

APPENDIX A

Development Control Committee

Meeting to be held on 9 July 2014

Electoral Division affected: Whitworth

Rossendale Borough: Application number LCC/2014/0055

Extension to quarry and restoration by means of infill with inert construction, demolition and excavation waste, the sorting, screening and export of recyclable material, the consolidation of existing permissions and the revision of approved working and restoration schemes at Tong Farm, Tong Lane, Bacup

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Executive Summary

Application – Extension to quarry and restoration by means of infill with inert construction, demolition and excavation waste, the sorting, screening and export of recyclable material, the consolidation of existing permissions and the revision of approved working and restoration schemes at Tong Farm, Tong Lane, Bacup.

The application is accompanied by an Environmental Statement and Non-Technical Summary under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

Recommendation – Summary

That, after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, the application be **refused** for the following reasons:

1. The proposed quarry extension would be contrary to Policy CS3 of the Joint Lancashire and Waste Development Framework Core Strategy and Policy M1 of the Joint Lancashire Minerals and Waste Local Plan in that the applicant has not demonstrated that there is a need for aggregate materials or fireclay for brick manufacturing.
2. The quarry extension would be detrimental of the living conditions of local residents caused by the movements of heavy goods vehicles close to residences over an extended period of time particularly as there is no proven need for the minerals, contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.
3. The recycling operations would be detrimental to the living conditions of local residents caused by the movement of heavy goods vehicles importing waste

materials to the site and subsequently exporting recycled materials thereby increasing the overall number of vehicles that would be required to provide the necessary materials for the restoration of the site or to export permitted minerals over a substantial period of time associated with the quarry extension and revised restoration levels contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Applicant's Proposal

Planning permission is sought for an extension to Tong Farm Quarry and restoration by means of infill with inert construction, demolition and excavation waste, the sorting, screening and export of recyclable material, along with the consolidation of existing permissions and the revision of approved working and restoration schemes.

The proposed quarry extension would relate to 3.7ha of land to the north of the current approved extraction area; this would involve the extraction of 430,000m³ (755,000 tonnes) of shale and 110,000m³ (190,000 tonnes) of fireclay over a period of 10 years.

The application proposes the consolidation of a number of post 1970 planning permissions into a single defined boundary and as such the total application site relates to an area of 11.8ha.

The existing planning permissions provide for backfill with restoration taking place within the quarry floor and including the retention of the main quarry faces. The application seeks to fill the quarry to levels that would closely match original ground levels through the deposit of additional restoration materials. The operator also seeks permission to establish recycling facilities for construction, demolition and extraction waste as a means of recovering waste materials that could be re-used and recycled and exported back out of the site as recycled product.

Including the void space that would be created in the proposed quarry extension area the infill capacity would be approximately 720,000m³. The applicant anticipates infill at a rate of 50,000 tonnes per annum for approximately 22 years and at the end of which the site would be returned to agricultural use. The applicant has stated that provision of recycling facilities would attract more waste materials to the site increasing to approximately 63,000 tonnes per annum. From this it would appear that 13,000 tonnes of recycling material would be exported off the site per annum.

The applicant proposes to operate the site in the same way as the existing site and within the conditional restrictions set out in the extant planning permissions. The existing site operates between 0730 – 18.30 hours Monday to Friday and 0730 – 1300 hours on Saturdays. No work is allowed to be carried out on Sundays or Public Holidays. The applicant proposes to work the proposed extension area within the same hours.

The applicant estimates that minerals proposed to be worked as part of the extension area and the importation of restoration materials would generate an average of 40 HGV's leaving the site per day, reflective of the number of HGV's permitted to leave the existing site (Condition 21 to planning permission 14/98/0383 permits of 7 HGV's leaving the site in any one hour). Access would continue to be

from Pennine Road along Tong Lane, which leads to a haul road to the site, an informal car park lay-by, office accommodation and wheel wash facilities.
HGV's

An Environmental Statement accompanies the application which addresses the key likely significant effects of noise and dust, water features and hydro geological appraisal, vehicle movements, and ecology.

Description and Location of Site

Tong Farm Quarry is an active fireclay and shale quarry extending over an area of 8.3ha in an elevated location approximately 600m south east of Tong Farm (owned by the applicant) and approximately 2km south east of the centre of Bacup. The site is accessed off Tong Lane. The depth of the quarry has varied relative to adjoining land levels typically between approximately 18m in the south west and 25m in the north east. However, more recently the existing site has been progressively filled with restoration materials.

Although the site is surrounded on all sides by agricultural land, the quarry is located within a semi rural setting. To the north and east, a multitude of small hill farms are located along the valley sides with open Moorland dominating the hilltops. To the south and west of the quarry lies suburban housing. The nearest residential property to the existing quarry is Hey Head Cottages some 68m to the south east; Dry Corner Farm is located some 90m to the east. These properties are approximately 230m and 170m respectively from the proposed extension to the extraction area.

There is an extensive network of public rights of way in the immediate locality although none would be directly affected by the proposed development.

Background

History

Planning permissions for the extraction of materials at Tong Farm date from the early 1960's. In 1961 planning permission was granted for the working of a larger area with much of the material being excavated (ref 13/1/1606). The Environment Act 1995 introduced new requirements for the review of conditions attached to old permissions. This culminated in the determination of modern working conditions for Tong Farm Quarry under planning permission 14/96/0085 (subsequently varied by 14/98/0383).

A Stop Notice and Enforcement Notice were served on the applicant on the 30 April 2010 due to the unauthorised extraction of minerals. The applicant maintained that the extraction of minerals was required to carry out essential quarry face stability works. Mineral extraction operations ceased and the operator subsequently submitted a planning application to regularise these activities and which was granted in October 2011 (ref. 14/10/0324).

Planning permission was also granted for a small extension in 2011 (ref 14/10/03325) and which was the subject of a Section 106 Agreement to relinquish some of the approved depth of working.

Relevant planning permissions:

Planning permission for the extraction of fireclay by opencast mining was granted in June 1960 (ref 13/1/1531).

Planning permission for further extraction was granted in April 1961 (ref 13/1/1606)

Planning permission for further extraction was granted in September 1970 (ref. 13/1/2888).

Planning permission for the approval of conditions relating to permission 13/1/2888 was granted in August 1996 (ref 14/96/0085).

Planning permission for the variation of conditions imposed under 14/96/0085 was granted in April 1999 (ref.14/98/0383).

Planning permission for the retrospective mineral working and the importation of soils/subsoils for the purposes of restoration was granted in 7 October 2011. (ref.14/10/0324).

Planning permission for the extension of existing quarry working and the importation of soil/subsoil for the purposes of restoration was granted in 24 October 2011 (ref.14.10.325) subject to a Section 106 Agreement restricting depth of working in the existing site. This permission relates to a small extension and it was accepted that there would be a local economic stimulus provided by the continued activity at the quarry. However, there were a number of other factors associated with this approval including the applicant entering in to a Section 106 agreement to relinquish some of the approved depth of working.

Planning Policy

National Planning Policy Framework (NPPF)

Paragraphs 6 – 16, 109 – 125, 142 -148 are relevant with regard to the definition of sustainable development and the operation of the planning system, conserving and enhancing the natural environment and the sustainable use of minerals.

Planning Practice Guidance (PPG)

Paragraph 10 Economic considerations, feasibility of strategic approach to restoration

Paragraph 11 Assessing environmental impacts from minerals extraction

Paragraph 80 Aggregate landbanks

Joint Lancashire Mineral and Waste Development Framework Core Strategy DPD
Managing our Waste and Natural Resources (JLMWDF)

Policy CS1 Safeguarding Lancashire's Mineral Resources

Policy CS3 Meeting the demands for New Minerals

Policy CS4 Identifying Sites and Areas for Mineral Extraction

Policy CS5 Achieving Sustainable Mineral Production

Joint Lancashire Minerals and Waste Local Plan (JLMWLP) - Site Allocations and Development Management Policies

