



Planning & Regulation Committee

Monday, 4 March 2019

ADDENDA

1. Apologies for Absence and Temporary Appointments

<i>Apology for Absence</i>	<i>Temporary Appointment</i>
Councillor Mike Fox-Davies	Councillor Hilary Hibbert-Biles

4. Petitions and Public Address

Speaker	Item
Gemma Crossley – Agent for Applicant	6.Application MW.0001/19

6. Continuation of development without complying with Condition 2 (mineral extraction cessation date) of Planning Permission no. 18/00060/CM (MW.0001/18) in order to extend the period permitted for the extraction of mineral from 31 December 2018 to 31 December 2019 - MW.0001/19

A petition (available in the Members' Resource Centre) has been submitted with 101 signatures along with a response from Shipton on Cherwell Parish Council. The points raised are set out below with officer comments.

Impact on local amenity

Policy C5 of the OMWCS requires proposals for mineral and waste development to demonstrate that they will not have an unacceptable adverse impact on the local environment, human health and safety and residential amenity. The report to Committee on application MW.0001/18 extending the extraction period to 31 December 2018, 'with the conditions in place the development would be controlled to the extent that it would not adversely affect

the local amenity.' However, residents have always had issues with the dust and noise generated in particular:

- the wind picks up soil particles from the surface and deposits it on and in the houses and on cars. This is a health hazard, particularly to those with asthma or other chest complaints.
- Plumes of dust are also generated from the excavation machinery and the movement of HGVs carrying material around the quarry.
- For six days a week the residents are woken up when activities begin, and machinery and vehicles are moved into position to commence work.
- The excavation machinery produces sounds that can be heard in Thrupp nearly a mile away from the site.
- There have been only two meetings of the Planning Liaison meetings, and some of the actions that the operator said they would do have not taken place: the seeding of the bund; and the scraping and cleaning of the roadway.

There is an adverse impact on local amenity due to dust and noise and the excavation is now at its closest proximity to homes. Approval of this application would mean that residents would suffer for a further twelve months.

Officer Comment

The concerns of residents are noted and have been investigated by the Monitoring and Enforcement Team. Regular monitoring of the site takes place and any issues are raised with the operator.

Timescales

Policy M10 of the OMWCS requires mineral workings to be restored to a high standard and in a timely and phased manner. On the EIA form for this application the planning officer concludes that to extend the mineral extraction by twelve months 'will not impact on the time scales to restore the site'. However, this is the third application asking for an extension of time and means that the extraction of the mineral must be three years behind schedule. This must have implications on restoration. There are only vague references to timescales with phrases such as 'it is anticipated that the mineral should be worked out by

The applicants should be able to state how much is left, and could produce a staged target for extraction to show that progress is being made, this could then be subject to monitoring and enforcement.

Condition 44 allows for stockpiling 'in identified areas on site should circumstances necessitate for temporary storage prior to sale' which would also progress extraction of the limestone. The residents are continually disappointed that no rigour is applied to the operators of Shipton Quarry to complete the extraction of the mineral in a reasonable time frame and consider that the effects on the amenities of the community are consistently ignored.

There have also been breaches of conditions that have implications on restoration. Condition 24 requires schemes to deal with risks associated with contamination of the site to be submitted and approved by the MWPA and Condition 36 requires a remediation scheme for the high alkaline waste. Although late, the schemes have been submitted but are not yet approved as they contain changes to restoration that are still being discussed. The delay in submission and approval of these schemes has had a knock-on effect on the time scales for restoration and monitoring of Condition 52 identified the lack of progression in restoring Area A.

Particular issues relating to timescales are:

- Granting a further extension to the extraction phase will impact on the timescales to restore the quarry because, without the railhead in place as of today, different phases of the work cannot be readily completed simultaneously.
- The first phase of restoration is due to be completed before 2025.
- There will be cumulative impacts on other developments on the site' How does this sit with the assertion that there will be no impact on the timing of phase 1 of the restoration, and indeed of later phases?
- What guarantees and financial underwriting has the Council got that the applicant will not continue to use a strategy of applying for one year extensions, and then apply a similar strategy to the restoration phase, i.e. after it has got everything it wanted to extract from the site?
- The lack of any progress on creating a rail-based facility will automatically mean that there would need to be a further extension of the road-based transportation of materials to and from the site, contrary to the Statement of Community Involvement.
- It cannot be determined that the development would not have an effect on timescales if the amount of material remaining is not known.

Officer Comment

The mineral extraction is taking place south of the area where the rail sidings are proposed. It is true that the rail sidings have not been implemented, but the continuation of extraction in the current location need not stop the rail sidings being constructed. Condition 5 of the current permission states that "no waste or inert material needed for the restoration of areas B, C, and D as shown on approved plan K.01117_25-1d (Phase 1) shall be imported to the site by road after the end date of 12th February 2025 of this permission." The proposed area is due to be restored by 2025, and the continued extraction would not hinder that timescale as it would leave 6 years for the restoration to take place.

The concern that the applicant keeps coming back for an extension of time is understandable, and that is why I have suggested an informative that the applicant advise the local liaison meeting of how much material remains to be extracted and how the program of work is proceeding. I have also asked the applicant for more information about the amount of material left to be extracted and I will report that orally to the committee.

It is possible for the applicants to dig out the mineral quickly and store the material prior to processing it. However, if they did that there would be more

crushed rock in the open air likely to cause dust.

The Details Pursuant applications are currently in and have been for a long period of time. They cannot be discharged at the moment because there is an objection from the Environment Agency which the applicant is working to overcome.

I have asked the applicant how much material remains to be dug, and how long they would estimate it would take. The applicant stated there was approximately 68,000 tonnes remaining and that it would take 6 months to extract. I suggested to the applicant attaching a condition that the mineral extraction cease by 30th September 2019. The applicant was not happy with this suggestion as the figure they provided for the amount of mineral remaining is an estimate based on knowledge of the geology of the site, experience, borehole results etc, but the actual amount won't really know until it has been extracted. Also they feel that the market is currently very buoyant, but they do not know exactly whether they will experience a drop in sales for virgin mineral as happened last year.

Section 73 Applications

Since the original proposal for comprehensive development and restoration of Shipton Quarry in 2006, several Section 73 applications have been granted. Councillor Matthews expressed concern regarding 'the constant need to regularly review conditions attached to planning permissions which seemed to him

'to be for the benefit and interest of the applicant alone' (Planning and Regulation Committee minutes 11th July 2016). The residents concur with Councillor Matthews and feel little confidence in the operators being able to fulfil their obligations for 12th February 2025. There is also no incentive to achieve this since the conditions can be varied so easily.

Officer Comment

The applicants have a right to submit a section 73 application and have done so, and the application is now before us and must be considered on its merits. If the development were such that the restoration timescale would be affected by it, then that would be a material consideration. However, it is not considered that at this time it could be demonstrated that the delay to the completion of mineral extraction it will lead to a conflict with the required restoration date which is still some years in the future.

The future

Residents are concerned that the Quarry may never be fully restored according to the original application.

- Earthline have no concrete plans in place to build the railhead or the new road junction for the A4095 with the A4260. If the railhead is not built, all recycling material will need to be brought into the quarry by road.
- At the Liaison Group meeting Mr Coplestone was asked about plans for the future and replied that they were looking into the possibility of obtaining permission for housing for the site.

Officer Comment

If the permitted development is not restored in accordance with the proposed plans then the County Council would consider the expediency of enforcement action. Any future planning applications would have to be considered on their merits but the council cannot take possible future proposals into account in the determination of the current application.

Need

There is no ongoing need for continued crushed rock extraction on this site as part of the Mineral and Waste Plan.

It is not necessary to prolong extraction, particularly as it impacts on nearby SSSIs and neighbouring conservation areas.

Officer Comments

The application is to determine whether extra time should be permitted for the extraction of the mineral for which the principal of extraction has been established by the existing permission. The proposed extension of time would continue the impact on the SSSI and the conservation areas, which have already been determined as acceptable.

Green Belt

On Green Belt policy grounds, we object to the extension of permission.

Officer Comments

Paragraph 146 of the NPPF defines mineral working that does not affect the openness of the Green Belt as not inappropriate. The proposed development does not affect the openness of the Green Belt and is, therefore, not inappropriate development. The proposal is in not contrary to Green Belt policy.

Prematurity and EIA

The application is premature in that the likely impact of extraction below the level of the river bed has not been subject to a thorough assessment of possible contamination issues nor an up-to-date Environmental Impact Assessment.

Why does the EIA assessment conclude that there is no need for an EIA when local residents have complained of noise and dust pollution from the site, and the officer's own assessment within the Characteristics of development section, part b is that 'There will be cumulative impacts on other developments on the site.'

Officer Comment

It is unclear whether the objection relates to the formal consideration of prematurity, but I will address it for clarity. The Planning Practice Guidance states that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, and are likely to be limited to situations where the development proposed would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan; and the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. It further adds that refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination. Part 2 of the Oxfordshire Minerals and Waste Local Plan has yet to be published in draft form, the proposed development would not be such that it would undermine the plan-making process. The application should not, therefore, be refused on grounds of prematurity but determined on its merits.

The extraction has been the subject of an EIA, but the screening opinion concluded that there is no need for a further EIA. The reasons for that decision are contained in the screening opinion itself.

Conditions

In the event that the Council is minded to approve the application:

- a monitoring regime be put in place to ensure that an extraction plan is adhered to, and to prevent there being any question of yet a further extension in a year's time.
- The Parish Council would want to be a full consultee on the nature of that regime and with all details of extraction rates and locations within the site reported to us.
- Good quality noise and dust monitors should be installed to protect residents' amenities.

Officer Comment

I appreciate the concerns about the likelihood of a further application coming forward next year and have suggested an informative relating to the progress of extraction. The objectors are seeking for this to be upgraded to a condition, based on the fact that there have been at least two extensions of time already.

Conclusion

The recommendation remains as set out in the main report.