

**OS Parcels 0069 4900 7761 7980 7600 0003 And
3100 North East Of Dewars Farm And East
Ardley Road, Middleton Stoney**

18/01610/CM

Applicant: Smith And Sons (Bletchington) Ltd

Proposal: Section 73 application for the continuation of development permitted under 15/01660/CM (MW.0123/15) (for the winning and working of limestone and clay at Dewars Farm as an extension to Ardley Quarry) without complying with conditions 1 and 2, to allow the quarry to continue operating beyond 2020, to permit working until 2028 and restoration by 2029

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

Reason for Referral: *County Matter application relating to a Major Development*

Expiry Date: 8 October 2018 **Committee Date:** 25 October 2018

Recommendation: That Oxfordshire County Council is advised that Cherwell District Council raise no objection to the proposal

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

The application relates to Ardley Quarry, south of the village of Ardley, north of the village of Middleton Stoney and adjacent to the Ardley Incinerator. The site is in close proximity to two public rights of way, and the site forms a part of the Ardley Trackways SSSI.

Ardley Quarry originally gained planning permission for an extension to the quarry for the winning and working of limestone and clay during 2003 following an appeal against the refusal of planning permission. Conditions 1 and 2 were imposed at that time requiring the development to cease by 31 December 2020 and requiring all buildings, plant and equipment to be removed and the restorations complete by 31 December 2021.

Based on the known outstanding reserves and anticipated rate of production and sale, the applicant anticipates that the material would take 10 years to work out.

An extension to the end date for the development is therefore sought in order to ensure that the extraction of material is maximised. The suggested dates are 31 December 2028 for the development to cease, and 31 December 2029 for the buildings, plant and equipment to be removed and restorations complete.

Consultations

As Cherwell District Council is a consultee only, the application has not been publicised. However, internal consultations have been sought from the Environmental Protection Officer with regard to environmental pollution, and the Landscape Officer with regard to visual impact.

Oxfordshire County Council will undertake other relevant consultations.

Planning Policy

The application has been assessed against the relevant policies in the NPPF, the relevant PPG, the adopted Local Plan, and saved Policies from the Cherwell Local Plan 1996.

Conclusion

The key issues on which this application should be assessed are visual impact and environmental pollution.

The report looks into the key planning issues in detail and Officers have concluded that the proposals are acceptable, and that Cherwell District Council should raise no objection to the proposal.

RECOMMENDATION - THAT OXFORDSHIRE COUNTY COUNCIL IS ADVISED THAT CHERWELL DISTRICT COUNCIL RAISE NO OBJECTION TO THE PROPOSAL.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to Ardley Quarry, an existing site for the winning and working of limestone and clay at Dewars Farm. The quarry is positioned to the south of the village of Ardley and to the north of the village of Middleton Stoney. The Ardley Incinerator is directly adjacent to the site to the north. Vehicular access to the site is from the B430. A public footpath runs alongside the south-eastern boundary.
- 1.2. The site also forms part of the Ardley Trackways Site of Special Scientific Interest (SSSI) as it contains white limestone that has revealed the presence of fossilised dinosaur trackways.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application seeks to vary Conditions 1 and 2 that were originally imposed as part of the 2003 permission, although have now been transferred onto the latest permission District Reference: 15/01660/CM County Reference: MW.0123/15 following amendments to the original 2003 permission that have previously been approved. Conditions 1 and 2 relate to the end date of development on site and the date by which the land shall be restored. More specifically, Condition 1 requires the development to cease no later than 31 December 2020, and Condition 2 requires all buildings, plant and equipment to be removed and the restorations completed by 31 December 2021.
- 2.2. The applicant has indicated that due to a slowdown in construction during the recession, output at Dewars Farm decreased from 250,000 tonnes per annum to 100,000 tonnes per annum between 2009 and 2013. Based on the known outstanding reserves and anticipated rate of production and sale, it is anticipated that at the current rate of production (around 250,000 tonnes per annum) the permitted reserve would take 10 years in which to work out.

- 2.3. The extension to the end date for the development is therefore sought by the applicant in order to ensure that the mineral is not sterilised. The applicant anticipates that the mineral should be worked out by 2028 and therefore suggests that Conditions 1 and 2 are amended to require the development to cease no later than 31 December 2028, and for the buildings, plant and equipment to be removed and restorations completed by 31 December 2029.
- 2.4. The site would continue to operate in accordance with all other planning conditions, including those relating to operating times, the use of vehicles, plant and machinery silencers, noise levels, dust suppression, archaeology, avoidance of White Limestone, restricted hours for blasting and drilling, ground vibration, surface water management, the protection of a buffer strip alongside Gagle Brook, and the public footpath and public bridleway, the storage of top soil, wheel washing, maintenance of the internal roads, signage at the site entrance, avoidance of the kerb alongside the B430, aftercare scheme, trees and biodiversity.

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
03/00272/CM	Extension to Ardley Quarry and winning and working of limestone and clay	No Objections – Application refused – Appeal Allowed
06/00381/CM	Continued development permitted under 03/00272/CM and APP/U3100/A/03/1129819 to allow winning and working of limestone and clay at Dewars Farm, Middleton Stoney as an extension to Ardley Quarry without complying with condition 23 (to prepare site for working before North Quarry, Ardley closes).	No Objections
09/00431/CM	For the continuation of the development permitted under the permission 06/00381/CM dated 13 April 2006 (for the continuation of the development permitted under permission APP/U3100/A/03/1129819 (and 03/0272/CM) for the winning and working of limestone and clay at Dewars Farm as an extension to Ardley Quarry without complying with condition 23 (to prepare the site for work before Ardley Quarry closes)), without complying with the requirements of Conditions No 21 and 22 (to allow extraction of mineral prior to completion of highway works).	No Objections
14/01202/CM	Continuation of the development permitted under 06/00381/CM for the winning and working of limestone and clay at Dewars farm as an extension to Ardley Quarry without complying with condition 4, to allow the quarry phasing plans to be amended to show a proposed storage area for	No Objections

incinerator bottom ash aggregate (IBAA)
within phase 2.

15/01660/CM Removal of Condition No. 3 of 14/01201/CM No Objections
to allow the removal of an Oak tree within
Phase 4

- 3.2. The planning history indicates that planning permission for the extension to Ardley Quarry was first approved during 2003 when it was allowed at appeal following the refusal to grant planning permission by Oxfordshire County Council. Conditions 1 and 2 were originally imposed by the Inspector as part of the Appeal decision and have been re-imposed following each of the subsequent amendments to the original permission.
- 3.3. Cherwell District Council had raised no objection to the original application ref: 03/00272/CM subject to the following:
- a) The County Council being satisfied that there is a need for the materials and that demand cannot be met from identified areas.
 - b) An archaeological field evaluation being carried out.
 - c) Submission of a Method Statement to address the potential for dinosaur trackways to be within the application site and to ensure their protection and recording.
 - d) An aftercare agreement to ensure appropriate restoration within an appropriate timescale and to ensure implementation of the after-use.
 - e) Appropriate conditions addressing timescale and phasing, restoration, hours of working, control of dust, noise and blasting, landscaping, footpath protection and access arrangements.
 - f) A routeing agreement and signage for HGV's servicing the site to avoid traffic flowing through Middleton Stoney and Weston on the Green villages.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

- 5.1. Cherwell District Council is a consultee only.

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.
- 6.2. CDC ENVIRONMENTAL PROTECTION: have no comments to make on the application.
- 6.3. CDC LANDSCAPE OFFICER: raises concern with regard to the approved restoration scheme, as the visual receptors to the public rights of way would benefit from an intervening landscape structure of native trees and hedgerow of the quarry's south-east and east boundaries. The restoration scheme does not include details of maintenance, proposed species, sizes or planting densities.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- ENV1 – Environmental pollution
- C28 – Layout, design and external appearance of new development

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8. APPRAISAL

- 8.1. The key issue for consideration in this case is the impact upon the interests of the Cherwell District.
- 8.2. The application seeks to extend the operational life of the existing quarry in order to ensure that the limestone and clay can be fully extracted, and to avoid the material becoming sterilised. Government guidance indicates that since minerals are a non-renewable resource, they should be safeguarded in order to ensure that non-mineral development does not needlessly prevent the future extraction of mineral resources. The unnecessary sterilisation of minerals should be prevented (Planning Practice Guidance: Minerals).
- 8.3. The NPPF advises that great weight should be given to the benefits of mineral extraction, including to the economy. In determining planning applications, minerals planning authorities should recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the duration of planning permissions reflecting the intermittent or low rate of working at many sites (Para. 205 (g))
- 8.4. It is therefore considered that the applicant’s desire for flexibility in their permission in order to avoid sterilisation should be viewed positively, in accordance with the NPPF and the relevant sections of the PPG.
- 8.5. Government guidance contained within the NPPF requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive, sympathetic to local character and history, and establish or maintain a strong sense of place.

- 8.6. Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 requires development to complement and enhance the character of its context through sensitive siting, layout and high quality design. Saved Policy C28 of the Cherwell Local Plan 1996 seeks development that is sympathetic to the character of its context. Policy ESD13 of The Cherwell Local Plan 2011-2031 Part 1 expects development to respect and enhance local landscape character.
- 8.7. Clearly there would be a delay in the ultimate restoration of the site as a result of an extension to the end date for the development. As a result, the restoration and enhancement of the local landscape would be delayed and the development would continue to impact upon the visual amenities of the area for an additional 9 years. However, whilst delayed, the restoration of the site would continue to be a requirement of the permission and would be secured via a planning condition.
- 8.8. It is therefore considered that as the visual impact of the proposal would only be temporary, and given that great weight must be given to the benefits of mineral extraction, this temporary harm is outweighed by the benefits of the scheme.
- 8.9. The Landscape Officer has raised concern with regard to the adequacy and detail contained within the approved restoration plan, although as this is not proposed for amendment, and it already benefits from consent, it is not considered reasonable to object to the current proposal on this ground.
- 8.10. Saved Policy ENV1 of the Cherwell Local Plan 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution, including that caused by traffic generation.
- 8.11. The Environmental Protection Team did not wish to comment on the scheme, and has confirmed that they have received no complaints regarding the site. As previously stated, conditions relating to the prevention of dust, noise, cleanliness and disturbance would continue to apply. Officers do not consider that significant harm to the environment or living amenities would result from the extended lifetime.
- 8.12. The development is considered to accord with Government guidance contained within the NPPF and PPG, Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies C28 and ENV1 of the Cherwell Local Plan 1996.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The principle of the proposed variation of Conditions 1 and 2, in order to extend the end date for the quarry from 31 December 2020 to 31 December 2028, and for the restoration of the site from 31 December 2021 to 31 December 2029, is considered acceptable.
- 9.2. The working of the site has already been accepted and established, and Government guidance encourages flexibility with time limits and the prevention of sterilisation of mineral deposits. Whilst it is acknowledged that there will be temporary harm to the visual amenities of the area as a result of the delay, the ultimate restoration of the site would be secured via condition to be completed by 31 December 2029. In addition, the extended end dates are not considered to cause harm to the living amenities currently enjoyed by those living in close proximity to, or travelling near to the quarry.

10. RECOMMENDATION

That Oxfordshire County Council is advised that Cherwell District Council raises no objection to the proposal.

The reasons for reaching this conclusion are summarised below:

- Government guidance contained within the NPPF and PPG attaches great weight to the benefits of mineral extraction and encourage flexibility with timings in order to prevent minerals from becoming sterilised.
- Whilst the temporary harm to the visual amenities of the area would be extended, the ultimate restoration of the site would continue to be secured via planning condition.
- The Environmental Protection Team has no comments to make regarding the scheme and the impact upon environmental pollution and residential amenity is therefore considered acceptable. Previous planning conditions relating to the prevention of environmental pollution would continue to apply.

Officers have considered the overall benefits of the proposals against the harm having regard to the development plan and other material considerations and have concluded that the proposal can be supported, and that Cherwell District Council should therefore raise no objection to the development.

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