AND WEEKLY HGV MOVEMENTS DURING MAY AND JUNE EACH YEAR SO TO MEET DEMAND FOR SPECIALIST SAND PRODUCTS. NO CHANGE TO THE OVERALL ANNUAL LIMIT IS SOUGHT.**

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

**APPLICANT: THE MANSFIELD SAND COMPANY LIMITED**

### **Purpose of Report**

1. To consider a planning application to vary planning condition No.13 of the extant planning permission (reference 4/V/2016/0655) to allow a seasonal increase to the permitted numbers of HGV movements at Two Oaks Quarry, Derby Road, Sutton in Ashfield. The key issues relate to highway capacity, local amenity and impacts to ecology. The recommendation is to grant planning permission subject to the planning conditions set out in Appendix 1.

### **The Site and Surroundings**

2. 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. The wider area is affected by a possible potential Special Protection Area (ppSPA). Rolling open countryside generally surrounds the remainder of the area. The site and surroundings are shown on the appended plans 1 and 2.

### **Background**

3. Planning permission was granted for the development of the quarry by the Minerals Planning Authority (MPA) in March 2013. The site is fully operational and has taken over from the company's historic site at Ratcher Hill quarry,

located on the south-eastern edge of Mansfield. Extraction is taking place now in phase 1 at the north-eastern corner adjacent to Thieves Wood. Extracted minerals are processed through the on-site processing plant. 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 with the quarry having an estimated life of 50 years. Planning permission has been granted for a solar farm on the last and future phase 4 but this has not been implemented. The movement of HGVs into and out of the quarry is subject to planning conditions and a lorry routing agreement as part of a Section 106 agreement. There are daily, weekly and annual limits to the numbers of HGV movements permitted.

4. Planning permission was granted in April 2016 (Ref 4/V/2016/0062) 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 were subsequently submitted as the quarry was being established.
5. Committee resolved in March 2017 to approve a planning application for a permanent variation to condition 13 to increase the annual limits for HGV movements to and from the site by 22%, but retaining the separate daily and weekly limits at existing levels (Ref 4/V/2016/0655). 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. All other existing planning conditions were rolled forward and this is the current planning permission for the site.

### **Proposed Development**

6. Permission is sought to further vary condition 13 of the current planning permission in order to permit a 20% increase to the daily and weekly HGV movement limits during May and June each year. It is not proposed to alter the current annual limit and there would be no change to the quarry development programme or methods and sequence of mineral extraction.

7. The pertinent section of Condition 13 currently states:

*There shall be no more than 200 HGV movements to and from the site in any one working day (100 in, 100 out) and no more than 1100 HGV movements to and from the site in any one week (550 in, 550 out). Over the course of any calendar year, total HGV movements to and from the site shall not exceed 34,000 (17,000 in, 17,000 out).*

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

8. The proposal seeks to insert a clause within condition 13 so that during the period 1 May to 30 June inclusive there would be an increased daily limit rising from the present **200** HGV movements to **240** HGV movements (120 in 120 out) and the weekly limit rising from **1100** HGV movements to **1320** HGV

movements (660 in 660 out) each year. The overall annual limit would not change. The existing permitted daily and weekly maximum numbers would apply at all other times of the year.

9. The application therefore seeks to vary condition 13 to read:
  - a) Except for the period 1 May to 30 June inclusive there shall be no more than 200 HGV movements to and from the site in any one working day (100 in, 100 out) and no more than 1100 HGV movements to and from the site in any one week (550 in, 550 out). Over the course of any calendar year, total HGV movements to and from the site shall not exceed 34,000 (17,000 in, 17,000 out).
  - b) For the period 1 May to 30 June inclusive there shall be no more than 240 HGV movements to and from the site in any working day (120 in, 120 out) and no more than 1320 HGV movements to and from the site in any one week (660 in, 660 out). Over the course of any calendar year, total HGV movements to and from the site shall not exceed 34,000 (17,000 in, 17,000 out).
10. The application states that a permanent modification of condition 13 is required to respond to seasonal demand for the company's specialist fibre sand products for use in the sports sector where the product is used to dress or relay sports pitches. Due to an administrative oversight by the applicant's planning consultant, a request for the May/June clause to be continued indefinitely beyond that permitted for 2016 was not requested within the previous variation application.

