

## REPORT TO THE STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	22 January 2014
<b>Application Number</b>	N/13/01610/WCM
<b>Site Address</b>	Aggregate Industries UK Limited Sands Farm Quarry Sand Pit Road Calne SN11 8TJ
<b>Proposal</b>	Extension to Condition 9 of N.88/1828 (Resubmission of 12/03244/WCM)
<b>Applicant</b>	Aggregate Industries UK Limited
<b>Town/Parish Council</b>	Calne Without/Cherhill
<b>Grid Ref</b>	401341 171695
<b>Type of application</b>	County Matter
<b>Case Officer</b>	Jason Day

### Reason for the application being considered by Committee

Members will recall that the Committee previously resolved to defer consideration of this Section 73 application to extend the life of the concrete products factory at Sands Farm Quarry, in order to receive further information about the perceived impact from noise and airborne emissions on the residential properties subsequently built adjacent to Sandpit Road.

### 1. Purpose of Report

To consider the above application and to recommend that planning permission is GRANTED.

Further, to address the concerns of Members at the meeting of 11 September 2013, namely:

- whether sufficient information had been provided on the level of impact from additional noise and air emissions and necessary measures that would be taken to address them, and
- whether additional new conditions relating to matters such as hours of operations could be imposed as part of the consideration of this section 73 application.

Additional information has now been received in the form of a Supplementary Planning Statement submitted by the Applicant to illustrate that the impact of the existing concrete products factory was considered by the housing developer within their planning application to develop a housing estate adjacent to Sandpit Road, and these impacts were considered acceptable. It also provides details on how the company intends to manage and monitor environmental noise and airborne emissions once the factory is reopened. These matters are addressed in the officer's appraisal at Planning Considerations.

A copy of the report presented to the Committee at its meeting held on 11 September 2013 is attached as Appendix A.

## **2. Report Summary**

The main issues in the consideration of this application are as follows:

- Principle of extending the life of the temporary planning permission
- Sustainable development and the economic impact of the proposal
- Impact of noise on residential areas
- Impact of dust on residential areas and impact on air quality
- Traffic/road infrastructure

## **3. Site Description**

The application site comprises the decorative Concrete Products Factory building, weighbridge, stock yard and car park situated at Sands Farm Quarry. The main factory building is 9 metres in height with a raised central section to accommodate conveyor elements at 17.2 metres in height.

The external material of the building is of profile steel cladding, with side elevations 'olive green' and roof 'moorland green' in colour. The building floor space is 7,533 square metres. The overall site area is 5.8 hectares.

The land to the immediate south of the factory is the site of mineral processing plant associated with the Sands Farm Quarry and Landfill, which extends southwards from the site and linked by conveyor to a quarry at Compton Bassett operated by Hills Quarry Products Ltd. Land to the north and south west of the factory is in agricultural use. The land to the northeast is also agricultural and is allocated in the Wiltshire and Swindon Aggregate Minerals Site Allocations Plan for sand extraction.

The application site also includes the line of Sandpit Road which provides a connection between Oxford Road and Abberd Lane and which was purposely constructed to provide access to the Concrete Products Factory. The land to the west of Sandpit Road is occupied by a recent housing development. The land to the east of Sandpit Road is agricultural in use but some of this land, an area off Oxford Road, has received outline planning permission for housing development of up to 200 dwellings.

## **4. Planning History**

N/88/1828 – Application for the decorative concrete products factory and stock yard by E.C.C. Quarries Ltd. Permission granted 16 February 1989.

N/90/1721 – Extension to the sand extraction operations with restoration back to agriculture by the importation of waste. Permission granted October 1992.

N/08/07016 – Application for the extraction of sand followed by backfilling with clay to original ground levels and restoration to an Orchard at Sands Farm for AIUK. Permission granted 5 June 2009.

N/10/03782/WCM – Variation of condition 11 of N/88/1828 to allow moulding to be undertaken at the concrete products factory. Permission granted 22 December 2010.

N/10/03280/WCM - Construction of conveyor to link Low Lane and Old Camp Farm mineral extraction to Sands Farm Quarry and retention of processing plant. Permission granted 17 November 2010.

N/12.03244/WCM - Extension to condition 9 of N.88/1828 to retain concrete products factory to 30 November 2022 or cessation of the processing of sand whichever the sooner. Application withdrawn March 2013, pending submission of a transport assessment.

## **5. The Proposal**

The application has been made under section 73 of the Town and Country Planning Act 1990 [as amended] to vary condition 9 of N/88/1828 to extend the operational life of a concrete products factory and stock yard. The proposal does not seek to make any changes to the physical appearance of the existing building and stock yard.

Currently, Condition 9 reads:

9. The building and products stock yard hereby permitted shall be removed, the use thereof shall be discontinued and the land reinstated to its former condition at or before the expiration of a 25 year period from the date of the granting of this permission or the exhaustion of the companies adjoining sand resources, whichever is the sooner.

Reason: In the interest of the amenity of the area and to ensure the building hereby permitted is not used for inappropriate purposes.

The date of permission N/88/1828 is 16 February 1989. Consequently, condition 9 limits the operational life of the Concrete Products Factory and stockyard to 16 February 2014 at the latest. However, whilst the sand resources at Sands Farm Quarry have almost been worked out, the grant of planning permission N/10/03280/WCM allows sand from the adjacent quarry at Low Lane to be brought to the Sands Farm plant site by conveyor for processing. That operation is time limited to cease by 30 November 2022.

The applicant therefore proposes to 'vary' the wording of condition 9 to read:

- x. The building and products stock yard hereby permitted shall be removed, the use thereof shall be discontinued and the land reinstated to its former condition at or before 30 November 2022 or the cessation of the processing of sand as permitted under planning permission N/10/03280/WCM, whichever is the sooner.

## **6. Planning Policy**

### National Guidance

National Planning Policy Framework (March 2012)

### Development Plan

Wiltshire and Swindon Minerals Core Strategy DPD 2006 – 2026

Policy MCS 6: Safeguarding Mineral Resources, Rail-head Facilities and Mineral Recycling Facilities.

Policy MCS8 Living with Minerals Development – Protecting Residential Amenity

Wiltshire and Swindon Minerals Development Control Policies DPD

Policy MDC2 Managing the impacts of minerals development

Policy MDC8 Sustainable transport and minerals development

Wiltshire and Swindon Aggregate Minerals Site Allocations Local Plan

Land near Compton Bassett

## **7. Consultations**

The supplementary statement has been publicised and consulted on, with all those who previously commented on the proposals notified and invited to submit further comments.

Local Member – no comments received

Calne Town Council – no comments received

Cherhill Parish Council - no comments received

Calne Without Parish Council - no comments received

Environment Agency - no objection in principle to the application from a planning perspective.

Highways – no comments received.

Environmental Health Officer – satisfied that both dust and noise emissions would not be significant enough so as to warrant a concern/objection from Public Protection. Is of the opinion that additional information demonstrates that the distance from the site to the new houses ensures there should be no significant noise impact. Notwithstanding this, as previously stated, any noise complaints against the site can be investigated and acted on under the Environmental Protection Act 1990, should nuisance be established. With regard to associated HGV's operating on the Sand Pit Road, advises that can raise no objection to this in the same way that did not and could not raise an objection to the 'proposed' residential development back in 2008 when these vehicle movements were considered and assessed.

Strategic Landscape Team – remains of the view that there is unlikely to be any significant impact on local ecology from this proposal.

## **8. Publicity**

12 further letters of objection were received in response to the additional information.

Summary of key relevant points raised:-

- Calne already suffers high levels of industrial heavy traffic.
- Views of the countryside are tarnished by lorries travelling down Sandpit Lane.
- Do not wish to be woken by lorries passing by at 6am each morning.
- Noise will be disruptive to the local amenity.
- Reopening the factory will be detrimental, bringing extra noise, congestion, dust and air pollution.
- Whilst noise and emissions from the factory could be minimised, HGV traffic will only increase noise pollution and emissions.
- Sandpit road cannot support the factory, residential development off sandpit road, plus those houses yet to be built.
- The new information does not offer anything tangible in the way to solutions to the two major problems of noise and airborne pollutants. What it seems to do instead is focus on criticising the residential development in Sandpit Road. This is separate issue and should not be used as an argument.

Hilmarton Parish Council – raises concerns regarding the increase in heavy vehicles using the A3102 through the parish.

Sandpit Rd Lobby Group (comprising residents of both the Persimmon and Redrow estates) - object to the application for the following reasons:-

- i. The potential traffic increase of 210 lorry movements a day along Sandpit Rd and the hinter roads (A4 A3102) will cause additional traffic congestion, noise and air pollution on all roads coming into and out of Calne. Many of the homes along Sandpit Lane are within yards of the road carrying these heavy vehicles.
- ii. Many of these HGV's will travel to and from Calne via Junctions 17 and 16 of the M4. This will adversely affect all towns and villages along these routes i.e. (Chippenham, Wootton Bassett, Lyneham, possibly Sutton Benger) also exposing residents along these roads to additional air pollution from emissions and lorry noise.

- iii. The proposed working hours involve early morning starts, late finishes and weekend deliveries to and from the site. These hours will greatly impact on local residents' quality of life and right to peace in out of office hours and as such are unreasonable.
- iv. We understand that for development projects such as this, it would be the norm for the local planning authority to request a noise impact assessment; assessing all noise making activities including vehicular activity to and from the site. Whilst data has been gathered relating to noise from the site itself and the numbers of lorries have been quantified by Aggregate Industries, no data/assessment has been submitted regarding the noise impact of the additional traffic activity, with the argument being that there is no historical, representative or potential data to draw upon. We would argue that a predictive assessment of traffic noise along Sandpit Lane and the Beversbrook by pass is feasible and should be undertaken. This should be done in accordance with BS 5228 or CRTN (Calculation of road traffic noise) to ensure residents are protected against harmful noise impact. Guideline reference noise levels can be found in BS 8233: 1999 and WHO 2000.
- v. Aggregate Industries argue in their recent submission that the developers, who built the houses along Sandpit Rd knew that they were building on an area with a 'known noise source'. How can the developers assessment undertaken in 2008 when the factory was mothballed (and there was less other traffic on Sandpit Rd) now be used as evidence to show that over 20,000 extra lorry movements a year will not impact on the residents now living in this area.
- vi. The Environmental Noise submission suggests that permission be granted and then when the complaints come in, monitoring and action can take place! We would argue that this is unreasonable. We urge Wiltshire Council to obtain predictive figures on noise and air emissions before the decision on this application is made.
- vii. For these reasons and the fact that this proposal only presents Calne with the prospect of 35 -100 additional jobs (most of which will be relocated from South Cerney), we would argue this is not in the interests of the town of Calne or indeed North Wiltshire and we strongly object to this application.

## **9. Planning Considerations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all applications for planning permission to be determined in accordance with the development plan unless other material considerations indicate otherwise.

Members will recall that the Committee resolved to defer consideration of this Section 73 application to extend the life of the concrete products factory at Sands Farm Quarry, in order to receive further information about the potential impact from noise and airborne emissions on the residential properties subsequently built adjacent to Sandpit Road.

The Applicant has provided a supplementary statement with the purpose to illustrate that the impact of the existing concrete products factory was considered by the housing developer within their planning application to develop a housing estate adjacent to Sandpit Road, and these impacts were considered acceptable. It also provides details on how the company intends to manage and monitor environmental noise and airborne emissions once the factory is reopened.

#### Airborne emissions

The Applicant has highlighted that the extant planning permission contains a condition (number 6) stating: "Best practicable means must be used to ensure there is no dust or noise nuisance from the site. All mechanical equipment used on site shall be fitted with appropriate silencers." The Applicant has provided an overview of the manufacturing process, which describes the process controls in place to minimise airborne emissions. This includes the main aggregate storage building being completely enclosed, together external conveyors and the shrink-wrapping of finished products stored in the stock yard. Through these process controls there have been no complaints with regard to dust emissions from the factory.

The Applicant also draws attention to the fact that as well as the planning permission, in order to operate the factory, the company must hold an Environmental Permit granted under the Pollution, Prevention and Control Act 1999 and The Environmental Permitting (England and Wales) Regulations 2007. The Permit imposes controls on airborne emissions (dust and odour) from all elements of the production process; from the importation of materials used within the manufacturing process, to the distribution of the finished concrete products. The permit contains 28 separate conditions to achieve its aims and, when operational, the factory is regularly visited by Wiltshire Council Environmental Health Officers who check compliance. The permit can be reviewed by the Environmental Health Department and updated as required.

The Environmental Health Officer has confirmed that, having assessed the submitted additional information, he is satisfied that both dust emissions from the concrete products factory would not be significant enough so as to warrant a concern/objection from the Public Protection Team.

#### Noise emissions

As with airborne emissions, the Applicant is subject to the same planning condition with regard to noise nuisance from the factory. The Applicant has provided an overview of the manufacturing process which includes a process description explaining the noise controls that are in place. These include containing the manufacturing process wholly within the main factory building and the enclosure of external hoppers and conveyors.

The Environmental Health Officer has confirmed that, having assessed the submitted additional information and a further 'desk-top' calculation, he is satisfied that noise emissions from the concrete products factory to the nearest dwellings in the new residential development would not be significant enough so as to warrant a concern/objection from the Public Protection Team.

The main concern raised by the residential properties adjacent to Sandpit Road is the potential impact of noise from the transportation of raw materials to the Factory and the distribution of finished products. As noted in the previous report, Sandpit Road is a highway specifically built as a requirement of the permission to construct the Factory.

Sandpit Road is also used by HGVs accessing to the various businesses at Sands Farm Quarry and the waste transfer site at Abberd Lane.

The planning application for the houses was submitted in 2008, and granted on appeal in 2010, included a noise assessment. The Applicant has referred to this noise assessment and highlighted that it considered the impact of HGV traffic on Sandpit Road on the housing development. The housing developer's assessment concluded the site was suitable for residential development and *"With appropriate mitigation measures incorporated into the design of the dwellings sited directly adjacent to the road, no noise impacts have been identified for the dwellings within the development."* These mitigation measures were subsequently built into the development.

Officers have obtained a copy of the noise assessment and note that within the section of the report that describes the site and potential noise sources it is stated:-

To the east, the site is bounded by Sandpit Road. This lane has recently been constructed to carry the HGV traffic into the quarry and block works sites which are to the south east of the site. During the daytime period there are regular vehicle movements along this road and traffic using this lane forms the main noise source within the proposed Development. This lane will form the main access into the Development and traffic flows along the lane will increase once the development is occupied.

The following key points are also noted from the noise assessment report:-

- A series of noise measurements were carried out to ascertain the existing noise environment within the development, which is principally influenced by HGV road traffic on Sandpit Road accessing the quarry and block work sites at the end of the lane;
- The assessments concluded the site was suitable for a residential development; and
- With appropriate mitigation measures incorporated into the design of the dwellings sited directly adjacent to the road, no noise impacts were identified for the dwellings within the development.

The Environmental Health Officer has confirmed that, with regard to associated HGV's operating on Sandpit Road, he can raise no objection to this in the same way that he did and could not raise an objection to the residential development back in 2008, when these vehicle movements were considered and assessed.

The Applicant has also provided a copy of an 'Environmental Noise and Dust Control Scheme' under which, in the event of a noise complaint or a specific request being received from Wiltshire Council, the company would undertake noise monitoring. The Environmental Health Officer has advised that any noise complaints against the site can be investigated and acted on under the Environmental Protection Act 1990, should nuisance be established.



## Operating hours

With respect to the query over whether additional new conditions relating to matters such as hours of operations could be imposed on any permission granted, officers have sought further legal advice to clarify the position as to whether this is possible under Section 73. The advice is that where an application under Section 73 is approved, the effect is to create a new grant of planning permission. Consequently, the planning authority can grant such permission unconditionally or subject to different conditions (this can include imposing new conditions to address changes in circumstances since the original grant of permission), or can refuse the application if it decides that the original condition(s) should stand.

Therefore, should the Committee consider it necessary, in light of additional information, to restrict the hours that HGVs enter and leave the site, then a condition can be imposed on any permission granted to secure this. The Applicant has confirmed that in past deliveries of imported aggregate were received between the hours of 0600 hours to 1800 hours. However, quarry and landfill vehicle times are restricted to 0700 hours to 1800 hours. A suitable condition to reflect this arrangement as part of any permission granted for retention of the concrete products factory is included in the recommendation section below.

## **10. Conclusion**

The Applicant has provided additional information that establishes there would be no unacceptable noise or dust impacts from the Concrete Products Factory on the new housing development subsequently built adjacent to Sandpit Road. The Environmental Health Officer is satisfied that both dust and noise emissions would not be significant enough so as to warrant an objection from Public Protection. Notwithstanding, any noise or dust complaints against the site can be investigated and acted on under the Environmental Protection Act 1990. The associated HGV's operating on the Sandpit Road and the likely impact on adjacent dwellings was assessed by the housing developer through the application/appeal process and it concluded the site was suitable for a residential development.

The retention of the decorative concrete products factory for a temporary period to 30 November 2022 is considered consistent with the longstanding use of the local area for mineral extraction and manufacture of concrete products and would provide additional employment for the local area.

## **RECOMMENDATION**

That, subject to completion of a variation of the legal agreement attached to N/88/1828 dated 2 February 1989,

## **Permission be GRANTED**

Subject to the following condition(s):

1. The development should be carried out in accordance with the submitted Plan Nos 8831/01 and 8831/02 and accompanying statement dated 15th June 1988.

Reason: To define the nature and extent of the development permitted.

2. Prior to the commissioning of the plant and production of products from it, an access road shall be constructed from the A3102 to Abberd Lane in accordance with details to be agreed in writing with the Director of Planning and Highways. Details shall include: the alignment, construction and landscaping requirements.

Reason: To minimise danger to traffic and to remove heavy lorry traffic from residential areas.

3. On completion of the access road referred to in condition 2 above, no vehicles entering or leaving the Sands Farm site shall use Abberd Way or Woodhill Rise.

Reason: To minimise danger to traffic and to remove heavy lorry traffic from residential areas.

Policy: MDC8 of the Wiltshire and Swindon Minerals Development Control Policies DPD

4. Landscaping requirements are to be undertaken in accordance with the submitted scheme as shown on plan No. 88.418.03. All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the completion of the development and any trees which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season.

Reason: To safeguard the amenities of the area.

Policy: MDC5 of the Wiltshire and Swindon Minerals Development Control Policies DPD

5. Best practicable means must be used to ensure that no mud or other detritus is carried onto the highway.

Reason: To ensure compliance with highway regulations.

Policy: MDC8 of the Wiltshire and Swindon Minerals Development Control Policies DPD

6. Best practicable means must be used to ensure there is no dust or noise nuisance from the site. All mechanical equipment used on site shall be fitted with appropriate silencers.

Reason: To safeguard the amenities of the area.

Policy: MDC2 of the Wiltshire and Swindon Minerals Development Control Policies DPD

7. Best practicable means shall be taken to prevent any solid matter or excess amounts of suspended matter from passing into any watercourse.
- Reason: To protect water supplies and reduce pollution of water courses.
- Policy: MDC3 of the Wiltshire and Swindon Minerals Development Control Policies DPD
8. The storage of finished products in the stock yard shall not exceed 3 metres in height.
- Reason: To safeguard the amenities of the area.
- Policy: MDC1 of the Wiltshire and Swindon Minerals Development Control Policies DPD
- 9. The building and products stock yard hereby permitted shall be removed, the use thereof shall be discontinued and the land reinstated to its former condition at or before 30 November 2022 or the cessation of the processing of sand as permitted under planning permission N/10/03280/WCM, whichever is the sooner.**
- Reason: In the interests of the amenity of the area and to ensure the building hereby permitted is not used for inappropriate purposes.**
- Policy: MDC2 of the Wiltshire and Swindon Minerals Development Control Policies DPD**
10. Prior to the commencement of the construction of the decorative products factory building, samples of the materials and colours to be used in the external elevations of the buildings shall be submitted to and approved by the Mineral Planning Authority.
- Reason: In the interests of the amenity of the area and to ensure the building hereby permitted is not used for inappropriate purposes.
- Policy: MDC5 of the Wiltshire and Swindon Minerals Development Control Policies DPD
11. The building hereby permitted shall be used solely for the manufacture of concrete products and for no other purpose unless otherwise approved by the Mineral Planning Authority.
- Reason: In the interests of the amenity of the area and to ensure the building hereby permitted is not used for inappropriate purposes.
- Policy: MDC2 of the Wiltshire and Swindon Minerals Development Control Policies DPD

**12. No lorry traffic shall enter or leave the site except between the hours of:**

**0600 hours and 1800 hours Monday to Friday; and  
0600 hours and 1300 hours Saturday.**

**No vehicles shall enter or leave the site on Sundays or Public Holidays.**

**Reason: To safeguard the amenity of local residents and properties adjacent to Sandpit Road.**

**Policy: MDC2 of the Wiltshire and Swindon Minerals Development Control Policies DPD**

## **APPENDICES**

Appendix A: Copy of report presented to the Strategic Planning Committee meeting held on 11 September 2013.

### **Background Documents Used in the Preparation of this Report:**

Supplementary Planning Statement submitted by Aggregate Industries UK Ltd - November 2013

Noise Assessment for Proposed Residential Development on Land Adjacent to Sandpit Road, Calne for Robert Hitchins Limited – October 2008