

REGULATION COMMITTEE

Minutes of a Meeting of the Regulation Committee held in the Luttrell Room - County Hall, Taunton, on Thursday 13 January 2022 at 10.00 am

Present: Cllr J Parham (Chair), Cllr N Hewitt-Cooper (Vice-Chair), Cllr M Caswell, Cllr S Coles, Cllr J Clarke and Cllr A Kendall and Cllr M Pullin (substitute)

Other Members present: Cllr C Paul - virtually

Apologies for absence: Cllr N Taylor (substituted by Cllr M Pullin)

1 **Declarations of Interest** - Agenda Item 2

There were no new declarations made at the meeting.

2 **Accuracy of the Minutes of the meeting held on 7 October 2021** - Agenda Item 3

The Minutes of the previous meeting held on 7 October 2021 were accepted as accurate.

3 **Public Question Time** - Agenda Item 4

There were 5 members of the public speaking in opposition and 2 applicants / agents registered to speak and their statements were considered as part of Agenda Item 5, Application No. SCC/3839/2021. (All joined the meeting virtually).

4 **Application for temporary storage of Limestone Scalpings, Land to the North of Torr Works, East Cranmore, Shepton Mallet (SCC/3839/2021)** - Agenda Item 5

1. The Committee considered the report by the Service Manager – Planning and Development, concerning the application for temporary storage of Limestone Scalpings, land to the north of Torr Works, East Cranmore, Shepton Mallet (SCC/3839/2021). The application was submitted by Aggregate Industries UL Ltd. It was noted that the response from Natural England had been circulated to all Committee members on 11 January 2022 as a supplementary paper.
2. The Principal Planning Officer, with reference to the report, supporting papers and the use of maps, plans and photographs, outlined the proposal which involved the proposal for the temporary storage of Limestone Scalpings in an adjacent field to the existing quarry at land to the north of Torr Works, and advised that: –

- the site is adjacent to Lodge Hill Farm, there is a hedgerow and is fairly isolated in terms of non-associated residential properties and will not be visually intrusive / viewed from the nearby village of Downhead
 - there will be a 2 metre bund adjacent to the bridleway to help screen the scalpings and the site slopes down which lessens the impact in situ
 - the proposal will not require any traffic to use the local road networks as the internal roads associated with the quarry will be used to transport the scalpings to the field
 - the site is proposed to be used and thereafter restored to an agricultural field over a time period of fifteen years
 - the field will be scraped with the removal of topsoil and turf and the scalpings will be moved using dumper trucks on the internal roads within the quarry. It is considered that this process will take a year in total
 - The stockpile will have a maximum height of 19 metres and on the north eastern slope seeded with grass to minimise its visual impact (it is appreciated that this may take a period of time to grow etc.). Once in situ the scalpings will be removed from the pile to go to the existing washing plant at Torr Works at a rate of approximately 100,000 tonnes per year
 - There is a public right of way which runs along the south-western boundary of the site which will remain in situ and in use throughout the works
 - 80 letters of objection had been received
 - No objections have been received from the County Highway Authority
 - Ecology – there were no objections from the County Ecologist, subject to conditions and Habitat Regulations Assessment (HRA) shows the site as acceptable
 - The response from Natural England received on 11 January 2022 made no objection to the proposal and they are satisfied with the HRA
 - Other environmental impacts (a) Noise – proposal considered as acceptable nearest neighbour is in favour of the application and is also protected by condition; (b) Dust – ecologist has suggested conditions to control any dust issues; (c) Objectors concerns addressed within the report
 - The application complies with various planning policies and is required to enable the efficient running of the quarry and free up quarrying space
 - A Members site visit had taken place on 10 January 2022
 - The recommendation is to grant subject to the planning conditions as set out in section 9 of the submitted report.
3. The Committee heard from the following, with their comments/views summarised as shown: -

Michael Thompson – Objector had submitted a statement and raised a number of points including – the application comes at the same time as an application to reopen Westdown Quarry and the applications should not be considered in isolation. The EIA statement ought to contain a reference to

Westdown and vice versa. Individually and together these projects will endanger the character of Asham Wood, an SSSI of ancient woodland.; the proposals would contravene Government policies set out in paragraphs 170 and 171 of National Planning policy; reference to climate emergency and to protecting natural environment; Asham Wood is 141 ha of protected landscape; urge the Council to reject this application and Westdown when reviewed.

