

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **WEDNESDAY 20TH FEBRUARY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **VARIATION OF CONDITION 3 OF PLANNING PERMISSION 3/240/94 TO PERMIT ASPHALT PRODUCTION FROM 0400 HOURS AND THE SUPPLY OF ASPHALT OUTSIDE CURRENT PERMITTED HOURS ON UP TO 45 OCCASIONS A YEAR**

APPLICATION NUMBER: **050313**

APPLICANT: **TARMAC LIMITED**

SITE: **PANT QUARRY, HALKYN, HOLYWELL, FLINTSHIRE**

APPLICATION VALID DATE: **30/11/2012**

LOCAL MEMBER: **COUNCILLOR COLIN LEGG**

TOWN/COMMUNITY COUNCIL: **HALKYN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **NEED FOR THE APPLICANT TO ENTER INTO A SECTION 106 LEGAL AGREEMENT**

SITE VISIT: **NOT REQUIRED**

1.00 SUMMARY

1.01 The asphalt plant located at Pant Quarry operates under planning permission reference 3/240/94. Condition 3 of the planning permission states the permitted hours of working of: 0600 – 1800 hours Monday to Friday and 0600 – 1200 hours on Saturdays. Working outside of these hours or on Sundays and public holidays is not permitted without the written authorisation from the County Planning Authority. Tarmac Limited has sought planning permission to vary these hours of working to permit asphalt production from 0400 hours, and to supply asphalt outside the permitted hours on 45 occasions per year.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 The applicant entering into a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to:-

1. Allow vehicles associated with asphalt production and transportation to use the existing quarry access road during permitted out of hours operations
2. Provide a scheme for routing of HGVs to avoid travelling through Pentre Halkyn when travelling to and from the A55 during the permitted out of hours.
3. Revoke planning permission 3/240/94.

2.02 Conditions including:-

1. Duration of permission until 30th April 2025 (expiration of the quarry permission)
2. Approved Plans
3. Restoration of the site on cessation of operations
4. Hours of operation of the plant:
 - 0400 hours – 1800 hours Monday to Friday
 - 0400 hours – 1200 hours Saturday
 - No HGV Movements until 0600 hours Monday to Saturday
 - No working outside these hours on Sunday or Public Holidays with the exception of 45 occasions per year
 - The asphalt plant and associated HGV movements may operate outside these permitted hours for up to 45 occasions per year (averaged over 3 years) subject to:
 - a) Notification to the MPA on prior to each occasion
 - b) No more than 8 HGV movements per hour
 - c) No more than 6 consecutive days or nights of extended hours of operation
 - d) No more than 3 consecutive Sunday working
 - e) Noise levels shall not exceed 42 dBLAeq (1 hour) (free field) at the nearest noise sensitive priority between 1900 and 0700 hours
 - f) Noise levels shall not exceed 55 dBLAeq (1 hour) (free field) 3.5 metres from the at the nearest noise sensitive priority between 0700 – 1900 hours
5. Erect a sign at the exit to remind drivers not to travel through Pentre Halkyn.
6. No additional lighting
7. Submission of monitoring scheme

3.00 CONSULTATIONS

3.01 Local Member

Councillor Colin Legg has no objections to the proposal and agreed to the determination under delegated powers. Initial concerns regarding the proposed 0400 hours start time for asphalt production were raised; however Councillor Legg was satisfied with the reason provided by the applicant for the early commencement time for asphalt production.

- 3.02 Neighbouring Local Member
Councillor Matt Wright has raised concerns with regards to increased traffic through Pentre Halkyn and has questioned whether the application would set a precedent with regards to relaxed working hours for other quarries in the area. Should planning permission be granted, Councillor Wright has requested that measures are taken to ensure quarry traffic avoids Pentre Halkyn, and that the application is subject to a formal review every two years, such that if any conditions are not applied with, it would be revoked.
- 3.03 Town/Community Council
Halkyn Community Council supports the application.
- 3.04 Head of Assets and Transportation has no objection to the proposal and no recommendations have been made on highways grounds.
- 3.05 Head of Public Protection has no adverse comments to make. An increase in noise and the ground vibration from the increased vehicle movements would be considered to be insignificant, and there is no evidence to substantiate the health concerns raised.
- 3.06 Environment Agency offers no objections to the proposal and considers it to be of 'low environmental risk' and has provided standard advice in relation to pollution control.
- 3.07 Countryside Council for Wales does not object to the proposal. The proposal is not likely to adversely affect any of the natural heritage interests surrounding the application site, namely:-
- Halkyn Mountain Special Area of Conservation (SAC)
 - Halkyn Common and Holywell Grasslands Site of Special Scientific Interest (SSSI)
 - Halkyn Mountain and Holywell Landscape of Outstanding Historic Interest
- 3.08 David Hanson MP has passed on two letters from local residents in relation to the application raising concerns involving traffic, noise, dust and pollution from the plant and also the notification process.
- 3.09 Halkyn Mountain Graziers' and Commoners' Association
No comments received to date.
- 3.10 Halkyn Mountain Common Joint Consultative Board
No comments received to date.
- 4.00 PUBLICITY**
- 4.01 This application was advertised by a number of site notices being posted around the site, along public rights of way within the site and at the site entrance. Site notices were also posted in surrounding villages that could be affected by the proposal including Halkyn,

