

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (General Development Procedure) Order 1995.

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Office of the Chief Executive in the Civic Centre or via the internet at www.sunderland.gov.uk/online-applications/

Janet Johnson
Deputy Chief Executive

Reference No.: 07/05522/VAR Variation of Condition

Proposal: Variation of conditions 7 and 8 of planning permission no.99/0791/FUL to extend the period for mineral extraction to July 2013 and to extend the period for restoration to overburden level to December 2013. (Amended Timescales)

Location: Eppleton Colliery Downs Pit Lane Hetton le Hole Houghton-Le-Spring DH5 9NL

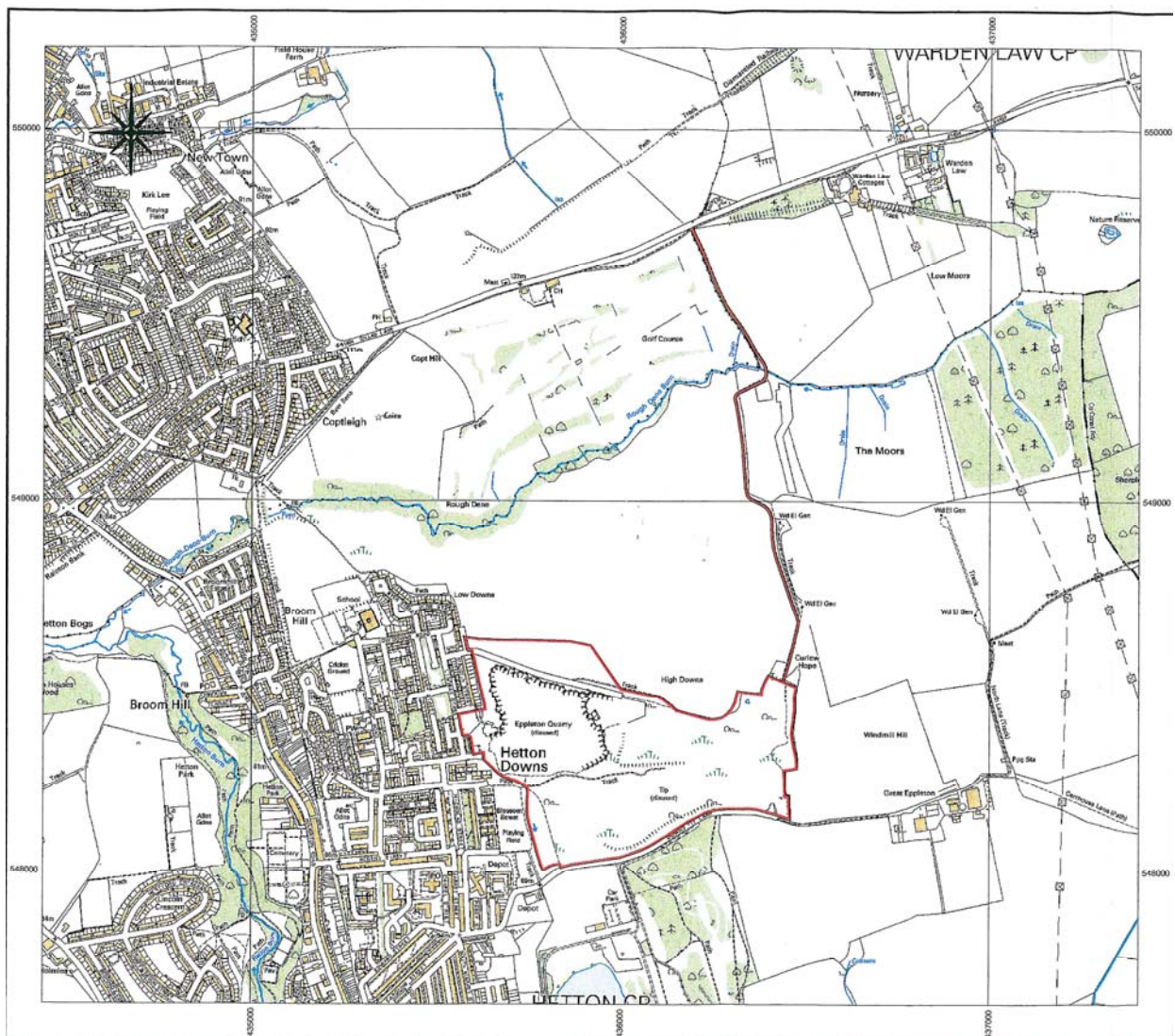
Ward: Copt Hill

Applicant: Eppleton Quarry Products

Date Valid: 7 January 2008

Target Date: 3 March 2008

Location Plan



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At the last meeting of the Sub-Committee it was requested that a progress report on this application be made at this meeting and which is provided below.

PROPOSAL:

Planning permission for Eppleton Quarry was granted on 2nd April 2001, subject to 90 Conditions and a Section 106 Agreement. Mineral extraction and site operations commenced in April 2001 and the original Planning Permission (Reference: 99/791/FUL) required mineral extraction of sand and limestone to cease by April 2005. In 2004 it became apparent that due to an underestimation of the volume of sand, limestone, coal and red shale, the original programme for completion could not be achieved. An application was then submitted to amend Conditions 7 and 8 of Planning Permission (Reference: 99/791/FUL). In February 2006 planning permission was then granted to extend the date for completion of mineral extraction to April 2008 and for restoration to overburden level to September 2008.

Following a drilling programme in 2007 it was found that sand and limestone reserves were more extensive than was previously thought. Consequently a Section 73 Planning Application was submitted in December 2007 to modify Conditions 7 and 8 of Planning Permission 99/791/FUL to extend the period for mineral extraction to April 2011 and to extend the period for restoration to September 2011.

An Environmental Statement was submitted which accompanies both this Section 73 Application as well as the Extension Scheme Full Application (Reference: 07/05523/FUL), referred to below.

Originally it was estimated within the Supporting Statement that 1.25 million tonnes of recoverable materials remained to be worked at April 2008, however, the applicant subsequently confirmed in a letter dated 28 May 2008 1.5 million is the correct figure.

Rates of extraction were also amended. An end date of April 2011 for mineral extraction was shown within the Supporting Statement, however whilst reviewing the planning application and using most recent available production rates it was considered it would take approximately 5.25 years to remove all minerals under this application.

The Section 73 Planning Application submitted in December 2007 has therefore been revised and the time period for mineral extraction on site amended. It is now proposed that Conditions 7 and 8 are amended as follows:

Condition 7 of Planning Permission (Reference: 99/791/FUL) as first modified by Planning Permission (Reference: 05/384/LEG) is further modified to allow mineral extraction to continue until July 2013; and

Condition 8 of Planning Permission (Reference: 99/791/FUL) as first modified by Planning Permission (Reference: 05/384/LEG) is further modified to require that the restoration to overburden level be completed by December 2013.

The following report is intended firstly to inform members of the current position regarding the application and to request that the application be referred to Planning and Highways Committee.

PLANNING HISTORY

The area surrounding the application site has historically been subject to coal mining and is associated with the former Eppleton Colliery and Quarry.

On 28th June 1999 Hall Construction Services Ltd (Halls) submitted a full planning application (supported by an Environmental Impact Assessment) for the reclamation of the disused quarry and colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare on 37.76ha of land (Application Reference; 99/00791/FUL). The restoration scheme was intended to be an extension to Hetton Lyons Country Park. The Planning Application was approved on 26th February 2001 subject to 90 Conditions and a Section 106 Agreement.

The Section 106 Agreement was entered into between the owners of the land at Eppleton Quarry, Minivest (Eppleton) Limited, Halls and the Council. The obligations under this agreement were:

- HGV access to and from the site shall only be via the approved site access to the B1404, turning left to the mini-roundabout (now the B1260/B1404 junction), turning right along Seaham Road (B1404) to join the A690. Returning traffic will follow the same route;
- At the conclusion of the restoration period public access shall be permitted along all footpaths and bridleways for recreational purposes only;
- At the conclusion of the aftercare period specified in the planning permission the land shall be transferred to the Council for a nominal consideration of £1.00, subject to a clawback provision in favour of the transferor in respect of any increase in value of the land which may accrue during the period of 80 years from the date of transfer as a result of planning permission being granted; and
- Unless and until the transfer above is affected the site shall be maintained beyond the aftercare period to the satisfaction of the Council.

It would appear that following the statutory 5 year aftercare period it is intended that the ownership of the land will transfer to the Council along with maintenance obligations, although if the applicant decides to retain ownership public access would be permitted and the owner would be required to maintain the site.

Condition 7 stated that all mineral extraction should cease no later than 4 years from commencement of operations on site. Operations on site commenced in 2001 with an end date of April 2005.

Condition 40 of the original permission stated that no blasting was to take place on site. A Section 73 Application to allow blasting on site, by amending Condition 40, was submitted on the 16th August 2002 (Application Reference: 02/01686/VAR). This Application was then granted consent on 24th September 2003 subject to 5 additional conditions to ensure:

1. No blasting was to take place until further blasting technique details had been submitted and agreed with SCC;
2. Blasting will not take place more than twice in any 4 week period;
3. Blasting should only be carried out between 10.00 am and 3.00pm Monday to Friday and not on Weekends or Bank Holidays;
4. Details of visual or audible warnings should be submitted to SCC, before blasting commenced on site; and
5. No component of the peak particle velocity, attributable, to any blast shall exceed 6mm/s.

A further Section 73 Application was then submitted in February 2005 (Application Reference: 05/00384/VAR) to vary Conditions 7 and 8 of planning permission (Application Reference: 99/00791/FUL) to extend the period for mineral extraction to April 2008 and to extend the period for restoration to overburden level to September 2008. This Application was granted permission in September 2006 subject to a Section 106 Agreement. The Section 106 Agreement was dated 20th February 2006 and was between the Council and Halls. Halls were obligated to pay the sum of £5,000.00 to the Council as a financial contribution towards providing a vehicle activated speed warning sign on Seaham Road/ Market Place in Houghton-le-Spring. This speed warning sign is now in place on Seaham Road.

A full application for an extension to Eppleton Quarry was submitted on 19th December 2007 and is currently pending consideration in parallel to this application. The latter application is an Environmental Impact Assessment application. The submitted Environmental Statement has subsequently been added to accompany this Section 73 Application.

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted

CONSULTEES:

County Archaeologist
Hetton Town Council
Environment Agency
Gateshead MBC
Gateshead Council
UK Gas Business
National Grid Transco
Director of Community And Cultural Services
Durham County Council
Durham City Council
North East Regional Assembly
North East Regional Aggregate Working Party
Northern Electric

DEFRA - Rural Development Service
Durham Wildlife Trust
Easington District Council
Great North Forest
Northumbrian Water

UK Gas Business
Northumbrian Water
County Archaeologist
Hetton Town Council
Environment Agency
Government Office For North East - Planning Issues
Government Office For The North East
Health & Safety Executive

Final Date for Receipt of Representations: **20.08.2008**

REPRESENTATIONS:

Neighbour Responses

5 letters of objections have been received in relation to the application. The main concerns raised relate to quarry traffic and blasting and are summarised below:

- Lorries are not operating within the timescale - 7.00am to 6.00pm;
- There are more HGVs than the maximum permitted amount (10 per hour) travelling along Seaham Road to the Quarry;
- Lorries are not always sheeted;
- Damage to private motor cars from material blown from or deposited by the HGVs;
- Noise and vibration from HGVs carrying loads to and from the quarry;
- Speed of lorries travelling along Seaham Road;
- Damage to the public roads by the HGVs;
- Damage to house foundations, water mains and gas mains from vehicle vibrations; and
- Damage caused to homes by blasting.

All of the objectors have indicated measures which they consider would help alleviate the current problems, including:

- Lorries should only travel down Seaham Road when they are empty;
- Numbers of HGVs travelling along Seaham Road should be monitored;
- HGV traffic should be re-routed making use of Warden Law or the B1404 through Seaton;
- Reduce traffic flows by a half;
- Lift the weight restriction at Seaham to allow Quarry vehicles to access the A19;
- Change operating hours to 8.30am - 5.00pm with no work taking place at the weekend;
- Houses to be assessed for structural damage (any found should be corrected); and
- A geological survey should be carried out to discover whether aftershocks are travelling along a disused mine shaft.

Public exhibitions were also held on the 27th and 28th August 2008 at Hetton Centre and Houghton Library respectively to give the public the opportunity to view proposals and to comment on them. A consultation report was produced outlining the outcomes of the exhibitions.

Comments from members of the public included;

- Issues of 'dust problem and duration' of the scheme;
- The quarry itself being 'an eye sore';
- 'Loss of amenity, destruction of the environment and traffic problems in Houghton Market Place'; and
- The changing nature of the new full application was also outlined, in that the Section 73 Application and previous applications were for a reclamation scheme, whereas the full application is for mineral extraction.

Members of the public noted that the extension of timescales at the quarry prolong the associated impacts of the development. Many feel that had they known the development would require a 2013 end date at the start it may not have been an issue, but they feel like they had not been fully informed of development proposals at the very start.

General comments regarding the quarry were that HGV drivers were not adhering to the approved traffic route. For example, drivers are allegedly using Downs Pit Lane and Gillas Lane East. One resident mentioned that they had complained many times but it was still occurring. Another comment regarding HGV drivers was that they were not always operating within permitted hours of working (0700 to 1800 Monday to Friday).

Those who did not live in close proximity to the quarry generally gave the impression that the developments would result in a positive change for the area once the site was reclaimed, as the extended Hetton Lyons Country Park.

Consultee Responses:

The County Archaeologist has commented that there are no archaeological implications associated with the proposals.

National Grid Transco has responded and considers that the risks associated with the development are negligible.

The North East Regional Aggregates Working Party (NERAWP) has responded but cannot comment on the need for Permian Sand as this is a specialist type of material. However, in more general terms, if the proposals at Eppleton are not approved, there will be two quarries in Tyne and Wear producing sand and gravel. Therefore, the impact of this in Tyne and Wear must be considered. In addition, Crushed Rock is only produced at Eppleton and Marsden Quarries within Tyne and Wear. NERAWP have concerns that if Eppleton ceases to produce limestone, Marsden will not be able to produce enough to meet the Tyne and Wear crushed rock apportionment figures.

The North East Regional Assembly commented that there are no significant issues of non conformity with regional planning policy and the broad objectives for minerals. However, they recommend that the Local Authority should assess

the proposals and outcomes of the Environmental Statement against the Local Planning Policies.

The Council's Planning Implementation Manager states that the site is located within the Hetton Downs Area Action Plan (HDAAP) (at Preferred Options stage). The HDAAP was based on an assumption that quarrying activities would cease by 2009. Policy HD18 and HD21 of the HDAAP propose development of leisure and recreation on the site. Also major housing renewal is outlined in the HDAAP with sites to the west of the quarry proposed for housing. The Policy Officer considers that the extension of time will have an adverse effect on the delivery of the HDAAP.

The Council's Planning Policy Manager states that the permission for the extension of time for extraction at Eppleton Quarry would extend the land bank for sand and gravel in Tyne and Wear. Concerns raised by NERAWP have been highlighted that cessation of production from Eppleton is likely to impact upon Tyne and Wear's ability to meet its apportionment for crushed rock.

It is also stated that consideration needs to be given as to whether the proposals will prejudice the implementation of the HDAAP. However, the HDAAP was due to be adopted in 2010 but is now 'on hold' due to a new highways proposal and the issue of the future of schools in Houghton and Hetton it is, therefore, considered that this document, although a material consideration, should not be a reason for refusal.

The Council's Transportation Manager has no objection to the proposals as there will be no increase in HGV movements and the vehicles will continue to use the existing route as part of the proposals.

The Environment Agency originally objected to the proposals as it was considered that they did not comply with the Water Framework Directive (2000/60/EC) and Planning Policy Statement 23 'Planning and Pollution Control' (PPS23) because there was insufficient information to demonstrate that there was no risk of pollution to controlled waters. This was due to the processing of colliery spoil on site to remove coal and red shale and the depositing of the remainder in the quarry void.

The Environment Agency did not have any information regarding the chemical properties of the processed material and found that the deposited colliery spoil presented a contamination risk to the underground aquifer which is in the Environment Agency's Groundwater Source Protection Zone. Such details as requested were submitted to the Environment Agency in May 2008 and they have now withdrawn their objection.

Comments have been received from Natural England regarding biodiversity, access and recreation issues, and on behalf of Defra regarding agricultural, soil resource protection and associated reclamation considerations.

Natural England expressed concerns over protected species and Biodiversity Action Plan (BAP) species that may be affected by the development, most notably great crested newts, badgers and nesting birds. Natural England considered that additional information should be provided to demonstrate whether the development would have an adverse affect. Although the concerns highlighted by Natural England were related to both the Section 73 Application

and the Full Application (Ref: 07/05523/FUL), it is considered they are more relevant to the extension scheme as this application relates to an extension of time for an existing planning permission rather than an extension of area. However, the concerns have been addressed below.

The Environmental Statement states that a risk assessment was undertaken which scoped out the presence of Protected and BAP Species, however, it was stated that information is required regarding how this risk assessment was undertaken.

A mitigation strategy, based on the impact assessment, was requested which was fully informed by survey results. The applicant provided the above details and these have been forwarded to Natural England by the Council. A response is awaited from Natural England.

Further to this, Natural England welcomes the principles for restoration including areas of hedgerows, woodland, wetland and magnesian limestone grassland.

Natural England also welcome the principle of access to the nature conservation based recreation at the site, however, they have stated that access should be monitored and if necessary managed to ensure that fragile habitats such as the magnesian limestone grassland are not adversely impacted. It is considered that this could be included within a management plan.

Regarding soils and recreation, Natural England on behalf of Defra, have stated that they have no objection to the scheme. However, they would like to be identified as an interested party in the aftercare process. Agriculture as a partial after use is thought to be appropriate.

Durham County Council responded and has no comments to make regarding the proposed development.

Durham City Council (now abolished) responded and had no objections or comments to make.

Hetton Town Council have to date only made a holding response but are aware that the application is likely to be determined early in 2010 and will be responding further.

The following consultees did not respond, therefore, it is assumed that they have no comments on the application.

- Northumbrian Water;
- Great North Forest;
- Property Services Manager;
- Durham Wildlife Trust;
- HSE - Health and Safety Executive;
- UK Gas Business;
- Government Office for the North East; and
- Northern Electric.

POLICIES:

National Policy

Planning Policy Statement 1 – ‘Delivering Sustainable Development’ (PPS1)

Paragraph 19 of PPS 1 states that Planning Authorities should seek to enhance the environment, as part of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which may reduce or eliminate those impacts considered.

The impacts of the proposed development are assessed in the Environmental Statement which accompanies both the Section 73 Planning Application and the Full Application in order to conform to current national guidance. This included landscape and visual amenity, noise, dust, blasting, ecology, soils and agriculture, hydrology and hydrogeology, archaeology and cultural heritage, site stability and transport. The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission the development is environmentally acceptable.

Developments must also be sustainable in economic sense and planning should recognise the wider sub-regional, regional or national benefits of economic development and consider these alongside any adverse local impacts. PPS1 goes on to state that planning should ensure that suitable locations are available for developments so that the economy can prosper.

Planning Policy Statement 7 – ‘Sustainable Development in Rural Areas’ (PPS7)

PPS7 encourages sustainable development in rural areas which contributes to the economy. The Supporting Statement considers that development will provide continued employment for the 42 people currently employed by Eppleton Quarry Products at the existing site including 26 HGV drivers who work full time and 4 head office/ ancillary staff working at Rushyford in County Durham and additional HGV drivers that sometimes work out of Eppleton Quarry.

The Supporting Statement also states that there are indirect employment benefits from the quarry which include those other companies who provide regular services to the site operations and supporting employment in the construction industry throughout the North East. It is considered that this may be the case; however, it is difficult to quantify the benefits associated with this.

Planning Policy Statement 9 – ‘Biodiversity and Geological Conservation’ (PPS9)

The proposals include the reclamation of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with PPS9 as they will make a contribution to the UK Biodiversity Action Plan as implemented through the Durham Biodiversity Action Plan.

Planning Policy Statement 13 – ‘Transport’ (PPG13)

Paragraph 46 of PPG13, states that conditions should be imposed to reduce the level of disturbance to residents, through noise and dust emissions from transport. Hours of operation at Eppleton Quarry are currently conditioned to

control noise disturbance and a set of conditions are also imposed to limit dust emissions. Paragraph 47 suggests that when dealing with minerals sites it is important to look at more sustainable methods of transporting materials to and from the site. In terms of Eppleton Quarry this is not an option as there is no viable alternative facility for transporting minerals by either water or rail.

Planning Policy Statement 23 – ‘Planning and Pollution Control’ (PPS 23)

PPS 23 on Planning and Pollution Control gives a broad requirement suggesting that for developments such as mineral workings, consideration must be given to the potential cumulative impacts on the surrounding area including noise and air pollution. Such assessments have been included within the supporting information to the application and conditions are attached to the existing permission ensuring that appropriate mitigation is put in place.

Minerals Planning Statement 1 – ‘Planning and Minerals’ (MPS1)

MPS1 includes guidance on the principles of sustainable development, supply, environmental, landscape, agriculture and water resource considerations. Paragraph 40 of MPS1 states that ‘minerals can only be worked where they naturally occur. Potential conflict can therefore arise between the benefits to society that minerals bring and impacts arising from their extraction and supply’. In particular, developments must ensure that the environmental impacts caused by minerals operations and the transport of materials are kept as far as possible to an acceptable minimum. The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the extension of the time limit.

Minerals Planning Statement 2 – ‘Controlling and mitigating the environmental effects of mineral extraction in England’ (MPS2)

The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the extension of the time limit.

Minerals Planning Guidance 7 – ‘Reclamation of Mineral Workings’ (MPG7)

MPG7 states that restoration and aftercare should provide the means to maintain or in some cases enhance the long term quality of land and landscapes. The proposals include the reclamation of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with MPG7 which states that ‘Mineral workings reclaimed to amenity use can therefore contribute to Government policies in respect of recreation and nature conservation, including making a contribution to the UK Biodiversity Action Plan.’

MPG7 also states that where there is serious doubt whether satisfactory reclamation can be achieved then there must also be a doubt whether permission for mineral working should be given.

The site restoration scheme (Drawing Number EPP/6/1/A) will be established by the applicant and maintained for 5 years following on from this; however, the Applicant is under no obligation to provide maintenance costs for the site after

this period. The Applicant has costed for the maintenance of the site at a figure of £11,597.41 per annum. It is considered unreasonable to ask the Applicant to provide maintenance costs for this Application when this was not requested for previous applications. As previously stated it would appear that in accordance with the Section 106 Agreement, maintenance beyond the statutory period will be undertaken by the Council.

Minerals Planning Guidance 11 – ‘The Control of Noise at Surface Mineral Workings’ (MPG11)

MPG11 sets noise limits for mineral workings at the closest receptors. A noise assessment has been carried out and details are set out in the supporting information to the proposals. This report has concluded that the noise emissions are below the noise limit. Therefore, the proposals are in line with MPG11.

Regional Policy

Under Section 38(3) of the Planning and Compulsory Purchase Act (2004), the Regional Spatial Strategy (RSS) is part of the statutory development plan. Unless material considerations indicate otherwise, determination of planning applications must be made in accordance with the RSS and other Development Plan Documents.

On 15th July 2008, the Department of Communities and Local Government published the final version of the North East of England RSS. The RSS sets out a broad development strategy for the region for the period up to 2021.

At the regional level the proposal is subject to the following policies:

Policy 42 ‘Overall Minerals Strategy’ sets out the criteria to be taken into account when determining mineral applications as follows:

"Minerals and Waste Development Frameworks, Minerals Development Frameworks, Local Development Frameworks, and planning proposals should:

- a. ensure that land is made available to provide an appropriate contribution to local, regional and national needs for minerals;
- b. ensure the prudent use of minerals resources in line with sustainable development objectives;
- c. ensure the effective environmental management of mineral extraction and processing sites, high quality restoration and aftercare, and appropriate beneficial after uses;
- d. promote the transport of minerals and minerals products by rail or water wherever practicable and minimise the effects of transport by road;
- e. identify and safeguard significant mineral resources from other types of development; and
- f. include criteria based policies against which individual minerals proposals will be assessed."

The proposals are in accordance with the above policy which is reflected by Sunderland City Council UDP Policy M8 Mineral Operations. This has been assessed in detail below.

Policy 8 ‘Protecting and Enhancing the Environment’, amongst other things sets out the need to consider the visual impact of proposals. This policy states that

'planning proposals should seek to maintain and enhance the quality, diversity and local distinctiveness of the environment'. The Environmental Statement addresses these issues and concludes that the proposals will enhance the environment through restoration of Eppleton Quarry to an extension to Hetton Lyons Country Park.

Policy 33 'Biodiversity & Geodiversity' states that strategies, plans and programmes, and planning proposals should ensure that the regions ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels. The restoration of Eppleton Quarry will make a contribution to biodiversity and geodiversity.

Policy 36 'Trees, Woodlands and Forests' states that strategies, plans and programmes, and planning proposals should seek to maximize the social, economic and environmental opportunities that trees, woodlands and forests present as well as the tourism development opportunities that they have whilst also facilitating the expansion of tree cover. The restoration of Eppleton Quarry to the Hetton Lyons Country Park is in line with these policies.

Local Policy

In the Unitary Development Plan 1998 the site is subject to the following policies:

B1 Priority areas for environmental improvements

CN15 Creation of the Great North Forest

CN23 Measures to conserve / improve wildlife corridors

EN15 Promoting / encouraging the reclamation of derelict land for appropriate uses

L3 Encouragement to regional recreation developments in appropriate locations

L4 Standards for outdoor sport and recreation

L5 Ensuring the availability of Public Parks and amenity open space

M3 Safeguarding Minerals against Unnecessary Sterilisation by Development

M8 Mineral Extraction

M9 Operational Controls

M12 Strategic requirements for development / extension of waste disposal/ transfer sites

M13 Consideration of applications not complying with M12

In the Sunderland City Council Core Strategy (Preferred Options) the site is subject to the following policies:

CS18 Mineral Safeguarding Areas

In the Sunderland City Council Hetton Downs Area Action Plan (Preferred Options) the site is subject to the following policies:

HD18 Hetton Lyons Country Park Extension

HD21 Great North Forest

COMMENTS:

The key issues to consider in determining the application are as follows:

- Continuation of the Land Use;
- Highways; In particular whether the present route is the best option to service the quarry during any time extension to the permission;
- Blasting;
- Need for the development, i.e. the present and future need for the sand and limestone;
- The Proposed Time Period; and
- Restoration and Maintenance Issues.

In reaching a recommendation on the application officers will consider these issues against the government minerals planning guidance and development plan policy, outlined above and other material considerations.

CONCLUSION

At the time of the initial application in 1999 and approved in 2001 the original intention was that the Applicant would take on a derelict site and reclaim the site at no cost to the council, whilst extracting all minerals so as not to unnecessarily sterilise reserves on site.

The site currently has planning permission for the reclamation of the disused quarry and colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare. Mineral extraction was permitted to April 2008 and the period for restoration to overburden level was permitted to September 2008.

Following a drilling programme on site sand and limestone reserves were assessed and found to be more extensive than was previously thought. A Section 73 Application was then submitted to extend the period for mineral extraction to April 2011 and to extend the period for restoration to September 2011. Following an assessment of rates of extraction, these were amended to allow mineral extraction to July 2013 and restoration to overburden level by December 2013.

Officers are currently in discussion with the applicant's agents and staff regarding the feasibility of their present restoration proposal and their relationship with possible longer term restoration works associated with any permission granted for the planning application to extend the quarry.

Both the time extension application and the minerals application to extend the area of the quarry are closely interrelated in terms of the issues they raise and the effect of any decision on one application impacting on consideration of the other application. The issue of working or sterilising reserves of limestone and sand relate to city wide policies in the UDP and the emerging Local Development Framework, as well as regional policies in the RSS and would impact on supplies of these materials in the future. Accordingly the sub-committee is recommended to refer both applications to Planning and Highways Committee for determination.

RECOMMENDATION: Refer to Planning and Highways

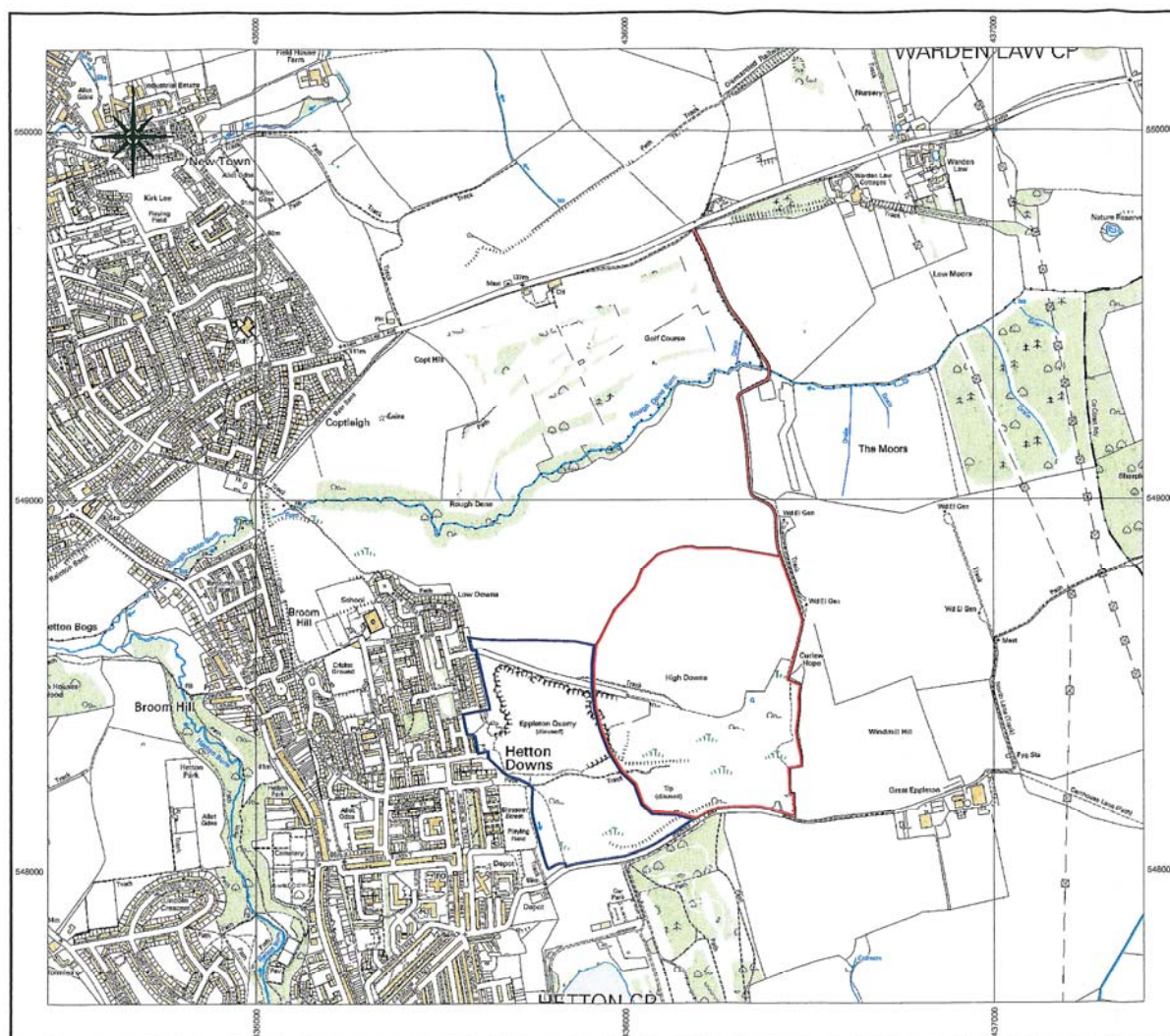
Reference No.: 07/05523/MID Mineral Applications

Proposal: Eppleton Quarry extension. Extraction of sand and limestone, importation of soils for restoration of existing quarry only. Restoration as extension to Hetton Lyons Country Park

Location: Eppleton Quarry Downs Pit Lane Hetton le Hole Houghton-Le-Spring DH5 9NL

Ward: Copt Hill
Applicant: Eppleton Quarry Products
Date Valid: 19 December 2007
Target Date: 13 February 2008

Location Plan



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At the last meeting of the Sub-Committee it was requested that a progress report be made on this application at this meeting and this is provided below.