Jessica Rothwell – Objector, had submitted a statement and raised a number of points and that the application should be refused based on the unavoidable deterioration it poses to the SSSI and the SAC and Nature Network Recovery Plan; Natural England recommend refusal; proposal area is within the Mendip Bat Consultation Zone, but impact data is lacking; removing topsoil negatively impact carbon and water cycles; climate change impacts are omitted.

Neil Crump - Objector, had submitted a statement and raised a number of points relating to impact on physical and mental health, the local economy and the village objection. He stated that the village submission by Paul Hooper, in response to the planning application, omitted to use the word 'objection' and it did not effectively capture the specific and more serious impact on the BA4 4LG postcode (the properties that will be affected the most by the proposed works); referenced the Nolan Principles and that conflicts of interest of attendees at the village meetings had not been formally declared; the closest neighbour to the site is related to the applicant; need to re-run the process, to be fair balanced and accurate; need to find a more sustainable and less impactful alternative.

Fiona Philip - Objector, had submitted a statement and raised a number of points including – urge to dismiss the application; there has been poor quarry management; lack of any previous planning history for change of use; there is an alternative available; the EIA is lacking; the applicants should be able to manage the scalplings on the existing site; the applicants could upgrade the existing washing plant to match capacity; could use the industrialised area around the proposed Somerset Factory and make use of rail infrastructure; duty to protect the environment.

Angela Mawer - Objector, due to technical difficulties, it was agreed that the submitted statement would be read out by Ms. Philip, as follows – lovely bridleway with lovely views; effect of the application on public rights of way; effects / impact on visual amenity; CPRE objection states impact of extending quarry operations onto greenfield land is significant; effect on the general amenity of the bridleway, including number of truck movements; enormous adverse impact on the visual amenity of users of the bridleway and the virtual stopping up of it is just one reason why this application should be rejected; there were 107 objections.

Christopher Herbert, Aggregate Industries UK Limited, Supporter, had submitted a statement and raised a number of points including: –

- the proposed development is fundamental to the future of Torr works, its contribution to local and national minerals supply and the people who work there
- outlined why it is necessary to re-locate the scalplings outside of the quarry void
- the application is temporary, and the length of permission requested (15 years) is calculated by taking the worst-case scenario of destocking from the scalplings stockpile
- noise and dust – the proposed development will comply with the same noise limits already in place for the quarry
- all traffic will use internal quarry road and have consulted local users of the bridleway and made improvements to crossing point within the quarry
- landscaping – height of the tip has been designed so that screened from the village of Downhead
- ecology – the concerns raised by Natural England and the Wildlife Trust have been addressed. Surveys for reptiles, dormice and breeding hobby have confirmed that none of these species are present and mitigation schemes for bats and badgers have been submitted and are secured by the conditions proposed by officers
- are committed to working with local communities to ensure that high environmental standards are monitored and maintained and employ a full time Environmental coordinator.

Alex Johnson, Aggregate Industries UK Limited, Supporter, had submitted a statement and raised a number of points including: –

- explained why the stockpile needs to be moved in order to deepen the exiting void in accordance with the submitted scheme
- gave commitment that the development will be completed, and the site restored no later than the 15 years that we have applied for
- the proposal is essential to allow access to permitted reserves and to facilitate the recycling of what would otherwise be a waste material
- the proposed conditions will control and manage the environmental impacts of the stockpile; are committed to working with local communities to ensure that high environmental standards are monitored and maintained for all our developments at the quarry.

Local Divisional Member Cllr Philip Ham – The Chair read out a statement he had received from the local Divisional Member, Councillor P Ham, as follows - Cllr Ham said that the application is for temporary storage and can be controlled through reporting and monitoring; the proposal is the best way forward to avoid waste and to extract stone and for the quarry to continue and asked that the Committee Members vote in favour of the application.

4. The Principal Planning Officer, responded as follows to the matters raised by the public speakers: -
 - The Westdown application has not been determined and this is an internal quarry application so the traffic will be internal only
 - Natural England have responded and are not objecting
 - Impact on bridleways – site is behind large hedge which already screens the site, largely, next to large working quarry
 - Traffic – 10 movements in / out per hour – there will be adequate signaling on site and the applicant is happy that that will work in practice
 - Alternatives – are not considered suitable and referred to pages 53 – 55 of the officer report which provided fuller information on this.

