

Regulation Committee

Thursday 7 March 2019

2.00 pm Taunton Library Meeting Room



To: The Members of the Regulation Committee

Cllr J Parham (Chair), Cllr N Hewitt-Cooper (Vice-Chair), Cllr M Caswell, Cllr J Clarke, Cllr S Coles, Cllr M Keating, Cllr A Kendall and Cllr N Taylor

Issued By Scott Wooldridge, Strategic Manager - Governance and Risk - 27 February 2019

For further information about the meeting, please contact Michael Bryant on 01823 359048 or mbryant@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda **including public speaking at the meeting.**

This meeting will be open to the public and press, subject to the passing of any resolution under Section 100A (4) of the Local Government Act 1972.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers



RNID typetalk

AGENDA

- Item Regulation Committee - 2.00 pm Thursday 7 March 2019
- 1 **Halecombe Quarry, Leigh on Mendip, BA3 5QG** (Pages 3 - 10)

Regulation Committee Committee 7 March 2019

Late Papers

Item	Application no/ref CED/Member Case Officer: 📞	Address/Description/Development
1	App No: 17/1022/CNT Case Officer: Maureen Darrie	Late Representation – Tarmac Proposed deepening of the quarry extraction area, replacing the asphalt plant and extending the end date at Halaecombe Quarry
2	App No: 17/1022/CNT Case Officer: Maureen Darrie	Late Representation – Laura Horner Proposed deepening of the quarry extraction area, replacing the asphalt plant and extending the end date at Halaecombe Quarry

Regulation Committee 7 March 2019

TARMAC

Deputation from Andy Cadell Tarmac Planning Manager dated: 4 March 2019

1. I am Andy Cadell the Planning Manager for Tarmac.
2. At the 7 November 2018 planning committee I reported in my deputation and I quote *“this planning application was submitted in April 2017. Frustratingly, more than 18 months, and at least four case officers later, the quarry is in a desperate position because there is less than one year’s accessible stone left.”*
3. I would like to update my previous statement in that it is now, within a hand-full of days, two years since the application was submitted and we are now on case officer number five.
4. The quarry’s plight in November was described as being *“desperate”*. It is now so severe that production at the site has been significantly reduced and if permission is not soon forthcoming Tarmac’s options for reducing costs will involve substantial staff reductions.
5. Why are we here again?
6. Because of a technicality in the Habitat Regulation Assessment work carried out by Somerset. This has now been addressed and does not affect, whatsoever, the conclusions of the assessment or the recommendation previously made to the November committee.
7. Accordingly we see no reason for further delay and would trust the committee to endorse their previous unanimous decision.
8. In good faith since the November committee we have, as directed by your committee, spent time, effort and expense in agreeing the form of the S106 agreement with Somerset County Council, the Environment Agency and Leigh on Mendip Parish Council.

The S106 Agreement is now signed and back with Somerset ready for completion subject to the outcome of today.

Regulation Committee 7 March 2019

Representation from Laura Horner Dated: 28 February 2019

From: ***** < >
Sent: 28 February 2019 12:44
To: Jeremy Byrne <*****>
Subject: Halecombe application

Dear Jeremy,

I have now had the chance to look at the new report and conditions. I am truly perplexed that the same mistakes as regards mitigation for a SAC being requested after determination are being made yet again. The very reason why this is going back to committee on 7th March. In addition one of these conditions regarding the lighting scheme now has no reason given for it.

Just to be clear the proposed Tarmac plant lies 60m to the north of the roost it is 38m tall. It will rise 30m above the roost with nothing between it and the roost to shade the roost. The new access is a similar distance to the south of the roost.

In the new report , condition 46 relates to a lighting scheme to be submitted for the 38 metre tall tarmac plant. This is to be determined after the application is granted

46. Lighting Design for Bats

Prior to the operation of the new asphalt plant, a “lighting design for bats strategy” shall be submitted to and approved in writing by the Mineral Planning Authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (including the provision technical

specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Mineral Planning Authority.

No reason has been given for the condition

The condition to protect bats when the new access is built remains the same but is still mitigation to be provided after the determination.

