

Local Member	
Councillor J. Jessel	Needwood Forest

**Planning Committee** 6 April 2023

**Minerals County Matter**

**Application No (District):** [SCC/23/0012/VOC](#) (East Staffordshire)

**Applicant:** Aggregate Industries UK Limited

**Description** Application not to comply with (to vary) conditions 5, 6 and 7 of planning permission ref [ES.21/01/501 MW](#) following the temporary 'trial' period to allow the concrete product factory to continue to operate on a 24/7 basis, to allow bulk tanker deliveries to continue on Sundays and to allow the associated mobile plant to continue to operate at night.

**Location:** Newbold Quarry, Concrete Products Factory, Barton under Needwood, DE13 8EG

**Background**

1. Planning permission was originally granted for the concrete products factory at Newbold Quarry in 1998. Permissions were subsequently granted to link the life of the factory, to the extended quarry operations and to increase the weekday operating hours to 24 hours.
2. In December 2021, the Planning Committee approved an application for a 12-month trial period when the factory could also operate 24 hours at weekends. During the trial period, noise monitoring was required to take place in accordance with a previously approved revised noise monitoring scheme (see [2 December 2021 Planning Committee report and minutes \(agenda item 14\)](#)).

**Site and Surroundings**

3. Newbold Quarry and the Concrete Products Factory are approximately 4 kilometres to the south-west of Burton upon Trent; to the south of Tatenhill village; to the west of the Branston Water Park, the A38, the Branston Industrial Estate and the Trent and Mersey Canal; and to the north-east of the village of Barton under Needwood. Access to the factory is via the existing quarry access off the Barton Turn junction of the A38 trunk road (see Planning Committee Report - Plan 1).

4. The nearest residential properties are about 270 metres to the south-east of the factory on Lichfield Road (A38).

## **Summary of Proposals**

5. Following the temporary 'trial' period which commenced on 28 March 2022, and following the approval of a revised Noise Monitoring Scheme, this application is seeking to allow the factory to continue to operate on a 24/7 basis at weekends, to allow bulk tanker deliveries to continue on Sundays and to allow the associated mobile plant to continue to operate at night.
6. The application is accompanied by a Planning and Mineral Development Statement and appended reports of the noise monitoring results (6).

## **The Applicant's Case**

7. Previously the applicant explained that an increase in demand for concrete products in the local market has led to a need for the factory to both maximise its productivity and increase its efficiency. The permitted working hours for the factory limited the level of productivity and the downtime at weekends affected the site's efficiency as plant and machinery within the factory had to be shut down on Saturdays and then re-started on Mondays.
8. In November 2022, prior to submitting this application, the proposal to make the hours permanent was discussed with the Newbold Quarry Liaison Committee which includes representatives from the Parish Council, the Borough Council, and the County Council.
9. The applicant contends that the noise monitoring results during the trial period have shown that the site can operate without generating a significant level of noise and furthermore no complaints were made by local residents.
10. During the trial period, the factory operated on a 24/7 basis and was able to create a 4th shift which employed an additional 7 staff. If permission is granted for the factory to continue to operate 24 hours, seven days per week, this 4th shift would be retained and would provide employment for the 7 additional staff.
11. No change is proposed to condition 20 of the permission which requires all buildings, structures, equipment, plant, stockpiles and hard standing to be removed from the site no later than 31 December 2030, or within 12 months of the cessation of mineral extraction at Newbold Quarry, whichever is the sooner.

## **Relevant Planning History**

12. See [Appendix 1](#) for details of the relevant planning history.

## **Environmental Impact Assessment (EIA)**

13. 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**

14. **Highways Development Control** (on behalf of the Highways Authority) (HA) – no objections subject to the relevant conditions being imposed on the new permission.
15. **Planning Regulation** - no response.

### **External**

16. **East Staffordshire Borough Council (Planning)** - no objections and commented that the relevant considerations in respect of highway safety, residential and visual amenities and biodiversity are addressed.
17. **East Staffordshire Borough Council (Environmental Health)** - no objections and commented they have no record of nuisance complaints during the trial period or within the 7 years prior to that period and they are satisfied with the results of the monitoring period demonstrate that the background noise is dominated by the A38 road noise.
18. **Barton Parish Council** – objections and commented as follows:
- Although we are not as yet aware of any problems arising from the current temporary 24-hour permission we are concerned about the proposal to make this permanent.
  - Our concern is that with no time limit on the factory operation we could arrive at a situation where the quarry is worked out and the establishment continues to be used 24 hours a day for processing material from elsewhere brought in by road.
  - We suggest a limit of 3 years. We would also like reassurance that the operation of this plant will cease when the quarry is worked out.
19. **Draycott in the Clay Parish Council** – no objection.
20. **Dunstall Parish Council** - no response.

## **Publicity and Representations**

21. Site notice: YES      Press notice: YES
22. The 35 neighbours who were previously notified (including the 7 that made representations) were sent neighbour notification letters and no representations have been received.
23. County Councillor Jessel has received no complaints about noise or nuisance.

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

24. National Planning Practice Guidance – Determining planning application - [How must decisions on applications for planning permission be made?](#) explains that:

‘To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at [paragraph 11 \[not 14 as stated\] of the \[National Planning Policy\] Framework](#). If decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.’
25. [Appendix 2](#) lists the development plan policies (and proposals) and the other material planning considerations, relevant to this decision.

## **Observations**

26. Having given careful consideration to the application and supporting information, including the information subsequently received, the consultee comments, the relevant development plan policies, and the other material considerations, referred to above, the key issues are considered to be:
  - Any material changes to the development plan policies and other material considerations (including the site and the surroundings).
  - The matters raised by the Parish Council.
  - The need to review and update the planning conditions.

### **Any material changes to the development plan policies and other material considerations (including the site and the surroundings)**

27. When determining an application to vary a planning permission, national planning guidance [refer to [Annex A: summary comparison table of 'Flexible options for planning permissions'](#)] advises that local planning authorities should focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission.
28. Commentary: No material changes have taken place to the development plan, the site or the surroundings since the previous application was considered except for an application to extend the quarry which was received in May 2022 (ref. [SCC/22/0068/FULL-ES](#)). That application has not yet been determined. It is relevant to note that the application does not propose to extend the period of mineral extraction at the quarry beyond the current permitted end date of 30 December 2030 (for more details see [Appendix 1](#)).
29. Conclusion: Having regard to the relevant development planning policy and other material considerations referred to above, it is reasonable to conclude that the only significant material change since the previous application was determined in 2021 is the submission of the application to extend the quarry. However, it is relevant to note that the application does not propose to extend the period of mineral extraction.

### **The matters raised by the Parish Council**

30. As explained earlier, Barton under Needwood Parish Council have objected to the application and asked that an extension to the hours should only be permitted for 3 years and asked for an assurance that the factory will cease to operate when the quarry is worked out.
31. The Parish Council's concerns were sent to the applicant's agent who has commented as follows:
  - No objections have been received from East Staffordshire Borough Council's Environmental Health Officer who commented that they have received no complaints in the 7-year preceding the trial period or during the trial period.
  - The approved noise monitoring scheme includes provisions in the event that complaints are made to ensure that they are investigated, and action taken.
  - The site is certified to the Environmental Management System BS 14001, which requires that (environmental) complaints are dealt with in a timely and efficient manner and are documented so that lessons can

be learnt for the future.

- It is not reasonable or necessary to limit the duration of 24/7 working to a 3-year period and the applicant therefore wishes to retain the proposed end date of 31 December 2030.

32. Commentary: The factory already operates 24 hours on weekdays. The previous permission allowed a trial period during which noise monitoring should be carried out. The trial period noise monitoring results, and consultation responses described above have demonstrated that the factory can operate without complaint and within the permitted noise limits on Saturdays and Sundays. No representations have been received from local residents.
33. The current permission includes conditions to require the factory site to be cleared and the land restored in accordance with the restoration and aftercare scheme for the wider quarry site.
34. Conclusion: Having regard to the material considerations described above it is considered unreasonable or not necessary to limit the extension to the 24-hour working to 3 years. It is recommended that the existing conditions to require the factory site to be restored on cessation of mineral working are retained.

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

35. The NPPF ([Section 4](#), paragraph 55) states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through conditions. Paragraph 56 of the NPPF explains that:

‘Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects’.
36. The Vision, Strategic Objective 3 and Policy 4 of the MLP seek to ensure that mineral sites operate to high environmental standards and seek to minimise the impact of mineral development on people, local communities and the environment.
37. The Planning Practice Guidance explains that:

‘To assist with clarity decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged’ (Planning Practice Guidance, Flexible options for planning permissions; How can a proposal that has planning permission be



amended?, What is the effect of a grant of permission?  
paragraph 015).

38. The Planning Practice Guidance also explains that:

‘In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission’ ([Planning Practice Guidance, Use of planning conditions, The use of pre-commencement conditions](#), How are conditions treated under section 73? paragraph: 040).

39. Commentary: In this case, the most recent planning permission was issued in 2022. Having regard to the above guidance, most of the conditions remain relevant and up to date as they take account of the current policies and approved details. However, in order to take account of the proposed variations and the recommended conditions, it is considered reasonable and necessary to update the conditions as follows:

- Condition 1 (Definition of the Consent) updated to refer to the approved revised Noise Monitoring Scheme and the documents submitted with this application.
- Conditions 5, 6 and 7 (Operating Hours) updated to refer to the extended factory operating hours, the extended times and limited number of HGV (bulk tanker) deliveries, and the extended times when mobile plant can be used outside.
- Condition 13 to refer to the revised Noise Monitoring Scheme.

And to update the conditions where appropriate to remove reference to the trial period.

40. Conclusion: Having regard to the policies and guidance referred to above, it is concluded that it is reasonable and necessary to recommend the updates to the existing conditions referred to above and below.

## **Overall Conclusion**

41. Overall, as an exercise of judgement, taking the relevant up-to-date development plan policies as a whole and having given consideration to application, the supporting information, including the information subsequently received, the consultee comments and the other material considerations, all referred to above, it is reasonable to conclude that the proposed development accords with the development plan and as such represents sustainable development, and there are no clear and convincing reasons to indicate that the application for planning permission should not be

## Recommendation

Permit the application not to comply with (to vary) conditions 5, 6 and 7 of planning permission ref ES.21/01/501 MW following the temporary 'trial' period to allow the concrete product factory to continue to operate on a 24/7 basis, to allow bulk tanker deliveries to continue on Sundays and to allow the associated mobile plant to continue to operate at night, subject to conditions.

**The conditions** to include the following:

**Condition 1 (Definition of the Consent)** updated to refer to the latest approved details and this application.

**Conditions 5, 6 and 7 (Operating Hours)** updated to refer to the extended factory operating hours, the extended times and limited number of HGV (bulk tanker) deliveries, and the extended times when mobile plant can be used outside:

- a) Condition 5 - the factory operating hours:

24 hours per day - **7 days per week**

- b) Condition 6 - the extended lorry movement hours:

7am to 7pm Monday to Friday and 7am to 1pm on Saturdays, and up to 3 bulk tanker vehicles to enter the site (6 movements) on Sundays and Public/Bank Holidays between 8am and 1pm

- c) Condition 7 - the extended times when mobile plant is limited to two items operating outside (typically a forklift truck and a loading shovel)

7pm to 7am - **7 days per week**

**Condition 13 (Noise Monitoring)** updated to refer to the approved revised Noise Monitoring Scheme

Also, to remove reference to the trial period where applicable.

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The list of background papers for this report is available on request by email sent to <a href="mailto:planning@staffordshire.gov.uk">planning@staffordshire.gov.uk</a> .
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## Appendix 1: Relevant Planning History

- [SCC/22/0030/DA](#) dated 19 April 2022 - acknowledgement of information



required by condition – to discharge Condition 2 of planning permission ES.21/01/501 MW - notification of commencement of 12-month trial of additional hours from 28 March 2022.

- [SCC/22/0007/DA](#) dated 15 March 2022 - approval of details in compliance with Condition 13 (revised Noise Monitoring Scheme) of planning permission ES.21/01/501 MW.
- [ES.21/01/501 MW](#) dated 2 December 2021- to allow the concrete product factory and associated mobile plant to operate on a 24/7 basis and to extend the hours during which HGVs can access the concrete product factory for a temporary 12 month 'trial' period.
- [SCC/22/0068/FULL-ES](#) application received as valid on 18 May 2022 for a northern extension to Newbold Quarry for winning and working of sand and gravel with restoration to water-based recreation and nature conservation using imported inert material with the continued use of existing access, site offices, processing plant, silt lagoons and ancillary infrastructure (not yet determined).
- [ES.20/06/501 MW](#) dated 17 February 2022 - permission to vary (not to comply with) conditions 8 and 17 of planning permission ES.20/03/501 MW to facilitate an increase in the site's output from 1 million tonnes to 1.4 million tonnes per year by extending the hours of operation for mineral extraction and processing from 1900 to 2200 Monday to Friday, extending the hours for the maintenance of processing plant from 0600 to 2000 Monday to Saturday to 24 hours/day Monday to Saturday and permitting up to 5 lorries associated with the on-site mineral operations to enter the site and park overnight after 1900 Monday to Friday and after 1600 on Saturdays.
- [ES.20/03/501 MW](#) dated 20 October 2020 – (the most recent quarry planning permission) - planning permission to amend the approved Restoration Plan to facilitate the change of use of land from agricultural to equestrian uses and the erection of a barn.
- [ES.17/13/501 MW](#) dated 22 June 2018 - permission to amend the hours of the concrete products operation (to reinstate the hours permitted in 1999).
- [ES.16/23/501 MW](#) dated 10 February 2017 – permission to retain concrete product operation for the duration of permitted mineral extraction.
- [ES.12/03/501 MW](#) dated 22 August 2014 – (the original extension planning permission) - 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).

- The [Section 106 Legal Agreement](#) dated 15 August 2014 includes planning obligations related to: vehicle routing (all HGV traffic leaving the site to use the A38 other than for local deliveries); extended aftercare (and additional 10 years); the periodic review of the restoration plan (every 5 years); and the establishment and terms of reference for the quarry liaison committee.
- [ES.18136/06](#) dated 19 October 1999 – planning permission to amend the hours of the concrete products operation.
- [ES.18136/03](#) dated 19 September 1999 - planning permission to increase the height of stockpiles.
- [ES.18136/01](#) dated 16 November 1998 - planning permission - industrial development for the manufacture of pre-cast concrete.

**[Return to Relevant Planning History section of the report.](#)**

## **Appendix 2 The development plan policies (and proposals) and the other material planning considerations, relevant to this decision**

### **The development plan policies and proposals**

[The Minerals Local Plan for Staffordshire \(2015 - 2030\)](#)

(adopted 16 February 2017)

- Strategic Objective 3 – Operating to high environmental standards
- Policy 4: Minimising the impact of mineral development
- Policy 4.6: Ancillary development

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

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

- Principle 1 - Presumption in Favour of Sustainable Development
- Strategic Policy SP1 - Approach to Sustainable Development
- Strategic Policy SP24 - High quality design
- Strategic Policy SP34 - Health and wellbeing
- Strategic Policy SP35 - Accessibility and sustainable transport
- Detailed Policy DP1 - Design

- Detailed Policy DP7 - Pollution and contamination

### **The other material planning considerations**

- [National Planning Policy Framework](#) (updated 20 July 2021):
  - [Section 1](#): Introduction
  - [Section 2](#): Achieving sustainable development
  - [Section 4](#): Decision-making
  - [Section 9](#): Promoting sustainable transport
  - [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

The [NPPF is under review](#). The consultation period ended on until [2 March 2023](#). None of the [proposed tracked changes](#) are relevant to this case.

- [Planning Practice Guidance](#)
  - [Design](#)
  - [Environmental Impact Assessment](#)
  - [Health and wellbeing](#)
  - [Minerals](#)
  - [Natural environment](#)
  - [Noise](#)
  - [Use of planning conditions](#)

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