



**TOWN AND COUNTRY PLANNING ACT 1990
Town and Country Planning (General Development Procedure) Order 1995
NOTICE OF DECISION OF COUNTY PLANNING AUTHORITY**

To: Cemex UK Operations Limited, Wolverhampton Road, Oldbury, Warley, West Midlands, B69 4RJ

The **WARWICKSHIRE COUNTY COUNCIL**, having considered the application for the extraction of sand and the gravel and restoration to agriculture and a pond at 15.3 Ha. of land North of Broom Lane, Dunnington, Warwickshire (Grid ref:408.252) made by you on behalf of Cemex UK Materials Limited, Cemex House, Coldharbour Lane, Thorpe, Egham, Surrey, TW20 4HA and deposited with the County Council on 22 July 2009.

HEREBY GIVE YOU NOTICE that **PERMISSION** is **GRANTED** for the above mentioned development subject to the following conditions:-

COMMENCEMENT DATE

1. The development hereby approved shall be commenced no later than 18 months from the date of this permission.

Reason:- To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

GENERAL OPERATIONS

2. The development hereby permitted shall be carried out in accordance with submitted application ref. S2141/09CM018, Environmental Statement, drawing numbers P2/1252/1, P2/1252/2, P2/1252/3, P2/1252/4, P2/1252/5, 762-01-001, 762-01-002, 762-01-005, 762-01-006, 762-01-007 and any samples or details approved in accordance with the conditions attached to this permission, except to the extent that any modification is required or allowed by or pursuant to these conditions.

Reason:- In order to define the exact details of the planning permission granted and to secure a satisfactory standard of development in the locality.

HOURS OF OPERATION

3. Except as may otherwise be agreed in writing by the Minerals Planning Authority, none of the operations or uses authorised by this permission (including the maintenance of vehicles and plant) shall be carried out other than during the following times:

0700 – 1800 hours Mondays to Fridays

0700 – 1300 hours Saturday

No operations or uses shall be carried out on Sundays, Bank or Public Holidays.

Reason: – In order to protect the amenity of residents

ARCHAEOLOGY

4. No development shall take place until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, recording and publication which has been submitted by the applicant and approved in writing by the Minerals Planning Authority.

Reason: – In order to ensure the adequate investigation and recording of known and potential archaeological remains located on the site.

ACCESS AND PROTECTION OF THE PUBLIC HIGHWAY

5. The development hereby permitted shall not be brought into use until the HGV crossing point on Broom Lane including the highway verge crossings and reinforcement of Broom Lane has been approved in writing and constructed to the satisfaction of the Minerals Planning Authority.

Reason:– In the interests of highway safety.

6. The vehicular access shall not be reconstructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway.

Reason:– In the interests of highway safety.

7. The development shall not be brought into use until visibility splays have been provided to the vehicular access with a 'x' distance of 2.4 metres and 'y' distance of 120.0 metres and 160.0 metres to the east and west respectively to the near edge of the highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.9 metres above the level of the highway carriageway.

Reason: – In the interests of highway safety.

8. Gates or barriers erected at the entrance to the site for vehicles shall not be hung so as to open to within 15 metres of the near edge of the public highway carriageway.

Reason: – In the interests of highway safety.

9. The development shall not be brought into use until the proposed accesses to the site for vehicles have been surfaced with a bound material for a distance of 15 metres as measured from the near edge of the highway carriageway in accordance with details to be approved in writing by the Minerals Planning Authority.

Reason:– In the interests of highway safety.

10. Any mud or other deleterious material deposited on the highway by vehicles travelling across Broom Lane between the application site and Marsh Farm Quarry shall be removed from the highway forthwith.

Reason: – In the interest of highway safety.

11. No Heavy Goods Vehicles (HGV) associated with the development shall access or exit the site except via the crossing on Broom Lane to and from the existing Marsh Farm Quarry. There shall be no direct HGV access from the site to the public highway.

Reason: – In the interest of highway safety

12. There shall be no movement of HGVs across Broom Lane between the hours of 08.35 and 09.05 and 15.15 and 15.45 Monday to Friday during school term time.

Reason:– In the interest of highway safety.

13. All extracted sand and gravel shall be transported to Marsh Farm Quarry for processing along the designated haul routes. All processed material shall then be transported from Marsh Farm Quarry via the existing site entrance haul road to the B4088 Evesham Road.

Reason: In the interest of highway safety and residential amenity

14. No loaded lorries shall leave the site unless they are sheeted or the load is otherwise adequately secured.

Reason:– In order to protect the amenities of nearby residents.

15. Following completion of extraction on the site the vehicle crossing on Broom Lane shall be removed and reinstated to a condition acceptable to the Minerals Planning Authority.

Reason:– In the interest of highway safety.

ENVIRONMENTAL PROTECTION

16. Plant and machinery shall not be used at the site unless it is silenced at all times in accordance with the manufacturer's specification and is fitted with effective silencers.

Reason:– In order to safeguard the amenities of residents.

17. Reversing alarms shall not be used unless they are of a bell tone type or are of the directional type or are capable of adjusting their noise level automatically to 5dB(A) above the ambient noise level or are of a type otherwise approved in writing by the Minerals Planning Authority.

Reason:– In order to safeguard the amenities of residents.

18. With the exception of noise from soil and overburden removal or replacement and the construction or removal of soil mounds, noise from the development shall not exceed a noise level of 55 dB(A)Laeq (1 hour) at the nearest noise sensitive property.

Reason:– In order to protect the amenities of nearby residents.

19. Noise levels from soil and overburden removal or replacement or from the construction or removal of soil mounds shall not exceed 70 dB(A)Laeq (1 hour) at the nearest noise sensitive property on more than 56 days in any 12 month period.

Reason:– In order to protect the amenities of nearby residents.

20. Unless otherwise agreed in writing by the Minerals Planning Authority all pumps operated on site shall be electronically powered.

Reason:– In order to safeguard the amenities of residents.

21. Any oil, fuel, lubricant, paint or solvent within the site shall be so stored as to prevent such material from contaminating topsoil, subsoil or soil forming material or from reaching any watercourse.

Reason:– In order to protect against ground contamination.

22. No development shall take place unless all necessary measures to prevent or minimise the raising of dust have been adopted. These measures shall include:

- (i) the use of water bowsers on haul roads and other operational areas of the site;
- (ii) the use of water sprays or other methods of controlling dust from mineral extraction;
- (iii) methods for controlling dust during soil and overburden movement, including the suspension of operations during weather conditions likely to give rise to uncontrollable dust generation which would be likely to be carried beyond the boundary of the site.

SOILS

23. All top soil and subsoil shall be retained on the site.

Reason:– To protect soil structure for the long term restoration of the site.

24. No movement of soils shall take place except when the full depth of soil to be stripped or otherwise transported is in a suitable dry and friable condition. Conditions shall be sufficiently dry for the top soil to be separated from the subsoil without difficulty. Soils shall be drier than field capacity in the case of coarse textured soils and drier than lower plastic limit for fine textured soils.

Reason:– To protect soil structure for the long term restoration of the site.

25. Prior to any part of the site being excavated or traversed by heavy machinery (except for the purpose of stripping that part or storing topsoil on that part) or used for the stacking of subsoil, all available top soil shall be stripped from that part.

Reason:– To protect soil structure for the long term restoration of the site.

26. All soil types shall be stripped and stored separately and within these soil types the topsoils and subsoils shall be stripped and stored separately. Any overlap of soil types in the mound shall be the minimum necessary to form that mound and the interface shall be clearly recorded on a plan.

Reason: – To protect soil structure for the long term restoration of the site.

27. Topsoil and subsoil storage mounds shall be constructed with the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery whilst in storage.

Reason:– To protect soil structure for the long term restoration of the site.

28. All reasonable steps shall be taken to ensure that drainage from areas adjoining the site is not impaired or rendered less effective by permitted operations.

Reason:– To protect soil structure for the long term restoration of the site.

29. All storage bunds intended to remain in situ for more than 6 months or over the winter periods are to be grassed over and kept free of weeds.

Reason:– To protect soil structure for the long term restoration of the site.

RESTORATION

30. Prior to the commencement of restoration a land drainage scheme shall be submitted to the Minerals Planning Authority for approval. The approved drainage scheme shall be implemented in full.

Reason:- To ensure satisfactory drainage of the site

31. All operations involving soil replacement and treatments shall be carried out when the full volume of soil involved is in a suitable dry and friable condition to minimise soil damage.

Reason:– To protect soil structure for the long term restoration of the site.

32. All reasonable precautions shall be taken so as to prevent the mixture of top soil and sub soil with other material.

Reason:– To protect soil structure for the long term restoration of the site.

33. Site restoration shall be completed within 12 months of the completion of the excavation in accordance with plan 762-07-001.

Reason:– To protect soil structure for the long term restoration of the site.

34. Hedges and trees forming part of the restoration scheme shall be planted within the first available season over restored areas. Should any hedge or tree planted as part of the restoration scheme die, be removed or become damaged or seriously diseased within five years of the initial planting they shall be replaced in the next planting season with others of a similar size and species.

Reason:–To ensure satisfactory restoration of the site.

AFTERCARE

35. Three months prior to the replacement of any topsoil, final soil cover or the completion of restoration works, whichever is sooner, a detailed aftercare scheme shall be submitted to the Minerals Planning Authority for approval. The scheme shall specify the steps to be taken and when in the aftercare period they are to be taken. Following approval in writing by the Minerals Planning Authority the scheme shall be implemented accordingly.

Reason:– To ensure satisfactory restoration and aftercare of the site.

36. The aftercare period shall extend for a period of 5 years from the date of final topsoil replacement for the area concerned.

Reason:-To ensure satisfactory restoration and aftercare of the site.

37. At least once each year during the aftercare period a formal annual review shall be held to consider the operations which have taken place on the site during the previous year and the programme of management to be adopted during the ensuing year. At least four weeks prior to the date of each annual review, the site operator shall provide the Minerals Planning Authority with a record of the management and operations carried out on the restored land during the period covered by the review.

Reason:– To ensure satisfactory restoration and aftercare of the site.

REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

38. Notwithstanding the provisions of Part 19 of Schedule 2 of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking or re-enacting that Order), no plant, machinery, buildings or structures other than those authorised by this permission shall be placed or erected on the site.

Reason:– To protect the amenity of the locality.

CESSATION OF DEVELOPMENT

39. The minerals extraction and restoration hereby approved shall cease no later than 3 years following the commencement of development.

Reason:- To protect the amenity of the locality.

Notice of Environmental Information

In accordance with Article 22(2) of the Town and Country Planning (General Development Procedure) Order 1995 ("the GDPO") and Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 ("the EIA Regulations") notice is hereby given that the County Council in deciding the Application has taken into consideration an environmental statement and other environmental information ("the Environmental Information").

Statement under Regulation 21(1) of the EIA Regulations

Description of the Main Measures to Avoid, Reduce and Offset Major Adverse Effects

The following measures will be secured through planning conditions:-

- (1) Restriction on the hours of operation of the site, ensuring that impact on amenity is limited to acceptable hours.
- (2) Restriction on the route that HGV movements will take, ensuring that HGV movements are kept to existing haul routes and not through villages.
- (3) Restriction on the hours of use of the HGV crossing on Broom Lane to ensure the period that the road is used for the school run is kept free from HGV's crossing.
- (4) The control of noise and dust emissions experience by local residents.
- (5) Removal of Permitted Development rights to ensure that no processing machinery is installed on the site.
- (6) Conditions to ensure the site is restored in a timely manner.

(7) Schedule of archaeological works.

Further details of these measures are given in the written report submitted to the Regulatory Committee at their meeting on 25 May 2010 ("the Report") and in the Environmental Information.

Statement Under Regulation 21(1) of the EIA Regulations

Summary Under Article 22(1)(a) of the GDPO

Statement of the Main Reasons and Considerations on Which the Decision is Based and Summary of Reasons for the Grant of Planning Permission

The main considerations on which the decision was based were:-

- The policies of the development plan summarised below
- The other material considerations identified in the following reasons and detailed in the Report.

It is considered that the proposed extraction of 500,000 cubic metres of sand and gravel from the site would assist in providing a source of primary aggregate and increase the landbank in Warwickshire in accordance with planning policy. Although not according with the provisions of the development plan as the site is not included within the current Minerals Local Plan as a preferred area for sand and gravel extraction (and therefore should be treated as a departure) the proposal is considered acceptable in the location and would not have any detrimental impacts sufficient to justify refusal of the application.

It is considered that the proposed development being located next to the existing March Farm Quarry site has a number of benefits, in particular utilising the existing Marsh Farm Quarry processing plant and associated infrastructure including highway haul routes. The proposal seeks permission for a temporary period, with extraction taking two years and a third year required for restoration. It is considered that conditions proposed to be attached to the planning permission will ensure that noise and dust during operations are kept to a minimum and the amenity of resident protected. The proposed restoration of the site back to agricultural land of best and most versatile grade with a pond for nature conservation would also enhance the area.

Although not according with Policy M1 of the Mineral Local Plan it is considered that the proposal would not conflict with the overall aims of the development plan and policies within it which seek to ensure sustainable development and ensure adequate provision for minerals in the county whilst protecting the environment and amenity of the area.

Summary of Development Plan Policies Relevant to the Decision

Development Plan Policies Relevant to this Decision

Regional Spatial Strategy for the West Midlands

Policy M1 of the Regional Spatial Strategy for the West Midlands seeks provision for the supply of nationally and regionally significant minerals. The proposal seeks to add to the provision of minerals.

Policy M2 of the RSS requires that Minerals Planning Authorities make provision for land won primary aggregates to 2016 on bases of apportionment agreed by the Regional Planning Body. The agreed Apportionment for Sand and Gravel in Warwickshire is 1.043 million tonnes. The proposal would therefore help towards Warwickshire meeting its apportionment target, especially as other sites in the County will be exhausted before 2016.

Policy M3 of the RSS seeks to reduce the reliance on land won primary aggregate by increasing the contribution of alternative sources. Whilst it is appreciated that this application is for land won primary aggregate, which could be seen to conflict with the aim of the policy, Policy M1 and M2 of the RSS requires a steady amount of primary aggregate to ensure that development is not affected. The proposal would replace Minerals previously being put to market from the existing Marsh Farm Quarry and therefore supply would be maintained, it would not be increased. On balance the proposal is not considered to conflict with the aims of increasing secondary and recycled aggregate, it would however maintain primary aggregate stock which when looking at the landbank is desperately needed.

Policy QE6 identifies that Local authorities, in their plans, policies and proposals should conserve, enhance and, where necessary, restore the quality, diversity and distinctiveness of landscape character throughout the Region's urban and rural areas by protecting and, where possible, enhancing natural, man-made and historic features that contribute to the character of the landscape and townscape, and local distinctiveness together with identifying opportunities for the restoration of degraded landscapes including current and proposed minerals workings and waste disposal sites. The proposal seeks to remove the mineral from the site and progressively restore the land back to agriculture and a pond. The proposal does not require the importation of any materials in order to undertake the restoration, and the restoration of the site is considered to enhance both biodiversity and ecology together with creating an appropriate visual landscape.

Policy QE7 of the RSS aims to protect the regions biodiversity and encourage the maintenance and enhancement of the Region's wider biodiversity resources. The site is looking to replace any hedgerows and field boundaries which are to be lost with the development, therefore reinstating habitable corridors. The restoration scheme proposes to restore the site to a mix of Agriculture and a pond, both returning part of the site back to agriculture and creating a pond thereby improving biodiversity.

Minerals Local Plan for Warwickshire

Policy M1 – Preferred areas. This policy identifies preferred areas of mineral extraction. The proposed development does not accord with this policy as the location of developments are not specifically specified in the plan.

Policy M4 – Assessed regional demand. This policy seeks to provide and maintain a stock of permitted reserves. The application accords with this policy as additional reserves are required to increase the landbank.

Policy M6 – Development outside of preferred area. This policy identifies that areas outside of the preferred areas will be considered on the basis of the provisions of the development plan. It is considered that the proposal accords with this policy and seeks to provide additional mineral to increase the landbank.

Policy M7 – Mitigation of Adverse Environmental Effects. This policy seeks to ensure that any adverse effects are mitigated. The applicant has provided information relating to mitigation measure and further measures are requested via planning conditions. It is therefore considered that the development accords with this policy.

Policy M9 – Restoration. This policy seeks restoration of minerals workings to a high standard. The applicant has provided information relating to the restoration of the site. The proposed restoration seem is considered appropriate in the location and therefore it is considered that the development is in accordance with this policy.

Stratford District Local Plan Policies

PR1- Landscape and Settlement Character. Seeks to ensure that development should respect and where possible enhance the quality and character of the area. The proposal seeks to restore the land partially back to agriculture and partially to an enhanced nature conservation area, thereby enhancing the character of the area.

PR4 – Best and Most Versatile Land. The policy seeks to protect Best and Most Versatile land from development unless criteria is met. It is considered that as minerals can only be worked where they are found, and much of the land is to be returned to Best and Most Versatile land.

PR7 – Flood Defence. Development in area of flood risk will require assessment to be submitted. The proposal is not located in an area at risk of flooding, however areas surrounding the site are. The proposal accords with the policy, and the applicant has also agreed to sign up to the Environment Agencies Flood Warning System.

EF7 and EF7A – Nature Conservation. Policy seeks to retain, protect, manage and where appropriate create wildlife habitats. The proposal seeks to enhance nature conservation at the site and improve the ecological value.

EF10 – Landscape and Amenity. Policy seeks to ensure that landscape, nature conservation woodlands and hedgerows are protected and enhances. The proposal seeks to protect, retain and enhance nature conservation and hedgerows in accordance with this policy.

EF11 and EF11A – Archaeology. Seeks to ensure that site of archaeological importance are protected, enhanced and preserved. The proposal has included a large amount of trial trenching which has identified that the site could have archaeological remains, a planning condition is therefore proposed to require further investigation.

DEV2 - Landscape. The policy seeks to ensure that the landscape character of the area is retained and where possible, enhances. The proposal seeks to enhance the landscape character of the area by introducing a nature conservation area.

CTY1 – Control over Development. This policy states that all forms of development in the countryside will generally be resisted in order to preserve the character of the area. It is considered that mineral extraction is acceptable in the open countryside, and although there would be short term visual impacts, the long term restoration of the site is considered to reserve and enhance the character of the area.

Government Guidance

MPS1 - Minerals Policy Statement 1 (MPS1) is the overarching planning policy document for all minerals in England. It provides advice and guidance to planning authorities and the minerals industry and it will ensure that the need by society and the economy for minerals is managed in an integrated way against its impact on the environment and communities.

MPS2 - 'Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England – Annex 2' provides guidance which the government expects to be applied to noise emissions from surface mineral operations. The document suggests that planning conditions are used to ensure that noise emissions from extractive process are reduced at source and controlled at reasonable levels. The guidance advises that Mineral Planning Authorities establish a noise level at sensitive receptors which does not exceed the monitored background noise level by more than 10dB (A). The Minerals Local Plan also provides guidance relating to what is acceptable on mineral extraction site. It is considered that planning conditions attached to any permission will adequately protect noise nuisance on site.

DATED 22 October 2010

Jim Graham
Chief Executive

Shire Hall
Warwick
CV34 4RR

**IT IS IMPORTANT THAT YOU READ
THE NOTES AT THE END OF THIS NOTICE**

NOTES:-

1. If the Applicant is aggrieved by the decision of the County Planning Authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions he may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from **The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0117 372 6372, Fax: 0117 372 8782)**). The Secretary of State has 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 for the proposed development could not have been granted by the County Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by the County 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 County Planning Authority was based on a direction given by him.
 2. If permission to develop land is refused or granted subject to conditions, whether by the County Planning Authority or the Secretary of State for the Environment 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 Council of the District in which the land is situated, a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
 3. In certain circumstances, a claim may be made against the County 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.
- * The Statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.