

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

14 October 2013

Report of the Acting Strategic Director – Environmental Services

- 4 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO CONDITION 17 IN THE SCHEME OF CONDITIONS TO PLANNING PERMISSION CODE NO REP/1149/14 (REFERENCE: R9/1097/14), TO ALLOW A REVISED RESTORATION SCHEME AT THE REPTON PIT SAND AND GRAVEL SITE, OFF REPTON ROAD, WILLINGTON APPLICANT: REPTON RESTORATIONS LIMITED CODE NO: CM9/0112/138**

9.853.11

Introductory Summary This is an application submitted under Section 73 of the Town and Country Planning Act 1990 which seeks permission for development without a condition under a previous permission which requires the completion of a specific previously approved restoration scheme at the Repton Pit Sand and Gravel site, off Repton Road, Willington, Derbyshire. The applicant company, which has until recently been removing sand and gravel deposits, now proposes to restore the land to a lower final contour level than is required by the previously approved scheme, thus avoiding the need to import significant quantities of waste materials. This would allow areas which have been disturbed by mineral workings to be restored predominantly to part flood meadows and part water-based nature conservation after-use. This application is the result of the applicant company's discussions with the Environment Agency regarding the final restoration works.

I have considered what other conditions might be applied to a grant of permission as sought in this case, having regard to those contained in the previous planning permission for the site, and the current circumstances.

Subject to the attachment of appropriate conditions to any permission granted under it, I do not consider that the application raises any significant conflict with the development plan or that it is unacceptable in view of any other material considerations.. I recommend, therefore, that this application is approved subject to the conditions set out below.

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(1) **Purpose of the Report** To enable the Committee to determine the application.

(2) **Information and Analysis**

Background/Planning History

The application site, known as the Repton Pit sand and gravel site, was originally part of the extensive Willington and Stretton sand and gravel site; collectively, these mineral workings comprised a significant corridor of land which ran parallel to the River Trent and south-west of Willington Village. The extensive site has a long planning history which extends over 60 years; however, two planning permissions remain relevant:

- Planning Permission Code No. REP/1149/14, granted in 1949.
- Planning Permission Code No. REP/566/13, granted in 1968.

These permissions, which were duly implemented, authorised the extraction of minerals (sand and gravel) from defined areas in the corridor with ultimate restoration of the land to resemble original ground levels prior to mineral extraction. Restoration of the sites was to include backfilling the void areas with imported soils and waste materials, together with a part agricultural, part flood meadow/woodland and part water and conservation after-use programme.

In the 1990s the planning conditions relating to these old but then continuing permissions were subject to reviewed under schedule 13 of the Environment Act 1995, so that a new set of conditions applied to these permissions with effect from 30 April 1998. The applicant company under this application is now seeking approval for a permission based on REP/1149/14 but without any condition in the form of the restoration condition to that permission (condition 17)e This condition requires the approval and carrying out of a restoration scheme for which Final levels for restoration were approved in 2004 (plan reference no S122fc/5).

The majority of the site is now owned and managed by Derbyshire Wildlife Trust (DWT). The remainder, of approximately 12 hectares, has been acquired by the applicant company, and it is in respect of this land that this application seeks to amend the approved restoration. Since 2008, the applicant company has extracted a modest amount of sand and gravel, and in-filled some areas. Mineral extraction ceased in July 2013, and since then the site has remained largely unrestored.

Planning permission (Code No. 9/2011/0292) was granted in February 2012 by South Derbyshire District Council (SDDC), for 58 new residential properties and a doctors' surgery and pharmacy, on land close to the north-east

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boundary of the site. Construction works on the new doctors' surgery building commenced in Spring 2012.

Simultaneously with the submission of this application, the applicant company submitted to SDDC an application to seek an outline planning permission for the construction of a group of elevated holiday chalet units within the application site (SDDC planning code no 9/2012/0027).

