

Appeal Decision

Site visit made on 27 April 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal Ref: APP/G3300/W/21/3289792

Batts Lane Quarry, Long Sutton TA10 9NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Henry Ford against the decision of Somerset County Council.
 - The application Ref SCC/3719/2020, dated 23 April 2020, was refused by notice dated 1 July 2021.
 - The development proposed is described as “proposed reopening of former quarry including proposed temporary processing building and internal access track”.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Henry Ford against Somerset County Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on controlled waters.

Reasons

4. The appeal site comprises agricultural land located on the outskirts of the village of Long Sutton. The appeal scheme seeks planning permission for the extraction of Blue Lias Limestone to the west of a former quarry which, it is believed, was worked over a long period up until the Second World War. The former quarry and surrounding area to the north are registered as a historic landfill site. The proposal also includes the construction of a single storey purpose-built structure, which would be used for processing and storing the quarried stone, before being transported away.
5. Planning permission has previously been refused by the Council for a similar scheme, due to concerns in respect of the lack of information on the risks posed by the development to controlled waters. The Environment Agency (EA) had objected to the previous application due to uncertainty regarding the extent of the proposed extraction, and concerns in respect of the nature and distribution of contaminants associated with the adjacent historic landfill site, and the risk that this may pose to controlled waters.
6. The current proposal solely relates to the extraction of stone by quarrying above the water table. No objection was raised by the EA as part of the revised application, on the understanding that the quarry workings would not extend

below the water table, and there would be no dewatering of the site as part of the extraction operations.

7. The appellant's submissions include a Geo-Environmental Assessment¹ carried out by South West Geotechnical (SWG), which has sought to address the concerns raised as part of the previous application. In particular, the Assessment aims to establish the level of risk posed by the nature, distribution and potential concentration of contaminants from the historic landfill which is adjacent to the proposed area of extraction.
8. As the analyses are restricted to the range of contaminants which are often found on landfills and contaminated land sites, it is unclear whether they provide a comprehensive overview of the contaminants that may be present on the site. Notwithstanding this, the ground investigation and subsequent testing results of groundwater samples taken from the boreholes reveal the presence of heavy metals and asbestos, but also show elevated concentrations of Polycyclic Aromatic Hydrocarbons (PAH), which exceed threshold levels set for drinking water.
9. The appellant's submissions have sought to explain why the proposal would pose no significant risk to the wider environment. However, this conclusion firstly relies on the assumption that "the elevated PAH concentrations are located within the landfill and do not appear to be migrating off site". Having regard to the available evidence, the water and soil samples appear to have been collected from the boreholes marked BH01 – BH06 and trial pits marked TP001 – TP009, which are generally in the area of the former landfill. The sample taken from BH04, which is the only borehole seemingly located outside the former tip, also shows elevated PAH concentrations.
10. Consequently, it remains unclear on which basis the appellant has concluded that the elevated PAH concentrations located within the landfill do not appear to be migrating off site. The Geo-Environmental Assessment carried out by SWG suggests that the elevated PAH concentrations can be explained by the disturbance caused by the drilling operations and installation of standpipes, but this is not supported by detailed evidence.
11. It is accepted that the appeal scheme includes a number of precautionary and mitigation measures. For example, the operations would take place outside the footprint of the former landfill, in order to mitigate the potential for leachate migration from surcharge. This is particularly critical, given that the landfill may have been in use at a time when current precautionary measures did not exist, and when the site would not have been lined to prevent any leakage.
12. However, the appellant's submissions lack detailed information to demonstrate to which extent the PAH has or has not migrated away from the landfill site, or showing the potential flow of PAH outside the area of the former tip. And if it has, then it also remains unclear to which extent this could be exacerbated by the proposed quarrying activities.
13. Groundwater flow is accepted as the main migration pathway linking any contamination to controlled water receptors. There is a risk that the increase in flow caused by the exposed limestone as a result of the quarrying operations would be boosted by the increased groundwater, thus raising the water table

¹ Report No.11035, dated September 2019 (Version 1).

elevation, which could mobilise the contaminants. The presented evidence shows that if the groundwater in the limestones flows in a general southerly/south-westerly direction carrying contaminants, then they could eventually discharge and cause pollution to drinking water and other licensed sources, which could have a significant adverse effect on water quality and human health.

14. In the absence of further substantive evidence to the contrary and taking a precautionary approach, I am not satisfied that the appeal proposal would cause no unacceptable risk to controlled waters and therefore constitutes an acceptable use of land. Unlike the EA and other consultees who did not object to the proposal, it is my view that outstanding issues cannot be resolved through the imposition of conditions, unless and until additional information is provided.
15. The development would therefore not accord with Policy SMP5(d) of Somerset Minerals Plan (Adopted February 2015), which requires proposals to include measures to mitigate to acceptable levels adverse impacts on the environment and local communities. Similarly, the proposal would fail to comply with the aims of paragraph 174(e) of the National Planning Policy Framework, which seeks to ensure that development proposals cause no unacceptable levels of water pollution.

Other Matters

16. The Council did not identify harm in respect of the effect of the development on the special interest of the listed building known as Upton Cross, which lies within relative proximity to the appeal site. Having regard to the available evidence, I concur with the Council's assessment and confirm that the appeal scheme would preserve the significance of Upton Cross and any of the features of special architectural or historic interest that it possesses.
17. Other concerns have been raised by interested parties, notably in respect of noise, air quality, harm to public health highway safety, viability, effect on tourism, etc. However, these appear to have been considered in detail by the Council, who did not refuse the application on these grounds, and there are no reasons for me to reach an alternative view.

Planning Balance

18. The proposed quarry would be able to supply materials to local building sites and thus support sustainable forms of development. There would also be economic benefits associated with the proposal, but these would remain relatively limited, as the quarrying and stone cutting would only provide employment for two full time workers at the site. The appeal scheme would enable the extraction of Blue Lias limestone which, I understand, is constrained in Somerset, in terms of the number of operational quarries and products available, though there are other operational quarries extracting this building stone. Overall, the benefits associated with the proposal would however be outweighed by the harm which I have identified.

Conclusion

19. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the

reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR