



Strategic Planning Committee – 22 June 2023

Report by Service Manager - Planning & Development

Application Number: SCC/4040/2023

Date Registered: 16 February 2023

Parish: Tatworth & Forton Parish Council,

District: South Somerset District Council,

Member Division: Chard South,

Local Members: Councillor Jason Baker & Connor Payne

Case Officer: Colin Arnold

Contact Details: colin.arnold@somerset.gov.uk

Description of Application: Variation of Conditions 5 (Adherence to approved plans and details) and 6 (Depth of working) of planning application 1/D/12/000079 (for the winning and working of circa 1.5 million tonnes of sand and gravel) to vary the Phase 3 and 4 Working Plans, Restoration Plan and Cross Section Plan.

Grid Reference: **Easting** - 334020, **Northing** - 104095

Applicant: Chris Herbert, Aggregate Industries

Location: Chard Junction Quarry, Westford Park Farm, Chard

1. Summary of Key Issues and Recommendation(s)

1.1 Key issues:

- duplicate planning applications have been submitted to Somerset County Council (at the time of submission – now Somerset Council) and Dorset County Councils for a site straddling the county boundary, with only a very small proportion of the site being within Somerset;
- Somerset Council 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.

1.2 On four previous occasions (see 2.5 below) the then Regulation Committee of Somerset County Council have resolved to discharge its function as mineral planning authority to Dorset Council, The application site lies almost entirely within Dorset, with the exception of part of an existing silt lagoon where an area of 0.4ha lies within Somerset. As the site falls within the boundaries of separate mineral planning authorities, the applicant is obliged to submit duplicate planning applications to Dorset and Somerset Councils seeking planning permission from each authority for development of the land falling within their administrative area.

1.3 It is recommended that the following functions be discharged to Dorset Council in accordance with Section 101(1) of the Local Government Act 1972:

- (a) Determination of planning application SCC/4040/2023; and
- (b) Determination of any applications for the discharge of conditions or nonmaterial amendments pursuant to that application;

subject to Somerset 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.

2. Planning History, Description of the Site and Proposals

2.1 Planning History –

Planning application ref WD/D/19/000451 (SCC ref SCC/3540/2018) for Proposed extension to Chard Junction Quarry at Westford Park Farm to release approximately 930,000 saleable tonnes of sand and gravel, equating to approximately 4.5 years of extraction at the current level of production with a designated haul road to transport sand and gravel back to the existing Chard Junction Quarry for processing was refused (against officer recommendation) for the following reason:

‘The development is within the Dorset AONB where exceptional circumstances are required for major development. Bearing in mind the landbank for sand and gravel and the distance to alternative sources of aggregate, the public interest in minimising HGV movements from other sources and the characteristics of the gravel deposit at Chard Junction do not outweigh the harm identified to the Dorset AONB. The proposal would therefore be contrary to policy DM4 of the Bournemouth, Dorset and Poole Minerals Strategy (2014) and paragraphs 176 and 177 of the NPPF’

Planning application reference P/FUL/2022/00109 for Temporary planning permission for an extension to Chard Junction 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 was withdrawn on 20/06/2022.

2.2 Description of the Site -

Chard Junction Quarry was established in the 1940s and extracts sand and gravel from river terrace deposits to the south of the River Axe. The quarry’s processing and stocking area and silt lagoons are established to the south of Chard Junction, with extraction currently taking place to the east of the lagoons in an area known as Carter’s Close which was granted consent to recover a further 1.5 million tonnes of sand and gravel on 10th May 2012 (ref number 1/D/12/000079)

2.3 Proposed Development-

It is noted that good progress has been made on a restoration scheme but this was halted before Christmas 2022 which has led to a delay in completing the scheme.

The agent outlines the required works in his accompanying letter with the application

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“In respect of the silt lagoons and processing plant area, consultants have been appointed and work is underway to prepare the schemes required by conditions 15 and 16 of planning permission WD/D/20/000313 granted by Dorset Council. However

initial inspections by our Geology Team have identified two areas where further works will be required in order to deliver a long term, stable landform. These areas are:

- The western boundary of the silt lagoons - these are historical faces bounding the silt lagoon and adjacent to a public road, at ~8m in height and up to 60° in places. There are various large trees and vegetation on top of this feature and in the south western corner there is an electricity pylon on top of this face. Various stability analysis has indicated that it has a Factor of Safety of ~1.0 so is considered semi stable. However, the area beneath the electricity pylon especially need to re-graded or buttressed to a stable angle to ensure long term stability. This buttressing/re-grading will require some further investigation and analysis due to the proximity to the silt lagoon - as any works are likely to have to be undertaken with access via the lagoon; and
- The old quarry faces on the northern and western boundaries of the processing plant area - these faces are up to 10m in height and 50°, adjacent to a public road. Stability analysis has indicated that these faces have a Factor of Safety of 1.2 (stable) under dry conditions. However as part of the restoration scheme the ground water will naturally rebound in this area. Therefore a further stability analysis is being undertaken to determine whether these slopes will need regrading or buttressing with further material to support their long term stability.

