

**DEVELOPMENT CONTROL AND REGULATORY BOARD**

**16<sup>TH</sup> JULY 2015**

**REPORT OF THE CHIEF EXECUTIVE**

**COUNTY MATTER**

**PART A – SUMMARY REPORT**

<b>APP.NO. &amp; DATE:</b>	2015/0295/03 (2015/CM/0058/LCC) – 18 <sup>th</sup> February 2015
<b>PROPOSAL:</b>	Extension of sand and gravel workings with subsequent restoration to agriculture and water
<b>LOCATION:</b>	Land at Fields Farm, Shawell Quarry, Gibbet Lane, Shawell (Harborough District)
<b>APPLICANT:</b>	Lafarge Tarmac Ltd
<b>MAIN ISSUES:</b>	Need and supply situation, impact on protected species, noise impacts on residential amenity, landscape impact and restoration.
<b>RECOMMENDATION:</b>	PERMIT subject to conditions as set out in the Appendix to the main report.

**Circulation Under Local Issues Alert Procedure**

Mr. G. A. Hart, CC

**Officer to Contact**

Jennifer Saunders – Senior Planning Officer (Tel. No. 0116 305 7054)  
Email: [planningcontrol@leics.gov.uk](mailto:planningcontrol@leics.gov.uk)

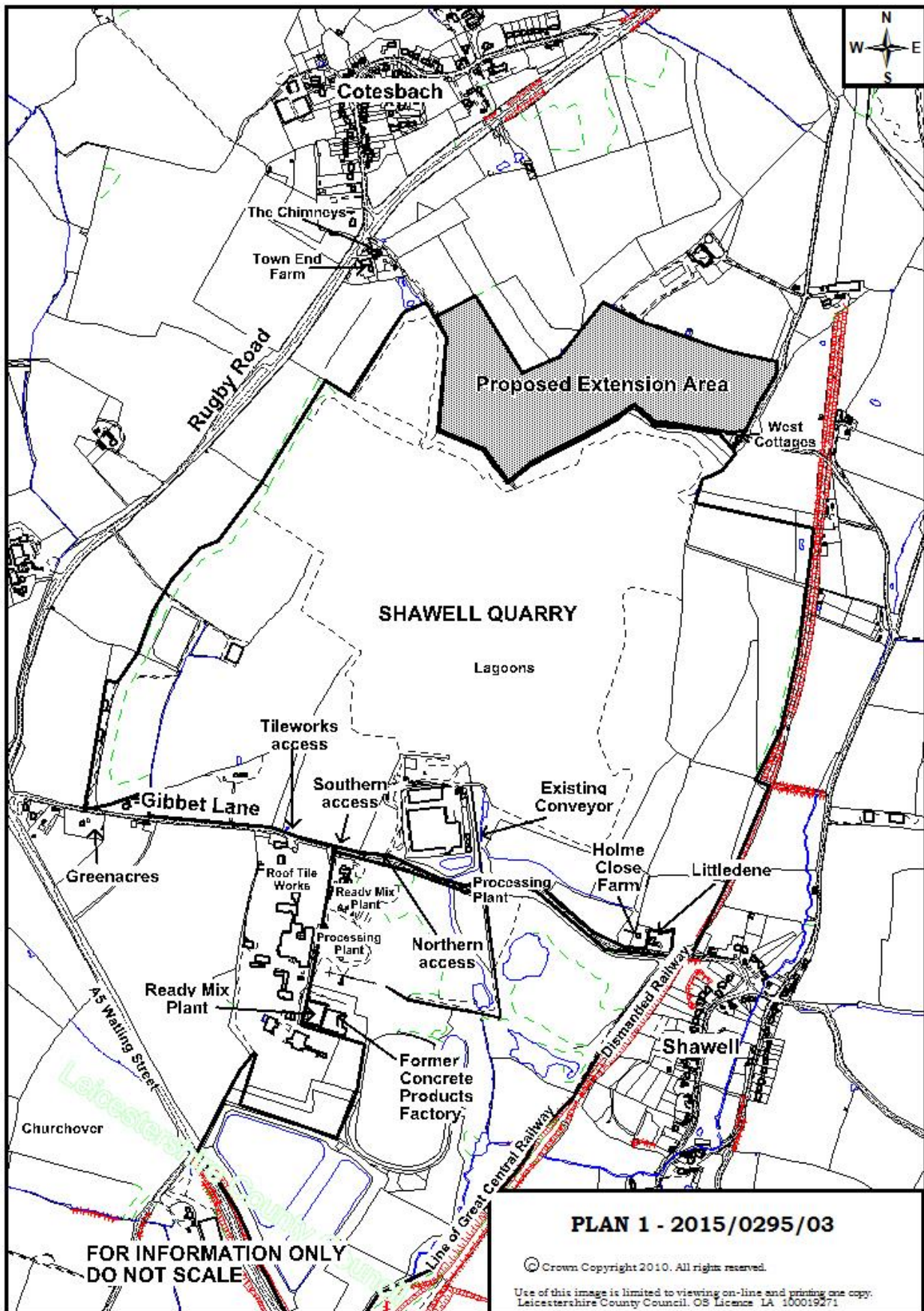
## **PART B – MAIN REPORT**

### **Planning History**

1. Shawell Quarry has been in operation since the 1950s. The first planning permission for sand and gravel extraction dates back to January 1958. In the late 1970s, extraction operations took place on land to the west of the A426 Lutterworth Road. Since then, a number of planning permissions have been granted for mineral extraction, the erection of plant, landfilling of waste and other operational works.
2. In July 1989, planning permission was granted (1988/1547/03) for an extension to the sand and gravel working with infilling and subsequent restoration to agriculture and replacement of the existing processing plant.
3. The quarry and associated operations were the subject of a periodic review of planning conditions under the Environment Act 1995 (2004/1605/03). An updated schedule of planning conditions for Shawell Quarry was approved by the Development Control and Regulatory Board in April 2005.
4. Planning permission was granted in September 2007 (reference 2006/1565/03) for the extraction of sand and gravel from an area to the west of the previously permitted quarry/landfill. It also included an extension of the landfill operation into the western extension.

### **Location of Proposed Development**

5. Shawell Quarry is located to the west of the village of Shawell and south of the village of Cotesbach, near Lutterworth. The mineral extraction, landfill area and composting facility operated by New Earth Solutions is located north of Gibbet Lane, a narrow road linking Shawell with the A5/A426 junction to the west of the site. The associated mineral processing plant, a number of silt settlement lagoons, a roof tile works and two ready-mix concrete plants are located to the south of the road. Mineral is transported from the current extraction area to the processing plant by means of a conveyor which crosses under Gibbet Lane. An inert waste recovery and recycling facility is also currently situated south of Gibbet Lane.
6. The site is set in a largely rural area. The eastern boundary of the operational quarry/landfill is defined by a disused railway cutting. The A5 (Watling Street) runs in a north-west to south-east direction to the west and south of the processing plant. The M1 motorway passes approximately 1 kilometre to the east of the village of Shawell.
7. The application site covers approximately 15.95 hectares, and principally comprises four arable fields located to the north of the existing quarry and to the south of woodland known as Home Spinney. The extension site is bounded to the east by a hedgerow and Lutterworth Road, to the south and north-west by Fields Farm Lane, which joins Lutterworth Road and Rugby Road, and to the

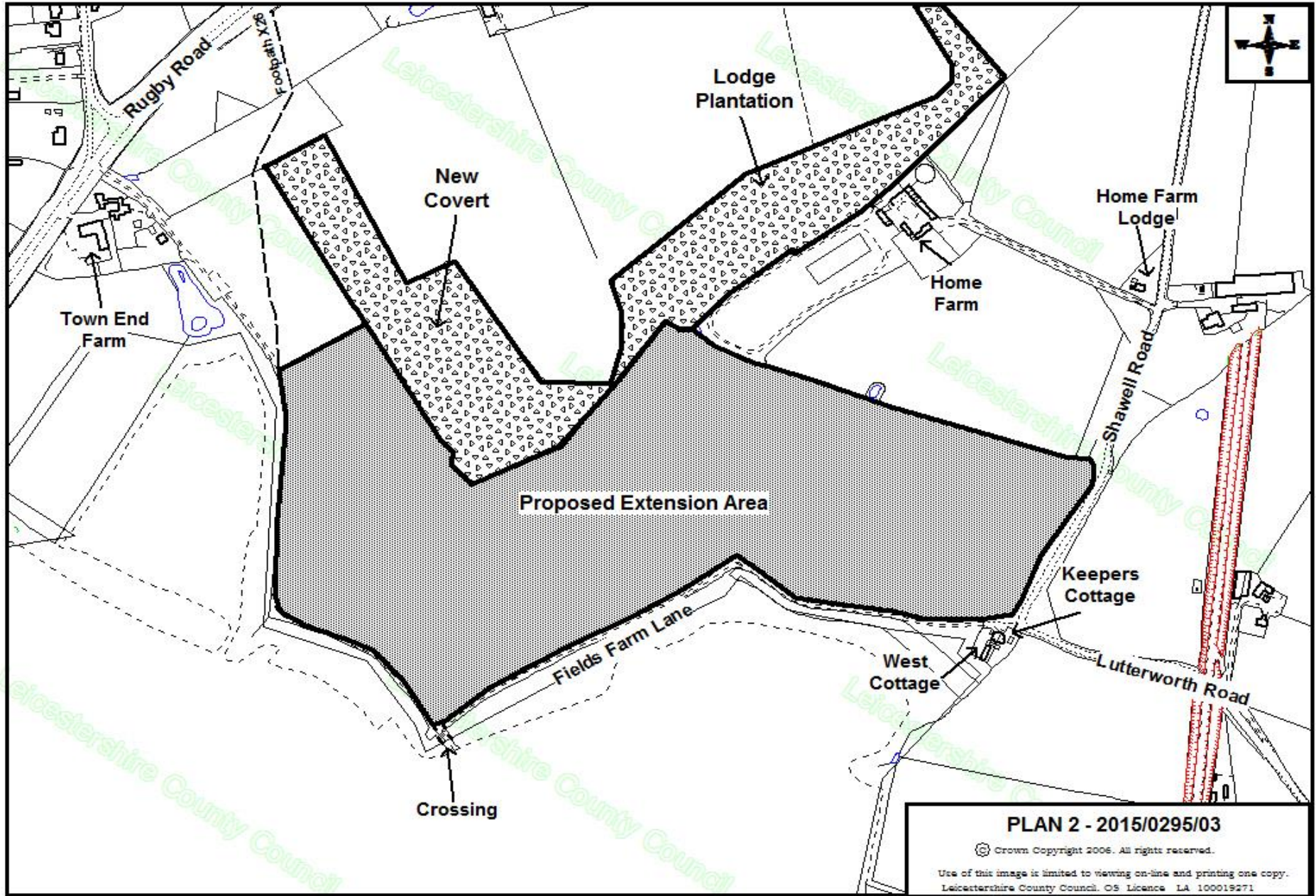


**PLAN 1 - 2015/0295/03**

© Crown Copyright 2010. All rights reserved.

Use of this image is limited to viewing on-line and printing one copy.  
Leicestershire County Council, OS Licence LA 100019271

**FOR INFORMATION ONLY  
DO NOT SCALE**



2015/0295/03 (2015/CM/0058/LCC) - continued

north by Home Spinney, Lodge Spinney and a hedgerow. There are a few properties in the vicinity of the extension site, the nearest ones are West Cottage & Keepers Cottage (12m from the south-eastern corner of the site), Town End Farm (170m from the western corner), Home Farm (160m to the north) and Home Farm Lodge (170m to the north).

**Description of Proposal****Overview**

8. Planning permission is sought to extend the mineral extraction area of Shawell Quarry. The proposed development provides for the extraction of approximately 1 million tonnes of mineral. The extraction of mineral and restoration of the site would take place over a 3 to 5 year period in tandem with mineral extraction within the extant quarry. The restoration scheme provides for low-level restoration to agriculture, woodland and ponds using overburden from the site and from the extant quarry.

**Development Phases / Methods of Working**

*Initial works: construction of crossing point, soil stripping and screen bund construction*

9. Prior to extraction operations commencing, existing hedgerows would be removed, where necessary, to allow the Phase 1 development and construction of the internal site haul road to commence. A traffic light controlled junction would be constructed on Fields Farm Lane, which would give priority to users of Fields Farm Lane and only turn red when a dump truck needs to cross. The proposed extraction site would be accessed from the existing quarry.
10. The first phase of mineral extraction would take place at the eastern end of the site. Topsoil, subsoil and overburden would be stripped separately using hydraulic excavators and dump trucks and placed in storage/screening mounds. Three 3m high topsoil stores would be located along the northern boundary and adjoining Fields Farm Lane. A 5m high subsoil store, which would be part of a buffer between West Cottage, Keepers Cottage and the extraction area, would be located near the junction of Shawell Road and Fields Farm Lane. An overburden store would be located towards the centre of the site.

*Phase 1*

11. Following soil stripping, the underlying sand and gravel would be extracted using hydraulic excavators and dump trucks. These dump trucks would transport the 'as dug' sand and gravel across the lane and into the current extraction area. Here it would be deposited into a hopper on the existing field conveyor system north of Gibbet Lane, which would transport it to the processing plant to the south of the lane.

12. To aid direct placement and minimise double handling, some of the overburden from the first phase would be placed in the existing quarry to the south of Fields Farm Lane and some placed in a temporary overburden store located in the Phase 2 working area, following removal and storage of any soils. The balance of restoration materials required on the extension site would be maintained by using an equivalent volume of overburden from the existing quarry to restore the later phases of the extension. The western end of the site would remain in agricultural production whilst working commenced in the east.
13. The quarry workings would need to be dewatered in order to maximise the amount of mineral extracted. As Phase 1 progresses a quarry sump would be developed in the floor of the workings, which would collect any water within the quarry void. This water would be pumped through an existing pipe underneath the proposed Fields Farm Lane crossing point, along a ditch and into the existing quarry excavations. From here it would be treated in the same way as water entering the existing quarry. It would be pumped into a holding lagoon located within the landfill site and from there to the existing processing plant where it would be used to wash the 'as-dug' sand and gravel. From the processing plant the water would be pumped to the existing settlement lagoons located to the south of the plant site, before being discharged from the site at the permitted discharge point.

#### *Phase 2*

14. In Phase 2, the mineral extraction would be developed towards the south west and Phase 1 would be backfilled to subsoil level using materials from the overburden store. The topsoil and subsoil stores along the boundary of the site would remain in place. The area to be extracted during Phase 3 would remain in agricultural production.

#### *Phase 3*

15. In Phase 3, the mineral extraction working area would be developed north-westwards. A soil store/screen would be extended along the boundary of Phase 3 and the stripped overburden would be placed directly into Phase 2, allowing restoration of that phase to be completed with the placement of topsoil from the storage bunds. Phase 1 would be fully restored and part of the topsoil stores and the subsoil store around West Cottage and Keeper's Cottage would have been removed. Following completion of extraction, Phase 3 would be restored using overburden sourced from within the extant quarry, followed by the placement of subsoils and then topsoils. Dewatering of the site would cease and the two water bodies proposed in the base of Phase 2 would develop, as the water table recovers to pre-development levels.

#### *Final Restoration*

16. Phases 1 and 3 would be restored to lower level agriculture, with an area of grassland, water and woodland provided in a depression in Phase 2. The need to provide adequate agricultural gradients within the respective land ownerships requires that the bulk of overburden be placed in the areas restored to

agriculture. The restored agricultural land would have a slope of 1:10 and the restored grassland and woodland would have a slope of 1:3.

17. The restored landform would be achieved using only site derived materials. No imported material would be required.

### **Hours of Operation**

18. Hours of working would be the same as for the existing quarry: 0700-1900 hours Monday to Friday and 0700-1400 hours Saturday. There would be no working on Sunday or Public/Bank Holidays.

### **Transport**

19. As previously stated, mineral from the extension area will be transported to the existing processing plant by a combination of dumper trucks and conveyor. There are no changes proposed to quarry production or the methods used to export mineral from the site. As such, there would be no increase in vehicle movements on to the highway above those already permitted.

### **Rights of Way**

20. There are no public rights of way within the proposed extension area and the development proposals do not require any closures (permanent or temporary) or diversion of any rights of way.

### **Environmental Statement**

21. The planning application is accompanied by an Environmental Statement (ES) which provides detailed assessments of: ecology; hydrology and hydrogeology; landscape and visual amenity; noise; archaeology; and agricultural land. A summary of the impact of the proposed quarry development identified in the ES, together with proposed mitigation and any compensation measures is set out below.

### Ecology

22. A Phase 1 Habitat Survey, Hedgerow Evaluation and Grading System (HEGS) Assessment and Protected Fauna Survey has been carried out.
23. The assessment confirms that there are no statutory designations within the site. Cave's Inn Pits Site of Special Scientific Interest (SSSI) is located 1.8km south of the closest point of the survey area. However, the existing quarry lies between the SSSI and the site.
24. A walkover survey identified the following habits on or adjacent to the application site: arable fields; species poor hedge and trees; mixed woodland; standing water; hard standing; mixed plantation; and scattered trees.
25. The survey area and immediate surrounding area was assessed for the presence of the following protected species:

Species	Comments
Badger	No badger setts or badger field signs identified
Water vole, otter & crayfish	No watercourses within the survey area – no requirement for any surveys
Great crested newts	12 ponds identified within 500m of the survey area (see paragraphs 28-29 for further information).
Bat roosting sites	No structures within the survey area to offer potential
Bat roosting potential	Numerous large trees and mature hedgerows that offer good potential
Bat foraging potential	Hedgerows and woodland offer good potential
Schedule 9 (of the Wildlife and Countryside Act 1981) invasive species	No species identified
Reptiles	Some potential habitat
Hazel dormice	No good value habitat. No known records within the west of Leicester

26. The existing hedgerows along the application boundary would be retained and protected throughout the duration of the development. However, three internal hedgerows within the application area would need to be removed (identified as H1, H2 and H3). Whilst none of these hedgerows have been assessed as being 'of importance' in accordance with the Hedgerow Regulations 2007, H1 and H2 are deemed to be of a moderately high to high ecological value and H3 of a moderate ecological value.
27. The ecological survey makes a number of recommendations, which includes the removal of hedgerows outside the nesting bird season and that the loss of hedgerows are compensated for by the planting of new hedgerows of a similar total length, structure and species composition and/or areas of woodland including native species during the reinstatement of the site.

#### *Further Supporting Information*

28. The application as originally submitted did not contain adequate great crested newt (GCN) surveys; as there was a known newt population surrounding the quarry, the applicant carried out surveys during April, May and June 2015. GCNs were found to be present in five ponds surrounding the site and therefore the proposed extension would have a high impact on any newts on the site. Additionally, once the works commence, this will create additional terrestrial habitat for newts, and if they were to take refuge in these area, they are at risk of being disturbed, harmed or killed.
29. To mitigate the presence of GCNs, the applicant is proposing to erect temporary amphibian fencing (TAF) around the site boundaries and site access. An application will also be submitted to Natural England for a European Protected Species Licence to capture newts within the application area and provide an exclusion zone. A newt channel will also be created at the entrance to the site to allow vehicle access to the area, but prevent amphibians from entering.

Hydrology and Hydrogeology

30. A Water Environment Impact Assessment has been undertaken, which assesses the potential effects of the proposed extension through a review of baseline conditions relating to the geology, hydrology and hydrogeology.
31. There are no watercourses within the immediate vicinity of the application site. It is, however, located within the catchment of the Newton Brook, a minor watercourse which starts within woodland around 1km to the north-north-east of the site. A number of small ponds (dew ponds) are located within the immediate vicinity of the northern site boundary.
32. The proposed development would be located in Flood Zone 1; as such, there is very low risk of flooding.

*Surface water and groundwater resources, including flood risk*

33. During the extraction operations, surface water runoff from the application area will be reduced, compared to current conditions. However, the proposed collection of this water from the mineral excavation sump(s), followed by its controlled discharge back into the Newton Brook discharge system, will ensure that there will be no significant modification of rainfall/runoff relationships. Following restoration of the quarry by infilling with overburden, groundwater within the Shawell Sand and Gravel aquifer up-gradient of the site will be able to continue to flow past the site as under current predevelopment conditions.
34. The sensitivity of the Newton Brook surface water and Shawell sand and gravel aquifer groundwater has been assessed as 'Medium'. The magnitude of change associated with the proposed mineral extraction and restoration of the site is considered to be 'Negligible'. Therefore, the potential effect on surface water and groundwater resources, flow regimes and flooding in the vicinity of the site is considered to be 'Negligible' and 'Not Significant'. As such, mitigation measures beyond those already built into the design are not proposed (Appendix 3; Paragraph 4.0 (pp.17-18) of the Environmental Statement).

*Surface water and groundwater quality*

35. During soil stripping, quarrying activities and associated excavations, there is potential for mobilisation of significant quantities of silt, particularly during winter months. The applicant is proposing to mitigate this by site/surface water management practices and additional sustainable drainage systems (SuDS).
36. The development would utilise diesel powered plant and involve the storage of substances that may present a hazard to both groundwater and surface water quality in the event of an accidental spillage, leak or other accident. Good working practices currently undertaken at Shawell Quarry will reduce the potential risk of contamination by controlling sources of pollution. These practices include the use of bunded fuel storage, regular plant maintenance, appropriate storage and regular inspection of potential contamination sources.

37. The sensitivity of the Newton Brook drainage system and groundwater within the Shawell Sand and Gravel aquifer is assessed as 'Medium'. The magnitude of change of water quality that can be associated with the proposed mineral extraction and restoration of the site is considered to be 'Negligible'. Therefore, the potential effect on surface water and groundwater quality in the vicinity and down-gradient of the site is assessed as 'Negligible' and 'Not Significant'. Mitigation measures beyond those already built into the design are not proposed.

#### Landscape and Visual Impact

38. A Landscape and Visual Impact Assessment (LVIA) has been undertaken, which identifies that the application site is situated within the: National Character Area 94 – Leicestershire Vales; Regional Character Type – Undulating Mixed Farmland; and Harborough District Council Character Area – Lutterworth Lowlands.

#### *Effects on Landscape Character*

39. The proposed development would extend quarrying activities and create an adverse cumulative effect. The applicant states that this effect would be highly localised and partially mitigated by progressive restoration within the consented areas and the proposed site. As such, there would be no significant effects on the landscape character areas identified above and local landscape elements affected by the proposal would be limited to those directly related to the application site: arable fields; hedgerows; trees; woodland; and wetland. Additionally, there are no culturally significant areas within the application site and there are no significant direct effects upon cultural heritage within the study area.
40. The effect of the development on local landscape character once restoration is completed is assessed as being of moderate significance and slightly adverse. This effect would be offset by the creation of a greater diversity of habitats:

Table 1: Comparison between existing and proposed elements within the extension site

Element	Existing	Proposed	Net Loss/Gain	
			Loss	Gain
Agricultural Land (ha)	15.99	11.22	4.77	-
Grassland Habitats (ha)	0	2.52	-	2.52
Wetland Habitats (ha)	0.0027	0.36	-	0.3573
Woodland (ha)	0.049	1.50	-	1.4512
Internal Hedgerows (linear m)	574.397	515.659	58.738	-

#### *Effects on Visual Amenity*

41. The assessment has confirmed a highly localised zone of visual significance (ZVS) for the development due to the effects of screening produced by intervening natural vegetation cover and landform. Within the predicted ZVS, the following categories of visual receptor have been identified: occupiers of

individual residential properties; users of local roads; and users of public rights of way.

42. The predicted effects on each identified sensitive visual receptor has been summarised below:

Table 2: Predicted effects on visual amenity during operations

<b>Receptor point</b>	<b>Comments</b>	<b>Predicted effects</b>
West Cottage & Keepers Cottage	Affected by the establishment of a 5m high grassed screening bund (which would screen the extraction operations). Ground-floor views partially screened by existing vegetation; direct views from the first floor towards the bunds.	Adverse - moderate significance
Town End Farm	Views would not be significantly affected until the final stages of development. Potential visibility restricted to first floor level and partially filtered by vegetation.	Adverse – moderate/slight significance
Fields Farm Lane	Open & rural nature of the byway will be affected by the perimeter bunds (but these will limit potential views of the operation).	Adverse – moderate significance
Footpath X26 (west of the site)	Mature hedgerows will screen much of the development until Phase 3, at which point a grassed bund will be in place to screen the final stages of extraction.	Adverse – moderate/slight significance
Footpath X26 (south of Lutterworth Road)	Obscured by mature trees, hedging, West Cottage and Keepers Cottage. Upper levels of the 5m high grassed bund will be visible.	Adverse – moderate/slight significance
Shawell Road	Partially screened by intervening perimeter hedgerow. Establishment of grassed bunds will screen the extraction operations.	Adverse – moderate significance
Lutterworth Road	Obscured by the gently dipping landform within the site and intervening hedgerows and trees. Views of operations restricted to the upper levels of the grassed bunds.	Adverse – moderate significance
Access & crossing point	Highly localised intervisibility & direct views of the operations.	Adverse – high/moderate significance

### Noise

43. A Noise Assessment has been carried out, which considers the potential impact of the proposals at six receptors, which are considered to be situated in closest proximity to the proposed extension area. These are: Town End Farm; Home Farm; Home Farm Lodge; Ashcroft; Spinney Farm; and West Cottages. All noise level predictions are 'worst case' and have been calculated with the combinations of plant working at the closest point to the assessment location.

44. During temporary operations, such as soil stripping and bund creation, the results show that noise levels are expected to remain within the Government’s recommended limit of 70dB(A) LAeq (free field), with the exception of West Cottages, which has the potential to marginally exceed (by 1dB(A)) this recommended limit. To assist in the avoidance of this potential exceedance, it is proposed to reduce the amount of plant and machinery when bund construction is occurring within 50 metres from West Cottages.
45. During normal extraction operations, noise levels are expected to remain within the recommended limits at all identified noise sensitive properties and the following limits are being recommended:

Table 3: Recommended noise limits at identified noise-sensitive properties

Location	Lowest Measured Background Noise Level Daytime LA90,1hr	Recommended Noise Limit (dB LAeq,1h)
Town End Farm	47	55
Home Farm	43	53
Home Farm Lodge	46	55
Ashcroft	46	55
Spinney Farm	46	55
West Cottages	43	53

Archaeology

46. An Archaeological Desktop Assessment has been carried out, which failed to demonstrate the presence or likelihood of any archaeological deposits or structures and considered the archaeology of the immediate surrounds to be very limited.
47. Fieldwalking of the application site was also undertaken and the results do not indicate buried archaeological sites. Given the low archaeological potential of the site (and its surrounds) no further evaluation or mitigation work is proposed.

Soils and Agricultural Land

48. A Soil and Agricultural Land Classification survey has been undertaken of 17.4 hectares of agricultural land. This identified fine loamy over clayey soils. The agricultural quality of the land is limited by wetness caused by slowly permeable subsoil. Land of sub-grade 3a and sub-grade 3b<sup>1</sup> has been identified:

<sup>1</sup> 1 = Excellent; 2 = Very good; 3 = Good/Moderate; 4 = Poor; 5 = Very Poor

Table 4: Area occupied by the different land grades

<i>Grade/sub-grade</i>	<i>Area (ha)</i>	<i>% of the agricultural land</i>
Sub-grade 3a	4.0	23
Sub-grade 3b	13.1	77
Non-agricultural land	0.3	-
<b>Total</b>	<b>17.4</b>	<b>100</b>

49. The survey also states that the topsoil resources across the site are reusable; to the east are 300mm thick heavy clay loam and to the west 270mm thick medium loam. Topsoil and subsoil should be considered as separate resources and stripped and stockpiled separately.

#### Cumulative Effects

50. An assessment of potential cumulative impacts has been carried out. This looked at the proposed development in conjunction with the consented and predicted working of other comparable sand and gravel quarries in the area.
51. Shawell Quarry is located approximately 9.5 miles from Husbands Bosworth, the nearest active quarry. An extension of time to implement a planning permission was granted at Husbands Bosworth in August 2010, following the grant of planning permission for an extension to the quarry workings in September 2008.
52. The LVIA states that the proposed development would extend quarry activities at Shawell and create an adverse cumulative effect. The effect would be highly localised, temporary and partially off-set by progressive restoration within the site.
53. In terms of the potential cumulative impacts with the adjoining existing quarry, it is considered that all are capable of appropriate mitigation and would fall within acceptable levels.
54. It is concluded that there would be no unacceptable cumulative environmental effects caused by the proposed development.

#### Consideration of Alternatives

55. The applicant has considered three potential alternatives:
- 'Do nothing' – in such a scenario, a valuable mineral resource would not be worked. It is considered that the benefits of mineral extraction would outweigh any potential adverse effects, which could be monitored and mitigated against.
  - Alternate locations – mineral extraction can only take place where it is found and the proposed site is located adjacent to the established working quarry.

The operations at the site would also use the existing infrastructure. An alternative location is not considered practical in this instance.

- Alternate method of working: the proposed method is well-established at Shawell Quarry to ensure that the effects on the environment and residential amenity are minimised. An alternate method of working is not considered necessary.

### Statement of Community Involvement

56. Lafarge Tarmac Ltd has carried out public consultations with local residents and statutory consultees about the proposed development. A public exhibition was held at the Cotesbach Village Hall in November 2014, which included display boards with plans and text detailing the planning proposals and projected timescales. The exhibition was staffed by employees and technical consultants representing the Company. The most common item of discussion from those attending the exhibition was regarding potential amenity impacts upon walkers who use Fields Farm Lane.

