

Regulatory Committee – 3 August 2021

**Variation of condition 14 of planning permission
WDC/17CM003 to revise the time limit by which inert
waste disposal operations shall cease to no later than
08 May 2024 and the site shall be restored to no later
than 31 December 2024 at Bubbenhall Quarry, Weston
Lane, Bubbenhall, CV8 3BN**

WDC/21CM005

Application No.: WDC/21CM005

Advertised date: 16 April 2021

Applicant: Smiths Concrete Limited
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Agent: Mr Pawel Zlocki
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Registered by: The Strategic Director for Communities on 06 April 2021

Proposal: Variation of condition 14 (date on which waste disposal operations shall cease) of planning permission WDC/17CM003 (Restoration of Glebe Farm Quarry to original ground level with the importation of inert waste) to revise the time limit by which inert waste disposal operations shall cease to no later than 8th May 2024 and the site shall be restored to no later than 31st December 2024 or within 6 months of the completion of inert waste disposal operations whichever is the sooner at Bubbenhall Quarry, Weston Lane, Bubbenhall, CV8 3BN

Site & location: Bubbenhall Pit, Weston Lane, Bubbenhall, CV8 3BN.
[Grid ref: 436651.271987].
See plan in Appendix A

Recommendation

That the Regulatory Committee authorises the grant of planning permission for the variation of condition 14 of planning permission WDC/17CM003 to revise the time limit by which inert waste disposal operations shall cease to no later than 8th May 2024 and by which the site shall be restored to no later than 31st December 2024 or within 6 months of the completion of waste disposal operations whichever is sooner subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

1. Application details

- 1.1 This application is submitted under Section 73 of the Town and Country Planning Act 1990 and seeks to vary condition 14 of planning approval WDC/17CM003 which stated:

Waste disposal operations shall cease to no later than 8th May 2021 and the date by which the site shall be restored to no later than 31st December 2021 or within 6 months of the completion of waste disposal operations whichever is sooner.

- 1.2 The covering letter submitted with the planning application explains that the land at Glebe Farm, Bubbenhall Quarry has the benefit of two extant planning permissions for inert tipping and restoration until 08 May 2021 (Ref: WDC/11CM009 and WDC/17CM003). The current application seeks planning permission to vary condition 14 of the consent granted in 2017 to extend the currently permitted end date until 08 May 2024, an additional 3-year period.
- 1.3 To the south-west of the application site is the mineral processing plant operated by Smiths Concrete. The site processes extracted mineral to provide a source of aggregates used by the local construction industry. The current application site at Bubbenhall Quarry / Glebe Farm originally supplied the mineral for the processing plant until the extraction operation at the quarry was completed in 2015. The operator now imports mineral from its satellite quarry operation at Wolston Fields Farm, located some 3 miles to the north of Bubbenhall.
- 1.4 Sand and gravels are imported from Wolston Fields to the processing plant by HGV. The mineral is washed and graded to produce saleable aggregates which are stockpiled before exporting from the processing plant site.
- 1.5 Waste materials from the wash process, that is clays and silts, are recovered via a settlement lagoon. The clays and silt are subsequently dredged from the lagoon and transported by tipper lorries to the site subject of the current planning application, where they are tipped progressively into the remaining quarry void. In addition, other inert waste is imported to the Bubbenhall Quarry site to infill the void.

- 1.6 Planning consent (Ref: WDC19CM004) was granted in June 2019 for a variation of condition to enable the continued importation of sand and gravel from Wolston Fields Farm to the Bubbenhall processing plant / wash facility until January 2024, a date which relates to the approved operation completion date for the Wolston Fields Farm Quarry site. Condition 3 of that 2019 consent requires all equipment, plant and machinery for the processing of sand and gravel not required for the completion of the waste operation to be removed from the site within 6 months of the use ceasing and the site restored in accordance with the approved scheme.
- 1.7 The current proposal to vary the planning condition to extend the time for the completion of the infilling by inert waste at Bubbenhall Quarry until 2024 would enable the continued use of the waste products from the processing plant / wash facility to be used for the restoration of the site until that operation's expiry date in 2024.

2. Consultation

- 2.1 **Warwick District Council – Planning:** No comments received.
- 2.2 **Warwick District Council – Environmental Protection:** No objection.
- 2.3 **Bubbenhall Parish Council:** strongly objects to this application.

