

10. PLANNING APPLICATION TO INCREASE THE NUMBER OF POWDERS TANKERS DELIVERING OVERNIGHT AND THE CESSATION OF NIGHT TIME DELIVERIES OF COATED MACADAMS. VARIATION OF CONDITION 10 (iii) OF PLANNING CONSENT NP/DDD/0803/419, BALLIDON QUARRY (NP/DDD/0214/0210, M3893, 13/03/2014, 420192 / 354944 /APB)

APPLICANT: LAFARGE-TARMAC TRADING LTD

Site and Surroundings

Ballidon Quarry is operated by Lafarge-Tarmac Trading Limited, a company formed in 2013 by the merger of Tarmac and Lafarge. The quarry is located in the southeast corner of the National Park, approximately 1.5 km to the northeast of the village of Parwich and less than 0.5 km from the hamlet of Ballidon. It covers an area of approximately 75 ha with the main processing area, including the powders plant, covering the eastern central portion of the site.

The quarry predominantly works high purity limestone, which is processed into industrial powders used in products for animal feeds, use in plastics, glues and numerous other products where purity and whiteness are essential. The quality of the limestone worked from Ballidon Quarry for powders sales is reflected in the section 106 legal agreement. This stipulates that a minimum of 40% of sales from the quarry are to be sold into the industrial sector, with the remainder permitted to be sold to the aggregates sector. The main planning permission NP/DDD/0803/419 covering mineral working at Ballidon Quarry requires mineral extraction to cease by 31 December 2040.

Proposal

The application seeks a variation of condition 10 of the existing planning permission so as to allow for an increase in the number of tankers transporting powders overnight (between 1900 and 0600 hours), from 8 movements (4 In 4 Out) to 24 movements (12 In 12 Out). This is to address the general improvement in the economy and increasing demand for high purity powders from further afield. No change in the permitted hours of the powders plant itself is required or sought. Also, no change is sought to the overall permitted number of vehicle movements to and from the site, which are capped at 800 per day (400 In, 400 Out).

Condition 10 currently reads as follows:

The total number of dry aggregate, industrial and coated roadstone lorry movements per day shall not exceed a maximum of 800 (i.e. 400 in and 400 out). Within the total number of vehicle movements the following restrictions shall apply:

- (i) No more than 240 (120 in, 120 out) dry aggregate vehicle movements shall take place per day subject to the restrictions specified in condition 17 of this permission;
- (ii) Out of the 240 movements, no more than 40 movements (20 in, 20 out) of dry aggregate lorries shall take place between 0500 hours and 0600 hours Monday to Saturday;
- (iii) No more than 8 movements (4 in, 4 out) of industrial powders shall take place between 1900 hours and 0600 hours Monday to Saturday.

From the date of this permission the operators shall maintain records of their lorry movements, specifying types of vehicles, products carried, and time in and out of the site, and shall make them available to the MPA at any time upon request. All records shall be kept for at least 36 months.

The applicant states that as part of the proposal, and the ongoing rationalisation of the business following the Lafarge Tarmac merger, it is intended to permanently cease the production of asphalt at Ballidon and focus on the industrial powders markets for the remaining life of the reserve. Ballidon Quarry previously had two on-site asphalt plants which frequently serviced night time contracts on the motorways and primary road network transporting asphalt loads up to 240 tonnes per night (i.e. 24 movements (12 In, 12 Out) using 20 tonne lorries). Those two plants were decommissioned and removed from the site in 2013, therefore asphalt-related movements from Ballidon Quarry, both during the day and at night, have now ceased. The applicant states that the proposed increase in overnight vehicle movements associated with the powders operation is, in effect, offset by the cessation of night time coated stone operations and deliveries.

Reference to the committee report minutes from Planning Committee October 2000 indicates that coated roadstone movements would be unrestricted Monday to Sunday, but subject to a daily total number of 240 vehicles (120 in, 120 out). However, condition 10 does not specifically include a restriction on the daily number of coated roadstone (asphalt) movements, with the control of movements applied through the overall 800 per day limit less the dry aggregate and powder movements specified in the condition. The proposed increase in night time movements of powders would be accommodated within the already permitted 800 daily movements.

