

DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held in Council Chamber, County Hall, Durham on **Tuesday 6 December 2016 at 1.00 pm**

Present:

Councillor K Davidson (Chairman)

Members of the Committee:

Councillors D Boyes, J Clare, P Conway, M Dixon, G Holland, I Jewell, B Moir (Vice-Chairman), H Nicholson, G Richardson and R Young

1 Apologies for Absence

Apologies for absence were received from Councillors A Laing, R Lumsdon and A Shield.

2 Substitute Members

There were no substitute Members in attendance.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The Minutes of the meeting held on 1 November 2016 were agreed as a correct record and signed by the Chairman.

5 Applications to be determined

a 1. DM/16/01937/MIN and 2. DM/16/01943/VOCMW - Kilmondwood Quarry, Boldron

The Committee considered a report of the Senior Planning Officer regarding applications for (1) eastern extension for the winning and working of 5 million tonnes of Carboniferous limestone and the importation of 192,000 cubic metres of inert materials, with restoration to broadleaved woodland, low nutrient grassland, calcareous grassland, hedgerow and natural regeneration on exposed limestone over 26 years and 6 months and (2) variation to Planning Permission No. 8/PRA/2013/6/1 to allow eastern extension to quarry at Kilmondwood Quarry, Boldron (for copy see file of Minutes).

C Shields, Senior Planning Officer gave a detailed presentation on the applications which included a site location plan, an aerial photograph, a view of the site access, a view of the existing quarry, a view of the extension area and details of the three

phases of the site extension. Members of the Committee had visited the quarry site and surrounding area the previous day and were familiar with the site and its setting.

The Senior Planning Officer informed the Committee that although the submitted noise and dust assessments were considered to be acceptable, the Environmental Health Officer recommended that a background noise assessment be carried out at South Flatts prior to the commencement of the extension and the data used to inform the noise action plan required through Condition. The applicant volunteered to carry out this survey in advance of the Committee meeting today, given the concerns of the residents of South Flatts Farm. The results of this were as follows:

Site No.	Location	Average Measured Noise Levels	
		dB L _{Aeq}	dB L _{Aeq}
SF1	South Flatts (north side of the house)	59	52
SF2	South Flatts (south side of the house and east of the barn)	60	38

The calculated worst-case daytime noise level for the proposed routine operations at the Extension Scheme during Phase 3 (the most easterly phase) for location SF1 was 48 dB L_{Aeq}, 1hr. The worst-case daytime noise level associated with routine operations at the Extension Scheme in relation to location SF2 would be below that calculated for location SF1 due to the intervening noise barrier attenuation that would be afforded by South Flatts House and barn respectively to the north and west of this location. In this respect, the predicted worst-case daytime noise level for locations SF1 and SF2 was below 55 dB L_{Aeq}, 1hr and not in excess of background (LA90) plus 10 dB LAeq, 1hr. In addition, this calculated worst-case daytime noise limit for routine operations during Phase 3 did not allow for the increased stand-off that had been achieved by pulling back the eastern limit of excavation further away from South Flatts by at least 15 metres from that originally proposed. The proposed stand-off from the eastern limit of excavation to South Flatts was approximately 340 metres distant, with land falling away from the Extension Site to the east.

The Senior Planning Officer informed the Committee that the proposed Condition 24 should be amended as follows to include reference to the 10dB(A) above background tolerance:

Except when soil handling operations are taking place, the noise emitted from operations on the site shall not result in noise levels greater than 55dB LAeq, 1hour (freefield) or not exceed the LA90 (1h), as determined by baseline noise level results gathered in accordance with Condition 3, by more than 10dB (A), whichever is lower, at East Roods, West Roods, Kilmondwood Farm, Jock House and South Flatts.

Reason: In the interests of residential amenity. (Adopted County Durham Minerals Local Plan (December 2000) Policy M36 Protecting local amenity Paragraphs 123 and 144 of the NPPF).

Councillor R Bell, local Member was unable to attend the Committee but had made the following representation on the application:

‘Broadly I welcome this application as fulfilling a real need for materials and securing local jobs.

However, the occupants of South Flatts Farmhouse, the closest property not financially linked to this scheme, have raised their concerns with me regarding this application.

The development could be contrary to the Teesdale Saved Local Plan which states that *Development will be permitted provided that it complies with each of the following criteria:*

E). It would not unreasonably harm the amenity of occupants of adjoining sites and

N). It would not be unacceptably detrimental to public health.

