

Development Control Committee
Meeting to be held on 24 April 2024

Electoral Division affected:
West Lancashire East

West Lancashire Borough :LCC/2022/0014

Amendment of Condition 6 of planning permission 8/10/0241 to allow approval of amended restoration contours together with the submission of a restoration and aftercare scheme to comply with Conditions 29 and 31 of planning permission 8/10/0241. Round O Quarry, Cobbs Brow Lane, Lathom

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Brief Summary

Application - Amendment of Condition 6 of planning permission 8/10/0241 to allow approval of amended restoration contours together with the submission of a restoration and aftercare scheme to comply with Conditions 29 and 31 of planning permission 8/10/0241. Round O Quarry, Cobbs Brow Lane, Lathom

Recommendation – Summary

That planning permission be **granted** subject to conditions controlling further restoration and aftercare

Applicant's Proposal

The application has two aspects :

- An application to regularise levels of landfilling at the site which have exceeded those permitted by Condition 6 of planning permission 8/10/0241.
- A revised scheme of restoration and aftercare for the site to comply with Conditions 29 and 31 of planning permission ref 8/10/241.

Description and Location of Site

Round O Quarry is a former sandstone quarry covering an area of 20 hectares which has been restored through the importation of inert waste materials. The landfill operations were completed in 2020 although some restoration works remain to be completed.

The quarry is located 2.5km north of Skelmersdale town centre and is accessed off Cobbs Brow Lane, a C class road linking Skelmersdale with the village of Newburgh. Cobbs Brow Lane links into Cobbs Clough Road to the south before linking to the primary road network in Skelmersdale. To the north, Cobbs Brown Lane is fronted either side by residential properties as it enters Newburgh village and accesses the A5209, a primary route to the M6.

The quarry has been excavated into land that falls gradually from east to west towards the River Tawd. The quarry is enclosed by perimeter earth mounding which is covered by established woodland on the north and east boundaries.

The quarry is surrounded by agricultural land. The nearest properties are the Maharishi School of Enlightenment (a secondary school) 180 metres to the south of the quarry, Prescotts Farm 250 metres to the south east, and Lowes Farm and Mug House, 200 and 260 metres respectively to the north of the quarry.

The site is located within the Green Belt.

History

Round O Quarry has a long history of mineral extraction and landfill operations.

Planning permission was granted in 2012 for the continuation of landfill operations until 2020 with restoration to be completed by 31 March 2021 (ref 8/10/241).

Planning Policy

National Planning Policy Framework

The following paragraphs are considered to be particularly relevant: 11 (presumption in favour of sustainable development), 115 (highway impacts), 135 (design), 152–155 (Green Belts), 173 (flood risk), 180 (landscape and countryside), 186 (ecology), 194 (planning and pollution control).

Joint Lancashire Minerals and Waste Local Plan (JLMWLP)

Policy DM2 (Development Management)



Policy SP1 – A sustainable development framework for West Lancashire

Policy GN3 – Criteria for Sustainable Development

Policy EN2 – Preserving and enhancing West Lancashire's Natural Environment

Consultations

West Lancashire Borough Council: Object to the application and requests that the county council considers whether the proposal can be mitigated based upon the ecological comments they have provided.

Newburgh Parish Council: Object to the application and are concerned that the quarry has been overfilled with implications for drainage and visual impact. The Parish Council maintain that annual reports supplied to the Environment Agency demonstrated that the site was being over filled. The Parish are concerned that the plans make no attempt to remediate the overfilling or to mimic the previous landscape. The Parish Council also state that there is excess surface water during times of intense rain and are concerned that the volume of water downstream of the quarry may be aggravated by activities and drainage from the quarry. The Parish Council are also concerned that some of the drainage in the area is discoloured and wish some reassurance that the drainage from the quarry is not contaminated.