### **Planning Policy**

#### National Policy

57. The *National Planning Policy Framework* (NPPF) provides the government's policies for the delivery of sustainable development through the planning system. It advocates a presumption in favour of sustainable development.
58. The NPPF recognises the essential role that minerals play in supporting sustainable economic growth and quality of life. It seeks to ensure that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. The NPPF also acknowledges that minerals are a finite resource and can only be worked where they are found.
59. The NPPF states, when determining planning applications, local planning authorities should: give great weight to the benefits of the mineral extraction, including to the economy; ensure that there are no unacceptable adverse impacts on the natural and historic environment and human health, and take into account any cumulative effects; ensure that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties; provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions.
60. *National Planning Practice Guidance* (PPG) provides additional guidance to Authorities to ensure the effective implementation of the planning policy set out in the NPPF in relation to mineral extraction. It covers the following relevant matters: the proximity of mineral workings to communities; dust emissions; noise emissions; and restoration and aftercare.
61. The PPG advises on the control and mitigation of dust and noise emissions, and establishes the use of noise limits for mineral extraction, providing a framework for the setting of noise standards. Maximum limits at noise sensitive properties

during normal working hours, evening and night-time periods are given, together with higher limits for certain short-term activities.

62. The PPG seeks to implement the NPPF requirements to provide for the restoration and aftercare of mineral sites at the earliest opportunity, carried out to high environmental standards. It advises on the use of reclamation conditions and aftercare schemes to achieve the desired after-use of the site following working.

#### Development Plan Policies

63. The Development Plan for the application site comprises the Leicestershire Minerals Core Strategy and Development Control Policies (2009), and the Harborough District Council Core Strategy (2011).
64. Policy MCS1 of the Leicestershire Minerals Core Strategy aims to ensure an adequate and steady supply of minerals. The strategy for aggregates (crushed rock and sand & gravel) contained in MCS2 is to meet the sub-regional apportionment and maintain a landbank of reserves in line with national policy. This is to be achieved either by releasing reserves of sand and gravel, worked as extensions to existing extraction sites to ensure a sustainable supply, or by allowing new aggregate extraction sites where it can be demonstrated that the landbank and production capacity cannot be maintained from existing sites and extensions to existing sites. MCS2 also seeks to allow proposals for aggregate extraction only where they would not cause unacceptable harm to the environment or communities. The Strategy also contains policies concerned with the protection of the environment (MCS11), transportation of minerals (MCS16) and the reclamation and after-use of mineral sites (MCS17).
65. The Minerals Development Control Policies contain a number of policies for use in determining planning applications for minerals developments. These include the following: MDC1 (sustainable mineral development); MDC2 (sustainable design); MDC5 (countryside); MDC6 (landscaping and woodland); MDC7 (archaeology); MDC10 (agricultural land); MDC11 (the water environment); MDC12 (health and amenity); MDC13 (cumulative impact); MDC14 (transportation of minerals); MDC15 (public rights of way); MDC18 (planning conditions); MDC20 (reclamation and aftercare); and MDC21 (after-use).
66. The Harborough District Core Strategy includes a number of policies of relevance: CS7 (Enabling Employment and Business Development); CS8 (Protecting and Enhancing Green Infrastructure); CS9 (Addressing Climate Change); CS10 (Addressing Flood Risk); CS11 (Promoting Design and Built Heritage); and CS17 (Countryside, Rural Centres and Rural Villages).
67. The Leicestershire Minerals and Waste Local Plan (Consultation Draft) is being consulted on currently (3<sup>rd</sup> July – 28<sup>th</sup> August 2015) and includes draft policies and proposals relating to the winning and working of minerals and waste management development in the County for the period to 2031. It includes a policy for the future location of sand and gravel operations. The site area the subject of this application has been put forward by the Applicant to be allocated in the Plan as a preferred potential future extraction site. Whilst the application

site has been allocated in the emerging Plan, little weight can be given to this because it has not been tested through any formal consultation or examination at this stage.

### **Consultations**

#### **Harborough District Council - Planning**

68. The principal impacts from the proposed development are likely to relate to the character of the local area and the wider countryside, the setting of listed buildings in Cotesbach and other heritage assets, and the living conditions of residents in the surrounding area. These would need to be balanced against the proposal's positive economic and potential wider environmental effects.
69. In the context of the existing quarry, and having read through the submitted documentation, subject to due consideration of the above impacts, and provided that the other statutory consultees have no objections to the proposals, it is considered that the proposal is not sufficiently harmful for Harborough District Council to object to the current proposals.

#### **Harborough District Council – Environmental Health**

70. Agrees with the methodology and the outcome of the noise assessment. The assessment makes reference to limited machinery when working close to (<50m) near West Cottage. This should be conditioned accordingly to ensure the residents' amenity is not compromised. The applicant should also be encouraged to engage with its neighbours when undertaking this work to ensure good working relations.

#### **Cotesbach Parish Council**

71. Response not received.

#### **Shawell Parish Council**

72. Requests that any planning permission granted for this quarry extension contains a requirement that there should be no additional vehicle movements on Gibbet Lane above the currently agreed level.

#### **Lutterworth Town Council**

73. Response not received.

#### **Environment Agency**

74. The Environment Agency has no objections to the proposed development but would like to make the following comments:

The SLR Report "Shawell Quarry: Fields Farm Extension Water Environment Impact Assessment" Ref: 402-04520-00039 dated February 2015 has been reviewed. Based on the information provided it appears that the assessment

undertaken is appropriate for the site development and its environmental setting. From this information, it is concluded that there is a low risk of the site development proposed impacting both groundwater level and quality within groundwater in the Shawell Sand and Gravel aquifer and flow and quality of the Newton Brook.

Whilst it is not believed, at this point, that there is a need for additional mitigation measures over and above those already undertaken as part of the current quarry operations at the site, it is recommended that the operator submits a revised monitoring plan for agreement with the Minerals Planning Authority. The revised plan will include proposals for monitoring groundwater level and quality within the Shawell Sand and Gravel aquifer and flow and quality of the Newton Brook, regular assessment of the data, and review of the efficacy of mitigation measures undertaken.

### **Highways Agency**

75. The proposed development is not expected to have a material impact on the closest strategic route, the A5. Therefore, the Highways Agency has no objections to the proposal.

### **Natural England**

76. This application is in close proximity to Cave's Inn Pits Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of this application, as submitted, will not damage or destroy the interest features for which the site has been notified. Natural England therefore advise your authority that this SSSI does not represent a constraint in determining this application.

### **Highway Authority**

77. The Local Highway Authority's advice is that, in its view, the residual cumulative impacts of the development are not considered severe in accordance with Paragraph 32 of the NPPF<sup>2</sup>. A condition is requested requiring the details of the design for the off-site highway works for the provision of a signalised haul road crossing to be submitted for approval.

### **Leicestershire County Council – Archaeology Advice**

78. It is concluded that the current application area has been adequately assessed, either directly utilising fieldwalking or geophysics, or indirectly by comparison with adjacent areas targeted for intrusive investigation. In both cases the evidence points to the proposed extension area possessing a negligible archaeological interest, and therefore it is recommended that the developer has no need to make provision for further archaeological mitigation in respect of the application area.

---

<sup>2</sup> Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

### **Leicestershire County Council – Ecological Advice**

79. No objections, subject to the imposition of conditions, on the basis that the impacts on great crested newts (GCN) can be adequately mitigated during the anticipated short life of the quarry extension, and that the end-term situation for newts is likely to improve as a result of the quarrying. The detailed ecological comments can be summarised as:
- the extension to the quarry cannot be considered in isolation, with regard to the impact on GCNs; the existing quarrying and restoration impacts need to be considered at all stages;
  - GCN populations can change over time, and information of known populations needs to be updated by survey and analysis of the results of trapping, which may lead to revision of the mitigation plan;
  - agree with the non-licensed working methods for soil stripping of Phase 1; and
  - agree with general outline of licensed mitigation.

### **Leicestershire County Council – Landscape Advice**

80. It is borne in mind that the proposed works are temporary and that the site will be restored within a 4 year time frame. However, the following comments should be considered.
81. It is accepted that the proposed site is unlikely to be very visible in the wider landscape and that it is also effectively screened to the north by the mature woodlands of Lodge Plantation and New Covert. The open nature of the immediate surroundings was, however, surprising. There is very little existing screening to the south of the site along Fields Farm Lane and the existing hedgerows along this lane and Shawell Road are maintained very low in height resulting in virtually no screening value.
82. In the Landscape and Visual Impact Assessment – Table 7 (Predicted effects on visual amenity during operations and 10 years following restoration) most of the receptors are rated with a sensitivity of Medium-High. However, with regard to residential properties, it is considered that both West Cottage and Keepers Cottage would both experience high sensitivity due to their close proximity to the development and that the proposed 5.0m high temporary screen bund would be highly intrusive to these properties.
83. In addition, it is considered that the users of the public rights of way (both Fields Farm Lane and Footpath X26 – viewpoint 7A) would also have high sensitivity and suffer significant adverse effects for the duration of the proposed works.
84. Furthermore, it is assessed that Home Farm, Home Lodge Farm, and to a lesser extent Spinney Farm, would all have partial views of Phases 1 and 2 of the development which should be taken into consideration.
85. During the site visit, the site was found to be relatively tranquil and was not as adversely affected as expected by the detractors identified on the Local Landscape Features plan (Figure 3) prepared by David Jarvis Associates. It is therefore considered that the proposed works are likely to have a greater overall

impact on the residents and users of the local landscape than indicated in the report.

86. Another concern was the “The Park” historic parkland to the north of the site shown on the Local Landscape Value plan (figure 5) might be partially exposed to the development where there is a slight gap between the woodland groups of Lodge Plantation and New Covert.
87. With regard to the proposed works, there are concerns that the existing hedgerows to be retained along Shawell Road and Fields Farm Lane are adequately protected for the duration of the work, particularly during the formation and removal of the screen bunds. Also, there should be no raising or lowering of the ground level within the vicinity of the root protection area of any mature hedgerow trees.
88. Consideration should be given to allowing the retained hedgerows to grow higher whilst the works are taking place in order to visually soften and partially screen the hard lines of the proposed bunds.
89. It is recommended as part of the restoration scheme that new hedge planting should be carried out along the boundary of Fields Farm Lane as this would improve the connectivity between the restored hedgerows and improve the potential for biodiversity.