PROPOSAL:

The Application relates to the continuation of mineral extraction and site operations in the eastern part of the existing Eppleton Quarry area. This involves the continuation of sand and limestone extraction, however, the processing of colliery spoil which was previously permitted will have ceased. It is proposed that sand and limestone extraction will then continue northwards out of the existing quarry area, as shown on Drawing Number EPX/3/3.

Basal Permian sand is one of two minerals extracted at this quarry, however, this mineral lies underneath magnesian limestone, therefore it is necessary to remove limestone to facilitate the extraction of sand. The demand for overlying limestone, therefore, dictates the rate of production of sand.

The site covers a total area of 35 hectares with 16 hectares included within the eastern area of the existing site under Planning Permission 99/00791/FUL. An application for the reclamation of the disused quarry by: extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare. This area would remain operational under the new permission in order to facilitate the extraction of minerals within the extension area.

Currently the southern part of the application area is the existing quarry and the northern part of the site is arable agricultural land containing no trees, hedgerows or other boundary features.

The Application was submitted in 2007 and was accompanied by an Environmental Statement. The development falls within Schedule 1 of The Town and Country Planning Environmental Impact Assessment (EIA) (England and Wales) Regulations 1999 as a quarry where the surface area of the site exceeds 25 hectares. Schedule 1 developments automatically require an EIA and an accompanying Environmental Statement. The Environment Statement assessed the likely environmental impacts as a result of the development and suggested mitigation measures to reduce this which are discussed in detail below.

Following submission of the Environmental Statement and discussions with the Applicant and Sunderland City Council the restoration proposals originally submitted with the application have been revised. Further to this additional ecological information has also been submitted which will be discussed in more detail later.

The following report, which has been set out to describe the development as included in the Environmental Statement, followed by a brief planning history for Eppleton Quarry including previous Section 73 Applications, is intended firstly to inform members of the current position regarding the application, and to recommend that the application be referred to Planning and Highways Committee for the reasons outlined at the end of the report.

Publicity undertaken by the Council as part of the application has been outlined as well as consultees and their responses. An assessment of relevant national,

regional and local planning policy is also included below and the development has been discussed in detail in order to formulate a decision for the Application.

Site Establishment

Prior to any commencement of operations the site would be secured by a stock-proof perimeter fence and the existing permissive footpath which runs along the northern boundary of the existing site would be diverted around the northern boundary of the extension scheme.

Extraction

As stated within the Environmental Statement, the scheme, referred to throughout this report as the extension scheme, would involve the extraction of 6 million tonnes of sand and 6 million tonnes of limestone including 2.25 million tonnes of sand and 0.4 million tonnes of limestone within the existing operational area. The minerals in the existing operational area will be sterilised if the extension scheme does not go ahead as the minerals lie beneath a batter which will not be removed without the operation of the extension area.

The Application states that based on current production levels of sand (250,000 tonnes per annum) and the rate at which the overlying limestone will need to be removed to access the sand (250,000 tonnes per annum) the total estimated annual mineral production would be 500,000 tonnes. At this production rate the extension scheme would have an estimated production life of 24 years. Allowing plus or minus three years for fluctuations in demand and one year for completion of restoration, the extension scheme would have an estimated working life of between 22 and 28 years.

6 monthly progress reports are produced by Halls Construction and the most recent available progress report produced in May 2009, as well as earlier reports in 2008, indicate that due to the economic downturn production rates have reduced. The Council are awaiting the most recent Progress Report, November 2009, in order to confirm the reduced production rates.

The extension scheme would be worked in a similar way to the existing site, however, the processing of coal and red shale (colliery spoil) will have been completed under the previous planning application (Reference: 07/05522/VAR) a Section 73 Application to extend the period for mineral extraction and restoration to overburden level to 2013. The site would be worked using hydraulic excavators and dump trucks with blasting used, not more than once a month, to fracture limestone.

Limestone and sand will be worked in a series of benches progressing northwards and the excavated material will be transported to the crushing/processing area by dump truck.

Material would be drawn as required from a stockpile by a wheeled front loading shovel into the screening system. Stockpiles are currently located in the south east corner of the site and will remain in this location. All processed material would be loaded by front loading shovels into HGVs for transport off site.

Transport and Access

Within the Application for the extension scheme three traffic route options were outlined. Option 1 (permitted route from the original permission) would see vehicles exiting the haul road and turning west on to the B1404 Gillas Lane. At the junction with the B1260 Gillas Lane East, Gillas Lane becomes Seaham Road and the HGVs will take this route northwards.

Seaham Road then connects to the A690 north bound slip road via the roundabout junction of the B1404/ A690/ A182. Southbound HGVs must use the above roundabout to connect to the roundabout of the A1052/ A182/ A690. Vehicles would use the same route to the site from the A690.

Option1a would use the above route but also proposes the inclusion of traffic calming measures on the B1404 Seaham Road in the form of horizontal features, such as pinch points and chicanes.

Option 2 would see vehicles exiting the haul road and turning right along the B1404 then left onto Salter's Lane/ Hangman's Lane following the road to Stoneygate Junction to join the A690. Vehicles will use the same route to the site.

Option 3 would introduce a one way system where outgoing vehicles would exit right onto the B1404 Gillas Lane and use the Option 2 route to the A690. Incoming vehicles will use the Option 1 route from the A690 to the site.

Vehicular access would be via the existing site access road running north to the B1404 Gillas Lane through agricultural land.

The Applicant has stated they are willing to continue to use the existing route and implement traffic calming measures outlined in Option1a, however, Option 3 is their preferred scheme. The Application states that the overall level of traffic on the B1404 will be reduced although this would require alterations to the highway.

The Applicant does not consider it appropriate to pursue this option as the estimated costs of highway alterations are prohibitive.

After consultation with the Council's Transportation Manager the existing route (Option 1) is considered the most appropriate and vehicles should continue to use this route. The consultation will be outlined in detail later.

The Application states that in terms of vehicle movements there is a requirement of 105 HGV movements in and 105 out per day, as well as 10 LGV movements in and 10 out per day. The permitted scheme allows not more than 10 HGVs per hour on any working day averaged over a 6 month period. This equate to 95 HGV movements per day. Therefore there is an increase of 10 HGV movements in and out per day plus 10 LGV movements in and out per day. LGV movements were not covered under the conditions relating to the permitted scheme.

Hours of working

Hours of working are proposed to remain the same as the permitted scheme with mineral extraction, all working of reserves, stockpiles or any outdoor site activity (except for routine maintenance) restricted to the period 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1300 hours on Saturdays.

All vehicles entering and leaving the site would be restricted to the period of 0700 hours to 1730 hours Monday to Thursday, 0700 hours to 1700 hours on Fridays and 0700 hours to 1200 hours on Saturdays.

No site operations other than necessary pumping or emergency work would be undertaken on Sundays, Public or Bank Holidays.

Screening Mound

In the first year of the scheme overburden and soils from the extension area would be stripped and placed along the site boundary to create the screening mound. This mound would be formed working from south to north in a clockwise direction along the western boundary of the site and during this period extraction will take place within the north eastern section of the existing quarry.

The height of the screening mound would vary in different sections; the highest point in relation to surrounding levels would be along the western boundary where levels rise by up to 30 metres. The southern screening mound would be around 7.5 metres above surrounding levels and the northern screening mound, in places, would be 5 metres above surrounding levels. The construction of the screening mound is anticipated to take 18 months.

The screening mound would be cultivated and grass seeded and would be maintained by mechanical cutting at least five times a year. The proposed excavation area, now stripped of soils and overburden would have a cover of soil making material and would also be cultivated and seeded.

The screening mound would be removed on completion of mineral extraction in order to backfill the quarry void to achieve the restoration landform starting in the north eastern part of the site and working around to the western side and then the southern screening mound. The Application states that this will be undertaken in Phase 9: from 90 to 138 months from commencement of development.

Importation of soils

The extension area to the north of the present site is currently in agricultural use and the soils on this area would be used for the screening mound as previously stated. There are no soils on the existing site to achieve a satisfactory restoration scheme and the current planning permission allows the importation of soil and soil making material to place on the restored surface in order to provide a suitable substrate for the growth of trees, shrubs and grassland.

The extension scheme, therefore, includes provision for the continuation of the importation of soils for restoration purposes on the existing site area only. Stripped soils from the extension area would be returned to the same area to form the final restoration landform.

The importation of inert fills and soils under the permitted scheme is 3,400 tonnes per week (624,000 in total). It is unclear within the Supporting Statement the number of traffic movements that this will require and whether this is included under the total permitted number of HGV movements.

Restoration

As previously stated, revised landscape restoration plans have been subject to detailed discussion between Sunderland City Council and the Applicant and revised plans submitted. The proposed restoration scheme is as follows:

The whole of the extension scheme would be restored as a further extension to the Hetton Lyons Country Park and would have two functions.

An ephemeral wetland area (that is it only exists for a short period following rainfall) would be provided within the centre of the site surrounded by woodland and grassland with full public access including a network of multi-user routes. A small parking area will be provided from Downs Pit Lane.

The topography of the restored site would be such that the ephemeral pond would be at the base of the site with slopes on all sides planted in part with woodland. To the north of the extension area where the slope is steeper the land is mostly comprised of grassland which is considered to be suitable for grazing.

The subsoil surface would be stepped in the northern and north eastern restoration slopes to prevent slippage and movement of topsoil.

On completion of soil replacement a surface water drainage system would be installed to control water-flow and erosion. The drainage system would be directed into the proposed pond in the south west corner of Eppleton Quarry outside of this application site and the ephemeral pond in the centre of the extension scheme.

The second function comprises a 2.2ha fishing lake which would be provided to the south west of the site. In addition to the recreational use there would be an ecological aspect to the south east of the pond in order to increase biodiversity on site. This ecological aspect would not be used for fishing and would have gentler sloping sides than the fishing area to encourage an increase in flora and fauna in this area. A parking area would also be provided off Downs Pit Lane. Proposals for restoration include dense woodland covering the majority of the site interspersed with small areas of open space and multi-user routes.

It is considered that once the extension scheme is implemented the western area containing the 50 peg fishing lake will have been restored in the most part.

The restoration in this area will be undertaken as part of, and as a result, of planning permission being granted for this application. If permission is not granted for the extension scheme, restoration proposals for the western area of the scheme will remain as shown under Planning Application 07/05522/VAR the Section 73 Application for the extension of time, with a smaller pond unsuitable for fishing and increased informal open space. This is because the extension scheme contains clay required in order to provide a pond of 2.2ha in size, there is not enough material within the permitted scheme area to undertake this.

Tree and Shrub Planting

Trees and shrubs will be planted in the first available planting season (November to March inclusive) after the completion of soils restoration. The tree and shrub mix will comprise of native deciduous species.

Aftercare

The Environmental Statement states that the site will be subject to a 5 year aftercare period, but in the case of woodland this will be extended to 10 years. However, later on in the Environmental Statement it states that all of the site will be subject to a 10 year aftercare period, to ensure satisfactory establishment of the restoration scheme. This matter needs further clarification prior to any decision on the application.

Long Term Maintenance

The long term maintenance of the site under the permitted scheme will be controlled by the previous Section 106 agreement set out below. The Environmental Statement makes no mention of the long term maintenance of the site but it is considered that this will be controlled through a Section 106 Agreement prior to commencement of any development on site.

PLANNING HISTORY

The area surrounding the application site has historically been subject to coal mining and is associated with the former Eppleton Colliery and Quarry.

On 28th June 1999 Hall Construction Services Ltd (Halls) submitted a full planning application (supported by an EIA) for the reclamation of the disused quarry and colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare on 37.76ha of land (Application Reference; 99/00791/FUL). Sunderland City Council approved the application on 26th February 2001 subject to 90 Conditions and a Section 106 Agreement.

The Section 106 Agreement was entered into between the owners of the land at Eppleton Quarry, Mininvest (Eppleton) Limited, Halls and SCC. The obligations under this agreement were:

- HGV access to and from the site shall only be via the approved site access to the B1404, turning left to the mini-roundabout (now the B1260/B1404 junction), turning right along Seaham Road (B1404) to join the A690. Returning traffic will follow the same route;
- At the conclusion of the restoration period public access shall be permitted along all footpaths and bridleways for recreational purposes only;
- At the conclusion of the aftercare period specified in the planning permission the land shall be transferred to the Council for a nominal consideration of £1.00, subject to a clawback provision in favour of the transferor in respect of any increase in value of the land which may accrue during the period of 80 years from the date of transfer as a result of planning permission being granted; and
- Unless and until the transfer above is affected the site shall be maintained beyond the aftercare period to the satisfaction of the Council.

Condition 7 stated that all mineral extraction should cease no later than 4 years from commencement of operations on site. Operations on site commenced in 2001 with an end date of April 2005.

Condition 40 of the original permission stated that no blasting was to be allowed on site. The details of the original planning permission relative to blasting were later sought to be amended within a Section 73 Planning Application (Application Reference: 02/01686/VAR) submitted on the 16th August 2002. This Application was then granted permission on 24th September 2003.

A further Section 73 Planning Application was then submitted in February 2005 (Application Reference: 05/00384/VAR) to vary Conditions 7 and 8 of Planning Permission (Application Reference: 99/00791/FUL) to extend the period for mineral extraction to April 2008 and to extend the period for restoration to overburden level to September 2008. This Application was granted permission in September 2006 subject to the signing of a Section 106 Agreement and undertaking the above clauses. The Section 106 Agreement was dated 20th February 2006 and was between SCC and Halls. Halls were obligated to pay the sum of £5,000.00 to the Council as a financial contribution towards providing a vehicle activated speed warning sign on Seaham Road/ Market Place in Houghton-le-Spring. This speed warning sign is now in place on Seaham Road.

