

# The Regulation Committee

Minutes of a meeting of the Regulation Committee held on Thursday 13 June 2019 at 10.00 in the Meeting Room, Taunton Library.

## **Present:**

Cllr J Parham (Chairman)  
Cllr N Hewitt-Cooper  
Cllr M Keating  
Cll A Kendall  
Cllr J Clarke

## **Other Members Present:**

Cllr D Ruddle

The Chair welcomed everyone to the meeting, outlined the meeting procedures, referred to the agendas and papers and highlighted the rules relating to public question time.

### **1 Apologies for Absence - agenda item 1**

Cllr M Caswell, Cllr S Coles, Cllr N Taylor

### **2 Declarations of Interest - agenda item 2**

Reference was made to the following personal interests of the members of the Regulation Committee published in the register of members' interests which were available for public inspection in the meeting room:

|                      |  |
|----------------------|--|
| Cllr N Hewitt-Cooper | Member of Mendip District Council  |
| Cllr A Kendall       | Member of South Somerset District Council<br>Member of Yeovil Town Council |
| Cllr J Parham        | Member of Shepton Mallet Town Council                                      |

### **1 Accuracy of the Minutes of the Meeting held on 9 May 2019 - agenda item 3**

The Chairman signed the Minutes of the Regulation Committee held on 9 May 2019 as a correct record.

## 2 **Public Question Time** - agenda item 4

(1) There were no public questions on matters falling within the remit of the Committee that were not on the agenda.

(2) All other questions or statements received about matters on the agenda were taken at the time the relevant item was considered during the meeting.

## 3 **Proposed Reopening of Former Quarry including Proposed Temporary Processing Building and Internal Access Track off Batts Lane, Long Sutton, Somerset TA10 9NJ (Application No. 18/02799/CPO)** - agenda item 5

### (1) Committee Report

The Committee considered the report of the Strategic Commissioning Manager, Economy and Planning on this application which involved the “re-opening” of a former quarry at Batts Lane, Long Sutton.

### (2) Case Officer’s Presentation

#### (i) Introduction

The Case Officer, Maureen Darrie, made a presentation on Application No. 18/02799/CPO which covered the matters referred to in (ii) to (x) below as a basis for the Committee’s consideration of the application.

#### (ii) Key Issues

The Case Officer indicated that the key issues for consideration were: contamination issues relating to digging up an old landfill; impact on water resources; need for the mineral; whether the proposal would result in tangible benefits to the local economy; and impact on local amenity.

#### (iii) Application Site

The Case Officer described the application site with the use of maps, plans and photographs, indicating that:

- the site was currently arable farmland comprising approximately 2.9 hectares located about 2km to the west of the village of Long Sutton
- the site was bounded to the north by the A372. There was agricultural land to the east, west and south. Access to the site would be from Batts Lane which provided a short connection to the main junction with the A372
- the extraction area formed a rectangular area of about 1.1 hectares and lay to the south of the A372 and to the west of the “old quarry”. The processing building would be located adjacent to a pond and to the

east of the extraction area

- the nearest residential properties lay mainly to the north and west of the site, with 7 properties being within 300m of the extraction area and a further 13 properties within 500m. 8 properties lay within 100m of the proposed access track or the quarry entrance
- there was a listed building (Upton Cross) about 300m to the east of the proposed quarry and Wet Moor Site of Special Scientific Interest lay about 800m to the south west of the proposed extraction area
- although the site and access were referred to as Batts Lane, mapping and local signage suggested that the lane from the A372 was known as Vedal Drove
- further to the description of the proposal as “re-opening” of former quarry, the former quarry was last worked around WW2 and had been infilled.

