Regulatory Committee

Tuesday 7 June 2022

Minutes

Attendance

Committee Members
Councillor Jill Simpson-Vince (Chair)
Councillor John Cooke (Vice-Chair)
Councillor Judy Falp
Councillor Dave Humphreys
Councillor Justin Kerridge
Councillor Christopher Kettle
Councillor Jan Matecki
Councillor Chris Mills
Councillor Mandy Tromans

Officers
John Cole, Democratic Services Officer
Ian Marriott, Delivery Lead – Commercial and Regulatory
Sally Panayi, Senior Planning Officer
Matthew Williams, Senior Planning Officer

Public
Kashan Aslam, Crown Aggregates

1. General

(1) Apologies

Apologies were received from Councillor Jeff Clarke, Councillor Mandy Tromans was present as a substitute.

Apologies were also received from Councillor Sarah Feeney and Councillor Adrian Warwick.

(2) Disclosures of Pecuniary and Non-Pecuniary Interests

None.

(3) Minutes of the Previous Meetings

The minutes of the meetings held on 5 April 2022 and 17 May 2022 were approved as an accurate record.

2. Delegated Decisions

None.

3. Planning Application: NWB/20CM015 - Hartshill Quarry, Nuneaton Road, Nuneaton

Matthew Williams (Senior Planning Officer) provided a summary of the application alongside planning application NWB/20CM016 (agenda item 4). Both sought permission for mineral processing equipment, plant, and infrastructure at Hartshill Quarry, Nuneaton. He advised that NWB/20CM015 was a retrospective application; NWB/20CM016 proposed development of an aggregates washing plant and ancillary machinery. The applicant, Mr Kashan Aslam of Crown Aggregates, was present at the meeting.

Matthew Williams stated that:

- The report provided details of another planning application for residential development proposed at land south of the site. This application was yet to be determined by North Warwickshire Borough Council.
- A third application at Hartshill Quarry, not presented to the Committee at the meeting, sought an amendment to the phasing and working of the overall site to enable reworking of material.
- Hartshill Quarry is a hard rock quarry with extraction by blasting and use of excavators. Mineral extraction has taken place at the site for over a century.
- From the mid-1990s, the Quarry was not in operation. Following its sale in the mid-2010s, operations were re-established.

Matthew Williams advised that statutory consultees had not raised any objections ‘in principle’ to planning application NWB/20CM015. However, the Environmental Health Officer (EHO) had sought a condition for dust control. The EHO had expressed an interest in receipt of additional data relating to traffic flows and the impact of traffic on air quality monitoring and management. Matthew Williams advised that most traffic related to the existing permitted use of the site; many of the vehicles accessing the site were third-party hauliers which the applicant had no control over. Therefore, it may not be appropriate to introduce a condition for this consideration.

Matthew Williams advised that the Canal and River Trust had considered the proposal and made a request for information relating to the construction and management of the proposed attenuation pond.

Matthew Williams advised that Highways officers had acknowledged the limitations of the site access. However, it was recognised that Hartshill Quarry was an historic site; little could be done to improve the access. Highways officers had acknowledged that it was not proposed to intensify operations on site. There was no objection subject to conditions to ensure that vehicles would be clean and covered.

Matthew Williams advised that no objection had been raised by WCC Ecology. However, conditions specifying provision of a Landscape and Environmental Management Plan (LEMP) and Construction and Environmental Management Plan (CEMP) were requested.

Matthew Williams noted that the WCC Planning Policy response accepted that the proposal was generally in accordance with policy and could be supported. However, observations had been made in respect of production levels at the site. Production output figures had not been provided since the Quarry reopened. As a result, it was not possible to assess whether the application would lead to increased production. Matthew Williams advised that it was regrettable that the applicant had failed to engage with the Policy Team, but this was not a reason to refuse permission.

Matthew Williams provided a summary of representations that had been received. Local residents had not contributed comments. However, a representation had been made by Tarmac Trading, the owner of the land south of the Quarry where residential development was proposed. Tarmac Trading's observations related principally to the third application which sought a variation to the conditions of the Quarry's existing planning permission. It was requested that the Council take account of the proposed residential development when determining the application. Matthew Williams advised that there was no 'in principle' objection to either of applications presented to the Committee at the meeting which could be determined separately from the third application.

Matthew Williams advised that, a day before the meeting, a late representation had been received from Hanson, a company also involved in mineral extraction. Hanson had previously owned the site of Hartshill Quarry as part of Midlands Quarry Products. Hanson asserted that it was the owner of the minerals within the Quarry. It contended that the applicant had not served the correct notice as required by the relevant legislation. Hanson requested that the applications be withdrawn.

