

## Development Control Committee

Meeting to be held on 9<sup>th</sup> July 2014

Electoral Division affected: Accrington North
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### Hyndburn Borough: Application 11/13/0264

**The extension of Whinney Hill Quarry (phases 2 to 4) and the restoration by means of partial infill with inert construction, demolition and excavation waste and ancillary activities. Whinney Hill Quarry, Whinney Hill Road, Accrington**

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### Executive Summary

Application - The extension of Whinney Hill Quarry (phases 2 to 4) and the restoration by means of partial infill with inert construction, demolition and excavation waste and ancillary activities. Whinney Hill Quarry, Whinney Hill Road, Accrington.

### Recommendation – Summary

That after first taking into consideration the environmental information, as defined in the Town and County Planning (Environmental Assessment) Regulations 2011 submitted with the application and subject to the applicant first entering into a Section 106 Agreement relating to contributions to highway maintenance and the submission and implementation of a surface water management plan, planning permission be **granted** subject to conditions controlling time limits, working programme, hours of working, restrictions to limit extraction to Old Lawrence Rock, dust, blasting, soils and overburden, sheeting, protection of nesting birds, annual topographic survey and monitoring report, restoration and ground water monitoring.

### Background and Advice

At the meeting of 9<sup>th</sup> April 2014 the Committee considered a report in relation to the proposed extension of Whinney Hill Quarry, Accrington. The Committee resolved to grant planning permission subject to the applicant first entering into a Section 106 agreement relating to financial contributions towards highway maintenance.

The operator of the adjacent landfill site within the Whinney Hill complex had made representations on the application relating to the management of surface water within the application site and the implications on the implementation of the approved landfill scheme. To address these representations, a condition (no. 24) was proposed requiring the submission and approval of a scheme of surface water management prior to the commencement of development. The Section 106 agreement has not yet been signed and therefore the decision notice granting planning permission has not been issued.

In anticipation of the legal agreement being completed and the decision notice being issued, to enable stone extraction operations to commence at the earliest opportunity, the applicant has submitted a draft surface water management scheme to meet the requirements of condition 24. The scheme involves creating a separate settlement lagoon that would capture run off and manage it independently of the existing water management system employed by the landfill operator. The water collected from the stone extraction operations would be pumped to settlement lagoons that belong to the Whinney Hill complex owner and which are located at the rear of the existing brickworks. However, the proposed surface water management scheme would be partly on land outside of the applicant's control and on land which affects the landfilling operations and would be reliant on the complex owner's independent water lagoon system.

Planning conditions can only relate to land within the applicants control. Given the proposed scheme falls outside the applicants control and can't be controlled by condition, it is considered that to ensure the implementation, management and use of such, the scheme needs to be included within the Section 106 agreement rather than controlled by condition. Had the proposed scheme fallen within land within the applicant's control, it could have continued to be the subject of a condition. The owners of the Whinney Hill Quarry complex are agreeable to being a signatory to the Section 106 agreement; inclusion of the controls within the agreement would therefore provide confidence that they can be implemented throughout the full period of the development. Any impacts on the landfilling operations would be a matter between the operator and the Whinney Hill Complex owners although the proposed scheme seeks to mitigate such.

Inclusion of these controls within the section 106 agreement would mean that condition 24 would no longer be required and it is therefore proposed to delete the requirements of such and renumber subsequent conditions accordingly.

### **Recommendation:-**

That after first taking into consideration the environmental information, as defined in the Town and County Planning (Environmental Assessment) Regulations 2011 submitted with the application and subject to the applicant first entering into a Section 106 Agreement relating to contributions to highway maintenance and the submission and implementation of a surface water management plan, planning permission be **granted** subject to the following conditions:

### **Time Limits**

1. The development shall commence not later than 3 years from the date of this permission.

*Reason: Imposed pursuant to Section 91 (1)(a) of the Town and Country Planning Act 1990.*

### **Working Programme**

2. The development shall be carried out, except where modified by the conditions to this permission in accordance with the following documents:

a) The Planning Application and Environmental Statement received by the County Planning Authority on 5th July 2013 as amended by the letters from C.Ballam dated 8 September 2013 and 3rd February 2014

b) Submitted Plans and documents:

Drawing Number 9973E/01C entitled 'Location Plan'

Drawing Number 9973E/09 entitled 'Revised Restoration Scheme showing Interim Batter

Drawing Number 9973E/07D entitled 'Revised Restoration Scheme'

Drawing Number 9973E/08A entitled 'Revised Restoration Scheme Cross Sections '

c) All schemes and programmes approved in accordance with this permission.

*Reason: For the avoidance of doubt, to enable the County Planning Authority to adequately control the development and to minimise the impact of the development on the amenities of the local area, and to conform with policies CS1 of the Joint Lancashire Minerals Waste Development Framework, policy DM1 of the Joint Lancashire Minerals Waste Core Strategy Policy Env7 of the Hyndburn Core Strategy and Policy E 10 of the Hyndburn Local Plan.*

3. A copy of this permission and all the documentation referred to in condition 4 shall be available for inspection at the site office at all times throughout the development.

*Reason: For the avoidance of doubt and to ensure that site operatives are aware of the planning conditions and to comply with Policy DM1 of the JLMWLP.*

4. The application site shall be worked in the sequence of phases shown on drawings 9973E/09 and 9973E/07D and shall be restored in accordance with the scheme and programme required by condition 24 below by not later than 1st April 2042.

*Reason: To provide for the completion and progressive restoration of the site within the approved timescale in the interests of local amenities and to secure the proper restoration of the site and to comply with Policy CS5 of the JLMWLP.*

5. Within six months of the date of this planning permission a scheme and programme for the construction of the bund as shown on drawing numbers 9973E/09 and 9973E/07D shall be submitted to the County Planning Authority for approval in writing.

The scheme and programme shall include details of the following:

a) A time table for the construction of the interim and final bund.

b) Details of the engineering of fill materials to construct the bund to ensure the landfilling operations at Whinney Hill Quarry can be implemented in accordance with the approved details under the provisions of planning

permission 11/03/0017, including details of the methods of compaction to ensure the bund is capable of supporting the approved landfilling scheme.

The approved scheme and programme shall be implemented in full in accordance with the timetable approved under the provisions of a) above.

*Reason: To provide for the completion and progressive restoration of the site within the approved timescale in the interests of local amenities and to ensure the proper restoration of the site and to comply with Policy CS5 of the JLMWLP.*

6. Within two months of the date of this planning permission, a scheme and programme for the storage of stripped topsoils, subsoils and overburden shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall contain details of the following:-

- a) the locations to be used for the storage of topsoil, subsoil and overburden.
- b) details of the dimensions and heights of mounds and grading of mounds
- c) details of seeding and other works to ensure establishment of a full grass sward over the duration of storage.
- d) details of the standoffs between the soil storage areas and the Haweswater Aqueduct

The soils shall thereafter be stored in accordance with the approved scheme and programme.

*Reason : In the interests of visual amenity and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan Site Allocation and Development Management Policies DPD.*

7. No crushing and screening of stone shall be undertaken other than on the base of the existing quarry covered by planning permission 11/94/0520.

*Reason : In the interests of local amenity and to conform with policy DM1 of the JLMWLP*

8. A topographical survey shall be submitted annually to the County Planning Authority within one month of the anniversary of the date of this permission until the end of the restoration period referred in the conditions to this permission. The survey shall have been carried out within two months preceding the date of the anniversary of this permission and shall consist of a plan drawn to a scale not less than 1:1250 which identifies all surface features within the site and a 10 metre grid survey identifying levels related to ordnance datum over all the land where mining operations have taken place/materials have been deposited.

*Reason: To enable the planning authority to monitor the site and to ensure compliance with the planning permission and to conform with policies DM1 and DM2 of the JLMWLP*

9. The provisions of Part 19 of Schedule 2 of the Town and County Planning (General Permitted Development ) Order 1995 or any amendment ,

replacement, or enactment thereof are excluded and shall not apply to this development. Any development referred to in that part shall only be carried out pursuant to a planning permission granted under Part III of the Town and Country Planning Act 1990 or any amendment replacement or re-enactment thereof.

*Reason: To maintain the County Planning Authority's control of the development and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM1 and DM2 of the JLMWLP, Policy Env 7 of the Hyndburn Core Strategy and Policy E 10 of the Hyndburn Local Plan.*

10. This planning permission shall only permit extraction of the Old Lawrence Rock and shall not permit any extraction of Accrington Mudstone.

*Reason: To safeguard local watercourses and drains and avoid pollution of any watercourse or groundwater resource and to conform with Policy DM2 of the JLMWLP.*

11. No stripping of top soils or extraction of minerals shall take place in phases 3 and 4 as shown on drawing numbers 9973E/09 and 9973/07D until a further Great Crested Newt survey of the seven settling ponds in the Hanson Brick Works has been carried out. Thereafter, no stripping of top soils or extraction of minerals shall commence in phases in 3 and 4 until the survey and any subsequent mitigation measures have been submitted to and approved in writing by the County Planning Authority.

*Reason: To safeguard the ecological interests and to conform with Policy DM2 of the JLMWLP.*

12. No materials with the exception of soils and inert waste materials to be used for backfilling and restoration purposes shall be brought to the site from elsewhere.

*Reason: To secure satisfactory restoration and to conform with Policy DM2 of the JLMWLDF.*

13. No mineral extraction, backfilling or restoration operations shall take place outside the hours of:

0700 to 1730 hours, Mondays to Fridays except Public Holidays  
0700 to 1730 hours on Saturdays

No mineral extraction, backfilling or restoration shall take place at any time on Sundays or Public Holidays.

This condition shall not, however, operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential repairs to plant and machinery used on site.

*Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the JLMWLP*

## **Blasting**

14. No explosives shall be used on the site.

*Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the JLMWLP*

## **Highway Matters**

15. No more than 600 HGV's shall leave the site in any six day period from Mondays to Saturdays inclusive. No more than 200 heavy goods vehicles, as defined in this permission, shall leave the site in any one day during Mondays to Saturdays, inclusive.

*Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with policy DM2 of the Lancashire Minerals and Waste Site Allocation and Development Management Policies DPD.*

16. A written record shall be maintained at the site office of all movements out of the site by heavy goods vehicles, as defined in this permission; such records shall contain the vehicle's weight, registration number and the time and date of the movement and shall be made available for inspection by the County Planning Authority or his representative at all reasonable times. The records shall be retained at the site for a period of 12 months.

*Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with policy DM2 of the Lancashire Minerals and Waste Site Allocation and Development Management Policies DPD.*

17. The existing wheel cleaning facilities at the site shall be maintained in working order and shall be used by all vehicles leaving the site during the development so as to ensure that no mud, dust or other deleterious materials are deposited by vehicle wheels upon the public highway.

*Reason: In the interest of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with policy DM2 of the JLMWLP.*

18. All vehicles transporting aggregates of a size less than 100 mm in any dimension from the site shall be securely sheeted.

*Reason: In the interests of highway safety and to safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM2 of the JLMWLP*

19. All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and shall be maintained in accordance with that specification at all times throughout the development.

*Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with Policy DM 2 of the Joint Lancashire Minerals Waste Local Plan.*

## **Dust**

20. Measures shall be taken to ensure that operations on the site do not give rise to dust or wind blown material being carried on to adjacent land and in particular shall include the watering of all haul and access roads, the fitting of dust suppression equipment to crushing and screening plant and the spraying of storage heaps or areas as necessary during dry weather conditions.

*Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users and to conform with policy DM 2 of the JLMWLP*

21. The mitigation methods set out in paragraphs 7.3.1 and 7.3.2 of the report entitled 'Ecological Impact Assessment -Whinney Hill Quarry Extension' dated November 2013 shall be implemented in full during soil stripping operations.

*Reason: To protect ecological interests and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan Site Allocation and Development Management Policies DPD.*

22. Within three months of the date of this permission, a scheme and programme for the monitoring of groundwater shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall include provision for the following:

- a) Details for the installation of monitoring boreholes on the boundaries of the site to include depths and location of boreholes and constructional details
- b) details for monitoring of boreholes including data to be collected, frequency of monitoring and reporting of results to the County Planning Authority.

The monitoring boreholes contained in the approved scheme shall be installed within two months of the date of the approval of the scheme by the County Planning Authority and shall be retained in position throughout the duration of the development and restoration.

*Reason: To safeguard ground water resources and to conform with policy DM2 of the JLMWLP.*

23. Provision shall be made for the collection, treatment and disposal of all water entering or arising on the site to ensure that there shall be no discharge of contaminated or polluted drainage to ground or surface waters.

*Reason: To safeguard local watercourse and drainages and to conform with Policy DM2 of the JLMWLP.*

## **Restoration**

24. Within six months of the date of this planning permission, a scheme and programme for the final restoration of the site shall be submitted to the County Planning Authority for approval in writing.

The scheme and programme shall include details of the following:

- a) the phasing of the infilling and restoration works
- b) Removal of all plant, and machinery
- c) Final levels of the site
- d) details for the engineering of fill materials to allow the landfilling of Whinney Hill Quarry under the provisions of planning permission 11/03/0017 including compaction details for the fill material and final slope positions.
- e) re- spreading of any available topsoils, sub soils or soil making materials.
- f) details for the cultivation of soils and for the removal of any impediments to normal agricultural operations
- f) Seeding specification including mixes to be used and rates of application
- f) Methods to be employed to promote normal plant growth including fertilizer application and weed control.
- g) details of tree and hedge planting including location of planting, numbers, sizes and species of plants, planting methods and protection measures.
- h) details for the restoration of the land occupied by soil storage mounds.

The site shall be restored in accordance with the timescales and details contained in the approved scheme and programme.

*Reason: To secure the proper restoration of the site in accordance with an approved scheme and to conform with Policy DM2 of the JLMWLP.*

25. Should the restoration levels on drawing 9973E/07D not have been achieved by 1st April 2042 a revised restoration scheme shall be submitted for the approval in writing of the County Planning Authority. The scheme shall be submitted not later than 1st August 2042 and shall include the following details:

- a) the proposed contours of the final landform including treatment of any cliff faces to be retained.
- b) soiling of the surface of the site including depths of soil materials to be replaced and details of treatments including stone picking and cultivation.
- c) details of drainage including water features to be constructed to provide control of drainage and attenuation of run off.
- d) details for the seeding of the site including mixes to be used and rates of application
- e) details of any tree and hedge planting including including layout of planting works and details of numbers, types and sizes of species, spacings, planting techniques and protection measures.
- f) details for the restoration of the land occupied by the soil storage mounds.



g) a timescale for the implementation of the restoration works contained in the approved scheme to ensure that they are completed within 12 months of the date of approval of the scheme.

*Reason : To secure the proper restoration of the site in accordance with an approved scheme and to conform with Policy DM2 of the JLMWLP.*

## **Aftercare**

26. Upon certification in writing by the County Planning Authority of the completion of restoration, as defined in this permission, aftercare of the site to promote the agricultural afteruse of the site shall be carried out for a period of five years.

The aftercare works shall be undertaken in accordance with a scheme and programme of aftercare which shall be submitted to the County Planning Authority by not later than 31st December 2024 for approval in writing. The scheme and programme shall contain details of the following:-

- a) reseeding works necessary to promote a full grass sward over the site
- b) grazing or mowing regimes to be followed
- c) works to improve drainage, relieve compaction and prevent ponding of water
- d) works to control invasive weeds
- e) details for the management of tree and hedge planting including replacement of failures, weed control and maintenance of protection measures.
- f) a timescale for the implementation of the above works.

*Reason: To secure the proper aftercare of the site and to conform with Policy DM2 of the JLMPLP.*

## **Definitions**

**Planting Season:** The period between 1 October in any one year and 31 March in the following year.

**Heavy Goods Vehicle:** A vehicle of more than 7.5 tonnes gross weight.

**Inert Waste :** Waste that will not physically or chemically react or undergo biodegradation within the landfill environment.

**Completion of Restoration :** The date the County Planning Authority certifies in writing that the works of restoration in accordance with condition 23 have been completed satisfactorily.

## **Notes**

The applicant should contact National Grid prior to any works commencing on site at the following address: Plant Protection Team 3rd Party Enquiries, National Grid Block 1, Floor 2, Brick Kiln Street, Hinckley, Leicestershire LE10 0NA.

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.

#### Local Government (Access to Information) Act 1985

##### List of Background Papers

Paper	Date	Contact/Directorate/Ext
11/13/0264	05/07/2013	Catherine Lewis /Environment/30490
11/12/0012	13/02/2013	

Reason for Inclusion in Part II, if appropriate

N/A