

Local Member	
Mrs. V. Wilson	Kinver

Planning Committee 3 October 2019

Minerals County Matter

Application No (District): [SS.19/02/627 M.](#) (South Staffordshire)

Applicant: JPE Holdings Limited

Description Application to vary (not comply with) conditions 3, 8 and 11 of planning permission SS.18/08/627 M relating to an extension of time for working operations to 30 November 2019 to allow: 1) the continued export of stockpiled sand and gravel; and, 2) the import of restoration materials subject to the prior approval of the Mineral Planning Authority

Location: Seisdon Quarry, Ebstree Road, Seisdon

Date Received: 31 July 2019

Background/ Introduction

1. Seisdon Quarry has operated since the late 1940s (originally as three separate quarries) and was acquired by the applicant in 2014.
2. In July 2016, planning permission was granted for the continued winning and working of the remaining sand and gravel mineral reserve and import of restoration materials, enabling the restoration of Seisdon Quarry (ref: [SS.15/13/627 M](#)). This permission required that working operations, including the export of mineral and the import of restoration materials, should cease no later than 31 December 2018, with final restoration being achieved by 31 December 2019.
3. In April 2019, planning permission was granted for an extension of time for working operations and the import of restoration materials to 31 July 2019; and to amend the approved Restoration Concept Plan (ref: [SS.18/08/627 M](#)). This extension of time was intended to allow the remaining permitted reserve of sand and gravel to be extracted and exported (up to 100,000 tonnes) as well as additional inert wastes (up to 35,000 tonnes) to be brought into the quarry for restoration purposes.
4. Mineral extraction and the import of waste for use in the restoration of the quarry has now ceased but there remain stockpiles of sand and gravel which the applicant seeks to export for sale. Consequently, the current application was submitted and the applicant continues to export mineral from the stockpiles.

Summary of Proposals

5. The application is accompanied by:
 - Letter from Crestwood Environmental Ltd. dated 31 July 2019
 - Location Plan (Dwg no CE-SD0609-DW01 - FINAL)
 - Updated Illustrative Mineral Working and Remediation Plan - June/July 2019 (Dwg no CE-SD0609-DW31 - FINAL)
6. It is proposed by the applicant that the following conditions attached to the current permission SS.18/08/627 M, be varied so that they state the following (changes highlighted in **bold**):
 - Condition 3 – The 'working operations' and the 'import of restoration materials' shall cease no later than **30 November 2019**, hereafter referred to as 'the cessation date' and final restoration shall be completed no later than 31 December 2019 'the final restoration date' and thereafter subject to 5 years aftercare in accordance with the approved Restoration and Aftercare Scheme (Condition 29). Final restoration shall include placement of soils to the approved landform (ref. "Revised restoration concept and land use plan" (Dwg No CE-SD0609-DW09 C)) and the removal of all buildings, structures, plant, machinery, equipment, security fencing, internal roads, roadways and hardstanding areas unless they are required in accordance with the approved Restoration and Aftercare Scheme (Conditions 28 to 30).
 - Condition 8 - No more than 100,000 tonnes of sand and gravel shall be exported from the Site between 1 January 2019 to **30 November 2019**.
 - Condition 11 – The 'restoration material' to be imported between 1 January 2019 to 31 July 2019 shall not exceed 35,000 tonnes of inert and uncontaminated imported materials comprising, soils, subsoils, clays and construction demolition wastes. There shall be no deposition of biodegradable, liquid, odorous or putrescible material including paper, cardboard, timber, plasterboard or related products nor any potentially polluting materials. **Should, following processing of imported material or upon placement of restoration material any deficit in material types which impinges upon achieving restoration as approved (Condition 28 and 29) be identified, in subsequent progress/ aftercare reports (Conditions 31 and 29), remedial measures (which may include use of additional suitable restoration materials) shall be submitted for approval to the Mineral Planning Authority. The scheme shall be implemented as approved thereafter.**
7. While mineral extraction has now ceased, there remain stockpiles of extracted and processed mineral which the applicant intends to export for sale. At the time of submitting the application, it was estimated that the amount of mineral in stock was 25,000 tonnes which, based on exporting the mineral at a reduced rate of 6,000 tonnes per month, would mean that exports of stockpiled mineral would be completed by the end of November 2019.
8. When permission was granted to extend the period of working operations earlier this

year, the amount of mineral to be exported was restricted by planning condition to 100,000 tonnes. No change is proposed to this amount, but more time is required to export the mineral.

9. The import of inert wastes and soils for restoration purposes has now ceased but the applicant proposes that the permission allows scope for further imports should future progress or aftercare reports identify a shortfall in restoration material. The applicant's proposed condition would require that the detail of any additional import of restoration material is to be agreed with the Mineral Planning Authority beforehand.

The Applicant's Case

10. The applicant considers that the proposed development is providing for the recovery of permitted mineral reserves and continuity of supply while complying with the required restoration timescale. Existing environmental controls will be retained, there are no additional operations over and above the consented situation and associated projected vehicle movements, would be materially lower than previously consented, sustainable to the locality and local highways network.

Relevant Planning History

11. The relevant planning history is as follows:
 - a) [SS.15/13/627 M](#) dated 28 July 2016 – planning permission to consolidate the previous planning permissions for Seisdon Quarry, allowing for the continued winning and working of the remaining sand and gravel mineral reserve and import of restoration materials, enabling the restoration of Seisdon Quarry by 31 December 2018. Note: Condition 3 of this permission requires that final restoration should be achieved by 31 December 2019. The planning permission is also subject a Section 106 legal agreement dated 28 July 2016 including obligations relating to vehicle routes, extended aftercare for the quarry when restored and contributions for highway maintenance.
 - b) [SS.15/13/627 M D1](#) dated 5 June 2017 - approved details in compliance with conditions 17 (Wheel Wash), 19 (Noise Monitoring), 20 (Dust Monitoring), 26 (Invasive Species Method Statement), 27, 28, 29 (Ecology Method Statement) and 32 (Restoration and Aftercare Scheme) related to planning permission SS.15/13/627 M.
 - c) [SS.15/13/627 M D2](#) dated 31 March 2017 - approved details in compliance with condition 33 of planning permission SS.15/13/627 M relating to a 6-monthly progress report (first review).
 - d) [SS.15/13/627 M D3](#) dated 28 September 2017 - approved details in compliance with condition 33 of planning permission SS.15/13/627 M relating to a 6-monthly progress report (second review).
 - e) [SS.15/13/627 M D4](#) dated 6 April 2018 - approved details in compliance with condition 33 of planning permission SS.15/13/627 M relating to a 6-monthly progress report (third review).

- f) [SS.15/13/627 M D5](#) dated 10 October 2018 - approved details in compliance with condition 33 of planning permission SS.15/13/627 M relating to a 6-month progress report (fourth review).
- g) [SS.15/13/627 M NMA1](#) dated 10 October 2018 - approved non-material amendment relating to condition 11 of planning permission SS.15/13/627 M.
- h) [SS.18/08/627 M](#) dated 8 April 2019 – planning permission to vary conditions 3, 12 and 31 of planning permission SS.15/13/627 M relating to an extension of time for working operations and the import of restoration materials to 31 July 2019; and to amend the approved Restoration Concept Plan.
- i) [SS.15/13/627 M D6](#) dated 9 August 2019 - approved details in compliance with condition 33 of planning permission SS.15/13/627 M relating to a 6-month progress report (fifth review).
- j) [SS.18/08/627 M D1](#) dated 3 July 2019 – approved details in compliance with condition 30 of planning permission SS.18/08/627 M relating to submission of revised shoreline plan.
- k) [SS.18/08/627 M D2](#) received 30 July 2019 - submission of details in compliance with condition 31 of planning permission SS.18/08/627 M relating to a progress report (for the period January to June 2019) (not yet determined)

Environmental Impact Assessment (EIA)

- 15. As the proposed development falls within the applicable thresholds and criteria for screening for EIA development (ref. Schedules 1 and 2 to the [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017](#)), the County Council has issued a “Screening Opinion” which concluded that the proposed development is not EIA development and therefore the planning application need not be accompanied by an Environmental Statement (ref: [SCE.315/SS.19/02/627 M](#) dated 6 September 2019).

Findings of Consultations

Internal

- 16. **Environmental Advice Team (EAT)** – no objections.
- 17. **Planning Regulation Team** – confirmed that they sought legal advice regarding a breach of planning control when working operations at the quarry continued beyond 31 July 2019. The legal advice was that it would not be expedient to undertake formal enforcement action for continued operational activity until the planning application had been determined. This situation will be reviewed when the outcome of the planning application is known.
- 18. **Highways Development Control** (on behalf of the Highways Authority) – no response.
- 19. **South Staffordshire District Council (Environmental Health Officer)** - no adverse comments.

20. **South Staffordshire District Council (Planning)** – no response.
21. **Seisdon and Trysull Parish Council** - object. The Council are concerned about another request for an extension of time and whether this will compromise the date for completion of restoration works. There is also concern about the continuing impact of HGVs on the local highway and the refusal of the operator to engage in any further liaison meetings. In particular, the Parish Council require that if the County Council is minded to permit the proposed extension of time, then HGV movements through the village should be prohibited with the imposition of penalties for any infringement.
22. **Lower Penn Parish Council** – object on grounds of the impact of HGVs from the quarry affecting the local highway network and residential amenity.
23. **Shropshire Council/ City of Wolverhampton Council** – no responses.
24. **Environment Agency** - no objection and commented that the site was visited by the Agency in April this year, when it was assessed that there were no adverse issues regarding the operation of the site.

Publicity and Representations

Site notice: YES Press notice: YES

25. 156 neighbour notification letters were sent out and 11 representations have been received. The representations raised can be summarised as follows:
- Objections are based on the continuation of HGV movements in terms of:
 - damage to the local highway;
 - risking the safety of other users including cyclists, horse riders and pedestrians;
 - mud/ debris being deposited onto the public highway; and
 - HGVs found not complying with agreed routes.
 - Concerns about compliance with the agreed completion date for restoration (e.g. why can't the stockpiles be retained and included as part of the restoration of the quarry?).

The development plan policies and proposals relevant to this decision

26. Refer to [Appendix 1](#) for the development plan policies and proposals, and the other material planning considerations, relevant to this decision.

Observations

27. This is an application to vary (not comply with) conditions 3, 8 and 11 of planning permission SS.18/08/627 M relating to an extension of time for working operations to 30 November 2019 to allow: 1) the continued export of stockpiled sand and gravel; and, 2) the import of restoration materials subject to the prior approval of the Mineral

Planning Authority at Seisdon Quarry, Ebstree Road, Seisdon.

28. Having given careful consideration to the application and supporting information, including the information subsequently received, the consultation responses and the representations received the relevant development plan policies and the other material considerations, referred to above, the key issues are considered to be:
- Restoration progress and removal of remaining stockpiled mineral
 - Highways impact.

Restoration progress and removal of remaining stockpiled mineral

29. Condition 3 of permission SS.18/08/627 M requires that restoration works (i.e. creation of final landform and placement of soils) are completed by 31 December 2019. The reason for this condition is to secure the restoration of the quarry to a beneficial after use at the earliest opportunity which is a requirement of national planning policy (refer to paragraph 205 (e) of the National Planning Policy Framework (NPPF)) and an aim of local minerals planning policy (refer to strategic objective 4 and policy 6 of the Minerals Local Plan).
30. When the current operator submitted their initial proposals in 2015 to extract remaining sand and gravel reserves in the quarry, permission was granted subject to conditions which required the quarry operator to regularly review the progress of restoration works (involving the submission of progress reports for the approval of the Mineral Planning Authority) so that if there were any problems with progress, mitigation measures could be efficiently agreed. Previously approved progress reports submitted by the operator have not indicated significant issues that would cause delay to achieving restoration of the quarry by the end of this year and the latest report on progress up to June 2019 (ref: SS.18/08/627 M D2) confirms that “whilst areas of regrading and soil placement are still required, the site can be managed to work towards the approved restoration date of 31 December 2019” (also refer to Plan 2 attached to this report showing the extent of remaining restoration works to be undertaken).
31. The latest progress report highlights the issue of remaining saleable stockpiled mineral and indicates the preference of the operator for this mineral which has been largely processed, to be removed from the quarry for sale. This would accord with national policy that endorses that great weight should be given to the benefits of mineral extraction (refer to paragraph 205 of the NPPF); and policy 1 of the Minerals Local Plan that makes provision for sand and gravel. If permission is granted to allow removal of this mineral, the applicant anticipates that the total amount of mineral exported from the quarry since the beginning of this year would still be less than 100,000 tonnes which was the maximum amount allowed for export during 2019 (refer to condition 8 of permission SS.18/08/627 M).
32. The removal of stockpiles is necessary so that the quarry can be restored and although the mineral within the stockpiles could be retained on site, there would be no benefit to achieving the approved restoration landform. Furthermore, it is considered that the proposed export of stockpiled material should not adversely affect the timescale for reinstating the land presently occupied by the stockpiles. The applicant’s latest progress report indicates that 90% of the quarry is either restored or in the process of being restored. The area of the stockpiles is a small proportion of

the quarry.

33. Representations received from residents indicate continued concerns about ensuring that the approved restoration scheme is achieved in accordance with the permitted timescale. The quarry operator is required under the terms of a section 106 legal agreement to hold at least one meeting a year of the site's liaison committee and the applicant's agent has confirmed that arrangements are being made for a site liaison meeting during October so that residents can be updated on progress. It is anticipated that at that meeting the applicant can liaise accordingly on additional meetings up to Christmas or in the new year. Furthermore, the applicant will be required to report on the progress of restoration works achieved by the end of 2019 which is a requirement of the existing permission.
34. Conclusion: Having regard to the policies, guidance, material considerations, comments from consultees and representations received, it is reasonable to conclude that the proposed removal of stockpiled material would enable greater recovery of permitted reserves and avoid sterilising mineral that can be usefully sold as construction aggregate. Furthermore, it is considered that the proposal does not hinder approved restoration works that are required to be completed by the end of the year.

Highways Impact

35. A key concern of residents is the continuing impact of lorries on the local highway. National planning policy states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe" (refer to paragraph 109 of the NPPF). Mineral planning authorities should also consider the cumulative effect of multiple impacts from individual sites (refer to paragraph 205 e) of the NPPF). Policy 4 of the Minerals Local Plan sets out how impacts including traffic on the highway network associated with mineral development proposals should be assessed with the aim of preventing or minimising impacts.
36. The proposed remaining export does involve the continuation of lorry movements associated with the quarry for a longer period, but it is intended that lorry movements would be reduced compared with previous volumes of traffic during the past year. The current planning permission required that the daily maximum of 110 lorry movements per full working day is not exceeded. The applicant's proposal is to remove the remaining stocks based on 6,000 tonnes per month which equates to an average of 15 loads (30 lorry movements) per full working day. It is recommended that a daily maximum of 50 loads and a daily average of 30 movements over the remaining period of time be imposed by condition.
37. If permission is to be granted, Seisdon and Trysull Parish Council have recommended that an additional restriction is imposed to prevent lorries turning left out of the quarry and passing through the village. The short-term export of remaining mineral should not involve any loads from the quarry passing through the village as the destination of the loads is now all in Wolverhampton. Given the proposed timescale for the export and the destination for lorry movements, it is considered that a modification of the current section 106 legal agreement (which already limits traffic through the village) relating to HGV routes does not meet the statutory tests in [regulation 122](#) of the Community Infrastructure Levy Regulations 2010 and is not necessary to make the development acceptable in planning terms.

38. Regarding the proposed amendment of condition 11 which seeks to retain opportunity for additional restoration material to be brought into the quarry, there is no current justification for additional material to be imported and the County Ecologist has commented that use of imported material would compromise habitat creation on species-rich grassland and acid grassland areas. Should a need for additional soils to achieve approved restoration requirements become apparent through ongoing site monitoring, however, it is accepted that measures to mitigate such a shortfall would need to be agreed with the Mineral Planning Authority. If it was agreed necessary to import additional restoration material, it should be on the basis that any importation is short term, the minimum necessary to mitigate the demonstrated shortfall, and that details in terms of the number of loads, lorry routes, and timescale for lorry movements are subject to the prior agreement of the Mineral Planning Authority.
39. Conclusion: Having regard to the policies, guidance, material considerations, application and supporting information, comments from consultees and representations received, referred to above, it is reasonable to conclude that there would not be any unacceptable adverse impact in terms traffic on the highway network public highway subject to variation of condition 11 so that there would be strict control on any additional importation of restoration material. Furthermore, it is recommended that the limits on HGV movements are amended to account for the reduced level of traffic associated with the removal of stockpiles over the remaining period of time.

Overall Conclusion

40. Overall, as an exercise of judgement, taking the relevant development plan policies as a whole and having given consideration to application, the supporting information, the consultation responses, the representations and the other material considerations, referred to above, it is reasonable to conclude that while the Mineral Planning Authority does not condone development taking place prior to planning permission being granted, in this case the development is considered acceptable and should be permitted subject to conditions.

Recommendation

41. **Permit** the Application to vary (not comply with) conditions 3, 8 and 11 of planning permission SS.18/08/627 M relating to an extension of time for working operations to 30 November 2019 to allow: 1) the continued export of stockpiled sand and gravel; and, 2) the import of restoration materials subject to the prior approval of the Mineral Planning Authority, subject to the conditions of the current planning permission (SS.15/13/627 M) **varied and updated as highlighted in bold**, recommended below.

The conditions of the current planning permission with **variations and updates highlighted in bold**:

1. To define the permission in accordance with the approved documents and plans accompanying the current application.
3. **No working operations shall take place other than the processing and export of existing stockpiled mineral and in any event export of mineral shall cease no later than 30 November 2019**, hereafter referred to as 'the cessation date' and final restoration shall be completed no later than 31 December 2019 'the final

restoration date' and thereafter subject to 5 years aftercare in accordance with the approved Restoration and Aftercare Scheme (Condition 29). Final restoration shall include placement of soils to the approved landform (ref. "Revised restoration concept and land use plan" (Dwg No CE-SD0609-DW09 C)) and the removal of all buildings, structures, plant, machinery, equipment, security fencing, internal roads, roadways and hardstanding areas unless they are required in accordance with the approved Restoration and Aftercare Scheme (Conditions 28 to 30).

4. Written notification shall be given to the Mineral Planning Authority within 14 days of the following dates:

- a) The date of the cessation of the export of stockpiled mineral;**
- b) The date when the permitted final landform, including the final placement of soils has been achieved.**

8. No more than 100,000 tonnes of sand and gravel shall be exported from the Site between 1 January 2019 to 30 November 2019.

11. No 'restoration material' shall be imported onto the Site unless previously agreed in writing by the Mineral Planning Authority. The justification for such material shall be submitted as part of a Progress or Aftercare Report ('the Report') (Conditions 31 and 29). The Report shall include but may not be limited to the following information:

- a) the quantity and quality of the required restoration material;**
- b) the intended use(s);**
- c) the number of loads to be delivered;**
- d) the lorry routes to be used; and**
- e) the timescale for lorry movements.**

No importation of restoration material shall be carried out after the date of this planning permission other than in accordance with the arrangements in the approved Report and only used for the approved purpose.

Note: If it is agreed necessary to import additional restoration material, it should be on the basis that any importation is short term and the minimum necessary to mitigate the demonstrated shortfall in restoration material.

15. The number of HGV movements to and from the Site shall not exceed:

- a) A daily maximum of 50 movements (25 in and 25 out) Monday to Friday and 24 movements (12 in and 12 out) on Saturdays; and,**
- b) A daily average of 30 movements (15 in and 15 out) per full working day calculated to the 30 November 2019.**

30. The revised shoreline of the lake to form wetland habitat shall be formed in accordance with the approved details (ref: [SS.18/08/627 M D1](#)).

31. No later than **31 January 2020**, a detailed Progress Report shall be submitted for the written approval of the Mineral Planning Authority.

In order that progress of the ‘working operations’ and ‘restoration operations’ can be monitored against the final approved landform (restoration contours, gradients and levels), the Progress Report shall include:

- a) **A topographical survey showing the extent of the areas restored and ground levels: and**
- b) **The quantity of mineral (including secondary or recycled materials) exported.**

Revised note: For the purposes of this permission the term ‘working operations’ shall mean any operations associated with the processing and export of existing stockpiled mineral.

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<i>A list of background papers for this report is available on request and for public inspection at the offices of Staffordshire County Council, 1 Staffordshire Place, Stafford during normal office hours Monday to Thursday (8.30 am – 5.00 pm); Friday (8.30 am – 4.30 pm).</i>

Appendix 1 The development plan policies and proposals, and the other material planning considerations, relevant to this decision

The development plan policies and proposals

[Staffordshire and Stoke on Trent Minerals Local Plan \(2015 - 2030\)](#)

(adopted 16 February 2017)

- Policy 1: Provision for Sand and Gravel
- Policy 3: Safeguarding Minerals of Local and National Importance and Important Infrastructure
- Policy 4: Minimising the impact of mineral development
- Policy 6: Restoration of Mineral Sites

A [partial review of the Minerals Local Plan for Staffordshire](#) to check conformity with the revised National Planning Policy Framework took place in February 2019. The review concluded that the policies in the Minerals Local Plan conform with the revised NPPF and therefore they continue to carry weight in the determination of planning applications for mineral development.

[Staffordshire and Stoke on Trent Joint Waste Local Plan \(2010 – 2026\)](#)

(adopted 22 March 2013):

- Policy 1: Waste as a resource
 - Policy 1.1 General principles
 - Policy 1.3 Construction, demolition and excavation waste
 - Policy 1.6 Landfill or landraise

- Policy 4: Sustainable design and protection and improvement of environmental quality
 - Policy 4.1 Sustainable design
 - Policy 4.2 Protection of environmental quality

A [5-year review of the Waste Local Plan](#), completed in December 2018, has concluded that there is no need to update the plan policies and therefore they continue to carry weight in the determination of planning applications for waste development.

[The South Staffordshire Core Strategy](#) (adopted 11 December 2012):

- Core Policy 2: Protecting and Enhancing the Natural and Historic Environment
 - Policy EQ1: Protecting, Expanding and Enhancing Natural Assets
 - Policy EQ4: Protecting and Enhancing the Character and Appearance of the Landscape
- Core Policy 3: Sustainable Development and Climate Change
 - Policy EQ9: Protecting Residential Amenity
- Core Policy 4: Promoting High Quality Design
 - Policy EQ11: Wider Design Considerations
 - Policy EQ12: Landscaping

[South Staffordshire Site Allocations document](#) (SAD) (adopted on 11 September 2018)

Inset Plan 36 shows that the quarry is to the north of the Trysull conservation area.

The other material planning considerations

- [National Planning Policy Framework](#) (updated February 2019):
 - [Section 2](#): Achieving sustainable development
 - [Section 4](#): Decision-making
 - [Section 9](#): Promoting sustainable transport
 - [Section 13](#): Protecting Green Belt land
 - [Section 15](#): Conserving and enhancing the natural environment;
 - [Section 17](#): Facilitating the sustainable use of minerals
- [Planning Practice Guidance](#)
 - [Minerals](#)
 - [Natural environment](#)
 - [Use of planning conditions](#)
- [National Planning Policy for Waste](#) (published on 16 October 2014) and accompanying [Planning Practice Guidance on Waste](#).

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