## **Consultations**

11. **Ashfield District Council**- *No objection.*

12. **NCC (Highways)** - *No objection.*

*A permanent increase to 240 movements per day (max 120 in, 120 out per day, 660 in, 660 out per week) in May and June with 200 movements per day/1100 movements per week over the remaining year would not have a noticeable adverse impact on the surrounding highway network subject to the retention of the permitted overall 34,000 cap on annual HGV movements to and from site.*

13. **Natural England** - *No objection.*

*Based on the plans submitted, Natural England considers that the proposed variation of condition 13 will not have significant adverse impacts on designated sites and has no objection.*

*Based on the information provided it is considered that the predicted increase of approximately 40 additional daily HGV movements is negligible compared to baseline traffic levels and therefore Natural England do not consider the additional daily movements in May and June are likely to result in disturbance to birds or air pollution impacts on the habitats or species concerned.*

14. **NCC (Nature Conservation) – No objection.**

*Notes that such a variation was previously permitted, but on a temporary basis, and that this variation application is required to make the change permanent. Given that this change was previously considered to be acceptable there is no reason why this should be different this time.*

*Satisfied with the conclusions within the submitted Air Quality Statement that the additional HGV movements over the months of May/June would not result in significant additional nitrogen and acid deposition and that further detailed assessment is not necessary.*

*Satisfied that the increase would not generate any increase in overall noise levels from the quarry or any additional potential disturbance, to those assessed previously.*

15. **NCC (Noise Engineer) - No objection.**

*The supporting letter from the acoustic consultant states that the predicted increase in traffic noise levels on the surrounding network will not exceed 1dB and therefore is not considered significant. The change will not generate any notable change in operational noise levels from the site.*

16. **Ashfield District Council Environmental Health – No response has been received.**

## **Publicity**

17. The application has been publicised by means of a site notice, a press notice and neighbour notification letters sent to 11 of the nearest properties in accordance with the County Council's adopted Statement of Community Involvement Review. No public representations have been received.

18. Cllr Samantha Deakin has been notified of the application and has referred the application to Committee for determination.

## **Observations**

### Planning policy assessment

19. The principle of the quarry development is well established and this application submitted under Section 73 seeks to vary a single condition of the current planning permission. The planning history shows that this is the third such application to vary condition 13 governing HGV movements. In assessing the proposal to increase HGV movements in the May/June peak period this planning history and context must also be considered.

## Highways

20. 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 routeing to be appropriately controlled.
21. Paragraph 32 of the NPPF states that development proposals should only be refused on transport grounds where the residual cumulative impacts are 'severe'.
22. Records of HGV movements from the quarry are presented within the submitted Transport Statement and are provided below in tables 3 and 4. These clearly show the peaks and troughs in production over the calendar year, with a peak between the months of April and July. This is a reflection of the company's commercial success with its specialist Fibresand product which is sold to sports clubs nationwide at that time of the year. It show that some of the monthly totals would (when divided into a weekly figure) approach the current maximum of no more than 550 in and 550 out per week, preventing the company from delivering its commercial plans and placing a constraint on the supply of this type of product to the sports market.

**Table 3 – Existing Movements (August 2015 – July 2016)**

Vehicle Type	Number of Movements Per Year (Outbound)	Average Payload (tonnes)
Articulate Lorry	9,044	28
6 Wheel Flatbed	62	8
6 Wheel Tipper	9	11
8 Wheel Flatbed	573	9
8 Wheel Tipper	3,575	19
Artic Tanker	120	26
Tanker	17	14
<b>Total</b>	<b>13,400</b>	-

**Table 4 – Existing Movements by Month and Average Payload**

Month	Number of Movements Per Month (Outbound)	Average Payload (tonnes)
August	1,062	25
September	1,001	24
October	1,072	24
November	792	24
December	451	23
January	684	23
February	837	24
March	1,071	24
April	1,608	25
May	1,806	25
June	1,696	25
July	1,320	25
<b>Total</b>	<b>13,400</b>	-

23. The data also shows the break down in types of HGV, showing that a majority (67%) are articulated carrying an average payload of 28 tonnes. 26% are 8 wheel tipper HGVs carrying an average load of 19 tonnes. The remainder are made up of a mix of flatbed/ curtain-sided vehicles or tankers. This indicates there is now a greater use of the larger articulated HGVs serving the quarry, which results in some benefits in terms of minimising the numbers of vehicles required to haul materials and associated efficiencies.
24. The submitted Transport Statement also includes traffic count data from two of the County Council's automatic traffic counters on the A611 in the immediate locality (see tables 1 and 2 below which record two-way flows). The period covered is from 2005 to 2015 showing that since 2007 when the original transport assessment work was undertaken, there has been a significant decrease in background traffic (between 17% and 45% depending on the counting location). The proportion of HGVs has also broadly fallen in line with the overall percentage reduction. 3-4% of the traffic comprises HGVs. However there has been a recent post-recession rise in traffic. The data has not been updated for 2016 or 2017, however it is unlikely to have materially altered in that time and the Highways Authority has access to the data in order to assess the situation.

