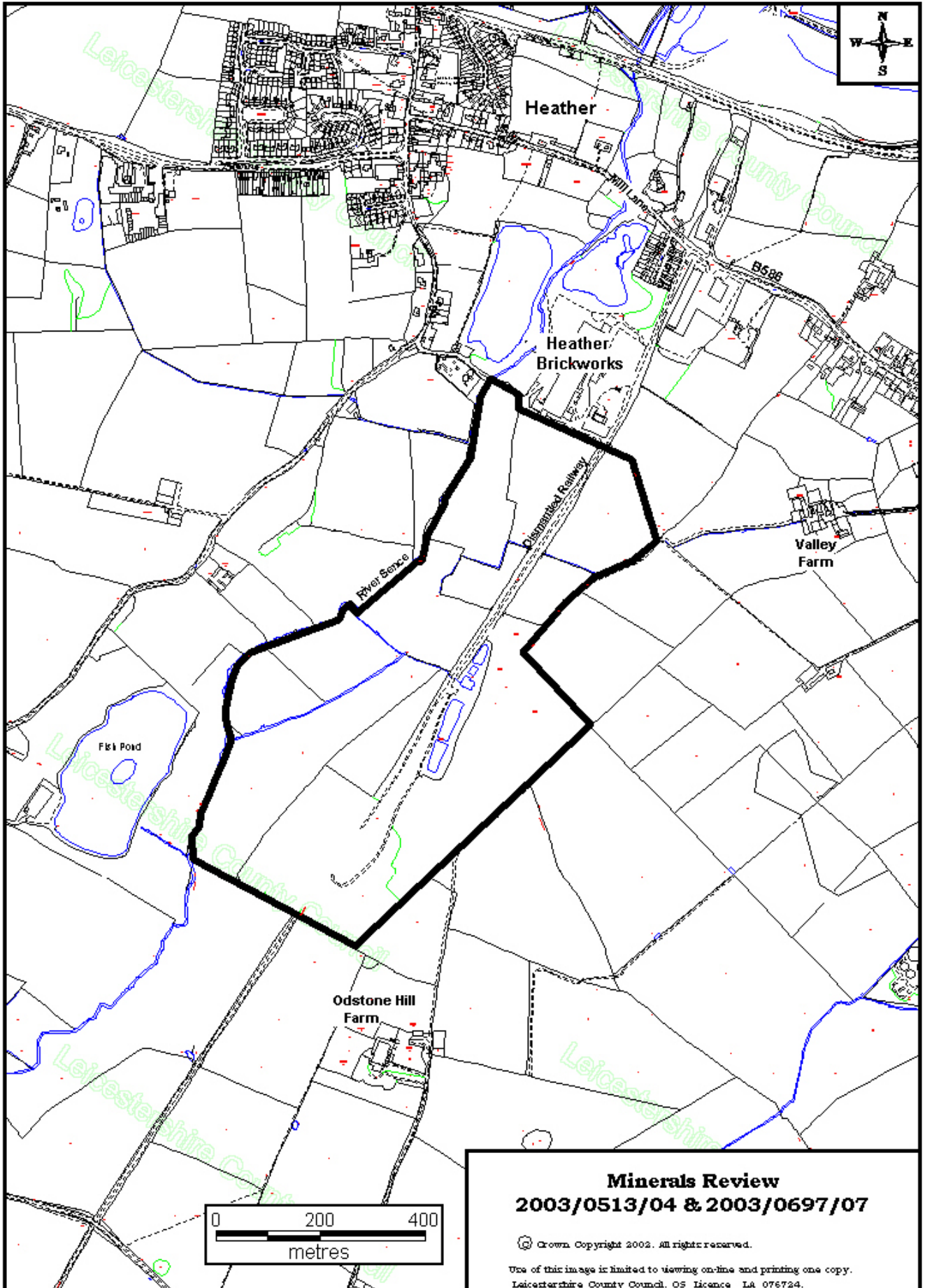


**DEVELOPMENT CONTROL AND REGULATORY BOARD****12<sup>TH</sup> AUGUST 2004****REPORT OF THE DIRECTOR OF COMMUNITY SERVICES****COUNTY MATTER****HANSON BRICK LTD – APPLICATION FOR DETERMINATION OF CONDITIONS FOR MINERAL SITE – ENVIRONMENT ACT 1995 – HEATHER BRICKWORKS (NORTH WEST LEICESTERSHIRE AND HINCKLEY & BOSWORTH DISTRICTS)****2003/0513/04 – 6<sup>TH</sup> MAY 2003 & 2003/0697/07 – 7<sup>TH</sup> MAY 2003****Background**

1. Members may be aware that Schedule 14 to the Environment Act 1995 provides for the periodic review of all mineral planning permissions on a continuous 15 year rolling programme. The aim of the review process is to bring the older mineral workings up to date in terms of their operating and environmental controls, and looks to the minerals industry in the first instance, to demonstrate their commitment to raising standards.
2. The periodic review date for any given site is 15 years after the date on which new planning conditions have been determined for that site, or 15 years after the date on which the most recent mineral planning permission was granted for that site.
3. All mineral planning permissions granted after 22 February 1982 are subject to periodic review. The most recent mineral planning permission relating to Heather Brickworks was granted on 20 May 1987, therefore the due date by which an application for determination of new planning conditions had to be made was 20 May 2002.
4. Following a decision that the review application would need to be accompanied by an Environmental Statement, the applicant made a request to postpone the due date from 20 May 2002 to 30 September 2002 to allow time to carry out an Environmental Impact Assessment and to prepare an Environmental Statement. This request was reported to and approved by the Development Control and Regulatory Board on 18 April 2002. A request by the applicant for a further extension until 30 April 2003 to carry out additional ecology survey work was approved by the Development Control and Regulatory Board on 12 September 2002.

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### **Site Location**

5. Heather Brickworks is situated due south of the village of Heather and approximately 6km south east of Ashby de la Zouch. The brickworks has a main access onto the B586 Heather to Ibstock road. The existing quarry workings to which this review application relates are located to the south of the brickworks complex. An embankment which carried a now dismantled railway line traverses the application area in a north-easterly to south-westerly direction.
6. The main building complex at the brickworks houses the production line and tunnel kilns. Adjoining buildings are offices, workshops and a canteen. Brick stockyards are located to the side and rear of the main building. The brickworks and associated facilities are specifically excluded from the review.
7. Heather Parish Footpaths Q56 and Q57 pass along the northern boundary of the review site. There are also a number of other public footpaths in the area surrounding the site, which would not be affected by the development. A fishing lake is located near Tuckers Holt Farm to the west of the extraction area.

### **Planning History**

8. Planning permission for the winning and working of marl at Tuckers Holt near Heather was first granted in 1960 (ref. 2253/60). That permission was later amended, extended and augmented by a second planning permission (ref. 2067/67), granted in August 1967 for the extension of the existing marl hole. The areas to which these permissions related were subsequently restored in part to agriculture and in part as a fishing lake.
9. Subsequent planning permissions granted at this site include permission for the extraction of clay from approximately 34 hectares of land at Odstone Hill Farm, between Heather and Shackerstone, to serve the nearby brickworks at Heather (granted in 1976 under references 1976/0043/07 and 1976/0047/04), and permission to extract clay with continued use of existing access provision at the land adjacent to the River Sence and The Old Railway (granted on 20 May 1987 under references 1980/1430/07 and 1980/1728/04). The initial review date for the Heather Brickworks site was determined as being 15 years from the date of the 1987 permission, i.e. 20 May 2002.
10. In the light of recent case law judgements the applicant company, Hanson Brick Ltd, was requested to undertake an Environmental Impact Assessment (EIA), so that an Environmental Statement (ES) could accompany their Environment Act Review submission. The scope of the EIA necessitated certain work such as baseline surveys associated with ecology, which can only take place at certain times of the year. The applicant company therefore requested an extension of the deadline for the Environment Act Review submission and accompanying ES. At the meeting on 18 April 2002, Members resolved to grant an extension of time until 30 September 2002.