**Leicestershire County Council – Public Rights of Way Officer**

90. I have no objection to the application as it should not affect the public’s use and enjoyment of the Right of Way.

**National Grid – Plant Protection**

91. Response not received.

**Leicestershire and Rutland Wildlife Trust**

92. Response not received.

**Campaign to Protect Rural England (Leicestershire)**

93. Response not received.

**Leicestershire Footpaths Association**

94. Response not received.

**Ramblers Association**

95. Response not received.

### **Publicity**

96. The planning application and accompanying environmental statement has been publicised by a press notice in the Harborough Mail, site notices and neighbour notification letters on 26<sup>th</sup> February 2015.
97. Following the receipt of further ecological information, this information was publicised in the Leicester Mercury on 19<sup>th</sup> June 2015.

### **Representations Received**

98. 8 representations have been received from local residents objecting to or raising concerns about the proposed development. Local residents raise the following concerns:
  - Extension of quarrying operations towards Cotesbach
  - Need for the development – demand for aggregates is declining
  - Loss of countryside land
  - Visual impacts of the proposed 5m bund opposite West Cottage and Keepers Cottage and the 3m bunds running parallel to Fields Farm Lane
  - Noise levels and hours of operation in close proximity to residential properties
  - The land will be restored using the importation of waste
  - Exacerbation of odour from the composting facility and landfill on the existing Shawell Quarry site
  - Impact on house values – likely to decrease property price
  - Siting of the extension area is ill-considered, alongside a public lane that is used by many of Shawell and Cotesbach residents for recreational purposes
  - Loss of hedgerows, which will reduce connectivity for wildlife in the area
  - Impact on wildlife in the area
  - Impact on woodland at New Covert, Home Spinney and Lodge Plantation
  - Increase in flies
  - Plant causing congestion on the A426
  - Disruption to local businesses

### **Assessment of Proposal**

99. This proposal, like any other application, must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, it is appropriate to consider the following key matters: national policy background; Leicestershire Minerals Development Framework; the nature and need for the development; environmental impacts and other effects; and economic and other benefits.

### **National Policy Background**

100. The National Planning Policy Framework (NPPF) states that “Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the

infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation.”

101. When determining planning applications, the NPPF states that local planning authorities should give great weight to the benefits of mineral extraction, including to the economy; ensure that there are no unacceptable impacts on the natural environment; ensure that any unavoidable noise and dust emissions are controlled, mitigated or removed at source; establish appropriate noise limits for extraction in proximity to noise sensitive properties; and provide for restoration and aftercare at the earliest opportunity.

#### Leicestershire Minerals Core Strategy

102. A key function of the Leicestershire Minerals Core Strategy is to ensure an appropriate contribution to local, regional and national needs in line with the sustainable objectives for mineral development.
103. The strategy for the supply of minerals (Policy MCS1) is to release land for extraction where it is necessary to maintain an adequate and steady supply of minerals and it can be shown that demand could not be met from existing permitted reserves, having regard to sub-regional apportionment figures for aggregate minerals. The strategy also seeks to give priority to the extension of existing sites. In all cases, proposals will only be acceptable where they will not cause unacceptable harm to the environment or communities.

#### Need for the Development

##### *Landbank*

104. The County Council needs to be satisfied that a steady supply of minerals can be produced, and that its contribution to the regional/national aggregates provision can be met. In order to do so, the NPPF states that mineral planning authorities should make provision for the maintenance of landbanks of at least 7 years for sand and gravel.
105. Estimated permitted reserves of sand and gravel in Leicestershire as at the end of 2013 were around 9.03 million tonnes. There was only sufficient permitted material to last 8 years from the end of 2013, based on the average rate of production over the last 10 years. Calculations published in the emerging Minerals and Waste Local Plan (Consultation Draft - July 2015) indicate that there would be a shortfall of approximately 10.95Mt of sand and gravel over the period up to 2031. No new sand and gravel reserves have been granted planning permission since 2013 therefore the land bank as of 2015 is under 7 years.
106. There are 5 sites currently active in Leicestershire, at Brooksby, Cadeby, Husbands Bosworth, Lockington and Shawell. The existing active sites have a total production capacity of around 1.7 million tonnes per annum, which means that they would be more than capable of providing sufficient material to satisfy the level of provision based on average sales of the last 10 years. Existing sites

would not however be able to meet the County's future requirements without the benefit of extensions to their currently permitted operations. This means that additional land for the extraction of sand and gravel needs to be identified in order to ensure continuity of production to 2031.

### *Operational Need*

107. Demand for sand and gravel at Shawell Quarry has risen markedly over the past year from around 350,000 tonnes per annum (tpa) to over 500,000tpa. This is partly due to an increased demand for ready-mix concrete (on site plants operated by Lafarge Tarmac and Hope Construction Materials) and for concrete roof tile products (adjoining plant operated by Monier Redland). As such, the current permitted reserves at the site will only last a further 2-3 years at current output rates (around 600,000tpa). The proposed development would release approximately 1 million tonnes of additional reserve and ensure a continuity of supply of construction materials for a further 3 to 5 year period.
108. In conclusion, in terms of meeting the requirements of Policies MCS1 and MCS2, it is considered that the need for additional reserves in terms of potential landbank and production capacity deficiencies has been sufficiently established. The proposed development would enable Shawell Quarry to assist in maintaining an adequate and steady supply of sand and gravel in Leicestershire.

### Environmental and Other Effects

109. Policies MCS1 and MCS2 also require the consideration of proposals for aggregate extraction in terms of any unacceptable harm that may be caused to the environment or communities. This is a key consideration in determining proposals for mineral extraction, where the need for the development including any mitigation and compensation has to be balanced against the impacts that the proposal is likely to generate. These matters are considered below.

### **Ecology**

#### *Habitats*

110. The dominant habitat throughout the application area is arable fields, which has very limited ecological value. Therefore, the loss of this habitat is considered to be a low impact.
111. The hedgerows on the site are of good conservation value as they provide good nesting and foraging habitats for birds and cover for other mammals and invertebrates. The three internal hedgerows that will be removed are assessed as having good ecological value. However, they are not directly connected to other adjacent habitats such as woodland or other hedgerows, with the exception of hedgerow 1, which is connected at one end to the adjacent woodland. The loss of these three hedgerows will therefore have a high impact on the bird, mammal and invertebrate species that use these habitats.

112. Hedgerows are included in the Leicester, Leicestershire and Rutland Biodiversity Action Plan (LLRBAP) and are particularly important due to the low percentage of woodland cover over the county. Whilst only two of the three hedgerows to be removed are considered to be of conservation priority, the proposed works will have a high impact on all three as they will be removed in their entirety.
113. To compensate for the loss of hedgerows as a result of the works, it is proposed that new hedgerows of a similar total length, structure and species composition and/or areas of woodland including native species be planted during restoration of the site. The applicant has also agreed to extend the existing hedgerow on the northern side of Fields Farm Lane, which would link with the three new hedgerows to improve connectivity and the potential for biodiversity.
114. Mature trees are also included in the LLRBAP as they provide good habitat for bats, birds and invertebrates. There are a number of large and maturing trees within the hedgerows around the boundaries of the application site, but these will not be removed during the works. None of the three internal hedgerows contain particularly large trees and therefore the proposed works would have a low impact on mature trees. However, in light of the good conservation value of the hedgerows and trees surrounding the application site, the imposition of a condition requiring appropriate stand-offs between screening bunds and the existing vegetation is recommended to ensure these habitats are protected.
115. The Cave's Inn Pits SSSI is located approximately 1.8km south of the application area. The existing operational quarry is located between the application site and the SSSI. It is therefore considered that there would be no additional impact on the SSSI as a result of the development.

*Protected Species*

116. The impact of the proposed operations on protected species has been assessed and it is considered that there would be no impacts on badgers, water voles, otter, crayfish and hazel dormice. Impacts on bats, birds and reptiles as a result of the removal of internal hedgerows have been considered above.
117. Great crested newts (GCN) have been found in five ponds and the applicant has produced a mitigation strategy outlining how the GCN will be protected during site operations. The initial erection of temporary amphibian fencing (TAF) around Phase 1 of the operations, in accordance with Natural England Great Crested Newt Mitigation Guidelines, would enable soil stripping to take place before the winter months. Following this, a Natural England European Protected Species licence would be sought, which would include the erection of TAF around the remaining phases, additional drift fencing to aid in the capture of newts on the site, pitfall traps and a newt channel at the entrance to the site to allow vehicle access into the area, but to prevent amphibians from entering. Conditions can be imposed to ensure that the mitigation measures are carried out in a satisfactory manner.
118. Neither Natural England nor the County Ecologist objects to the proposed development. It is considered that the proposed mitigation and compensatory measures are satisfactory, and should not result in impacts which are significant

to a level which would not be acceptable. Subject to the control of the matters outlined above by planning conditions, it is considered that the issues relating to the protection of habitats and protected species are capable of being satisfactorily resolved within the site in accordance with the provisions of MCS11 (iii) and MDC4 of the Minerals Core Strategy.

### **Water Environment**

119. An assessment of the water environment and its baseline conditions relating to the geology, hydrology and hydrogeology has been undertaken.
120. In terms of the potential impact on surface water and groundwater resources and flow regimes, including flood risk, the assessment concluded that dewatering and quarry activities are not expected to have a significant negative effect on these. The effect has been assessed as 'negligible' and 'not significant'. Similarly, the use of sustainable drainage systems and working practices employed currently by the quarry will ensure that the impact on surface water and groundwater quality is also 'negligible' and 'not significant'.
121. The Environment Agency agrees with the results of the assessment and considers that there would be a low risk to the level and quality of the groundwater in the Shawell Sand and Gravel aquifer and the flow and quality of the Newton Brook.
122. A number of measures and safeguards have been built into the design of the proposed development (for example, use of Sustainable Drainage Systems, adhering to Pollution Prevention Guidelines and adopting measures currently adopted in the Environmental Management Plan for Shawell Quarry). On the basis that the level of impact on the water environment has been assessed as 'not significant', the applicant is not proposing any further mitigation measures. Whilst this is considered acceptable to the Environment Agency, a revised monitoring plan is requested, which would include a regular assessment of the data and a review of the effectiveness of the mitigation measures undertaken.
123. Subject to the imposition of a condition requiring the submission of a revised monitoring plan, it is considered that the issues relating to the water environment would be in accordance with the provisions of Policies MCS11 and MDC11 of the Minerals Core Strategy.

### **Landscape and Visual Impact**

#### *Landscape Character*

124. The proposed development would result in an overall temporary increase in the extent of quarrying in the locality, which would create an adverse cumulative effect. However, the effect would be highly localised and partially off-set by progressive restoration in both the existing and proposed extraction areas at Shawell Quarry. The effect of the development on local landscape character once restoration is completed has been assessed in the Landscape and Visual Impact Assessment (LVIA) as being slightly adverse.

125. The LVIA notes that the tranquillity of the development site and locality is affected by vehicle noise associated with the M1, M6, and A426, light aircraft noise on approach to Bruntingthorpe Airfield and the existing operations of Shawell Quarry. It considers that the development would have a low potential magnitude of effect in the locality. However, the County Council's Landscape Advisor found the site to be relatively tranquil and not as adversely affected by these external factors as stated in the LVIA. As such, the temporary level of harm on the landscape character is likely to be greater than that stated in the LVIA.

#### *Visual Amenity*

126. The LVIA considers that the application site is difficult to discern within the wider landscape and external views of the operations would be very largely restricted to the proposed grassed screen bunds. The effect would be temporary, adverse and of moderate significance.

127. Residential occupiers at the adjoining West Cottage and Keepers Cottage will be affected by the establishment of a 5m high grassed screen bund, which will adversely affect the visual amenity of these residents for the majority of extraction operations. Whilst the applicant is proposing to mitigate the impact on these properties by locating the bund approximately 45m away and allowing the existing boundary hedgerow to grow in height, it must be acknowledged that the screening bund will be highly intrusive to these properties. However, this impact will be for a relatively short duration (around 3 years) and the 5m high bund will be removed during Phase 3 of the development, which will enable Phase 1 of the development to be restored to agriculture at this point.

128. Users of footpath X26, west of the application site, will be significantly affected by the development as they near the works. However, the effect will be of a relatively short duration (around 1 – 2 years) due to the proposed phasing of the works.

129. To ensure that the existing trees, hedges and woodland are retained and protected, planning conditions can be imposed to control this, for example imposing stand-offs between the vegetation and screening bunds.

130. Subject to the control of the matters outlined above by planning condition, it is considered that the issues relating to landscape and visual amenity are capable of being satisfactorily resolved in accordance with the requirements of policies MCS11(ii) and MDC12 of the Minerals Core Strategy.

#### **Noise**

131. Existing noise levels have been measured at 3 noise sensitive locations around the application site, which has enabled noise predications to be calculated at the 6 closest noise sensitive properties.

#### *Temporary Operations*

132. Planning Practice Guidance (PPG) acknowledges that all mineral operations will have some particularly noisy short-term activities that cannot meet the limits set

for normal operations. Examples include soil-stripping and the construction and removal of soil storage mounds. However, it is acknowledged that these activities can bring longer-term environmental benefits. As such, the PPG states that increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year should be considered to facilitate essential site preparation and restoration work.

133. The noise assessment demonstrates that noise levels are expected to remain within the recommended limit of 70dB with the exception of West Cottages, where there is potential to marginally exceed this limit. To assist in the avoidance of this potential exceedance, it is recommended that, when bund construction is occurring within 50 metres from West Cottages, the amount of plant being used is reduced. Following the implementation of this, it is expected that noise levels will remain within the 70dB limit.

#### *Normal Operations*

134. The PPG states that subject to a maximum of 55dB(A) LAeq, 1h (free field), mineral planning authorities should aim to establish a noise limit at the noise sensitive property that does not exceed the background levels by more than 10dB(A).
135. The results of the assessment demonstrate that noise levels during all phases of extraction are expected to remain within the recommended limits at all identified noise sensitive properties.
136. Subject to the control of the matters outlined above by planning condition, it is considered that the issues relating to noise are capable of being satisfactorily resolved having regard to the provisions of policies MCS11 and MDC12 of the Minerals Core Strategy.

#### **Archaeology**

137. The fieldwork undertaken in connection with the Desktop Assessment does not indicate the presence or likelihood of any archaeological deposits or structures that would contribute substantively to national, regional or local research themes. It is considered that the application area has been adequately assessed and therefore it is recommended that there is no need to make provision for further archaeological mitigation.
138. The development is considered to be in accordance with policy MDC7 of the Minerals Core Strategy.

#### **Soils and Agricultural Land**

139. Soil surveys and agricultural land classification has been carried out. The site mainly contains sub-grade 3b, with a small area of sub-grade 3a.
140. It is proposed to conserve all soils and use them in the restoration of the land. The imposition of conditions based on DEFRA's *Good Practice Guide for*

*Handling Soils* would be appropriate to control the proposed soil handling activities.

141. Subject to the control of soil handling activities by planning condition, it is considered that the issues relating to soils and agricultural land are capable of being satisfactorily resolved in accordance with the provisions of policies MCS11 and MDC10 of the Minerals Core Strategy.

### **Dust**

142. Operations involved in the extraction of sand and gravel have the potential to generate dust if mitigation or control measures are not applied. The movement of topsoil and overburden will be a short term operation. The levels of dust generated by this activity will be determined by the moisture content of the overburden material. The weather conditions will be considered when overburden is moved and will be avoided in dry windy conditions.
143. However, in order to reduce potential sources of emissions to a minimum, a number of mitigation measures are proposed, which are based on current practice at the existing quarry workings. These include the use of a water bowser, road sweeper and seeding soils bunds.
144. Subject to the control of the matters outlined above by planning condition, it is considered that the issues relating to dust are capable of being satisfactorily resolved having regard to the provisions of policies MCS11 and MDC12 of the Minerals Core Strategy.

### **Traffic, Transportation and Access**

145. Mineral from the proposed extension area will be transported to the existing plant site by a combination of dump trucks and conveyor. A temporary crossing will be required over Fields Farm Lane to facilitate mineral and overburden haulage between the extension area and existing quarry. Approximately 50 dump trucks per day (100 movements) would utilise the crossing point, which would be monitored regularly to ensure that there is no build-up of mud deposits from vehicles onto Fields Farm Lane. The crossing is likely to be in place for approximately four years, after which it will be removed and the road and verges reinstated. Fields Farm Lane is a single-track route with public access and is used by vehicles only occasionally. Therefore the impact of the crossing on road users is considered to be limited.
146. There are no changes proposed to quarry production or the methods used to export mineral from the site. All operations within the existing plant site would continue to operate under controls defined by the existing planning permissions.
147. The Parish Council has requested that a condition be imposed to restrict the number of vehicles using Gibbet Lane to the figure currently permitted. This is not considered to be necessary on the basis that a condition imposed on permission no. 2006/1565/03 restricts the number of vehicles exiting the southern access onto Gibbet Lane; this is not application specific and relates to the whole site.

148. Subject to the imposition of a condition requiring details of design for the haul road to be submitted for approval, the development is considered to be in accordance with policies MCS16 and MDC14 of the Minerals Core Strategy.

### **Rights of Way**

149. There are no public rights of way within the proposed extension site and the development proposals do not require any closures (permanent or temporary) or diversion of any public rights of way.
150. Whilst Fields Farm Lane is designated as an unclassified county road, it is a popular walking route for local residents. The extraction area will be screened from the lane by temporary soils mounds and the crossing point will be appropriately signed and controlled by traffic lights.
151. The proposal is considered to be in accordance with policy MDC15 of the Minerals Core Strategy.

### **Restoration & Aftercare**

152. The existing site comprises arable agricultural land containing approximately 23% best and most versatile soils. The proposed restoration scheme has therefore been designed to return as much of the site as possible to beneficial agricultural use.
153. The removal of sand and gravel will require the re-contouring of the site as well as the removal of three internal hedgerows and some existing trees. The restoration scheme therefore incorporates proposals for the replacement of hedgerows and trees, as well as the provision of two permanent water features and an associated belt of woodland planting, which will provide a net gain in biodiversity.
154. The application includes an indicative restoration plan and conditions can be imposed to require the detailed proposals to be submitted for approval, for example hedgerow and tree species to be planted. A scheme for how the restored land will be managed in the five-year aftercare period can also be required by planning condition.
155. Subject to the control of the matters outlined above by planning condition, it is considered that the issues relating to restoration, aftercare and after-use are capable of being satisfactorily resolved in accordance with the provisions of policies MCS11, MCS17, MDC20 and MDC21 of the Minerals Core Strategy.

### **Economic Factors**

156. The current permitted reserves at the site will only last a further 2-3 years at current output rates. The quarry currently employs seven people directly and forty people indirectly in the form of contractors and hauliers. The main direct effects of the proposed development will be the protection of these existing jobs. Additionally, the release of approximately 1 million tonnes of sand and gravel will ensure continuity of supply of construction into the local market place.

157. These economic benefits are material to the determination of the application and should be given significant weight, particularly in light of the statement in the NPPF regarding the need to support economic growth through the planning system.

### **Other Considerations raised by Local Residents**

158. A number of other concerns have been raised by local residents, which have not been addressed previously in the report and are done so below:

*Odour and an increase in flies* – it is not considered that the proposed operations are of a nature to generate such impacts;  
*Plant causing congestion on the A426 and disruption to local business* – the sand and gravel would be worked as an extension to the existing site. Mineral would only be exported across a crossing point on Fields Farm Lane and use the existing haul roads and conveyor system to reach the processing plant. As such, there would be no increase in vehicle movements on the highway and no additional impacts on local businesses over and above existing conditions;  
*Impact on house value* – this is not a material planning consideration and should not be taken into account in the determination of the application.

