

<b>Local Members' Interest</b>	
Mr. M. Sutherland	Etching Hill & Heath
Mr. J. Francis	Stafford Trent Valley

## PLANNING COMMITTEE – 07 JUNE 2018

### MINERAL COUNTY MATTER

Stafford and Cannock Chase: Application No. [CH.16/05/709 M](#)

Date Received: 09 June 2016

Date Further Information Received: 17 November 2017 (Transport Assessment)

CEMEX UK Materials Ltd: Application not to comply with (to vary) conditions 3 and 8 of planning permission CH.00/0577 & S.400/18 to revise the phasing of the working and restoration at Rugeley Quarry.

### **Background/Introduction**

1. Sand and gravel extraction at Rugeley Quarry first began towards the end of the 19th Century and the quarry has been the subject of several planning permissions. It comprises two areas – an older, non-operational area to the south, known as “Bevin’s Birches” and the main operational quarry area to the north. The quarry is currently operating under a consolidating consent (ref: [CH.00/0577 & S.400/18](#)) granted in 2006 (also ref. S.400/18 & CH.00/0577 or CH.00/0577 & S.40018). The conditions of the permission require that the winning and working of sand and gravel shall cease by 31 December 2031 with restoration being completed by 31 December 2032.
2. Condition 3 of the planning permission sets out the approved documents and plans and Condition 8 requires the sequential winning and working of sand and gravel in accordance with approved phasing drawings.
3. Mineral extraction has been carried out in accordance with the permission within approved phases 1 and 2, and the applicant contends that mineral in these phases as at the end of 2016 was exhausted. As parts of Phase 2 and 5 were worked out prior to the grant of planning permission, in order to maintain compliance with Conditions 3 and 8 of the permission, working should follow in sequence in Phase 3. Having reviewed the operations at the quarry, the applicant no longer considers that the sequence of working is the optimum means by which to work the deposit. Soil stripping commenced in Phase 4 on 09 January 2017, and mineral extraction operations commenced on 05 February 2017. An alternative phased working arrangement as being proposed is therefore now retrospective.
4. A report on the application had previously been prepared to be presented to a meeting of the Planning Committee on 6 July 2017. Following comprehensive discussions with the applicant however in respect of traffic matters and the concerns that had been raised in representations received on the proposals which had not

been fully resolved at the time of completing that report, it was withdrawn at short notice in order to allow further discussions with the applicant on the traffic related matters. Further discussions took place, and a Transport Assessment (TA) was submitted on 17 November 2017. Consultation has since been carried out and notification undertaken to allow further comments to be received on the proposals.

### **The Site and Surroundings**

5. Rugeley Quarry lies within the northern part of the Cannock Chase Area of Outstanding Natural Beauty (AONB) at an elevated position (161m AOD) on the wooded slopes to the south of the River Trent, approximately 10km south east of Stafford, 12km north east of Cannock and 1.5km west of Rugeley town centre. The quarry lies adjacent to the Cannock Chase Special Area of Conservation (SAC) and SSSI and within the South Staffordshire Green Belt.
6. The proposed change to phased working is within the northern operational area of the quarry site. The changes relate to a relatively small area of the site with extraction to be deferred in the area of the approved Phase 3 (now Phase C) while Phase 4 (now Phase B) is worked.
7. The nearest property to Phase B is Wolseley Park House around 750m from the phase. A number of other individual properties lie on Stafford Brook Road around 130m to the east of the site's entrance, and to the south of the site on Kingsley Wood Road (the nearest being around 230m from the site's boundary, and around 1km from Phase B). All of these properties have significant areas of intervening woodland present. Other properties lie within the main residential area of Etching Hill on Bower Lane to the north east approximately 2km from the site entrance.

### **Summary of Proposals**

8. The application seeks an alternative method of working (now retrospectively) to effectively swap the currently approved Phases 3 and 4. Working is therefore proceeding directly from Phase 1 / 2 into Phase 4 as a continuous operation, with the intention to moving back into Phase 3 once complete. Phases 6 and 7 would remain unchanged.
9. Phase 4 has been a commercially forested area which has now been de-forested during the course of dealing with this planning application; the trees have been felled by the Forestry Commission as they had reached maturity. It is therefore proposed to continue working into Phase 4 from Phase 2. Working commenced retrospectively with the excavation of a ramp on the eastern flank of the existing quarry void to provide access to Phase 4. Soils have been stripped for use in restoration of quarry faces in the south of the quarry with some of the soils being used to create a 2 metre high bund between the western extent of the phase and South Street (Public Right of Way), which runs along the western boundary of the quarry. Working of mineral is being progressed to the west up to the bund and would then work sequentially toward the previously approved Phase 3.

*Note:* The phases have been renamed within the application to avoid confusion for the new sequence of working and for ease of reference; Phase 4 would become Phase B and worked in sub phases over an estimated period of 8 years, and Phase 3 would now become Phase C.

10. It is not proposed to alter the approved restoration scheme, though in reviewing the working scheme, the applicant has reviewed the phased restoration and how this would be carried out. It is therefore proposed that detailed working and restoration schemes for each phase of working would be submitted no less than 12 months prior to the commencement of working in each phase. To assist in the accelerated establishment of shrubs and trees in retained peripheral woodland areas, additional supplementary planting is proposed for the areas to the west of the now proposed Phase B and details are provided in the submitted plans.

### **Environmental Impact Assessment**

11. In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, the County Council has conducted a "Screening Opinion" on the proposals which concluded that the proposed development is not EIA development and therefore need not be supported by an Environmental Statement (ref. [SCE.228/CH.16/05/709 M](#) dated 29 November 2016).

