

CHANGE OF USE OF LAND TO MOTOCROSS AND RECREATIONAL RIDING OF MOTORCYCLES WITH SITING OF 2NO STORAGE CONTAINERS, TOILETS, MARSHALLING BOXES, LITTER BINS, WASTE SKIP AND SITE CABIN TOGETHER WITH OPERATIONAL DEVELOPMENT INCLUDING RAISED AREAS, RACE TRACK, CAR PARKING, TRACK FENCING POSTS, RAILINGS, AND SPECTATOR FENCING

AT: BLOCK FEN DROVE, CHATTERIS, CB6 2AY

APPLICANT: F15-MX

LPA NO: F/YR15/0985/F

To: **Planning Committee**

Date: **10 December 2015**

From: **Head of Growth & Economy**

Electoral division(s): **Chatteris**

Purpose: **To provide Fenland District Council with the County Council's comments on the above planning application.**

Recommendation: **That the County Council OBJECTS to the proposed development for the reasons set out in paragraph 10.1**

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1.0 INTRODUCTION

- 1.1 A planning application (ref F/YR15/0985/F) has been made to Fenland District Council (FDC) to use land at Block Fen for motorsports. The land is part of a former sand and gravel quarry and the County Council has been invited to comment on the proposal. This report firstly sets out the full planning history of the site, then in more detail the mineral planning history and the obligations that the landowner has to restore the site. It also outlines the use of the site by motorcyclists. It goes on to explain the development of a series of restoration schemes that have been prepared for the site.
- 1.2 The areas of land to which are referred to in this report are shown on the agenda plan.

2.0 THE SITE AND SURROUNDINGS

- 2.1 South Lake measures 400m x 400m (16 hectares) and comprises former mineral working land (an old quarry plant site). The northern half has been and is proposed to be used for motorcycle riding. It is located at Block Fen within an extensive area of active and dormant (permitted) mineral working sites and waste management activities. A further large area of land at Block Fen and Langwood Fen is allocated in the Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document (July 2011) (the Core Strategy) as a source of sand and gravel and location for waste management in the long term i.e. beyond the 2026 Plan period. The site is approximately midway between Mepal and Chatteris, 1km northeast of the A142 at its junction with Block Fen Drove. Immediately to the northeast beyond a quarry access road are former mineral workings, now lakes used for recreational purposes and beyond that the land covered by the 2002 mineral permission (Hanson, currently inactive). To the southwest and southeast is land forming part of the active Tarmac quarry which has planning permission until 2036. To the northwest is a currently inactive part of the Tarmac quarry which has planning permission until 2031.
- 2.2 The application site, together with the adjacent recreation lakes and historic quarry workings to the west form the Block Fen Gravel Pits County Wildlife Site (CWS). The Ouse Washes Site of Special Scientific Interest (SSSI) 1.5km to the southeast is also of international importance and designated as a Special Area of Conservation, Special Protection Area and Ramsar site.

3.0 PLANNING HISTORY

- 3.1 The planning history for the site is as follows:
 - F/0363/98 - Extraction of sand and gravel - new conditions imposed under the Environment Act 1995 (outlined in green on

the agenda plan and identified as West Lake and South Lake)
GRANTED 27 November 1998.

- S106 agreement between Cambridgeshire County Council, Church Commissioners for England and Hanson Quarry Products Europe Limited dated 28 November 2002.
- F/YR11/0752/F – Temporary use of land for a period of 5 years for the purposes of motorsport usage including siting of 4 portable buildings and use of land for siting of recreational motor vehicles. REFUSED 12 March 2012 by FDC.
- F/YR13/0857/F – Change of use of land to motocross and recreational riding of motorcycles with siting of 2no storage containers, toilets, marshalling boxes, litter bins, waste skip and site cabin together with operational development including raised areas, race track, car parking, track fencing posts, railings and spectator fencing. REFUSED 16 December 2014 by FDC.
- F/02006/13/CM – Variation of condition 2 of planning permission F/0363/98 to defer restoration of South Lake for approximately 7 years to allow temporary use of land for motorcycle riding. REFUSED 23 December 2014.
- Application to modify planning obligation between the County Council, Hanson Quarry Products Europe Limited and the Church Commissioners for England dated 28 November 2002. REFUSED 7 January 2015.

4.0 MINERAL PLANNING HISTORY

- 4.1 The site to which the current application F/YR15/0985/F relates (that is part of South Lake and outlined in red on the agenda plan) had planning permission, originally dating from 1960, for the extraction of sand and gravel. There are two planning permissions which currently relate to the site. These are F/0363/98 issued 27 November 1998 under which new conditions were imposed under the Environment Act 1995 (outlined in green on the agenda plan), and F/02014/12/CM (issued 18 September 2012), which permits the extraction and processing of sand and gravel from approximately 200 hectares of land to the north (outlined in blue on the agenda plan). They are referred to subsequently in this report as the 1998 mineral permission and the 2012 mineral permission respectively.
- 4.2 Condition 2 of the 1998 permission requires mineral extraction to have ceased and the site restored within 15 years of the permission coming into effect; that is by 27 May 2014.
- 4.3 The application site also forms part of an area of land that is included in the S106 agreement dated 28 November 2002, on which the 2002

permission for mineral extraction was dependent. The 2002 S106 agreement was linked in September 2012 to the 2012 mineral permission. The 2012 permission was implemented on 5 November 2012 and requires that the development be completed within 30 years from the date of commencement i.e. by 5 November 2042. Insofar as the application site is concerned the S106 agreement required the submission of a detailed restoration and aftercare strategy within 9 months of the date of commencement of the mineral extraction operations which are permitted under the 2012 permission (i.e. by 5 August 2013). The approved strategy shall be implemented to the satisfaction of the County Council in accordance with the agreed phasing set out in the strategy. A fenced nature conservation area with pedestrian access is to be provided within 24 months of commencement (i.e. by 5 November 2014). The status of the restoration scheme is set out in section 6 of this report.

- 4.4 Planning application F/02006/13/CM sought to vary the terms of condition 2 of planning permission F/0363/98 to defer the date by which the application site must be restored for approximately 7 years to allow the land to be used for motorcycle riding for 5 years. An application was also made to modify the terms of the S106 planning obligation dated 28 November 2002 for the same reason. These applications were refused by the Planning Committee in December 2014 for the following reason:

The applicant has not demonstrated sufficient justification to amend the approved restoration plans for this mineral site and the Mineral Planning Authority is not satisfied that there is a proven essential or compelling planning need in this case. To permit the proposed development of delaying by 7 years the restoration of land which is identified as a nature reserve within the Cambridgeshire and Peterborough Minerals and Waste Development Plan Block Fen/Langwood Fen Master Plan Supplementary Planning Document (July 2011) would be unacceptable and considered contrary to policies CS1, CS3, CS25 and CS35 of the Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document (July 2011).

5.0 MOTORCYCLE USE

- 5.1 For a period of up to mid-2007 the land which is the subject of the current planning application was used by motorcyclists on an ad hoc, informal, and unorganised basis. The landowner (Hanson) took action, which was partly successful, to deter them.
- 5.2 During 2009 the application site was prepared for organised motorsports use by Fenland Resource Management Ltd (FRML). Use beyond that which the operator claimed to be permitted development took place and in October 2011 FRML submitted a planning application to FDC for motor sports use. It was refused on 12 March 2012 for 5

reasons, principally relating to noise, but including the lack of a satisfactory restoration scheme. The use continued and FDC issued an enforcement notice on 10 May 2012 which the developer appealed. The enforcement notice was varied by a planning inspector so as not to prevent the developer exercising his permitted development rights but was otherwise upheld i.e. the permanent infrastructure was to be removed.

- 5.3 In October 2013 a different motorsports operator (the current applicant F15-MX) submitted an application to FDC for planning permission for the change of use of land at Block Fen to allow motocross and recreational riding of motorcycles for 5 years together with the necessary ancillary development. It was refused by FDC's Planning Committee for the following reason:

The increased use of the site, and associated activity for Motocross use and associated activities from its current operation of 28 days per year to a substantially more intensive use, would result in an unacceptable level of cumulative activity and associated noise to the detriment of the amenities of local residents contrary to policy LP2 and LP16 of the Fenland Local Plan 2014, and para 123 the NPPF 2012.

- 5.4 In 2015 the site has been used for motorsports which it is understood take place under the terms of the Town and Country Planning (General Permitted Development) Order 1995 and from 15 April the Town and Country Planning (General Permitted Development) (England) Order 2015. This allows a maximum of 14 days' use per calendar year for "motor car and motorcycle racing including trials of speed, and practising for these activities" and the provision on the land of movable structures for the purposes of this use.

6.0 RESTORATION SCHEMES

- 6.1 Condition 22 of the 1998 minerals permission requires the site to be restored in accordance with approved drawing no M4f/101, which relates to South Lake, and includes the current application area. It shows an area of open water surrounded by reedbeds and rough grassland with hedgerows, trees and scrub around the perimeter. A detailed restoration scheme was required by condition 22 which must be implemented within 12 months of the cessation of sand and gravel extraction. It has been noted in paragraph 4.2 above that condition 2 of the 1998 mineral permission required the winning and working of sand and gravel to have been completed and the land restored by 27 May 2014. Hanson submitted a detailed scheme for South Lake in July 2004 (drawings M4Fc/108 and M4Fc/109) which was approved in October 2004. Condition 23 requires the site to be subject to a 5 year period of aftercare following restoration. The aftercare scheme submitted by Hanson in July 2004 was also approved in October 2004.

- 6.2 Planning application no F/02006/13/CM was accompanied by a restoration plan, which included both the application site of the proposed motocross area and the land immediately to the south i.e. all of South Lake. It was subsequently revised twice following consultation with the conservation bodies (Natural England, The Wildlife Trust and the RSPB). The final October 2014 version by BSG Ecology proposed that the site would be restored to a combination of wetland and open mosaic habitats and managed to increase the potential for supporting protected and priority species e.g. water vole, otter, breeding birds, reptiles and invertebrates. The wetland would be at the south of the site which is currently a 3.6ha lake with a smaller pond to the west and not used for motorcycle riding. The restoration works were scheduled to take place between September 2015 and February 2016 with management thereafter until 2024. The scheme was supported in principle by the conservation organisations and planning officers. The planning application to defer restoration of South Lake was refused for the reasons set out at paragraph 4.4 above and the BSG Ecology restoration scheme has not, therefore, been implemented.
- 6.3 Hanson's 2004 restoration scheme, submitted and approved in accordance with condition 22 of the 1998 permission, proposes little intervention on the southern part of South Lake: the two existing waterbodies will be retained together with the dense scrub along the eastern boundary and the broad-leaved semi-natural woodland at the centre of the site. The proposal for the northern part i.e. the motocross site is another lake with the surrounding land being allowed to re-vegetate through natural colonisation. Small areas of new tree and shrub planting are also proposed. The proposal assumed that the remaining mineral would be removed from the northern part of the site thus creating a void which would become a lake. Hanson has chosen not to remove the mineral and the terms of the 1998 permission preclude extraction after May 2014; a revised restoration scheme is therefore needed whether the motocross proposal goes ahead or not.
- 6.4 In July 2015 Hanson acknowledged that they are required to restore South Lake and West Lake and undertook to draw up a restoration scheme without a lake in the northern part of South Lake by the end of summer 2015. A draft version was submitted on 23 September 2015 and the views of Natural England, the Wildlife Trust and the RSPB were sought.
- 6.5 Hanson's final proposals were submitted on 30 October 2015 and are currently the subject of consultation with the conservation bodies. They adopt the same principles as the BSG Ecology October 2014 scheme but propose that restoration work will take place in summer 2016 rather than in 2015. New boundary fencing and retention of pollarded boundary trees for up to 5 years is proposed to deter trespass by motorcyclists. Whilst the restoration and management

aims and techniques are acceptable the proposed delay until summer 2016 to carry them out is not.

- 6.6 The BSG Ecology scheme (on which Hanson's 2015 submission relies) identifies two restoration projects: Project 1-1-1 comprises the removal of woodland and scrub during the period September 2015 to February 2015 (and in October 2015 for bat roosting potential trees) to avoid the breeding bird season. Project 1-1-2 comprises the creation of the reedbed and marshy grassland and is scheduled to take place upon completion of Project 1-1-1. There is nothing from a nature conservation point of view that would prevent the restoration work from being carried out this winter, as soon as the scheme is approved.
- 6.7 Hanson states that the restoration works cannot take place until after surveys for protected species such as water voles and bats have taken place. The conservation organisations disagree and consider that the tree works could be undertaken before the next breeding bird season i.e. winter 2015-16. Trees with potential bat roosts will need to be assessed and felled in accordance with the relevant legislation but there need not be a delay to allow additional surveys. The ground re-profiling works could also potentially take place as there is only a moderate chance of water voles being on the site; they are much more likely to be using the drain network beyond.
- 6.8 Hanson have been asked to amend the scheme and provide a clear timetable for carrying out the restoration works and embark upon 10 years' management as required by the 2002 S106 agreement.
- 6.9 The 2002 S106 agreement requires that the restoration scheme includes a fenced nature conservation area with a pedestrian access facility. There is a further requirement to provide pedestrian access around the restored land to enable it to be used for informal nature conservation study by means of permits to conservation bodies and educational institutions. Hanson's 2015 restoration scheme is capable of fulfilling these requirements.
- 6.10 The 2002 S106 agreement also requires that when South Lake and West Lake have been restored and the fenced conservation areas with pedestrian access are in place the land shall only be used for nature and wildlife conservation purposes (weed and pest control are permitted). Hanson's 2015 restoration scheme explicitly proposes the exclusion of motorsports use on South Lake and the boundary treatment has been designed to achieve this.

7.0 THE PROPOSED DEVELOPMENT

- 7.1 The proposal before FDC is described by the applicant as a re-submission of application F/YR13/0857/F. It is to use the land for motorcycle riding (racing or practising) on 60 days per winter i.e. between 1 October and 31 March for a temporary period of five years.

The application is also for siting of 2no storage containers, toilets, marshalling boxes, litter bins, waste skip and site cabin together with operational development including raised areas, race track, car parking, track fencing posts, railings, and spectator fencing. The application is accompanied by a revised noise management plan, which the developer believes will address the environmental health officer's concerns and the reason the previous application was refused (see paragraph 5.3 above).

8.0 PLANNING POLICY

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The relevant development plan policies are set out in paragraph 8.3 to 8.5 below.

8.2 The National Planning Policy Framework (March 2012) (NPPF) is also a material planning consideration.

8.3 Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document (adopted July 2011) (the Core Strategy)

CS1 Strategic Vision and Objectives for Sustainable Minerals Development

CS3 Strategic Vision and Objectives for Block Fen/Langwood Fen, Earith/Mepal

CS25 Restoration and Aftercare of Mineral and Waste Management Sites

CS33 Protection of Landscape Character

CS34 Protecting Surrounding Uses

CS35 Biodiversity and Geodiversity

8.4 Cambridgeshire and Peterborough Minerals and Waste Development Plan Block Fen/Langwood Fen Supplementary Planning Document (adopted July 2011) (the SPD)

8.5 Fenland Local Plan (adopted May 2014)
LP19 The Natural Environment

9.0 PLANNING CONSIDERATIONS

9.1 The NPPF sets out the Government's planning policies and how these are expected to be applied. It is a material consideration in planning decisions and at its heart is a presumption in favour of sustainable development (para 14). It states that:

- Proposed development that accords with the development plan should be approved without delay;
- Where the development plan is absent, silent or relevant policies are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted; and
- Proposed develop that conflicts with an up-to-date development plan should be refused unless other material considerations indicate otherwise.

9.2 The proposal before Fenland District Council on which the County Council as the mineral planning authority has been invited to comment is a change of use of land to motorcycle riding and the associated operational development as set out at paragraph 7.1 above.

9.3 South Lake, together with a similarly sized area of land to the west of Block Fen Drove (West Lake), is identified in the abovementioned SPD as being restored as a nature reserve. This is consistent with the terms of the 1998 planning permission and the 2002 planning obligation and Hanson's 2004 scheme, both of which were in place before the SPD was drafted and adopted.

9.4 The area to which the SPD relates is adjacent to the Ouse Washes which is a wetland of international importance for its wet grassland, breeding and wintering of waders and wildfowl, along with aquatic flora and fauna largely associated with the ditches and drains. The Washes are classified as being in "unfavourable" condition and one of the strategic objectives of the Core Strategy (CS1, CS3) is to enhance habitat creation adjacent to the Ouse Washes, through mineral extraction and restoration. CS25 requires mineral workings to be restored in a phased manner to a beneficial afteruse, with aftercare arrangements. It goes on to say that where restoration could assist or achieve the creation of priority habitats and/or Cambridgeshire and Peterborough Biodiversity Action Plan targets the relevant biodiversity after use must be incorporated within the restoration scheme. An extended period of after-care will be sought where this is warranted by the restoration proposals (i.e. longer than 5 years).

9.5 CS35 states that mineral development will only be permitted where it has been demonstrated that there will be no likely significant adverse effect on sites of local nature conservation interest such as County Wildlife Sites. Fenland Local Plan policy LP19 has similar aims. The conservation organisations have supported the current applicant's proposed restoration scheme (BSG Ecology, October 2014) which, as has already been noted in paragraph 6.2 above, proposed that restoration work would be carried out in winter 2015. There is also support in principle from officers, guided by the nature conservation bodies, for Hanson's October 2015 scheme (which relies on the BSG

Ecology scheme), provided it is amended so that it is carried out in winter 2015/16.

- 9.6 Although the proposed restoration will not itself create lowland wet grassland, the restored site will be part of an important buffer area for the Ouse Washes with the maintenance of a landscape which has few trees and hedges which could harbour predators to nesting birds. This is consistent with the aims of the SPD.
- 9.7 The County Council has not received an application to vary the terms of condition 2 of the 1998 mineral permission or the 28 November 2002 S106 agreement. What the Authority has before it as the mineral planning authority (MPA) would constitute a breach of condition and a failure by the landowner (Hanson) to comply with the terms of a S106 agreement. There is concern within the community that Hanson are in breach of the terms of the planning condition and the 2002 S106 agreement. The MPA is being strongly urged to take the appropriate action to bring about the restoration of South Lake as soon as possible.
- 9.8 Hanson has, by submitting a new restoration scheme, taken the first steps that are necessary to comply. However, for the reasons set out in section 6 above the timetable for implementation has not been agreed and the scheme has not been approved. Subject to Hanson amending the timetable for implementation, the scheme will be acceptable to the MPA and restoration work will, if the scheme is complied with, be completed in winter 2015-16. The 10 year management programme will commence and continue thereafter until 2026.
- 9.9 Motorcycle riding is contrary to the terms of the S106 agreement, which requires that when South Lake and West Lake have been restored and the fenced conservation areas with pedestrian access are in place the land shall only be used for nature and wildlife conservation purposes. When Hanson has carried out an approved restoration scheme, motorcycle riding will from that time be contrary to the terms of the S106 agreement and the SPD. If FDC were to approve the current application (which seeks 5 years' use) they would be giving planning permission for a use that for much of its duration directly conflicts with an existing limitation on the use of the land as contained in the above-mentioned SPD and further reinforced by way of a planning obligation within the S106 agreement. This is a material consideration that FDC should take into account when determining the application.
- 9.10 The planning policies referred to in paragraphs 9.4 and 9.5 above give a clear requirement that mineral sites be restored to a beneficial afteruse and the nature of that afteruse for land at Block Fen, including the current application site is set out in the SPD. The 1998 mineral permission and the 2002 S106 agreement give the dates by which the application site should be restored. That time has passed and in submitting a revised scheme Hanson has taken the first steps

necessary to bring about restoration of the site in accordance with policy CS25 and the SPD. No application has been made to the County Council to vary condition 2 of the 1998 permission or the terms of the S106 agreement. It is considered that the site should be restored in accordance with Hanson's 2015 scheme during winter 2015-16 and be managed in the interests of nature conservation for 10 years thereafter.

- 9.11 For the reasons set out in paragraphs 9.9 and 9.10 above it is recommended that the County Council as the MPA objects to the planning application before FDC for motorsports use.

10.0 RECOMMENDATION

- 10.1 It is recommended that the County Council as the mineral planning authority OBJECTS to planning application no F/YR15/0985/F for the following reasons:
1. The proposed use of the land for motocross and the recreational riding of motorcycles is contrary to the terms of paragraph 5 of Part II of the second schedule of the S106 agreement between Cambridgeshire County Council, Church Commissioners for England and Hanson Quarry Products Europe Limited dated 28 November 2002.
 2. To permit the proposed development of delaying by 5 years the restoration of land which is identified as a nature reserve within the Cambridgeshire and Peterborough Minerals and Waste Development Plan Block Fen/Langwood Fen Master Plan Supplementary Planning Document (July 2011) would be unacceptable and considered contrary to policies CS1, CS3, CS25 and CS35 of the Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document (July 2011).

Source Documents	Location
<p><u>Fenland District Council planning application F/YR15/0985/F:</u></p> <p>http://www.fenland.gov.uk/publicaccess/simpleSearchResults.do;jsessionid=6AEA5AED1223923D0CCD8693685BD5A7?action=firstPage</p> <p><u>Link to Cambridgeshire and Peterborough Minerals and Waste Core Strategy:</u></p> <p>http://www.cambridgeshire.gov.uk/info/20099/planning_and_development/49/water_minerals_and_waste/7</p> <p><u>Link to Cambridgeshire and Peterborough Minerals and Waste Block Fen/Langwood Fen Master Plan Supplementary Planning Document (SPD):</u></p> <p>http://www.cambridgeshire.gov.uk/info/20099/planning_and_development/49/water_minerals_and_waste/9</p>	Shire Hall, Cambridge