*(iv) The Proposal/Background*

The Case Officer described the proposal/background as follows:

- the application was for dry working of the mineral above the water table (“Phase 1”). If Phase 1 was approved, the applicant intended to submit a separate application for Phase 2 which would involve working below the water table
- the proposal would involve the extraction of a maximum of 5000 tonnes of Blue Lias a year over a period of approximately 15 years. However, the Planning Statement stated that the output rate at the proposed quarry would be likely to be between 2000 and 2300 tonnes per year, which would equate to 40 to 60 tonnes per week. Therefore dry recovery of around 29,000 tonnes of stone would take between 10 and 15 years
- the quarried stone would be cut and stored on site in a purpose-built processing and storage shed east of the extraction area before being transported away from the site for sale/distribution
- the quarrying and stone cutting would provide employment for two full-time workers at the site (albeit there would be no working during the wetter autumn and winter months)
- the applicant anticipated that Phase 2 would follow Phase 1, during which the void would be de-watered to release a potential additional 22,000 tonnes of stone over 7 to 11 years
- the applicant had stated that unless and until a planning application was submitted for Phase 2, it was anticipated and expected that a planning condition would be imposed and enforced on the Phase 1 permission to establish the precise means of restoration
- further information on arrangements for extraction; processing; access; hours of working; restoration; other facilities; and screening and planting were covered in Paragraphs 4.7 - 4.23 of the report.

*(v) Environmental Impact Assessment (EIA)*

The Case Officer reported that following assessment under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, it had been concluded that the proposal did not constitute EIA development as it would be unlikely to have significant effects on the environment by virtue of its nature, size and location.

*(vi) Consultations*

The Case Officer reported on the consultations that had been undertaken with: South Somerset District Council; Long Sutton Parish Council; Environment Agency; Wales and West Utilities; South West Heritage Trust (Archaeology and Built Heritage); Somerset Wildlife Trust; Ecological Advisor; Transport Development; Acoustics Advisor; Engineer/Geologist (Peter Brett Associates); Minerals and Waste Policy; Air Quality Specialist; and Local Lead Flood Authority.

Long Sutton Parish Council had objected to the proposal on the grounds that it was contrary to Somerset Mineral Plan Policy SMP5; highway/traffic concerns; and the noise/environmental impact outweighing the limited economic benefit (i.e jobs). The Environment Agency had also objected due to concerns about the impacts on groundwater and the potential for contamination arising from the previously landfilled quarry void (i.e. the old quarry) - the EA had made three separate responses following additional details submitted by the applicant. Conditions and other action had been recommended by some of the other consultees

*(vii) Representations*

The Case Officer reported that 14 representations had been received from local residents covering the following issues: dust; industrial nature of the development; disturbance from traffic; noise from quarrying and additional HGV traffic; visual impact of the development; inappropriate site access via Vedal Drove/Batts Lane; poor access onto A372; "re-opening" of quarry was effectively semantics; screening bund of minimal use; landowner being the only beneficiary; existence of a working quarry at Upton; extending mining activity to Phase 2 an unacceptable, long-term disruption for local community; quarry trucks using Batts Lane would conflict with horse riders, dog walkers etc; quarry use would have negative effects on local holiday lets, and traffic would endanger guests; impact on setting of a listed building (Upton Cross); bund would tunnel dust towards Upton Cross; effect on property values; development cannot be regarded as temporary; and proposal had too many inconsistencies and lacked actionable plans to mitigate impacts.

*(viii) Development Plan*

The overarching policy for determination of the application was Somerset Mineral Plan Policy SMP5 which stated:

*“Planning permission for the extraction of building stone would be granted subject to the application demonstrating that:*

*(a) the proposal would deliver clear economic and other benefits to the local and/or wider communities; and*

*(b) there is an identified need for the specified stone; and*

*(c) the nature, scale and intensity of the operation are appropriate to the character of the local area; and*

*(d) the proposal includes measures to mitigate to acceptable levels adverse impacts on the environment and local communities.*

*Land has been identified as an Area of Search for the extraction of building stone as shown in policies map 1c”.*

*(ix) Compliance with Policy*

The Case Officer commented as follows:

- *Part (a)* - Long Sutton Parish Council and local residents, objecting to the application, did not consider that the requirements of this part of the policy were met. They considered that the prospective environmental impacts on the local community outweighed the benefits accrued as a result of two jobs for part of the year. The Parish Council and objectors were of the view that local and community benefits were more amenity related.

However, the County Council’s Minerals and Waste Policy Team disagreed and considered that the application did provide an adequate level of economic benefits in the form of job creation in a rural area; benefits to the local and wider community (in this part of the policy) were related to the use of the stone and preservation of the local distinctiveness that would arise through the use of Blue Lias stone in building.

