



DEVELOPMENT CONTROL AND REGULATORY BOARD

24TH MARCH 2011

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

- APP. NOS. & DATE:** 2010/1031/07 & 2010/1032/07 – 27th October 2010
- PROPOSAL:** Submission of a scheme of conditions under Paragraph 2(2) of Schedule 2 to the Planning and Compensation Act 1991 for Interim Development Order registered under application no. 1992/0219/07 (2010/1032/07) and proposed variation of condition 3 of permission no. 1981/1233/07 to extend quarrying operations from 31st December 2010 to 21st February 2042 (2010/1031/07).
- LOCATION:** Land at Whitwick Quarry, Leicester Road, Whitwick (North West Leicestershire District).
- APPLICANT:** Midland Quarry Products Ltd.
- MAIN ISSUES:** Government Policy; Development Plan; Countryside; Landscaping; Noise; Dust, Blasting, Highway Impacts, Ecology, Restoration.
- RECOMMENDATION:** Permit subject to 55 conditions as set out in appendix 1 to the main report.

Circulation Under Local Issues Alert Procedures

Mr. M. Wyatt CC and Mr. T. Gillard CC

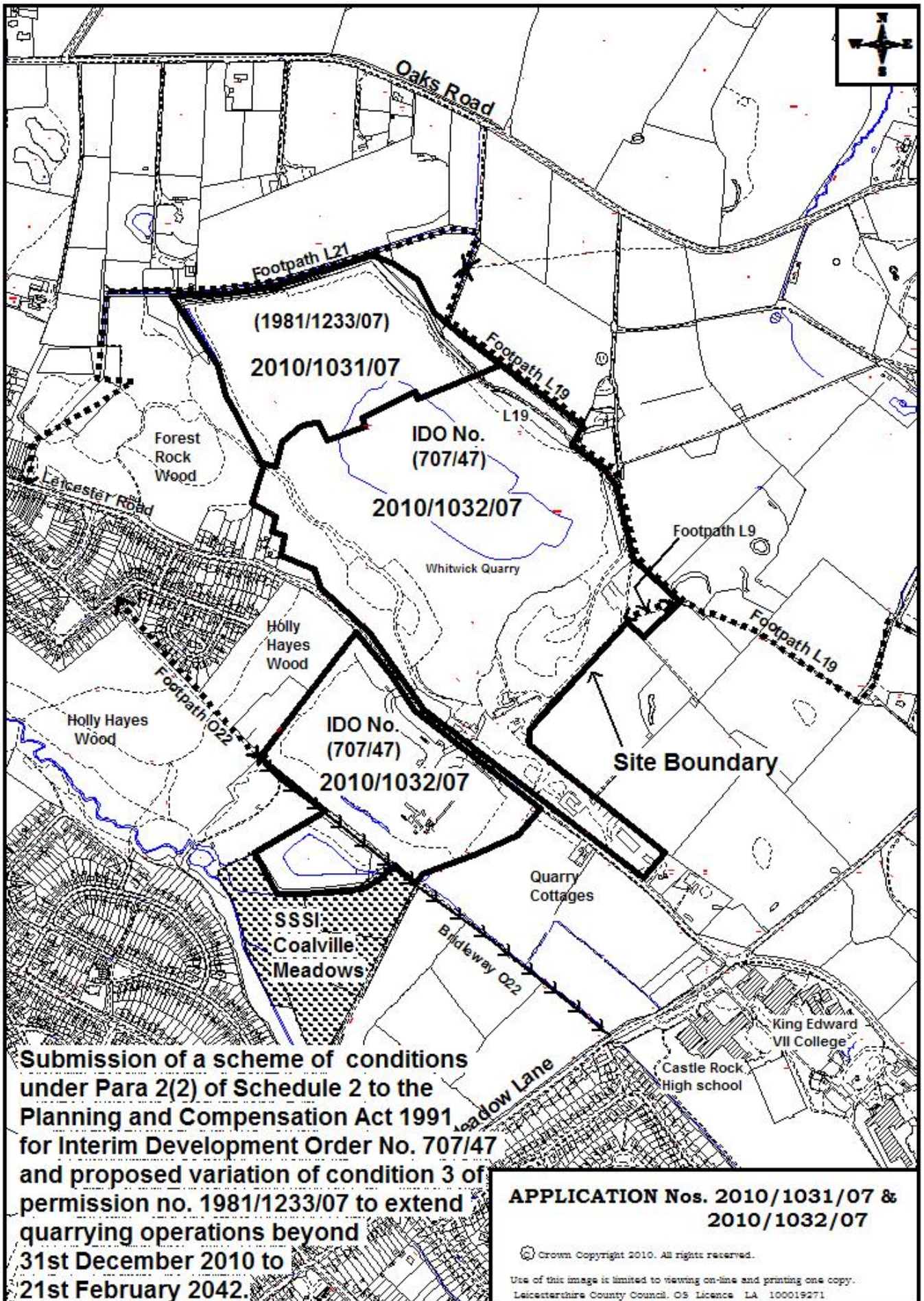
Officer to Contact

Mr. P. Bond (Tel. 0116 305 7325)
E-Mail: planningcontrol@leics.gov.uk

PART B – MAIN REPORT

Background

1. Whitwick Quarry is a long established hard rock quarry that has operated for well over one hundred years. In 1996 Midland Quarry Products (MQP) closed Whitwick Quarry for stone production and processing but retained the coated roadstone plant, which continued to operate until 2008 using imported stone. The only operations retained at the site relate to the use of the offices on site, which are used as the head office for Midland Quarry Products and an ancillary lorry park for about 50 HGVs.
2. The quarry has historically operated under an Interim Development Order (IDO) no. 707/47 and planning permission no. 1981/1233/07, granted in 1983 (the 1983 permission), which expired on 31st December 2010. Under the requirements of Part 1 of Schedule 2 to the Planning and Compensation Act 1991, all IDOs had to be registered with the Mineral Planning Authority within a set period or else the IDO would lapse. IDO no. 707/47 was duly registered with the County Council on 28th August 1992 under reference 1992/0219/07.
3. Part 2 of Schedule 2 then placed a requirement on the operator to submit a new scheme of conditions to which the registered IDO would be subject. It was not considered at this time that the submission of a scheme of conditions would be subject to the Environmental Impact Assessment (EIA) regulations. The operator duly submitted a revised scheme of conditions in 1993, and this was then subject to consultation. Prior to the County Council being satisfied that the scheme of conditions could be approved, the Court of Appeal ruled on a similar case involving an IDO scheme of conditions which was approved without an Environmental Impact Assessment (EIA). The ruling stated that the approval of a scheme of conditions did fall under the EIA regulations and therefore, where appropriate, consent should not be given without the submission of an Environmental Statement (ES) and the operator was asked to submit an ES.
4. The operator failed to submit an ES, and the County Council had no authority to require the applicant to do so. The Town and Country Planning (Environmental Impact Assessment) (Mineral Permissions and Amendment) (England) Regulations 2008 were introduced to overcome situations where the IDO process was stalled and placed a requirement on operators who had undetermined IDO schemes to submit an ES in an agreed timescale to prevent minerals operations being automatically suspended. The operator has complied with these regulations and submitted a revised scheme of conditions and an ES. The applicant has also submitted an application to extend the life of the planning permission ref. 1981/1233/07, which expired at the end of 2010.
5. In December 2008, before MQP submitted these planning applications, it wrote to the County Council requesting a scoping opinion under Regulation 10 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. At that time MQP had decided to make a planning application to extend quarrying operations under permission no. 1981/1233/07 and submit a revised scheme of conditions for the IDO and that it would need to submit an Environmental Statement with the applications. In these circumstances the EIA Regulations allow the applicant to request the planning



authority's formal opinion on the information that should be provided in the Environmental Statement. This opinion is known as a 'scoping opinion' and the County Council's Scoping Opinion for the Whitwick Quarry proposal was provided to MQP by letter dated 11th February 2009, after the Council had carried out consultation with various bodies including statutory consultees and local Parish Councils required by the regulations.

6. Whilst the Mineral Planning Authority can not refuse the scheme of conditions submitted under the IDO, it can refuse to extend the life of mineral working under the 1983 permission, which was for a quarry extension. Notwithstanding this, it is considered that the two permission areas are not separable in practise because they relate to the same quarry operation.
7. The 1983 permission was accompanied by a S106 legal agreement. The agreement required the operator to establish a liaison committee, review potential causes of nuisance to the locality, provide blast details and monitor blasts from the site, revocation of two older permissions, dedication of a footpath on the western side of the quarry and a commitment not to seek compensation against conditions which restricted hours of use and blasting on both the 1983 site area and the IDO area. As the 1983 permission is not now extant, any new permission would not be subject to the original S106 legal agreement.

Location of Proposed Development and Description of site

8. The application site comprises land to the north and south of Leicester Road, lying about 200 metres to the east of the built up area of Whitwick. All extraction operations are located to the north of Leicester Road, along with an area used for lorry parking and the applicants head office. Land to the south of Leicester Road has historically been used for producing coated roadstone and for storing processed stone. Stone was historically transported from the quarry by a conveyor over Leicester Road, however, this conveyor was removed on health and safety grounds in 2009. The land to the south of Leicester Road also contains a water settlement lagoon.
9. The whole site is generally bounded by woodland with agricultural land and isolated farmhouses beyond. Notwithstanding this, the built-up area of Whitwick is around 200 metres to the west of the site. Footpath L21 skirts the quarry's north west boundary, with Footpaths L19 and L9 adjoining the north and eastern boundary. Bridleway O22, which forms part of the Ivanhoe Way, runs north west to south east on the southern section of the site, south of Leicester Road, between the processing plant area and the settlement lagoon further to the south.

Description of Proposed Development

10. These applications seek approval for a set of conditions by which IDO no. 707/47, registered in 1992 as 1992/0219/07 will be subject and to extend the life of quarrying operations granted under permission no. 1981/1233/07 to 21st February 2042. If approved, it would result in the whole quarry operations being covered by one set of conditions.

