

Meeting: Planning and Rights of Way Committee

Date: Tuesday 18 July 2023 (commencing at 10:30am)

Membership:

County Councillors

Mike Quigley MBE (Chairman)
Jim Creamer (Vice Chairman)

Mike Adams (apologies)	Andy Meakin
André Camilleri (apologies)	Nigel Moxon
Robert Corden	Philip Owen
Sybil Fielding	Francis Purdue-Horan
Paul Henshaw	Sam Smith
Rachel Madden (apologies)	

Substitute Members

Chris Barnfather for Mike Adams
Richard Butler for André Camilleri

Officers and colleagues in attendance:

Trish Hennessy	-	Interim Team Manager for Trading Standards
Jaspreet Lyall	-	Solicitor and Legal Advisor to the Committee
Adrian Mann	-	Democratic Services Officer
Joel Marshall	-	Principal Planning Officer
Jonathan Smith	-	Interim Group Manager for Planning

Public speakers in attendance:

Steve Catney	-	Planning Permission for The Yard, Newark-on-Trent (item 6)
Mark Spencer MP	-	Planning Permission for The Yard, Newark-on-Trent (item 6)

1. Apologies for Absence

Mike Adams	-	other reasons
André Camilleri	-	other reasons
Rachel Madden	-	medical / illness

2. Declarations of Interests

No declarations of interests were made.

3. Declarations of Lobbying

In the interests of transparency, the Chairman noted that all members of the Committee had been written to directly by Mark Spencer MP in support of item 6 on the agenda (Planning Permission for The Yard, Newark-on-Trent). Councillor Chris Barnfather, as substitute for Councillor Mike Adams, noted that he had not received a copy of this correspondence, so did not have any instances of lobbying to declare.

4. Minutes of the Last Meeting

The minutes of the last meeting held on 6 June 2023, having been circulated to all Members, were taken as read and were confirmed and signed by the Chairman.

5. Annual Report of the Licensing Work carried out by the Trading Standards and Communities Service

Trish Hennessy, Interim Team Manager for Trading Standards, presented a report on the licensing work carried out by the Trading Standards and Communities Service from 1 April 2022 to 31 March 2023. The following points were discussed:

- a) The Service has delivered a number of licensing and registration schemes that are designed to ensure the safety of communities. The fees chargeable for petroleum and explosives licensing are set at the national level, and a total income of £17,736 was generated in the period from licences, registrations and other related fees, including licences that cover more than one year.
- b) The Service has responsibility for issuing licences for the storage of explosives (such as fireworks, safety cartridges and airbag detonators). A total of 22 licences were issued in this period for renewals and new applications, with one 'all year round' licence issued. A programme of inspections was undertaken ahead of Bonfire Night regarding the storage and sale of fireworks, and businesses were found to be generally compliant. Inspection teams provided on-site advice in relation to any issues identified and observed the corrective actions taken to ensure that storage was compliant before the end of the visit. A programme of visits to both existing high-risk premises and new licence holders will be carried out for October to November 2023, with media coverage proposed to publicise the results of the inspections.
- c) The Service certifies any premises that store petrol for fuelling vehicles, such as retail petrol stations. Approximately 37 enquiries were received from businesses, operators and contractors for advice on petrol storage issues, and the Service carried out 17 current and historical environmental searches, often in respect of locating disused petrol storage tanks.

- d) The licensing function for performing animals has been transferred from the County Council to the individual District and Borough Councils, which now maintain their own records of licences issued.

Resolved (2023/014):

- 1) To note the 2022/23 annual report of the licensing activity carried out by the Trading Standards and Communities Service.
- 2) To agree to the appropriate use of the media to highlight the results of the fireworks safety inspections programme for the coming licensing period of October to November 2023.
- 3) To request that the 2023/24 annual report is received at the Planning and Rights of Way Committee meeting on 23 July 2024.