Policy NPPF1	Presumption in Favour of Sustainable Development
Policy DM1	Management of Waste and Extraction of Minerals
Policy DM2	Development Management
Policy LF1	Non hazardous landfill
Policy M1	Managing mineral production
Policy M2	Safeguarding Minerals
Policy WM4	Inert Waste Recycling

Rossendale Core Strategy

Policy 10	Provision for Employment
Policy 18	Biodiversity, Geodiversity and Landscape Conservation
Policy 24	Planning Application Requirements

Consultations

Rossendale Borough Council - Having regard to the harm to resident's amenities which is/will continue to be caused by HGV traffic as it passes between the site and the main road network, the current application should be refused unless the County Council is satisfied that there is a compelling need for extraction of the shale and fireclay to be found here in order to meet sub-regional requirements.

In the event that the County Council is satisfied that there is a compelling need for extraction of the shale and fireclay to be found here the permission for its extraction should minimise the period resident's amenities are harmed, consistent with there being no change to the presently permitted hours (7am-6pm weekdays; 8am-1pm Saturdays; not Sundays or Bank Holidays), nor increase in the number of HGVs that may exit the site (7 per working hour).

Furthermore, sorting, screening & export of recyclable materials and infilling to restore the site should not extend beyond the permitted extraction period by more than 5 years, and all activities to take place on the site shall be undertaken in a manner to minimise impact on neighbours.

LCC Assistant Director (Highways) - No objection subject to conditions controlling the number of vehicles, sheeting of vehicles, wheel wash facilities, access from Pennine Road, no explosives, and a written record to be kept of all heavy goods vehicles as per the previous application.

Environment Agency - No objection subject to a condition requiring an updated water features survey and if necessary a hydro geological impact assessment.

Natural England - The application is in close proximity to the Lee Quarry Site of Special Scientific Interest (SSSI) but is satisfied that the application details would not damage or destroy the interest features for which the site has been designated.

National Grid Gas and Electricity - No observations received.

National Grid Company PLC - No observations received.

Health & Safety Executive- No objection

Ramblers Association- No objection.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Two letters of representation has been received objecting to the proposed development for the following summarised reasons:

- There are too many lorries coming through the Pennine Road Estate/ South Street with most of them coming from Tong Farm.
- The lorries cause a risk to cars, pedestrians and the primary school and cause noise, dust, vibration and damage to the road surface.
- The number of lorry journeys should be reduced to avoid a serious accident particularly involving children.
- Operating the site for another 10 years would be unacceptable.

Three letters of representation has been received in support of the application on the grounds that the site provides a valued supply of aggregates, fireclay and a local inert waste disposal point.

Advice

Planning permission is sought for an extension to the north of the current quarrying activities at Tong Quarry followed by restoration through the importation of inert soil making materials and utilisation of quarry waste. Permission is also sought to introduce operations to allow for the recovery and export of re-usable materials from imported waste streams.

Planning permission for a small extension for the extraction of aggregates was granted in 2011. The application was supported given the small volume of mineral involved, the local economic stimulus that would be provided, an agreed reduction in the final approved depth of the existing workings, and a more desirable restored site profile in relation to the existing permission.

The policies of the Development Plan seek to ensure that Lancashire makes an appropriate contribution to meeting local, regional and national supplies of minerals. It is therefore necessary to assess the need for the aggregate that would be extracted against the potential impact of the proposal on the local environment including impacts on the public highway, the amenity of the residents who live nearby and the impact on local landscape.

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Need for Mineral

The site is currently worked for a variety of shale like materials (mudstones), some of which are crushed and sized for construction uses (aggregate). The site is also worked for fireclay (brickshale) which can be used as an industrial mineral for brick manufacturing.

Government policy is set out in the *National Planning Policy Framework* which seeks to ensure that Mineral Planning Authorities should plan for a steady and adequate supply of aggregates to the construction industry. When determining planning applications, Paragraph 144 of the NPPF is clear that local planning authorities should give great weight to the benefits of mineral extraction including to the economy.