RECOMMENDATION:

That the application reference NP/DDD/0214/0210 to vary condition 10(a)(iii) be approved, subject to:

1. **Condition 10 being revised to read:**

The total number of dry aggregate, industrial and coated roadstone lorry movements per day shall not exceed a maximum of 800 (i.e. 400 in and 400 out). Within the total number of vehicle movements the following restrictions shall apply:

(i) No more than 240 (120 in, 120 out) dry aggregate vehicle movements shall take place per day subject to the restrictions specified in condition 17 of this permission;

(ii) Out of the 240 movements, no more than 40 movements (20 in, 20 out) of dry aggregate lorries shall take place between 0500 hours and 0600 hours Monday to Saturday;

(iii) No more than 24 movements (12 in, 12 out) of industrial powders shall take place between 1900 hours and 0600 hours Monday to Saturday.

From the date of this permission the operators shall maintain records of their lorry movements, specifying types of vehicles, products carried, and time in and out of the site, and shall make them available to the MPA at any time upon request. All records shall be kept for at least 36 months.

2. **The remaining conditions on permission NP/DDD/0803/419 being re-imposed on the grant of a new permission, subject to any necessary minor updates, to be agreed with the Chair and Vice Chair of Planning Committee and the Director of Planning; and**
3. **The signing of a deed of variation to the existing section 106 to reflect the new planning permission.**

the remaining conditions on permission NP/DDD/0803/419 being re-imposed on the grant of a new permission and the signing of a deed of variation to the existing section 106 to reflect the new planning permission. Revised condition 10 to read as follows:

The total number of dry aggregate, industrial and coated roadstone lorry movements per day shall not exceed a maximum of 800 (i.e. 400 in and 400 out). Within the total number of vehicle movements the following restrictions shall apply:

- (iv) No more than 240 (120 in, 120 out) dry aggregate vehicle movements shall take place per day subject to the restrictions specified in condition 17 of this permission;
- (v) Out of the 240 movements, no more than 40 movements (20 in, 20 out) of dry aggregate lorries shall take place between 0500 hours and 0600 hours Monday to Saturday;
- (vi) No more than 24 movements (12 in, 12 out) of industrial powders shall take place between 1900 hours and 0600 hours Monday to Saturday.

From the date of this permission the operators shall maintain records of their lorry movements, specifying types of vehicles, products carried, and time in and out of the site, and shall make them available to the MPA at any time upon request. All records shall be kept for at least 36 months.

Key Issues

- Whether the proposed development is supported by relevant policies within the Development Plan and specifically with reference to Core Strategy policies MIN1, T1, T4 and Local Plan policies LM1, LM9 and LT9.
- The effect of the proposed development upon the character and amenity of the area and whether it would conserve and enhance the valued characteristics of the Peak District National Park.

Relevant History

1951 – Ministerial consent granted for extraction of limestone and for tipping of quarry waste. Working had taken place before this date. There was no end date and no limit to depth of working, or restoration requirements.

Further extensions for extraction and tipping were granted in 1952, 1963, 1973, 1986, 1991 and 1992. In addition to the consents for extraction, there have been a number of additional permissions for ancillary plant and buildings between 1950 and 1997.

2000-2003 – Planning application submitted to consolidate all the existing planning permissions for mineral working and ancillary development at Ballidon Quarry, rather than undertake a review of the old permissions under the provisions of the Environment Act 1995. Planning permission NP/DDD/0500/172 granted subject to conditions in March 2003 following signing of a legal agreement.

2003-2004 – Planning application submitted seeking a variation of NP/DDD/0500/172 and associated legal agreement to facilitate an increase in production of animal feed powders by 100,000 tonnes per annum, increasing the total output of the operation to 1.1 million tonnes per annum. Planning permission NP/DDD/0803/419 granted on 24 August 2004 with accompanying section 106 legal agreement.

2005 – Planning application to replace existing three powders plants with a single new plant.

Planning permission NP/DDD/0905/0907 granted February 2006.

2008 – Planning application seeking non-compliance with condition 5 of planning consent NP/DDD/0905/0907 to permit the retention of existing powders plants until 31/12/08 to enable the full commissioning of the new replacement powders plant.

Consultations

Highway Authority (DCC) – as there are no known significant issues resulting from the existing operations of the quarry, bearing in mind the cessation of night time asphalt movements and the proposed increase in conditional HGV movements being during hours outside of the normal daily peak traffic flows, it is considered unlikely that any consent would result in severe detriment to safe operation of the Highway. Therefore, subject to condition 10(iii) being amended as suggested within the application details and night time asphalt production being ceased, there are no highway objections to the proposals.