The Site

The site is located on the south-western outskirts of Willington Village and is bounded to the south by Egginton Brook and beyond by the River Trent. To the east is Repton Road (main road from Willington to Repton) and beyond Willington Village. To the north, the land is bordered by the Midland Derby-Birmingham railway line and beyond is the Trent and Mersey Canal. Areas of the former mineral workings in the site which have been restored as wetland habitats extend from the western side of the 12 hectares part of the site for which amended restoration is sought; these are now in the Willington Gravel Pits Nature Reserve, which is managed by Derbyshire Wildlife Trust. To the south the 12 hectare part is bounded by Meadow Lane, a bridleway running parallel and approximately 100 metres to the north of the River Trent. Willington Sands Brook is crossed by the site access road close to its junction with Repton Road. The site is affected by a number of piped public services, including a water main and a rising sewage main. The rising sewage main runs in a north-east to south-west direction. The water main and the drainage channel run in a north to south direction. The land, in general, rises in a north-south direction from the lower lying ground close to the river rising approximately 8 metres to the northern boundary. Some restoration works have also been undertaken within the 12 hectares.

The nearest residential properties to the application site are those situated off Repton Road, Willington which lie a few metres from the access road into the site and the new residential properties close to the eastern boundary. The site is in the floodplain for the River Trent, as identified by the Environment Agency (WA). Although no public footpaths run through the site, the land is open to pedestrian access. Public Footpaths Nos 6 and 7 lie close to the northern boundary with Restricted Byway No12 on the southern boundary. Access into the site is from Repton Road and via the Bridleway. A topographic survey shows ground levels to be mostly between 41 metres AOD and 49 metres AOD. All areas other than excavated areas (open waterbodies on site) are at elevations of approximately 43 metres AOD.

The Proposal

This proposal seeks a consent under section 73 in order to enable a restoration of the site to be completed without complying with Condition 17 of the previous permission.

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The applicant company has indicated that mineral extraction is now complete (October 2013) and that completion of the approved restoration scheme, as required by the current Condition 17, is now impractical as it requires that the land is restored to its original ground levels before being prepared for a predominantly agricultural/flood meadows after-use. The approved scheme requires the importation and deposit of a significant but un-quantified, amount of inert waste materials to infill the voids that remain, following the completion of the sand and gravel workings. Approximately 10 hectares of the site remain unrestored. The applicant company contends that since 2008, it has involved various bodies including the County Council, SDDC, DWT, and the EA, regarding the restoration and ultimate future of the site. Following these discussions, the applicant has identified, in particular, that the EA would resist the tipping of waste in the areas within the site designated as floodplain and would be opposed to any form of restoration which would encourage the planting of woodland within specified areas of the site (Flood Zone 3). The applicant company has also expressed concerns regarding dewatering and also the availability of inert material in order to complete this scheme. Determining such an application includes consideration of the conditions of the permission which, in this case, are to control the operations, to protect the environment and local amenity. This application is therefore seeking a permission which would not include the current Condition 17, but which could include a condition to secure an amended final restoration scheme for the site to create lakes and wetland habitat similar in many respects, to the approved restoration plan but at a lower level, avoiding the need to import waste materials to the site.

The applicant company considers that the proposed alternative restoration scheme has been designed primarily to utilise all existing on site restoration materials so as to complement the levels of the surrounding landscape. The restoration design is constrained by the limited supply of material on site, the historic quarry design and the public services, which have stand-off areas, and a restriction on planting and landscaping in these areas.

The proposal would see the creation of predominantly flat areas to be occupied by wetland and reedbeds, and open flood meadows. Within the central area of the site, water areas, intervening promontories of land and inlets would be created, together with a mosaic of flood grassland with shallow scrapes and ponds, and wet woodland planting is proposed. The landform would be designed, in general, no higher than the surrounding land. In the area to the south of Egginton Brook, the final levels would be reduced marginally to lower the level to that of the adjoining nature reserve, to encourage shallow water bodies, ephemeral wetland and reedbeds to enhance biodiversity. Parts of the site would be seeded to grassland. The proposal includes the planting of native trees and shrubs within and around the application site. The application is supported by a Flood Risk Assessment, Ecological data and survey information.

Public

Consultations

Local Member

Councillor M Ford (Repton and Willington) was consulted on 19 April 2012.

South Derbyshire District Council

No objections to the proposal.

Willington Parish Council

No response received.

Network Rail, Severn Trent Water and British Waterways

No objections.

Environment Agency

No objections are raised subject to conditions being imposed to protect and conserve identified protected species on the site and to prevent the increase in flooding.

Natural England

No objections raised subject to the imposition of conditions based on the protection of wildlife.

Derbyshire Wildlife Trust

Originally raised objections based on ecological information submitted as it was out of date and was not sufficiently robust, particularly in respect of identified protected species.

DWT has also stated:

“...the agreed restoration proposal includes the creation of significant areas of undisturbed habitat including marsh, reedbed, rough tussock grassland, tall herbs, scrub, and flood meadow pasture, wet woodland together with a range of permanent and seasonal ponds. This range of habitats would provide considerable ecological benefit for this strategically important site within the Trent Valley. Whilst it is acknowledged that attempts have been made to integrate the development within a range of created habitats. DWT hold the view that the variation to agreed restoration and after-use conditions to allow the proposed development to proceed will require land-take of areas agreed solely for habitat creation. In summary, the nature conservation benefits arising from the agreed restoration proposals will be greatly diminished should the variations of conditions be approved”.

Comment: This statement is understood to be a generic response relating to both the application which is the subject of this report, and the leisure accommodation proposal (about which South Derbyshire District Council have

Public

conducted a consultation). The original point of objection to this application appears to have been with regard to an out of date survey for reptiles. A new survey was commissioned by the applicant company and the survey works carried out by a qualified ecologist in August 2013. Natural England (NE) and DWT have been re-consulted subsequently about it, and the comments made by NE about it are referred to above. Any additional comments received from DWT will be reported to the Committee.

Publicity

The application has been advertised by press notice (Derby Telegraph), site notices and by neighbour notification with a request for observations by 20 April 2011. Three letters of representation have been received; two raise objections and one supports the proposal. I have summarised the objections as follows:

- proposal would not improve biodiversity on site;
- current owners of site have not carried out any restoration;
- site works would not bring any ecological improvement;
- current flood plan offers greater flood capacity;
- there would be a net loss of habitat;
- any permissive path would be detrimental to site ecology; and
- development would cause unacceptable disturbance to and threaten adjoining wildlife site.

Comment: Where relevant objections have been raised, I refer to them in my Planning Considerations section.

Planning Considerations

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. In relation to this application, the relevant policies of the development plan are contained in:

- The saved policies in the adopted Derby and Derbyshire Minerals Local Plan (MLP). The relevant policies are MP1, MP4, MP6 and MP10.
- The adopted Derby and Derbyshire Waste Local Plan (WLP). The relevant policy is W11.
- The adopted South Derbyshire Local Plan.

Other relevant policy guidance is found in the National Planning Policy Framework (NPPF), Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10), and the County Council's Supplementary Planning Guidance on the After-use of Sand and Gravel Sites in the Trent, Lower Derwent and Lower Dove Valleys (SPG) (2004).

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In light of these policies, consideration has been given to the location of the development, visual and landscape impact, ecology, hydrology, noise and dust. The previous permission on this site is also to be taken into account as a material factor in determination of this Section 73 application.

I consider, however, that the key issues relating to this application are:

- The appropriateness of the proposal.
- The impact of the proposed amendments to restoration on conservation, visual and landscape amenity and flooding.

The Appropriateness of the Proposal

The site has a long history of extraction of sand and gravel, most of which has been stored back to a mix of agriculture and nature conservation using imported waste materials to infill the voids following completion of mineral extraction. The remainder of the site remains substantially unrestored and only a few mineral stockpiles remain. I agree with the applicant company's concerns that there is currently a large demand for inert material to restore other sand and gravel sites in the Trent Valley. As a result, if the current (original) restoration scheme proceeds, the final restoration of the site could be compromised and subject to significant delays. Additionally, restoring the site to lakes and wetland habitats at the lower level would avoid the need to import inert waste material. Also, at the lower level, the scheme would provide valuable flood capacity and with biodiversity and habitat creation benefits. Bearing in mind, the NPPF states "*that planning authorities when determining planning applications should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards*".

The proposed amended restoration scheme would see an end to mineral activity and landfilling, and I am satisfied that the restored site and aftercare would enable the delivery of biodiversity and habitat benefits. I therefore consider that the principle of amending the restoration scheme would accord with guidance contained in the NPPF and PPS 10 and with WLP Policy W11 and MLP Policy MP10.

The applicant is also pursuing the proposal for the construction of up to 60 'eco-pod' type leisure chalet units in the central areas of the site. Under that proposal such units would be elevated above ground levels, laid out in formal groups around the open water areas to form a small village environment, similar to the Cotswold Water Park development. The landform which would result from a restoration in accordance with a permission under the application which is the subject of this report would be compatible with the development of the leisure accommodation proposal (if planning permission is granted for that proposal). The statement in support of the application states that in the central section "*the proposed revision of the restoration scheme will create platforms suitable for the construction of sustainable holiday and leisure*

Public

accommodation of that part of the site for eco-tourism". Nevertheless, this application is only for a permission which would result in the formation of areas of new wildlife habitat, and needs to be considered separately for the purpose of determining the application, from the proposal for subsequent leisure re-development in the site. Some of the comments that have been made with reference to this application appear to relate to concerns about the impacts such a leisure type of development in the 12 hectares following its restoration would have, e.g. as regards the ecology of the habitat formed by the restoration of the site and of the surrounding locality, including the wetland nature reserve now established on the adjacent areas of the full site. Whilst such concerns may well be relevant to the consideration of the leisure accommodation proposal, that proposal is not within this application. Therefore the determination by the County Council of this application should not involve any analysis or finding regarding the acceptability or unacceptability of the leisure accommodation proposal, and no details of that proposal are subject to analysis under this report

Visual and Landscape Amenity

The site is located in the Trent Valley Washlands landscape character area. The Trent Valley Washlands are a fragmented landscape of pastoral and arable land intermixed with urban development, transport routes and localised mineral extraction. The rivers regularly flood over the adjacent land creating temporarily but a very different scene. This restoration proposed by this application [disregarding the leisure accommodation proposal], would see the temporary flooded landscape scene recreated on a permanent basis.

It is largely accepted that the landscape character of the Willington area has significantly changed over recent years, through major infrastructure projects and mineral extraction, and other areas of open water have been created as part of the restoration schemes for other mineral sites nearby. The amendment to the restoration scheme would not, in my opinion, change the landscape character of the site significantly from that originally proposed and hence, this would not be out of character in the local landscape and would be similar to other water/wetland habitat restoration schemes locally. I do not consider that the proposal would harm the visual amenity of the area and that it would accord with MLP policies MP4: Interests of Acknowledged Environmental Importance, and MP10: Reclamation and Aftercare.

Conservation and Ecology

An ecological survey of the site has been undertaken and more recently in May this year, throughout the duration. Whilst the application has been under consideration, the applicant company has liaised with NE, DWT and the EA. Whilst I do not have updated comments from DWT, the EA and NE, they do not raise any objections to this proposal. On this basis, I have no reason to doubt that the new restoration scheme will improve biodiversity, enhance local habitats and contribute towards the targets of 'Derbyshire's Biodiversity Action

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Plan'. I do not consider that the amendments proposed would give rise to any significant ecological impact and that it would accord, in general, with MLP Policy MP6: Nature Conservation-Mitigation Measures.

Flooding/Hydrology

The application is supported by a Flood Risk Assessment that makes the following recommendation:

- restoration of finished ground levels across the area of development to be restored to elevations of no lower than 43.28 metres AOD;
- that site run-off should be limited to greenfield run-off rates; and
- a scheme for the management of surface water from the site should be agreed in writing with the local planning authority prior to construction commencing on site.

The EA has not objected to the proposal. I am therefore satisfied that the proposed lower level restoration scheme would be beneficial in hydrological terms.

Conclusions

Although there is a restoration scheme in place for this site, I am satisfied that the current application presents an opportunity to improve on the final restoration of this land while utilising less demolition waste which could be put to more productive uses. I have discussed the application in detail with officers of SDDC, NE, and the EA. In general, there is agreement that a lower level restoration scheme would be beneficial both in flooding and conservation terms, and in reducing numbers of heavy goods traffic visiting and leaving the site. I am satisfied that the application accords with the development plan policies and I am therefore recommending that the application is approved.

(3) **Financial Considerations** The correct fee of £170 has been received.

(4) **Legal Considerations** This is an application submitted under Part III of the Town and Country Planning Act 1990 which falls to this Authority to determine as the Mineral Planning Authority.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

Public

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations.

(6) **Background Papers** File 9.853.11

Application documents received dated December 2011, plans and supportive information. Planning Permission Code No. 9/2011/0292/MAO-(Doctor's Surgery and housing scheme), Planning Application 9/2012/007 include Environmental Statement, Flood Risk Assessment by Thomas Mackay dated March 2011, (Outline application for leisure units). Letters/e-mails from DWT dated 14 May 2012, 6 November 2012 and 8 May 2013, from Natural England dated 27 August 2013, from the EA dated 2 August 2012, Ecological Survey information date August 2013 from Brooks Ecological. Restoration Plan R52c/13k, dated September 2004.

(7) **OFFICER'S RECOMMENDATION** That planning permission be **granted** for development previously authorised under Planning Permission Code No. REP/1149/14 without the requirements of Condition 17 under the scheme of conditions for Repton Quarry dated 1 July 1998 (under reference no. (R/1097/14), and subject to the following conditions:

- 1) All mineral operations under this permission (as limited by condition 3 below) and the restoration and landscaping of the site (excluding aftercare) shall be completed no later than 18 months from the date of this planning permission. On or before that date all plant, machinery, structures, buildings, access and haul roads associated with the development shall have been removed, and the whole site shall have been restored in accordance with the further conditions of this permission.

Reason: To comply with Part 1 of Schedule 5 to the Town and Country Planning Act 1990 that requires all planning permissions for mineral working to be subject to a time limit condition.

Site Definition

- 2) This permission shall apply to the whole of the. It shall replace the planning permission R9/1097/14. From that date, the development shall be carried out only in accordance with these conditions.

Reason: For the avoidance of doubt and to clarify the scope of the development.

Mineral Extraction

- 3) With the exception of those minerals stockpiled site on the part of the site shown edged red on Plan no HC-06-40-2-11 dated December 2011, no

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further minerals or soils shall be extracted or removed from the application site.

Reason: For the avoidance of doubt and to clarify the scope of the development.

Access and Traffic

- 4) The sole access to the site for all vehicles shall be by way of the existing site entrance.

Reason: To control access into the site in the interests of local amenity, highway safety and the environment.

Drainage

- 5) The ground levels of the restored land shall not decrease flood storage, nor impede flood flows to a greater extent than that shown on Plan R52c/13k, dated September 2004.

Reason: To prevent an increased risk of flooding by ensuring there is no loss of floodplain storage, nor increased blockage of flood flow.

- 6) No further restoration operations shall take place until a plan detailing the protection and/or mitigation of damage to populations of great crested newt, its associated habitat during restoration works and once the development is complete, has been submitted to and accepted in writing by the Mineral Planning Authority. Any change to operation, including management responsibilities, shall be submitted to and approved in writing by the Mineral Planning Authority. The great crested newt protection plan shall be carried out in accordance with a timetable for implementation as approved.

The scheme shall include the following elements:

- timing of works and methods;
- details of how the great crested newts are to be protected during construction works;
- a scheme for the long-term management and protection of the great crested newt population and its habitat;
- details of mitigation and/or compensation for the loss of habitat used by great crested newts; and
- a detailed mitigation, on-going management and monitoring strategy.

The design, construction, mitigation and compensation measures should be based on the results of survey(s) carried out at an appropriate time of year by a suitably experienced surveyor using recognised survey methodology.

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The scheme, as approved, shall then be implemented.

Reason: To protect the great crested newt and its habitat within and adjacent to the development site. Without it, avoidable damage could be caused to the nature conservation value of the site.

- 7) No further restoration operations shall take place until a method statement/construction environmental management plan, that is in accordance with the approach outlined in the submitted Planning/Environmental Statement, has been submitted to and approved in writing by the Mineral Planning Authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance, as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. Such a scheme shall include details of the following:
- the timing of the restoration works;
 - the measures to be used during the development in order to minimise environmental impact of the works (considering both potential disturbance and pollution);
 - the ecological enhancements as mitigation for the loss of habitat resulting from the development;
 - a map or plan showing habitat areas to be specifically protected (identified in the ecological report) during the works;
 - any necessary mitigation for protected species;
 - construction methods;
 - any necessary pollution protection methods; and
 - information on the persons/bodies responsible for particular activities associated with the method statement that demonstrates they are qualified for the activity they are undertaking.

The scheme/s, as approved, shall then be implemented.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat, and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy.