The Parish Council have also obtained a number of the annual monitoring reports for the site from the Environment Agency under Freedom of Information. They are concerned that the reports detail various issues with regard to water discharges from the site which do not appear to have been dealt with. The Parish Council considers that there should be no determination of the planning application until their concerns have been addressed.

Environment Agency: The site is a closed site but not yet in definitive closure. Through the permitting regime, the Environment Agency will need to consider the in-waste and perimeter gas monitoring and groundwater monitoring data along with the annual topographical surveys to monitor settlement and stability. The Environment Agency say they are aware of the concerns regarding impact on surface and groundwater off site but are not aware of any evidence or reports of contamination of groundwater.

Lancashire Badger Group: Comment that there are four setts within a 2km radius of the site and that there may be further undiscovered setts within the application site which could be disturbed if there are further clearance operations within the site. The group request a survey before any further work is carried out at the site.

Representations – The application has been advertised by press and site notice, and neighbouring residents informed by individual letter. Three representations have been received raising the following issues:

- A representation has been received from the owner of the land to the north, south and east of the quarry. Objection is raised on the basis that the restoration plans approved in 2008 which should have restored the rolling landscape have been

ignored and the over tipping has resulted in diversion of water courses and flooding issues.

- The site contours do not reflect the local landform.
- The site has been filled to the level of the perimeter bunds which was never intended. The saturation of the filled material could cause the bund to fail.
- There is no drainage plan.
- Springs in the area now have a red colour or oily appearance.
- A local septic tank now fails to drain because of the raised water table levels.
- There is a need for reed beds and other natural methods such as tree planting to manage water flow from the site.
- The aftercare of the site needs to be better explained – the site shows serious signs of neglect and is there any funding for future management?
- Changes in the water levels have caused vegetation to die back.

Advice

Round O Quarry has a long history of planning permissions for stone quarrying and inert waste landfill operations dating back to the 1960's. The working and restoration conditions relating to the quarrying and landfill operations were reviewed under the provisions of the Environment Act 1995 and a new scheme of conditions for the site was issued in 2001 (permission ref 8/98/0973) which required the landfill operations to be completed by March 2010. A further planning permission ref 8/10/240 to provide a time extension for the duration of landfill operations until 31 March 2020 was approved in 2012. This planning permission included a Condition (no 6) which restricted the heights of landfilling with reference to a plan showing the finished contours of the site and also a requirement to submit a restoration and aftercare scheme for the site (Conditions 29 and 31).

The current application has two aspects. Firstly, an application to regularise the completed levels of the site as the finished levels exceed those shown on the drawing referred to in Condition 6; and secondly, an application for a restoration and aftercare scheme taking into account the completed contours of the land.

Regularisation of levels :

When this quarry was originally developed in the 1960's, the soil and overburden overlying the rock was stripped off and used to create screening mounds around the outside of the quarry particularly on its northern, western and southern sides. It appears that some parts of these mounds were planted with trees with other areas colonised over time with self-seeded trees and shrubs. These mounds provided significant areas of woodland and scrub which effectively screened the quarrying and landfill activities during the operational period.

The contour plan referred to by Condition 6 of the planning permission showed the final levels of landfilling tapering down to reach the former rim of the quarry. The intention within the original quarry design would have been to use the soil materials contained in the perimeter mounds for restoration purposes. However, that would have required the removal of all the vegetation that had developed on the mounds thereby having landscape and ecological implications.



In order to allow the perimeter mounds to be retained in situ, the site operator took the decision to landfill the site up to the crest level of the perimeter mounding. In the areas adjacent to the mounds, this has increased the depths of tipping by up to 6 metres contrary to the contours shown on the approved drawing.

Section 73A of the Town and Country Planning Act 1990 provides an ability for an applicant to apply for planning permission for a development that has already been carried out. Such an application must be considered against the same national and development plan policies as if the application had been made before the development had commenced. In this case the main issues relate to the landscape impacts of the current landform and the ecological and transport impacts that would arise should the landowner be made to comply with the contours required by Condition 6. The drainage issues raised in the response from Newburgh Parish Council and in the representations should also be considered.

