

Application by Lafarge Cement UK for a Bulk Aggregates Import Terminal handling up to 3 million tonnes per annum and associated infrastructure including reinstated rail access at Northfleet Works, The Shore, Northfleet, Gravesend – GR/09/286

A report by Head of Planning Applications Group to Planning Applications Committee on 7 December 2010.

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Recommendation: Planning permission be granted subject to legal agreement and conditions.

Local Members: Mr L Christie and Mr H Craske (Mr R Lees adjoining) Unrestricted

Background

1. The application was considered by the Planning Applications Committee on 2 November 2010 when Members RESOLVED that PERMISSION BE GRANTED SUBJECT TO the prior satisfactory conclusion of a legal agreement and conditions. At that time the County Council was working on the basis that the South East Plan (May 2009) (*i.e. the Regional Strategy*) was no longer part of the development plan because the Secretary of State had announced that Regional Strategies were revoked with immediate effect on 6 July 2010. This information had been relayed to all Local Planning Authorities by Steve Quartermain, Chief Planner, Department of Communities and Local Government in his letter of the same date and was referred to in paragraph 63 of the 2 November 2010 Committee report.
2. As a result of the judgement in the case brought by Cala Homes in the High Court, which held that the powers set out in section 79 [6] of the Local Democracy, Economic Development and Construction Act 2009 could not be used to revoke all Regional Strategies in their entirety, Regional Strategies were re-established as part of the development plan on 10 November 2010. Notwithstanding this, Steve Quartermain advised Local Planning Authorities and the Planning Inspectorate on 10 November 2010 that they should still have regard to the Secretary of State's letter to Local Planning Authorities and to the Planning Inspectorate dated 27 May 2010. In that letter he had informed them of the Government's intention to abolish Regional Strategies in the Localism Bill and that he expected them to have regard to this as a material consideration in any planning decisions. Steve Quartermain also advised that: a proposed clause of the Localism Bill will enact the earlier commitment to abolish Regional Strategies; that the Bill is expected to begin its passage through Parliament before Christmas; and that this will return decision-making powers in housing and planning to local authorities. He further advised that Local Planning Authorities and the Planning Inspectorate should still have regard to the above letter in any decisions they are currently taking. However, the Quartermain letter is now the subject of a further legal challenge in the High Court and must in my view carry very little weight until such time as the Court decision is known.

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3. As the necessary legal agreement has not yet been completed and the decision notice has not been issued for the proposed bulk aggregates import terminal, it is necessary to consider whether a different conclusion should be reached on the proposals before any planning permission is granted as a result of the South East Plan still being part of the development plan.
4. The 2 November 2010 Committee report is attached as Appendix 1. It should be noted that the Head of Planning Applications asked the 2 November 2010 Committee to note the following amendments to the report:-
 - Paragraph 3, page 51 – "vineyard" not "vinyard";
 - Paragraph 6, page 52 – "18 trains per week" not "per annum";
 - Paragraph 8, page 52 – Aspden's Kiln (Scheduled Ancient Monument) is not actually within the Northfleet Works site (it is just off the site);
 - Paragraph 14, page 54 – "9,000 tonnes" not "9 tonnes" (in stockpiles);
 - Paragraph 15, page 54 – "conveyors and hoppers" not "conveyor sand hoppers";
 - Paragraph 42, page 61 – 3rd bullet point should read "13,500 HGV movements" not "13,599"; and
 - Paragraph 140, page 92 – add "Travel Plan" to the list of proposed conditions.

It should also be noted that the Committee resolved to include a condition requiring measures to prevent mud and debris on the highway (e.g. sheeting of loaded HGVs).

5. This further report considers the impact of the South East Plan still being part of the development plan. **In determining this application, members should consider both reports.**

South East Plan (May 2009)

6. The most relevant policies are: SP4 (Regeneration and Social Inclusion), CC1 (Sustainable Development), CC2 (Climate Change), T10 (Ports and Short Sea Shipping), T11 (Rail Freight), T12 (Freight and Site Safeguarding), NRM1 (Sustainable Water Resources and Groundwater Quality), NRM4 (Sustainable Flood Risk Management); NRM5 (Conservation and Improvement of Biodiversity), NRM9 (Air Quality), NRM10 (Noise), W2 (Sustainable Design, Construction and Demolition), M3 (Primary Aggregates), M5 (Safeguarding of Mineral Reserves, Wharves and Rail Depots), C4 (Landscape and Countryside Management), C7 (The River Thames Corridor), BE6 (Management of the Historic Environment), KTG1 (Core Strategy) and KTG6 (Flood Risk).

Discussion

7. The key issue to consider as a result of the South East Plan still being part of the development plan is whether consideration of relevant policies in the Plan would lead to a different conclusion on the application.
8. I consider each of the above South East Plan Policies in turn:-

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- Policy SP4 promotes regeneration in the Thames Gateway;
- Policy CC1 seeks sustainable resource use and the conservation and enhancement of the physical and natural environment;
- Policy CC2 requires consideration and management of flood risk;
- Policy T10 supports proposals for infrastructure that maintain and enhance the role of gateway ports such as the Port of London (which includes the Northfleet Wharves);
- Policy T11 states that the railway system should be developed to carry an increasing share of freight movements;
- Policy T12 states that wharves, depots and other sites that are, or could be, critical in developing the capability of the transport system to move freight, particularly by rail or water should be safeguarded; sites adjacent to railways, ports and rivers for developments (particularly new intermodal facilities) that are likely to maximise freight movement by rail or water should be safeguarded and promoted; and development with a high generation of freight / commercial movements should be located close to intermodal facilities, rail freight facilities, or ports and wharves;
- Policy NRM1 seeks to maintain and enhance groundwater resources by avoiding adverse effects of development on the water environment;
- Policy NRM4 states that flood risk should be properly assessed and existing flood defences protected from development;
- Policy NRM5 states that net biodiversity loss should be avoided and net gain pursued;
- Policy NRM9 seeks to protect and enhance air quality and reduce the environmental effects of traffic;
- Policy NRM10 seeks to minimise noise impacts;
- Policy W2 encourages waste minimisation and recycling and the re-use of construction and demolition materials;
- Policy M3 (as proposed to be amended by the Secretary of State in March 2010) does not directly refer to either marine or imported aggregates although the proposed paragraphs associated with the Policy (i.e. paragraphs 10.83 to 10.89) do so and reinforce the need for sufficient importation capacity at wharves and depots given the Region's reliance on such minerals;
- Policy M5 seeks to safeguard wharf and rail depots for imported minerals;
- Policy C4 seeks to ensure that proposals respect and enhance local landscape character and secure mitigation where necessary;
- Policy C7 seeks to ensure that development does not restrict or endanger navigation and that river-related infrastructure that is necessary for the sustainable development and use of the River Thames is protected and improved;
- Policy BE6 seeks to protect, conserve and (where appropriate) enhance the historic environment;
- Policy KTG1 seeks the re-use of previously developed land and progress in the transfer of freight from road to rail and water by improving the links between international gateways and the regions, including freight routes around London; and
- Policy KTG6 seeks to ensure appropriate flood protection and surface water drainage.

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9. In addition, Paragraph 10.63 of the South East Plan states that Regional policy is to encourage a modal shift to increase the proportion of minerals and manufactured products transported into and within the region by rail and sea and that to achieve this capacity, constraints (e.g. road and rail path capacity) will need to be overcome, and existing and new depot and wharf sites to handle materials in bulk will need to be safeguarded. Paragraph 10.70 states that the core strategy for minerals seeks to (amongst other things) make use of an anticipated increase in aggregate resources from the English Channel and import into the region sufficient hard rock and other materials to meet those industrial and construction needs that cannot be supplied from indigenous regional minerals resources.
10. The issues dealt with by the above policies were previously addressed in the 2 November 2010 Committee report in the context of other development plan policies and material planning considerations (including National Mineral and other Planning Policy Statements). The proposed development accords with the above South East Plan policies provided the same conditions and legal agreement referred to in the previous Committee resolution are secured.

Conclusion

11. I remain satisfied that the proposed development gives rise to no material harm, is in accordance with the development plan and that there are no material considerations that indicate that the decision should be made otherwise. I also consider that any harm as a result of the proposed development would reasonably be mitigated by the imposition of the conditions that I intend to attach to the planning permission and the covenants in the associated legal agreement. I therefore recommend accordingly.

Recommendation

12. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO the prior satisfactory conclusion of a legal agreement to secure the Heads of Terms given in Appendix 3 of the 2 November 2010 Committee report and conditions covering amongst other matters: 5 years to implement the permission; maximum 3 million tonnes per annum imports; the prior approval of various details (including conveyors, gatehouse / security lodge, weighbridge, parking arrangements, external construction materials and fencing); the prior approval of a Code of Construction Practice (relating to air quality, noise, vibration, geotechnics and soil contamination and waste); crushed rock only stored outside the enclosed aggregate storage building exceptionally in the event of plant / equipment failure or unless otherwise agreed; protection of Port of London Authority radar equipment; the prior approval of a Tunnels Report (dealing with current condition, repairs / remedial measures, monitoring, maintenance and management of road and rail access tunnels and cliffs above their portals); hours of use (ship, barge and rail arrival, departure, loading and unloading and HGV movements being permitted 24 hours a day 7 days a week with all other activities restricted to between 0700 and 1800 hours Monday to Friday, 0700 and 1300 hours on Saturdays with no working on Saturday afternoons, Sundays, Bank and Public Holidays unless the prior written approval of the County Council has been obtained to depart from these hours);

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no more than 1.2 million tonnes of materials exported by road each year; the implementation of a travel plan; measures to prevent mud and debris on the highway (e.g. sheeting of loaded HGVs); safeguarding of Fastrack route; HGVs entering and leaving via Thames Way (A226) and only using The Shore, Granby Road and Crete Hall Road unless delivering locally, in emergencies or otherwise agreed beforehand); no more than 200 HGV movements between 0700 and 1000 hours and 1600 and 1900 hours in any one day; no more than 13,500 HGV movements in any one calendar month; rights of way being kept free of obstruction and available for use unless formal replacements are provided; the rating noise level not exceeding the background noise level by more than 3dB; measures being employed to minimise noise impacts of vehicles, railway locomotives and wagons, ships and barges, plant, machinery and other equipment; reversing vehicles and plant not emitting warning noise that is audible at noise sensitive properties; no commercial operations until a dust management plan has been submitted and approved; the implementation of flood risk and water protection measures; the submission and approval of a foul and surface water management scheme; the submission, approval and implementation of a contaminated land assessment scheme; archaeology; ecological mitigation, compensation and enhancement; landscaping scheme; and no external lighting until an appropriate scheme has been submitted and approved.

Case Officer: Jim Wooldridge

Tel. no. 01622 221060

Background Documents: see section heading.
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