The request by the Alexanders for a wider buffer zone at the eastern end of the development to protect them and the other five properties at the eastern end, from noise and dust seems a reasonable request for mitigation of an important scheme. The buffer zone at the eastern end in the proposal is 15 metres, which seems very small.

I understand the closest property will be only 50 metres from the quarry in phase 3. The Alexanders are asking for 250 metres which is a figure quoted in the Saved Local Mineral plan. Perhaps the width of the buffer zone should be decided neither by the developer nor by the objectors, but is a key matter to be decided by Committee.

Alternatively, I note that Bowes Parish Council has requested that the development be reduced to extraction of 2.5 million tonnes over a 10 year period stating that many Local Authorities have a policy of limiting the working time for mineral applications in order to take account of ongoing and possible future legislation which they cannot anticipate at the present time. This seems an appropriate suggestion and would limit the scheme to phases 1 and 2 which is still a significant development to meet the needs clearly identified in the report, at which point we would have experience to guide us in any new submission which would then be applied for.’

Mr Alexander of South Flatts Farmhouse addressed the Committee to object to the application. South Flatts Farmhouse was the only property at the eastern end of the proposed quarry extension which was not financially linked to the scheme.

Mr Alexander informed the Committee that he had tried to negotiate with the developer to moderate phase 3 at the eastern end of the scheme but had almost totally failed.

Mr Alexander had been left with no choice but to appeal to the Committee to protect not just his family’s health and quality of life, but also that of the residents of the

other four houses at the eastern end even though they had not objected because they were all financially linked to the scheme. These four houses were owned by the applicant and his family but this may not always be the case given this was a 26 year programme.

The application was a major extension to Kilmond Wood Quarry and would result in huge amounts of valuable stone being removed. Unfortunately this could not be done without producing noise and dust. The direction of working, the direction of haul and the prevailing wind direction all combined to mean that any limestone dust leaving the void would end up at the eastern end. One house was only 50 metres from the edge of the quarry in phase 3. Originally there was no buffer zone proposed at this end at all but after Mr Alexander raised this issue with the planning officer the application was amended to include a 15 metres barrier planted up soon after permission was granted.

The proposed buffer zone of 15 metres was not sufficient to afford protection from a quarry that stretched almost two kilometres from west to east, a quarry which would 12 hours a day, 6 days a week with the wind blowing directly towards South Flatts Farmhouse.

The County's Landscape Team had confirmed that buffer zones did mitigate the effects of noise and dust. The Saved Local Mineral Plan stipulated a set back distance of 250 for noise and dust and 500 metres for blasting to a group of ten residential properties. Mr Alexander failed to understand why ten should be protected and six not. The Welsh government imposed a 200 metre buffer zone on all hard stone quarries in Wales, Derbyshire 200 metres, Oxfordshire 100 metres, Gloucestershire 250 metres and Cumbria 250 metres. Mr Alexander could find no evidence that any authority in the UK had imposed just 15 metres on a hard stone quarry where blasting and stone crushing took place. He had asked for 250 metres, or halting the scheme at the historic quarry, which provided a natural break, since March. Ten days ago before submitting his objection Mr Alexander rang the developer's agent to raise this again, to request that this be put to his client. The agent had said that he would, but that he wasn't hopeful that his client would agree. When asked why a modest barrier of 250 metres that didn't in any way threaten the viability of the scheme would be rejected he answered that his client wanted to maximise his return on his investment.

Mr Alexander informed the Committee he was making representations to maximise the protection of his family and future families at the eastern end of Kilmond Wood Quarry. He urged the Committee to err on the side of caution and impose a condition to increase the 15 metre buffer zone at the eastern end in line with the Council's saved local mineral plan and those of other authorities. This was vitally important to Mr Alexander due to a serious medical condition of his son which made him dangerously at risk from increased dust levels in the atmosphere.

The planning officer had stated that no dust should leave the quarry void but Mr Alexander informed the Committee that it did. If noise and dust action plans were broken enforcement was always retrospective and by then the damage would be done. The dust action plan was revised in September 2016 and yet on the 15 September he had observed several breaches of this plan in 15 minutes. The

applicant argued it was an important scheme which outweighed any nuisance it may cause. While it was an important scheme Mr Alexander questioned whether it was more important than his son's health and the quality of life of the people living at the eastern end.