Bubbenhall Parish Council is dismayed that yet again the time limit to finish restoration of this site is subject to a proposal to delay. Bubbenhall village has been adversely affected by sand and gravel excavation since 1979. The planning application for the current site (W118/891206) aroused great concern in the village and the formation of the Bubbenhall Residents Action Group to oppose it in 1990-1. The granting of planning consent on 9 May 1991 was on condition that mineral extraction followed by restoration of the site would end in 2011. However, in 2011 permission for sand and gravel extraction was extended to 8 May 2016 (WDC/11CM009) and permission to continue waste disposal was extended to 8 May 2021. Sand and gravel extraction was completed at the end of 2015. The current application WDC/21CM005 proposes to extend the deadline for restoration of the site to 2024. This would bring the time to finish the restoration of this agricultural site to 33 years – an increase of 65% on the original timescale.

Meanwhile the miseries associated with waste disposal continue. The Parish Council strongly disagrees with the assertion in the planning application that 'the remaining tipping area is relatively small and well screened...it is not considered therefore that there will be any significant impact arising from this proposal'.

Over the last 30 years Bubbenhall has endured increased HGV traffic on the A445, mud on the road, great quantities of litter, noise, odours,

the blockage of footpaths and on one occasion an explosion. The Parish Council regards it as unacceptable that once again the deadline to complete the work has not been met.

- 2.4 **Weston under Wetherley PC:** No comments received.
- 2.5 **Councillor Wallace Redford:** No comments received by 23 July 2021
- 2.6 **WCC - Planning Strategy:** No comments received.
- 2.7 **Warwickshire Fire & Rescue Service:** No comments received.
- 2.8 **WCC - Rights of Way:** No objection.
- 2.9 **WCC – Highways:** No objection.
- 2.10 **WCC – Ecology:** No comments received.
- 2.11 **Environment Agency:** No comments received.
- 2.12 **Natural England:** No comment to make on the variation of Condition 14.

3. Representations

- 3.1 Three site notices were displayed on 15th April 2021, one at the entrance to the application site off Weston Lane, one at the public footpath access from A445 Leamington Road to the west of the application site and one on the field gate adjacent to the site on Pagets Lane.

A press notice was published on 16 April 2021. The 5 nearest residential properties were individually notified by letter.

Two objections received from local residents (both in Pagets Lane) stating:

- I would like to object to the proposal for the long-time extension to the quarry works as detailed in the above planning reference. The works should have originally been completed in May this year and have already been extended once to December this year. I can see no justification for extending this for an additional three years. I strongly object to this application being approved.
- Smiths Concrete have previously been allowed to extend their tenure of the quarry for various reasons resulting in them being on this site for many years. I have recently moved into this property and one of the reasons for choosing this location is the wonderful woods, lakes and wildlife nearby. I completed

local searches at the time, which included seeing that Smiths Concrete would be exiting the vast majority of the quarry by specific, agreed dates. This timetable should not be allowed to slip further into the future. They still have over 3 years to plan and execute their previously, agreed exit timetable. The quarry will take many years to return to a significantly viable wildlife habitat that compliments the adjacent areas. Any delay to that process, means more disruption, (including to a lovely footpath) noise and loss of any new wildlife habitat, for an even longer period. We also hear constantly from national, regional and local Gov how important the natural environment is, so this is an opportunity for WDC to allow Bubbenhall Wood surroundings to return to their natural, green state as quickly as possible.

4. Previous Planning History

- 4.1 Planning consent was granted at Bubbenhall Quarry, formerly Glebe Farm on 09 May 1991 (Ref: W118/891206) for mineral extraction and restoration of the site using imported inert waste materials. That planning consent was varied in 2011 (Ref: WDC/11CM009) to allow the mineral extraction to continue until 08 May 2016 and for the completion of the waste disposal operation by 08 May 2021.
- 4.2 In April 2010 planning permission (Ref: W118/10CM002) was granted for the restoration of Glebe Farm Quarry to original ground levels with the importation of inert waste. Condition 15 of that consent required the restoration of the site within two years from the completion of the landfilling and in any event within five years of the commencement of landfilling.
- 4.3 In May 2017 an application (Ref WDC/17CM003) was approved for the variation of condition 15 of planning permission W118/10CM002 to 'revise the time limit by which waste disposal operations shall cease to no later than 08 May 2021 and by which the site shall be restored to no later than 31 December 2021 or within 6 months of the completion of waste disposal operations whichever is sooner'. This approval brought the timing for the completion of infilling of the site in line with that approved as a variation in 2011 (WDC11CM009).
- 4.4 Mineral extraction ceased at the quarry in 2015. Much of the site has now been infilled and the land restored to an agricultural use with fields bounded by re-planted hedgerows to accord with the approved landscape and restoration scheme. The remaining quarry void remains as an area used for tipping silt and clays produced as waste from the processing of mineral from Wolston Fields Quarry at the processing facility at Bubbenhall, which has planning consent to operate until October 2024 (Ref: WDC/19CM004).

