

DERBYSHIRE COUNTY COUNCIL

REGULATORY – PLANNING AND CONTROL COMMITTEE

14 October 2013

Report of the Acting Strategic Director – Environmental Services

- 3 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR PLANNING PERMISSION FOR DEVELOPMENT OF SWARKESTONE SAND AND GRAVEL QUARRY OFF TWYFORD ROAD, BARROW UPON TRENT WITHOUT COMPLIANCE WITH CONDITION 4 SUBJECT TO WHICH PLANNING PERMISSION CM9/790/450 WAS GRANTED (TO ALLOW UNTIL JULY 2020 FOR THE COMPLETION OF SAND AND GRAVEL EXTRACTION FOLLOWED BY RESTORATION TO AGRICULTURE AND NATURE CONSERVATION)
CODE NO: CM9/1109/166
APPLICANT: LAFARGE TARMAC LIMITED (FORMERLY LAFARGE AGGREGATES LTD)**

9.346.12 and 9.346R

Introductory Summary Swarkestone Quarry is a large sand and gravel quarry situated near the River Trent and close to the villages of Barrow upon Trent and Ingelby Parish. Lafarge Tarmac is the successor to Lafarge Aggregates Limited the applicant company which has operated the quarry since 1999. It is currently extracting approximately 300,000 tonnes of sand and gravel annually from the Trent River Terrace sand and gravel deposits at the site. The planning permission for the quarry (CM9/790/450) was granted in 1994 and permitted removal of the minerals, with the void areas to be infilled with imported inert wastes, followed by soils being replaced and restoration undertaken to provide a part agricultural and part water based nature conservation after-use, but was subject to conditions which included a condition (Condition 4) which required the mineral working under it after 15 years from commencement [27 July 2010] This is an application under Section 73 of the Town and Country Planning Act 1990 to which seeks to avoid the need for compliance with the limitation of condition 4, i.e. to obtain permission for a further period for mineral working at the site (with a revised set draft of conditions), up to July 2020.

This report accordingly assesses the acceptability of permitting further working of the quarry until July 2020.

The applicant has also submitted a scheme for the periodic review of the original planning conditions on the permission for this site under schedule 14 of the Environment Act 1995 in advance of the due date under the schedule; this scheme was received on 19 October 2009. The time available to the Council for reaching any determination under schedule 14 with different conditions to those proposed in the scheme has been extended by agreement in writing between the Council and the applicant, up to January 2014. Consequently at the time of writing this periodic review is also ongoing. However, the draft conditions for a renewal permission that have been put forward by the applicant for consideration under this Section 73 application are identical to those it has proposed in the scheme submitted under schedule 14, except for the draft condition with this Section 73 application that would set a new working period up to July 2020. If a permission subject to similar conditions is granted under this Section 73 application, as is recommended in this report, then from its implementation, both the original 1994 permission and the associated periodic review of conditions would appear to lose any remaining significance. In any event, the 1994 permission is limited in its scope by the restriction to the period for the mineral working set out in its Condition 4. It is therefore not felt to be necessary to seek any recommendation under this report regarding the periodic review.

Planning permission for the quarry workings at Swarkestone and Barrow upon Trent was first granted in the 1950s. Mineral extraction progressed accordingly and in 1994, the County Council granted a planning permission which extended the workings to cover the 90 hectare Swarkstone site. This permission required (under Condition 4) that the workings were to cease by 27 July 2010 and the land was to be restored in accordance with the approved restoration scheme. This time limit was based on a projected rate of mineral extraction (as envisaged in 1994 by the applicant company, and accepted by the Council at that time. This rate of extraction has not been fulfilled (primarily in consequence of an over-estimate of forecasted mineral to be extracted, and unanticipated changes in economic conditions).

I consider that the quarry has operated without causing any significant impacts on the local environment. I consider also that the measures set out in the application, which include future working and restoration subject to modern conditions as recommended, would serve to ensure that the quarry would continue to do so until the completion of the development. There is a continued need for both the extracted minerals and provision within the site for infilling with inert materials, and I consider that the quarry should continue to play a strategic role in providing these resources. I further consider that the proposal accords with the National Planning Policy Framework (NPPF) and

the relevant policies of the development plan, and it is therefore recommended for approval subject to a revised set of conditions.

The application sets out proposals for the future working and restoration of the operational areas within the Swarkestone Quarry featuring a proposed set of modern planning conditions. The application is accompanied by an Environmental Statement (ES) and refers to a realistic programme for proposed mineral extraction, and for the restoration of the areas that would be operated in the site. Parts of the Swarkestone Quarry site have, since 1994, been worked and restored but there remains considerable areas un-worked (approximately 25 hectares), within the approved areas delineated by the 1994 planning permission. In line with the recent site activities, the application/s propose progressive, phased programmes of mineral extraction restoration for the part restored areas and the remainder of the site still to be worked.

I consider that the key planning issues are:

- i) whether the principle of working the site for a further period up to July 2020 is acceptable;
- ii) whether the submission as a whole, including operational and restoration proposals, meet the relevant development plans for the area; and
- iii) whether the proposed scheme causes any unacceptable impacts upon local residents or the wider environment
- iv) whether an acceptable standard of restoration can be achieved in the relevant timescales.

I have considered the application in light of the above. My conclusions in planning terms are that as a result of the submission of all the details and related information, together with the informed comments from the detailed consultations that have been carried out, there is no conflict with the above issues. I am mindful of the concerns that have been raised, in particular by Ingelby Parish, but if the mineral and restoration works were to continue in accordance with the details outlined, I do not feel there would be any significant environmental harm caused and any minor disturbances arising from the daily workings at the site could, in my opinion, be controlled effectively by condition. I am therefore recommending that the application made under Section 73 is approved which would enable continuation of the necessary mineral extraction, as well as the application of appropriate updated planning conditions as set out in the Officer's Recommendation.

(1) Purpose of the Report To enable this application, for planning permission for development of Swarkestone sand and gravel quarry off

Twyford Road, Barrow upon Trent without compliance with Condition 4 subject to which planning permission CM9/790/450 was granted, to be determined by the Regulatory - Planning Committee.

(2) **Information and Analysis** The development under the planning permission CM9/790/450 in respect of this site to extract sand and gravel, and to erect an aggregate processing plant, was commenced on 27 July 1995. The 15 year limitation for the period of working under Condition 4 was therefore reached on 27 July 2010.

Members will be aware that when considering a Section 73 application, for a permission for development without compliance with a condition of an existing planning permission, the authority considers granting the permission subject to additional and/or replacement conditions.

The Site and its Surroundings

Swarkestone sand and gravel quarry site which extends in total to about 90 hectares, is situated within a rural setting between the River Trent and the A5132. Close to the villages of Barrow upon Trent and Ingelby, the quarry is a collective description for a series of now well-established and relatively shallow excavations (3m - 4m deep), from where high quality sand and gravel deposits have continued to be extracted.

The applicant company's processing plant, offices, weighbridge and car park are situated close to the northern boundary of the site, close to the access road. The site is bounded to the north by the A5132 (Twyford Road), to the south by the River Trent and to the east and west is open agricultural land. The land surrounding the site is attractive open countryside, typical of the area (being essentially low lying), with agriculture being prevalent. Although the application site is predominantly flat, towards Ingleby, beyond the River Trent and the south-east, the land rises sharply. There is evidence of historic mineral working with the large gravel pits to the east towards Stanton by Bridge (now flooded). Due to the topography and screen/soil mounds, the main unobstructed view into the site is from the rising ground to the south beyond the river at Ingelby.

The geology of the area shows that the flood plain areas have an alluvium cover overlying rock and the current working area indicates the presence of thick bands of River Trent terrace sand and gravel which overlies the clays and marls of the Mercia Mudstones. Site investigations and boreholes taken in the 1980's have identified the presence of a continuous spread of terrace sand and gravel (ranging in bands between 4m - 12m), consistent with the minerals currently being worked at the quarry.

When the quarry operations commenced at the application site under the 1994 permission, the nearest residential properties would have been those

close to the site access and within the village of Barrow upon Trent. As the mineral workings have progressed southwards, the nearest properties to the operational areas would now become the ones beyond the River Trent at Ingleby. There are a number of isolated properties located within a 1km radius of the quarry, including Grange Farm, north-east of the access into the site, and Poplar Tree Farm which lies to the west. The southern part of the site is crossed by a high voltage overhead electricity line which runs in an east to west direction. A number of public footpaths run close to the site and Footpath No 3 (currently closed), crosses the site from the east to west boundary. All vehicular access into the site is via an access road (newly formed following the grant of planning permission for mineral working in 1994), then by way of a short hard-surfaced road which leads directly to a small car park and the site offices.

Planning History

Various planning permissions have been granted over the years for the extraction of sand and gravel from the area surrounding Barrow upon Trent Village which the application site is within. The application now before the Committee relates to the permission granted by the County Council in 1994 (Code No: 9/790/450), to extend the mineral workings at Swarkestone Quarry, together with the installation of mineral processing plant and equipment. Condition 4 of that permission states:

'All operations, uses and development as approved by this permission and the restoration and the landscaping of the site in accordance with the other conditions (but excluding aftercare), shall be completed within 15 years from the date of commencement unless otherwise approved in writing by the Mineral Planning Authority'.

The date of commencement of works for the purpose of the planning permission was 27 July 1995, so in accordance with the requirements of this permission, all site works were to be completed by 27 July 2010. The permission was granted subject also to an agreement under Section 106 of the Town and Country Planning Act 1990 relating to the preservation of archaeology in and around the site, as well as the long term management of the site.

In 1994, at the time of the grant of the planning permission, it was estimated that the life of the site would not extend to more than 15 years. This was based on the estimate that there were up to 6,000,000 tonnes of winnable mineral within the site. Of this total, it was forecast that up to 400,000 tonnes would be extracted annually. This target was calculated and based on a number of factors available at the time. However, in reality, in 1999 the average annual output of sand and gravel extraction over the years was found to be nearer to 300,000 tonnes. After 18 years of working at the site, this has left a calculated mineral reserve residue of approximately 1,400,000 tonnes.

In accordance with the provisions of the Environment Act 1995, the first periodic review at Swarkestone Quarry was required on 20 October 2009. The company submitted a review scheme of 40 suggested conditions to the County Council on 19 October 2009 which was accompanied by an ES which included an updated working scheme for the site. This was followed by the planning application (Code No CM9/1109/166) for the proposed extension in time, and suggesting similar conditions, submitted to the County Council in November 2009, which is now the subject of this report of this report.

The site has benefitted from an established Technical Working Group (TWG) and a Local Liaison Committee (LLC). The TWG was established to discuss the progress of the restoration scheme, and (where appropriate) to consider if necessary modifications to the working/restoration scheme in accordance with best practice. The LLC meets twice annually in April and September.

The Development Proposals

The application proposes the winning and working of the remaining sand and gravel (estimated 1.4 million tonnes of sand and gravel) from the unworked areas of the site, with phased restoration to agriculture and nature conservation habitats. Given the recent rate of extraction, the proposals envisage the completion of all operations by February 2020. The site works, which principally involve the recovery of the remaining reserves of sand and gravel, are proposed in a series of six phases (identified as 15A to 17), covering the remaining 25 hectares of the total site extraction area of approximately 65 hectares. It is envisaged that in general terms, the existing previously approved on site facilities would continue to be utilised for the duration of the development. The ancillary facilities comprise:

- processing plant;
- silt lagoons;
- internal haul roads; and
- site access, weighbridge and site offices.

The current operations involve removal of the minerals by backacter and dumptruck on a phased campaign that creates regular shaped voids which are then restored using imported infill materials comprising inert wastes. The compacted wastes are then spread with soils and cultivated to produce agricultural land. The previously approved restoration of the site includes large areas of open water to encourage nature conservation. The site is, in general, being developed in a linear north-south direction, moving in rectangular-shaped phases away from Barrow upon Trent Village towards the River Trent and Ingelby. The applicant has indicated that it is proposed that the site would continue to be worked in a number of phases. The current working area (September 2013) is Phase 14B and the remaining phases are: 15A, 15B, 16A, 16B and 17 with an additional phase 11 situated close to the River Trent on the south-western boundary of the site. In total, (excluding the

current working area), 6 remaining phases of working are proposed as from August 2013. Top and subsoils are stripped from the relevant working phase and these materials are placed in the allocated areas within the application site for temporary storage. The minerals are then extracted in a series of steps depending on the depth of the mineral seam. Once all the minerals have been extracted and where the land is to be restored to an agricultural after-use, select inert wastes are then tipped into the void areas. The sub and top soils are then returned and the site is seeded and cultivated. Over the years from 1994, as the mineral works have progressed southwards, the majority of the land has been restored for agriculture. During the next proposed phases of the development, however, the planning permission requires that, as part of the approved restoration plan, large parts of the remaining areas to be worked would all be restored to wetlands with predominantly open water with formed islands and peninsulas of land, where reed beds and reed fringe habitats could be established. The whole of this area would be classed as wetland and would be subject of a bird management plan. The restoration works include tree and hedgerow planting and the subsequent management. From the existing access into the site, a vehicular and permissive path would be created to give access to a small car park.

The proposed hours of working at the site would remain as existing which are: Monday to Friday 0700 to 1900 and Saturdays 0700 to 1300. An exception to these working hours would be the proposed servicing, maintenance and testing of plant and other similar work of an essential nature, which would be carried out on Saturdays 1300 to 1600 and Sundays 0900 to 1600. Other than the above, no working is proposed on Sundays, Bank Holidays or other National Holidays.

All traffic would continue to use the existing access point off Twyford Road (A5132) and based on current rates, up to a maximum of 63 heavy goods vehicles (HGVs) would be generated each day, resulting in 126 traffic movements.

Environmental Statement

The application is accompanied by a detailed ES which comprises of technical reports compiled by specialist consultants in landscape and visual amenity, traffic, ecology, archaeology, noise, dust, hydrology and hydrogeology, soils and agricultural quality.

Need for the Mineral/Employment

The applicant has included a statement regarding the need for this mineral and it is considered that the mineral reserve at Swarkestone is currently allocated within the existing landbank figures for the County of Derbyshire. It is acknowledged, however, that relatively small amounts of this type of aggregate are exported from the County. In general terms, it is considered that the remaining sand and gravel to be extracted and processed will be

primarily used as a feedstock for precast concrete factories, a local network of ready mixed concrete plants and site operations in the East Midlands, including plants at Derby, Mansfield, Nottingham and Chesterfield. The site at Swarkestone is considered to be the applicant company's second largest in terms of annual output of sand and gravel, and it is considered unlikely that the existing quarry sites could, in the short term, take up the production shortfall. The site therefore has an important economic role in the wider construction industry.

Comment: Sand and gravel resources in the south of the County are concentrated along the river valleys, the most important being the Trent Valley to the south of Derby, as well as the adjoining river valleys of the Lower Derwent and Dove. In 2011, there were five active operations producing sand and gravel, four along the Trent Valley (Glacio-fluvial) and one at Mercaston (Sherwood Sandstone). There is a further site with permitted reserves at Potlocks Farm (currently not in operation) and further reserves will also be released at Elvaston. This stock of reserves with planning permission is known as the landbank. The landbank includes active quarries and also inactive quarries but only those which have valid conditions for working. Current Government policy requires landbanks to be maintained for all aggregate minerals, with the recommended landbank period for sand and gravel required to be at least seven years. The current length of the landbank for sand and gravel in Derbyshire (using the proposed apportionment figure) is calculated as follows:

- Landbank of permissions - 7.9 million tonnes.
- Annual Apportionment - 1.16 million tonnes.
- Landbank period - 6.8 years.

Production during the period 2003 - 2012 in the County has averaged 1.16 million tonnes over this 10 year period. The figures indicate a predominantly downward trend with a slight recovery in 2010 and 2011. This pattern mirrors that of the whole East Midlands Region, where production was over 10 million tonnes at the start of the 10 year period, declining steadily to 5.5 million tonnes in 2009 before recovering slightly to 5.8 million tonnes in 2010. For the most recent three years (2009 - 2011), production has averaged 0.98 million tonnes. This figure will be monitored on an annual basis to highlight recent changes in production and the mineral planning authorities will respond to any significant changes which come to light.

Employment

The applicant company indicates that up to five people local to the area are currently employed permanently at the site and consider that the workings at the application site provide a significant local source of employment, in view of all the ancillary suppliers of materials and services. In addition to the direct employment at the quarry, it is considered that there would be indirect local

employment prospects sustained by the money spent in connection with the project, including sub-contractors, suppliers of plant and construction materials. It is contended that the particular form of indirect employment is sustained by the wages and salaries received, and spent by people directly employed on the operational site. It includes such categories as local garages supplying petrol and car maintenance services, and local engineering works.

Waste Infilling

The application proposes to continue importing inert waste and landfilling the phases in layers, gradually bringing the restored site up to near original ground levels. The waste materials are regulated and controlled largely by the Environment Agency (EA), by way of the current Environmental Permit. The nature of the materials are restricted specifically to inert wastes only, to protect the hydrological and hydrogeological interests of this site and the surrounding area. The restored and final levels are designed to integrate into the wider landscape and, in parts, this would allow about half the site to remain in farmland (mix of arable and pasture), with the remaining areas restored to water. The infilled areas would then be treated in accordance with any Environmental Permit or other relevant requirements before being capped with soils seeded and cultivated. It is considered that the rate of infilling and the methods of infilling would continue to be controlled by market supply and the relevant geotechnical and operational requirements.

