

DR/11/19

committee DEVELOPMENT & REGULATION

date 26 April 2019

MINERALS AND WASTE DEVELOPMENT - LEGAL AGREEMENT UPDATE

Proposal: A new sand and gravel quarry at Broadfield Farm, to the west of Rayne, near Braintree, comprising the phased extraction of some 3.66m tonnes of sand and gravel; the installation of processing plant and ancillary buildings and infrastructure; the construction of a quarry access onto the B1256; the construction of a permanent screening landform; the construction of temporary screen mounds in defined locations around the perimeter of the quarry; the phased restoration of the extraction area using indigenous soils; overburden and clay from within the application site to a land use mixture of arable agriculture, lowland acid grassland, lowland meadow, woodland, lake and reedbeds; and public access via proposed public rights of way. (Revised wording)

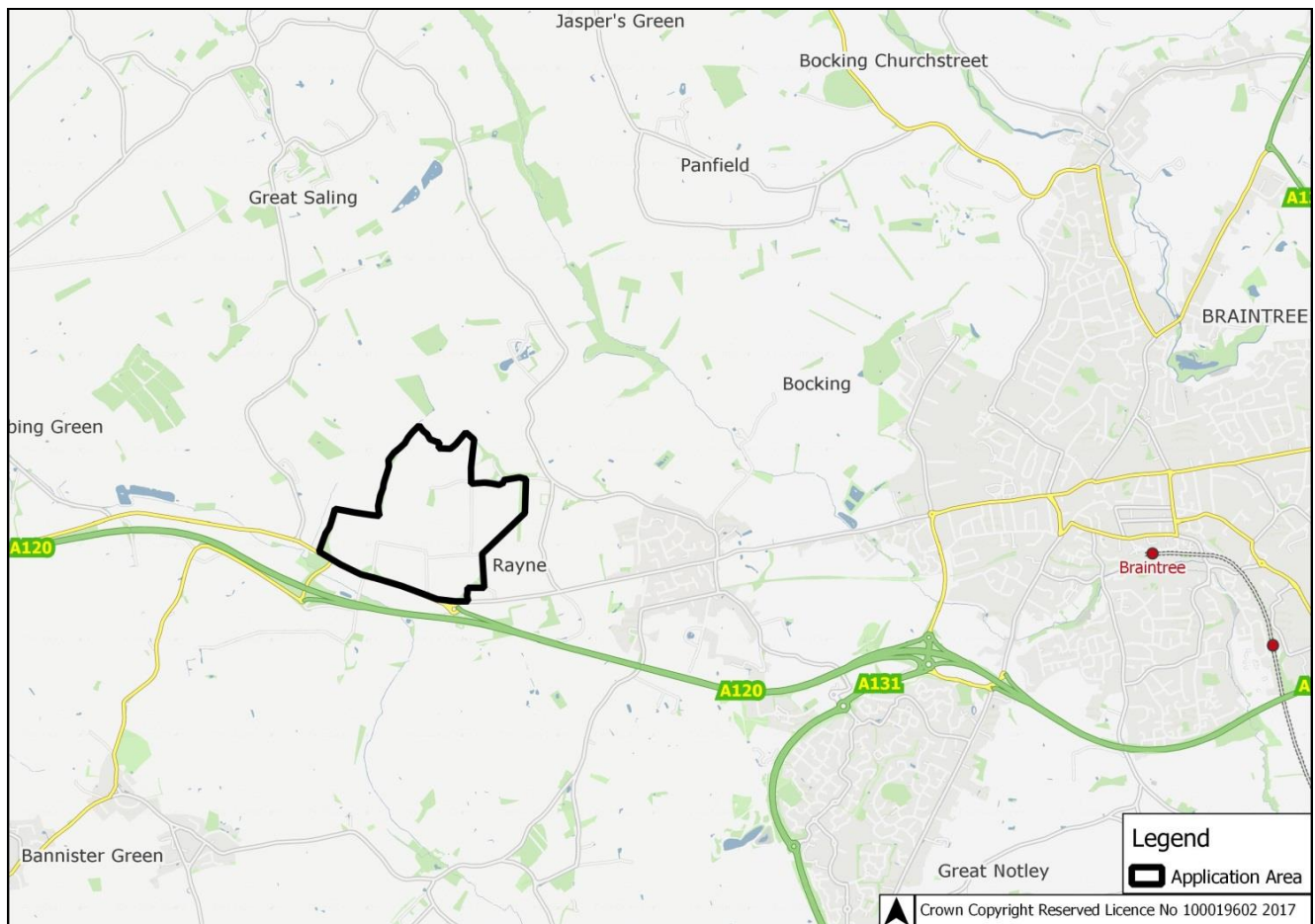
Location: Land at Rayne Quarry, Broadfield Farm, Dunmow Road, Rayne, Braintree, CM77 6SA

