

Local Members' Interest	
Mrs. J. Jessel	East Staffordshire – Needwood

PLANNING COMMITTEE – 07 FEBRUARY 2019

MINERAL COUNTY MATTER

District & Application No. East Staffordshire – [ES.18/08/501 MW](#)

Date Received: 15 November 2018

Date Revised/Further Details Received: 20 December 2018

Aggregate Industries U.K. Limited, application to vary (not to comply with) conditions 1, 39 and 40 of planning permission ref. ES.12/03/501 MW to amend the approved Restoration Plan to facilitate the reinstatement of a dwelling, outbuilding and access road at Small Meadows, Newbold and Tucklesholme Quarry, near Barton under Needwood

Introduction

1. In August 2014 planning permission was granted for a 160 hectare extension to Newbold (and Tucklesholme) Quarry (ref. [ES.12/03/501 MW](#)) (see Plan 1 – Site Location). The planning permission allows the extraction of 13.5 million tonnes of sand and gravel before 31 December 2029. The land should be progressively restored by backfilling with solid inert waste (and pulverised fuel ash) no later than 31 December 2031. The land should then be fit for agriculture, woodland and wetland for nature conservation, recreation and amenity uses. The statutory 5-year period of aftercare has been extended to 15 years by the Section 106 Legal Agreement (see Plan 2 Working Strategy (the areas to be worked in the next 5 years) and Plan 3 Approved Final Restoration Scheme).
2. The quarry extension planning permission permits the permanent removal of Small Meadows Farm and a section of Small Meadows Lane. According to the approved working strategy the buildings were due to be cleared and the surrounding soils stripped in Phase 3 which was due take place in the second 5-year period starting in October 2019. However, the operator has given notice that soil stripping commenced in Phase 3 on 11 June 2018 (ref. ES.12/03/501 MW D5). Also, on a site visit in December 2018, the Site Manager confirmed that production has been higher than was originally anticipated, hence the removal of the outbuildings and soil stripping in Phase 3 was ahead of the original programme. The house is unoccupied and boarded up (see [Appendix 2](#): Photographs 1 and 2). [Note: the next 5-year Progress Report is due in August 2019. The report must update the working and restoration programme relative to the mineral extraction and restoration end dates.]
3. This application is necessary as the original Restoration Plan, and the recently approved detailed Restoration and Aftercare Scheme (ref. [ES 12/03/501 MW D1](#) dated 9 June 2017), do not show Small Meadows being replaced, whereas they do show the

retention of Lower Farm (Industrial Units and Offices) and Newbold Manor Farm. Here there are proposals to provide visitor parking (at Lower Farm) and a visitor centre and parking (at Newbold Manor Farm) to complement the overall restoration strategy. [Note the changes of use would require separate approval from East Staffordshire Borough Council.]

4. An application was submitted to East Staffordshire Borough Council seeking planning permission to reinstate the dwelling and outbuildings (later revised to a single outbuilding) on 5 September 2018 (ref. P/2018/01077). On 21 September 2018, the County Council, acting as Mineral Planning Authority, objected to the application on the grounds that the proposal was a ‘county matter’ as [paragraph 1\(1\)\(h\) of Schedule 1 of the Town and Country Planning Act 1990](#) states that:

“the carrying out of operations in, on, over or under land, or a use of land, where the land is or forms part of a site used or formerly used for the winning and working of minerals and where the operations or use would conflict with or prejudice compliance with a restoration condition or an aftercare condition”.... is a “county matter”. (emphasis added)]

5. A meeting took place on 9 November 2018 between officers from the County and Borough Councils, the applicant and their agent where it was agreed that the application to East Staffordshire Borough Council would be held in abeyance pending the determination of this application.
6. This report therefore considers the compatibility of the building of a dwelling and outbuilding on the former site of Small Meadows Farm in the context of the approved restoration plan.
7. East Staffordshire Borough Council would then be in a position to decide whether or not the proposal submitted to them is an acceptable afteruse of the land having regard to their Local Plan policies related housing development / replacement dwellings in the countryside and in the context of the approved restoration plan.

Summary of Proposals

8. The proposal is to vary the approved restoration plan to facilitate the reinstatement of a residential property and outbuilding on the former site of Small Meadows Farm, following mineral extraction in Phase 3 and restoration of the land with backfilled waste in Phase 4, at Newbold and Tucklesholme Quarry (see Plan 4 – Reinstatement of Small Meadows (shows the change to the approved Restoration Plan)).
9. The following key documents accompany the application:
 - An explanatory letter
 - Amended phasing and restoration plans
 - A Mineral Development Statement
 - A letter responding to comments received

The Applicant’s Case

10. The applicant has advised that a need has recently arisen to reinstate Small Meadows Farm. The farmhouse would be built to the same scale and form and use

reclaimed materials where possible. No significant modifications are needed to the restoration plan to accommodate the change. The dwelling is not intended to serve an agricultural need and should be regarded a reinstatement rather than a new build as it has not yet been abandoned or demolished.

Relevant Planning History

11. [ES.12/03/501 MW](#) dated 22 August 2014 - planning permission for a 160-hectare extension to Newbold (and Tucklesholme) Quarry to extract 13.5 million tonnes of sand and gravel before 31 December 2029 and to progressively restore the land to agriculture, woodland and wetland for nature conservation, recreation and amenity uses by 31 December 2031, followed by a 5-year period of aftercare (extended to 15 years by the Section 106 Legal Agreement).
12. The Section 106 Legal Agreement dated 15 August 2014 includes planning obligations related to: vehicle routing; extended aftercare; the periodic review of the restoration plan; and, the establishment and terms of reference for the quarry liaison committee.
13. [ES 12/03/501 MW D1](#) dated 9 June 2017 – the current approved working strategy and the detailed Restoration and Aftercare Scheme.
14. [ES.12/03/501 MW D5](#) dated 13 August 2018 - notice that soil stripping had commenced in Phase 3 on 11 June 2018.
15. P/2018/01077 received on 5 September 2018 - application to East Staffordshire Borough Council for planning permission to reinstate the dwelling and outbuildings (later revised to a single outbuilding) [not yet determined].
16. [ES.2018/01077 MSA](#) dated 21 September 2018 – the County Council, acting as Mineral Planning Authority, objected to the application to East Staffordshire Borough Council ref. P/2018/01077 on the grounds that it should be regarded as a ‘county matter’.

Environmental Impact Assessment (EIA)

Screening Opinion: NO **Environmental Statement:** NO

17. As the proposed development does not fall 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 not issued a “Screening Opinion”.

Findings of Consultations

Internal

18. The **Environmental Advice Unit (EAT)** – no objection and the specialists commented as follows:

Ecology - The proposal removes about 0.1ha of woodland in order to rebuild Small Meadows farm and proposes to compensate for this by planting an additional area of woodland to the north of the angling lake. This appears to be at the loss of meadow.

This is not desirable as the meadow areas are narrow, and the suggested planting breaks them up further. It is recommended that the new area of woodland is removed and that the loss of 0.1ha of planting for the reinstatement of Small Meadows should not be considered to be a concern. As the majority of the area is currently arable, there will still be a net gain of habitat over the scheme. [Note: the applicant has subsequently agreed to amend the application accordingly.]

Public Rights of Way – The applicant should be reminded that the existence of the rights of way and the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path. Also some routes will be changed e.g. the proposed cycle link which appears to run through the centre of the site. This uses existing public rights of way so they would need to be legally amended using a Cycle Tracks Act Conversion Order. The restoration plan does not clearly show where some routes will be diverted to and, for the purposes of the proposed rights of way changes at least, we need far more detail than is currently being provided.

19. The **Highways Development Control Team** (on behalf of the Highways Authority) – no objection and commented that no construction or restoration traffic should use Small Meadows Lane and should continue to comply with the approved traffic routeing agreement.
20. The **Flood Risk Management Team** (on behalf of the Lead Local Flood Authority) – no objection.

External

21. The **Environment Agency** - no objection and commented as follows:
 - The safeguards in the Environmental Permit conditions, and the engineering capabilities of the company, and the risk assessments for such a venture should protect the occupants.
 - Should the construction of the dwelling go ahead, the Environment Agency will review the requirements for gas monitoring to ensure that the occupant's dwelling is monitored.
 - We suggest rafting the foundations and in-built gas monitoring be installed and maintained throughout the life of the Environmental Permit.
22. East Staffordshire Borough Council – **Environmental Health** – no objection and commented as follows:
 - The landfill operation will be subject to controls under the Environmental Permitting Regulations (as amended); however, it will be prudent to have an agreed scheme of remedial works to ensure the proposed replacement premises is suitable for the residential end use once restored, possibly including a scheme of basic ground gas protection measures (CS2/Amber 1), which will require confirmation from the building control provider on completion and for the imported material to be analysed before importation to ensure it is suitable for use, depth of cover to be agreed and for the works to be validated once completed prior to occupation.

- The above could be covered by a remediation statement required by a condition.

District/Parish Council

23. East Staffordshire Borough Council – no objection.
24. Barton under Needwood Parish Council – object for the reasons summarised below:
- a) The need to change the restoration plan and replace the dwelling has not been explained and no agricultural need has been suggested. If there was an agricultural justification then, as Small Meadows Farm already existed, we would have no objection to its reinstatement.
 - b) The building is being demolished, so strictly speaking it is not being re-used. We therefore consider this to be a new build project in the open countryside.
 - c) Housing development in the open countryside outside settlement boundaries are generally resisted unless there is some agricultural or countryside need.
 - d) Therefore, we cannot see how a general needs residential use, in this location, in the open countryside can be justified as meeting the requirements of sustainable development and as a new residential development it should be resisted.
 - e) No further residential development should be allowed.
 - f) The farm buildings elsewhere on the quarry site are being retained for use as a Visitor Centre which would be ancillary and support the restoration proposals.
 - g) The proposed residential use may jar with the overall restoration aims for wildlife, recreation and the peaceful enjoyment of the countryside and could potentially lead to future conflicts between different uses and users of the area. Therefore, a residential use may well be incompatible with these other uses.

Publicity and Representations

25. Site notice: YES Press notice: YES
26. Eight neighbour notification letters were delivered by hand and one representation has been received. The representation is summarised below:
- a) The land is to be restored to a water park and nature reserve for the benefit of wildlife and the local community and surrounding areas. As such a residential house would not be in keeping with the primary objectives for the land as described when the quarry extension planning application was first submitted.
 - b) One residential property could precipitate further residential development and Small Meadows Lane could not support such further development.
 - c) The current quarry planning permission does not allow access to the site via

Small Meadows Lane and any new permission should similarly prevent access to facilitate the demolition or re-construction of the dwelling as it is not suitable for large vehicles.

The development plan policies and other material planning considerations relevant to this decision

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

Observations

28. This is an application to vary (not to comply with) conditions 1, 39 and 40 of planning permission ref. ES.12/03/501 MW to amend the approved Restoration Plan to facilitate the reinstatement of a dwelling, outbuilding and access road at Small Meadows, Newbold and Tucklesholme Quarry, near Barton under Needwood.
29. Having given careful consideration to the application and supporting information, including the information subsequently received, the consultation responses and the representation, the relevant development plan policies and the other material considerations, all referred to above, the key issue is considered to be the compatibility of a residential property in the context of the approved restoration plan.
30. As explained earlier, it is the County Council's responsibility as Mineral Planning Authority to determine whether the proposal '*would conflict with or prejudice compliance with a restoration condition or an aftercare condition*'. In this case, it's necessary to determine whether the proposed reinstatement of a dwelling and outbuilding for residential purposes following mineral extraction is acceptable in the context of the approved plan to restore the land, using inert waste, to agriculture, woodland and wetland for nature conservation, recreation and amenity uses.
31. To begin it is worth noting that when the application to extend Newbold Quarry was determined in 2014, the accompanying Planning Statement explained that the creation of five new lakes for amenity, recreation and nature conservation uses, together with the new woodland, would "*provide a visual and physical connection to the surrounding landscape immediately surrounding the site*" (ref. paragraph 3.2.2) (see Plan 2). The restoration plan includes proposals to convert Newbold Manor Farm (grade II listed) to a visitors centre, proposals to create visitor parking at Lower Farm (also grade II listed) but not proposals to reinstate Small Meadows Farm.
32. The first 5 year phased working plan and detailed restoration plan, approved in 2017, shows the demolition of Small Meadows Farm and stopping up of Small Meadows Lane taking place in Phase 3 ¹. The revised plan shows Small Meadows near to a newly created lake which is to be dedicated to clean water angling, alongside a proposed cycle link and surrounded by meadow and dry woodland (see Plan 4).
33. The relevant planning policy considerations from a Mineral Planning Authority perspective are discussed below.

¹ Note: the quarry workings are ahead of schedule and the demolition of Small Meadows Farm commenced and soil stripping in phase 3 has been carried out. The next 5-year Progress Report is due to be submitted by in August 2019. However, to ensure compliance with an approved programme, the operator should submit the report sooner.

34. Policy 4 in the Minerals Local Plan requires proposals: to be informed by and sympathetic to landscape character; to conserve and enhance the natural environment and where possible enhance ecological networks and green infrastructure.
35. Policy 6 in the Minerals Local Plan states that overall the material planning benefits of the restoration proposals should outweigh the material planning objections.
36. Strategic Policy 8 in the East Staffordshire Local Plan states that development outside settlement boundaries must not adversely affect the amenities enjoyed by existing land users (or in this case future users of the land).
37. Strategic Policy 23 in the East Staffordshire Local Plan states that development that compromises the integrity of the green infrastructure framework should not be permitted. The Plan also supports the restoration and creation of new habitats within the Central Rivers Initiative area (Newbold Quarry lies within that area).
38. Strategic Policy 24 in the East Staffordshire Local Plan seeks to secure high quality design by supporting proposals that enhance the landscape and integrate with the environment.
39. The National Planning Policy Framework requires worked land to be reclaimed at the earliest opportunity and that high-quality restoration and aftercare takes place and to high environmental standards (ref. the NPPF (July 2018) paragraphs 204 (h) and 205 (e)).
40. The original Planning Committee report helpfully describes how the site is to be restored and the afteruse plans as follows:

“the south-eastern corner restored to semi-improved grassland and arable land. Within this area existing field hedgerow would be restored and extended. Five new lakes would be created for amenity, recreation and nature conservation uses. New woodland would be located between Small Meadows Lane and Newbold Manor Farm, East of Newbold Manor Farm and adjacent to Dunstall Road. Woodland would also be planted to extend and link existing areas of woodland. The proposals are proposed to provide a visual and physical connection to the surrounding landscape immediately surrounding the site. They would also provide new permissive footpaths and a Bridleway which would form a circular route around the restored extension site and existing quarry.” (ref. Planning Committee report - 5 September 2013 - paragraph 15)

“Hedgerow and extended areas of woodland would directly and indirectly replace hedgerow, hedgerow trees and woodland lost during the extraction phase. Improved grassland and arable land would replace the areas of best quality farmland lost during the extraction phase. The applicant contends that the restoration proposals would make a direct contribution to the aims of the National Forest and the Central Rivers Strategy.” (ref. Planning Committee report - 5 September 2013 - paragraph 16)

“The proposed after-use of the site would be centred on a visitor centre along with stables to be located at Newbold Manor Farm, aimed to complement the on-going phased restoration of the existing Newbold Quarry. The visitor

centre is designed and intended to take advantage of views across the amenity lakes and marina to the south and west and include facilities for visitors including a café / restaurant, information / exhibitions on the site, conference rooms, study areas for schools / holiday clubs, toilets and car parking. It is also intended to include bike hire and way-marked trails for walking and cycling, an adventure play area for children incorporating an animal farm and pony trekking centre. In addition, it is also intended to use an area of restored agricultural land to the east of the site for the production of energy crops, such as willow, with a biomass centre and plant to produce heat and energy for the visitor centre, An area of parkland is proposed to the west of the visitor centre adjacent to Barton under Needwood.” (ref. Planning Committee report - 5 September 2013 - paragraph 17)

41. Having regard to the above-mentioned policies and guidance and description of the restoration and afteruse strategy for the restored site, your officers agree with the Parish Council and local resident’s point of view that the proposed residential use would not be in keeping with the current high-quality restoration strategy for the site, namely wildlife, recreation and the peaceful enjoyment of the countryside. The applicant’s agent has confirmed that the proposed Small Meadows dwelling would not serve any agricultural need and it is considered that a residential use would not integrate with the new landscape or enhance the green infrastructure described above. In addition, there is the potential harm to the amenities of future users of the restored site, including anglers, walkers and cyclists. Overall therefore, the proposal is not compatible with the restoration plan and there are no material planning benefits to outweigh this material planning objection.
42. Policy 4 in the Minerals Local Plan and Detailed Policy 7 in the East Staffordshire Local Plan also requires the stability of land, land contamination and pollution to be taken into account.
43. From an examination of the approved plans your officer estimates that the depth of working in the vicinity of Small Meadows Farm would be about 5.2 metres (1.2 metres overburden + 4 metres of mineral). As the site is to be backfilled with inert waste an Environmental Permit is required from Environment Agency. The permit application (ref. EPR/GB3107HX/A001) refers to a total of 6,762,000 tonnes of inert waste materials at a rate of 600,000 tonnes per annum. The original Planning Committee report and the approved phasing plan indicate that about 2.5 million tonnes of sand and gravel would be extracted and about 528,700 cubic metres of backfill will be required to restore Phase 3 over 3 year period. Assuming 1 cubic metre is equivalent to 2 tonnes, it is estimated that about 1 million tonnes of waste is required to restore Phase 3.
44. Notwithstanding the above, the Environment Agency and the Borough Council’s Environment Protection Team have confirmed that they are satisfied that subject to appropriate measures being carried out under the environmental permitting regime e.g. the monitoring of the deposited waste, testing of the ground, landfill gas monitoring being installed and use of a raft as foundation for the house, then they have no objection to the proposed change.
45. When it comes to East Staffordshire Borough Council’s determination of the application before them to reinstate the house and one outbuilding, they will have to consider the afteruse of the land and address the following planning policy considerations:

- a) Would the policy on the replacement of dwellings in the countryside apply in this case? Some of the buildings have already been removed. The farmhouse is unoccupied and is in the process of being demolished (see Appendix 2: Photograph 2). Also, the land will shortly be worked for minerals and then restored with backfilled waste. How many years would it take before the land becomes available to build on and appropriate to occupy? The current quarry planning permission requires the site to be worked by the end of 2029 and restored by the end of 2031, followed by a 15-year period of aftercare (ref. Detailed Policy 4).
- b) Would the proposals represent sustainable development and integrate with the character of the new landscape (i.e. the approved restoration plan)? (ref. Strategic Policy 1).
- c) Would it be appropriate to permit a new dwelling in the open countryside and would it adversely affect the amenities enjoyed by future land users following restoration of the quarry? (ref. Strategic Policy 8).
- d) Would the proposed new dwelling be more intrusive in the landscape than that which it replaces? (ref. Detailed Policy 4).
- e) Would it be appropriate to permit the development on land backfilled with waste? The advice received from the Environment Agency and the Borough Council's Environmental Health Team referred to earlier would need to be taken into account (ref. Detailed Policy 7).
- f) Would the location of the house enhance or maintain the vitality of rural communities or as an isolated house in the countryside would it meet the tests in the National Planning Policy Framework (NPPF) (ref. the NPPF (July 2018) paragraphs 78 and 79)

Conclusion

46. Overall, as an exercise of judgement, taking the relevant development plan policies as a whole and having given consideration to the application, the supporting information, including the information subsequently received, the consultation responses, the representation and the other material considerations, all referred to above, it is reasonable to conclude that the proposal to amend the approved restoration plan to facilitate the reinstatement of a dwelling, outbuilding and access road at Small Meadows does not represent sustainable development as it would not be compatible with the approved plan to restore the surrounding land to agriculture, woodland and wetland for nature conservation, recreation and amenity uses, and there are no material planning benefits to outweigh this material planning objection. The application should therefore not be permitted.

RECOMMENDATION

REFUSE the application to vary (not to comply with) conditions 1, 39 and 40 of planning permission ref. ES.12/03/501 MW to amend the approved Restoration Plan to facilitate the reinstatement of a dwelling, outbuilding and access road at Small

Meadows, Newbold and Tucklesholme Quarry, near Barton under Needwood for the reasons stated in the report above and summarised below.

Having given careful consideration to the relevant development plan policies as a whole and to the application, the supporting information, including the information subsequently received, the consultation responses, the representation and the other material considerations, all referred to in the committee report, the application was **REFUSED** for the following reasons:

1. The proposed reinstatement of Small Meadows would not be compatible with the approved plan to restore the surrounding land to agriculture, woodland and wetland for nature conservation, recreation and amenity uses.
2. The proposed reinstatement of Small Meadows would not integrate with the new landscape or enhance the green infrastructure resulting from the restoration of the quarry.
3. The proposed reinstatement of Small Meadows would adversely affect the amenities enjoyed by future users of the land.
4. Overall it is considered that there are no material planning benefits to outweigh the material planning objections and as such the proposals do not represent sustainable development.

The policy references:

The [Staffordshire and Stoke on Trent Minerals Local Plan](#) (2015 - 2030) (adopted 16 February 2017):

- Policy 4: Minimising the impact of mineral development - the environmental considerations
- Policy 6: Restoration of Mineral Sites

The [East Staffordshire District Local Plan](#) (2012-2031) (adopted 15 October 2015)

- Strategic Policy 8 – Development Outside Settlement Boundaries;
- Strategic Policy 23 - Green Infrastructure;
- Strategic Policy 24 - High Quality Design;

The [National Planning Policy Framework](#) – updated 24 July 2018 (NPPF):

- Section 17: Facilitating the sustainable use of minerals (paragraphs 78 and 79)

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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, 1 Staffordshire Place, Stafford during normal office hours Monday to Thursday (8.30 am – 5.00 pm); Friday (8.30 am – 4.30 pm).

The development plan policies and the other material planning considerations relevant to this decision

[Staffordshire and Stoke on Trent Minerals Local Plan](#) (2015 - 2030)
(adopted 16 February 2017):

- Policy 4: Minimising the impact of mineral development - the environmental considerations
- Policy 6: Restoration of Mineral Sites

[East Staffordshire District Local Plan](#) (2012-2031) (adopted 15 October 2015)

- Principle 1 - Presumption in Favour of Sustainable Development;
- Strategic Policy 1 - Approach to Sustainable Development;
- Strategic Policy 8 – Development Outside Settlement Boundaries;
- Strategic Policy 23 - Green Infrastructure;
- Strategic Policy 24 - High Quality Design;
- Detailed Policy 1 - Design of New Development;
- Detailed Policy 4 – Replacement dwellings in the countryside; and,
- Detailed Policy 7 - Pollution and Contamination.

The other material planning considerations

- [National Planning Policy Framework](#) – updated 24 July 2018 (NPPF):
 - Section 1: Introduction
 - Section 2: Achieving sustainable development
 - Section 11: Making effective use of land
 - Section 12 Achieving well-designed places
 - Section 15: Conserving and enhancing the natural environment;
 - Section 17: Facilitating the sustainable use of minerals
- [Planning Practice Guidance](#)
 - [Design](#)
 - [Land affected by contamination](#)
 - [Land stability](#)
 - [Minerals](#)
 - [Natural environment](#)
 - [Open space, sports and recreation facilities, public rights of way and local green space](#)
 - [Waste](#)

[Return to Observation section of the report.](#)

Photograph 1 – Small Meadows Farm – setting (23/11/18)



Photograph 2 – Small Meadows Farm - building (23/11/18)



[Return to the Introduction section of the report](#)