Cleveland Farm Quarry, Ashton Keynes, Wiltshire, SN6 6QP

Section 73 Application to vary condition 2 (restoration time limit) of planning permission ref: 15/09228/WCM from 30.09.23 to 30.09.30

26th July 2023

Notice

This report was produced by Land & Mineral Management for the Cotswold Lakes Trust for the specific purpose of accompanying a planning application at Cleveland Farm Quarry.

This report may not be used by any person other than the Cotswold Lakes Trust without express permission. In any event, Land & Mineral Management accepts no liability for any costs, liabilities or losses arising as a result of the use of or reliance upon the contents of this report by any person other than the Cotswold Lakes Trust.

Document Control

Version	Date	Author / Checked by	Change Description
0.0	12/07/23	SH	Clients First Draft
0.1	17/07/23	LB	Review
1.0	18/07/23	MM	Client Amendments
2.0	26/07/23	SH	Final

Contact Details:

Susan Hughes / Lead Consultant
tel: 01285 656391
email: sh@landandmineral.co.uk
Web: www.landandmineral.co.uk

Contents

1 Introduction 1
Cotswold Lakes Trust 1
Planning History 1
2 The Site and its Surroundings 3
Location 3
Application Site 3
3 The Proposal 4
Variation of Condition 4
4 Planning Policy 5
Introduction 5
Development Plan 5
Material Considerations 5
National Planning Policy Framework (NPPF) 5
Wiltshire Core Strategy 5
Wiltshire and Swindon Minerals Core Strategy 5
Wiltshire and Swindon Minerals Development Control Policies DPD 6
5 Statement for the Proposal 7

Drawings

Reference	Title
CLEVE008	Section 73 Application to Extend Restoration Period - Location Plan

Appendices

Appendix A	Planning Permission ref: 15/09228/WCM

1 Introduction

1.1 LMM are instructed by the Cotswold Lakes Trust to submit a planning application under Section 73 of the Town and County Planning Act 1990 (as amended) to extend the timescale for restoration work at Cleveland Farm Quarry, Ashton Keynes, Wiltshire, SN6 6QP.

Cotswold Lakes Trust

1.2 The Cotswold Lakes Trust (the Trust) is a fully registered environmental charity which aims to provide for the benefit of the public, and in particular the inhabitants of Gloucestershire and Wiltshire, an appropriate balance of conservation, recreation and leisure and education facilities across the Cotswold Water Park. The work of the Trust includes managing and maintaining hundreds of acres of the Cotswold Water Park, this covers not just reserves (including the Cleveland Lakes Reserve - the largest of the Trust's sites) but two country parks, car parking areas and also managing footpaths and cycleways.

1.3 In December 2022, the Trust acquired the land at Cleveland Farm Quarry from the mineral operator, Aggregate Industries UK Ltd, and took on the responsibility of completing the site's restoration, with the view of integrating it with the rest of the Cleveland Lakes Reserve to the south so that the whole area can be managed for nature conservation and opened up to the public.

Planning History

1.4 Mineral extraction at Cleveland Farm Quarry ceased in March 2015.

1.5 In 2016, Aggregate Industries UK Ltd received planning permission (ref: 15/09228/WCM, decision attached at Appendix A) to modify planning condition no. 12 of planning permission ref: N/07/07012 and alter the site's restoration in order to relocate a small area of uneconomic sand and gravel in the northeast of the site to create a boundary feature in the southwest of the site. The grant of permission ref: 15/09228/WCM meant that planning permission ref: N/07/07012 was superseded, however the time limit of 30.09.23 for the completion of the site's restoration therein, was maintained.

1.6 When Cleveland Farm Quarry was acquired by the Trust in December 2022, restoration work had not yet commenced, with works remaining comprising, the importation of inert materials (including securing the necessary environmental permits), site restoration and landscaping. The Trust envisage that a further period of five years is required in order to physically complete the restoration to a high standard. In addition, given it is taking more than two years to secure

permits for this type of application, a further two years has been added to provide an allowance for this.

2 The Site and its Surroundings

Location

2.1 Cleveland Farm Quarry is located to the east of the village of Ashton Keynes in the Cotswold Water Park, which in 2021, became a Site of Special Scientific Interest (SSSI).

Application Site

2.2 The site lies to the east of the village of Ashton Keynes, to the west of the A419 and to the south of the B4696. Fridays Ham Lane lies to the west and Cleveland Lakes to the east and south. Vehicular access to the site is via Fridays Ham Lane.

2.3 The nearest residential properties are approximately 50m to the west and northwest. Rixon Farmhouse, approximately 100m southwest of the site, is a Grade II listed building.

