

Planning Committee

17 April 2007



Teesdale District: 1) Periodic review of existing planning permission (which also seeks to extend the permitted time period for extraction in the area covered by Planning Permission No. 6/86/227CM), 2) extension to the existing quarry and 3) details to discharge requirements for restoration and aftercare for the site under the requirements of Planning Permission No. CMA/6/3 Shipley Banks Quarry, Marwood, Barnard Castle for Shipley Quarries Ltd.

Joint report of Rod Lugg, Head of Environment and Planning and Lesley Davies, Acting Director of Corporate Services

Background

- 1 Shipley Banks Quarry is a small operational sandstone quarry, located approximately 3 miles north of Barnard Castle.
- 2 On 22 December 2004 the Planning Committee considered two submissions relating to the Quarry. One was in connection with a periodic Review of Planning Permission No. 6/86/227CM under the requirements of the Environment Act 1995. The second concerned an extension to the north west and south of the existing working area (approximately 0.3ha and 0.1ha of land respectively). As part of the Review the operator also applied to extend the life of the existing permission and supplied details to discharge requirements for restoration and aftercare for the site. The report that was presented to the Planning Committee detailing the proposals is attached to this report for information as Appendix A.
- 3 Having visited the site and considered the report the Planning Committee resolved to accept the intended new scheme of conditions in respect of the Quarry, grant planning permission for mineral extraction at the site to 2030 and discharge the restoration and aftercare requirements. It was also resolved that planning permission be granted for the small area extensions.

Legal Agreements

- 4 It was stated in the report that if planning permission was granted for the extension application, the site operator would be willing to surrender the right to work reserves in the older permission area (MRA/6/4) and bring forward the end date of that permission. A legal

agreement to render inoperative the existing planning permissions was needed to achieve this, and enable the site to be operated under one planning permission and schedule of conditions. It was also reported that the site operator was willing to enter into an agreement to provide for the long-term management of the site once restored. Prior to determination of the application draft legal agreements were sent to the applicant via his agent. The resolution to grant planning permission was therefore made subject to the signing of appropriate legal agreements.

Current Position

- 5 Unfortunately since the Committee resolution, it has not been possible to issue the planning permission because the applicant has refused to sign the agreements. All persons with an interest in the land are required to be parties to the agreements. The applicant is unhappy that his bank must be party to the agreement and is under the impression that it has been approached directly by the Council regarding this matter. This is not the case and it is the applicant's responsibility to make suitable arrangements with his bank.

- 6 The applicant has also stated that his legal advisers consider that all rights of access over the proposed consolidation area are incorporated into the legal agreements in order to protect road users and access to adjoining property. Due to issues surrounding the use and maintenance of the access to the site (refer to paragraphs 27 to 29 of the attached 2004 Committee Report) an early version of one of the legal agreements referred to a requirement to maintain the access road to the site to a standard satisfactory to the Council. This reference was removed in subsequent drafts and replaced by a condition to require the applicant to bring up to standard and maintain that part of the access track in his ownership to the satisfaction of the Mineral Planning Authority. The maintenance of the remainder of the track would be a private matter between the parties. However, prior to commencing in the extension area (if planning permission were granted) a "Grampian" condition could require the 'one-off' repair of this stretch of track to the satisfaction of the Mineral Planning Authority. The proposed legal agreements do not affect access issues and it is unclear why it has been raised as an issue.

- 7 Numerous letters have been sent to the applicant over the last two years to explain what is needed to complete the legal agreements. The terms of the legal agreements are not particularly onerous or unusual. Unfortunately his responses have not assisted in moving matters forward nor has he agreed to requests for meetings with officers in order to discuss his and his legal advisers concerns regarding the signing of the legal agreements. This situation cannot continue indefinitely and alternative measures to deal with the planning position are now needed.

Recommendation and Reasons

- 8 When the Review application was made the site operator wished to consolidate two existing planning permissions so that the entire site could operate under one set of conditions. The legal agreement was the mechanism to achieve a consolidated consent. The granting of planning permission for the extension areas was intended to allow a reasonable expansion of future working subject to the same conditions. The site can still operate to modern planning standards without the legal agreement but two schedules of conditions would exist at the existing quarry with differing end dates for mineral extraction. Previously agreed restoration and aftercare details for part of the quarry can still be implemented. However, it was intended that these would be included within a package of wider restoration and aftercare requirements for the whole site to a new timetable. This also cannot happen without a consolidated permission. A decision not to issue the planning permission for the extension areas as part of the larger scheme would also be regrettable but would not preclude consideration of a further submission on its planning merits at a later date.
- 9 Having regard to the difficulties encountered over an extended period in delivering a satisfactory outcome to earlier Planning Committee decisions, I therefore **recommend** that:
- (i) the earlier Committee resolution to approve the application for an extension to the quarry be rescinded. If this recommendation were accepted then a further planning application would need to be made in the future for an extension to the quarry.
 - (ii) the new schedule of working and restoration conditions for Planning Permission No. 6/86/227CM be issued along with an extension of time until 2030 for quarrying in the current quarry area. The suggested draft schedule of conditions is attached to this Report but may need some detailed adjustments. In addition the requirements of conditions relating to Planning Permission No. CMA/6/3 (6/2001/0253/CM) should also be agreed.

No departure

Background Papers

Planning application forms, certificates, supporting statements dated 30/04/02 and 01/05/02.

Plans:

- EXT/02/01 Location Plan
- EXT/02/02 New application area, localised tenure, existing consents (revised June 2004)
- EXT/02/03 Tenure and access, footpaths
- EXT/02/03 Tenure and access (revised June 2004)
- EXT/02/03 Tenure and access, footpaths (revised June 2004)
- EXT/02/04 Proposed extension area Working scheme stage I
- EXT/02/05 Proposed extension area Working scheme end of stage II

- EXT/02/06 Proposed extension area Working scheme end of stage II – storage and turning areas bunded.
- EXT/02/06 Proposed extension area Working scheme final landform
- Plan No. 227/REV/01 Permission areas, adjacent ownership and access
- Plan No. 227/REV/02 Situation at 30/04/02
- Plan No. 227/REV/03 Establishment of working strip and progressive reinstatement
- Plan No. 227/REV/04 Dispersal of subsoil and topsoil
- Plan No. 227/REV/05 final landform of 6/86/227CM & MRA/6/4
- North-west ownership boundary (revised June 2004)

Letters from Whitehouse Services to Durham County Council dated 30/04/02, 13/10/02, 12/11/02, 24/09/03, 24/06/04, 11/08/04, 08/09/04 and 06/10/04.

Consultation letters and responses, representations and other correspondence on the application file CMA/6/33 & MRA/6/8.

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