

Agenda Item No. 3.2

**DERBYSHIRE COUNTY COUNCIL**  
**REGULATORY – PLANNING COMMITTEE**

**5 November 2018**

Report of the Strategic Director – Economy, Transport and Environment

- 2 APPLICATION FOR A 61 HECTARES EXTENSION TO EXISTING SAND AND GRAVEL QUARRY INCLUDING USE OF EXISTING PROCESSING PLANT WITH RESTORATION TO A MIXTURE OF AGRICULTURE AND NATURE CONSERVATION AT SWARKSTONE QUARRY, TWYFORD ROAD, BARROW-ON-TRENT**  
**APPLICANT: TARMAC AGGREGATES LIMITED**  
**CODE NO: CM9/1215/122**

**9.1589.5**

**Introductory Summary** This is a proposal for an extension to an existing sand and gravel working site, to obtain a further 2.5 million tonnes of mineral over an eight year extraction period. It is proposed to restore part of the site to broadly pre-extraction levels with imported inert waste to return the land to agricultural use whilst the remainder would be restored to nature conservation based water features. This would be undertaken on a phased basis throughout the extraction works, extending a further two years to completion.

The existing site is situated to the south of the A5132 to the west of Barrow-on-Trent and includes a processing plant. The extension area for extraction occupies approximately 61 hectares of land to the south-west of the River Trent. The proposal involves the retention and use of the existing processing plant and the existing access onto the A5132 for the duration of the operation. The application indicates that the proposed development would be undertaken in a similar manner to the current quarry operations and would be subject to similar operational controls on extraction rates, noise and dust limits.

The extension area is not allocated for mineral extraction in the adopted Derby and Derbyshire Minerals Local Plan, but the Plan only made specific provision until 2006. It is acknowledged, however, that there is an ongoing need for sand and gravel which could be met by this proposal. The proposal represents an extension to an existing mineral site rather than a completely new site which is a factor in its favour, albeit an extension involving the installation of a river crossing for the duration of the development. By the time of this meeting, the permitted reserves at the current quarry will be exhausted so that it would face closure.

The proposed site is flat and relatively remote from settlements and individual properties in the area, and could be undertaken without undue disturbance to local amenity. The form of restoration (as amended) would assimilate into the surrounding landscape in due course. The anticipated rate of extraction and inert waste imports would continue at the same levels as the existing operation and would, therefore, not generate any increase in vehicle movements. The design of the development and the method of operation would not give rise to any adverse impact on flood storage capacity on site or increase the risk of flooding off site. The reduction in the proposed extraction area in the south-eastern corner is considered to reduce the impact on the setting of Anchor Church Cave, a listed building, to an acceptable level.

The proposal is considered to be acceptable in the context of the relevant policies of the adopted Derby and Derbyshire Minerals Local Plan and the requirements of the National Planning Policy Framework, subject to amendments to the form of the development as detailed in the report below. The application is therefore recommended for approval, subject to conditions and a legal agreement.

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

(2) **Information and Analysis**

### **Planning Background**

Swarkstone Quarry is located in the Trent valley to the east of the villages of Barrow-on-Trent and Swarkstone. The quarry is accessed from the A5132 which runs west-east, connecting to the A50/M1 to the east and the A38 to the west. The quarry currently occupies a site area of approximately 90 hectares and includes existing mineral workings, restored mineral working areas, a processing plant, stocking areas, a waste transfer station and internal haul roads. The current quarry has been in operation since the mid-1990s, regularly producing sand and gravel at an average rate of 350,000 tonnes per annum.

Planning permission for mineral extraction at Swarkstone and Barrow-on-Trent was first granted in the 1950s and sand and gravel extraction at the now established Swarkstone Quarry commenced under the terms of planning permission CM9/790/450 granted in 1994. The quarry extended southwards under the terms of planning permission CM/1109/166 which authorised extraction until 2020. Mineral extraction from areas within the earlier planning permission has been completed and the areas involved are subject to ongoing restoration. At the time the current application was submitted (2015), the operator indicated that remaining permitted reserves were equivalent to a further two years at the then current rate of extraction. It was later discovered that the mineral in the final phases had a high silt content and was not

commercially viable. As a consequence, production from the quarry ceased temporarily in June 2017. Production recommenced following the grant of permission (CM9/0217/98 dated August 2017) for a small extension of 6.1 hectares to the west of the main quarry. This permission authorised the extraction of 250,000 tonnes over a 13 month period.

### **Current Proposal**

The proposal concerns mineral extraction over a further area of up to 48 hectares, within a new operational area of 61 hectares to the south-west of the existing quarry, on the opposite (southern) side of the River Trent. The proposed extraction area of 48 hectares (as originally submitted) would yield approximately 2.5 million tonnes of sand and gravel. The application states that the extraction operations would be undertaken in five phases over an eight year period with a further two years to complete the restoration works. Extraction would be at a rate of 350,000 tonnes per year and the 'as dug' material would be transported by truck for processing at the existing plant which would be retained for the duration of the development. As the site is across the river from the existing quarry, access to the extraction area would be obtained by the installation of a Bailey bridge over the river between the south-western corner of the existing quarry and the new operational area.

The application indicates that all operations would be of a similar manner to those of the existing quarry, including the use of the existing access onto the A5132 and transport routes, the same operating hours of 0700 hours to 1900 hours Monday to Friday and 0700 hours to 1300 hours Saturdays and the deployment of similar environmental controls. The mineral extraction would generate vehicle movements equating to an average of 81 loads per day (162 movements), which is similar to the current operation.

The proposal provides details of the restoration programme which would utilise imported inert waste to restore the southern part of the site to existing levels to "high quality" agricultural land. The indicative plans indicate the introduction of water features in the western and northern parts of the site, designed with an emphasis on nature conservation, with adjacent land restored to water meadows for grazing animals. The restoration works would be undertaken on a phased and progressive basis as extraction phases were completed.

In order to address some of the issues raised in the early rounds of consultation, the applicant has amended the development details. The main change is the removal of approximately 2.2 hectares of land in the south-eastern corner of the site from the extraction area and consequential changes in the location of soil storage mounds. The form of restoration has also been amended in which the one, large water body, shown on the indicative restoration plan has been replaced with a series of smaller water bodies varying in size and shape.

### **Environmental Statement**

The application is accompanied by an Environmental Statement (ES) which addresses the potential impacts of the development in terms of landscape and visual impact, biodiversity, agriculture and soils, historic environment, transport, hydrogeology and hydrology, flood risk, noise, air quality, bird strike, recreation and rights of way. These issues are addressed in more detail in the Planning Considerations section below.

### **Post Application Submissions**

In response to formal requests under the terms of the Environmental Impact Assessment Regulations, the applicant submitted further statements in three further submissions. These submissions provided further assessment and information relating to landscape and visual amenity impacts (including an arboricultural survey), impacts on the archaeological and heritage interests in the area and an updated flood risk assessment. These submissions involved a reduction in the extent of the proposed extraction area.

### **Consultations**

#### **Local Members**

Councillor Ford, Councillor Davison and Councillor Atkin have been notified of the proposal.

#### **South Derbyshire District Council**

The response stated that *“Having reviewed the scheme as currently proposed it is considered that the scheme is likely to be contrary to policies BNE2 (Heritage Assets) and BNE10 (Heritage) of the adopted Part 1 and Part 2 of the Local Plan and in particular could cause unjustified harm to nearby heritage assets.”*

#### **Flood Risk Management Team**

No objection subject to compliance with the recommendations in the Flood Risk Assessment (FRA) submitted with the planning application.

#### **Barrow-on-Trent Parish Council**

No response received.

#### **Etwall Parish Council**

No response received.

#### **Repton Parish Council**

The Parish Council recognised the general need for sand and gravel but objects to the current proposal for the reasons summarised below:

- There are sufficient reserves of sand and gravel currently available without the use of this site.

- Loss of amenity.
- Years of unsightly mineral working.
- Unacceptable adverse impact on the archaeological and heritage features of the area.

### **Environment Agency**

The initial response stated that it considered the submitted FRA to be unacceptable and therefore objected to the proposal. The letter indicated the additional information and assessments that were required and a number of suggested conditions to be included on a planning permission if the applicant were to overcome their concerns and the local planning authority were mindful to grant planning permission.

A subsequent response to further information supplied by the applicant confirmed withdrawal of the objection on the basis that it now met the requirements set out in the National Planning Policy Framework (NPPF).

### **Highway Authority**

No objection.

### **East Midlands Airport**

No objection subject to the implementation of an appropriate bird hazard management plan.

### **Natural England**

Natural England observed that the application includes 14.2 hectares of agricultural land that is graded as class 1, 2 and 3a and, therefore, constitutes land classified as Best and Most Versatile (BMV) which is afforded policy protection and request that the planning authority take the economic and other benefits of the land into account in accordance with Paragraph 112 of the NPPF.

In addition, Natural England provided the following observations:

1. *"We are not satisfied that the site working and restoration proposals provided in support of this application meet the requirements for sustainable minerals development, set out in the National Planning Policy Framework and current Minerals Planning Practice Guidance, particularly Section 6 entitled Restoration and Aftercare of Minerals Sites and recognised as best practice for the following reasons:*
  - *The applicant has not provided "A description of the proposed depths and soil types of the restored soil profiles; normally to a depth of 1.2 m over an evenly graded overburden layer (or, in the case of waste reclamation, an evenly graded capping layer)." Per our advice under*

*paragraph 4.4 of our Scoping Response (our reference: 166977 dated 19 October 2015).*

- While the available soils are well documented, there is not a clear description as to how these resources would be used to best advantage and according to their quality for the most effective reclamation of the site to the proposed after-uses. For example; there are no details of varying soils profiles depths and types according to the after-uses as shown on the Landscape Strategy Plan.*
- There are no Working Methods Plans within the application documents to clearly show where the different types of topsoils and subsoils (as identified by the LRA report) would be separately stored according to their quality.*

*We advise that the proposals be amended to take on board these points and that we are consulted again on the revised proposals.*

- 2. In accordance with Schedule 5, Part 1, para 4 (1) of the Town and Country Planning Act 1990, Natural England confirms that it would be appropriate to specify agriculture as an after-use, and for the land to be reclaimed in accordance with Para 3 (1) of the 1990 Act; namely that the physical characteristics of land be restored, so far as practicable, to what they were when last used for agriculture.*
- 3. Should the development proceed (and subject to no more accurate information coming to light during the working of the site), Natural England is satisfied that the Soils and Agricultural Land Classification Report (at Section/Appendix??) constitutes a satisfactory record of the pre-working physical characteristics of the land within the application site boundary.*
- 4. Some suggested conditions to safeguard soil resources and achieve a satisfactory standard of agricultural reclamation are attached, which may be of use.*
- 5. Defra's Good Practice Guide for Handling Soils provides detailed advice on the choice of machinery and method of their use for handling soils at various phases. We would recommend the adoption of "Loose-handling" methods (as described by Sheets 1 – 4 of the Guide), to minimise damage to soil structure and achieve high standards of restoration.*
- 6. More general advice for planning authorities on the agricultural aspects of site working and reclamation can be found in the Defra Guidance for successful reclamation of minerals and waste sites."*

In addition, Natural England recommended that the planning authority be satisfied that it has adequate information from the applicant about the potential impact on wildlife sites and referred to its Standing Advice for assessing the

impact on protected species. Natural England also referred to the application site being within an area that it considers would benefit from enhanced green infrastructure provision, and encouraged such provision as part of this development. Similarly, it recommended that any opportunity to incorporate biodiversity enhancements be included in the restoration proposals.

