



DEVELOPMENT CONTROL AND REGULATORY BOARD

13TH FEBRUARY 2025

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

**AMENDMENT SHEET FOR REPORT TAKEN TO MEETING ON 21ST
NOVEMBER 2024**

APP.NO. & DATE:	2022/10125/04 & 2022/01384/07 (2022/EIA/0100/LCC). Valid Date: 12/08/2022.
PROPOSAL:	Continuation of mineral operations overburden disposal and ancillary activities at Cliffe Hill Quarry including an easterly extension to Old Cliffe Hill Quarry with new screening landform requiring the relocation of parts of Cliffe Lane, Cliffe Hill Road and Stoney Lane, the demolition of Peak Hayes Farm and 'Sunny Cliffe', the construction of a new access into Old Cliffe Quarry with landscaping, habitat creation and restoration of the quarry void to water
LOCATION:	Land at and adjoining Cliffe Hill Quarry, West Lane, Coalville LE67 1FA
APPLICANT:	Midland Quarry Products Ltd
MAIN ISSUES:	Principle of the continued use of the site, location, noise, dust, air quality impacts, local amenity, public rights of way, ecology, landscape, transport (road and rail), highways, restoration and aftercare of the site.
RECOMMENDATION:	PERMIT subject to the conditions as set out in the Appendix A of the main report dated 21 st November 2024 and the prior completion of a legal agreement to secure provisions for a liaison committee (to include dust and blasting sub-liaison committees).

Board decision of 21 November 2024

1. On 21 November 2024 the Development Control and Regulatory Board considered the above application and resolved that the application be permitted subject to:
 - (a) The conditions nos. 1-74 as set out in Appendix A to the report;
 - (b) The prior completion of a legal agreement to secure provisions for a liaison committee (to include dust and blasting sub-liaison committees).

A copy of the report that the Board considered at that meeting can be found here: <https://democracy.leics.gov.uk/documents/s186546/2022-10125-04%20Committee%20Report%20-%20FINAL%20FOR%20REVIEW.pdf>

Background to latest report

2. The Ministry for Housing, Communities and Local Government (MHCLG) published its revised National Planning Policy Framework (NPPF) on the 12th of December 2024. All changes to the NPPF are immediate, other than those relating to plan-making which are set out in the transitional arrangements.
3. The revised NPPF presents an updated policy context for those decisions which have been resolved for approval by the Development Control and Regulatory Board, but a decision has not yet been issued. For example, for those applications which required a legal agreement to be secured prior to a decision notice being issued.
4. The County Planning Authority finds it both necessary and in the best interest of applicants, the public and the Authority to refer items back to committee where there has been a delay between the resolution and notice issue for committee items, where considered appropriate in light of this new policy context.
5. This is with regard to the case of *Kides v South Cambridgeshire District Council and others at the Court of Appeal in 2002*, which concerned matters arising from the issue of decision notices sometime after the original decision to grant permission was taken. It was held that there was a duty to have regard to any new factor that had arisen for the first time between the committee decision and the signing of the decision notice. We consider it prudent to have regard to that ruling for planning application reference 2022/10125/04 & 2022/01384/07 (2022/EIA/0100/LCC).
6. As such, the County Planning Authority has sought updated responses from consultees where necessary. This has informed an updated assessment of the proposal as set out below.

Revised Planning Policy

7. The revised planning policy context for this application is the National Planning Policy Framework (NPPF), dated December 2024. The following paragraphs are relevant.

8. Amended paragraph 96 (Promoting healthy and safe communities) states that planning decisions should aim to achieve healthy, inclusive and safe places which... c) enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.
9. Added paragraph 102 (Promoting healthy and safe communities) states that planning policies and decisions should promote public safety and take into account wider security and defence requirements by: a) anticipating and addressing possible malicious threats and other hazards (whether natural or man-made), especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security. The safety of children and other vulnerable users in proximity to open water, railways and other potential hazards should be considered in planning and assessing proposals for development.
10. Amended paragraph 116 (Highways) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.
11. Amended paragraph 161 (Climate change) states that the planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
12. Further to this, added paragraph 163 (Climate change) states that the need to mitigate and adapt to climate change should also be considered in preparing and assessing planning applications, taking into account the full range of potential climate change impacts.
13. Paragraph 182 (Planning and flood risk) states that applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal. These should provide multifunctional benefits wherever possible, through facilitating improvements in water quality and biodiversity, as well as benefits for amenity. Sustainable drainage systems provided as part of proposals for major development should: a) take account of advice from the Lead Local Flood Authority; b) have appropriate proposed minimum operational standards; and c) have

maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.

