



Regulatory Committee

Minutes of the meeting held at County Hall, Colliton Park,
Dorchester, DT1 1XJ on Thursday, 22 March 2018

Present:

David Jones (Chairman)
Jon Andrews, Shane Bartlett, Kevin Brookes, Ray Bryan, Jean Dunseith, Beryl Ezzard,
Katharine Garcia, Nick Ireland, Jon Orrell and Margaret Phipps.

Officer Attending: Maxine Bodell (Economy, Planning and Transport Services Manager), Phil Crowther (Solicitor), Mike Garrity (County Planning, Minerals and Waste Team Leader), Andrew Helmore (Principal Planning Officer), Huw Williams (Principal Planning Officer) and Lee Gallagher (Democratic Services Manager).

(Notes: These minutes have been prepared by officers as a record of the meeting and of any decisions reached. They are to be considered and confirmed at the next meeting of the Regulatory Committee to be held on **Thursday, 3 May 2018.**)

Apologies for Absence

15 Apologies for absence were received from Councillors Keith Day, Mary Penfold and David Shortell.

Code of Conduct

16 There were no declarations by members of disclosable pecuniary interests under the Code of Conduct.

With reference to minute 20, a general declaration was made by Cllrs Dunseith, Garcia, Brooks and Bryan and Ezzard that they would not take part in the debate or vote as they were unable to attend the site visit. In addition, Cllr Ireland declared that although he was the local member for the item he had not taken a position on the application and would continue to take part in the debate and vote.

Minutes

17 The minutes of the meeting held on 1 February 2018 were confirmed and signed.

Public Participation

18 Public Speaking

There were no public questions received at the meeting in accordance with Standing Order 21(1).

There were seven public statements received at the meeting in accordance with Standing Order 21(2). One statement related to land east of Binnegar Lane and south of Puddletown Road through to land rear of Binnegar Hall, Binnegar (minute 19) and six statements related to Woodsford Farm, Woodsford, Dorchester (Minute 20). Summaries of the statements are attached to these minutes as an annexure and are also referenced at minute numbers 19 and 20.

Petitions

There were no petitions received at the meeting in accordance with the County Council's Petition Scheme.

Application Nos 6/2017/0685 and 6/2017/0687 - Land East of Binnegar Lane and South of Puddletown Road through to land rear of Binnegar Hall, Binnegar, East Stoke, Wareham, Dorset BH20 6AX

- 19 The Committee considered a report by the Head of Planning regarding applications which proposed changes to the Raymond Brown Sand and Gravel operations at Binnegar Quarry.

A detailed overview, and presentation, were provided in respect of the proposal to relocate both the processing plant and silt lagoons from the north side of Puddletown Road to the south side. The impacts would be that dumpers would no longer need to cross the road, and that HGV delivery vehicles would access the site on the south side of the road rather than the north side as at present. The application also proposed revised restoration levels in area "B1" for the silt lagoons, which would be "capped" and restored to original ground levels. It was clarified that the application was supported by an Environmental Statement and no changes to the amount, duration, or extent of the extraction operations were proposed. An extensive summary (including plans and photographs of the site, the relocated plant, battery bank and phasing of restoration to include a mix of biodiversity including dry humid and wet heathland) was provided.

The citing of the plant was explained as it would be at a low elevation below the rim of the extracted area at 'B2', and would be screened, which would minimise any visual or noise intrusion for local residents and the public. Officers explained that the proposed restoration would bring improvements in providing ground levels close to existing levels rather than the currently approved bowl shape and improvements to the setting of the battery bank. Historic England identified short-term harm to the setting of battery bank but considered this would be outweighed by the long-term improvement.

A description of the operational benefits was also provided which would improve highway safety by removing dumpers crossing Puddletown Road; introduce a legal agreement for the integrated management plan arrangements, specifically regarding restoration; landscape benefits to improve the long-term setting of the battery bank supported by Historic England; and common land improvements post restoration.

One public statement was received at the meeting from Mr Rob Westelon behalf of the applicant, in relation to the application in accordance with Standing Order 21(2). A summary of the statement is attached to these minutes as an annexure.

As a neighbouring local member to the area being considered, Cllr Beryl Ezzard asked about any impact of HGV use of the site, to which it was confirmed that there were no highway liaison officer objections and given that there would be no dumpers using the road this would result in a big highway improvement. She also asked about consultation with Arne Parish Council, to which it was confirmed that consultation had been undertaken and the report should have stated that no response was received.