### **Appropriate Assessment (Habitats Regulations)**

12. In accordance with the Habitats Directive (Council Directive 92/43/EEC) and Regulation 48 of the Habitats Regulations 1994, an Appropriate Assessment was undertaken based upon the advice provided by Natural England. Natural England has confirmed that the proposal is unlikely to have a significant effect on the European site (Cannock Chase SAC) and therefore can be screened out from any requirement for further assessment.
13. Based on the information submitted, it was concluded that the proposed development would not have a significant effect on the key features and/or site integrity of the Cannock Chase SSSI/SAC.

### **Relevant Planning History**

14. Rugeley Quarry has operated under a number of historic planning permissions which were consolidated under one overall mineral permission issued on 23 June 2006 (ref. [CH.00/0577 & S.400/18](#)) (also ref. S.400/18 & CH.00/0577 or CH.00/0577 & S.40018)). This permission was accompanied by a Section 106 Legal Agreement which secures the following undertakings:
  - a) to not further implement the previous planning permissions;
  - b) to carry out aftercare for an additional 5 year period;
  - c) to give instructions to all drivers visiting the site to follow the designated routes to the A51 (via Stafford Brook Road - Bower Lane) and A34 (via Stafford Brook Road - Penkrige Bank Road); to make it a condition of future contracts with contractors or employees that HCVs visiting the site should follow the designated routes; to erect a notice at the exit displaying the routes; to warn and ban drivers found not to be complying with the routes; and, provisions in the event that the routes are unavailable or to make local deliveries;
  - d) to implement the approved Initial Conservation Scheme for the adjoining land

(known as 'Bevins Birches') until the Revised Conservation Scheme is approved;

- e) to pay £10,000 towards the highway improvements to the junction of Bower Lane and A51 and a sum of £12,500 towards the highway improvements to the junction of Stafford Brook Road and Penkridge Bank Road;
- f) to form a liaison group which should meet at least once per year. The long list of interested parties to be invited to attend includes at least 2 local residents who should be invited to attend within 6 months of the date of the agreement; and,
- g) tree felling to be carried out in accordance with the approved Forest Management Plan.

The legal agreement was modified on 12 January 2016 to allow a registered charity or public body, the primary purpose or object of which is the conservation of nature and natural habitats to lease or buy (freehold) part of the land subject to the Section 106 Legal Agreement (ref. [CH.00/0577 & S.40018 M/D S106-1](#)) (see 'The need to review and update the planning conditions and Section 106 Legal Agreement' later in the report).

- 15. Planning permissions have been granted for the temporary retention of ancillary sand and gravel processing plant at the quarry (ref. [S.004/01/709 M](#); [S.03/30/709 M](#); and [S.04/37/709 M](#)). The permissions were granted as the plant was required to allow production to continue until the consolidating consent could be issued.
- 16. A number of detailed approvals have been granted in accordance with the requirements of the consolidating consent and S106 legal agreement, the most relevant being:
  - Revised Restoration Conservation Scheme in compliance with Clause 7.1.2 of the S106 legal agreement approved 07 September 2011 (ref: [CH.00/0577 & S.40018 D10](#))
  - Restoration and Aftercare Scheme approved on 25 November 2015 (ref: [CH.00/0577 and S.40018 D13](#)); and,
  - Approval to replace the ancillary sand plant was granted on 3 October 2016 (ref: [CH.00/0577 & S.40018 D18](#)).
- 17. Planning permission was first granted for an **aggregates packing plant** on 30 April 2001 (ref: [S.40019 & CH.00/0588](#)). The permission was amended on 15 February 2017 (ref. [CH.16/08/709 M](#)) in order to allow the limited importation of aggregates for bagging in the aggregates packing plant. This permission restricts imports of mineral from elsewhere for blending and bagging to 2 loads per day (4 movements), and exports of bagged aggregate are limited to 10 export loads per day (20 movements) (24 movements in total).
- 18. Planning permission for the **manufacture of topsoil** by blending screened sand with PAS:100 Compost using a wheeled loading shovel was granted 14 November 2016 (ref. [CH.16/03/709 M](#)). This permission restricts imports of compost to 13 loads per

day and restricts exports of manufactured soil to 13 loads per day (26 movements).

*Note: A separate planning application to vary condition 7 of the permission to increase the maximum number of HCV movements per day from 26 to 70 is the subject of a separate report on the agenda to this Planning Committee (ref. [CH.17/01/709 M](#)).*

19. An application to retain a **sand blending plant** was approved by the Staffordshire County Council's Planning Committee on 01 October 2015 (ref. [CH.15/01/709 M](#)). The Committee resolved that the applicant should formalise the liaison committee arrangements, however, the existing Section 106 Legal Agreement already has a requirement to hold liaison committee meetings. Notwithstanding, the decision has not yet been issued as this application has provided an opportunity to review and update the terms of reference for the liaison committee, which the applicant has accepted in principle. The approved heads of terms for the conditions include a condition to restrict imports of limestone for mixing with indigenous sand to 2 loads per day (4 movements).

### **The development plan policies and proposals relevant to this decision**

20. The relevant development plan policies are as follows:

- a) The [Minerals Local Plan](#) for Staffordshire (2015 to 2030) (adopted February 2017):
- Strategic Objective 1 (The sustainable economic development of minerals);
  - Strategic Objective 3 (Operating to high environmental standards); and,
  - Strategic Objective 4 (Restoration that enhances local amenity and the environment).
  - Policy 4: Minimising the impact of mineral development; and,
  - Policy 6: Restoration of mineral sites.
- b) [The Cannock Chase District Local Plan \(Part 1\)](#) (adopted 2014)
- Policy CP1 - Strategy (refers to the presumption in favour of sustainable development);
  - Policy CP3 - Chase Shaping – Design (refers to protection of amenity);
  - Policy CP12 – Biodiversity and Geodiversity
  - Policy CP13 - Cannock Chase Special Area of Conservation (SAC);
  - Policy CP14 - Landscape Character and Cannock Chase Area of Outstanding Natural Beauty (AONB).
- c) [The Plan for Stafford Borough](#) (2011 – 2031) (adopted 19 June 2014)
- Policy N4 – The Natural Environment & Green Infrastructure;
  - Policy N5 – Sites of European, National & Local Nature Conservation Importance;
  - Policy N6 – Cannock Chase Special Area of Conservation (SAC);
  - Policy N7 – Cannock Chase AONB;
  - Policy N8 – Landscape Character;

- Spatial Principle (SP1) – Presumption in Favour of Sustainable Development.

### **The other material considerations**

21. The other material considerations include the following:

a) [The National Planning Policy Framework](#) (the NPPF) (published on 27 March 2012):

- Section 4 – Promoting Sustainable Transport
- Section 9 - Protecting Green Belt land
- Section 11 – Conserving and enhancing the natural environment;
- Section 13 - Minerals
- Paragraphs 14 (Presumption in favour of sustainable development); 17 (Core planning principles); 91 (Green Belt); 115 & 116 (conserving landscape and scenic beauty in AONBs and conservation of wildlife and cultural heritage); 144 (determining planning applications), are important considerations.

[\* Note: a [review of the NPPF](#) has taking place. The consultation period started on 5 March and ended on 10 May 2018. Having regard to the sections referred to above, the changes in the revised document are not considered to be significant in the determination of this application.]

b) [Planning Practice Guidance \(Minerals\)](#)

### **Findings of Consultations**

#### **Internal**

22. The Environmental Advice Team (EAT) – no objections. EAT advise as follows:

- *Ecology* – a condition is required for ecological surveys to be carried out prior to commencement of each working phase.
- *Landscape* – restoration should be carried out in accordance with submitted plans with overall restoration of the quarry site being carried out in accordance with the previously approved restoration scheme (ref: CH.00/0577 & S.400/18 D13 dated 25 November 2015).
- *Historic Environment* – the amended proposals will still be subject to a requirement to comply with the approved Written Scheme of Archaeological Investigation.
- *Rights of Way* – the applicant is reminded that planning permission does not constitute authority for interference with the right of way or its closure or diversion.

Note. The applicant submitted a Phase 1 Habitat Survey in response to the requirement for ecological surveys prior to commencement of phased working as Phase B has now been de-forested by the Forestry Commission. EAT advises that

surveys should be carried out for future phases.

23. Highways Development Control (on behalf of the Highways Authority) – no objections subject to conditions to require that the number of HCV movements to and from the site shall not exceed 280 daily mineral vehicle movements (140 in +140 out) on any given working day, and that the daily vehicle limit shall not be met for more than 15 consecutive days without the prior written approval of the Mineral Planning Authority.
24. The Staffordshire County Council Planning Regulation Team – no comments.

#### **External**

25. The Environment Agency – no objections.
26. Natural England (NE) – no objections. NE advises that they have liaised with the AONB Unit with respect to the AONB and support the recognition offered in the application of the protection for 'landscape and scenic beauty' and note and agree with the 'Landscape and Visual Assessment's conclusions. NE advises that the Cannock Chase SSSI does not represent a constraint in determining the application (see 'Appropriate Assessment (Habitats Regulations section above)).
27. Royal Society for the Protection of Birds (RSPB) – no objections. RSPB are satisfied that the proposals would not materially alter the planned restoration of the site.
28. Cannock Chase AONB Officer (on behalf of the Cannock Chase AONB Partnership) – no objections subject to the approved restoration scheme being adhered to. The AONB Officer notes that the changes would have short term impacts on the AONB, though these would not in any measurable way differ from the working and restoration arrangements that have already been permitted.
29. Western Power Distribution – no objections. Details have been provided of their apparatus within the location.
30. Cannock Chase District Council Environmental Health Officer – no objections.

#### **Views of District/Parish Council**

31. Stafford Borough Council – no objections, subject to controls being imposed through planning conditions to ensure that the permission relates to the temporary operations for mineral extraction and that restoration and landscaping is carried out in accordance with approved plans.
32. Brindley Heath Parish Council – no objections. The Parish Council has advised that some local residents have reported to them an increase in the amount of traffic movements along Stafford Brook Road and Bower Lane which is a matter of great concern to them. Parish representatives have discussed this matter directly with the applicant and suggest that a comprehensive traffic survey should be undertaken to establish how much quarry traffic enters and leaves the quarry.

*Note:* The applicant has since provided a Transport Assessment (TA).

33. Cannock Chase Council (Planning) and Colwich Parish Council did not comment on the application.

### **Publicity and Representations Received**

Site notice: **YES** (11 July 2016)      Press notice: **YES** (21 July 2016)

34. Neighbour notification letters were first sent out on 29 June 2016 and the publicity and notifications resulted in three representations being received. A further round of neighbour notification letters were sent out on 22 November 2017 following receipt of the Transport Assessment. Letters were sent to individual properties (110 properties) along Stafford Brook Road and Bower Lane which are the main routes used by quarry vehicles travelling to and from the quarry. The further round of neighbour notifications resulted in a further three representations being received (six representations in total).
35. The representations raised concerns which are summarised as follows:
- Additional HGV vehicle movements will increase danger to road users, and would create more noise, fumes, dust and vibration;
  - HGV vehicles cause damage to road verges and drains through over-running, and property through vibration;
  - Stafford Brook Road and Bower Lane are unsuitable for HGV traffic, narrow, and two vehicles have difficulty passing each other;
  - 280 HGV vehicle movements per day is excessive;
  - HGV quarry traffic should be diverted from using Bower Lane;
  - Speed limit should be reduced to 20mph for quarry vehicles;
  - Lack of monitoring of local road network by the Highways Department;
  - All planning applications relating to the quarry are 'rubber stamped' without question;
  - The proposals would increase the size of the quarry and extend the time period of extraction;
  - The proposals would impact upon the AONB (loss of trees); and,
  - A public forum should be established.

### **The Applicant's Case**

36. The applicant seeks to vary conditions to revise the phased sequence of working for permitted mineral extraction. The applicant contends that site operations have been reviewed in light of the manner in which site operations at the quarry have evolved since the working scheme was devised and the change is required for the following reasons:
- The replacement processing plant is now located more centrally within the site;
  - There would be no need to relocate the administrative and welfare facilities and weighbridges as originally intended;
  - To remove the need to re-locate water pipes servicing the quarry, and;
  - The imminent harvesting (now carried out) of the timber within the currently approved Phase 4 (proposed Phase B) area by the Forestry Commission.
37. With respect to the submitted TA the applicant contends that this application to



permit an alternative method of working, would not affect any existing transport related conditions or impact upon any traffic movements to or from the site. In summary, the TA maintains that the review of the local highway network conditions has demonstrated that the layout of the key local road links in the vicinity of Rugeley Quarry are of a suitable standard to accommodate HCV traffic associated with the site and concludes that HCV traffic does not present a material operational or highway safety concern that would require additional highway improvements or vehicle management. The applicant contends that the quarry site could realistically accommodate up to 280 daily vehicle movements (140 in / 140 out) over short periods of peak production, taking into account changes in marketing, improved site efficiencies and the changing role of the quarry.

### **Observations**

38. This is an application not to comply with (to vary) Conditions 3 and 8 of planning permission CH.00/0577 & S.400/18 to revise the phasing of the working and restoration at Rugeley Quarry.
39. Having given careful consideration to the application, supporting information, the relevant development plan policies and other material considerations, the consultation responses and the representations, all referred to above, the key issues are considered to be:
  - The mineral planning policy considerations, specifically:
    - the effects on the landscape and the Area of Outstanding Natural Beauty (AONB);
  - The Green Belt;
  - The opportunity to review and update the planning conditions; and,
  - The opportunity to review and update the Section 106 Legal Agreement

### **The mineral planning policy considerations**

40. The [Minerals Local Plan](#) (the vision, strategic objective 3 and policy 4), the [Cannock Chase Local Plan](#) (policy CP3), the [NPPF \(section 4, and section 11 \(paragraph 144\)\)](#), and [Planning Practice Guidance \(Minerals\)](#) all seek to minimise the adverse impacts of minerals development by ensuring that sites are well located and operate to high environmental standards. The policies and guidance also advise planning authorities, when determining planning applications, to ensure that there are no unacceptable adverse impacts on the highway network or local amenity, and to take into account cumulative effects. The National Planning Policy Framework (NPPF) generally: supports sustainable development and the sustainable use of minerals; and, requires restoration and aftercare to take place at the earliest opportunity and to high environmental standards; through the application of appropriate conditions where necessary.

#### *The effects on the landscape and the AONB*

41. The [Minerals Local Plan](#) (policy 4), the [Plan for Stafford Borough](#) (policy N8), and the

NPPF ([section 11](#)), all seek to protect the landscape and where possible, provide for enhancement of the general quality of the landscape and local environment. The [Minerals Local Plan](#) (policy 6) requires mineral sites to be restored to high environmental standards at the earliest opportunity.

42. The site lies in the Cannock Chase Area of Outstanding Natural Beauty (AONB) and [the Cannock Chase District Local Plan](#) (strategic policy CP1 and policy CP14) and [The Plan for Stafford Borough](#) seeks to protect and enhance the AONB and support development proposals that are compatible with the AONB management objectives as set out in the AONB Management Plan.

43. The NPPF ([paragraph 115](#)) states that:

*“Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.”*

44. The proposals relate essentially to the swapping of two approved working phases which would neither extend the timeframe for working, nor alter the overall approved restoration of the quarry site. The amended phasing however introduces visual impacts in the landscape at a different period in time than had previously been the case. One of the representations raises concerns with respect to impacts on the AONB through the loss of trees (see *Note* below). The Environmental Advice Team had initially raised concerns to the proposals on grounds that visual impacts would be introduced during the latter sub phase working of Phase B (Phase B(ii)) when the proposed screening bund erected to mitigate views from the public right of way (South Street), was to be removed to work the mineral deposit on the western periphery of the phase. The applicant has taken these concerns into account and submitted revised plans to retain the proposed screen bund until the end of the last sub phase of Phase B (Phase B(iiii)). The Environmental Advice Team have since advised that they have no objections on landscape grounds and provide support for landscaping of the bund and additional planting and the phased restoration, and they request the submission of ecological surveys prior to commencing working in each phase.

*Note – the trees removed in the approved Phase 4 formed part of the commercial forest planting by the Forestry Commission and have been felled by them as the trees have reached maturity. The felling of these trees forms in part the reasoning given by the applicant to work Phase 4 before Phase 3.*

45. The County Council's Environmental Advice Team, the AONB Unit and Natural England have not objected to the revised phasing.

46. *Conclusion:* Having regard to the policies, guidance, the other material considerations and consultee comments referred to above, it is reasonable to conclude that the proposed variation to phasing arrangements would not have an unacceptable adverse impact on the landscape, would not harm, the value and special qualities of the AONB, or be contrary to the AONB Management Plan.