Paragraph 135 of the National Planning Policy Framework requires that planning decisions should ensure that developments function well and add to the overall quality of the area, not just for the short term but over the overall life time of the development. In addition there is a requirement that developments are visually attractive as a result of appropriate and effective landscaping. Paragraph 180 of the Framework requires that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the benefits of trees and woodland.

Policy GN3 of the West Lancashire Local Plan requires that development be of high quality design, have regard to visual amenity and complement or enhance any local distinctiveness through sensitive design and landscaping. Policy EN2 of the Local Plan states that development will be permitted where it maintains or enhances the distinctive character and visual quality of the landscape character area in which the site is located. The policy requires that development involving the loss of or damage to woodlands or trees of significant amenity, screening or wildlife value will only be permitted where the development is required to meet a need that could not be met elsewhere and where the benefits of the development clearly outweigh the loss or damage.

The landform that has been achieved on this site does not conform with the contours that were originally approved under planning permission 8/10/240. However, a judgement has to be taken on whether the current landform is acceptable and if not, whether any landscape impacts can be satisfactorily mitigated.

The approved restoration plan for this site provided for a landform sloping gently from the eastern boundary with Cobbs Brow Lane towards the west. The landform currently on site is largely flat across the eastern part of the site until falling towards the west and then steepening down the external faces of the former soil storage/screening mounds. The maximum height of the filled area is still approximately the same as that in the restoration contour plan referenced by Condition 6, the bulk of the additional fill volume being achieved in the areas adjacent to the mounds where tipping has been to the crest of the mounding rather than its base. The additional visual impact therefore mainly arises from the retention of the outer slopes of the mounding. However, these areas are all well vegetated which assists in masking and mitigating any steep slopes which might otherwise appear as



incongruous landscape features in the countryside. The mounds have been in place for at least 40 years and therefore have become established landscape features. As the maximum height of the site has not increased, the site does not appear as a prominent hill which might conflict with local landscape character and in any event the landfill area is well screened by the perimeter mounding and associated woodland.

If the current landform was to be considered unacceptable, a number of issues would be raised. Importantly, although it might be possible to redistribute some of the over tipped material to parts of the site that are currently under level, most of the over tipped material would have to be removed from the site. An exact figure for the overtipped material has not been provided but it is likely to be substantial. This would have highway and amenity impacts particularly for residents of Newburgh who made a large number of representations when the application for the landfill time extension was made in 2010 many of which were based upon the impacts of heavy goods vehicles (HGVs) passing through Newburgh. Adherence to the approved scheme would also require the removal of the perimeter screen mounds which would have a number of impacts including the loss of the existing trees and shrubs which have habitat value as well as being established landscape features. Whilst it might be possible to remove the overtipped material and still retain the perimeter mounding, this would then leave a valley around the perimeter of the site which would probably fill with water and would be undesirable as a long term feature.

This site is in the Green Belt. However, the existing landform does not have any impacts on openness and now that the site has been largely restored, does not impact on any of the purposes of the Green Belt.

A number of representations have been submitted in relation to drainage concerns, either in terms of the volumes of run off or water quality. In terms of water volume and flooding, the permitted contours of the site would have resulted in most run off from the site draining towards the western boundary of the site. The current contours of the site do not significantly change that position. In fact, the existing contours have a flatter section towards the eastern boundary where it is likely that some of the run off now falls towards the southern boundary of the site where it enters a tributary of the River Tawd. The total volumes of run off should not be any greater with the existing contours compared to those that are currently approved. It is acknowledged that some flooding and run off issues have been experienced downstream of the site, but these seem to have taken place before or shortly after the landfill operations were completed when the whole site was bare earth. Now that the site is fully vegetated, run off should be reduced and there is no evidence of significant run off from the site causing gullying or other damage to the adjacent farm land down gradient of the site. The applicant has also stated that they have provided new drainage ditches along the toe of the perimeter bund on the western side of the site which captures any water running off the site in that direction towards the surrounding farm land.

In relation to water quality issues, the Parish Council and local residents have raised a number of issues regarding these matters. It is not unusual for watercourses in this area to have an ochreous or ferric discolouration due to geological factors. The quarry has a longstanding planning permission for landfilling and the additional fill volume produced by the new contours is not significant in terms of the total fill



volumes of the quarry and would not result in such issues being materially worse. In terms of other pollution matters, these are subject to the conditions of the permit from the Environment Agency. The operator will not be able to surrender their permit until they have demonstrated that the site is not causing any impacts on ground or surface water quality. In their consultation response to the application, the Environment Agency have said that they are not aware of any evidence or reports of contamination. There are water monitoring boreholes around the perimeter of the site and under the requirements of the environmental permit, the applicant will have to submit water quality information. Surrender of the permit would not be possible until such time as the permit holder has demonstrated that the site will not present a risk to the environment. In any event, this site was infilled using inert soils and clays and therefore it is very unlikely that such materials would result in any significant pollution issues. Fundamentally the issues regarding water quality are matters for the Environment Agency to address as part of the aftercare and closure provisions within the environmental permit for the site.

There are a number of badger setts close to the quarry/landfill site. However, the applicant does not propose to undertake any other significant excavation work on the site other than creation of a pond feature close to the site entrance on Cobbs Brow Lane. It is considered very unlikely that these further works would affect any badger setts.

Taking into account the above factors, it is considered that the existing landform is acceptable in terms of policy EN2 of the West Lancashire Local Plan. Removal of the overtipped material would have a number of undesirable impacts and such works are not necessary to ensure compliance with the development plan policies for the site.

Amended restoration details: Conditions 29 and 31 of the planning permission 8/10/240 require a scheme of restoration and aftercare to be submitted. Details to address these requirements were submitted some ago. However, a number of issues were identified, and the details were never approved. The applicant has therefore been asked to resubmit the scheme based upon the current landform and restoration concept for the site.

The conditions attached to planning permission 8/10/240 envisaged that the site would be returned to agriculture by providing a topsoil layer over the fill material. The topsoil would have been sourced from the mounding around the perimeter of the site. However, these materials have not been used for the reasons explained above and restoration has been achieved by grading the imported materials. These would have been lower fertility subsoils and clays. The soil materials have been allowed to naturally revegetate which has provided a more diverse range of plant species compared to that which would have existed if the site had been covered with topsoil and sown with an agricultural seed mix. It is apparent that the more diverse range of plant species is also leading to a greater diversity of insect life including butterflies. Although the exact afteruse of the site differs from that originally envisaged, it is considered that the current condition of the site provides an ecological habitat that would be of greater value compared to an agricultural restoration and therefore satisfies the requirement within the National Planning Policy Framework in relation to biodiversity net gain. The applicant is also proposing some additional trees and shrub planting around the perimeter of the site as well some works to control invasive species that have become established in a limited number of locations.



A former site compound area near to the entrance onto Cobbs Brow Lane has not been particularly well restored and there is evidence of concrete and other unsuitable materials at the surface. The applicant acknowledges that the restoration in this area is inadequate and has provided details of further works to be undertaken. This includes removal of the unsuitable materials and construction of a clay lined drainage pond with associated scrape areas and wetland landscaping. These features would provide additional wildlife habitats as well as helping to attenuate water run-off from the eastern part of the site. Subject to a condition requiring these further restoration works to be completed within a period of three months from the date of the permission, the details of the further restoration are considered acceptable.

A restoration to a wildlife grassland habitat should not mean that the site can be abandoned and left to nature. Various works might still be required to maintain the habitat such as control of invasive species, management of the habitat including controlled grazing or mowing and control of scrub regeneration. The aftercare period for the site under the existing permission is restricted to five years, this normally being sufficient for an agricultural afteruse. However, it is considered that the types of habitat currently on the site should be subject to an extended aftercare period. The applicant is willing to undertake aftercare for a period of 10 years from date when the restoration works are completed. Subject to a condition requiring details of the aftercare and management to be approved including provision for regular review, it is considered that the submitted details are acceptable.