A Section 73 Planning Application to further modify Conditions 7 and 8 of Planning Permission (Reference: 99/791/FUL) as modified by Planning Permission (Reference: 05/384/LEG) to extend the period for Mineral Extraction to April 2011 and to extend the period for restoration to overburden level to September 2011 was submitted on 19th December 2007 and is currently pending determination (Reference: 07/05522/VAR).

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Health & Safety Executive
Durham Wildlife Trust
Easington District Council
Great North Forest
Northumbrian Water
County Archaeologist
Hetton Town Council
Director Of Community And Cultural Services
Environment Agency
Gateshead MBC
Durham County Council
Durham City Council
North East Regional Assembly
National Grid Transco
North East Regional Aggregate Working Party
Northern Electric
Government Office For The North East
Government Office For North East - Planning Issues
DEFRA - Rural Development Service

Final Date for Receipt of Representations: **02.03.2009**

REPRESENTATIONS:

Neighbours

5 letters of objection have been received in relation to the application. The main concerns raised relate to quarry traffic and blasting and are summarised below:

- Lorries are not operating within the timescale from 7.00am - 6.00pm;
- There are more HGVs than the maximum permitted amount (10 per hour) travelling along Seaham Road to the Quarry;
- Lorries are not always sheeted;
- Damage to private motor cars from material blown from or deposited by the HGVs;
- Noise and vibration from HGVs carrying loads to and from the quarry;
- Speed of lorries travelling along Seaham Road;
- Damage to the public roads by the HGVs;
- Damage to house foundations, water mains and gas mains from vehicle vibrations; and
- All of the objectors have indicated measures which they consider would help alleviate the current problems, including:
 - Lorries should only travel down Seaham Road when they are empty;
 - Numbers of HGVs travelling along Seaham Road should be monitored;
 - HGV traffic should be re-routed making use of Warden Law or the B1404 through Seaton;
 - Reduce traffic flows by a half;
 - Lift the weight restriction at Seaham to allow Quarry vehicles to access the A19;
 - Change operating hours to 8.30am - 5.00pm with no work taking place at the weekend;
 - Houses to be assessed for structural damage (any found should be corrected); and
 - A geological survey should be carried out to discover whether aftershocks are travelling along a disused mine shaft.

Public exhibitions were also held on the 27th and 28th August 2008 at Hetton Centre and Houghton Library respectively to give the public the opportunity to view proposals and to comment on them. A consultation report was produced outlining the outcomes of the exhibitions and is available online. A summary of the issues is outlined below:

- Issues of 'dust problem and duration' of the scheme;
- The quarry itself being 'an eye sore';
- 'Loss of amenity, destruction of the environment and traffic problems in Houghton Market Place'; and
- The changing nature of the new full application was also outlined, in that the Section 73 Application and previous applications were for a reclamation scheme, whereas the full application is for mineral extraction.

The overriding comments regarding the full application were also timescales. The majority of those at the Exhibitions felt the proposed timescales for the development would have too much of a detrimental effect on surrounding residential properties in terms of amenity value, dust problems and issues with traffic.

CONSULTEE RESPONSES:

The County Archaeologist has commented that although there are no known archaeological features within the site, there is a possibility that archaeological remains could be present within the extension area. Further archaeological work has been recommended including field walking to enable the collection of artefact scatters and a geophysical survey to identify any buried archaeological features, as well as evaluation trial trenching over 2 % of the site.

National Grid Transco has responded and considers that the risks associated with the development are negligible.

The North East Regional Aggregates Working Party (NERAWP) has responded and cannot comment on the need for Permian Sand as this is a specialist type of material. However, in more general terms, if the proposals at Eppleton are not approved, there will only be two quarries in Tyne and Wear producing sand and gravel. Therefore, the impact of this in Tyne and Wear must be considered. In addition, Crushed Rock is only produced at Eppleton and Marsden within Tyne and Wear. NERAWP have concerns that if Eppleton ceases to produce limestone, Marsden will not be able to produce enough to meet the Tyne and Wear crushed rock apportionment figures.

The North East Regional Assembly commented that there are no significant issues of non conformity with Regional Planning Policy and the broad objectives for minerals. However, they recommend that the Local Authority should assess the proposals and outcomes of the Environmental Statement against the Local and Regional Planning Policies, as well as the need and justification for further extraction.

The Council's Transportation Manager has no objection to the proposals as amended provided there are no significant increase in HGV movements and the vehicles will continue to use the existing route as part of the proposals (Option 1). As stated within the Environmental Statement there is proposed to be an increase of 10 HGV and 10 LGV per day, but this may need to be revised in the light of recent production rates and the Transport Managers final opinion received before determination of the application.

Environmental Health have no objections to the scheme but have requested limitations on the development to offset possible noise, dust and vibration impacts on surrounding residential areas.

The Landscape and Reclamation Team have stated that the restoration proposals for the extension scheme are the preferred landscape solution for the western area of the site. In terms of landscape and visual impact the scheme is considered acceptable and there are no objections to the scheme. This includes the mitigation proposed throughout the working life of the quarry.

Planning Policy have stated that the closure of Eppleton Quarry is likely to have an impact on the supply of sand and crushed rock within Tyne and Wear as well as a wider impact on the provision of yellow sand in the north east. It is considered that if no other reserves are permitted Tyne and Wear will fall short in the production of sand and gravel to meet the 2021 RSS apportionment.

However, this needs to be balanced with the planning objectives and deliverability of the Hetton Downs Action Area Plan (HDAAP). It is considered that the proposal to extend operations by some 22-28 years would have an impact on the long-term implementation of the HDAAP.

Durham City Council have no objection or comments to make.

The Environment Agency originally objected to the proposals as they considered the proposals did not fully comply with the Water Framework Directive (2000/60/EC) and Planning Policy Statement 23 - 'Planning and Pollution Control' (PPS23) because there was insufficient information to demonstrate that there was no risk of pollution to controlled waters.

This was due to the processing of colliery spoil on the existing site to remove coal and red shale and the depositing of the remainder in the quarry void. The Environment Agency did not have any information regarding the chemical properties of the processed material and found that the deposited colliery spoil presented a contamination risk to the underground aquifer which is in the Environment Agency's Groundwater Source Protection Zone III. Such details as requested were submitted to the Environment Agency in May 2008 and they have now withdrawn their objection, colliery spoil will not be processed under this application.

The Government Office for the North East were consulted on the application and stated that the Environmental Statement was at present a matter for the Local Planning Authority.

Comments have been received from Natural England regarding biodiversity, access and recreation issues, and on behalf of DEFRA regarding agriculture, soil resource protection and associated reclamation considerations.

Natural England expressed concerns over Protected Species and Biodiversity Action Plan (BAP) Species that may be affected by the development, most notably great crested newts, badgers and nesting birds. Natural England considered that additional information should be provided to demonstrate whether the development would have an adverse affect.

The Environmental Statement states that a risk assessment was undertaken which scoped out the presence of Protected and BAP Species, however, Natural England stated that information is required regarding how this risk assessment was undertaken.

A mitigation strategy, based on the impact assessment, was requested which was fully informed by survey results. The Applicant provided the above details and these have been forwarded to Natural England by SCC. A response is awaited from Natural England.

Further to this, Natural England welcome the principles for restoration including areas of Limestone Grassland, hedgerows, woodland and wetland.

Natural England also welcome the principle of access to the nature conservation based recreation at the site, however, they have stated that access should be monitored and if necessary managed to ensure that fragile habitats such as the magnesian limestone grassland are not adversely impacted. It is considered that this will be included within the management plan.

Regarding soils and recreation, Natural England on behalf of Defra, have stated that they have no objection to the scheme. However, they would like to be identified as an interested party in the aftercare process. Agriculture as a partial after use is thought to be appropriate.

South Tyneside Council were consulted on the application as the adjoining authority. Acting under delegated powers the Area Planning Group Manager raised no objections to the proposal.

Councillor Wakefield responded and outlined his concerns with the scheme regarding the effect this will have on the local residents in terms of continued loss of quality of life. Councillor Wakefield states that the Applicant should fund or part fund the signalisation of the A690 junction with High Lane and Salter's Lane or part fund a roundabout at the same location offering a viable solution to problems associated with the Quarry.

Hetton Town Council have to date only made a holding response but are aware that the application is likely to be determined early in 2010 and will be responding further.

The following consultees did not respond, therefore, it has been anticipated that they have no comments on the application.

- Engineering Development
- Gateshead Council;
- Northumbrian Water;
- Easington District Council;
- Durham County Council;
- Great North Forest;
- Durham Wildlife Trust;
- HSE - Health and Safety Executive;
- UK Gas Business;
- Property Services Manager; and
- Northern Electric.

POLICIES:

National Policy

Planning Policy Statement 1 – 'Delivering Sustainable Development' (PPS1)

Paragraph 19 of PPS 1 states that Planning Authorities should seek to enhance the environment, as part of development proposals. Significant adverse impacts

on the environment should be avoided and alternative options which may reduce or eliminate those impacts considered.

The impacts of the proposed development are assessed in the Environmental Statement which accompanies this Planning Application. This included landscape and visual amenity, noise, dust, blasting, ecology, soils and agriculture, hydrology and hydrogeology, archaeology and cultural heritage, site stability and transport. The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the development.

It is noted in PPS1 that the condition of our surroundings has a direct impact on the quality of life and the conservation and improvements of the natural environment brings social and economic benefit for local communities. It is considered that the benefits to the local community will be apparent once the restoration scheme in western section of the site is complete through recreation and leisure opportunities which were not available in the area before.

Developments must also be sustainable in an economic sense and planning should recognise the wider sub-regional, regional or national benefits of economic development and consider these alongside any adverse local impacts. PPS1 states that planning should ensure that suitable locations are available for developments so that the economy can prosper.

Planning Policy Statement 7 – ‘Sustainable Development in Rural Areas’ (PPS7)

PPS7 encourages sustainable development in rural areas which contributes to the economy. The Supporting Statement considers that development will provide continued employment for the 42 people currently employed by Eppleton Quarry Products at the existing site including 26 HGV drivers who work full time and 4 head office/ ancillary staff working at Rushyford in County Durham and additional HGV drivers that sometimes work out of Eppleton Quarry.

The Supporting Statement also states that there are indirect employment benefits from the quarry which include those other companies who provide regular services to the site operations and supporting employment in the construction industry throughout the North East. It is considered that this may be the case; however, it is difficult to quantify the benefits associated with this.

Planning Policy Statement 9 – ‘Biodiversity and Geological Conservation’ (PPS9)

The proposals include the restoration of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with PPS9 as they will make a contribution to the UK Biodiversity Action Plan as implemented through the Durham Biodiversity Action Plan.

PPS 9 states that opportunities for the incorporation of beneficial biodiversity and geological features within the design of development should be promoted. The restoration proposals include water features, woodland, grassland and open space providing a variety of habitats which will be a benefit to biodiversity on site.

Enhancing biodiversity in green spaces and among developments should be encouraged so that they are used by wildlife and valued by people, recognising

that healthy functional ecosystems can contribute to a better quality of life and to people's sense of well-being.

As previously stated further information regarding Protected Species and BAP Species has been forwarded to Natural England and comments are awaited. There are concerns over the protection of these species until a response is received from Natural England.

Planning Policy Statement 13 – 'Transport' (PPG13)

Paragraph 46 of PPG13 states that conditions should be imposed on developments to reduce the level of disturbance to residents as a result of noise and dust emissions from transport.

Paragraph 47 suggests that when dealing with waste and minerals sites it is important to look at more sustainable methods of transporting materials to and from the site. In terms of Eppleton Quarry this is not an option as there is no viable alternative facility for transporting minerals by either water or rail.

Planning Policy Statement 16 – 'Archaeology and Planning' (PPG16)

Archaeological issues are often important in minerals planning, due to historic settlements in these areas, particularly in the extraction of sand and gravel as highlighted in PPS16.

PPS 16 states that in cases when Planning Authorities have decided that planning permission may be granted but wish to secure the provision of archaeological excavation and the subsequent recording of the remains, it is open to them to do so by the use of a negative condition. The condition would prohibit the carrying out of development until such works or other action, for example an excavation, have been carried out.

Where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation in situ i.e., a presumption against proposals which would involve significant alteration or cause damage.

The case for the preservation of archaeological remains must however be assessed on the individual merits of each case and all relevant policies and material considerations, including the intrinsic importance of the remains and weighing these against the need for the proposed development

Satisfactory arrangements for the excavation and recording of the archaeological remains and the publication of the results may be the alternative to preservation in situ. The County Archaeologist has stated that field-walking, a geophysical survey and evaluation trial trenching is required prior to commencement of development.

If trial trenching reveals archaeological deposits excavation will be enlarged to ensure all archaeological remains are fully recorded. It is considered that this is an appropriate course of action in line with PPS 16 requirements.

Planning Policy Statement 23 – 'Planning and Pollution Control' (PPS 23)

PPS 23 on Planning and Pollution Control gives a broad requirement stating that for developments such as mineral workings, consideration must be given to the potential cumulative impacts on the surrounding area including noise and air pollution. Such assessments have been included within the supporting information to the application and conditions are attached to the existing permission ensuring that appropriate mitigation is put in place.

Minerals Planning Statement 1 – ‘Planning and Minerals’ (MPS1)

MPS1 includes guidance on the principles of sustainable development with regards to minerals development, as well as supply, environmental issues, landscape, agriculture and water resource considerations.

Paragraph 40 of MPS1 states that ‘minerals can only be worked where they naturally occur. Potential conflict can therefore arise between the benefits to society that minerals bring and impacts arising from their extraction and supply’.

In particular, developments must ensure that the environmental impacts caused by minerals operations and the transport of materials are kept as far as possible to an acceptable minimum. The Environmental Statement concludes that with sufficient mitigation and relevant conditions attached to any subsequent planning permission, there will be no significant adverse environmental impacts caused by the development.

Minerals Planning Statement 2 ‘Controlling and mitigating the environmental effects of mineral extraction in England’ (MPS2)

MPS2 states that planning should secure working practices on developments which prevent or reduce impacts on the environment and human health arising from the extraction, processing, management or transportation of minerals.

Where significant development of agricultural land is unavoidable, seek to use areas of poorer quality land in preference to that of a higher quality, except where this would be inconsistent with other sustainability considerations. Agricultural land in the extension scheme is 3b (moderate quality) in the majority with land of 3a (good quality) to the north east of the site. Natural England on behalf of Defra has stated that development of this quality land is considered acceptable. The Council also consider that due to the nature of minerals applications they can only be worked where they are found therefore this would be inconsistent with other sustainability consideration should the minerals be sterilised.

With regards to a development once extraction has ceased, the overall quality of the environment must be protected and enhanced through high standards of restoration.

The positive or negative effects that minerals operations may have on rural communities and the extent to which adverse impacts of such operations could be moderated must be considered. However, developments can often also offer opportunities for these communities especially at the restoration stage.

Minerals Planning Guidance 5 – ‘Stability in Surface Mineral Workings and Tips’ (MPG5)

The Environmental Statement has considered guidance in MPG5 and has been drawn upon whilst formulating the Eppleton Extension Scheme.

The Environmental Statement states that to date there have been no stability problems at the quarry that might endanger site operatives or third party properties, however, a Geotechnical Stability Assessment will be undertaken subject to planning approval to ensure no third party properties will be at risk.