The financial success of this scheme would not be jeopardised by an increased buffer zone of 250 metres, which was a reasonable request. This would ensure the NPPF's statement that local planning authorities should ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source was achieved.

The 250 metre buffer zone would alleviate concern among residents and could only improve quality of life. While not opposing the scheme in general, Mr Alexander simply asked for it to be sensibly and responsibly moderated. The additional noise survey readings which had been referred to were taken last week and the data only received this morning so it had come too late for Mr Alexander to properly consider it in his evidence to the Committee.

Mr J Dickinson of WYG Planning, acting on behalf of Kearton Farms Limited addressed the Committee in support of the applications.

Kearton Farms proposed an eastward extension to Kilmondwood Quarry for the winning and working of 5 million tonnes of Carboniferous limestone over 26 years and 6 months.

The extension scheme had been assessed in relation to a comprehensive range of environmental matters, including noise, air quality and dust, which were matters raised by Mr Alexander of South Flatts in relation to their property some 340 metres distant from the eastern limit of excavation. In this respect, it was concluded that the extension scheme would be environmentally acceptable subject to planning conditions.

No statutory or internal DCC consultees had objected to the scheme.

The many benefits of the Extension Scheme included:

- the extraction of 5 million tonnes of carboniferous limestone to supply industrial markets and meet an identified need in the forthcoming Local Plan period to 2033;
- some 8 full time jobs, 4 existing and 4 new, for the duration of the extension scheme with the payment of approximately £5.9 million in salaries over the life of the site;
- businesses, including local companies, would be able to supply goods and services throughout the extension scheme;
- the restoration and aftercare proposals for the extension scheme had been designed to achieve the creation of habitat and species biodiversity appropriate to the locality and a long term landscape that could be managed in a sustainable manner.

It was considered that great weight should be attached to the benefits that would flow from the extension scheme, which would clearly help achieve economic growth and outweigh the likely impacts.

It was concluded that the extension scheme comprised sustainable development which accorded with the development plan and other material planning considerations including the NPPF.

Kearton Farms Limited requested that Members follow the Officer recommendation to grant permission for the Extension Scheme and the related revisions to the Periodic Review conditions.

Councillor Davidson sought clarity on the proposal made by Councillor R Bell that the buffer zone should be increased and the application be limited to a 10-year working time period.

N Carter, Planning and Development Solicitor informed the Committee that there was no relevant saved Local Plan Policy which prescribed a buffer zone distance in relation to the objector's situation. Officers were satisfied that the proposed conditions to the planning permission on noise and dust would adequately address amenity impacts and therefore there was no need for an increased, or indeed any, tree belt area in planning terms. The 15 metre tree belt area was being offered up by the applicant on a voluntary basis. As for the suggested reduction in the lifespan of operation of the quarry and quantity of material to be extracted, this would be a radical change to the application being considered by the Committee and it was not possible for the Planning Authority to make such a change unilaterally. The Committee must determine the application as presented to it. However, the Planning and Development Solicitor invited the Senior Planning Officer to comment further on the policy situation.

The Senior Planning Officer informed the Committee that the nearest residential property at Kilmond Wood Farm was 100 metres from the quarry. Policy M37 of the Minerals Local Plan referred to a 250m standoff distance from a group of 10 or more properties unless it was proved to be environmentally acceptable if closer. In this case Policy M37 was not applicable as the nearest group of 10 or more properties to the quarry was at Boldron which was some 600 metres away. It was also explained that the standoff distance was not an absolute and smaller distance could be acceptable if the application demonstrated that amenity would be protected. As part of this application it had been assessed that the quarry could operate without an increased buffer zone to the nearest property at Kilmond Wood Farm, which was some 100 metres away. The monitoring which had shown the proposed quarry extension to be acceptable had taken place without the proposed tree planting scheme on the 15 metre tree belt area.

Councillor Jewell informed the Committee that the proposed quarry extension would develop a large bowl long-term. The Drainage and Coastal Protection Officer had stated that water must be prevented from leaving the site and Councillor Jewell asked how this could be achieved and whether there was a risk of ponding.

The Senior Planning Officer replied that drainage occurred naturally through shale at the floor of the quarry and a hydrology assessment had shown this not to be an issue.

