minutes



Meeting PLANNING AND LICENSING COMMITTEE

Date Tuesday 11 December 2018 (commencing at 10.30 am)

Membership

Persons absent are marked with 'A'

COUNCILLORS

Chris Barnfather (Chairman)
Jim Creamer (Vice-Chair)

Andy Brown
Richard Butler
Neil Clarke MBE
Sybil Fielding
Paul Henshaw
Kevin Rostance
Tracey Taylor
Keith Walker
Andy Wetton
Yvonne Woodhead

A – Rachel Madden

OFFICERS IN ATTENDANCE

Pete Barker - Chief Executive's Department Rachel Clack - Chief Executive's Department Sally Gill - Place Department Mike Hankin - Place Department David Marsh - Place Department Joel Marshall - Place Department Oliver Meek - Place Department Jonathan Smith - Place Department

1. MINUTES OF LAST MEETING HELD ON 23rd October 2018

The minutes of the meeting held on 23rd October 2018, having been circulated to all Members, were taken as read and were confirmed and signed by the Chair.

2. APOLOGIES FOR ABSENCE

Councillor Butler replaced Councillor Longdon and Councillor Woodhead replaced Councillor Allan, both for this meeting only.

3. <u>DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS</u>

Councillor Brown declared an interest in the item, 'Redhill Marina, Redhill Lock, Ratcliffe on Soar' as the application site is in his electoral division.

Councillor Wetton declared an interest in the item, 'Welbeck Colliery, Elkesley Road, Meden Vale' as the application site is in his electoral division.

Neither declaration precluded Councillor Brown or Councillor Wetton from speaking or voting on those items.

4. <u>DECLARATIONS OF LOBBYING OF MEMBERS</u>

The Chair stated that all members of the Committee had been contacted concerning the item on Redhill Marina.

The Committee agreed that the order of items be changed as follows:

- 5. Bestwood II Quarry, Papplewick, Near Ravenshead, Notts
- 6. Redhill Marina, Redhill Lock, Ratcliffe on Soar
- 7. Welbeck Colliery, Elkesley Road, Meden Vale
- 8. Cromwell Colliery, Great North Road, Cromwell, Newark
- 9. Kirklington Primary School, School Lane, Kirklington, Notts
- 10. Consultation for Shale Gas Development
- 11. Development Management Progress Report

5. BESTWOOD II QUARRY, PAPPLEWICK, NEAR RAVENSHEAD, NOTTS

Mr Hankin introduced the report which concerned four planning applications. Mr Hankin informed Committee that the most significant of these applications sought permission for a 4.5 hectare eastern extension to the quarry to facilitate the extraction of 1.4 million tonnes of Sherwood Sandstone over a ten year period. Mr Hankin stated that the key planning considerations relate to Green Belt policy and minerals planning policy issues concerning the allocation and extraction of Sherwood Sandstone.

Following the introductory remarks of Mr Hankin, Mr Deal, an agent on the behalf of the applicant Tarmac, was given the opportunity to speak and a **summary** of that speech is set out below:-

- The site has been operational for approximately 15 years with a good track record.
- The operations are highly sustainable regarding the quality of the product, the efficiency of production and the habitat legacy being created. Peregrine Falcons and Ravens have been nesting at the site for a number of years,

taking advantage of the new habitat created as the quarry and restoration has progressed.

- The site produces approximately 35-40% of soft sand in the County and is of strategic importance in respect of mineral supply. The sand is used for building, mortar and asphalt purposes. It is different to the sand and gravel produced from the Trent and Idle Valleys in terms of colour, particle size and shape.
- Demand for construction materials is expected to grow strongly over the next 10 years as national and regional infrastructure projects have an effect, as well as the need for more houses and local facilities to support community growth.
- Mineral extraction is a relatively simple process but does require expertise in mineral working and restoration design, respect for the environment and neighbours, and commitment to long term management. All of which Tarmac possess.
- The application is supported by a considerable amount of technical assessment, particularly regarding the plantation woodland. The loss of part of the plantation has been successfully mitigate through the restoration scheme for the quarry itself and at the nearby Calverton Quarry site. Tarmac has made a 25 year commitment to elevate and deliver the landscape and habitat potential at both sites.
- While mineral working does change the landscape, and judgement on this change can be subjective, it is clear that long term benefits can result from such working with many examples of this in Nottinghamshire including at Bestwood Colliery.
- In terms of the claimed right of way, I have met residents and walked the area. The positon of Tarmac is clear – there is no right of way over the quarry extension area as claimed, though Tarmac have stated their willingness to maintain a dialogue with residents regarding the quarry operations, both existing and those planned for the future.
- It has been clarified that protection for the gas main on adjoining land does not require a planning condition.
- Mr Hankin has produced a clear report and I hope members will be able to approve all of the applications.

There were no questions.

The Chair stated that the applications were relatively simple. Some residents had raised objections but the Community Liaison Group and Mr Hankin work hard to address the residents' concerns. There had been no objections from the Parish Council. The Chair drew members' attention to page 50 of the report which detailed the impact a refusal would have.

On a motion by the Chair, duly seconded, it was:-

Resolved 2018/029

RECOMMENDATION 1

GEDLING DISTRICT REF. NO.: 7/2017/1491NCC

PROPOSAL: 4.5 HECTARE EASTERN EXTENSION TO EXISTING SAND QUARRY WITH RESTORATION TO NATURE CONSERVATION

- 1. That the Corporate Director Place be instructed to enter into a legal agreement under section 106 of the Town and Country Planning Act 1990 to:
 - a. To create and thereafter manage for a period of 25 years a new heathland based habitat within Calverton (Burntstump) Quarry.
 - b. To continue to hold a liaison meeting.

It is FURTHER RECOMMENDED that subject to the completion of the legal agreement before the 31st March 2019 or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of the report. In the event that the legal agreement is not signed by the 31st March 2019, or within any subsequent extension of decision time agreed with the Minerals Planning Authority, it is RECOMMENDED that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section.

RECOMMENDATION 2

GEDLING DISTRICT REF. NO.: 7/2017/1504NCC

PROPOSAL: TO VARY CONDITIONS 3, 6 AND 29 OF PLANNING PERMISSION 7/2014/1156/NCC FOR AN EXTENSION OF TIME TO EXTRACT THE REMAINING MINERAL WITHIN BESTWOOD II QUARRY UNTIL 31ST DECEMBER 2028.

2. That planning permission be granted for Planning Application 7/2017/1504NCC subject to the conditions set out in Appendix 2 of the report.

RECOMMENDATION 3

GEDLING DISTRICT REF. NO.: 7/2017/1505NCC

PROPOSAL: VARY CONDITION 4 OF PLANNING PERMISSION

7/2015/0320NCC TO ENABLE RETENTION OF THE

VISITORS CAR PARK UNTIL FINAL RESTORATION OF THE QUARRY (31ST DECEMBER 2030 OR WITHIN TWO YEARS OF THE COMPLETION OF MINERAL EXTRACTION, (WHICHEVER IS SOONER).

3. That planning permission be granted for Planning Application 7/2017/1505NCC subject to the conditions set out in Appendix 3 of the report.

RECOMMENDATION 4

GEDLING DISTRICT REF. NO.: 7/2017/1493NCC

PROPOSAL: ERECTION OF A PORTABLE UNIT TO PROVIDE CHANGING

FACILITIES FOR FEMALE STAFF.

4. That planning permission be granted for Planning Application 7/2017/1493NCC subject to the conditions set out in Appendix 4 of the report.

6. REDHILL MARINA, REDHILL LOCK, RATCLIFFE ON SOAR

Mr Smith introduced the report which concerned a planning application for the construction of a 290 berth inland leisure marina. Mr Smith clarified that this would require the prior extraction of approximately 117,500 m³ of sand and gravel and not 117,500 tonnes as stated in the report. Mr Smith informed members that the amount in question actually equated to 176,000 tonnes and would generate 66 HGV movements a day and not 46 movements as stated in paragraph 36 of the report. Mr Smith informed Committee that the key issues related to the principle of development within the Green Belt, impacts on the rural landscape and visual impacts, and on matters of archaeology and ecology. Mr Smith stated that the safeguarding for the route of the planned HS2 rail line was also pertinent.

Mr Smith informed Committee that the application was originally submitted in July 2016 and validated in October 2016. Following consultation, a formal request for further information on a variety of topics was issued to the applicant in January 2017. Mr Smith informed Committee that no response had been received and that Officers now considered that there was an overriding public interest in determining the application as originally submitted.

Mr Smith informed Committee that he had received some correspondence since the publication of the Committee report. This correspondence included a letter form a local boat owner who had written in support of the application and the significant benefits the development would bring to the area. The applicant had also written in requesting that determination of the application be deferred to allow further consideration of the effects of the proposed HS2 route. Mr Smith informed Committee that the applicant had also submitted some further ecological information concerning breeding birds, but that there had been no time for officers to review this information and the submission was only on a single topic which did not cover enough areas. Mr Smith informed Committee that none of the information recently received overcame the challenge posed by HS2 and that there were still no reasons to defer the decision on the application.

Following the introductory remarks of Mr Smith, the applicant, Mr Morley, was given the opportunity to speak and a **summary** of that speech is set out below:-

- Boats have been moored at Red Hill since the 1950's
- Red Hill started boat mooring in the late 1960's
- The company, Red Hill Marine Ltd, formed in November 1974 and there are currently 250 boats on site, either in water or on land.
- There are boats currently moored on river banks that are waiting to be moved into the proposed marina.
- In the last 5/6 years 100 new boats have been built and sold with a value of over £10m.
- 8 boat and marina allied businesses operate at Red Hill with 40 staff employed.
- The current marina boat yard has expanded in line with other inland marinas during the last 30/40 years offering comprehensive services/ facilities including a 50 ton boat hoist.
- Red Hill has the best connection to road, rail, river and air of any marina in the UK.
- In the next few years 6,000 houses are planned to be built at Clifton and Loughborough which are only 4 to 5 miles from the marina.
- 83% of inland marinas are rural and in the countryside.
- Moorings have existed for 30 to 40 years on the river at Red Hill and have lawful use.
- Ecology and wildlife will increase substantially with this project with fields and boundaries remaining and being improved.
- The visual impact will be minimal as boats are already on site and have been for years. Families and children visit the marina to see the boats and undertake waterside activities.
- On 15th December 2015 Rushcliffe Borough councillors voted 10 to 5 to support the application stating that the marina would be appropriate development in the green belt and would not have an adverse impact on green belt.
- Rushcliffe Borough Council is the planning authority and Nottinghamshire County Council is the minerals authority, as in the previous application.

- On 30th January 2018 Rushcliffe Borough Council granted permission to extend the existing buildings for increased boat building.
- There are few planning matters that can be resolved by approving the application subject to the HS2 decision. We therefore ask for the decision on the application to be deferred.
- On 15th November 2018 Paul Mullins from HS2 provided a map showing over 70 acres of land safeguarded for HS2 construction. This land take will cause serious problems for the operation and running of the marina, boat yard and businesses.
- The 17 days between announcing the safeguarded land on 15th November 2018 and the date of this Committee on 11th December 2018 does not give enough time to evaluate the information and seek professional advice.
- We note that the HS2 hybrid bill is due to go to parliament where the final decision will be made on the project.
- We request that any decision on this planning application be deferred.

Following Mr Morley's speech no members had any questions for clarification.

Mr Smith stated that the decision by Rushcliffe Borough Council was one taken against the advice of officers and that it was clear in the Nottinghamshire report where the authorities disagreed regarding the green belt.

The Chair asked Mr Smith to clarify which was the determining authority in this case and invited Mr Smith to comment on the applicant's request to defer the decision on the application. Mr Smith replied that when the first application was received in 2010/11 both authorities considered that there should have been two applications. Solicitors subsequently referred to case law indicating that only one application was required and it was agreed with Rushcliffe Borough Council that Nottinghamshire would deal with both aspects of the single application. In terms of HS2, Mr Smith informed Committee that the project had progressed and referred to the recent event held at Keyworth. Officers had looked at the latest information and could see no reason to change the consideration of the application or to defer the decision on the application, with HS2 re-affirming their objection to the application. In terms of the safeguarded land, Mr Smith informed members that the land required was identified in 2016, with this being re-confirmed recently. There was a possibility that ultimately more land would be required.

Members then debated the item and the following comments and questions were responded to:-

- The first application was received in July 2016 and validated in October of the same year. The route for HS2 was confirmed just after that.
- Green belt land would only be built upon under very special circumstances, for example, such a course of action would need to benefit the local economy.

- The applicant has been asked for more information but issues around ecology and archaeology have still not been addressed.
- Officers initially spoke to other marinas on more than one occasion to ascertain capacity and there was no demand for additional berths. The situation has not changed.
- There have been similar, larger applications in the past one in 2011 that
 was withdrawn and one in 2015 that was refused at appeal. Officers have
 received less information for this application, which is still substantial, and
 which does not address the problems of the past including those around the
 green belt.
- The extraction of minerals can be appropriate on green belt land. In this case
 the operational phase could potentially be appropriate, though a number of
 tests would need to be passed including the effect on the openness of the
 site. Officers have looked at the land bank and at present there is no
 compelling requirement for sand and gravel, with the amounts involved in this
 application relatively small anyway.
- It was stated that a further application could be made once HS2 was completed and that deferring decisions on applications is rarely helpful.

The Chair reminded members that the line for HS2 was safeguarded with surrounding areas quarantined for construction until 2030, by which time mineral requirements would have moved on and be subject to a new plan.

On a motion by the Chair, duly seconded, it was:-

RESOLVED 2018/030

That planning permission be refused for the reasons set out below:

Reasons for Refusal

i) The National Planning Policy Framework confirms the great importance of Green Belts and their fundamental aim in preventing urban sprawl by keeping land permanently open. Their essential characteristics are their openness and permanence (paragraph 133). The proposed marina is considered to constitute a material change of use of the land following mineral extraction and engineering operations by reference to paragraph 146 of the National Planning Policy Framework. The proposed development by virtue of its scale, numbers of moorings, buildings, associated infrastructure and overall engineered appearance would significantly harm and erode openness and represent an encroachment into the open countryside contrary to the purposes of Green Belts and their essential characteristics within the aims of the National Planning Policy Framework. Consequently, the proposed development is considered to be inappropriate development in the Green Belt and is therefore harmful by reason of failing to preserve the openness of the Green Belt and by conflicting with the purposes of the

Green Belt. The applicant has not demonstrated a need for the proposed additional moorings and there is no need for the mineral extraction aspect, as the MPA can demonstrate a sufficient landbank of sand and gravel resources. The identified harm to the Green Belt, along with other identified harm and deficiencies in relation to matters of biodiversity; landscape character; visual impacts; flood risk; archaeology and to HS2 clearly outweigh any identified benefit resulting from the proposal and as such very special circumstances necessary to permit inappropriate development do not exist. The proposed development is therefore contrary to the provisions of the National Planning Policy Framework.

- The proposed development by virtue of its scale, numbers of moorings, ii) associated infrastructure and overall engineered appearance would result in an adverse impact to visual amenity to what is currently an important area of open and distinctively undeveloped countryside, providing a contrast to surrounding infrastructure. The proposed development also fails to conserve and enhance the existing local landscape character, notwithstanding the provision of any mitigating planting. The proposed development therefore does not accord with Policy 16 of the Rushcliffe Local Plan Part 1: Core Strategy or policies 34 and 35 of the Rushcliffe Local Plan Part 2 - Land and Planning Policies- publication draft. There are no overriding reasons of public interest or demonstrated need for the proposed marina or prior mineral extraction to outweigh the identified harm to local landscape character, taking into account the proposed mitigation measures. The proposed development therefore does not accord with Policy M3.22 of the Nottinghamshire Minerals Local Plan. The prior extraction of minerals would also likely lead to unacceptable adverse impacts to visual amenity, in particular to users of the local rights of way network, contrary to Policy M3.3 of the Nottinghamshire Minerals Local Plan.
- iii) The proposed development would conflict with the HS2 Phase 2b safeguarded route as published, emerging design developments and the Government's objective of delivering HS2, which is a project of national importance. The proposal is therefore contrary to Government Guidance contained in the National Planning Policy Framework (NPPF). The proposal does not conform with the provisions of the NPPF and it is considered that the applicant is unable to overcome such principle concerns.
- iv) Inadequate environmental information has been provided with respect to potential impacts to protected and notable species and/or habitats. Background surveys have not been provided which are essential to understand the biodiversity value of the site and whether the proposed development would conserve and enhance biodiversity and/or provide any necessary mitigation or compensatory measures as may be required. The application does not satisfy the requirements of policies M3.1 and M3.17 of the Nottinghamshire Minerals Local Plan; Policy 17 of the Rushcliffe Local Plan Part 1: Core Strategy; and paragraphs 170 and 175 of the National Planning Policy Framework.

- v) Inadequate environmental information has been provided with respect to potential impacts (direct and indirect) on nationally significant archaeology, the loss of which should be wholly exceptional. There is no demonstrated need for the proposed new marina or any other such need or demonstrable substantial public benefits to qualify such an exception to outweigh the great weight which is afforded to the conservation of the archaeology. The proposal does not accord with Policy M3.24 of the Nottinghamshire Minerals Local Plan or paragraphs 193 to 195 of the National Planning Policy Framework.
- vi) The site is located within the identified Flood Zone 3 and is at a high risk of flooding. The submitted Flood Risk Assessment does not comply with the requirements of Planning Practice Guidance to the National Planning Policy Framework and fails to provide adequate information to fully assess the flood risk arising to the proposed development or demonstrate it would not lead to increased flood risk to surrounding land or property or adversely affect existing flood defences. The proposal is thereby contrary to Policy M3.9 of the Nottinghamshire Minerals Local Plan and paragraphs 155, 160 and 163 of the National Planning Policy Framework and associated Planning Practice Guidance. The proposal also does not accord with Policy 17 of the Rushcliffe Local Plan Part 2 Land and Planning Policies- publication draft.

7. WELBECK COLLIERY, ELKESLEY ROAD, MEDEN VALE

Mr Meek introduced the report which concerned two applications. Mr Meek informed Committee that the first application related to the variation of conditions to previously approved planning permission to allow a further 5 years for the placement of material and restoration of the spoil tip. Mr Meek informed Committee that the second application sought to make changes to the red line of the existing soil management area to allow for amended access arrangements and an additional 5 years to correspond with the life of the spoil tip restoration. Mr Meek stated that retrospective permission was also being sought for welfare and office cabins and a toilet block. Mr Meek informed Committee that the key issues related to timescales to restore the former spoil tip, ecology and traffic.

Mr Meek informed Committee that following the publication of the report he had received complaints concerning HGV movements, not only in terms of numbers but also regarding noise, dust and early starts. A consequent investigation found evidence of breaches of the original permission and a stop notice was issued on 7th December 2018. In the light of these complaints Mr Meek informed Committee that it was now appropriate to secure a 106 Agreement as this was a more robust mechanism of enforcement. Mr Meek confirmed with members that they had received a copy of the addendum that had been circulated prior to the meeting and which contained revised Recommendations to include the need to secure a Section 106 agreement. The addendum was also projected on a screen during the meeting. Mr Meek informed members that the reference in Recommendation 2 of the addendum should be to Appendix 2 and not Appendix 1.