To address these matters, more detailed, geotechnical studies are currently underway which will inform the design of the restoration scheme in these areas and it is intended that these schemes will be submitted by the 31 March 2023. Following approval it is intended that restoration works in this part of the site will commence in 2023 with final restoration of the site being achieved in 2024.”

The time is requested to be extended until the 31 December 2024.

2.4 The application site lies almost entirely within Dorset, with the exception of part of an existing silt lagoon where an area of 0.4ha lies within Somerset. As the site falls within the boundaries of separate mineral planning authorities, the applicant is obliged to submit duplicate planning applications to Dorset and Somerset Councils seeking planning permission from each authority for development of the land falling within their administrative area.

2.5 On four previous occasions in 1999, 2012, 2018 and 2021 when duplicate cross-boundary applications were submitted to Somerset and Dorset Councils for mineral development at the quarry, the Regulation Committee resolved under Section 101 of the Local Government Act 1972 to discharge its function as mineral planning authority to Dorset Council to enable the latter authority to determine both applications.

3. Responsibility for Determination of the Applications

3.1 While it is open to Somerset Council to determine the planning application for the 0.4ha of land within its administrative area, such an approach would be artificial as this small area is integral to the operation of the quarry as a whole. Separate decisions by the two Councils could also lead to an uncoordinated approach with differing planning conditions.

3.2 Section 101(5) of the Local Government Act 1972 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. In practice, this type of arrangement is usually established for larger applications or if it is likely that there will be a number of cross-boundary applications, and it would not be appropriate in this case.

3.3 Alternatively, Section 101(1) of the Local Government Act 1972 authorises a local authority to arrange for the discharge of functions by any other local authority. This provision could be relied on by a Local Planning Authority to delegate its development management functions to another Local Planning Authority in respect of a specific cross boundary planning application.

3.4 In this case Somerset Council could discharge its decision-making powers to Dorset Council in respect of this cross-boundary planning application. The latter authority would then determine both the application submitted directly to it and the application submitted to Somerset Council. If Dorset Council was minded to grant consent for the cross-boundary development, it could grant planning permission authorising the development applied for in both of the administrative areas under the two original planning applications.

3.5 Dorset Council has confirmed that it is content with such an approach, and it is considered that Section 101(1) will provide the most appropriate mechanism to enable Somerset Council to delegate its authority. To avoid the need to seek further approvals, it would be prudent to include any future associated applications for the discharge of conditions or approval of non-material amendments within the scope of the arrangement.

3.6 A secondary consideration is that Somerset Council has not received a planning fee for the application due to Dorset receiving the fee as the majority of the site is within its area (as is the norm) and so would assume all of the costs associated with the processing of the application submitted to it, including publicity (neighbour notification letters, site and press notices), administration and officers' time.

4. Issues

4.1 It is appropriate for Somerset Council to discharge its function to determine mineral planning applications to Dorset Council in this case because:

- Dorset Council is required to deal with mineral applications in a similar way to Somerset Council, being bound by the same planning regulations and required to consider the same policies;
- The part of the development that lies within the county of Somerset is a very small proportion of the application site overall;
- The impacts of that part of the development that lies within Somerset are minimal;
- The planning application for this mineral development proposal is more coherent and therefore can more properly be considered if it is not split into two smaller, separate applications (i.e. one relating to the area which falls within Somerset and one relating to the area which falls within Dorset), but is dealt with in its entirety by a single planning authority;
- Dorset Council is better placed to deal with the entirety of the development, having dealt with all previous applications at this site under Section 101 of the Local Government Act 1972.

4.2 If the power to determine the application is discharged to Dorset Council it is essential that the Mineral Planning Authority and Highway Authority within Somerset be consulted on the application and it is also considered very important that the local Divisional Members for Chard South be consulted on the application.

5. Conclusion

5.1 Application SCC/4040/2023 can be more properly considered in its entirety rather than being split into two parts. The proportion of the overall application area which lies within Somerset is very small and the development of that part would, of itself, have minimal impacts. Those impacts, in addition to the impacts of the application overall, can be effectively considered and addressed by Dorset Council, in consultation with Somerset Council. It is therefore considered appropriate for Dorset Council to determine the application in its entirety.

6. Recommendation

6.1 It is recommended that the following functions be discharged to Dorset Council in accordance with Section 101(1) of the Local Government Act 1972:

(a) determination of planning application SCC/4040/2023; and

(b) determination of any applications for the discharge of conditions or non-material amendments pursuant to that application;

subject to Somerset 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.