5. The Committee proceeded to debate during which members raised the following matters, which were responded to by officers: -
 - Cllr Coles – asked if the topsoil be scrapped off and to what depth and where stored – the Principal Planning Officer referred to the environmental statement in the report: the soil will be kept on site and will be reused on site.
 - Cllr Caswell – said that the allegations made by one of the speakers against the Parish Council are very strong and asked for the views of the Legal Advisor. The Legal Advisor to the Committee said that this is a matter for the Parish Council itself and not for this Committee. The Parish Council had submitted observations on the application (not 'for' / 'against'). Those observations have been considered and are reflected in the report.
 - Cllr Kendall – asked questions about the priority / phasing of the traffic lights and if there was priority for users on the bridleway; whether the scalplings produce dust; the bridleway is in a good state and there seems to be good partnership there already. The Principal Planning Officer referred to proposed Condition 9 which states that 'no development hereby approved shall interfere with or compromise the use of bridleway until detailed drawings of the crossing point, signage and traffic light system have been submitted and approved in writing'. With regard to the question re dust, the officer said there will be an element of dust and again there will be stringent conditions, to protect local people and local wildlife.
 - Cllr Clarke - comments re the rationale for the application and reasons for moving the scalplings off site (onto productive farmland) and why another area on the site cannot be used since there is 19 hectares available, which is not quarried; the application is extending the industrial landscape; applicant said the application is about maintaining operational efficiency and that seems to be their primary consideration rather than the impact on the community assets and potential harm to nature and wildlife; made the observation that facing the climate

emergency and that should be the priority, not about maximizing profits and should be about community well-being.

- Cllr Pullin – said that he has known the site for many years – impressed by mitigations which have been put in place and certain these will be monitored going forward; propose that go with recommendation in the report. Also mentioned that the traffic lights are actually worked by the riders of the horses as they walk across.
 - Cllr Hewitt-Cooper – said that issues raised have been about the location and alternatives, which have been dealt with in the officers’ report. The statutory consultees are all content, including Natural England. Happy to support the recommendations in the report.
 - Cllr Parham – in conclusion, the Chair thanked everyone for their contributions, and in particular the public speakers and noted that objections / comments raised by the statutory consultees can be dealt with through the Conditions proposed.
6. Cllr M Pullin, seconded by Cllr N Hewitt-Cooper, moved that planning permission be granted subject to the conditions set out in Section 9 of Pages 55 – 63 of the report.
7. A vote was taken on the recommendation and the Committee accordingly **RESOLVED:**
- (a) That planning permission be GRANTED subject to conditions set out in Section 9 of the report.
 - (b) That authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager - Planning and Development.

5 **Application for temporary planning permission for an extension to Chard Junction Quarry at Westford Park Farm, Chard (SCC/3907/2021)** - Agenda Item 6

1. The Committee considered the report by the Service Manager – Planning & Development, Enforcement & Compliance, concerning the application for temporary planning permission for an extension to Chard Junction Quarry at Westford Park Farm, Chard (SCC/3907/2021).
2. The Principal Planning Officer, with reference to the report, supporting papers and the use of maps, plans and photographs, outlined the proposal which involved the proposal for an extension to the Quarry at Westford Park Farm for the winning and working of approximately 830,000 tonnes of sand and gravel with progressive restoration to agriculture and nature conservation, inclusive of a new internal haul road and the *retention* of the existing mineral processing facilities for a period of seven years, and advised that: -

- duplicate planning applications have been submitted to Somerset and Dorset County Councils for a site straddling the county boundary, with only a very small proportion of the site being within Somerset
 - Somerset County Council (SCC) can discharge its function as the determining mineral planning authority for this application to Dorset County Council under Section 101(1) of the Local Government Act 1972
 - It is recommended that the following functions be discharged to Dorset County Council (a) determination of planning application SCC/3907/2021; and (b) determination of any applications for the discharge of conditions or nonmaterial amendments pursuant to that application, subject to Somerset County Council in its roles as mineral planning authority and highway authority, together with the local Divisional Member, being consulted for their views regarding the application.
3. Committee Members had received a number of submissions from residents and Officers. A statement had been received from the local Divisional Member, Cllr G Verdon and circulated to the Committee members and was read out at the meeting, as follows:
- that she had been petitioned to reflect the views and comments of Tatworth & Forton Parish Councillors together with the local residents of Chard South as their divisional County Councillor
 - SCC has not received a planning fee for this cross-border application since only 0.4 hectares of land is within its administrative area
 - however, the officer statement that the effect in Somerset is minimal is egregious due to the significant HGV movements required across narrow country lanes in Somerset
 - the noise samples used in the application only refer to locations in Dorset. There is no consideration of the residents living in Somerset less than 500 metres from the proposed workings
 - that the adverse visual impact on an AONB will be greatest from Somerset side of the River Axe and affects a considerable percentage of Tatworth residents
 - on this very sensitive across border planning matter, it is requested that Somerset County Council do not discharge the following functions to Dorset in accordance with Section 101 (1) of the Local Government Act 1972 – (a) determination of planning application SCC/3907/2021; and (b) determination of any applications for the discharge of conditions or non-material amendments pursuant to that application
 - instead, use the powers of Section 101 (5) of the Local Government Act 1972 that authorises two or more local planning authorities to discharge any of their functions jointly - this arrangement can be achieved through the establishment of a joint committee which is more equitable in this and any further cross boundary applications.