Policy CS1 of the JLMWDF states that minerals will be extracted only where they meet a proven need for materials within particular specifications. Policy CS3 of the JLMWLP is about meeting the demand for new minerals and states that:

"No additional land will be made available for the extraction of gritstone for aggregate use before 2021 unless it is of a special quality not available elsewhere".

Policy CS3 goes on to add that:

'Additional land will be made available during the Plan period for the extraction of minerals for cement or brick manufacturing, where it can be demonstrated that the landbank supplying the manufacturing plant will fall short of 25 years during the Plan period'.

Furthermore, text accompanying Policy CS4 of the JLMWDF identifies that in relation to current landbanks of permitted reserves for gritstone, limestone, clay and shale at the end of 2004, no sites or other areas will be identified for the extraction of any other mineral unless there is a landbank shortfall or there is a recognised commercial need for minerals of a particular specification that cannot be met from elsewhere.

Policy M1 of the JLMWLP makes it clear that development will not be supported for any new extraction of sand and gravel, limestone, gritstone or brickshale.

In addition to the *National Planning Policy Framework*, the government has also published accompanying practice guidance. Paragraph 84 of the *Planning Practice Guidance* advises that an adequate or excess landbank is not a reason for withholding planning permission. The total landbank size is only one measure of the need to release additional reserves. It is also necessary to consider the ability of the existing operational sites to supply market demands, the suitability and availability of alternative materials and issues of possible sterilization should production cease at a quarry site. The PPG adds:

'There are a number of reasons why an application for aggregate minerals development is brought forward in an area where there exists an adequate landbank. These could include:

- significant future increases in demand that can be forecast with reasonable certainty;*
- the location of the consented reserve is inappropriately located relative to the main market areas;*

- *the nature, type and qualities of the aggregate such as its suitability for a particular use within a distinct and separate market; and*
- *known constraints on the availability of consented reserves that might limit output over the plan period.'*

In relation to the first bullet point, no significant future increase in demand has been identified, to singularly warrant supporting further extraction of gritstone aggregate within the County.

With reference to the second bullet point, the applicant has advised that the quarry provides a local source of aggregates to the local construction industry together with a means of disposing construction and demolition wastes as part of the quarry's restoration. The area served includes Burnley, Blackburn, Bury and Rochdale all within a 15 mile radius. The applicant states that without Tong Farm the local construction industry would face higher costs arising from reduced competition and increased travel distances.

Whilst these are considered to be valid observations and it is accepted that an extensive network of sites can reduce unsustainable haulage distances and contribute to local competitiveness, it is evident that aggregates and shales are readily available from within the Rossendale area and adjoining districts. A large proportion of the permitted reserves of gritstone in Lancashire are held close by at Whitworth Quarry in Rossendale. Similarly significant reserves are held at Scout Moor Quarry near Edenfield and Fletcher Bank Quarry near Shuttleworth, Ramsbottom. Permitted reserves of gritstone/shale are also available at Jamestone Quarry at Haslingden Grane, Hutch Bank Quarry, also at Haslingden, Whinney Hill in Accrington and Rakehead at Huncoat. Permitted shale reserves are available at Deerplay Landfill site although significantly the site is currently mothballed. Overall it is considered that local market is adequately served for the purposes of the local plan period.

The fireclay is commonly associated with coal seams and due to the decline of the opencast coal industry, particularly in the northwest, fireclay of this nature has become more difficult to source. However, the fireclay is a relatively small proportion of the overall mineral reserve proposed to be extracted. It is accepted that the fireclay from the site does meet an important market need; however, the fireclay production is subordinate to the aggregate /crushed stone output. Furthermore, although the applicant has provided a letter of support from a fireclay supplier in relation to the value of the reserves to the brick manufacturing market, the applicant has not clearly demonstrated there is likely to be a shortfall in supply as required by Policy CS3.

Therefore, it is considered that a need argument for the extension should not be weighted towards fireclay production alone. On balance it is considered that there is insufficient justification to support extraction of the stone due to *"the nature, type and qualities of the aggregate"* as set out in the third bullet point of paragraph 84 of the PPG.

