

SURREY COUNTY COUNCIL

LOCAL COMMITTEE (TANDRIDGE)

DATE: 22 JUNE 2018



SURREY

LEAD OFFICER: SAMANTHA MURPHY, PRINCIPAL PLANNING OFFICER

SUBJECT: OXTED CHALKPIT, CHALKPIT LANE, OXTED

DIVISION: OXTED

SUMMARY OF ISSUE:

Oxted Chalkpit ("the Chalkpit") is an operational chalkpit where there has been chalk extraction for a considerable number of years. The Chalkpit was originally granted planning permission in 1947 with the most recent planning permission being granted in 1995 (TA93/0765). There is no condition imposed on this planning permission restricting the number of lorry movements to/ from the Chalkpit.

Under the requirements of the Environment Act 1995, conditions imposed on planning permissions are required to be reviewed every 15 years. The applicant for the Chalkpit, Southern Gravel, have submitted a planning application (TA12/902) seeking to review the conditions imposed on planning permission TA95/0765.

RECOMMENDATIONS:

The Local Committee (Tandridge) is asked to:

- (i) Note the contents of the report.
- (ii) Agree to add a feasibility study to the Integrated Transport Schemes (ITS) list for consideration for future funding. The feasibility study would investigate the possibility of installing a physical width restriction on Chalkpit Lane between the chalkpit entrance and The Ridge.

REASONS FOR RECOMMENDATIONS:

A planning application has been submitted to the County Planning Authority for a first periodic review of conditions under the Review of Old Mineral Permissions process. The planning application is to be reported to the Planning and Regulatory Committee however further information is awaited from the applicant.

1. INTRODUCTION AND BACKGROUND:

Planning History

- 1.1 Oxted Chalkpit has a long planning history being originally granted planning permission in 1947 under an Interim Development Order (IDO). There has been chalk extraction at the site for a considerable number of years. The

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road leading to the site is called Chalkpit Lane, indicating that the lane to the chalkpit probably predates most other land uses. The current application is not a standard planning application but a 'ROMP' (Review of Old Minerals Permissions) submission. ROMPs were introduced under the Planning and Compensation Act 1991 for planning permissions granted between 1943 and 1948 and the scope extended under the Environment Act 1995 for planning permissions up to and including the 1970s. The ROMP legislation's aim is to bring conditions on old mineral permissions up to modern day practices.

- 1.2 There is a requirement under Schedule 14 of the Environment Act 1995 that there be periodic reviews to be carried out of mineral permissions. These reviews should take place no less than every 15 years from the date of the most recent planning permission.
- 1.3 Planning applications submitted under the ROMP process cannot be granted or refused. The applications are purely for the approval of new planning conditions taking into account material considerations, changes in policy and best practice. The applicant submits the conditions that they propose and the planning authority either accepts them and grants permission as applied for or grants the permission with amended conditions.
- 1.4 The most recent planning permission for the site is TA93/0765 and was a review of conditions under the ROMP legislation mentioned above. This permission set out a number of conditions for the working of the site. This permission did not impose a condition restricting the number of lorry (Heavy Goods Vehicles (HGV)) movements to/from the application site or the route the HGVs should take to/ from Oxted Chalkpit. The applicant, Southern Gravel, is currently operating in accordance with that planning permission.

Environmental Permit

- 1.5 The only restriction currently in place to limit any activity at the site is the Environmental Permit granted by the Environment Agency. The Environmental Permit limits the volume of inert waste that can be deposited at the site and when originally granted in 1997 was for 40,000 tonnes per annum (tpa). In 2006 the Environmental Permit was increased to 100,000 tpa. Then more recently the Environmental Permit was varied in September 2016 to increase the amount of waste that can be deposited to 200,000 tpa.
- 1.6 Members will be aware of this matter and the issues that surround it, from the 20 April 2018 Tandridge Local Committee Item 8 and 23 June 2017 Item 117.
- 1.7 National Planning Policy set out in the National Planning Policy Framework is clear that the planning and environmental permitting regimes, whilst complementary, are separate regimes and planning authorities should assume that the permitting regime will operate effectively. Planning permission determines if the development is an acceptable use of the land. Permitting determines if an operation can be managed on an ongoing basis to prevent or minimise pollution. A range of environmental issues are considered when planning applications and environmental permits are determined. However, the range is generally wider for planning than it is for

permitting. For example, the planning authority will take into account off site traffic implications, not the Environmental Permit.

- 1.8 As such whilst the Environmental Permit is a material planning consideration and that both the Environmental Permit and the planning application needs to take into account environmental risks and impact; the Environmental Permitting regime does not prescribe or dictate to the planning process.

Appeal Procedure and Monetary Compensation

- 1.9 Where a ROMP application is determined with conditions imposed by the Mineral Planning Authority that differ in any respect from the proposed conditions set out in the planning application by the applicant, the applicant may appeal to the Secretary of State within a period of 6 months from the determination of the application.
- 1.10 Under Schedule 14 of the Environment Act 1995, the applicant can claim compensation from the County Council if:
- the conditions the County Council impose on the mineral permission relating to the site differ from the conditions submitted by the applicant
 - if the conditions the County Council impose restrict working rights in respect of the site. The asset value is the value of the mineral deposit – chalk in this case.
- 1.11 Paragraph 213¹ of the National Planning Policy Guidance (NPPG) also states that the applicant can claim compensation as a result of any reviews of planning conditions where:
- the mineral planning authority determines conditions different from those submitted by the applicant; and
 - The effect of new conditions, other than restoration or aftercare conditions, is to prejudice adversely to an unreasonable degree either the economic viability of the operation or the asset value of the site, taking account of the expected remaining life of the site.
- 1.12 If the asset value is affected, the County Council could end up paying compensation to the applicant, which could run into millions of pounds.

2. ANALYSIS:

Current Situation

- 2.1 The applicant has submitted planning application TA12/902 for a periodic review of the conditions imposed on TA93/0765 under the ROMP process. This includes a list of conditions which they wish to see imposed. The County Planning Authority (CPA) has not accepted the conditions as proposed and has indicated a desire to attach additional conditions including some relating to a limitation on the number of HGV movements; a prohibition on vehicle

¹ Paragraph: 213 Reference ID: 27-213-20140306

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movements during school drop off and pick up times; and a requirement for regular road surveys to determine any damage caused by the operation. The applicant is strongly resisting these.

- 2.2 The original transport work submitted in support of the application was based on the maximum yearly average of 56 infilling HGV movements per day, which occurred in 2008. No work was undertaken in respect of the peaks, with the absolute peak being 362 HGV movements on April 12th 2010. With no other analysis, the County Highway Authority (CHA) considered that 56 HGVs per day was acceptable but, with no other evidence available, was unable to agree that any higher figure could be satisfactorily accommodated. The CHA initial response recommended a condition limiting the site to 56 infilling HGV movements per day. As a result of this, the applicant undertook further work in order to demonstrate that an average of 56 HGV movements per day with a maximum in any one day of 362 was acceptable. The CHA did not agree that the work undertaken demonstrated that 362 HGV movements was acceptable.
- 2.3 The CPA and CHA Officers have carried out a study of the environmental impact of the HGV traffic on Chalkpit Lane to determine if there was a level at which HGVs could be limited. That work indicated that, for noise reasons, the number of HGVs should not exceed 150 in any one day but no other indicator (severance, fear and intimidation, vibration etc) resulted in a lower number. After some discussion and negotiation, the applicant and CHA reached agreement on an average of 56 infilling HGV movements per day, with a maximum in any one day of 150 infilling HGV movements. Counsel's advice was sought and this confirmed that the CPA could legitimately limit the number of HGVs.
- 2.4 A revised Transport Statement was submitted by the applicant in May 2017, attempting to justify an average of 100 infilling HGVs per day and a daily cap of 200 HGVs. The CPA do not accept the analysis in the report. The County Council stands by the 150 cap in movements and is now considering including the chalk exports within the cap.
- 2.5 On reviewing the further submission and the noise assessment information, the CPA is now looking to restricting the number of all HGVs - infilling and chalk export - unless the applicant is able to demonstrate that such a restriction will affect their asset value or economic viability of the application. The CPA wrote to the applicant in January 2018 setting out their opinion on highway matters. The CPA has requested this analysis, recent weighbridge data, data on chalk exports and clarification on other matters but is still awaiting the information. Recent communication between the Case Officer and the applicant's solicitor indicates that the areas of disagreement remain.

Committee Date

- 2.6 A Committee date has not yet been set as additional information (as set out above) is still awaited from the applicant. The CPA has to be reasonable in allowing the applicant to submit any further information to support the application as it is likely that any additional conditions attached by the County Council, particularly any that restrict the infilling operation by way of a limitation on the number of HGVs, will be appealed by the applicant and therefore it is important that all conditions can be objectively justified and robustly defended.

- 2.7 If the applicant submits further information in support of the application, the CPA may have to formally re-consult on this information in accordance with the Environmental Impact Assessment (EIA) Regulations 2011. If this is the case, the date for committee would also be postponed to allow for this consultation which is required by the EIA Regulations.

Traffic count - HGVs are avoiding the traffic counter by turning left and not going through it.

- 2.8 The traffic counter has not been installed by Surrey County Council and Surrey County Council have no knowledge of who has installed the counter.

3. OPTIONS:

ROMP planning application

- 3.1 The ROMP planning application has to adhere to the provisions set out in the Environment Act 1995 alongside the NPPG. The CPA has to be mindful of the applicant's right to appeal and to compensation as set out above and also be reasonable in allowing the applicant to provide further information in response to comments raised with them in January 2018.

To add a feasibility study into a physical width restriction on Chalkpit Lane to the ITS list

- 3.2 No feasibility study into traffic calming measures has been undertaken. An initial assessment by officers is that traffic calming measures on Chalkpit Lane would be unsuitable due to the road layout and the number of HGVs using Chalkpit Lane. Experience elsewhere has shown that traffic calming may not be acceptable to the nearby residents. This is due both to concerns about noise of HGVs going over any measures such as road tables, and also the ongoing maintenance of such measures. Road tables and speed cushions can deform over time if they are trafficked by HGVs.

An option that the Local Committee could consider, would be a physical width restriction at the north end of Chalkpit lane. The Local Committee could consider adding a feasibility study into a physical width restriction to the ITS list if funding became available in the future. It should be noted that Chalkpit Lane is within the Surrey Hills Area of Outstanding Natural Beauty (AONB). Access for large vehicles such as refuse collection vehicles and removal lorries will need to be maintained to the properties to the north of the chalkpit. It is likely that any physical width restriction will require a turning area to enable larger vehicles to avoid reversing away from the width restriction.

If a width restriction were found to be feasible then the likely cost of such a measure is unlikely to be achievable from the current Local Committee capital budget. As this is a ROMP planning application there is no scope to require the operator to fund this proposal as part of the application.

4. CONSULTATIONS:

- 4.1 None

5. FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

5.1 None

6. EQUALITIES AND DIVERSITY IMPLICATIONS:

6.1 It is an objective of the CPA to treat all planning applications equally and with understanding.

7. LOCALISM:

The CPA is mindful of the localism agenda and carries out notification and publicity of planning application (including the receipt of amending/ amplifying information) in accordance with the CPA's Statement of Community Involvement and the EIA Regulations 2011.

8. OTHER IMPLICATIONS:

| Area assessed: | Direct Implications: |
|--|---|
| Crime and Disorder | No significant implications arising from this report. |
| Sustainability (including Climate Change and Carbon Emissions) | No significant implications arising from this report/ |
| Corporate Parenting/Looked After Children | No significant implications arising from this report/ |
| Safeguarding responsibilities for vulnerable children and adults | No significant implications arising from this report. |
| Public Health | No significant implications arising from this report. |

9. CONCLUSION AND RECOMMENDATIONS:

- 9.1 This report sets out that the CPA have a current planning application (TA12/902) which has been submitted as a first periodic review under the ROMP process. The planning application is due to be reported to the Planning and Regulatory Committee for a resolution.
- 9.2 The CPA are aware of the local concerns and these are known and understood, as is the frustration that a decision has not yet been reached. However, the site already has the benefit of a planning permission (TA93/0765) and the applicant is operating in accordance with that planning permission. The County Planning Authority cannot refuse the ROMP application and officers have to be mindful not to prejudice adversely to an unreasonable degree either the economic viability or the asset value of the site. The County Council does not have the resources to compensate the owner of the site. The determination of the application is not going to make the Chalkpit or the lorries travelling to and from it cease.
- 9.3 The CPA are aware that the Environmental Permit has been increased from 100,000tpa to 200,000tpa and understand the concerns surrounding this. The CPA will treat this as a material consideration in the decision making process for planning application TA12/902.

10. WHAT HAPPENS NEXT:

10.1 The CPA will progress with planning application TA12/902 and await a response from the applicant. The CPA has to give a reasonable time for the applicant to respond and anticipates reporting this planning application to the Planning and Regulatory Committee later in the summer of 2018.

Contact Officer:

Samantha Murphy, Principal Planning Officer, 0300 200 1003

Sources/background papers:

- “Guidance for developments requiring planning permission and environmental permits”, Environment Agency, 2012
- The Environment Act 1995
- National Planning Policy Guidance (NPPG),
<https://www.gov.uk/government/collections/planning-practice-guidance>
- Planning permission TA93/0765

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