### **Conclusions**

159. It is considered that the proposed development is in general accordance with the Development Plan, in particular Policies MCS2 and MCS11 of the Minerals Core Strategy which cover the supply of aggregates and environmental protection, together with relevant development control policies. The proposed development is also considered to reflect the principles of sustainable mineral development in the National Planning Policy Framework.
160. The key Development Plan policy is Policy MCS2. The proposed development will release an additional 1 million tonnes of reserve, thereby enabling the quarry to assist in maintaining an adequate and steady supply of sand and gravel from Leicestershire. To that extent, the proposal accords with Policy MCS2.
161. As far as environmental effects are concerned:  
**ecology:** Natural England consider that there will be no harm to Cave's Inn Pits SSSI; mitigation measures will be put in place to protect great crested newts; landscaping and restoration proposals will provide a net gain in biodiversity;  
**water environment:** the Environment Agency advises that the development will be acceptable subject to the imposition of a condition requiring revised monitoring;  
**landscape and visual impact:** there would be a temporary adverse cumulative effect on the landscape character of the area, which would be highly localised; there would be an adverse visual impact for the residents of West Cottage and Keepers Cottage and users of footpath X26; phased restoration will ensure this is reduced to a minimum;  
**noise:** planning conditions are imposed to keep noise levels from the development in line with the government's recommended noise limits;  
**archaeology:** the application site has low archaeological potential and no further mitigation is required;

**soils and agricultural land:** only a small amount of best and most versatile agricultural land is affected; conditions are proposed to control soil handling and ensure soils are conserved for use in restoration of the land;

**dust:** mitigation measures are proposed to control dust emissions;

**traffic:** no change in vehicle movements from the quarry are anticipated; the temporary crossing point on Fields Farm Lane is satisfactory subject to the approval of details;

**rights of way:** there would be no closures or diversions required as part of the proposal;

**restoration:** the application includes an indicative final after-use plan, which would result in a net gain in biodiversity for the locality.

162. The proposed development would secure local employment and other economic benefits to the area.

163. In **conclusion**, it is not considered that the proposed development conflicts with either National planning policy and guidance, or the Development Plan (particularly the Minerals Core Strategy and Development Control Policies DPD). The main areas of concern are either overcome by various measures contained within the planning application or can be overcome through the imposition of conditions such that the proposed development would not cause unacceptable impacts to local residents and the local environment. It is therefore recommended that the proposed development be permitted subject to the imposition of conditions.

### **Recommendation**

1. PERMIT subject to the conditions as set out in the appendix.
2. To endorse as required by the Town and Country Planning (Development Management Procedure) Order 2010 (as amended), a summary of how the Mineral Planning Authority has worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraphs 186 and 187 of the National Planning Policy Framework.

2015/0295/03 (2015/CM/0058/03) - continued

**Conditions****General Provisions, Commencement and Duration****Commencement**

1. The development to which this permission relates shall commence no later than 3 years from the date of this permission.
2. Written notification shall be provided to the Mineral Planning Authority within seven days of the commencement of:
  - a) the stripping of soils and overburden in Phase 1 of the development; and
  - b) the winning and working of mineral in Phase of the development.

**Duration**

3. This permission shall be limited to a period of 5 years from the commencement of the development, by which time the mineral working operations hereby permitted shall have ceased, all plant and machinery removed and the land reinstated in accordance with the restoration details approved under condition no. 33.

**Adherence to Approved Details**

4. Unless otherwise required by planning conditions, the development shall be carried out in accordance with the following details:
  - a) The planning application ref. 2015/0295/03 dated 18<sup>th</sup> February 2015 together with the accompanying Environmental Statement, Supporting Statement and drawings;
  - b) Environmental Statement Addendum – Great Crested Newt Survey dated June 2015;
  - c) Letter from David Jarvis Associates dated 27<sup>th</sup> April 2015;
  - d) Great Crested Newt Survey dated 1<sup>st</sup> July 2015, Ref No. 140946/REV5;
  - e) Letter from Witcher Wildlife Ltd. Wildlife Consultants dated 1<sup>st</sup> July 2015; and
  - f) Drawing No. 2259/QPR/1 dated June 2015.
5. A copy of the permission, plans and documents referred to in condition no. 4 above, including any other plans and documents subsequently approved in accordance with any condition on this permission, shall be kept available on site for the duration of the development.
6. There shall be no extraction of sand and gravel from land outside of the line dashed orange on Drawing Nos. 2259/ES/4, 2259/ES/6, 2259/ES/7 and 2259/ES/8.

**Working and Phasing Details**

7. Working shall be carried out sequentially as indicated on Drawing Nos. 2259/ES/4, 2259/ES/6, 2259/ES/7 and 2259/ES/8.

**Restriction of Permitted Development Rights**

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as amended):

- a) No fixed plant or machinery, buildings, structures and erections shall be erected, extended, installed or replaced on the site without the prior approval in writing of the Mineral Planning Authority.
- b) No lighting shall be installed or erected at the site until details of the location, height, design, hours of operation and luminance have been agreed in writing by the Mineral Planning Authority.

### **Hours of Operation**

9. Except in emergencies to maintain safe working conditions (which shall be notified to the Mineral Planning Authority as soon as practicable):
  - a) No operations (other than water pumping) shall be carried out at the site except between the following times:

0700 to 1800 hours Monday to Friday; and  
0700 to 1400 hours Saturdays.
  - b) No operations associated with soil stripping and the formation and subsequent removal of soil storage areas shall be carried out within the 50 restriction zone shown on Drawing No. 2259/QPR/1 except between 0800 to 1800 hours Monday to Friday and 0800 to 1200 hours Saturdays.
  - c) No operations (other than water pumping) shall be carried out at any time on Sundays, Bank Holidays and Public Holidays.

### **Access**

10. Notwithstanding the details shown on Drawing No. 2259/ES/5, mineral extraction shall not commence until details of off-site highway works for the haul road crossing of Fields Farm Lane have been submitted to and approved in writing by the Mineral Planning Authority. Development shall not commence until the haul road crossing has been constructed in accordance with the approved details.

### **Operational Matters**

11. No topsoil, subsoil, overburden or waste material shall be removed from the area outlined in red on Drawing No. 2259/ES/10.
12. No excavated sand and gravel or other material shall be removed from the mineral extraction area except by the haul road crossing, as indicated on Drawing No. 2256/ES/5, the details of which are required to be approved under condition no. 10 of this permission.
13. No excavated sand and gravel or other material shall be removed from the area outlined in red on Plan 2006/1565/03/M1 attached to and forming part of planning permission no. 2006/1565/03 except by means of the conveyor to the sand and gravel processing plant on the south side of Gibbet Lane, as shown in yellow on Plan 2006/1565/03/M1.

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

14. No stripping of soils within the extraction area shall take place unless and until a Soil Handling Strategy has been agreed in writing with the Mineral Planning Authority. The Strategy shall be based on the DEFRA *Good Practice Guide for Handling Soils* and have regard to the Soils and Agricultural Land Use and Quality Assessment dated October 2014, forming Appendix 7 of the Environmental Statement.

The strategy should include the requirement for the two staged Examination and Consistency Tests to assess the soil's condition and suitability for handling.

All soil stripping, handling and storage shall be carried out in accordance with the approved Strategy for the duration of the development.

15. The Mineral Planning Authority shall be notified in writing at least 5 working days before each phase of soil stripping is due to commence.
16. By 31 January in any calendar year, the Mineral Planning Authority shall be supplied with a plan showing:
- a) The area stripped of topsoil, subsoil and soil making material;
  - b) The location of each storage mound; and
  - c) The quantity and nature of material therein.

### **Ecology**

17. No soil stripping operations shall take place until a Great Crested Newt connectivity scheme has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of how a corridor of suitable terrestrial Great Crested Newt habitat will be maintained between:

- pond 10 and ponds 3 & 4 to the north of the application site (shown at paragraph 3.3 of the Great Crested Newt Survey (Whitcher Wildlife Ltd, June 2015) and to the part of the existing quarry shown as species rich grassland on Drawing No. 1415/RSW/22 rev. H dated Jan 2014, forming part of application 2006/1565/03.

18. Soil stripping operations within Phase 1 and those necessary for construction of the haul road (as illustrated on Figure 1 of the Great Crested Newt Survey (Whitcher Wildlife Ltd, June 2015) shall take place under the precautionary working methods outlined in paragraphs 5.1.4 – 5.1.10 of the Great Crested Newt Survey. The Mineral Planning Authority shall be informed within 24 hours if great crested newts are found within the areas referred to above during this operation, and works shall cease until the Mineral Planning Authority confirms in writing that adequate mitigation is in place to re-commence operations.
19. Prior to the commencement of soil stripping operations in Phases 2 and 3 of the application area, and those referred to in Condition No. 18 above if soil stripping does not take place before the 2016 great crested newt survey season (March-June), updated great crested newt surveys shall be carried out for all ponds within 250m of the application boundary, including any new ponds or temporary water bodies within the existing quarry, and submitted to the Mineral Planning Authority.

20. If the surveys show that Great Crested Newts are present, a revised mitigation plan shall be submitted to the Mineral Planning Authority before commencement of that Phase and no soil stripping operations shall take place until the revised mitigation plan has been approved in writing by the Mineral Planning Authority.
21. With the exception of the operations outlined in paragraph 5.1.4 – 5.1.10 of the Great Crested Newt Survey (Whitcher Wildlife Ltd, June 2015) all site operations shall be carried out under a Natural England European Protected Species License.
22. Vegetation clearance and soil stripping operations shall not be undertaken during the months of March to August inclusive unless the area has been first checked by a qualified ecologist and a report of the results submitted to and approved in writing by the Mineral Planning Authority.
23. Prior to the commencement of soil stripping operations in each phase (1,2 and 3, as defined on Drawing No. 2259/ES/4) of extraction and restoration, an updated badger survey shall be carried out of the relevant phase area and the land within 50m of that phase, and the results shall be submitted to the Mineral Planning Authority. If badgers are present, a mitigation plan shall be submitted to the Mineral Planning Authority before commencement of that Phase and no commencement of soil stripping operations shall take place until the mitigation plan has been approved in writing by the Mineral Planning Authority.

### **Groundwater and Surface Water Protection**

24. Mineral extraction shall not commence until such time as a groundwater monitoring plan has been submitted to and agreed in writing with the Mineral Planning Authority. The plan shall include proposals for:
  - a) Monitoring groundwater level and quality in groundwater within the Shawell Sand and Gravel aquifer and flow and quality of the Newton Brook;
  - b) Regular assessment of the data; and
  - c) Review of the effectiveness of mitigation measures undertaken.

### **Noise**

#### **Mitigation of Operations**

25. Measures shall be taken to ensure that the operations carried out on the site do not give rise to noise nuisance or unacceptable disturbance in the locality. Such measures shall include:
  - a) The effective silencing and maintenance of all engines, exhausts, machinery, plant and equipment, whether fixed or mobile in accordance with the manufacturer's specification;
  - b) The location and organisation of on-site operations so as to minimise any noise impact on nearby properties;
  - c) The minimisation, so far as is practicably and legally possible, of the level and penetration of noise emissions from reversing warnings fitted to vehicles.

#### **Monitoring Scheme**

26. No stripping of soils within the site shall take place unless and until a scheme of noise monitoring has been agreed in writing with the Mineral Planning Authority. The scheme shall include details of:

- a) Noise monitoring at agreed locations to assess whether the limits specified in condition nos. 26 and 27 are being complied with;
- b) Frequency and duration of monitoring;
- c) Monitoring equipment to be used;
- d) Presentation of monitoring results, including details of dates, times, prevailing weather conditions and comments on significant noise sources and details of any ambient noise sources passed out of the measurements;
- e) Maintenance and availability of monitoring results;
- f) Procedures to be implemented if noise emissions exceed approved levels;
- g) A methodology to keep the scheme under regular review subject to written agreement with the Mineral Planning Authority.

Noise monitoring shall only be undertaken in full accordance with the approved details.

Limits

27. Except for temporary operations defined in Condition 27, and subject to the limits included in the table below, noise levels arising from the development when measured 3.5 metres from the most exposed façade of any noise sensitive property shall not exceed:

- 55dB(A)  $L_{Aeq, 1h}$  (free field)

Measurement location	Noise limit
Home Farm	53
West Cottages	53

Temporary Operations

28. Noise levels arising from temporary operations, which for the purpose of this condition are soil stripping and replacement, the construction and removal of soil and overburden mounds, shall be minimized as far as is reasonably practicable and shall not exceed 70dB(A)  $L_{Aeq, 1h}$  (free-field) at 3.5 metres from the most exposed façade of any noise sensitive property. Temporary operations which exceed the normal day to day criterion set out in condition no. 26 shall only be carried out between the hours of 0800 and 1800 Monday to Friday and the hours of 0800 to 1200 on Saturdays, and shall be limited to a total of 44 days in any 12 month period. Advance notification of the commencement of each temporary operation shall be given to the Mineral Planning Authority and its duration shall be recorded by the operator and made available upon request.

29. Within the area hatched in black on Drawing No. 2259/QPR/1, during temporary operations including soil stripping and replacement, the construction and removal of soil and overburden mounds, the amount of plant in operation shall be restricted to:

- 1no. tracked excavator;
- 1no. dozer;
- 1no. tractor and bowser (dust suppression); and
- 1no. dump truck.

### **Dust**

30. All operations shall be carried out in a manner which minimises the emission of dust from the site. Internal roads and dry exposed material shall be watered as necessary in dry and windy conditions to prevent dust becoming airborne.
31. At such times as, in the opinion of the Mineral Planning Authority, 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 such time as the operations can be resumed without causing such nuisance, either by a change in working practice, weather conditions or by taking other additional measures.

### **Landscape**

#### **Removal and Protection of Trees, Shrubs and Hedgerows**

32. No trees, shrubs or hedgerows within or bounding the site shall be removed except those shown to be removed on Drawing No. 2259/QPR/1.
33. No soil stripping operations shall take place until a tree and hedgerow protection scheme has been submitted to and approved in writing by the Mineral Planning Authority, the details of which shall include:
- a) Indication of all existing trees and hedgerows to be retained on the site and immediate adjoining land and a plan showing their root protection areas;
  - b) A plan showing stand-off distances between soil storage bunds and existing trees and hedges to be retained within and immediately adjoining the application site. This should either be a minimum of 3 metres from the centre of hedgerows, 8 metres from New Covert and Lodge Plantation, or the edge of the root protection area, whichever is the greatest;
  - c) How stand-off distances will be delineated on site during soil stripping and bund creation operations;
  - d) How the trees and hedges will be protected in accordance with BS5837:2012.

No soil stripping operations shall take place until all trees and hedgerows adjacent to the relevant working area have been protected in accordance with the approved scheme. When installed, the means of protection shall be maintained in situ until the nearby works are completed.

### **Site Restoration and Aftercare**

#### **Restoration**

34. Notwithstanding the details shown on Drawing No. 2259/ES/9, within six months of the commencement of development, a detailed scheme of restoration of the site shall be submitted to the Mineral Planning Authority for approval. The scheme shall be based on the restoration concept shown on Drawing No. 2259/ES/9 and shall include details of:
- a) How the ground will be prepared following the replacement of overburden and prior to the replacement of soils;

- b) How the soils will be replaced, including measures taken to ensure that no mixing of topsoil, subsoil and overburden takes place;
- c) Cultivation of soils following their placement;
- d) The seeding, planting of trees, shrubs, hedgerows or other vegetation;
- e) Grass seed mixtures;
- f) Hedgerow and tree species;
- g) The protection and maintenance of planted stock;
- h) Drainage provision;
- i) Fencing;
- j) Pond creation;

Only native plants of local provenance shall be used. The scheme shall be designed to deliver Local or National Biodiversity Action Plan (BAP) benefits. Local BAP habitats include wetland/open water and species-rich grassland. A minimum of 4 hectares of BAP habitats shall be provided.

#### Aftercare

35. Following the restoration of any part of the site in accordance with the agreed restoration scheme, the restored land shall be treated and managed over a period of 5 years in accordance with an aftercare scheme, which has previously been agreed in writing with the Mineral Planning Authority. The agreed scheme shall provide a programme for the five-year aftercare period and specify the steps that are to be taken in order to bring the newly restored land to the required standard for the approved after-use. The scheme shall:
- a) Be submitted for the written approval of the Mineral Planning Authority within 6 months of the approval of the restoration scheme submitted under condition no. 33;
  - b) provide an outline strategy, having regard to the guidance contained in the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) (or any superseding Government guidance on the reclamation of mineral sites) for the 5-year aftercare period. This shall specify the steps to be taken and the period during which they are taken to return the land to beneficial use and shall provide for annual meetings between the operator and Mineral Planning Authority;
  - c) provide for the annual submission and implementation of a detailed programme of aftercare works having regard to the NPPF and NPPG (or any superseding Government guidance on the reclamation of mineral sites) and other relevant guidance regarding biodiversity action plan targets.

#### Premature Cessation

36. In the event of a cessation of winning and working of minerals prior to the achievement of the completion of the approved scheme as defined by this permission, and to which in the opinion of the Mineral Planning Authority constitutes a permanent cessation within the terms of Paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, a revised scheme, to include details of reclamation and aftercare, shall be submitted in writing for approval to the Mineral Planning Authority within 3 months of the cessation of winning and working. The approved scheme shall be fully implemented within 1 year of the written approval.

**Reasons**

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To enable the development to be monitored to ensure compliance with this permission.
3. To provide for the restoration of the site within an agreed timescale in the interests of the amenities of the area.
- 4&7 For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner.
5. To ensure that the site operator is fully aware of the conditions and the approved details.
6. For the avoidance of doubt.
8. There is an exceptional need here to secure control over additional plant, machinery and lighting, in the interests of the amenity of the area and bearing in mind the degree of discretion otherwise allowed by the GPDO.
9. To protect the amenities of local residents.
10. In the interests of the highway and highway safety.
- 11,12 In the interests of highway safety and the amenity of the area.  
&13.
14. To minimise structural damage and compaction of the soil and to aid the final restoration of the site.
- 15&16. In the interests of satisfactory restoration of the site.
- 17,18 To minimise the adverse impact of the operations on ecological interests.  
&20.
- 19& 22. To monitor the effects of the development on ecological interests and to safeguard protected species.
21. To safeguard the local habitat and protect nesting birds.
23. To protect water quality and other groundwater uses within the area.
- 24,25 To ensure that noise arising from the site does not become a source of  
26,27 nuisance to local residents.  
&28.

- 29& To protect the amenities of the locality from the effects of dust arising from the  
30. development.
- 31& To ensure that appropriate measures are taken to safeguard the existing  
32. vegetation during the course of the development.
33. To ensure satisfactory restoration of the site.
34. To ensure that a suitable regime of husbandry is pursued to bring the land to the required standard for the approved afteruse.
35. To enable the Mineral Planning Authority to control the development and to ensure that the land is restored to a condition capable of beneficial after-use.

Notes to Applicant

1. If the Public Right of Way is enclosed between boundary features the available width should not be encroached upon by works associated with the development. The Public Footpath must not be further enclosed in any way without undertaking discussions with the County Council's Travel Choice and Access Team (0116) 305 0001.
  2. If it is intended to change the boundary treatment currently separating the application site from the Public Right of Way, the Highway Authority's approval to the type of boundary treatment proposed should be obtained.
  3. Any new trees or shrubs which are proposed to be planted adjacent to a Public Right of Way should be set back by a minimum of 1 metre from the edge of the route and be species which do not spread. This will minimise the likelihood of the Right of Way being encroached upon and reduced in width by overhanging vegetation in the future.
  4. The Public Footpath must not be re-routed, encroached upon or obstructed in any way. To do so may constitute an offence under the Highways Act 1980.
  5. Any damage caused to the surface of a Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
-

## **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.