Councillor Boyes **moved** approval of the application, which accorded with NPPF Parts 3, 11 and 13 as well as Policy ENV 3 of the Teesdale Local Plan. However, he referred to the dust action plan and asked whether anything could be done over and above what was proposed to mitigate dust in light of the medical condition referred to by Mr Alexander.

The Senior Planning Officer replied that the Committee needed to consider the proposed scheme in its totality rather than individual aspects of it. An additional dust monitoring point would be added at South Flatts Farm and dust suppression measures would be in place in the quarry. With reference to the breaches of the dust action plan referred to by Mr Alexander, the Senior Planning Officer informed the Committee that these had recently been received and were being investigated.

Councillor Davidson informed the Committee that dust monitoring at South Flatts Farm and a further 5 sites would take place for the duration of working and added that dust could also be generated from traffic using the nearby A66.

Councillor Richardson informed the Committee that he considered the objector was not asking for too much in his request for a larger buffer zone because of his son's health condition. Councillor Bell, in his submission to the Committee, had referred to a buffer zone of 250 metres in the saved Local Mineral Plan. Councillor Richardson considered that there was a need for the quarry operators to be a good neighbour and he felt uneasy about the proposed buffer zone width. Councillor Richardson asked why the buffer zone could not be increased.

The Senior Planning Officer replied that the quarry site did not trigger the 250 metre buffer zone requirement because there were not 10 properties within 250 metres of the quarry. He added that the objector's property at South Flatts Farm was some 330 metres from the quarry site in any event.

Councillor Dixon informed the Committee that sites around the quarry would be constantly monitored to ensure that there was no impact from dust generation. He referred to the AONB Partnership raising no objections to the proposal subject to lighting being kept within the quarry void and asked how this would be achieved as it was not covered by condition.

The Senior Planning Officer replied that lighting was part of the working plan for the quarry. Lighting would only be around areas which were being worked and the quarry face was some 20 metres high which should keep lighting within the quarry void.

Councillor Dixon **seconded** approval of the application.

Councillor Davidson asked where monitoring currently took place. The Senior Planning Officer replied this was at Kilmond Wood Cottage and South Flatts Farm.

Councillor Clare informed the Committee that the only way the Committee could impose a wider buffer zone would be by condition but there were no grounds to do this. The Committee could not refuse planning permission because it met all planning requirements for approval. The application came with a strong emotional and moral impact, but any amendment would require the applicant to amend the application.

Councillor Holland agreed with Councillor Clare. He had been impressed with the high quality of operation of the quarry when on the Committee site visit and the officer report stated the case for approval of the application. There was no case for the Committee to refuse the application or increase the buffer zone as this would mean altering the application and that couldn't be done for just one person. There was an economic need for this development in the area. Councillor Holland added that when purchasing a house which was located near to a quarry, some noise and dust must be anticipated.

Upon a vote being taken it was

Resolved:

That the application be approved subject to the Conditions contained in the report, as amended.

b 1. DM/14/02371/VOCMW and 2. DM/14/02372/WAS - Land at Birtley Quarry, Station Lane, Birtley

The Committee considered a report of the Senior Planning Officer regarding applications for (1) variation of Conditions 1 (approved documents), 5 and 6 (matters requiring subsequent approval), 7 and 8 (completion date), 9 (future works required) 13, 14, 17-21 (topsoil stripping and bunding works), 23 and 24 (method of working), 29 (equipment), 30 (noise), 32 (site maintenance), 34 (archaeology), 35 and 36 (removal of site compound, access & haul roads), 37 (provision of surface features) and 41 (maintenance of hedges and trees) of Planning Permission 2/88/116CM, and (2) remediation works using recovered inert waste materials to achieve suitable and stable restoration profiles for northern and southern faces of the quarry at Birtley Quarry, Station Lane, Birtley (for copy see file of Minutes).

C Teasdale, Principal Planning Officer gave a detailed presentation on the applications which included a site location plan, aerial photographs and views of the existing quarry.

The Principal Planning Officer informed the Committee that the conditions contained in the report had been amended and a new set of Conditions for each application were proposed. These had been circulated to Committee Members and would be placed on the Minutes file for the meeting.

Councillor Holland informed the Committee that he accepted the professionalism of officers in the recommendations in the report. He **moved** approval of the applications.

Councillor Boyes agreed with Councillor Holland and **seconded** approval of the applications.

Resolved:

That the applications be approved, subject to the amended Conditions as circulated and completion of a planning obligation in respect of application DM/14/02371/VOCMW.