14. A footnote within the superseded NPPF (December 2023) aimed to make the availability of agricultural land for food production an explicit consideration in determining if sites are appropriate for development. This footnote has now been removed. However, the NPPF remains clear that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

Consultations

15. In light of the above, the following statutory bodies have been reconsulted for a period of 33 days on the application for a revised response. Given that no revisions to the application are proposed, an additional round of public consultation was not considered necessary. However, those who previously made representation on the application were notified of its return to Board for decision.
16. **Local Highway Authority (Leicestershire County Council) – No objection.** The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 116 of the National Planning Policy Framework (2024), subject to the conditions and/or planning obligations outlined in this report.
17. In the highway observations sent to the County Planning Authority (CPA) in July 2024 the Local Highway Authority (LHA) advised approval of the planning application subject to conditions. The LHA understands that whilst a decision resolving to grant permission was reached at Development Control and Regulatory Board (DCRB) in November 2024, a Decision Notice was not issued by the CPA prior to the changes in the National Planning Policy Framework, being published in December 2024. Therefore, the LHA understands there is a requirement for the application to be referred back to the DCRB.
18. After a review of the application, the LHA understands the applicant has not changed the proposals; therefore, the LHA continues to advise approval of the planning application subject to recommended planning conditions and informative notes. The full justification and reasoning for this can be found in the previous highway observations of 11 July 2024, which are not repeated here.
19. **Lead Local Flood Authority (LLFA, Leicestershire County Council) – No objection.** Leicestershire County Council as the LLFA advises the LPA that the proposed development is considered to be acceptable based on the surface water design provided within the application. The development should be constructed in accordance with the details provided.
20. **Public Health (Leicestershire County Council) - No revised comments.**
21. **Hinckley and Bosworth Borough Council (Planning) – No objection.** Despite the amendments to the National Planning Policy Framework, Hinckley and Bosworth Borough Council do not have an objection to the proposal. However,

Hinckley and Bosworth Borough Council would still like to refer to their previous comments from 21 May 2024 and 15 December 2023 and the requirement to ensure a high standard of amenity for existing residents in accordance with Paragraph 135 of the National Planning Policy Framework (2024).

22. **Hinckley and Bosworth Borough Council (Environmental Health)** – No revised comments.
23. **North West Leicestershire District Council (Planning)** – No revised comments.
24. **North West Leicestershire District Council (Environmental Health)** - No objection.

Assessment of the Proposal

25. Following publication of the Officer's report main report and accompanying corrections report which were presented and considered at Development Control and Regulatory board on the 21st November 2024, the new NPPF (2024) was published on the 12th December 2024.
26. Careful regard is had to the new relevant material considerations presented and set out within this report and the consultation responses received from the relevant technical consultees. The main considerations are the revised policy regarding the presumption in favour of sustainable development, climate change, highways, promoting healthy and safe communities and planning and flood risk. These considerations are assessed below in turn.
27. The updated NPPF contains significant amendments concerning climate change, which make explicit that climate adaptation and mitigation are now central to decision-making. Given that the application was supported by a detailed Environmental Statement which included a dedicated climate change chapter (Chapter 14) which provided an assessment of impacts from emissions related to the proposed development, it is considered that the previous recommendation had already considered the full range of potential climate change impacts, including emissions, and that the previous assessment of the proposal with regards to climate change remains. Given this, no further consideration of climate change impacts, adaptation or mitigation is required to inform the assessment set out in the report dated 21st November 2024.
28. With regard to highways, after a review of the application, the Local Highway Authority understands the applicant has not changed the proposals; therefore, the Local Highway Authority therefore continues to advise approval of the planning application subject to recommended planning conditions and informative notes. Given this, no further consideration of highways or transportation matters is required to inform the assessment set out in the report dated 21st November 2024.
29. With regard to promoting healthy and safe communities, the main relevant revision to the NPPF relates to ensuring and considering the safety of children and other vulnerable users in proximity to open water, railways and other potential hazards in planning and assessing proposals for development. The development does propose continuation of the existing operations. These are secured where necessary from public access. It is not proposed to allow

children or other vulnerable users in proximity to the railway sidings or open water. A condition is recommended to require the operator to ensure that throughout the period of the operation until such time as the reclamation and aftercare of the Site has been completed, the boundary to the Site shall be secured. Additionally, it is considered that these health and safety matters are also appropriately controlled under the separate relevant health and safety legislation surrounding quarries. Given this, no further consideration of the health and safety of communities is required to inform the assessment set out in the report dated 21st November 2024.

30. In respect of the NPPF updates to considering flood risk, surface water and Sustainable Urban Drainage Systems (SuDS), the development does incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff which are proportionate to the nature and scale of the proposal. These would provide multifunctional benefits. Throughout the iterative application process the applicant has taken account of advice from the LLFA with respect to the drainage, flooding and the proposed SuDS. As previous, subject to the development taking place in accordance with the proposed plans and recommended conditions with respect to maintenance and management of these systems, the proposal is considered acceptable. The LLFA have provided a revised consultation response and do not object to the application. Overall, the revised changes to the NPPF have no impact on the previous recommendation with respect to flood risk, surface water and SuDS.
31. In respect of the minor modifications to the NPPF with regards to consideration of the availability of agricultural land for food production, the previous assessment of the development was undertaken with consideration to the detailed footnote which has now been removed. Therefore, the previous assessment is considered appropriately robust against the background of this negligible policy change.
32. In view of the above updated assessment of the development, it can be concluded that a revised consideration of cumulative impacts arising from the development is not required. As such, the previous assessment of cumulative impact remains.

Conclusion and Recommendation

33. Overall, the new material considerations presented by the updated NPPF do not alter the findings of the original assessment, the given overarching summary and conclusion or the recommendation as set out in the main report dated 21st November 2024. As such the recommendation as set out in the main report dated 21st November 2024 remains and is repeated below for clarity.

Recommendation

- A. PERMIT subject to the conditions as set out in the Appendix A of the main report dated 21st November 2024 and the prior completion of a legal agreement to secure provisions for a liaison committee (to include dust and blasting sub-liaison committees).

Circulation Under the Local Issues Alert Procedure

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