



## INDEPENDENT EXAMINATION OF NOTTINGHAMSHIRE MINERALS LOCAL PLAN

### MATTERS, ISSUES & QUESTIONS

#### RESPONSE TO INSPECTORS QUESTIONS BY GREENFIELD ENVIRO ON BEHALF OF LONDON ROCK SUPPLIES LTD

#### MATTER 3 – MINERALS PROVISION

##### Site: MP2p: Mill Hill nr Barton in Fabis

##### **Q34 – Provide an update on the situation regarding the submitted planning application**

1. A planning application for the extraction and processing of around 3 million tonnes of high quality Trent Valley Sand and Gravel, was submitted to Nottinghamshire County Council (NCC) in September 2017. This application was accompanied by a detailed Environmental Statement (ES) that addressed a range of potential direct and indirect environmental impacts as required under the Environmental Impact Assessment (EIA) Regulations. This EIA was undertaken following receipt of a detailed Scoping Opinion from NCC and a series of public exhibitions that were held in the village of Barton in Fabis and Clifton.
2. Following the consultation of the application a request was made for more information and clarification on a number of issues was made by NCC under Regulation 25 of the EIA regulations. Following the submission of this Reg25 document in January 2018, a further period of consultation was undertaken a number of new issues were raised by various consultees and NCC thus a second Reg 25 document was submitted in December 2018.
3. Following a further period of consultation, a series of further issues were raised about the proposed development and clarification was required concerning some of the potential direct and indirect impacts of the scheme. This additional information mainly concerns:
  - Noise (including potential noise on ecological receptors)
  - Ecology (habitats and species)
  - Archaeology (extraction mitigation scheme)
4. A third Reg25 submission is currently in preparation and is due to be submitted shortly. It has been informed by additional technical input from noise, ecological and archaeological specialists, including meetings and discussions with the MPA and their internal advisors as well as other interested bodies.

**Q35 – Following on from Planning Application update, are there any outstanding issues regarding the effect of the proposal on Green Belt**

1. It is our strongly held view that, at this stage in the plan making process, there are no outstanding issues concerning the effect of the proposal on Green Belt.
2. We set out below our reasoning and evidence to support this view, and which relies heavily on the Supreme Court Judgment of 5<sup>th</sup> February 2020 – R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant), which we consider to be important evidence in regard to the examination of the Nottinghamshire Minerals Local Plan.
3. In simple terms the NPPF 2019, where it deals with Green Belt policy, makes clear (para 146) that mineral extraction is not inappropriate development in the Green Belt, provided that it preserves openness and does not conflict with the five purposes (para 134) of including land within Green Belt. In short, those purposes are to achieve the fundamental aim of preventing urban sprawl by keeping land permanently open.
4. Clearly the proposed Barton in Fabis site, which is a temporary form of operational development, with no permanent buildings, does not add to the built up areas in the Notts Green Belt, nor would it result in towns merging into one another. The extraction, processing and export of the mineral and subsequent restoration of the site does not therefore conflict with the main aim of preventing urban sprawl nor any of the specific purposes of Green Belt (para 134 NPPF 2019).
5. In terms of the effects on openness the Supreme Court Judgment, which is a minerals case, indicates that “visual quality of the landscape is not in itself an essential part of openness for which the Green Belt is protected” (para 5). The Judgment states the concept of “openness” is a “broad policy concept which is the counterpart of urban sprawl and is linked to the purposes to be served by the Green Belt. Openness is not necessarily a statement about the visual qualities of the land, nor does it imply freedom from all forms of development “(para 22).
6. The Judgment highlights that the NPPF confirms that mineral extraction may, in principle be appropriate and compatible with the concept of openness. The judgment goes on to point out (para 22) that a “large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land.”
7. The Green Belt/openness related concerns that have been expressed in relation to certain elements of the Barton in Fabis proposal – effects of temporary soil storage bunds, sand and gravel stockpiles, the conveyor, the temporary processing plant and vehicle movements – have all been set in the context of potential impact on the local landscape quality and visual amenity at specific locations.

8. It is our view, having regard to the content of the NPPF (and the thrust of Green Belt policy summarised above), along with the recent judgment of the Supreme Court, that these elements of the development are clearly not features that compromise the openness of this part of the Nottingham Green Belt. Whilst they may have some effects on the local landscape they do not lead to urban sprawl and they are temporary, with the site subsequently being restored (to a range of habitats and agricultural land) and these temporary features removed.
9. The Minerals Local Plan has to plan for sufficient sand and gravel supply across the whole plan period and the Supreme Court Judgment made reference to this point at para 13. It should be emphasised that sand and gravel can only be worked where it lies thus there are significant locational and practical constraints in identifying workable and deliverable sources across the county as a whole. In that regard, the major resource areas of workable (high quality) sand and gravel is situated in the Trent Valley, much of which coincides with the Nottingham Green Belt.
10. All around the City of Nottingham, the Green Belt contains significant areas of mineral that have been historically worked for sand and gravel and then restored/regenerated to provide nature conservation and recreational features. These sites have been delivered and restored without compromising the openness of the Nottingham Green Belt or the purposes of including land within it. Those areas of land contribute positively to the Green Belt and its openness having made their contribution in terms of sand and gravel supply.
11. The Supreme Court Judgment at para 11 highlights that, in historical context, the policy test in relation to allowing mineral extraction in the Green Belt is that sites need to achieve "high environmental standards" and quality restoration. The Barton in Fabis site allocation is driven by a strong need for the aggregate and the proposals are reflective of modern high standards of working and restoration. The Planning Application and accompanying Environmental Statement provide a robust evidence base (much greater than a normal site allocation option that has been sustainability appraised) to this effect and the plan making process can therefore be confident that the site allocation is supported by evidence of high standards of working and restoration, reflective of its Green Belt location.
12. The Mineral Planning Authority (MPA), with access to the substantial environmental and technical evidence base, has adopted the correct approach to Green Belt as the Minerals Local Plan is the correct document for balancing aggregate need and locational constraint of deliverable sites against other broad policy concepts, including the prevention of urban sprawl.
13. In this case, with an evidence base to demonstrate high environmental standards of temporary operational development, with high standards of restoration, the MPA has correctly judged that the Barton in Fabis development is not inappropriate development - as openness is preserved (although there will be some temporary landscape and visual effects) and the development does not conflict with the aim of preventing urban sprawl and coalescence of towns.

14. We consider that it is worth noting that the MPA has previously permitted long-term quarry workings in the Nottingham Green Belt – for example, Silica Sand operations at Two Oaks Quarry, Mansfield. In this case a mineral operation of 40-50 years was permitted, with a substantial amount of plant and buildings, including a sand drying plant with a 23 m high silos and a drying plant chimney, on the basis of the need to sustain supply of silica sand and having regard to the temporary nature of the development. The committee report acknowledged that there are numerous quarries located in Green Belt and the impact of the Two Oaks development would be reduced as a consequence of phased extraction and restoration. The report confirmed that the site restoration would preserve the openness of the Green Belt in the long term.
15. It is therefore clear that the openness of the Nottingham Green Belt has been capable of accommodating mineral extraction, even where there have been quite substantial amounts of plant/buildings in use for a considerable time period (which is not the case at Barton in Fabis). In such cases, as with the Barton in Fabis site, the need for and location of that mineral are important factors, along with development meeting high standards of working and restoration, which in turn ensures that Green Belt aims and broad principles are not adversely affected.
16. The requirement for the MPA to plan for sufficient supplies of sand and gravel from a spatially limited resource, and a limited range of deliverable site options is what sets mineral development apart from general built development when it comes to Green Belt considerations and may in certain circumstances amount to “very special circumstances”.
17. Para 146 of the NPPF confirms that mineral extraction it is not inappropriate development in the Green Belt subject to provisos, as explained above. However, even if there were some temporary impact on openness with the Barton in Fabis site, the need for the site to contribute to year on year aggregate supply is evident, as well as the locational benefit of the site’s position relative to the Nottinghamshire construction markets. Such considerations are capable of constituting very special circumstances in the Green Belt, even though the evidence outlined above indicates that such a balancing exercise is not needed in this case.
18. We consider that there are no outstanding issues regarding the effect of the proposal on the Green Belt. The proper consideration of the need for the mineral, careful regard to the substantial environmental evidence and standards of working and restoration, confirms that the site can be delivered without conflicting with NPPF requirements on Green Belt.
19. In that regard, the approach of the MPA, which is supported by a robust evidence base, can be considered sound in planning terms.



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