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**Report of the Head of Strategic Investment****HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 22-Jun-2017**

**Subject: Planning Application 2017/90201 Variation of conditions 2 (Materials) 4 (Opening Hours) 8 (Retailing) 12 (Trees) 13 (Vehicular Access) and 17 (Storage Height) on previous application 2001/90843 for use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate Hagg Wood Stone Quarry, Woodhead Road, Honley, Holmfirth, HD9 6PW**

**APPLICANT**

Allan Pogson, Abacus  
Stone Sales Ltd.

**DATE VALID**

19-Jan-2017

**TARGET DATE**

16-Mar-2017

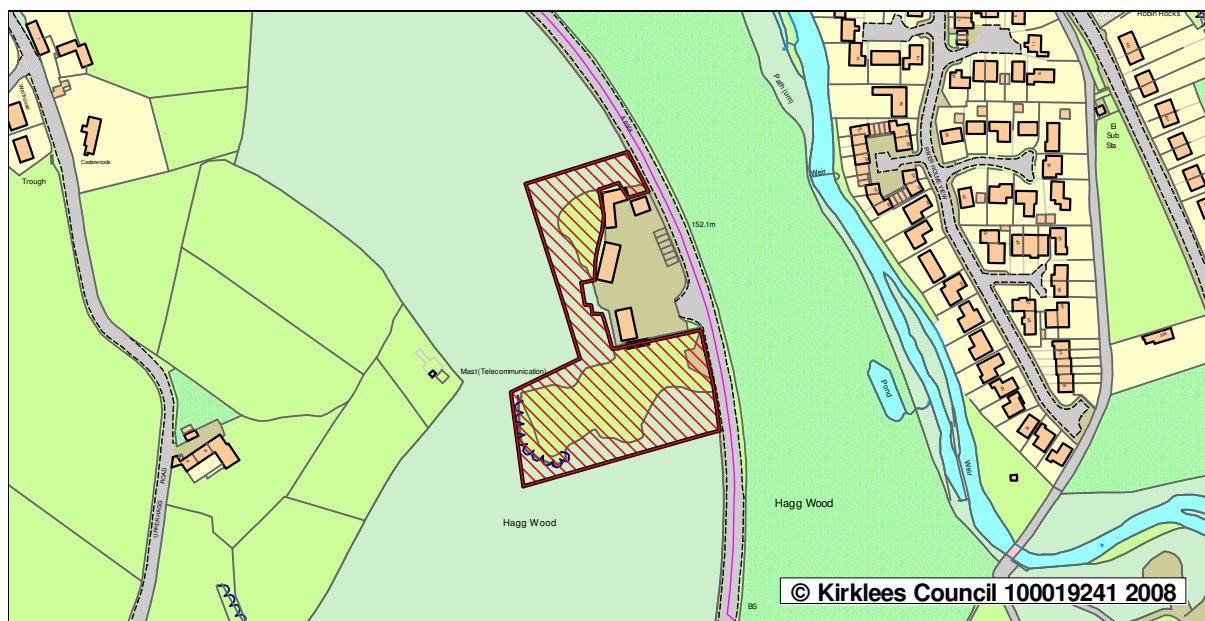
**EXTENSION EXPIRY DATE**

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<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

## LOCATION PLAN



**Map not to scale – for identification purposes only**

**Electoral Wards Affected:** Holme Valley South.

Yes

Ward members notified

### **RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

## **1.0 INTRODUCTION:**

This application is brought to the sub-committee for determination following a request from Cllr N Patrick (Ward member for Holme Valley South). For the following reasons:

*“...given ongoing problems on this site this application should go to planning committee together with a site visit.” Cllr Patrick in a further e-mail communication provided the following reasons to support his request:*

- *Impact on Ancient Monument*
- *Impact on Protected Trees*
- *Impact on Ancient/ Semi Natural Woodland*
- *Impact on amenity of neighbouring properties*
- *Impact on Protected Species*
- *Road Safety*
- *Ongoing enforcement issues at site”...*

- 1.2 The Chair of Sub-Committee has confirmed that Cllr Patrick’s reason for making this request is valid having regard to the Councillor’s Protocol for Planning Committees.

