

DELEGATED DECISION REPORT

APPLICATION NUMBER 131870/N

Lugg Bridge former Quarry, Bromyard Road, Hereford, HR1 3LZ

CASE OFFICER: Mrs D Klein

DATE OF SITE VISITS.....11 Feb 2013, 9 Apr 2013, 15 August 2013....

Relevant Development Plan Policies:

National Planning Policy Framework (NPPF)
Paragraphs 6-17, 186-206, Sections 3, 11 and 13,
Planning Policy Statement 10 'Sustainable Waste Management'
Conservation of Habitats and Species (Amendment) Regulations 2012
Herefordshire Unitary Development Plan (UDP)
S1, S2, S6, S7, DR1, DR2, DR3, DR4, DR7, DR9, DR13, E12, T8, LA2, LA5, LA6, NC1, NC3, NC6, NC7, NC8, NC9, W1, W3, M7
Draft Core Strategy
SS1, SS4, SS6, LD1-5, SD1, RA6, M1-M6

Relevant Site History: 122457/CE – pre-application advice
CE05/0901/M, CE05/0899/M, CE05/0497/M (W/D), CE99/1020/M, CE99/1452/M, SH971437PF, SH950398PF, SH930848PF, 407204(HWCC)

CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council Holmer & Shelwick	✓		✓		
Parish Council Withington	✓	✓			
Transportation	✓		✓		
HRA screening	✓				
Ecologist/Landscape Officer	✓✓		✓		
Environmental Health	✓		✓		
Environment Agency	✓		✓*		
Drainage	✓		✓		
National Grid (pipeline)	✓		✓	✓	
Archaeology	✓				
R Lugg IDB	✓		✓	✓	
S106	✓		✓		
PROW	✓		✓		
Neighbour letter/ Site Notice	✓	✓			
Local Members	✓✓	✓✓			

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The former gravel quarry known as 'Lugg Bridge' or 'Hereford Quarry' lies on the north-eastern edge of the city on the A465 road to Bromyard. The quarry site occupies approximately 30 hectares, bordered by farmland, the Rivers Lugg and Little Lugg, and the main railway line to the north. Quarrying ceased in 2005, and the largely worked-out site has lain idle since then. The several large water bodies include one which has permission as a fishing lake. Otherwise the land effectively reverts to agriculture. The entire site has been acquired by the applicant, with a view to utilising the water storage for agriculture and maximising other opportunities in the course of the required final restoration of the site to a beneficial use.

The area subject to this application occupies an existing yard of approximately 3 hectares in the north-west corner of the former quarry, which previously housed the plant and storage/stockpile areas for the quarry output of graded sand and gravel.

The application is for a change of use to permit third-party haulage, storage and transfer of new/as-dug excavated materials from other sources. As the site is no longer a minerals site, continued use of the yard for non-agriculture requires regularising, particularly since quarry operations ceased in 2005. No physical changes are proposed.

A partner application reference 132060/M is under consideration for continuation of the existing ready-mix concrete plant by the former quarry operator. Its site boundary directly abuts this application site on the southern side, and is currently leased back from the new owners. The concrete plant has been operational continuously, throughout the life of the quarry and since extraction ceased.

Representations:

- Holmer and Shelwick Parish Council has no objections
- No letters or objections received from members of the public
- The Head of Environmental Health/Trading Standards, the Transportation Manager and the Drainage Advisor have no objections and have made no further comments.
- The S106 Manager confirms no requirements.
- The Senior Landscape Officer has commented on this application in combination with 132060/M for the ready-mix plant. She has no objections.
- The Archaeological Advisor has no objections – the site is made ground which was evaluated during the quarry's lifetime, and no changes are proposed.
- National Grid has provided its standard advice and a detailed map relating to the pipeline crossing the site, but does not object.
- The Environment Agency has no objections, on clarification of the proposed uses discussed in more detail below.
- The River Lugg Internal Drainage Board (RLIDB) has provided its standard advice and requirements for a site in this location but has not objected.

Pre-application discussion:

Options for the whole site's restoration have been discussed at length. Advice was given as to the sensitive location relating to the River Lugg, flood risk, and importance to wetland birds in particular. A proposed element of inert waste material recycling was initially added without advice having been sought. This is discussed below. The advice which was given has been generally heeded. This proposal to retain the yard will, if approved, form part of the restoration scheme for the overall quarry site.

Constraints:

- River Lugg/Wye SSSI/SAC adjoining
- Special Wildlife Site (Rs Lugg and Little Lugg)
- Flood risk zone 2
- High pressure gas pipeline crosses site
- Bridleway HO18, an old drovers' road, runs NE/SW along the site boundary, but outside the site itself and not affected by the application
- The main railway line adjoins the site on the north side but no changes are proposed.

Appraisal:

Policy context

The National Planning Policy Framework (NPPF) carries most weight. It supports sustainable development in principle, subject to environmental considerations including the need to protect and enhance the natural environment. The proposal would utilise an existing yard, would maintain a commercial use within the rural economy and would meet the essential requirements of the NPPF with particular reference to sections 3 and 11. Section 13 requires the safeguarding of both mineral sites and ancillary functions, e.g. storage, handling and processing of mineral products. The proposal meets these in principle.

The 'saved' policies in the Herefordshire Unitary Development Plan (UDP) remain in force until the Core Strategy is finally adopted. The relevant policies identified above also seek to support sustainable development whilst protecting the environment and meeting the requirements of other legislation. The proposal is not contrary to any UDP policy; specific points are discussed below.

The Draft Core Strategy is at an early stage of adoption following the initial consultation exercise and subsequent amendments. Relevant policies are identified but carry little weight at present. However no conflict is indicated in the identified relevant policies.

Principle of the development

Initially, the description for this proposal included provision for importing, processing and recycling inert material (e.g. screening, crushing and grading stone, soil, demolition rubble) for use as 'secondary aggregate'. Such material is classified as 'waste' and falls within that regulatory regime. The storage of new/as-dug materials such as stone, sand, gravel etc, and manufactured products ready for distribution, would not be 'waste', and physical treatment would be limited to grading and separating. The Environment Agency has stated that the 'waste' element would require an Environmental Permit, and lodged an objection pending further information required for that process. The inclusion of waste had not been previously discussed. The applicant has amended the description of the proposal, removing the waste from the equation. The proposal is therefore solely for the storage and transfer of only new materials for the construction industry. In effect, the use of the yard would be similar to its role when part of the quarry. No buildings are proposed. The proximity of the active ready-mix concrete plant is compatible. The Environment Agency has given written confirmation of no objections on that basis and no Environmental Permit would be required. The use of the yard as described is in keeping with its current appearance and previous use. There are no objections and no conflict with policy. In principle officers support the proposal as sustainable use of previously developed land. In terms of the quarry restoration, this would constitute a 'beneficial use' in line with UDP policy M7, in creating a mosaic of uses within the former quarry.

Access/highways

The former quarry has a modern access road from the A465. Since quarrying ceased traffic numbers have dropped considerably. Resumption of the use of the yard as proposed would not approach former activity. Movements are estimated by the applicant as 8 articulated lorries in (bringing bulked-up material). An estimated 20 HGV loads per day would go out, with smaller batches more convenient

for customers. No conflict with UDP policy T8 and no objections received. The Drovers' Road (bridleway) is not affected and would not compromise policy T6.

Ecology/Landscape

The quarry site, the lakes and the watercourses are important for wildlife, and have been monitored by the Herefordshire Nature Trust and Herefordshire Ornithological Club for many years. The applicant is understood to have agreed for this to continue.

The application includes an Ecological Walkover report. This notes that the yard is mostly disturbed bare ground. Mature scrub, trees and wetland flora flourish around the site perimeter on three sides, and along the line of the gas pipeline. These areas would be allowed to continue undisturbed.

The report highlights the presence of established Sand martin nest sites in an old stockpile of coarse sand/pea gravel, which would be lost. The proposal is to create new artificial nesting sites before the next nesting period, in created banks made from existing overburden spoilheaps nearer to the waterbodies away from this yard. Migrating Sand martins regularly excavate new nests and the report is optimistic as to likely success. This could be secured by condition. The proximity of the site to the River Lugg SSSI/SAC is acknowledged. There are no objections on ecological grounds but there are ample opportunities to enhance biodiversity and habitat around the edges of the yard and in the context of the wider site restoration. Policies NC6-9 inclusive are relevant and officers consider their requirements can be met, with precautionary planning conditions.

The haulage/storage yard occupies approximately 10% of the quarry site but biodiversity enhancement on the rest of the site should be maintained within this site as far as possible. The proposal includes provision for 6 metre buffers on the east and west sides, and a 10 metre buffer on the north side abutting railway land. The buffers would form a wildlife corridor around the site which links the railway, rivers and lakes. The Conservation Manager welcomes the provisions and would encourage similar proposals in the overall restoration scheme. These arrangements take account of existing circumstances and support UDP policies LA2, LA5, LA6, NC1-9, M7. Section 11 of the NPPF is also taken into account.

Habitat Regulations Assessment Screening (HRA)

Proximity to the River Lugg SSSI/SAC requires the above to be considered. No physical changes to the site are proposed, and the activities applied for are similar to those undertaken during the life of the quarry, since the 1990s. The initial proposal to manage inert recyclable construction waste along with new materials has been removed and the description revised. Under this proposal there is therefore a very low risk of any additional adverse effects. Activity at this yard would be less than during quarry operations, however the SAC was so designated after the quarry was permitted. The Conservation Manager, in consultation with Natural England, has concluded that there would no Likely Significant Effects in this instance. If an operator wished to expand the scope of the yard use then this aspect would need to be reconsidered via a fresh application which should be made clear to the applicant.

Amenity – noise, dust, mud, air quality

There are no residential properties within 400 metres of the yard. The closest dwellings lie on the far side of the A465. The proposed activities would be comparable to the previous quarry use and the current concrete batching plant. Officers consider there is no risk of harm to amenity, nor any conflict with UDP policies DR4, DR9 and DR13. Any additional activities would require further consideration and could be regulated as necessary at the time.

Drainage/Flood Risk

The site lies in flood zone 2 (medium risk). The proposal is a low risk activity compatible with the previous use. The application is for a change of use only, with no implications for change to the

current flood risk. Any future proposals would be required to undertake the appropriate assessment at the time. No objections on flood risk grounds have been received, and no conflict with UDP policy DR7 is indicated. There are no drainage concerns.

The mainline railway

Network Rail assets border the site on its short northern perimeter. The application recognises the need to safeguard the railway and proposes a 10 metre wide 'green' buffer to prevent any use of that end of the site that could compromise the railway. A planning condition could secure this stand-off, to ensure railway security and safety.

Pipeline

A high pressure gas pipeline crosses the site. This has been protected throughout the life of the quarry and would continue to be so. National Grid has provided a map of its asset, and standard advice as to the required level of protection. There should not be any additional risk over an above that previously accommodated by the quarry. National Grid has its own regulatory requirements including notification by the applicant. There are no objections provided these procedures are adhered to.

Conclusion

The local Members for Burghill/Homer/Lyde and Hagley are Mrs S Robertson and Mr D Greenow respectively. Neither has expressed any concerns or reported any representations. The proposal is to put the existing yard to a use which would be beneficial to the construction industry in providing ample storage for new materials. Viewed as a part of the overall restoration scheme required for the former quarry, the yard would seem to be ideal for this purpose. It adjoins the working concrete batching plant, and the application makes adequate provision to safeguard important biodiversity interests on and around the site. The proposal is regarded as capable of safeguarding the SSSI/SAC designation whilst enabling good commercial use of the land. It is recommended for approval.

RECOMMENDATION:

PERMIT



REFUSE



CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:

(please note any variations to standard conditions)

1 A01 [C01]

2 B01 [C06] – Drg Nos:

- AMS/LBQ/010 Site Location
- AMS/LBQ/011 Site boundary
- AMS/LBQ/012 Storage Area Layout

3 B05 [C10] change of use only.

4 In connection with the change of use hereby permitted, the site shall be used as identified in the revised description and shall not at any time be used for the importation, storage, treatment, transfer or exporting out of any materials that are:

- (a) classified as 'waste' by the Environment Agency or its successor body, and/or are
- (b) identified and included in the 'List of Wastes Regulations (England) 2005' (SI 2005/895) or any subsequent amendment or other regulatory powers.

Reason: Because the transfer and treatment of wastes would require further consideration by the local planning authority and other bodies: to ensure a satisfactory form of development, to prevent pollution, to ensure compliance with other legislation, and to comply in particular with the requirements of policies S1, S2, S6, DR1, DR2, DR4, DR7, DR9, DR13, W1, and W3 of the Herefordshire Unitary Development Plan, and the guidance in the National Planning Policy Framework and PPS10.

5. The change of use hereby permitted, including the removal, remodelling or alteration of any existing stockpiles of minerals, shall not begin unless or until adequate provision has been made elsewhere on the former quarry site adjoining for the accommodation of nesting Sand Martins (*Riparia riparia*) in particular, utilising surplus excavated materials already located on the quarry site, in accordance with a scheme which has first been submitted to and approved in writing by the local planning authority. The scheme shall follow the recommendations of the submitted Ecological Walkover (HEC Ltd, undated, received 22 July 2013) and shall include effective measures and a Method Statement for maintaining the provision for the future and protecting nesting birds. It shall be implemented as approved before the next nesting season.

Reason: To protect and enhance biodiversity in accordance with policies S7, NC1, NC3, NC4, NC7, NC8, and NC9 of the Herefordshire Unitary Development Plan and the guidance in the National Planning Policy Framework with particular reference to section 11.

6. The change of use hereby permitted shall not begin until a Method Statement for the permanent establishment and future retention of the proposed 'boundary exclusion zones' outlined in paragraph 3.7 of the submitted Supporting Statement dated 5 July 2013. The Method Statement shall include a large scale annotated plan indicating in particular:

- a) A 6 metre-wide strip along both the full lengths of the east and west boundaries;
 - b) A 10 metre-wide strip along the full length of the northern boundary;
 - c) The exclusion area within the site indicated by the High Pressure Gas Pipeline;
 - d) Details of fencing in terms of type, height and colour including any access gates;
 - e) Existing vegetation types within the zones including any trees;
 - f) Practical notes for maintaining the natural vegetation as shown, including provision for one annual cut at the end of summer, with removal of cuttings;
 - g) The means of incorporating the scheme into the wider final restoration plan for the quarry;
 - h) Provision for inspection, tool-box talks, review and possible further habitat enhancement in future.
- The scheme shall be implemented in accordance with the approved details.

Reason: In order to help maintain the landscape, biodiversity and visual amenities of the area so as to be compatible with the wider site of the former quarry and the Rivers Lugg and Little Lugg and to comply with the requirements of policies S7, NC1, NC3, NC4, NC7, NC8, NC9, LA5 and LA6 of the Herefordshire Unitary Development Plan and the guidance in the National Planning Policy Framework with particular reference to section 11.

7 No materials stockpiles, plant, machinery, equipment, vehicles or other structures, nor any new planting, shall at any time be located within 2 metres of the railway boundary fence, and no plant or equipment or any other structure shall at any time be permitted to overhang or fall onto the railway. All materials kept at the site shall be stored and processed in a way which prevents any overspilling onto Network Rail land and should not pose excessive risk of fire.

Reason: To ensure railway safety and security and to comply with policies S1, S2, S6 and DR2 of the Herefordshire Unitary Development Plan and the general guidance in the National Planning Policy Framework.

8 There shall be no discharge of any foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

Reason: To prevent pollution of the water environment and to comply with Policy DR4 of Herefordshire Unitary Development Plan and the general guidance in the National Planning Policy Framework..

9 Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment and to comply with Policy DR4 of Herefordshire Unitary Development Plan and the general guidance in the National Planning Policy Framework.

10 This change of use hereby permitted applies to the land within the identified area (the 'red line') and does not extend beyond that boundary. Any fencing or other boundary treatment shall be erected in accordance with details which have first been submitted to and approved in writing by the local planning authority. In the absence of any such boundary treatment, the line of the southern boundary shall in any case be permanently marked on the ground with posts to be located at either end.

Reason: For the avoidance of doubt, to delineate the extent of this permission and to comply with policies S1, S2, DR1 and DR2 of the Herefordshire Unitary Development Plan and the general guidance in the National Planning Policy Framework.

11 I43 [CCC] No burning

12. I33 [CC2] external lighting

Informatives

1 The local planning authority has acted positively and pro-actively in determining this application, including engaging in detailed discussion and negotiation at the pre-application stage with the applicant and appointed consultant. This has included broad-brush options for the final restoration of the wider site incorporating the closed gravel quarry. A proposed comprehensive strategy to establish beneficial uses which include agriculture, irrigation water storage, genuine contribution to wildlife habitat and commercial storage of builders' merchant materials has helped to inform such negotiations in the interest of a satisfactory form of development to secure the site's future. As a result, the local planning authority has been able to grant planning permission for an acceptable proposal, in accordance the identified saved policies in the Herefordshire Unitary Development Plan and the presumption in favour of sustainable development set out in the National Planning Policy Framework

2 N11A

3 N11C

4 If at any time the applicant, or any future operator, owner or tenant wishes to include the storage, treatment and/or transfer of any materials classified as 'waste' as outlined in condition 4 above, then a fresh planning application must be made to that effect. Such a proposal would also require further consents from the Environment Agency, including an Environmental Permit under separate

legislation, who should be contacted well in advance of such a proposal. The applicant is advised that 'twin-tracking' of planning and permit applications would be the Environment Agency's preferred approach.

5 A High Pressure Gas Pipeline crosses this site. The applicant is advised that any parking or vehicle crossings over the route must be protected to National Grid specification at the developer's cost. The applicant is also advised that any new tenant, owner or operator should contact National Grid to arrange a site meeting with a minimum of 5 days' notice, at which the precise alignment of the pipeline would be established and advice given as to operational requirements in its vicinity. The instructions given must be adhered to. The contact at the time of writing is:

James Harrison, National Pipelines Manager
National Grid
Windsor Street
Nechells
Birmingham
B7 4DN
0800 688588

The site is located within the jurisdiction of the River Lugg Internal Drainage Board (RLIDB), which has drawn attention to the Sutton Rhea controlled watercourse. The requirements of the RLIDB must be met. In particular, any additional surface water drainage may not be directed to any watercourse without written Land Drainage Consent having been granted by the RLIDB. The applicant is advised to contact the Board for further advice as necessary:

01633 275922 or admin@caldandwentidb.gov.uk

Signed:  Dated: 16/10/13

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT



REFUSE



Signed:  Dated: 16.10.13

REASON FOR DELAY (if over 8 weeks)

Negotiations ☐

Consultees
Other
(please specify)