Restoration

Ongoing progressive extraction and restoration would see the creation of water areas directly linked and integrated with existing features. Deeper extraction would result in improvements from deeper ponds and sustainable wetlands which are considered to be more attractive and, hence, beneficial to their associated species. As a result of detailed discussions, the applicant company now proposes a restoration scheme that seeks to maximise the nature conservation potential of the site. Whilst in many respects this is not significantly different from the proposal that was considered and approved by the County Council in 1994, it is contended by the applicant that the revisions proposed would result in the creation of an improved broad mix of habitats including trees and woodland, hedges and hedgerows, wet woodland, lowland dry acid grassland, lowland meadows, reedbeds and ponds. The comments made by consultees in the planning process have also been incorporated into the restoration, design in particular Derbyshire Wildlife Trust, Natural England and East Midlands Airport Authority. The applicant company has also committed to a sequential working at sites in phases with indicative timings for completion. The remaining parts of the site would be worked in a number of working phases. Each of the remaining phases would be in roughly rectangular shaped blocks, progressing southwards towards the river. Each phase would take on average an estimated two years to complete.

Landscape and Visual Amenity

It is acknowledged by the applicant company that the landscape in this area constitutes a fragmented patchwork of pastoral and arable land, generally intermixed with urban developments and transport routes with localised mineral extraction. This patchwork is delineated on the southern boundary of the character area and, co-incidentally, the southern perimeter of the site by the meandering channel of the River Trent. Historic sand and gravel extraction also forms an element of the landscape character; however this is usually noted as a more disruptive element. The County Council has carried out a more detailed survey of Landscape Character across the County, with the Swarkestone site identified as being within the "Riverside Meadow" County Character Area. In addition, two further Character Areas abut the site; these comprise 'Lowland Village Farmlands' and 'Wet Pasture Meadows'. A landscape and visual appraisal is included in the ES and it states that the consented working and restoration schemes follow a number of landscape design objectives to minimise any perceived visual impact during the operational phases and improve the area in terms of landscape and ecological value in the long-term. The appraisal considers the effect of the continuation of quarrying on the landscape character of the area to be minimal, due to the improvements that would be brought about by extensive restoration. The appraisal confirms that this would involve restoring the topography using landfill and blending the restored topography with the existing landscape. The newly restored land would be landscaped and planted to reflect the surrounding landscape character. It is acknowledged that the landscape features within the quarry boundaries would be affected by the quarrying operations, but it is considered that the mitigation provided by the restoration schemes would replace lost vegetation, trees and shrubs. The assessment considers both the impacts of the operational phases of the quarry developments and the completed restoration with associated landscaping. It is considered that visually, the review site is well contained because of the combined effect of the low-lying topography and extensive vegetation screening, so the proposals would have a limited impact on the surrounding visual amenity. It is felt that where views of the site are possible, there may be temporary adverse visual effects. However, the consented restoration scheme would remove the most intrusive landscape features, resulting in significant visual benefits. It recognises that the operational phase of the development would be more visually intrusive to a small number of receptors but considers that this would be temporary and consist of the working and restoration of portions of the quarry, thereby reducing the visual impact for any view. Overall, the landscape and visual assessment indicates that while there may be temporary adverse impacts on landscape character and visual amenity during operational phases, these would be outweighed by the substantial beneficial effects following restoration. The assessment indicates that there would be no adverse landscape or visual effects following restoration of the site.

Soils and Agricultural Quality

The agricultural land quality and soil conservation issues have been assessed from existing published information and field surveys. The current land use of the site and of adjoining land is mainly pasture and arable.

Hydrology and Hydrogeology

The hydrological and hydrogeological settings of the existing and proposed workings at the Swarkestone site are described in the ES. To summarise, the hydrological and hydrogeological assessment has been prepared in a format that has previously proven acceptable to the Environment Agency). The statement includes desk-based resources and information derived from detailed site visits and the site has been characterised in respect of its geology, hydrogeology and hydrology to provide a baseline setting/conceptual model. The ES recommends that existing ground water level monitoring boreholes should be measured routinely. The proposal includes the construction of an overflow weir to the River Trent.

Ecology

The application includes a detailed assessment to determine the ecological interests and value of the site, and identifies the possible ecological impacts from the proposed development. Extended surveys have been commissioned and carried out which have encompassed specialist methodologies in respect of hedgerows, amphibians and bats. Any water-bodies present on site have been assessed and evaluated to indicate their potential as suitable habitats for amphibian species (in particular great crested newt). An assessment has also been made of the potential suitability of terrestrial habitat to support such a population. Most of these surveys have subsequently been updated, taking into account the revised restoration proposals following detailed on-going consultation with East Midlands Airport Authority, Natural England and Derbyshire Wildlife Trust.

Highways and Traffic

The information confirms that the current access point from the A5132 will be retained and maintained, and that the traffic generated will not increase over the proposed period of mineral working and restoration. The application includes a traffic survey which refers to a seven day automatic traffic count (ATC) undertaken by consultants in support of the application. The survey identifies that the A5132 is lightly trafficked, with HGV movements forming a very small proportion of overall traffic movements. The traffic information confirms the current operational output of the site which is presently at 300,000 tonnes per annum. This equates to a maximum of 63 HGVs (126 HGV movements) per day. The site does, however, have the benefit of a production schedule up to 400,000 tonnes per annum which would equate to 166 movements per day. In addition to mineral output, the site also undertakes restoration operations, which can generate up to 84 HGV movements per day. The findings of the traffic survey indicate that if the full

allocation of HGV movements were used, it would take up 6.6% of total traffic movements eastbound on the A5132. The report confirms the collation accident statistics for the A5132. The data infers a general decreasing trend in accident rates since 2005. No recorded accidents over the past five years have involved HGVs and no accidents have occurred in the vicinity of the site access.

Comment: As the restoration of the site progresses, less infilling will be necessary as the remaining mineral extraction areas are to be restored to wetlands.

Noise

A noise survey and assessment has been undertaken to predict noise levels at sensitive receptors. It is identified that the current workings are relatively remote from residential properties, with the operations generally moving away from the village of Barrow upon Trent but closer to Ingelby. Noise measurements were taken using precision integrating sound level monitoring equipment. No specific external noise sources were identified as unduly affecting the background data. In addition, the plant at the application site and heavy plant movements were minimal; this was considered to be representative of the pre-development background levels. The report indicates that noise from the site is currently being generated by the extraction of aggregate, mineral processing and the movement of vehicles to and from the site areas. As such, it is anticipated that even in the worst case, the continuation of the quarry and future operational phases would not have any impact on sensitive receptors despite the operations moving towards Ingelby.

Dust

The ES acknowledges that quarries can potentially generate significant levels of dust from soils handling, gravel extraction, movement of materials, crushing and grading, storage of minerals and transport within and off site. The ES assessed the impact of dust and particulates from the proposed quarry extension. The assessment confirmed that, whilst there are a number of sensitive receptors located in the vicinity of the site, many of these are over 200m distant (these are identified as properties situated on the northern boundaries of Ingelby Parish, Fields Farm, Parsonage House, west of the site access and the Grange east of the site access). Current levels of dust and PM10s have been surveyed and shown to be well below the national target at sensitive receptors of 40ug/m³. Potential impacts are therefore assessed as negligible.

The dust assessment acknowledges that there is the potential for dust levels to increase during dry or windy conditions, or during specific activities such as soil stripping or restoration. It recommends that in order to mitigate against windblown dust, standard mitigation measures should be applied such as wetting spoil heaps and roads, the creation of bunds and the setting of speed

limits. It confirms that many of these procedures are already in place at the site.

Bird Management Plan (BMP)

A BMP accompanies the application and sets out the residual risk that the restored site may pose in relation to bird strike. The plan indicates the controls that would be imposed to discourage particular species of birds and also prevent numbers increasing at the site without due degradation of the proposed nature conservation intentions. The BMP was prepared in consultation with a number of consultees, including the East Midlands Airport Authority, to take account of the prevailing situation at the site and the remedial works including the monitoring regime that will be implemented.

Public Rights of Way

There are public rights of way which will be affected by the proposals. Footpath No. 3 crosses the site but this has a temporary stopping up order. Discussions are taking place with different parties, including the landowners, regarding the possibility for new pedestrian routes once the site is undergoing restoration.

Local Liaison Committee Meeting (LLC)

The LLC has been established by the applicant company since 1994. The Committee comprises of representatives of the applicant company, Derbyshire County Council (Planning), Parish Councils local to the area, and the Environment Agency. The applicant company proposes that if a further planning permission is granted, regular meetings (currently twice annually), would continue. In addition, the development benefits from an established TWG. This was originally established by the applicant company to ensure that the restoration strategy was continually developed in accordance with best practice. Although the group has not met recently, should planning permission be granted, a further meeting involving representatives from Derbyshire County Council, Derbyshire Wildlife Trust, Natural England and the relevant Parish Councils, would be scheduled for November/December 2013.

Consultations

Local Members

Councillor R Davidson and Councillor M Ford, as adjoining Ward Member, have been notified. Councillor Ford raises no objections to the proposals.

South Derbyshire District Council

Planning:

No objections.

Environmental Health Officer (EHO)

Confirms that the South Derbyshire District Council (SDDC), has not received complaints about past or current activities at the Swarkestone Quarry site and considers that the proposal in respect of noise, dust and vibration to be acceptable. If planning permission is granted, however, the conditions, in particular those related to noise and dust, should be included in noise and dust control schemes. The EHO also commented that any individuals having noise or dust problems relating to the individual aspects of the development would be investigated by SDDC under the provisions of the Environmental Protection Act.

Barrow upon Trent Parish Council

The Parish Council considers that:

- The application contains highly technical information and there is insufficient time to consult with parishioners.
- Raise concerns that the Parish views will not be taken seriously.
- Comments previously made not included in responses within the application details.
- Traffic flows as indicated should take into account traffic movements from the proposed power station at Willington which collectively will have a significant effect on the village.
- Concerns regarding flooding risk.
- Assurances required regarding only inert materials used for infilling.
- Raise concerns regarding potential for bird strike

Ingleby Parish

The Parish objects to the proposal on the following grounds:

- The original planning permission was granted for 15 years and the time was requested by the applicants as sufficient for the extraction and restoration works. Residents of Ingleby have endured 16 years of mineral working on the site and would have reasonably expected the development to have been completed in 2010. The Parish considers that the applicant company has not diligently progressed the mineral workings and this diligence should not be rewarded with a further extension in time.
- It is unreasonable to grant a further ten year extension, thereby extending the noise and nuisance whilst the works would be undertaken until 2020.
- Several properties in Ingleby have been brought and sold with the purchasers relying on the mineral activities expiring in 2012.
- Concern regarding the slow rate of infilling and would question with the general downturn in the construction industry whether there are sufficient inert infill materials to restore the land to acceptable levels.

- Noise from the workings which on occasion have caused disturbance both day and night. It is unreasonable that the villagers should continue to be exposed to these problems.
- The proposed 10 year extension is considered to be for the applicant company's commercial reasons, to take advantage of market conditions in order to maximise returns.
- The applicant agent has stated that the volumes of mineral extracted are balanced against the company's other sites. The County Council has a duty to assess the Swarkestone site only, and not a trio of sites that the applicant company manages.

In addition, Ingelby Parish considers that if the County Council approves the application, the Parish requests that conditions are attached to the permission to include:

- An incremental form of compensation that would be linked to the period of consent. The longer the development continues, the greater compensation is paid to provide the applicant company with a further incentive to complete the works sooner.

Comment: Whilst I appreciate that the concerns are genuine, the County Council is not empowered to impose a condition on a consent that would require compensation payments. I consider that the applicant company has given a realistic estimate for completion of the site workings and has taken steps to ensure that the impact during the remaining life of the quarry will not be significant.

- Controls to restrict the mineral workings to five years with progressive infilling and restoration being completed by February 2015.

Comment: Restricting the site works to February 2015 would not be practical as, in effect, this would mean less than 16 months to extract the available minerals from the site. The progressive infilling will finish well before the end of the mineral extraction works.

- Minimise noise nuisance and disturbance, and strict limits when gravel is extracted.

Comment: Limits on the noise levels have been set and considered acceptable by the Environmental Health Officer and Environment Agency. These limits are reflected in the proposed conditions, and are discussed further in the Planning Considerations below.

- Extraction and infilling permitted only between 7am until 7pm weekdays and 7am until 1pm Saturdays, with no working on Sundays or Bank Holidays and these limits enforced rigorously.

Comment: The hours of operation proposed in the application are in line with quarry workings elsewhere within the County. I do not consider there are any special circumstances to further limit working hours at the site.

- Conditions to restrict noise and pumps not operated at night.
- The quarrying to be completed in phases and each phase to be completed before work is permitted to commence on the next phase.

Comment: The proposed working of the remaining mineral resources at this site is proposed via phases and subsequent restoration.

- No new development shall be commenced unless the applicant company identify the source, quantity and type of infill materials.

Comment: I am satisfied that the applicant company makes all efforts to source local inert waste suitable for infilling. I consider that this is a separate market to the quarrying industry and imposition of such restriction would slow the site workings and unnecessarily extend the life of the quarry.

- The numbered phases nearest to the village (Phases 16B and 17) should be excluded. If the phases are included then these should be limited to assist with the visual screening of the works. Specified hedgerows should also be allowed to grow naturally until the final restoration is complete.

Comment: Whilst the applicant company has, where possible, agreed to sequence work the operations in a manner such to minimise the effect of the works on the residents of Ingelby, I remain satisfied that the controls imposed on the respective planning permission would be sufficient to minimise impact on these residential properties.

- The phased working should commence from the south nearest Ingelby.
- The willow trees planted by the applicant company as a temporary screen should be removed.
- All the other conditions attached to the original permission should be maintained and enforced.

Severn Trent Water

No objection.

Natural England (NE)

Considers that a thorough assessment of the landscape, visual and biodiversity issues has been undertaken and support all the recommendations made in the application details with regard to the final restoration of the site. It recommends that as the site works could affect identified species, further surveys are undertaken before the new conditions are approved. In addition, a

condition should be imposed such to control and eradicate any Himalayan Balsam on the application site.

Comment: The applicant company has carried out a reptile survey in accordance with the above recommendations and none of the identified species were found to be present on the site.

Derbyshire Wildlife Trust (DWT)

The DWT welcomes the support of the proposed restoration scheme and considers that the on-going management and continued progressive restoration would achieve an overall net gain for biodiversity. DWT considers that the proposed continuation of working at the application site will have an adverse impact on identified conservation sites in this area and recommends that no vegetation removal, including tree felling and hedgerow removal, is undertaken during the bird breeding season and all tree and woodlands retained on the site are protected adequately. It also recommends that the applicant company undertakes a bat and newt survey to ensure that the development is not in conflict with the Wildlife and Countryside Act 1981(as amended). Finally, it also recommends that a Habitat Management Plan for nature conservation should be produced to demonstrate how all retained and newly created habitats will be managed, funded and implemented with a subsequent monitoring programme and a plan review at an appropriate stage.

Environment Agency (EA)

No objections to the proposals subject to:

- The development being carried out in accordance with the submitted Flood Risk Assessment.
- The imposition of conditions to prevent flooding elsewhere; to ensure that surface water from the site is discharged appropriately and that the weir details to the River Trent as submitted, operates at all stages of the river height regime.

The Environment Agency also advises that:

- There should be no interruption of the surface water supply.
- Provision should be made to ensure that all existing drainage operates efficiently.
- No surface water drainage system or watercourse should be contaminated.

East Midlands Airport (EMA)

When first consulted, EMA raised objections to the restoration proposals, due to the increased potential for bird strike hazards and the impact this may have on airport and aviation safety. In response to the objection, the applicant company has submitted a series of detailed revisions to the proposed final

restoration scheme and this has been subject to further consultations. EMA remains concerned regarding breeding and visiting geese, swans and cormorants but is satisfied with the controls contained within the proposed BMP. EMA considers that the applicant company should demonstrate that there would be a negligible or zero increase in breeding populations of the most hazardous bird species, and the avoidance of significant concentrations and increased local traffic of identified bird species. EMA also states that it is willing to work with all interested parties to reach a workable solution suitable for the applicant company, whilst also maintaining air safety.

Comment: The County Council, the EMA and the applicant company have had detailed discussions regarding aviation safety and the proposed restoration scheme at the application site. I believe that the agreed BMP will ensure bird numbers do not rise above either a specified number of birds on site over a five month average or a peak count limit. In addition, the plan includes a detailed monitoring regime and, if appropriate, identification of control measures in consultation with EMA. Whilst I am satisfied in general with the BMP, I am recommending a suitably worded condition, similar to that attached on other mineral sites, such to ensure regular monitoring of this matter. Also, I am satisfied that the BMP includes a number of on-site mitigation measures to discourage large birds, such as Canada geese, being attracted to the site, in particular, whilst the proposed reedbeds mature. These latter measures could effectively be managed under the fine details of the restoration and the significant period of aftercare management proposed. In addition, I would recommend that representatives from the EMA are invited to join the TWG such that the matter can be reviewed continually on a regular basis.

Eon/Central Networks

Identify that services are present but do not object in principle to the development provided statutory safety clearances are maintained and the networks proximity safety requirements are met.

British Waterways/English Heritage

No objection.

Publicity

The application has been advertised in the Derby Telegraph, by notices at and around the site. Neighbour consultations have also been carried out. Further information was re-advertised in the same paper (and by site notices), under Regulation 19 of the Environmental Impact Assessment Regulations. Four letters of representation have been received from local residents resulting from the publicity. I have summarised the relevant objections and concerns raised as follows:

- The development has gone on too long.

- Noise from pumping.
- Noise from pumps working outside working hours.
- Mud transferred from the site onto the road.
- The additional 10 years is unacceptable and suggest a maximum of 5 years only.
- Unreasonable to use market forces as reason for delay extracting the mineral.

Other issues raised:

- Impacts on property values.
- Need for rate reductions.
- Compensation for loss of amenity.

Where the objections raise relevant material planning considerations, I refer to these issues below.

Planning Considerations

What is under consideration here is an application that seeks permission to allow sand and gravel extraction to continue until July 2020. This application is accompanied with an ES.

The previous permission on the site must be taken as a material factor in its determination. The proposals had been considered against the policies of the development plan and emerging plans in 1994 when that permission was granted. The permission was then granted with a timescale for working which then appeared appropriate to the circumstances of the case, but the subsequent outcome has been that the working has not been completed within the timescale set. The question now is 'does the current application, including the extension proposed under it in the time for carrying out the mineral working, satisfy current planning policy?'

On that basis, I have assessed the Section 73 application against the relevant development plan policies which, in this instance, are the saved policies of:

- The Derby and Derbyshire Minerals Local Plan (adopted April 2000) (DDMLP).
- The Derby and Derbyshire Waste Local Plan (adopted April 2000) (DDWLP).
- The South Derbyshire Local Plan (SDLP).

Other material considerations are:

- The National Planning Policy Framework (NPPF).

- Planning Policy Statement 10 (PPS10).

The application made under Section 73 of the Town and Country Planning Act 1990 sought to extend the life of the site for an additional ten years. In the context of this application, the policies considered most pertinent are contained in the DDMLP and are:

MP1: The Environmental Impact of Mineral Development.

MP3: Measures to Reduce Environmental Impact.

MP4: Interests of Acknowledged Environmental Importance.

MP5: Transport.

MP6: Nature Conservation – Mitigation Measures.

MP7: Archaeology – Mitigation Measures.

MP10: Reclamation and After-Use.

MP18: Extension to Sites.

DDMLP Policy MP1 states that proposals for mineral development will be permitted provided their impact on the environment is acceptable having regard to a number of aspects of the environment. Policy MLP 1 is an ‘umbrella’ policy which affords a general level of protection across a range of environmental issues. In addition to noise, dust and vibration, it also refers generally to ‘disturbance’ to local communities and the environmental effects of traffic could be considered to fall within this category. This aspect is dealt with in more detail in policies DDMLP 4 and DDMLP 5.

The application does not propose the quarrying of any sand and gravel which has not previously been counted in reserves, and therefore does not conflict with Policy MP18 in this respect. Policy MP18 states “*proposals for extensions to established mineral workings will be permitted in preference to new sites provided they can be accommodated in an environmental sensitive manner*”. On consideration of Policy MP18 and its background, I have concluded that there is no justification, having regard to the policy, for refusing to allow the application.

Environmental issues of relevance in the context of this application are as follows:

Effect on local communities and neighbouring land uses by reason of noise, dust, vibration or other pollution or disturbance

The impact of noise, dust and vibration arising from continuation of the proposed are areas of concern and have been raised by local residents. Additionally, if the proposed workings are to continue, as they progress southwards, each phase of working will bring the development closer to Ingelby and the residential areas. Having considered the development proposals, however, I am satisfied that the distance from the site, topography and existing vegetation cover, together with the proposed methods of

extraction, transportation and proposed mitigation measures, mean that the schemes proposed in the application would have minimal direct impact on local communities or on the small number of isolated properties in the vicinity of the site. This view is supported by technical information submitted with the application. The noise report, submitted with the ES, recommends noise levels at the nearest sensitive properties. Four receptors have been identified and assessed. I am therefore satisfied that during the working day, noise is unlikely to have any significant detrimental impact upon the identified sensitive receptors and can be adequately controlled by conditions which set a limit of 10 dB over background. This is in line with the Technical guidance of noise as contained in the NPPF (Section 30).

Dust

A dust assessment, submitted with the application confirms that activities at Swarkestone Quarry have the potential, without mitigation, to create quantities of dust compared to background concentrations. It also confirms that it is likely that quantities of dust particles would be increased as a result of quarrying activities, particularly during dry or windy conditions and soil stripping operations. The assessment proposes a number of mitigation measures which relate largely to management of the site workings, i.e. the use of bunds, dust suppression including use of water bowsers and road sweepers, signage and speed limits. It concludes that with such measures in place, the proposed operations could be undertaken in accordance with the guidance contained in the NPPF. I have discussed these issues with the Environmental Health Officer at SDDC and the Environment Agency, and no objections have been raised. I have therefore concluded that dust can be adequately controlled subject to the imposition of appropriate planning conditions. Likewise, with regard to vibration due to the distance from the site to the nearest sensitive receptors, I am satisfied that vibration from the site workings will not be an issue which will give rise to regular complaint.

The detailed information submitted with the application clearly indicates that the proposed operations would be able to continue to operate within the parameters relating to noise, dust and vibration, which national planning guidance considers acceptable. I am therefore satisfied that appropriate planning conditions can be imposed to adequately control the development in these respects. Similarly, whilst the site has operated a good distance away from Ingelby Village, it is accepted that this will change. I consider that the proposed dust conditions are therefore strengthened with a requirement to submit a dust monitoring scheme such that as the development phases come close to the River and Ingelby, this issue can be kept under close scrutiny.

The visual effects of the proposals and the effect on the character and quality of the landscape

The effects of the development on landscape features, landscape character, views from roads, properties and monuments has been assessed as part of

the ES. It acknowledges that the development proposals are of a reasonably large scale and that the operational phases (especially landfilling) has the potential to be more visually intrusive. The quarrying of minerals, removal of existing vegetation, vehicle movements and changes in topography brought about by soil storage and screen bunds all have the potential to cause adverse impact. However, following the submission of revised proposals following discussions with officers, this will now be a phased process with progressive restoration, integrated with screening, following closely behind extraction. As a result, the effects will not be visibly widespread, but concentrated in small areas at a time. Mitigation measures, such as protection of existing vegetation, replacement planting, retention of trees and shrubs and screening provided by soil bunds, will also help to reduce the impact on the landscape and visual character by retaining and adding characteristic enclosure features, such as hedgerows and wooded strips where practicable and by ensuring that restoration planting reflects the character of the trees and shrubs in the surrounding area.

Overall, the landscape and visual impact of the operational phases of the development are assessed as having a moderate to minor adverse significance of effect and moderate to major beneficial effect following restoration, as the externally viewed landscape would be restored to blend with the surroundings whilst the internal landscapes would provide interest and biodiversity. I am satisfied with the conclusions of this assessment and I have recommended a range of planning conditions to ensure that a phased, sequential programme of working and restoration of the site is achieved.

The effect on sites and features of wildlife importance

Concerns raised by East Midland Airport Authority (EMA), Natural England, DWT and officers regarding the quality of ecological survey information and the restoration proposals, in general, have now been largely overcome by the submission of additional information and a revised restoration scheme with emphasis on nature conservation and significant biodiversity gain. I am satisfied that the proposals now accord with this part of the policy and have incorporated a range of planning conditions to ensure that existing wildlife is protected wherever possible and that the biodiversity benefits of the restoration proposals are achieved and maximised.

The effect on the built environment and especially features of architectural, historical or heritage importance, and their settings

There are no such features likely to be significantly affected by the proposals.

The transport implications and, in particular, the scale and nature of traffic likely to be generated and its implications for site access, highway capacity, road safety and the environment generally

There are no anticipated increases in traffic generation to and from the site; the existing access is proposed to be maintained and it is of a high standard. I

do not consider that the traffic movements are excessive and no objections have been raised on highway grounds. With regard to the ROMP application, I do not consider that highways issues are relevant, as the principle of the development is already established, as is the use of the local highway network which is the only viable means of transporting mineral from the site.

Effects on public rights of way and areas of importance for formal and informal recreation

I am satisfied that the schemes of progressive restoration now proposed with early restoration of parts of the site will enable routes that have been previously stopped up or diverted, to be reinstated. During the restoration programme, the proposal also includes consideration of additional paths.

Effects on the quality and quantity of water resources, including the ecology of water courses and wetlands, and on water supply and flood protection interests

The effect of the development on these features is fully considered in the ES and additional information referred to above. Given the duration of works at the site and the proposed changes to habitats, and in response to Natural England comments, I have recommended a condition to ensure the protection of Great Crested Newts. This would, I feel, address any short term and long term impacts of the proposals, any mitigation necessary and any habitat creation or enhancement required to safeguard the population. The range of habitats present is also likely to support and benefit key species such as badgers, bats, Great Crested Newts, otters, reptiles and water voles. I am satisfied that the recommended conditions would provide protection of the ecological interest.

The Environment Agency notes and accepts the comments in the ES relating to flood risk and surface water drainage, but recommends the imposition of a condition relating to site drainage. The Environment Agency notes and accepts the comments and recommendations in the ES regarding Hydrology and Hydrogeology, and confirms that any proposal to infill the site as part of the restoration proposals will require an Environmental Permit. The Agency also confirms that there are no water quality concerns and the conditions proposed by the company adequately protect the water environment.

In view of the above, I am satisfied that the requirements of this section of the policy are met and I have included additional planning conditions where appropriate.

MLP Policy MP10 states that proposals for mineral development will be permitted only where satisfactory provision has been made for the reclamation and after-use of the site as soon as practicable.

The original submissions associated with the 1994 permission were considered to be acceptable at the time. I am satisfied that the revised

restoration concept and phasing scheme, with its emphasis on nature conservation, provides a much more robust, sequential, progressive approach which can be adequately controlled by the imposition of the more up-to-date conditions as I have set out below. I therefore conclude that the requirements of this policy are now satisfied.

Conclusion

This is an Economically important site and the submitted proposals do not seek to significantly change the lateral extent of the previously approved mineral extraction area, nor extend the hours of operation, the operational methods or to amend the annual mineral output. The proposals seek to recover the remaining mineral reserves and complete a scheme of restoration, the principle of which was established in 1994. It is my opinion that the extensive and detailed discussions with the numerous consultees and the applicant company have resulted in the submission of a set of proposals that now address the requirements and environmental parameters of the above mentioned policies. The schedule of conditions set out in the Officer's Recommendation below has been agreed in principle between the relevant parties, and would bring appropriate updates and improved controls to mitigate against any significant environment impact of the proposed works. In addition, the general methods of working, infilling, landscaping, restoration and aftercare of this large mineral site would be brought in line with modern planning permissions and the requirements of the consultees. Additionally, continuation of the mineral extraction works would, I consider, bring not only benefits by way of the contributions made to the local and wider economy (directly and indirectly in the form of employment of local people) but also ensure successful completion of a large and extensive restoration project. On this basis, I do not consider that an objection in planning terms could be sustained.

(3) **Financial Considerations** The correct fee of £170 for the Section 73 application has been received.

(4) **Legal Considerations** The application made under Section 73 of the Town and Country Planning Act 1990 falls to this Authority as Mineral Planning Authority to be determined.

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 Recommendations.

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

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 Nos 9.346.12 and 9.346.R.

All documents including ESs submitted under the ROMP application (Code No R9/1009/23) dated October 2009 and Supplementary information dated March 2011.

Section 73 Application dated November 2009 (Code No CM9/1109/166) and all related plans and supplementary drawings.

Final revised version of the BMP incorporating the comments of EMA as prepared by David L Walker Limited and dated March 2011.

Assessment of Environmental Impact of Noise Report prepared by Vibrock Limited Report No R09.5397/T/01/LD dated 13 October 2009. Plans and appendices as revised by supplementary written statements and appendices dated March, June, 28 April and 11 July 2011 and accompanying drawings together with surface water outfall details.

Letters from E-ON/Central Networks dated 17 November 2009, Natural England dated 22 December 2009, SDDC dated 18 December 2009 and 3 February 2010, EMA dated 11 December 2009, 4 January 2010 and 13 January 2011, DWT dated 30 November 2009 and 28 April 2011, Environment Agency dated 30 November 2009, 20 July and 2 August 2012, Severn Trent Water Ltd dated 30 December 2009, British Waterways dated 2 February 2010, Ingelby Parish dated 9 May 2010 and 7 September 2011 and Barrow upon Trent Parish Council (undated).

Letters of Representations (various dates)

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves to approve the grant of a planning permission under Section 73 of the Town and Country Planning Act 1990 in respect of the development proposed under the application of code number CM9/1109/166, subject to:

- (1) the prior completion of a satisfactory deed to secure similar obligations under section 106 of the Act, to those that were entered into with the grant of the planning permission code number 9/790/450; and
- (2) the following conditions:

Approved Details

- 1) Except as may be modified or required by other conditions of this permission, or as may otherwise be approved, in writing by the Mineral Planning Authority, none of the uses, operations and activities associated with the development hereby approved shall be carried out other than in accordance with the following:

- i) The application documents dated 13 November 2009 and the accompanying Environmental Statement, plans and appendices as revised by supplementary written statements and appendices dated March, June, 28 April and 11 July 2011 and accompanying drawing ref Plan 1-Revised Phasing Options dated 9 October 2012, together with surface water outfall details and Drawing No. NTS3/10/09/01A dated June 2011.
- ii) Final revised version of the Bird Hazard Management Plan prepared by David L Walker Limited dated March 2011.
- iii) Flood Risk Assessment.
- iv) Discharge Consent Assessments dated 22 May 2011.
- v) Assessment of the Environmental Impact of Noise prepared by VIBROCK dated 13 October 2009.
- vi) Emails from the applicant/agent to Derbyshire County Council dated 28 April and July 2011, together with accompanying plans and drawings.

Reason: To clarify the details of the application that have been approved and the scope and extent of the planning conditions.

Availability of Plans

- 2) From the date of their coming into effect, a copy of these conditions, including all documents referred to in them, and any further submissions to, and approvals by the Mineral Planning Authority under these conditions, shall be available for inspection at the Swarkestone Sand and Gravel site office during working hours, and the terms and conditions of the permission shall be made known to any person(s) given responsibility for the management and control of operations.

Reason: To ensure that the site operators are fully aware of the requirements of these conditions throughout the period of the development.

Duration of Works

- 3) All operations for the winning and working of minerals authorised or required by this permission, and the restoration and landscaping of the sites (excluding aftercare) shall be completed no later than 27 July 2020.

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.

Access/Protection of Existing Landscaping and Vegetation

- 4) Unless otherwise required by other conditions of this permission, the access into the site from the A5132 shall be maintained in accordance with the following plans and associated details:

- drawing no: S6/P3/7a(R) which accompanied the applicant's letter of 3 December 1991;
- drawing nos: 246B/1/A, accompanying letter from TPA dated 16 March 1992; and
- drawing nos: 246B/2 and S46/B/4A.

Reason: To ensure that appropriate measures are in place to protect and preserve the landscaping and tree planting at the site.

Removal of Plant and Equipment

- 5) Within three months of the completion of mineral extraction, or as may otherwise be agreed in writing by the Mineral Planning Authority, all plant, buildings, structures, foundations associated with mineral extraction, the access road, gates and all signage shall be removed from the site.

Reason: To enable site restructure and in the interest of local amenity.

Access and Traffic

- 6) The sole access to the Swarkestone Sand and Gravel Site for all vehicles shall be by way of the existing site entrance off the A5132.

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

- 7) Unless otherwise agreed in writing by the Mineral Planning Authority, all the existing visibility splays and road markings at the access shall be retained and maintained for the duration of the proposed works.

Reason: In the interests of Highway Safety.

Protection of Existing Vegetation

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

Reason: To ensure that all existing vegetation is preserved.

- 9) The screen mounds between the A5132 and the processing plant site, as shown on drawing S6/EXT/02, and all tree planting including existing copses, soil mounds and riverside planting including provision for protection and maintenance of the trees shall be maintained in accordance with the details set out on:

- Drawing no.S46B/3;
- Drawing nos. S46B/3 (Soil movements and Storage); and

- Drawing no S46B/6C (Composite Plan) and pages 10-12 of the "Submission of reserved Matters" statement accompanying letter dated 12/05/95; riverside screen planting approved Drawing no. D112738-LS-001.

Reason: To provide protection to existing planting.

- 10) All existing perimeter hedges and fences shall be maintained and made stock-proof. Where the site boundary does not coincide with an existing hedge or fence, then stock-proof fencing with gates or cattle grids at every opening shall be provided and maintained.

Reason: To provide protection to existing field enclosures.

River Bank Stability

- 11) Prior to the cessation of all approved mineral extraction operations at the site, the bank stability scheme/s as previously approved by the Mineral Planning Authority on 10 February 1997 and set out in H.R. Wallingford's Technical Reports:

- Ref EX2348, dated 5 May 1991; and
- EX3519, dated October 1996,

shall be implemented accordingly.

Reason: To ensure that provision is in place to protect the river bank on completion of the approved development.

Site Works

- 12) There shall be no excavations, stocking or storage of soils, overburden or other materials, or any other operations connected with the winning and working of sand and gravel except within the areas shown on drawing no S6/EXT/02.

Reason: In the interests of protection of visual amenity.

Processing Plant/Silt Lagoons

- 13) The Processing Plant, Silt Lagoons, heights and extent of mineral stocks, artificial lighting and security arrangements shall, for the duration of the works on site, be maintained in accordance with the scheme/s as set out in:

- drawing nos. QS002921A, 2939, 2940 and S46B/6D, C/SWAR1/;
- letter to Derbyshire County Council dated 25 September 1995; and
- letter and accompanying plan dated 7 April 2005 to vary the height and extent of stockpile grounds.

For the avoidance of doubt, the height of the material stockpiles shall not exceed 7 metres height (as measured from adjacent ground levels), with the exception of the surge stock piles which, between 1 October and 31 March, shall not exceed 10m in height (as measured from adjacent ground level).

Reason: For the avoidance of doubt and in the interests of protection of visual amenity.

Site Works

- 14) There shall be no importation of aggregates for processing.

Reason: To ensure that the site is worked in accordance with the application details.

Phased Working

- 15) No soils shall be stripped from the proposed phased working areas before a scheme (or schemes) has received the written approval of the Mineral Planning Authority. The scheme/s shall include the following for any and all remaining phases of working:

- a) the areas to be stripped, the type and quantities of top and subsoils to be removed;
- b) the phasing, direction and programming of the development;
- c) method of soil removal including details of equipment to be used;
- d) direction and programming of soil strip operations;
- e) location, length, height, width and treatment of soil storage bunds;
- f) the routes for moving soils and overburden;
- g) the treatment of the soils (seeding, maintenance, management); and
- h) the haul route/s for infilling and mineral extraction.

The scheme shall then only be implemented as approved by the Mineral Planning Authority or as may subsequently be approved, in writing, by the Mineral Planning Authority.

Reason: For the avoidance of doubt and to secure a satisfactory restoration programme.

Site Works

- 16) Until such times as it is required, land not immediately required for working shall remain in agricultural use in accordance with good land management practice.

Reason: To ensure that land is retained in agricultural use.

Soil Stripping/handling and storage

- 17) The Mineral Planning Authority shall be given at least seven days prior notice in writing of the intended date of commencement of any soil stripping operations.

Reason: To enable the Mineral Planning Authority to monitor soil stripping works.

- 18) No top soil and subsoil shall be stripped unless it is in a dry and friable condition. No soils shall be moved:

- 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 in the presence of a representative of the Mineral Planning Authority; and
- when the soil to be moved or trafficked upon has a moisture content that is equal to, or greater than that as which the soils become plastic. (Tested in accordance with the 'worm test' as set out in BS 1377: 1975 British Standard Methods Test for Soils for Civil Engineering Purpose) or the equivalent test.

Reason: To protect the quality of the soil and to prevent unnecessary trafficking of soils by heavy equipment.

- 19) All topsoils and subsoil shall be retained on site (for use in the restoration of the site), unless otherwise agreed in writing by the Mineral Planning Authority.

Reason: For the avoidance of doubt.

- 20) Except as provided by other conditions of this permission, no part of the site shall be excavated or traversed or used for a roadway, storage of topsoil, subsoil or overburden or water, until all available topsoil or subsoil has been stripped from that part, with the exception that topsoils may be stored on like topsoils and subsoils may be stored on like subsoils.

Reason: To preserve the integrity of the soil.

- 21) In the event that the Mineral Planning Authority agrees that trafficking of vehicles over an area of unstrapped, topsoils or subsoil is essential and unavoidable for purposes of undertaking permitted operations, the essential trafficking routes shall be suitably marked out on the site to minimise conflict with the intention of Condition 20 above.

Reason: For the avoidance of doubt.

- 22) 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: In the interests of protection of visual amenity.

Soil Storage

- 23) All storage mounds to remain in situ for more than three months shall be grass seeded and managed in accordance with a scheme that has received the prior approval in writing of the Mineral Planning Authority. The scheme, which shall be implemented as approved by the Mineral Planning Authority, shall be submitted and recorded on a plan, no later than two months after the commencement of soil stripping, as notified to the Mineral Planning Authority under the terms of Condition 25 below.

Reason: On the grounds of visual amenity.

- 24) In the first available season following formation, all mounds of topsoil and subsoil shall be seeded to grass and the sward shall be managed throughout the period of storage except as may otherwise be approved in writing by the Mineral Planning Authority.

Reason: To ensure the soil mounds are managed effectively.

Hours of Operation

- 25) No operations authorised or required by this permission, other than pumping operations to remove water from the excavations and the servicing, maintenance and testing of plant and other similar work of an essential nature, shall be carried out on the site except between the following times, unless otherwise approved in writing by the Mineral Planning Authority:

Monday to Friday 0700 hours to 1900 hours;
Saturday 0700 hours – 1300 hours.

Within these times, the stripping of topsoils, subsoils and overburden, the formation of storage mounds and their subsequent re-use for restoration, shall only be carried out between the following times:

Public

Monday to Friday 0800 hours – 1800 hours;
Saturday 0800 hours – 1300 hours.

Servicing, maintenance and testing of plant and other similar work of an essential nature shall not be carried out except between the normal working hours specified above and the following extended times other than with the prior approval, in writing, of the Mineral Planning Authority:

Saturday 1300 hours – 1600 hours;
Sunday 0900 hours - 1600 hours.

No working shall take place on Sundays, Bank Holidays or other National Holidays.

Reason: In the interests of local and residential amenity.

Noise

- 26) With the exception of temporary operations including stripping and replacement of soils, the noise levels from the site excluding all the noise sensitive properties identified in Condition 27 below shall not exceed 55 dB(A) as expressed as a 1 hour LAeq (free field), measured at 1.2m to 1.5m above ground level between the hours of operation as specified in Condition 25 above.

Reason: In the interests of protection of amenity.

- 27) Except as allowed by Condition 26 above, noise from the site and received at the noise receptors specified in the table below, shall not exceed the following limits:-

Noise Receptor	Noise Limit dB(A) LAeq,1 hour
Walnut Cottage (Elms Farm)	47
Fir Tree Farm	51
The Grange	53
Fields Farm	51

Reason: In the interests of protection of amenity.

- 28) All pumps used in connection with the development shall be super silent or equivalent.

Reason: In the interests of protection of amenity.

- 29) 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 the covers open or removed.

Reason: In the interests of protection of amenity.

- 30) The reversing warning system on all vehicles on the site and those using 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: In the interests of protection of amenity

- 31) Within 12 months from the date of this permission a scheme for the monitoring of noise from the site throughout the mineral extraction and restoration works relating to phases 15-17 shall be submitted to and receive the written approval of the Mineral Planning Authority. The scheme shall include details of a noise mitigation and monitoring system.

Reason: In the interests of protection of amenity.

Dust

- 32) At all times during the carrying out of the 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 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 times as weather conditions improve.

Reason: To control dust emissions in the interests of protection of amenity.

- 33) No lorries transporting sand and gravel shall leave the site unless their loads are sheeted.

Reason: To control dust emissions.

- 34) Within 12 months from the date of this permission, a scheme for dust mitigation for the monitoring of dust from the site throughout the mineral extraction and restoration works shall be submitted to and receive the written approval of the Mineral Planning Authority. The scheme shall include details of dust mitigation and a dust monitoring system.

Reason: In the interests of protection of amenity.

Mud on Highway

- 35) No mud, debris or other dirt shall be carried from the site on to the public highway. The existing wheel-cleaning facility installed and maintained on the site (or any subsequent replacement), shall continue to be operated for the duration of works on the site.

Reason: On the grounds of highway safety.

- 36) Notwithstanding the provisions of Article 3 and Part 19A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2005 as amended, no fixed plant or machinery, buildings, structures or erections, or private ways shall be erected, extended, installed, replaced, repaired or altered, except within the area identified on Drawing Number S6/EXT/02 dated October 2009 as authorised or required by this permission or otherwise with the prior written approval of the Mineral Planning Authority.

Reason: To enable the Mineral Planning Authority to consider any proposed further development in those parts of the site, other than the area on the drawing referred to, where any such development might have an unacceptable impact upon amenity and the environment, to enable site restoration and in the interests of local amenity.

Drainage

- 37) No surface water drainage system or watercourse shall be contaminated by drainage from the site.

Reason: To ensure that the site drains efficiently.

- 38) Within six months of these conditions coming into effect, a scheme for the monitoring of ground water levels at the Swarkestone site shall be submitted for the approval of the Mineral Planning Authority and be implemented as approved.

Reason: To enable the Mineral Planning Authority to monitor ground water levels.

- 39) 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 bend.

Reason: To protect ground water quality.

- 40) There shall be no interruption of the surface water drainage system of the surrounding land as a result of operations on this site. Provision shall be made to ensure that all existing drainage systems continue to operate effectively.

Reason: To ensure that the site drains effectively.

- 41) The development authorised by the permission shall only be carried out in accordance with the Flood Risk Assessment as submitted with the application details.

Reason: To ensure that the site works do not cause a flood risk.

- 42) Pumping of surface water to the unnamed tributary at the northern end of the site shall not exceed a rate of 40 litres per second. Discharge to this watercourse shall only operate in times of low water flows.

Reason: To prevent flooding elsewhere by ensuring that surface water from the site is discharged appropriately.

- 43) The ground and surface water in the vicinity of the site shall be monitored in accordance with the Hydrogeological Impact Assessment report by Golder associates reference no 09514240134.500/A1, and contained with the Environmental Statement accompanying the application. Where trigger levels for the effects of dewatering on the surrounding water environment on ground or surface water are reached, remediation measures shall be proposed without delay and shall be taken in accordance with a proposal which has the written approval of the Mineral Planning Authority.

Reason: To monitor ground water levels for impacts and ensure a remediation strategy is in place.

Site Restoration

- 44) The site shall be progressively restored in accordance with the scheme/s as contained within the Environmental Statement as amended and dated June 2011, as submitted with the planning application together with the previously approved details under the following Drawing nos references (unless otherwise approved in writing by the Mineral Planning Authority):

- S46x19E Revision A (Restoration proposals);
- S46x19C (phasing);
- S46X19D (direction of infilling) and in appendix 1 accompanying letter 20 October 1997 entitled "Methodology for stripping of soils from best and most versatile land".

Reason: To ensure that the site is restored in accordance with the approved details.

Soil replacement

- 45) No large areas of subsoil shall be left without topsoil and crop cover over winter. Subsoil shall only be replaced when it and the ground are in a dry and friable condition.

Reason: To ensure that the site is restored and to prevent damage to soils.

- 46) During replacement of the subsoil, it shall be subsoiled (rooted) with a heavy subsoiler to ensure that within a total depth of 1m below the surface of the topsoil there is:
- i) no fill material or other sterile material injurious to plant life;
 - ii) no rock, stone, boulder or other materials capable of preventing or impeding normal agricultural or land drainage operations including mole ploughing or subsoiling;
 - iii) no wire rope, cable or other foreign objects;
 - iv) a reasonable level surface suitable to receive subsoil; and
 - v) stone or other unwanted material at the surface of the subsoiled material, which will not pass through a 230mm diameter ring in any dimension, shall be removed from the site or buried not less than 2m below the final surface contours.

Reason: To ensure a high standard of restoration.

- 47) All available subsoil shall be respread evenly over the worked area. The subsoil shall be so treated to comply with the general requirements of Condition 46. No layer of replaced soil shall exceed 450mm thickness (or such thickness as is approved by the Mineral Planning Authority) before it is subsoiled. The subsoiling operation must penetrate at least 150mm into the underlying layer to relieve compaction at the interface.

Reason: To ensure that the site is restored successfully.

- 48) Subsoil upon which other soils have been stored shall be subsoiled (rooted) as set out in Condition 47 above. Stones or other unwanted material at the surface of each layer of subsoiled (rooted) subsoil, which

will not pass through a 150mm diameter ring in any dimension, shall be removed from the site or buried on site not less than 2m below final surface contours.

Reason: To ensure that the site is restored successfully.

- 49) After satisfactory replacement and treatment of the subsoil, all available topsoil shall be re-spread evenly over the site. The topsoil shall be, cultivated and so left as to comply with the requirements of Condition 48 above. Stones greater than 100mm in any one direction shall be removed. Topsoil upon which other topsoil has been stored shall be subsoiled (rooted) and cultivated as above.

Reason: To ensure that the site is restored successfully.

Landscaping Management and Maintenance

- 50) Notwithstanding the previously submitted details, within 12 months from the date of this permission, a landscaping scheme for that part of the site to be restored for agriculture shall be submitted to and approved by the Mineral Planning Authority. The scheme shall include the following details:

- i) provision for the reinstatement of the hedgerows;
- ii) the replacement of soils conserved from the existing hedgerows;
- iii) details of species, size, spacing and protection of hedgerow plants;
- iv) a scheme for the programmed management and removal of Himalayan Balsam;
- v) fencing and gates; and
- vi) a programme of implementation.

The scheme shall then only be implemented as approved by the Mineral Planning Authority or as may subsequently be approved, in writing, by the Mineral Planning Authority.

Reason: To ensure the successful establishment of landscaping at the site.

- 51) For the first five years following new planting of any trees, shrubs, hedgerows and reed beds, the planting shall be maintained in accordance with the principles of good forestry and husbandry, and any stock which die or become 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 necessary).

Reason: To ensure the successful establishment of landscaping at the site.

Nature Conservation

52) Notwithstanding the submitted documents, within 12 months from the date of this permission, a five year aftercare scheme for the nature conservation area shall be submitted to and approved by the Mineral Planning Authority. The scheme shall include provision for the following:

- i) monitoring and maintaining water quality, plant establishment and vegetation composition;
- ii) removal of undesirable invasive species (reeds/weeds etc);
- iii) maintenance of newly planted trees and shrubs;
- iv) establishment of planting in reed-beds;
- v) mowing/grazing or other appropriate treatments of bankside vegetation; and
- vi) a programme of implementation.

The aftercare of the nature conservation area shall be carried out in accordance with the aftercare scheme, as approved by the Mineral Planning Authority, or as may otherwise be approved in writing by the Mineral Planning Authority.

Reason: To ensure the satisfactory restoration of the site.

Premature Cessation of Site Works

53) In the event of the development hereby approved being discontinued, within three months of receiving written notification from this Authority, a scheme for the restoration and treatment of the site as so left and all other operational areas associated with the site shall be submitted to the Mineral Planning Authority. The scheme, as approved by the Mineral Planning Authority, shall be commenced within three months of the date of notification of determination of the scheme and shall be fully implemented within a further period of six months or such period as may be approved in writing by the Mineral Planning Authority.

Reason: To secure the full restoration of the site in the event of the development ceasing prematurely.

Woodland Management Plan

54) Notwithstanding the previously approved details, within six months from the date of this permission, a revised Woodland Management Plan for the site shall be submitted to and approved by the Mineral Planning Authority. The revised plan shall be implemented in accordance with the details as approved.

Reason: To ensure that the woodland areas are preserved and protected.

Aftercare

55) The restored site shall be subject to a programme of aftercare in accordance with a scheme or schemes which has/have been submitted 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 six months prior to the programmed completion of restoration of any part of the site in accordance with conditions 48 and 49 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:

In the case of land restored for use for agriculture:

- i) the removal of any stone exceeding 100mm in any dimension, any wire or other object which would impede the cultivation of the land;
- ii) fertiliser applications based on soil analysis;
- iii) cultivations, seeding and crop management;
- iv) pruning regimes of hedgerows;
- vi) weed control;
- vi) field drainage;
- vii) field water supplies;
- viii) grazing management;
- ix) protection from poaching by grazing animals; and
- x) maintenance of fencing.

In the case of land restored for use for woodland, tree and shrub planting:

- i) fertiliser applications based on soil analysis;
- ii) drainage;
- iii) weed control;
- iv) removal of tree guards; and
- v) maintenance of fencing.

In the case of land restored for use for nature conservation and amenity:

- i) habitat development;
- ii) grassland establishment and maintenance;
- iii) fertiliser applications based on soil analysis;
- iv) cultivation practices;
- v) watering and draining;
- vi) pond margins establishment;
- vii) wetland maintenance; and
- viii) maintenance of fencing.

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

b) The five year agricultural, woodland or nature conservation and amenity aftercare period for the site or each part thereof, shall commence on the date of the written certification by the Mineral Planning Authority that the land concerned has been satisfactorily restored. Records of the agricultural, woodland and nature conservation and amenity 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 31 March and 31 May each year, and provision shall be made by the operators for annual meetings with 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. Separate meetings shall be arranged to inspect and evaluate progress.

Reason: 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.

- 56) In the event of mineral extraction being discontinued for 24 months in the period specified in Condition 53, within one month of receiving written notification from the Mineral Planning Authority, a scheme for the restoration and treatment of the site as so left and all other operational areas associated with the site including the removal of the haul roads, shall be submitted to and approved by the Mineral Planning Authority. The scheme as approved by the Mineral Planning Authority shall be commenced within three months of the date of notification of determination of the scheme and shall be fully implemented within a further period of 12 months or such other period as may be approved in writing by the Mineral Planning Authority.

Reason: To secure the full restoration of the site in the event of the development ceasing.

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.

Footnote

- 1) The applicant's attention is drawn to the public rights of way on and close to the site which may be affected by the proposed mineral and restoration works. Suggestion from various bodies have been made to consider (whilst the final restoration works are underway) the inclusion of new permissive paths/ public rights of way. The applicant is therefore requested to contact the Mineral Planning Authority to ensure that this issue is considered and, where appropriate, provisions made for the inclusion of these footpaths prior to cessation of works on the site.

Mike Ashworth
Acting Strategic Director – Environmental Services