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11. The fact that not all of the review area was under the control of Hanson Brick Ltd meant that it took the applicant company longer than anticipated to obtain the necessary access rights to allow the survey works to proceed. This meant that the season for surveying breeding birds and amphibians had passed, and as a result it was not possible to complete the survey work until the following year. Consequently, Hanson Brick Ltd requested a further extension of time until 30 April 2003. This request was granted by the Development Control and Regulatory Board on 12 September 2003. The Environment Act Review submission and accompanying Environmental Statement were duly submitted on 30 April 2003 and registered by Hinckley & Bosworth Borough Council on 6 May 2003 and by North West Leicestershire District Council on 7 May 2003.

### **Description of Proposal**

12. Under the provisions of the Environment Act 1995, the applicant company, Hanson Brick Ltd, has submitted a schedule of planning conditions to cover the entire review site. This new set of conditions would consolidate the various extant permissions which exist for different parts of the site, and bring the planning conditions for the site up to a modern standard.

13. The review application is accompanied by an Environmental Statement which addresses the following topics in connection with operations at the site:

- Quarry Operations;
- Restoration Proposals;
- Landscape/Visual Assessment;
- Ecology;
- Noise;
- Dust;
- Hydrology and Hydrogeology;
- Agriculture/Soils;
- Archaeology/Cultural Heritage;
- Rights of Way.

In addition, a Phase 2 Ecology Survey report was submitted in February 2004.

14. Heather Brickworks has been in existence since the 1950s, manufacturing bricks using clay extracted from neighbouring land. The review submission proposes to continue the extraction of clay from the previously permitted area, followed by the restoration of the site to grassland and ponds.

15. The site would be worked in 5 consecutive phases. Based on the Brickworks' current annual requirement of approximately 45,000 cubic metres of clay, each phase would have a duration of between 3 and 6 years, with the site having a total lifespan of approximately 23 years. The total amount of mineral extracted would be approximately 1,046,000 cubic metres over the life of the site. The phases are defined by changes in the area worked and the removal of ditches and field boundaries.

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16. During Phase 1 (present day to Year 6), the current working area already stripped of overburden would continue to be worked in a north easterly direction. Soils would be progressively stripped from the remainder of Phase 1 and used to restore the land to the south west of the current workings. Overburden and interburden would be stripped from the remainder of Phase 1 and placed to restoration. Any surplus interburden would be stored temporarily on the quarry floor.
17. During this phase the workings would extend into the floodplain, making the working area vulnerable to flooding from the River Sence. To provide for a continuous supply of raw materials to the brickworks, the operator proposes to excavate clay on a campaign basis twice a year and place it in stockpiles in the northern part of the site, outside the floodplain. Prior to construction of this stockpile, soils in the stockpiling area would be stripped and placed in storage. The total amount of mineral extracted during this phase is estimated to be 261,000 m<sup>3</sup>. As Phase 1 workings would be susceptible to flooding it may be necessary to pump out flood water prior to each mineral extraction campaign.
18. During Phase 2 (years 7 to 9), soils and overburden would be stripped progressively as workings advance in a north easterly direction. Soils and overburden would then be used in the restoration of land to the south of the working phase. The mineral (129,000 m<sup>3</sup>) would be worked in a south west to north east direction, on a campaign basis, once or twice a year. As Phase 2 workings would be susceptible to flooding it may be necessary to pump out flood water prior to each mineral extraction campaign. The settlement of fines would continue through the existing settlement ponds, but new lagoons would be created in the south western areas of the site, which would be brought into use from Phase 3 onwards.
19. During Phase 3 (years 10 to 15/16), restoration of the area around the settlement ponds in the south western part of the site would be completed and wetland plants from the north of the site would be translocated into these areas. Phase 3 workings would progress to the north western part of the site with soils, overburden and interburden being stripped progressively and placed for restoration in the southern and south eastern parts of the site. Any surplus interburden would be stored temporarily on the quarry floor. Extraction operations in Phase 3 would take approximately 7 years to complete and would yield about 299,000 m<sup>3</sup> of material, which would be excavated on a campaign basis once or twice a year and stockpiled close to the brickworks. As Phase 3 workings would be susceptible to flooding it may be necessary to pump out flood water prior to each mineral extraction campaign. The settlement of fines would take place through the newly created lagoons in the south western part of the site, which would allow the former lagoons to be regraded and restored. One of the ditches leading to the River Sence would be removed by mineral extraction workings. To compensate for the loss of this ditch, two other ditches to the north of the extraction area in Phase 3 would be reprofiled to allow the flow of clean water to the River Sence. Furthermore, a new outfall would be constructed from one of these ditches into the river.

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20. During the course of Phase 4 (years 16 to 19) work would progress from north east to south west, with soils being stripped progressively in a southerly direction and placed to restoration. Overburden would be progressively stripped in a southerly direction and placed to restoration in the southern, eastern and western faces of Phase 3. As soon as possible, to prevent water from the adjacent River Sence cutting a channel into the workings, a section of the bank of the River Sence would be engineered and reinforced with geotextile and gabion mattress, as appropriate, to form a preferential spillway for floodwaters. Part of the area excavated in Phase 3 would be allowed to flood. Phase 4 would take approximately 4 years to complete and would yield approximately 154,000 m<sup>3</sup> of material. Excavation would take place on a campaign basis once or twice a year. Extracted clay would be stockpiled close to the brickworks.
21. Operations in Phase 5 (years 20 to 23/24) would involve the continued excavation of the northern part of the site, with soils and overburden being progressively stripped and placed to restoration to the north of the extraction area. As the southern boundary of Phase 5 is approached, the remaining reserves in the area in between Phases 3 and 5 would be extracted. Following completion of these workings and restoration along the margins of the newly created lake, the area would be allowed to flood. During the final part of Phase 5, excavation would take place in a western to eastern direction, cutting through the disused railway embankment. These works would form the void for a small separate northern lake. Soils from Phase 5 would be stripped progressively and placed to restoration of the western and southern margins of the small northern lake. Sump water would initially be pumped to the settlement ponds in the south western parts of the site, but would be discharged by run-off or pumping into the main lake created by removing the last remaining material between Phase 5 and the area worked in Phase 3. A number of small ditches crossing the area would be removed, blocked off or redirected to feed the newly created lakes. Phase 5 would take approximately 4-5 years to complete and would yield approximately 204,000 m<sup>3</sup> of material.
22. The restoration proposals for the site include the creation of two lakes in the centre of the extraction area and the creation of two small settlement ponds in the south western part of the site. The water level within the large southern lake would be controlled by a new outfall ditch to the River Sence. The two settlement ponds would be allowed to regenerate naturally with reed beds and would be connected to the main lakes via an overflow pipe.
23. The low lying ground around the lakes would be restored to existing levels and would lie within the floodplain of the River Sence. The higher ground to the east of the lakes would lie above the floodplain and would be restored either to agriculture or to nature conservation/amenity uses (hay meadow grassland). In addition, it is proposed to plant areas of wet woodland and species-rich hedgerow in a number of locations across the site.

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### **Planning Policy**

24. This proposal relates to an application for the review of planning conditions rather than a new development proposal and as such is controlled by the terms of Schedule 14 of the Environment Act 1995, together with guidance provided by Mineral Planning Guidance Note 14 (MPG14) *Review of Mineral Planning Permissions*. Regard has also been had to MPG2 *Applications, Permissions and Conditions*.
25. In relation to local policies, regard has been had to the following Development Plan policies:

#### Leicestershire Structure Plan (1994)

Minerals and Waste Disposal Policy 2: When determining planning applications for mineral extraction, the likely impact on the environment and the operational and economic needs of the development will be taken into account.

Minerals and Waste Disposal Policy 3: When determining planning applications for mineral extraction, the County Council will require restoration to an acceptable use at the earliest opportunity.

#### Leicestershire Minerals Local Plan (1996)

Policy 5 – Planning Conditions for the Protection of the Environment: Sets out measures to control the environmental effects of mineral operations through the imposition of suitable planning conditions;

Policy 9 – Review of Mineral Working Sites: States that the County Council will continue to review all mineral working sites in the county and identify any inadequacies in existing planning controls;

Policy 11 – Restoration and Aftercare Conditions: Sets out the matters in respect of which conditions will be imposed to ensure satisfactory restoration.

#### Hinckley & Bosworth Local Plan (2001)

Policy NE10 – Local Landscape Improvement Areas: Aims to improve the quality of the landscape by providing a focus for environmental improvement measures such as landscaping, tree planting and screening.

Policy NE12 – Landscaping Schemes: States that development proposals should take into account the existing landscape features of the site and should make provision for further landscaping where appropriate.

Policy NE13 – The Effects of Development on Natural Watercourses: Presumes against development which would inhibit or damage the drainage functions of the natural watercourse system, unless adequate alleviation or mitigation works are undertaken.

#### North West Leicestershire Local Plan (2002)

Policy S3 – Development in the Countryside: Presumes against development in areas designated as countryside unless certain conditions can be met, such as where for operational reasons the development cannot be accommodated within the defined Limits to Development.

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Policy E26 – Sites of Ecological/Geological Interest: Presumes against development which could adversely affect sites of County and District level ecological or geological interest, unless an overriding national or local need can be demonstrated, and, in the case of sites of geological interest, a suitable substitute site of equal or greater value can be proposed.

Policy E27 – Protected Species: Presumes against development which could cause material harm to protected species, unless mitigation measures can be implemented.

Policy E30 – Risk of Flooding: Presumes against development which would increase the risk of flooding and remove the extra discharge capacity from the floodplains, unless the developer provides appropriate measures to protect the land from such effects.

Policy F1 – New Development within the National Forest: New development within the boundaries of the National Forest should reflect the importance of its Forest context by making appropriate provision for landscaping and tree planting.

Policy F2 – Tree Planting within the National Forest: Sets out the considerations which the planning authority will have regard to in assessing the appropriateness of landscaping and tree planting schemes.

Policy F4 – Planting Provision within the National Forest: Aims to secure the management and maintenance of agreed landscaping and tree planting schemes by the imposition of planning conditions.

Policy L16 – Diversions of Public Rights of Way: Sets out the criteria which will have to be met if the diversion of a Public Right of Way is to be diverted.

**Consultations****North West Leicestershire District Council**

26. Has no objections.

**Hinckley & Bosworth Borough Council**

27. Comments that at least 10% of the development site should be set aside for tree planting, including native deciduous varieties, and should be planted prior to the expansion of the existing quarry to the north across drainage ditch D3, as the site lies within a Local Landscape Improvement Area. The provision of planting, recreational facilities (such as additional footpath links) and wildlife habitat creation should be provided in accordance with the National Forest Strategy. Additional archaeological survey work, including geophysics, should be carried out along a 100 metre boundary adjacent to the River Sence as outlined in the Environmental Statement. Additional habitat, botanical and protected species surveys and, where applicable, appropriate mitigation measures should be carried out as outlined in the Environmental Statement. The planning conditions (especially those relating to the prevention of pollution of the water environment and the removal of overburden and clay extraction adjacent to the River Sence) should be enforced rigorously. The management of water inflow into the site and settlement and discharge procedures shall be as effective as those in place on the current operation. The discharge rates for surface water shall not exceed natural run-off rates prior to the mineral development.

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**Heather Parish Council**

28. Has no objections to the proposal, but wishes to be reassured that local residents will not suffer from any excess traffic, noise, dust or dirt as the work continues.

**Ibstock Parish Council**

29. No comments received.

**Shackerstone Parish Council**

30. No comments received.

**Environment Agency**

31. Has no objections subject to a condition requiring all fuel tanks being bunded to prevent pollution of the water environment.

**DEFRA**

32. Comments that its understanding is that half of the site is already restored and that the remainder, mostly situated within the floodplain, was recently subject to an Agricultural Land Classification survey which found 6.9 hectares of sub-grade 3A, 5.5ha of sub-grade 3B, and 12.2ha grade 4 land. Details relating to phasing, working, restoration by direct placement and soil handling methods are satisfactory. The proposed restoration to a mix of flood meadows, hay meadows, water and woodland does not appear to adversely affect the agricultural considerations for the site as the area to be restored to hay meadows above the floodplain is essentially the same as that which was originally described as “restoration to arable”. On the assumption that the soil resources from sub-grade 3A land will, as far as is practical, be used for the hay meadow restoration, the revised proposals are considered to be satisfactory.

**English Nature**

33. Comments that the Newton Bergoland Marshes SSSI, which is located approximately 1km south west of the extraction area and contains an area of neutral alluvial grassland and marsh, is reliant on water from the River Sence to maintain its interest. The site is located downstream from the quarry and from the point of discharge for any water removed from the quarry as part of the dewatering process. Any significant change in the volume or quality of water in the river caused by dewatering operations in the quarry could have an impact on the features of special interest of Newton Bergoland Marshes SSSI. However, English Nature is satisfied that the conditions suggested and the works proposed should ensure that there is no impact on the features of special interest of Newton Bergoland Marshes SSSI. English Nature is pleased to note that the applicants have ensured that the afteruse and restoration proposals link appropriately with National Forest and Leicestershire Biodiversity Action Plan targets.

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### **Countryside Agency**

34. Given that its priorities are of a more strategic nature, the Countryside Agency did not wish to comment in detail on this proposal.

### **The National Forest Company (NFC)**

35. The National Forest Company (NFC) has no comments to make on the broad planning merits of the application, but does comment on a number of details relating to the restoration proposals and the impacts of the development on the ecology of the area. The NFC notes that the current restoration proposals are far better than the original ones, and the conservation-orientated design is supported. The NFC is also pleased that the design has taken into account the setting of the site in the National Forest and the potential to contribute exclusively to Biodiversity targets.

Rather than creating fringes of reed bed, it would be preferable to create sizeable areas to maximise the potential for reed bed habitat. The NFC suggests that both of the silt lagoons be restored to reed bed, plus around 1 hectare of Lake 2, at the point where it links to the silt lagoons.

The 'open' aspect of the restoration scheme with small areas of wet woodland planting in the valley bottom is supported. However, more woodland planting (1-2 hectares) should be included in the fields to be restored as hay meadow. This could take the form of field corner planting on the higher ground. This would retain the 'open' habitat aspect in the valley bottom, whilst also creating a visual link with the new woodland that has been planted to the east of the site.

Given that the conservation focus of the scheme and the wet grassland habitats are in the valley bottom, public access would be most appropriate to parts of the hay meadow fields. Routes should be designed that link into the public rights of way around and across the site, but which limit any potential disturbance to wildlife.

### **Highway Authority**

36. Does not wish to comment as operations on the site would not result in off-site vehicle movements and therefore would have no highway impact.

### **Public Rights of Way Views**

37. The Public Rights of Way Officer advises that the operator will be responsible for ensuring that the official routes of footpaths Q56, Q57 and Q94, which are located within the application site, are clearly signed, maintained in a satisfactory condition for pedestrians to use at all times and are not affected by any operations associated with the development. If it becomes necessary, in the interests of public safety, for the company to segregate any of the paths from the mineral extraction area by appropriate fencing, a minimum width of 2 metres should be allowed for the benefit of pedestrians, and all-weather material should be applied to the surface. An application in respect of the diversion of the section

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of footpath Q56 which will be affected by Phase 5 of the development should be submitted to the County Council at least 2 years before it is required. This is to allow sufficient time for the Order to be processed, particularly if it is opposed and has to be submitted to the Secretary of State for determination. The Rights of Way network in this area would be significantly enhanced by the provision of a link between the “dead end” section of footpath Q71 to the south east of Newton Lane and footpaths Q94 or Q56. It would seem opportune for the feasibility of such a route around the edges of the new lakes to be considered as part of the final restoration scheme.

### **The Environmental Action Team Views**

38. The Environmental Action Team has no objection to the proposed schedule of planning conditions, but comments on the provisions of the proposed Condition 25 (protection of trees and hedges) that it is recommended to carry out hedge trimming on a 2-3 year rotation, if possible. The suggested mitigation measures include allowing some hedges to grow up to provide screening, which would be beneficial to wildlife. It might be helpful to have an annual report on hedge works carried out and proposed.

### **Archaeological Views**

39. The County Council's Archaeologist advises that while a considerable amount of Sites and Monuments Record (SMR) data has been recorded in the area surrounding the application site, no archaeological fieldwork has been carried out within the site itself. A large number of cropmarks, thought to have been prehistoric in date, have been traced in this area of North West Leicestershire, and not all of these sites have been directly adjacent to river courses. There is therefore an as yet unidentifiable potential within the entire application site. The archaeologist therefore recommends that the application area is tested systematically on a phase by phase basis, in the same manner as other Leicestershire quarries. This should be done by a programme of fieldwalking, geophysical survey and trial trenching as appropriate. Depending on the results of the preliminary investigations it may then be necessary for a Watching Brief to be maintained during extraction works. The archaeologist advises that a staged programme of work should be undertaken by the applicant, which would include exploratory fieldwork and an appropriate mitigation strategy.

### **Ecological Views**

40. The County Ecologist is pleased to note that sound guidance material has been used to formulate the restoration proposals. Important sites of District and Parish level ecological significance have been destroyed during quarrying, so it is vital that replacement habitat is being created during the restoration phase. Several habitats prioritised within the Leicestershire, Leicester and Rutland Biodiversity Action Plan (LLR BAP) have been proposed and BAP and protected species are either present on the site or have been catered for.

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The Environmental Resource Centre is in favour of harvesting and storing seed from existing species-rich grassland on site with a view to sowing it in the restoration phase. It recommends very strongly that as little material as possible is imported to the site and that natural regeneration, linked with a detailed weeding programme, should be the main method of re-establishing habitats. Where seeds/whips are introduced, only native species, common to the area and of local stock should be used. The Environmental Resource Centre approves of the trees and shrubs suggested in the restoration proposals and are in full agreement that appropriate management and aftercare of hedgerow and wooded areas should be an integral part of the plans.

### **Publicity**

41. Five site notices were posted on and around the site. Notification letters were sent to 56 neighbours. The review application was also publicised by a press advertisement in the Coalville Times.

### **Representations**

42. One letter of objection, signed by nine residents of Heather, has been received. The letter voices concern over the visibility of the works from Newton Road and the impact this would have on property values and quality of life for residents in the immediate vicinity of the site. It also expresses concern that the operation of the brickworks would spoil the enjoyment of the new National Forest plantation which is just across the River Sence from the proposed workings. To mitigate these effects, the writers are asking that a condition be added which requires suitable screening to be constructed and maintained along the western edge of both the workings and the proposed stockpile and are suggesting tall dense evergreen trees or a grass bank of sufficient height as potential screens.

### **Assessment of Proposal**

43. The main purpose of submissions under the Environment Act is to ensure that the site is brought up to date with new, modern planning conditions, in order to properly control the continuation of mineral extraction. Refusing an application for determination of new conditions is not an option available. Nevertheless, the County Council does have powers to impose different conditions from those put forward by the applicant, subject to certain provisos.

### **Ecological Issues**

44. The schedule of planning conditions submitted in April 2003 was accompanied by an Environmental Statement. One of the main issues covered in the ES was the impact of the development on the ecology of the site. The ES comprised an extended Phase 1 ecology survey and a winter bird survey. The assessment concluded that the site had potential for a range of protected species to occur, and that further botanical and faunal survey work was required before a full assessment of effects could be made.

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45. A Phase 2 survey has therefore been undertaken between March and September 2003 on behalf of the applicant. The report, submitted in February 2004, contains the results of a botanical survey and various faunal surveys (otter, water vole, bat, breeding birds, reptiles, newts, invertebrates and white-clawed crayfish). It also sets out the predicted effects of the development on the ecological value of the site and proposes measures to mitigate the adverse impact which mineral extraction in this area would have.
46. The Phase 2 survey specifies the predicted effects of continued clay extraction on identified habitats of Parish interest or above. The main impacts would result from the complete removal of the quarry face (continued mineral extraction), silt lagoons, marshy grasslands, and ponds and backwaters. 53 hedgerow trees (47% of the stock), 792m of species-rich hedgerows classed as important under the Hedgerow Regulations and 112m of species-rich hedgerows not classed as important under the Hedgerow Regulations would also be removed as well as some of the riverside meadows, with a 30m wide bank along the River Sence being retained.
47. To mitigate the effects of mineral extraction, the restoration scheme for the site has been designed with the aim of maximising habitat creation. Regard has been had to the aims of the Leicestershire, Leicester and Rutland Biodiversity Action Plan and the National Forest Biodiversity Action Plan. The proposed restoration scheme incorporates a variety of habitats, including the creation of eutrophic lakes which are to attract wildfowl; field ponds and associated wetland; floodplain grassland; hay meadow; species rich hedgerow, to provide a habitat for breeding birds and corridors of movement; and wet woodland.
48. In addition, the proposed mitigation measures include the provision of nest boxes on trees to remain on site for the benefit of birds and bats and the stacking of dead wood from trees to be removed to provide a suitable habitat for invertebrates. Ongoing survey work would be carried out for bats, badgers, otter, water vole and white clawed crayfish. Should any of these species be found in habitats due to be removed, appropriate mitigation schemes would be prepared and licences obtained.

Screening

49. A letter of representation, signed by a number of local residents, identifies two main areas of concern relating to the continuation of mineral extraction at the site. These are:
  - the visibility of the works from Newton Road and the impact this would have on property values and quality of life for residents in the immediate vicinity of the site, and
  - the potential for the operation of the brickworks to spoil the enjoyment of the new National Forest plantation which is just across the River Sence from the proposed workings.

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To mitigate these effects, it is suggested that a condition be added which requires suitable screening to be constructed and maintained along the western edge of both the workings and the proposed stockpile. The letter suggests tall dense evergreen trees or a grass bank of sufficient height as potential screens.

50. Newton Road is located to the west of the extraction area. The stretch of Newton Road which is located near the brickworks and the extraction area is a rural lane outside the built-up area of the village of Heather, with only a small number of individual properties. Tall hedges by the roadside would screen the excavation area from views from passing cars. However, it is possible that views from public footpaths and from some properties along Newton Road may be screened less effectively. The visual impact assessment submitted as part of the Environmental Statement confirms that the clay stockpile which is to be constructed adjacent to the brickworks is likely to be the most prominent feature of the site when seen from the west. Both the extraction area and clay stockpile would be visible from viewpoints in or close to the National Forest plantation. Nevertheless, the assessment concludes that due to the existence of intervening vegetation, the extraction area and the clay stockpile would not be visible from all potential viewpoints.
51. The medium-term visual impact during the life of the development would need to be balanced against the fact that the site would be subject to progressive restoration, which would commence as soon as mineral extraction has finished in each phase, and the fact that the final restoration scheme for the site aims to maximise the site's potential for habitat creation in line with the targets and guidelines of the Leicestershire, Leicester and Rutland Biodiversity Action Plan and the National Forest Biodiversity Action Plan. Overall, it is considered that the visual impact of the site would be unlikely to have a discernible impact on property values or result in a reduction in the quality of life of local residents.
52. Whilst screening the extraction area and the clay stockpile from views from the west would reduce the impact of the development, it is nevertheless doubtful whether effective screening would be possible by means of grass seeded bunds or evergreen trees. In order to screen the clay stockpile, a bund would have to be several metres high, and would therefore in itself be an alien feature in the surrounding open landscape which would draw the eye towards the stockpile rather than disguising it. Evergreen trees (e.g. *leylandii* or similar) also would not necessarily integrate well into the local mix of species of the area. The benefit of providing screening by means of a grass seeded bund or evergreen trees is therefore likely to be outweighed by the visual distraction caused by these mitigation measures, which may even draw the eye towards the stockpile rather than screening it from view.

Water Levels in the adjacent Fishing Lake

53. During Phases 2 and 3 of the development, workings would progress to within 130m of the fishing lake at Tuckers Holt Farm, to the west of the extraction area. In order to enable mineral extraction it would be necessary to dewater the

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sandstone aquifer within the quarry. It is possible that the drawdown effect of dewatering operations could cause some lowering of the water level in the fishing lake.

54. Following consultation with the Environment Agency it has therefore been agreed that gauge boards (the exact locations of which are still to be confirmed) shall be installed in the fishing lake, and that the operator shall check the water level in the lake once every summer and once every winter for the duration of mineral extraction. The operator would also be required to submit to the Mineral Planning Authority a scheme which sets out the mitigation measures which would be taken in the event of significant changes occurring in the water level of the fishing lake as a result of mineral working on the site.

#### Phasing and Timescales of Working and Restoration

55. Wherever large scale mineral extraction takes place, the Mineral Planning Authority wishes to see the site restored to a suitable afteruse. This requirement is expressed in the relevant development plan policies, e.g. Minerals and Waste Disposal Policy 3: *Restoration Aftercare and Afteruse* in the Structure Plan and Minerals Local Plan Policy 11: *Restoration and Aftercare Conditions*. If a site is worked in a number of phases, the preferred approach is that of progressive restoration on a phase by phase basis, with a suitably worded planning condition regulating the mineral extraction and restoration process. Usually such a planning condition would prohibit the commencement of soil stripping or mineral extraction operations in a certain phase of the development until a previous phase has been restored to satisfaction of the Mineral Planning Authority. The aim of such a condition is to ensure that the restoration of the site does not fall too far behind extraction operations.
56. In the case of Heather Brickworks, the restoration concept for the site envisages the creation of large water bodies in the centre of the site, the location of which straddles several extraction phases. It would therefore not be possible for restoration operations to follow extraction operations on a set schedule in the manner described above. Following discussions between the Mineral Planning Authority and the operator it was therefore agreed that the operator would at five-year intervals submit a restoration update for the approval of the Mineral Planning Authority. Each update would identify the progress of restoration during the preceding five years and the proposed restoration works which are to take place over the course of the following five years. In addition, review meetings would take place on site on an annual basis. It is considered that these measures would provide the Mineral Planning Authority with sufficient control over the restoration operations on the site to ensure that the desired final restoration concept is achieved.

#### Soils from Areas of Ecological Interest

57. Unimproved marshy grassland has become scarce in recent years. Three fields which are located in the western and northern parts of the site and which form part of the extraction area are designated by the Holly Hayes Environmental Resource Centre as being of District level importance for nature conservation.

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Mineral extraction operations would result in the loss of these areas during Phases 3 and 4. The significance of the removal of these grasslands has been classed as “moderate” in the assessment of impacts on habitats in the Environmental Statement.

58. It is therefore proposed to relocate the soils from these areas and store them in separate stockpiles with a view to re-establishing such areas elsewhere on the site during the restoration phase. In addition, seed would be collected from the original grassland during every summer until the grassland requires removal. The seed would be stored and subsequently used in the establishment of the replacement grasslands elsewhere on the site. This intention is also supported by the Environmental Resource Centre.

### Noise Levels

59. The Environmental Statement submitted with the Environment Act Review submission contains a noise assessment carried out on behalf of the applicant. This indicates that the noise impact of activities at the site would not be likely to give rise to complaints and can be expected to be below the thresholds set out in Mineral Policy Guidance Note 11: *The Control of Noise at Surface Mineral Workings*. In the updated planning conditions, the noise limits have therefore been set at 10 dB LAeq (1 hour) above the existing background noise levels, subject to a maximum of 55 dB LAeq (1 hour) in accordance with the limits suggested by MPG11.

### Conclusion

60. This review process will result in an updated schedule of planning conditions attached to two existing minerals permissions for Heather Brickworks. During the review process, a number of issues had to be addressed, relating to the environmental impact of future operations on the site, especially the loss of wildlife and natural habitat, and the requirement to ensure that the restoration of the site follows agreed phasing and timescales. The ecological impacts would be mitigated by providing replacement habitats as part of the restoration proposals of the site, taking into account the requirements and aims of local Biodiversity Action Plans. In addition, further wildlife surveys are to be carried out whenever necessary to ensure that the most up-to-date information on protected species on the site is available prior to operations which would remove or destroy habitats.
61. The restoration of the site would be monitored closely, with five-yearly updates being submitted by the operator and annual progress meetings being held. This would provide the planning authority with sufficient control to ensure that the agreed restoration scheme is implemented.

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62. The County Council is required to consider the recommended conditions in the light of Schedule 13 of the Environment Act 1995 and whether the conditions would restrict the working rights of the site to an unreasonable degree. In having regard to the Act and advice contained in MPG14, it is not considered that the recommended conditions would affect working rights. The operating company has confirmed that the recommended conditions as set out in this report would be acceptable.

### **Recommendation**

It is recommended that planning permissions 1976/0047/04, 1976/0043/07, 1980/1728/04 and 1980/1430/07 relating to Heather Brickworks be subject to the following conditions and informatives:

### **Conditions**

1. This permission shall expire on 21 February 2042 by which date the winning and working of minerals and the depositing of mineral waste shall have ceased and the site restored in accordance with the relevant conditions herein specified.
2. This permission relates only to the extraction of brickmaking clay from, and the subsequent restoration of, the land edged red on Drawing 2003/0513/04//2003/0697/07/M1 attached to and forming part of this permission for the manufacture of bricks or other clay products primarily at the adjoining Heather Brickworks.

### **Approved Details**

3. Unless otherwise required by this permission or agreed in writing by the Mineral Planning Authority, the development hereby permitted shall be carried out in accordance with the development and restoration proposals as detailed in the Environment Act Review submission reference 2003/0513/04 & 2003/0697/07 dated 30 April 2003 and accompanying Environmental Statement, as amplified and amended by the Phase 2 Ecological Survey dated December 2003 and submitted on 6 February 2004.

### **Availability of Plans**

4. From the date it comes into force, a copy of this schedule of conditions including all documents referred to in it and any further submission to and approvals by the Mineral Planning Authority under the approved conditions shall be kept available on site for inspection at any time when the site is operating.

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Restriction of Permitted Development Rights

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended),
  - a) No fixed plant or machinery, buildings, structures and erections shall be erected, extended, installed or replaced at the site without the prior approval in writing of the Director of Community Services; and
  - b) No lights or fences shall be installed or erected at the site unless details of them have been submitted to and agreed in writing by the Director of Community Services.

Working and Phasing Details

6. The progress of mineral extraction, site restoration and all other ancillary operations shall be the subject of regular formal reviews. Each review shall be prepared by the operator in the form of a five year operational programme (or such other period as may have been agreed beforehand in writing by the Director of Community Services), shall be set out in a written statement and accompanied by appropriate plans, specifications and technical data and any other information reasonably required in writing by the Director of Community Services, and shall include information relating to:
  - a) Location, timescale and phasing of the removal of topsoils and subsoils
  - b) Location of storage of topsoils and subsoils
  - c) Removal of raw material
  - d) Disposal of mineral waste
  - e) Carrying out of landscaping/ameliorative works
  - f) Undertaking of surface water drainage works
  - g) Location, timescale and phasing of restoration works

The first five year operational programme shall be submitted for the written approval of the Director of Community Services within 6 months of the date of this permission and thereafter any subsequent reviews shall be undertaken and submitted for the written approval of the Director of Community Services at intervals of not more than five years.

In the event of the operator being unable to comply with any approved five year programme, the restoration of the site shall be adjusted and subsequently carried out in accordance with a revised restoration scheme (including revised timescales) which shall be submitted for the written approval of the Director of Community Services.

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Annual Review Meetings

7. Notwithstanding the requirements of Condition 6 above, the progress of extraction and restoration of the site shall be the subject of annual review meetings between the operator and the Director of Community Services or his representative. The first of such meetings shall be held within 2 years from the date of this permission. The meetings shall take place at the site on a date arranged by the operator. The review shall have specific regard to the following matters:
  - a) Progress and timescale of extraction;
  - b) Restoration timescales;
  - c) Soiling, landscaping; seeding, planting and treatment works.

Stockpile Heights

8. The height of any clay stockpiles shall not exceed 8 metres.

Hours of Operation

9. Unless otherwise agreed in writing by the Mineral Planning Authority, except in the case of emergency or for essential pumping and maintenance work, no working shall be carried out on the site except between the hours of

06:30-18:00 Mondays to Fridays, and  
06:30-14:30 on Saturdays.

For the avoidance of doubt no working shall be carried out at any time on any Sunday or Public or Statutory Holiday.

Access

10. Clay extracted from the site shall only be transported directly to or via the adjoining Heather Brickworks; there shall be no direct vehicular access between the site and any highway. No clay shall be transported via the access to Newton Road.

Noise

11. Unless otherwise agreed in writing by the Mineral Planning Authority, the noise levels arising from the development (with the exception of temporary operations identified in Condition 12 below) shall not exceed the following:

49 dB LAeq (1 hour) at Valley Farm  
50 dB LAeq (1 hour) at Odstone Hill Farm  
55 dB LAeq (1 hour) at any other noise sensitive property

measured 1 metre from the most exposed window or door in the facade of Valley Farm, Odstone Hill Farm or any other noise sensitive property (as applicable) over any one hour period.

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12. Noise levels from temporary operations, such as soil stripping, and the construction and removal of soil/overburden mounds, shall be minimised as far as is reasonably practicable and shall not exceed 70db ( $L_{Aeq}$ ) (1 hour), freefield at any noise sensitive property. Temporary operations which exceed the normal day to day criterion set out in Condition 11 above shall only be carried out between the hours of 0800 and 1800 Monday to Friday and 0800 and 1200 Saturday, and shall be limited to a total of 8 weeks in any 12 month period. Advanced notice of the commencement of such temporary operations shall be given to the Director of Community Services.
13. In the event of any complaint about noise being made and considered to be reasonable by the Director of Community Services, the operator shall carry out a noise survey to establish whether or not the noise limits set out in Conditions 11 and 12 above are being exceeded. The survey shall be for one-hour duration in the vicinity of the noise sensitive property nearest the current working area and shall exclude so far as possible extraneous noise from passing traffic. The measurements shall be carried out in accordance with the provisions of BS4142:1997 and the  $L_{A90,T}$  and  $L_{Aeq,T}$  noise levels shall be reported, together with the weather conditions and the sources of audible noise. In the event that the  $L_{Aeq,T}$  noise level is exceeding any of the limits set in Conditions 11 and 12 above, the Director of Community Services shall be informed within 7 days of the receipt by the operator of the noise report together with the measures proposed to be taken to remedy the breach.
14. All equipment, vehicles and plant used in connection with the development shall be fitted with silencers of an appropriate type and specification and at all times the best practicable means shall be employed to prevent or counteract the effects of noise emitted by equipment vehicles and plant.
15. All audible warning devices fitted to vehicles, plant and machinery operating within the site, whilst affording suitable safety, should be of a design that does not cause unreasonable noise intrusion to residential properties.

#### Dust

16. All operations shall be carried out in a manner to minimise the emission of dust from the site. In order to control dust from internal traffic movements, all haul roads shall be maintained in a good condition and shall be kept moist in dry and windy conditions as necessary. Any dry exposed area/material shall be watered as necessary in windy conditions to prevent dust becoming airborne. Dust filters shall be fitted where appropriate on all plant and machinery.
17. At such times as operations on site give rise to unacceptable levels of dust leaving the site such as during adverse weather conditions, operations shall be temporarily suspended until such time as they can be resumed without causing nuisance either by a change in conditions or by taking additional measures.

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Surface Drainage and Pollution Protection

18. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bunded 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 shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from the accidental damage. All filling points and tank and vessel overflow pipe outlets shall be directed to discharge downwards into the bund.
19. There shall be no discharge of foul drainage from the site into either groundwater or any surface water, whether direct or via soakaways.
20. No removal of the turf, excavation, tipping, deposit of excavated spoil or raising of ground levels shall take place within 30 metres from the top of the bank of the River Sence.
21. Unless otherwise agreed in writing by the Mineral Planning Authority, no extraction of clay shall be carried out beyond the area and depth limits shown on the approved plans and documents submitted with the Environment Act Review submission dated 30 April 2003 or subsequently submitted as part of any five year review as detailed in Condition 6 above.
22. There shall be no interruption to the surface water drainage system of the surrounding land as a result of the works on site. Provisions must be made to ensure that all existing drainage systems continue to operate effectively.
23. Within 6 months from the date of these conditions coming into effect, a scheme for the monitoring of water levels in the River Sence and the dewatering of the site shall be submitted for the written approval of the Director of Community Services, and thereafter implemented as approved.

Other Environmental Protection

24. Within 6 months from the date of this permission, a scheme for the monitoring of the water level in the fishing lake to the west of the extraction area shall be submitted to the Director of Community Services for written approval and subsequently implemented as approved. Such a scheme shall make provision for the water level being monitored in the summer and winter of each year during which mineral extraction takes place, and monitoring results forwarded to the Director of Community Services; and set out the mitigation measures to be taken in the event of significant changes in water level as a result of mineral working on the site.

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Ecology & Landscaping

25. Unless otherwise agreed in writing by the Director of Community Services all existing trees and hedges around the perimeter of the site and any tree and hedges lying within the site that are not affected by the operations hereby permitted shall be protected, retained and managed to the reasonable satisfaction of the Director of Community Services for the duration of the mineral extraction and subsequent restoration operations. Maintenance shall include the cutting and trimming of hedges at the appropriate season and the replacement of any tree or shrub that may die or become seriously damaged or diseased with a plant of similar species within the next planting season to the reasonable satisfaction of the Director of Community Services. No soil stripping, storage of any material or regrading shall take place within two metres of any hedge or within five metres of any tree that is to be retained.
26. The operator shall submit annually, beginning with 12 months from the date on which these conditions come into effect, but in any event at least 5 working days prior to the review meeting required by Condition 7 above, written confirmation (including plans) of any works on hedges carried out on the site during the previous year, for the consideration of the Director of Community Services.
27. Any soils stripped from areas of marshy grassland shall be kept in a separate stockpile and subsequently be used in the restoration of those areas of low-lying areas of grassland which have been the subject of mineral extraction.
28. Within 6 months of the date of this permission details of advanced landscaping (tree, hedgerow and shrub planting) shall be submitted to the Director of Community Services for approval. The details shall include the location, species, size, number, spacing and long term maintenance of the planting works. The scheme shall aim to ameliorate the visual aspects of the proposed development and shall incorporate the mitigation proposals set out in section 7.4 of the Landscape and Visual Impact Assessment submitted as Appendix 4 of the Environment Act Submission dated 30 April 2003. The planting aspects of the scheme shall be fully implemented in the first available planting season (November – March inclusive) following the date of this permission.
29. Unless otherwise agreed in writing by the Director of Community Services, no trees or hedgerows in which bats or other protected species are present or which have been identified as having potential for bat roosts shall be removed until any bats or other protected species found in or near them have been removed by a suitably licensed person. Notwithstanding the above, no trees or hedgerows shall be removed during the nesting season (March to August inclusive).
30. Prior to the removal of any trees, hedgerows, ditches or other vegetation or habitat or the stripping of any soils on the site, the following mitigation measures shall be taken as appropriate:

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- a) Temporary and permanent soft bare clay habitats with seepages shall be created in locations to be agreed with the Director of Community Services to replace those areas of significant invertebrate interest within the quarry which will be lost as a result of the development;
- b) The seed bank and soil from grasslands G1 and G2 and the higher quality seed bank and soil of grasslands G3 to G5 inclusive, as shown on drawing no. P2215 ECOL 3, dated November 2002 and forming part of the Environmental Statement submitted with the Environment Act Review submission reference 2003/0513/04 & 2003/0697/07 dated 30 April 2003, shall be relocated to locations to be agreed with the Director of Community Services prior to mineral extraction operations in these areas;
- c) Prior to the relocation of grasslands G1 and G2, seed from these areas shall be harvested each summer and stored for re-use for grassland creation on the site. Initial grassland creation shall take place on the area of currently improved grassland adjacent to the River Sence and to the north of the extraction area;
- d) Dead wood from trees to be removed shall be appropriately stacked to create invertebrate habitats;
- e) Nest boxes shall be erected on selected trees remaining in situ;
- f) Surveys shall be carried out at regular intervals for bats, badgers, otters, water voles, and white clawed crayfish. In the event that any of these species are found in habitats due to be removed, appropriate mitigation schemes shall be prepared and submitted for the written approval of the Director of Community Services. The relocation of these species shall be carried out by suitably licensed persons;
- g) Within 12 months from the date on which these conditions come into effect, a detailed environmental monitoring programme shall be submitted for the written approval of the Director of Community Services, and thereafter implemented as approved.