Rhesycae and Moel-y-Crio. Neighbour notification letters were posted to the nearest residential receptors surrounding the quarry. The application was publicised in accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

4.02 A total of 14 letters of objection have been received. The main planning issues raised include:

- Noise from the operation of the asphalt plant at night and in the early hours of the morning preventing sleep and having a detrimental impact on residential amenity,
- Disturbance and noise from quarry traffic (Heavy Goods Vehicles) passing residential properties at night and in the early hours of the morning preventing sleep and having a detrimental impact on residential amenity,
- Increase in heavy vehicle movements
- The speed at which quarry vehicles travel through the surrounding villages,
- The need for the extension of hours,
- Disturbance from blasting,
- Impact on Rhos Helyg School and additional traffic during school hours,
- Requesting that the speed limit outside Rhos Helyg School is reduced,
- Protection of children and animals from quarry traffic,
- Lack of noise assessment undertaken at dwellings that are located on the quarry vehicle routes,
- The noise assessments focused on those properties that are immediately adjacent to the quarry rather than assessing the impacts on properties that are located along adjacent highways
- Additional monitoring at Ty Isa, the nearest residential property,
- Affect on the Halkyn Conservation Area,
- Impact on residential amenity,
- Impact of vibration of vehicles,
- Incompliance with Policy AC13 of the Flintshire UDP due to the lack of a transport impact assessment,
- Incompliance with GEN5 and Policy MIN2 of the Flintshire UDP with regards to the affects from the application on the amenity,
- Set a precedent for extending operating hours at other quarries in the area and also allow unrestricted out of hours working,
- Lack of publicity of the application, the timing of the consultation and problems with submitting comments online,
- Damage to local roads caused by lorry vehicles
- Inadequate road network for heavy vehicles,
- Dust and contamination causing health problems,
- Debris on the highway and risk of injury from loose stones
- Health concerns particularly asthma, pulmonary infections, nasal irritations/infections, eye irritation and taste imbalance,
- Increase quarry related pollution,
- Odour from the asphalt plant.
- Traffic travelling through Pentre Halkyn

5.00 RELEVANT SITE HISTORY

- 5.01 Pant Quarry has a long and complex planning history commencing with a planning permission granted in November 1947. The quarry was operated then by Flintshire County Council. It was subsequently acquired by Wimpey Asphalt Ltd, and since 1996 has been owned and operated by Tarmac Limited. In order to simplify the planning position, Tarmac Limited submitted a consolidating application in 1998, covering the entire area of the quarry and the full range of quarrying and ancillary activities within that area.
- 5.02 The consolidating permission was granted in April 2000 and was accompanied by a Section 106 Agreement under which Tarmac relinquished all working rights afforded by the previous planning permissions. However, the planning permission for the asphalt coating plant at Pant Quarry that was granted on 15 June 1994 was not revoked by the Section 106 legal agreement and the permission stands in its own right (reference 3/240/94).
- 5.03 Three planning permissions have been granted since the consolidation permission. The first, in July 2000, was to authorise a minor change in the scheme of working. The second was granted in September 2002, for stabilisation works on part of the eastern face of the quarry. The third was granted in June 2006 for the modification of the western screening mound, and a minor extension to the quarry.