11. The applicant states that there is about eight million tonnes of reserves at Whitwick Quarry and it envisages working the site at between 500,000 and one million tonnes per annum, once extractive operations resume. The applicant has stated that it has no immediate plans to resume operations at the site. It is considered very unlikely that any extractive operations would be recommenced in the next five years. The primary crusher has been removed from the site and it is proposed that a mobile crushing plant will be utilised on the site.
12. The quarry has been worked to its maximum practicable lateral extent, save for minor works on the eastern fringe of the quarry, which would necessitate the removal of part of an existing overburden mound. It is proposed to work an additional two 15m high benches in the bottom of the quarry, taking the base of the quarry from 124 metres AOD to 94 metres AOD.
13. The applicant has proposed that operations on site would take place between the following hours:
 - Servicing, maintenance and testing of static and mobile plant and the operation of the asphalt plant shall be 24/7, Monday to Sunday, including Bank Holidays;
 - Mineral extraction and haulage of stone to the primary crusher – 06:00 to 18:00 hours Monday to Saturday, with no operations on Sundays, Public and Bank Holidays;
 - Processing and sale of stone - 06:00 to 22:00 hours Monday to Saturday, with no operations on Sundays, Public and Bank Holidays;
 - Stripping, movement and handling of overburden – 07:00 – 18:00 hours Monday to Friday only;
 - HGV access to be limited to 06:00 to 22:00 Monday to Saturday only, except for HGVs delivering asphalt products from the asphalt plant which shall be allowed 24/7 Monday to Sunday including Bank Holidays;
 - Blasting between 10:00 and 18:00 hours Monday to Friday only;
 - Except where stated above, no operations, other than water pumping from the quarry void and environmental monitoring and otherwise in accordance with an agreed scheme shall be carried out on Sundays, Bank or Public Holidays.
14. The applications are accompanied by an environmental statement that assesses the following matters and provides additional information regarding operations on site relating to:
 - Highways and Transportation
 - Ecology
 - Hydrology & Hydrogeology
 - Landscape and Visual Impact
 - Public Rights of Way
 - Noise
 - Air Quality
 - Blasting
 - Socio-economic factors
 - Restoration
 - Alternatives

Highways

15. The existing site accesses would be utilised from Leicester Road, with approximately 90,000 tonnes per annum of the extracted stone being diverted to the asphalt plant to the south of Leicester Road, along with about 10,000 tonnes of imported specialist aggregate. There are five accesses off Leicester Road, three along the north side and two to the south; although the two most westerly accesses to the north have not been used for a long time.
16. Immediately to the west of the site signage confirms a 7.5 tonne weight limit is in force except for access. Therefore, unless a delivery is required from the site within the weight restricted zone, all HGVs leaving the site must head eastwards. The weight limit was imposed to direct HGV traffic associated with the quarry away from Whitwick village and towards the classified road network at Copt Oak.
17. Historically, the asphalt plant has received stone from the quarry to the north via a conveyor over Leicester Road. This conveyor has recently been removed to prevent unauthorised and potentially dangerous use by trespassers. It is anticipated that the asphalt plant could run at a maximum of 100,000 tonnes per annum, with 90,000 tonnes of stone coming from the quarry. This would have to be transported across Leicester Road in rigid tipper lorries. It is also proposed that all crushed stone would leave the site from the north of Leicester Road and asphalt from the south, as opposed to historic operations where all material left from the south.
18. The volume of traffic associated with the quarrying operations has been calculated on the basis of an average output of 500,000 per annum and also on the higher equivalent output of one million tonnes per annum. The HGV flows would equate to 84 loads/168 movements per day for 500,000 tonnes per year and 167 loads/334 movements per day for one million tonnes per year. However, the site is currently used as parking for 55 HGVs, which would be utilised to take stone from the site upon the recommencement of quarrying operations, and therefore the overall increase on existing HGV numbers is likely to be in the region of 33 loads/66 movements and 116 loads/232 movements working on outputs of 500,000 and one million tonnes/annum respectively.
19. The applicant has undertaken a study of road and junction capacities to the east of the site, which concludes that with the reopening of the quarry, there would still be substantial reserve capacity and that there would not be an unacceptable impact on the local road network.

Ecology

20. The quarry was surveyed in April 2010 to establish land use, habitat and features of potential importance and to determine the requirement for surveys of particular species. The applicant also took into account records of important and protected species held by Leicestershire and Rutland Environmental Records Centre. Following this a botanical survey was undertaken and surveys were performed to determine the presence, or absence, within the site of reptiles, bats and badgers. The potential value of the site for amphibians, invertebrates, birds and other fauna was determined on the basis of habitat structure, age, location and management.

21. There are a variety of habitats within the site including the inactive quarry void, the base of which is now flooded, a derelict staff canteen, machinery and equipment, hard standing areas, quarry benches and cliffs, access tracks, partially restored banks, woodland and lagoon.
22. The flooded quarry void holds smooth newts and the lagoon holds common toads. A medium sized population of common lizard and a small population of slow-worm are present within the inactive quarry. Peregrine were noted to breed within the quarry, with the remaining habitats supporting a range of common and widespread bird species.
23. An individual brown long-eared bat was roosting within the derelict quarry canteen. No other bat was noted as roosting within the site, although Daubenton's bats and common pipistrelle may be present within crevices in the cliff faces of the quarry. The ES considers that trees present on the site do not hold features suitable for roosting bats. Natterer's bat, noctule and soprano pipistrelle were noted as visiting the site to forage but were not currently roosting. The flooded quarry void represents an important foraging ground for Daubenton's bats and noctule, and the lagoon for common pipistrelle. There were also several badger setts identified within the site.
24. The presence of protected species, including badgers, reptiles, bats and potentially great crested newts, does constitute a potential constraint to the working of the quarry. The ES acknowledges the presence of numerous protected species on the site and proposes that further surveys be carried out and mitigation and/or compensatory measures be implemented as necessary, prior to the quarry operations recommencing, which is not likely to be in the next five years.

Hydrology and Hydrogeology

25. The site lies within the 'Whitwick Volcanic Complex' and is classified as a 'Secondary B' aquifer by the Environment Agency (EA) (formerly termed non-aquifer). The site therefore characterises predominantly low permeability rocks, which yield and store only limited amounts of groundwater in localised features such as fissures. The site falls entirely within Flood Zone 1.
26. When operational, rainfall and groundwater ingress to the quarry void is pumped southwards, beneath Leicester Road, for treatment within a settlement system prior to off-site gravity discharge to an adjoining watercourse, which is an unnamed tributary of the Grace Dieu Brook. With the quarry being non-operational, off-site pumping has been suspended for about eighteen months and ponded water within the quarry has risen to a depth of 2.3 metres.
27. Calculations of the average and storm-event discharge rates from the quarry, both during working and following restoration, have been performed. The ES states that the results of the calculations, which have been performed assuming a 1:100 year storm event, strongly indicate that there would be no deleterious impact upon the receiving watercourse, either in terms of flood risk or quality of discharged waters.
28. The proposed restoration of the site allows for the worked out quarry to be allowed to recharge with water. Following the sinking of a borehole adjacent to

the quarry, a piezometer was used to predict where the water level would rise to until it reached equilibrium with surrounding ground water levels. It is anticipated that water in the quarry would rise to 158 metres AOD. However, in the absence of historic observations, there is no certainty with this prediction. Therefore, the restoration scheme incorporates a gravity discharge point such that the elevation of ponded water may develop to a maximum of 175.5 metres AOD. In the event that the water reaches this level, overflow would be piped under Leicester Road for off site discharge via the existing settlement system.

Landscape and Visual Impact Assessment

29. As the existing site includes existing mitigation planting measures around the perimeter, which would continue to mature as the site is developed, no additional mitigation measures are proposed as part of the application for the operational phases. The majority of activities would be well screened with only limited views in to the site available.
30. The ES concludes that the recommencement of quarrying operations will have little effect on the character of the landscape. There may be some limited effect visible from the removal of a small area of existing trees and reprofiling of an overburden mound on the eastern side of the quarry, although it is not predicted that these minor works would affect the character of the area significantly and in general the ES considers that the effect on landscape character to be neutral.

Blasting

31. The ES refers to guidance contained within Mineral Planning Guidance (MPG) 9, 1992, and MPG 14, 1995 and also BS6472: 2008 *Guide to Evaluation of Human Exposure to Vibration in Buildings Part 2: Blast induced vibration*, and states that all blasts would be designed to accord with the limits set by these guides.
32. The ES states that upon recommencement of quarrying operations, blasting would be required at the site two to three times per week. Using evidence obtained from previous trial blasts when the site was active, the ES provides a regression line to indicate potential maximum instantaneous charge weights that should ensure that blasting does not cause unacceptable impacts to local residents.
33. The ES goes on to recommend planning conditions relating to blast design, blast monitoring, audible warnings for local residents and the ban on secondary blasting without the approval of the County Solicitor. The ES concludes that whilst all blasting will generate a certain amount of ground and airborne vibration, which would be noticeable to some local residents, subject to operations taking place in accordance with approved conditions, then blasting operations can be carried out in accordance with current Government guidance.

Noise

34. A full noise assessment has been carried out and background readings observed from several locations around the site. Using data provided for proposed operations, modelling has then been undertaken to indicate the

potential impact of noise from the site upon recommencement of operations on sensitive properties.

35. The ES proposes conditions that put limits on noise from the site for three discrete periods of the day: 06:00 – 18:00 (daytime), 18:00 – 22:00 (evening) and 22:00 – 06:00 (night time). These periods differ slightly from the guidance set out in Annex 2 of MPS 2, which refers to daytime periods starting at 07:00, evening at 19:00 and night time at 22:00.
36. The ES suggests that noise from the quarrying operations can be controlled to ensure compliance with the guidance set out in Annex 2 to MPS 2 for the three different periods of the day. However, the operation of the current asphalt plant during the evening and night time could lead to noise levels at certain local properties which exceed the MPS 2 guidelines.

Dust

37. The ES assesses the likely impacts arising from dust on local sensitive receptors, and models the likely impacts of fine particles (PM₁₀) against the National Air Quality Objectives (AQO) for 2015 and 2020.
38. The ES concludes that it is unlikely that any significant decrease in local air quality will occur due to the operation of Whitwick Quarry. Any dust occurrence would be limited and of short duration, and would be minimised by the implementation of dust control measures, including the use of bowsers, grass seeding screening bunds and restricting vehicle speeds under certain conditions.
39. The ES recommends that, prior to the recommencement of operations at the site, a dust management scheme should be approved and thereafter implemented by the operator.

Restoration

40. The overall restoration concept for the quarry includes a lake feature within the quarry void, together with species rich grassland, exposed quarry faces and woodland around the quarry. The asphalt plant area will be cleared of all structures and restored to woodland, with the perimeter fencing being removed and replaced with alternative security means more in keeping with amenity woodland.
41. The applicant proposes that the existing offices, workshop buildings and ancillary car parking and landscaping would be retained for continued office and employment use.

Alternatives

42. The consideration of alternatives is referred to in the EIA Regulations, where an outline of the alternatives studied and the reasons for the choice is to be considered. Notwithstanding the above, Whitwick Quarry has valid permissions for the quarrying of stone, and a typical assessment of alternative sites is not

considered appropriate, as the question of whether or not quarrying should be carried out at the site is not the issue for these applications.

43. The ES does however consider alternatives for the type and location of processing plant, the level of output from the site, transportation methods and types of restoration. The ES concludes that using mobile plant located in the void provides the most environmentally sensitive and cost effective solution to the processing of crushed rock and raising the output to one million tonnes every year would exhaust supplies early and wouldn't be viable. The ES also concludes that using HGVs is the only realistic option given the fact that the old railway line has been sold off and built on in parts and that restoring the site to its original landform would require 20 million cubic metres of infill, which would take decades to achieve, have implications regarding traffic and have numerous associated engineering problems.

Socio-Economic Factors

44. The ES states that, whilst the development may have a negative impact on the local area by re-introducing a level of industrial and vehicle activity that has not existed for a number of years, it could potentially have a number of positive socio-economic benefits by means of increased direct and indirect employment and increased expenditure within the local economy.
45. The reopening of the quarry and asphalt plant would lead to an additional 15 persons being employed at the site, plus additional HGV drivers. Further indirect employment would arise from support services and specialist contractors. The ES considers that the annual expenditure from the site, once fully operational, would be in excess of £5 million, a large proportion of which would benefit the local economy directly.

Planning Policy

Government Guidance

46. Planning Policy Statement (PPS) 7, 'Sustainable Development in Rural Areas' (2004) gives advice on the role of the planning system in relation to the countryside. PPS9, 'Biodiversity and Geological Conservation' (2005) provides advice on the relationship between planning control and ecological and geological conservation and enhancement. PPS5, 'Planning for the Historic Environment' (2010), gives advice on heritage conservation and the handling of archaeological remains and discoveries.
47. Minerals Policy Statement 1: *Planning and Minerals* (2006) (MPS 1) requires that the principles of sustainable development and environmental consideration are balanced against the need to maintain an adequate supply of minerals. Minerals Policy Statement 2: *Controlling and Mitigating the Environmental Effects of Minerals Extraction* (2005) (MPS 2) sets out environmental policies and considerations that should be taken into account when assessing a new quarry or extension to an existing planning permission. MPS2 includes two annexes in respect of noise and dust. Mineral Planning Guidance Note 7: *The Reclamation of Mineral Workings*' (1996) provides advice on the reclamation and restoration of mineral workings.

48. Minerals Planning Guidance 9: Planning and Compensation Act 1991 – Interim Development Order permissions (IDOS): Conditions (1992) (MPG 9) gives advice on the considerations to be taken into account by applicants and minerals planning authorities in preparing and determining the conditions to which registered IDO permissions should be subject. Paragraph 7 states (*inter alia*) ‘Conditions that would significantly affect the asset value [of a site] would be more appropriate for mpa reviews under the provisions of the Minerals Act 1981’ (as superseded and formalised by the Environment Act 1995).
49. Paragraph 10 goes on to state that (*inter alia*) ‘it is necessary to distinguish between conditions which deal with the environmental and amenity aspects of working the site and conditions which would fundamentally affect the economic structure of the operation – e.g. conditions which would significantly restrict the total quantity of mineral that could be extracted, or the rate at which it could be extracted having regard to the existing investment in and the current structure of the operation.’

The Development Plan

50. The Development Plan in this instance is made up of the East Midlands Regional Plan, Leicestershire Minerals Core Strategy and Development Control Policies document (Oct 2009) and the saved policies of the Leicestershire Minerals Local Plan Review and the North West Leicestershire Local Plan (2002).

East Midlands Regional Plan

51. *Policy 26: Protecting and Enhancing the Region’s Natural and Cultural Heritage* states that sustainable development should ensure the protection, appropriate management and enhancement of the Region’s natural and cultural heritage. As a result the following principles should be applied: (*inter alia*)
- The Region’s internationally and nationally designated natural and historic assets should receive the highest level of protection;
 - Neither direct nor indirect damage to EU designated Natura 2000 sites will be permitted;
 - There should be a net increase in the quality and active management of natural and historic assets across the Region in ways that promote adaptation to climate change and an increase in the quantity of environmental assets generally; and
 - The Region’s best and most versatile agricultural land should be protected from permanent loss or damage.

Leicestershire Minerals Core Strategy and Development Control Policies

52. *Policy MCS 2* states that ‘the strategy for aggregate minerals is to: (*inter alia*)
- Make land available to meet the sub-regional apportionment;
 - Maintain landbanks for crushed rock in line with national and regional policy;
 - Release reserves of crushed rock to be worked as extensions to existing extraction sites where they are required to ensure sustainable supply; and

- Allow proposals for aggregate extraction only where they will not cause unacceptable harm to the environment or communities.’
53. *Policy MCS 11* seeks to protect and enhance the natural and built environment and states:
‘The strategy for **environmental protection** is to protect and enhance the natural and built environment of Leicestershire by ensuring that
- there are no unacceptable adverse impacts from minerals development on:
 - (i) natural resources including water, air and soil;
 - (ii) the character and quality of the landscape;
 - (iii) biodiversity, including nationally and internationally important sites and the key habitats and species identified in relevant Biodiversity Action Plans;
 - (iv) sites of geological interest;
 - (v) historic and cultural features of acknowledged importance;
 - (vi) the distinctive character and setting of settlements within Leicestershire; and
 - (vii) residential amenity;
 - the highest standards of operational practice for the management, working, restoration and aftercare of sites are adopted;
 - development is designed to a high standard, incorporates sustainable construction principles and includes appropriate landscaping.’
54. *Policy MCS 13* states ‘the strategy for minerals development within or adjacent to **Charnwood Forest** is to ensure that:
- (i) proposals include measures to protect and enhance the character of the area, including its landscape, ecology, cultural heritage, built heritage and recreational value;
 - (ii) the siting, scale and design of the development together with the materials to be used reflect and complement the character of the surrounding landscape and minimise any harm.
55. *Policy MCS 17* states that ‘the strategy for the **reclamation and future use of mineral sites** is to ensure that:
- land is reclaimed at the earliest opportunity and that high quality restoration and aftercare takes place to an appropriate after-use that enhances and complements the natural and historic environment and that is in keeping with the local area, including its landscape character and with due regard to the setting of historic assets, adding to local distinctiveness and biodiversity having regard to the County’s Biodiversity Action Plan, Landscape and Woodland Strategy, and the National Forest Strategy;
 - industry uses best practice at the time which seeks to minimise future public safety hazards and ground stability problems which can arise from the legacy of mineral workings.

The following after-uses will be sought in appropriate cases:

- (i) woodland planting, particularly in the National Forest;
- (ii) creation of new wildlife habitats;
- (iii) water-based recreational schemes;

- (iv) public access and improvements to the public rights of way network including links to surrounding green infrastructure.’
56. *Policy MDC 5: Countryside* states that ‘planning permission will not be granted for minerals development that will adversely affect the general appearance and character of the landscape and the countryside, unless it can be demonstrated that there is an overriding need for the development.’
57. *Policy MDC 11: The Water Environment* states that ‘planning permission will not be granted for minerals development which would:
- (i) have a detrimental impact on the quality or flow of groundwater or surface water drainage; or
 - (ii) exacerbate flood risk in areas prone to flooding and elsewhere.’
58. *Policy MDC 12: Health and Amenity* states that ‘planning permission will not be granted for minerals development which is likely to generate unacceptable adverse effects from noise, dust, vibration, odour, emissions, illumination, visual intrusion or traffic to adjoining land uses and users and those in close proximity to the minerals development.’
59. *Policy MDC 14: Transportation of Minerals* states that ‘planning permission will not be granted for minerals development involving the transport of minerals by road except where:
- (i) there is no practicable alternative to road transport which would be environmentally preferable;
 - (ii) the proposed access arrangements would be safe and appropriate to the proposed development and the impact of the traffic generated would not be detrimental to road safety to an unacceptable degree;
 - (iii) the highway network is able to accommodate the traffic that would be generated and the impact of the traffic generated would not have unacceptable impact on the environment or local residents.’
60. *Policy MDC 15: Public Rights of Way* states that ‘planning permission will not be granted for minerals development that would adversely affect a public right of way, unless satisfactory proposals which are both convenient and safe are made for its diversion or the creation of an alternative route both during operations and following restoration of the site. The opportunity will be taken wherever possible to secure appropriate, improved access into the countryside.’
61. *Policy MDC18: Planning Conditions* lists the matters that will be controlled through the use of planning conditions attached to a planning permission for minerals development.
62. *Policy MDC20: Reclamation and Aftercare* states that ‘planning permission for minerals development will not be granted unless satisfactory provision has been made for the reclamation and after-use of the site and where necessary its long term management. Reclamation plans should be submitted with the planning application.’

Leicestershire Minerals Local Plan Review

63. Saved policy *MLP Policy 2: Assessment of Proposals* sets out a list of factors that will be taken into account in assessing proposals for mineral extraction.

North West Leicestershire District Local Plan

64. *Policy E3* states that ‘development will not be permitted which, by reason of its scale, height mass, design, oppressiveness, proximity, noise, vibration, smell, fumes, soot, ash, dust, grit or excessive traffic generation, would be significantly detrimental to the amenities enjoyed by the occupiers of existing nearby dwellings.’
65. *Policy F1* states that ‘new development within the boundaries of the National Forest, identified on the Proposal Map, should reflect the importance of the National Forest context by making appropriate provision for landscaping and tree planting.’
66. *Policy F2* states that ‘in seeking to maximise the potential for tree planting under Policy F1, and in assessing the appropriateness of the landscaping and planting schemes for individual development proposal within the Forest, the planning authority will have regard to:
- (a) the existing landscape character of the site and the surrounding area;
 - (b) the extent to which the proposal achieves the relevant level of planting as set out in the guidelines
 - (c) any physical, ecological or environmental constraints affecting the site; and
 - (d) the scale, type and value of the development.’
67. *Policy E22* states ‘development will not be permitted which would adversely affect or diminish the present character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest of the following Areas of Particularly Attractive Countryside: (inter alia)
- (a) Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of the Charnwood Forest.’

Consultations

North West Leicestershire District Council - Planning

68. No objection.

North West Leicestershire District Council – Environment Directorate

69. Agree with the suggested noise limits proposed for the site, although they request a condition requiring the submission of a noise report detailing how the limits will be achieved. It is also requested that a Dust Management Scheme be approved and implemented prior to works recommencing.

Environment Agency

70. Raises no objection in principle to the continuation of quarrying to 2042, subject to the imposition of conditions relating to the following: detailed restoration scheme prior to the recommencement of quarrying operations, landscape management scheme, a scheme for the protection and/or mitigation of damage to protected habitat and species populations, overburden storage areas to be top soiled and greened. The EA also wishes to see a more varied restoration scheme for the asphalt and lagoon area to encourage use by a more varied flora.

Natural England

71. No objection in principle, but advises that European Protected Species licences will be required prior to undertaking works affecting protected species. Natural England would also like to see a great crested newt survey of the flooded quarry area completed in 2011, prior to any efforts to dewater the site.

Central Networks

72. No objection.

Leicestershire and Rutland Wildlife Trust

73. Objects to the applications on the ground that insufficient information has been submitted relating to potential impacts on protected species and the Grace Dieu Brook and Coalville Meadows SSSI. The Trust would also wish to see no tree planting on the asphalt plant area during site restoration so that the site could naturally regenerate from the surrounding seed source.

Leicestershire Bridleways Association

74. No objection.

Forestry Commission, Severn Trent Water, East Midlands International Airport, The National Forest, CPRE, Leicestershire Footpaths Association and Ramblers Association

75. No response received at the time this report was published.

Leicestershire County Council – Landscape advice

76. Satisfied that the submitted proposal will not have significant adverse impacts on landscape character or visual amenity. Also considers that the restoration plan is broadly acceptable.

Leicestershire County Council – Rights of Way advice

77. The County Council is committed to pursuing opportunities which may arise for enabling the rights of way network to be enhanced for the benefit of users. The provision and formal dedication by the Company of the footpath indicated on Drawing Reference 81/1233/M3/07 would improve public access on the eastern edge of Whitwick, by affording pedestrians the option of another link between the built up area and the network of paths on the northern side of Whitwick

Quarry towards Mount St. Bernard Abbey. It would also help to compensate for the loss of footpath L9, which would appear to have been severed as a result of the development of the Quarry leaving only a "dead end" remnant.

Leicestershire County Council – Highway Authority advice

78. No objection in principle, subject to conditions relating to wheel wash facilities, gates being kept open at all times site is in operation, the closure of two accesses to the north of Leicester Road, surfacing of accesses, formalising of 'in and out' accesses to south of Leicester Road and the submission of a scheme for trimming vegetation along Leicester Road to increase visibility splays and also to prevent vegetation overhanging the footway and impacting upon street lighting.

Publicity

79. The proposal was advertised in the Coalville Times on 12th November 2010. The application was also advertised by site notices dated 10th November 2010 and by neighbour notification letters sent to 899 properties within 500 metres of the site. The applicant also organised a public exhibition on 17th November 2010, which was attended by 34 members of the public and also planning officers from the County Council.

Representations Received

80. A total of three representations have been received. The first, a letter from the Friends of Holly Hayes Wood group raises concerns about alleged ongoing issues relating to water entering their land from ditches around the quarry site that have not been maintained adequately. The group requests that a condition be imposed requiring a minimum standard for water quality discharged from the quarry that could affect the Holly Hayes Wood site. A telephone and a letter representation were also received raising concerns about noise and dust nuisance from the site and blasting impacts upon properties once the site reopens. It was also requested that reversing beepers be controlled.

Assessment

Development Plan

81. Midland Quarry Products has submitted a scheme of conditions under Paragraph 2(2) of Schedule 2 to the Planning and Compensation Act 1991 for Interim Development Order no. 707/47 registered under application no. 1992/0219/07 (2010/1032/07) and an application to vary condition 3 of permission no. 1981/1233/07 to extend quarrying operations from 31st December 2010 to 21st February 2042 (2010/1031/07).
82. Whilst the Mineral Planning Authority has the power to refuse the application to vary condition 3 of permission no. 1981/1233/07, it does not have the power to refuse the submitted scheme of conditions. Notwithstanding this, the County Council can modify or add to the submitted conditions provided that any further restrictions do not fundamentally affect, to an unreasonable degree, either the economic viability of operating the IDO permission or the asset value of the IDO permission.

83. This submission needs to be assessed in accordance with Minerals Planning Guidance 9 and the Development Plan, in particular policies MCS 11, MCS 13 and MCS 17 of the Leicestershire Minerals Development Framework. The assessment of the submitted applications has highlighted four main issues regarding the continued operation of the site. These are noise, highways, blasting and the reclamation of the site. These, amongst other matters, are considered below.

Noise

84. As part of the Environmental Statement that accompanied the schedule of conditions, a noise assessment was undertaken. As the quarry has been mothballed since around 1997 it was not possible to take readings whilst quarry operations were ongoing. It was possible, however, to consider readings from 2007 when the asphalt plant was operational, prior to it being mothballed in late 2008. Given the location of properties around the site, it is considered that the asphalt plant site to the south of Leicester Road is of most concern when considering noise emissions from the site.
85. Site noise calculations for the asphalt plant and associated loading shovel were undertaken at four receiver locations with the site operations being undertaken between about 19:00 and 22:00 i.e. evening time. At three of the locations, the ES states that the calculated levels would be below the daytime and evening limits and probably at or below the night-time limit. For 402 and 400 Leicester Road (known as Quarry Cottages), the ES states that noise from the asphalt plant site would be at or below the daytime noise limit, but 10 to 13 dB(A) **above** the evening and night time limits stated in Annex 2 to MPS 2.
86. Paragraph 2.19 of Annex 2 to MPS 2 states 'planning conditions should be used to apply absolute controls on noise emissions' and 'subject to a maximum of 55dB(A) $L_{Aeq, 1h}$ (free field), MPAs should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A). It is recognised, however, that this will in many circumstances, be difficult to achieve without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (07:00 – 19:00) and should not exceed 55dB(A) $L_{Aeq, 1h}$ (free field). Evening (19:00 – 2200) limits should not exceed the background level by more than 10dB(A) and night time noise levels should not exceed 42dB(A) $L_{Aeq, 1h}$ (free field) at noise sensitive dwellings.'
87. The applicant proposes a condition that sets specific noise limits for Quarry Cottages on Leicester Road of 55dB(A) $L_{Aeq, 1h}$ (free field) between 06:00 and 18:00, 50dB(A) $L_{Aeq, 1h}$ (free field) between 18:00 and 22:00 and 42dB(A) $L_{Aeq, 1h}$ (free field) between 22:00 and 06:00. This condition raises two issues. The first is that it is not clear how the applicant can meet these limits given the readings taken in 2007 which exceeded the evening and night time limits at 402 Leicester Road and 63 Peterfield Road. The second is that the time periods proposed do not accord with those stated in Annex 2 to MPS 2.
88. The area of primary concern relates to the period between 06:00 and 07:00. The applicant proposes that this period should be considered as 'daytime', as opposed to MPS 2, that suggests that this period should be included within the 'night time' period. The difference between the two is 13dB(A) at noise sensitive dwellings.

89. The applicant refers to operations at its Cliffe Hill Quarry (CHQ), where condition 49 sets noise limits for periods identical to those proposed at Whitwick Quarry. It should be noted, however, that processing operations at CHQ are well distanced from nearby properties and the site benefits from significant baffle mounds. CHQ has permission to operate its coated plant on a 24/7 basis and the noise monitoring results from the site suggest full compliance with the noise limits set, which are in fact lower for evening and night time operations than those proposed under these applications at Whitwick Quarry.
90. The applicant also states that the current asphalt plant has been mothballed and, given that it is unlikely to be reopened in the next five years, if at all, a whole new plant may be required. Given the potential delay in reopening, the applicant has stated that it does not know which type of plant would be utilised, and as plant will improve as time goes by, it may be possible that quieter plant will be available at the time the site reopens. The applicant considers that a condition requiring a detailed scheme to be produced and approved prior to the commencement of any asphalt plant operations would be reasonable and practical. Any noise scheme would have to use the background noise levels existing at that time and the planning guidance on noise levels then in force.
91. The applicant considers that restricting day time working to 07:00 rather than 06:00 would not be a significant problem for the asphalt plant, which would have to be designed to meet the strict 42dB noise limit during the night anyway. However, the applicant goes on to state that a lower noise limit would cause restrictions and will effectively prevent quarrying operations until 07:00.
92. Paragraph 10 of MPG 9 states that ‘Distinctions will need to be drawn between “dormant” permissions, where full modern conditions will be generally appropriate, and “active” permissions, where it is necessary to distinguish between conditions which deal with environmental and amenity aspects of working the site and conditions which would **fundamentally** affect the economic structure of the operation – e.g. conditions which would significantly restrict the total quantity of mineral that could be extracted, or the rate at which it could be extracted **having regard to the existing investment in and the current structure of the operation** (author’s emphases).’
93. It is considered that placing stricter noise levels between 06:00 and 07:00 would not restrict the total quantity of mineral that could be extracted. With regard to extraction rates, the proposed stricter condition would not in itself restrict operations at the site, only that any operations between 6am and 7am have to comply with a lower noise limit than that proposed. In terms of rate of extraction, para 10 of MPG9 requires MPAs to have regard to the existing investment in, and the current structure of, the operation. As stated earlier, the site has been mothballed since 1997 and although not ‘dormant’ in the sense meant in paragraph 10 of MPG9, there is no ‘current structure of the operation’ as such because a new mobile crusher and screens would be required to be brought on to the site as the previous processing equipment has been removed. Therefore, it is considered that there is also minimal ‘existing investment’ within the site.
94. In the light of the above, in particular the guidance in Annex 2 to MPS 2, it is considered that in this instance, it would not be appropriate to permit ‘daytime’ noise limits to apply at 06:00 rather than 07:00. The EHO also advocates this

approach. It is considered that applying the guidelines set out in MPS 2 is appropriate in this instance and would not unacceptably restrict the working rights on the site, nor would it fundamentally affect the economic structure of the operation. Notwithstanding this view, it is possible for the applicant to appeal an amended condition.

95. The EHO also states that the proposed noise limits are acceptable, subject to a condition being imposed requiring a full noise assessment of proposed plant and machinery prior to the recommencement of quarrying operations. Subject to these controls, it is considered that noise emissions from the site can be controlled to an acceptable standard.

Blasting

96. From discussing the applications with local residents at the Public Exhibition, it is clear that blasting is a key concern for them. The existing IDO does not have any conditions relating to blasting and permission no. 1981/1233/07 has two conditions which restrict blasting to between 10:00 and 16:00 and prohibits secondary blasting.
97. The applicant has proposed a modern blasting condition requiring the operator to design each blast so that there is 95% confidence that the vibrations recorded at any residential property will be less than 6mm/s ppv. Government guidance suggests a limit of no higher than 12mm/s ppv and therefore the proposed constraint on blasting is much lower than that recommended. The limit is also consistent with those imposed at the other hard rock quarries in the county.
98. Given that no site blasting has taken place since 1997, local residents may raise concerns regarding blasting, once the quarry operations recommence. Notwithstanding this, it is considered that the effects of blasting can be controlled adequately by the imposition of appropriate planning conditions and continued monitoring by both the operator and the County Council. A quarry liaison committee meets biannually to discuss issues arising from the site and proposed future developments.

Highways

99. The predicted number of HGV movements associated with the reopening of Whitwick Quarry would not lead to an unacceptable level of HGVs in the area. Notwithstanding this, there are concerns regarding the potential impact on pedestrians, as the footway fronting the site is not particularly wide and forms part of a well used route between the two nearby schools and Whitwick.
100. The Highway Authority (HA) has raised concerns relating to overhanging vegetation along the site's frontage, which is impacting on the availability of use of the whole of the limited width. It is also impacting upon the available street lighting and pedestrian intervisibility in/around the western most egress position.
101. The HA also requested that two of the three existing accesses to the north of Leicester Road be closed. The applicant has stated that it is good health and safety practice to maintain at least two accesses into a quarry site and has

confirmed that it is acceptable to close up one of the three accesses. It is considered that this is a reasonable approach to take in this instance.

102. Subject to conditions relating to management of the vegetation on the site's frontage, wheel wash facilities, gates, surfacing of accesses and the in/out accesses to the south of Leicester Road, it is considered that any detrimental impacts on the local highway network can be mitigated to an acceptable level.

Reclamation

103. The long term nature of the quarrying operations means that firm details of reclamation are difficult to resolve now and it is possible that another review of the operations will be required under the Environment Act 1995 prior to the operations being completed. Nevertheless, it is important to ensure that the principles of proper reclamation and aftercare are put in place so that work can be carried out towards its ultimate achievement so as to bring the land into beneficial use as soon as is practicable.
104. As part of these applications the company produced a satisfactory reclamation concept that can be developed. The concept includes maintaining existing, and planting additional woodland, around the site, in particular the part of the site to the south of Leicester Road. Such planting and maintenance can be ensured through conditions. Ultimately, the long term reclamation concept for the quarry at present is to allow it to recharge with water, to an estimated level of 158m AOD. It is feasible that water levels could rise above this level and therefore a gravity discharge point is proposed at 175.5 metres AOD. In the event that the water level reaches this level, overflow would be piped under Leicester Road for off site discharge via the existing settlement system.
105. The applicant proposes that all the office buildings and ancillary structures on the northern side of Leicester Road be retained for continued business use following the reclamation of the site. This is not a use that can be approved under the mineral permissions and it is therefore proposed that the precise afteruse of this area shall be determined in the future.

Dust

106. The main cause of dust arising from site would be the movement of material to and from stockpiles and blasting. It is proposed to locate stockpiles to the north of Leicester Road, where they will benefit from a good degree of screening, and well distanced from sensitive receptors. Blasting will be focussed on the lower benches, which should help to mitigate this issue.
107. The Environmental Health Officer is satisfied that the development can be continued without causing significant adverse impacts on local residential properties by way of dust, subject to a condition requiring the prior approval of a Dust Management Scheme.
108. Whilst quarry operations can generate dust problems for local residents, the use of appropriate modern dust suppression measures can reduce these problems to acceptable levels. It is considered that conditions can effectively control the issue of dust arising from the site.

S106 Legal Agreement and Rights of Way

109. Whilst several rights of way skirt the boundary of the site, with Bridleway O22 running between the asphalt plant site and the lagoon area further south, continued operations at the site would not affect any of the rights of way directly and the rights of way officer has raised no comment on existing rights of way.
110. The 1983 permission was granted subject to a S106 legal agreement requiring the operator to dedicate a new footpath. This S106 agreement is not now enforceable because the 1983 permission is now not extant. Approving the S73 application would create a whole new permission a S106 agreement requiring new footpath(s) can be attached to the new permission.
111. All of the requirements of that agreement have either been addressed or are not relevant today, with the exception of a requirement to create and dedicate a public footpath running from Leicester Road to Footpath L21, via the now restored Forest Rock wood.
112. It is also possible that additional rights of way could be created upon final reclamation of the site. It is considered that dead end Footpath L9 could be extended formally to the south to link with Leicester Road and that a new footpath could be created through the restored asphalt plant site to link with Bridleway O22. The applicant has met with representatives of the Highway Authority to discuss this matter and is prepared to enter into another S106 agreement to cover the dedication of new footpaths. These matters would have a positive impact on the local rights of way network and could be controlled through an appropriately worded new S106 agreement.

Ecology

113. The Leicestershire County Council's Ecologist has raised concerns regarding the lack of survey information, in particular for birds, mammals and great crested newts. The ecologist also disagrees with a statement in the ES and, contrary to what the ES states, considers that the disused quarry supports locally important BAP habitats and would meet the criteria for designation as a Local Wildlife Site in Leicestershire and Rutland.
114. Natural England (NE) is generally satisfied with the ecological assessment, but again wishes to see further surveys undertaken prior to quarrying operations recommencing. NE also make reference to the fact that the site borders an Ancient Woodland and SSSI and considers that there is significant scope to extend and enhance these habitats as part of the site reclamation.
115. Paragraph 99 of the Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System (Circular 06/2005) states that 'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.' It goes on to state 'The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.'

116. To accord with Circular 06/2005, it is usually the case that all ecological survey work is completed prior to determining a planning application. However, in respect of the IDO, planning permission already exists. Also, it is not anticipated that quarry operations would recommence in the next five years and therefore there is the potential for the ecological conditions to change significantly between now and site operations restarting. It is considered that the situation at Whitwick Quarry is an 'exceptional circumstance', as stated in paragraph 99 of Circular 06/2005, and that it is appropriate that further ecological survey work be carried out, under planning conditions, prior to quarrying operations recommencing.
117. In Natural England's response it recognises that the habitats assessment indicates a low probability of finding great crested newts and therefore in this instance, given the expected delay in recommencing quarry development, a planning condition requiring additional surveys is acceptable. In the light of the above, and subject to appropriately worded conditions, it is considered that the continued quarrying operations at the site would not have an unacceptable impact on protected species and habitats.

Landscape

118. Quarrying operations have been undertaken at the site since the 19th Century, and therefore the site has assimilated itself in to the existing landscape character to a significant extent. The vast majority of further works will be at depth, with minimal works to surrounding overburden mounds and in effect the site will not change its appearance greatly from its current appearance. The County Council's Landscape Architect has raised no concerns subject to the conditions proposed.
119. The Environment Agency has requested that a condition requiring a Landscape Management Plan prior to works recommencing be imposed on any subsequent planning permissions. The Landscape officer considers that the EA's concerns are somewhat onerous, and that minor changes can be made to the applicant's proposed condition 50, such that the management of retained vegetation and habitats throughout the operational period are considered prior to the recommencement of operations. It is considered that the landscape aspects of the development can be adequately controlled and mitigated through the imposition of appropriately worded planning conditions.

Hydrology and Hydrogeology

120. The Environment Agency and Natural England have raised no objection to the applications relating to hydrology on and around the site. The Friends of Holly Hayes Wood has raised concerns about the management of the existing surface water drainage on the site and this matter has been raised with the applicant. The EA are concerned that the present settlement lagoon should be de-silted prior to operations starting on site and should have adequate capacity for flows to be discharged at a low attenuated rate, in usual conditions. It is considered that conditions can ensure that these matters are controlled adequately.

121. It is considered that subject to appropriate conditions, the continued operations at Whitwick Quarry would not unacceptably interfere with ground water or surface waters down stream.

Conclusion

122. Whilst this report considers a section 73 planning application to extend the end date of the 1983 planning permission which allowed the north western extension of Whitwick Quarry and the submission of conditions under IDO permission number 1992/0219/07, the two are not separable in practice because they relate to the same development and should be determined alike. Although the section 73 planning application to extend the life of the 1983 permission could be refused, in doing so would significantly affect the working of the IDO permission and result in the sterilisation of mineral resources. This would be an unreasonable approach to take given that the IDO submission cannot be refused.
123. Together these applications provide the County Council with an opportunity to review the entire operations at Whitwick Quarry and will result in an update of planning conditions, taking into consideration modern working methods and techniques and the environmental standards required today. As part of the review process, various environmental issues were assessed, in particular, blasting, noise, dust and site reclamation. It is considered that all significant environment effects can be suitably controlled and mitigated through the imposition of appropriate planning conditions and therefore the continuation of quarrying operations at Whitwick Quarry would not conflict with policies of the Development Plan. The proposed conditions submitted by MQP, as set out in Appendix 2, are recommended to be modified as set out in Appendix 1.
124. Under Paragraph 2 of schedule 2 to the Planning and Compensation Act 1991, the County Council is required to consider the conditions proposed by the applicant, but can impose conditions in addition to, or in substitution for, any conditions proposed. The conditions set by the County Council should not restrict the working rights of the IDO permission area to an unreasonable degree. Therefore, the S73 application to extend the life of permission no. 1981/1233/07 to 2042 provides the County Council with an opportunity to consolidate the whole operations at the site under one set of planning conditions.
125. It is considered that the recommended conditions set out in Appendix 1 would not restrict the working rights of the Whitwick Quarry and are considered to be reasonable. There remains the possibility that the applicant could appeal the conditions which differ from, or are additional to, those put forward as part of the application. The company has confirmed that the proposed recommended conditions set out in appendix 1 would be acceptable.

Recommendations

- a) It is recommended that IDO permission number 1992/0219/07 relating to quarrying operations at Whitwick Quarry be subject to the conditions set out in appendix 1.

- b) Subject to the prior signing of a S106 agreement covering the dedication of new footpaths, PERMIT the application to vary condition 3 of planning permission no. 1981/1233/07, subject to the conditions set out in appendix 1.
- c) As required by the Town and Country Planning (Development Management Procedure) Order 2010 a summary of the:

- (i) Policies and proposals in the development plan which are relevant to the decision, as follows:

Policies MCS2 (Strategy for Aggregate Minerals), MCS11 (Environmental Protection), MCS13 (Charnwood Forest), MCS17 (Site Reclamation), MDC5 (Countryside), MDC11(The Water Environment), MDC12 (Health and Amenity), MDC14 (Transportation of Minerals), MDC15 (Public Rights of Way), MDC18 (Planning Conditions) and MDC20 (Reclamation and Aftercare) of the Leicestershire Minerals Development Framework Core Strategy and Development Control Policies document (adopted October 2009).

Saved Policy 2 of Leicestershire Minerals Local Plan Review

Saved Policies E3 (Residential Amenity), F1 and F2 (National Forest and E22 (Areas of Particularly Attractive Countryside) of the North West Leicestershire District Local Plan (adopted 22 August 2002).

- (ii) Reasons for the grant of planning permission as set out below:

- 1) The County Council is of the opinion that the proposed variation of condition 3 of permission no. 1981/1233/07 and the proposed scheme of conditions in appendix 1 for IDO no. 1992/0219/07 are acceptable and give rise to no material harm and that there are no material considerations that indicate that the decision should be made otherwise.
- 2) The County Council considers that the IDO permission and permission no. 1981/1233/07 are not separable in practice because they relate to the same development, and refusing the S73 application to extend the life of permission no. 1981/1233/07 would significantly restrict the operator's ability to work the IDO area and could sterilise mineral resources at the site.
- 3) The County Council considers that permitting the variation to condition 3 of permission no. 1981/1233/07 would allow for one set of planning conditions to control the whole Whitwick Quarry site operations.

SCHEDULE OF PROPOSED CONDITIONS – Leicestershire County Council

1. Unless otherwise required by the conditions attached to this permission, the development shall only be carried out in accordance with the approved documents.
2. For the purpose of Condition 1, the approved documents for this Schedule of Conditions consent shall comprise:-
 - The forms and Environmental Statement accompanying the submission of a scheme of conditions under IDO permission number 1992/0219/07 and variation of condition 3 of permission number 1981/1233/07.
 - Plans numbered W71/16 to W71/21 and 1979/001.
 - The details required by conditions attached to this decision.
3. Until such time as operations at the quarry cease, copies of these conditions and the approved documents referred to in Condition 1 and any subsequently approved in accordance with these conditions shall always be available for inspection at the quarry manager's office during normal working hours. Their existence and contents shall be made known to all operatives likely to be affected by matters covered by them.

Duration

4. The winning and working of minerals and the deposition of mineral waste at the site shall cease no later than the 21st February 2042.
5. Within 24 months of the permanent cessation of mineral working, all buildings, plant and machinery within the site shall be removed and the site restored in accordance with the Reclamation Scheme required by Condition 52 below.
6. In the event that mineral working permanently ceases prior to the full implementation of the approved working scheme required by Condition 22, a revised scheme to include details of reclamation, aftercare and a timescale for the completion of the reclamation works, shall be submitted for approval to the County Planning Authority within 12 months of the permanent cessation of working. Such a revised agreed scheme shall be fully implemented within 24 months of approval.
7. Following the recommencement of quarrying, if mineral workings are then subsequently suspended for a period of 6 months or more, then the operator shall give written notification to the County Solicitor of the date upon which mineral working was suspended within one month of the end of the 6 month period of suspension of works.
8. In the event that mineral workings are recommenced and are then temporarily suspended for a period exceeding 2 years, then within 36 months from the suspension of mineral working an interim reclamation scheme for the site and timetable for its completion shall be submitted for approval to the County Planning Authority. The interim reclamation scheme shall then be implemented in its entirety within 12 months of approval.

Access and Protection of Public Highway

9. All HGVs leaving the site shall travel in an easterly direction onto Leicester Road other than those travelling between the two parts of the site on either side of Leicester Road.
10. Prior to the recommencement of quarry operations, details of vehicle directional signage and its location shall be submitted for the written approval of the County Planning Authority. The signage shall indicate to drivers the approved routes that all HGVs shall take when exiting and entering the site and the in and out access points to the asphalt plant site and the signage shall be erected prior to the recommencement of quarry operations and maintained as approved for the duration of the operations.
11. No mineral shall be brought onto the site for processing in the primary crusher.
12. The surface of site accesses onto Leicester Road together with internal access roads, roads serving parking areas, servicing of plant areas and internal traffic circulation areas shall be maintained in a good state of repair at all times until completion of the site restoration.
13. An efficient drainage system shall be provided in respect to the surfaced areas used by heavy goods vehicles and maintained at all times until completion of the site reclamation.
14. Prior to the recommencement of quarry operations, details of wheel cleaning facilities and other measures to ensure that the public highway is kept adequately clean and free from mud and other deleterious material originating from the site shall first be agreed in writing by the County Planning Authority. All HGVs leaving the site shall use the wheel cleaning facilities approved by the County Planning Authority as necessary to ensure that for the life of the development, no mud or deleterious materials are carried on to the public highway.
15. All vehicles leaving the site transporting stone less than 75 mm in diameter shall be securely sheeted to prevent dust emissions and spillage.
16. At the site accesses on to, and the frontages of, Leicester Road, vegetation shall be managed to ensure that visibility splays are maintained at all times to the maximum achievable distances across the site's frontages and that vegetation from the site does not impede pedestrians using the footway or the street lighting along Leicester Road.
17. Prior to the recommencement of quarrying operations, one of the three accesses to the site to the north of Leicester Road shall be permanently closed up in accordance with a scheme of details previously approved in writing by the County Planning Authority. Following approval of the County Planning Authority, no vehicle shall enter the site through the access which is agreed to be closed up.
18. Written notice shall be given to the County Solicitor when quarrying has recommenced. Such notice shall be given within seven days of the commencement date.

Working Programme

19. Development of the site shall be carried out in accordance with the phased working scheme shown on the drawings referred to in Condition 2 above, or such amendments to the approved scheme as may be agreed in writing with the County Planning Authority.
20. The extraction of stone shall be limited to the area shown on the Phased Extraction Plans reference W71/16 to W71/21.
21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), unless otherwise agreed in writing by the County Planning Authority no fixed plant or machinery, buildings, structures or erections shall be extended, installed or replaced at the site.
22. Prior to the recommencement of quarrying and at least every 5 years thereafter or as otherwise agreed in writing with the County Planning Authority, a detailed scheme of working for the following 5 years, or such other period as may be agreed, shall be submitted for approval to the County Planning Authority. Such a scheme shall, *inter alia*, include provision for:-
 - The method, direction, sequence, depth and area of working;
 - The angles of excavated slopes and margins to the site boundary;
 - The location and construction of primary haul roads within the site;
 - The location and height of mineral stockpiles;
 - The location, height, size, shape and surface treatment of any overburden and quarry waste tips;
 - The location of any processing plant and equipment.
23. At least 48 hours prior written notice shall be given to the County Solicitor of the commencement and the estimated duration of any overburden moving operations.
24. The types of waste to be disposed of in the Quarry Waste Tips shall be restricted to inert waste generated at Whitwick Quarry only. No waste material shall be imported to the site.

Control of Weeds

25. Measures shall be taken to control the growth of noxious weeds and necessary steps shall be taken to destroy such weeds at early stages of growth to prevent seeding.

Operating Hours

26. Except in emergencies to maintain safe quarry working (which shall be notified to the County Solicitor as soon as practical),
 - Servicing, maintenance and testing of static and mobile plant and the operation of the asphalt plant shall be 24 hours Monday to Sunday including Public and Bank Holidays.
 - No mineral extraction and haulage of stone to the primary crusher shall take place outside the hours of: 0600 hours to 1800 hours on Monday to Saturday, subject to no operations taking place on any Sunday, Public or Bank Holiday.

- No processing or sale of stone shall take place outside the hours of: 0600 hours to 2200 hours on Monday to Saturday, subject to no operations taking place on any Sunday, Public or Bank Holiday.
- No stripping, movement or handling of overburden shall take place outside the hours of: 0700 hours to 1800 hours Monday to Friday, subject to no operations taking place on any Saturday, Sunday, Public or Bank Holiday.
- No HGVs shall leave the site accesses outside of the hours of: 0600 hours to 2200 hours Monday to Saturday, or at any time on a Sunday, Public or Bank Holiday except for vehicles delivering asphalt products from the asphalt plant which shall be allowed to leave the site at any time Monday to Sunday including Public and Bank Holidays.
- No blasting shall take place except between the hours of: 10:00 hours to 16:00 hours on Monday to Friday, subject to no blasting taking place on any Public or Bank Holiday.
- Except where stated above no operations, other than pumping water from the quarry void and environmental monitoring and other operations as may otherwise be undertaken in accordance with an agreed schedule shall be carried out on Sundays, Bank or Public Holidays.

Environmental Protection

Ecology

27. Prior to the recommencement of quarrying operations a scheme shall be prepared to evaluate the presence of protected wildlife species which could be affected by the proposed operations and provide appropriate mitigation and/or compensation measures. The scheme shall be submitted to the County Planning Authority for written approval. The ecological works and site operations shall be undertaken in accordance with the approved scheme for the life of the development.

Dust

28. Dust suppression methods shall be implemented in accordance with Table 5.18 of the Environmental Statement.
29. Notwithstanding the provisions of Condition 28 above, a water bowser shall at all times be available for use on site. All haul roads within the site shall be kept damp as necessary to control dust to the satisfaction of the County Solicitor.
30. At such times as operations on site give rise to unacceptable levels of dust leaving the site such as during adverse conditions due to strong winds combined with dry weather, such operations shall be temporarily suspended until the operations can be resumed without causing nuisance, either by change in working, improved weather conditions or other additional measures.
31. Prior to the recommencement of quarrying a scheme for dust monitoring around the site including the location of monitoring points, equipment to be used and the reporting of results to the County Solicitor shall be submitted to the County Planning Authority for written approval. Dust monitoring shall be undertaken in accordance with the approved scheme for the life of the development.
32. Notwithstanding the details contained within condition 31, in the event that monthly monitoring results at any location exceed a trigger level of 300 mg.m⁻²/day, the operator shall report in writing, within 14 days of the results being known to them,

to the County Solicitor on the monitoring results and the quarry operations undertaken for the relevant period. If required by the County Solicitor, within 28 days the operator shall submit in writing a proposed scheme of measures to reduce dust levels for his approval. The scheme shall be implemented as soon as practicable following the approval of the County Solicitor.

Noise

33. Noise levels attributable to the site shall not exceed the levels given below:
 - 55dB (A) L_{Aeq} , 1h (freefield) between the hours of 07.00 to 18.00 for Quarry Cottages on Leicester Road and 48dB (A) L_{Aeq} , 1h (freefield) for all other noise sensitive properties;
 - 50dB (A) L_{Aeq} , 1h (freefield) between the hours of 18.00 to 22.00 for Quarry Cottages on Leicester Road and 45dB (A) L_{Aeq} , 1h (freefield) for all other noise sensitive properties;
 - 42dB (A) L_{Aeq} , 1h (freefield) between the hours of 22.00 and 07.00 for quarry and asphalt operations and 35 dB (A) L_{Aeq} , 1h (freefield) for water pumping operations for all noise sensitive properties.
34. Measures shall be taken within the site to ensure that emissions of noise from the site are controlled and ensure so far as is reasonably practicable that the operations carried out within the site do not give rise to nuisance at nearby residential properties.
35. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufactures specification at all times and shall be fitted with and use effective silencers. Any breakdown or malfunction of silencing equipment or screening shall be treated as an emergency and should be dealt with immediately. Where a repair cannot be affected within a reasonable period, the equipment affected should be taken out of service.
36. All audible warning devices fitted to mobile plant, vehicles and machinery whilst affording the required safety protection shall be designed and operated so as to minimise disturbance to nearby residents.
37. Notwithstanding Condition 33 above, during the removal of any overburden or quarry wastes, the creation of any screen mounds or reclamation works, the noise limit at the nearest noise sensitive property used as a dwelling shall not exceed 70dB LAeq 1 hr for a period of up to 8 weeks in any calendar year. At least five working days (being Monday to Friday inclusive) prior written notice shall be given to the County Solicitor of the commencement and the estimated duration of such operations.
38. Prior to the recommencement of quarrying a scheme for noise monitoring around the site including the location of monitoring points, equipment to be used and the reporting of results to the County Solicitor shall be submitted to the County Planning Authority for written approval. Noise monitoring shall be undertaken in accordance with the approved scheme for the life of the development.
39. Prior to the recommencement of any quarrying operations or the use of the asphalt plant on the site, a scheme detailing how the proposed operations and use of plant and machinery will comply with the noise conditions set out in condition 33 shall be submitted to and approved in writing by the County Planning Authority. No quarrying operations shall be undertaken, nor shall the asphalt plant time, other

than in accordance with the details contained within the approved scheme.

Blasting

40. Every blast shall be designed with a 95% confidence level that ground vibration levels recorded at any vibration sensitive property arising from any blast shall not exceed a peak particle velocity of 6mm per second measured in any mutually perpendicular plane. No blast shall exceed a peak particle velocity of 12mm per second as measured at any vibration sensitive property.
41. Except in an emergency no secondary blasting shall be carried out without the prior approval in writing of the County Planning Authority. In emergency situations, the County Solicitor shall be notified of operations within 24 hours.
42. An audible warning shall be given in advance of every blast.
43. Prior to the recommencement of quarrying a scheme for the monitoring of each blast, including the location of monitoring points, equipment to be used and the reporting of results to the County Solicitor shall be submitted to the County Planning Authority for written approval. Blast monitoring shall be undertaken in accordance with the approved scheme for the life of the development.

Lighting

44. All reasonable measures shall be taken to ensure that the operations carried out on site do not give rise to nuisance in the locality by reason of illumination.

Complaints

45. Prior to the recommencement of quarrying a scheme for recording and responding to complaints shall be submitted to the County Planning Authority for written approval. All complaints shall be managed in accordance with the approved scheme.
46. The Whitwick Quarry Liaison Group shall continue to be operated in the current format for the life of the operation, or as otherwise may be agreed in writing by the County Planning Authority.

Groundwater and Surface Water Drainage Protection

47. At all times, all necessary steps shall be undertaken until the completion of reclamation and aftercare of the site to prevent pollutants from contaminating groundwater or any watercourse.
48. All settlement lagoons and associated ditches shall be maintained in good working order and shall be kept clear of mud and silt as necessary.
49. 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 should be at least equivalent to 110% of the capacity of the tank. For multiple tankage, the compound should be at least equivalent to 110% of the volume of the largest tank, or 110% of the combined capacity of interconnected tanks. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located

above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should discharge downwards into the bund.

Care of boundaries

50. Throughout the period of the operation until such time as the reclamation and aftercare of the site has been completed, the boundary to the active mineral operations shall be maintained in a stock proof condition.
51. All tree, shrubs and hedges along the boundaries of the site shall be retained, protected and maintained throughout the duration of the operations

Reclamation

52. Prior to the recommencement of quarrying and at least every five years thereafter, a detailed scheme of reclamation for the following five year period shall be submitted for the approval of the County Planning Authority. Such scheme shall, inter alia, include provision for:-
 - Final contours for the parts of the site which will become exhausted during the period;
 - The treatment of any remnant quarry faces and benches;
 - Location, species, origin, numbers, sizes, ground preparation works and protective measures for tree and shrub planting;
 - Habitat creation and management, including water bodies;
 - Management of areas of open ground with ecological interest;
 - Detailed grass and/or wildflower seed mixes, fertiliser or other treatments;
 - The provision of fences;
 - Removal of any redundant buildings and quarry plant or machinery;
 - The preparation of a 5 year aftercare scheme to ensure the effectiveness of the restoration works.
53. The site shall be reclaimed in accordance with the approved scheme having regard to the actual progress of mineral operations, or such amendments to the approved documents as may be agreed in writing with the County Planning Authority.

Tree and hedge planting

54. All trees and plants planted in accordance with the requirements of this permission shall be protected, managed and maintained within the principles of good forestry and husbandry until the expiry of this permission. Any trees or plants which die or become seriously damaged or diseased within five years of being planted shall be replaced with plants of the same species or such other species as may be agreed with the County Planning Authority.

Aftercare

55. Any areas of the site reclaimed to forestry or amenity use shall be subject to the requirements of an aftercare scheme under the provisions of section 72(5) of the Town and Country Planning Act 1990. A scheme shall be submitted for the approval of the Mineral Planning Authority prior to each phase of reclamation commencing. The aftercare requirements shall be carried out for a period of five years from the completion of each phase of reclamation.

Reasons

- 1,2, 3,19 20& 24. For the avoidance of doubt and to ensure that the development is carried out in accordance with the application.
4. To accord with the requirements of Paragraph 2(1) (c) of Schedule 2 to the Planning and Compensation Act 1991.
- 5,6, 7,8. To ensure that the site is reclaimed in an orderly manner to a condition capable of beneficial afteruse and in the interest of amenity of local residents. (Policy MDC20 of the Leicestershire Minerals Development Framework Core Strategy and Development Control Policies Document)
- 9,10, 11,12, 13,14, 15,16 &17. In the interests of highway safety and the amenity of the local area. (Policy MDC18 of the Leicestershire Minerals Development Framework Core Strategy and Development Control Policies Document)
18. To enable the Mineral Planning Authority to monitor operations to ensure compliance with this permission.
21. To restrict development not authorised by this permission. (Policy MDC18 of the Leicestershire Minerals Development Framework Core and Development Control Policies Document)
22. To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.
23. To allow sufficient time for the County Solicitor to monitor such operations in the interests of the amenity of local residents.
25. To prevent the spread of noxious weeds and in the interests of satisfactory restoration. (Policy MDC18 of the Leicestershire Minerals Development Framework Core and Development Control Policies Document)
- 26&44. To protect the amenities of local residents. (Policy MCS11 of the Leicestershire Minerals Development Framework Core and Development Control Policies Document)
27. To ensure that protected species and habitats are identified prior to the recommencement of operations and to ensure that mitigation and/or compensatory measures are in place to minimise the potential harm to protected species. (Policy MCS11 of the Leicestershire Minerals Development Framework Core and Development Control Policies Document)
- 28,29 30,31 & 32. To protect the amenity of the locality from the effects of dust arising from the development. Policy MDC12 of the Leicestershire Minerals Development Framework Core and Development Control Policies Document)
- 33,34 To minimise the adverse impact of noise generated by the operations on

2010/1031/07 & 2010/1032/07 – continued

- 35,36 the local community. (Policy MCS11 of the Leicestershire Minerals
37,38 Development Framework Core and Development Control Policies
&39. Document)
- 40,41 To minimise the adverse impact of blasting generated by the operations
42&43. on the local community. (Policy MCS11 of the Leicestershire Minerals
Development Framework Core and Development Control Policies Document)
- 45&46. To ensure that disturbance to local residents is monitored and kept to
acceptable levels and that a forum exists for local residents and the operator
to discuss quarry operations.
- 47,48 To minimise the risk of pollution of drains and watercourses.
&49.
50. In the interests of Health and Safety and to prevent accidental access to the
site by livestock.
51. To ensure that proper steps are taken to safeguard the existing vegetation
during the course of the development. (Policy MDC18 of the Leicestershire
Minerals Development Framework Core and Development Control Policies
Document)
- 52,53 To ensure that the site is reclaimed in an orderly manner to a condition
&54. capable of beneficial afteruse and in the interest of local amenity. (Policy MDC20
of the Leicestershire Minerals Development Framework Core and
Development Control Policies Document)
55. To enhance the appearance of the development in the interests of visual
amenity and to ensure that the development is carried out in accordance with
the application. (Policy MDC20 of the Leicestershire Minerals Development
Framework Core and Development Control Policies Document)

Notes to Applicant

1. Any alterations, building or ground works proposed in the vicinity of our cables that may or may not directly affect our cables, must be notified in detail to Central Networks. For further information please contact Central Networks, Pegasus Business Park, Castle Donington, Derbyshire DE74 2TU or email customerworks@central-networks.co.uk.
2. Note that a licence will be required from Natural England to survey for, and, where any proposals are made as a last resort, to re-locate legally protected species.
3. The present settlement lagoon should be de-silted prior to re-starting operations on site and should have adequate capacity for flows to be discharged at a low attenuated rate, in usual conditions.
4. Dewatering to prevent interference with the extraction of the stone is currently exempt from the need for an abstraction licence. The dewatering activities however may have an adverse impact upon local wells, water supplies and

other water activities. It should be noted that current water users may wish to make representations, if their supplies are affected. It should also be noted that the dewatering exemption has been removed by the Water Act 2003, although this part of the Act has yet to 'go live'. Midland Quarry Products will need to apply for a transfer licence for dewatering, when the dewatering exemption has been removed.

5. Although the abstraction of water for dewatering purposes is currently exempt from the need for an abstraction licence, the abstraction of water for dust suppression purposes and wheel washing may require an abstraction licence. This is dependent on resources and may not be granted.

SCHEDULE OF PROPOSED CONDITIONS – Midland Quarry Products Ltd.

1. Unless otherwise approved in writing by the Director of Community Services or required by the conditions attached to this permission, the development shall only be carried out in accordance with the approved documents.
2. For the purpose of Condition 1, the approved documents for this Schedule of Conditions consent shall comprise:-
 - The forms and Environmental Statement accompanying the submission of a scheme of conditions under IDO permission number 1992/0219/07 and variation of condition 3 of permission number 1981/1233/07.
 - Plans numbered W71/16 to W71/21 and 1979/001.
 - The details required by conditions attached to this decision.
3. Until such time as operations at the quarry cease, copies of these conditions and the approved documents referred to in Condition 1 and any subsequently approved in accordance with these conditions shall always be available for inspection at the quarry manager's office during normal working hours. Their existence and contents shall be made known to all operatives likely to be affected by matters covered by them.

Duration

4. The winning and working of minerals and the deposition of mineral waste at the site shall cease no later than the 21st February 2042.
5. Unless otherwise agreed in writing with the Director of Community Services, within 24 months of the permanent cessation of mineral working, all plant and machinery within the site shall be removed and the site restored in accordance with the Reclamation Scheme required by Condition 50 below.
6. In the event that mineral working permanently ceases prior to the full implementation of the approved working scheme required by Condition 21, a revised scheme to include details of reclamation, aftercare and a timescale for the completion of the reclamation works, shall be submitted for approval by the Director of Community Services within 12 months of the permanent cessation of working. Such a revised agreed scheme shall be fully implemented within 24 months of approval unless otherwise agreed in writing with the Director of Community Services.
7. Following the recommencement of quarrying if mineral workings are then subsequently suspended for a period of 6 months or more, then the operator shall give written notification to the Director of Community Services of the date upon which mineral working was suspended.
8. In the event that mineral workings are recommenced and are then temporarily suspended for a period exceeding 2 years, then within 36 months from the suspension of mineral working an interim reclamation scheme for the site and timetable for its completion shall be submitted for approval to the Mineral Planning Authority. The interim reclamation scheme shall then be implemented in its entirety within 12 months of approval.

Access and Protection of Public Highway

9. Unless otherwise agreed in writing with the Director of Community Services, all HGVs leaving the site shall travel in an easterly direction onto Leicester Road other than those travelling between the two parts of the site on either side of Leicester Road.
10. Prior to the recommencement of quarry operations, details of vehicle directional signage and its location shall be submitted for the written approval of the Director of Community Services. The signage shall indicate to drivers the approved routes that all HGVs shall take when exiting and entering the site and the signage shall be erected and maintained as approved.
11. Unless otherwise agreed in writing with the Director of Community Services no mineral shall be brought onto the site for processing in the primary crusher.
12. The surface of site accesses onto Leicester Road together with internal access roads, roads serving parking areas, servicing of plant areas and internal traffic circulation areas shall be maintained in a good state of repair at all times until completion of the site restoration.
13. An efficient drainage system shall be provided in respect to the surfaced areas used by heavy goods vehicles and maintained at all times until completion of the site reclamation.
14. Measures shall be employed to ensure that the public highway is kept clean and free from mud and other deleterious material originating from the site.
15. All vehicles leaving the site transporting stone less than 75 mm in diameter shall be securely sheeted to prevent dust emissions and spillage.
16. At the site accesses on to Leicester Road, vegetation shall be managed to ensure that visibility splays are maintained at all times to the maximum achievable distances across the site's frontage.
17. Written notice shall be given to the Director of Community Services when quarrying has recommenced. Such notice shall be given within seven days of the commencement date.

Working Programme

18. Development of the site shall be carried out in accordance with the phased working scheme shown on the drawings referred to in Condition 2 above, or such amendments to the approved scheme as may be agreed in writing with the Director of Community Services.
19. The extraction of stone shall be limited to the area shown on the Phased Extraction Plans reference W71/16 to W71/21.
20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), unless otherwise agreed in writing by the Director of Community Services no fixed plant or machinery, buildings, structures or erections shall be extended, installed or replaced at the site;

21. Prior to the recommencement of quarrying and at least every 5 years thereafter or as otherwise agreed in writing with the Director of Community Services, a detailed scheme of working for the following 5 years, or such other period as may be agreed, shall be submitted for approval to the Mineral Planning Authority. Such a scheme shall, *inter alia*, include provision for:-
- The method, direction, sequence, depth and area of working;
 - The angles of excavated slopes and margins to the site boundary;
 - The location and construction of primary haul roads within the site;
 - The location and height of mineral stockpiles;
 - The location, height, size, shape and surface treatment of any overburden and quarry waste tips;
 - The location of any processing plant and equipment.
22. At least 48 hours prior written notice shall be given to the Director of Community Services of the commencement and the estimated duration of any overburden moving operations.
23. The types of waste to be disposed of in the Quarry Waste Tips shall be restricted to inert waste generated at Whitwick Quarry only. No waste material shall be imported to the site.

Control of Weeds

24. Measures shall be taken to control the growth of noxious weeds and necessary steps shall be taken to destroy such weeds at early stages of growth to prevent seeding.

Operating Hours

25. Except in emergencies to maintain safe quarry working (which shall be notified to the Director of Community Services as soon as practical), or with the prior agreement of the Director of Community Services,
- Servicing, maintenance and testing of static and mobile plant and the operation of the asphalt plant shall be 24 hours Monday to Sunday including Public and Bank Holidays.
 - No mineral extraction and haulage of stone to the primary crusher shall take place outside the hours of: 0600 hours to 1800 hours on Monday to Saturday, subject to no operations taking place on any Sunday, Public or Bank Holiday.
 - No processing or sale of stone shall take place outside the hours of: 0600 hours to 2200 hours on Monday to Saturday, subject to no operations taking place on any Sunday, Public or Bank Holiday.
 - No stripping, movement or handling of overburden shall take place outside the hours of: 0700 hours to 1800 hours Monday to Friday, subject to no operations taking place on any Saturday, Sunday, Public or Bank Holiday.
 - No HGVs shall leave the site accesses outside of the hours of: 0600 hours to 2200 hours Monday to Saturdays, or at any time on a Sunday, Public or Bank Holiday except for vehicles delivering asphalt products from the asphalt plant which shall be allowed to leave the site at any time Monday to Sunday including Public and Bank Holidays.
 - No blasting shall take place except between the hours of: 1000 hours to 1800 hours on Monday to Friday.

- Except where stated above no operations, other than pumping water from the quarry void and environmental monitoring and otherwise in accordance with an agreed schedule shall be carried out on Sundays, Bank or Public Holidays.

Environmental Protection

Ecology

26. Prior to the recommencement of quarrying operations a scheme shall be prepared to evaluate the presence of protected wildlife species which could be effected by the proposed operations and provide appropriate mitigation or compensation measures. The scheme shall be submitted to the Director of Community Services for his written approval. The ecological works shall be undertaken in accordance with the approved scheme to the satisfaction of the Director of Community Services.

Dust

27. Unless otherwise agreed in writing with the Director of Community Services, dust suppression methods shall be implemented in accordance with Table 5.18 of the Environmental Statement.
28. Notwithstanding the provisions of Condition 27 above, a water bowser shall at all times be available for use on site. All haul roads within the site shall be kept damp as necessary to control dust to the satisfaction of the Director of Community Services.
29. At such times as operations on site give rise to unacceptable levels of dust leaving the site such as during adverse conditions due to strong winds combined with dry weather, such operations shall be temporarily suspended until the operations can be resumed without causing nuisance, either by change in working, improved weather conditions or other additional measures.
30. Prior to the recommencement of quarrying a scheme for dust monitoring around the site including the location of monitoring points, equipment to be used and the reporting of results to the Director of Community Services shall be submitted to the Director of Community Services for his written approval. Dust monitoring shall be undertaken in accordance with the approved scheme to the satisfaction of the Director of Community Services.
31. Notwithstanding the details contained within condition 30, in the event that monthly monitoring results at any location exceed a trigger level of $300 \text{ mg.m}^{-2}/\text{day}$, the operator shall report in writing, within 14 days of the results being known to them, to the Director of Community Services on the monitoring results and the quarry operations undertaken for the relevant period. If required by the Director of Community Services, within 28 days the operator shall submit in writing a proposed scheme of measures to reduce dust levels for his approval. The scheme shall be implemented as soon as practicable following the approval of the Director of Community Services.

Noise

32. Noise levels shall not exceed the levels given below:
- 55dB (A) L_{Aeq} , 1h (freefield) between the hours of 06.00 to 18.00 for Quarry Cottages on Leicester Road and 48dB (A) L_{Aeq} , 1h (freefield) for all other noise sensitive properties;
 - 50dB (A) L_{Aeq} , 1h (freefield) between the hours of 18.00 to 22.00 for Quarry Cottages on Leicester Road and 45dB (A) L_{Aeq} , 1h (freefield) for all other noise sensitive properties;
 - 42dB (A) L_{Aeq} , 1h (freefield) between the hours of 22.00 and 06.00 for noise from the asphalt plant and 35 dB (A) L_{Aeq} , 1h (freefield) for water pumping operations for all noise sensitive properties.
33. Measures shall be taken within the site to ensure that emissions of noise from the site are controlled and ensure so far as is reasonably practicable that the operations carried out within the site do not give rise to nuisance at nearby residential properties.
34. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufactures specification at all times and shall be fitted with and use effective silencers. Any breakdown or malfunction of silencing equipment or screening shall be treated as an emergency and should be dealt with immediately. Where a repair cannot be affected within a reasonable period, the equipment affected should be taken out of service.
35. All audible warning devices fitted to mobile plant, vehicles and machinery whilst affording the required safety protection shall be designed and operated so as to minimise disturbance to nearby residents.
36. Notwithstanding Condition 32 above, during the removal of any overburden or quarry wastes, the creation of any screen mounds or reclamation works, the noise limit at the nearest noise sensitive property used as a dwelling shall not exceed 70dB LAeq 1 hr for a period of up to 8 weeks in any calendar year. At least five working days (being Monday to Friday inclusive) prior written notice shall be given to the Director of Community Services of the commencement and the estimated duration of such operations.
37. Prior to the recommencement of quarrying a scheme for noise monitoring around the site including the location of monitoring points, equipment to be used and the reporting of results to the Director of Community Services shall be submitted to the Director of Community Services for his written approval. Noise monitoring shall be undertaken in accordance with the approved scheme to the satisfaction of the Director of Community Services.

Blasting

38. Every blast shall be designed with a 95% confidence level that ground vibration levels recorded at any vibration sensitive property arising from any blast shall not exceed a peak particle velocity of 6mm per second measured in any mutually perpendicular plane. No blast shall exceed a peak particle velocity of 12mm per second as measured at any vibration sensitive property.

39. Except in an emergency no secondary blasting shall be carried out without the prior approval in writing of the Mineral Planning Authority. In emergency situations, the Director of Community Services shall be notified of operations within 24 hours.
40. An audible warning shall be given in advance of every blast.
41. Prior to the recommencement of quarrying a scheme for the monitoring of each blast, including the location of monitoring points, equipment to be used and the reporting of results to the Director of Community Services shall be submitted to the Director of Community Services for his written approval. Blast monitoring shall be undertaken in accordance with the approved scheme to the satisfaction of the Director of Community Services.

Lighting

42. All reasonable measures shall be taken to ensure that the operations carried out on site do not give rise to nuisance in the locality by reason of illumination.

Complaints

43. Prior to the recommencement of quarrying a scheme for recording and responding to complaints shall be submitted to the Director of Community Services for his written approval. The scheme shall be undertaken in accordance with the approved scheme to the satisfaction of the Director of Community Services.
44. The local quarry Liaison Group shall continue to be operated in the current format for the life of the operation, or as otherwise may be agreed in writing by the Director of Community Services.

Groundwater and Surface Water Drainage Protection

45. At all times, all necessary steps shall be undertaken until the completion of reclamation and aftercare of the site to prevent pollutants from contaminating groundwater or any watercourse.
46. All settlement lagoons and associated ditches shall be maintained in good working order and shall be kept clear of mud and silt as necessary.
47. 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 should be at least equivalent to 110% of the capacity of the tank. For multiple tankage, the compound should be at least equivalent to 110% of the volume of the largest tank, or 110% of the combined capacity of interconnected tanks. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should discharge downwards into the bund.

Care of boundaries

48. Throughout the period of the operation until such time as the reclamation and aftercare of the site has been completed, the boundary to the active mineral operations shall be maintained in a stock proof condition.
49. All tree, shrubs and hedges along the boundaries of the site shall be retained, protected and maintained throughout the duration of the operations

Reclamation

50. Unless otherwise agreed in writing with the Director of Community Services prior to the recommencement of quarrying and at least every five years thereafter, a detailed scheme of reclamation for the following five year period, if any is likely to be required, shall be submitted for approval of the Director of Community Services. Such scheme shall, inter alia, include provision for:-
 - Final contours for the parts of the site which will become exhausted during the period;
 - The treatment of any remnant quarry faces and benches;
 - Location, species, numbers, sizes, ground preparation works and protective measures for tree and shrub planting;
 - Detailed grass and/or wildflower seed mixes, fertiliser or other treatments;
 - The provision of fences;
 - Removal of any redundant quarry plant or machinery.
 - The preparation of a 5 year aftercare scheme to ensure the effectiveness of the restoration works.
51. The site shall be reclaimed in accordance with the approved scheme having regard to the actual progress of mineral operations, or such amendments to the approved documents as may be agreed in writing with the Director of Community Services.

Tree and hedge planting

52. All trees and plants planted in accordance with the requirements of this permission shall be protected, managed and maintained within the principles of good forestry and husbandry until the expiry of this permission. Any trees or plants which die or become seriously damaged or diseased within five years of being planted shall be replaced with plants of the same species or such other species as may be agreed with the Director of Community Services.

Aftercare

53. Any areas of the site reclaimed to forestry or amenity use shall be subject to the requirements of an aftercare scheme under the provisions of section 72(5) of the Town and Country Planning Act 1990. The aftercare requirements shall be carried out for a period of five years from the completion of each phase of reclamation.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the preceding applications.

EQUALITY AND HUMAN RIGHTS IMPLICATIONS

Unless otherwise stated in the report there are no discernible equality and human rights implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Family Services and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970 and the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Equality Act 2010. You are advised to contact the Equalities function of the County Council's Policy and Partnerships Team if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPULSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

- Section 70(2) : determination of applications;
- Section 77(4) : called-in applications (applying s. 70);
- Section 79(4) : planning appeals (applying s. 70);
- Section 81(3) : provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
- Section 91(2) : power to vary period in statutory condition requiring development to be begun;
- Section 92(6) : power to vary applicable period for outline planning permission;
- Section 97(2) : revocation or modification of planning permission;
- Section 102(1) : discontinuance orders;
- Section 172(1) : enforcement notices;
- Section 177(2) : Secretary of State's power to grant planning permission on enforcement appeal;
- Section 226(2) : compulsory acquisition of land for planning purposes;
- Section 294(3) : special enforcement notices in relation to Crown land;
- Sched. 9 para (1) : minerals discontinuance orders.