Minerals Planning Guidance 7 – 'Reclamation of Mineral Workings' (MPG7)

Reclamation provides the opportunity to return land either to its original, or an alternative, use of benefit to the local or wider community. Opportunities exist, for example, to enhance the recreational or nature conservation resource of an area by restoring for amenity purposes, or to contribute to initiatives such as community forests.

The proposals include the reclamation of the site as an extension to Hetton Lyons Country Park and, therefore, are in line with MPG7 which states that 'Mineral workings reclaimed to amenity use can therefore contribute to Government policies in respect of recreation and nature conservation, including making a contribution to the UK Biodiversity Action Plan.'

The site will be reclaimed in accordance with the previously outlined proposals as an alternative use to the existing land use. It is considered that the proposals will positively enhance the environment with areas for both recreation and nature conservation. The 50 peg fishing lake proposed with the extension scheme will provide local and wider community benefit.

The Application states that following restoration the site will then be subject to a five year aftercare period. Following this period the site will either remain under the control of the Applicant or be transferred to the Council. The Applicant has offered a sum of money to be paid annually to the Council, as set out below in more detail, for the long term maintenance of the site.

At present costs for the long term maintenance of the site are not in place, therefore it cannot be guaranteed that the reclamation will be fully implemented. Should aspects of the reclamation not be implemented this will counter the principles of MPG7 as the opportunities to enhance the area will not have been taken up at a detriment to the community.

Minerals Planning Guidance 11 – 'The Control of Noise at Surface Mineral Workings' (MPG11)

MPG11 sets noise limits for mineral workings at the closest receptors. Where appropriate planning conditions should be used to ensure that mineral operations are carried out in such a way that noise emissions are minimised at the source and thereby controlled to acceptable levels.

Short term activities such as soil stripping, construction of screening bunds and site restoration, are often noisier than main site operations and these are generally subject to a higher noise limit.

A noise assessment has been carried out and details are set out in the supporting information to the proposals. This report has concluded that the noise

emissions are below national guidance for noise limits. Therefore, the proposals are in line with MPG11.

Noise has also been assessed in terms of transport associated with the site operations, HGVs being the predominant noise source, and a worst case scenario has indicated that this does not exceed national guidance for noise limits of 55dBL.

Regional Policy

Under Section 38(3) of the Planning and Compulsory Purchase Act (2004), the Regional Spatial Strategy (RSS) is part of the statutory development plan. Unless material considerations indicate otherwise, determination of planning applications must be made in accordance with the RSS and other Development Plan Documents.

On 15th July 2008, the Department of Communities and Local Government published the final version of the North East of England RSS. The RSS sets out a broad development strategy for the region for the period up to 2021.

At the regional level the proposal is subject to the following policies:

Policy 8 'Protecting and Enhancing the Environment', amongst other things sets out the need to consider the visual impact of proposals. This policy states that 'planning proposals should seek to maintain and enhance the quality, diversity and local distinctiveness of the environment'. The Environmental Statement addresses these issues and concludes that the proposals will enhance the environment through restoration of Eppleton Quarry to an extension to Hetton Lyons Country Park.

Policy 33 'Biodiversity & Geodiversity' states that strategies, plans and programmes, and planning proposals should ensure that the regions ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels. The restoration of Eppleton Quarry will make a contribution to biodiversity and geodiversity.

Policy 36 'Trees, Woodlands and Forests' states that strategies, plans and programmes, and planning proposals should seek to maximize the social, economic and environmental opportunities that trees, woodlands and forests present as well as the tourism development opportunities that they have whilst also facilitating the expansion of tree cover. The restoration of Eppleton Quarry to the Hetton Lyons Country Park is in line with these policies.

Policy 42 'Overall Minerals Strategy' sets out the criteria to be taken into account when determining mineral applications as follows:

'Minerals and Waste Development Frameworks, Minerals Development Frameworks, Local Development Frameworks, and planning proposals should:

- a. ensure that land is made available to provide an appropriate contribution to local, regional and national needs for minerals;
- b. ensure the prudent use of minerals resources in line with sustainable development objectives;

- c. ensure the effective environmental management of mineral extraction and processing sites, high quality restoration and aftercare, and appropriate beneficial after uses;
- d. promote the transport of minerals and minerals products by rail or water wherever practicable and minimise the effects of transport by road;
- e. identify and safeguard significant mineral resources from other types of development; and
- f. include criteria based policies against which individual minerals proposals will be assessed.'

The principles for the development are in accordance with the above policy which is reflected by Sunderland City Council UDP Policy M8 Mineral Operations.

However, point c states that developments should ensure a high quality restoration and aftercare and appropriate beneficial after uses, which as previously stated are not guaranteed at present as the funds are not in place to secure this.

Local Policy

In the Unitary Development Plan the site is subject to the following policies adopted on 27th September 2007:

B1 Priority areas for environmental improvements

The City Council will implement a programme of environmental improvements with priority given to visually prominent and / or in the areas of greatest environmental degradation.

B14 Area of Potential Archaeological Importance

The City Council will require an archaeological assessment/ evaluation to be submitted as part of the planning application. Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them.

CN15 Creation of the Great North Forest

The City Council will permit developments which assist in creating Great North Forest (on land between and around the main urban areas) and which are in accordance with other policies of this plan.

CN23 Measures to conserve/ improve wildlife corridors

Within Wildlife Corridors measures to conserve and improve the environment will be encouraged using suitable designs to overcome any potential user conflicts. Development which would adversely affect the continuity of corridors will normally be refused. Where, on balance, development is acceptable because of wider plan objectives, appropriate habitat creation measures will be required to minimise its detrimental impact.

L3 Encouragement to regional recreation developments in appropriate locations

Only where adequate access to strategic road network and public transport facilities can be provided.

L4 Standards for outdoor sport and recreation

Particular attention will be focussed on providing locally accessible outdoor sport and recreation facilities for the city population.

M3 Safeguarding Minerals against Unnecessary Sterilisation by Development

Land with specific resources at Eppleton will be safeguarded against unnecessary sterilisation by development. Mineral working will not normally be permitted during the plan period unless essential to meet regional requirements.

M8 Mineral Extraction

Proposals for mineral extraction must have regard to effects on local communities, landscape and the environment, conservation and transport.

This includes following best practice and includes satisfactory provision for phasing (where appropriate), restoration and aftercare.

M9 Operational Controls

This includes suitable screening of the operational works, controls on matters such as working hours, traffic routes and ensuring the restoration of land affected by extraction to enable a beneficial use in accordance, where practicable, with a phased programme of extraction, restoration and aftercare.

M10 Piecemeal Working of Sites

The piecemeal working of sites which are part of a larger reserve will not normally be permitted.

M11 Concurrent Working

Operators shall make provision for the appraisal and proper utilisation of other minerals occurring on prospective extraction sites where these can be won in viable quantities, provided that it causes no significant additional environmental disturbance and does not impede the proper restoration of the site.

In the Sunderland City Council Core Strategy (Preferred Options) the site is subject to the following policies:

CS18 Mineral Safeguarding Areas

Safeguard mineral deposits that are considered to be of current or future economic importance.

In the Sunderland City Council Hetton Area Action Plan (HDAAP) (Preferred Options) the site is subject to the following policies:

HD18 Hetton Lyons Country Park Extension

The City Council will support and promote the development of appropriate leisure and recreational facilities on the extension of Hetton Lyons Country Park.

HD21 Great North Forest

The City Council will encourage a programme of intensive planting of tree belts and woodland using native species in the following locations through the Great North Forest.

COMMENTS:

The key issues to consider in determining the application are as follows:

- Need, in particular whether and when the minerals will be required to meet the area's demand. Indications are that the minerals will be required but when within the period covered by the RSS still needs to be finalised.
- Employment;
- Landscape / Visual Impact and Restoration;
- Noise;
- Dust;
- Blasting of rock;
- Soils and Agriculture;
- Hydrology and Hydrogeology;
- Archaeology; and
- Transport, particularly the number of HGV movements per day and the route they take.

In reaching a recommendation on the application officers will consider these issues against the Government minerals planning guidance, and development plan policy, outline above and other material considerations.

CONCLUSION

An existing planning permission for the reclamation of the disused Eppleton Quarry and Colliery by the extraction and processing of minerals; coal washing; construction of a new access road; importation of inert construction waste and soil; restoration to a country park and 5 year aftercare, is currently in operation in the area, under Planning Permission 99/00791/FUL.

Mineral extraction is currently permitted to April 2008 and restoration to overburden is permitted to September 2008. A Section 73 Application has been submitted to the Council to extend the period for mineral extraction to July 2013 and restoration to overburden level by December 2013. An amended restoration scheme was also submitted with the application which the Council officers consider to be an improvement on the approved plans.

The red line boundary for the extension scheme overlaps the eastern part of the existing operations described above. The extension scheme involves the extraction of sand and limestone at Eppleton Quarry and restoration to grassland, woodland and public access as an extension to Hetton Lyons Country Park. The scheme will involve the extraction of 6 million tonnes of sand and 6 million tonnes of limestone including 2.25 million tonnes of sand and 0.4 million tonnes of

limestone within the existing operational area. The estimated working life of the scheme is between 22 and 28 years depending on fluctuations in demand.

The Application relates to the continuation of mineral extraction and site operations in the eastern part of the existing Eppleton Quarry area. The extension of sand and limestone extraction will then continue northwards out of the existing quarry area. Basal Permian sand is one of two minerals proposed for extraction, however, this mineral lies underneath magnesian limestone, which it is necessary to remove to facilitate the extraction of sand. The demand for overlying limestone dictates the rate of production of sand.

The Application states that the site will be restored as an extension to Hetton Lyons Country Park. The site will then be subject to a five year aftercare period. Following this period the site will either remain under the control of the Applicant or be transferred to the Council. The Applicant has offered a sum of money to be paid annually to the Council, under the terms previously stated, for the long term maintenance of the site.

Officers are currently in discussion with the applicant's agents and staff regarding the feasibility, cost and maintenance costs of their present restoration proposal together with its relationship with restoration works for the existing quarry. Both the minerals application to extend the area of the quarry and the time extension application are closely interrelated in terms of the issues they raise and the effect of any decision on one application impacting on consideration of the other application. The issue of working or sterilising reserves of limestone and sand relate to city wide policies in the UDP and the emerging Local Development Framework, as well as regional policies in the RSS and would impact on supplies of these materials in the future. Accordingly the sub-committee is recommended to refer both applications to Planning and Highways Committee for determination.

RECOMMENDATION: Refer to Planning and Highways

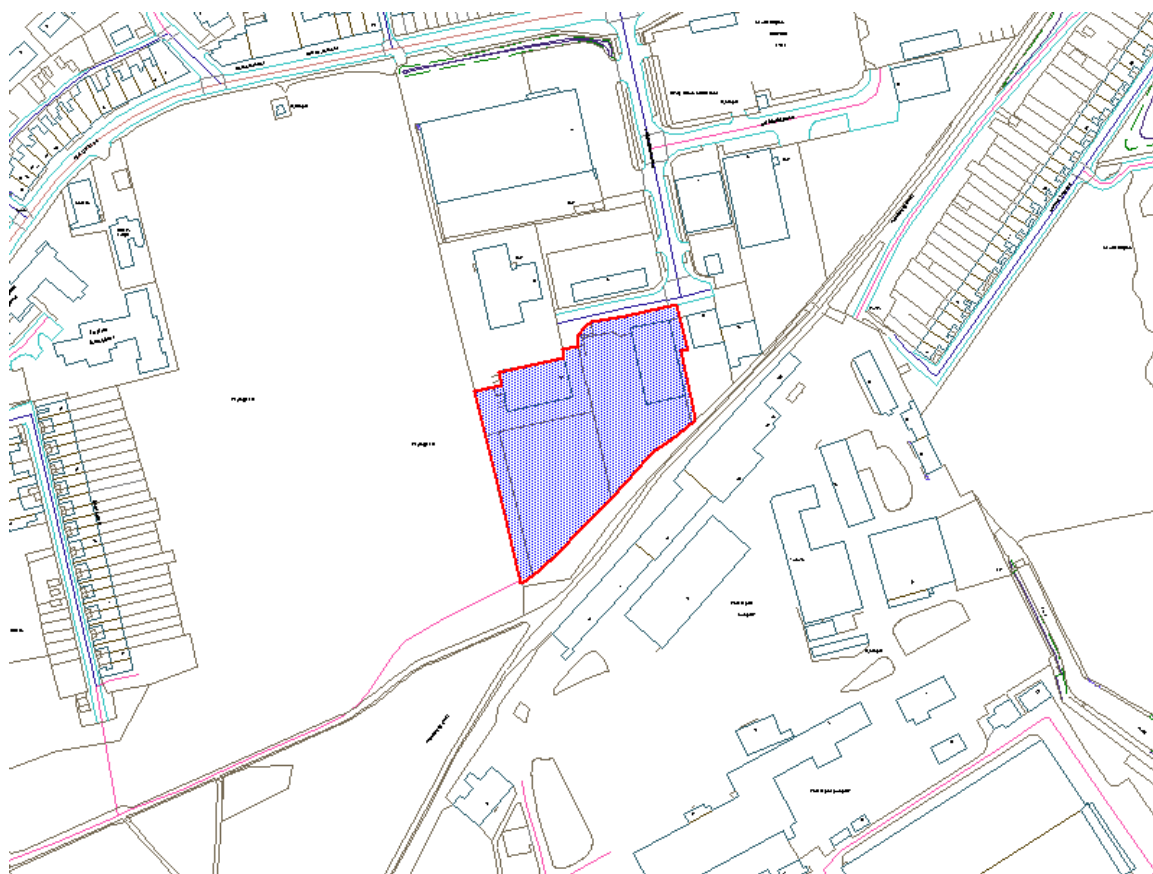
Reference No.: 09/02813/FUL Full Application

Proposal: **Change of use from scrapyard to waste transfer station to include relocation of crusher, screener and stockpile and erection of attenuation bund(RETROSPECTIVE).**

Location: 5B Freezemoor Road New Herrington Industrial Estate
Houghton-Le-Spring DH4 7BH

Ward: Shiney Row
Applicant: Mr Tommy Dunn
Date Valid: 24 September 2009
Target Date: 24 December 2009

Location Plan



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PROPOSAL:

This is a retrospective application for planning permission for a change of use of the site from a vehicle dismantler and parts sales operation (Century Recycling Metals) to a waste transfer station for Grab and Deliver Ltd.

The site lies on the western extremity of the New Herrington Industrial Estate. The premises operated as a vehicle dismantling facility under the planning permission for the change of use from pipe depot to building for the dismantling of cars, with storage and sale of car parts, racking for the external storage of cars and provision of staff and customer car parking (00/01825/FUL refers).

The application site covers an area of 0.20 hectares and is enclosed by a walled area 2.0 metres high and chain link fence 1.8 metres high, while the whole of the internal site is hard surfaced. Also within the application site are two existing industrial buildings.

The nearest residential properties are located approximately 250 metres away to the west. There are also a number of industrial and business uses that are located in the vicinity of the application site, including auto repair businesses in the units on the opposite side of Freezemore Road. In addition a garage lies adjacent to the Southern corner of the site and an industrial building lies adjacent to the North East belonging to SITA Waste Management.