- *Part (b)* - There was a perceived need for the stone.
- *Part (c) and Part (d)* - While there were objections from Long Sutton Parish Council and local residents on amenity and community effects, there were no technical objections on these issues.

The application site lay just outside an Area of Search.

The Case Officer confirmed that there were no objections in policy terms under Parts (a), (b) and (c) of Policy SMP5.

However, and this was main issue of contention, there was an outstanding objection from the Environment Agency (EA) which had not been resolved. The EA required further information about the contaminative status of the application site which would involve investigations by specialists. The applicant's agent had stated that it was unreasonable to expect this to be resolved in advance of the application being determination - on the basis of cost.

The EA objections were fully stated in the officer report, along with the advice of the County Council's advisors, Peter Brett Associates.

The applicant's advisers had attempted to address the objections raised by the EA on three separate occasions, all of which were subject to further consultation. In respect of groundwater, the EA's objection had been overcome. The EA were satisfied with the information they had received and had confirmed that planning conditions could be imposed to ensure that only dry working took place; this was also the view of the County Council's advisors, Peter Brett Associates.

However, this only went part way to resolving any policy conflict with Part (d) of Policy SMP5, as the EA had maintained its objection to the potential contamination risk from the old landfill.

*(x) Correspondence from Applicant's Agent*

An email from the applicant's agent to the Case Officer providing information in support of the view that it was reasonable and expedient for landfill testing to be undertaken in response to a pre-commencement condition, and a quotation for ground investigation; the Local Lead Flood Authority's response to the consultation on the application; and the availability of technical solutions to any contamination and surface water drainage issues.

**(3) Case Officer's Conclusions**

- There was evidence of need for the Blue Lias stone for use in preserving local distinctiveness
- The proposed quarry would provide two jobs
- In planning policy terms, the pertinent policy was Policy SMP5. No objection had been raised by the County Council's Policy Officers on criteria (a), (b) or (c) of the policy.
- The construction of the policy, in terms of the ability to demonstrate compliance, was one that required all of the criteria to be adhered to by virtue of the use of the word *and* in between each one and not *or*
- Long Sutton Parish Council had objected to the proposed quarry, as had a number of local residents. However, there were no statutory objections to the proposed development, or objections from internal advisors
- However, there was an outstanding objection from the Environment Agency on matters pertaining to contamination. The applicant had

attempted, on three occasions, to provide the EA with sufficient evidence and comfort to remove the objection. As statutory consultee and competent authority to advise on contamination, the EA had upheld its objection

- This was an application for full planning permission as there was no option for minerals related applications to be dealt with in outline, with detailed matters to be determined at a point in the future
- Pre-commencement conditions should not be used to overcome matters that sat at the heart of an application
- While the applicant had maintained a view that there was a technical solution to potential contamination risk, the EA had yet to be persuaded. The applicant had made it clear that they did not intend to undertake the works in advance of securing planning permission. Without the necessary information, the EA would maintain its objection
- Having failed to satisfy the EA, the proposal did not comply with Part (d) of Policy SMP5, and there were no material considerations that warranted approval of the application in direct conflict with policy.

### (3) Public Speakers/Further Representations

The Committee heard from the following, as set out below:

#### (i) Mr G Pringle - Objector

The Committee heard from Mr G Pringle, who expressed concern regarding the proposed development. Mr Pringle informed the committee: he had lived in Long Sutton for 22 years; and that with 7 days' notice of today's meeting many of my neighbours are unable to attend, so I present their objections alongside my own. Mr Pringle informed that committee that in his opinion it is telling that 24 letters of objection have been submitted and supported by our Parish Council, but not one in support.

Mr Pringle further informed the Committee:

SMP5 states: *Planning permission for the extraction of building stone will be granted subject to the applicant demonstrating compliance on 4 main points: -*

The first dictates that the proposal must deliver clear economic and other benefits to the local and/or wider communities.

In response SCC query - *The application indicates that two full-time jobs will be created as a result of this development - it would be helpful to understand any other wider economic or community benefit.* Planning Policy Officer Louise Martin justifies the scheme reporting 2 jobs will be created and that the lighter colour Blue Lias that is available from the site will benefit buildings in Long Sutton. This is clutching at straws. My neighbour whose property is on the curtilage of the proposed quarry runs a holiday let business attracting 3000 visitors annually and employs 6 full-time and 10 temporary staff and brings an estimated benefit for local business of ½ million pounds. It makes no sense to sacrifice this for 2 new jobs and colour coded Blue Lias for our village. The only

beneficiary of this scheme is the applicant.