4. The Principal Planning Officer, responded to the matters raised and questions from the Committee, as follows:
 - all views received from residents will be forwarded to Dorset Council
 - visual impact etc. would be considered by Dorset Council and cannot see any reason why the application would not be discharged to Dorset
 - it would be difficult for 2 authorities trying to determine the same application
 - SCC in its roles as mineral planning authority and highway authority would be consulted for their views regarding the application.

5. Cllr Hewitt-Cooper, seconded by Cllr Clarke, moved the recommendation and the Committee **RESOLVED** that the following functions be discharged to Dorset County Council in accordance with Section 101(1) of the Local Government Act 1972, to: -

- (a) determination of planning application SCC/3907/2021; and
- (b) determination of any applications for the discharge of conditions or non-material amendments pursuant to that application;

subject to Somerset County Council in its roles as mineral planning authority and highway authority, together with the local Divisional Member, being consulted for their views regarding the application.

6 **Wildlife and Countryside Act 1981 Section 53, Schedule 14 - Application to Upgrade Footpath Y 9/46 in the Parish of East Coker to a Public Bridleway**
- Agenda Item 7

1. The Committee considered the report by the Rights of Way Officer, concerning the application under Schedule 14 and Section 53(5) of the Wildlife and Countryside Act 1981 to upgrade public footpath Y 9/16 in the Parish of East Coker to a public bridleway.
2. The Rights of Way Officer outlined the application by reference to the report, supporting papers and the use of maps, plans and photographs and the report and the presentation covered: the application and supporting evidence; a description of the route; relevant legislation; documentary evidence; evidence from landowners, consultations and other submissions; discussions of the evidence; and included a summary, conclusions and recommendations. The Highway Board Map and Finance Act Record Plan offer strong evidence that the application route has historically carried public vehicular rights; various pieces of supporting evidence (including the title records and several commercial maps) are supportive of this conclusion; the majority of the evidence examined was not inconsistent with the existence of public rights; and Natural Environment and Rural Communities Act 2006 (NERC) extinguished mechanical vehicular rights over the route.

3. The Committee had received written statements from Philip Hackett, Access Field Officer, South West, The British Horse Society, and from Sarah Bucks, Chair of the South Somerset Bridleways Association, which had been circulated to all Committee members as a supplementary paper. Both submissions were in support of the application to upgrade the footpath Y 9/46 in the Parish of East Coker to a bridleway (371M).
 4. The recommendation was that an order should be made to modify the Definitive Map and Statement on the basis that the surveying authority have discovered evidence which, when considered alongside all other available evidence, indicates “that a highway shown on the map and statement as a highway of a particular description ought to be shown as a highway of a different description” (Wildlife and Countryside Act 1971, Section 53(3)(c)(ii)).
 5. The Committee discussed the matter and concluded that the evidence was strong to support the creation of an order.
 6. Cllr Hewitt-Cooper, seconded by Cllr Pullin, moved the recommendation and the Committee **RESOLVED** that:
 1. an Order be made, the effect of which would be to amend the Definitive Map and Statement by upgrading Public Footpath Y 9/46 to a Restricted Byway, between points A – A1 – B – C – D as shown on Appendix 1 of the submitted report.
 2. if there are no unwithdrawn objections to such an Order, the Order be confirmed.
- 7 **Any Other Business of Urgency** - Agenda Item 8

There were no additional items of business raised at the meeting.

(The meeting ended at 11.49 am)

CHAIR