

15. REVOCATION ORDER - BALLIDON QUARRY, BALLIDON, DE6 1QX (420192/354944, NH)

Purpose of this Report

The purpose of this report is to seek formal authority to make a Revocation Order in relation to planning permissions for Ballidon Quarry. The Planning Committee on 11 December 2015 approved the planning permissions described below and authorised officers to pursue the signing of a section 106 agreement, including the relinquishments of former planning consents through a formal Revocation Order. However, a specific resolution is required to make the Revocation Order related to Ballidon Quarry now that the permission has been issued and implemented by the applicant, Tarmac Trading Limited.

Introduction

On 11 December 2015, Planning Committee resolved to approve two planning applications for Ballidon Quarry:

1. Application NP/DDD/0715/0618 which sought to vary conditions 2, 11, 38 and 39 on the existing permission NP/DDD/0214/0210 to allow for a revised restoration scheme.
2. Application NP/DDD/0715/0619 for revision to quarry development scheme within current planning consent boundary and provision of enhanced restoration scheme.

Subject to the signing of a revised Section 106 agreement (covering both planning permissions) to include the following obligations:

- a) To not win and work minerals in accordance with previous consents;
- b) Relinquishment of former consents through formal revocation orders;
- c) Not to seek compensation in respect of any formal revocation orders made in respect of previous consents;
- d) Annual total sales of limestone products shall be limited to a 1.1 million tonnes;
- e) No to sell for industrial use less than 40% of the total annual sales of limestone products;
- f) To enter into a footpath Agreement for the maintenance of the previously constructed permissive footpath, plus fencing and gates, along the approach road leading to the quarry entrance to separate pedestrians and footpath users from road traffic.

At the Planning Committee in December 2015 it was resolved that both applications be recommended for approval subject to the signing of a revised section 106 agreement covering both permissions including the obligations set out above and the imposition of various conditions and to delegate authority to the Director of Conservation and Planning to agree detailed conditions and wording of the Section 106 legal agreement following consultation with the chair and vice chair of the planning committee.

The permission was issued on the 19 July 2016 and the Section 106 legal agreement which covers all the aspects identified above was endorsed.

Revocation Orders

The Authority has the power to revoke planning permissions under section 97 of the Town and Country Planning Act (as amended). All parties with a legal interest in the land have confirmed that they have no objection to the Revocation Order, in the section 106 agreement. The Authority must notify the Secretary of State that an Order has been made, and as long as no objections are made by those with an interest in the land (in line with the section 106 agreement), the order can be confirmed.

Previous revocation orders have been made by the Authority, including Stanton Moor Quarry, Dungeon and Barton Hill, and Longstone Edge. These were revoked without compensation for the operator or landowner.

The following planning permissions exist for Ballidon Quarry:

| Date | Reference | Nature of Permission |
|---------------|------------------|--|
| 12 July 1951 | 1884/9/11 & 22 | The winning and working of limestone, the disposal of waste material and the erection of new crushing and grinding plant. |
| 31 July 1952 | 1884/9/30 | To develop land by the winning and working of limestone, the disposal of waste material. |
| 25 April 1963 | ASR/163/2 | To extend the limestone quarrying area and the tipping Area. |
| 7 May 1973 | NP/ASR/373/2 | An extension of the approved quarrying area and the installation of new quarry plant. |
| 15 Jan 1986 | NP/WED/783/292 | Extension of limestone workings. |
| 12 Feb 1991 | NP/WED/1190/623 | Variation of condition 4 of planning consent NP/WED/783/292 to permit extraction of a further lift from the west quarry followed by backfilling using quarry waste. |
| 3 July 1992 | NP/WED/392/192 | Extension of quarry workings and development of quarry tip. |
| 4 March 2003 | NP/DDD/0500/172 | Merging of existing planning consents into a single consolidated consent including surrender of parts of existing permissions and a small extension for landscape purposes of north face of main quarry. |
| 24 Aug 2004 | NP/DDD/0803/419 | Variation of condition 13 of planning consent NP/DDD/0500/172 to increase the total sales output of mineral from 1 million tonnes to 1.1 million tonnes in any one calendar year. |
| 28 May 2015 | NP/DDD/0214/0210 | Variation of condition 10(iii) of planning consent |

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| | | NP/DDD/0803/419 to increase the number of powders tankers delivering overnight. |
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The legal agreement provides that the existing planning permissions will no longer be implemented and from the date of issue the entire site would be controlled by the two new permissions. The legal agreement also provides that no party to the agreement will object or claim compensation in relation to the issue or confirmation of revocation orders.

It is considered that the Revocation Order in relation to these permissions will provide additional certainty regarding the rights to work minerals, the manner in which mineral working will take place and long term security that the old permissions cannot be reactivated. Although the legal agreement provides good certainty, it could theoretically be varied in future, through an application to the Authority. It is considered that it is expedient to issue Revocation Orders in relation to the existing permissions using powers under section 97 of the Town and County Planning Act 1990.

It is considered that in this case not making a Revocation Order could potentially allow a developer to seek to vary the legal agreement and seek to work stone reserves which have been given up. The relinquished permissions are older, with fewer environmental controls imposed on them than the current permissions, which have been subjected to the EIA process. Therefore, in this specific case, making the revocation order to extinguish the old permissions is the best course of action in order to provide total certainty for the National Park in terms of the mineral that will be worked in future.

Compensation is payable in certain circumstances in respect of revocation of planning permissions. However in this case all those known to have an interest in the land have signed the legal agreement to the effect that they will not claim compensation if a Revocation Order is made. There is a very small risk that a third party claiming to have an interest in the land which was not revealed in the searches carried out prior to the legal agreement being entered into objects to the Revocation Order and/or claims compensation as a result of the revocation of the old permissions, however on balance it is considered that in this case the benefits of making the revocation order outlined above outweigh any such minimal risk.

RECOMMENDATION

That a Revocation Order be made under the section 97 of the Town & Country Planning Act 1990 and all other powers enabling the Authority to revoke the following permissions:

1884/9/11 & 22: The winning and working of limestone, the disposal of waste material and the erection of new crushing and grinding plant.

1884/9/30: To develop land by the winning and working of limestone, the disposal of waste material and the erection of buildings.

ASR/163/2: To extend the limestone quarrying area and the tipping Area.

NP/ASR/373/2: An extension of limestone workings.

NP/WED/783/292: Extension of limestone workings.

NP/WED/1190/623: Variation of condition 4 of planning permission consent NP/WED783/292 to permit extraction of a further lift from the west quarry followed by backfilling using quarry waste.

NP/WED/392/192: Extension of quarry workings and development of quarry tip.

NP/DDD/0500/172: Merging of existing planning consents into a single consolidated consent including surrender of parts of existing permissions and a small extension for landscape purposes of north face of main quarry.

NP/DDD/0803/419: Variation of condition 13 of planning consent NP/DDD/0500/171 to increase the total sales output of mineral from 1 million tonnes to 1.1 million tonnes in any one calendar year.

NP/DDD/0214/0210: Variation of condition 10 (iii) of planning consent NP/DDD/0803/419 to increase the number of powders tankers delivering overnight.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report. The confirmation of the revocation order will permanently extinguish the permissions to which it relates, so that the winning and working of minerals can no longer take place in accordance with those permissions. To the extent that the making of the revocation order might engage Article 1 of the First Protocol of the European Convention on Human Rights, it is a justified and proportionate means of achieving the legitimate aim of planning in the public interest.

List of Background Papers (not previously published)

Nil