

Development Control Committee

Meeting to be held on 21 July 2021

Electoral Division affected:
Skelmersdale East

West Lancashire Borough: application number LCC/2021/0027 Construction of a new access track to provide safe access to water area East Quarry, Appley Lane North, Appley Bridge, Wigan

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Executive Summary

Application - Construction of a new access track to provide safe access to water area.

East Quarry, Appley Lane North, Appley Bridge, Wigan.

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling time limits, working programme, highways matters, noise, landscaping and ecology.

Applicant's Proposal

The application is for the construction of an access ramp into the base of a disused quarry using imported inert materials.

The ramp would have a length of approximately 170 metres with a variable width dependent upon the contours of the quarry faces. The top of the ramp would be at a level of around 40 m above ordnance datum (AOD) and would descend into the base of the quarry at a level of 25 m above ordnance datum (AOD). At the highest point of the ramp would be a concrete hardstanding area which is required to allow heavy goods vehicles (HGVs) to tip materials without having to pass over unsurfaced areas. The concrete area has already been constructed.

The applicant estimates that the construction of the ramp would require approximately 11,000m³ of inert fill materials which would be imported by road over a period of 27 days during normal working hours on Mondays to Fridays and Saturday mornings.

Description and Location of Site

The application relates to East Quarry, a disused sandstone quarry located between Appley Bridge and Shevington Vale 6 km north west of Wigan.

The quarry, which measures approximately 300 metres by 300 metres was last worked in the early 1990's and is now flooded to a height of around 25m above ordnance datum (AOD). The maximum depth of the quarry below the existing water level is believed to be around 26 metres.

The quarry is accessed off Appley Lane North via an access that serves a number of industrial and commercial premises that are located directly to the west of the quarry. The other boundaries of the quarry are mainly woodland although there are several residential properties that over-look the quarry at Ashfield Terrace to the north and Stone Mill Rise to the south. The other nearest residential properties are located off Appley Lane North.

The ramp would be constructed down the western side of the quarry. This side of the quarry is comprised of slopes of tipped materials that are now covered with small trees that have regenerated on the sides of the quarry.

Background

History

The quarry was subject to a number of old mining permissions. However, these have now lapsed.

In 2011 planning permission was granted by West Lancashire Borough Council for the development of residential units (on land and water), hotel, restaurant, boat house, car park and new community centre. This permission has never been implemented.

In 2019, an application for an Environmental Impact Assessment (EIA) Screening Opinion was made to the county council in relation to a proposal to infill the quarry with inert materials. It was concluded that Environmental Impact Assessment (EIA) would be required.

Planning Policy

National Planning Policy Framework (NPPF): The following paragraphs are relevant 8 -11 (achieving sustainable development), 108 -109 (highways), 174 -175 (natural environment) and 183 (planning and pollution control)

Joint Lancashire Minerals and Waste Local Plan (JLMWLP)

Policy DM2 – Development Management

West Lancashire Local Plan

Policy SP1 – Sustainable Development Framework
Policy GN3 – Criteria for Sustainable Development

Consultations

West Lancashire Borough Council: No observations received.

Wrightington Parish Council: No observations received.

Ecology Advice (Jacobs Ltd): Although the applicant has submitted a preliminary ecological appraisal, this does not contain sufficient information to ensure that there will be no ecological impacts from the construction of the new access road. In addition, the appraisal and arboricultural assessment were both undertaken in September 2019 and current ecology guidance states that assessments should be reviewed when greater than 18 months old. As a result, it is recommended that planning permission be rejected until further surveys are undertaken. In terms of bats, the appraisal noted that the quarry was used by five species of bats. A number of semi mature trees are to be lost which have not been assessed for bat potential by an ecologist. The arboricultural assessment notes that these trees were in 'good' condition but did not comment on features such as woodpecker holes or lifting bark which might present bat roosting potential. In order to satisfy the relevant tests for protected species, Jacobs therefore advise that the impacts on bats must be fully understood before the application is determined. It is considered that there are also potential issues with Great Crested Newts including the need to carry out a full survey.