Matthew Williams advised the Committee that the applications presented for determination were not concerned with the winning and working of minerals; they were for plant and equipment associated with the processing of minerals. He advised that clarification had been sought from Hanson, requesting plans and additional information. There had not been time to undertake a detailed assessment of Hanson's representation. The Committee was advised that consideration of the planning applications should proceed; however, there was an option to delay issuing of decision notices for a reasonable period, allowing Hanson to expand on the points raised.

Matthew Williams provided an overview of policy considerations, stating that the current planning consent for Hartshill Quarry allowed the site to be in operation until 2042. The plant and equipment that the applicant sought to regularise were consistent with standard arrangements at similar sites elsewhere. In general terms, the site conformed with policy.

Matthew Williams advised that visual impact was minimal, the site was relatively well screened by topography and vegetation. A Landscape and Visual Impact Assessment had been submitted which concluded that the application had negligible adverse visual impact.

In conclusion, Matthew Williams stated that NWB/20CM015 was a retrospective application for recently installed plant, equipment, and infrastructure, some of which was essential for the operation of the site. It was a location which had previously been used for the operation of plant and equipment. Wheel washing equipment limited the impact the site had on the public highway. The washing plant and other facilities added value to the product produced by the Quarry. It was considered to be an application that could be supported.

4. Planning Application: NWB/20CM016 - Hartshill Quarry, Nuneaton Road, Nuneaton

Matthew Williams (Senior Planning Officer) provided a summary of this application which sought permission for an additional washing plant adjacent to the location of the existing equipment.

Matthew Williams advised that consultee responses were similar to those of the preceding application. There were no 'in principle' objections. Conditions had been specified by the Environmental Health Officer (EHO) in relation to noise and dust. A condition requiring a noise mitigation strategy had been accidentally omitted from the report and should be added if permission were granted. The Canal and River Trust had sought a condition relating to surface water management. Highways recommendations were consistent with the preceding application, acknowledging that there would be no imported material for processing and that there would be no intensification of use of the access. WCC Ecology had sought conditions for ecology monitoring prior to the commencement of work. Planning Policy observations were consistent with the preceding application.

Matthew Williams advised that the previously outlined representation from Tarmac Trading also applied to this application, as did the representation from Hanson. He advised that Policy considerations were consistent with those of the previous application. The proposal was for well-screened, low-level plant which would have negligible visual impact.

In conclusion, Matthew Williams stated that the proposed aggregates washing plant would be located within an operational area of the site. The plant would allow the sustainable use of minerals and enable an improved, higher-value aggregate to be produced. The applicant had advised that it would not increase production or intensify activities on site. It was considered to be an application that could be supported.

Questions

Members presented questions relating to planning applications NWB/20CM015 and NWB/20CM016.

In response to Councillor Kerridge, Matthew Williams advised that, should permission be granted, a note would be provided directing the landowner and operator of the site to liaise with the Canal and River Trust to determine arrangements for the discharge of water from the site to the nearby canal.

In response to Councillor Kerridge, Matthew Williams advised that general conditions relating to noise had been included; however, the EHO had requested a condition specifying provision of a Noise Mitigation Strategy. Overall, it was not anticipated that the additional washing plant would have an adverse noise impact.

In response to Councillor Falp, Ian Marriott (Delivery Lead – Commercial and Regulatory) provided more information relating to the representation from Hanson. The Company claimed to own mineral rights within the site. It contested that the applicant should have served notices to Hanson prior to submission of the application. This was a technical procedural point; based on the information provided a day before the meeting, it was not believed that evidence had been provided to show that the applicant had acted wrongfully. He stated that, if the Committee was minded to grant permission, issuing of decision notices would be delayed by a few days to provide

Hanson with an opportunity to expand on its claim and provide evidence that might alter the view of the Authority. If it was found that Hanson's claim was valid, it would be necessary for the Committee to consider the applications again following service of required notices.

In response to Councillor Matecki, Ian Marriott advised that there were two categories of minerals at the site: unexcavated mineral in the ground, and minerals in the spoil heap. Hanson's claim related to the right to exploit the minerals in the ground. Therefore, the wash plant could be used to treat only the minerals in the spoil heap and this would not infringe any alleged rights. However, he advised that the provenance of the minerals being processed by the wash plant was probably not relevant to the Committee's deliberations.

In response to Councillor Kettle, Matthew Williams advised that NWB/20CM015 sought retrospective planning permission for plant and equipment, with a proposed attenuation pond. The planning condition requiring additional information prior to work being undertaken related to the pond. Other conditions would be instated with the intention of seeking compliance by the applicant; however, it would be up to the planning authority to ensure that the terms of the permission had been followed faithfully.

Matthew Williams advised that the conditions specifying provision of a Landscape and Environmental Management Plan (LEMP) and Construction and Environmental Management Plan (CEMP) required details to be submitted within a period of three months. The applicant would be obliged to comply with this instruction.

Councillor Kettle highlighted the poor track record of compliance by the operator. He asked if a monitoring condition should be introduced to record any intensification of activities at the site.

Matthew Williams advised that the Planning Policy Team had requested production figures from the applicant to inform a better understanding of aggregates consumption across the region. He advised that submission of production figures to the local authority was not a mandatory requirement for operators. Therefore, it would not be appropriate to include a condition to this effect.

Councillor Cooke requested that the Chair seek a view from the applicant in respect of the retrospective elements of the planning application. He queried whether it was fair for work to have been undertaken without planning consent. He stated that it was not unreasonable for the Council to request data relating to production levels.

In response to the Chair, the applicant, Mr Kashan Aslam, stated that Crown Aggregates had not deliberately ignored the requirement to seek planning permission. A certificate of lawful use was held by the Company, and it was believed that this provided adequate permission to proceed with the installation of plant and equipment. He stated that the Company had acted to seek planning permission as soon as it was advised to do so by the Council. He apologised for the oversight.

Mr Aslam advised that Crown Aggregates intended to supply the production figures requested by the Council. It had been delayed in doing so by the Pandemic and a change to its planning consultant. He stated that this was the only condition that Crown Aggregates had failed to comply with. He highlighted the Company's investment in wheel wash equipment, intended to preserve the condition of the public highway.

Councillor Humphreys commented that the representation from Hanson was not relevant to the Committee's deliberations. The Chair agreed.

Debate

Councillor Matecki stated that he was satisfied with the responses provided and moved that the Committee approve the two applications in line with the clarifications required from Hanson and the resolution to defer issue of the decision notices for a reasonable period. Councillor Kerridge seconded the motion, provisional on submission of a noise mitigation strategy for NWB/20CM016.

In response to Councillor Kettle, Matthew Williams advised that it would not be appropriate to introduce a condition which obliged the applicant to submit data relating to production levels.

Ian Marriott advised that a monitoring condition could not be imposed solely to support the Authority's Local Plan. Also, he asked the Committee to consider what it would do with the monitoring information at that stage. He stated that, if the Committee required data that illuminated the potential for intensification of activities on site, it would need to be requested prior to determination of the planning application.

For NWB/20CM015, Ian Marriott advised that conditions 6 and 7 required that a LEMP and CEMP be submitted, approved, and implemented. In terms of enforceability, he advised that failure to submit a LEMP or CEMP could give rise to a stalemate between the applicant and planning authority. This had proved to be a cause of difficulty for other planning authorities in the past. He advised that a solution could be found by specifying that a LEMP and CEMP be submitted and approved prior to issue of the decision notice. If the Committee was minded to grant approval subject to that requirement, conditions 6 and 7 could be amended so that they specified implementation of the previously approved LEMP and CEMP.

Councillor Cooke stated that there were no valid planning reasons to refuse permission for either application. He indicated support for the proposals that had been made. He emphasised that the Council had made a reasonable request to the operator for information relating to production levels.

Mr Kashan Aslam provided assurance that the figures requested would be provided by Crown Aggregates once arrangements had been made with its planning consultant.

Vote

The Chair proposed the recommendation for **NWB/20CM015** subject to an amendment to conditions 6 and 7.

The Committee voted unanimously in favour of this.

Resolved:

1. That the Regulatory Committee authorises the grant of retrospective planning permission for buildings, structures, plant and equipment on land adjoining, but outside of, the main quarry permission area at Hartshill Quarry, Nuneaton Road, Nuneaton subject to the

conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities

Subject to

2. Issuing the decision only after a LEMP and CEMP had been approved and amendment of conditions 6 and 7 requiring the approved LEMP and CEMP to be implemented in full.

The Chair proposed the recommendation for **NWB/20CM016** subject to an additional noise condition.

The Committee voted unanimously in favour of this.

Resolved:

1. That the Regulatory Committee authorises the grant of planning permission for the development of an aggregates washing plant and ancillary machinery on land at Hartshill Quarry, Nuneaton Road, Nuneaton subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

Subject to an additional condition stating that:

2. The development hereby permitted shall not be commenced until a noise mitigation strategy has been submitted to and agreed in writing by the County Planning Authority. The approved noise mitigation strategy shall be implemented in full for the duration of the development.

   Reason: In order to safeguard the amenities of residents.

In both cases, the Council would delay issuing the decision notices to allow Hanson reasonable time to expand upon and clarify their late objection to the applications being determined.

5. 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 paragraphs 1, 3, 6 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

6. Exempt Minutes of the Previous Meeting

The exempt minutes of the meeting held on 5 April 2022 were approved as an accurate record.

The meeting rose at 11:45.

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Chair

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