

Planning and Regulatory Committee
15 July 2014**6. PART RETROSPECTIVE PROPOSAL TO VARY THE APPROVED PLANNING PERMISSION RESTORATION LEVELS, AT CHADWICH LANE QUARRY, MADELEY HEATH, BROMSGROVE, WORCESTERSHIRE**

Applicant	Chadwich Lane Quarry Limited
Local Councillor	Mrs S L Blagg
Purpose of Report	<p>1. To consider a County Matter planning application for a part retrospective proposal to vary the approved planning permission restoration levels at Chadwich Lane Quarry, Madeley Heath, Bromsgrove, Worcestershire.</p>
Background	<p>2. The site is an established minerals working, which was originally granted planning permission for sand and gravel extraction by Hereford and Worcester County Council in February 1983, subject to conditions and a legal agreement relating to the routing of lorries (Mineral Planning Authority (MPA) Ref: 404360). The restoration proposals were to infill the void to original levels and to restore the land to agricultural use.</p> <p>3. An application for the determination of new planning conditions (under the Review of Old Mineral Permissions (ROMPs) procedures) was granted by Worcestershire County Council in July 1998 (MPA Ref: 107108; Minute No: 26 refers).</p> <p>4. An application for inert recycling and treatment operations at the site was also refused permission by Members of the Planning and Regulatory Committee in February 2003 (MPA Ref: 407546; Minute No: 215 refers) and subsequently refused on appeal in June 2003.</p> <p>5. A planning application to extend Chadwich Lane Quarry to the west – "<i>extension to the quarry, infilling the void using inert materials only, restoration of the land to agriculture use together with access, creation of geological exposure, landscaping and associated works on land adjacent to Chadwich Lane Quarry</i>", was refused by the Planning and Regulatory Committee in January 2008 (MPA Ref: 407642, Minute number 579 refers). This decision was the subject of an appeal by the applicant - Salop Sand and Gravel Ltd and following a Public Inquiry held between 6 May 2009 to 8 May 2009, the appeal was allowed and planning permission was granted by the Planning Inspectorate (Appeal Ref:</p>

APP/E1855/A/08/2069139, dated 11 June 2009), subject to conditions, one of which required the restoration of the existing Chadwich Lane Quarry, before commencing soil stripping operations of the extension area, in accordance with the approved plans pertaining to planning permission ref: 107108.

6. In December 2012, the Planning and Regulatory Committee granted planning permission (MPA Ref: 12/000036/CM, Minute No. 815 refers) for an extension of the time limit within which to implement planning permission: APP/E1855/A/08/2069139, subject to conditions. This permission also imposed the condition referred to above, requiring the existing Chadwich Lane Quarry to be restored before the commencement of soil stripping operations in the extension area:

7. Condition (6) "No soil stripping operations shall take place within Phases 1, 2, 3 and 4 shown on Drawing No. SA1994/04A Rev D until the restoration of the land at Chadwich Lane Quarry relating to planning permission 107108 (B98/0082) has been confirmed in writing by the County Planning Authority as having been completed in accordance with the plans pertaining to that permission".

8. In September 2012, Worcestershire County Council undertook a topographical survey of the Chadwich Lane Quarry site to verify the existing levels. The results of this showed that the levels of the site had been over tipped by approximately 3 to 4 metres across the site. In view of this, the applicant confirmed that it was their intention to apply for a part retrospective planning application to vary the approved planning permission restoration levels of the site.

9. The proposal is for a part retrospective planning application to vary the approved planning permission restoration levels at Chadwich Lane Quarry, Chadwich Lane Belbroughton, Worcestershire. The proposal seeks to regularise the existing levels, which are on average approximately 3 to 4 metres above the approved planning permission restoration levels. Generally the levels are in accordance with the approved planning permission restoration levels along the western boundary and the in south-west corner of the site, however, the levels are approximately 2 to 6 metres over the approved planning permission restoration levels in the northern and eastern part of the site, with the maximum over level being about 9 metres in the centre of the site.

10. The proposal would not involve any further mineral extraction and would not involve any further importation of construction waste materials. The applicant proposes to undertake minor re-grading works at the edges of the site.

11. The proposed restoration scheme would be to agriculture (grazing), with a hedgerow running north to south

The Proposal

along the centre of the site, and a hedgerow running west to east adjoining the hedgerow running vertically through the site. Further tree planting is proposed on the eastern boundary of the site.

12. A drainage scheme is proposed which includes two open ditches, both of which would run from Chadwich Lane in a southern direction for about half of the width of the site. One would be located within the centre of the site, the other would be located along the western site boundary and upon reaching the centre of the site would run in a westerly direction through the adjacent field and permitted quarry extension area (MPA Ref: 12/000036/CM), to a proposed balancing pond, situated in the south-east corner of the field. All of which is on land within the control of the applicant.

13. The applicant states that there was a discrepancy between the approved planning permission restoration levels and the approved Environmental Permit restoration levels, with the Permit allowing restoration to higher levels. This has led to a misunderstanding of the approved levels by the applicant, and the site has subsequently and incorrectly been restored to the approved Environmental Permit restoration levels, rather than those permitted by the planning permission.

The Site

14. The site lies in the open countryside of north Worcestershire, approximately 1.6 kilometres west of junction 4 of the M5 Motorway. Bromsgrove is situated approximately 5 kilometres south of the site; Rubery is about 3 kilometres east and Fairfield, which is the nearest village, lies approximately 2 kilometres away to the south-west. The application site is approximately 6 hectares in area.

15. The site is within the West Midlands Green Belt and also the Landscape Protection Area that is designated in the adopted Bromsgrove District Local Plan. The site is rectangular in shape and is bounded to the north by Chadwich Lane, to the east and west by well-established hedgerows and to the south by post and wire fencing. The Chadwich Lane Quarry extension area is located in the agricultural field immediately to the west of the site, but the planning permission (MPA Ref: 12/000036/CM) has yet to be implemented. The restored former County Council landfill site of Madeley Heath abuts the eastern boundary of the site. Access to the site is from Chadwich Lane. The site is crossed from east to west by a 275kV overhead power line and there is an electricity pylon located in the north-east corner of the site.

16. The Madeley Heath Pit geological Site of Special Scientific Interest (SSSI) is situated within the eastern side of the site, and is covered by previous landfilling of the site. One Local Wildlife Site (LWS) is located within 1 kilometre of site, which is the Great Farley and Dale Woods situated approximately 930 metres north of the site.

17. Three Public Rights of Way (Footpaths BB-594, BB-595, and BB-596) are located adjacent to the site. The current line of footpath BB-594 runs along the western boundary of the site and is a result of an earlier permanent diversion order that was imposed to allow the quarrying operations to be undertaken. Footpath BB-596 runs horizontally along the southern edge of the site; and footpath BB-595 is located to the south of the site and intercepts footpaths BB-594 and BB-596, running vertically south away from the site, eventually adjoining Harbours Hill.

18. The nearest residential property to the site is that of Upper Madeley Farm, located approximately 190 metres north of the site. The curtilage of Oak Villa, located along Harbours Hill is approximately 240 metres south-west of the site. The curtilage of Lilac Cottage, situated along the Gutter is situated approximately 300 metres north of the site. The Grade II Listed Building of Lower Madeley Farm and the Stables are located about 375 and 345 metres west of the site, respectively; and the residential property of the Thatchers Cottage, located along Chadwich Lane is situated approximately 330 metres east of the site.

Summary of Issues

19. The main issues in the determination of this application are:

- Green Belt
- Character and appearance of the local area, landscape and residential amenity
- The water environment
- Ecology, biodiversity and the geological Site of Special Scientific Interest (SSSI), and
- Traffic and highway safety.

Planning Policy

National Planning Policy

PPS 10 Planning for Sustainable Waste Management

National Planning Policy Framework (NPPF)

20. The National Planning Policy Framework (NPPF) was published and came into effect on 27 March 2012. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It constitutes guidance for local planning authorities and decision takers and is a material planning consideration in determining planning applications. Annex 3 of the NPPF lists the documents revoked and replaced by the NPPF. At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through plan-making and decision-taking.

21. Sustainable Development is defined by five principles set out in the UK Sustainable Development Strategy:

- "living within the planet's environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;

- promoting good governance; and
- using sound science responsibly".

22. The Government believes that sustainable development can play three critical roles in England:

- an economic role, contributing to a strong, responsive, competitive economy
- a social role, supporting vibrant and healthy communities and
- an environmental role, protecting and enhancing our natural, built and historic environment.

23. The NPPF does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England. The NPPF states that Planning Policy Statement 10 (PPS 10) 'Planning for Sustainable Waste Management' will remain in place until the National Waste Management Plan is published. However, the NPPF states that local authorities taking decisions on waste applications should have regard to the policies in the NPPF so far as relevant. For that reason the following guidance contained in the NPPF, is considered to be of specific relevance to the determination of this planning application:

- Section 1: Building a strong, competitive economy
- Section 4: Promoting sustainable transport
- Section 8: Promoting healthy communities
- Section 9: Protecting Green Belt land
- Section 10: Meeting the challenge of climate change, flooding and coastal change
- Section 11: Conserving and enhancing the natural environment
- Section 12: Conserving and enhancing the historic environment
- Section 13: Facilitating the sustainable use of minerals

The Development Plan

24. The Development Plan is the strategic framework that guides land use planning for the area. In this respect the current Development Plan consists of the Saved Policies of the Adopted County of Hereford and Worcester Minerals Local Plan; Adopted Worcestershire Waste Core Strategy; and the Saved Policies of the Adopted Bromsgrove District Local Plan.

25. Planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

26. Annex 1 of the NPPF states that for the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted

prior to the publication of the NPPF. However, the policies contained within the NPPF are material considerations. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the NPPF. In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

County of Hereford and Worcester Minerals Local Plan

27. Whilst none of the Saved Policies of the Minerals Local Plan are relevant to this proposal, it is considered that the following sections of the Local Plan are pertinent to this application, and are generally in accordance with the National Planning Policy Framework (NPPF) and the Government's Planning Practice Guidance (PPG) and is a material consideration to the determination of this application:-

- After-Use of Mineral Working Sites;
- Restoration Using Imported Fill – Sand and Gravel; and
- Aftercare of Restoration Schemes.

Worcestershire Waste Core Strategy Development Plan Document (WCS)

Policy WCS 1: Presumption in favour of sustainable development

Policy WCS 2: Enabling Waste Management Capacity

Policy WCS 5: Landfill and Disposal

Policy WCS 6: Compatible land uses

Policy WCS 8: Site infrastructure and access

Policy WCS 9: Environmental assets

Policy WCS 10: Flood risk and water resources

Policy WCS 11: Sustainable design and operation of facilities

Policy WCS 12: Local characteristics

Policy WCS 13: Green Belt

Policy WCS 14: Amenity

Bromsgrove District Local Plan (Saved Policies)

Policy DS1 Green Belt designations

Policy DS2 Green Belt development criteria

Policy DS13 Sustainable development

Policy C1 Designation of Landscape Protection Areas

Policy C4 Criteria for assessing development proposals

Policy C5 Submission of landscaping scheme

Policy C9 Development affecting SSSI's and NNR's

Policy TR1 The road hierarchy

Policy RAT12 Support for public rights of way

Policy ES4 Groundwater protection

Policy ES14 Development near pollution sources

Policy ES14A Noise sensitive development

Policy ES16 Reforming of land

Draft Bromsgrove District Plan (formerly Core Strategy)

28. The Bromsgrove District Plan will outline the strategic planning policy framework for guiding development in Bromsgrove District up to 2030. It will contain a long-term vision and strategic objectives, a development strategy, key policies, strategic site allocations and a monitoring and implementation statement. The Plan will also include a copy of the Redditch Cross Boundary Development Policy (Policy RCBD1), which appears in the Draft Borough of Redditch Local Plan No.4.

29. On 12 March 2014 Bromsgrove District Council submitted the Bromsgrove District Plan to the Secretary of State for independent examination. The Secretary of State has appointed an independent Inspector (Mr Michael J Hetherington) to undertake an independent examination into the soundness of the Bromsgrove District Plan. The Bromsgrove District Plan and the Borough of Redditch Local Plan No.4 examinations are being held concurrently and will include several joint hearing sessions as well as separate hearing sessions relating to each Local Plan. Following the initial hearing sessions on 16-17 June 2014, the Councils have submitted further requested information to the Inspector. The Inspector has indicated that he will publish his Interim Conclusions by Friday 18 July 2014. Further hearing sessions are scheduled to be held in September/early October. Bromsgrove District Council is anticipating adoption in early 2015.

30. The Bromsgrove District Plan has not, therefore, been fully tested at examination or adopted by Bromsgrove District Council. Having regard to the advice in the NPPF, Annex 1, it is the view of the Head of Economic Development and Planning, that little weight will be attached to the Bromsgrove District Plan in the determination of this application. The Bromsgrove District Plan policies that are relevant to this planning application are listed below:-

Policy BDP 1 Sustainable Development Principles
Policy BDP 4 Green Belt
Policy BDP 16 Sustainable Transport
Policy BDP 20 Managing the Historic Environment
Policy BDP 21 Natural Environment
Policy BDP 22 Climate Change
Policy BDP 23 Water Management
Policy BDP 24 Green Infrastructure

Waste Management Plan for England (2013)

31. In December 2013 the Government through Defra published the Waste Management Plan for England. This Plan superseded the previous waste management plan for England, which was set out in the Waste Strategy for England 2007.

32. There are comprehensive waste management policies in the Waste Management Plan England, which taken together deliver the objectives of the revised Waste Framework Directive, therefore, it is not the intention of the

The Government Review of Waste Policy England 2011

Consultations

Plan to introduce new policies or to change the landscape of how waste is managed in England. Its core aim is to bring current waste management policies under the umbrella of one national plan.

33. This Plan is a high level document which is non-site specific, and is a waste management, rather than a waste planning document. It provides an analysis of the current waste management situation in England, and evaluates how it will support implementation of the objectives and provisions of the revised Waste Framework Directive.

34. The key aim of this Plan is to work towards a zero waste economy as part of the transition to a sustainable economy. In particular, this means using the “waste hierarchy” (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management.

35. The Government Review of Waste Policy in England 2011 seeks to move towards a green, zero waste economy, where waste is driven up the waste hierarchy. The waste hierarchy gives top priority to waste prevention, followed by preparing for re-use, recycling, other types of recovery (including energy recovery) and last of all disposal.

36. Mrs S L Blagg comments that the Planning and Regulatory Committee should be aware of the long standing flooding issues, which local residents have endured and which she would like to be sure are considered within this part retrospective planning application. She considers that appropriate conditions should be imposed if Members are minded to approve the application, which she trusts would include the management of site surface water, comprehensive land restoration, and drainage plans as part of the solution, prior to the quarry extension area being commenced.

37. She praises North Worcestershire Water Management for their persistent approach, thoroughness and professional expertise in advising the County Planning Authority on the submitted drainage scheme and liaising with the applicant to find an acceptable solution.

38. She believes that the necessary flood mitigation measures are now covered in the application, as indicated by North Worcestershire Water Management's comments. She supports North Worcestershire Water Management's request that the drainage system should be designed to cope with a 1 in 100 year rainfall event plus climate change; and the discharge from the balancing pond should be limited by a hydrobrake or similar device to a Greenfield run-off rate up to a 1 in 100 year storm event. She considers the intention to do this (instead of using the 250mm pipe as a limited outfall) must be clear and should not be left to be detailed into a condition only.

39. She requests that the imposition of an aftercare scheme condition is imposed should planning permission be granted. She would also like the Committee to be clear on what conditions are still binding from the original planning permission so that no room is left in doubt, misunderstanding, interpretation or expectation.

40. Bromsgrove District Council has no comments.

41. Belbroughton Parish Council objects to the proposal, due to the excess levels of infill and apparent increase in the levels of flooding occurring on neighbouring farmland, and request that enforcement measures are considered to restore the site to the levels permitted.

42. Romsley Parish Council (Neighbouring Parish Council) has no comments.

43. The County Landscape Officer has no objections, she recommends the site boundaries are checked later in the year for final marrying in of levels and debris removal; and that the proposed east to west hedge is omitted.

44. The restored profile does not look unnatural and, once a sward is established, will blend in with the surrounding landscape. The alternative, of removing excess material, would cause excessive disruption, inconvenience to local residents and may result in a less satisfactory finish.

45. There is however, an issue with the finishing around the margins where soil and debris have been pushed into the hedges. This should be 'feathered out' so that the levels marry seamlessly and all surface debris should be removed from the site to a licensed tip.

46. The Final Restoration drawing DESID 5 shows two hedges to be planted across the site, dividing it into three smaller fields. The landowner would prefer to omit the shorter east to west hedge as the resulting fields are limited in size for his flock numbers. Having checked the first edition Ordnance Survey maps it is apparent that these hedges are located along the lines of the original hedges, but subsequent re-arrangement of fields has made the east to west hedge superfluous. The County Landscape Officer, therefore, has no objection to removing this hedge as long as the north to south hedge is planted.

47. Public Health England has no objections, stating that they consider that there are no public health issues associated with this application.

48. The Environment Agency has no objections, they confirm that the Environmental Permit for the site has been surrendered and the proposals would not require any action under Environmental Permitting Regulations.

49. They note the drainage plan submitted to address local

surface water issues. The Lead Local Flood Authority has responsibility for matters relating to surface water management so they do not wish to make comment on this matter.

50. Natural England has no objections, subject to the imposition of a condition requiring the submission of an aftercare scheme. They also state that whilst the proposal is in close proximity to the Madeley Heath Pit SSSI, they are satisfied that the proposal would not damage or destroy the interest features for which the site has been notified. They, therefore, advise the MPA that this SSSI does not represent a constraint in the determination of this application.

51. North Worcestershire Water Management has no objections, and is content with the drainage scheme in principle providing that the applicant confirms that they would limit the discharge to Greenfield run-off levels using a hydrobrake or similar, which would be installed within the balancing pond. They think the intention to do this (instead of using the existing 250 mm pipe as a limited outfall) must be clear and should not be left to be detailed into a condition only.

52. They also comment that they believe that most of the outcomes of discussions with the applicant have been taken into account, but raise the following additional comments:

- They ask that after the five year aftercare period, that regular ditch maintenance is carried out to maintain the structural integrity and discharge capacity of the proposed ditches
- The proposed ditch is 0.5 metres deep and 1 metre wide at the top. No value is given for the width of the channel at the bottom of the ditch. A minimum value of the bottom of the ditch is usually 0.3 metres. Given the sandy soil conditions, they consider that the ditch should not be just 1 metre wide, as this would make the slopes too steep (which can cause stability issues). As a minimum, the top width of the ditch should be 1.3 metres, but 1.5 metres would be preferable.

53. National Grid has no objections, noting the proposal is in close proximity to their High Voltage Transmission Overhead line.

54. Worcestershire Regulatory Services makes no adverse comments.

55. The County Highways Officer has no objections.

56. The County Ecologist has no objections.

57. Worcestershire Wildlife Trust has no objections and wishes to defer to the opinions of the County Ecologists for

all detailed on-site matters relating to this proposal.

58. The County Archaeologist has no objections, stating that they have consulted the Worcestershire Historic Environment Record and can confirm that this proposal is unlikely to affect any heritage assets or impact on a historic landscape.

59. The County Footpath Officer has no objections, but notes that the proposal is adjacent to three Public Rights of Way (Footpaths BB-594, BB-595 and BB-596) as recorded on the Definitive Map. Although these footpaths are outside the application site, they would nevertheless request the Mineral Planning Authority to advise the applicant of their responsibilities to the footpaths.

60. The Ramblers Association have no concerns with the restoration levels, but is concerned that the adjacent footpath BB-594 is not proposed to be restored to its original alignment crossing the application site.

61. Earth Heritage Trust has no comments.

62. The Campaign to Protect Rural England has no comments.

Other Representations

63. In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010, the application has been advertised on site, in the local newspaper, and by neighbour notification. To date 11 letters of representations have been received from local residents, including Wildmoor Residents Association objecting to the proposal. These letters of representation are available in the Members' Support Unit. The main concerns are summarised below:

Flooding and Drainage

- Overfilling of this site, together with the adjacent County Council Restored Landfill has led to flooding in this area, including Lower Madeley Farm and properties along Harbours Hill, which had led to substantial flood damage to properties
- Water flow was intensified by the inert landfill 'foreign' material being different to the previous sand and gravel material and the excessive heights causing steeper gradients for surface water run-off
- Until the flooding issues are resolved it would be inappropriate to grant retrospective planning permission
- Conditions regarding drainage should be imposed, requiring a drainage scheme to be implemented prior to the commencement of the approved quarry extension area
- Anxious that the County Council will accept an inadequate drainage scheme from the applicant.

The Head of Economic Development and Planning's Comments

Monitoring and Enforcement

- The height of this site has been an on-going concern for residents
- Request the over tipped material is removed off-site.
- Would not be pleased if lorries were to return to remove material off-site. An alternative route must be identified
- At the Planning Inquiry in June 2009 (appeal Ref: APP/E1855/A/08/2069/39) the inspector commented that the quarry had been '*significantly overfilled*'. He also stated that with regards to the need for the restoration of the site to the original agreed levels "*I have not seen anything to suggest that the MPA would not require this to be done, and the remaining void at the existing quarry would be able to accommodate the excess material.*" This did not happen
- There has been a lack of effective enforcement on behalf of the MPA together with poor management of the quarry
- If permission was granted without remedial works being required it may set a precedent for subsequent decisions
- Had the quarry not been overfilled, then the length of time and the amount of lorries entering the site, causing destruction to roads and verges would have lessened considerably.

64. As with any planning application, this application should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The relevant policies and key issues have been set out earlier.

Green Belt

65. The NPPF states that there is a presumption in favour of sustainable development, which should be seen as a golden thread running through decision-taking, which means approving proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or
- specific policies in the NPPF indicate development should be restricted.

66. In this case the proposal is wholly located within the West Midlands Green Belt; footnote 9 to the NPPF indicates that policies related to this designation restrict development; and therefore, by virtue of footnote 9, the presumption in favour of sustainable development does not apply within

Green Belt areas.

67. The introduction to Section 9 of the NPPF states that *"the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of Green Belts are their openness and their permanence. The NPPF states that Green Belt serves five purposes:*

- *to check the unrestricted sprawl of large built-up areas;*
- *to prevent neighbouring towns merging into one another;*
- *to assist in safeguarding the countryside from encroachment;*
- *to preserve the setting and special character of historic towns; and*
- *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land".*

68. The NPPF considers that the construction of new buildings is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, there are a number of exceptions in paragraphs 89 and 90 of the NPPF, which are considered to be appropriate forms of development in the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. Paragraph 90 includes mineral extraction.

69. It is considered that the proposal is for the variation to the restoration levels of a worked quarry, albeit over and above the originally approved planning permission level. The restoration of the site is required by condition 14 of the extant planning permission MPA Ref: 107108 to restore the land back to an acceptable after-use, and therefore, is considered to fall under the above Green Belt exemption, as an appropriate form of development in the Green Belt.

70. The Head of Economic Development and Planning considers that the proposal would not conflict with the fundamental aim of Green Belt policy, which is to prevent urban sprawl by keeping land permanently open or that of the five purposes of Green Belt. Openness is not defined in the NPPF, but it is commonly taken to be the absence of built development. The proposal would not involve the construction of any buildings, and would also not involve any further importation of material.

71. When planning permission was granted for the quarry in 1983 and subsequently reviewed under the Review of Old Mineral Permissions (ROMP) procedure in 1998, the objective was to restore the land back to agricultural use. The applicant is seeking planning permission to regularise the overtipping of the site and to complete the restoration of

the development to agricultural use, which would be in accordance with this objective. It is also considered that should planning permission be refused consideration would need to be given to the removal of a substantial amount of material off site to restore the land back to the originally approved planning permission levels. The Head of Economic Development and Planning considers the restored profile does not look unnatural, and blends in with the surrounding landscape and is an acceptable landform, and consequently would have a limited impact on the landscape and openness of the Green Belt. Furthermore, it is considered that should planning permission be refused and the over tipped material is required to be removed off site, this would result in considerable disruption and inconvenience for local residents from noise, dust, and traffic impacts, and may result in a less satisfactory restored landform.

72. The Head of Economic Development and Planning considers that in terms of the NPPF the development is appropriate development within the Green Belt, and that the development is compliant with the aims of Green Belt policy in terms of maintaining the openness and would not conflict with the purposes of including land in Green Belt, in accordance with the NPPF, Policy WCS 13 of the Worcestershire Waste Core Strategy and Policies DS1, DS2 and DS13 of the Bromsgrove District Local Plan.

73. Under the Town and Country Planning (Consultation) (England) Direction 2009, the County Council is only required to consult the Secretary of State for Communities and Local Government on new buildings in the Green Belt it intends to approve that would be inappropriate development and exceed 1,000 square metres; or any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt. It is considered that the proposal would fall under the exemption to Green Belt policy for mineral extraction; and therefore, would not be inappropriate development. Furthermore, it is considered that by reason of its scale, nature or location it would not have a significant impact on the landscape and openness of the Green Belt; therefore, this application would not need to be referred to the Secretary of State.

Character and appearance of the local area, landscape and residential amenity

74. The proposal seeks to regularise the existing levels, which are on average approximately 3 to 4 metres above the approved planning permission restoration levels. Generally the levels are in accordance with the approved planning permission restoration levels along the western boundary and the in south-west corner of the site, however, the levels are approximately 2 to 6 metres over the approved planning permission restoration levels in the northern and eastern part of the site; and are substantially above the approved planning permission levels in the centre of the site, with the

maximum over level being about 9 metres in places.

75. Belbroughton Parish Council objects to the proposal, due to the excess levels of infill and request that enforcement measures are considered to restore the site to the levels permitted. Objections have also been raised by local residents regarding the over tipping of the site.

76. With regards to noise, dust and odour impacts to residential amenity. This application does not propose any further mineral extraction, or importation of materials. Worcestershire Regulatory Services has no adverse comments and the Environment Agency has no objections.

77. With regards to visual and landscape character impacts. The County Landscape Officer has also been consulted and has no objections, subject to the site boundaries being re-graded to marry in with the surrounding ground levels; debris removal; and the proposed east to west hedge being omitted. They also state that the restored profile does not look unnatural and, once a grass sward is established, will blend in with the surrounding landscape.

78. Natural England has been consulted and have commented from a soils and land restoration point of view, confirming they have no objections, subject to the imposition of an aftercare scheme condition.

79. Based on the advice of the County Landscape Officer and Natural England, the Head of Economic Development and Planning can see no benefit from a landscape point of view in requiring the over tipped material to be removed off site, and considers that the proposal would not have a detrimental impact upon landscape character or residential amenity.

The Water Environment

80. The proposal is within the Flood Zone 1 (low probability), as identified on the Environment Agency's Indicative Flood Risk Map. The Government's Planning Practice Guidance (PPG) identifies that all uses of land are appropriate within this zone. The Environment Agency's Surface Water Map indicates that the application site has a 'very low' risk of surface water flooding, which means that each year the chance of flooding is less than 1 in 1000 (0.1%). Notwithstanding this, land to the south-west of the site, along Harbours Hill has a 'low' to 'high' chance of flooding, up to 1 in 30 (3.3%).

81. Local residents and Belbroughton Parish Council have raised objections to the application on the grounds of flooding caused to the surrounding area. Stating that overfilling of the application site, together with the adjacent County Council restored landfill has led to flooding in this area, including Lower Madeley Farm and properties along Harbours Hill, which had led to substantial flood damage to properties; and that water flow was intensified by the inert landfill 'foreign' material being different to the previous sand and gravel

material, and the excessive heights causing steeper gradients for surface water run-off.

82. The applicant has submitted a drainage scheme, this includes two open ditches, measuring approximately 0.5 metres deep by 0.6 metres wide metres on the application site, which adjoin a further open ditch, leading to a proposed future balancing pond, situated in the south-east corner of the adjacent field and permitted quarry extension area (MPA Ref: 12/000036/CM).

83. It is considered that whilst the proposed balancing pond and associated ditch are located outside of the application site (red line boundary), conditions could be imposed to control these drainage elements, as they are within other land within the applicant's control. Consequently, it is the Head of Economic Development and Planning's view that these proposed drainage elements, including the balancing pond should be implemented as part of this planning application as permanent features, unless and until such a time that the permitted quarry extension is implemented. Condition 20 of the quarry extension (MPA Ref: 12/000036/CM) requires a foul and surface water drainage scheme to be approved by the MPA prior to the commencement of the quarry extension. Therefore, the drainage arrangements could then be reviewed and if considered appropriate the balancing pond could be incorporated into the drainage scheme required by Condition 20 of planning permission 12/000036/CM.

84. The Environment Agency has no objections, and confirms that the Lead Local Flood Authority has responsibility for matters relating to surface water management, and consequently do not wish to make any comments on the proposed drainage scheme.

85. North Worcestershire Water Management, are commenting on the application on behalf of the Lead Local Flood Authority. They have no objections, and are content with the drainage scheme in principle providing that the applicant confirms that they would limit the discharge to Greenfield run-off levels using a hydrobrake or similar. They think the intention to do this (instead of using the existing 250 mm pipe as a limited outfall) must be clear and should not be left to be detailed into a condition only. Councillor Blagg concurs with the drainage officer comments.

86. The applicant has confirmed that the proposal would be carried out in accordance with North Worcestershire Water Management's comments; and has amended the drainage scheme to confirm that the discharge would be limited to Greenfield run-off level using a hydrobrake or similar.

87. Based on the advice of North Worcestershire Water Management, the Head of Economic Development and Planning considers that the proposed drainage scheme is acceptable in principle. Consequently, it is considered that the

proposal would have no adverse effects on the water environment and would accord with Policy WCS 10 of the Worcestershire Waste Core Strategy, subject to the imposition of appropriate conditions.

Ecology, biodiversity and the geological Site of Scientific Interest (SSSI)

88. The Madeley Heath Pit geological SSSI is situated within the eastern side of the site, and is covered by previous landfilling of the site. The applicant states that the extent of the SSSI located within the application site was destroyed during the previous landfilling of the site; and submitted a report reviewing the SSSI in 2003 by English Nature (now Natural England) which confirmed this to be the case. Natural England has been consulted and has raised no objections, advising the MPA that this SSSI does not represent a constraint in the determination of this application.

89. It must also be noted that conditions 32 to 34 of the quarry extension planning permission (MPA Ref: 12/000036/CM) requires a new geological exposure to be created to replace the geological SSSI in the existing quarry that was lost during the course of the infilling operations.

90. The Great Farley and Dale Woods LWS is situated approximately 930 metres north of the site. Worcestershire Wildlife Trust has raised no objections, deferring to the opinion of the County Ecologist. The County Ecologist has no objections to the proposal.

91. The Head of Economic Development and Planning considers that the proposal would not have any adverse impacts on ecology and biodiversity at the site or on the geological SSSI, and is therefore, in accordance with Policy WCS 9 of the Worcestershire Waste Core Strategy.

Traffic, highway safety and public rights of way

92. The applicant has confirmed that the proposal would not involve any further mineral extraction and would not involve any further importation of waste as restoration materials, and consequently there would be no further vehicles movements, as the site is complete. The County Highways Officer has been consulted and has raised no objections to the proposal.

93. Three Public Rights of Way (Footpaths BB-594, BB-595, and BB-596) are located adjacent to the site. The Ramblers Association is concerned that the adjacent Footpath BB-594 is not proposed to be restored to its original alignment crossing the application site. They understand that the current route of Footpath BB-594 is the result of an existing Diversion Order, to allow the existing quarrying operations to be undertaken. When land is restored the Footpath would be reinstated to its original line.

94. The County Footpath Officer has no objections, and confirms that the current alignment of Footpath BB-594 is the result of a permanent and not a temporary Diversion Order,

as is suggested by the Ramblers Association. They have also confirmed that whilst Footpath BB-594 is within the wider application site of the permitted quarry extension (MPA Ref: 12/000061/CM) it would remain useable, as it passes along a wide strip of ground that would remain undisturbed due to the proximity of the electricity pylon.

95. Based on the advice of the County Highways Officer and County Footpath Officer, the Head of Economic Development and Planning is satisfied that the proposal would not have any adverse impact upon traffic, highway safety or Public Rights of Ways, in accordance with Policy WCS 8 of the Worcestershire Waste Core Strategy.

Other Matters

Monitoring and enforcement

96. Objections have been raised by local residents to the proposal, and they raise concerns that there has been a lack of effective enforcement by the MPA, together with poor management of the quarry by the operator.

97. The Head of Economic Development and Planning advises members that the County Planning Monitoring Officer has been regularly visiting the site, and as result of this monitoring and concerns about the final levels, the County Council undertook a topographical survey of the application site to verify the restoration levels. The results of this survey showed that the quarry had been overfilled by an average of 3 to 4 metres across the site. A consequence of which has resulted in the cessation of further materials being imported to the site and discussions with the operator which has led to this planning application to seek to regularise the levels.

98. It should also be noted that condition 61 of the permitted quarry extension area (MPA Ref: 12/000036/CM) requires the applicant to submit a scheme that sets out measures for liaison arrangements with the local community, and for this local liaison to be carried out for the duration of the development.

99. With regard to Councillor Blagg's comments that she would like the Committee to be clear on what conditions are still binding from the original planning permission. The Head Economic Development and Planning can confirm that this application would result in a new planning permission, which would be separate to the extant permission (MPA Ref: 107108), therefore, the applicant would have to only comply with the conditions imposed on any new permission. Having said that, an aftercare scheme is recommended to be imposed on any new permission.

Conclusion

100. The proposal seeks to regularise the existing levels of the site, which are on average approximately 3 to 4 metres over and above the approved planning permission restoration levels.

101. The proposal is located within the West Midlands Green Belt. The Head of Economic Development and Planning considers that in terms of the NPPF the development is appropriate development within the Green Belt, but notwithstanding this, it is considered that very special circumstances exist to justify the proposal within this Green Belt location; and that the development is compliant with the aims of Green Belt policy in terms of maintaining the openness and would not conflict with the purposes of including land in Green Belt, in accordance with the NPPF, Policy WCS 13 of the Worcestershire Waste Core Strategy and Policies DS1, DS2 and DS13 of the Bromsgrove District Local Plan.