Lancashire County Council (LCC) Highways Development Control: No objection. The proposal would use an established access to the public highway and the size and nature of the proposals should have a negligible impact on highway safety and highway capacity within the immediate vicinity of the site.

Lancashire Fire and Rescue (Skelmersdale Fire Station): Advise that they have been dealing with issues in East Quarry for many years, primarily fire starting and people putting themselves at serious risk by diving and swimming in the quarry. They partner with the police as a multi-agency strategy to address the issues at the site. They state that they have not made a formal request for the provision of a new ramp but they do have a need for a good access in the event of a need to undertake a water rescue requiring a rescue sled or boat launch. Whether this requires the construction of a specific access ramp or just maintenance of the existing launch route is dependent on the works to be carried out.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter.

Thirty representations objecting to the application have been received raising the following issues:

- The site is a haven for wildlife and forms a key part of the tree corridor through the village. These trees should be protected.

- The site is in the centre of the village and any noise is very disruptive to the housing.
- The ramp would make it easier to teenagers to trespass on the site. Trespass already happens excessively which results in antisocial behaviour, increased policing requirements and the deaths of two children. The landowner should concentrate on improving security.
- The owner wants to landfill the quarry.
- There is no health and safety justification for the ramp.
- The calculation of heavy goods vehicles (HGVs) payloads is incorrect and the ramp will take longer to construct than is proposed.
- The development has already commenced to construct the concrete pad.
- An access track already exists.
- There are no existing life saving devices such as throw ropes, ring buoys or an onsite defibrillator. If these had been installed more trust could be placed in the objectives of the landowner.
- The ramp construction will continue beyond the six week timescale as the plans state that the ramp 'will continue to site levels as required'.
- The highway network is unsuitable for the number of heavy goods vehicles (HGVs) – heavy goods vehicles (HGVs) have to mount the kerbs to pass parked cars.
- The local roads are already used by too many heavy goods vehicles (HGVs) and many of the roads have significant safety issues with limited footway provision.
- There are still issues with the adjacent West Quarry and residents do not want a repeat of that site.
- The junction at Dangerous Corner is already at capacity during peak times and the additional heavy goods vehicles (HGVs) would make this situation worse.
- The quarry has become an area for wildlife and plants to flourish.
- Pedestrians will face noise, vibration, dust and danger nine hours a day and six days per week.
- There is too much parking on the road from users of the railway station which narrows the carriageway to a single lane.
- The waste would result in methane gas issues.
- The pollution would result in health issues.

Twelve letters of support have been received which are summarised as follows:

- The proposal will deter youths from trespassing in the quarry. No more lives should be taken by the quarry.
- The proposal would stop the poor behaviour towards local people from visitors to the quarry which results in great social and environmental problems.
- Any mitigation of the risks is very sensible.
- The ramp would improve access for emergency services.
- The quarry should be filled in.
- Emptying of the quarry would reduce the demands on the police in dealing with verbal abuse and antisocial behaviour from those who visit to use the quarry.

County Councillor John Fillis has also commented that the application is premature as it appears to accept that this site will become a landfill without any consideration of the impacts on the environment or local community. He draws attention to County

Council policy which he considers does not foresee a need for any further landfill capacity in Lancashire. He is also concerned about the increase in heavy goods vehicles (HGVs) movements along a narrow country road with associated grime and dust. He also draws attention to guidance from Lancashire Police relating to the dangers of swimming in disused quarries and the issues of anti-social behaviour and crime that are raised by this site. He considers that the Development Control Committee requests the Cabinet Member to establish a task group with other agencies and local residents in Appley Bridge to consider the future use of the quarry and reduce its impacts on the local community.

Advice

East Quarry is a former sandstone quarry where extraction operations were completed in the late 1980's which has since flooded to a considerable depth. Although the quarry has security fencing around the majority of its boundary to prevent unauthorised access, it has become attractive to trespassers as a location for swimming and 'tombstoning' especially during warmer periods in summer.

Tragically there were two fatal drowning accidents in the quarry in 1999 and 2015 and there have been a number of other emergency incidents and occasions when police have been called to remove trespassers from the quarry. During periods of good weather, it has become common for large groups to congregate at the quarry resulting in local amenity problems and issues of damage to resident's property when attempts are made to access the quarry through private property in order to avoid climbing the perimeter fencing.

To address these issues, the landowner proposes to pump the water out of the quarry. An abstraction licence has been obtained from the Environment Agency to allow the water to be pumped out of the quarry and discharged into the Calico Brook which runs directly to the east of the quarry. A mobile pump will therefore need to be located on the existing water level to undertake this operation. The applicant/landowner has been advised by their health and safety consultant that the existing access to the water line does not comply with the Control of Major Accident and Hazard (COMAH) Regulations and is not safe and suitable for the staff that would be manning and maintaining the pump. This is because the existing access track is too steep, has a 90° bend at height above the flooded part of the quarry and has insufficient width. To provide a safe and suitable access, the landowner therefore proposes to construct a new access ramp down the western side of the quarry commencing from the existing access to the industrial units adjacent to Appley Lane North. The access ramp would be constructed using imported inert materials.

The application raises a number of issues including the requirement for the ramp and the local environmental impacts arising from its construction including ecology, highways and residential amenity.

The applicant has submitted the following evidence to support the need to provide a safer access to the base of the quarry:-

- The Police North West Underwater Search and Marine Unit support the ramp proposal as they state there are inevitable incidents of trespass onto the site which might require attendance of the emergency services and the new access road would assist in that response.
- A letter from Northern Diver Ltd. who specialise in scuba diving equipment. Northern Diver Ltd have a factory/distribution warehouse adjacent to the quarry. They state that they are regularly the first to attend any incident in the quarry and given the nature of their business, can assist in any rescue. They state that the existing ramp is very steep making access to the water level difficult particularly in wet conditions
- An email from the local policing team which comments on the imperativeness of draining the water from the quarry.
- A letter from their Health and Safety Consultants which maintains that that ramp is needed to comply with the Control of Major Accident and Hazard (COMAH) Regulations for the staff that will be working the pumps.

Lancashire Fire and Rescue Service have also been consulted on the planning application. They state that they have been dealing with issues at the quarry for many years and that they have a need for good access in the event of a requirement to carry out a water rescue or other activity requiring a rescue sled or boat. They comment that access is sufficient to deal with any fires using the area behind Northern Diver such that fire engine access to the waterside is not necessary at this stage.

The Health and Safety Executive has advised on the legislative requirements and are of the view that as the site is not a working quarry, the Quarries Regulations 1999 do not apply and the Control of Major Accident and Hazard (COMAH) Regulations are not relevant in this situation either. However, there may be a health and safety at work issue for the landowner to ensure that there is a safe access to the working area of the quarry and it does appear from the other evidence that the applicant has submitted together with the response from Lancashire Fire and Rescue that there is some support for the creation of the ramp access.

The requirement of the abstraction licence is that no abstraction shall take place unless the level of water is equal to or greater than 10.94 metres above the bed of East Quarry. Whilst the pumping operations will substantially reduce the level of water in the quarry, the above condition will mean that a lake will remain in the base of the quarry which may continue to attract unauthorised use and therefore the requirement for an emergency access. Although access to the lake edge does currently exist, it does present a number of safety issues for the landowner's staff and for the emergency services. It is therefore considered that there is merit in the construction of the new access ramp prior to the pumping operations commencing.

A number of representations have commented that planning permission for the ramp should be refused as it is a precursor to the landowners aim to infill the whole quarry. Whilst the applicant has made an Environmental Impact Assessment (EIA) screening request for a comprehensive infilling development, the current planning application must be determined on its own merits and any longer term ambitions of the applicant are not relevant at this stage.

Some residents are concerned that the creation of the new ramp will make access to the water easier and therefore increase the likelihood of unauthorised access and accidents. However, the landowner has already erected palisade fencing and gates around the edge of the new concrete pad area to prevent access down the ramp. Therefore, it is considered that the proposal would not increase the risk of unauthorised access to the site.

Local Environmental Impacts

Highways: The new ramp would require approximately 11,000 m³ of imported inert materials. The applicant estimates that this would require approximately 1220 loads of material which would be imported over 27 days (45 loads per day).