**Table 1 – A611 Annual Average Daily Traffic Flow CP81204**

Year	All Motor Vehicles	All HGVs	% HGV
2005	19622	1397	7%
2006	18506	756	4%
<b>2007</b>	<b>18665</b>	<b>764</b>	<b>4%</b>
2008	18557	762	4%
2009	18323	732	4%
2010	18023	745	4%
2011	17970	726	4%
2012	14472	543	4%
2013	14478	561	4%
2014	14908	558	4%
2015	15557	590	4%

Count point id 81204, located adjacent to Coxmoor House on the A611

**Table 2 – A611 Annual Average Daily Traffic Flow CP80492**

Year	All Motor Vehicles	All HGVs	% HGV
2006	18366	491	3%
<b>2007</b>	<b>18349</b>	<b>569</b>	<b>3%</b>
2008	18016	569	3%
2009	9569	297	3%
2010	9561	297	3%
2011	9681	307	3%
2012	9574	307	3%
2013	9571	314	3%
2014	9882	317	3%
2015	10101	305	3%

Count point id 80492, located adjacent to Cauldwell Road on the A611

25. It is within this context of lower traffic volumes that the additional seasonal HGVs would be absorbed. The increase of 20% during May/June results in up to an additional 20 HGVs entering and 20 leaving the site per day, which when spread over the course of the day would not be perceptible set within the prevailing background traffic levels. The same seasonal peak also previously operated for 2016 without issues as noted in the planning history above.
26. The Highways Authority are satisfied that the additional HGV traffic in the peak May and June period would not have a noticeable or adverse impact on the local highway network. In particular the numbers of movements would not rise above the 34,000 annual cap.
27. Network/junction modelling undertaken to support the previous application in raising the annual cap to the present figure above, has again been included in the submitted Transport Statement. The Highway Authority previously used this to consider in detail the effective operation of the Derby Road/Coxmoor Road signalised junction. This modelling was undertaken on a daily, weekly and annual increase for robustness, although the proposal was for only an annual increase. Having previously been satisfied that the junction could accommodate the additional traffic, the Highways Authority have not sought to revisit this work and no concerns have been raised about the operational capacity of the junction.
28. HGVs would continue to be bound by the lorry routeing agreement contained within the Section 106 agreement, which would remain in force. This prohibits HGVs associated with the quarry from travelling on Coxmoor Road, north of its junction with Derby Road and thereby avoids a group of properties in this area. There are clear signs and other procedures in place directing HGVs accordingly and the scheme continues to work well. The routeing is depicted on Plan 3.
29. The legal agreement also makes provision for annual dilapidation surveys of the highway outside of the quarry and to provide any remediation as may be required. A local liaison committee also meets periodically which can assist in identifying any local concerns regarding the operation of the quarry.
30. There are therefore no highway capacity or safety reasons to justify other than a grant of the proposed variation to condition 13 and the application accords with MLP Policies M3.13, M3.12 and M3.14. The amenity and environmental aspects resulting from the proposed additional seasonal HGVs are considered separately below.

#### Local amenity

31. In addition to MLP Policy M3.13 which includes an amenity aspect to assessing acceptable highway impacts, Policy M3.5 states that permission for minerals development will only be granted where noise emissions do not exceed acceptable levels beyond the site boundary.

32. The Ashfield Publication Local Plan which is at an advanced stage of preparation also contains Policy SD2 which seeks to safeguard amenity and conditions for nearby properties including consideration of the potential for pollution/air quality, noise and disturbance and the effect of traffic movement to and from the site.
33. Paragraph 144 of the NPPF states that in granting planning permission for minerals related proposals the MPA should ensure that any avoidable emissions are controlled, mitigated or removed at source.
34. The application demonstrates that the small additional uplift in seasonal HGV movements would not generate any additional noticeable change to the operational noise levels from the site which are mainly related to the operation of the processing plant and which continue to be controlled and monitored. Any additional noise resulting directly from added HGVs on the highway would also not be significant as they represent only a very small percentage (in one case 5%) of the total traffic volumes. There are no residential properties in the immediate vicinity and those that are present are either protected by the lorry routing agreement or are sited beside the A611 Derby Road. Quarry related traffic quickly disperses onto the classified road network and represents a small part of the overall volumes. The County Council's appointed noise engineer raises no objection.
35. The submitted air quality statement raises no concerns and notes that air quality remains good in the area and all air quality objectives are being met across the District. The additional emissions are slight and do not necessitate further assessment.
36. Consequently it can be concluded that the proposed variation would not lead to any unacceptable adverse noise, or amenity impacts and accords with MLP Policies M3.5 and M3.13 and with Policy SD2 and the NPPF which are material considerations.

### Ecology

37. 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.
38. The NPPF states that biodiversity impacts should be minimised and where possible enhanced, particularly through establishing coherent ecological networks. Paragraph 118 states that when determining planning applications the aim should be to conserve and enhance biodiversity by applying the sequential approach to ecology i.e. significant harm should first be avoided (including if necessary through refusing planning permission), followed by providing adequate mitigation, or as a last resort compensated for.
39. The site lies within a wider area being considered as a 'possible potential 'Special Protection Area (ppSPA) for its population of breeding Nightjar and

Woodlark. The quarry also lies beside two Local Wildlife Sites (Thieves Wood LWS and Coxmoor Golf Course LWS). Thieves Wood and other woodland provide suitable habitat for these species and HGVs are directed to/from the quarry via roads which run past/through these woods under the terms of the routing agreement. There is therefore potential for impacts to this habitat and species by means of noise or air pollution, the latter through nutrient enrichment over time. Natural England continue to advocate a precautionary 'risk-based' approach be taken when considering proposals in this area.

40. The application is supported with a Transport Statement, Noise Assessment, Ecological Assessment and Air Quality Assessment which have considered the potential impacts on the adjacent woodland habitats and associated bird species.
41. In response Natural England and NCC Nature Conservation are satisfied that the seasonal variation would not result in any additional impacts to the adjacent woodland habitat or any bird species it may support, whether by means of noise/disturbance or by air pollution impacts arising from the additional HGV journeys. The increase of 40 daily HGV movements is negligible compared with the prevailing traffic levels. It is noted that planning permission was previously granted for a similar one-off increase in HGV movements for May/June 2016 and that this application seeks to re-establish and make permanent that seasonal leeway. It is acknowledged that the most recent planning permission raised the overall annual levels of permitted HGV movements, but the present application does not seek to further alter the annual limit. Natural England and NCC Nature Conservation have been fully consulted on all previous applications and have been content.
42. Appropriate assessment has therefore been applied to assess potential ecological impacts including considering any cumulative effects, thereby discharging the risk based approach duty placed on this Authority. No significant ecological impacts are expected and accordingly the proposed variation to HGV movements in May/June each year is acceptable and compliant with the aims of Policy M3.17, and M3.20 along with the conservation principles within the NPPF, the requirements of the Habitats Regulations and the risk-based advice of Natural England

#### Legal Agreement

43. 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
44. 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.

### Conclusion

45. MLP Policy M2.1 is the Plan's overarching sustainable development policy. It seeks to ensure that in granting permission for minerals proposals the Plan's sustainable development objectives, where appropriate, have been fully addressed. The objectives include ensuring that the environmental impacts caused by minerals operations and the transport of minerals are kept to an acceptable minimum, and that all efforts have been made to ensure that alternatives to road haulage are used. Further objectives seek to protect designated areas for nature conservation value; to encourage sensitive working and restorations which enhance the quality of the environment thereafter; and to ensure there is an adequate supply of minerals to meet society's needs, whilst ensuring that they are used efficiently, including through the appropriate use of high quality materials.
46. The proposed seasonal increase to the numbers of permitted HGV movements would provide for greater variability on a day-to-day basis and a week-to-week basis to allow the company to respond to market conditions during its peak period. The proposal would thereby again support the operation of the quarry business, its employees and contractors, but also ensure the operations, including haulage would not lead to any unacceptable environmental or amenity impacts in accordance with the aims of Policy M2.1 and of the NPPF with respect to sustainable minerals extraction.
47. MLP Policy M3.27 is also engaged due to the potential cumulative effects of the proposed variation (for the May/June peak) in addition to the previous grant of variation of condition 13 (for an annual increase). All the assessments submitted with the application have been updated and take into account the previous planning variations. Consultees have also considered any potential for cumulative effects and no significant impacts to the environment or to local amenity have been identified.
48. Should Members resolve to approve the application as recommended, planning conditions governing the life of the quarry and its restoration would be carried forward with an amended condition No. 13.

## **Other Options Considered**

49. 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**

50. 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

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

### Human Rights Implications

52. 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

53. The report and its consideration of the planning application 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

54. Potential ecological impacts have been assessed in the Observations section above.
55. 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**

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

## **RECOMMENDATIONS**

57. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

**ADRIAN SMITH**

**Corporate Director – Place**

## **Constitutional Comments (RHC 12/2/2018)**

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

## **Comments of the Service Director - Finance (SES 09/02/18)**

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

## **Background Papers Available for Inspection**

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

## **Electoral Division and Member Affected**

Sutton Central & East - Cllr Samantha Deakin

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