2.4 The accompanying drawing reference CLEVE008 illustrates the site's location.

3 The Proposal

Variation of Condition

3.1 The planning application is for the straightforward variation of Condition 2 of Planning Permission ref: 15/09228/WCM to allow a further seven years to complete the site's restoration.

3.2 Condition 2 states:

"The site shall be progressively reclaimed in accordance with the scheme to be approved under Condition 15 of this permission and shall be restored in its entirety by 30 September 2023".

3.3 The proposed new condition wording is:

"The site shall be progressively reclaimed in accordance with the scheme to be approved under Condition 15 of this permission and shall be restored in its entirety by 30 September 2030".

3.4 This application does not seek to change the permitted restoration landform or alter any other aspects of the approved habitat creation, restoration, or aftercare proposals.

3.5 Thus, the change to the condition will not result in any noticeable change.

3.6 Without the variation of the condition the Trust would be unable to restore the site in accordance with the current restoration end date.

4 Planning Policy

Introduction

4.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that, "*… for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the (development) plan unless material considerations indicate otherwise*". Thus, planning applications shall be determined in accordance with the approved Development Plan, unless material considerations indicate otherwise.

Development Plan

4.2 In the case of this proposal the Development Plan comprises:

- Wiltshire Core Strategy (Adopted January 2015);
- Wiltshire and Swindon Minerals Core Strategy DPD 2006 - 2026 (Adopted June 2009); and
- Wiltshire and Swindon Minerals Development Control Policies DPD (Adopted September 2009).

Material Considerations

4.3 The National Planning Policy Framework (March 2012) and associated Technical Planning Practice Guidance is a material consideration.

4.4 A review of the relevant planning guidance and policies are provided below.

National Planning Policy Framework (NPPF)

4.5 The NPPF seeks restoration and aftercare to be provided at the earliest opportunity and for it to be carried out to high environmental standards.

Wiltshire Core Strategy

4.6 Policy 54 supports the provision of outdoor or water-based sports, leisure and recreation facilities in the Cotswold Water Park area.

Wiltshire and Swindon Minerals Core Strategy

4.7 Policy MCS 8: Living with Minerals Development – Protecting Residential Amenity highlights the need consider the duration of operations and policy MSC10: Strategic Approach to Restoration and After-use of Mineral Sites sets out the broad approach for the restoration and after-use of mineral sites. The supporting text to the policy advocates the successful restoration and after-use of quarries at the earliest opportunity but also acknowledges that restoration schemes

should contain a degree of flexibility so they can be amended in the future if circumstances change (paragraphs 5.100 and 5.101).

Wiltshire and Swindon Minerals Development Control Policies DPD

4.8 Policy MDC9 is seeks high quality and appropriate mineral restoration schemes which enable the long-term maintenance and enhancement of the environment after the minerals development has ceased at the earliest practicable opportunity.

5 Statement for the Proposal

5.1 The proposal seeks a further seven years to complete the restoration of Cleveland Farm Quarry.

5.2 The site restoration has been commenced by the former owner and there has been a recent change in ownership.

5.3 The site is now owned by the Cotswold Lakes Trust, the Cotswold Water Park's championing body which epitomises exemplary restoration, public access and recreation, and biodiversity enhancement. Part of the site now falls within the designated Cotswold Water Park SSSI.

5.4 The NPPF and adopted Development Plan policies seek restoration and aftercare to be provided at the earliest opportunity and for them to be carried out to high environmental standards, but there is recognition in the Development Plan that there needs to be a degree of flexibility if circumstances change.

5.5 Due to the change in site ownership and the lack of any restoration work that has been undertaken by the previous owner to date, the Trust consider that a further seven years are required to obtain necessary environmental permits and complete the restoration of Cleveland Farm Quarry to a high standard.

5.6 It is considered that given there will be no change the permitted restoration or aftercare proposals, and noting the change in landowner and envisaged timeframe to secure permits and complete the work remaining to ensure the site is restored to a high standard, an extension of time of a period of seven years is acceptable and conforms with the Development Plan and National Guidance.

5.7 Furthermore, it is considered the proposal will not compromise the interests of the newly designated SSSI, indeed by providing a longer period in which to secure the proper restoration of the site, this will assist with conservation aims of the designation and accord with Development Plan policy and National Guidance, as otherwise the site would not be properly restored.

5.8 Taking the above points into consideration, it is requested that Wiltshire Council grant this application planning permission.

Appendix A - Planning Permission ref: 15/09228/WCM

Wiltshire Council
Where everybody matters

Town & Country Planning Act 1990

Notice of Planning Permission for Variation/Non-Compliance with a condition imposed on an earlier permission

Application Reference Number: 15/09228/WCM

Agent Heaton Planning Heaton Planning 9 The Square Keyworth Nottingham Nottinghamshire NG12 5JT United Kingdom	**Applicant** Aggregate Industries UK Ltd FAO Mr John Penny Marston House Marston Bigot Frome BA11 5DU United Kingdom
Parish: ASHTON KEYNES	
Particulars of Development: Section 73 Application - Extraction of sand and gravel as extension to Cleveland Farm Quarry by phased removal of plant and buildings including infilling with inert waste for restoration purposes without compliance with Condition 12 of Planning Permission ref: N/07/07012 (to revise the approved restoration landform for the site).	
At: Cleveland Farm Quarry, Ashton Keynes, Wiltshire, SN6 6QP	

In pursuance of their powers under the above Act, the Council hereby GRANT PLANNING PERMISSION for variation or non-compliance with a condition or conditions imposed on an earlier permission in accordance with the application and plans submitted by you.

In accordance with paragraph 187 of the National Planning Policy Framework, Wiltshire Council has worked proactively to secure this development to improve the economic, social and environmental conditions of the area.

Subject to compliance with any condition(s) specified hereunder:-

1 Extraction of sand and gravel from the site shall cease on or before 31 March 2021.

REASON: To ensure that the satisfactory restoration of the site to a beneficial after-use takes place within a reasonable timescale.

2 The site shall be progressively reclaimed in accordance with the scheme to be approved under Condition 15 of this permission and shall be restored in its entirety by 30 September 2023.

REASON: To ensure that the land is restored to a beneficial after use within a reasonable time.

3 Except in the case of emergency, no operations or activities authorised or required by this permission shall be carried out and plant shall not be operated on the site other than during the following hours:-

0700 - 1800 Monday to Friday

0700 - 1300 Saturdays

No working shall take place at any time on Sundays and Bank or Public Holidays.

REASON: To protect the amenities of local residents.

4 There shall be no raising of existing ground levels on the Site other than in the areas indicated in drawing number CLEVE006 dated March 2006 submitted with planning application no. 16/02991/WCM and drawing numbers M14.145.D.001 dated April 2015 and M14.145.D.003 dated July 2015 submitted on 20 April 2016 with planning application no. 15/09228/WCM.

REASON: To prevent the increased risk of flooding due to the impedance of flood flows and reduction of flood storage capacity.

5 No temporary stockpiling of materials shall take place in or around the area liable to flood without the prior written approval of the Mineral Planning Authority.

REASON: To prevent the increased risk of flooding due to the impedance of flood flows and reduction of flood storage capacity.

6 Surface water drainage works shall be carried out in accordance with the details submitted and approved pursuant to condition 7 on planning permission no. N/07/07012 dated 8 October 2007.

REASON: To prevent pollution of the water environment and ensure the adequate drainage of the site.

7 Any storage facilities for fuel oil, greases, oils and lubricant (including waste products) provided on the site shall be sited on an impervious base and surrounded by an impervious bunded area of a minimum of 110% of the capacity of the tank and associated pipework. All filling points, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any surface watercourse or underground water. All associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge into the bund or be contained in a suitable double skinned tank.

REASON: To prevent pollution of the water environment.

8 The development shall be carried out in accordance with the programme of archaeological works set out in the Written Scheme of Investigation submitted and approved pursuant to condition 9 on planning permission no. N/07/07012 dated 8 October 2007.

REASON: To afford the opportunity for archaeological study of the site prior to it being excavated.

9 No top soil, subsoil or overburden shall be exported from the site.

REASON: In the interests of the satisfactory restoration of the site.

10 Best practicable means shall be used to reduce the effects of noise and dust from the site. All plant and machinery shall be maintained and silenced at all times to meet the manufacturers' noise rating levels.

REASON: In the interests of the amenities of surrounding occupiers during the development.

11 The working, restoration and aftercare of the site shall be carried out only in accordance with the working programme and phasing plans submitted in application ref: N/07/07012, consisting of the following drawing numbers: 720/SK1A, 720/SK2A, 720/SK3B, 720/SK4B, 720/SK5A and 720/SK6A, except insofar as superseded by drawing number CLEVE006 dated March 2006 submitted with planning application no. 16/02991/WCM and drawing numbers M14.145.D.001 dated April 2015 and M14.145.D.003 dated July 2015 submitted on 20 April 2016 with planning application no. 15/09228/WCM.

REASON: To ensure that the development is carried out in a satisfactory manner in the interests of the amenities of the area.

12 No commercial vehicles shall enter the public highway unless their wheels and chassis have been cleaned to prevent material being deposited on the highway.

REASON: To safeguard highway safety.

13 Top soil, subsoil or soil making materials shall only be stripped when they are in a dry and friable condition.

REASON: In the interests of the satisfactory restoration of the site.

14 During the hours of operation of the site, the noise from construction operations shall not exceed 70 dB LAeq 1 hour freefield at the nearest occupied dwellings to the site. Noise relating to sand and gravel operations shall not exceed 55 dB LAeq 1 hour freefield at the nearest occupied dwellings.

REASON: To protect the amenities of local residents.

15 The development shall be carried out in accordance with the scheme of habitat creation, restoration and aftercare plans approved pursuant to conditions 16 and 17 on planning permission no. N/07/07012 dated 8 October 2007, except insofar as superseded by drawing number CLEVE006 dated March 2006 submitted with planning application no. 16/02991/WCM and drawing numbers M14.145.D.001 dated April 2015 and M14.145.D.003 dated July 2015 submitted on 20 April 2016 with planning application no. 15/09228/WCM. An annual report shall be submitted to the Mineral Planning Authority providing details of progress on restoration in December of each year.

REASON: To safeguard the nature conservation interest of the site and in the interests of the satisfactory restoration of the site.

16 Within six months of the commencement of each working phase, a detailed planting scheme shall be submitted to the Mineral Planning Authority for written approval to cover wetland habitat, hedgerows, grassland and tree planting for that particular phase. The planting schemes shall provide details of species to be planted and their provenance, location, spacing and layout, ground preparation, method and timing of planting, and details of aftercare and maintenance, and shall be implemented in accordance with the agreed details.

REASON: In the interests of safeguarding and enhancing the visual amenity of the area and to provide for the creation of a variety of habitats.

17 The development shall be carried out in strict accordance with the Ecological Mitigation Scheme dated July 2005 submitted with planning application no. N/07/07012 and the measures described in sections 5 and 6 of the Ecological Appraisal report prepared by AD Ecology Ltd dated 23 March 2015 submitted with planning application no. 16/02991/WCM.

REASON: To safeguard the nature conservation interest of the site

Signed



Director for Economic Development & Planning **Dated: 30 June 2016**

Town and Country Planning Act 1990

NOTES

1. **Other Necessary Consents.** This document only conveys permission for the proposed development under Part III of the Town and Country Planning Act 1990 and the applicant must also comply with all the byelaws, regulations and statutory provisions in force in the area and secure such other approvals and permissions as may be necessary under other parts of the Town and Country Planning Act 1990 or other legislation.

   In particular the applicant is reminded of the following matters:-

   1.1 the need in appropriate cases to obtain approval under Building Regulations. **(The Building Regulations may be applicable to this proposal. Please contact the Council's Building Control team before considering work on site);**

   1.2 the need to obtain an appropriate order if the proposal involves the stopping up or diversion of a public right of way or other highway (including highway verge)

   1.3 The need to obtain a separate "Listed Building Consent" to the demolition, alteration or extension of any listed building of architectural or historic interest;

   1.4 the need to make any appropriate arrangements under the Highways Act 1980, in respect of any works within the limits of a highway. The address of the Highway Authority is County Hall, Trowbridge, BA14 8JD (It is the responsibility of the applicant to ascertain whether the proposed development affects any listed building or public right of way / other highway, including highway verge).

2. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to grant permission subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal – www.planningportal.gov.uk/planning/appeals). The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission of the proposed development could not have been so granted otherwise than subject to the conditions imposed by the local planning authority, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him.

   If the applicant wishes to have any further explanation of the reasons for the conditions imposed on this permission it will be given on request and a meeting arranged if necessary.

3. **Purchase Notices.** If permission to develop land is granted subject to conditions, whether by the local planning authority or by the Secretary of State for Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

4. **Compensation.** In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

5. **Discharge of Conditions.** The Government introduced new fees for the discharge of planning conditions from 6th April 2008. The fee is payable per request and not per condition. The fees chargeable are set out on the Wiltshire Council website – www.wiltshire.gov.uk. The fee must be paid when the request is made, and cannot be received retrospectively. It does not matter when the permission was granted as long as it remains extant. The request, identifying the permission (with reference number) and the conditions concerned, should be made by using the 1 APP forms which are available on the Councils Website or the Planning Portal.

   You are advised that the as local planning authority has up to 12 weeks to consider the request that you apply well in advance of when you intend to start work