5. Assessment and Observations

Location

- 5.1 Bubbenhall Quarry at the site of Glebe Farm is an area of some 15 hectares, located in open countryside within the West Midlands Green Belt. The village of Bubbenhall is some 300 metres to the north-west of the application site and north of the A445 Leamington Road which runs to the north of the application site. To the north-east, east and south of the quarry site are the local wildlife sites of Ryton Gravel Pits Country Park, Wood Farm Grassland and Pool and Bubbenhall Wood. Ryton Wood to the east is a Site of Special Scientific Interest (SSSI).
- 5.2 Vehicular access to the site is via an access off Weston Lane which is shared by Smiths Concrete and FCC Environment who operate the neighbouring Bubbenhall Landfill site, located to the south of the current application site.
- 5.3 There are a small number of residential properties in close proximity to the application site. The closest is an isolated property in Pagets Lane positioned approximately 80 metres to the east of the area of the site remaining to be infilled. A further dwelling and a children's nursery are located some 200 metres to the west of the application site and set back from the A445 on a slip road.
- 5.4 A public footpath (W150) crosses Bubbenhall Quarry and runs immediately adjacent to the area of the Glebe Farm site that remains to be infilled. There are views into the application site from the footpath.
- 5.5 The application site is relatively well screened by boundary hedgerows and nearby woodland and given the relatively flat topography of the area is unobtrusive in the landscape.
- 5.6 In the northern area of the application site the infilling and restoration to an agricultural use with fields divided by hedgerows has been completed. The remaining area of the void in the southern section of the application site is in the process of infilling. At the time of the Officer's site visit in April 2021 the area was one of inert waste piles waiting to be distributed across the site and a waterbody which was being tipped with silt and clay from the settlement lagoons at the wash facility.

Planning Legislation and Policy

Section 73 application

- 5.7 A planning application submitted under section 73 of the Town and Country Planning Act 1990 allows for the variation of the planning conditions imposed on an existing permission, in this case the original consent granted in October 2014. A variation under section 73 takes

effect as the grant of a new permission with different conditions and, once that new permission is implemented, the new conditions apply to any further development and use of the site.

The legislation at S73 (2) (a) states that the local planning authority on a section 73 application “shall consider only the question of the conditions subject to which planning permission should be granted” and has three choices:

- (a) grant permission unconditionally;
- (b) grant permission subject to different conditions; and
- (c) refuse the application.

The applicant is seeking to vary a condition to extend the timing of the completion of operations for the infill and restoration of the quarry until 2024. Any new consent granted would be subject to revised planning conditions.

- 5.8 Section 38(6) of the 2004 Planning and Compensation Act requires that planning applications are determined in accordance with the provisions of the Development Plan ‘unless material considerations indicate otherwise’.
- 5.9 **Paragraph 11** of the National Planning Policy Framework (NPPF) explains that there is a presumption in favour of sustainable development and what that means. What the presumption means in relation to a planning application is that:
- (a) proposals which accord with an up-to-date development plan should be approved without delay; and
 - (b) where there are no relevant development plan policies or the policies most important for determining the application are out-of-date, then permission should be granted unless:
 - the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.Where the presumption in (b) applies, it is often referred to as the “tilted balance” in favour of the application.
- 5.10 **Paragraph 12** goes on to explain that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan

(including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 5.11 **Paragraph 48** explains that authorities may give weight to relevant policies in emerging development plans according to: a) the stage of preparation of the emerging plan; b) the extent to which there are unresolved objections to relevant policies; and c) the degree of consistency of the relevant policies in the emerging plan to this Framework.
- 5.12 The development plan in this case consists of the Warwickshire Waste Core Strategy Adopted Local Plan (July 2013), the Minerals Local Plan for Warwickshire (Adopted 1995) and the Warwick District Local Plan 2011 – 2019 (Sept 2017).

National Planning Policy Framework (NPPF)

- 5.13 Bubbenhall Quarry / Glebe Farm is located entirely within the Warwickshire Green Belt as defined by the Warwick District Local Plan. Chapter 13 of the NPPF stresses the great importance the Government attaches to Green Belts, the essential characteristics of Green Belts being their openness and their permanence. The guidance sets out five purposes of Green Belts: to check unrestricted sprawl of large built-up areas, to prevent neighbouring towns from merging into one another, to assist in safeguarding the countryside from encroachment, to preserve the setting and special character of historic towns, and to assist in urban regeneration.
- 5.14 The NPPF states that mineral extraction is not inappropriate development, provided that the openness of the Green Belt is preserved and the development does not conflict with the purposes of including land in it. The view taken on previous applications was that this development was appropriate development. The infilling and restoration is the completion of the approved development and (there having been no relevant change in Green Belt policy or other circumstances) may also be regarded as appropriate. The NPPF also seeks to ensure the restoration and aftercare of sites at the earliest opportunities to be carried out to high environmental standards. The ongoing landfilling of the quarry enables appropriate sustainable restoration of the site to a high standard and therefore must also be considered to be appropriate development in this Green Belt location.
- 5.15 The NPPF has at its heart a presumption in favour of sustainable development whilst at the same time seeking to minimise pollution and other adverse effects of development on the local and natural environment. Policies contained in the Warwickshire Waste Core Strategy and the Minerals Local Plan for Warwickshire similarly seek to

avoid development having unacceptable adverse impacts on the local environment and communities.

Warwickshire Waste Core Strategy Adopted Local Plan (July 2013)

- 5.16 **Policy DM1 - Protection of the Natural and Built Environment:** requires new development to conserve and where possible enhance the natural and built environment by ensuring that there are no unacceptable adverse impacts upon, amongst other things, natural resources (including water, air and soil), biodiversity, the quality and character of the landscape and adjacent land users and occupiers and the development satisfies Green Belt policies.
- 5.17 **Policy DM2 – Managing Health Economic and Amenity Impacts of Waste Development:** relates to environmental controls and states that waste management proposals will be permitted where it can be demonstrated that the development will have no significant adverse impacts on the local environment or communities through, amongst other things, noise, visual intrusion, odour, dust, emissions, traffic etc. The policy goes on to state that planning permission will only be granted for waste management proposals where adverse impacts will be avoided or satisfactorily mitigated where an adverse impact cannot be avoided, or the adverse impacts have been avoided as far as possible.

Minerals Local Plan for Warwickshire (Saved policies)

- 5.18 **Policy M7 – Mitigation and conditions:** This policy seeks to ensure that any adverse environmental effects on local residents that may arise from mineral workings are mitigated against.
- 5.19 **Policy M9 – Restoration of mineral workings:** requires mineral workings to be restored to a high standard with a beneficial after use

Warwick District Local Plan 2011 – 2019 (Sept 2017)

- 5.20 The Warwick District Local Plan contains general development management policies against which all development proposals must be assessed.
- 5.21 **Policy DS5 – Presumption in Favour of Sustainable Development:** states that planning applications that accord with Local Plan policies will be approved without delay taking into account whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole or specific policies in that Framework indicate that development should be restricted.
- 5.22 **Policy DS18 - Green Belt:** The Council will apply national planning policy to proposals within the Green Belt.

- 5.23 **Policy BE3 – Amenity:** states that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby users and residents.
- 5.24 **Policy NE3 Biodiversity:** New development will be permitted provided that it protects, enhances and/or restores habitat biodiversity. Development proposals will be expected to ensure that they lead to no net loss of biodiversity and where possible a net gain and avoid negative impacts on existing biodiversity.

Policy Considerations

- 5.25 The application site is located in the Green Belt as defined by the Warwick District Local Plan where the NPPF states that mineral extraction is not inappropriate development and requires that the restoration and aftercare of sites at the earliest opportunities are to be carried out to high environmental standards. The ongoing landfilling of the quarry is part of the approved restoration and therefore must also be considered to be appropriate development in this Green Belt location. No changes are proposed to be made to the nature of the infilling or physical form of the restoration scheme and would therefore result in no greater impact upon the openness of the Green Belt.

Amenity Issues

- 5.26 The application site is separated from the village of Bubbenhall by the A445 Leamington Road. The closest residential properties are the isolated dwelling on Pagets Lane within 80 metres of the site and a dwelling and children's nursery on Leamington Road, 200 metres to the west of the site.
- 5.27 Extraction of sand and gravel was completed on the application site in 2015. Since that time infilling and restoration has been ongoing with the northern area completed and restored to an agricultural use. Infilling of the remaining quarry void continues with the tipping of silts and clays from the settlement lagoon associated with the processing wash plant to the south, in addition to the inert waste imported to the site.
- 5.28 The NPPF has at its heart a presumption in favour of sustainable development whilst at the same time seeking to minimise pollution and other adverse effects of development on the local and natural environment. Policies contained within the Warwickshire Waste Core Strategy and Minerals Local Plan for Warwickshire similarly seek to avoid development having unacceptable adverse impacts on the local environment and communities. The current planning application seeks to make no changes to the nature of the on-going infilling and restoration of the Bubbenhall Quarry. It seeks to extend until January 2024 the date by which the infilling and restoration of the former quarry

site is completed to tie into the date by which the sand and gravel processing plant on the adjacent site is permitted to operate (WDC/19CM004).

