

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
28th October 2014

Agenda item 4

Application ref. 14/00610/FUL

Land at Doddlespool, Main Road, Betley

Since the preparation of the agenda report the comments of the Highway Authority, County Council and Natural England have been received.

The **Highway Authority** (HA) has advised that additional information is required from the applicant in relation to the quantity of soil to be removed and vehicle trips required; timescales and daily vehicle movements; clarification if the existing access will be widened; preventative measures to minimise mud and debris onto the highway; surfacing of the access track 10m rear of the carriageway edge and temporary signage.

The **County Council** have advised that the applicant has detailed to them that he intends to remove between 10,000 and 15,000 tonnes of soil from the site and any remaining soil will be spread evenly across the large field without severely affected the levels or visual appearance. They recommend conditions that no further material is imported onto the site; a restriction on hours of operation; restriction on the number of vehicle movements per day in an acceptable timescale; the soil screening and processing machinery is removed within one month and the completion works for the development be finished by 1st June 2015

Natural England indicate that the application site is in close proximity to Betley Mere which is a component site of the Midlands Meres and Mosses Phase 1 Ramsar site and also notified at a national level as Betley Mere Site of Special Scientific Interest (SSSI). The information submitted with the application does not include a Habitats Regulations Assessment and it cannot be determined whether the likelihood of significant affects can be ruled out. An objection is therefore raised to the application due to the potential impact that the development has on the SSSI. NE detail that if the authority is minded to give approval regard should be given to Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon the authority, requiring that notice is given to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

Councillor Becket has provided a submission which details that there is no issue with the retention of a water reservoir, formation of hard standing and repairs to a track and the reservoir has improved the drainage on the lower area of the farm and adjacent farms. The issue arises with the disposal of soil and peat from the site. The number of vehicles has exceeded EA exemptions and poor visibility complicates the case. It is not known how much surplus material is on site and how much (if any) has been imported. Nor is it known how much has already been exported. Councillor Beckett summaries HA and County Council comments and acknowledges that the County Council is the planning authority for waste, and has a greater understanding than Borough Council planners as to what is reasonable. It should therefore be accepted that the shorter time scale should be advised. The six months (26 weeks) appears reasonable, with 15000 tonnes to be removed (max) in 20 ton vehicles gives 29 vehicles per week, or 6 vehicles per day. (NB one tonne, a metric measurement, and one ton, an imperial measurement, are close but not identical). It maybe for operational reasons a more flexible period is required, and the start date for this period could be varied, or even have the period split. Natural England has expressed considerable concern that there is insufficient information, particularly in respect of the effect on Betley Mere, and a lack of information on protected species. Three options are proposed;

1. Approve subject to a combination of conditions with the tightest restrictions possible,

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2. Approve the engineering works in principal, but defer conditions until a later meeting, and
3. If the exportation of peat is prohibited then either this application should be refused, or have a condition attached that there must be no exportation of material from the site.

Three further letters of **objection** have been received raising similar concerns to those detailed within the main agenda report but the following additional objections have been raised;

- Mud and debris on the highway causes safety implications and existing road sweeping is ineffective,
- There is an absence of signage,
- An independent assessment is required to the amount and nature of material still to be exported from the site,
- Accurately establish what work is still to be completed to the site,
- The planning authority should explore the transportation and working of peat requiring separate consent.
- The necessary habitat assessment should be carried out,
- No further works should be carried out until the issues have been addressed,
- An open-ended situation or a 2 year period are completely unacceptable,
- Conditions restricting hours of operation, mud, dust and noise, no further material to be imported.
- The application as a whole is vague and many questions on the Application Form have not been answered,
- There is no professional technical evidence as to how this proposal assists drainage,
- It is clear that government policy seeks to phase out peat extraction and rely on more sustainable alternatives to supply the horticultural industry,
- The application should be refused on balance due to the amount of peat being removed,
- The site is essentially a peat and soil supply, waste transfer station and tipping facility,
- Object to the use of the land for a leisure fishing facility in what would be an unsustainable location,
- Fires and burning should be forbidden,
- The applicant has provided no evidence to prove that the works carried out have not had a negative effect on the SSSIs,
- No work on bank holidays should be allowed,
- Lorry activity should be restricted to a maximum of 10 vehicle visits per day (which equates to 20 in/out vehicle movements),
- The soil processing equipment should be removed from the site within 1 month of the date of approval and not be returned to the site at any time.

One further letter of **support** has been received indicating that Mr Oulton should be allowed to carry on the good work he is doing. However, mud is a concern but flooding is a bigger concern but not caused by the applicant. The volume of lorries does not cause highway safety implications. The owner is trying to do the work with minimal disturbance.

The applicant has provided a further submission detailing that the track has always been watered to prevent dust, a road sweeper has been deployed when necessary, soil tests have been carried out, there is 10-15,000 tonnes of top soil going out of the gate over the next two years the remaining is going to be used for landscaping, the only material imported has been for the hardstandings, the machinery is on site so no further machinery needs to be brought onto the site, peat is not being exported, drainage does not affect Betley Mere, two Saturdays have been worked for drainage operations, signage will be erected, EA have no objections, the County Council are quite happy with the works, the hours of operation are being complied with,

Your officer's comments

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The applicant has indicated that the amount of soil to be removed is approximately 10,000-15,000 tonnes. The site however still has peat and railway ballast which makes it difficult to assess whether this is an accurate figure. Comments have been received from Natural England and objectors regarding peat extraction. However, the NPPF refers to new policies regarding peat extraction. The peat has already been extracted but the applicant has detailed that none will be exported from the site. In the circumstances this is considered acceptable but the County Council will be made aware of this. A condition regarding only top soil to be removed from site is considered necessary.

In terms of restricting vehicle movements per day or week representations have suggested 10 per day are acceptable and in the absence of any evidence that demonstrates that more vehicular movements would not be harmful to residential amenity such a restriction is recommended. The restriction on the timescale for the works to be completed and the soil to be exported is a difficult assessment to make with no evidence provided to demonstrate why the timescale recommended would be unacceptable. Therefore the two years previously advised is still recommended as appropriate and would allow the owner to remove it in an appropriate manner whilst not harming the character and appearance of the countryside and landscape designation. The additional conditions advised by HA and County Council to minimise the impact on highways safety and residential amenity levels are considered acceptable with the additional condition that there shall be no more than 10 lorry movements per day.

The impact on Betley Mere is a concern raised by NE and the NPPF details in paragraph 118 that when determining planning applications local planning authorities should aim to conserve and enhance biodiversity. In terms of SSSI's it indicates that where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at the site, clearly outweigh the impacts.

The works have been carried out and there is no evidence to suggest that the works have had an adverse impact on the SSSI. The comments of Natural England have been considered and it is suggested that assessments are carried out to determine the impact of the works on the SSSI. A condition requiring the applicant to explore whether the works have had an adverse impact is therefore considered necessary and information should be submitted to the LPA for approval.

In conclusion the impact of the development and agricultural justification has been considered in the main agenda report and no evidence has been provided which indicates that a different recommendation should be expressed but additional conditions would mitigate the impact on highway safety, residential amenity levels and the impact on the SSSI.

The RECOMMENDATION remains to permit the application subject to the following conditions;

- i) Development to be completed in accordance with approved plans.**
- ii) Restriction on hours of operation to 8am to 4pm on weekdays only.**
- iii) All activity associated with the engineering works, i.e. the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas to cease after a period of no more than 2 years from the date of the decision,**
- iv) Any material deposited in the area hatched blue on the attached plan shall be moved to an appropriate location within the site. The appropriate area shall be agreed in writing with the LPA within one month from the date of the decision and the material moved to that location within one month of that approval.**
- v) Submission of dust mitigation measures within one month from the date of the decision and implementation for the duration of the development.**

- vi) **Submission of appropriate signage, speed restriction, resurfacing and maintenance details for 10 metres rear of the carriageway edge, road cleaning and access widening details within one month from the date of the decision and full implementation within one month of that approval.**
- vii) **Removal of portcabin and screening/ processing machinery within one month from the date of the decision**
- viii) **No industrial skips or fuel tanks shall be brought onto the site unless agreed with the LPA**
- ix) **Lorries entering and leaving the site shall not exceed 10 per day (10 lorries in and 10 lorries out)**
- x) **Submission of information on the impact of the development on Betley Mere and implementation of any identified mitigation measures**
- xi) **Submission of details for approval regarding the amount of peat and top soil to be integrate into the existing unit and locations.**
- xii) **No peat to be exported**