

# Regulatory Committee

Tuesday 5 April 2022

## Minutes

### Attendance

#### Committee Members

Councillor John Cooke (Chair)  
Councillor Jill Simpson-Vince (Vice-Chair)  
Councillor Adrian Warwick  
Councillor Judy Falp  
Councillor Jeff Clarke  
Councillor Sarah Feeney  
Councillor Jack Kennaugh  
Councillor Justin Kerridge  
Councillor Jan Matecki  
Councillor Chris Mills  
Councillor Christopher Kettle

#### Officers

Sonu Copson, RoW Definitive Mapping Officer  
Ian Marriott, Delivery Lead - Commercial and Regulatory  
Sally Panayi, Senior Planning Officer  
Matthew Williams, Senior Planning Officer  
Paul Williams, Delivery Lead - Governance Services

#### Public

Ian Briggs, Landesign UK Agent for KSD Aggregates Ltd

### 1. General

The Chair gave guidance on the legal constraints affecting decision-making on planning matters.

#### (1) Apologies

Apologies were received from Councillor Dave Humphreys

#### (2) Disclosures of Pecuniary and Non-Pecuniary Interests

None.

#### (3) Minutes of the Previous Meeting

The minutes of the previous meeting were approved as a correct record.

### 2. Delegated Decisions

None.

**3. Planning applications NWB/21CM013, NWB/21CM014, NWB/21CM015 and NWB/21CM016 each to vary planning conditions on previous planning consents to require completion of site restoration by 31 December 2031 at KSD Recycling, Lichfield Road, Curdworth, B76 0BB.**

Sally Panayi (Senior Planner) presented the applications and made the following points:

- The report covered four applications
- They are Section 73 applications to vary the planning conditions on each application to extend the date for completion of inert waste recycling operations and site restoration until December 2031
- The objection from Lea Marston Parish Council was withdrawn the day before the meeting because the applicants are willing to review remodelling of the temporary bunding around site, have discussions about biodiversity offsetting and visual amenity planting and work with them to resolve the security night light issue. The Parish Council's rationale for withdrawing their objection was also that the application seeks temporary consent. It was requested that the planning conditions reference North Warwickshire Local Plan Policies LP17 and LP 18
- The site is 9 hectares in North Warwickshire and located close to J9 of the M42 and M6 toll road. The site is accessed via the A446 which has a dual carriageway
- Coleshill is three kilometres south of the site, Curdworth is one kilometre west, and Lea Marston is over one kilometre east
- National Grid has a substation located 45 metres south-east of the site
- HS2 will run past the site, and they have purchased the residential property to the south of the site
- Dunston Hall is the nearest property, it is a listed building occupied by residential and business uses.
- The public footpath between Lea Marston and the site has already been diverted around the application site and will be further diverted by HS2
- Other future developments in the area included a recently approved battery storage facility on land to the east, an allocated sand/gravel site included in the emerging Minerals Plan.
- The site was previously a sand/gravel quarry which was later infilled with inert waste which in 2002 was approved to be recycled to recover aggregates. That recycling operation has been completed. The site now imports inert waste for recycling.
- The site is permitted to process 400,000 tonnes of construction/demolition waste annually and 100,000 tonnes of Incinerator Bottom Ash annually. The limits are controlled by the EA (Environmental Agency)
- 100,000 tonnes of mineral (sand/gravel) remain on the site to be excavated
- The second planning consent on site is a concrete batching facility that produces/exports up to 50,000 cubic metres of concrete annually
- The third application is for a workshop and store building.
- The fourth application was approved in 2015 for an extension to the north of the site for use as a storage area with a bund on the northern perimeter of the site.
- These existing approvals all required completion of works by the end of December 2021
- The current applications were submitted prior to that deadline date,
- The application site is in the Green Belt where development is considered unacceptable unless 'very special circumstances' outweigh the harm. The 'very special circumstances' put forward are considered acceptable: "the site makes a major contribution to Warwickshire's

local aggregate assessment, Warwickshire currently has insufficient active primary aggregate sites to meet the county's needs, Dunton is one of the largest suppliers of recycled aggregates in the county and the loss of this would have an adverse impact on local supply of aggregates, HS2 in the area will generate construction/demolition waste and a need for aggregates and concrete, closure of the Dunton site would generate the need for an alternative site which would be difficult to identify and locate on a site in a better served area. Transporting waste further to an alternative site would have environmental implications”.

- The site is contained by the major roads to the west and by the HS2 line to be in a 30 metre deep cutting to the east
- Appearance and operation of the site has improved during the 20 years that KSD have operated as they improved surface haul roads, concreted internal roads, and improved wheel wash facilities
- There had not been any complaints from the local area
- The bunds were the maximum permitted heights apart from the northern bund which in places was slightly over
- Tree planting on the northern boundary was not completed having been held up because of Covid-19
- An additional condition was recommended for more landscape planting
- The south of the site had a belt of trees that were cleared by HS2
- The operating hours will be 7:30-17:30 (Monday-Friday) and 7:30-13:30 Saturdays for all sites
- A condition on the main site stated that there is some flexibility with bringing the waste materials into the site outside of these hours, but they cannot process the materials
- The restoration conditions will be brought forward to the new consents. Details of a full restoration scheme would be required to be submitted a year before site completion
- No other objections to the application received
- Portacabins will remain on site as offices
- The concrete batching facility is the highest onsite facility at 10 metres, this is screened by the bund.

## Questions

In response to Councillor Chris Mills, Sally Panayi confirmed that the bunds are high enough that they screen the plant within the site from view beyond the site, the trees that HS2 removed screened it better. No one at Dunston Hall commented on the site.

In response to several questions from Councillor Jan Matecki, Sally Panayi confirmed that the applications could have been dealt with as delegated decisions if the objection had been withdrawn earlier. A site restoration plan was not submitted in 2020 for the 2021 site end deadline. HS2 works would be ongoing for the next 10 years, so allowing this to remain for 10 years gives the authority the ability to review the setting and local environment at that point.

Following several questions raised by Councillor Christopher Kettle, Sally Panayi noted the date discrepancies between the four applications for the submission of a restoration scheme, therefore the conditions for all four applications should be amended to ensure operations stop and the site be fully restored, in accordance with a scheme submitted a year in advance, 'on or before the 31<sup>st</sup>

December, in line with the 013 application.. In response to a question on the delivery of waste out of operating hours it was explained that the flexibility allowed the delivery of waste from sites operating outside of normal hours such as road planings but this was not a regular occurrence. It was clarified that the above Ordnance Datum figure for the base of the site was measured and submitted as part of the 2011 planning application. The recycling of the previous inert waste filling the site was largely completed by that time.

Condition 13 of the final application (016) referred to the summary of ecological reports and revised biodiversity offsetting report; this includes the approved landscaping scheme from the previous planning approval, and the requirement is that it is planted up in accordance with that approved scheme. Enforcement action could be taken if this was not implemented. This was imposed as a condition on the 2015 application but the application was not approved until 2017; some planting was undertaken on the northern bund but was unsuccessful, then the pandemic happened.

Following a supplementary question from Councillor Kettle, Ian Briggs (KSD-Agent) stated that the out of hours work would not have an impact on residents because vehicles access the site from the nearby motorway and dual carriage where they are a small proportion of traffic; Curdworth village was the other side of these roads. The only resident at Dunton Hall managed the battery storage facility and the site manager had a good relationship with him as they were jointly planning to plant trees on the northern border. Ian Briggs conceded that some of the required planting in the northern gap could have been done but was not. The trees put in post-Covid would be removed if planning permission was denied and for that reason the planting had not be done on the northern bund. Ian Briggs said that if the 10 year extension is given the planting will be done..

In response to Councillor Matecki, Ian Briggs stated that pre-application discussions were had with the planning officers. There is development in the area for the next 10 years that would need a waste facility. While KSD had wanted to go for a permanent consent at this site, following discussions with officers it was considered better to wait and reconsider the options in 10 years' time.

Councillor Matecki raised concerns that there would be constant 'temporary' applications..

### **Debate**

Councillor Jill Simpson-Vince noted that it was unusual for a site like this to have no objections which implied that the site was well run. The pre-application discussions would have happened pre-December 2021.

Councillor Kettle said that he was happy if all the applications matched up to a restoration date of 31<sup>st</sup> December 2031 and that there was evidence that this was being worked on and trees were being planted.

### **Vote**

Councillor Simpson-Vince proposed the recommendations, subject to the proposed conditions. This was seconded by Councillor Justin Kerridge.

The committee voted unanimously for this.

### **Resolved**

1. That the Regulatory Committee authorises the grant of planning permission for the variation of the relevant planning condition on each of the four planning applications the subjects of this report, to extend the date for operation of facilities at KSD Recycled Aggregates until 31 December

2031, subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

*Subject to*

2. That the officers be requested to review the restoration and aftercare conditions for the permissions and making such additions and modifications as are necessary to ensure consistent requirements across all the permissions for the submission and approval of restoration and aftercare plans prior to the cessation of operations and for the timing of their implementation.

#### **4. Diversion of Public Footpath RB5 in Rugby**

Sonu Copson (RoW Definitive Mapping Officer) presented the application and made the following points:

- This application concerns a the proposed footpath change in Rugby to be made under the Town and Country Planning Act 1990 Section 257
- On the 18th March 2021 the County Council granted planning permission for the restoration of Parkfield Road quarry through the importation/deposit of inert restoration material by rail
- In addition to the requirement to submit details in order to discharge a number of pre-commencement planning conditions, the applicant was required to make an application to the County Council to divert the RB5/1 footpath
- The applicant (Cemex) requested the diversion to allow them to carry out the operations permitted by the planning permission, which are limited by condition to 25 years from the commencement of development
- As the diversion to the footpath is so minor Cemex applied for the diversion to be permanent
- The proposed footpath would curve southwards before continuing generally north-east to join the public footpath
- The diverted route would have a three-metre width fence and the path itself would be two metres wide. All the work would be funded by the applicants
- The nearby Traffic Regulation Order will end when the quarry has been filled in and the path has been restored. When the quarry is filled in, work to restore the wildlife would be done
- There were no objections from the consultees.

#### **Questions**

In response to Councillor Simpson-Vince, Matthew Williams (Senior Planner) confirmed that this was so Cemex could unload the trains.

#### **Vote**

Councillor Sarah Feeney proposed the recommendations as stated, this was seconded by Councillor Adrian Warwick.

The committee unanimously voted in favour of the recommendations.

#### **Resolved:**

1. That a Diversion Order is made to divert Public Footpath RB30 under the Town and Country Planning Act 1990, Section 257.

2. That the Committee authorises the Strategic Director for Communities or nominee (with any minor modifications considered appropriate) to:
  - Confirm the Order in the event that no representations or objections are duly made or if any so made are withdrawn; or Following consultation with the Chair of the Committee, submit the Order to the Secretary of State for confirmation in the event that any representations or objections are duly made and not withdrawn.

## **5. Outside Bodies - Update**

Paul Williams (Delivery Lead - Governance Services) informed the committee that this item was an update to the report presented to them in October 2021's meeting. They were asked to agree representation on several outside bodies and following this, some outside bodies made nominations:

### Warwickshire Corporate Parents Association

This was set up 10 years ago by several senior officers in the County Council to support the interests of care leavers and people in care. The late Councillor Chris Williams was the County Council's representative on the board of trustees. Councillor Marian Humphreys was the nominated representative.

### Long Itchington Education Foundation

The late Councillor Bob Stevens was a representative on the Long Itchington Education Foundation but the Foundation's rules do not require that the County Council nominate an officer or a councillor. Therefore, the County Council looked for a representative within the community to succeed Councillor Stevens. Ruth Challis offered to take up this role and this nomination was approved by the Leader of the Council. The committee need to approve this nomination.

## **Questions**

In response to Councillor Kerridge, Paul Williams stated that Ruth Challis was part of the local community and a young mother; she was approached by the Education Foundation after the local member said that they could not do it and no other members took it up.

## **Debate**

Councillor Kerridge noted that he was not happy to vote for someone he did not know and would feel more comfortable if the County Council recommended someone, then have someone recommended to them.

The Chair said that a lot of appointments were made by the County Council and noted that the Leader of Council had already accepted this nomination. He concluded that they would sometimes have to take other people's advice.

Councillor Matecki said that they were being asked to approve the recommendations and not make one.

## **Vote**

Councillor Matecki proposed the recommendations as stated. This was seconded by Councillor Jeff Clarke

11 members voted in favour and one abstained.

## **Resolved**

That the Regulatory Committee approves:

1. The appointment of Councillor Marian Humphreys to the Warwickshire Corporate Parents Association (AKA Tiffin Club).
2. The nomination of Mrs Ruth Challis to the Long Itchington Education Foundation.

## **6. Reports Containing Exempt or Confidential Information**

### **Resolved**

That members of the public be excluded from the meeting for the items mentioned below on the grounds that their presence would involve the disclosure of exempt information as defined in paragraph 1, 3, 6 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972.