Point B states: *There must be an identified need for the specified stone.*

Whilst I agree there is a demand for Blue Lias other quarries exist in the area and are appropriately sited; the workings proposed here are clearly not.

Point C demands: *The nature, scale and intensity of the operation is appropriate to the character of the local area.*

A quarry in this location is contrary to DM1 in that: *The proposed development will generate an unacceptable and adverse impact on both landscape and visual amenity of the local residents which includes several listed status period homes. The final criteria states that: The proposal includes measures to mitigate to acceptable levels any adverse impact on the environment and local communities.*

I respond by saying the plans to build bunds and such like is mere window-dressing. If approved residents will have to endure lives blighted by noise, dust, light pollution, heavy traffic movements, vibration and loss of their visual amenity. This is all contrary to DM8.

There are a plethora of other unresolved issues in the application including contaminated landfill, dangerous access and a hydrology report that paints a very disturbing picture of how water will be managed. I say this as one who was flooded from water run-off from Upton during the floods of December 2013. Your Committee must take note of these objections and with the support of our Parish Council you will reject the application before you”.

*(ii) Mr A Morris - Objector*

The Committee heard from Mr A Morris, resident of Batts Lane and representing his family and neighbours, whose expressed concern about the threat of a former quarry re-opening after being closed for apparently 70 years, with the possibility and probability of the release (if the ground was disturbed) of unknown materials. The site had a spring running through it and this was believed to be one of the original reasons for closure, but at the moment this was enclosed below ground. Mr Morris’ main concern was that his fields (he kept show ponies) were immediately and directly downhill from the site and what went on above them would be out of his direct control.

*(iii) Mr N Burrows - Objector*

The Committee heard from Mr N Burrows, who lived in Upton Cross, the Grade 2 listed building close to the proposed exit to the site. Mr Burrows expressed concern about: the views from Upton Cross being spoiled by the proposed bund; noise and dust from the proposed quarry being funnelled by the bund onto his property and its extensively landscaped gardens by the prevailing south-westerly winds; Phase 2 would involve expansion and extraction all over the site bringing noise and pollution even closer to his home. He also conveyed the concerns of his neighbours Mr and Mrs Jordan

of Upton Corner Cottage about noise and dust and the operation of the proposed development on Saturdays.

*(iv) Helen Lazenby, from Clive Miller Planning, agent for the application*

- “The Batts Lane site was originally quarried until WW2 when it was closed and later restored to agricultural use. Since then, the land has been farmed for crops, including being routinely accessed by large farm machinery and also deep-ploughed
- Our client, Mr Ford, proposes the seasonal dry working of Blue Lias stone above the water table within one area of the field adjacent to the old quarry. This is to bolster the current limited supply of high quality light grey stone in the local area
- We have worked with the County Council and a range of specialists to address planning policy requirements and provided additional evidence where it has been needed. As a result, the material considerations of need, noise, highway safety, local amenity, landscape impact and ecology have all been satisfied, as confirmed in the officer report
- There is only one remaining issue, that being the requirement for landfill assessment and testing. Given that there would be no disturbance to the landfill in the old quarry, and only a limited track and storage placed on top, we believe the likelihood of disturbance to the landfill will be minimal. However, we completely agree that this assessment work is needed, the only dispute is when it should happen. And we do not consider that this is a sufficient reason to refuse this application outright
- The potential or otherwise for contamination of groundwater is a technical issue for which there will be a technical solution
- In the context of this being a very small-scale quarrying proposal, we believe that the level of financial risk for an applicant to bear should be proportionate. Prior to incurring the £15,000 it will cost for this assessment work to be done, it is entirely reasonable for Mr Ford to have the reassurance of his planning permission in place or a Committee resolution to grant permission
- Our preference is for pre-commencement conditions to be used and we are confident that this approach would cause no disadvantage to the environment. Peter Brett Associates, the County Council’s own independent advisors, agree that pre-commencement conditions can be used. They would carry full weight in law and would ensure that absolutely nothing could happen on site until landfill assessment and testing is undertaken and any mitigation required is agreed with your officers
- Alternatively and if there are any concerns about the use of pre-commencement conditions in this case, we would hope that Members could resolve to grant planning permission today, subject to the landfill assessment being undertaken”.

### Letter of Objection - Miss S Mather

The Chairman referred to a letter received from Miss S Mather, of Noel House, Martock Road, Long Sutton reaffirming her earlier objections to the application on the grounds of: pollution from the quarrying activities affecting ground and surface water; water management issues on and off the site exacerbating existing local surface water problems; the possibility of dangerous toxins/old chemicals etc having been buried in the landfill and when disturbed polluting the local environment and water table; permitting the development would have little or no benefit to the local community, and was likely to be greatly detrimental to the local environment; the County Council should consider the long-term “human costs” of granting permission; and the need to reduce the operating hours if permission were to be granted.

In responding to matters raised by the objectors, the Case Officer commented that no objections had been received from the Environment Agency on surface water drainage grounds nor had South West Heritage objected on the basis of the impact on the setting of the listed building, Upton Cross. While Peter Brett Associates had what might be regarded as a more pragmatic approach to the use of pre-commencement conditions, the EA, as statutory consultee and competent authority to advise on contamination, and their approach and advice had to be followed.

### (4) Local County Councillor - Cllr Dean Ruddle

The Committee heard from Cllr Dean Ruddle, local Divisional Member, who objected to the application. He pointed out that he shared the concern of many residents and the Environment Agency that the site bordered an uncontrolled non-engineered landfill and the type of waste deposited would not have been checked or recorded. Cllr Ruddle referred to the potential risk of disturbing the ground near to an old landfill due to the possible contamination of ground water and the nearby watercourse. Cllr Ruddle added that: he did not believe there was enough supporting evidence of need for another Blue Lias quarry locally; he could not see how the proposal would benefit the community bearing in mind the minimal employment gains and significant environmental impact; he thought the opening of a quarry on this site was inappropriate and that the nature and scale of the operation would be at odds with the character of the local area; and he considered the application did not satisfy planning policy requirements.

### (5) Debate

The Committee proceeded to debate during which Members discussed matters including: need; economic benefits; when the landfill had started and finished; vehicle movements; impact on the amenities of local residents and their various concerns; with the Case Officer responding to points raised and advice from the County Solicitor on what constituted material planning considerations.

The Committee supported the Case Officer's conclusions and the recommendation on the application in Paragraph 1 of the report, acknowledging legal advice - given in relation to the applicant's request for landfill testing to be undertaken in response to a pre-commencement condition - to the effect that if the application were approved subject to a condition or conditions that proved impossible to fulfil, there would be a risk that the determination could be unlawful.

(12) The Committee RESOLVED unanimously:

(a) that planning permission be REFUSED for the following reason:

*Insufficient information has been provided to demonstrate that the proposed development would not present an unacceptable risk to controlled waters. Specific areas of uncertainty relate to the nature of contamination present, that the distribution of these contaminants is in soils and groundwater and what risks this specific development introduces in relation to these risks. The Proposal is therefore contrary to Policy SMP5(d) and the National Planning Policy Framework.*

(b) that authority to undertake any minor non-material editing which may be necessary to the wording of this reason be delegated to the Strategic Commissioning Manager, Economy and Planning.

**4 Extension of Tout Blue Lias Building and Dimension Stone Quarry with Restoration to Agriculture at Tout Lane, Charlton Adam, Charlton Mackrell, Somerton TA11 7AN (Application No. SCC/3539/2018) - agenda item 6**

(1) The Committee considered the report of the Strategic Commissioning Manager, Economy and Planning on this application for full planning permission for the creation of a new stone quarry for the extraction of up to 6000 tonnes of Blue Lias limestone building stone. The application sought to extend the footprint of the old Tout Quarry into the field to the east to develop a new source of Blue Lias stone.

(2) The Committee were informed that the key issues for consideration were: whether the proposal was in accordance with the Development Plan (Somerset Minerals Plan); amenity considerations (noise and dust); landscape and visual impact; and biodiversity.

