
NORTH AYRSHIRE COUNCIL

4th December 2019

Planning Committee

Locality	Kilwinning
Reference	19/00542/PP
Application Registered	19th July 2019
Decision Due	19th September 2019
Ward	Kilwinning

Recommendation	Approved subject to Conditions
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Location	Hullerhill Sand Quarry Kilwinning Ayrshire KA13 7QN
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Applicant	Hugh King & Co
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Proposal	Section 42 planning application to vary conditions 8 (hours of working) and 14 (noise limits) of planning permission N/14/00656/DCMS
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1. Description

Planning permission is sought to amend conditions 8 and 14 attached to planning permission 14/00656/DCMS in order to enable increased working hours for the operation of the drying and mortar plants at Hullerhill Quarry, near Kilwinning.

It is not proposed to increase the working hours for mineral extraction operations or vehicle movements in relation to despatch. The proposal seeks only to allow the operation of the drying and mortar plants for a longer time period each day, and to introduce Sunday working, as follows:

- 2 additional working hours during Mondays - Fridays (from 1900 - 2100 hours)
- 8 additional working hours during Saturdays (from 1200 - 2000 hours)
- 13 new working hours for the drying/mortar plants during Sundays (from 0700 - 2000)

The proposal has been subject to the submission of a revised background noise survey which took until late October to conclude. The revised noise survey informed the proposed hours of operation, which differ to those originally applied for in July 2019. At that time, permission had been sought to operate the drying and mortar plants until 2200 hours on a

daily basis. This would have meant an increase of up to 3 hours on weekdays, 10 hours on Saturdays and for a total of 16 hours on Sundays (29 additional weekly hours in total).

It is now proposed that there would be up to 23 additional hours per week, with no working after 2100 hours on weekdays and a limit of 2000 hours during weekends. As such, the proposed additional hours for operating the drying and mortar plants during evening and night time periods has been greatly reduced as a result of the background noise monitoring which took place during the Autumn of 2019.

Under the terms of the current permission, Hullerhill Quarry has the right to undertake extraction, processing and despatch work between 0600 hours and 1900 hours on Mondays to Fridays, and 0600 hours to 1200 hours on Saturdays, with no Sunday working other than maintenance, emergency works, dust suppression, pumping and testing.

A supporting statement submitted with the application indicates that the company is finding it increasingly difficult to meet demand within the existing permitted hours as a result of the growing market for the quarry products of Hullerhill, which is located approximately 1.6km northeast of Kilwinning. The mineral resource at Hullerhill is sand, much of which is processed on site to form building blocks for the construction industry, as well as the production of refined sand for use in golf courses.

In terms of the adopted Local Development Plan (LDP), Hullerhill Quarry is located within the countryside where Strategic Policy 'The Countryside Objective' applies. Consideration of applications relating to mineral extraction is covered under Policy 33 - 'Responsible Extraction of Mineral Resources'. The Placemaking Policy applies to all applications for planning permission.

2. Consultations and Representations

The application was subject to the statutory neighbour notification procedures. 3 letters of representation, all with objections to the proposal, have been received. The points raised can be summarised as follows:

1. The proposal would have an adverse effect on the amenity of the area. The Council has previously restricted the types of operation at the quarry to day time hours. Extending the hours of operation to the night time period will give residents no respite from the intrusive sounds generated by the plant and machinery and associated activities. The interests of the local community still need safeguarding. By allowing the change to be implemented, the Council would be contravening their own restrictions placed on the site.

Response: The application has been amended since it was submitted in July which reduces the number of additional working hours, which would only apply to the operation of the mortar plant and dryer plant, as noted above. The applicant's agent has responded to this point as follows:

"the original planning permissions for Hullerhill had no restrictions on the hours of working or on the number of days; these restrictions were offered voluntarily by the operator in relation to the 2014 ROMP application, as at that time those hours were sufficient to allow the operator to carry out all necessary works. As circumstances have changed, the operator, is

seeking an appropriate change in the operational hours which would both allow the Company to operate efficiently whilst having no significant amenity impacts."

2. The noise survey submitted with the application (July 2019) attracted concerns from the Council's Environmental Health Officer. Data from that survey shows that the operations at the site cannot comply.

Response: Further to an initial consultation with Environmental Health, a further noise survey has been undertaken and the proposed increase to the working hours reduced. A further consultation with Environmental Health indicated no objection to the proposal.

3. Constant, unpleasant noise, not necessarily loud noise, is worse than an intermittent one. The quarry noise is not faint and is going to be more dominant at night and on Sundays than at other times. Sometimes a noise does not have to be loud to be unpleasant, it can simply be the tonal quality.

Response: Noted. See Analysis.

4. The quarry has become larger and larger over the years and any continued expansion would have a detrimental effect, not only on the immediate community, but on the wider rural landscape of the area. The site buildings are clearly visible on the skyline. It also creates light pollution. This not only spoils the night sky, but there is proven scientific evidence to demonstrate that light pollution adversely affects certain types of wildlife.

Response: The application does not seek to extend the size of the quarry, nor its buildings, nor extend its lifespan. The application does not seek permission to work late into the night, nor any earlier in the morning. Whilst Sunday working is proposed, this would apply only to the operation of the mortar and dryer plants, not the entire operation.

5. There is medical evidence of the detrimental impact that noise pollution can have on the health and well-being of individuals. It can also have a wider impact, in also affecting wildlife and domesticated animals. The Government recognises that noise from mineral workings can significantly affect the environment and the communities that live nearby, and has legislated in order to control noise pollution.

Response: Noted. However, the additional 2 hours per week night until 9pm is not considered to be an excessive increase. Saturday afternoons/evenings and Sunday working would be limited to only the operation of the mortar and dryer plants, for a lesser number of hours as was first proposed, as noted above.

6. The methodology of the noise survey was flawed and should be repeated. Taking into account the methodologies that are recommended by PAN50 in conducting surveys and the lower dB LAeq limits recommended for the countryside, and for the adverse impact of the noise to be taken in context with the surrounding area, it is the view that the operator would not be able to comply with the limits, particularly in the real world, and as a consequence, the application should be refused.

Response: The application has been subject to further noise surveys and assessment, as noted above. The applicant's agent has responded to this point as follows:

"Environmental Health has ensured that appropriate background monitoring has been undertaken so that individual locations can be assessed. The noise limit proposed by Environmental Health is actually more stringent than the lowest limits suggested in PAN 50 so, if operations were to be approved, North Ayrshire Council would clearly be ensuring that there was no unreasonable impact on the amenity of the local community."

7. There would be increased traffic from the quarry arising from the proposal.

Response: It is not proposed to extend the period of time during which despatch operations can take place.

9. Living in a rural area is generally very quiet and peaceful. One objector has stated that "I knew the operating hours of the quarry when I bought my house so I anticipated and can accept the level of noise generated during the working week. What I would not find acceptable is any increase in noise during the weekends."

Response: The proposal has been modified to take the concerns of nearby residents into account whilst also recognising the need to support the long-term growth and viability of the quarry. See Analysis.

Consultation

NAC Environmental Health - no objections to the modified proposals subject to a condition that the rated noise level, as defined in BS 4142:2014+A1:2019, from the operation of the plant and equipment, must not exceed the background noise level by 10dB(A) or more at the curtilage of any noise sensitive property over a reference period of 1 hour during the hours to which this application relates (1900-2100 hours Monday to Friday, 1200-2000 hours on Saturday and 0700-2000 hours on Sunday). The applicant has commissioned an appropriate background noise assessment to be undertaken and its results demonstrate that the above noise limit will be complied with during the proposed hours as outlined above.

Response: Noted. See Analysis.

3. Analysis

Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with condition(s) subject to which a previous permission was granted. Section 42 of the Act stipulates that in this type of application the "planning authority shall consider only the question of the conditions subject to which permission should be granted."

The main determining issue in this case is whether the proposed modifications would conflict with the relevant LDP policy and relevant criteria of the General policy.

Circular 4/1998 sets out the tests for planning conditions, as follows:

- Need for a Condition
- Relevance to Planning
- Relevance to the Development to be Permitted
- Ability to Enforce

- Precision
- Reasonableness

The Countryside Objective seeks to "encourage opportunities for our existing rural communities and businesses to grow" whilst protecting the countryside and promoting sustainable development. The proposed variation to two planning conditions which govern the operation of Hullerhill would enable a long-established quarry business to grow. As such, the proposal would accord with the Countryside Objective.

Policy 33 'Responsible Extraction of Mineral Resources' supports the conventional extraction of sand, gravel, coal and peat, subject to meeting a range of criteria. As Hullerhill Quarry has been established for the past 100 years or more, there is no requirement to justify the principle of development in this case. There is already a suite of planning conditions in place, approved by the Council in 2014, which provide the basis for the regulation of day to day operations in accordance with modern working practices as well as a site restoration and aftercare plan. The current proposal seeks to modify the wording of two planning conditions which would extend working hours for a limited and very specific range of operations (ie. drying plant and mortar plant), and takes account of potential noise and amenity impacts.

The Placemaking Policy aims to safeguard, and where possible enhance environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. Informed by the evidence base of an up to date background noise survey, together with the consideration of concerns expressed by neighbouring residents, the consultation process with Environmental Health has led to a reduction in the proposed additional operating hours for the drying and mortar plants. Whilst the hours of operation would be extended into late evening hours, there would be no working after 2100 hours (and earlier at weekends). This would prevent unacceptable adverse noise impacts on local residents. It is considered that this outcome would achieve an appropriate balance between the need to ensure the economic viability of the quarry and the protection of residential amenity in the rural area around Hullerhill.

In applying the Circular 4/1998 tests for conditions to the proposal, it is considered that the proposed variations to conditions 8 and 14, as amended, would meet all six tests.

There are no other material considerations. Accordingly, it is considered that planning permission could be granted subject to the revised wording for conditions 8 and 14 as has been agreed with the applicant following consultation with Environmental Health.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That no extraction, aggregate processing or despatch work shall be undertaken at the site outwith the hours of 06.00 to 19.00 Monday to Friday and 06.00 to 12.00 noon on Saturdays. The operation of the drying plant and mortar plant is permitted during the hours of 06.00 to 21.00 Monday to Friday, 06.00 to 20.00 on Saturdays and 07.00 to 20.00 on Sundays. Outwith these hours, activities shall be limited to maintenance, emergency works,

dust suppression, pumping and testing of plant and equipment, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To safeguard the amenity of the surrounding area.

Condition

2. That noise from the development during the hours 06.00 to 19.00 Monday to Friday and 06.00 to 16.00 on Saturdays shall not exceed 55dB LAeq, 1hour (free field) at any noise-sensitive premises, except noise from soil stripping or landscape operations. Noise from the development during the hours 19.00 to 21.00 on Mondays to Fridays, 12.00 - 20.00 on Saturdays and 07.00 to 20.00 on Sundays shall not exceed 45dB LAeq, 1hour (free field) at any noise-sensitive premises, all to the satisfaction of North Ayrshire Council as Planning Authority.

Reason

To limit the impact of noise on neighbouring properties.

Russell McCutcheon
Executive Director (Place)

For further information please contact Mr A Hume Planning Officer on 01294 324318.

Appendix 1 – Location Plan

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