The applicant has not demonstrated that the crushed stone (shale) produced by Tong Quarry is of any special quality and is used for construction sub bases, for hard standings and other general fill uses.

In view of the availability of alternative other local sites with extensive permitted reserves, there are no known constraints that might limit output over the plan period.

Policy M1 aims to manage mineral production and the accompanying text makes it clear that there is no need to provide further site allocations or policies for aggregates and minerals which includes brickshales. The glossary of terms associated with the local plan document includes "other bulk material used by the construction industry" as part of the definition of aggregates.

It is therefore considered that the applicant has not demonstrated the need for the release of additional reserves at this site for the purposes of Policy CS3 of the JLMWLP, Policy M1 of the JLMWLP or by virtue of any provisions set out within paragraph 84 of the PPG.

Impacts in relation to the sorting screening and export of recyclable material

The proposed processing facility would run in tandem with the infilling and restoration element of the associated quarry development, and would manage materials that would have previously been imported and disposed directly into the site, for the purposes of segregation and recycling.

The applicant has advised that products derived from the recycling of construction and demolition waste would be used to blend with the quarried materials. Combined sales of the blended aggregate would be likely to remain at approximately 80,000 tonnes per annum as per existing without the recycled element. The assumption has been made that imports of construction and demolition waste would rise to 63,000 tonnes per annum with approximately 50,000 tonnes of residual restoration material deposited within the quarry void.

In terms of vehicular movements the waste materials would be brought on site in 15 tonne load tipper wagons. This would generate an average of 16 loads per day. Maintenance and diesel tankers would also visit the site, fuel delivery tanks would visit twice per week.

Annual waste inputs have declined over the past years. Quarry void capacity including the void space in the proposed extension area and within the rest of the site has been calculated at 720,000m³. The applicant has advised that a recycling operation could enable infill at a rate of 50,000 tonnes annually which would extend the life of the quarry to approximately 22 years. The processing operations would not involve any permanent built development, and the only source of potential visual intrusion would be through the formation of stockpiles of aggregate type material. The applicant has advised that the current plant associated with the quarrying would be able to manage the sorting and processing of waste materials and the crushing and screening plant would remain located below ground level so as to minimise noise generated, particularly on noise sensitive properties outside the site boundary. Given the existing operations at the site it is considered that there would be no significant change in principle to existing operations. However, as the restoration of the site progresses it may be necessary to construct screen bunds behind which the plant would operate.

The applicant has argued that the provision of recycling facilities would attract more waste to the site, which would increase the rate at which the site could be restored. How this would work in practice would ultimately depend on the success of the recovery and recycling operations and how much material is exported off-site. Policy WM4 of the JLMWLP encourages developments for aggregate recycling facilities where they do not compromise the long term restoration of mineral workings and landfill sites back to a beneficial afteruse within the original timescale of the parent permission. There is limited mineral reserve remaining within the existing permission ref 14/98/0383 and the applicant has advised that there is approximately 200,000m³ of remaining void space within the permitted site. Permission 14/98/0383 is limited to 2042.

If the applicant's assumption, that more waste would be attracted to the site, can be supported then there should be sufficient residual material for restoration purposes so that the final restoration of the site is not unduly compromised. In this respect the proposal could be supported. However, the main concern is the cumulative impact of additional vehicles removing recycled materials off-site along with vehicles bringing in waste materials and exporting minerals. Overall, there would be an increase in HGV movements required to export materials and finally restore the site compared with those purely associated with quarrying and restoration operations currently permitted.

It is acknowledged that the quarry has been in existence for many years and HGV movements have been restricted by condition. However, it is considered that even if the timely restoration of the site would not be compromised, the benefits associated with waste recycling would not be outweighed by the impact of HGV movements on local residential amenity contrary to Policy DM2 of the JLMWLP.