- 5.29 Objections have been received from Bubbenhall Parish Council and local residents with regard to the additional time proposed to complete the site restoration. While it is acknowledged that the operation would continue for an additional three years if the application is approved with the associated disturbance, however, there would be no change to the method of operation and therefore no greater impact on the environment or on the amenity of nearby residents than is currently experienced.
- 5.30 As stated above, the mineral processing plant on the land to the south of the application site has planning consent to operate until 2024. HGVs will continue to deliver minerals to the plant until then whether or not the present application is granted and the waste silts and clay from that process will continue to be produced until 2024. If the current application site were not available for the disposal of those waste materials, there would be a requirement to export them to an alternative waste facility or restoration site resulting in an increase in vehicle movements from the wider Bubbenhall Quarry site which would have an environmental impact.
- 5.31 The existing infilling operation is controlled by an Environmental Permit and by the previously approved planning conditions. No objection has been raised by Warwick District Council Environmental Health Officers.
- 5.32 It is considered that on balance the infilling operation would continue to comply with the policies DM2 and BE3 of the Development Plan to protect the amenity of local residents and the local area. All planning conditions applied on the previous approval to control the hours of operation, measures to control noise from vehicles, dust and mud on the road would be repeated on any new consent granted.

Landscape, Visual Amenity and Restoration of the Site

- 5.33 The NPPF, Warwickshire Waste Core Strategy, Minerals Local Plan for Warwickshire and Warwick District Local Plan all contain guidance and policies which seek to secure good design, development which sits sympathetically within its setting and secures good standards of restoration of mineral workings. The Glebe Farm site is reasonably well screened within the landscape and the ongoing infilling and restoration works have very limited impact upon the character and quality of the area. The current proposal would result in no change to the approved restoration scheme for the quarry which would return the site to agricultural use with a landform and field boundaries similar to that which existed prior to mineral extraction taking place. The proposal is considered to comply with Policy DM1 of the Local Plan.

- 5.34 The previous planning application (Ref: WDC/17CM003) for the infilling and restoration was subject to a planning condition for the submission and approval of a detailed planting and landscaping scheme. The details required were subsequently approved, and that condition discharged. A planning condition is recommended to ensure that the restoration of the site is implemented in accordance with that approved scheme.
- 5.35 If planning consent is not granted for the additional 3 years to complete the infilling and restoration of the Bubbenhall Quarry void, the landscape would remain with the current topography, with an open water body and uneven ground levels unsuited to an agricultural use, contrary to the approved restoration scheme.

Heritage

- 5.36 The nearest listed building to the application site is the Grade II listed Old Rectory some 250 metres to the west on the opposite side of the A445 Leamington Road. Bubbenhall Conservation Area is located to the west of the application site and includes the residential dwelling and the children's nursery 200 metres to the west of the application site.
- 5.37 There is considered to be no adverse impact on the setting of the heritage assets as a result of the extension of time for the completion of the infilling and restoration of the site.

6. Conclusions

- 6.1 The proposed extension of time to complete the infilling and restoration is closely linked to the extended use of the processing plant at Bubbenhall, to the south of the current application site, which has approval to operate until 2024. In addition, the application is linked to the operation at Wolston Fields Farm Quarry, the source of the mineral that provides the silt and clay for the infilling which also has permission to operate until 2024.
- 6.2 Refusal of the current proposal would prevent the restoration of the site in accordance with the previously approved scheme. In addition, a refusal could result in an increase in vehicle movements from the processing/wash facility as the waste clay and silt would be exported to an alternative site for disposal.
- 6.3 Residents will experience the continued operation of the plant and HGV traffic from Wolston Fields for a further three years, but they will experience this in any event as a result of permissions already granted and this proposal will not increase the impact on amenity above the present level. In so far as the granting of this application extends impacts for a longer period, the levels are not considered to be unacceptable and are considered to be outweighed by the benefits of

completing the restoration and avoiding the need for waste to be transported from the site for disposal elsewhere. It is also considered that the restoration is appropriate development in the Green Belt and will have no other unacceptable impacts on the environment or people subject to the repeat of the conditions imposed on planning permission WDC/17CM003.

7. Supporting Documents

- 7.1 Submitted Planning Application – Planning reference WDC/21CM005
- 7.2 Appendix A – Map of site and location.
- 7.3 Appendix B – Planning Conditions.

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