

Development Control Committee – 21 July 2021

Update Sheet

Item 5 – East Quarry – Application LCC/2021/0027

Consultations

West Lancashire Borough Council: Object to the application for the following reasons:

1. Insufficient information has been submitted to fully assess the impacts of noise from construction activities in conflict with the National Planning Policy Framework (NPPF) and Policy GN3 of the local plan.
2. Insufficient information has been submitted to fully assess the ecological / biodiversity implications of the development contrary to the Habitats Regulations, National Planning Policy Framework (NPPF) and policies GN3 and EN2 of the local plan
3. Insufficient information has been submitted to fully assess the impact on the woodland within the site contrary to the National Planning Policy Framework (NPPF) and policy EN2 of the local plan.

Environment Agency (EA): No objection. The abstraction licence issued by the EA allows for the partial dewatering of the quarry. A volume of water will be retained within the void and as a result of the change in water level, alternative arrangements may be required to allow for emergency access. The EA also comment that the development may require a permit or an exemption from permitting.

Shevington Parish Council: Request a deferment of the application to allow more time for the Parish Council to provide comments. They consider that it is inappropriate for the report to be prepared until objectors have been given full time to submit their views. The parish council also question why they, and Wigan Council were not formally consulted on the application.

Representations

Since the report was prepared a further 106 representations objecting to the application and three letters of support have been received, summarised as follows:

Objections

- There is no requirement for the ramp as the current track gives access. The emergency services are not requiring the ramp.

- The quarry should be made more secure and further life-saving equipment provided. There are other ways to make this quarry safe and to teach children about water safety. The ramp will make access for trespassers easier.
- The partial draining of the quarry will make the site even more dangerous.
- No consideration has been given to the highway impacts on Appley Lane North including on children walking to All Saints School in Appley Bridge. The school request that if permission is granted that operations be suspended between 8.45 – 9.15am and from 3.00 – 3.40pm to allow the safe passage of families.
- The junction at Dangerous Corner does not have capacity for the additional Heavy Goods Vehicles (HGVs) traffic and Skull House Lane is not suitable for HGVs.
- The access from the site onto Appley Lane North is dangerous.
- Previous planning applications on the West Quarry site were refused on highway grounds for lower traffic levels than are currently proposed or were subject to planning conditions permitting far lower levels of HGVs.
- The materials should be imported by rail.
- Impacts of noise, vibration, dust and fumes from the additional 1200 HGVs.
- There are already too many HGVs on Appley Lane North. There would be impacts arising from conflicts with school traffic.
- The parking issues on Appley Lane North will increase now that Covid 19 restrictions are lifted.
- Has any assessment of diesel particulate emissions been undertaken?
- What is the waste to be deposited and what would be the pollution implications?
- The application is related to the quarry owner's aspirations to fill the whole quarry with waste which would result in years of disruption and danger to residents.
- The filling of West Quarry had intolerable impacts and this development would be no different.
- The abstraction would also involve filling the quarry with clay.
- There would be a negative impact on house prices.
- The ramp will not deter trespassers – a more sensible solution would be better fencing.
- The noise impacts would be unbearable for local residents.
- The planning application is premature and there should be consideration of the need for landfill and the ability to properly secure the site.
- Why was the access ramp not contained in the abstraction licence application?
- The existing fencing is not high enough and is in poor condition. If it were improved, it would remove the need for the access ramp.
- The figure of 1220 HGVs only takes account of the numbers of HGVs arriving at the site – the actual number of movements will be doubled.
- The applicant has overestimated the carrying capacity of tipper lorries and therefore more HGVs will be required than is predicted. Tipper lorries carry 8m³ of material and not 9m³ as stated by the applicant.
- The road will have to be extended as the water level falls which will require a second phase of tipping works.
- Pumping the water from the quarry would cause flooding if it corresponded with periods of heavy rain.

- Draining the quarry would destroy the habitat of kingfishers which are a protected species. Hedgehog habitat would also be affected.
- The applicant company have a history of non-compliance.
- The ecology surveys are out of date.
- There has been no consultation with the Environment Agency.
- The application should be submitted to West Lancashire Borough Council for determination as it not for the tipping of waste.