- 8) No further restoration operations shall take place until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, shall be submitted to and approved in writing by the Mineral Planning Authority. The landscape management plan shall be carried out as approved and any subsequent variations have been agreed in writing by the Mineral Planning Authority.

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The scheme shall include the following elements:

- detail extent and type of new planting (NB: planting to be of native species of local provenance);
- details of maintenance regimes;
- details of any new habitat created on site;
- details of treatment of site boundaries and/or buffers around water bodies;
- details of management responsibilities; and
- control and management programme for Himalayan Balsam.

The scheme/s, as approved, shall then be implemented.

Reason: To ensure the protection of wildlife and supporting habitat, and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy.

- 9) Within three months from the date of this permission the following scheme/s shall be submitted to and approved by the Mineral Planning Authority:
- (i) the levels and contours shown on a plan which has the written approval of the Mineral Planning Authority at a suitable scale of both existing and proposed levels sufficient to achieve the restoration of the site;
 - (ii) a full restoration plan showing the proposed phased restoration programme including soil placement, tree and shrub planting; and
 - (iii) a programme for the detailed phased removal of all the worked stockpiles of sand and gravel on the application area.

Reason: To secure restoration levels for the proposed site.

Protection of Existing Vegetation

- 10) No operations required by this permission, including the stripping or storage of soils, shall take place within 6 metres of the centre line of any hedge and not within 10 metres of the trunk of any tree which is to be retained on the site.

Reason: To ensure that all existing hedges and trees on the site are protected.

Buildings, Fixed Plant and Machinery

- 11) Notwithstanding the provisions of Article 3 and Part 19 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, no building, fixed plant or machinery, or structure in the nature of plant or machinery shall be erected or placed on site except

Public

as authorised or required by the terms of this permission or as otherwise received the prior written approval of the Mineral Planning Authority.

Reason: To enable the Mineral Planning Authority to consider whether any such proposed further development in the site might have an unacceptable impact on amenity and the environment.

Highway Safety

- 12) No mud or dirt shall be carried from the site onto the public highway.

Reason: To ensure that the site access is kept clean in the interests of local amenity.

Hours of Operation

- 13) No operations authorised or required by this permission shall be carried out at the site except between the following times:

0800 hours and 1800 hours Mondays to Fridays; and
0800 hours and 1300 hours Saturdays.

No operations, including the servicing, maintenance and testing of plant shall be carried out on Sundays, Bank Holidays or other Public Holidays.

Reason: To limit the hours of operation in accordance with MLP Policy MP1: The Environmental Impact of Mineral Development, in the interests of local and residential amenity.

Noise

- 14) Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions, on all vehicles, plant and machinery used on the site. Save for the purposes of maintenance, no machinery shall be operated with covers open/removed.

Reason: To control the impact of noise generated by the development in the interests of local and residential amenity.

- 15) The reversing warning system on all vehicles on the site, and visiting the site, shall not emit a noise that would have an adverse impact on local or residential amenity. Reversing warning devices shall be non-audible, ambient related or low tone devices.

Reason: To control the impact of noise generated by the development in the interests of local and residential amenity.

Dust

- 16) At all times during the carrying out of operations authorised or required by this permission, water bowsers, sprayers, whether mobile or fixed, or similar equipment shall be used to minimise the emission of dust from the site. No vehicles used for the movement of materials on site shall be equipped with downward pointing exhaust pipes. At such times as the prevention of dust nuisance by these means is not possible, movements of soils and overburden shall temporarily cease until such time as weather conditions improve.

Reason: In accordance with MLP Policy MP1: The Environmental Impact of Mineral Development, to control dust resulting from the site operations in the interests of local and residential amenity and the local environment.

Surface Water Drainage and Pollution Control

- 17) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall 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 shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment and to protect groundwater quality in the area.

- 18) No foul or contaminated drainage from the site shall be discharged into ground water or any surface water either directly or via soakaways. All foul drainage shall be contained within a sealed and watertight cesspool, fitted with a level warning device to indicate when the tank needs emptying.

Reason: To prevent pollution of the water environment and to protect ground water quality in the area.

Restoration Materials

- 19) No materials shall be imported to and deposited on the site other than such soil ameliorants as may be required in the restoration of the site and have received the prior written approval of the Mineral Planning Authority.

Public

Reason: In accordance with MLP Policy MP1: The Environmental Impact of Mineral Development, to prevent pollution of the water environment and to protect ground water quality in the area.

Rubbish, Scrap and other Wastes

- 20) All rubbish, scrap and waste materials generated on the site, shall be stored in clearly marked containers until such time as they can be properly disposed of.

Reason: In accordance with MLP Policy MP1: The Environmental Impact of Mineral Development, to prevent harm to the environment of in the area.

Soil Stripping, Handling and Storage

- 21) No vegetation removal, cutting or clearance shall be undertaken during the bird breeding season, i.e, March to August inclusive, unless where the developer considers that this is not possible, the written approval of the Mineral Planning Authority has first been obtained and a bird nest check has been undertaken immediately prior to the works by a suitably qualified ecologist. Any nests found during such a check shall be protected from disturbance until all the young birds have fledged.

Reason: In accordance with MLP Policy MP4: Interests of Acknowledged Environmental Importance, the interests of the protection breeding birds.

- 22) No topsoil and no subsoil shall be stripped unless they are in a dry and friable condition. No soils shall be moved:
- (i) during the months of November to March inclusive, unless otherwise approved in writing by the Mineral Planning Authority (this shall only be considered on the basis of a soil assessment carried out by a qualified person);
 - (ii) when the soil to be moved or trafficked upon has a moisture content that is equal to, or greater than that at which the soils become plastic, (tested in accordance with the 'worm test' as set out in BS 1377:1975 'British Standards Methods Test for Soils Civil Engineering Purposes';
 - (iii) when there are pools of water on the soil surface.

Reason: To prevent damage to soils by avoiding movement when soils are wet or excessively moist.

- 23) All topsoil and subsoil shall be retained on site for use in the restoration of the site. No soil shall be exported from the site other than with the prior written approval of the Mineral Planning Authority.

Public

Reason: In the interests of the successful restoration of the site.

- 24) All topsoil and subsoil shall be stored in separate mounds. Topsoil storage mounds shall not exceed 3 metres in height. Subsoil mounds shall not exceed 5 metres in height. The mounds shall be constructed with the minimum amount of compaction. They shall not be traversed by heavy plant or machinery, except where essential for purposes of mound construction or maintenance. They shall not subsequently be moved until required for restoration. If continuous mounds are used, dissimilar soils shall be separated by a third material which has been approved in writing by the Mineral Planning Authority.

Reason: To ensure that suitable monitoring arrangements for soil stripping and storage are in place, and to prevent unnecessary trafficking of soil by heavy equipment and vehicles that may damage the soil and in the interests of the successful restoration of the site.

- 25) All storage mounds to remain in situ for more than three months shall be grass seeded and managed.

Reason: To ensure that suitable arrangements for soil storage are in place, and in the interests of the successful restoration of the site.

Management and Protection of Trees, Shrubs, Hedgerows and Boundary Features

- 26) All existing hedgerows and fences around the site boundary shall be maintained throughout the period of operations until both the aftercare period and the maintenance period for trees and shrubs for the site have been completed.

Reason: To ensure that these features are properly maintained and managed for the duration of the development in the interests of visual amenity and local landscape character and biodiversity.

Soil Placement

- 27) Any soils shall be levelled and graded in accordance with the approved restoration scheme required by Condition 28 to this permission.

Reason: To ensure that soils resources are protected and that arrangements for soil placement and for the preservation of soil resources in the interests of agricultural land and restoration quality.

Restoration Scheme(s)

- 28) The site shall be restored in accordance with a scheme (or schemes) that has(ve) received the prior written approval of the Mineral Planning Authority. The scheme(s), shall provide the final restored contour levels

Public

and features described in the documentation submitted in support of the application and shall be submitted no later than three months of the date of this permission, shall be implemented as approved by the Mineral Planning Authority, shall include the following:

- (i) the sequence of restoration;
- (ii) the phasing of reclamation(iii) the formation of lakes and ponds (shapes, margins, profiles, depths) with detailed sections;
- (v) depths of soil replacement proposed for the grassland, tree and hedgerow planting, wet woodland areas and lake margins;
- (vi) proposed details of permissive paths; and
- (vi) a programme of implementation for the above.

Reason: To ensure the satisfactory reclamation of the site in accordance with the requirements of MLP Policy MP10: Reclamation and After-Use and in the interests of landscape and visual amenity, ecology and agriculture.

Landscaping

29) The site shall be landscaped in accordance with a landscaping scheme which has been submitted to and received the written approval of the Mineral Planning Authority. The scheme shall be submitted within three months of the date of this permission, shall be implemented as approved by the Mineral Planning Authority and shall include details of the following:

- (i) ground preparation prior to planting (ripping, seeding);
- (ii) the location, species, size and spacing of trees, shrubs, marginal and aquatic planting;
- (iii) protection of newly planted stock and provision for removal of tree guards when no longer required;
- (iv) seed mixtures, fertilisers (if necessary) and weed killers to be used and their rate of application;
- (v) a reed bed planting and management plan;
- (vi) fencing and gates; and
- (vii) a programme of implementation for the above.

Reason: To ensure that the site is reclaimed and landscaped in accordance with detailed schemes approved by the Mineral Planning Authority in the interests of visual amenity and ecology and the environment, and to ensure that the development would accord with MLP Policy MP10: Reclamation and After-Use.

Aftercare of the Restored Land

30) The restored site shall be subject to a programme of aftercare in accordance with a scheme or schemes which has/have been submitted

Public

to and approved in writing by the Mineral Planning Authority. The scheme for the whole site or any part of the site shall be submitted no later than three months prior to the programmed completion of restoration of any part of the site in accordance with the scheme submitted for the purposes of Condition 33 above. The submitted scheme(s) shall provide for such steps as may be necessary to bring the land to the required standard for use for agriculture, woodland, nature conservation and amenity during a five year aftercare period and shall include details of:

- (i) a Nature Conservation Establishment and Management Plan which provides for habitat development and maintenance;
- (ii) grassland establishment and maintenance;
- (iii) fertiliser applications, if necessary, based on soil analysis;
- (iv) cultivation practices;
- (v) watering and draining;
- (vi) lake margins establishment including reed bed establishment and maintenance;
- (vii) weed control; and
- (viii) wetland maintenance.

The scheme(s) as approved shall be implemented as approved by the Mineral Planning Authority.

Reason: In accordance with MLP Policy MP10: Reclamation and After-Use, to ensure that those parts of the site that have been restored are subject to a programme of aftercare that has been approved by the Mineral Planning Authority in the interests of agricultural land quality.

- 31) The five year aftercare period for the site or each part thereof, shall commence on the date of written certification by the Mineral Planning Authority that the land concerned has been satisfactorily restored. Records of the aftercare operations shall be kept by the operators throughout the period of aftercare. The records, together with an annual review of performance and proposed operations for the coming year, shall be submitted to the Mineral Planning Authority between June and August each year, to determine the detailed annual programmes of aftercare which shall be submitted for each successive year having regard to the condition of the land and progress in its rehabilitation. Meetings shall be arranged to inspect and evaluate progress in the agricultural, woodland and nature conservation and amenity aftercare respectively.

Reason: In accordance with MLP Policy MP10: Reclamation and After-Use, to ensure that those parts of the site that have been restored are subject to a programme of aftercare that has been approved by the Mineral Planning Authority in the interests of agricultural land quality.

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Aftercare: Maintenance of Tree and Shrub Planting

- 32) For the first five years following new planting of any trees and shrubs (including hedgerows) and reedbeds, the planting shall be maintained in accordance with the principles of good forestry and husbandry, and any stock which die or becomes seriously damaged, diseased or is missing, shall be replaced with plants of the same species or such alternative species as have been approved by the Mineral Planning Authority (for the avoidance of doubt, 100% replacement is required).

Reason: To ensure the successful establishment of the landscaping at the site in accordance with MLP Policy MP: 10 Reclamation and After-Use.

Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required. The Authority advised the applicant of concerns and comments made by consultees regarding the proposed scheme and forwarded to the applicant the consultation responses received. The applicant provided additional information in order to clarify the scheme in response to the comments upon which the Authority re-consulted relevant consultees for further comment.

Footnote

- 1) Consideration of the application involved consultation with a number of authorities who requested that information is brought to your attention. The relevant copies of the correspondence are attached.

Mike Ashworth
Acting Strategic Director – Environmental Services