Grab and Deliver Limited is a company that was formed in the mid-1990s. The Company employs 10 people and specialises in skip hire and waste management. The Company operates a sizeable skip hire/waste management arm, which serves the needs of both domestic and commercial customers. In terms of their waste management activities, Grab and Deliver Limited have invested in a variety of recycling initiatives as part of their on-going commitment to reducing landfill. Although the Company have operated a Waste Management Premises from Station Road, Birtley for over 10 year, this is quite small and as a result sought to secure premises here at Freezemore Road.

At these premises it is the intention to provide a facility which segregates waste into clearly defined streams, including aggregates, soil, and wood, plastic and hardcore. The facility accepts waste from a number of different sources, including builders, demolition, groundwork, and skips. The great majority of waste that will be received will be taken there directly by Grab and Deliver Limited utilising their own tipper trucks, skip loaders and roll-on/roll-off bins.

The materials to be brought on to site are all inert material, hardcore, bricks, concrete, tiles, soils, demolition wastes and building materials that are salvaged from building works. They are then screened and crushed cleaned and put into stockpiles of their various sizes, they are then taken off site as and when needed generally for road building and foundation work. Vehicles arriving at the site would be firstly subject to booking-in procedures and would then proceed to that specific area of the site, depending on what waste type each vehicle is carrying. The site would be manned by approximately 7-10 operatives and each employee would have responsibility for specific waste streams. Waste will be sorted by small bucket loader or by hand within the main reception building; inert waste will be screened and processed outside to produce grades of recycled aggregates. Recycling and skip hire operations including the importation of skip waste and processing it via hand pick and sorting equipment to separate out wood, plastics, cardboard, hardcore, and soils, the non-recyclable elements then go onto landfill for disposal. The wood is sent to a site to be chipped, metal removed and made into materials for wood burning boilers and chipboard manufacturing companies.

The proposed plant would comprise a crusher, feeding a small mobile screening unit, with mobile conveyors feeding stockpiles of different size aggregate. The

waste entering the site would be tipped into the stockpile, and initially sorted into three categories by wheeled loader, The primary category would be good quality material such as concrete, bricks, and gravel suitable for recycling by the plant, The second category would be material which could be recycled but may need to be upgraded by blending with primary aggregate. This material would include ashes, hardcore, demolition waste, sand and chalk, the third category would be material which is unsuitable for recycling and would be sent to landfill. The recycled material would be loaded direct onto lorries for resale. During periods of dry and windy weather dust can be suppressed by the spraying of water over the site.

The applicant estimates a maximum of 20 vehicle movements per day (10 in and 10 out). The vehicles collect waste from various construction/demolition sites and deliver it to this site where it is sorted, screened and crushed and either stockpiled for collection or delivered to customers in the form of aggregate or soil. There are no domestic waste skips involved in the operation and all of the materials are inert building/demolition materials.

Water draining off the screening area runs to a trapped gully for disposal by a licensed operator as necessary.

The main activities of screening and crushing will take place on the east of the site with storage on the west of the site. Any stockpile materials will be located to the rear of the site and/or located within the open sided buildings that exist. The screening and crushing plant used by Grab and Deliver Limited incorporates appropriate dust suppression in the form of water sprays. Grab and Deliver Limited are willing to accept any reasonable planning conditions to address dust control issues.

The applicant seeks normal waste industry operating hours for the operation as follows:

Monday – Friday: 07.30am till 17.30pm
Saturdays: 07.30am till 12.00 noon.
Sunday and Bank Holidays Closed.

These are the same hours of operations for Century Recycling Metals on this site.

Crushing and screening operating hours.

Monday – Friday: 09.30 till 15.00.
No operations Saturday or Sunday and Bank Holidays.

At the 6 October Sub-Committee meeting Members resolved to visit the site. That visit took place on 26 October 2009.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

County Archaeologist
Director Of Community And Cultural Services
Environment Agency
County Archaeologist
Director Of Community And Cultural Services
Environment Agency

Final Date for Receipt of Representations: **22.10.2009**

REPRESENTATIONS:

NEIGHBOURS.

One representation has been received concerning the following issues:

1. The proposal is already the source of complaint regarding noise dust and occasionally unpleasant smells.
2. The proposal has been in operation for approximately 12 months without any action by the Council.
3. It is unclear from the description whether the crusher is to be relocated or left where it is at the moment.
4. It is not clear what type of waste is to be processed.

CONSULTEES.

Environment Agency.

The proposal will require an environmental permit from the Agency. Discussions have been held with the applicant but no application for a permit has yet been submitted to the Agency. In addition there still remains a Metal Recycling Site environmental permit in force on the site relating to the previous operator. This permit requires surrendering that permit.

In so far as the proposal relates to land contamination, the Environment Agency only considered issues relating to controlled waters. EA consider that the controlled waters at this site are of low environmental sensitivity and therefore will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site. It is however recommended that the requirements of PPS23 Planning and Pollution Control are applied.

County Archaeologist

No observations.

Director of City Services - Environmental Health.

The applicant has employed consultants to carry out a noise assessment in support of the application. Measurements were carried out and the measured noise data incorporated into a noise model using the CadnsA v3.7 software package. This package considers local topography, existing and proposed barriers and buildings in order to predict noise levels at sensitive receptors. The

predicted and measured noise levels were then used to carry out a BS4142 assessment to assess the impact of the proposed activities on nearby noise sensitive receptors, adding a +5dB penalty to account for the intermittent nature of noise from the site.

Background measurements were taken during complete plant shutdown, and the impact of the site was assessed by having all plant operating simultaneously to present a worst case scenario.

In the absence of any additional mitigation, noise levels were calculated to be 15 dB above existing background noise levels and as such are likely to give rise to complaints. Consequently, the acoustic consultant has recommended mitigation measures to ensure adequate amelioration and reduction of this differential to an acceptable level of 1.2 dB above the existing background noise levels. As such, should planning permission for the proposal be granted, it is recommended that the following be imposed by way of condition;

- * An aggregate barrier of 5m in height shall be located and maintained along the western boundary of the site
- * The 360 degree loader operated on site shall not be visible above the aggregate barrier as viewed from nearby noise sensitive premises
- * Vehicle reverse alarms shall be replaced with a quieter alternative
- * Drop heights must be kept to a minimum
- * Crushing shall take place at the east part of the site only, as marked in green on the site layout plan, and stockpiles to the west.

Furthermore, it is recommended that the following hours of operation and crushing activity be imposed on any consent to minimise the potential for unreasonable levels of noise and/or dust at nearby sensitive premises.

- * Operating hours of the premises shall be limited to 07:30 - 17:30 Monday to Friday, 07:30 - 1300 Saturdays.
- * Crushing activities shall only take place between 09:30 and 15:00 Monday to Friday.
- * The crusher operated on site shall hold a relevant permit issued by Environmental Health under the Environmental Permitting Regulations. The applicant should be made aware that it is an offence to operate a mobile crusher without such a permit in place and application should be made to the Director of City Services.
- * Adequate dust suppression shall be afforded to the crusher and stockpiles in order to minimise the potential for dust emissions from the site.

It is apparent that the proposed site has previously accommodated an industrial activity that may have resulted in contamination of the land and as such further information is required to determine the condition of the land. Consequently a comprehensive desktop study and site investigation should be carried out to ascertain whether the land is contaminated. The survey should be completed in accordance with a recognised code of practice for site investigations i.e. BS 10175:2001 or DETR Contaminated Land Research Reports. ICRCL Guideline Values have been withdrawn and should no longer be used.

If a hazard or hazards are identified on the site from any form of contaminant, the results of the survey shall be utilised to undertake a site specific risk assessment to consider risks to water resources, surrounding land, wildlife, building materials,

future users of the site and any other persons. The risk assessment shall be undertaken using the contaminant, pathway, receptor principle. No works other than investigation works shall be carried out on the site prior to the receipt of written approval of any remediation strategy by the authority. The responsibility for the safe development of the site rests with the developer.

Director of City Services - Transportation.

No objections.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

- HA1 Retention and improvement of established industrial / business areas
- EC4 Retention and improvement of existing business and industrial land
- T14 Accessibility of new developments, need to avoid congestion and safety problems arising
- B2 Scale, massing layout and setting of new developments
- M4 Encouraging use of secondary/recycled aggregates (instead of primary aggregates)
- M12 Strategic requirements for development/extension of waste disposal/transfer sites
- M13 Consideration of applications not complying with M12
- M14 Location and planning of waste disposal activities acceptable under M12 or M13
- M15 Site management and control/phased restoration and aftercare of waste disposal sites
- M18 Provision of waste reclamation and recycling facilities subject to amenity etc.
- T22 Parking standards in new developments
- HA25 Identification of Strategic multi-user routes and their protection from development
- EN5 Protecting sensitive areas from new noise/vibration generating developments
- EN9 Conflicts between proposed sensitive developments and existing non compatible uses
- EN12 Conflicts between new development and flood risk / water resources
- EN14 Development on unstable or contaminated land or land at risk from landfill/mine gas
- R1 Working towards environmentally sustainable development
- R2 Taking account of spare infrastructure / reduced travel / vacant & derelict land

COMMENTS:

The main issues to consider in determining this application are:

- The principle of the use.
- The highway implications of the proposal.

- Residential amenity and the impact of the proposal in terms of noise and dust.
- The visual impact of the proposal.

Principle of the use.

The site is allocated for industrial purposes under policies HA1 and EC4 of the adopted UDP. The site was previously operated as a scrap yard and there is a waste transfer station on an adjacent site.

Policy M4 seeks to encourage the use of secondary /recycled aggregates in preference of primary aggregates. This proposal will result in the creation of such secondary aggregates and thereby would contribute to the achievement of that aim.

Policies R1 and R2 of the UDP seek to achieve sustainable development by reducing the need for travel by customers and employees and making use of vacant/derelict land. the proposal is considered to contribute to both of these aims.

The proposal is thus considered acceptable in principle and conforms to policies HA1, EC4, M4, R1 and R2 of the adopted UDP.

Highway issues.

Policy T14 of the UDP aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met. in addition policy T22 seeks to ensure that acceptable levels of car parking are provided. Policy T22 seeks to ensure that developments make sufficient provision of car parking to meet their needs. Furthermore policy M14 seeks to ensure that waste transfer activities do not have adverse impacts on the road network.

The site at Freezemore Road will receive a variety of tipper vehicles; skip loaders and roll-on/roll-off bins. On average, approximately 10 tipper vehicles visit the Waste Transfer Station per day i.e. twenty movements in total. The former Century Recycling Metals site provided the same amount of vehicle movements.

As the great majority of Grab and Deliver Limited work is concentrated within the Sunderland area the need to secure a site within the urban area fully accords with the National and Local Planning Policies which indicate that such facilities are best located close to where waste is generated. In this respect the scheme can be seen to conform to policies R1 and R2 of the adopted UDP.

the site layout indicates the provision of 14 car parking space, 2 of which are for the disabled. These are accessed individually from Freezemoor Road. In addition there is provision made for light vehicle parking within the site and 2 cycle racks. It is considered that the provision is adequate given the number of operatives (15 full time and 2 part time) proposed at the site and thereby meets the requirements of policy T22 of the adopted UDP.

The proposal will not result in an intensification of the use of the site and is considered acceptable in highway terms and complies with policy T14, T22 and M14 of the adopted UDP.

Residential amenity and the impact of the proposal in terms of noise and dust.

Policy B2 of the UDP requires that the scale, massing setting and layout of new developments should respect and enhance the best qualities of the area and retain acceptable levels of residential amenity. In addition policy EN5 requires noise assessments to be carried out to ensure that noise generating activities do not significantly adversely impact upon residents of the area. Further policy M14 seeks to ensure that waste disposal sites do not have significant adverse impacts on residential amenity in terms of dust and noise generation or visual impact, while policy M18 seeks to promote waste recycling provided that it does not have unacceptable adverse impacts on local amenity.

Noise.

As reported above one letter of objection has been received in respect of noise from the site. The applicant is aware of this and has employed a noise consultant to survey the site. The survey and recommendations have been examined by the Director of City Services.

The applicant commissioned a noise survey the results of which have been submitted in a report dated 23 June 2009. The survey revealed that there was a possibility of noise carrying to the residential properties in Travers Street. In consideration of the noise survey the applicants have introduced a Management Plan to reduce noise to a minimum by moving the operation of screening and crushing, to the East part of the site.

The findings that the noise was travelling to the residential premises some 250m away and likely to cause a nuisance due to the height the equipment was operating at, After modelling carried out by Northumbria Water of the site advice was given, as a result of which Grab and Deliver Limited, have now set a Management Plan in place.

1. Replacing the old excavator with a new model 360 Excavator.
2. Not working equipment at heights.
3. Placing a bund at the west boundary a height of three metres to suppress the noise.
4. Rearranging the site by moving the stockpiles to the west and all working machinery, i.e. crusher, screening, and shovel now operate in the East of the site.

The applicant states the existing buildings surrounding that area where crushing has been allocated will act as a bund around the crushing and screening equipment in order to provide noise attenuation. Although the nearest residences are some 250 metres away there is the possibility that the operations at the site would be audible, particularly early in the morning when the levels of traffic and other industrial activity are lower. In order to protect the amenity of local residents the operating times have been reduced as reported above.

The production of a management plan for the site complies with the requirements of UDP policy M15 which sees these as a means of providing adequate control of such sites.

It is advisable that all Grab and Deliver vehicles shall have their audible reversing alarms disabled when working within the site. An alternative strobe light type of alarm should be installed.

The Director of City Services has examined the results of the noise assessment and has recommended that noise from operations on site, including plant machinery, vehicles shall not exceed the ambient noise level by 5dB (A) L90 when measured at the perimeter of the site and the applicant has committed to take such measures as maybe necessary, including the sound insulation of plant, the creation of a bund and the silencing of vehicles and machinery to ensure that these noise levels are not exceeded.

Further it is recommended that in addition the bund be raised to 5 metres in height to screen the operation both visually and aurally from Travers Street to the west, this can be controlled by condition. the hours of operation and crushing proposed are considered to be acceptable and unlikely to cause significant adverse impact on residential amenity. however, appropriate conditions should be imposed on any consent granted in order to enable their subsequent enforcement.

The implementation of these measures is considered acceptable and subject to compliance with conditions will be in accord with policies M14, M18, EN5 and B2 of the UDP.

Dust.

Policy EN9 indicates that applications for dust generating activities should incorporate adequate mitigation measures when located close to residential properties.

There is the potential for operations at the site to produce dust, although to date no complaints have been made to Environmental Health Officers. However, the crushing and screening machines will be fitted with dust suppression measures and the applicant will use water bowsers to damp down internal routes and stockpiled material. Stockpiles will be sprayed with water to prevent dust. The applicant has installed a piped water system around the boundary of the storage and working areas to facilitate the damping down operations. These proposals are considered acceptable and can be controlled by condition in order to comply with policies EN9, M4, M14 and M18 of the UDP.

Visual Impact.

There are no proposals to erect any buildings on the site but utilise those existing which vary in height up to 6 metres high. The applicant does propose however to create a 3 metre high bund to the west of the site in order to act as a visual and aural barrier. As indicated above it is recommended that this be increased in height to 5 metres. It is considered that as the nearest properties are some 250 metres away and the bund is below the height of existing buildings there will be no significant visual impact resulting from the creation of the bund. The proposal

is thus considered acceptable in terms of visual amenity and complies with policies B2 and M14 of the adopted UDP.