6. Planning Application for The Yard, Newark-on-Trent

Joel Marshall, Principal Planning Officer, introduced application 3/23/00239/CMW by Briggs Metals Limited in relation to The Yard, Great North Road, Newark-on-Trent for Planning Permission for the reconfiguration and extension of the existing recycling yard, including the raising of ground levels and new and extended buildings, a weighbridge, external walls and access. The following points were raised:

- a) An application has been submitted for a northern extension to the scrap metal recycling facility, following a previous application that had been submitted and then withdrawn in October 2020. The current facility, around 1 hectare in size, is sited on elevated ground with a single access from the Great North Road – which is a causeway that passes over low-lying fields. There is a group of residential properties to the north, in addition to a day nursery.
- b) The existing facility is a long-standing, traditional scrap metal recycling yard that also processes end-of-life vehicles. The proposed extension is of 0.4 hectares immediately north of the yard on land that is at a lower level. The extension would be formed by importing inert waste or aggregate to raise the level of the land by between 1 and 2 metres, which would then be surfaced and tied into the levels of the existing yard.
- c) A 5-metre-high concrete panel or block wall would be installed along the new northern boundary and at the western corner of the site. A lower red brick wall is proposed to form the new eastern boundary, set partially behind the roadside hedgerow, with the potential for some heritage-themed artwork to be established. A new site exit would be created through the hedgerow to create a clockwise entry and exit arrangement.
- d) The proposed extension is intended to enable the facility to increase its overall waste throughput by around 10,000 tonnes per year, which will then be closer to the limit of 75,000 tonnes set by the current Environmental Permit. It would also create new capabilities for the recycling of electric and hybrid vehicles and their

batteries, and so generate further full-time jobs at the facility. The ground may require further testing for potential contamination and remediation as part of the development, and effective drainage measures would be needed to ensure that no polluted surface waters are discharged off-site. The operation of the extended facility would then need a new or expanded Environmental Permit from the Environment Agency.

- e) The proposals would not impact upon the nearby Grade II listed Smeaton's Arches or their setting, though there could be an impact upon archaeology, which would need to be investigated. The site is of limited biodiversity interest.
- f) The site and its wider area are at a very high risk of flooding from the River Trent. Local and national planning policy seeks to move development to areas of lower flood risk wherever possible, while the National Planning Practice Guidance advises that waste management developments should not be permitted in the high-risk areas of a floodplain. As a result, the Environment Agency has objected to the application due to both the current site and its proposed extension being within the high-risk floodplain of the River Trent. Following the publication of the Committee's agenda, a fuller letter of objection with further detail was received from the Environment Agency, and this was forwarded to the applicant.
- g) The substance of the Environment Agency's objection is that the facility would not be able to remain operational during times of flood, and that the proposed extension would result in a loss of floodplain water storage and impede water flows, increasing the risk of flooding elsewhere. The Agency considers that the extension would put users of the site at a high risk of flooding, causing danger to life and increasing the pressures on emergency services during floods. Given the nature of the facility, the risk of hazardous materials and waste floating away during a flood is high, putting site users and third parties in danger. Displaced materials could also cause blockages and damage to flood defences, as well as impact Environment Agency incident response operations during times of flood.
- h) In response to the Environment Agency's concerns, the applicant contends that these issues are mitigated by the site and its proposed extension being raised safely above floodwater levels, and that the loss of flood storage capacity would be very small relative to the overall scale of the floodplain – so the extension would be unlikely to raise the risk of flooding elsewhere in a significant way. In addition, the applicant sets out that the expansion to the facility would bring important benefits in terms of retaining and growing jobs, expanding local waste processing capacity and capability (including new services to recycle electric and hybrid vehicles), and establishing a safer and more efficient one-way access system to the site from the road. The applicant has also submitted a sequential site assessment that it believes demonstrates that there are no other reasonably available alternative sites for development in the local area that are at a lesser flood risk.
- i) Ultimately, in balancing all of the Planning issues in relation to the application, officers view the concerns raised by the Environment Agency on flooding grounds as a vital consideration. The proposed development, therefore, is considered to be contrary to the development plan overall, where the potential benefits do not

outweigh the likely drawbacks of further development on the high-risk floodplain. Officers consider that there are potential alternative sites that could be used to deliver either a relocated facility or satellite site, so recommend that the application is refused.