102. The Head of Economic Development and Planning can see no benefit from a landscape point of view in requiring the over-tipped material to be removed off site, and considers that the proposal does not have a detrimental impact upon landscape character or residential amenity. The proposed final landform is considered to be acceptable in landscape terms.

103. Based on the advice of North Worcestershire Water Management, the Head of Economic Development and Planning considers that the proposed drainage scheme is acceptable in principle. Consequently, it is considered that the proposal would have no adverse effects on the water environment and would accord with Policy WCS 10 of the Worcestershire Waste Core Strategy, subject to the imposition of appropriate conditions.

104. Based on the advice of the County Ecologist, Worcestershire Wildlife Trust and Natural England, it is considered that the proposal would not have any adverse impacts on ecology and biodiversity at the site or on the surrounding area, including the geological SSSI.

105. Based on the advice of the County Highways Officer and County Footpath Officer, the Head of Economic Development and Planning is satisfied that the proposal would not have any adverse impact upon traffic, highway safety or Public Rights of Ways, in accordance with Policy WCS 8 of the Worcestershire Waste Core Strategy.

106. Taking into account the provisions of the Development Plan and particular Policies WCS 1, WCS 2, WCS 5, WCS 6, WCS 8, WCS 9, WCS 10, WCS 11, WCS 12, WCS 13 and WCS 14 of the Worcestershire Waste Core Strategy, and Saved Policies DS1, DS2, DS13, C1, C4, C5, C9, TR1, RAT12, ES4, ES14, ES14A and ES16 of the Bromsgrove District Local Plan, it is considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies.

Recommendation

107. The Head of Economic Development and Planning recommends that planning permission be granted for the part retrospective proposal to vary the approved

planning permission restoration levels at Chadwich Lane Quarry, Madeley Heath, Bromsgrove, Worcestershire, subject to the following conditions:

- a) The development hereby permitted shall be carried out in accordance with the details shown on submitted Drawing Numbers: 13/098_01; 13/098-02; 13/098_03; 13/098_03A; 13/098_04; 14/082_14; DESID 4; DESID 5; DESID 14, Rev 1; and PS4; except where otherwise stipulated by conditions attached to this permission;**
- b) Notwithstanding the submitted details, within 3 months of the date of this permission, a Restoration Scheme shall be submitted to and approved in writing by the Mineral Planning Authority, this scheme shall include details of proposed tree and hedgerow planting, including planting species, sizes, spacing, densities, locations, planting methods, and planting timetable schedule. Thereafter the development hereby permitted shall be carried out in accordance with the approved scheme;**
- c) Notwithstanding the submitted details, within 3 months of the date of this permission, details of surface debris picking and removal off site; and details including levels of how it is proposed to grade the edges of the site with the surrounding land, shall be submitted to and approved in writing by the Mineral Planning Authority. Thereafter the development hereby permitted shall be carried out in accordance with the approved scheme;**
- d) No operations authorised or required by this permission, including any running of plant or machinery shall take place within the application site outside the hours of 07.00 to 19.00 hours Mondays to Fridays and 07.00 to 12:00 hours on Saturdays. There shall be no operations whatsoever on the site at any time on Sundays or Bank Holidays;**
- e) Within 6 months of the date of this permission, an Outline Aftercare Strategy in accordance with Paragraph ID: 27-057-20140306 of the Government's Planning Practice Guidance – Minerals Section for a five year Aftercare period, shall be submitted to and approved in writing by the Mineral Planning Authority. This shall specify steps to be taken and the period during which they are to be taken. The Scheme shall include provision of a field drainage system and provide for an annual meeting between the applicant and the Mineral Planning Authority;**
- f) A Detailed Annual Aftercare Programme, in accordance with Paragraph ID: 27-058-20140306 of the Government's Planning Practice Guidance – Minerals Section, shall be submitted to and approved**

in writing by the Mineral Planning Authority, not later than two months prior to each of the annual Aftercare meetings;

- g) Notwithstanding the submitted details, within 3 months of the date of this permission, details of a full drainage scheme for surface water and a maintenance strategy shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be designed to cope with a 1 in 100 year rain event plus 20% allowance for climate change. The scheme shall include ditch and balancing pond locations and dimensions and details of the hydrobrake or similar which shall be installed to limit the discharge from the balancing pond to Greenfield run-off rates up to a 1 in 100 year storm event. The scheme shall be fully implemented in accordance with the approved details within 3 months of such details being approved; and
- h) Notwithstanding the submitted details, within 3 months of the date of this permission, details of a landscaping scheme for the balancing pond area hereby approved shall be submitted to the Mineral Planning Authority for approval in writing. The approved landscaping scheme shall then be implemented in accordance with the approved details.

Contact Points

County Council Contact Points

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Specific Contact Points for this Report

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List of Background Papers

In the opinion of the proper officer (in this case the Head of Economic Development and Planning) the following are the background papers relating to the subject matter of this item:

The application, plans and consultation replies in file reference 13/000061/CM.