Impact on Highway Network

The policies of the Development Plan in particular DM2 of the Local Plan Site allocation and Development Management Policies –Part One and Policy 24 of the Rossendale Core Strategy, seek to ensure that proposals for mineral development do not give rise to unacceptable traffic and road safety problems or unacceptable effects on amenity along the routes used.

A Transport Statement (TS) has been submitted which seek to demonstrate that the proposal would be acceptable. The TS states that the proposed operations would generate an average of 32 HGV's entering and exiting the site each day. It is not anticipated that there would be any increase in the daily vehicular movements to and from the site as the current daily rate of production is likely to remain the same. This aspect can be controlled by condition. It further explains that whilst the proposed extension would increase the overall volume of material extracted from the site this would be accommodated within the extended life of the quarry operations.

HGV's typically travel to the site from the A67, Rochdale Road. These vehicles either use Tong Lane and South Street or travel south along Pennine Road. Access to the quarry is via a narrow, concreted lane which leaves Pennine Road close to its junction with Tong Lane. St. Mary's Primary School is located approximately 400m to the west of the quarry off Tong Lane. Pennine Road and Tong Lane are lined with residential properties that form part of a large housing estate. To support the acceptability of the application in terms of highway safety the TS has considered the

injury accident data within the last 5 years and concludes that none of the accidents along the adjacent roads and junctions involved HGV traffic.

As there is no increase in employees and no proposed increase in vehicle movements per hour LCC highways has raised no objection to the application, subject to similar conditions being imposed as per the previous planning permissions. Commenting upon the applicant's suggestion that the HGV's are evenly distributed between the two main routes to the site, he states that in practice this is difficult to manage. Further it is likely that 90% of the HGV's use South Street to enter Rochdale Road. However, as there have been no reported collisions in the past 5 years involving HGV's the continuation of the current operation would not cause a highway safety issue. It is considered that there would be little impact upon highway safety subject to conditions controlling vehicular movements, wheel cleaning facilities, access to the site to be taken from Pennine Road and a written record to be maintained of vehicular movements.

Under previous historical permissions Tong Quarry has a life until 2042. Under the current rates of extraction within the most recent permissions, extraction should cease within the next few years and the site would then be subsequently restored. The most recent extension permission has an end date of December 2015.

It is accepted that there would be unlikely to be unacceptable highway safety impacts associated with HGV movements in the locality. However, the proposed extension to the quarry and the associated need to restore the site would mean that local residents would have to endure disturbance for an extended time.

It is acknowledged that the development would not increase the number of vehicles that are currently permitted and experienced but it would involve the operations taking place over a longer period of time. The accompanying text paragraph 2.2.4 associated with Policy DM2 of the JLMWLP considers that the magnitude of the impact can be influenced by the duration of the operations. This would then inform the significance of the impact and enable an assessment to determine whether the development would cause demonstrable harm. On balance it is considered that the continued use of these residential roads for quarrying related activities of which there is no overriding need would have an adverse effect upon the residential character of the area. It is therefore considered that by virtue of the duration of the development it would have an adverse impact upon the environment of the local community.

The development is therefore considered to be contrary to policy DM2 of the JLMWLP as the development would have a negative impact on the residential amenity of those living nearby.

Landscape, visual impact and restoration

The site lies within a Moorland Fringe landscape character type identified within Lancashire County Council's Landscape and Heritage Supplementary Planning Guidance and which has been retained for development control purposes. Proposed developments must be appropriate to the landscape character type within which they are situated and contribute to its conservation, enhancement or restoration or the creation of appropriate new features. Therefore any restoration plans must ensure that the proposals fit well with the area's Moorland Fringe landscape character and in particular that any method of enclosure used along the field boundaries is consistent

with what is found nearby. Planning permission was granted in 2010 for a restoration scheme that provided a benched quarry face and gently sloping agricultural grassland. The applicant advised that the final restoration levels would be achieved through utilisation of quarry overburden and mineral waste that is on-site and through the importation of soil making material within the limits of an Environmental Permit issued by the Environment Agency. The principle of the proposed restoration scheme was considered acceptable. As part of this application the applicant has proposed a different restoration scheme for the quarry as a whole that would seek to restore the site to existing ground levels. The quarry would be backfilled utilising quarry waste, imported soil making materials and residual materials from the proposed recycling operations as set out earlier in the report. The site would then be suitable for agricultural purposes and would eventually be restored to a pre quarrying landform and profile.