6.00 PLANNING POLICIES

6.01 Adopted Flintshire Unitary Development Plan

- Policy STR10 – Resources
- Policy GEN1 – General Requirements for Development
- Policy GEN3 – Open Countryside
- Policy D4 – Outdoor Lighting
- Policy L4 – Common Land
- Policy WB2 – Sites of International Importance
- Policy WB3 – Statutory Sites of National Importance
- Policy WB4 – Local Sites of Wildlife and Geological Importance
- Policy HE1 – Development Affecting Conservation Areas
- Policy HE5 – Protection of Registered Landscapes, Parks and Gardens of Special Historic Interest.
- Policy AC2 – Pedestrian Provision and Public Rights of Way
- Policy AC13 – Access and Traffic Impact
- Policy EM7 – Bad Neighbour Industry
- Policy MIN1 – Guiding of Minerals Development
- Policy MIN2 – Minerals Development
- Policy MIN3 – Controlling Minerals Operations
- Policy MIN4 – Restoration and Aftercare
- Policy EWP12 – Pollution
- Policy EWP13 – Nuisance
- Policy IMP1 – Implementation and Planning Obligations

- 6.02 National
Planning Policy Wales (2010)
Wales Spatial Plan (update 2008)
Minerals Planning Policy Wales (2001)
MTAN 1 – Aggregates (2004)
TAN 5 – Nature Conservation and Planning (2009)
TAN 11 – Noise (1997)
TAN 18 – Transport (2007)

7.00 **PLANNING APPRAISAL**

Introduction

- 7.01 Tarmac Limited is seeking a variation to the asphalt plant's current operating hours to allow greater flexibility to supply asphalt to surfacing contracts over night, and at weekends.

Site Location and Description

- 7.02 Pant Quarry is located about 450 metres west of Halkyn, about 600 metres south-east of Rhesycae and immediately north of Moel-y-Crio. The quarry, with its plant, storage and infrastructure areas together with its access road, covers about 44 hectares of land. The surrounding area is principally common land, used for rough grazing. Public rights of way run along or close to all of the quarry boundaries.

- 7.03 The quarry itself, because of its geological interest, is part of the Halkyn Common and Holywell Grasslands SSSI. The Halkyn Mountain Special Area of Conservation (SAC) adjoins the north-western, northern, eastern and south-eastern boundaries of the quarry. The principal reason for the designation of both the SAC and the SSSI is the protection of rare habitats and of plant communities which exist within those habitats. The Holywell Common and Halkyn Mountain Area is included on the Register of Landscapes of Outstanding Historical Interest in Wales. Halkyn Conservation Area is located 1km to the north east of the asphalt plant and approximately 700 metres to the north of the quarry access road.

Details of the Proposed Development

- 7.04 The asphalt plant located at Pant Quarry operates under planning permission reference 3/240/94. The quarry access road is not included within the red line boundary application plan. Condition 3 states: *"The hours of operation for the asphalt plant shall be Mondays to Fridays 0600 – 1800 hours and on Saturdays 0600 – 1200 hours on Saturdays. There shall be no working outside of these hours or on Sunday and public holidays except for the purposes of maintenance, without the written authorisation from the County Planning Authority. Reason: In the interest of amenity.* Tarmac Limited has sought planning permission to vary these hours of working to permit asphalt production from 0400 hours Monday to Saturday, and to supply asphalt outside the permitted hours on 45 occasions per year.

Issues

Need for the extension of operating hours

- 7.05 Tarmac Limited is seeking a variation to the asphalt plant's current operating hours to allow greater flexibility to supply asphalt to surfacing contracts over night, and at weekends.
- 7.06 The application seeks permission to permit asphalt production from 0400 hours Monday to Saturday, rather than the 0600 hours currently permitted. This has been requested so that surface dressing products can be produced in advance of loading HGVs from 0600 hours. Surface dressing asphalts can no longer be stored overnight in hot storage bins. Permitting asphalt production from 0400 would facilitate the delivery of products from 0600 hours and provide more efficient surfacing works. In addition to the earlier production start time, Tarmac Limited is also seeking permission to be able to supply asphalt outside the permitted hours on 45 occasions per year.
- 7.07 It is a fact that some coating materials have to be laid within a short period of time after production, in some instances within 3 hours of production, otherwise the product becomes unworkable. Furthermore, there is an increasing trend for highway works, road repairs and surfacing of highways to be carried out over night or at weekends to minimise disruption and the impact of the works on the road network. As a consequence, asphalt is required to be manufactured at nights or at weekends to meet contractual requirements.
- 7.08 Until 2009, any night or weekend road surfacing contracts supplied by the applicant to North Wales were supplied from asphalt plants located in England with no restrictions of operating hours. The existing planning permission at Pant allows out of hours working with the written consent of the Planning Authority. Since 2009, the Planning Authority has authorised extended hours to supply contracts, both at night and at weekends on a number of occasions. On each occasion, Tarmac has sought the support of Halkyn Community Council and the Authority's authorisation. There is a significant level of administration required for each request as the Planning Authority needs to confirm that doing the surfacing works, at the requested times is justified, and that the frequency, routing of the HGV movements is reasonable. The administration of these requests is complicated further as the surfacing programmes are often not confirmed until a couple of days in advance of the works, thus short notice of these works often causes problems in administering and authorising these works.
- 7.09 This application has been submitted at the request of the Planning Authority to reduce the administration in authorising these requests and also to be transparent in decision making. Whilst the Community Council is notified and has supported out of hours working in the past, consultation with the local community would not have been possible due to the short timescales involved. This application provides the opportunity for the local community to comment on the proposals.

- 7.10 45 out of hours occasions per year has been calculated based on previous requests since 2009, and should be sufficient for the majority of small contracts supplied during the year. Tarmac has also requested to retain the flexibility to continue to have the ability to request additional days should the 45 occasions be exceeded. This is requested to allow for larger surfacing contracts such as the Wrexham Industrial Estate which was completed in July 2012.
- 7.11 However, it is not considered appropriate or lawful to grant this planning permission for extending hours of operation whilst retaining the 'tail-piece' style condition, which would allow continued ad hoc written authorisation and further out of hours working once the 45 events had been exceeded. Therefore, it is recommended that planning permission is granted to permit 45 out of hours events per year but averaged over a 3 year period, allowing the supply of asphalt to large contracts to prevent the annual allowance to be exceeded.
- 7.12 Councillor Matt Wright has requested that the proposal be reviewed every 2 years to ensure compliance; failure to comply should result in revocation of the permission. This could be achieved via granting a temporary consent. However, it is considered that this would not be necessary as the applicant has been operating out of hours since 2009 and has demonstrated that this can be achieved without significant complaint and can operate within acceptable limits.

Noise, Dust and Amenity

- 7.13 Local residents have raised concerns that the out of hours operations would have a detrimental impact on residential amenity, and prevent sleep from the result of the operation of the asphalt plant at night and early hours of the morning, and from the disturbance from quarry associated traffic.
- 7.14 Whilst the Planning Authority has no control over vehicles, or any impacts of passing vehicles on the public highway, it has the ability through the planning permission to ensure that noise emitted from the asphalt plant, and vehicles on the quarry access road would not cause unacceptable levels of noise. The application was accompanied by a noise monitoring report which provides evidence that night time working can be carried out within limits of 42 dB LAeq, 1 hour, in line with guidance set out in MTAN 1.
- 7.15 Residents have suggested that the proposal would increase blasting and thus increase disturbance from quarry blasting. Production levels from Pant Quarry have reduced considerably over recent years due to aggregate production being focused at Hendre Quarry. As a result, there has been no blasting at the quarry since 2010. As the majority of resurfacing contracts are required at night or over weekends, it is likely that the application would not result in a considerable increase in production from the asphalt plant as it may replace and off-set asphalt production and activity that would usually take place during the day.

- 7.16 The Council's Environmental Protection Officer has confirmed that any increase in noise and the ground vibration from the increased vehicle movements would be considered to be insignificant, and there is no evidence to substantiate the health concerns raised by local residents. It is considered that, the proposal would not be contrary to Policies GEN1 or MIN3 of the Flintshire UDP as it would not cause excessive noise, dust or odour, nor would it cause an unacceptable impact on residential amenity. Night time noise levels would be conditioned in accordance with guidance set in MTAN 1 at 42 dB LAeq, (1 hour) and day time noise levels would be conditioned in line with the existing quarry planning permission and guidance of MTAN 1 at 55 dB LAeq, (1 hour). A condition would also ensure that there would be no more than 6 consecutive days or nights of extended hours of operation, and no more than 3 consecutive Sunday working. It is recommended that asphalt production could be produced from 0400 hours but there would be no associated HGV movements until 0600 hours.

Traffic and Access

- 7.17 Concerns have been raised by local residents in relation to the increase in traffic during the night, at weekends and travelling through the village of Pentre Halkyn. It has been claimed that the local highway network is not adequate for heavy quarry vehicles, and a transport impact assessment should have accompanied the application.
- 7.18 Should planning permission be granted, HGVs would be limited to 8 movements per hour (4 in and 4 out) during out of hours operations, and a scheme for a routing agreement would be required (via a section 106 agreement) stating that all HGVs associated with the Pant Quarry asphalt plant would avoid Pentre Halkyn when travelling to and from the A55. Furthermore, a sign would be required to be erected at the quarry exit to remind drivers of this obligation.
- 7.19 Production rates at Pant Quarry have reached in the past over one million tonnes per annum which would have amounted to more than 450 HGV movements per day (average of 40 movements per hour). Due to the economic recession production rates are much reduced. The local road network is more than adequate to accommodate 8 movements per hour outside of their usual permitted hours of operation; during which times there is likely to be less traffic on the local road networks. The Head of Assets and Transportation has no objection to the proposal and has not requested a transport impact assessment as the proposal would not significantly increase vehicle movements associated with the site at 8 movements per hour on up to 45 occasions per year. As such, it is considered that the proposal would accord with the provisions of Policies GEN1 AC13 or MIN3 of the Flintshire Unitary Development Plan or TAN 18.

7.20 Concerns have also been raised in relation to the speed at which quarry vehicles travel through the surrounding villages causing danger to children and animals, the impact the proposal would have on nearby Rhos Helyg School and additional traffic during school hours. As stated above, the Planning Authority has no control over vehicles on the public highway and it cannot control speed of quarry vehicles through conditions of planning permissions. However, this issue will be raised through the Quarry's liaison committee to request that Tarmac remind their drivers to be considerate drivers. Furthermore, this proposal is to request working outside of school hours and therefore it is considered that the proposal would not have any impact on the local schools.

7.21 As the red line plan for the application does not include the quarry's access road, to ensure that there would be no breach of condition due to asphalt plant vehicles using the quarry access road out of permitted hours, a section 106 legal agreement would be required.

Landscape and Halkyn Conservation Area

7.22 Halkyn Conservation Area is located 1km to the north east of the asphalt plant and approximately 700 metres to the north of the quarry access road. The site is also located within the Holywell Common and Halkyn Mountain Area which is included on the Register of Landscapes of Outstanding Historical Interest in Wales. Whilst the quarry is located within a the Holywell Common and less than 1km from the Halkyn Conservation Area, it has operated in this location for many years and is a fundamental part of the character and setting of the surrounding area. As stated above, production at the quarry is considerably less than it has been in recent years due to the recession. CCW has raised no objections to the proposal.

7.23 It is considered that the proposed variation to the hours of working of the asphalt plant would not materially cause harm to the character, setting or appearance of the designated areas. As such it is considered that the proposal would not be contrary to the provisions of Policies HE1 or HE5 of the Flintshire UDP.

8.00 CONCLUSION

8.01 The Planning Department has been approving ad hoc hours of operations for asphalt production at Pant Quarry since 2009, without any substantiated complaints. Each separate request generates a substantial amount of administration and there is not sufficient time to consult the local community. This application has been submitted at the request of the Planning Department in order to be transparent and open in decision making. Over recent years surfacing contracts are increasingly carried out over night or at weekends to minimise disruption and the impact of the works on the road network.

- 8.02 Should planning permission be granted, the potential impacts of weekend and over night working would be controlled and regulated by restricting the number of vehicles per hour to 8 movements, ensuring the noise levels would not cause unacceptable harm to residential amenity, there would be no more than 6 consecutive days of out of hours working, and no more than 3 consecutive Sundays. Whilst the asphalt production would be permitted to commence from 0400 hours, there would be no HGV movements permitted until 0600 hours, in line with the existing planning consent.
- 8.03 It is also considered that the highway network is more than adequate to accommodate 8 vehicles per hour, and a scheme for a routing plan to ensure that vehicles avoid Pentre Halkyn when travelling to and from the A55. The passing of HGVs is shorted lived and it is considered, with an average of 8 movements per hour for the additional weekend/night time working would not have an unacceptable impact or materially worse effect on the living conditions of residents along the routes.
- 8.04 Granting planning permission for this proposal would not set a precedent for other quarries in the area to allow out of hours working. The existing asphalt consent at Pant Quarry already contains provision for ad hoc out of hours working within the condition. Any other quarry wishing to seek permission for out of hours working, would have to be considered on their own merits.
- 8.05 In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the applicant entering into a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to allow vehicles associated with asphalt production and transportation to use the existing quarry access road, to provide a scheme for routing of HGVs to avoid Pentre Halkyn when travelling to and from the A55 during permitted out of hours, and to revoke planning permission 3/240/94, and with the imposition of conditions as listed above, there is no valid material planning reason why planning permission should be refused, and that planning permission should be granted.
- 8.06 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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