DCC Planning – no response received

Derbyshire Dales District Council – no comments received

Environment Agency – no comments received

Natural England – no comment to make on the variation of condition 10.

Health and Safety Executive – no comments received

Ballidon and Bradbourne Parish Council – unanimous objection to the application on the basis of the following points:

1. B5056 is in poor condition and too narrow for large vehicles
2. Light pollution is already an issue from the quarry itself and will increase with the additional vehicles
3. Noise and general disturbance to the local population during the night
4. Impact on wildlife in the area, e.g. badgers, rabbits and particularly owls, 50,000 of which are killed each year and are becoming an endangered species
5. Speeding lorries on quiet roads
6. Assuming all of the extra 10% traffic allowance requested will be night traffic as the quarry is at full daytime capacity
7. Assuming vehicles with a 20 tonne capacity, this equates to an extra 5000 lorries.

Following a clarification e-mail from the case officer explaining the context of the application and the existing vehicle number limits that exist on the permission, a second response was received from the Parish Council. Their objections on grounds (3), (6) and (7) were withdrawn, but they still have genuine concerns on the other points raised (poor condition of B5056, light pollution, impact of wildlife, speeding lorries).

Also query the detail that preceded the response from PDNPA and notice that no termination date is quoted for the planning permission. Previously have come across a term of 60 years for quarrying permissions, that is, they do not go on indefinitely. Perhaps this should be made clear. In which case, what seems to have happened by rolling the various planning permissions into the one with the most recent date, is that the end date is moved forward.

Brassington Parish Council – No representations received.

Representations

No representations have been received.

Main Policies

Relevant Core Strategy policies: GSP1, GSP2, GSP3, GSP4, MIN1, T4

Relevant Local Plan policies: LM1, LM9, LT9

The National Planning Policy Framework (the Framework) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. In the National Park the development plan comprises the Authority's Core Strategy 2011 and saved policies in the Peak District National Park Local Plan 2001.

At the national level, the Framework states that when determining planning applications local planning authorities should give great weight to the benefits of mineral extraction, including to the economy, but adds that, as far as is practicable, provide for maintenance of landbanks of non-energy minerals from outside National Parks. It also requires that in granting permission for mineral development, that there are no unacceptable adverse impacts on (*inter alia*) the natural and historic environment and human health.

Fundamentally, the Framework states that planning permission for major development (which includes the winning and working of minerals) should be refused in designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. This policy direction is repeated at the Authority's Core Strategy (CS) level in GSP1. Policy GSP2 states that the opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon, with proposals needing to demonstrate that they offer significant overall benefit to the natural beauty, wildlife and cultural heritage of the area. The requirement to ensure that development respects, conserves and enhances all valued characteristics of the site and buildings that are the subject of a proposal is set out in policy GSP3 and the policy requires assessment of a range of factors including impact on access and traffic levels. To aid the achievement of its spatial outcomes, policy GSP4 requires that the Authority considers the contribution that a development can make directly and/or to its setting, including, where consistent with government guidance, using planning conditions and planning obligations.

Saved Local Plan policy LM1 seeks to assess and minimise the environmental impact of mineral extraction and states that mineral development will not be permitted unless adverse impacts on the valued characteristics and amenity of the area can be reduced to the minimum practicable level or eliminated. Particular attention will be paid to various factors, including nuisance and general disturbance to the amenity of the area (including that caused by transport and the method and duration of working). Similarly, Core Strategy policy L1 seeks to conserve and enhance valued landscape character and other valued characteristics of the National Park. Other than in exceptional circumstances, development will not be permitted where it is likely to have an adverse impact on such sites. Policy T4 states that development requiring access by Large Goods Vehicles must be located on and/or be readily accessible to the Strategic or Secondary Road Network, a policy which is reinforced by Local Plan policy LT9.

It is considered that in this case there is no significant conflict between policies in the development plan and the more recently published National Planning Policy Framework because both sets of documents seek to promote sustainable economic development in rural areas which conserve and enhance the valued characteristics of the National Park.

