

7 February 2011

Minerals & Waste Development
Bradley Road
Trowbridge
Wiltshire
BA14 0RD

Company Secretary
Elm Park Bath Stone Limited
Orwell House
High Street
Hungerford
RG17 0NE

Your ref:
Our ref: N/2011/WCM/002/ENF

Dear Sir/Madam

Elm Park Mine, Lanes End, Gastard, Corsham

Despite repeated reminders the annual mine survey required to be submitted to the Council remains outstanding. Consequently, I enclose a Breach of Condition Notice in relation to your site at Elm Park Mine. This second Notice is being served as the original may not have a copy of the plan attached.

This Notice is served by the Council, under section 187A of the Town & Country Planning Act 1990, as amended by the Planning & Compensation Act 1991, because it considers that a condition imposed on a grant of planning permission, relating to the land described in the notice is not being complied with.

I would like to draw your attention to part 6 which gives the timescale for compliance. Compliance is required within 30 days from the service of this Notice.

Yours sincerely



Dean Thomas
Planning Enforcement Officer
Telephone: 01225 776655 extension 5218
Email: dean.thomas@wiltshire.gov.uk

IMPORTANT

THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN & COUNTRY PLANNING ACT 1990

[As amended by the Planning & Compensation Act 1991]

BREACH OF CONDITION NOTICE

SERVED BY : Wiltshire Council ('the Council')

TO: Elm Park Bath Stone Limited

1. THIS NOTICE is served by the Council, under section 187A of the above Act, because it considers that a condition imposed on a grant of planning permission, relating to the land described in paragraph 2 below, has not been complied with. The Council consider that you should be required to comply with the condition specified in this Notice. **The Annex at the end of this Notice contains important additional information.**

2. THE LAND TO WHICH THIS NOTICE RELATES

Land at Elm Park Mine, Lanes End, Gastard, Corsham shown edged red on the attached plan, (The Land).

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this Notice relates is the permission reference N/06/07030 granted on 4 April 2008 for Extension to underground mine workings (part retrospective).

A copy of the permission is attached to this notice.

4. THE BREACH OF CONDITION.

The following condition has not been complied with:

Condition 5: The operator shall maintain a survey of the conditions within the area of extraction hereby permitted and shall submit the results of such a survey to the Mineral Planning Authority in plan form twelve months from the date of this permission and then annually. Where the survey reveals, or the conditions illustrate:

(a) A steepening of the dip of the strata, and/or

(b) A change in the average orientations of geological discontinuities, or

- (c) An open, clay filled or faulted geological discontinuity, this shall be reported immediately to the Mineral Planning Authority and before continuing mining in the affected area the operator shall submit for approval changes to the mining method/direction or means of implementation necessary to take account of the changed geological factors. In the case of an open, clay filled or faulted discontinuity, the spacing between the roadways adjacent to such discontinuity shall be increased to provide the equivalent of a full line of pillars either side of the discontinuity and details in plan form illustrating such steps shall be submitted to the Mineral Planning Authority. The operator shall thereafter implement such changes or steps as approved by the Mineral Planning Authority in the method of operation, implementation or direction of working or any additional works which are required to augment the stability of any pillars or roadways within the permitted area.

Reason: To define the terms of the planning permission so that ambiguity is avoided, to ensure a satisfactory form of development, to maintain a review of mining conditions and to ensure development which is safe and gives support to adjoining and overlying properties.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition detailed in paragraph 4 of this Notice, you are required to comply with the stated condition by taking the following steps:

- 1) Comply with condition 5 by submitting an up to date survey of the conditions within the area of extraction.

6. PERIOD FOR COMPLIANCE

30 days from the date this Notice is served on you.

Dated : **7 February 2011**

Signed :
the Council's Authorised Officer.

On behalf of :
Wiltshire Council
Bradley Road, Trowbridge, Wiltshire, BA14 0RD

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DATE YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE FOR THE ENVIRONMENT AGAINST THIS NOTICE.

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance time period. You will then be at risk of immediate prosecution in the Magistrates' Court, for which the maximum penalty is £1,000 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do, you should get in touch immediately with Dean Thomas, Wiltshire Council, Bradley Road, Trowbridge, BA14 0RD. Tel: 01225 776655.

If you need independent advice about this Notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review.

[END]

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THE SCHEDULE TO THE PERMISSION

Name of the Local Planning Authority:		WILTSHIRE COUNTY COUNCIL	
Name and address of applicant:		Name and address of agent:	
Wessex Dimensional Stone Ltd. Teffont Quarry Chilmark SALISBURY Wiltshire SP3 5BP			
Brief Details of the Application:		Application Date: 5 th August 2006	
Location:		Elm Park Mine, Lanes End, Gastard, Corsham	
Proposed Development:		Extension to Underground Mine Workings (Part Retrospective)	
Conditions:			
1. Unless required by the conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the details in the submitted planning application N/06/07030, Rock Mechanics Technology Ltd. report dated March 2006 and Drawing Numbers CMK/506 and EPS/505 Rev B.			
2. All mineral extraction operations shall have ceased on or before 31 st May 2023.			
3. The extraction area shall be worked by the room and pillar method with the pillars orientated to minimise the effects of natural fractures in the rock mass such that:			
(a) An effective extraction ratio of 64% is not exceeded in any area of the mine measuring 100 metres by 100 metres as defined by north and east grid lines drawn on the mine plan.			
(b) Both the maximum distance and the effective span between adjacent pillars do not exceed 7 metres, including any over-cutting produced by the saw at roof level.			
(c) The minimum dimension of any pillar is 4 metres.			
(d) Wherever induced cracking of the roof occurs as a result of downward deflections of the roof beam to the extent that stability of the roof beam becomes suspect, the maximum roadway width shall be reduced progressively until a stable configuration is arrived at.			
Cont./...			

Dated this 4th day of April 2008

Signed



Authorised Officer

Town and Country Planning Act, 1990

PERMISSION FOR DEVELOPMENT

1. The Local Planning Authority **HEREBY GRANT PLANNING PERMISSION** subject to the scheduled conditions (if any) for the development proposed by the applicant in the application, which is hereby expressly incorporated herewith and of which brief details are, by way of identification only, set out in the Schedule (see overleaf).
2. The scheduled conditions (if any) have been imposed for the reasons set out in the Schedule.
3. "The Local Planning Authority", "the scheduled conditions", "the applicant" and "the application" referred to above are those described in the Schedule overleaf.

NOTES

- (1) **Time Limits on Planning Permissions.** By virtue of Sections 91-94 of the Town and Country Planning Act, 1990, planning permissions are subject to time limits. If a condition imposing a time limit has been expressly included as part of this permission, then that condition must be observed.
- (2) **Other necessary consents.** This document only conveys permission for the proposed development under the Town and Country Planning Act 1990 and the applicant must also comply with all byelaws, regulations and statutory provisions in force in the district and secure such other approvals and permissions as may be necessary.

In particular the applicant is reminded of the following matters:

- (a) the need in appropriate cases to obtain approval under Building Regulations;
- (b) the need to obtain an appropriate Order if the proposal involves the stopping up or diversion of a public right of way;
- (c) the need to obtain consent under Sections 7 and 74 of the Planning (Listed Buildings & Conservation Areas) Act 1990 to the demolition, alteration or extension of any listed building of architectural or historic interest or any non-listed building in a Conservation Area.
- (d) the need to make any appropriate arrangements under the Highways Act, 1980, in respect of any works within the limits of a public highway.

(It is the responsibility of the applicant to ascertain whether the development affects any public right of way or listed building).

(3) Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78(1) of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within six months of the date of this notice, using a form which you can get from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of an appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

(4) Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

(5) Compensation

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990.

