

REGULATORY COMMITTEE

18th DECEMBER, 2002

**LATTON: PROPOSED VARIATION OF CONDITION 2 OF PLANNING
PERMISSION NO. N.99.2132 TO VARY THE METHOD OF TRANSPORTING
MINERALS TO THE PROCESSING PLANT FROM CONVEYOR TO DUMP
TRUCKS AT EYSEY MANOR FARM, NR. CRICKLADE FOR TARMAC LIMITED
(Application No. N.02.1815)**

Purpose of Report

1. To comment on the application and to recommend that planning permission be REFUSED.

Background

2. Planning permission was granted by Wiltshire County Council to Tarmac Quarry Products Ltd. on 25th October, 2001 for; *the extraction and processing of sand and gravel, operation of a concrete batching plant and restoration by partial infilling with inert waste to agriculture, lakes and nature conservation after use* on a greenfield site at Eysey Manor Farm near Cricklade. The permission was granted subject to conditions and to a Section 106 Agreement to cover highway improvements, canal restoration and water monitoring. At the present time, extraction has not commenced due to the applicant submitting details to discharge a number of conditions.

The Site

3. The Eysey Manor Farm site lies some five miles from Cirencester and eight miles from Swindon in the northern part of the County of Wiltshire and east of the A419 (T) road. The application site amounts to 150 hectares (370 acres) and permission exists to establish a new quarry to extract, process and sell 2.7 million tonnes of sand and gravel over an eighteen year period at an average output of 150,000 tonnes per annum. The site is bounded on the west by the A149 (T) road (dual carriageway) on the north by the C124 (proposed Eastern Spine Road), on the south by the River Thames (western end) and the disused Thames and Severn Canal (eastern end) and in the east by the Eysey Manor Farm landholdings where they abut the adjacent landholdings of Alex Farm (see **Appendix 1**). The land is virtually flat at a level of 78 metres AOD (Above Ordnance Datum) and comprises mixed arable and improved grassland with arable uses dominating the eastern and central part of the site and grassland dominating the southern and western part of the site.

The Application

4. The application seeks to vary Condition 2 of planning permission N.99.2132 specifically to alter the method of transporting sand and gravel between the extraction area and the processing plant site from the use of overland conveyor to the use of dump trucks. No other alterations are proposed.

5. Condition 2 of planning permission N.99.2132 reads as follows:-

Unless otherwise agreed in writing by the Mineral Planning Authority or required by conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the details submitted in Planning Application N.99.2132, the Environmental Statement, Supporting Statement and Drawing Numbers C96/12, C96/13, C96/14, C96/15, C96/16, C96/17, C96/18 and C96/19 (all dated June 1999) and C96/20A dated January 2000.

6. Condition 2 requires the development to be undertaken in accordance with the details of the Planning Application and supporting documentation, and Tarmac have submitted this application to vary details as regards transportation of the extracted mineral from the face to the processing plant. The proposed output, hours of work, life of site, etc. would remain the same.
7. Applications to 'vary' or 'amend' the conditions attached to a planning permission are properly an application under Section 73 of the Town and Country Planning Act 1990. Section 73 of the Act provides that applications may be made for planning permission without complying with conditions applied to a previous permission. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation.
8. Section 73 requires the planning authority to consider only the question of the condition(s) subject to which planning permission should be granted, and:
- (a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - (b) If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
9. Consequently, if the planning authority does decide that some variation of conditions is acceptable, a new alternative permission will be created. It is then open to the applicant to choose whether to implement the new permission or the one originally granted.
10. The scope of a planning authority's jurisdiction when considering an application under Section 73 is, in principle, more limited than when considering an application for full planning permission. Nonetheless, the planning authority may be unrestrained in its consideration of the full planning merits of the application. An application made under Section 73 is an application for planning permission and the planning authority's duty in deciding planning applications is to have regard to both the Development Plan and to any other material considerations.