In view of the scale, location and nature of the development 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:

1. 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 received by the County Planning Authority on 10 March 2022
 - b) Submitted Plans and documents:
 - Drawing ref Z121.000 - Location plan
 - Drawing ref Z121.001 - Restoration Plan
 - Drawing ref Z121.002 Rev 1 - Sections
 - Drawing ref Z121.003 Rev 1 - Pond detail
 - Drawing ref Z121.004 Restoration of former industrial building/compound, haul roads and entrance
 - 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 policy DM2 of the Lancashire Minerals and Waste Local Plan and Policy EN2 of the West Lancashire Local Plan.

2. The further tree and shrub planting works shown on drawing ref Z121.001 Rev 1 shall be implemented in the first planting season following the date of this planning permission. The planting works shall be carried out in accordance with the details contained in the document titled 'Restoration Statement' dated 6 December 2023.

Reason: To secure the proper restoration of the site in accordance with the submitted details and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and policy EN2 of the West Lancashire Borough Local Plan.

3. Further restoration works within the land edged red on drawing ref Z121.004 shall be completed within three months of the date of this permission. The works shall include the following:
 - a) The ripping of the surface to removal all concrete, brick, stone, metal of other objects likely to prejudice the restoration and management of the site. All material recovered shall be removed from the site or buried at depth
 - b) The creation of the pond feature according to the details shown on drawing Z121.003 Rev 1
 - c) Grading of the area subject to the ripping works to create an even surface suitable for seeding.
 - d) Seeding of the graded area with the wildflower seed mix detailed in section 3 of the document titled 'Restoration Statement' dated 6 December 2023.
 - e) Planting of the pond feature with the marginal aquatics listed in section 3 of the document titled 'Restoration Statement' dated 6 December 2023.
 - f) Control of invasive weeds occurring on the site including Japanese knotweed.

Reason: To secure the proper restoration of the site in accordance with the submitted details and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan and policy EN2 of the West Lancashire Borough Local Plan.

4. No further waste materials or clay/soil shall be imported to the site other than that required to line the pond feature shown on drawing REF Z121.003 Rev 1.



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

5. Aftercare works on the site shall be carried for a period of 10 years from the date that the County Planning Authority certifies in writing that the works of restoration have been completed.

The aftercare works in the first five years of the aftercare period shall be undertaken in accordance with the details specified in section 2 of the document titled 'Restoration Statement' dated 6 December 2023.

Prior to the end of year five of the aftercare period an updated aftercare programme for the remainder of the aftercare period shall be submitted for the approval in writing of the County Planning Authority. The updated aftercare programme shall contain details of the following:

- a) Management of tree and shrub planting including replacement of any failures and weed control.
- b) The management of the grassland including mowing / cutting or controlled grazing.
- c) Control of invasive species or scrub.
- d) Management of the woodland areas on the perimeter bunds.
- e) Provision for an annual aftercare review meeting including submission of a report detailing the aftercare works that will be undertaken in the following year.

The aftercare works in years 6-10 shall be undertaken in accordance with the updated aftercare programme as modified by any annual aftercare report.

Reason: To secure the appropriate restoration and aftercare of the site and to conform with Policy DM2 of the Lancashire Minerals and Waste Local Plan.

Definitions

Completion of Restoration: The date the County Planning Authority certifies in writing that the works of restoration in accordance with Condition 3 have been completed satisfactorily.

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



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

| Paper | Date | Contact/Directorate/Ext |
|---------------|------------|--|
| LCC/2022/0014 | April 2024 | Jonathan Haine Planning and Environment 01772 534130 |

Reason for Inclusion in Part II, if appropriate

N/A