The reason given is still integrity of the SAC

42 Commuting Bats

Prior to hedgerow removal and any works associated with the construction of the junction to Rookery Farm from Limekiln Lane, a scheme demonstrating that commuting bats would not be affected by the creation of the access shall be submitted to and approved in writing by the Mineral Planning Authority.

Reason: To ensure the integrity of a European site.

This must include the cumulative impacts of the tarmac plant lighting and new road. They are so close the lighting schemes will coalesce.. The Tarmac plant is essential in this application. It is not clear at this stage that the schemes can be delivered. These are schemes to protect the SAC. They must be considered prior to determination. The case law is very clear on this matter.

Regards

Laura Horner

Regulation Committee 7 March 2019

Representation from Laura Horner Dated: 28 February 2019

From: [*****](#) >
Sent: 28 February 2019 13:06
To: Jeremy Byrne < >
Subject: Halecombe Regulation 25 procedures

Dear Jeremy

Further to my previous email I would like to draw your attention to the Regulation 25 consultation. In my previous complaint I questioned what the Reg 25 consultation consulted on . It has now been confirmed in paragraph 5.5 and 5.6 of the report that the Deepening to 85 AOD was consulted on.

Later in paragraph 5.10 it is confirmed that later the deeper digging to 68 AOD was agreed with the environment agency but not consulted upon. This is 17m deeper than that consulted upon before.

Since this was a change to the Regulation 25 consultation , in my opinion it should have been consulted upon again.

It is still my view that in either case the use of a condition to circumvent the obtaining the information required does not follow EIA procedure and moreover the use of a tail piece (as described in the Mid counties case) in the condition takes the process out of statutory scrutiny , rights and responsibilities and unlawful and is unreasonable. You should note that the applicant specified the proposed depth of 4m in the plans submitted with the application, therefore this not what the applicant applied for.

Regards

Laura Horner

Regulation Committee 7 March 2019

Representation from Laura Horner Dated: 28 February 2019

-----Original Message-----

From: laura horner

>

Sent: 03 March 2019 23:14

To: Planning Control <

>

Subject: Halecombe 2017/1022/ CNT

Dear Maureen ,

I wish to formally object to this application. My reasons for doing so are:

- 1) Insufficient evidence to determine this application under the 2011 EIA Regs for the effects on local hydrogeology
- 2) Insufficient evidence to determine this application under the 2011 EIA Regs for the cumulative effects of this application with Whatley Quarry on local hydrogeology
- 3) Insufficient evidence to determine this application under the 2011 EIA Regs for the potential effects on the Bath Hot Springs
- 4) Insufficient evidence to determine this application under the 2011 EIA Regs for the cumulative potential effects of this application with Whatley Quarry on the Bath Hot Springs
- 5) The proposed use of conditions 6 and 7 instead of seeking additional information under regulation 25 of the EIA Regs. Both of These conditions are also unreasonable and do not pass the 6 tests because of their use of a “tail piece” the purpose of which removes excavation from proper statutory control , rights and responsibilities contrary to the case law in the Mid Counties Case.
- 6) Misapplication of the Habitat Regulations following the People Over Wind and Sweetman Case in the use of proposed conditions 42 43 and 46. The tarmac plant will be 30m taller than the roost for greater horseshoe bats (GHB) and 60m from it with no shade. GHB are light adverse. The new tarmac plant is essential to this application. Further information is required before determination to ensure that the mitigation will be deliverable before this application is determined.
- 7) The lack of reason given for proposed condition 46
- 8) Failure to reconsult the change to the application from a proposed “break” at 85 AOD in the Reg 25 consultation to the “break “ agreed with the EA at 68AOD at a later date after the first Reg 25 consultation to date, this is an additional depth of 17m.

This application should be refused and providing that it can be shown that the tarmac plant and its lighting can be installed in a position that does not compromise the bat roost, SCC

could invite a new application for the removal of stone to 68 AOD below the existing tarmac plant.

Yours sincerely Laura Horner

This page is intentionally left blank