

Local Member	
Mr. D. Smith	Lichfield Rural South

Planning Committee 6 February 2020

Minerals County Matter

Application No (District): [L.15/15/802 MW D1](#) (Lichfield)

Applicant: WCL Cranebrook Quarry Ltd

Description Request to be released from Restoration Guarantee Bond in accordance with paragraph 5 of Schedule 3 to the Section 106 legal agreement dated 6 February 2018 associated with permission L.15/15/802 MW

Location: Cranebrook Quarry, Watling Street, Muckley Corner.

Background / Introduction

1. In February 2018, planning permission was granted for an extension to Cranebrook Quarry (now referred to as Brownhills Quarry by the operator) which produces building sand. The permission relates to approximately 9 hectares (ha) of land although the extension only comprises of 4ha.
2. The permission requires the progressive restoration of the quarry which should be completed no later than 2 years after the cessation of quarrying in February 2033. The approved restoration concept for the quarry involves backfilling the quarry with imported inert construction, demolition and excavation wastes. It is intended to restore the quarry to grassland with biodiversity rich heathland and to create a water body to facilitate the future development of a canal marina (which would require separate planning permission from Lichfield District Council).
3. In accordance with policy 6 of the Minerals Local Plan, the operator was required to enter a Section 106 legal agreement (S106) to ensure that there is financial provision in place for restoration and aftercare works in the event that the developer went out of business. In this case, the operator was required to provide a bond arranged with a bank until access had been secured with a relevant trade association’s restoration guarantee fund.
4. This report relates to a request made by the quarry operator to agree to be released from the bond as the quarry operator has now joined a trade association and the site is therefore protected by the trade association’s restoration guarantee fund. This request has been made in accordance with the terms of the S106 and currently such matters can only be determined by the Planning Committee.

Summary of Proposal

5. The quarry operator currently provides a restoration bond with a bank in the sum of

£75,000 but under the terms of the S106, there is scope for the operator to satisfy the requirement for a restoration guarantee by becoming a member of a trade association and thereby benefitting from the association's restoration guarantee fund. In this case, the quarry operator is now a member of the Mineral Products Association and thus benefits from their Restoration Guarantee Fund. Consequently, the operator is now seeking confirmation from the County Council that the operator can be released from the obligation to hold the bond.

6. The operator's request is supported with a letter from the Mineral Products Association providing confirmation that the quarry operator is covered by their restoration guarantee fund.

Relevant Planning History

7. [L.15/15/802 MW](#) dated 13 February 2018 - Eastern extension of sand quarry with associated importation of inert materials for restoration purposes and the sustainable recycling of construction and demolition waste. The site will include a landform and water body which is designed to promote biodiversity under agricultural management and would allow its use in the future (subject to a separate planning application) as a marina with ancillary facilities linking into the regeneration of the Summerhill section of the Wyrley & Essington Canal.
8. A [Section 106 Legal Agreement](#) dated 6 February 2018 was completed prior to the grant of permission L.15/15/802 MW and this obliges the operator amongst other matters to ensure that the quarry has the benefit of a restoration guarantee fund.

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

9. The development plan policies, and the other material planning considerations, relevant to this decision are listed below.
 - [Staffordshire and Stoke on Trent Minerals Local Plan \(2015 - 2030\)](#) (adopted 16 February 2017)
 - Policy 6: Restoration of Mineral Sites
 - [National Planning Policy Framework](#) (updated February 2019):
 - [Section 17](#): Facilitating the sustainable use of minerals
 - [Planning Practice Guidance](#)
 - [Minerals](#)

Observations

10. Having given careful consideration to the operator's request and supporting information, including the relevant development plan policy and the other material considerations, referred to above, the key issue is considered to be:
 - Is the relevant fund sufficient to meet the cost of the Cranebrook quarry Restoration and 5-year Aftercare Scheme?

11. Policy 6.4 of the Minerals Local Plan requires that:

“In exceptional circumstances, developers will be required to demonstrate that adequate financial provision has been made to fulfil the restoration and aftercare requirements when proposals are submitted:

- a) for a new mineral site; or,
- b) to change the working, restoration and aftercare of an existing site, particularly when the proposals involve a change to the ownership or control of the site, or part thereof.

Adequate financial provision will also include the security of a Restoration Guarantee Bond or other financial guarantee to cover all or part of the restoration and aftercare costs.

12. Commentary: In support of the application L.15/15/802 M, the operator proposed to provide a restoration bond until membership had been secured with a relevant trade association’s restoration guarantee fund and an obligation was included in the S106 to confirm the arrangements for that bond and circumstances for an alternative bond to be agreed.
13. The initial bond is in the sum of £75,000 and is subject to review as quarrying progresses as it was assessed at the time of the application by the operator’s agent that a maximum restoration liability could amount to approximately £150,000. The Mineral Products Association’s [Restoration Guarantee Fund](#), in the event that the operator was to fail financially without meeting their restoration obligations, could pay for any such works to be carried out, up to a maximum of £0.5 million per individual claim and £1 million in total.
14. Planning Practice Guidance for [restoration and aftercare of mineral sites](#) (“When is a financial guarantee justified?”) states:
- “However, where an operator is contributing to an established mutual funding scheme, such as the Mineral Products Association Restoration Guarantee Fund or the British Aggregates Association Restoration Guarantee Fund, it should not be necessary for a minerals planning authority to seek a guarantee against possible financial failure, even in such exceptional circumstances.”
15. Commentary: The Mineral Products Association’s Restoration Guarantee Fund is clearly intended by Government to be accepted. The S106 obligates the operator to maintain membership, provide written proof that they are members and that the fund is sufficient and if membership lapses then they are obliged to provide a new Bond. Membership of the fund will be a matter for ongoing monitoring by your officers.

Conclusion

16. Having confirmed that the operator is a member of the Mineral Products Association and that the Mineral Products Association’s Restoration Guarantee Fund is sufficient to meet the cost of the Cranebrook Quarry Restoration and 5-year Aftercare Scheme; and, having regard to the submitted information and the development plan policies and other material considerations referred to above, it is reasonable to conclude that the operator can be released from the requirement to hold a

Restoration Guarantee Bond in accordance with paragraph 5 of Schedule 3 to the S106 and as a consequence, there is no need for the operator to submit Financial Statements relating to the cost of restoration and aftercare.

Recommendation

That the Planning, Policy and Development Control Manager be authorised to confirm in writing that:

- Staffordshire County Council is satisfied that the Mineral Products Association's Restoration Guarantee Fund is sufficient to meet the cost of the Cranebrook Quarry Restoration and 5 Year Aftercare Scheme and that the bond provided shall be discharged in accordance with paragraph 5 (i) of Schedule 3 of the Section 106 legal agreement dated 6 February 2018; and,
- the operator, while maintaining access to the Mineral Products Association's Restoration Guarantee Fund, is no longer required to submit Financial Statements under paragraph 2 of Schedule 3 of the same agreement.

Case Officer: Matthew Griffin Tel: (01785) 277275
email: mat.griffin@staffordshire.gov.uk

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).