Consultations

11. **North Wiltshire District Council** – No objection on planning grounds subject to no adverse comments received from the Environmental Health Officer concerning noise issues or the County Highways Authority concerning highway safety issues.
12. **North Wiltshire District Council – Environmental Health Officer** – Satisfied that the proposals demonstrate compliance with the criteria originally imposed under conditions of the planning permission.
13. **Cricklade Town Council** – Does not support the proposal. The permission granted followed a very long and lengthy consultation period. The conditions were to safeguard the environment close to Cricklade. Dump trucks will increase dust, dirt and probably noise as well as posing a danger to residents and visitors.
14. **Latton Parish Council** – Objects to the proposals and supports the view of the local residents who have objected to the application.
15. **Local Member Mr. B. Atfield** – Cannot agree to variation of Condition 2 due to the following:- dust pollution, fumes, noise, and health and safety issues with ten children living within the area.
16. **Environment Agency** – No objections.
17. **English Nature** – No comments.
18. **Highways Authority** – No objection in principle.
19. **Rights of Way** – Purely from a highway point of view, the alternative of haulage roads with at grade crossings would seem far simpler to achieve and probably less onerous than having conveyors.
20. Copies of the consultation replies referred to above are available for inspection in the **Members' Room**.

Representations

21. In addition to the local Member's representation, five other letters of representation have been received from local residents and from the local MP, i.e. two from Eysey Cottages, one from Bridge Cottage and one from Eysey Manor Farmhouse in addition to Michael Wills MP. The issues raised in their letters can be summarised as follows:-
 - (i) Eysey is a small community where all the children play together. Having large trucks crossing the lane will make it very dangerous for the ten children to meet each other and will be a serious threat to their safety.
 - (ii) The lane to Eysey Manor is used by anglers, walkers, cyclists, horses, farm traffic and residents' own vehicles.
 - (iii) Dump trucks will generate large amounts of dust compared with a conveyor.

- (iv) Prevailing wind would take dust to Eysey Cottages.
 - (v) Any extra truck movements will definitely cause more noise and dust than a conveyor.
 - (vi) Concerns regarding possible effects on future health of families.
 - (vii) The gravel extraction is an eighteen-year operation and decisions made now will affect their families for many years to come.
 - (viii) The application was granted on the basis of conveyors being used.
 - (ix) Trucks are far noisier than conveyor belts.
 - (x) Residents want to limit the effects the gravel extraction will have on their families and the environment.
 - (xi) One family has two children with asthma and the prevailing wind will blow dust at them and at other houses at Eysey.
 - (xii) Dump trucks will create more fumes than a conveyor.
 - (xiii) There will be an increase in traffic movements on site with dump trucks and vehicles bringing inert fill material.
 - (xiv) Quality of life would be seriously affected.
22. Copies of letters of representation referred to above are available for inspection in the **Members' Room**.

Publicity

23. This application was advertised in the local press and on site in accordance with normal procedures. Neighbour notifications were also undertaken. A meeting has also been held with the applicant, the immediate local residents, local Member, Latton Parish Council Chairman and the Wiltshire County Council Case Officer, at Eysey Manor on the 18th October, 2002.

Planning Considerations

24. The application being considered is to change the approved means of transporting sand and gravel from its source to the processing plant located at the central western end of the Eysey Manor site. In considering the advantages and disadvantages of such a change, regard must be had to the environmental implications which would result. Although there are no specific direct policy references in the relevant Development Plans (i.e. Wiltshire Structure Plan 2011, the Adopted Wiltshire and Swindon Minerals Local Plan November 2001 and Local Plans produced by the District Council) which compare the use of conveyors to dump trucks within a site, reference is made to the need to consider the environmental impacts of alternative forms of transport.

Specifically, in the Wiltshire Structure Plan 2011, MSP7 encourages alternatives to the transportation of minerals by road (see **Appendix 2**) and in the Wiltshire and Swindon Minerals Local Plan November 2001 Policy 6 looks at the need to consider transport modes which are the safest and least damaging environmentally (**Appendix 2**). In the supporting text it states at paragraph 2.8.4:-

Furthermore, mineral conveyors can often offer environmental benefits over the use of dump trucks within a mineral site as they usually generate less noise and pollution. The use of conveyors may be appropriate to sites in the Upper Thames Valley where a number of operations in close proximity may be served by a single processing plant. The use of these alternatives will be viewed favourably by the MPA when considering planning applications for mineral developments, where they would result in less environmental impact or help resolve highway safety problems.

25. In essence, therefore, it is the County Council's policy through the Structure Plan and Minerals Local Plan to consider the most appropriate and most environmentally sensitive mode of transporting material both within and outside mineral sites.

Why the Applicant wishes to change from Conveyor to Dump Truck

26. Before considering the environmental implications of changing from land conveyor to dump trucks at the Eysey Manor site, one has to consider why the applicant is now wishing to change the mode of travel within the site. In the conclusion to the supporting statement submitted with the current application, the applicant states:-

The proposal to replace conveyors by dump trucks as a means of transporting mineral from the working face to the processing plant is required to avoid the likely regular disruption to the operations, which would be necessary to relocate the conveyor as the working face rapidly progressed. The substantial initial capital outlay of the conveyor system would also be avoided.

27. Two points are raised here, namely:-

- (i) Disruption to operations due to having to relocate the conveyor periodically, and
- (ii) The initial capital outlay of the conveyor would be avoided.

28. Looking at these two points, in the case of (i) the disruption to operations could be avoided by good management of the site. Other existing sand and gravel sites in the County operate conveyors successfully and are able to build up stockpiles of material at the plant so that any disruption to supply brought about by relocating conveyors is minimised. In the case of (ii) the capital cost outlay for a conveyor system has to be balanced against the cost implications of acquiring 2-3 dump trucks. Under the currently agreed permission the conveyor would not be required until Phase 2 which would be 2-3 years into the extraction of the site, thus allowing the applicant time to programme the cost implications of using a conveyor system into their budget. The above does not take account of the environmental impacts of dump trucks as opposed to conveyors.

Environmental Impacts of the Proposals

29. The applicant has suggested in the Supporting Statement to the application that noise, dust and exhaust fumes are the three main issues which should be considered.

Noise

30. Following an analysis of the potential noise levels arising by substituting dump trucks for conveyors, the noise consultant for the applicant has suggested that *none of the calculated site noise levels for daytime is more than 1dB(A) higher than the levels presented for the on-site dwellings submitted with the original application*. The final conclusion is that *overall the changes are small and that calculated site noise levels for the current proposals comply with the noise limits imposed in the planning permission*. It is considered that *noise emissions associated with this proposal can be kept within environmentally acceptable limits, which could be checked by noise monitoring*.
31. The implication here is that noise levels will increase marginally but are nevertheless still acceptable. The applicant in the Supporting Statement is also suggesting that noise levels will be reduced because the items of plant would be reduced from two to one, i.e. instead of having an excavator and loading shovel to load into a hopper feeding the conveyor, the front loading shovel would not be required as the excavator would load dump trucks direct. However, this ignores the point that by dispensing with one item of plant they are replacing it with two/three additional items, i.e. the dump trucks. Also the two/three dump trucks would be “mobile” noise sources which would move across the site at varying speed and be subject to audible noise warning systems (i.e. reversing beepers). Although noise levels may be marginally different in terms of technical calculations it is considered that the noise source would be very different in that it would be both mobile and variable as the three dump trucks move backwards and forwards across the site increasing and decreasing in speed. Although the Supporting Statement suggests that *the use of dump trucks would result in a negligible change in the noise climate*, it is suggested that this statement is misleading in that the nature of the noise source would change and it would be variable throughout the days when dump trucks were in operation. The mobility of the noise source would mean that it would be difficult to mitigate to an acceptable level for residents living in close proximity to the site.
32. A further consideration in relation to noise is that if dump trucks are allowed to be used for all nine phases indicated in the application (see **Appendix 3**) rather than the two phases (Phase 1 and Phase 8) currently permitted, then for three of the nine phases (Phases 3, 4 and 6) there would be both dump trucks and outside lorries bringing in inert material at a rate of approximately 30,000 cubic metres per annum to restore land to agriculture operating at the site at the same time thus leading to an intensification of heavy traffic movements on site (and thus increased noise) to the detriment of the local residents.

Dust and Fumes

33. With regard to dust and fume suppression measures, details have been submitted to the County Council by the applicant as a 'reserved matter' in the discharge of Condition 10 of planning permission N.99.2132. With regard to fumes emissions, the operator has said that he would ensure that fumes emitted from the exhausts of plant and equipment accord with the manufacturer's requirements and specifications. The plant would be regularly inspected to ensure compliance. However, no comparison is made between the fumes generated by 2-3 dump trucks and an overland conveyor which is electrically driven and therefore pollution free.

34. With regard to dust suppression, details were originally provided within the Environmental Statement accompanying the planning application in August 1999 of the potential for dust generation and measures to be undertaken to minimise any dust nuisance. Condition 10 of the planning permission requires further details to be submitted for approval and these have been submitted by the applicant. On page 2 of the submission the applicant states:-

The potential for dust generation is relatively limited from the operations involved in the extraction and processing of the sand and gravel deposit. The greatest potential arises from the handling of soils and the vehicle movements within the site (to transport soils, infill or sand and gravel).

35. Also at paragraph 8.13 of the Environmental Impact Assessment August 1999 it states:-

The use of ground level conveyor would ensure that vehicles did not have to travel across the site transporting mineral to the processing plant and would not have the potential to generate dust along access roads.

36. Finally, at paragraph 6.3.12 of the Supporting Statement it states:-

By using a conveyor, the requirement for the considerable movement of material by dump trucks has been avoided and it is considered that the conveyor is the most environmentally sensitive method of transportation between the working face and the processing plant.

37. By their own admission, therefore, vehicles transporting sand and gravel across the site have more potential to raise dust than a conveyor which is more environmentally sensitive. Although dust mitigation measures would be put in place, it is inevitable that more dust would be raised by dump trucks than a conveyor and that this dust would be carried on the prevailing winds.

Impact on Residential Amenity

38. All of the residents living adjacent to the site have objected to the proposals. This amounts to four families with eleven children between them (i.e. nineteen people in total). The main concerns raised by these families can be summarised as noise, dust, increase in traffic, visual impact and health and safety.

Health and Safety Issues

39. Noise, dust and increase in traffic (visual impact) have been considered above. Health and Safety issues are a little more difficult to deal with because while there is a requirement on all mineral operators to make their sites as safe as possible by using adequate warning sites and fencing to keep people out, if people want to get into a site, they will. Mineral extraction sites are dangerous sites by nature. However, it is considered as a general point that a conveyor is a safer and more restrictive means of moving sand and gravel than 2-3 dump trucks, particularly as with dump trucks there will be need for a crossing point over the main right of way to Eysey Manor which increases the potential risk of physical contact. With a conveyor, this would be routed under the right of way and therefore there would be no point of conflict. The residents do make the point that they do not object to the sand and gravel extraction 'per se' but do object to dump trucks as opposed to conveyors.

Company Policy

40. Having considered earlier why the applicant company wishes to change from conveyor to dump trucks (i.e. not having to move the conveyor occasionally and cost) it is interesting to see what the applicant company is saying at the National level in terms of its position at the forefront of promoting environmental improvements and its wish to work with the communities who have to bear the brunt of mineral workings.
41. In the Tarmac Seventh Safety Health Environment Report 2001 which was received in mid July 2002 at page 14 it states:-

TARMAC GROUP IS COMMITTED TO ACHIEVING WORLD CLASS PERFORMANCE IN ENVIRONMENTAL PRACTICE AND MINIMISING THE ENVIRONMENTAL IMPACT OF ALL ITS OPERATIONS, PREVENTING POLLUTION AND STRIVING FOR CONTINUAL IMPROVEMENT IN ITS ENVIRONMENTAL PERFORMANCE WHILST WORKING TOWARDS A SUSTAINABLE FUTURE.

42. Also at page 25:-

OUR LICENCE TO OPERATE DEPENDS ON NOT ONLY OBTAINING LEGAL PERMISSION BUT ALSO BY GAINING THE SUPPORT OF STAKEHOLDERS AND, IN PARTICULAR, THE LOCAL COMMUNITIES IN WHICH WE OPERATE. OUR OBJECTIVE IS TO POSITIVELY CONTRIBUTE TOWARDS THE WELL-BEING OF THOSE COMMUNITIES.

43. It is difficult to reconcile the sentiments expressed in these goals and the company views expressed in the Supporting Statement to the original planning application for Eysey Manor Farm (where they confirm that dump trucks were being avoided because conveyors were considered a more environmentally sensitive method of transporting mineral between the working face and the processing plant) with the application now being considered to change from a conveyor to dump trucks mainly on cost grounds. The applicant is not being consistent in this respect. The Eysey Manor permission is for a greenfield site with a minimum eighteen-year life. It is considered essential that the principles for extraction are established at the outset.

Conclusions: Options Considered

44. The application must be judged on its merits and against relevant Development Plan policies and all other material considerations.
45. The proposal involves a change in the mode of travel of sand and gravel across the site from the working phase to the processing plant from overland conveyor to 2-3 dump trucks.
46. The applicant's main reasons for wanting to change are:-
 - (i) Disruption to operations when the conveyor needs to be relocated.
 - (ii) Initial cost outlay.
47. These reasons have to be considered in the light of relevant Development Plan policies and other material considerations. Both the Wiltshire Structure Plan (MSP7) and the Wiltshire and Swindon Minerals Local Plan (Policy 6) relate to the need to consider modes of transport for minerals which are safe and least environmentally damaging. By their own admission in the original Supporting Statement to the planning application, the applicant has said that a conveyor is less environmentally damaging than dump trucks. With regard to disruption to operations (i) it has been shown in the report how this can be overcome by good management on site, e.g. building up stock piles of material at the processing plant to allow for any adjustments to the conveyor alignment. With regard to (ii) although initial cost outlay is a matter for the applicant, it is considered that the most environmentally acceptable system should be in place from the outset of the operation, particularly as this conforms with the goals and objectives of the applicant as set out at National level in their "Safety Health Environment Report 2001.
48. There is opposition to the proposals from local residents who live adjacent to the site on the grounds of possible noise, dust, visual impact, and on health and safety grounds. On all these grounds it is considered that they have a valid point and if the applicant is sincere in the objective to GAIN THE SUPPORT OF STAKEHOLDERS AND, IN PARTICULAR, THE LOCAL COMMUNITIES IN WHICH WE OPERATE. OUR OBJECTIVE IS TO POSITIVELY CONTRIBUTE TOWARDS THE WELL-BEING OF THOSE COMMUNITIES, then it should continue with the conveyors which would contribute far more to their well-being than 2-3 dump trucks traversing the site daily.
49. In considering the original planning application for mineral extraction at the site, the consultation responses received and the report prepared for Committee were all based on the premise that all material would be moved by conveyor other than inert infill material coming into the site for restoration purposes. It was deemed at the time an overland conveyor was, and still is, the most appropriate means of transporting the mineral to the processing site and this view remains today and has not changed.

50. Overall, having considered the application fully and the alternative option put forward of using dump trucks it is considered that on policy and environmental grounds, the proposed development cannot be justified. The adverse environmental impact the development would have on the area and local residents living in close proximity to the site far outweighs any benefits which may be brought about by the development taking place. In view of the overwhelming case against the proposed development as set out above, the alternative option of having dump trucks rather than the overland conveyor cannot be supported on policy and environmental grounds.

Recommendation

51. That there should be no change to the conditions to which planning permission N.99.2132 was granted and therefore planning permission be **refused** for the following reasons:-
1. The proposed development would be contrary to policies and supporting text contained within the adopted Wiltshire Structure Plan 2011, and the Wiltshire and Swindon Minerals Local Plan 2001 which seek to minimise the environmental impact on the environment of transporting minerals.
 2. The proposed development does not accord with the original findings of the Environmental Impact Assessment and supporting statement undertaken by the applicant for the Eysey Manor proposals, namely that: *by using a conveyor, the requirement for the considerable movement of material by dump trucks has been avoided and it is considered that the conveyor is the most environmentally sensitive method of transportation between the working face and the processing plant.*
 3. The proposed development would be likely to have an adverse impact on nearby residents by virtue of noise, dust, visual impact and danger to health.

Reason for Recommendation

52. The development proposed is contrary to Development Plan policies and there has been no demonstrated requirement for the development which would overcome the detrimental environmental implications and impacts it would have on local residents if granted approval.

RICHARD J. LANDER

Director of Environmental Services

The following unpublished documents have been relied on in the preparation of this Report:

Consultation responses and correspondence.

Environmental impact of the Recommendation contained in this Report:

These are detailed in the main body of the report. The proposed development is considered to have adverse environmental impacts which outweigh any benefits of permitting the change from conveyors to dump trucks and is therefore recommended for refusal.