Other

The Director of City Services indicated that potential contamination of the land from previous uses required a desk top assessment. However it is considered that as no physical development is to be carried out the land contamination investigations are not necessary on this occasion. It is not considered that the proposal contravenes the advice given in PPS23 Planning and Pollution Control or the requirements of UDP policy EN14.

CONCLUSION.

The proposal is considered acceptable in terms of land use, the visual impact of the proposal is considered minimal and there are no highway implications of the proposal.

The noise survey carried out by the applicant has identified a possible issue for residents in the area. This survey has recommended the creation of a 5 metre bund to the west of the site, the applicant has volunteered working hour restrictions these proposals are considered acceptable by the Director of City Services. Whilst no issues have been raised with respect to dust the applicant has installed various damping down measures in the site management plan.

The proposal is thus considered acceptable and Members are recommended to grant planning permission subject to the following conditions;

RECOMMENDATION: Approve

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time
- 2 Unless otherwise first agreed in writing with the Local Planning Authority. the development hereby granted permission shall be carried out in full accordance with the following approved plans:

Location plan received 24/9/09.

Existing plan 001 received 27/7/09.

Proposed plan 001 received 20/8/09.

Main buildings plans and elevations 002 received 20/8/09.

Bund details 003 (subject to condition) received 15/9/09.

Crusher and screener details 004 received 15/9/09.

Supporting statements received 27/7/09.

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

- 3 Within ONE MONTH of the date of this permission details of the method of containing the dirt and debris within the site and ensuring that no dirt and debris spreads on to the surrounding road network shall be submitted to and approved by the Local Planning Authority. These details shall include the installation and maintenance of a wheelwash facility on the site. All works and practices shall be implemented in accordance with the agreed details WITHIN ONE MONTH OF APPROVAL and shall be maintained thereafter in the interests of the amenities of the area and highway safety and to comply with policies B2 and T14 of the approved UDP.
- 4 Within ONE MONTH of the date of this permission details of sound insulation of plant , vehicles and machinery within the site shall be submitted to and approved by the Local Planning Authority. These details shall include the installation and maintenance of all approved noise insulation on the site. All works and practices shall be implemented in accordance with the agreed details WITHIN ONE MONTH OF APPROVAL and shall be maintained thereafter in the interests of the amenities of the area and to comply with policies B2, M14 and EN5 of the approved UDP.
- 5 Notwithstanding any specifications on the submitted plans WITHIN ONE MONTH OF THE GRANT OF THIS PERMISSION details of a 5 metre high bund to the west of the site shall be submitted to and approved by the Local Planning Authority. The agreed bund shall be completed WITHIN ONE MONTH OF APPROVAL or in accordance with an agreed timetable, in the interests of visual and aural amenity and to comply with policies B2, M14 and EN5 of the UDP.
- 6 The development shall be carried out in complete accordance with the planning statement including the management plan received on 27/7/09, except as modified by the requirements of conditions on this consent, as agreed with the Local Planning Authority, in order to achieve a satisfactory form of development and to comply with policies B2, T14, M14 and EN5 of the UDP.

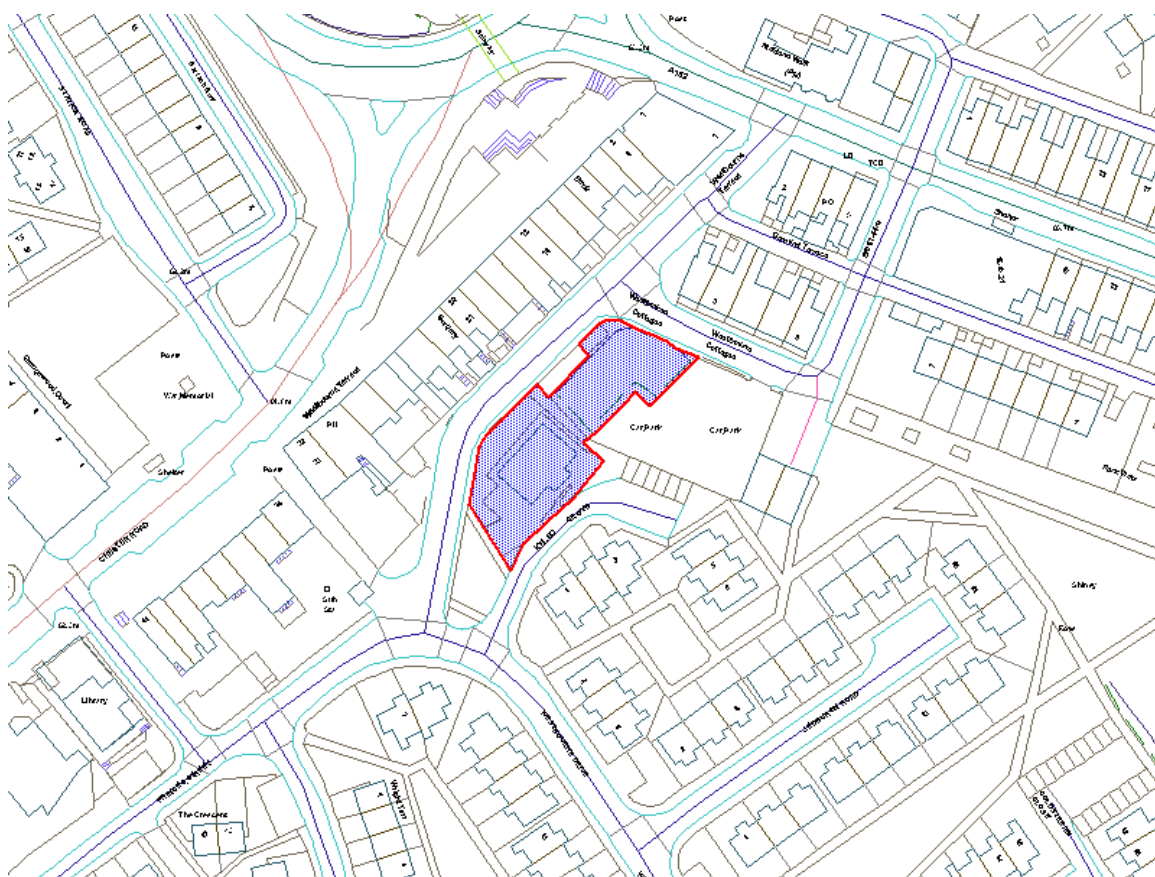
Reference No.: 09/03250/FUL Full Application

Proposal: Erection of single/two storey extension to western elevation

Location: Westbourne Surgery Kelso Grove Shiney Row Houghton-
Le-Spring DH4 4RW

Ward: Shiney Row
Applicant: The Westbourne Medical Group
Date Valid: 3 September 2009
Target Date: 29 October 2009

Location Plan



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PROPOSAL:

Planning permission is sought to erect a single and two storey extension to the south western elevation of Westbourne Surgery, Kelso Grove, Shiny Row, Houghton-Le-Spring.

The works have been proposed due to a substantial growth in the size of the three practices which comprise the Westbourne Medical Group. The group

serves the Shiny Row, Penshaw, Houghton-le-Spring, Fence Houses, Washington and Hetton areas.

In 2007 the Westbourne Medical Practice was granted consent (07/01551/SUB) to change the use of open space to the north east of the site in order to provide additional car parking and erect boundary fencing around the proposed car park and existing practice. To date, only the fencing element of the approval has been implemented.

The proposed works are to include:-

- A new two storey side extension to house two new consultation rooms at ground floor and a practice managers room, training room and library at first floor.
- A single storey side extension housing a further consultation room and a cleaning room.
- External hard works and soft landscaping.
- Internal fitting out.

The two storey side extension would sit in line with the principal elevation of the practice, provide a width of 4.82 metres and run the full depth of the existing building. The single storey extension is to adjoin the gable of the two storey extension, providing a width of 4.5 metres and depth of approximately 6.3 metres. The two storey extension would maintain the ridge height of the existing building and provide a hipped feature to match the existing whilst the single storey extension would also be of a hipped design measuring 5 metres to ridge height reducing to 2.5 metres at eaves height.

Windows are proposed in the north western (rear) and south eastern (front) elevations of the extensions. The front windows would serve the training room and two consultation rooms whilst the rear windows would serve the practice managers room and a consultation room.

The practice sits within a relatively mixed use area with the units situated on Westbourne Terrace being of a commercial nature whilst the properties to the south east of the practice are exclusively residential.

At the meeting of the sub committee on 3rd November, Members resolved to visit the site. That site visit is due to take place on 27th November, after the preparation of this report. Any issues raised at the site visit will be addressed at the Sub Committee meeting.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

REPRESENTATIONS:

The Director of City Services -

The transportation Section have stated that consideration should be given to the inclusion of 3 new consultation rooms and the removal of the existing car parking area which currently has provision for 6 car parking spaces.

At present there are only 6 existing spaces within the site and parking is relied upon in the adjacent council car park which as provision for 30 parking spaces.

A previous application has been approved in 2007 for the construction of a new car park on land adjacent to the medical centre for 15 spaces.

Two letters of objection were received from the occupiers of the facing residential properties, No's 1 and 3 Kelso Grove. The following concerns were raised:

- The medical practice already generates a lot of traffic with patients often using Kelso Grove to park their cars. If this extension were to go ahead the situation would get worse as there would be no dedicated parking provision for the surgery.
- The extension would create too large a structure for the area it is situated in.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

- B2 Scale, massing layout and setting of new developments
- T14 Accessibility of new developments, need to avoid congestion and safety problems arising
- T22 Parking standards in new developments
- EN10 Proposals for unallocated sites to be compatible with the neighbourhood

COMMENTS:

The main issues to be considered in determining this application are:-

1. Principle of the Development.
2. Layout and design of the buildings.
3. Highway Issues.

1) Principle of the Development

The site in question is not allocated for any specific land use within the Council's Unitary Development Plan and, as such, is subject to policy EN10. This policy dictates that, where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain. As the medical practice sits within its own grounds within a relatively mixed use area it is considered that subject to a satisfactory design and layout that the proposal accords with the requirements of policy EN10 in this instance.

2) Layout and design of the buildings

Policy B2 of the UDP dictates that the scale, massing, setting and layout of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy.

With regard to the siting of the proposed extension in relation to surrounding dwellings, due regard has been given to the requirements of UDP policy B2 and section 10C of the Council's Residential Design Guide Consultation Supplementary Planning Document, which has recently replaced the adopted Development Control Guidelines Supplementary Planning Guidance Document.

In this regard, the guidance states that the separation distance between any points of main facing windows on one or two storey developments shall be a minimum of 21 metres unless it can be demonstrated that through careful design that a lesser distance would be acceptable. Additionally, guidance also states that for every 1 metre difference in ground levels an additional 2 metres should be added to the horizontal difference.

Particular concerns were raised with the layout of the initial scheme as a maximum spacing of 18.853 metres was proposed between the windows of the new extension and No.2 Kelso Grove reducing to 17.397 between main windows and 1 Kelso Grove. This was clearly below the guideline of 21 metres generally requested whilst due acknowledgement was also given to the fact that the surgery sits approximately 0.5 to 0.6 metres higher than the residential properties on Kelso Grove.

In light of the above concerns, further discussions with the agents were conducted in order to attempt to achieve a more acceptable solution.

Following these discussions revised plans have been put forward by the agent that has resulted in a marked reduction in the scale and massing of the surgery extension. This reduction in size and scale has consequently led to a development which is considered to satisfy the spacing requirements in this instance.

Whilst the external footprint would remain as before, the hipped two storey gable element has been removed and reworked to incorporate a somewhat smaller hipped dormer feature at first floor level which is to be set back from the principle building line of the surgery by 1.2 metres. This set back would allow for a spacing of 20 metres between the surgery's first floor which serves a training room and the principle main windows of 1 Kelso Grove and 20.2 metres between the principle main windows of 2 Kelso Grove. A small pitched roof would cover the roof area of the ground floor extension providing a design which is commensurate with the style of the existing building. The windows at both ground floor and first floor serving the consultation rooms and training room are to be obscurely glazed in order to remove the potential for overlooking and a loss of privacy. In order to ensure that these windows are to remain obscurely glazed an appropriately worded condition will need to be attached to the permission should members be minded to approve the application.

Although it is acknowledged that 21 metres between the principal elevations of the surgery and the properties of 1 and 2 Kelso Grove has still not been fully achieved, it should be noted that the existing surgery only provides a maximum spacing of 20.485 metres between its principal elevation and primary windows of No's 2 and 3 Kelso Grove. It is considered that the revised proposal has allowed the extension to appear more commensurate with the layout, setting and spacing that is currently evident within the existing building.

In addition the obscure glazing at first floor removes the potential for any significant loss of privacy for the residents of Kelso Grove. It should be borne in mind that had the building presented a fully blank gable to the homes of Kelso Grove then a spacing of only 14 metres would have been considered acceptable. In addressing the 0.5/0.6m disparity in ground levels between Kelso Grove and the front elevation of the surgery extension, the key issue to assess is the demonstrable harm that would occur as a result of the development. SPG does state that a distance of 21 metres should generally be achieved between main facing windows and that a further metre should be added for every additional metre difference in ground level.

However, each proposal must be judged on its own merits and given that the windows within the extension are to be obscurely glazed, it is not considered that sufficient levels of harm can be substantiated in this instance. Furthermore, the agents have agreed that the first floor windows on the extension would be bottom hinged opening so as not compromise privacy in any way. Having regard to the revisions that have been made and for the above reasoning, it is not considered that a refusal based on the design and layout of the proposal could be sustained on appeal.

From a design perspective the proposed dormer feature would not look out of character on a commercial property such as this and does in fact compliment the shape and form of the host building whilst reducing impacts relating to residential amenity.

In light of the above, it is considered that the layout design and scale of the proposed extension are acceptable and comply with the requirements of policy B2 of the adopted Unitary Development Plan.

3) Highway Issues

Policy T14 of the UDP aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met. In addition, policy T22 seeks to ensure that the necessary levels of car parking provision will be provided.

Planning Policy Guidance Note 13 (PPG13) also provides policy background against which this application can be assessed. Of particular note is section 51 part 2 which states that:

‘In developing and implementing policies on parking, local authorities should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls’.

Concerns have been raised by residents on Kelso Grove regarding the loss of the existing car park to facilitate the new extension which would potentially leave the practice without any dedicated incutillage parking.

Members may recall that following the preparation of the main agenda report and supplementary report, a recommendation for approval was made at the November 3rd DC Sub committee. However, a decision to defer the application

pending a member's site visit on the 27th November was made following concerns over the schemes potential impact on parking within the surrounding area.

In the intervening period further clarification has been received from the agents over the impact the extension may have on parking related issues within the area. The agent has confirmed that the surgery currently has 18 employees based across 3 different sites and that the maximum number of employees that work at the Westbourne site occurs on a Monday when 7/8 work at any one time. The agent has stated that the proposed extension would not result in an increase in staff and is in fact being designed to improve the educational and training facilities, whilst also improving consulting and disability access to the ground floor. The agent and applicant are therefore of the opinion that the surgery extension is solely for the benefits of the patients and local community by providing an enhanced service delivery and not as a desire to increase numbers of people or put further pressure on parking facilities in the area.

As has previously been mentioned, the Westbourne Medical Practice did, in 2007, gain consent to change the use of open space to the north east of the site to a private car park for users of the surgery. To date, this car park has not been constructed although it is understood that the car park is to be started within the coming months. The car park is to provide a total of 15 spaces, of which 4 are dedicated for the disabled.