Conditions (Cont'd)

4. Within three months of the date of this permission the operator shall submit to the Mineral Planning Authority for approval a plan showing how the method of working/mine design relates in detail to the application site and existing workings, indicating where necessary the exact location and dimension of rib pillars. Subject to Condition 3 above, development shall be carried out in accordance with the details approved.
5. The operator shall maintain a survey of the conditions within the area of extraction hereby permitted and shall submit the results of such a survey to the Mineral Planning Authority in plan form twelve months from the date of this permission and then annually. Where the survey reveals, or the site conditions illustrate:
 - (a) A steepening of the dip of the strata, and/or
 - (b) A change in the average orientations of geological discontinuities, or
 - (c) An open, clay filled or faulted geological discontinuity, this shall be reported immediately to the Mineral Planning Authority and before continuing mining in the affected area the operator shall submit for approval changes to the mining method/direction or means of implementation necessary to take account of the changed geological factors. In the case of an open, clay filled or faulted discontinuity, the spacing between the roadways adjacent to such discontinuity shall be increased to provide the equivalent of a full line of pillars either side of the discontinuity and details in plan form illustrating such steps shall be submitted to the Mineral Planning Authority. The operator shall thereafter implement such changes or steps as approved by the Mineral Planning Authority in the method of operation, implementation or direction of working or any additional works which are required to augment the stability of any pillars or roadways within the permitted area.
6. Should any indication of the yielding or failure of a pillar or group of pillars be observed within or adjoining the site, the operator shall suspend mining immediately and advise the Mineral Planning Authority.
7. No explosives shall be used in the process of mining.
8. No operations, but excluding essential underground maintenance of plant and machinery, shall take place other than between the hours of 08.00 and 18.00 Mondays to Fridays, and 08.00 to 13.00 on Saturdays. There shall be no working of stone or removal of stone by lorry during Sundays or Bank Holidays.
9. No stockpile of stone within the storage yard/stacking area shall exceed 3 metres in height.
10. No pumping shall take place to dewater the workings.
11. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls, details of which shall be submitted to the Mineral Planning Authority for approval. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%; or 25% of the total volume which could be stored at any one time, whichever is the greater. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground, where possible, and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Conditions (Cont'd)

12. The access roadway and all other areas within the surface stacking area, which are used by vehicles shall be watered or treated with an approved dust laying agent at such intervals as may be necessary to prevent the raising of dust from those areas.
13. No commercial vehicles shall enter the public highway unless their wheels and chassis have been cleaned to prevent material being deposited on the highway.
14. Except in cases of emergency or to maintain safe working conditions in the mine, (which shall be notified to the Mineral Planning Authority in writing within two days of such occurrence arising) no pneumatic breakers or equipment of a percussive type shall be used to extract stone within the mine.
15. The measures set out in the report dated February 2007 and submitted with the application entitled 'Elm Park Mine – Updated Mitigation Plan with regard to Bats' prepared by Clarke Webb Ecology Limited shall be implemented in full throughout the life of the permission. The developer shall afford access on an annual basis during the main bat hibernation period to a bat ecologist to survey the mine and advise the Mineral Planning Authority of the progress of the mitigation measures.

Reasons:

1. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner in the interests of the area.
2. For the avoidance of doubt.
3. 4. 5. and 6. To define the terms of the planning permission so that ambiguity is avoided, to ensure a satisfactory form of development, to maintain a review of mining conditions and to ensure a development which is safe and gives support to adjoining and overlying properties.
7. 8. and 12. To safeguard the amenities of local residents.
9. To safeguard the visual amenities of the local area.
10. To prevent pollution of groundwater.
11. To prevent pollution of the water environment.
13. In the interests of highway safety and to prevent mud and detritus being deposited on the highway.
14. For the avoidance of doubt and to ensure that no noise nuisance is caused to local residents.
15. To safeguard the long-term potential for the mine to be used as a bat roost.

Permission granted for the following reasons:

The decision to grant planning permission has been taken having regard to Policy 51 of the Adopted Wiltshire and Swindon Minerals Local Plan 2001 which supports the extraction of non-aggregate minerals where the proposal does not give rise to any overriding environmental impact and complies with all relevant policies of the Plan.

The proposed development provides for the continued supply of natural building stone for use in the restoration and refurbishment of traditional buildings and assists in the conservation of our architectural heritage. Concerns relating to the noise impacts of the mine workings have been assessed and satisfactorily addressed and the ecological importance of the workings for bat species can be safeguarded. The proposals therefore accord with Policy 51 of the Adopted Wiltshire and Swindon Minerals Local Plan 2001. Subject to compliance with the conditions attached to the permission, the development would not cause any significant harm to interests of acknowledged importance.