(3) In summary, the Case Officer described the application site with the use of maps, plans and photographs, indicating that:

- the application site was 2 hectares in size and was currently a flat arable field located immediately to the east of the existing stoneyard operated by the applicant on the floor of the earlier worked out Blue Lias quarry

- there was a public right of way and agricultural land to the north and east which were separated from the application site by a mature hedgerow and a 2m high planted bund installed to reduce the views of the large blockworks to the immediate south (but which were outside of the application site and the control of the applicant)
- the nearest homes to the application site were those to the north in the village of Charlton Adam with the nearest property, Home Farm, being 120m to the north
- there were dwellings along Chessels Lane which were close to the stoneyard from which they were separated by a large planted bund, but the proposed development was further away from these to the east and lines of sight were all cut off by the existing bund along the north of the site.

(4) In summary, the Case Officer described the proposal/background as follows:

- Tout Quarry had a long history of approved quarrying and stone related uses
- development would be undertaken on a phased basis, working eastwards from the former quarry with the extraction void being progressively restored to agricultural use, through backfilling with quarry waste and imported inert materials and topsoil and subsoil stripped from the site in advance of extraction
- extraction would be achieved through use of an excavator, with no blasting being undertaken, and the stone carried to the adjacent stoneyard for sawing and dressing
- work would be on a short campaign basis rather than continuously, to meet demand as it arose
- average annual output from the quarry was predicted to be around 3000 to 4000 tonnes, with a maximum output of 6000 tonnes
- hours of working were proposed as 07.00 - 18.00 and 07.00 - 13.00 on Saturdays with no working on Sundays or public holidays. Vehicles to and from the site would use the existing access to the public highway, with quarry lorry movements being maintained at the current level of 2 - 3 per day.

(5) The Case Officer reported that following assessment under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, it had been concluded that the proposal did not constitute EIA development as it would be unlikely to have significant effects on the environment by virtue of its nature, size and location.

(6) The Case Officer reported on the consultations that had been undertaken with external consultees: South Somerset District Council; The Charltons Parish Council; Environment Agency; South West Heritage Trust (Built Heritage); Somerset Wildlife Trust; Wales and West Utilities; and internal consultees: Highway Authority; County Ecologist; Transport Development; Somerset Scientific Services (Acoustics); and Minerals and Waste Policy

Team. No objections had been received from consultees, although conditions and other action had been recommended.

(7) The Case Officer reported that three objections to the proposal had been received from residents of Chessels Lane which all raised concerns about the noise from the existing operations from the stone processing plant (from manoeuvring vehicles moving stone etc), which was closer to their homes than the proposed quarrying, and possibly the blockworks.

(8) The local Divisional Member, Cllr Dean Ruddle, indicated that he had no comments to make on the application.

(9) The Case Officer concluded that, having taken into account the main issues referred to in Paragraph (2) above, Development Plan policies and other material considerations, planning permission should be granted. It was considered that:

- a need existed for the development of resources of Blue Lias to maintain supply of this stone for use in a range of products, and the application site was well suited to meeting this need due to its co-location with an established stone processing yard
- while the economic and other benefits of this development required by Policy SMP5 were largely limited to retention of existing employment, this was considered sufficient in this context to achieve compliance with the policy
- potential environmental and amenity impacts from the development could be avoided, controlled or adequately mitigated and there were no remaining issues that could not be reasonably dealt with through the imposition of the proposed conditions.

Comments from consultees regarding land outside the applicant's control (i.e. the bunds around the site) were noted, but it was not possible to condition the management of this land which was in the ownership of a third party and not included within the application boundary.

(10) Members acknowledged the need for the development; its location on a site with a long history of quarrying and related activities; its relatively small scale nature and impact, with the imposition of appropriate conditions; and the applicant's offer to construct a building in the stoneyard to house - and thus attenuate the noise from - the stone saws. Cllr Keating, seconded by Cllr Hewitt-Cooper, moved the recommendation by the Strategic Commissioning Manager, Economy and Planning set out in the report.

(11) The Committee RESOLVED unanimously that planning permission be GRANTED subject to the conditions set out in Section 9 of the report, and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Strategic Commissioning Manager, Economy and Planning.

(The meeting closed at 11.37)