Following the introductory remarks of Mr Meek Members then debated the item and the following was responded to:-

 When planning permission was originally granted at this site in 2012 a more relaxed approach had been taken towards routeing where some had been controlled by conditions and some by Section 106 Agreements. Updated guidance and case law now points local authorities to the use of Section 106 Agreements to control roueting outside application boundaries.

On a motion by the Chair, which referred to the Recommendations contained in the Addendum and which was duly seconded, it was:-

RESOLVED 2018/031

Recommendation 1 (2/2017/0525/NCC) – Variation of Conditions 3 and 4 of Planning Permissions Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site

That the Corporate Director – Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a designated route for all HGVs using the site.

It is further recommended that subject to the completion of the legal agreement before the 11 March 2019 or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director — Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of the report. In the event that the legal agreement is not signed before the 11 March 2019, or within any subsequent extension of decision time agreed with the Waste Planning Authority, it is Recommended that the Corporate Director — Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

Recommendation 2 (1/18/00791/CDM) - Proposed variations to the Soil Management Areas

That the Corporate Director – Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a designated route for all HGVs using the site.

It is further recommended that subject to the completion of the legal agreement before the 11 March 2019 or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 2 of the report. In the event that the legal agreement is not signed before the 11 March 2019, or within any subsequent extension of decision time agreed with the Waste Planning Authority, it is Recommended that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development

fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time.

8. CROMWELL QUARRY, GREAT NORTH ROAD, CROMWELL, NEWARK

Mr Smith introduced the report which concerned a planning application for proposed changes to the approved method of working/phasing plans and to the approved restoration plan of the operational planning permission for Cromwell quarry. Mr Smith informed Committee that the key issue related to the suitability of the restoration design for landscape and conservation objectives.

On a motion by the Chair, duly seconded, it was:-

Resolved 2018/032

That planning permission under section 73 be granted subject to the conditions set out in Appendix 1 of the report.

9. KIRKLINGTON PRIMARY SCHOOL, SCHOOL LANE, KIRKLINGTON, NOTTS

Mr Smith introduced the report which concerned a planning application for the retention of a timber building at Kirklington Primary School. Mr Smith informed Committee that the key issues related to the effect on the character of a conservation area and the impact on the amenity of nearby occupiers.

Following the introductory remarks of Mr Smith Members then debated the item and the following comments and questions were responded to:-

- The application is for retrospective planning permission as the school were unaware permission was needed. Permission is required as the structure is used for the delivery of the curriculum.
- The view of the building from other properties is clearer than from the Forge, but that is from where the objection was received.
- Sport England raised no objection as the sports field is unaffected.

On a motion by the Chair, duly seconded, it was:-

Resolved 2018/033

That planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 1 of the report.

10. CONSULTATION FOR SHALE GAS DEVELOPMENT

Mr Smith introduced the report which sought Members' approval of the response to the Government's consultation on "Compulsory community pre-application for shale gas development" as set out in the appendix to the report. Mr Smith informed members that the response is consistent with other comments submitted to the previous consultation.

Members then debated the item and the following was responded to:-

• If adopted, this approach would allow the Authority to identify affected communities.

On a motion by the Chair, duly seconded, it was:-

Resolved 2018/034

That the response to the Ministry of Housing, Communities and Local Government be approved as the formal comments of the County Council on their consultation paper entitled "Compulsory community pre-application consultation for shale gas development" as set out in the appendix to the report.

11. DEVELOPMENT MANAGEMENT PROGRESS REPORT

Mrs Gill introduced the report and confirmed that it was the usual regular report detailing which reports were likely to come before Committee.

Following the introductory remarks by Mrs Gill the following comments and questions were responded to:-

- A site visit to Bantycock Quarry has been arranged for 15th January 2019, leaving County Hall at midday. Some members may wish to be present at other villages in the Fernwood Parish during the blasting, rather than at the quarry, in order to assess the impact there.
- Training for Members concerning shale gas applications will be organised for early in the New Year.

On a motion by the Chair, duly seconded, it was:-

Resolved 2018/035

That no further actions are required as a direct result of the contents of the report.

The meeting closed at 12.33pm

CHAIR