

**DR/22/15**

committee DEVELOPMENT & REGULATION

date 24 July 2015

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## MINERALS AND WASTE DEVELOPMENT

Proposal: **To enable the importation of materials from time to time to meet product imbalances and to offer a fuller product portfolio to customers without compliance with Condition 7 (Importation Restriction) of planning permission ESS/46/14/TEN**

Location: **Land at Martells Quarry, Slough Lane Ardleigh**

Ref: **ESS/23/15/TEN**

Applicant: **Aggregate Industries UK Ltd**

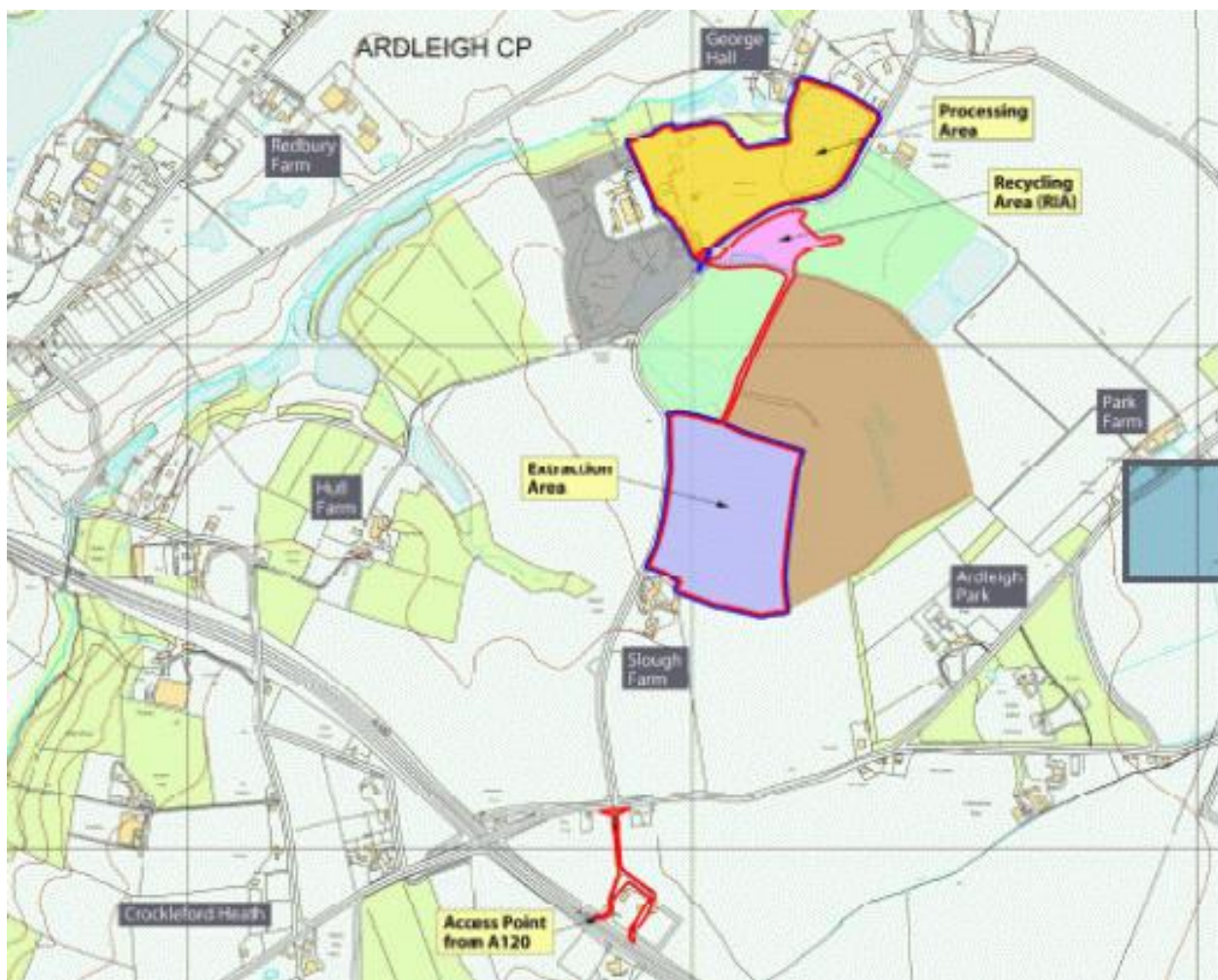
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Report by Director of Operations, Environment and Economy

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The full application can be viewed at [www.essex.gov.uk/viewplanning](http://www.essex.gov.uk/viewplanning)

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## 1. BACKGROUND AND SITE

Mineral extraction at Martell Quarry has been ongoing since the 1920's. The Martell Quarry/Landfill complex comprises the quarry processing, stockpiling and site offices and immediately to the west, lying within the former and original quarry void and Martells Industrial estate, comprising a number of businesses with activities including, but not exclusively, concrete batching, scrap metal, end of life vehicle dismantling and inert waste recycling.

These areas are all located to the north of Slough Lane that divides the complex and to which the processing plant area and industrial estate share access off. To the south of the lane and along a short haul road lies the main excavation activities and to its immediate east lies the active Ardleigh Landfill site.

Both quarry and landfill HGV traffic access and exit the complex travelling south along Slough Lane across the B1029 to access a private road with barrier provision that links onto the A120.

Some of the traffic generation by the industrial estate businesses which operate under a number of permissions, are restricted to access/egress the industrial estate north along Slough Lane towards Ardleigh.

The extant quarry permission, ESS/46/14/TEN, is time limited with mineral extraction to cease by December 2026 and for ancillary activities such as the processing plant to be removed when no longer required for their purpose and in any event before the restoration deadline of June 2033. Condition 7 of the permission states that: *"No materials shall be imported to the site for processing other than those from the application area"*.

## 2. PROPOSAL

This application seeks without compliance with Condition 7 to enable the importation of up to 20,000 tonnes per annum of mineral to meet both product and production sales imbalances and to offer customers a fuller product portfolio. The applicant states that due to the potential variation found in the Martell's Quarry reserves, these may from time to time be a need to import to assist blending with the indigenous reserves. The applicant states that importation would enhance the indigenous silica sand supply from what is an important reserve and the only silica sand quarry in Essex.

The applicant confirms that:

- Quarry output, including the imported mineral, would remain unchanged (extant permission limits mineral leaving the site to 125,000 tonnes per annum)
- Site operating hours would remain unaffected (extant permission restricts site operations including vehicle movements to Monday to Friday 07:00 – 18:30 and Saturdays 07:00 – 13:00 hours).
- Where practicable backhauling of mineral would be undertaken. Worst case scenario would be less than 2 additional traffic movements (1 in/1 out) per

day.

In respect of environmental considerations, the application states that for:

- Landscape and visual impact – the application site is well screened from visual receptors and any importation and storage arrangements would have no additional impact from that existing.
- Ecological – the proposal would not affect any undisturbed land. The proposed stocking area is already utilised for a similar purpose and would not result in new activity.
- Air quality, Noise and health impacts – The proposed operations would be managed as part of the existing dust management scheme and activities would be carried out within site noise limits. There would be minimal potential for any noise, dust impacts due to the nature of the proposal of importing, storing and blending with the indigenous sand.

### **3. POLICY**

The following policies of the Essex Minerals Local Plan Adopted July 2014 and Tendring District Local Plan Adopted December 2007 provide the development plan framework for this application. The following policies (paraphrased or in quotation marks if set out in full) are of relevance to this application:

Relevant policies within the Essex Minerals Local Plan Adopted July 2014 are:

a) Policy S1 “Presumption in favour of sustainable development”

States that the Mineral Planning Authority (MPA) will take a positive approach to minerals development (which includes processing, storage and transportation of minerals) that reflects the presumption in favour of sustainable development as required by the National Planning Policy Framework. The policy supports mineral development that improves the economic, social and environmental conditions in the area.

b) Policy S10 “Protecting and enhancing the environment and local amenity”

Requires that minerals development demonstrate (and where relevant to this application):

- “Appropriate consideration has been given to public health and safety, amenity, quality of life of nearby communities, and the natural, built, and historic environment,
- Appropriate mitigation measures shall be included in the proposed scheme of development, and
- No unacceptable adverse impacts would arise.....”

c) Policy S11 “Access and Transportation”

Minerals development would be supported where demonstrated there would be no unacceptable impacts on the efficiency and effective road network operation, including safety, capacity, amenity and the environment.

The policy further supports road transportation where the highway network is suitable for HGV or can be improved to accommodate such vehicles.

d) Policy DM1 “Development Management Criteria”

Provides support for minerals development subject to the development not having an unacceptable impact, including cumulative impact with other development, upon (with relevance to this application) local amenity; health of local residents; safety and capacity of the road network and the visual environment.

e) Policy DM3 “Primary Processing Plant”

Whilst this policy seeks to ensure that primary processing plants are located within the proposed mineral site boundary the policy addresses the importation element in that “Minerals shall only be imported to a minerals site, from non-indigenous sources, when it is demonstrated that there are exceptional circumstances or overriding benefits from doing so”.

The supporting text to this policy has relevant comments recognising that the importation of non-indigenous material can increase vehicle movements and extend site life. The text goes on recognising that limited imports could enable minerals to be blended and produce a broader product range. The text notes that this may be a more efficient use of resources. However, there is a need to avoid additional or non-essential mineral movement generation to keep environmental and community impacts to a minimum.

