

9. MINERALS AND WASTE REVIEW – JULY 2017 (JEN)

Introduction

This report provides a summary of the work carried out by the Minerals and Waste Team over the last 18 months.

The team deal with planning applications, enforcement and policy work in relation to minerals and waste in the National Park. Due to the on-going nature of minerals sites, a program of regular monitoring for every site is undertaken and forms a significant part of the team's workload.

Applications

Minerals and waste applications, particularly for new development or extensions or increasing capacity at existing sites, can be large and complex often requiring Environmental Impact Assessment (EIA). Nevertheless, the same targets for delivery apply as for other planning applications, which are: 16 weeks for applications accompanied by EIA, 13 weeks for major applications and 8 weeks for minor applications. However we may also agree a longer period with the applicant, and in most cases where we are not able to determine within the target, applicants agree to a longer period. We are performing within government targets for applications determined within the timescales or agreed longer period.

Between January 2016 and June 2017 the team has received 27 planning applications. Of these:

- 3 were invalid or withdrawn
- 12 were applications to discharge or partly discharge conditions on existing permissions
- 4 were prior notification required under the General Permitted Development Order
- 1 application was for waste development
- 9 applications are not yet determined

Between January 2016 and June 2017 the team has determined 25 applications (some of which were received prior to January 2016). Of these:

- 24 were granted or the condition was discharged or partially discharged
- 1 was refused
- 7 applications were determined at Planning Committee (the remainder were delegated)

Mineral planning permissions often include many planning conditions to control the complicated and varied aspects of the development. Permissions commonly require the discharge of several planning conditions to determine detailed aspects of the development.

Through site monitoring we have a good working relationship with the owners and/or operators of most sites in the National Park. As a result of our continued monitoring we have good opportunities to influence proposals from their earliest stages, and this is why most proposals are granted planning permission. Less acceptable proposals are less likely to be subject to formal applications.

Monitoring

In recognition of the on-going nature of minerals and waste permissions and the need for regular monitoring in the interests of amenity and the environment, there is a statutory basis for charging for carrying out site inspections at mineral and waste sites.

We collect data for monitoring for each financial year. For the period 01 April 2016 to 31 March 2017, the team conducted 49 chargeable visits. Of these, 48 were at active sites, for which we can charge £331 per site, and one was at an inactive site, for which we can charge £110. The total amount invoiced will be £15,998.

This has been the greatest number of chargeable visits in a year since the provision of monitoring fees was introduced in 2006. This probably reflects that there have been fewer applications that involve increased extraction of minerals in this period, although that is likely to increase again. Our aspiration is to: monitor all sites (which we are currently achieving); annually review the number of monitoring visits necessary for each site per year (up to a total of 8 per year as allowed by the Regulations); increase monitoring at some sites; and recoup our monitoring costs through charging as far as possible.

The team also carried out a number of site visits which were not charged for, for example if conditions were not monitored, if the visit was part of pre-application discussions, if it was undertaken in the course of learning and development work, or visits to sites without the benefit of planning permission.

Enforcement

The team deal with general enquiries about stand-alone breaches of planning control, and also breaches of conditions at permitted sites.

In the period 1 January 2016 until 30 June 2017, we dealt with around 72 enquiries. Of these 23 remain open but 49 are closed as they have been resolved.

Many of these relate to small to medium scale deposits of waste or relate to breaches of conditions at existing operations. In line with government guidance, we initially aim to resolve all but the most serious breaches of planning control through negotiation and in the majority of cases this is a quick and successful way to address problems. Where we need to have more information about a situation or initial correspondence has not resulted in a response, we can serve Planning Contravention Notices which are a formal tool to ask questions related to an alleged breach. Between January 2016 and June 2017 the team has served 5 Planning Contravention Notices.

In some very serious cases where harm is likely to be great or irreversible, or, where negotiation has not been successful in resolving breaches, our recourse is to formal enforcement action. Between January 2016 and June 2017 the team has served 3 Enforcement Notices, 1 Stop Notice and 1 Temporary Stop Notice. These are summarised below.

Notice Type	Location	Development Concerned	Date Served
Enforcement Notice	Stoke Hall Quarry	Unauthorised Wire Saws	28/10/16
Enforcement Notice	Moss Rake East Quarry	Unauthorised Deposit of Waste	21/12/16
Stop Notice	Moss Rake East Quarry	Unauthorised Deposit of Waste	21/12/16
Enforcement Notice	Rowsley Wood Yard	Stone Stocking/Transfer	10/02/2017

Policy

The team are also responsible for drafting the forthcoming Development Management Policies relating to minerals and waste, in partnership with the Policy Service who lead on the timetable for the forthcoming policies. The most recent consultation documents can be found here: <http://www.peakdistrict.gov.uk/planning/how-we-work/policies-and-guides>

In addition to the Authority's own mineral policy work, the team also engage in the preparation of a joint Local Aggregate Assessment with Derbyshire County Council. This document sets out the changing trends in demand and supply of aggregate in Derbyshire. Derbyshire County Council is very supportive of the Authority's implementation of government policy for the reduction of supply of mineral from National Parks. As sites in the National Park cease operations, the demand for aggregates and other minerals will be increasingly met by the permitted reserves in Derbyshire (outside of the National Park). The report can be found here: http://www.derbyshire.gov.uk/images/LAA%202016_tcm44-289583.pdf

The team also engage in the Aggregate Working Party. This is a regional working group through which each Mineral Planning Authority carries out a survey of operators to establish sales and reserves to ensure that the forthcoming need for minerals in the region and in wider markets are met. An annual report is published and previous published reports can be viewed here: <https://www.gov.uk/government/collections/aggregates-working-parties-annual-reports>

Major Cases

In the last 18 months we have made significant progress on some of our major cases, below is a summary of three significant cases.

Topley Pike Quarry

Topley Pike Quarry is a limestone quarry worked for aggregates predominantly. It is a large site and originated from several old mineral permissions. It would not be acceptable under current policy to establish a new aggregate quarry of this size in the National Park.

In the western half of the site, the permission did not have a depth restriction. Working this area, beneath the water table would have caused a significant negative effect on the Wye Valley SAC and SSSI. Under the Environment Act the Authority was obliged to review these old permissions to determine modern working conditions and compensation would be payable if the Authority limited the asset value or viability of the site through the imposition of restrictive conditions. However, an assessment of the proposed working under the Habitat Regulations would be necessary and the Authority would have been unable to lawfully permit working which would have been detrimental to the SAC. The compensation associated with limiting the permission would have been unaffordable for the Authority.

Following several years of negotiation, the operator made a planning application as an alternative to following the Review process. The application proposed: limiting the depth in the west; increasing the depth workable in the east from the permitted level (but remaining high enough to not impinge on the SAC); the movement of a large tip from Deep Dale at the south of the site, which will have a positive impact on landscape generally and on the Deep Dale SSSI specifically. The application offers significant net gain for the National Park over and above what could have been achieved through reviewing the old mineral permissions, and circumvents the need to carry

out a review and address the likely issues relating to compensation that could have arisen.

The legal agreement and the decision notice were issued on 15 February 2017.

Stanton Moor Quarry

Stanton Moor Quarry is in the central part of Stanton Moor. Stanton Moor is an area of heather moorland with birch scrub, there is a well-known circle of standing stones on the moor known as the Nine Ladies. The moor is a designated Scheduled Monument due to the bronze age heritage and Stanton Moor Quarry is partially within this designation. In the 1950's as the National Park was being established, the government granted permission for a number of sites for mineral extraction within this central part of the moor. These permissions had very few operational controls. Under current policies, Stanton Moor Quarry would not be granted planning permission.

After several refused applications and many years of negotiation, mainly about what would represent an equitable swap, a proposal was made to relinquish Stanton Moor Quarry and alternatively work a 50,000 tonnes extension at New Pilhough. In addition, much more information was provided about the reserve at Stanton Moor, allowing a more informed assessment of the equity of the proposal.

Planning committee resolved to approve the application. The legal agreement was signed which ensures (amongst other things) that no further extraction can take place at Stanton Moor Quarry. The decision notice was issued on 23 June 2017. A revocation order will follow in relation to Stanton Moor Quarry.

This protects the central area of the moor from the threat of quarrying in perpetuity, it is the last of the old mineral permissions in the Stanton Moor Area.

Longstone Edge East.

2016/17 has seen a great deal of progress in one of the Authority's most long running mineral planning problems at Longstone Edge, including Backdale Quarry.

The initial issue related to the interpretation of an Old Mineral Permission dating from 1952 and whether the wording, which permitted the 'winning and working fluorspar, barytes and lead and any other mineral won in the course of working' allowed the large scale extraction of limestone. The permission originally covered 155 ha.

The site was worked intensively for aggregate extraction. The Review of Old Mineral Permissions procedure in 1998 meant that the Authority was obliged to determine modern conditions or face a 'deemed approval' of conditions which would have encompassed the principle of limestone aggregate extraction. However, without an EIA having been undertaken the Authority could not make a robust determination. Eventually a determination was made and an appeal to the High Court struck out the determination but made it clear that a deemed approval was not possible. The Review process became stalled. Working ceased for a period of time.

In 2003 working recommenced at the site, which mainly comprised limestone aggregate extraction. There was considerable public objection to the operations. The Authority first took enforcement action in 2004, and between then and 2009, the landowner and the Authority were involved in planning enforcement appeals through public inquiries and the courts. Eventually the

Court of Appeal determined that the Authority's interpretation of the permission was correct and upheld the Notices. This meant that the site could not be worked with the aim of extracting limestone aggregate.

In August 2008 the EIA Regulations were revised with the purpose of ensuring that ROMP applications which were stalled for lack of environmental information could be determined. The Authority sent a notice to the landowner, requiring the submission of additional information to enable the Authority to carry out a screening opinion. The site changed hands in 2009. Since all the necessary information required to carry out a screening opinion was not provided, the permission went into automatic suspension on 1 November 2010.

In 2012 the Authority made a Prohibition Order on the basis that there did not appear to be a genuine intention to work the land. Following a Public Inquiry in January 2016, the Order was varied and upheld in July 2016.

Restoration works in line with the Prohibition Order have now commenced. The site is visible from many vantage points and has a considerable landscape impact, the restoration works already make a significant contribution to the landscape of the National Park and this will continue over the next few months and years as the earth movement concludes and the site re-vegetates.

RECOMMENDATION:

That the report be noted.