With the permission of the Chairman, Steve Catney addressed the Committee on behalf of the applicant. The following points were raised:

- j) The recycling yard has been in operation for between 50 and 80 years under a Lawful Development Certificate. The proposed extension to the site would bring significant benefits, including the capacity to recycle lithium batteries, and is appropriate in terms of the relevant Planning policies provided that it does not have an unacceptable environmental impact. The area to be used for the proposed expansion is very small and its development would not have an adverse impact on the wider, much larger floodplain, or lead to an increased flood risk elsewhere. A sequential site assessment has been carried out, but there are no other alternative sites in the local area that are suitable and available for this development.

With the permission of the Chairman, Mark Spencer MP addressed the Committee in support of the application. The following points were raised:

- k) The recycling yard is a long-established business that is working hard to improve the operation, access and safety of the site, including increasing its capacity to meet the growing need for the recycling of hybrid and electric cars. It is not ideal that the facility was established on the floodplain in the past, but the small extension to a long-standing site would allow for important improvements and the creation of new job opportunities without having a significant impact on the effectiveness of the wider floodplain. Other, larger developments have taken place on the floodplain, so it can be appropriate for suitable developments to take place despite the Environment Agency's default position of objection.

The Chairman then opened the application for debate. The following points were discussed:

- l) The application site has been raised to be above current floodwater levels and the proposed extension would be similarly elevated. However, the whole Trent Valley experiences flooding during most winters, so the site and its surrounding area are at a very high risk whenever the Trent floods. The Environment Agency's objection to the proposal is based on its assessment of the site and the specific circumstances of the proposal, resulting in an 'in principle' objection.
- m) The Environment Agency is the Flood Authority responsible for the management of the flooding of the River Trent, while the County Council (as the Lead Local Flood Authority) has a remit covering smaller watercourses and surface water. As such, the particular flooding matters in the context of the current application concern the Trent and fall within the remit of the Environment Agency, meaning that the County Council did not need to raise any objections or comments associated with its remit as the Lead Local Flood Authority as part of the formal consultation process on the application.

- n) The Committee acknowledged that the proposed extension to the facility would, taken of itself, bring useful benefits to the business and the locality. Members noted, however, that the wider area can and does flood regularly, and that it is important to mitigate against the potential for flooding by ensuring that as much of the Trent floodplain as possible remains able to capture and drain floodwater effectively, in line with the current policy context – particularly if flooding has the potential to become more regular and severe in the future through climate change. Members expressed concern that the extension proposals as presented did not contain mitigation measures for managing any displaced floodwater, leading to the potential for an increased flood impact elsewhere.
- o) The Committee noted that the applicant had produced a sequential site assessment that set out that there were no other available alternative sites for development in the local area that were at a lesser flood risk, but that this view was not supported by officers.
- p) The Committee noted that in terms of further information arising between the publication of the Committee’s agenda and the Committee meeting itself, such as the follow-up representation from the Environment Agency (dated 7 July but nevertheless received after the publication of the Committee’s agenda on 10 July), everything possible should be done to ensure that both representors and members are able to discuss and respond to all of the details relevant to an application in a fully informed way.

The motion to refuse the grant of Planning Permission was put to the vote and carried by a majority.

Resolved (2023/015):

- 1) To refuse Planning Permission for the reasons as set out in Appendix 1 to the report.

7. Variation of Planning Conditions for Calverton (Burntstump) Quarry, Arnold

Joel Marshall, Principal Planning Officer, introduced applications 7/2022/0752NCC and 7/2022/0751NCC by Tarmac Trading Limited in relation to the Calverton (Burntstump) Quarry, Ollerton Road, Arnold for the variation of Planning Conditions to extend the time to work the remaining mineral reserves until 7 January 2042 (with restoration works to be completed by 7 January 2043) and to retain the existing weighbridge, associated buildings and soil mound for the duration of the mineral extraction operations. The following points were raised:

- a) Two applications have been made to vary the conditions to the previous permissions relating to the Burntstump Quarry, to extend the duration of mineral extraction until 2042 using the existing ancillary facilities and then to restore the site by 2043.
- b) The sandstone quarry is located in the Green Belt, by the A614 – from which the site is accessed via a priority junction. A small number of other properties are

located nearby and there is a restored landfill site to the north. The quarry covers approximately 25 hectares and is currently in phase 3 of 5, with approximately 1.5 million tonnes of mineral remaining to be worked as part of phases 4 and 5 – the sites of which remain arable farmland, currently. No changes to the extraction methods or area are proposed, but the current level of quarrying activity would need to be increased to complete the works within the 20-year period. The quarrying would continue in the same direction as granted permission originally, first moving south and then north-east, with progressive partial restoration works following.

- c) No local objections have been received. The majority of the existing controls would remain appropriate for the protection of the environment and surrounding residential properties, including noise controls and limits, and pollution control measures. However, the dust management and monitoring scheme should be updated. The continued presence of the quarry will prolong its visual impact on the landscape, but the site is well screened. Any gaps in the site hedgerow will be replanted and the planned supplementary woodland in the eastern corner will be delivered early.
- d) The revised restoration plan will improve the biodiversity value of the site whilst maintaining a partial agricultural use at the centre, where two central fields suitable for grazing will be created and bounded by new hedgerow planting. Around this, heathland will be expanded on the steeper western, northern and southern slopes, as well as two wetland corners being introduced. Tree planting will be carried out in the eastern corner to further supplement the woodland area. The revised restoration will provide biodiversity gains of 39% in area and 62% for hedgerows when compared to the existing site situation, which is predominantly of low ecological value.
- e) There is a clear need to continue quarrying at this site, which is effectively allocated within the Minerals Local Plan to contribute to maintaining a 7-year local landbank of Sherwood Sandstone. Closing the quarry would result in the minerals becoming sterilised and unusable. Overall, the benefits of continuing mineral extraction at the quarry and then completing the revised restoration scheme are considered to clearly outweigh the largely limited and temporary adverse landscape and visual impacts.

The Chairman then opened the application for debate. The following points were discussed:

- f) The quarry was originally granted Planning Permission in 2001, with a 20-year time limit for extraction that expired in January 2022. The variation applications were received initially in December 2021, but there have been significant delays for an acceptable Environmental Impact Assessment to be completed and a revised restoration scheme agreed. As such, the 20-year time extension to January 2042 would start from when the previous permission ended, in January 2022.
- g) The Committee was encouraged to see that no objections to the proposed extension of the quarry's operational lifetime had been received, and thanked

officers for their hard work in ensuring that the final restoration of the site would result in a net biodiversity gain for the area.

The motion to approve the grant of Planning Permission was put to the vote and carried unanimously.

Resolved (2023/016):

- 1) To approve the grant of Section 73 Planning Permission for the variation of Conditions 7, 8 and 50 to Planning Permission 7/2005/0263 to extend the time to work the remaining mineral reserves until 7 January 2042, with restoration works to be completed by 7 January 2043 (Proposal 1), subject to the conditions as set out in Appendix 1 to the report.
- 2) To approve the grant of Section 73 Planning Permission for the variation of Condition 2 to Planning Permission 7/2003/1323 to retain the existing weighbridge, associated buildings and soil mound for the proposed duration of mineral extraction operations to 7 January 2042 (Proposal 2), subject to the conditions set out in Appendix 2 to the report.

8. Development Management Progress Report

Jonathan Smith, Interim Group Manager for Planning, presented the regular Development Management Progress Report. The following points were discussed:

- a) The report sets out the planning applications received by the Council between 12 May 2023 and 30 June 2023, the decisions taken on planning applications since 6 June 2023, the applications likely to come to a future meeting of the Committee, and the Council's performance against the statutory targets for the speed and quality of decisions.

Resolved (2023/017):

- 1) To note the Development Management Progress Report and confirm that no additional actions are required in relation to its contents.

There being no further business, the Chairman closed the meeting at 11:44am.

Chairman: