

Anticipated Acquisition by Hanson Quarry Products Europe Limited of Mick George Limited

Decision that undertakings might be accepted

ME/7034/22

The Competition and Markets Authority's decision under section 73A(2) of the Enterprise Act 2002 that undertakings might be accepted, given on 8 December 2023. Full text of the decision published on Thursday 18 January 2024.

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

1. INTRODUCTION

1. Hanson Quarry Products Europe Limited (**Hanson** or **HM**) has agreed to acquire Mick George Limited (**MGL**) (the **Merger**). Hanson and MGL are together referred to as the **Parties** and, for statements relating to the future, the **Merged Entity**.
2. On 24 November 2023, the Competition and Markets Authority (**CMA**) decided under section 33(1) of the Enterprise Act 2002 (the **Act**) that it is or may be the case that the Merger consists of arrangements that are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, and that this may be expected to result in a substantial lessening of competition (**SLC**) within a market or markets in the United Kingdom (the **SLC Decision**).
3. On the date of the SLC Decision, the CMA gave notice pursuant to section 34ZA(1)(b) of the Act to the Parties of the SLC Decision. However, the CMA did not refer the Merger for a phase 2 investigation pursuant to section 33(3)(b) on the date of the SLC Decision in order to allow the Parties the opportunity to offer undertakings to the CMA in lieu of such reference for the purposes of section 73(2) of the Act.

4. Pursuant to section 73A(1) of the Act, if a party wishes to offer undertakings for the purposes of section 73(2) of the Act, it must do so within the five working day period specified in section 73A(1)(a) of the Act. Accordingly, on 1 December 2023, the Parties offered undertakings to the CMA for the purposes of section 73(2) of the Act.
5. The CMA now gives notice, pursuant to section 73A(2)(b) of the Act, to the Parties that it considers that there are reasonable grounds for believing that the undertakings offered, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act and that it is considering the offer.

2. THE UNDERTAKINGS OFFERED

6. Under section 73 of the Act, the CMA may, instead of making a reference, and for the purpose of remedying, mitigating or preventing the SLC concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept from such of the merger parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
7. The SLC Decision found that the Merger gives rise to a realistic prospect of an SLC in relation to the supply of (i) primary non-specialist aggregates (including both crushed rock and sand & gravel), (ii) primary non-specialist aggregates (including sand & gravel only), and (iii) ready-mix concrete (**RMX**), across a total of 18 local areas (together, the **SLC Areas**).
8. The SLC Areas are listed in Annex 1.
9. To address the competition concerns set out in the SLC Decision, the Parties have offered to give undertakings in lieu of a reference to divest the following assets (together, the **Divestment Sites**):¹
 - (a) In relation to primary non-specialist aggregates, the following production sites:
 - (i) HM Needingworth, postcode PE27 4TA;
 - (ii) HM Earls Barton, postcode NN6 0PE;
 - (iii) MGL Ringstead, postcode NN14 4DT; and
 - (iv) MGL Watlington, postcode PE33 0RG.

¹ The Parties also formally offered an alternative divestment proposal on the same terms except that did not include MGL Ringstead or MGL Watlington. The CMA did not consider this divestment proposal to amount to a sufficiently clear-cut and effective resolution of the CMA's competition concerns because it did not restore competition to the level that would have prevailed absent the merger in all the SLC areas.

- (b) In relation to RMX, the following plants:
- (i) HM Northampton, postcode NN5 5AL;
 - (ii) HM Wellingborough, postcode NN8 4NL;
 - (iii) HM Market Harborough, postcode LE16 7QE;
 - (iv) HM Ely, postcode CB7 4DT; and
 - (v) HM St Ives, postcode PE27 4LG.

10. Given the shares of supply of one or more of the above sites in each SLC Area, the Parties submitted that the divestment of the Divestment Sites would be a clear-cut solution to the CMA's competition concerns.
11. The Parties submitted that the Divestment Sites will be transferred by way of an asset sale and divested in a maximum of [8] packages, comprising the non-specialist aggregates production sites and RMX plant sites and their related assets (including plant, fleet, and employees) (the **Proposed Undertakings**).
12. Under the Proposed Undertakings, the Parties have also offered to enter into purchase agreements with one or more buyers approved by the CMA before the CMA finally accepts the Proposed Undertakings (the **Upfront Buyer Condition**).

3. THE CMA'S PROVISIONAL VIEWS

13. The CMA considers that undertakings in lieu of a reference are appropriate when they are clear-cut and capable of ready implementation. The CMA's starting point when assessing undertakings is to seek an outcome that restores competition to the level that would have prevailed absent the merger.²
14. The CMA believes that the Proposed Undertakings, or a modified version of them, might be acceptable as a suitable remedy to the SLCs identified by the CMA, given that they appear to amount to a sufficiently clear-cut and effective resolution of the CMA's competition concerns.
15. This is because in each SLC Area, in both the supply of non-specialist aggregates and RMX, the total share of supply of the Divestment Sites is at least as large as the increment created by the Merger (ie the Merged Entity's share of supply would be no greater than the larger of the Parties' pre-Merger share in each SLC Area).³ Therefore, the purchaser(s) of the Divestment Sites would obtain a share of supply at least as large as the smaller of the Parties share pre-merger in each SLC Area.

² [Mergers remedies \(CMA87\)](#), December 2018, Chapter 3 (in particular paragraphs 3.27, 3.28 and 3.30).

³ This is the case despite there being less divestment sites than SLC areas, because certain divestment sites contribute to the shares of supply of the Parties across multiple SLC areas.

As such, the Proposed Undertakings may result in replacing the competitive constraint provided by MGL or Hanson that would otherwise be lost following the Merger.

16. The CMA therefore currently believes that the Proposed Undertakings are capable of amounting to a sufficiently clear-cut and effective resolution of the CMA's competition concerns. The CMA also believes at this stage that the Proposed Undertakings may be capable of ready implementation. In particular, following divestment, the Divestment Sites are such that the purchaser (or purchasers) should be able to operate each divested plant or quarry as an effective competitor to the Merged Entity. The CMA currently believes that the Divestment Sites are readily capable of being sold, subject to a suitable purchaser being found.
17. The CMA considers that the Divestment Sites should be divested in a maximum of [X] packages (as the Parties have proposed), unless otherwise agreed in writing by the CMA.
18. The Upfront Buyer Condition means that the CMA will only accept the Proposed Undertakings after the Parties have entered into an agreement with a nominated buyer (or buyers) that the CMA considers to be suitable. It also means that, before acceptance, the CMA will consult publicly on the suitability of the nominated buyer (or buyers), as well as other aspects of the Proposed Undertakings. At phase 1, the CMA will generally require an upfront buyer unless it considers that there are reasonable grounds for not doing so.⁴ The CMA has not found such grounds in this case.
19. In particular, the CMA notes that, in respect of certain of the Divestment Sites and/or possible divestment packages, the CMA cannot rule out at this stage that there may be a limited pool of suitable potential purchasers. In addition, the Upfront Buyer Condition will allow the CMA to assess the suitability of the proposed buyer (or buyers) to operate the Divested Assets as an effective competitor in the market such that they constitute a suitable remedy to the SLC identified by the CMA in each SLC Area before making a final decision as to whether to accept the Proposed Undertakings.
20. For these reasons, the CMA currently thinks that there are reasonable grounds for believing that the Proposed Undertakings, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act.
21. The CMA's decision on whether ultimately to accept the Proposed Undertakings or refer the Merger for a phase 2 investigation will be informed by, among other things, third party views on whether the Proposed Undertakings are suitable to address the competition concerns identified by the CMA. In particular, before

⁴ [CMA87](#), paragraphs 5.28–5.32.

ultimately accepting the Proposed Undertakings, the CMA must be confident that the nominated buyer (or buyers) is effective and credible such that the competitive constraint provided by MGL absent the Merger is replaced to a sufficient extent.

4. CONSULTATION PROCESS

22. Full details of the undertakings offered will be published in due course when the CMA consults on the undertakings offered as required by Schedule 10 of the Act.⁵

⁵ [CMA87](#), paragraph 4.27–4.28.

DECISION

23. The CMA therefore considers that there are reasonable grounds for believing that the Proposed Undertakings offered by the Parties, or a modified version of them, might be accepted by the CMA under section 73(2) of the Act. The CMA now has until 7 February 2024 pursuant to section 73A(3) of the Act to decide whether to accept the undertakings, with the possibility to extend this timeframe pursuant to section 73A(4) of the Act to 5 April 2024 if it considers that there are special reasons for doing so. If no undertakings are accepted, the CMA will refer the Merger for a phase 2 investigation pursuant to sections 33(1) and 34ZA(2) of the Act.

Colin Raftery
Senior Director, Mergers
Competition and Markets Authority
8 December 2023

ANNEX 1: SLC AREAS AND DIVESTMENT SITES⁶

Table 1: Primary non-specialist aggregates (including sand & gravel only)

<i>SLC Area</i>	<i>Party</i>	<i>Divestment Sites</i>
Worlington	MGL	
Willow Hall Farm	MGL	
Waterbeach	MGL	
Needingworth	Hanson	<ul style="list-style-type: none"> • HM Needingworth
Mepal	MGL	<ul style="list-style-type: none"> • HM Earls Barton
Witcham Meadlands	MGL	<ul style="list-style-type: none"> • MGL Ringstead
Crimplesham	MGL	<ul style="list-style-type: none"> • MGL Watlington
Watlington	MGL	
Great Billing	MGL	
Earls Barton	Hanson	

Table 2: Primary non-specialist aggregates (including both crushed rock and sand & gravel)

<i>SLC Area</i>	<i>Party</i>	<i>Divestment Sites</i>
Willow Hall Farm	MGL	
Ringstead	MGL	
Needingworth	Hanson	
Worlington	MGL	<ul style="list-style-type: none"> • HM Needingworth
Waterbeach	MGL	<ul style="list-style-type: none"> • HM Earls Barton
Mepal	MGL	<ul style="list-style-type: none"> • MGL Ringstead
Witcham Meadlands	MGL	<ul style="list-style-type: none"> • MGL Watlington
Crimplesham	MGL	
Watlington	MGL	
Earls Barton	Hanson	
Great Billing	MGL	

Table 3: RMX

<i>SLC Area</i>	<i>Party</i>	<i>Divestment Sites</i>
Market Harborough	Hanson	
Husbands Bosworth	MGL	<ul style="list-style-type: none"> • HM Northampton
Burton Latimer	MGL	<ul style="list-style-type: none"> • HM Wellingborough
Wellingborough	Hanson	<ul style="list-style-type: none"> • HM Market Harborough,
Northampton	MGL	<ul style="list-style-type: none"> • HM Ely
Ely	Hanson	<ul style="list-style-type: none"> • HM St Ives
St Ives	Hanson	

⁶ Note that many Divestment Sites have a share of supply in more than one SLC Area.