The proposed ramp location can be accessed utilising the existing access from Appley Lane North into the Northern Diver industrial area which has good visibility in both directions. It should be noted that Lancashire County Council (LCC) Highways have no objection to the application in highway capacity or safety terms given that the proposal would be for a relatively short term period.

The applicant has already constructed a concrete area at the top of the ramp location. This would allow heavy goods vehicles (HGVs) to reverse towards the ramp and tip their loads without having to traverse any unsurfaced areas. This method of working should prevent any mud from being transferred onto the surface of Appley Lane North and would therefore address the dust impacts that are referred to in some of the representations. A condition can be attached to any permission to control this matter.

Appley Lane North itself is often subject to considerable on-street parking relating to the railway station which has the effect of narrowing the carriageway particularly to the south of the entrance to the quarry. However, it does appear that these issues are currently less significant due to the effects of Covid-19 reducing the demand for commuting on consequent demand for parking close to the station. Although the applicant would have three years to implement any permission, it is likely that the works would take place in the near future before traffic and parking issues return to their historic levels.

The applicant has requested permission to be able to import fill materials on Saturday mornings. However, given the location of the site and the impacts on the houses alongside the routes to the quarry, particularly Appley Lane North, it is considered that any planning permission should be subject to a condition limiting operations to Monday to Friday only.

Visual impacts: The quarry is well contained and not readily visible from Appley Lane North. The ramp would be under the western face of the quarry and would be screened by the trees adjacent to the road which would be retained. Although the ramp would result in the loss of some vegetation, this is comprised of relatively small self-seeded trees which do not make a significant contribution to local landscape character. A condition can be imposed relating to landscaping of the sides of the ramp.

Local amenity

There are a number of residential properties that are adjacent to the quarry most particularly on Ashfield Terrace to the north and Stone Mill Rise to the south. Some of the properties on Stone Mill Rise have views over the quarry and would be approximately 230 metres from the ramp location. The construction of the ramp will require the use of an excavator/bulldozer to spread and compact the tipped materials. The use of this plant will generate some noise impacts which might affect local residents, particularly those living on the northern side of Stone Mill Rise who overlook the quarry. However, given the relatively short term nature of the operations, it is considered that any noise impacts would not be unacceptable provided that conditions are imposed in relation to hours of working and use of white noise reversing alarms on mobile plant.

The other local amenity issue relates to the impact of heavy goods vehicles (HGVs) on Appley Lane North and other nearby roads. Many of these roads run through residential areas and are on relatively steep gradients which would exacerbate noise and general disturbance issues from heavy goods vehicles (HGVs). These impacts are only really mitigated by the short term nature of this proposal although it is considered that a condition should also be imposed to control the hours of heavy goods vehicle(HGV) movements

Ecology Impacts

It will be noted that Jacobs Ltd have provided ecology advice and have raised a number of issues relating to the adequacy of the applicant's surveys for protected species.

The applicant has submitted a preliminary ecological assessment that was prepared as part of their proposal to dewater the quarry. This included the results of previous surveys and assessments for protected species and other wildlife interests. A separate arboricultural assessment has also been submitted with the planning application which assesses the quality and types of trees around the quarry including the area that would be affected by the ramp.

The construction of the ramp would result in the loss of some existing trees and shrub vegetation on the western side of the quarry. However, these are all trees that have regenerated since the quarry was abandoned in the late 1980's and none are subject to Tree Preservation Orders or would be categorised as aged or veteran trees. The trees that would be affected are a mixed group of young goat willow, sycamore and birch with an understory of other shrub species. The comments of Jacobs are noted. However, these have been based upon a review of the application documents and other desk top information available to them and has not involved a site visit to assess the ecological impacts of the development. The applicant's arboricultural assessment notes that these trees are in good condition and observations on site indicates that the trees are not of an age, condition or size that they would be likely to be bat roosts. In addition, the side of the quarry that would be affected by the ramp construction does not have any cliff faces or other features that would be suitable for bats. Although there is evidence that the quarry generally is used by foraging bats, it is the roosts that receive specific protection and

there are locations adjacent to the quarry that contain buildings and trees that are suitable as roosts. Given the nature of the features that would be affected by the ramp construction, it is considered that there would not be any impacts on bat roosts.

Jacobs have also commented upon impacts on Great Crested Newts. There are a number of ponds in the area which have confirmed records for Great Crested Newts. However, the water body within East Quarry is of very limited potential for Great Crested Newts being of large size and having very little marginal vegetation. There are habitats within the application site that would be suitable as terrestrial habitat but the side of the quarry affected by the ramp is enclosed by a road and other urban development and therefore the links with ponds that are used by Great Crested Newts is considered to be poor.

The trees and shrubs that would require removal could be suitable nesting habitat for bird species. Under the legislation protecting nesting birds, none of this vegetation could be removed until it is confirmed that none of the vegetation is being used for nesting activities. The ecology impacts are therefore considered to be acceptable.

In conclusion, the existence of this flooded quarry does result in a number of impacts for the local community. Regardless of the proposal to pump out the quarry, it is considered that there is merit in providing improved access into the base of the quarry for use by emergency/rescue services. Whilst the construction of the ramp would have some local environmental impacts, these are short term and would be of limited extent. Subject to the recommended conditions, the proposal is considered acceptable in terms of the policies of the National Planning Policy Framework and the Development Plan.

County Councillor Fillis (divisional member for Skelmersdale East which includes Appley Bridge) has requested that the Committee invite the Cabinet Member to establish a working group of the relevant agencies and local residents to address the local environmental problems in Appley Bridge arising from the quarry. This request is entirely independent of the planning application and officers do not have any particular view on the suggested working group. However, it is a matter that members of the Committee may wish to consider.

In view of the scale, nature and design of the proposal, it is considered that no Convention Rights set out in the Human Rights Act 1998 would be affected.

Recommendation

That planning permission be **Granted** subject to the following conditions:

Time Limits

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

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

2. The works to create the access ramp shall cease not later than two months from the date of their commencement as notified to the County Planning Authority under the requirements of condition 3 below.

Reason: Imposed pursuant to schedule 5 of the Town and Country Planning Act 1990 and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

3. Written notification of the date of commencement of the development shall be sent to the County Planning Authority within seven days of such commencement.

Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

Working Programme

4. The development shall be carried out, in accordance with the following documents:

- a) Submitted Plans and documents:

Plan 3709 21 34 Location Plan
Plan 3709 21 30B Proposed site plan and sections

- b) 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 policy DM2 of the of the Lancashire Minerals and Waste Local Plan.

5. Measures shall be employed at all times during the construction of the ramp to ensure that no mud, dust or other debris from the site is 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 Lancashire Minerals and Waste Local Plan.

6. The sole access to and egress from the site shall be from Appley Lane North as shown on Drawing 3709 21 34 - Location Plan

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 Local Plan.

7. No ramp construction or importation of materials shall take place outside the hours of:

07.30 to 17.30 hours, Mondays to Fridays (except Public Holidays)

No ramp construction or importation of materials shall take place at any time on Saturdays, Sundays or Public Holidays.

This condition shall not, however, operate so as to prevent 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 Lancashire Minerals and Waste Local Plan.

8. No trees or vegetation shall be removed in the period between 1 March and 31 August until they have been inspected by a qualified ecologist who has confirmed the absence of nesting birds.

Reason: In the interests of ecology and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

9. All mobile plant utilised in the construction of the ramp shall be fitted with and utilise white noise reversing alarms.

Reason: In the interests of local amenity and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

10. Within two months of the date of the commencement of the development, a landscaping scheme for the outer faces of the ramp shall be submitted for the approval in writing of the County Planning Authority. The scheme shall contain details of the following:

- a) details for the grading and seeding of the outer faces of the ramp including seed mixes to be used
- b) details for tree and shrub planting including layout of planting, species, sizes and types of plants, planting techniques and protection measures.

The landscaping works contained in the approved scheme shall be undertaken in the first planting season following completion of the ramp construction and thereafter maintained for a period of five years including replacement of failures, weed control and maintenance of protection measures.

Reason: In the interests of visual amenity and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

Notes

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
LCC/2021/0027	21 June 2021	Jonathan Haine Planning and Environment 534130

Reason for Inclusion in Part II, if appropriate

N/A