The use of imported inert waste was discussed by the Committee, with questions asked about the definition of what waste would be used for restoration. It was explained that the waste would consist of largely construction and demolition waste including materials from site preparations. The waste would not normally go to landfill and would not comprise domestic waste. The use of inert waste was covered by an Environment Agency (EA) Site Licence, the principle was established in the original site consent, and the EA would provide advice and checking of records. A request was made for the EA to provide more information about procedures to the Committee in due course, however, as this was not a material consideration for the applications it would be addressed outside of the meeting.

Clarification was provided regarding the locations of nearby residential properties which were more than 200m from the proposed plant compound. There were no envisaged noise issues raised within the noise assessment, which would be no more than the existing noise from operations that had already been previously consented.

A concern was expressed that no response had been received from Natural England in respect of heathland mitigation as part of the restoration arrangements, and that there should be at the very least a response to say that no concerns were raised. It was confirmed by officers that the Natural Environment Team had discussed the applications with Natural England but as Natural England was content with the Natural Environment Team's response no formal response from Natural England was received. The process for responses was not a material consideration for the applications, but would be considered outside of the meeting.

In respect of the legal obligations and agreement for the restoration and long-term management of the site and aftercare, information about contingency arrangements was requested, to which it was confirmed that the operators were members of the Mineral Products Association which provided a restoration fall-back position. The future management of the site would also be effectively secured through a legal agreement which would tie present operators and any future owners to the agreement for 25 years after extraction had ceased.

Following debate, the recommendation in the report were proposed by Cllr Beryl Ezzard and seconded by Cllr Nick Ireland. On being put to the vote the recommendation was agreed.

Resolved

That planning permissions 6/2017/0685 and 6/2017/0687, be granted subject to the completion of a legal agreement, the heads of terms of which are set out in paragraph 8.2 of the Service Director's report; and the conditions set out in the condition schedules found in paragraphs 8.3 and 8.4 of the report.

Reasons for Decisions

The reasons for granting planning permission are summarised in paragraphs 6.32 of the report.

Attendance

At this point in the meeting Cllrs Brooks, Bryan, Dunseith and Ezzard left the meeting. Cllr Garcia remained but took no part in the debate and did not vote.

Application Nos WD/D/15/001057 and 1/E/2005/0742/AuC - Woodsford Farm, Woodsford, Dorchester

20 *(Note: With reference to minute 16, a general declaration was made by Cllrs Dunseith, Garcia, Brooks and Bryan and Ezzard that they would not take part in the debate or vote as they were unable to attend the site visit. In addition, Cllr Ireland declared that although he was the local member for the item he had not taken a position on the application and would continue to take part in the debate and vote.)*

The Committee considered a report by the Service Director – Economy, in relation to an application for planning permission and an application for approval under planning conditions. Application WD/D/15/001057 was previously discussed at the Regulatory Committee meeting held on 27th October 2016 with a decision on the application being deferred. Application 1/E/2005/0742/AuC was received in May 2017. A Committee site visit was undertaken on the 28th September 2017 (attended by Councillors Jones, Andrews, Bartlett, Ireland, Phipps, Orrell and Penfold).

It was acknowledged that there had been additional correspondence from the applicant's heritage advisor, further representations and Parish Council correspondence. An update sheet was provided for the meeting which summarised late representations received, and is attached to these minutes as an annexure.

The Principal Planning Officer provided an extensive overview and presentation of the applications (including plans and photographs), which included site context in respect of previous permissions and operation on site from 2009. He explained that due to the interrelationship between the applications they were being reported together. An overview of the applications was provided including arrangements for a Bagging Plant, proposed silt lagoon extension, landscaping including bunding, mitigations for sound and visual impact, together with a summary of the boundaries and local area including the road access, cycle network, footpaths, residential properties and the Woodford Castle, farm and nearby cottages. Officers also explained the amendments to the application made since the site visit.

A description of the on-site operations including extraction, silt lagoons, water management, stockpiles, and the phased restoration which had encountered delay were provided. The site and surrounding land portfolio was also summarised together with the landowner's desire for residential development within the area.

Six public statements were received at the meeting in accordance with Standing Order 21(2). Summaries of the statements are attached to these minutes as an annexure. Five statements were made at the meeting as detailed below:

- Cllr Tony Meader, Knightsford Parish Council, addressed the Committee to confirm that the Parish Council had no objection to the proposal for a Bagging Plant, but had concerns regarding the silt lagoons being sited within 200m of housing for families and children, next to a public footpath and that they would not be seen from the processing area of the site and so would be dangerous. He indicated that although there was no landowner consent, there was a more suitable alternative site to the south of the existing site comprising of lower grade agricultural land with existing quarrying permission which could accommodate the site extension and would be a long way from footpaths and 100m from the road. He felt that a view was expressed regarding the need for the large size of the lagoons with no clear reason. Further information was shared regarding the lack of restoration to areas within the existing site that had not been completed which was in breach of local planning policy and condition 6 of the original permission which required restoration within a year of completing any phase. A claim was also made that information had been withheld by officers in relation to health and safety data about the impact on the danger to the public. In respect of Woodford Castle and Watermead Cottage, Cllr Meader insisted that there had been a blatant disregard for the setting of the castle and noise impacts at Watermead Cottage.
- Mrs Meader also addressed the Committee on behalf of Sarah Radcliffe, consultant on acoustics and noise nuisance, who had been commissioned by Knightsford Parish Council. She explained that current methods assessing noise limits should be set through planning condition to not exceed background noise by 10db. The maximum noise limit at Watermead Cottage should be 43db and not 48db as proposed and therefore noise mitigation was not being met. Although 48db may have been set at other locations, Mrs Meader felt that different locations should be assessed independently and particularly Watermead Cottage which had lowest background noise level. It was also mentioned that there was no reference to noise control of plant and machinery, and that BS5228 used for measuring noise impact was not designed for distances of over 300m of which the affected properties were. She stated that there was no mention of controlling noise at source which should be done in preference to bunding.
- Mrs Meader also addressed the Committee on behalf of Sarah Radcliffe, consultant on acoustics and noise nuisance, who had been commissioned by Knightsford Parish Council. She explained that current methods assessing noise limits should be set through planning condition to not exceed background noise by

10dB. The maximum noise limit at Watermead Cottage should be 43dB and not 48dB as proposed and therefore adequate noise mitigation was not being provided. Although 48dB may have been set at other locations, Mrs Meader felt that different locations should be assessed independently and particularly Watermead Cottage which had lowest background noise level. It was also mentioned that there was no reference to noise control of plant and machinery, and that BS5228 used for measuring noise impact was not designed for distances of over 300m. She stated that there was no mention of controlling noise at source which should be done in preference to bunding.

- Dr Simon Collcutt, Heritage Consultant for Knightsford Parish Council, drew attention to the harm caused to the Grade I listed building and that none of the mitigation was sufficient to reduce or compensate for the harmful impact on Woodsford Castle. Reference was made to Historic England's concerns which remained undiminished as there was no material change or improvement. He stated that everyone agreed that the harm to Woodsford Castle would be removed if the silt lagoon were cited in the alternative area B. He argued that whilst it was reasonable for the landowner to say the land in area B was not available, but that private position did not outweigh the public interest in preventing harm to Woodsford Castle. He further suggested that if permission be refused, the landowner and the operator would reach an agreement to use area B as it was not in either of their interests to reduce the viability of the quarry.
- Mr Nigel Hill, Resident of Moreton, expressed concern regarding the proposed size of the silt lagoon as there had been a consistent underestimation of 55% in respect of the original lagoon and it was likely that more land would be needed than was proposed in the application. Although there was reference in the report to complexities and uncertainties inherent in the calculation his view was that it was very straight forward. He felt that the application needed to show the land needed and should be resubmitted accordingly.
- Mr Nick Dunn, the Applicant's Planning Agent, introduced the history of the site and noted that the permitted reserve accounted for 40% of the River Terrace land bank. He explained that there was clear evidence that currently there was not capacity for quarry expansion, and that the applications were deferred in November 2016 for clarification of the noise impact on Watermead Cottage and heritage impact. He clarified that there had been significant operational noise reduction, and that the planning authority had discretion to allow permission for sites with noise impact up to 55dB. A revised heritage impact assessment and peer reviewed had been undertaken and he felt that the impact continued to be limited. An appropriate assessment of alternatives had been undertaken and reasons had been provided why there was no preferable alternative. He highlighted that in line with planning policy, the heritage impact needed to be weighed against the public benefit and that he was clearly convinced that the public benefit outweighed the less than substantial impact on the heritage significance and setting.

At this point the Head of Planning reminded the Committee that there was a need to consider the information available and to consider the applications on relevant and material evidence. She felt that the detailed report provided sufficient information to come to a view to make a decision.

The Solicitor clarified that reference made to the level of harm to the heritage significance of a listed building could be either 'substantial' or 'less than substantial'. The view of officers, supported by Historic England, was that the level of harm would be 'less than substantial' but this was a matter of judgement for the Committee to consider. In relation to alternatives, he advised alternatives should be taken into account in considering whether the harm could be avoided. In this case, officer's

advice is that none of the alternatives are both deliverable and preferable. He advised that the Committee should not speculate on what would happen if the application was refused and the Committee must take evidence of the landowner at face value given there was no reason to doubt it. The Chairman clarified that if the Committee accepted that there were no alternatives it must consider whether the public benefit outweighed the less than substantial harm to the listed building.

In relation to noise levels, particularly at Watermead Cottage, a question was asked about what the statutory requirements were. The Planning Officer explained that this was part of central Government's Planning Practice Guidance and was not a statutory requirement but was a material consideration. The guidance stated that mineral planning authorities should aim to establish a noise limit through a planning condition at noise sensitive properties that does not exceed the background noise level by more than 10db but also recognised that this would not always be possible without imposing unreasonable burdens so gave an absolute maximum of 55dB. The applicant had assessed background levels at 35-36dB whereas the Parish Council had assessed them to be 33dB. There was a case for noise monitoring to be established and a condition would be imposed for this to allow for the impact to go to 48db during construction of the silt lagoons, to reducing to 45dB once the lagoons were operational. It was also confirmed that 48dB was considered acceptable by officers and that no objections had been received from Environmental Health.

The determination of public benefit or interest was raised as it was understood that there was already a landbank in existence of 13 years and should be at around 7 years. Officers explained that development plan policy sought the maintenance of landbanks for sand and gravel and River Terrace aggregates of at least 7 years and that this was a minimum, not a target. The River Terrace aggregate landbank was at 13 years and the intention was to have a robust and steady landbank position, and so this level this was not excessive. The existing operation provided 40% of the landbank for River Terrace aggregate in Dorset with other sources some distance away. The benefit of the silt lagoon extension was that it would facilitate the continued working of permitted reserves and so would help to ensure a steady, flexible and adequate supply. National planning policy in the NPPF provides that great weight should be given to the benefits of mineral extraction including to the economy and that officer's assessment accorded great weight to the continued, steady and adequate supply of mineral.

It was confirmed that the permitted reserve would remain in the landbank whether the applications were approved or refused. Mineral extraction would likely continue to take place for some time so there would be no overnight effect, but the implication would be in terms of uncertainty and confidence of future supply. The existing site was the largest producer in central Dorset area and the deliverability of the landbank was an important consideration.

The impact on heritage conservation was discussed in detail with reference made to the harm being 'less than substantial' not being referred to in Historic England correspondence. The Principal Planning Officer explained that the most recent correspondence with Historic England followed its consultation response on 9 August 2017 which provided very detailed comments. The consultation response set out Historic England's view, which was consistent with the West Dorset Conservation Officer and the Parish Council's Heritage Consultant, that the degree of harm to the significance of the Grade I listed building was 'less than substantial'. However, this was a broad category of harm ranging from 'almost negligible' to 'just below substantial'. Officer's view was that the harm lay towards the lower end of this range. The Chairman then confirmed that given this advice, the Committee had first to determine whether there are alternatives to the application which would be less harmful to the listed building and if not, whether the public benefit clearly outweighed that harm.

Reference was made to the need in the NPPF to take account of the environment around heritage assets and to make a positive contribution to the character and distinctiveness of heritage assets. Officers explained that minerals could only be worked where they are found and that consideration was given to the permissions already in place, mitigations to minimise harm including measures to limit visual and noise impacts, a condition to further reduce the northern arm of the bund following construction of the lagoons, and considered the views of Historic England which indicated to reduce harm the site should be located further away. A view was expressed that part of the visual intrusion were the bunds themselves.

A question was asked about enforcement in respect of restoration of worked areas. The Principal Planning Officer summarised the process of restoration back to agricultural land. Due to land conditions and water drainage there were issues that led to delays. The restoration south of the field conveyor was now progressing adequately and the planning authority was working constructively with the operator to ensure restoration of areas north of the conveyor. Officers had not considered enforcement action to be expedient but action could be taken if that changed.

A request was made for more information in respect of the silt and water management on the existing site, and the consideration of two areas (one of which was 35,000 cubic metres) of the site that had been identified as potential areas but had not been used for either purpose. Officers explained that the proposed extension would provide for 185,000 cubic metres of silt capacity and that the smaller area would not provide sufficient capacity to complete the approved mineral working. It was suggested that the smaller area and previously worked areas be phased to complete the already authorised mineral extraction. Context was provided regarding the use of the site and the practical and technical challenges, including ground levels, on site that made providing further lagoons in the existing site problematic which included the significant impact on drainage and restoration arrangements.

The security of the proposed silt lagoon was raised regarding public safety. It was confirmed that there would be an expectation for a low fence and signage to be in place, but security on the site was the responsibility for the operator and the landowner under the Quarry Regulations. It was recognised that there was a public footpath on the site boundary, but it was not normal planning practice to require or stipulate high fencing for this type of facility.

Following the discussion, Cllr Margaret Phipps proposed that recommendation 1 and 2 in the report (both applications) be refused. She explained that refusal did not mean operations would cease or that the site would close down, and there were still possible alternatives to be considered, but in her view the applications should be refused on two material considerations. Firstly, due to the detrimental effect on the setting of Woodsford Castle, as outlined in the consultation responses from Historic England and outlined in the officer's report, and in respect of the NPPF requirement to provide a positive contribution to the character and distinctiveness of heritage assets. Secondly, the noise concerns raised whereby guidance stated that noise at the site should be within 10dB of background noise, which was not the case at Watermead Cottage. The proposal was seconded by Cllr Nick Ireland.

The Solicitor confirmed that the NPPF recognised that it was permissible to approve proposals resulting in 'less than substantial harm' so that it was 'desirable' rather than a requirement to make a positive impact to heritage assets.

In relation to application WD/15/001057, supporting views to the proposal were expressed regarding the damage to the setting of the Grade I listed building. Consideration was given to the public benefit of the application, and that this needed to be balanced against the harm to the setting of Woodsford Castle and reference

was made to the need to have special regard to preserving the building and the setting. It was expressed that there was a fine balance in making a decision for refusal.

It was also recognised that although there were no disputes over the original permissions in place, the refusal of the extension may restrict site operations in the future and the longevity of site. It was recognised that other applications may come forward in the future depending on landlord consent but there were no alternative applications at present and a decision could not be made on hypothesis.

Support was expressed for the need for quarrying, in accordance with a history of quarrying across Dorset, and it was suggested that there was existing space on site for lagoons, which could be explored further.

A counter view was expressed that the application would restore the land to agricultural use after operations ceased on site so the impact would be for a limited time, together with reference made to the lack of objections from eight consultees. In addition, it was highlighted that 40% of Dorset's sand and gravel needs depended on the site and the public benefit of approval of the permission needed to be taken into account.

The Committee discussed the proposal in relation to the part of application WD/15/001057 which related to the Bagging Plant, and application 1/E/2005/0742/AuC, which also related to the operational matters. It was confirmed that it would be possible to have a split decision on the content of the applications to grant permission for the Bagging Plant, which members had no material objection to, but it was also recognised that it would be possible for a new application to be made in relation to the Plant.

Further discussion about application 1/E/2005/0742/AuC considered the future operation of the existing site and as the material considerations for refusal related to application WD/15/001057 only it was accepted as a drafting amendment from the Chairman that the application be granted. The proposer and seconder of the proposal accepted the drafting amendment. The proposal was therefore changed to refuse application WD/15/001057 and to grant application 1/E/2005/0742/AuC. On being put to the vote the proposal was agreed. Cllr Shane Bartlett requested that his vote against the refusal of application WD/15/001057 be recorded.

Resolved

1. That application WD/D/15/001057 be refused.
2. That application 1/E/2005/0742/AuC be approved, subject to the conditions set out in the Service Director's report.

Reason for Decisions

The reasons for refusing application 1057 are set out in the annex to these minutes and the reasons for approving application 0742/AuC were summarised in paragraphs 6.303-6.316 of the report.

Questions from County Councillors

21 No questions were asked by members under Standing Order 20(2).

Meeting Duration: 10.00 am - 1.05 pm