Application No: 3/11/9007  District: Eden
Applicant: Marshalls PLC  Parishes: Hesket; Lazonby.
Birkby Grange
Birkby Hall Road
Huddersfield

Received: 19 April 2011

PROPOSAL  Section 73 Application for a time extension to quarrying operations to 31 July 2021
West Brownrigg Quarry, Plumpton, Penrith,
RECOMMENDATION

1.1 That planning permission is Granted for the reasons stated in Appendix 1 and subject to the conditions in Appendix 2.

2.0 THE PROPOSAL

2.1 The application site is an existing quarry located approximately 1 mile east of Plumpton at West Brownrigg Fell adjacent to the B6413. Access into the quarry is direct from this road. It is operated under a planning permission (ref: 3/96/9010) which expires on 31st July 2011. The quarry material produced is building stone.

2.2 The application is made under Section 73 of the Town and Country Planning Act 1990 and seeks a ten year time extension to 2021.

2.3 The application is accompanied by a set of plans showing the site divided into four working phases. The land shown on the Plan as Phase 1 will not be worked. This is confirmed in writing by the applicant as a voluntary agreement. This is because of the topography of the site. The quarry is set into the brow of a ridge overlooking a valley. Working in Phase 1 would result in an unacceptable visual impact from opening up the side of the hill and skyline to external view.

2.4 The quarry would be worked according to Phases 2, 3 and 4 in a rectangular form down to a depth of 197.5m AOD in a north south direction. There is an area of the permission at the southern end that would not be worked. This is presently rough grassland with piles of waste stone deposited on it. Some of the waste stone would be returned to the void to assist in restoration some of the waste stone would be returned to the void as part of restoration.

2.5 The application proposes an interim restoration in the southern area to be completed within three years from the commencement date of the new permission. This would involve regrading of land at the southern end to grassland and heathland. The long term restoration after completion of quarrying would be to return stone and overburden to the excavated void set on terraces to encourage natural regeneration. Stockpiles of soil stripped from the site would be respread to the base of the quarry and restored to grassland and heathland. The access track would be stripped of hard surfacing and aggregate and similarly restored to grassland and heathland.

2.6 The quarry would be worked by plug and feather method (rock cracking and breaking rather than shattering). This means there would be no large scale blasting. Stone would be extracted and removed on a demand basis for which it is expected that would result in the site being worked for approximately 2 months in any year. It is estimated that there is a total remaining reserve of usable stone of 25,000 tonnes.

3.0 CONSULTATIONS AND REPRESENTATIONS

3.1 Eden District Council (Planning): No objection.

3.2 Eden District Council (Environmental Health): No objection.

3.3 Hesket Parish Council: No objections.
3.4 Lazonby Parish Council: No response to consultation had been received at the time of drafting this report.

3.5 Highway Authority: No objections.

3.6 Environment Agency: No objections. However it is recommended that the developer incorporates some form of sustainable drainage scheme.

3.7 Natural England: No objections. The restoration scheme is welcomed given the proximity of the Wan Fell SSSI.

3.8 The local Member Mrs H F Carrick has been notified. Mrs Carrick advises that having consulted all residents who may be affected there is no objection to this quarry continuing in operation.

3.9 No representations had been received when this report was prepared.

4.0 PLANNING ASSESSMENT

4.1 Policy CS17 in the Cumbria Minerals and Waste Development Framework Core Strategy establishes a presumption in favour of permission being granted for local building stone quarries. This is one such development that would be in accordance with that policy.

4.2 There are no adverse environmental impacts associated with this proposed development. No objections have been received. The proposed development is considered as meeting the requirements of Policies DC2 and DC3 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

4.3 There is only one concern arising in that the interim restoration is proposed to be within three years. I consider that whilst this could be carried out within a shorter time period from the date of any new permission, this three year period is not unreasonable. Accordingly I would recommend that a condition is imposed requiring the cessation of mineral extraction if the interim restoration has not been completed within three years and in accordance with any planting requirements the Planning Authority may specify. Extraction could resume when the interim restoration had been completed.

**Human Rights Act 1998**

4.4 The proposal will have a limited impact on the visual, residential and environmental amenities of the area. Any impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) are minimal and proportionate to the wider social and economic interests of the community.

**Conclusion**

4.5 It is recommended that planning permission is granted for the time extension subject to appropriate conditions set out in Appendix 2.

**Paul Feehily**
**Assistant Director - Planning & Sustainability**
Contact
Mr Nick Long, Kendal, tel: 01539 713426, email: nick.long@cumbriacc.gov.uk

Background Papers
Planning Applications File References Nos. 3/11/9007 and 3/96/9010

Electoral Division Identification
Penrith North – Mrs H F Carrick
Cumbria12\filing\planning\applications\eden\2011\11\9007\DC&Rreportfilepath
THE TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

Summary of Reasons For Grant of Planning Permission

1 This application has been determined in accordance with the Town and Country Planning Acts, in the context of national and regional planning policy guidance and advice and the relevant development plan policies.

2 The key development plan policies taken into account by the County Council before granting permission were as follows:

Cumbria Minerals and Waste Development Framework (CMWDF)
Core Strategy (CS) 2009-2020

Policy CS 17 – Building stones

Cumbria Minerals and Waste Development Framework (CMWDF)
Generic Development Control Policies (GDCP) 2009-2020

Policy DC 2 – General Criteria
Policy DC 3 – Cumulative Impacts

3 In summary, the reasons for granting permission are that the County Council is of the opinion that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions included in the notice of planning consent, any harm would reasonably by mitigated. Furthermore, any potential harm to interests of acknowledged importance is likely to be negligible and would be outweighed by the benefits of the development.
Conditions

Time Limits

1. This permission shall be for a limited period and mineral extraction shall cease not later than 31st July 2021. Thereafter all buildings, plant machinery and equipment shall be removed and the land shall be restored in accordance with the approved restoration scheme not later than 31st July 2022.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

Approved Documents

2. The development shall be carried out strictly in accordance with the approved documents, hereinafter referred to as the approved scheme. The approved scheme shall comprise the following:
   b. The Supporting Statement submitted with the application.
   c. Plans numbered:
      i) Figure 1
      ii) Figure 2
      iii) Figure 3
      iv) Figure 4
      v) Figure 5
   d. The supplementary information in the e-mail dated 26/05/11
   e. The details or schemes approved in relation to conditions attached to this permission.
   f. This Decision Notice

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

3. In the event that mineral working ceases permanently prior to the full implementation of the approved mineral working scheme a revised restoration scheme to include details of the restoration, aftercare and timescale for completion shall be submitted to, the Local Planning Authority, not later than three months from the date of cessation of working for approval in writing by the Local Planning Authority. When approved, the scheme shall thereafter only be implemented in accordance with the approved details and timescale. For the avoidance of doubt the time period for determining whether or not mineral extraction has ceased permanently shall be whether or not two years has elapsed from the last operation for winning of stone from within the quarry and discounting any later subsequent breaking and removing of stone after that last operation.

Reason: To secure the restoration of the site in the event that mineral extraction ceases prior to implementation of the full scheme in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework [CMWDF] Generic Development Control Policies.
4. Notwithstanding the requirements of Conditions 2 and 3 with this permission, in the event that the interim restoration scheme shown on plan Figure 3 with this permission is not confirmed in writing by the Local Planning Authority as having been completed by 31st July 2014, in accordance with details of waste stone movements and Seeding and Planting species mixes that have received prior approval in writing from the Local Planning Authority, winning of stone shall cease until such time as the Local Planning Authority have confirmed in writing that the scheme has been implemented in accordance with the approval. For the avoidance of doubt and notwithstanding the terms of Condition 1 with this permission in the event that the interim restoration scheme has not been completed within two years from 31st July 2014, then this shall be deemed to constitute permanent cessation of working for the purposes of Condition 3 and the site shall thereafter be restored under the terms of Condition 3.

Reason: To secure the implementation of the interim restoration scheme within the approved timescale and in accordance with Policy DC16 of the CMWDF Generic Development Control Policies.

5. Notwithstanding the provisions of the Town and Country Planning General Development Procedure Order 2010 (or any subsequent amendments, successor legislation, statutory instruments, or orders) planning permission shall be sought and obtained for any buildings, structures, plant or equipment on the site and/or on any ancillary mining land.

Reason: To maintain control over any potential impacts arising from the development in accordance with Policies DC2 and DC3 of the CMWDF Generic Development Control Policies.

6. No waste stone, overburden or soils shall be stockpiled other than in the locations shown on the approved plans and no waste material of any kind shall be imported onto the site and deposited within the site from outside of the planning permission boundaries.

Reason: To define the terms of the permission and prevent any adverse environmental impacts in accordance with Policy DC2 and DC3 of the CMWDF Generic Development Control Policies.

7. No operations or activities under the terms of this permission shall be carried out outside of the following hours:
   - 08.00 to 18.00 Mondays to Fridays
   - 08.00 to 13.00 Saturdays
   - Not at all on Sundays, Bank and any other Public Holiday.

Reason: To minimise the potential for there to be any adverse environmental impacts arising in accordance with Policy DC2 and Policy DC3 of the CMWDF Generic Development Control Policies.

8. The site shall not be operated so as to permit any vehicle to enter or leave the site from and to the public highway other than via the entrance shown on the approved plans and no vehicles shall operate within the site to gain access to the quarry void other than via the internal access road shown on the plans.

Reason: To prevent any adverse impact arising from internal and external traffic in accordance with Policy DC1 of the CMWDF Generic Development Control Policies.
9. No vehicles, plant, equipment and machinery shall be operated within the site unless fitted with effective silencers that have been maintained in an effective operating condition in accordance with manufacturers and/or suppliers instructions.

Reason: To minimise the potential for there to be any adverse impact from noise arising in accordance with Policies DC2 and DC3 of the CMWDF Generic Development Control Policies.

10. No use or activity under the terms of this permission shall be carried out so as to cause there to be a noise level attributable to site operations exceeding 55dB$_{L_{eq \text{ l hour}}}$ as measured at any noise sensitive property. For the avoidance of doubt any measuring of the exceeding this limit shall be determined by the operator carrying out noise monitoring at the discretion, instruction and to the specification of, the Local Planning Authority, in the event of any complaints as to noise arising from site operations being reported to the Local Planning Authority.

Reason: To prevent any adverse impact from noise in accordance with Policy DC2 and Policy DC3 of the CMWDF Generic Development Control Policies.

11. No blasting shall be carried out at the site other than by use of the plug and feather method with 'black powder'.

Reason: To prevent there being any potential for any adverse impact from blasting in accordance with Policy DC2 and Policy DC3 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

12. No fuels, oils chemicals or any other potentially polluting fluids shall be stored within the site other than within a tank or tanks set within a bund that has an impervious base and sides. The bund shall be constructed to provide a capacity of not less than 110% of the tank or tanks volume. All fill and draw valves shall be directed to discharge downwards into the bund.

Reason: To prevent any incident of ground or water pollution in accordance with Policy DC13 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

13. The stripping, movement and storage of any topsoils and subsoils shall not be carried out unless the soils are in a suitable dry friable condition and that topsoils and subsoils can be separated without difficulty.

Reason: To ensure that there is no damage to soils and soil structures for safeguarding for use in restoration in accordance with Policy DC15 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

14. No topsoils or subsoils shall be removed from the site but shall be retained within the site for use in restoration.

Reason: To ensure that there is no damage to soils and soil structures for safeguarding for use in restoration in accordance with Policy DC15 and Policy DC16 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.
15. No topsoils or subsoils shall be stored within the site other than in the locations shown on the plans approved with this permission.

Reason: To ensure that there is no damage to soils and soil structures for safeguarding for use in restoration in accordance with Policy DC15 and Policy DC16 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

16. The site shall only be restored in accordance with a scheme of restoration and after care that has received prior approval in writing from the Local Planning Authority. Such scheme to be submitted for approval not later than 31st July 2020. All land restored under the terms of this permission whether as part of the interim or any final restoration scheme shall be maintained for a period of not less than five years from the date of completion of any restoration. Within this period any trees, shrubs, plants or seeded areas which die, become seriously damaged or seriously diseased shall be replaced with any tree shrub plant or seed mix of the same type or species as originally required to be planted.

Reason: To ensure the successful restoration of the site through maintenance in accordance with Policy DC16 of the CMWDF Generic Development Control Policies.