The text considers that imports should be considered on a case by case basis, and that in all cases the main use of the primary processing plant is to process the indigenous reserves.

The text highlights that movement of mineral between sites purely to increase product availability is normally not considered acceptable especially given the impact of additional traffic.

Relevant policies within the Tendring District Local Plan Adopted 2007 are:

a) Policy TR1a “Development affecting highways”

Provides for applications affecting highways to be considered accommodating the proposed traffic generation.

b) Policy TR9 “Access of freight to transport networks”

Whilst this policy seeks to encourage the use of rail/port for distribution of freight, where this is not possible the policy requires that such proposals be located where good access exists in line with the Local Plan Road Hierarchy without causing adverse impact on either environmental sensitive areas or communities.

The National Planning Policy Framework (NPPF), published in March 2012, sets out requirements for the determination of planning applications and is also a material consideration.

In respect of Local Plans, paragraph 214 of the NPPF states that, for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.

The NPPF sets the scene for placing sustainable development at the heart of the planning system. The Government sets a series of core planning principles to be applied at both plan making, as well as at decision making and that these include in relation to this application:

- i) Seek to secure high quality design and a good standard of amenity in relation to existing occupants of land and buildings.
- ii) Supporting the transition to a low carbon future in a changing climate and encouraging the use of renewable resources.
- iii) Contribute to conserving and enhancing the natural environment and reducing pollution.

The NPPF seeks the delivery of sustainable development through the planning system encouraging and supporting economic growth and that this is achieved through proactively meeting the needs of business.

The NPPF recognises that transport issues, through their movement and mode contribute to facilitating sustainable development and that encouragement should be given to reductions in greenhouse gases to help towards achieving a low carbon future. Furthermore, promoting and exploiting such opportunities for sustainable transport development can be assisted through appropriately located and designed development that accommodates the efficient delivery of supplies.

The NPPF seeks to mitigate, through appropriate planning decisions, the potential for noise and other adverse impacts including air quality, arising from a development on health and quality of life.

#### **4. CONSULTATIONS**

TENDRING DISTRICT COUNCIL: No objection subject to retention of conditions relating to HGV movements and mineral output as ESS/23/15/TEN

ENVIRONMENT AGENCY: No comment to make.

HIGHWAY AUTHORITY: No objection subject to all vehicles associated with the proposal using Slough Lane to the south of the proposal site and the private access on and off the A120 Trunk Road.

ARDELIGH AND ELMSTEAD PARISH COUNCIL: Concerned over damage caused on the local network of narrow roads by many lorry journeys with heavy loads. The breakdown of road edges causes potholes which are dangerous for cyclists and motorists.

LOCAL MEMBER – TENDRING – ARDLEIGH AND LITTLE BROMLEY - No

comments received.

## **5. REPRESENTATIONS**

Site, press and neighbour notification was undertaken and as a result 5 representations with the same objection have been received by e-mail from an adjoining residential property, Little Garth, located to the north-east.

*The objection states that the application “is a serious change from the original planning permission granted, which would lead to an unacceptable increase in the movement of HGV traffic along Slough Lane which is already heavily used by large vehicles. More lorry movements would lead to further degradation of the road surface, damage to banks and unacceptable increase in noise and pollution. Despite there being a link road to the A120 there is a significant amount of HGVs using the Station Road/Slough Lane route ignoring the traffic restrictions already in place”.*

## **6. APPRAISAL**

The principal issues in respect of this proposal are:

- A. Appropriateness and need for the development in this location.
- B. Environmental issues –Traffic.
- C. Environmental Issues - Noise.

### **A. APPROPRIATENESS AND NEED FOR THE DEVELOPMENT IN THIS LOCATION**

Martells Quarry operates as the county’s only industrial grade silica sand site; the mineral being recognised in the NPPF as of both local and national importance. The applicant has operated the site for a number of years, although there has been no submitted evidence to support their present contention that the quarry has “struggled to provide the range of products required by the market”. The applicant confirms that as a result issues of meeting product imbalances, production sales imbalances and providing a fuller product specific to customers is one that would probably reflect the situation experienced at other mineral sites nationally.

Both the NPPF and Policy DM3 recognise the benefit of flexibility to supporting business and that “blending” of mineral is a recognised practice both as an indigenous activity as well as between mineral sites. Blending from the purely mineral use, enables a mineral resource to be fully exploited, its use and supply opportunity maximised and minimising wastage.

Whilst there may be policy support to help the flexibility of supply, business support and continuing employment opportunities in rural areas, this must be balanced against the local effects importation brings.

In this particular instance, the quarry is well established with suitable infrastructure to accommodate existing indigenous blending activities. The quarry location could, without the need for further investment/infrastructure/environmental

disruption, accommodate importation, that other less well placed sites may lack to accommodate importation.

The application seeks to undertake the blending as part of the existing quarry activities, within the existing operating hours and would not prejudice mineral extraction/restoration cessation dates.

Overall, there would be no conflict with policy S1; S10, DM1 or DM3 supporting such sustainable type activities within existing mineral development locations.

## B. ENVIRONMENTAL ISSUES – TRAFFIC

The occupants of Little Garth have objected to further traffic increase as a result of this proposal, the degradation of the highway and HGV's not using the Slough Lane/private access onto the A130.

The existing quarry operates under a condition (no. 13) restricting HGV access to a defined route (south on Slough Lane to access the private haul road through to the A130), except for local deliveries. The condition also sets maximum vehicle movement numbers to:

*“daily HGV movements of 108 (54 out and 54 in) (Monday to Friday) - averaged over period of 1 year;*

*daily HGV movements of 54 (27 out and 27 in) (Saturdays) - averaged over period of 1 year;*

*inclusive of a maximum daily peak for of 160 HGV movements (80 out and 80 in) reducing to 80 HGV movements (40 out and 40 in) (Saturdays) for all vehicles associated with development, hereby approved, including concrete batching plant operations.*

*Records of all HGV movements shall be kept by the operator during the life of the permitted operations and a copy shall be supplied to the Minerals/Waste Planning Authority upon written request”.*

The application proposes no additional increase in permitted movements, but could result in (at worst) 2 additional lorry movements per day, although where possible ‘backhauling’ would be utilised. The existing routing restriction would equally apply to any traffic associated with this application were approval forthcoming – which accords with the Highway Authority’s request.

Other HGV's not associated with the quarry/landfill and operating from the adjacent industrial estate are not restricted under their respective permissions to use the defined quarry traffic route south along Slough Lane.

In terms of further highway degradation this would occur irrespective of this particular application. The applicant has sought to minimise traffic impact by seeking where possible the backhauling of imported mineral which would take place within the existing traffic flow pattern.

The applicant has not formally sought to vary Condition 13 (traffic movement numbers) to accommodate any need for additional movements to accommodate their worst case scenario (2 movements) referred to earlier in this report. It is considered that the restrictions in Condition 13 are suitable and should monitoring of the quarry vehicle movements identify a need to reassess this condition then that can be undertaken at a later date.

In terms of this particular application, it is not therefore considered that the proposal would impact on local amenities over and above what already occurs.

Traffic issues are not considered either from a highway or environmental aspect to be considered unacceptable and I do not see any conflict with Policy S10, S11, DM1, DM4, TR1a or TR9 arising.

## **C. NOISE**

The existing processing plant and stockpiling area are well located within the complex. The proposed importation activities would not add cumulatively to either what is already permitted nor to prejudice existing noise generation level restrictions.

It is not considered that noise aspects are material to this proposal and that there would be no conflict with Policies S10 or DM1 in terms of introducing unacceptable impact into the locality.

## **GENERAL**

The opportunity is given to planning authorities when determining applications made as Variation of Conditions (Section 73 of the Town and Country Planning Act 1990 – Determination of applications to develop land without compliance with conditions previously attached) to review, and update, the remaining extant conditions associated with the relevant permission, and any subsequent ancillary permission, to ensure that they are consistent with the application that it is being determined under.

## **7. CONCLUSION**

The proposal would be for a specific annual tonnage that could be monitored through condition. Importation when required would augment existing processing activities contributing to the sustainable use of an existing facility, maximisation of the mineral resource without prejudicing either the existing quarry extraction or restoration cessation dates.

In terms of the local resident's concerns these are, in respect of this application, considered unjustified and that their amenities would not be prejudiced over and above what is already permitted by the permission.

On balance, the proposal is considered to comply with the relevant policies of the Development Plan taken as a whole and represents sustainable development in the context of the NPPF and accordingly planning permission should be granted.

## **RECOMMENDED**



That planning permission be **granted** subject to:

- 1) Condition 7 of planning permission ESS/46/14/TEN being amended to read: “No more than 20,000 tonnes of mineral per annum shall be imported into the processing area as defined on Drawing No M13.227.D.005 entitled “Final”, and;
- 2) All other conditions of planning permission ESS/46/14/TEN being carried forward and appropriately reviewed and updated to reflect current practice.

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## **BACKGROUND PAPERS**

Consultation replies  
Representations

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## **THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (as amended)**

The proposed development would not be located adjacent to/within distance to a European site.

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required.

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## **EQUALITIES IMPACT ASSESSMENT**

This report only concerns the determination of an application for planning permission. It does however take into account any equality implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

## **STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER**

In determining this planning application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure)(England) Order 2015.

## **LOCAL MEMBER NOTIFICATION**

TENDRING – ARDLEIGH AND LITTLE BROMLEY