The proposed extension would equate to 125sqm of development and includes 3 new consultation rooms which would bring the total number of consultation rooms to 9. Sunderland City Councils standard parking guidelines require 1 parking space per consultation room for practitioners and 3 parking spaces per consultation room for other staff and patients. As such, the parking requirement for this development would be 36 spaces. Currently the practice has 6 dedicated parking spaces which are accessed from Kelso Grove and additional parking is relied upon in the adjacent council car park which has provision for 30 parking spaces. The Councils Highway Engineers are of the view that the new car park coupled with the adjacent car park (combined 45 spaces) would be able to adequately cater for the potential volume of traffic that would be generated without unduly impinging on highway safety on this occasion. Of additional note is the fact that a proportion of people visiting the surgery are also likely to be visiting the shops within Shiney Row Centre thereby reducing overall parking requirement.

In line with the advice contained within PPG13 referenced above, it would be unreasonable to request additional car parking provision. It is not considered that the lack of further provision of dedicated parking is sufficient to sustain a refusal should an appeal be lodged.

However, the removal of the existing car park without the implementation of the new car park would be unacceptable and would create conditions prejudicial to highway safety and the amenities of the occupiers of Kelso Grove. As such, a condition ensuring that the approved car park is implemented before the proposed extension is constructed would need to be placed on the application should a recommendation for approval be forthcoming, in the interests of highway safety and policies UDP T14 and T22.

CONCLUSION

The application proposes an extension to an existing medical surgery that has been designed to compliment the aesthetics of the existing building and the adverse impacts that were evident in the initial submission have been significantly reduced to minimise the potential for overlooking, loss of privacy and overshadowing. In this respect whilst the spacing remains slightly sub standard it is clear that all windows facing Kelso Grove are to be obscured. The agents have confirmed that the extension would not result in additional staff operating from the premises and following the completion of the new car park prior to the construction of the extension, the practice would actually benefit from an increase in 9 parking spaces, compared to the existing situation.

Having considered the submitted revisions and assessed the proposal against the relevant UDP policies, it is considered that there are, on balance, no material reasons not to recommend the application for an approval in this instance.

Subject to the imposition of appropriately worded conditions requiring the previously approved car park to be implemented and in use before the extension is constructed, coupled with the requirement of the ground floor and first floor windows to remain obscurely glazed, the proposal is considered to comply with UDP policies B2, EN10, T14 and T22.

Accordingly members are recommended to grant permission subject to the conditions set out below.

RECOMMENDATION: Approve

Conditions:

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time
- 2 The development hereby approved shall be carried out in full accordance with the following approved plans:

Project No 09113
Drawing No 2002, Revision P5

Unless otherwise first agreed in writing by the Local Planning Authority in order to ensure a satisfactory form of development and to comply with policy B2 of the adopted Unitary Development Plan

- 3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the

approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

- 4 No development shall take place until the car parking area approved under planning reference 07/01551/SUB has been constructed and brought into use in the interests of highway safety and to accord with policy T14 and T22 of the Unitary Development Plan.
- 5 Notwithstanding the submitted plans, the two first floor windows and ground floor windows, located on the south-eastern elevation facing Kelso Grove, of the extension hereby approved, shall be bottom opening and fitted with obscure glazing. The windows shall be maintained as such thereafter, in order to achieve a satisfactory form of development and to comply with policy B2 of the Unitary Development Plan.
- 6 Notwithstanding any specifications on the submitted plans, details of all replacement walls, fences or other means of boundary enclosure erected as a result of the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced, in the interests of visual amenity and to comply with policy B2 of the UDP.

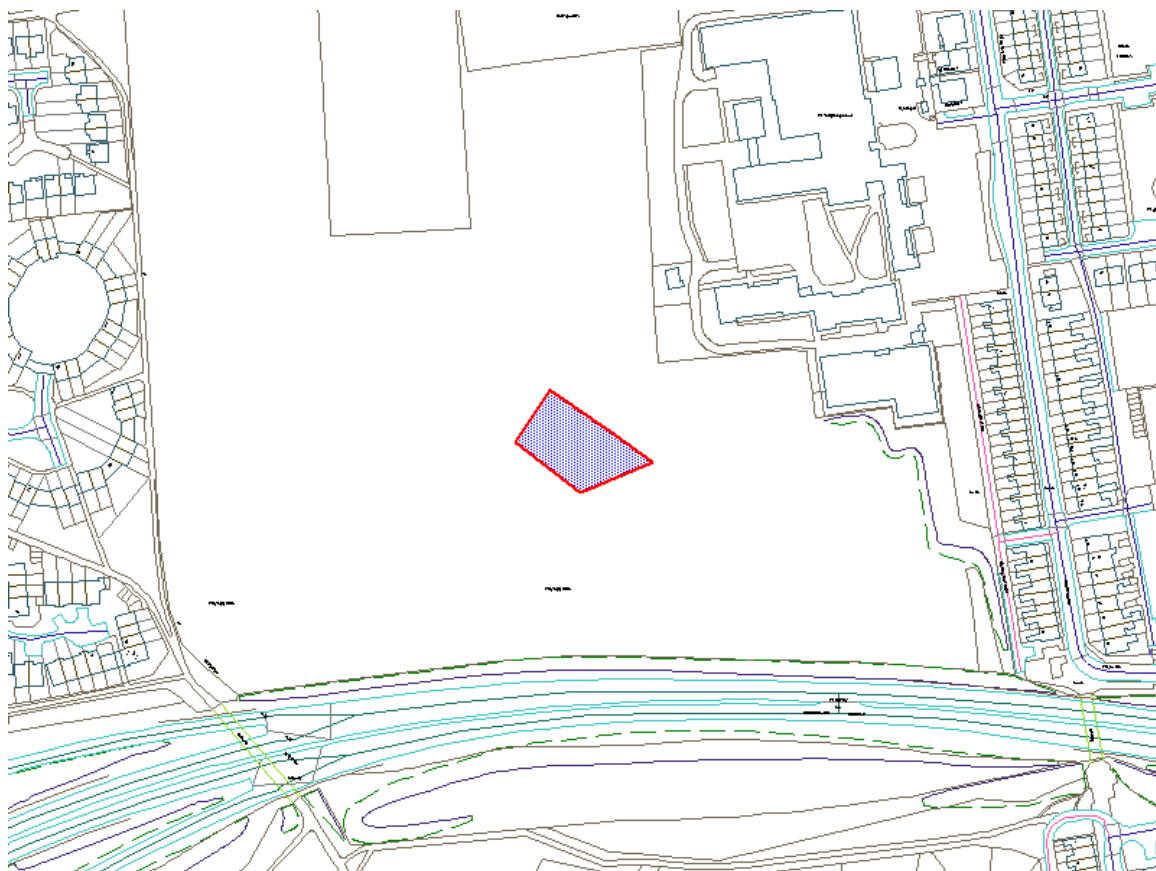
Reference No.: 09/03824/LAP Development by City(Regulation 3)

Proposal: **Erection of a wind turbine adjacent to the south west elevation of the school.**

Location: Washington School Spout Lane Washington NE37 2AA

Ward: Washington North
Applicant: Childrens Services
Date Valid: 9 October 2009
Target Date: 4 December 2009

Location Plan



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PROPOSAL:

The proposal relates to the erection of a wind turbine adjacent to the south west elevation of the recently built Washington School.

The proposed wind turbine will generate renewable energy for the school and as stated in the submitted Design and Access Statement (DAS) the turbine will provide a visible statement of the school's sustainable agenda.

The DAS explains that the position of the wind turbine has been influenced by several factors. Firstly it has been positioned to work effectively and efficiently in the generation of energy; it has been located in the centre of the school site so that it is as far away as possible from the neighbouring residential properties; and it has been located so that it does not intrude on and affect the school's sport pitches.

The proposed wind turbine will have a total height from ground level to tip of rotor blade of 10.92m, as it will have a mast height of 9.175m and a rotor diameter of 3.5m. The mast will be a matt galvanised steel grey and the blades and covers will be matt black.

The planning application has been supported by a Proven (manufacturer) Planning Pack, contextual elevations illustrating a scaled representation of the proposed mast against the new school building, a noise emission report (Proven WT2500 Wind Turbine Noise Emission Report) and Design and Access Statement.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

Director Of Community And Cultural Services
NATS Safeguarding Officer

Final Date for Receipt of Representations: **20.11.2009**

REPRESENTATIONS:

Neighbours

Three letters of representation were received.

Two of the letters enquired as to the location and height of the wind turbine, although one of these letters did raise concerns around the issues of encroachment and visual amenity.

Regarding the main letter of objection, concerns were raised as to the size of the turbine, which in their view would obscure any remaining views and light into their property. The letter also stated that as a child sleeps in a rear bedroom noise pollution was a major concern. Furthermore, the objector also referred to a study about people living near wind turbines and the effects on resident's quality of life.

The issues raised by the neighbour consultation process will be discussed in detail later in this report. However, particularly in relation to the referenced study about the effects on resident's quality of life, Members should note that issues pertaining to noise, visual, daylighting and sunlighting impacts will all be key elements in the following issues section.

Community and Cultural Services

The site intended for development has previously accommodated an industrial activity that may have resulted in contamination of that land. As such it is noted that regard must be had to the potential for employees working on such land to be exposed to any contaminants present therein, and this risk incorporated into any risk assessment, method statement or safe working practice, such advice can be incorporated as a condition should Members be minded to approve the application.

In view of the close proximity of the proposed development to nearby residential premises it has been recommended that should Members be minded to approve noisy on-site operations should not commence before 07:00 hrs and cease at or before 19:00 hrs Monday to Friday inclusive, and 07:30 and 14:00 hrs Saturdays. No noisy works shall be permitted to take place on Sundays and Bank Holidays at any time without prior approval from Environmental Services (Pollution Control), whilst approval will only be given for such working in exceptional circumstances for example on the grounds of safety and public protection.

NATS (management of en route air traffic)

The wind turbine has been examined from a technical safeguarding aspect and does not conflict with NATS safeguarding criteria. Accordingly, NATS has no safeguarding objection to the proposal.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

- EN10 Proposals for unallocated sites to be compatible with the neighbourhood
- L7 Protection of recreational and amenity land
- B2 Scale, massing layout and setting of new developments
- EN5 Protecting sensitive areas from new noise/vibration generating developments
- T14 Accessibility of new developments, need to avoid congestion and safety problems arising

COMMENTS:

The issues to consider in the assessment of the proposal are as follows;

- Principle of development
- Residential and visual amenity
- Noise considerations
- Highway and pedestrian safety
- Other considerations

Principle of development

There are two relevant Unitary Development Plan (UDP) policies associated with the proposed development. Policy EN10 states that where the UDP plan does

not indicate any proposals for change, the existing pattern of land use is intended to remain and that new development should be compatible with the principal use of the neighbourhood. Policy L7 is focused on protecting the playing fields attached to educational establishments.

As stated in the DAS the proposed wind turbine will generate renewable energy on site and will provide a visible statement of the sustainable agenda of the school. Therefore the wind turbine is firmly established both in the energy production and educational needs of the school and it is considered that the proposal accords with the provision of policy EN10. Moreover the proposed location of the wind turbine is within the 'Environmental Study Area' of the school, away from the sport pitches. Consequently, it is considered that it will not encroach onto areas of open space or outdoor recreation and as such accords with policy L7 of the UDP.

Therefore the principle of the development is considered acceptable and in accordance with UDP policies EN10 and L7.

Residential and visual amenity

UDP policy B2 requires the scale, massing, layout or setting of new development should respect and enhance nearby properties and locality.

Regarding the setting of the development Members should note that the proposed wind turbine is relatively small in scale, i.e. it has a maximum height of 10.92m. As it is sited only 20.5m away from the south west projecting wing of the school it ensures the development is at least 200m away from the nearest residential properties in Spout Lane (east) and 182m from the nearest residential properties in Langdale (west), whilst to the south is the A1231.

This view is corroborated by the fact that the mast on which the turbine generator will be attached is muted in colour as it will be treated in a matt galvanised steel grey. Furthermore, the turbine generator and blades will be coloured in matt black; which is considered appropriate given the black detailing on the school's elevations (e.g. soffits and window trim). In addition a tree belt prohibits views from residential properties to the east, whilst also providing a backdrop against which the matt black will be camouflaged when viewed from the residential properties to the west. Consequently it is considered that the proposed finished colour satisfactorily mitigates the wind turbine's obtrusiveness.

Furthermore, a condition can also be included, should Members be minded to approve, requiring that should the wind turbine generator cease to operate for a continuous period of 9 months then a scheme for its decommissioning and removal should be submitted to and approved in writing by the Local Planning Authority.

Therefore due to the height, siting and finish of the proposed wind turbine it is considered that it is acceptable and in accordance with policy B2.

Noise considerations

PPS22 acknowledges that renewable technologies may generate small increases in noise levels. The responsibility lies with the Local Planning Authority to ensure that proposed renewable energy developments have been located and designed in such a way to minimise increases in ambient noise levels. UDP policy EN5 is also concerned with noise effects, where it must be ensured that any likely problems are investigated and appropriately mitigated if considered necessary.

The potential noise implications of the proposed wind turbine in terms of impacts on neighbouring residents are considered to be low. The supporting information supplied with the application has stated that, unlike the larger scale industrial turbines, these forms of wind turbines are produced without a gear box and that the only audible noise would be the 'swooshing' of the blades cutting through the air and although the 'swooshing' generated from the rotor blades would not be a silent process, it is acknowledged that the turbines are to be located within close proximity to the adjacent A1231, which is a main transport route into the city.

Furthermore the applicant has submitted a Proven WT2500 Wind Turbine Noise Emission Report. The report states that maximum noise output at the base of this turbine is recorded as being 60dB(A) at wind speeds of 20m/s and 40dB(A) in light winds, (5m/s), concluding that background noise is louder than the turbine when more than 10 metres from the mast in both cases.

Consequently, as the nearest residential property is 182 metres to the west, it is considered the noise data supplied by the applicant demonstrates that background noise levels will be greater than the turbine and as such noise from the turbine should not adversely affect residents in the vicinity and accordingly the proposal is acceptable and in accordance with policy EN5.

Highway and pedestrian safety

UDP policy T14 requires new development to make appropriate safe provision for vehicles, pedestrians, cyclists and other road users, paying particular attention to the needs of people with mobility impairment.

The proposed wind turbine is located within the Environmental Study Area, away from areas that are accessible to vehicular traffic and away from open areas. Nevertheless, it is noted that the Environmental Study Area does abut the school yard and as a consequence is adjacent to areas where school pupils will have regular access.

However, given the turbine's height is 10.92m and as the rotor diameter is 3.5m, it is considered that the working element of the apparatus is more than adequately clear in terms of headroom and is therefore not a potential hazard to staff and students.

Consequently, as the wind turbine is located within the Environmental Study Area and as such is not readily accessible to motor vehicles and due to the height of the structure, the proposal is acceptable from a highway and pedestrian safety perspective and in accordance with policy T14.

Other considerations

There are issues pertaining to ecology, shadow flicker and tv/radio reception which are undergoing further consideration and it is envisaged that these will be appropriately assessed in order to make a recommendation on the supplement report.

CONCLUSION

For the reasons set out above the proposal is considered acceptable in respect of principle of development, residential/visual amenity, noise and highway matters. However, further consideration is being given to ecology, shadow flicker and tv/radio reception, although it is envisaged that these will be assessed to enable a recommendation to be made on the supplement.

RECOMMENDATION: Deputy Chief Executive to Report