Ref: ESS/19/17/BTE

Applicant: Tarmac Trading Ltd

Report by Chief Planning Officer (County Planning and Major Development)

Enquiries to: Terry Burns Tel: 03330 136440



1. BACKGROUND

On 15 December 2017 the Committee resolved to granted planning permission for the above development subject to conditions and the prior completion within 6 months of an appropriate legal agreement to address:

- Landowner to enter into an appropriate Public Path Creation Agreement to secure the proposed public right of way as a Definitive footpath following its creation.
- Management and funding for the care and maintenance of the afteruse and features of the application land as depicted on the Drwg No M15.131.D.004B entitled "Concept Restoration Proposals" dated December 2016 for a period of no less than 25 years following the completion of restoration;
- Provision of a site liaison group, and;
- works to be undertaken in association with the construction of the site access onto the public highway and any future works affecting the public highway regarding the maintenance and removal of the access;

A copy of the December 2017 officer report is attached at Appendix 1 as updated by the addendum (December 2017 –Appendix 2).

2. UPDATE

An update was provided to the committee in June 2018, seeking an extension in time to complete the legal agreement. Progress, at that time, was being made following receipt of clarification from the various internal interested parties on the specific aspects needing inclusion to meet the above heads of term.

As a result of responses received from the applicant's solicitors the ECC's Public Rights of Way (PROW) team has made constructive suggestions, following a review of their earlier requirement for a Definitive footpath provision within the Public Path Creation Agreement as to future provision of the public right of way network.

The PROW team, in review, has suggested that, rather than a Definitive footpath, the developer provides permissive paths to be constructed with:

- Minimum 2 metre minimum width;
- On a firm and even surface;
- To contain no structures or limitations (e.g. stiles, gates etc.) which would prevent or frustrate disable access and to otherwise comply with DDA requirements;
- To be provided in perpetuity.

PROW's suggestions are considered to offer a more practical provision ensuring that there are usable paths for the public going into the future and whilst not being a future obligation on ECC's resources and liabilities.

These issues are being discussed with the applicant and it is expected that the agreement will be completed within the next few months.

This report seeks to extend the period to allow sufficient time for completion of the legal agreement and to clarify the proposed heads of term to take into account the provision of the permissive path requirement.

It is considered that there has been no change in adopted planning policy and no new material planning considerations that would affect the December 2017 officer recommendation.

3. RECOMMENDED

That:

Subject to the prior completion of an appropriate legal agreement within 6 months of the date of this resolution, to provide for:

- Landowner to enter into an appropriate licence/agreement to secure the proposed route as a Permissive footpath following its creation and to a

specification comprising:

- (i) Minimum 2 metre minimum width;
 - (ii) On a firm and even surface;
 - (iii) To contain no structures or limitations (e.g. stiles, gates etc.) which would prevent or frustrate disabled access and to otherwise comply with DDA requirements;
 - (iv) To be provided in perpetuity.
- Management and funding for the care and maintenance of the afteruse and features of the application land as depicted on the Drwg No M15.131.D.004B entitled "Concept Restoration Proposals" dated December 2016 for a period of no less than 25 years following the completion of restoration;
 - Provision of a site liaison group, and;
 - works to be undertaken in association with the construction of the site access onto the public highway and any future works affecting the public highway regarding the maintenance and removal of the access.

Planning permission be granted subject to the conditions listed in the December 2017 officer report (Appendix 1) as updated by the addendum (December 2017 – Appendix 2)

BACKGROUND PAPERS

Officer report and background papers dated 17 December 2017

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (AS AMENDED)

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

Following consultation with Natural England and the County Council's Ecologist no issues have been raised to indicate that this development would adversely affect the integrity of the European site/s, either individually or in combination with other plans or projects.

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

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

The Mineral Planning Authority has engaged with the applicant prior to submission and during the consultation process for the application, advising on the validation requirements and likely issues. As a result of engagement through the encouragement and assistance of the Mineral Planning Authority the applicant and third parties have been involved in negotiations over various aspects of the application resulting in beneficial aspects relating to provision of public access and nature conservation as set out in the report.

Throughout the determination of the application, the applicant has been kept informed of comments made on the application and general progress. Additionally, the applicant has been given the opportunity to address any issues with the aim of providing a timely decision.

LOCAL MEMBER NOTIFICATION

THREE FIELDS WITH GREAT NOTLEY

ADJOINING MEMBER - THAXTED