

## Planning Committee

17 October 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.**

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

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#### **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 and agreed in principle. 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 operator has refused to sign the agreements. The terms of the agreements are not particularly complicated or unusual and numerous letters were sent by to the operator from the planning authority for over 2 years to try to resolve the matter. These did not achieve the desired effect and the operator's responses were not helpful in this respect. Having regard to the difficulties encountered over an extended period to achieve a satisfactory outcome to earlier decisions, a report was presented to the Planning Committee on 17 April 2007 suggesting an alternative course of action to resolve the matter including rescinding the earlier Committee decision in respect to the proposed extensions (report attached for information as Appendix B).
- 6 At the meeting it was reported that a letter had been received from the Quarry Operator asking the Committee to defer making a decision on the issue as he would be able to get all parties to sign the required legal agreements within three months.
- 7 The Planning Committee therefore agreed that the matter be deferred and a letter be sent to the operator advising that a meeting to settle the legal agreements be arranged as soon as possible and that the legal agreement should be signed within three months.
- 8 After several attempts to agree a date for a meeting, officers eventually met the operator's wife and son on 11 June 2007, without legal representation at their request. Previous concerns regarding the signing of the legal agreements were highlighted together with those relating to the inclusion of the access track within the application area, the giving up of reserves in the old permission area and reducing the end date of the permission in this area.
- 9 Following the meeting and in the light of comments made a letter was sent to the operator with suggested amendments to the application boundary and the legal agreements to address the issues raised. However, no specific response or agreement to the proposals has been received despite several written reminders. The operator was therefore advised that the matter was being reported back to the Planning Committee.

- 10 Having taken every reasonable step to bring this matter to a satisfactory conclusion the Committee is therefore advised that the operator is still unwilling or unable to agree to the terms of the legal agreements. Moreover, based on experience to date it is the view of Planning and Legal Officers that the earlier resolutions made in December 2004 are incapable of implementation in their original form.

### **Effect of not signing the Legal Agreements**

- 11 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 planning permission for the extension areas was intended to allow a reasonable expansion of future working subject to the same conditions. Without the legal agreement the site can still operate to modern planning standards but two schedules of conditions would exist at the 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.
- 12 Whilst the consolidated consent represented a good practice approach to clarifying and rationalising the planning position on the site, it was considered in December 2004 that the 'package' secured by the legal agreement was an added bonus to works that were otherwise acceptable in planning terms. This view has not changed in respect to the planning merits of the proposals. The site is a small scale quarry with low rates of working and limited environmental impact on the wider surroundings. The scheme of conditions for the existing quarry would be in line with modern day requirements and the extension areas are limited in extent. I therefore do not consider that the failure to sign the legal agreements is sufficient reason not to issue the schedule of conditions or refuse planning permission for the extension areas.

### **Conclusion and Recommendation**

- 13 In view of difficulties encountered over an extended period with regard to the completion of legal agreements and the need to formally resolve the planning position on the previously reported but as yet undetermined applications at Shipley Banks Quarry, it has become necessary to revisit and revise the earlier Planning Committee resolutions made in December 2004 in respect to these matters.
- 14 Despite all reasonable efforts to explain the terms of the legal agreements and get these agreed, there appears to be no desire on the part of the operator to sign up to the issues covered. It is therefore considered that the earlier Committee decision in respect to the agreements be rescinded. This would mean that part of the quarry would continue to operate under one consent up to the permitted date

of 2042, and the permission subject to Periodic Review and proposed extension areas and would operate up to 2030.

- 15 Notwithstanding the loss of any wider environmental benefits linked to the agreements, it is considered that the planning merits of the submitted applications relating to this small scale quarrying operation are such that there is no reason to change previous recommendations in respect to the scheme of conditions and the extension area.
- 16 I therefore **recommend** that the Committee:
- i) Accepts the previously agreed scheme of conditions in respect of Shipley Banks Quarry (with minor modifications) attached to the December 2004 Committee Report (Appendix A) that planning permission be granted for an extension of time for mineral extraction in the existing permission area to 2030, and the requirements of Planning Permission No. CMA/6/3 (6/2001/0253/CM) relating to restoration and aftercare requirements be discharged.
  - ii) Planning permission be granted for the small extension areas as previously agreed and for reasons stated in the December 2004 Committee Report (Appendix A).
  - iii) The previous requirement for legal agreements be rescinded.

### **Minor departure**

#### **Background Papers**

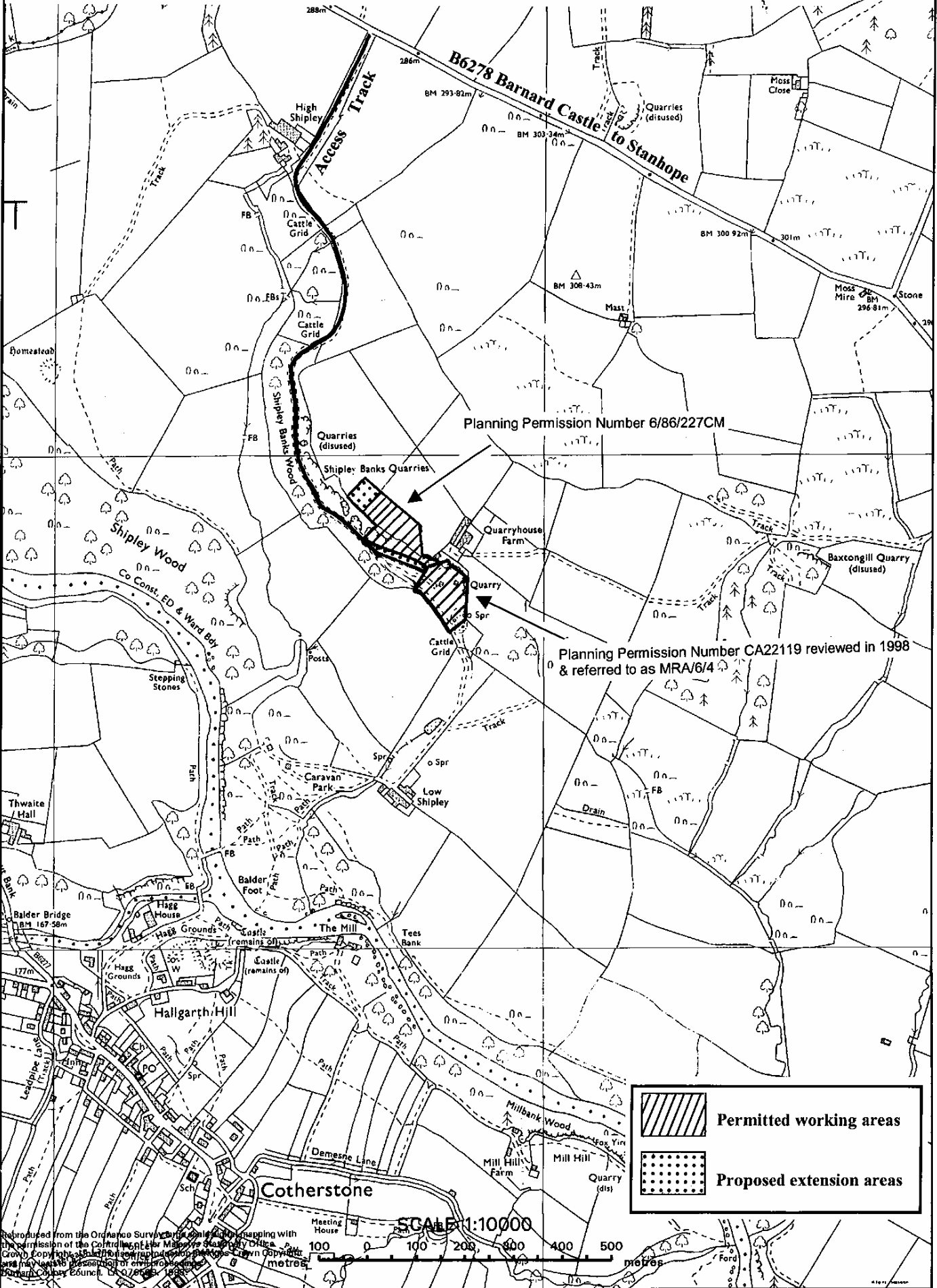
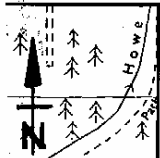
Planning application forms, certificates, supporting statements Consultation letters and responses, representations and other correspondence on the application file CMA/6/33 & MRA/6/8.

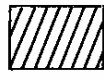
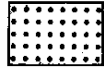
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	Permitted working areas
	Proposed extension areas

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