### **Derbyshire Wildlife Trust**

The Trust noted the results of the wildlife surveys, including the confirmation of the presence of otter along the River Trent but no recorded presence of great crested newt, water vole or reptiles within the application site. Whilst the Trust considered the ecological surveys to have been carried out to an appropriate standard, it did not support the method of assessing the value of the pond on site that would be lost as a result of the proposed development. It noted the inclusion of a water feature in the restoration proposal but requested the inclusion of at least one small pond to offset the loss and the need to transfer any ecological interest found by a further survey of the existing pond, with the operation carried out under an appropriate Method Statement approved by the local planning authority.

The proposed stand-off distances from the River Trent, an on-site brook and hedgerow were welcomed and recommended they be secured via appropriate conditions together with a need to carry out further otter surveys in the vicinity of the proposed Bailey bridge prior to the commencement of development and the incorporation of any remedial measures where necessary.

The Trust noted the presence of species of ground nesting birds and requested that the restoration scheme makes sufficient provision for these birds in the restored site. It considered that the proposed planting of 6,195m of new hedgerows would satisfactorily offset the loss of 1,954m due to the proposed development.

In response to the submission of a revised Landscape Strategy, including outline management and maintenance prescriptions, the Trust considered the proposals to be appropriate for the site and form of development.

### **Historic England**

The initial response from Historic England explained that the submitted documents did not provide the minimum information necessary to assess the potential heritage impacts of the proposal.

In response to the first supplementary submission from the application, Historic England did not concur with the conclusions of the applicant and was of the opinion that the proposal would have an unacceptable adverse impact on Anchor Church Cave (Grade II listing) and Foremark Hall (Grade I listing) through intrusion into their settings, in particular the sense of isolation which speaks directly to the medieval and Later Romantic character of the Anchor

Church and its articulation with the designed landscape setting of the Hall. It also indicated that, with regard to other archaeological matters, much pre-determination work remained necessary to comply with the requirements of paragraphs 128 and 129 of the NPPF.

*In response to a further submission, Historic England stated, “The latest submitted material includes restoration to agricultural land post-extraction opposite Anchor Church (listed Grade II) and this is noted. Our position however remain as set out in our previous advice.... Whilst infilling as restoration might superficially reinstate something of the former setting the authenticity and integrity of that landform; much of its character and any remains there-in would be lost, in addition to the experiential impact upon significance during the working period.*

*As proposed the development would represent unjustified harm to the significance of Anchor Church which itself forms a key element of the designed landscape setting to the Grade 1 listed Foremark Hall which would thus also suffer unjustified and avoidable harm. Moreover the rock-cut features comprising Anchor Church are an Ancient Monument of national archaeological significance notwithstanding that they are not scheduled under the 1979 Ancient Monuments and Archaeological Areas Act.*

*We recommend that the panel of extraction and associated bunds and infrastructure opposite Anchor Church is deleted from the application.”*

Historic England was directly involved in the discussions with the applicant and your officers about the impact on Anchor Church Cave and has provided written support for the removal of 2 hectares of land from the extraction area to protect its setting and its written response to the recent consultation on the removal is awaited at the time of writing this report.

### **Western Power**

Informed that there were no installations in the area of the site and therefore had no objection to the proposal.

### **Severn Trent Water**

No objection subject to the inclusion of an advisory note in the decision notice if planning permission is granted.

### **Publicity**

The application was advertised by press notice (Derby Evening Telegraph) and site notices in January 2016. The supplementary submissions were also advertised by further press and site notices in May and September 2018. Sixteen responses from local residents and interest groups were received.



One local resident response questioned the accuracy of some of the traffic based statements in the application documents, indicating that the volume of both heavy goods vehicles (HGVs) and cars on the A5132 was higher than that quoted and that a significant number of HGVs left the site in a westerly direction rather than to the east as stated. The resident indicated that this section of the road is narrow and has resulted in damage to the grass verges along the route which require attention and measures to prevent it from continuing. The respondent welcomed the proposal for further planting to screen the site as this was inadequate at present, particularly in the winter months.

The Open Spaces Society and Melbourne Footpaths Group objected to the proposal for the following reasons:

- Objection to the temporary stopping up of paths unless alternatives are provided to the highest standards.
- Adverse impact on Anchor Church and surroundings.
- Proposed mitigation measures for the continued use of footpaths in the area of Anchor Church are inadequate.
- Position of the proposed bridge is far too close to Anchor Church.
- The proposed restoration scheme does not offer enough compensation for the disruption and adverse impacts that would be generated by the development.

In addition, the group requested that further rights of way are provided in the restoration, particularly to enable riverside access and that these must be statutory paths and not permissive alternatives. Full public access to the proposed areas of 'green space' were also requested.

Other points raised in the responses included:

- Mud on roads and spray from HGVs causing danger to other road users.
- Adverse impact on amenity value of the area.
- Adverse impact on archaeology and heritage features.
- Location of the proposed bridge is inappropriate and damaging to heritage interests and the enjoyment of the area by the public.
- Adverse impact on local businesses.
- Adverse impact on canoeists.
- Mineral extraction in the area has been going on for far too long already and general concern about the continued impact of further extraction.
- Proposed extraction period is too long.
- Poor standard of restoration on some parts of the extraction sites, particularly areas close to residential properties.

South Derbyshire Greens objected to the proposal for all the reasons raised by local residents.

The responses on behalf of Repton School and Repton Preparatory School indicates that they have a number of significant designated heritage assets within their portfolio and considers that the proposed development would have an adverse impact upon them and other heritage features in the area. The schools considered that the proposal would have an adverse impact on the highway network in terms of congestion, pollution, noise, vibration, air quality, road safety and general disturbance and that the extension across the river would be detrimental to the local landscape, creating significant cumulative impacts that could not be mitigated through restoration. The schools noted that further information had been requested from the applicant and reserved the right to make a formal observation with the benefit of this additional information.

### **Planning Considerations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the saved policies of the adopted Derby and Derbyshire Minerals Local Plan (MLP), the adopted Derby and Derbyshire Waste Local Plan (WLP) and the adopted South Derbyshire Local Plan (SDLP). The NPPF (July 2018) and the National Planning Practice Guidance (March 2014) are also material considerations.

### **Derby and Derbyshire Minerals Local Plan**

The main policies of the MLP which are relevant to the determination of this proposal are MP1: The Environmental Impact of Mineral Development, MP2: The Need for Mineral Development, MP3: Measures to Reduce Environmental Impact, MP4: Interests of Acknowledged Environmental Importance, MP5: Transport, MP6: Nature Conservation – Mitigation Measures and MP7: Archaeology – Mitigation Measures. Other MLP policies of relevance are MP10: Reclamation and After-Use, MP16: Maintenance of Landbanks, MP18: Extensions to Sites, MP19: Additional Sites and MP21: Sand and Gravel Sites.

The main objective of these policies is to ensure the provision of sufficient sites for the extraction of an agreed and appropriate amount of sand and gravel from within Derby and Derbyshire, with the minimal level of environmental and amenity impact, whilst ensuring that extraction sites are restored to a satisfactory standard and after-use. These issues are explored in detail below.

## **Minerals Local Plan and Future Development Plan Documents for Minerals**

The current MLP made provision for the supply of minerals for the period from 1991 to 2006. In December 2008, the Council published a guide to the relationship between allocations in the saved policies of the MLP and future plans. Work on an Aggregates Sites Development Plan Document to role forward the allocations was halted (as a result of other advice on the progressing of plans elsewhere) in favour of work on a Core Strategy Document. The guide is now a statement to assist prospective applicants until a new Minerals Local Plan for Derbyshire is in place.

## **Derby and Derbyshire Waste Local Plan**

The relevant policies of the WLP are W5: Identified Interests of Environmental Importance, W6: Pollution and Related Nuisances, W7: Landscape and Other Visual Impacts, W8: Impact of the Transport of Waste, W9 Protection of Other Interests; W10 Cumulative Impact, W11: Need for Landfill and W12: Reclamation and Restoration. The relevance of these policies is due to the proposed use of imported waste material to backfill the extraction voids and the issues focus on the type of waste material and the form of landfilling involved.

## **South Derbyshire Local Plan**

The SDLP was prepared in two parts. Part 1 was adopted on 13 June 2016 and Part 2 on 2 November 2017. Both now supersede the previous Plan adopted in 1998.

The policies of the Plan which are of relevance to this proposal are;

### **Policy SD1 Amenity and Environmental Quality**

This supports new development that does not lead to adverse impacts on the environmental quality or amenity of existing and future occupiers within or around proposed developments.

### **Policy SD2 Flood Risk**

This policy sets out requirements to ensure an appropriate approach to flood risk management.

### **Policy BNE2 Heritage Assets and BNE10 Heritage**

These policies seek to protect heritage assets from the adverse effects of development.

### **BNE3 Biodiversity**

This policy seeks to protect and enhance the biodiversity interests of the Plan area.

#### BNE4 Landscape Character and Local Distinctiveness

This policy seeks to protect and enhance the character of the local landscape and all features of local distinctiveness.

#### Policy INF2 Sustainable Transport

This policy seeks to ensure the use of the most sustainable forms of transportation and the avoidance of adverse impacts from travel movements generated by new developments.

#### Policy INF5 East Midlands Airport

This policy seeks to protect the integrity of the airport and the safety of aircraft and travellers using the airport.

#### Policy INF7 Green Infrastructure

This policy seeks to conserve, enhance and wherever possible extend green infrastructure in the district.

#### Policy INF9 Open Space, Sport and Recreation

This policy seeks to protect, enhance and extend the range of such facilities within the district.

### **National Planning Policy Framework July 2018**

The revised NPPF was published in July 2018 and replaces the original Framework issued in 2012. It maintains the threads of the earlier statements and importantly, reiterates the established provisions of planning law that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. It maintains that the purpose of the planning system is to help achieve sustainable development and adds that there should be a presumption in favour of sustainable development. The term sustainable development is not defined as such but it does indicate that it can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. It also reiterates that achieving sustainable development means that the planning system has three overarching objectives; set out as economic, social and environmental objectives.

The economic aspect for planning is stated as contributing to the economy by providing sufficient land of the right type, in the right place and at the right time. The social role is to support strong and vibrant communities by providing for the needs of the community whilst fulfilling the environmental role of protecting and enhancing the natural, built and historic environment, using natural resources prudently, minimising waste and pollution, and adapting to climate change, including moving to a low carbon economy.

With regard to facilitating the sustainable use of minerals, the revised NPPF incorporates several changes. These include a statement that it is essential

that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs but continues to recognise that minerals are a finite resource that can only be worked where they are found and therefore the best use needs to be made of them to secure their long-term conservation.

The NPPF provides advice to mineral planning authorities concerning the role of planning policies. Of particular relevance are that these should:

- Provide for the extraction of mineral resources of local and national importance.
- Take account of the role that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary minerals, whilst aiming to source minerals supplies indigenously.
- Set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality.
- When developing noise limits, recognise that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate mineral extraction.
- Ensure that land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare on mineral sites takes place.

When determining applications for mineral development the NPPF states that mineral planning authorities should give great weight to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, mineral planning authorities should (of relevance to this proposal):

- ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;
- ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits from extraction in proximity to sensitive properties; and
- provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.

The NPPF expects mineral planning authorities to plan for a steady and adequate supply of aggregates by determining their own levels of aggregate provision through the preparation of an annual Local Aggregate Assessment (LAA). This should be prepared either individually or with another or other mineral planning authorities, based on a rolling average of 10 year sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources). It is advised also that published National and Sub National Guidelines on future provision should also be taken into account. It should also assess the balance between demand and supply, and the economic and environmental opportunities and constraints that might influence the situation. It should conclude if there is a shortage or surplus of supply and, if the former, how this is being addressed.

### **National Planning Practice Guidance**

The National Planning Practice Guidance (NPPG) was first published in 2014 and is updated periodically. It reiterates much of the policy guidance of the NPPF in terms of the need for and how to plan for mineral extraction. It recognises the contribution of minerals to our economy and overall quality of life but also acknowledges that they are a finite resource and need to be used prudently to ensure their continued availability for future generations. It recognises that mineral can only be worked where they naturally occur but that the means of obtaining them can have economic, social and environmental impacts which need to be balanced. The advice on how to plan for a steady supply of aggregates repeats the guidance in the NPPF referred to above.

### **Identification of Issues**

With regard to the supply of aggregates, the NPPF states that planning authorities should plan for a steady and adequate supply, making provision for the maintenance of landbanks of at least seven years supply for sand and gravel. This is of particular relevance to the determination of this proposal. The site is not allocated for mineral development in the current MLP (Policy MP21) and therefore conflicts with the first part of Policy MP19: Additional Sites, which states: *“Proposals for working aggregates or industrial limestone outside permitted and allocated sites will not be permitted, except where: they are required to meet a proven need which would not otherwise be met and their impact on the environment is acceptable.”*

The policy provides exceptions and, as the Plan is now out of date, it is necessary to consider the proposal against the second part of the policy. The issue of need in terms of the current and anticipated landbank is addressed below.

In terms of other policies of the current MLP, the site would, as an extension to an existing working site, accord with the provisions of MLP Policy MP18 which gives preference to such sites over new ones, provided they can be

accommodated in an environmentally acceptable manner. Although this proposal clearly concerns a new mineral extraction area which does not directly adjoin the Swarkestone Quarry extraction area within the current permissions (being on the opposite side of the river), this proposal nevertheless falls to be regarded as an extension to the established mineral working site at Swarkestone, since the proposal is for extraction of mineral from an area which is in close proximity to the established site, and for use of retained processing plant for processing that mineral which is within the existing established site, as well as mineral transportation to the public highway via a route through the existing established site. Furthermore, the Bailey bridge, which is an integral part of the proposal, would physically link the new extraction site with the existing established site. The proposed operational development would therefore become the main part of a single working mineral quarry complex featuring the remaining working element of the existing site together with the new extraction site. Within the eight year timespan of the new operational development under this proposal, the fully worked parts of the existing site (outside the remaining working element and the current application site area) should be subject to restoration work, and then aftercare, under the continuing requirements of the conditions of the existing permissions.

The proposal also accords in principle with the requirements of MLP Policy MP10 which states that mineral development will only be permitted where satisfactory provision is made for appropriate reclamation and after-uses as soon as practicable. Notwithstanding the outcome of a detailed assessment of the proposed restoration scheme, it makes provision for part of the site to be returned to a landform and levels similar to the current situation and back to agricultural use on a progressive basis with the remainder restored to water features and nature conservation. The use of the existing access/egress arrangements onto the A5132 also means that the proposal accords in principle with the requirements of Policy MP5.

The main issues for the determination of this proposal are therefore the need for the mineral as assessed against the latest demand/supply information, the environmental acceptability of the proposed method of working this site at this point and whether or not there would be any significant cumulative impacts.

### **Need for the Mineral**

The issue of need is addressed in the Supporting Statement submitted with the planning application. It states that Swarkestone is an established quarry providing high quality materials for the local and regional construction and civil engineering sectors, employing six people directly and supporting a further 50 indirectly. It indicates that the reserves at the quarry are nearing exhaustion and thereafter the extension would be required to retain the employment and enable the Plan area to meet the assessed sand and gravel landbank figure and annual production rates.

The County Council has prepared a joint LAA in collaboration with Derby City Council and the Peak District National Park Authority (PDNPA). The Joint LAA sets out the current and future situation in Derbyshire, Derby and the PDNP with regard to all aspects of aggregate supply, in particular, setting out the amount of land won aggregate that the area will need to provide. The most recent LAA is dated 2017, incorporating survey information from 2016, and therefore updates the position as assessed by the applicant at the time of submission.

The most recent production figures for 2016 show that production of sand and gravel increased to 1.16 million tonnes from a low point of 0.81 million tonnes in 2012. This now means that sand and gravel production has averaged 1.12 million tonnes for the last three years (2014 – 2016), and for the last 10 years, the average is 1.04 million tonnes. Taking into account a range of factors, including comments received through public consultation, the annual apportionment figure is now set at 1.04 million tonnes. This figure is not intended to be a ceiling limit; there may be years when production is even higher than this. It is intended, therefore, as an average figure.

Based on this annual provision rate, the proposed apportionment for the 14 year period, 2017 – 2030, that Derbyshire will provide is 14.56 million tonnes. At the time of the 2016 survey there were four active operations producing sand and gravel (three along the Trent Valley and one at Mercaston) and two inactive sites and a further site with permitted reserves (at Elvaston and Willington). Estimated reserves of sand and gravel in Derbyshire from these quarries amounted to around 12.53 million tonnes. Whilst this results in a current landbank greater than the seven year figure required by Government policy it does mean that an additional provision of 2.03 million tonnes will have to be made if the LAA apportionment figure for the Derbyshire area is to be met over the period from 2017 - 2030.

The current landbank exceeds that required by Government policy but it has to be recognised that this uses a seven year approach, which is a minimum rather than a maximum. There remains a need to allocate/approve further reserves to meet the overall minimum target indicated by the LAA for the area over the period up to 2030. This could be met by the aggregate available from this site. The current levels of Derbyshire production have included a substantial contribution from the current Swarkestone Quarry where permitted reserves are nearing exhaustion, leaving production in the immediate future to be restricted to just three other active quarries. This situation could significantly affect future production levels, especially in the medium-term. I therefore accept that there is a need for additional production capacity which could be met by this proposal.

The planning application is accompanied by an ES. The following assessment addresses individual topics in the order they are reported in the ES. Each



heading contains a summary of the conclusions of the ES followed by the Officer assessment.

### **Geology**

The ES includes a section on geology but it merely indicates the main results of the exploratory drilling and survey work which demonstrates the presence and extent of the sand and gravel deposits and other minerals which underlie the site. The results confirm that there are no geological barriers to the proposed development or that would prevent the proposed form of restoration.

### **Landscape and Visual Assessment**

The ES states that the form and content of the assessment of the existing landscape and the potential landscape and visual impacts of the proposed development takes account of Government advice and the current guidance on assessment methodology (Guidelines for Landscape and Visual Assessment – 2013). It sets out that the assessment has considered the impact on the site in four stages; site preparation, operational, final restoration and aftercare period.

It describes the proposed extension as lying on agricultural land immediately to the west of the existing operational quarry at Swarkestone where the land area falls within the Riverside Meadows Landscape Character Area (“LCA”). It adds, however, that as the current land uses of the site are predominantly agriculture and improved pasture, the site is not considered to be representative of the wider LCA. It cites the Derbyshire County Council document “A Landscape Character Assessment of Derbyshire” 2003 in which the site is located within the Trent Washlands Regional Character Area and the subdivision Riverside Meadows Landscape Character Type.

The baseline for the assessment encompasses a study area around the site extending to some 4km, chosen on an earlier appraisal of the potential effects of the proposal. The descriptions and features noted therefore cover the whole of the study area. It identifies the settlements in the area and their landscape and visual relationship to the proposed site.

It describes the site as consisting of three large geometric agricultural fields used for arable crops and pasture. The fields are bound with hedgerows with occasional trees and are generally continuous and overgrown. It states that the site boundary is offset by 50m from the River Trent in the north and east, 20m from the brook to the south and 10m from the hedgerow to the west. The site is accessed by a bridleway (FP9) west of the site which connects to Main Street, Foremark to the south. Pylons and high voltage overhead lines cross the northern field and are described as being negative to the landscape character.

The southern horizon to the site is described as being undeveloped and heavily wooded defined by the escarpment near Anchor Church immediately south of the site. The existing quarry is considered to influence the eastern part of the application site and views in addition to views from the ridge and Ingleby to the south and south-east of the site, where views of plant and vehicles are considered to reduce tranquillity in the immediate area of the quarry.

The landscape impact assessment identifies those impacts which are anticipated to occur in each of the four phases referred to above. For the preparatory stage, the assessment identified the impacts from soil stripping and the creation of storage bunds, together with some footpath diversions, but these were not considered to be significant. Impacts during the operational period were considered to be tempered by the screening bunds and the limitation of operations to a phased basis with rolling restoration, but it did acknowledge the inevitable changes to the on-site vegetation and landscape features due to excavation activities. Upon final restoration, the ES acknowledged that the changes would be substantive due in part to the creation of new water features which are noted as being uncharacteristic of the area, although their chosen shape was considered to be such that they would readily assimilate into the local landscape. By the end of the aftercare period the proposed woodland was expected to mature to the extent where it would result in a more varied landscape compared to the baseline with additional benefits for recreation. Overall, the impacts were considered acceptable and beneficial.

In terms of visual impact, the ES states that the vegetation in the area surrounding the site, together with the topography of the wider area relative to the site, would help to reduce potential impacts. It did acknowledge that there would be significant visual impacts at four of the selected viewpoints but that these would be temporary with none remaining after completion of the restoration phase. The implemented scheme was considered to result in beneficial impacts at five of the viewpoints.

Visual impacts on the three settlements of Ingleby, Foremark and Milton were considered negligible overall and, likewise, it was concluded that there would be no significant impact on individual properties due to the intervening distance involved.

In order to address concerns about the impact of the development on the setting of Anchor Church Cave and the form of restoration (see Heritage Section below), the applicant amended the proposed development by removing an area of 2.2 hectares in the south-eastern corner from the extraction area and relocating some of the soils storage mounds. In addition, the restoration plan was amended to replace the single, large water body with a series of smaller water bodies varying in size and shape. An addendum to

the original Landscape and Visual Impact Assessment was submitted. This acknowledged the benefits of an increase in distance from the site to the Anchor Church Cave but the removal of the soil mounds along the southern boundary of the site would increase views into the eastern part of the site for a longer but temporary period.

The proposal, as originally presented, posed a number of landscape and visual impact concerns relating to:

- The potential delay in restoring parts of the existing site.
- Long-term removal of the screening bund on the entrance to the site.
- The feasibility of the proposed screening to the plant site and location and choice of tree planting.
- Visual impact of some aspects of the proposed working due to insufficient details (for example bund heights).
- Other aspects requiring further information to enable detailed assessment (soil depths in parts of the site and availability of restoration materials).
- Restoration proposals not demonstrating the full range of benefits (environmental and habitat creation) offered by the location of the site and proximity to the River Trent.
- Insufficient details for the proposed aftercare arrangements.

The submission of the supplementary information provided further clarity and included a number of amendments to address these concerns. The revised restoration/landscape proposals would return the land back to agriculture and flood meadow in keeping with the characteristics of this area of the River Trent valley and is welcomed. It would include significant amounts of new planting to help assimilate the new water features into the landscape and help to reduce the attractiveness of these water bodies to large birds in the interests of delivering the bird hazard management plan. The additional details also provide sufficient information to demonstrate that the form of restoration could be achieved.

The provision of cross-sections for the proposed water bodies now provides sufficient information to demonstrate their relationship with adjacent land levels and how the marginal vegetation could be established, which is necessary for the assimilation of them into the landscape and to deliver the intended ecological benefits. The submission did not provide details of the species mix to be incorporated into the landscape scheme or full details of the aftercare regime but I am satisfied that the proposals can be delivered and that these matters can be resolved by the recommend conditions.

The additional information now provides a comprehensive report on the trees on the site, outlining those to be lost, vegetation to be retained and details of the root protection regime for trees and hedgerows that are to be retained. I am satisfied that every effort has now been made to retain as many trees and

hedgerows as possible but, in the benefits of the final landscape, it would be preferable for the applicant to make provision for the infilling of existing gaps in hedgerows on completion of the development. This, however, can be achieved by an appropriate requirement in the landscape condition.

I am now satisfied that the proposal now takes full and proper account of the landscape context and setting of the site and the main features within. It will inevitably result in a major change in the appearance of the site which will endure for a lengthy, temporary period but I do not consider that it would have any significant landscape or visual impact effects sufficient to warrant refusal of the proposal. The actual site for the proposed extension of mineral working does not contain any major landscape features that could not be replaced in the restoration/landscaping programme. It is a very flat site with limited viewing points whereby the operational activities would be inconspicuous in the local area.

The method of working in phases with progressive restoration would restrict the main impacts to relatively small areas at any one time and the restoration and landscape masterplan proposals would ultimately produce a landform and landscape which respected the character of the Trent Valley setting and assimilated the site into the wider area. I note and welcome the commitment to additional planting as part of the site preparation works and infilling of gaps in hedgerows to be retained as this would minimise the effects on the landscape and of views into the site.

The proposal would involve the retention and use of the processing plant for a further eight years, but it is a modest sized plant and the landscape features and screen bunding around the plant area minimise its prominence in the local landscape.

In conclusion, I consider that the proposal would not conflict with the requirements of policies MP1, MP3 and MP4 of the MLP and policies SD1 and BNE4 of the SDLP.

## **Soils**

The ES states that the application site forms part of a much wider area that has been the subject of numerous site investigations on land, both north and south of the River Trent (202 hectares of land west of Swarkestone), which broadly conforms to that put forward by the applicant for possible allocation in the forthcoming new Minerals Local Plan. Unfortunately, the ES refers to soils in this wider area in aggregate rather than for the application site specifically.

It states that the majority of the study areas' permeable soils (mostly north of the River Trent) form best and most versatile agricultural land of grade 2 and sub-grade 3a quality (Ministry of Agriculture, Fisheries and Food classification system). Clay loams and poorer clay soils more prone to flooding are

widespread to the south of the River where the soils are a mixture of sub-grades 3a, 3b and grade 4). It adds that topsoil across the whole site is a reusable resource and should be stripped and stockpiled, and that the subsoil resources are of varying quality and at least 40% are of no re-use value and can be discarded. An appendix to the ES provides some additional information which indicates that, of the 48 hectares of the application site where extraction was originally proposed, 14.2 hectares are agricultural grade 3a and 33.5 hectares are grade 3b.

The ES refers to Government policy, as set out in the NPPF (paragraphs 109 and 143), which is to protect valuable soil resources from loss or damage during land disturbance and to ensure that stripped soils are used for land reinstatement or other beneficial uses off site. It then provides a brief description of the soil handling regime that would be used during the proposed development.

The most recent revised working drawings provide further information about the movement of soils during the respective phases, confirming the location of storage mounds and their use in the phased restoration programme. The details include the depth of top and subsoils to be stripped and likewise the depths of replacement soils in the areas to be restored to agriculture and around the water feature peripheries.

Whilst the assessment of the impact of the proposal on the soil environment of the site was rendered more difficult by the references to the larger site that the applicant wishes to have allocated in the forthcoming new Mineral Local Plan, I am now satisfied that it demonstrates an appropriate regard to the soil resources of the site. The ES does make a commitment to retain all the high quality soils for use in the restoration of the site and specifies that soils would only be handled during appropriate weather conditions. The supplementary information clarifies the soil stripping and storage regime, and provides details of the use of soils in site restoration that help deliver the restoration objectives.

I acknowledge the performance of the applicant in maintaining the integrity of the soils on the existing site and consider that the imposition of conditions similar to those on the previous planning permissions at this quarry would ensure adequate protection for the soils in this development.

In conclusion, I am satisfied that the proposal does not conflict with the relevant requirements of MLP policies MP1: The Environmental Impact of Mineral Development and MP4: Interests of Acknowledged Environmental Importance.

## **Ecology**

This section of the ES provides an assessment of the potential impacts of the proposal on the ecology of the extension area and land close to the quarry

area. It states that the assessment was undertaken in accordance with the relevant established guidelines, including a desktop data review and appropriate surveys. The range of species surveys to be undertaken was assessed on the information obtained from a walkover survey by an ecologist.

The assessment identified all the different habitats present on and near to the site and the condition of those areas. Surveys were then undertaken to detect which species were present and the results are set out in the ES. In summary, the surveys found the number and range of species (including protected species) present on the site and immediate surroundings to be limited.

The ES identified a list of anticipated potential negative impacts as a result of the proposal in the absence of any mitigation measures. These were listed as:

- Direct removal of vegetation and soil with direct and indirect loss of habitats and supported species.
- Noise and human disturbance.
- Dust deposition.
- Hydrological changes including pollution.
- Lighting.

The ES then set out the general approach to ecological mitigation. It stated that the restoration design had taken into account the requirement to mitigate against any effects by primary mitigation by avoidance, where possible, and then off-setting/compensating for any effects during the operational period and by longer-term benefits in the restored site. It then included further details of the measures to mitigate for the potential impacts listed above.

The conclusions of the ES were that none of the non-statutory ecology based sites within 2km of the site would be directly affected by the operations. It acknowledged that it would result in changes to the habitats identified in the surveys but concluded that these would not be significant. Likewise, the impact on animal, bird and reptile species was considered to be limited, in part, due to the low numbers present on site and as a result of the duration of the development and the use of phasing to minimise the area in active operations. The ES also stated that, as a general approach to ecological mitigation, any valued habitats lost during the operational period would be incorporated into the restoration scheme on a like-for-like basis or, where this was not possible, to provide new habitats of an equivalent ecological value.

I note that the Trust confirms that the ecology based surveys were carried out in accordance with established methods and also that it supports the overall conclusions of the ES. It is inevitable that mineral development on this scale will affect established habitats. The crucial issues are the value and importance of the habitats to be lost or adversely affected; could they have been avoided, and what level of compensation is being provided.

In this case, I concur with the broad conclusion of the ES. There are no statutory ecology based sites within the proposed development area or nearby that would be adversely affected by the development. The site and surroundings do contain habitats and foraging areas for some notable wildlife species but the development would be relatively short-term and undertaken on a phased basis, minimising any impacts and the proposed form of restoration would provide net ecological gains in the longer-term whilst still maintaining a viable area in agricultural usage. I am also satisfied that the ES sets out appropriate mitigation methods to be applied during the development. The proposed water bodies, instead of the one larger water feature as originally proposed, would provide a wider range of habitats capable of supporting an enhanced range of wildlife whilst also delivering the bird hazard management plan objectives necessary for mineral development in this location. The current agricultural use of the site minimises the presence.

Accordingly, I consider that the proposal in respect of ecology meets the requirements of the relevant policies of the MLP and the SDLP.

### **Archaeology and Heritage Impacts**

This section is another for which the base study area is that of a larger area rather than the application site in isolation. It is nevertheless important not to disregard direct impacts on the current application area.

As the ES states, the application site sits within a meander of the River Trent, where it turns to the north and then to the west. The ES states that the boundaries of the site are predominantly defined by watercourses. It states that there are no known heritage assets within the site but adds that this should not necessarily be taken as a sign of absence of remains. It notes that as an area lying within a floodplain, in close proximity to a dynamic river, the site appears unlikely to favour settlement activity. It adds that existing impacts on any surviving archaeological deposits and features would derive from the arable use of the land from the medieval period as shown by the presence of ridge and furrow.

Within the area of influence of the proposed development are two listed buildings, Anchor Church Cave (Grade II) and Foremark Hall (Grade I). Accordingly, Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, must be complied with in the determination of this application. This section requires the Council to give special regard to the desirability of preserving a listed building or its setting or any special architectural or historic interest in the determination of planning applications.

Paragraph 90 of the NPPF expects local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise. They

should take this into account when considering the impact of a proposal or a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

'Setting' is defined in the NPPF glossary as "*The surroundings in which a heritage asset is experienced.*" Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. Paragraphs 189 – 202 of the NPPF make it clear that, in considering a development proposal, it is important to assess the effects those elements of the setting that make a positive contribution to the asset concerned.

The analysis in the ES used information obtained from a desk-based assessment and the opinion of the County Archaeologist and English Heritage was that this did not provide sufficient information for heritage significance and impact to be understood in accordance with the guidance in para 128 of the NPPF with regard to below ground archaeology/geo-archaeology and the setting of heritage assets. Accordingly the applicant was asked to submit further information in order to enable a comprehensive assessment to be undertaken.

In response, the applicant submitted an additional heritage focused report on the impact of the development on Anchor Church Cave and borehole investigation information and a plan to expand on the geo-archaeological report submitted previously. The issues were also discussed in a series of meetings involving the applicant, English Heritage and your officers.

In a further response, the applicant also submitted amendments to the proposed form of the development. The principal amendment was the removal of approximately 2.2 hectares of land in the south-eastern corner of the site from the area to be excavated to provide a much greater separation distance from the development to Anchor Church. The phasing was also amended whereby the phases in the south-eastern corner would be brought forward with extraction and restoration completed in six years rather than towards the latter end of the development.

English Heritage has indicated that these amendments now provide appropriate protection for the setting of Anchor Church. The additional borehole information provides clarity for the survey and analysis work provided in the geo-archaeological report. Based on this information, I am satisfied that the proposal now provides adequate protection for the heritage assets above ground. Historic information obtained from previous surveys and mineral developments, together with the assessment undertaken for this proposal, indicates that archaeological features could well be present at depths where excavations would take place. However, I am satisfied that



these features could be examined and recorded by an appropriate person undertaking a watching brief in accordance with terms to be agreed post determination. An appropriate condition is recommended.

I am therefore satisfied that the proposal does not raise any significant issues with regard to the provisions of MLP policies MP4: Interests of Acknowledged Environmental Importance or MP7: Archaeology – Mitigation Measures and policies BNE2: Heritage Assets and BNE10: Heritage of the adopted SDLP Parts 1 and 2.

### **Hydrology and Hydrogeology including Flood Risk**

The ES states that the proposed site falls within Flood Zone 3, as defined on the Environment Agency's Flood Map, where there is a high probability of flooding from the River Trent, but notes that sand and gravel extraction is considered a water-compatible use appropriate within a flood plain and may provide the opportunity for additional storage capacity to be created as part of the restoration scheme. It notes that the proposed site lies on a minor aquifer and land to the south-west falls within a Ground Source Protection Area whereby the development requires water management to protect this resource. The ES notes the climate characteristics of the area and records surface water features in the locality, together with abstraction and discharge points.

The ES states that calculations undertaken to assess the radius of influence and potential impacts on possible sensitive receptors of groundwater drawdown and conclude that water discharged to soakaway from the site during the operational phase would comprise groundwater pumped from the working area and is anticipated to be of a quality indistinguishable from the receiving aquifer. It is therefore concluded that there would be no significant groundwater quality impacts during the operational phase. It states that there would be no undue adverse impact of dewatering on groundwater users in the area due to distance from the extraction area, differences in elevation and/or the influence of the River Trent. It cites the spring at Anchor Church Cave, which is fed by flow in the Sherwood Sandstone from higher ground to the south. Similar reasons are stated to conclude that groundwater drawdown would not impact on any structures around the site.

The use of imported materials to restore approximately two-thirds to pre-development ground levels and the creation of new water features are acknowledged in the ES as potential impacts on groundwater flow and quality but concludes that the presence of a watercourse around the site, the design of the restoration and the use of inert materials only would minimise any such impacts to acceptable levels. The ES also cites reasons to support the conclusion that the proposal would not adversely impact on surface water quantity or quality.

This section includes a FRA but this was supplemented by a further, updated assessment following comments from the Environment Agency. This review therefore relates to the two reports in combination.

The FRA informs that the proposed extraction site is relatively flat and is susceptible to flooding, with flood flow likely to occur west to east across the site. It adds that flood water is largely dissipated by overland flow rather than by infiltration, meaning that the import of inert infill would not significantly alter the flood characteristics of the site. It states that mitigation measures have been included in the design of the quarry working scheme to ensure that the risk of flooding off-site is not increased compared to pre-development levels.

The existing plant infrastructure and ancillary facilities would be retained for the duration of this proposal and used in the same manner, and is not expected to give rise to any additional flood risk. The proposed development involves the use of soil and overburden storage bunds but the creation of excavation voids and the chosen contours of the restored site are such that the assessment concludes there would be no loss of floodplain storage capacity during or after the development. The assessment considered other flood risk issues, such as flow paths, creation of haul roads and potential obstructions due to the installation of the proposed bridge, but concluded that these could be successfully managed by appropriate controls.

The updated assessment provided further details of modelling results and flood mapping of existing and proposed scenarios. It states that it has helped the identification of additional mitigation measures that will be incorporated into the proposed development. It concluded (similar to the ES) that all flood risk to nearby properties and to the operations could be safely managed and mitigated, and that the restoration scheme would deliver a net increase in the flood storage capacity of the area.

The applicant submitted an additional report in September 2018 which reviewed all the earlier assessments of the potential hydrological, hydrogeological and flood risk impacts in one combined statement and to examine any potential differences arising from the amended extraction and phasing plans referred to above. It reaffirms the previous conclusions that the proposal would have no significant adverse impacts on the hydrology and hydrogeology of the site and surrounding area influenced by the development during the operational phase or in the longer-term following restoration.

The introduction to the revised FRA sets out the aspects of the proposed development that would need to be examined and considered, including the retention of the processing plant, existing bunds and stockpiles, the dewatering undertaken in the new excavation areas, the scale and location of storage bunds in the new working area and the form of restoration. It

concluded that the net available floodplain storage of each phase would be substantially greater than the existing situation.

To assess the impact on flood flows, the report took account of the nature and location of the haul roads and the design of the proposed bridge crossing the River Trent in addition to the other factors listed above. It restated the previous conclusions that it would not affect flood flow or water quality during the operational stage and would not impact upon any buildings in the vicinity. In the longer-term, the form of restoration was again considered to offer benefits arising from the additional storage capacity to be created.

I can confirm that the Environment Agency is satisfied with the form and content of these reports and the conclusions they contain. Accordingly, I consider that the proposal accords with the relevant requirements of MLP policies MP1: The Environmental Impact of Mineral Development, MP3: Measures to Reduce Environmental Impact and MP4: Interests of Acknowledged Environmental Importance.

## Noise

The ES and technical appendices set out the extent and form of monitoring that was undertaken to establish the background noise climate for the area, through recordings taken at seven monitoring locations. The ES then sets out the parameters and methodology for calculating the predicted noise levels likely to be experienced at these properties at various stages of the proposed development. It sets out the noise prediction assumptions on which the calculations were based. Reference is made to the guidance for assessing noise and permissible levels from mineral operations in the NPPF and the associate technical guidance (as pertaining at the time the application documents were written). The ES states that the assessment was based on the 'worst case scenarios' for the proposed scheme during both 'temporary' and 'normal' operations.

For the seven locations chosen for the assessment, the conclusion was that the noise generated by all mineral extraction and processing activities would produce worst-case noise levels that did not exceed the upper noise limit of 70 dB(A) LAeq 1h (free field) for temporary operations and would not exceed background noise levels by more than 10dB(A). For temporary operations the actual forecasted noise levels were significantly below the upper limit by 18 to 25 dB(A).

From the noise monitoring results for the current and earlier areas of working at this quarry, and based on the relative remoteness of the proposed extension area to sensitive receptors, I have no reason to dispute these figures. The margin by which the predicted noise levels are within the guidance figures allow more than sufficient margin to cover any minor inaccuracies in the assessments undertaken. Accordingly, I consider that the

proposal does not conflict with the requirements of MLP Policy MP1 – The Environmental Impact of Mineral Development.

### **Traffic**

The ES states that the proposed extension would utilise the existing infrastructure already established at Swarkestone Quarry, including the plant site, stocking areas, site access and haul road. It refers to the current site access onto the A5132 and indicates that vehicles from the site generally travel eastwards, joining the principal road network comprising the A50 and on to the A38 and M1. It indicates that the anticipated rate of output would remain at levels consistent with historic rates (about 350,000 tonnes per annum) and likewise for the rate of import of inert fill (average around 175,000 tonnes per year). It concludes that the proposed development would not generate any increase in vehicle movements or routeing changes and would therefore not result in any additional traffic impacts over and above current operations. It adds that road safety records in the area indicate no abnormal levels of accidents and that there would be no highway-related reason to refuse the proposal.

The Highway Authority has confirmed acceptance of this assessment and I am therefore satisfied that there are no highway related objections to the proposed development. The proposal accords with the requirements of Policy MP5: Transport of the MLP and Policy INF2: Transport of the adopted SDLP Part 1 and Part 2.

### **Dust and Air Quality**

The assessment provided in the ES identified the activities (vehicle movements, excavations, mineral processing and restoration operations) of the current and proposed operations that could generate dust emissions and highlights the existing management and control mechanisms that are already used and would continue to be deployed during the proposed development period. The control measures include the use of water bowsers, sheeting of vehicles and the method of operation of the processing plant, all combined with the natural dampness of the material being excavated due to the level of the water table.

The ES also provides an assessment of the conditions that would be required to generate potential air quality impacts, such as ground conditions, wind direction and location of the working areas relative to sensitive receptors. The nearest sensitive receptors are listed as:

- Brook farm, some 950m south-west of the closest operations.
- Farmhouse of Meadow Lane, 800m west of the closest operations.
- Twyford Farmhouse, 950m north-west.
- Poplars Farm, 550m north-east.

- Barrow-on-Trent, where closest properties are 400m east of the proposed storage/tip off area and 1,300m north-east of the closest new operations.
- Ingleby, 800m to the closest operations.
- Foremark Hall School to the south.

The assessment uses wind speed/direction records combined with the number of working days in the parts of the site closest to these properties and PM<sub>10</sub> estimates (fine dust particles) to conclude that the level of impact from dust would be limited (well within National Air Quality Objectives) and not give rise to unacceptable disturbance.

The ES also provides a review of the dust management regime established at the quarry and states that the proven practices would be maintained during the period of the proposed extension workings. It includes a commitment to monitor dust emissions and the suspension of dust generating activities if weather conditions resulted in the failure of the dust mitigation measures and controls.

I am mindful that the proposal is one where the method of operation would remain the same as those carried out under the existing and previous planning permissions, maintaining the same rate of production, hours of operations and on-site practices and procedures. Site management procedures for the control of fugitive dust would also continue as at present. I am also mindful that the quarry has been in operation for some years providing a substantial base of monitoring information to support the assessments and conclusions for the current proposal.

I acknowledge that the quarry has been worked without undue disturbance and nuisance from fugitive dust due to a combination of the inherent wet/damp working conditions due to the level of the water table, the mitigation measures employed to control the most dust susceptible operations and the distance of the site from sensitive receptors. I acknowledge that some of the operations in the current proposal would have the potential to give rise to significant dust emissions (vehicles on the haul road in dry conditions and infilling of voids), but I am satisfied that the continuation of the existing mitigation measures and controls, together with the distances from the identified sensitive properties, would prevent any significant problems affecting the identified sensitive receptor residential properties or any potentially sensitive ecological features in the area.

Accordingly, I consider that the proposal does not conflict with the requirements of MLP Policy MP1: The Environmental Impact of Mineral Development, WLP Policy W6 and SDLP Policy SD1.

## Alternatives

The ES states that, in this particular instance, no alternatives to the proposal have been considered as mineral extraction which can only take place where mineral is present. It does, however, refer to the range of alternative restoration options that were considered.

Environmental Impact Regulations which affect this application require that any reasonable alternatives to a proposed project which are studied by the developer are outlined and addressed in the ES. In this case, I accept that the kinds of alternative potential options that are usually available for most forms of development are not pertinent to a sequential extension of an existing mineral quarry, and that the ES is therefore not inadequate in this respect.

## Cumulative Impacts and Interaction Effects

The ES states that the proposed development is an extension to the existing mineral workings at Swarkestone Quarry and, as these are consented development, they are part of the baseline for the proposed extension and are therefore not required to be covered under the assessment of cumulative impact. It acknowledges however, that the proposals envisage the retention and continued use of the existing plant site and ancillary facilities. It also acknowledges that, owing to the size and nature of the proposals, the scope for interaction effects is considerable. It identifies the main sources of interaction effects as:

- restoration concepts impact on landscape, ecology and soils;
- the appropriate siting of the crossing points in relation to landscape and ecological impacts; and
- the appropriate siting of amenity bunding to minimise the scope for impact in relation to noise, dust and landscape.

Whilst there is no one universally accepted format for cumulative impact assessment, the ones which are appropriate to the consideration of the effects of mineral developments, particularly in the case of Derbyshire with such an abundance of mineral sites, include, not only concurrent impacts, but also those that may have occurred consecutively or successively over a period. It is also necessary to take account of the proposed continued use of the existing plant and associated facilities for a longer period than that approved by the previous planning permissions.

One particularly important cumulative impact issue is the combined effect of the changes to the landscape of the Trent valley from the working and restoration of a number of sites over time over a relatively short distance, for example, the incremental loss of riverside meadows and the introduction of more water features could represent a cumulative impact, and one where the changes proposed in another site or extension would be an unacceptable aggregate change.

I acknowledge, however, that minerals can only be worked where they are found and that the Trent valley is the major source of sand and gravel reserves in the area. If this site is not to be worked then, applying the current LAA allocation to the period up to 2030, another site or sites would be needed, possibly involving entirely new sites rather than extension. This could involve the provision and construction of new site accesses and processing plant and those site(s) would have similar potential for adverse effects on the landscape and on local amenity, particularly from traffic, noise and dust.

In the assessment of individual topics above, I have concluded that there would be no substantive adverse impacts sufficient to warrant a recommendation of refusal. This includes the form of restoration (as now amended) which is considered appropriate. For this reason and the other reasons indicated above, I also consider that the proposal would not give rise to any aggregate or cumulative adverse impacts sufficient to warrant refusal. Accordingly, I consider that it satisfies the requirements of MLP Policy MP4 and WLP Policy W10.

### **Bird Strike**

The ES did not address the issue of bird strike management for the proposed extension area, resulting in a request from the East Midlands Airport Authority for the operator to confirm how it intended to deal with this issue. In response, the operator indicated that the approved bird hazard management plan for the existing quarry area would be extended to cover the proposed new working area. In addition, the operator stated that regard had been given, where necessary, to the supplementary advice factsheet entitled “Designing Wildlife Ponds to Minimise the Risk of Bird Strike” produced by the Million Ponds Project, in order to design out those elements of the proposed restoration scheme that could provide a habitat favourable to birds known to pose a significant bird strike risk.

The need to ensure that mineral developments within a defined area around the East Midlands Airport do not present a danger to aircraft from birds being attracted to the site, both during the operational phase, and particularly to the restored site, is a very important issue. Whilst it may have been an assumed factor behind the design of the site, the method of operation and the form of restoration, it is an issue that should be addressed explicitly in an application of this nature. The need for this is particularly evident in this case given that the proposed restoration scheme includes the creation of new water features.

Notwithstanding this, the measures agreed and implemented for the existing site are based on well-established principles and are proving to be effective. I welcome the proposed continuation of the existing management plan methods for the operation of the new extension area and I am satisfied that the design of the new water features has taken account of the need to discourage large, flocking birds. Subject to the provision of a detailed bird hazard management

scheme for this site prior to the commencement of excavation operations (condition recommended), I consider that the proposal would comply with the requirements of SDLP Policy INF5.

### **Recreation and Public Rights of Way**

The ES does not address the impact of the proposal on rights of way as a separate, specific issue but references are included in the Landscape and Visual Impact section. It acknowledges that footpath FP11 crosses the south-western section of the site through extraction phases 2 and 5 and would therefore require a temporary diversion along the southern boundary of the site. I disagree with the statement in the ES that this diversion is one of the mitigation measures for reducing landscape and visual impact effects. The relevant issue is the impact on footpath users from the loss of a length of the footpath during the development. I accept that an alternative route can be provided and the current route would be reinstated upon restoration.

With regard to the impact of the proposal diversion, the ES states that footpath connections would be maintained but the recreational value of this route would be slightly impacted initially as a temporary screen bund would enclose the view and change the setting. It concludes that no other significant effects are predicted at this stage. Recreational users would experience changes in view in a northerly direction (looking across the site) for the section of the footpath between Windmill Hill to the southern boundary of the site and views travelling in both directions for the remaining section of the route. It states that close range views of the proposal would be mitigated by temporarily diverting the footpath to the south boundary of the site, introducing a temporary screen bund and a fast growing screen planting mix.

I acknowledge the availability of a suitable footpath diversion, which is the impacts identified the ES. Given this and the temporary nature of the proposal, I consider that the impacts on users of the route would be acceptable.

### **Conclusion**

Taking account of the latest information available from the LAA work, I am satisfied that there is currently a need for the mineral from the proposed development. I am also satisfied that it can be obtained in an environmentally acceptable manner, subject to full adherence to the proposed amendments to the form of the development and other requirements detailed in this report. I consider that it would contribute to the sand and gravel apportionment requirements for Derby and Derbyshire for the period up to 2030 and that the site and the proposed method of operations, including mitigation measures, and the form of restoration would meet the requirements of the policies of the current MLP.

If planning permission is granted, it would be necessary for the applicant to enter into another legal agreement pursuant to the Town and Country



Planning Act 1990, Section 106, as substituted by the Planning and Compensation Act 1991 to secure similar obligations to those that were entered into for the grant of planning permissions 9/790/450 and CM9/1109/166. This is provided for within the Officer's Recommendation below.

(3) **Financial Considerations** The correct fee of £65,000 has been received.

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

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

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

### **Other Considerations**

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

(6) **Background Papers** File 9.1589.5  
Application submitted by David L Walker Ltd (Application form dated 16 December 2015) on behalf of Tarmac Aggregates Limited and registered as valid on 17 December 2015. Further submissions under cover of letters dated May 2017, 20 April 2018 and 13 September 2018.  
Email from the Highways Authority dated 7 January 2016.  
Email from Flood Risk Management Team dated 14 January 2016.  
Email from Western Power UK Ltd dated 21 January 2016.  
Letters and emails from Historic England dated 27 January and 7 June 2016, 24 May 2018.  
Letter from Natural England dated 28 January 2016.  
Email from Severn Trent Water dated 4 February 2016.  
Letters from Derbyshire Wildlife Trust dated 8 February 2016, 28 June 2017 and 25 June 2018.  
Letters from the Environment Agency dated 23 March 2016 and 13 June 2017.  
Emails from the Lead Local Flood Authority dated 4 and 30 May 2018.  
Letter from South Derbyshire District Council dated 3 August 2018.  
Email from Repton Parish Council dated 27 January 2016.

Email from Open Spaces Society and Melbourne Footpaths Group dated 1 February 2016.

Email from South Derbyshire Greens dated 18 March 2016.

Letter from Repton School and Repton Preparatory School dated 30 January 2017.

(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that planning permission be **granted** subject to:

- 7.1 The applicant or operator acting on behalf of the applicant and any other person with an interest in the application site having entered into an agreement with the County Council under the provisions of terms of Section 106 of the Town and Country Planning Act 1990, to secure planning obligations considered satisfactory by the Strategic Director – Economy, Transport and Environment and the Director of Legal Services to secure:
- A continuing Technical Working Group to secure the implementation of an approved restoration plan with regard to the nature conservation uses of the water features.
  - Financial provision for long-term management (following aftercare) of the nature conservation features for a period of not less than 15 years.
  - A continuing Site Liaison Committee for the duration of the development.
- 7.2 The permission being subject to conditions based substantially on the following draft conditions:

#### **Commencement and Duration**

- 1) The development hereby approved shall be begun within three years of the date of this permission. The Mineral Planning Authority shall be notified, in writing, of the date of commencement of the development within 7 days of such commencement.

**Reason:** To comply with Section 91 of the Town and Country Planning Act 1990. The Mineral Planning Authority requires prior notification of the date of commencement of the development so that it has sufficient time to ensure that all the requirements of the planning permission are in place and to make arrangements for monitoring the development.

- 2) All mineral extraction operations, uses and other development as approved by this permission, except for such restoration and landscaping and aftercare of the site as is to be completed later in accordance with other conditions to which this permission is subject, shall be completed within eight years of the date of commencement.

**Reason:** To ensure the timely completion of stages of the development in the interests of the amenity of the area.

**Approved Plans and Form of Development**

- 3) Except as may be modified or required by the terms of the other conditions of this permission, the development hereby approved shall be carried out in accordance with the details, including all mitigation measures, set out in the planning application documents, including the Environmental Statement dated December 2015 and the Planning Statement dated December 2015 submitted by David L Walker Limited and received by the Mineral Planning Authority on 17 December 2015, as amended by the supplementary submissions by David L Walker Limited under cover of letters dated May 2017, 20 April 2018 and 13 September 2018.

For the avoidance of doubt the approved development shall be carried out in accordance with the provisions of and shall relate to the area specified in the following drawings and documents:

Drawing No. S346/00003 - Location Plan.  
Drawing No. S346/00004 - Site Plan.  
Drawing No. S346NC115.PDF - Inert fill areas.  
Drawing No. S346STP15.PDF - Plant Site Development.  
Drawing No. S346.00053a - Southern Extension Soil Proposed Revised Phasing.  
Drawing No. S346.00054a - Southern Extension Soil Handling Scheme Phase 1a.  
Drawing No. S346.00055a - Southern Extension Soil Handling Scheme Phase 1b.  
Drawing No. S346.00068 - Southern Extension Soil Handling Scheme Phase 1, Imported Fill.  
Drawing No. S346.00069 - Southern Extension Soil Handling Scheme Phase 1, Access and Bridge Restoration  
Drawing No. S346.00056a - Southern Extension Soil Handling Scheme Phase 2  
Drawing No. S346.00059a - Southern Extension Soil Handling Scheme Phase 2 Restoration  
Drawing No. S346.00057a - Southern Extension Soil Handling Scheme Phase 3a  
Drawing No. S346.00058a - Southern Extension Soil Handling Scheme Phase 3b  
Drawing No. S346.00063 - Southern Extension Soil Handling Scheme Phase 4a  
Drawing No. S346.00064 - Southern Extension Soil Handling Scheme Phase 4b

Drawing No. S346.00065 - Southern Extension Soil Handling Scheme Phase 5a

Drawing No. S346.00066 - Southern Extension Soil Handling Scheme Phase 5b

Drawing No. S346.00067 - Southern Extension Soil Handling Scheme Phase 5b Restoration

Drawing No. S346.00070 - Southern Extension Soil Handling Scheme Completed Restoration

Swarkestone Quarry Western Extension North Flood Risk Assessment (2D Flood Modelling Update) by Golder Associates (UK) Ltd dated 21 December 2016 as amended by:

Hydrogeological Impact Assessment and Flood Risk Assessment for the Proposed extraction of Sand and Gravel by Golder Associates (UK) Ltd dated September 2018.

Swarkestone Quarry Southern Extension – BS5837 (2012) Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement by Ecus Ltd dated January 2018.

Landscape and Visual Impact Assessment (LVIA) Addendum by ECUS September 2018.

For the avoidance of doubt, the programme for the phasing of extraction and restoration shall be carried out in accordance with that indicated on the relevant drawings listed above and on the commencement of each phase, no trees, hedgerows or shrubs shall be removed during the bird nesting season (1 March to 31 August in any year). In addition, there shall be no importation of aggregates for processing at the quarry.

**Reason:** For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved details in the interests of the amenity of the area and the integrity of the environment.

#### **Availability of Plans**

- 4) From the date any operations under this permission are commenced, a copy of the permission, including all the documents referred to in it, and any further submissions to, and approved by the Mineral Planning Authority under the approved conditions, shall be displayed at the site office during working hours, and the terms and conditions of the permission shall be known to any person(s) given the responsibility for the management and control of operations on site.

**Reason:** To ensure that the site operators are fully aware of the scope of the planning permission and the requirements of these conditions throughout the period of the development in order to ensure that it is carried out as approved in the interests of the amenity of the area.

### Notifications

- 5) The applicant/operator shall notify the Mineral Planning Authority within seven days of the commencement and completion of each phase of the development and give at least seven days' notice of the intention to undertake soil stripping in each phase. The applicant/operator shall also maintain production and output records which shall be made available to the Mineral Planning Authority on an annual basis.

**Reason:** The Mineral Planning Authority requires appropriate notification of these dates to establish the base dates for the duration of the operations and to ensure that it has sufficient time to make arrangements for monitoring of the development in the interests of maintaining the amenity of the area. The maintenance and provision of the annual production figures are required to ensure that the quarry operates within the approved limits.

### Site Access Location and Form

- 6) The sole means of passage access for all vehicles entering and exiting the site shall be via the existing entrance to Swarkestone Quarry onto the A5132 road. All existing visibility splays and road markings at the entrance shall be retained and maintained to the approved standard and form for the duration of the approved development. The entrance, including landscaping and vegetation, shall be maintained throughout the development in accordance with the following drawings and associated details:

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

**Reason:** To control access to the site in the interests of maintaining local amenity, highway safety and the existing environment.

### Highway Safety

- 7) No loaded lorries shall leave the site unsheeted.

**Reason:** In the interests of highway safety and local amenity.

- 8) No mud or other dirt shall be carried from the site on to the public highway.

**Reason:** In the interests of highway safety and local amenity.

### **Removal of Plant and Equipment**

- 9) Within one year of the completion of mineral extraction, all plant, buildings, structures, foundations associated with the mineral extraction and processing operations, the access road through the site including the Bailey bridge, gates and all signage shall be removed from the site.

**Reason:** Required in conjunction with site restoration and landscaping in order to ensure comprehensive assimilation of the site into the surrounding landscape.

### **Protection of Existing Vegetation**

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

**Reason:** To ensure the protection and retention of existing vegetation that is to be retained in the interests of the visual appearance and amenity of the site in the context of the surrounding landscape.

- 11) The screen mounds between the A5132 and the processing plant site, as shown on drawing no. S6/EXT/02, and all tree planting including existing copses, soil mounds and riverside planting including provisions for protection and maintenance of the trees, shall be maintained in accordance with the details set out on:

- Drawing no. S46B/3.
- Drawing no. S46B/3 Soil Movements and Storage.
- Drawing no. S46B/6C Composite Plan and pages 10 – 12 of the ‘Submission of Reserved matters’ statement accompanying the letter dated 12 May 1995; and the riverside screen planting approved drawing no. D112738-LS-001.

**Reason:** In the interests of visual amenity and to provide protection to existing planting.

### **Processing Plant/Silt Lagoons**

- 12) The processing plant, silt lagoons, heights and extent of mineral stocks, artificial lighting and security arrangements shall, for the duration of the approved development, be maintained in accordance with the schemes 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 7m in 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 visual amenity.

### Hours of Operation

- 13) No operations authorised or required by the terms of this planning permission, other than pumping operations to remove water from 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:

0700 hours - 1900 hours Mondays to Fridays; and  
0700 hours - 1300 hours Saturdays.

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:

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

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, unless alternative hours are approved in writing by the Mineral Planning Authority:

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

No operations shall be carried out on Saturday afternoons, Sundays, Bank Holidays, or other Public Holidays, without the prior written approval of the Mineral Planning Authority.

**Reason:** To control the hours of operation in the interests of local amenity.

### Noise

- 14) Except as provided at Condition 15 below, the free field noise generation from the site, expressed as a 1 hour LAeq as measured at all the noise sensitive locations identified in Chapter 5.7 of the

Environmental Statement dated December 2015, shall not exceed the 'preferred' daytime operational limit (expressed as dB for any one-hour) between the operational hours set out in Condition 13 above.

**Reason:** To control the impact of noise generated by the development and to provide for the monitoring of the impact in the interests of protecting local amenity.

- 15) The noise limits referred to in Condition 14 above may be exceeded for noise emitted from temporary operations related to the stripping of soils and overburden, formation of soil storage and flood protection bunds and their subsequent re-use for restoration, and received at any of the noise sensitive properties for a total period not exceeding eight weeks in any calendar year, provided that at no time shall noise exceed 70 dBLAeq, 1 hour, free field.

**Reason:** To control the impact of noise generated by the development and to provide for the monitoring of the impact in the interests of protecting local amenity.

### Noise Monitoring Scheme

- 16) With the exception of the installation of the Bailey bridge over the River Trent, no operations shall be commenced within the approved extension area until a scheme for monitoring noise levels arising from those operations, including noise levels generated from within the overall quarry complex, has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall make provision for noise monitoring to be undertaken on a three month basis for the first year of operations and, thereafter, the frequency of further monitoring may be reduced by the written authorisation of the Mineral Planning Authority, based on an assessment of the level of compliance with the limits set out in conditions 14 and 15 above. In the event that any operation gives rise to noise levels exceeding those limits, the operation shall be suspended temporarily until such remedial measures have been introduced that will reduce noise levels to within the permitted maximum levels.

**Reason:** To control the impact of noise generated by the development and to provide for the monitoring of the impact in the interests of protecting local amenity.

- 17) Prior to the commencement of the stripping of topsoil, subsoil and overburden, the formation of storage mounds and their subsequent reuse for restoration in the phases near to the identified noise sensitive properties the operator shall notify the respective occupants at least seven days in advance about the date of commencement, the duration



of these operations and the proposed hours of daily working and inform the Mineral Planning Authority, in writing, about the details of the notification within seven days of the date of the notification.

**Reason:** To control the impact of noise generated by the development and to provide for the monitoring of the impact in the interests of protecting local amenity.

- 18) 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 and removed.

**Reason:** To control the impact of noise generated by the development and to provide for the monitoring of the impact in the interests of protecting local amenity.

- 19) No audible warning devices shall be used on any mobile plant, including hired plant, except in accordance with details that have received the prior written approval of the Mineral Planning Authority.

**Reason:** To control the impact of noise generated by the development and to provide for the monitoring of the impact in the interests of protecting local amenity.

## **Dust**

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

**Reason:** To control dust resulting from site operations and to provide for the monitoring of the impact of dust emissions in the interests of protecting the local amenity and the environment.

## **Dust Monitoring Scheme**

- 21) With the exception of the installation of the Bailey bridge over the River Trent, no operations shall be commenced within the approved extension area until a scheme for monitoring dust levels arising from those operations, including dust emitted from within the overall quarry

complex, has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall specify the method of dust monitoring to be adopted, the location points and frequency of monitoring, and the reports on such monitoring shall be submitted to the Mineral Planning Authority within 14 days of the monitoring dates.

**Reason:** To control dust resulting from site operations and to provide for the monitoring of the impact of dust emissions in the interests of protecting the local amenity and the environment.

### **Lighting**

- 22) No additional outdoor lighting shall be installed at the processing plant site without the prior written approval of the Mineral Planning Authority.

**Reason:** To ensure that lighting is appropriate in the interests of protecting local amenity and the environment.

### **Permitted Development Rights**

- 23) Notwithstanding the provisions of Article 3 and Part 17A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended, no fixed plant or machinery, buildings, structures or erections, or private ways shall be erected, installed, replaced, repaired or altered, except within the area identified on drawing number S6/EXT/02 dated October 2009 or as authorised or required by this permission, or as otherwise authorised by 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.

### **Water Protection, Drainage and Pollution Prevention**

- 24) The development shall only be carried out in accordance with the provisions and requirements of the Flood Risk Assessment in chapter 5.6 of the Environmental Statement dated December 2015, as amended by the report Swarkestone Quarry Western Extension (north) Flood Risk Assessment (2D flood modelling update) dated 21 December 2015, as further amended by the report Swarkestone Southern Quarry Extension, Hydrogeological Impact Assessment and Flood Risk Assessment for proposed extraction of sand and gravel by Golder Associates (UK) Ltd dated September 2018.

**Reason:** To ensure that the approved development does not give rise to an increased risk of flooding on and off-site, to maintain or improve

the flood storage capacity of the site and to avoid interference with the direction and quantity of flood water flows.

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

**Reason:** To ensure the site and surrounding land continue to drain efficiently in the interests of protecting the water environment and maintaining the quality and use of the land.

- 26) The final levels of the restored land shall not exceed existing ground levels as shown on drawing no. S346/000004, Site Plan dated 14 December 2015.

**Reason:** To ensure that levels are not restored to the detriment of the flood plain in terms of both storage and flood flow.

- 27) 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, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses shall be located within the bund or have separate secondary containment. 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/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

**Reason:** To prevent pollution of the water environment.

- 28) No foul or contaminated drainage from the site shall be discharged into groundwater or any surface water either directly or via soakaways.

**Reason:** To prevent pollution of the water environment.

- 29) Only inert materials shall be used to infill the site.

**Reason:** To prevent pollution of the water environment.

### **Water Pumping Scheme**

- 30) With the exception of the installation of the Bailey bridge over the River Trent, no other operations shall be commenced until a scheme providing details of the water pumping regime has been submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the pumping of water from the site shall be carried out in accordance with the approved scheme.

**Reason:** To ensure that before any pumping operations are undertaken on the site, the nature of the operations and their potential impact have been fully considered in the interests of local amenity and the environment.

### **Ground and Surface Water Monitoring**

- 31) With exception of the installation of the Bailey bridge, no other operations shall be commenced until a scheme setting out the programme and methods to be employed to monitor ground and surface waters during the approved development has been submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the monitoring programme shall be undertaken in accordance with approved details.

**Reason:** To ensure that changes in ground and surface water levels arising from the development are monitored and remedial measures are identified to prevent any adverse impact on the water environment of the area and any consequential adverse impacts arising from such changes.

### **Soil Stripping, Handling and Storage**

- 32) The Mineral Planning Authority shall be given at least seven days' notice in writing of the commencement of soil stripping operations.

**Reason:** To ensure these operations are carried out in the specified appropriate physical conditions and that monitoring arrangements are in place.

- 33) No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for undertaking permitted operations. Essential trafficking routes shall be clearly marked on the ground by stakes or other means. No part of the site shall be excavated, traversed, used for a road, for the stationing of plant or buildings, storage of subsoil or overburden, waste or mineral deposit, until all available topsoil and subsoil have been stripped from that part.

**Reason:** To prevent unnecessary trafficking of soil by heavy equipment and vehicles that could damage the soil.

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

**Reason:** To prevent damage to soils by avoiding movement whilst soils are wet or excessively moist and which, therefore, do not meet the defined criteria.

- 35) All topsoil and subsoil shall be stored in separate mounds. Topsoil storage mounds shall not exceed 3m in height and subsoil mounds 5m 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 previously approved in writing by the Mineral Planning Authority.

**Reason:** To prevent the loss of soil and minimise damage to soil structure during storage.

- 36) All storage mounds to remain in situ for more than three months shall be grass seeded and managed in accordance with a scheme which has been submitted to and approved in writing prior to the commencement of soil stripping operations.

**Reason:** To prevent the loss of soil and minimise damage to soil structure during storage.

- 37) All topsoil and subsoil shall be retained on site. No later than three months from the stripping and formation of storage mounds in each calendar year, the quantities shall be measured and recorded on a plan

showing the area of stripped topsoil and subsoil; the location of each storage mound and the quantity and nature of the stored materials.

**Reason:** To facilitate soil stock-tacking and monitoring of resources.

### **Soil Replacement**

- 38) Infilling material and soils shall be levelled and graded in accordance with the approved restoration contour plan(s) required by other conditions to this permission.

**Reason:** To ensure adequate surface drainage and to enable an effective under-drainage system to be installed. Excessive slopes increase the risk of soil erosion and hinder use of agricultural machinery.

- 39) No large areas of subsoil shall be left without topsoil and crop cover over the winter. Subsoil shall only be replaced when it and the ground are in a dry and friable condition. No movement, resspreading, levelling, ripping or loosening of topsoil or subsoil shall occur:

- i. during the months November to March inclusive, unless otherwise approved in writing by the Mineral Planning Authority;
- ii. when rain affects soil conditions;
- iii. when there are pools of water on the surface of the storage mound or receiving area.

**Reason:** To avoid land being without a vegetation/crop cover and becoming waterlogged over winter, and to control soil erosion. Also, to prevent trafficking of the soils during wet periods and to ensure that restoration is completed sufficiently early in the year as to enable vegetation to be established to protect soil over winter.

- 40) 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 subsoil 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 wore 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 the site is restored successfully.

- 41) All available subsoil shall be re-spread evenly over the worked area. The subsoil shall be so treated to comply the requirements of condition 40. No layer of replaced soil shall exceed 450mm thickness before it is subsoiled. The subsoiling operation must penetrate at least 150mm into the underlying layer to relieve compaction at the surface.

**Reason:** To ensure the site is restored successfully.

- 42) Subsoil upon which other soils have been stored shall be subsoiled (rooted), as set out in Condition 41. Stones or other unwanted material at the surface 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 ground surface contours.

**Reason:** To ensure the site is restored successfully.

- 43) 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 42 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 the site is restored successfully.

- 44) No plant or vehicles shall cross any area of replaced and loosened ground, replaced subsoil, or topsoil except where essential and unavoidable for the purposes of carrying out ripping and stone-picking or otherwise treating such areas. Only low ground pressure machines shall work on prepared ground. Soils shall be lifted into position and levelled by equipment that is not standing on re-laid topsoil or subsoil.

**Reason:** To avoid soil smearing and compaction.

### **Archaeology**

- 45) No soil stripping shall be undertaken in the approved extension area until the applicant/operator has submitted a Written Scheme of Investigation (WSI) for archaeological investigation work has been submitted to and approved in writing by the Mineral Planning Authority. Thereafter, the scheme, including any requirements to be carried out prior to the commencement of soil stripping, shall be implemented as approved. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording.
2. The programme for post investigation assessment.
3. Provision to be made for analysis of the site investigation and recording.
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
5. Provision to be made for archive deposition of the analysis and records of the site investigation.
6. Nomination of a competent person or persons/organisation to undertake the work set out within the WSI.

For the avoidance of doubt, the archaeological recording condition will normally only be discharged when all elements of the WSI, including on site works, analysis, report, publication (where applicable) and archive work has been completed.

**Reason:** To ensure that procedures are in place for identifying, excavating and recording any archaeological features that may be uncovered during the development.

#### **Bird Hazard Management Plan**

- 46) With the exception of the installation of the Bailey bridge over the River Trent, no other operations shall be commenced until the applicant/operator has submitted to, and obtained the approval in writing of the Mineral Planning Authority, of a Bird Hazard Management for the approved extension area. Thereafter, all operations shall be undertaken in accordance with the provisions of the approved scheme.

**Reason:** To ensure appropriate steps are taken to control the creation of any water bodies on the site in order to discourage birds that may be a hazard to aircraft operating in the area.

#### **Management of Land Prior To Extraction and In Those Areas Where No Extraction Will Take Place**

- 47) All land in the extraction areas within the approved extension area, shall be managed in accordance with good agricultural practise (including weed control) until such time as they are required for mineral extraction. The land comprising the stand-off to the River Trent and other areas of the site that will not be disturbed by mineral extraction, shall be managed in accordance with good agricultural practise (including weed control) throughout the period of development, restoration and aftercare.

**Reason:** To ensure that all land to remain undisturbed throughout the development and land that will not be worked until later in the extraction



programme is properly maintained for the current usage and in the interests of local amenity and the environment.

### **Restoration**

- 48) Within six months of the date of this decision notice, the applicant shall submit a scheme for the restoration of the site for the approval in writing of the Mineral Planning Authority. The form of restoration shall be based on the landform indicated on drawing no. L10888-LD-01 Rev C dated January 2018 and LD10888-LD-02 Rev C dated January 2018. The scheme shall provide details of the post-restoration land levels across the whole of the restored site. The site be restored in accordance with the approved scheme within the time frame set out in Condition 2 above.

**Reason:** To ensure that the restored land and the features on it assimilates into the surrounding landscape and that the land levels do not give rise to any adverse impacts on flood storage capacity or flow water flows.

### **Landscaping**

- 49) Within six months of the date of this permission the applicant/operator shall submit a scheme for the landscaping of the site, including all advanced planting, for the approval in writing of the Mineral Planning Authority. Thereafter, the scheme shall be based on the indicative scheme on drawing no. L10888-LD-01 Rev C and shall be implemented on a progressive basis (as approved) and shall be completed within two years of the date of the completion of mineral extraction activities, unless otherwise approved in writing by the Mineral Planning Authority.

The scheme shall also make provision for the following elements:

- a) details of the location, species, size and spacing of trees, shrubs and hedgerow plants;
- b) measures to protect newly planted stock and provision for the removal of tree guards;
- c) fencing and gates when no longer required;
- d) replacement planting for any trees, shrubs and plants which die, become diseased or otherwise removed;
- e) seed mixture, fertilisers and weedkillers to be used and their rates of application;
- f) management and maintenance; and
- g) a programme of implementation.

**Reason:** To ensure that the overall quarry complex site is landscaped after being restored in the interests of assimilating it into the surrounding landscape.

- 50) For the first five years following new planting of any trees, shrubs and hedgerows, the planting shall be maintained in accordance with the principles of good forestry and land husbandry, and any stock which die or become seriously damaged, diseased or are missing, shall be replaced with new plants of the same species or such alternative species as have been approved in writing by the Mineral Planning Authority. For the avoidance of doubt, the replacement level shall be %100 throughout this period.

**Reason:** To ensure the successful establishment of landscaping at the site in the interests of assimilating it into the surrounding landscape and the visual amenity of the area.

### **Aftercare of Agricultural Land and Woodland**

- 51) The land to be restored to agricultural use and woodland shall be subject to a programme of aftercare in accordance with a scheme that has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be submitted within 12 months of the date of this permission and thereafter the scheme shall be implemented as approved. The submitted scheme shall provide for such steps as may be necessary to bring the land to the standard required for agricultural use and woodland during a five year aftercare period, and shall include details of:

In the case of land restored 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;
- v. 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.

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

**Reason:** To ensure a suitable regime of agricultural husbandry is pursued to comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 in order to bring each phase of restored land to the required standard for agriculture.

- 52) The five year aftercare period shall commence on the date of the written notification by the Mineral Planning Authority that the land concerned has been satisfactorily restored. For each year that the site remains in aftercare, a detailed annual aftercare programme shall be submitted to the Mineral Planning Authority for approval setting out (a) proposals for managing the land in accordance with the rules of good husbandry, including planting, cultivating, seeding, fertilising, weed control, draining, watering or otherwise treating the land for the forthcoming 12 months; and (b) a record of aftercare operations carried out on the land during the previous 12 months. The annual programme, which shall be implemented as approved by the Mineral Planning Authority, shall be submitted in writing three months prior to any part of the site being restored, and every subsequent year during the aftercare period.

**Reason:** To ensure a suitable regime of agricultural husbandry is pursued to comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 in order to bring each phase of restored land to the required standard for agriculture.

- 53) The mineral operator shall arrange an aftercare meeting on site before March of every year during the aftercare period unless otherwise approved in writing by the Mineral Planning Authority. The Meeting shall include representatives from the operators and Mineral Planning Authority.

**Reason:** To ensure a suitable regime of agricultural husbandry is pursued to comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 in order to bring each phase of restored land to the required standard for agriculture.

- 54) For the first five years following the implementation of each phase or phases, planting shall be maintained in accordance with the principles of good forestry and husbandry, and any hedgerow plant and trees which die or become seriously diseased or are missing shall be replaced with plants of the same species or such alternative species as may be approved in writing by the Mineral Planning Authority.

**Reason:** To ensure a suitable regime of agricultural husbandry is pursued to comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 in order to bring each phase of restored land to the required standard for agriculture.

### **Nature Conservation Aftercare and Long-Term Management**

55) The land and water areas to be restored to nature conservation shall be subject to a programme of aftercare in accordance with a scheme that has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall be submitted within 12 months of the date of this permission and thereafter the scheme shall be implemented as approved. The submitted scheme shall provide for such steps as may be necessary to bring the land and water areas to the standard required for nature conservation during a five year aftercare period, and shall make 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 scheme shall be implemented as approved by the Mineral Planning Authority.

**Reason:** To ensure that the restored land and new water features develop to deliver the nature conservation benefits set out in the application documents.

56) In addition to the aftercare requirements set out in Condition 55 above, the applicant shall submit a scheme for the approval in writing by the Mineral Planning Authority setting out details of a 25 year programme for the long-term management of the nature conservation interests of the restored site. The scheme shall be submitted at the same time as the aftercare scheme required by condition 55 and shall be implemented as approved, subject to any variation as may be agreed in writing by the Mineral Planning Authority.

**Reason:** To ensure that the nature conservation benefits are fully established in the long-term interests of the ecological value of the site.

### **Statement of Compliance with Article 35 of the Town and Country Development Management Procedure Order 2015**

The Mineral Planning Authority engaged with the applicant in a positive and pro-active manner based on seeking solutions to problems and issues arising in the processing of this planning application in full compliance with this Article. The applicant has engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required. The Authority also responded to a formal Scoping Opinion request concerning the issues addressed in the Environment Statement that accompanied the application.

The Environmental Statement, as submitted, covered all the necessary topics but did not fully address all the relevant aspects and issues of each topic and contained some assessments where the presentation was not satisfactory. In accordance with the EIA regulations, the applicant was given clear advice as to the form and content of the supplementary survey work required to enable an appropriate assessment of the proposed development to be made.

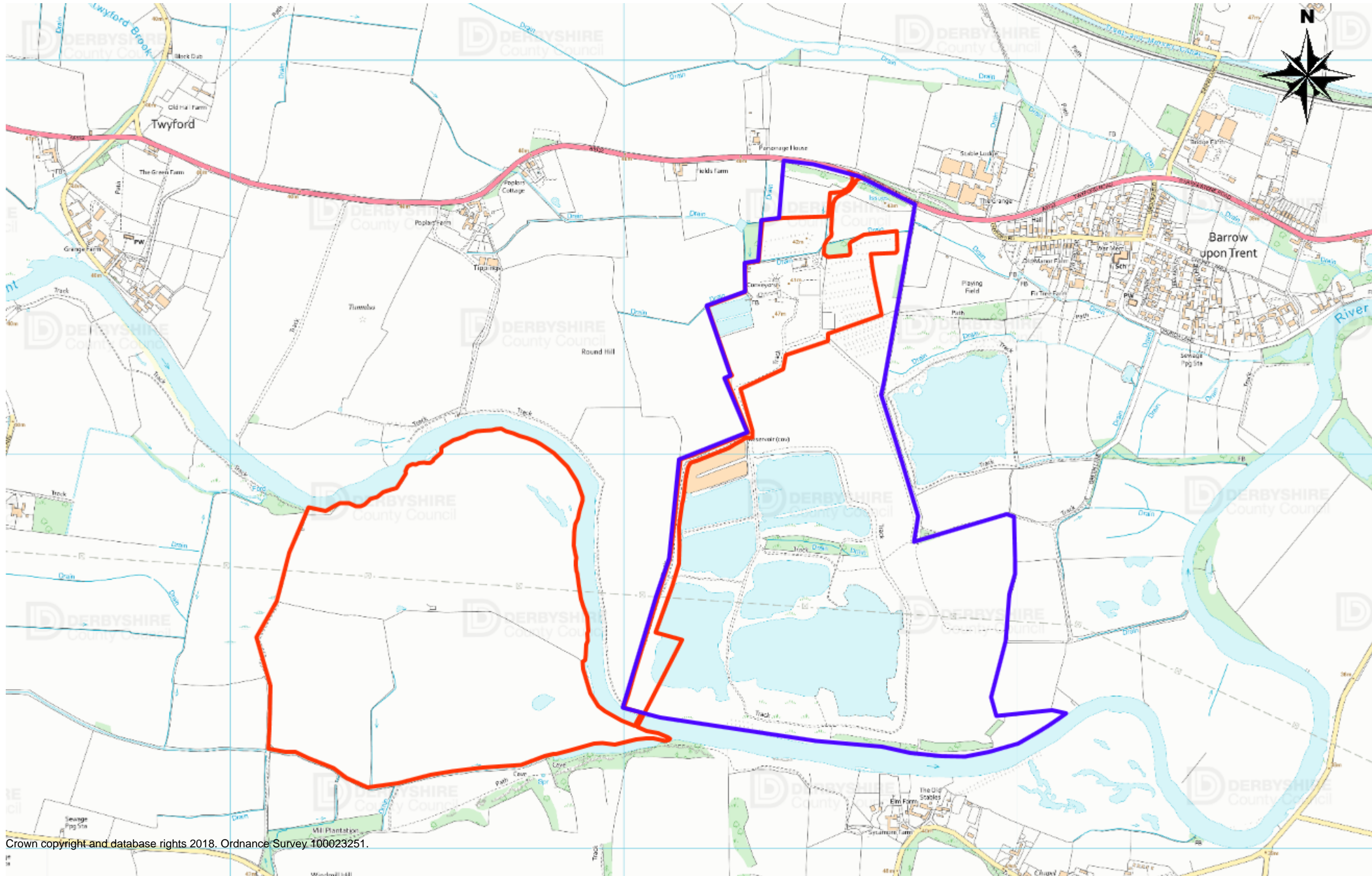
The requested information related to the need to complete the range of survey work submitted with the application and the need for further assessment of the impacts on heritage and archaeological interests, flood risk management and landscape and visual amenity issues. These issues arose from the comments from the respective consultees to the original planning application documentation. The applicant also agreed to extend the timescale for the determination of the application.

Due to the information provided by the applicant and the phasing of the proposed development, it was not necessary to include any pre-commencement conditions and, therefore, the provisions of Section 100ZA of the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 do not apply.

### **Footnote**

1. Attention is drawn to the advice to the applicant/operator in the letter dated 23 May 2016 from the Environment Agency and letter from Severn Trent Water Ltd dated 4 February 2016.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**



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24-Oct-2018