## **Green Belt**

47. The site lies in the South Staffordshire Green Belt. It is therefore necessary to assess the proposals against the [Cannock Chase District Local Plan](#) (policies CP1, CP3 and CP14), the [Minerals Local Plan](#) (Policy 4.1 (g)), and, the National Planning Policy Framework (the NPPF) ([section 9](#)), which all aim to protect the Green Belt from inappropriate development and aim to preserve its openness.
48. Section 9 of the NPPF indicates that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
49. NPPF paragraph 80 sets out the five purposes of the Green Belt:
- to check the unrestricted sprawl of large built-up areas;
  - to prevent neighbouring towns merging into one another;
  - to assist in safeguarding the countryside from encroachment;
  - to preserve the setting and special character of historic towns; and,
  - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
50. NPPF [paragraph 87](#) states that ‘As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances’. Paragraph 88, states that ‘there will be harm to the Green Belt if inappropriateness and any harm are not clearly outweighed by other considerations’.
51. [Paragraph 90](#) of the NPPF explains that:
- ‘Certain other forms of development are not inappropriate in Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt’.*
52. The ‘other forms of development’ referred to in paragraph 90 include mineral extraction which can demonstrate a requirement for a Green Belt location.
53. The [Minerals Local Plan](#) (Policy 4) and para. 7.33 explains that:
- ‘National policy requires the protection of Green Belt but recognises that mineral extraction need not be inappropriate in the Green Belt provided that the mineral extraction preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt’ [emphasis added].*
54. For the following reasons it is considered that the proposals would not harm the openness of the Green Belt or conflict with the purposes of including land in the Green Belt and as such they are not inappropriate in Green Belt policy terms:
- Minerals can only be worked where they occur;
  - This is an application to re-phase existing permitted mineral operations;

- Controls can be imposed by planning conditions to minimise visual impact and require the site to be well restored to high environmental standards.

55. As the proposals are not considered to be inappropriate in Green Belt policy terms, there is no need to consult the Secretary of State for Communities and Local Government in accordance with the [Town and Country Planning \(Consultation\) \(England\) Direction 2009](#).
56. *Conclusion:* Having regard to policies, guidance and other material considerations referred to above, it is reasonable to conclude in this case that the proposed development is not inappropriate development in the Green Belt policy terms and would not harm the openness of the Green Belt or conflict with the purposes of including land in the Green Belt.

### **The opportunity to review and update the planning conditions**

57. The NPPF ([paragraph 203](#)) states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through conditions. While the permitted mineral operations are not unacceptable it is appropriate when varying a planning permission to review and where reasonable and necessary, update the planning conditions. For example, it is appropriate to amend condition 3 to update the approved plans, to update condition 8 to reflect the new working arrangements (variation of phasing), and to amend other conditions to take account of details that have been approved since the planning permission was issued in 2006.
58. Furthermore, one of the four strategic objectives of our Minerals Local Plan is:

*'To ensure that mineral sites operate to high environmental standards by avoiding, reducing or mitigating as far as possible the adverse impacts on local communities and the environment close to mineral operations and along the routes used to transport minerals.'* (Strategic Objective 3) [emphasis added]

It is therefore an appropriate opportunity to review and update the 2006 planning permission and where reasonable and necessary to introduce new conditions that secure higher environmental standards.

### **Traffic**

59. This application is solely to revise the phasing of the quarry workings. As such the application does not contain any explicit proposals to change the existing traffic arrangements. Notwithstanding, as your officers have highlighted in recent reports related to the applications for ancillary development at the site, traffic is one of the key considerations.
60. Furthermore, this application represents an important opportunity to review the effects of traffic for the following reasons:
- a) The planning permission, issued in 2006, was supported by a Traffic Assessment (TA) submitted with the application in 2000 using traffic data from the 1990's.

- b) The TA was based on an output from the quarry of 600,000 tonnes per annum (tpa) (using the figures submitted with this application (21.7 tonnes average load and 261 working days per annum) that is equivalent to 212 movements per day / 55,232 movements); however, output since 2006 has been significantly less than was anticipated.
  - c) As the applicant agreed to carry out a new TA which confirmed that HCV movements from 2007 to 2017 have ranged from 12,096 to 24,876 movements per annum (equivalent to 46 to 95 movements per day and 130,265 to 271,857 tpa) (movements on a Saturday are typically less than 20). The new TA also confirms that the higher number of movements are rare with 100 movements or more per day occurring on just 6 occasions during the period between March 2007 and August 2017.
  - d) To examine the assumption in the TA that traffic travelling to and from the quarry would be split evenly between Stafford Brook Road to the A34 and Bower Lane to the A51 (a 50/50 split). The new TA confirmed the 50:50 split.
  - e) As there are currently no conditions limiting the traffic movements, except for lorry routing as part of the Section 106 Legal Agreement and conditions to limit HCV movements have recently been imposed on the ancillary developments taking place at the quarry (see 'Relevant Planning History' earlier for details).
  - f) As the Rugeley Eastern Bypass was fully opened in 2007, new housing development has taken place in the Rugeley area and on the Cannock side of the Chase and as there has been a general increase in traffic across the Chase since 2000.
  - g) As the Minerals Local Plan (adopted in 2017) (objective 3 and policy 4) aims to ensure that sites operate to high environmental standards and aims to reduce the impact along the routes used to transport minerals.
  - h) As the NPPF (published in 2012) (paragraph 115) demands that great weight should be given to conserving the landscape and scenic beauty of the AONB.
  - i) As the NPPF (paragraph 144) recognises that cumulative effects should be taken into account albeit that the NPPF (paragraph 32) advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
  - j) As the Cannock and Stafford Local Plans (adopted in 2014) (policies CP14 and N7) aim to protect and enhance the AONB.
  - k) As the representations received, summarised earlier in the report, primarily refer to the effects of the quarry traffic on local amenity (your officer has drawn the concerns of local residents to the attention of the relevant Local Member (Cllr Mike Sutherland), and accompanied him on a visit to the quarry).
61. As mentioned earlier, the applicant is not proposing to vary the permission to change the number of HCV movements but chose to include details on the application form (an average of 90 and a maximum of 280 movements per day alongside an average and a maximum of 4 ancillary traffic movements per day).

62. The new TA has considered this level of traffic movements and concludes that the 280 maximum is acceptable. The Highways Authority considered the new TA and has no objection on highway grounds, subject to the 280 maximum being imposed by condition and not occurring on more than 15 consecutive days without written approval.
63. As explained earlier in the 'Relevant Planning History' section there are several ancillary operations which have limits on traffic movements (26 soil + 24 bagging + 4 limestone = 54). In addition, there is the current application to increase the maximum number of soil manufacturing movements to 70. Overall this could potentially result in 378 movements per day (280 mineral + 70 soil + 24 bagging + 4 limestone)
64. Having regard to:
- a) the current quarry permission (based on 600,000 tpa, equivalent to 212 movements per day);
  - b) the actual output from the quarry since 2007 (from 131,242 to 269,905 tpa - equivalent to 46 to 95 movements per day);
  - c) the 50:50 traffic split;
  - d) the current limits on traffic from the ancillary operations (total 54 movements per day);
  - e) the implications of the proposed increase in traffic movements associated with the soil manufacturing operations from a maximum of 26 to 70 movements per day and an average of 26 movements per day (on the agenda); and,
  - f) the concerns of local residents and the Parish Council;
- your officers have therefore sought to negotiate with the applicant to agree an acceptable overall limit that would:
- g) retain sufficient operational flexibility to accommodate all the HCV traffic entering and leaving the site;
  - h) secure higher environmental standards in this AONB location; and,
  - i) be straight forward to monitor and enforce.
65. Regrettably the applicant has been unwilling to accept responsibility for controlling the overall number of HCV movements to and from the site nor accept a maximum of less than 280.
66. *Conclusion:* Having regards to the policies, guidance and other material considerations referred to above, your officers have concluded that it is reasonable and necessary to impose a condition to limit / restrict all HCV traffic movements into and out of the quarry as follows:

- 212 HCV movements per day (Monday to Friday);
- 106 HCV movements on Saturdays; and,
- 50% of the HCV movements shall enter or leave the site using Bower Lane (A51)

#### Site Layout Plans

67. [Minerals Local Plan](#) (policy 4.5) encourages mineral operators to ‘*introduce higher environmental standards*’ during working, restoration and aftercare, and policy 6.3 requires developers to regularly review their restoration proposals.
68. The existing planning permission (Condition 50) requires a review and audit (every 3 years) of the restoration works carried out and restoration steps for the forthcoming year. In reviewing the requirements of this condition and to be consistent with the approach to restoration review at other mineral sites within Staffordshire, it is considered that a more appropriate approach would be to require the regular review of the working and restoration operations by the submission of Progress Reports and Site Layout Plans every 5 years and to incorporate a review of the restoration strategy at the second review date to provide the opportunity to introduce higher environmental standards of working and restoration ([Minerals Local Plan](#) policy 4.5 and Policy 6).

#### Aggregates bagging plant

69. When the 2006 planning permission was granted it included plans approved under Condition 1 relating to an aggregates bagging plant. A bagging plant had formed part of the proposals when the application was made. However, the bagging plant element of the proposals was refused (ref. [S.40019 & CH.00/0588](#)). In order therefore to provide clarity and for the avoidance of doubt, it is considered reasonable and necessary to remove reference to these plans (ref: RU1/14 dated September 2000 - Proposed Ready Pak Plant Plan and RU1/14A dated September 2000 - Proposed Ready Pak Elevation) in a varied planning permission.

#### Liaison Committee

70. [Minerals Local Plan](#) (strategic objective 3 and policy 4) encourages mineral operators to liaise with local communities in promoting higher environmental standards.
71. One of the representations comments on the benefit of a public forum / liaison committee. The Section 106 Legal Agreement accompanying the 2006 planning permission includes an obligation on the operator to arrange regular site liaison committee meetings. Although liaison meetings have been held between the quarry operator (Cemex), Brindley Heath Parish Council, and some interested parties, the full requirements of the legal agreement insofar as the invitations to attend such meetings, have not been extended to Stafford Borough Council, Colwich Parish Council and local residents groups. In addition, changes to the site as a whole and the interests of the RSPB who may manage part of the land are not currently represented. This is therefore an opportunity to review and update the terms of the current legal agreement in accordance with the Minerals Local Plan objectives and policies (see the next section).

## The Section 106 Legal Agreement

72. The applicant has acknowledged that this is an opportunity to review and update the undertakings in the current legal agreement (as modified), which were described in the 'Relevant Planning History' section earlier.
73. A new consolidating legal agreement would need to be completed before the planning permission can be issued. At the time of reporting this application, the applicant has agreed to limited costs for the County Council to prepare the legal agreement which is being progressed.
74. Guidance in the NPPF relating to the use of planning conditions and obligations explains that consideration should be given to whether otherwise unacceptable development can be made acceptable through the use of conditions or planning obligations. The guidance ([paragraph 204](#)) indicates that planning obligations should only be sought where they meet all of the following tests:
- o necessary to make the development acceptable in planning terms;
  - o directly related to the development; and,
  - o fairly and reasonably related in scale and kind to the development.

[Note: These are also legal tests by virtue of the Community Infrastructure Levy Regulations 2010 [[Part 11, Regulation 122 and 123](#)] (as amended by the [2011](#), [2013](#) and [2014](#) Regulations). The Planning Practice Guidance ([Community Infrastructure Levy](#), 'Do the planning obligations restrictions apply to neighbourhood funds?') indicates that the [Community Infrastructure Levy \(Amendment\) Regulations 2014](#) prevents section 106 planning obligations being used in relation to those things (infrastructure) that are intended to be funded through the levy (Community Infrastructure Levy)(CIL) by the charging authority. In this case, a CIL has been adopted in the Cannock Chase area, though this is only in relationship to residential development and some major retail developments. Stafford Borough Council does not currently have a CIL in place.

75. A review of the undertakings in the current legal agreement (as modified), and the recommended updates and new undertakings are discussed below:

a) *To not further implement the previous planning permissions.*

The existing undertaking should be retained and updated to ensure that the operations are carried out in accordance with the latest planning permission which include conditions that aim to secure higher environmental standards (Policy 4.5 of the MLP).

b) *To carry out aftercare for an additional 5 year period.*

There is no reason to change this undertaking other than to ensure that it relates to a period of five years following the restoration and statutory 5 year period of aftercare for each phase of the development which is considered reasonable and necessary to establish the new habitats created under the requirements of the planning permission and in order that the restoration and aftercare achieves the highest environmental



standards. This undertaking accords with the NPPF (sections 11 and 13) and policies 4 and 6 of the MLP.

- c) *To give instructions to all drivers visiting the site to follow the designated routes to the A51 (via Stafford Brook Road - Bower Lane) and A34 (via Stafford Brook Road - Penkrige Bank Road); to make it a condition of future contracts with contractors or employees that HCVs visiting the site should follow the designated routes; to erect a notice at the exit displaying the routes; to warn and ban drivers found not to be complying with the routes; and, provisions in the event that the routes are unavailable or to make local deliveries.*

This undertaking should continue as it controls the routing of all HCV traffic entering and leaving the site, however, for the avoidance of doubt, this undertaking should be updated to clarify that it includes all drivers of HCVs associated with existing and future contracts related to any ancillary operations.

- d) *To form a liaison group which should meet at least once per year. The long list of interested parties to be invited to attend includes at least 2 local residents who should be invited to attend within 6 months of the date of the agreement.*

This undertaking should continue and be updated for the following reasons:

- The terms of reference should be updated to reflect current practices.
  - The interested parties should be updated to include the AONB Unit.
  - The County Councillor should nominally act as Chairperson for the first meeting and be the person to invite 'at least two local residents'.
  - The Chairperson should be formally elected at the first meeting.
  - The first meeting should be held within 3 months
- e) *To implement the Conservation Scheme for the lifetime of the planning permission*

This undertaking should be modified to reflect the approved Conservation Scheme which superseded the Initial Conservation Scheme previously carried out to the Bevin's Birches area of the quarry.

- f) *Tree felling to be carried out in accordance with the approved Forest Management Plan;*

This undertaking should continue, as the Forest Management remains relevant.

- g) *The modification to allow a registered charity or public body, the primary purpose or object of which is the conservation of nature and natural habitats to lease or buy (freehold) part of the land.*

This recent modification to the legal agreement should continue and be incorporated into the new legal agreement.

- h) *A new clause to extend the definition of the planning permission to include Section 73 applications to vary the main permission;*

This new clause is considered to be reasonable and necessary as it is now is now standard practice, and allows Section 73 applications to vary the main permission to be permitted without the need to modify or complete a new legal agreement.

- i) *A new undertaking to require the operator responsible for the restoration of the site to be a member of the Mineral Products Association (MPA) (or equivalent) in order to provide the safeguard of the MPA's Restoration Guarantee Fund, or to provide an equivalent financial guarantee to cover the costs of restoration and aftercare.*

This new undertaking would ensure that there are financial provisions in place to fulfil the restoration and aftercare requirements. The Mineral Product Association Restoration Guarantee Fund has a limit of £1 million on any one project. This undertaking accords with the NPPF (sections 11 and 13) and Policy 6.4 of the MLP.

76. *Conclusion:* In this case, it is reasonable to conclude that the terms of the undertakings described above are necessary, relevant and fairly and reasonably related in scale and kind to the development and should be secured as part of a new consolidating S106 legal agreement.

### **Overall Conclusion**

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, the additional information subsequently received (including a Transport Assessment), the further discussions with the applicant and the other material considerations, all referred to above, it is reasonable to conclude that the proposals should be permitted subject to:

- the conditions of the extant planning permission, and updated conditions - the heads of terms of which are recommended below; and,
- the applicant entering into a new consolidating S106 legal agreement which shall include existing undertakings, and secure new or amended undertakings - the heads of terms of which are recommended below.

### **RECOMMENDATION**

**PERMIT** the application for proposed development not to comply with (to vary) Conditions 3 and 8 of planning permission CH.00/0577 & S.400/18 to revise the phasing of the working and restoration at Rugeley Quarry, subject to all parties with an interested in the land first signing a new consolidating Section 106 Legal Agreement - to include the existing undertakings and the new or amended undertakings - the heads of terms of which are listed below; and, subject to the conditions of the extant planning permission, and updated conditions - the heads of terms of which are listed below.

**New consolidating Section 106 Legal Agreement - heads of terms** to include the existing undertakings and the new or amended undertakings (highlighted in **bold**):

- 1) To update the existing Section 106 Legal Agreement to not further implement the previous planning permissions **to include permission ref. CH.00/0577 & S.400/18.**
- 2) To update the existing Section 106 Legal Agreement to refer **to the additional 5-year aftercare period to apply to each phase of the development.**
- 3) To update the existing Section 106 Legal Agreement **to remove the requirement to pay a contribution towards local highway improvements and maintenance** as the works have now been carried out.
- 4) To update the existing Section 106 Legal Agreement to clarify, for the avoidance of doubt, that the existing undertaking to instruct all drivers visiting the site to follow the designated routes to the A51 (via Stafford Brook Road - Bower Lane) and A34 (via Stafford Brook Road - Penkridge Bank Road) **includes drivers of all HCVs associated with existing and future contracts related to any ancillary operations;**
- 5) To update the existing Section 106 Legal Agreement terms of reference for the quarry liaison committee meetings to include: **a defined timeframe to form the new liaison committee (3 months);** to invite representatives from interested parties **to include the operators of any ancillary operations on the site, the Royal Society for the Protection of Birds (RSPB), and the AONB Unit.**
- 6) To update the existing Section 106 Legal Agreement **to refer to the approved Conservation Scheme for the lifetime of the planning permission.**
- 7) To update the existing Section 106 Legal Agreement **to incorporate the modification to allow a registered charity or public body to lease or buy (freehold) part of the land.**
- 8) **To extend the definition of the planning permission to include Section 73 applications to vary the main permission.**
- 9) **To introduce a new requirement that the owner/operator shall be a member of the Mineral Products Association or otherwise to provide a restoration guarantee fund (£1m) secured by a financial institution to provide a bond to guarantee the funding for aftercare and extended aftercare of the site.**

**The planning conditions of the new planning permission** to include the conditions of the extant planning permission ref. CH.00/0577 & S.400/18 updated as follows (the changes highlighted in **bold**):

- 1-3. To define the permission in accordance with the approved documents, **plans and approved details**
4. **To define commencement as being the date of the permission.**
8. **To update the phasing of the site.**

22. To require the maintenance of the sign erected at the exit of the Site **to be maintained in accordance with approved details (ref. [CH.00/0577 & S.40018 D2](#))** and to require records to be kept of **all HCVs entering and leaving the Site**, and the route to or from the A51 **and to or from the Site and Penkrige Bank Road**, and for Records to be made available for inspection by the Mineral Planning Authority
23. Dust to be managed accordance with **the approved Dust Action Plan (ref: [CH.00/0577 & S.40018 D9](#))**
29. To require all vehicles operated within the Site to be fitted with and operated reversing alarm systems in accordance with **the approved details (ref: [CH.00/0577 & S.40018 D3](#))**.
30. To require noise monitoring to be carried out in accordance with **the approved Noise Monitoring Scheme (ref: [CH.00/0577 & S.40018 D16](#))**.
33. To require an archaeological watching brief to be undertaken **in Phases A, B, C and D** in accordance with the approved Written Scheme of Investigation for Archaeological Watching Brief contained within the planning permission (ref. CH.00/0577 & S.400/18).
34. To require lighting within the Site to be used in accordance with **the approved Lighting Scheme (ref: [CH.00/0577 & S.40018 D12](#))**.
41. To require the site to be screened in accordance with the planning permission CH.00/0577 & S.400/18, **and set out in the Proposed Re-phasing drawings (dwg no's J173-dwg-01 r1, J173-dwg-02 r1, J173-dwg-03 r1, J173-dwg-04 r1, J173-dwg-05 r1 and J173-dwg-06 r1), and Proposed Landscaping-Phase B drawing (dwg no. CE-RQ0874-DW05a)**.
49. To require the site (with the exception of the Bevin's Birches area) to be restored to grassland, woodland, heathland and wetland habitat uses subject to **the approved detailed scheme (ref: [CH.00/0577 & S.40018 D13](#))**
50. To require the submission of a restoration programme, review and audit of restoration works carried out every **5 years** until a completion certificate for restoration has been issued
52. To require the Bevins Birches area to be restored **in accordance with the approved Restoration Scheme (ref: [CH.00/0577 & S.40018 D5](#))**.
53. **To require the submission of a Protected Species - Survey, Evaluation and Mitigation Scheme prior to any vegetation clearance or soil stripping in any phase (including sub-phases) for the written approval of the Mineral Planning Authority**
55. To require measures to protect ground nesting bees and wasps in the Bevins Birches area to be carried out in accordance with **the approved details (ref: [CH.00/0577 & S.40018 D6](#))**.
56. To require aftercare operations of Bevin's Birches to be carried out and

implemented in accordance with **the approved Aftercare Strategy and timetable of implementation** (ref: [CH.00/0577 & S.40018 D11](#))

57. To require aftercare operations of Rugeley Quarry to be carried out and implemented in accordance with **the approved Restoration and Aftercare Scheme** (ref. [CH.00/0577 & S.40018 D13](#))

**Additional recommended conditions**

- **The total number of HCV movements\* to and from the Site (shall not exceed:**
  - a) **212 movements (106 in and 106 out) per full working day (Monday to Friday); and,**
  - b) **106 movements (53 in and 53 out) on Saturdays;**

**of which no more than 50% shall enter or leave the Site using Bower Lane (A51)**

**\* For the avoidance of doubt HCV movements shall include all HCV movements associated with any ancillary operations.**
- **To require a detailed Site Layout Plan(s) for written approval.**
- **To require a Progress Report every 5 years to include an update to the approved Site Layout Plan(s) and approved Restoration and Aftercare Scheme.**

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*A list of background papers for this report is available on request and for public inspection at the offices of Staffordshire County Council, No. 1 Staffordshire Place, Stafford during normal office hours Monday to Thursday (8.30 am – 5.00 pm); Friday (8.30 am – 4.30 pm).*