A letter has also been submitted by County Councillors Bailey and Fillis and Borough Councillor Jukes. The letter, based on advice they have received, contends that the planning application is for the construction of an access ramp and not for the disposal of waste materials and that the application should have been submitted to and determined by West Lancashire Borough Council. They say that any attempt by Lancashire County Council to determine the application would be ultra vires and could be challenged and potentially quashed. Further, they say that it would also be maladministration by Lancashire County Council officers if the decision were taken by the Committee.

Support

- There is much antisocial behaviour from people who do not live in the village who come to swim in the quarry. The quarry should be pumped out as soon as possible.
- The issues at the quarry have caused a great rift in the local community and a protest group has wrongly taken over the views of the village. The local councillor should represent all her constituents and not just the minority who have money and influence.
- The site should be used for housing as this might bring better amenities to the village such as a doctors surgery or a library.

Advice

Many of the additional representations raise issues relating to the environmental impacts arising from the development. These issues are addressed in the advice section of the report.

In relation to the other issues that are raised, the following advice is provided:

- 1) Scope of the development: Many of the additional representations are on the basis that the application is for the landfilling of the entire quarry. However, the application is only for the construction of an access ramp and not for the landfilling of the whole site which would be an altogether different development with significantly greater impacts. The application must be determined on this basis.
- 2) The need to continue the ramp further into the quarry: The current application is only to construct the ramp as far as is required to access the current water level. This is shown on the plan on page 27 of the report. If further materials are required to continue the ramp as the water level is lowered, a further application will be

required. However, the applicant has said that the new ramp would connect with a historical track which lies below the current water level and therefore no further materials will be needed to continue the ramp.

- 3) Capacity of vehicles. The applicant has based the total numbers of HGV's on the basis of each HGV carrying 9m³ of fill material giving a total number of HGV's of 1222. If the capacity is less (8m³), then the number of HGV's required to import the materials for the ramp will increase to 1375, an increase of 153. However, it is not considered that this would materially change the impacts on highway safety and capacity although it would result in a small extension of the duration of the development with some additional impact on local amenity. The carrying capacity of an HGV is based upon tonnage so the volume in each vehicle depends upon the density of the material.
- 4) Flooding: The abstraction licence issued by the Environment Agency contains conditions requiring the pumping to cease if rainfall events reach certain trigger levels. This is to prevent flooding in the receiving water course. In any event this is an issue controlled by other legislation and is not relevant to the current planning application.
- 5) Use of waste material: The applicant has registered an exemption with the Environment Agency to allow the use of waste materials for the ramp construction. This means that the ramp can be constructed without having to obtain a permit. The exemption system is to allow relatively small amounts of clean waste material to be used for construction purposes.
- 6) Vehicle numbers: Comparison has been made with other recent planning permissions that have been granted on the adjacent West Quarry site and that the vehicle numbers proposed for the ramp are much higher than the levels that have previously been found acceptable. However, the cases quoted are not comparable as they were either for permanent developments or related to short term construction operations where the HGV restrictions with the permissions reflected the applicant's proposals and did not represent maximum acceptable levels.
- 7) Determining Planning Authority: The County Council's position is that LCC has jurisdiction to determine this application. Given the nature of the development, this issue was discussed with the Borough Council prior to the application being submitted and the Borough Council was content for the application to be submitted to Lancashire County Council. The ramp would use waste materials in its construction and is within a former quarry site which has been the subject of a recent County Council screening opinion in relation to a landfill proposal.

Moreover, section 286 of the Town and Country Planning Act 1990 states:

The validity of any permission...or issued by a local planning authority in respect of—

(a) an application for planning permission...

shall not be called in question in any legal proceedings...on the ground that the permission, determination or certificate should have been granted, made or given by some other local planning authority.

The advice provided to Councillors Bailey, Fillis and Jukes fails to refer to this important section of the Act. Officers advice is that it is incorrect to conclude that any decision by the County Council would be ultra vires and could be challenged and potentially quashed on this basis

Borough Council comments: In relation to the comments from the Borough Council, the construction of ramp would require the use of a dozer to level the tipped materials and form the ramp. Given the level of plant activity and duration of the works, it is not considered that a full noise assessment is required. Noise impacts can be addressed by planning conditions (conditions 7 and 9). The issues in relation to ecology are addressed in the report

Item 6 – Burnley WwTW – Application LCC/2021/0017

Consultations

Coal Authority – No objection following the submission of a coal mining assessment report.