The restoration of the scheme has been divided into four phases and each phase would take 5 years. It is anticipated that final restoration would be undertaken by 2035 although this would be dependent on the rates of extraction and backfill. The aims of the revised restoration scheme could be supported in principle and the details of the scheme could be controlled by condition. However, the revised restoration scheme is fundamentally linked to the proposed quarry extension and therefore cannot be supported in view of the recommendation in relation to the need for the minerals above.

Impact upon local amenity

The NPPF (paragraph 144) and the JLMWLP framework recognise that minerals and waste developments have the potential to give rise to adverse impacts on the quality of life of people for a variety of reasons including noise, dust, vibration and visual intrusion.

The application site is located in open countryside but is in a landscape that includes scattered farmsteads and isolated properties. The nearest residential properties are located some 68m to the south east of the quarry (Hey Head Cottages) with Dry Corner Farm some 170 m from the proposed extraction area. The principle of the minerals working adjacent to these residential properties has been found acceptable previously, but it is important to assess the impact of the recycling operations on residential amenity. As set out previously in the report the applicant has advised that the processing operations would not involve any permanent built development, and the only source of potential visual intrusion would be through the formation of stockpiles of aggregate type material and the presence of additional plant and vehicles. The crushing and screening plant would remain located below ground level so as to minimise noise generated, particularly on noise sensitive properties outside the site boundary.

A noise assessment is accompanied as part of the Environmental Statement which assesses the sound levels from the proposed activities. The assessment is based upon the technical guidance to the National Planning Policy Framework. The technical guidance has been superseded by the Planning Practice Guidance but the guidance is similar. The noise assessment confirms that the proposed operations on week days and Saturday morning would generally comply with the Guidance which recommends for sound levels caused by mineral workings not to exceed the background sound levels by more than 10 dB(A). The only exception to this would

be when the mobile plant items are working near the quarry boundaries. However, they would comply with the alternative requirement of the technical guidance not to exceed 55 dB(A) LAeq 1 hour (free field).

The Planning Practice Guidance that accompanies the NPPF sets out policy considerations in relation to the environmental effects of mineral extraction. These policies establish the principles to be followed in respect of reducing and controlling dust and noise. The greatest potential for dust and noise generation is the crushing and screening of the aggregate and recycling operations. These operations would take place at the base of the quarry, and is therefore unlikely to have an impact upon residential amenity. The quarrying activities have taken place in this general location for many years and have not given rise to complaints about noise or dust. In this respect the proposed development would be acceptable.

Protected Species and Habitats

The application is accompanied by a Phase 1 Habitat and Protected Species Survey which identifies that the majority of the extension area is agriculturally improved ryegrass dominated pasture which is cropped for hay and grazed. The survey acknowledges that Badgers are present and active at the quarry site but are not identified within the proposed extension. Three setts have been located within the overburden mounds. The approved drawings provide for their retention.

The report concludes that there was no evidence to suggest the likely presence of other protected species on the site and recommends mitigation measures in terms of working practices to minimise the impacts on badgers and breeding birds. Subject to a condition requiring the working practices as set out in Section 7.3 of the document entitled "Tong Quarry Bacup Ecological Impact Assessment" dated November 2013 the development is considered acceptable in terms of ecology and would meet the aims of Policy DM2 of the JLMWLP.

Water Management

The application is accompanied by a Water Features Survey and Hydrological Appraisal dated 2010 that formed part of the submission for the most previous applications. Although this document demonstrated that the risk to local supplies is limited and the previous quarry extension should have no impact on the ground water dependant features, the EA note that the report is four years old. However, the EA has raised no objection to the proposed development but recommend, should permission be granted, that a condition be imposed requiring the submission and agreement of the details for an updated water feature and if necessary a hydrogeological impact assessment.

Other matters

Of relevance to the determination of this application is a recent planning application for a quarry extension at Whinny Hill, Accrington (ref 11/13/0264). Permission was granted subject to the signing of a Section 106 agreement in relation to highway matters. Although it was concluded that there was no need for the extraction of the minerals and therefore there was some conflict with the development plan it was considered that due to locational factors and the economic hauling distances to

serve other parts of Lancashire the Whinney Hill application could, on balance be supported.

In terms of local economic value and employment, the applicant has advised that if they cannot secure planning permission for the proposed extension the extraction of aggregates would cease with the loss of this aggregate supply to the east of the County and the loss of local employment associated with the quarrying activities and supporting industry. This employment and local economic benefit is recognized but it is judged that this would not outweigh the overriding lack of policy support.

Human Rights

The proposal raises issues relating to the protection of amenity and property under Article 1 of the 1st Protocol of the Human Rights Act 1998.

Article 1 of the 1st Protocol concerns the enjoyment of property and provides that everybody is entitled to the peaceful enjoyment of his possessions and that no one should be deprived of the enjoyment of property except in the public interest. The applicant has rights under this article. However, the policies of the Development Plan seek to ensure that the development of land is carried out in the public interest. The relevant policies seek to ensure that mineral reserves are only released when there is a need and that minerals and waste operations do not have an unacceptable impact on local amenity. The proposal has the potential to conflict with these policies and the interference in the rights of the applicant is therefore considered to be justified in order to protect the public interest. It is considered that the public interest can only be safeguarded by the refusal of permission and that the refusal would not place a disproportionate burden on the applicant.

Conclusion

In conclusion, the application is for an extension to an existing quarry measuring 3.7ha to the north of the current approved extraction area which would take approximately 10 years to extract. The application also relates to the establishment of sorting, screening, and export of recyclable material along with a revised restoration scheme for the whole of the quarry. This would increase activity at the quarry for a further estimated 22 years. The application also provides for the consolidation of a number of post 1970 planning permissions in to a single permission and as such the total application site relates to an area of 11.8ha.

There have been a number of incremental planning permissions for the quarry and the main issues associated with this application are the principle of further extraction, the acceptability of a recycling operation in this location, and a revised restoration scheme involving the importation of additional materials to restore the site to approximate former land levels.

The JLMWDF makes it clear that no additional land will be made available for the extraction of gritstone for aggregate use unless it is of a special quality not available elsewhere. The materials on site that are utilised as aggregate are not of a special quality and therefore there is no need to release this material in accordance with the local plan. It is acknowledged that a proportion of the shale on site can be utilised as fireclay from brick manufacturing and the material does have distinct properties. However, the Fireclay is a subordinate aspect to the overall quarry material and no

need for the fireclay has been demonstrated in accordance with Policy CS3 of the JLMWDF. It is therefore recommended that planning permission be refused.

Recommendation

That, after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, the application be **refused** for the following reasons:

1. The proposed quarry extension would be contrary to Policy CS3 of the Joint Lancashire and Waste Development Framework Core Strategy and Policy M1 of the Joint Lancashire Minerals and Waste Local Plan in that the applicant has not demonstrated that there is a need for aggregate materials or fireclay for brick manufacturing.
2. The quarry extension would be detrimental of the living conditions of local residents caused by the movements of heavy goods vehicles close to residences over an extended period of time particularly as there is no proven need for the minerals, contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.
3. The recycling operations would be detrimental to the living conditions of local residents caused by the movement of heavy goods vehicles importing waste materials to the site and subsequently exporting recycled materials thereby increasing the overall number of vehicles that would be required to provide the necessary materials for the restoration of the site or to export permitted minerals over a substantial period of time associated with the quarry extension and revised restoration levels contrary to Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Ext
LLC/2014/0055	1/4/14	Catherine Lewis/Environment/30490
14/10/0324		
14/98/0383		
14/96/0085		
13/1/2888		
13/1/1606		

Reason for Inclusion in Part II, if appropriate

N/A