## **2.0 SITE AND SURROUNDINGS:**

The application site is located approximately 0.25km to the west of the centre of Brockholes, 1.7 kilometres south of Honley village and is situated on the edge of a large area of woodland known as Hagg Wood. The application site occupies an area of approximately 8600m<sup>2</sup> and forms part of what was originally a quarry void. The site comprises two main areas one to the south, which is currently used for the storage and dressing of stone and includes a number of buildings and associated plant. The other area which lies to the north is, at present unused although benefiting from planning permission for stone storage and dressing. These areas are linked by a strip of land which runs behind another stone processing operation which occupies the remainder of the quarry void. The immediate wider area surrounding the site has a rural wooded character with isolated residential properties to west and a concentration of residential properties to the east at Brockholes.

- 2.1 The site is located within a wider area designated as a site of scientific interest (SSI) in the Unitary Development Plan, is included within an area of ancient woodland, is immediately adjacent to a scheduled ancient monument (NHLE 1018555 and is located within the Green Belt.

## **3.0 PROPOSAL**

- 3.1 The applicant has submitted a planning application under Section 73 of the Town and Country Planning Act 1990 to vary condition 2, 4, 8, 12, 13 and 17 of a previously granted planning permission (2001/90843) which was for the use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m high palisade fence. The aforementioned conditions state:

*(2) No development shall take place until samples of all facing and roofing materials has been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.*

**Reason:** *In the interests of visual amenity and to accord with policy BE2 of the Unitary Development plan*

As development has commenced on site, the applicant has requested that this condition should be reworded to reflect this but in such a way to ensure the approved building cannot be constructed until materials have been approved.

*(4) No activity shall take place on the premises outside the hours of 07.00 hours and 18.00 hours Monday –Friday unless otherwise agreed in writing by the Local Planning Authority.*

**Reason:** *In order to safeguard the amenities of the area which lies within the Green Belt and wildlife corridor and adjacent to/partly within a site of scientific interest and adjacent to a scheduled ancient monument.*

The applicant has indicated that in order to keep up with the demand for the stone they supply they would like to amend the current approved hours of operation to include the following:

Saturdays 07:00 to 15:00

Sundays 09:00 to 14:00

The applicant has indicated that operations on a Sunday would be to facilitate maintenance of machinery, clearing and tidying and general site maintenance.

*(8) There shall be no retailing of redressed stone, reclaimed materials or any other associated materials from the site.*

**Reason:** *In the interests of the free and safe use of the highway and to accord with Policies T10 and T19 of the Unitary Development Plan*

The applicant has indicated that varying this condition would allow limited retail activity in line with the how the site operates. This involves some limited collection of orders by customers at the site.

*(12) Trees within or on the boundary of the site shall be neither felled, topped or lopped except with the prior written approval of the Local Planning Authority, nor shall they be damaged or killed by fire or by the application of toxic or injurious substances.*

**Reason:** *In order to ensure the protection of trees in Hagg Wood and to accord with policy NE9 of the Unitary Development Plan.*

The applicant contends that variation of this condition would facilitate the creation of the access between stone storage area 1 and 2 and to remove trees from stone storage area 2 to allow its efficient use.

*(13) There shall be no activity or storage on, or any vehicular access to or over, those areas of the site coloured yellow on the approved plans unless otherwise agreed in writing by the Local Planning Authority.*

**Reason:** *In order to safeguard the amenities of the area which lies within the Green Belt and wildlife corridor and adjacent to/partly within a site of scientific interest and adjacent to a scheduled ancient monument.*

The applicant indicates that varying this condition would allow the formation of the access between the two stone storage areas.

*(17) Unless otherwise agreed in writing by the Local Planning Authority stone storage on site shall not exceed 3m height.*

**Reason:** *In order to safeguard the amenities of the area which lies within the Green Belt and wildlife corridor and adjacent to/partly within a site of scientific interest and adjacent to a scheduled ancient monument.*

The applicant wishes to vary the condition by indicating that the 3m height restriction would best be measured from the height of the surrounding land as this would allow additional storage.

- 3.2 Section 73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the existing planning conditions and update, revise, add to or delete redundant conditions as part of the assessment of the planning application. Since the granting of planning permission 2001/90843 a number of conditions have been discharged, are now redundant or require updating and it is therefore proposed to amend the following conditions to reflect this:

*(1) The development shall be begun not later than the expiration of five years beginning with the date on which permission is granted.*

Delete - proposal has been implemented.

*3) No development shall take place until details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls have been approved in writing by the Local Planning Authority. The approved walls/fences shall be erected before the development hereby approved is occupied/brought into use and shall thereafter be maintained.*

Delete - A satisfactory boundary fence has now been erected

*(5) The areas to be used by vehicles including parking, loading and unloading areas shall be surfaced, sealed and drained before the development is occupied/brought into use and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.*

Re-word - the hard surfaced areas used by heavy goods vehicles within the site described as 10m turning circle, concrete/tarmac hard standing as shown on amended plan received on 8 January 2003 and approved under planning application ref: 2001/90843, shall be retained and kept free from all other obstructions for the duration of the development

*(6) No development shall take place until provision has been made for the parking, loading and unloading of contractors` plant and equipment and the parking of vehicles of the workforce within the site.*

Delete: The requirements of this condition duplicate condition 5 and therefore this condition would be redundant.

*(9) The existing stone wall piers, in the positions marked 'X` and 'Y` on the approved plans, shall be reduced to a maximum height of one metre above road carriageway level before the use hereby approved is first commenced. These wall piers shall thereafter be so retained unless otherwise agreed in writing by the Local Planning Authority.*

Re-word – Require the works to be carried out within 2 months of the permission being granted as the use has commenced on site.

*(10) The drop crossing to Woodhead Road shall be extended for the full width of the site entrance before the use hereby approved is first commenced and shall thereafter be so retained unless otherwise agreed in writing by the Local Planning Authority.*

Re-word – The drop crossing to Woodhead Road which has been extended for the full width of the site entrance shall be retained for the duration of the development.

*(11) Details of the type, design and position of traffic warning signs to alert drivers to the site entrance shall be submitted to, and agreed in writing by, the Local Planning Authority and the approved signs shall be installed before the use hereby approved is first commenced unless otherwise agreed in writing by the Local Planning Authority.*

Re-word – Require the works to be carried out within 2 months of the permission being granted as the use has commenced on site.

*(14) Details of any proposed hard surfacing of the site and of any alterations to existing ground levels, including details of any access ramps, shall be submitted to, and approved in writing by, the Local Planning Authority before the use hereby approved is first commenced.*

Delete – these works have been completed any further changes to ground levels would require a fresh grant of planning permission.

It is therefore proposed to retain conditions 7, 15 and 16 as worded on the original planning permission.

#### **4.0 RELEVANT PLANNING HISTORY**

75/6107 – Erection of site cabin for WYMCC (Approved 23 January 1976)

80/2401 – Storage compound for gas cylinders – (Approved 12.5.80)

96/90931 – Outline application for workshop and improved access (Refused 17 July 1996)

97/92231 – erection of PRU (gas control) building by Transco (Approved 8 January 1998)

2001/90843 - Use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate (within a site of special scientific interest and ancient monument). Approved 16 April 2003

2007/93104 - Use of existing stone yard for waste facility including site offices, hardstanding and landscaping works – Withdrawn

2017/91676 – Formation of new access from existing stone yard and adjacent storage area including excavation/engineering works. This application is under consideration at present and will be determined by the Strategic Planning Committee.

#### **4.2 Enforcement History**

4.3 The site was first investigated in 2001 following reports of activity on the former Council salt stocking yard. During these investigations it was found the owner was preparing the ground for storage and dressing of stone. This investigation led to the submission of the 2001 planning application ref: 2001/90843 and subsequent approval on the 16 April 2003.

4.4 Site was investigated again by officers in 2004 following further works carried out pursuant to the 2003 planning permission. The site had been further prepared for the storage and dressing of stone, including completion of the access gates/walling and a degree of surfacing over the site. Officers investigating at the time were satisfied that the site was operating as a stone yard as described and approved.

4.5 The site operated thereafter without objection being received by the local planning authority until January 2016. The local authority received reports of the erection of a fence through the adjacent woodland, formation of “ramps” to gain access onto the upper level of the former quarry and encroachment into areas outside of the original planning permission. Further concern was raised regarding works within a site of an ancient scheduled monument within the woodland.

- 4.6 Initial visits to the site in January 2016 confirmed a number of trees had been removed in the adjacent woodland. These were protected trees and legal proceedings were pursued with respect to this matter.
- 4.7 These site visits also confirmed the site was largely operating within the terms of the 2003 planning permission. No evidence was obtained of any recent encroachments into any areas outside the 2003 permission and the “ramp” was not considered to amount to an operation requiring planning permission. It was noted there had been a small encroachment to the left of the access that was being used for storage. However, from aerial photographs held by the authority this it was clear this area had been used for a significant number of years without major concern for the local authority. Historic England attending the visit did not raise any significant concern over works within the vicinity of the ancient scheduled monument. Notwithstanding this, the owner was advised of planning requirements should any works be carried out. The complainant was notified that no recent breaches of planning control had been identified in January 2016.
- 4.8 The local planning authority received further reports in February 2016 alleging an intensification of the site including lack of turning facilities for vehicles and removal of material to expand into the rear (northern area) of the site. Officers concluded that the area currently unused of the rear northern area of the stone yard benefitted from the 2003 planning permission and that based upon information obtained operations were not in breach of the 2003 planning permission.
- 4.9 Further reports in April 2016 from a second complainant alleged disturbance was being experienced through dust and noise pollution. It was also alleged operations were being carried out over the weekend. If substantiated this weekend activity would be in breach of condition 4 attached to the 2003 planning permission. However, it was noted that two adjoining stone yards operating independently both had conditions restricting weekend operations. Further evidence would have to be obtained to establish whether one or both stone yards were in breach of respective planning conditions.
- 4.10 Subsequent information obtained and received between the period of May and December 2016 demonstrated some weekend working was taking place on both stone yards. However, little evidence of substantial prolonged nuisance or harm caused could be verified. Under these circumstances and in accordance with National Planning Policy Guidance, the local planning authority would normally seek to resolve such matters through the submission of an application as opposed to the taking of formal action. As a result of contact with the owner, the applicant requested advice on how to review the planning conditions attached to the 2003 planning permission to allow extended working arrangements. The meeting led to the submission of this application to amend planning conditions.



## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Following discussions with the applicant and their agent on site it became clear that the proposals to implement the access from stone area A to stone area B could not be achieved without significant engineering works. As a consequence the applicant was advised that this issue and subsequent tree loss would need to be assessed via a separate planning application. A separate application (2017/91676) has now been received and is under consideration.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### **6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:**

EP4 – Noise generating development

B1 – Employment needs of the district

BE1 – Design principles

BE2 – Quality of design

NE3 – Development affecting Sites of Scientific Interest

NE5 – Development involving land identified as a wildlife corridor on the proposals map

BE9 – Development affecting archaeological sites

T10 – highway safety

### **6.3 National Planning Guidance:**

Section 1 – Building a strong, competitive economy

Section 9 – Protecting Green Belt Land

Section 10 – Meeting the challenge of climate change, flooding and coastal change

Section 11 – Conserving and enhancing the natural environment

Section 12 – Conserving and enhancing the historic environment

#### 6.4 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

Whilst the majority of the site has not been allocated for any specific purpose in the emerging local plan, the area identified as Abacus Stone Area B and small areas on the eastern and southern boundaries of the site fall within an area identified as a local wildlife site (LWS57). Furthermore a small area on the eastern boundary of the site falls within an archaeological site (SM 31504) which is a scheduled ancient monument.

Policies:

PLP24 – design

PLP52 – protection and improvement of environmental quality

PLP3 – location of new development

PLP35 – historic environment

PLP30 – biodiversity and geodiversity

PLP33 - trees

### 7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by the erection of 3 site notices in the vicinity of the site and the mailing of 5 neighbourhood notification letters. 82 representations have been received with regard to this proposal and the issues raised can be summarised as follows:

- The loss of trees associated with this development would have a detrimental impact on the area.
- The enjoyment of users of the wood would be adversely affected by this proposal
- The proposal would have a detrimental impact on local ecology
- The extension of operating hours would be detrimental to the amenity of residents living in the area.
- Existing planning conditions have not been satisfactorily enforced
- The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed

- The storage of stone at the height suggested by the applicant would be unsafe without support
- The formation of the access between the two stone storage areas would involve the excavation of a significant amount of stone from the original quarry face which is not described in this application
- The proposal would have a detrimental impact on a scheduled ancient monument.
- Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected
- Allowing retail sales at the site would exacerbate existing highway safety problems due to lack of parking on site.
- Protected trees have already been illegally felled by the applicant.
- Local beavers and cubs groups use the wood for recreational activities which would be adversely affected by this proposal
- Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further
- The proposal is contrary to local planning policy as the site is located within the Green Belt, protected woodland and close to archaeological remains.
- Widening the entrance at the site would create a highway safety hazard
- The erection of a building on site would be visually detrimental
- The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.
- The current use of the site is contrary to Green Belt policy
- Activities at the site result in the generation of dust which and the problems associated with dust in the vicinity will be exacerbated by this proposal.
- Allowing this proposal would result in increased noise nuisance

7.2 Home Valley Parish Council was consulted on this proposal and responded as follows:

“Cllr J G Cropper declared a disclosable pecuniary interest and left the meeting.

Cllr J Roberts declared a personal interest.

Object to the application as variation of conditions unacceptable on the following grounds: Condition 4 (Opening Hours) – Saturdays 8am to 1pm acceptable but should not be open on Sundays. Condition 12 (Trees) – Reject removal of this condition and concern that some with TPO's in Hagg Wood have already been removed. Condition 17 (Storage Height) – Materials too high and detrimental to visual impact; should be kept below ground height. Condition 8 (Retailing), would be acceptable. Support noise control measures recommended by Kirklees Council.

Support Historic England advice on safeguarding the site and the adjacent Scheduled Monument. Improved access and sight lines would be welcomed. “

- 7.3 Cllr Nigel Patrick (Holme Valley South ward member) indicated in an e-mail dated 1 February 2017 that he considered that “ .... given ongoing problems on this site this application should go to planning committee together with a site visit.” Cllr Patrick in a further e-mail communication provided the following reasons to support his request:

- Impact on Ancient Monument
- Impact on Protected Trees
- Impact on Ancient/ Semi Natural Woodland
- Impact on amenity of neighbouring properties
- Impact on Protected Species
- Road Safety
- Ongoing enforcement issues at site

- 7.4 Cllr C Greaves (Home Valley North member which is the adjacent ward) also requested that this application be brought to committee for determination in an e-mail dated 14 February 2017 and indicated the following:

“...The reasons for referral are that development has occurred outside of existing permissions and this application has been submitted as a response to enforcement action - and that in my view the decision to ease planning restrictions should be determined by committee.

I have particular concerns around any easing of the restriction against retail activity, early operating times on a Saturday, any works at all on a Sunday, stacking of material (3m still seems appropriate) and any removal of trees or further incursion into the rock face/woodland - all of which are against current permissions and which appear to be taking place.”

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K C Highways DM – Object on the basis that that in order to overcome highway safety concerns the following is required:

- additional off street customer car parking provision
- internal turning facilities
- improvements to sight lines

Historic England - No objection subject to no works taking place in the area of woodland included in the scheduled monument.

## 8.2 **Non-statutory:**

K C Environmental Health – recommend that condition 4 is amended to allow working on site between the following hours:

0700 and 1800 Monday to Friday and 0800 to 1300 Saturdays.

No activities to take place on Sundays or Bank Holidays

With regard to condition 13, it is recommended that it be varied as follows:

There shall be no vehicular access/movements other than on the level of the existing quarry floor/area to be cleared (to the same quarry floor level) to access Abacus Area B.

K C Ecology Unit – Object to the proposal on the basis that although there are a number of ecological constraints an ecological impact assessment has not been provided in support of the application.

K C Trees Officer – Object as it is considered that it is unclear what tree work is to be conserved as part of the variation and there's no information provided with the application to show the level of tree work needed or to justify why tree works are now necessary.

Forestry Commission – Standard advice provided which stresses that this proposal must be considered in accordance with para. 118 of the NPPF. Bullet point 5 of para. 118 states:

*“...planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;...”*

West Yorks Archaeology – Proposed condition variations have no apparent impact on adjacent heritage asset but WYAAS suggest that Heritage England should be consulted.

## **9.0 MAIN ISSUES**

- Principle of development
- Assessment of the variation/removal of conditions
- Representations

## **10.0 APPRAISAL**

### **10.1 Principle of development**

The application site falls within a wider area identified as Green Belt in the adopted Unitary Development Plan. However, it is considered that the principle of using the site as a stone storage and processing area within the Green Belt was established at the time the original planning permission was granted in 2003.

- 10.2 As indicated above the application site falls within an SSI and parts of the site fall within an area designated as ancient woodland and a scheduled ancient monument. Consequently the implications of varying the above conditions on these designations will need to be assessed. However, it is considered the variation of certain conditions included with this application will not have any direct effect on these designations. It is therefore proposed to consider the implications of varying each condition including on the aforementioned designations separately below:

### **Assessment of the variation/removal of conditions**

- 10.3 Condition 2 - This condition deals with materials to be used in connection with a building previously approved but not erected. Varying this condition as suggested by the applicant would defer agreement of the materials to be used in the construction of this approved building. It is therefore considered that the variation of this condition as suggested would not have any significant impact on the amenity of the area or the designated areas in the immediate vicinity of the site and would accord with UDP policy BE2. Consequently it is considered that the variation of condition 2 as described can be supported.
- 10.4 Condition 4 - This condition controls hours of operation at the site. The current planning permission precludes working at the site on Saturdays and Sundays and the applicant has requested that this be relaxed to allow working from 07:00 to 15:00 on Saturday and 09:00 to 14:00 on Sundays.
- 10.5 Relaxing the approved hours of operation could have an adverse impact on the amenity of residential properties in the vicinity as a result of activities on site. These activities include the dressing of stone involving the use of mechanical hand held saws. Complaints have been received in the past by the Council regarding disturbance caused by such activities at this site. However, following investigations by the Council's Pollution and Noise control team no statutory nuisance has been observed. Whilst it is accepted that allowing a relaxation of this condition could result in an adverse impact it is considered that this would not be significant if it only involved allowing

activities to take place at the site for a limited period on Saturdays when background noise levels would be similar to those during the week. Having said this it is considered that some respite at weekend should be afforded to the closest residents. Officers therefore consider that relaxing this condition to allow working on Saturday until 13:00 hours would be acceptable. This would be consistent with the approach taken with regard to other commercial development within the district and would accord with UDP policy EP4 and Section 11 of the NPPF. Furthermore Officers consider that relaxing this condition would not have a direct impact on the above described site designations in this vicinity.

- 10.6 Condition 8 - This condition precludes any retail activities at the site. The applicant has indicated that the only retail activity associated with the current use of the site involves the occasional collection of orders from the site and has requested that condition 8 be reworded to reflect this.
- 10.7 Whilst the activities described by the applicant are limited with regard to traditional retail activities, they do have implications for highway safety. It is considered that, bearing in mind the position of this site, relaxing condition 8 without the measures previously outlined by highways in their consultation response, could have a detrimental impact on highway safety in the vicinity of the site. It is therefore considered that this condition should remain effective.
- 10.8 Condition 12 - This condition precludes the felling or pruning of trees within the boundary of the site and the applicant has requested that permission be granted to remove a number of trees to facilitate the implementation of an access from the current operational area A to the unused area B on drawing (0-) 01 Revision D. This access was approved under the current extant planning permission but has never been formed.
- 10.9 However, following discussions with the applicant on site it became apparent that in order to provide the aforementioned access, significant engineering works would be required beyond those described in this application. The applicant has therefore been advised that such works and the associated tree loss would need to be considered under a fresh planning application. It is therefore considered that this condition should remain in force until such time it might be amended should there be a subsequent grant of planning permission to create the access.
- 10.10 Condition 13 - This condition requires that no activities take place within specific areas within the site and was imposed to safeguard the amenities of the area, the surrounding wildlife corridor, the SSI and the nearby scheduled ancient monument. The applicant seeks to relax this condition as the land required to facilitate the above described access falls partly within this area.
- 10.11 As previously outlined, it is considered that the creation of the access would need to be implemented under the provisions of a separate planning permission and any encroachment into the restricted area would be better considered as part of that proposal. It is therefore considered that this

condition should remain in force until such time it might be amended should there be a subsequent grant of planning permission to create the access..

10.12 Condition 17 - This condition restricts the height of stone storage on site to 3 metres. The applicant contends that the by allowing stone storage to a height of 3m from surrounding ground level, stone storage would take up less space within the site.

10.13 At present stone on site is stored in an unorganised way in piles prior to dressing. The current operational area of this site is constrained and therefore this unorganised stone storage renders significant parts of the site unusable. Having said this increasing the height of stone storage as requested could have a detrimental impact on visual amenity and on the setting of the ancient monument as storage piles would project above the ground level of adjacent land. It is therefore considered that relaxing condition 17 to allow stone storage up to a height of 3m or up to the level of adjacent land whichever is higher would allow some flexibility with regard to storage provision but would minimise the impact as stored stone would be kept below the level of surrounding land or at a height which is currently allowed.

#### 10.14 Representations

82 representations have been received with regard to this proposal, the issues raised and associated responses are summarised as follows:

The loss of trees associated with this development would have a detrimental impact on the area.

**Response:** It is not proposed to relax condition 12 as part of this permission and trees within the boundary of the site will continue to require approval from the Council with regard to their pruning or removal.

The enjoyment of users of Hagg wood would be adversely affected by this proposal.

**Response:** The wood is privately owned and does not have public rights of way crossing the site consequently members of the public currently have no rights to use the wood in the vicinity of the site.

The proposal would have a detrimental impact on local ecology

**Response:** It is not proposed to relax condition 12 as part of this permission and trees within the boundary of the site will continue to require approval from the Council for their pruning or removal. Furthermore it is proposed not to vary condition 13 as requested which would see areas within the site currently protected from development being made available for use by the applicant.

The extension of operating hours would be detrimental to the amenity of residents living in the area.

**Response:** This issue has been addressed in section 10 of this report.



Existing planning conditions have not been satisfactorily enforced

**Response:** Allegations of breaches of planning conditions have been made and details of the enforcement history are outlined in Section 4 of this report. It should be noted that this application was submitted by the applicant to try and address breaches of existing planning conditions.

The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed

**Response:** It is not proposed to relax condition 13 as requested under this application and encroachment beyond the current operational area could not therefore occur.

The storage of stone at the height suggested by the applicant would be unsafe without support.

**Response:** It is proposed to relax condition 17 to allow the storage of stone to a maximum height of 3 metres or to the height of the quarry void which is ever the greater. This would allow some flexibility over storage height and reduce the risk of instability.

The formation of the access between the two stone storage areas would involve the excavation of a significant amount of stone from the original quarry face which is not described in this application.

**Response:** This matter has been addressed in Section 5 of the report

The proposal would have a detrimental impact on a scheduled ancient monument.

**Response:** It is not proposed to relax condition 13 as requested under this application and encroachment beyond the current operational area could not therefore occur.

Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected

**Response:** There are no public rights of way in the vicinity of the site. The nearest PROW (HOL/32/40) runs along the southern boundary of the wood and at its nearest is approximately 300 metres from the application site and is screened by dense woodland that extends from the PROW to the site boundary.

Allowing retail sales at the site would exacerbate existing highway safety problems due to lack of parking on site.

**Response:** This matter has been addressed in Section 10 of this report

Protected trees have already been illegally felled by the applicant and this should be taken into account in dealing with this application.

**Response:** The applicant has been successfully prosecuted in the courts for removing protected trees without the consent of the Council although this is now the subject of an appeal. However, this is not a material consideration in dealing with a planning application and cannot therefore be considered as part of the assessment of this proposal.

Local Beavers and Cub Scout groups use the wood for recreational activities and their enjoyment of these activities would be adversely affected by this proposal.

**Response:** These groups do not have rights to use the wood for recreational activities. Having said this, it is considered that the approval of this application subject to the proposed planning conditions would not result in any significant additional detrimental impact to groups using the wood.

Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further.

**Response:** It is not proposed to relax condition 13 as requested in this application and therefore activities beyond the current operational area would not be authorised should this application be approved.

The proposal is contrary to local planning policy as the site is located within the Green Belt, protected woodland and close to archaeological remains.

**Response:** The principle of using this site for stone storage and dressing was established under planning permission 2001/90843. This proposal seeks to vary existing conditions and does not allow the Council to revisit the principle of the current use of the site.

Widening the entrance at the site would create a highway safety hazard

**Response:** This proposal does not involve widening the site access

The erection of a building on site would be visually detrimental

**Response:** Planning permission 2001/90843 includes the erection of a building. Consequently, subject to the approval of the associated materials this building can be legitimately erected.

The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.

**Response:** It is not proposed to relax condition 12 as part of this permission and trees within the boundary of the site will continue to require approval from the Council with regard to pruning or removal.

The current use of the site is contrary to Green Belt policy

**Response:** This matter is addressed in Section 10 of this report

Activities at the site result in the generation of dust and the problems associated with dust in the vicinity will be exacerbated by this proposal.

**Response:** Should this application be approved, it is considered that the variation of conditions outlined in Section 10 of this report would not result in additional detrimental impacts associated with dust generation.

Allowing this proposal would result in increased noise nuisance

**Response:** Should this application be approved, it is considered that the variation of conditions outlined in Section 10 of this report would not result in undue detrimental impacts associated with noise generation.

It is considered that the issues raised by Cllrs Patrick (ward Cllr) and Greaves (Ward Cllr in adjacent ward) have either been addressed in the body of the report or in the responses outlined above.

## **11.0 CONCLUSION**

- 11.1 Whilst it is recommended to approve this application, this is subject to amendments to the proposals put forward by the applicant. These are summarised below:

Condition 2 - Vary as requested

Condition 4 - Vary with amendment as recommended by officers

Condition 8 – No variation, retain as original planning permission

Condition 12 - No variation, retain as original planning permission

Condition 13 - No variation, retain as original planning permission

Condition 17 - Vary with amendment as recommended by officers

- 11.2 It is considered that allowing the above amendments to the existing planning conditions would:

- Simply defer the agreement of materials to be used in connection with the approved site building if and when it is erected
- see a limited increase in the hours of operation at the site which would be in line with other commercial activities within the district and would not result in significant detrimental impact on the amenity of the area.
- allow the applicant some flexibility with regard to site operations whilst not degrading the visual amenity of the area.

- 11.3 This assessment has taken into consideration the development plan, the emerging local plan, national planning policy guidance and other material considerations. It is considered that subject to the wording of the conditions set out below the variation of the terms of the original planning permission would constitute sustainable development.

## **12.0 CONDITIONS**

1. No development shall commence on the building's superstructure until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.

2. All hardstandings which have been formed within the site shall be retained in a condition which is fit for purpose and kept free from all obstructions to their use in connection with vehicle parking and manoeuvring.
3. No activities shall take place at the site outside the following hours:  
  
07:00 to 18:00 Mon to Fri; and  
  
08:00 to 13:00 on Sat.  
  
No activities shall take place at the site on Sundays or Bank/Public Holidays
4. Facilities shall be provided and retained at the exit from the site for the washing of vehicle wheels.
5. There shall be no retailing of redressed stone, reclaimed materials or any other associated materials from the site.
6. The existing stone wall piers, in the positions marked 'X' and 'Y' on the approved plans, shall be reduced to a maximum height of one metre above road carriageway level within 2 months of the date of this permission. These wall piers shall thereafter be so retained
7. Details of the type, design and position of traffic warning signs to alert drivers to the site entrance shall be submitted to, and agreed in writing by, the Local Planning Authority and the approved signs shall be installed within 2 months of the date of the permission hereby granted.
8. Trees within or on the boundary of the site shall be neither felled, topped or lopped except with the prior written approval of the Local Planning Authority, nor shall they be damaged or killed by fire or by the application of toxic or injurious substances.
9. There shall be no activity or storage on, or any vehicular access to or over, those areas of the site coloured yellow on the approved plans.
10. Notwithstanding the details shown on the submitted plans, details of the position, height, design and strength of any proposed floodlights shall be submitted to, and approved in writing by, the Local Planning Authority before any such lighting is first installed. Any lighting agreed shall only be illuminated during the operating hours permitted by Condition 3.
11. The site and building shall only be used for the storage and dressing of stone and associated ancillary activities.

12. The storage of stone or any materials/equipment within the whole of the site shall not exceed 3m in height from the level of the former quarry floor or above the height of the former quarry void within the area hatched green on plan GW1 whichever is the greater.

**Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90201>

Certificate of Ownership –Certificate A signed: 18 January 2017