Pendle Borough Council – No objection.

Old Laund Booth Parish Council – Raise concerns over highway disruption and disturbance that would be caused by construction traffic over many years.

Amended drawings

The applicant has submitted a revised site layout drawing and landscaping drawings that remove reference to permitted development works for the temporary storage of spoil on land north of the site that would have been close to local biological heritage sites. The applicant is looking at alternative sites for the temporary storage.

Advice

The Coal Authority response confirms that they have no concerns over the proposed development.

The concerns of Old Laund Booth Parish Council regarding traffic issues have already been covered in the report.

The overall recommendation remains that permission be granted subject to conditions.

Conditions 2 and 4 should be revised as follows to account for the amended drawings:

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

Drawing no:

80061365-01-97-DR-T-10001, rev P03 - Location Plan
80061365-01-97-DR-T-10003, P06 - Site Plan / Block Plan
80061365-01-97-DR-T-10005, P01 - Biomag Building
80061365-01-97-DR-T-10006, P01 - ASP Blower Building
80061365-01-97-DR-T-10007, P01 - MCC Kiosk
80061365-01-97-DR-T-10008, P01 - Sludge Thickener Building Kiosk
80061365-01-97-DR-T-10009, P01 - Polymer Dosing Kiosk
80061365-01-97-DR-T-10010, P01 - Detention Tank Pumping Station MCC Kiosk
80061365-01-97-DR-C-10013, P03 - Sections Sheet 1
80061365-01-97-DR-C-10014, P03 - Sections Sheet 2
80061365-01-97-DR-C-10015, P03 - Sections Sheet 3
80061365-01-97-DR-C-10017, P01 - Sections Sheet 4
80061365-01-ADP-BURNL-97-DR-L-00001, P04.1 - Landscape & Biodiversity Enhancement Plan
80061365-01-ADP-BURNL-97-DR-L-00002, P04.1 - Landscape & Biodiversity Enhancement Plan
80061365-01-ADP-BURNL-97-DR-L-00003, P04.1 - Landscape & Biodiversity Enhancement Plan

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 Joint Lancashire Minerals and Waste Local Plan and Policy ENV2 of the Pendle Local Plan Core Strategy.

4. Within 12 months of the completion of the development subject of this permission, landscaping shall be carried out in accordance with the details shown on drawing numbers 80061365-01-ADP-BURNL-97-DR-L-00001, P04.1 -Landscape & Biodiversity Enhancement Plan, 80061365-01-ADP-BURNL-97- DR-L-00002, P04.1 - Landscape & Biodiversity Enhancement Plan, and 80061365-01-ADP-BURNL-97-DR-L-00003, P04.1 - Landscape & Biodiversity Enhancement Plan.

Thereafter landscaping and habitat shall be maintained for a period of five years including weed control, replacement of dead and dying trees and maintenance of protection measures.

Reason: In the interests of visual amenity and nature conservation and to comply with Policy DM2 of the Joint Lancashire Minerals and Waste Local Plan.

Item 7 Application LCC/2021/0022 West Lancashire Community High School

Consultations

Sport England: Sport England note the further information that has been submitted in relation to the need for the games area, the parking issues and the issues with the current playing field. Sport England are satisfied that there will be no harm to sport and recreation provision on the site and therefore withdraw their objection.

They request two conditions in relation to formalising the community use of the multi-use games area (MUGA) and also to ensure that the MUGA is only used for sporting purposes.

Advice: Sport England's comments are noted which will remove the requirement to refer the application to the Secretary of State.

Recommendation

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

Additional condition 8 and 9:

8. Prior to the development being brought into use, a Community Use Scheme shall be submitted to and approved in writing by the County Planning Authority. The Community Use Scheme shall include details of a pricing policy, control of access to non-school users management responsibilities and a mechanism for review of the scheme.

The approved scheme shall be implemented upon the MUGA being brought into use and there after complied with.

Reason: In the interests of sport and recreation and to conform with Policy SC4 of the West Lancashire Local Plan.

9. The multi-use games area (MUGA) shall not be used other than for outdoor sport.

Reason: In the interests of sport and recreation and to conform with Policy SC4 of the West Lancashire Local Plan.