

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

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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.

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AGENDA

- Item Regulation Committee - 2.00 pm Thursday 7 March 2019
- 1 **Halecombe Quarry, Leigh on Mendip, BA3 5QG (Pages 3 - 8)**

Direct Line:

Email: www.bathnes.gov.uk

Date: 6.03.2019

Mr Clive Conroy
Planning Case Officer
Somerset County Council
County Hall
Taunton
TA1 4DY

Dear Mr Conway

APPLICATION NUMBER 17/1022/CNT
Halecombe Quarry, Leigh On Mendip, Somerset
Proposal Deepening of Halecombe Quarry by the extraction of limestone

Further to previous Objections made to the above application Bath and North East Somerset Council ('B&NES') has had the opportunity to read the Report in relation to the application for planning permission to deepen Halecombe Quarry which is due to be considered on 7th March 2019, together with the appendices to that report.

B&NES remains firmly of the view that the environmental impact assessment ('EIA') of the proposed development's effect on water – in particular its impact on the Bath Hot Springs - as required under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('EIA Regs 2017') is wholly inadequate. Neither the original environmental statement of March 2017 (Volume 3 - Hydrological & Hydrogeological Impact Assessment September 2016) nor the two page review dated 22 June 2018 consider the impact of the proposal on Bath Hot Springs, let alone "identify, describe and assess" the direct and indirect significant effects of the proposed development on the Bath Hot Springs, as is required by Reg 4(2). For this reason the EIA is legally inadequate and it would be contrary to Regulation 3 of the EIA Regs 2017 to grant planning permission.

It is no answer to these criticisms to state that the proposed extraction of limestone below 68m AOD will not take place until an impact assessment is undertaken pursuant to proposed condition 6. It is not appropriate for such an assessment to be deferred until after permission is granted, nor do the EIA Regulations 2017 permit this to be done.

Without prejudice to B&NES position that the proposed conditions do not cure the legally inadequate EIA, B&NES respectfully suggest that the following amendments to the wording of conditions 6 and 7 are made with these suggested changes in red:

6. Excavation Depth Limit

*There shall be no extraction of limestone below 68 metres Above Ordnance Datum (AOD) (apart from the provision of a quarry drainage sump) until an investigation into the impact of quarrying at Halecombe Quarry on the Bath Hot Springs System has been carried out by the operator. The investigation shall assess if there has been, or ~~will be any~~ **if there is any future potential for**, adverse effect on the Bath Hot Springs System.*

*The investigation ~~may~~ **must** include, although not be limited to:*

- *Implement measures to monitor flow, temperature, total heat output, water levels and groundwater levels of the Bath Hot Springs System*
- *The need for additional monitoring boreholes*

*The findings of such an investigation shall be submitted to the Mineral Planning Authority for consideration, in consultation with the Environment Agency (EA) and Bath and North East Somerset Council (B&NES), at least 24 months prior to progressing below 68mAOD. If, in the opinion of the Mineral Planning Authority, such an investigation fails to demonstrate that there has not been, **and (taking into account any proposed mitigation) there is no future potential for** ~~or will not be~~, any adverse effect on the Bath Hot Springs System by quarrying at Halecombe Quarry, ~~and if remedial measures would not mitigate any adverse effect~~, the Mineral Planning Authority shall give notice to the operator of this opinion within 6 months of receipt of the investigation findings.*

Following receipt of such notice, no further deepening of the quarry will be permitted below 68m AOD.

The operator shall submit a revised Concept Restoration Plan within 6 months of the date of the Notice served by the Mineral Planning Authority, showing the final quarry floor at 68m AOD. Thereafter the site shall be restored in accordance with the requirements of Condition 48.

Reason: In order to protect the integrity of groundwater resources and the Bath Hot Springs System

7. Excavation Below 68mAOD

*If the operator has demonstrated to the satisfaction of the Mineral Planning Authority, in consultation with the Environment Agency (EA) and Bath and North East Somerset Council (B&NES) that there has not been, **and (taking into account any proposed mitigation) there is no future potential for** ~~or will not be~~, any adverse effect on the Bath Hot Springs System, under the requirements of Condition 6, further investigations shall be carried out, in accordance with the same criteria outlined in Condition 6, for each subsequent bench drop; these being (a) 55m AOD, (b) 40m AOD and (c) 25m AOD.*

The findings of such investigations shall be submitted to the Mineral Planning Authority for consideration, in consultation with the EA and B&NES, at least 24 months prior to progressing below each bench.

*If, in the opinion of the Mineral Planning Authority, in consultation with the EA and B&NES, such an investigation fails to demonstrate that there has not been, **and (taking into account any proposed mitigation) there is no future potential for** ~~or will not be~~, any adverse effect on the Bath Hot Springs System by quarrying at Halecombe Quarry, ~~and if remedial measures would not mitigate any adverse effect~~, the Mineral Planning Authority shall give notice to the operator of this opinion within 6 months of receipt of the investigation findings.*

Following receipt of such Notice in respect of (a) above, no further deepening of the quarry will be permitted below 55m AOD.

Following receipt of such Notice in respect of (b) above, no further deepening of the quarry will be permitted below 40m AOD.

Following receipt of such Notice in respect of (c) above, no further deepening of the quarry will be permitted below 25m AOD.

The operator shall submit a revised Concept Restoration Plan within 6 months of the date of the Notice served by the Mineral Planning Authority, showing the final quarry floor at the level that quarrying ceased. Thereafter the site shall be restored in accordance with the requirements of Condition 48.

8. Annual Water Monitoring Statement

The operator shall also submit to the Mineral Planning Authority for consideration, in consultation with the EA and B&NES, an Annual Water Monitoring Statement for the Bath Hot Springs System (if progressing below 68m AOD).

The Annual Water Monitoring Statement should include, although not be limited to:

- All data collected to monitor flow, temperature, total heat output, water levels and groundwater levels of the Bath Hot Springs System for the reporting period (the hydrometric year October to September).*
- Assessment of the occurrence of adverse effects upon the Bath Hot Springs System that may have occurred during the reporting period.*
- Details of any mitigation / remedial measures implemented during the reporting period.*
- A discussion of data quality issues, status of installed monitoring equipment and recommendations regarding improvements to the monitoring measures.*

A further review of monitoring, quarry abstraction rates and safeguard conditions for the Bath Hot Springs System shall be undertaken every four years or at least 24 months prior to extraction of limestone below the next bench drop, whichever comes first.

Reason: In order to protect the integrity of groundwater resources and the Bath Hot Springs System.

In closing I would like to clarify that notwithstanding indications that B&NES Council refused to be party to a S106 agreement that is not considered a factually correct representation of this Councils position.

Yours sincerely,

Sarah James
Deputy Head of Planning (Development Management)

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