

PLANNING & LICENSING COMMITTEE

21ST SEPTEMBER 2021

ADDENDUM REPORT

Report no.	Item no.	Application no.	Applicant	Parish
111/2021	1	2020/0297/MIN	GREETHAM QUARRY EXTENSION	GREETHAM

Following further representation from the Parish Council regarding dust monitoring, (see attached) it has been decided that this application needs to be deferred to a future meeting to enable further issues to be resolved.

Report no.	Item no.	Application no.	Applicant	Parish
111/2021	2	2020/0971/MIN	GREETHAM	GREETHAM
	3	2020/0972/MIN	AND QUARRY EXTENSION	

Following further representation from the Parish Council regarding invasive non-native weeds in the existing quarry, an additional condition is recommended:

37. Notwithstanding the requirements of Condition 36 above, before any restoration continues and within 3 months of the date of this permission a supplementary report to the approved restoration scheme approved under reference 2013/1061/DIS shall be submitted for the approval of the Mineral Planning Authority which sets out the full proposals, specifications and timescales for dealing with the invasive non-native weeds in the existing quarry together with any consequential amendments to the restoration scheme itself. The approved details shall be implemented in full as approved, within agreed timescales and alongside the approved restoration scheme.

Reason: To ensure that the non-native invasive weeds on site are dealt with at the earliest possible date and to prevent contamination to adjacent land and to allow the bio-diversity in the existing quarry to mature as envisaged in the approved restoration scheme.

All other conditions below 37 to be renumbered accordingly.

From: Greetham Parish Council <greethampc@gmail.com>
Sent: 15 September 2021 12:40
To: Justin Johnson
Cc: Mark Andrews; Phillip Horsfield; Nick Hodgett; Cllr Nick Begy
Subject: Planning Reference 2020/0297/MIN - Proposed NW Extension, Greetham Quarry.
Attachments: Greetham Extension Letter.pdf

Dear Justin,

Attached is our Counsel's opinion regarding the Precautionary Approach. We strongly urge you to consider this advice before bringing this application before the planning committee.

Would you please acknowledge receipt of this letter.

Ken Edward
Chair
Greetham Parish Council

NORTH WEST EXTENSION TO GREETHAM QUARRY

NOTE REQUIRING URGENT ATTENTION BY THE COUNCIL

1. I have been providing ongoing advice to Greetham Parish Council in respect to the application for planning permission at Greetham Quarry, Thistleton Lane, Greetham, Oakham, Rutland LE15 7RJ ('the Site'), for an extension in respect to the existing quarry ('the Proposed Development'). The application is due to come before Rutland County Council's ('the Council') planning committee on 21 September 2021, with an officer recommendation for approval.
2. The Parish Council have provided representations to the Council highlighting various deficiencies and legal errors contained within the officer report that is to be presented to members (the letter detailing these points is dated 14 September 2021). One of the points contained within this objection is that there is a lack of information before the Council for them to proceed to determine the application.
3. Subsequent to the Parish Council's letter being submitted, a further material consideration has arisen which, it is submitted, requires the Council to now withdraw the matter from the planning committee to address.

4. On 12 September 2021, David Baker (on behalf of the Parish Council) wrote to Craig Howat, the Council's Senior Environmental Health Officer, saying as follows:

Based on the acceptance by the applicant, MPA and EHO that the proposed activity has the real potential to cause significant environmental harm there are 2 considerations for review:

1. Conditioned Consent:

MGL based their Environmental Impact Assessment on the basis their operations would be to Best Available Techniques (BAT).

This enabled the use of low emission levels for their screening assessment and conclusions from their desk top modelling that no negative impacts would result. As a consequence they proposed no further EIA was needed.

The MPA has accepted this approach and as a consequence propose that any negative environmental impacts can be mitigated through proper operational control - BAT as purported by MGL.

This is despite MGL not detailing what BAT is or means to their operations. When questioned by GPC, MGL's Consultants Redbourne Environmental did not know what BAT was, or meant.

MPA is seeking to consent the application conditional on a dust management plan, which has to detail the mitigation measures to control negative impacts, being submitted and approved prior to start of any development.

This would allow the application to be consented on the assumptions the non-detailed mitigation will be successful in providing the absolute safeguard against negative impacts on residents and environment.

2. *Precautionary Approach:*

GPC commissioned leading international environmental consultancy, WPS, to review the applicants submissions.

Their report (page 10 and 11) concludes:

'as actual evidence provided by the Quarry Industries shows that PM10 levels within 50m of limestone quarries would breach Government safe limits when added to the background concentration, then many areas within the village are at real risk of potential harmful levels of PM10'.

As the applicants detail of the BAT operations to mitigate this potential risk is unknown, then it is considered there to be uncertainty of success.

In August 2019, the High Court considered what the correct approach to Environmental Impact Assessment screening should be when there is uncertainty about the environmental impact of a proposed development.

In R (on the application of Swire) v Secretary of State for Housing, Communities and Local Government [2020] EWHC 1298 (Admin), the Court quashed the screening direction and confirmed that screening authorities should take a precautionary approach and should not base their decisions on the assumption that unidentified remediation measures will be successful.

It is therefore considered:

the MG screening approach, accepted by the MPA, to be flawed in they have assumed the unidentified remediation measures will be successful, and until further understanding of the risks posed and success of mitigation is known, then the MPA is not in a position to determine this application.

Further detailed information regarding actual background of PM2.5 and PM10 levels specific to Greetham is required, along with clear

demonstration of the effectiveness of proposed mitigation measures prior is needed prior to acceptance of the screening methodology and the risk of controlling potential negative impacts from this proposal.

5. On 14 September, Mr Baker sent a follow up email to Mr Howat, chasing up a response to his email.

6. On 14 September, Mr Howat replied as follows:

Dear David,

The missing element is the issue relating to particulate matter because the monitoring has not been done (despite me being assured the lamppost issue had been resolved). Therefore, we cannot continue with the screening process until we have a sufficient data to allow us to proceed for us to know the impact on health. Of course, it may show further analysis is not required but it may say the contrary and we would have to know whether the mitigation proposed would be sufficient. Therefore, I take your point on the precautionary principal which is logical that you really need to understand and quantify the impact and be assured the mitigation would be sufficient rather than just hoping it will be.

Yours sincerely

Mr C Howat BSc (Hons) MCIEH I Senior Environmental Health Officer

Public Protection Section
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

7. It appears, therefore, that the Council's own retained adviser on environmental health has reached agreement with the Parish Council that further information is required in respect to the application and that

currently there is insufficient data to allow the Council to know the impact on health.

8. It is submitted that this plainly gives rise to the Council needing to re-evaluate the application in light of the need for additional information. Indeed, in the absence of this information, the default position is that the Council ought to refuse the application. Alternatively, the Council can agree an extension of time to allow for these matters to be investigated. However, the Council ought not determine the application.
9. Mr Howat's view above is not recorded within the officer report. Thus, it would appear that the officer report does not present an accurate picture of the advice of officers to members of the planning committee now that matters have moved on.
10. Indeed, it would be a significant procedural oversight were the Council to determine the application positively, in light of Mr Howat's acknowledgment that there are deficiencies in the information that is available.
11. Accordingly, the Parish Council respectfully invite the Council to either:
 - i. refuse the application owing to a lack of information (alongside other reasons as detailed in the representations dated 14 September 2021); or

- ii. defer the determination of the application until such time as the information is forthcoming.

Killian Garvey

15 September 2021