Soil Stripping, Handling and Storage

31. Prior to the commencement of the stripping of soils and extraction of clay from any part of the site, a detailed plan of the whole site to a scale not less than 1:2500 showing the existing contours relative to ordnance datum at vertical intervals not exceeding one metre and the position of all hedges and trees over five metres in height shall be submitted to the Director of Community Services.

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32. Prior to any part of the site being

- a) excavated;
- b) traversed by heavy vehicles or machinery (except for the purpose of stripping topsoil from or stacking topsoil on that part of the site);
- c) built on;
- d) used for the stacking of subsoil, soil making material or overburden; or
- e) used as a machinery storage area or plant yard as for the construction of a road;

all available topsoil shall be separately stripped from that part of the site and shall be kept separate from other materials.

33. Storage mounds for topsoil, subsoil and soil making material shall be constructed with only the minimum amount of compaction necessary to ensure stability and, unless otherwise agreed in writing by the Director of Community Services, they shall not exceed three metres in height. Any storage mounds shall be located and formed in accordance with details contained in the Environment Act Review submission reference 2003/0513/04 & 2003/0697/07 dated 30 April 2003 and accompanying Environmental Statement, as amplified and amended by the Phase 2 Ecological Survey dated December 2003 and submitted on 6 February 2004. Any storage mounds that are to remain in place in excess of 12 months shall be seeded with a suitable grass seed mixture and the sward shall be managed throughout the period of storage, to the reasonable satisfaction of the Director of Community Services.

Overburden Handling and Storage

34. Following the stripping of soil from any part of the site, unless otherwise agreed in writing by the Director of Community Services, all available subsoil shall be separately stripped from the following areas within that part of the site:

- a) all areas that are to be excavated;
- b) all areas that are to be used for roads, buildings, plant storage yards, the storage of overburden or any other purpose that would cause damage to the subsoil, and
- c) all areas that are to be traversed by heavy vehicles and machinery.

Sufficient subsoil shall be stripped to provide for a minimum combined depth of topsoil and subsoil of one metre to be replaced on the site following mineral extraction.

35. All turf, topsoil and subsoil shall be retained on the site for use in restoration and following stripping and formation of storage mounds the quantities of the different materials shall be measured and recorded on a plan which shall be made available to the Director of Community Services on request.

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36. No movement of any soil shall be carried out except when the full depth of soil to be stripped or otherwise moved is in a suitably dry soil moisture condition such that the topsoil can be separated from the subsoil without difficulty and the ground is sufficiently dry that the soil will not be damaged by machinery passing over it, as may be agreed by the Director of Community Services.
37. During the course of mineral working operations on the site, any suitable soil making material occurring within the overburden shall wherever practicable be recovered for use in the restoration of the site.
38. Any overlap of soil types or units within any storage mound shall be kept to a minimum necessary for the effective formation of that mound. The interface between soils shall be defined on the site and recorded on the plan prepared under condition no. 31 above, in order that it can be easily located when the mound is removed.
39. All operations involving soil replacement, subsoiling and cultivation treatments shall only be carried out when the full volume of soil involved is in a suitably dry soil moisture condition to minimise damage and to maximise the effects of the subsoiling operations.
40. Measures shall be taken to ensure that no mixing of topsoil, subsoil and overburden takes place during restoration operations.

#### Archaeology

41. Prior to any further soil stripping in the Phase 1 and any succeeding phase the operator shall have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation previously approved in writing by the Director of Community Services. The development shall then only take place in accordance with the approved scheme. A suitable, qualified body acceptable to the Director Community Services shall carry out the archaeological works.

#### Restoration

42. Any areas that have been taken out of agricultural use to enable mineral extraction to be carried out and which have been restored, and any areas which are not the subject of mineral extraction, restoration or associated operations, together with all topsoil, soil making material and overburden mounds, shall be kept free from weeds. Measures shall be taken to destroy weeds at an early stage of growth to prevent seeding, to the reasonable satisfaction of the Director of Community Services.

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43. All trees and shrubs planted in accordance with the approved restoration and landscaping schemes shall be maintained to the reasonable satisfaction of the Director of Community Services for a period of at least five years following the date of planting; such maintenance shall include the replacement of any tree or shrub that may die or be seriously damaged or diseased with a plant of similar species in the next planting season.
44. Following extraction of clay from any part of the site, the overburden shall be replaced and regraded to levels that conform generally with the final levels shown on the approved restoration drawing such that those levels will be achieved following the replacement of subsoil and topsoil, to the satisfaction of the Mineral Planning Authority.
45. Unless otherwise agreed in writing by the Director of Community Services, following the replacement of overburden and prior to the replacement of subsoil on any part of the site, the upper layers of the overburden shall be subsoiled (rooted) with a heavy duty subsoiler to ensure that, within 400mm depth or such depth as ensures a total depth of 1200mm below the surface of the topsoil so treated, there is:
  - a) no material injurious to plant life;
  - b) no rock, stone, boulder or other material capable of preventing or impeding normal agricultural or land drainage operations including mole ploughing or subsoiling;
  - c) no wire rope, cable or other foreign objects;
  - d) no excessively compacted zone;
  - e) a reasonably level, but uncompacted, surface suitable to receive subsoil.

Stones and other deleterious material shall be removed from the site or buried on the site at a depth of 1200mm or greater.

46. Within one year of the completion of restoration of the site, all buildings, plant, structures and machinery used in connection with the mineral extraction and restoration operations hereby permitted shall be removed and, unless required to be retained for the purpose of the agricultural use of the land, all haul roads shall be removed, and the land shall be restored in accordance with the approved restoration scheme.

#### Aftercare

47. Following the final restoration of any part of the site in accordance with the restoration conditions above the land shall be managed for a 5 year period in accordance with an approved aftercare scheme. Such aftercare scheme shall:
  - a) Be submitted for the written approval of the Director of Community Services not later than 3 months prior to the date on which it is first expected that the replacement of topsoil or final restoration of each

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- restoration phase shall take place, unless otherwise agreed in writing with the Director of Community Services;
- b) Provide an outline strategy in accordance with Annexes A & B of MPG7 for the five year aftercare period for each restoration phase, specifying the steps to be taken and the period during which they are to be taken;
  - c) Provide for a detailed annual programme of works for each restoration phase in accordance with Annex A of MPG 7. The programme for the first year shall be submitted for the written approval of the Director of Community Services not later than 3 months prior to the date on which it is expected that the final restoration of the appropriate phase or area of the site shall be completed. In respect of subsequent years, programmes shall be submitted not later than 2 months prior to the annual aftercare meeting;
  - d) Provide a detailed management plan which aims to enhance the ecological interest of the site and include provision for regular monitoring and revision.
48. Unless otherwise approved in writing by the Director of Community Services, aftercare of the site shall only be carried out in accordance with the approved scheme.
49. The five year aftercare period relating to each restoration phase of the site shall be the subject of annual review meetings. The first of such meetings shall be held within 1 year of the commencement of aftercare in the restoration phase to which they relate. The meetings shall take place at the site on a date arranged by the operator and shall be attended, as appropriate, by the operator, the landowner, the occupier and the Director of Community Services or his representative. The review shall have specific regard to the following matters:
- a) any aftercare issues that have arisen during the previous year;
  - b) the programme of management to be adopted during the following year.

The operator shall annually, beginning within 12 months from the date of commencement of aftercare in each restoration phase, but in any event at least 5 working days prior to each review meeting, provide the Director of Community Services with a record of management and operations carried out on the restored land during the period covered by the review.

#### Cessation

50. In the event of a cessation of winning and working of minerals prior to the achievement of completion of the approved restoration and aftercare schemes, which in the opinion of the Director of Community Services constitutes a permanent cessation within the terms of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, a revised restoration and aftercare scheme shall be submitted to the Mineral Planning Authority for approval within 6 months of the cessation. The approved revised scheme shall be completed in all respects within 2 years of the written approval unless otherwise agreed in writing by the Mineral Planning Authority.

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51. This permission is limited to the life of the Heather Brickworks. On the cessation of the manufacturing process at the site the extractive operations shall cease and the workings shall be fully restored in accordance with the agreed restoration scheme.

**Reasons**

1. To provide for the completion and progressive restoration of the site within a specified timescale in the interest of the amenities of the area (Leicestershire Minerals Local Plan Policy 5a).
2. For the avoidance of doubt, and to ensure that the development is carried out in a satisfactory manner (Leicestershire Minerals Local Plan Policy 5).
3. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner in the interests of amenities in the area (Leicestershire Minerals Local Plan Policies 1 and 5).
4. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner in the interests of amenities in the area (Leicestershire Minerals Local Plan Policies 1 and 5).
5. To retain control of these matters which may have an effect on the amenities of the area (Leicestershire Minerals Local Plan Policy 5).
6. To enable the Director of Community Services to monitor the progress of mineral extraction and restoration of the site (Leicestershire Structure Plan Minerals and Waste Disposal Policy 3 and Leicestershire Minerals Local Plan Policy 11).
7. For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to enable the Mineral Planning Authority to monitor the progress of extraction and restoration (Leicestershire Structure Plan Minerals and Waste Disposal Policy 3 and Leicestershire Minerals Local Plan Policy 11).
8. In the interests of visual amenity (North West Leicestershire Local Plan Policy E3).
9. In the interests of local amenity (Leicestershire Minerals Local Plan Policy 5i).
10. In the interests of highway safety (Leicestershire Minerals Local Plan Policies 4 and 5o).
- 11,12, To minimise the adverse impact on local residents of noise generated by 13&15. the operations (Leicestershire Minerals Local Plan Policy 5f).

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14. To ensure minimum disturbance from operations and avoidance of nuisance to the local community (Leicestershire Minerals Local Plan Policy 5f).
- 16&17. To protect the amenities of the locality from the effects of dust arising from the development (Leicestershire Minerals Local Plan Policy 5g).
- 18&19. To prevent pollution of the water environment (Leicestershire Minerals Local Plan Policy 5e).
20. To safeguard the effectiveness of the floodplain in the vicinity of the site (Leicestershire Minerals Local Plan Policy 5e).
21. To prevent adverse impacts on ground water resources in the local area (Leicestershire Minerals Local Plan Policy 5e).
22. To protect the surface water drainage systems in the local area (Leicestershire Minerals Local Plan Policy 5e).
23. To ensure that dewatering operations at the site do not give rise to flooding in the vicinity or downstream of the site (Leicestershire Minerals Local Plan Policy 5e, North West Leicestershire Local Plan Policy E30, and Hinckley & Bosworth Local Plan Policy NE13).
24. To prevent adverse impacts on ground water resources in the local area and water tables in adjacent lakes (Leicestershire Minerals Local Plan Policy 5e).
- 25&26. In the interests of local amenity (Leicestershire Minerals Local Plan Policy 5).
27. To ensure that adequate soil resources are available for restoration (Leicestershire Minerals Local Plan Policy 11).
28. In the interests of local amenity (Leicestershire Minerals Local Plan Policy 5 and Hinckley & Bosworth Local Plan Policy NE12).
29. In the interests of local amenity and to prevent any harm or disturbance being caused to protected species as a result of the development (Leicestershire Minerals Local Plan Policy 5 and North West Leicestershire Local Plan Policy E27).
30. In the interests of local amenity and to prevent any harm or disturbance being caused to protected species as a result of the development (Leicestershire Minerals Local Plan Policy 5).
31. To facilitate soil stocktaking and monitoring of resources (Leicestershire Minerals Local Plan Policies 5k and 11).

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- 32,33, 34,35, 37&38. To protect the soil resource and to aid the final restoration of the site; and pursuant to Leicestershire Minerals Local Plan Policy 11).
36. To avoid damage to the soils caused by their movement when wet (Leicestershire Minerals Local Plan Policy 11).
39. To prevent damage to soils by avoiding movement whilst soils are wet or excessively moist (Leicestershire Minerals Local Plan Policy 11).
40. To prevent loss or damage of soil, or mixing of topsoil with subsoil, or subsoil with overburden, or mixing dissimilar soil types (Leicestershire Minerals Local Plan Policy 11).
41. To ensure satisfactory archaeological investigation and recording (Leicestershire Structure Plan Environment Policy 2 and Leicestershire Minerals Local Plan Policy 5).
42. To prevent a build-up of weed seeds in the soil that would prejudice the restoration aims of the site (Leicestershire Minerals Local Plan Policy 11).
43. To protect and enhance the visual amenity and ecological aspects of shrubs and trees: and pursuant to North West Leicestershire Local Plan Policy E32).
44. To ensure that the agreed restoration levels will be achieved following the replacement of subsoil and topsoil, to the satisfaction of the Director of Community Services (Leicestershire Minerals Local Plan Policy 11).
45. To remove compaction caused by equipment used for the levelling of soil and to remove foreign objects capable of impeding normal agricultural and land drainage operations (Leicestershire Minerals Local Plan Policy 11).
46. In the interests of satisfactory restoration of the site (Leicestershire Minerals Local Plan Policy 11).
- 47,48 &49. To ensure the site is restored to a condition suitable for long-term beneficial use (Leicestershire Minerals Local Plan Policy 11).
50. To enable the Mineral Planning Authority to adequately control the development and to ensure that the land is restored to a condition capable of beneficial afteruse (Leicestershire Minerals Local Plan Policy 11).
51. For the avoidance of doubt, to provide for the completion and restoration of the site within an agreed timescale in the interest of the amenities of the area (Leicestershire Minerals Local Plan Policy 11).

2003/0513/04 & 2003/0697/07 – continued

Informatives

1. The applicant be advised that the section of Public Footpath Q56 which crosses the site will have to be diverted permanently in order to allow the approved restoration scheme to be implemented. The operator should therefore apply for a public path diversion order not less than 1 year before the date on which it is anticipated that the footpath will be have to be diverted, in order to allow sufficient time for the necessary procedures to be followed.
2. The operator is further reminded that any public rights of way within the review site must not be obstructed or diverted without the relevant statutory procedures having been followed.
3. The progressive restoration of any lagoons on the site shall be overseen by an ecologist in order to enable any affected species to be translocated.

**Policies and Proposals in the Development Plan Relevant to the Decision**

Leicestershire Structure Plan (1994)

Minerals and Waste Disposal Policy 2: Environmental Impact

Minerals and Waste Disposal Policy 3: Restoration Aftercare and Afteruse

Leicestershire Minerals Local Plan (1996)

Policy 5 – Planning Conditions for the Protection of the Environment;

Policy 9 – Review of Mineral Working Sites;

Policy 11 – Restoration and Aftercare Conditions.

Hinckley & Bosworth Local Plan (2001)

Policy NE10 – Local Landscape Improvement Areas

Policy NE12 – Landscaping Schemes

Policy NE13 – The Effects of Development on Natural Watercourses

North West Leicestershire Local Plan (2002)

Policy S3 – Development in the Countryside

Policy E26 – Sites of Ecological/Geological Interest

Policy E27 – Protected Species

Policy E30 – Risk of Flooding

Policy F1 – New Development within the National Forest

Policy F2 – Tree Planting within the National Forest

Policy F4 – Planting Provision within the National Forest

Policy L16 – Diversions of Public Rights of Way

2003/0513/04 & 2003/0697/07 – continued

**Background Papers**

Planning permissions 1976/0047/04, 1976/0043/07, 1980/1728/04 and 1980/1430/07

Application for the Determination of Conditions for a Minerals Site, references 2003/0513/04 & 2003/0697/07

**Circulation Under Sensitive Issues Procedures**

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