

The application is to vary condition 3 of planning permission 14/00610/FUL to enable topsoil removal until December 2019. Condition 3 states that "All activity associated with the engineering works, including the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas shall cease by the 1st June 2015." The reason for the condition was "To safeguard the residential amenity levels of neighbouring residential properties and to meet the guidance and requirements of the National Planning Policy Framework 2012."

The site lies within the North Staffordshire Green Belt, within the Rural Area, and within an Area of Active Landscape Conservation, as indicated on the Local Development Framework Proposals Map.

**The 13 week period for the determination of this application expires on 2<sup>nd</sup> October 2015.**

### **RECOMMENDATION**

**A. Subject to Natural England removing their objection, approve the following variation of condition 3:-**

- 1. The removal of soil from the site shall cease within 9 months from the date of the decision notice,**
- 2. All conditions of planning permission 14/00610/FUL and previously agreed details shall continue to apply other than condition 3 as varied by the grant of this permission.**

**B. Should Natural England not remove their objection then refuse the application due to the application resulting in material being extracted that is not in accordance with paragraph 144 of the NPPF.**

### **Reason for Recommendation**

The operations and activities at the site have resulted in significant and detrimental harm to the residential amenity levels of neighbouring occupiers. The applicant has shown very minimal endeavour to export the existing soil since planning permission was granted in 2014 and an extension from the 1<sup>st</sup> June 2015 until December 2019 is not justified. Therefore to further minimise the impact on the residential amenity levels of neighbouring properties and to encourage the removal of the soil from the land it is considered on balance, from the submitted information, that only a 9 month extension is justified. Should any soil remain on the site at the end of the 9 month period then this would not result in a harmful impact on the character and appearance of the landscape or Green Belt due to its location and appearance. The extraction of peat would be contrary to the NPPF and until the objection from Natural England is removed the 9 month extension should not be agreed.

### **Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

During the determination of the planning application the LPA has been in dialogue with the applicant's representatives and additional information has been submitted. The applied for time extension is not in accordance with the requirements of the National Planning Policy Framework however a nine month extension is considered appropriate and in accordance with national policy.

### **Key Issues**

The application is to vary condition no.3 of planning application 14/00610/FUL for the retention of water reservoir, formation of hardstandings and repairs to the existing track, which was permitted in December 2014. Condition 3 required that:

*"All activity associated with the engineering works, including the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas shall cease by the 1st June 2015.*

*Reason: To safeguard the residential amenity levels of neighbouring residential properties and to meet the guidance and requirements of the National Planning Policy Framework 2012.”*

The 1<sup>st</sup> June 2015 deadline has now passed and due to there being a large amount of material still remaining on the site the applicant seeks to vary the condition to extend the period to December 2019.

Since the original planning permission was granted in December 2014 the Local Planning Authority served a Temporary Stop Notice (TSN) on the land owner (applicant) on the 2<sup>nd</sup> April 2015 due to the applicant not complying with the conditions/ restrictions imposed by the planning permission. The TSN was served due to the activities causing a severe and detrimental impact to the residential amenity levels of neighbouring occupiers. A subsequent Stop Notice (SN) and Enforcement Notice (EN) were then served on the owner which came into effect on the 30<sup>th</sup> April 2015 and the 27<sup>th</sup> May respectively.

A breach of condition 3 had not occurred at this point because the date that the works identified in the condition had to cease was after the Notices were served. Therefore condition 3 was not covered by the SN and EN.

The key issue for consideration by the committee is;

- The impact on neighbouring residential amenity levels and the appearance of the landscape.

#### The impact on neighbouring residential amenity levels and the appearance of the landscape

The activities at the site have been having a detrimental impact on the residential amenity levels of neighbouring occupiers for a number of years. The activities carried out have resulted in a continuous and high volume of complaints from nearby residents. A number of objections have also been received in response to this planning application with the primary concern expressed being that the proposed 4 plus years timescale is excessive and would have a significant additional impact to their residential amenity levels.

The application details that some 30,000 tonnes of ‘non-integrable’ soils needs to be removed from the land and the intention is to do this over a period of 4 years. They state that this would equate to some 7,500 tonnes per annum or approximately 600-700 tonnes per month. They also state that the proposed extension to the end-date proposed would facilitate the removal of the soil/ material whilst also enabling productive arable and pastoral agriculture on the site as per ‘best and most versatile guidelines’.

Alternative schemes, as identified by the applicant, which include removing 50% (15,000 tonnes) over a lesser period and integrating 50% (15,000 tonnes) within the land have been explored and discounted by the applicant due to the engineering operations involved and the amount of time it could take. The ‘do nothing approach’ was also considered but this would leave the site in an unfinished state with a significant area sterilized from productive agriculture and a restricted flood-plain surrounding the reservoir. A shorter timescale than the 4 plus years proposed has not been considered by the applicant, however.

Natural England has objected to the application due to concerns about Peat extraction. Peat extraction is contrary to the NPPF as advised in paragraph 144. In order to satisfy NE further surveys are required.

The applicant has been advised of the concerns raised by NE and has reiterated that 15,000 tonnes of material has been identified as peat and is proposed to be retained and re-spread within the approved site boundary. The area identified for the spreading of peat has been agreed by your officers and would result in a slight change in ground levels. This information will be forwarded to NE for further comment. A condition of the original permission prevented peat extraction and the applicant has detailed that it will not be extracted. Any additional comments received from NE will be reported to members prior to the meeting.

In terms of the volume of soil on site the applicant has stated that the figure of 30,000 tonnes was calculated by T.W.Frizell Haulage and Plant Hire Ltd's using a standard surveyors wheel. They also advise that Betley Parish Council independently calculated the combined tonnage of topsoils and peat stored on site as 45,000 tonnes, (15,000 tonnes peat and 30,000 tonnes topsoil).

A 20 tonne vehicle is likely to be used to export the soil. The applicant states that a time extension to December 2019 would allow them to remove 600-700 tonnes per month. This equates to 30 vehicle movements per month. However, condition 9 of 14/00610/FUL allows up to 10 vehicle movements per day (10 lorries in and 10 lorries out) and theoretically this amounts to approximately 200 vehicle movements per month and 2400 per annum as opposed to the 30 per month and 360 per annum.

Your officers have calculated that a 20 tonne vehicle operating 10 times a day, every weekday between the allowed hours of operation for a 9 month period could export 36,000 tonnes of material. Therefore on this basis an extension to December 2019 is not appropriate.

The original permission allowed 6 months and a limited amount of soil has been exported in this period which your officers consider shows reluctance by the applicant/ owner to remove the soil. However, following the information provided within the applicants submission and the above calculations by officers it is considered appropriate to vary the condition and allow the applicant a further 9 months from the date of the decision but only if the concerns of NE have been addressed.

Furthermore, whilst the soil serves no purpose on the land it is not causing a significant adverse impact on the landscape due to its location and minimal views from the wider landscape. The matter needs to be brought to a close due to the impact that the operations have been having on residential amenity levels which have only been controlled by the serving of the SN and EN. Therefore a 9 month extension is considered a challenging but realistic and appropriate timescale for the applicant whilst also enabling the applicant to remove soil so that it does not sterilize the land from productive agriculture and further restrict the flood-plain surrounding the reservoir.

#### **Policies and proposals in the approved development plan relevant to this decision:-**

##### Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS)

Policy ASP6: Rural area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets

##### Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt  
Policy T16: Development – General Parking Requirements  
Policy N17: Landscape Character – General Considerations  
Policy N18: Areas of Active Landscape Conservation

#### **Other Material Considerations include:**

##### National Planning Policy

National Planning Policy Framework (March 2012)  
National Planning Practice Guidance (2014)

##### Supplementary Planning Guidance/Documents

Planning for Landscape Change: Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011

##### Relevant Planning History

10/00704/AGR          Erection of a building for storage of machinery          Deemed Permitted

14/00610/FUL      Retention of water reservoir, formation of hardstandings and repairs to the existing track  
Permitted

### Views of Consultees

The **Environmental Health Division** raises no objections due to the distance, and screening provided by the topography at the site, the activity is unlikely to have any adverse effects upon surrounding premises and the restrictions upon the operating hours and the number of vehicles which were imposed previously, in relation to application 14/00610/FUL.

**Betley, Balterley and Wrinehill Parish Council** objects to the application a) the hazard created by increased heavy vehicle movements onto a section of road known to be dangerous particularly under wet conditions; b) the adverse impact on the residential amenity of nearby residents.

If the Local Planning Authority is however minded to grant the variation then it must satisfy itself that the removal of topsoil as proposed is essential, and must impose appropriate conditions to ensure highway safety and to minimise any adverse impact on local residents.

**Environment Agency** has raised no objections

**National Grid** has advised that due to the presence of National Grid apparatus in proximity to the specified area, the contractor should contact National Grid before any works are carried out to ensure their apparatus is not affected by any of the proposed works.

**County Council Planning** has expressed a wish to comment on the application and their views will be reported prior to the planning committee if they are received in time.

**The Highways Authority** raises no objections.

**Natural England** objects to the application due to the lack of information regarding peat extraction. Further information is needed to clarify what type of soil is the 'excess topsoil'. It is recommended that a survey of the various soils on the site to evaluate the quantity, quality and suitability of soil resources (topsoil and subsoil) for the intended uses. Surveys should be undertaken by a suitably qualified and experienced soil scientist or practitioner to investigate the characteristics of the soil layers or soil stockpiles (see Defra Code for further details). A soil resources survey of this type can also be used to identify the volumes of different types of soil material present so that any surpluses can be more clearly identified.

**The County Council Footpaths** have not responded within the deadline for comments and it has to be assumed at this stage that they have no comments to make upon the application

### Representations

Ten letters of representation have been received, including one from **Paul Farrelly MP**, making the following objections;

- Residents have suffered enough from adverse noise, dust and loss of privacy,
- To permit the application would not safeguard the residential amenity levels of neighbouring residents, which is contrary to the NPPF,
- The Borough Council has already served Stop Notices and an Enforcement Notice for the activities on the site due to harm caused to residents,
- The time period is excessive and the soil could be removed in 7 and a half months,
- The 6 months previously allowed was suffice,
- The application contradicts the original reasons and their calculations,
- The soil should be removed to another appropriate and licenced site as soon as possible,
- The site should be farmed more appropriately,
- Lorries have been dumping material on the site,
- The application provides no justification,

- No proper independent assessment has ever been carried out to quantify the amount and origin of material,
- The entry and exit of lorries here causes a significant traffic hazard,
- Approximately 5,000 additional tonnes of material has been imported onto the site,
- The importation of waste material has occurred on the site along with other waste activities,
- Ownership of the stockpiled soil has already been transferred to Frizell. Therefore the site is currently being used as a Frizell storage depot,
- The issue of supply and demand from Frizell's customers is the real reason a 4 year timescale has been applied for,
- The Applicant has registered a new exemption with the Environment Agency on 21 April 2015 to carry out waste treatment to existing waste on the site to produce aggregate or soil until 20 April 2018,
- Treatment of waste on the site will presumably require the use of heavy machinery which is not mentioned at all in the Planning Application,
- No specifics are mentioned in the current Application regarding continuing engineering works on the site,
- This site could become a waste processing facility in the Green Belt,
- No application can be considered until the exact scale of activities is made clear,

#### Applicant's/Agent's submission

The applicant has submitted a supporting statement and key points have been referred to in relevant sections of this report. This document is available for inspection at the Guildhall and on [www.newcastle-staffs.gov.uk/planning/1500521FUL](http://www.newcastle-staffs.gov.uk/planning/1500521FUL)

#### Background papers

Planning files referred to  
 Planning Documents referred to

#### Date report prepared

4<sup>th</sup> August 2015