Assessment

Whilst this application is concerned with major development (by virtue of the fact it is related to mineral development), it is a section 73 application seeking a relatively minor change to one aspect of one condition on an existing permission for mineral extraction at the site. Therefore the principle of mineral working at the site is already established and the application of the major development test in the Framework and Core Strategy policy GSP1, is necessarily limited in scope. If the application was refused, the development would still continue under the existing suite of conditions. Therefore, exceptional circumstances exist in that the assessment of the application solely needs to appraise the impact of increasing the number of night time lorry movements carrying powders.

Specifically, in transport terms, the overall limit of 800 HGV movements per day (400 In, 400 Out) to and from the site is an already established principle embodied within the existing permission in the form of condition 10. Importantly, this application does not seek any increase in that overall capped figure. The 800 total is split between dry aggregates, asphalt (coated roadstone) and powders, with the number of night time powders movements (between the hours of 1900 and 0600) restricted to no more than 8 (4 In, 4 Out) Monday to Saturday.

The applicant indicates that the proposed increase in night time powder movements (still within the 800 total) is effectively offset by the fact that the site no longer produces asphalt, with the two asphalt plants now having been dismantled and removed from the site. When those two asphalt plants were operational, they used to service regular night time contracts, giving rise to unrestricted (subject to overall maximum of 800 for all movements) night time traffic movements approximating 24 (12 In, 2 Out), but these have now ceased altogether. Consequently, the proposal does not give rise to elevated traffic movements beyond those that have previously taken place, since one product is essentially switched for another.

The Authority has never received any complaints regarding traffic from the site, neither from daytime or night time movements. Furthermore, the Highway Authority has not raised any concerns from a highway capacity or safety point of view. Ballidon and Bradbourne Parish Council's original objections on noise/disturbance and traffic numbers were withdrawn following clarification that the increase in night time movements is still within the overall permitted daily numbers of 800 (400 In, 400 Out). The route out of the quarry, through the hamlet of Ballidon and onto the B5056 has been continually used without incident for a significant period of time. It is considered that the increase in night time powder movements will not have any discernible impact on this situation. It is therefore concluded that the development will not give rise to unacceptable nuisance or amenity impacts and does not conflict with local plan policies LM1, LT9 or Core Strategy policy T4.

Ballidon and Bradbourne Parish Council has maintained its objections in relation to the perceived effects of the development on wildlife, traffic speeding, light pollution and poor condition of the B5056. Taking these four issues in turn, there is no evidence to indicate that the operation of the powders plant, or any increase in associated night time movements from the site, will result in a detrimental impact on wildlife. When the two asphalt plants were operational at the quarry, with associated night time movements of coated roadstone servicing contracts on motorways and the primary road network, there were no known impacts on wildlife, therefore there is no basis to assert that night time powders movements would be any different.

Similarly, the proposal does not impact on the level of light pollution from the site. Following the removal of the asphalt coating plants, the level of light pollution from the quarry is likely to have reduced.

In terms of traffic speeding, this is a matter which is outside the control of planning, since it is a police and highway safety matter. Nevertheless, the roads leading from the quarry to the B5056

are relatively narrow and not conducive to speeding, and the company operate a strict code of conduct in relation to quarry vehicles using that stretch of highway.

Finally, in relation to the B5056 itself, this road receives significant HGV traffic from a host of other sites, including several quarries in relatively close proximity (e.g. Longcliffe Quarry and Ben Bennets Quarry at Grangemill). Consequently, attributing any highway damage to a particular development is not possible. In any event, and notwithstanding that the proposed movements are still within the overall existing limit of 800 per day, the proposed increase in night time movements from 8 to 24 is relatively modest.

The Parish Council also queried the timescale over which the quarry development has to run. The existing primary permission allows mineral working to December 2040 and restoration by December 2041. This application is only seeking to vary a condition of the primary permission dealing with vehicle movements associated with powders. No change is sought to the overall timeframe for the quarry. Therefore, if approved, the resultant permission would still be linked to 2041. The 60 year date referred to by the Parish Council is linked to the Planning Act 1981 which imposed an end date of 2042 onto existing old mineral permission (i.e. 60 years from 1982).

Conclusion

It is considered that the proposal will not give rise to unacceptable impacts and is in accordance with the relevant development plan policies. In this case, relevant development plan policies are up-to-date and in accordance with the more recently published National Planning Policy Framework. In the absence of any further material considerations, the proposal is recommended for approval subject to the imposition of a revised condition 10 as detailed in the recommendation of this report alongside the re-imposition of all remaining conditions on the existing permission NP/DDD/0803/419.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil