

DEVELOPMENT CONTROL AND REGULATORY BOARD

21ST APRIL 2005

REPORT OF THE DIRECTOR OF COMMUNITY SERVICES

COUNTY MATTER

**LAFARGE AGGREGATES LTD – APPLICATION FOR DETERMINATION OF
CONDITIONS FOR MINERAL SITE – ENVIRONMENT ACT 1995 – SHAWELL
QUARRY (HARBOROUGH DISTRICT)**

2004/1605/03 – 4TH OCTOBER 2004

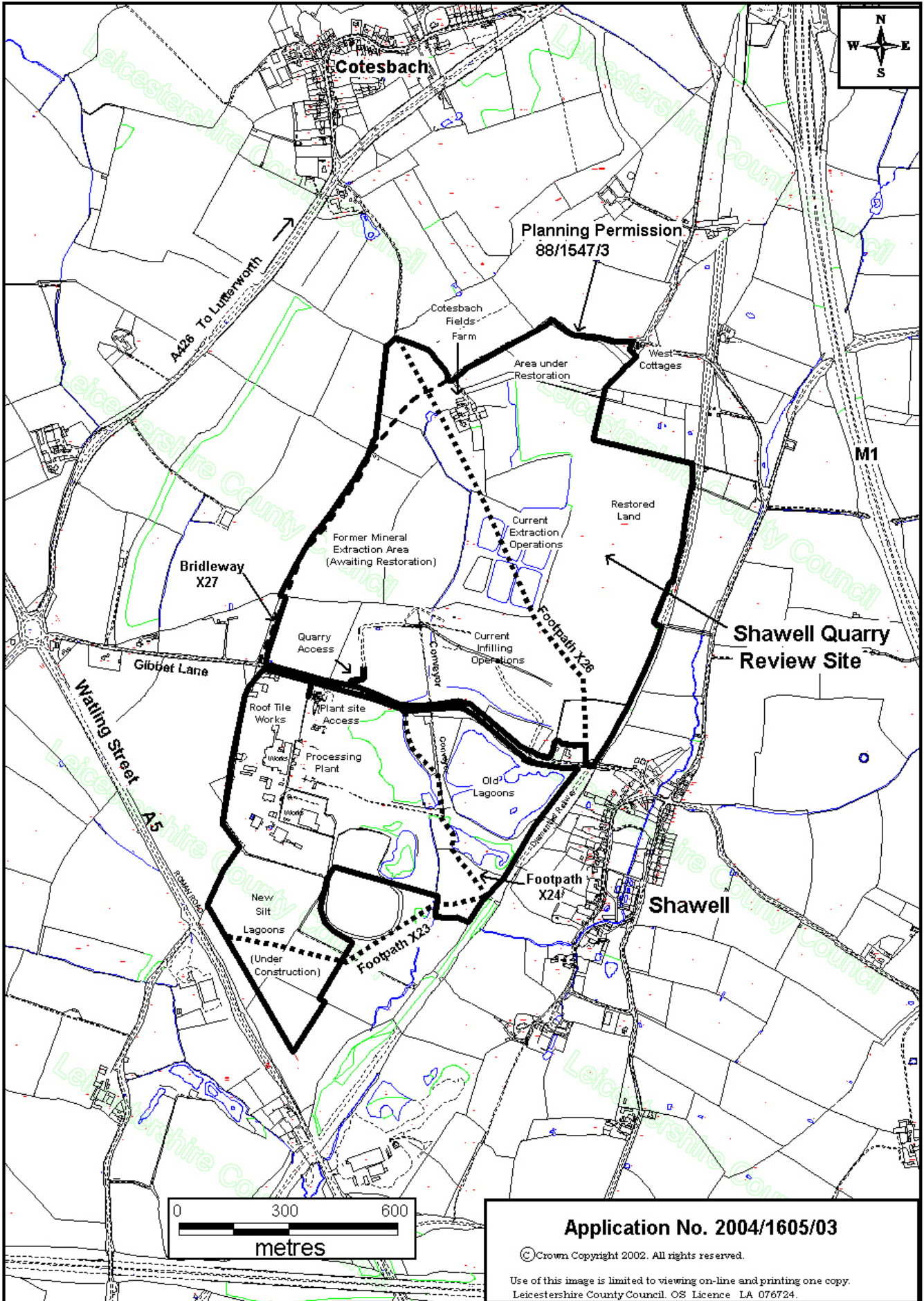
Background

1. Members may be aware that Schedule 14 to the Environment Act 1995 provides for the periodic review of all mineral planning permissions on a continuous 15 year rolling programme. The aim of the review process is to bring the older mineral workings up to date in terms of their operating and environmental controls, and looks to the minerals industry in the first instance, to demonstrate their commitment to raising standards.
2. The periodic review date for any given site is 15 years after the date on which new planning conditions have been determined for that site, or 15 years after the date on which the most recent mineral planning permission was granted for that site.
3. All mineral planning permissions granted after 22 February 1982 are subject to periodic review. The main mineral planning permission relating to Shawell Quarry was granted on 14 July 1989, with variations granted in May 1991 and July 1992. On 1 July 2003, Leicestershire County Council gave notice that the site was subject to periodic review under paragraph 4 of Schedule 14 of the Environment Act 1995 and that an Environmental Impact Assessment had to be undertaken as part of the review process.

Site Location

4. Shawell Quarry and Landfill Site is located to the west of the village of Shawell and south of the village of Cotesbach, south of Lutterworth. The site is bisected by Gibbet Lane, a narrow road linking Shawell with the A5/A426 junction to the west of the review site. The mineral extraction and landfill area is located north of Gibbet Lane, with the processing plant and an area of old, disused silt lagoons to the south.

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5. A roof tile works, operated by Lafarge Roofing Systems Ltd, a separate company within the Lafarge Group, is located south of Gibbet Lane, adjacent to the processing plant. A new silt settlement system has recently been constructed to the south of the processing plant and roof tile works.
6. The site is set in a largely rural area. The eastern site boundary 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. Both the processing plant and the mineral extraction and landfill area are accessed off Gibbet Lane. Under present arrangements, all heavy goods vehicles must access the site from the west (i.e. from the A5/A426 junction) and shall not travel through the village of Shawell.
8. A number of Public Rights of Way cross the review site. The original route of Footpath X26 traverses the mineral extraction/landfill area from Cotesbach Fields Farm and links to Gibbet Lane in the south east corner of the extraction area. This footpath is currently the subject of a Footpath Diversion Order. Its temporarily diverted route runs from Cotesbach Fields Farm along the northern and eastern site boundaries to Gibbet Lane. The original route of Footpath X26 is to be reinstated following the final restoration of the site. Bridleway X27 also links Gibbet Lane and Cotesbach Fields Farm, leading along the western edge of the review site. Footpath X23 links the village of Shawell to the A5 and crosses the site of the new silt lagoons in the southern part of the review site. Footpath X24 also crosses the southern part of the review site from Gibbet Lane and joins Footpath X23 at the railway cutting in the south eastern corner of the site.

Planning History

9. 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 near Hill Farm, 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.
10. The main planning permission for the site was granted on 14 July 1989 under reference 1988/1547/03 and relates to an extension to sand and gravel working with infilling and subsequent restoration to agriculture and the replacement of the existing processing plant. This permission is subject to 74 conditions covering mineral extraction operations, the control of environmental effects, and restoration and aftercare of the site.
11. The permission area covers 62 hectares and contained an estimated 8.5 million tonnes of sand and gravel. Due to the size of the scheme, the planning application divided the working programme into two distinct stages of operation, each of approximately 10 years duration. To satisfy the requirements of Condition 9 of planning permission reference 1988/1547/03, details of the first

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stage, known as Stage A, were submitted by the then operators of the site, Steetley Quarry Products Ltd, in June 1989 and were approved by Leicestershire County Council in July 1989.

12. A variation to the main 1989 planning permission was approved in May 1991. This allowed the extraction of clay located below the sand and gravel reserves for use in the construction of clay cells on the site prior to infilling of the excavated area with imported waste. A further variation was granted in July 1992, permitting the disposal of household waste at Shawell Quarry, and amending the final restoration contours of the site.
13. Details of Stage B, the second stage of operations, were submitted by Redland Aggregates Ltd (the then site operator) for approval under Condition 10 of planning permission 1988/1547/03. Permission was granted in September 1997.
14. In November 2002, planning permission was granted for the relocation of the silt lagoons to an area south of the processing plant south of Gibbet Lane. The new lagoons have now been completed and are operational.

Description of Development

15. Under the provisions of the Environment Act 1995, the operator of Shawell Quarry, Lafarge Aggregates Ltd, has submitted a schedule of planning conditions to cover the entire review site. This new set of conditions would consolidate the various extant permissions which exist for different parts of the site, and bring the planning conditions for the site up to a modern standard.
16. The current main planning permission for the site, which is the subject of this review, was granted in July 1989. Since then, five additional permissions have been granted, relating to variations of conditions and an additional/amended area of working.
17. The review application is accompanied by an Environmental Statement which addresses the impact of operations on ecology, archaeology and local landscape character and visual amenity.
18. Current working practices would be unaffected by the review. Mineral is extracted by hydraulic excavator and loaded into dump trucks. It is then delivered to a feed hopper within the quarry and transferred from the extraction area to the processing plant by means of a conveyor under Gibbet Lane.
19. Mineral extraction rates range from 400,000-500,000 tonnes per annum. At the time of the review submission (September 2004) the remaining permitted reserve was estimated at 3.3 million tonnes, equating to approximately 6-8 years working at current extraction rates.

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20. Infilling rates range from 200,000-250,000 tonnes per annum. The importation and deposition of waste is carried out under a Pollution Prevention and Control (PPC) Permit issued in July 2001 for inert waste, degradable household waste, commercial & industrial waste and bonded asbestos.
21. Clay overburden from the mineral extraction areas is used in the construction of the landfill containment cell walls. Clay overburden is also used to provide a clay cap of a minimum thickness of 1 metre on top of completed waste cells.
22. Topsoils, subsoils and overburden are stripped and stored separately. Stripping, transportation and storage is handled by a combination of excavator and dump truck. Soils and overburden are progressively re-spread directly onto previously infilled phases where possible or stored within the quarry void.
23. Under the consented scheme, mineral extraction and infilling are carried out in a phased manner. Mineral extraction is currently taking place in Extraction Phase 6 in the centre of the site, and landfilling operations in Landfill Phases 6, 7 and 8, east of the active extraction area.
24. Following completion of infilling the site is to be restored to a mixture of agriculture, species-rich grassland and woodland. The approved restoration scheme for the site allows for, amongst other aspects, the retention of the landfill gas utilisation plant and its access; additional woodland planting; the introduction of species-rich grassland; an alternative field pattern; the reinstatement of Footpath X26 (with a minor amendment to its definitive route in the southern part of the site near Gibbet Lane); and a new pond to collect surface water runoff in the north east corner of the site by West Cottages. Additional small woodland blocks have been included in the restoration scheme to enhance the landscape setting, and species-rich grassland would replace an area of semi-improved grassland which is to be lost as a result of extraction works.
25. Current permitted working hours at the site are 0700 to 1900 Monday to Friday and 0700 to 1400 on Saturdays, with no operations on Sundays and Bank Holidays. In those areas of the site which are within distances of up to 100 metres from residential dwellings, operations are restricted to the hours of 0730-1730 Monday to Friday and 0730-1300 on Saturdays. No changes are proposed to the permitted hours.

Planning Policy

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

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Planning Policy Statement 1 (PPS1) sets out the overarching planning policies on the delivery of sustainable development through the planning system. Planning Policy Guidance Note 9 (PPG9) *Nature Conservation* sets out the Government's objectives for nature conservation and emphasises the importance of both designated sites and undesignated areas for nature conservation. Minerals Policy Statement 2 (MPS2) *Controlling and Mitigating the Environmental Effects of Mineral Extraction in England* states the principles to be followed in considering the environmental effects of mineral working

27. In relation to local policies, regard has been had to the following Development Plan policies:

Leicestershire, Leicester and Rutland Structure Plan 1996 – 2016 (adopted March 2005)

- Strategy Policy 8 – Development in the Countryside: States that the Countryside will be protected for its own sake.
- Environment Policy 1 – Historic Environment: Aims to protect, preserve and enhance areas, sites, buildings and settings of historic or architectural interest or archaeological importance. States that proposals for development on, in or adjacent to archaeological or other historic sites and buildings will be considered against the need to ensure their preservation and setting.
- Environment Policy 3 – Biodiversity Enhancement: States that measures will be taken through development opportunities to protect, maintain and enhance biodiversity and sites of ecological importance, to identify locations for habitat restoration and creation schemes, and to maintain and enhance the wider ecological value of the environment.
- Environment Policy 3A – Protection of Important Species and Habitats: Sets out protection measures in relation to habitats of international, national and local importance and species of acknowledged importance, as well as mitigation and compensation measures.
- Resource Management Policy 7 – Land Release – Minerals: States that when allocating land and considering planning applications for the extraction of minerals, consideration will be given to the need to release sufficient land to maintain an adequate supply of minerals, maintain an appropriate land bank of permitted reserves of construction aggregates, and maintain a sufficient stock of limestone and clays.
- Resource Management Policy 8 – Land Release – Waste Management: States that when allocating land and considering planning applications for the management of waste, sufficient provision will be made to meet needs, based upon the consideration of the Best Practicable Environmental Option, regional self-sufficiency, the Proximity Principle and the Waste Hierarchy.
- Resource Management Policy 9 – Environmental Impact of Mineral Extraction and Waste Management: States that when allocating land and considering planning applications for the extraction of minerals or for waste management development or related development, account will be taken of its likely impact on the environment and the need for the development when it is a material planning consideration.

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- Resource Management Policy 13 – Restoration Aftercare and Afteruse: Requires mineral extraction and waste disposal sites to be restored to an acceptable afteruse at the earliest opportunity, followed by a programme of aftercare.

Leicestershire Minerals Local Plan (1996)

- Policy 5 – Planning Conditions for the Protection of the Environment: Sets out measures to control the environmental effects of mineral operations through the imposition of suitable planning conditions;
- Policy 9 – Review of Mineral Working Sites: States that the County Council will continue to review all mineral working sites in the county and identify any inadequacies in existing planning controls;
- Policy 11 – Restoration and Aftercare Conditions: Sets out the matters in respect of which conditions will be imposed to ensure satisfactory restoration.

Leicestershire, Leicester and Rutland Waste Local Plan 1995-2006 (2002)

- Policy WLP 8 lists environmental considerations in the determination of planning applications.
- Policy WLP 11 states that conditions will be attached to planning permissions in order to minimise the effect of development on the environment and local residents.
- Policy WLP 12 states that planning obligations will be sought where appropriate in order to achieve control over waste management operations and their ultimate restoration which cannot otherwise be adequately imposed by the normal use of conditions attached to a planning permission or are not adequately covered under relevant legislation.
- Policy WLP 13 requires the high quality restoration of completed waste management operations at the earliest opportunity and states that conditions will be attached to planning permissions to achieve this aim.

Harborough District Local Plan (2001)

- Policy RM/1 – presumes against development which would pose an unacceptable threat to the quality and quantity of the underlying groundwater.
- Policy RM/9 – aims to protect the character, appearance and ecological interest of hedgerows, tree belts and woodlands, watercourses and waterways, wetland habitats including marshes, ponds and lakes, and meadows and unimproved grasslands by imposing conditions on planning permissions to ensure that development does not adversely affect these features.
- Policy RM/10 – contains criteria for development that maintains or improves the ecological and geological diversity of the district.
- Policy RM/11 – presumes against development proposals which would adversely affect a protected species or its habitat.
- Policy RM/12 – presumes against development which would adversely affect the archaeological significance or setting of a Scheduled Ancient Monument or other important archaeological remains.
- Policy RM/13 – requires planning applications for development affecting a site of identified archaeological interest to be accompanied by an archaeological assessment of the site. Where the archaeological assessment reveals that archaeological remains may exist, the developer is expected to submit an archaeological field evaluation.

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- Policy RM/15 – states that where archaeological remains are found to exist and their preservation in situ is neither justified nor feasible, planning conditions will be imposed requiring the excavation and recording of the remains before development commences.
- Policy EV/1 – aims to safeguard and enhance the environment of the district.
- Policy EV/5 – presumes against development in the countryside unless a number of criteria are fulfilled, including the requirements that the development does not adversely affect the character and appearance of the countryside, the amenities of residents in the area, or areas of ecological or archaeological significance.
- Policy EV/20 – requires submissions to be accompanied by a landscape scheme where appropriate.
- Policy EV/23 – seeks to ensure that development does not have an adverse impact on the character of its surroundings, or harm the amenity of nearby uses, through noise, smell, dust, dirt, grit, air or soil pollution, or an unacceptable level of traffic.

Consultations**Harborough District Council**

28. Has no objections to this proposal.

Shawell Parish Meeting

29. In the main, the Parish is satisfied with the current arrangements for the management and control of the quarry and landfill operations. There are, however, considerable misgivings about the recent increase in the permitted levels of asbestos waste dumping, particularly when the asbestos is in transit on local roads. Notwithstanding this the Parish Meeting appreciates that the volume of waste disposed of is not a matter for the Planning Authority.
30. The Parish Meeting would not wish the review to relax any of the current restrictions on working hours and the agreed arrangements for the restoration of Public Rights of Way. It would not, however, have any objection to the proposed minor adjustment of Footpath X26 at the south west corner of the site.
31. The Parish Meeting would not wish to see any material increase in the current level of traffic using Gibbet Lane and would wish future movements associated with the overall Lafarge operations on this site restricted to current levels. It would also like to see a requirement to maintain appropriate traffic movement records and to make these available to Parish, District and County Councils when required.

Cotesbach Parish Council

32. Reply not received at the time this report was published.

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Warwickshire County Council

33. Consulted as neighbouring Mineral Planning Authority. Has no comments to make on this proposal.

Environment Agency

34. The current working area of Shawell Quarry is situated predominantly on non-aquifer of low groundwater permeability. “Controlled waters” including groundwater and surface water resources require protection at this site as a fair resource potential exists within the gravels and surface water streams, which will require consideration. The Environmental Impact Assessment does not discuss nor assess the impact of the development on water resources in and around the site in question. Risk assessments have been undertaken under other regimes such as the Landfill Regulations, and groundwater is monitored as part of the PPC landfill permitting regime. Under the planning regime the Environmental Impact Assessment should discuss all aspects of the environment in and surrounding the site in question.
35. In terms of the “water environment”, a number of streams run through the site and these are obviously at risk from operations on site as they are potentially hydraulically linked to groundwater within the minor sand and gravel aquifer being extracted.
36. A watercourse runs through the site from north to south, issuing at the pond by Cotesbach Field Farm. This watercourse or a similar length should be re-instated as part of the restoration procedure. The proposals identify fairly limited wildlife enhancement within the site. For the restoration of the site consideration should be given to the creation of more than just one pond to provide better habitat for amphibians and other wildlife; the creation of more extensive areas of wetland such as large reedbeds, marsh/bog etc; and the creation of species-rich grassland throughout the restored area.

DEFRA

37. Comments that whilst Lafarge’s submission states that soils are to be handled using excavators and dump trucks, no methodology describing how these machines are to be used is provided. The appropriate methods described in Defra’s “Good Practice Guide for Handling Soils” should be adhered to.

English Nature

38. Notes that the development would cause the destruction of 158m of species-rich hedgerow and 400m of defunct species-rich hedge, 2 field ponds and fields containing improved and semi-improved grassland. These shall be compensated for by planting species-rich hedgerows, woodland and 6.2 hectares of species-rich grassland. A new pond and ditches are also to be created. English Nature recommends that advice is sought from the County Council’s ecologists and/or the Leicestershire and Rutland Wildlife Trust as to how the development may contribute to local and national Biodiversity Action Plan targets.

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39. English Nature is concerned that the application contains no reference to surveys for legally protected species. The presence of protected species is a material planning consideration and this issue should be fully addressed prior to determination. Cotesbach Field Farm is likely to support breeding birds and bats, and the field ponds on site may well support great crested newts. All of these species have legal protection under the Wildlife and Countryside Act 1981 (as amended) and bats and great crested newts are protected under the Conservation (Natural Habitats & c.) Regulations 1994. If either of these species are present on site, a Defra licence may be required before works commence which may impact on these species or their habitats.

Countryside Agency

40. The Countryside Agency believes that a balance has to be struck between economic prosperity, social well being, environmental quality and recreational use and enjoyment of the countryside. The Agency recognises the need for mineral extraction to take place in the countryside but seeks to ensure that all works should be planned sensitively to protect existing natural and man-made features.
41. The Agency is concerned that the information supplied in the Non-Technical Summary excludes a landscape and visual amenity assessment. Specifically, the Agency would like to see the Environmental Impact Assessment contain a landscape and visual appraisal. Such an assessment should be based on good practice guidelines such as those produced jointly by the Landscape Institute and the Institute of Environmental Assessment in 2002. The appraisal should include a detailed assessment which evaluates the existing landscape in terms of its sensitivity and ability to accommodate change. Mitigation measures should be identified and be in keeping with the character of the area.
42. The final restoration of the site will offer a positive opportunity for landscape enhancement and habitat creation together with increased opportunity for access and recreation in the countryside. Progressive restoration will ensure that such enhancement can be achieved in the medium term and undertaken by way of a comprehensive and strategic approach.
43. The proposal offers a significant opportunity to restore landscape character. Of prime concern to the Agency is that restoration proposals should respect the intrinsic character of the area. Landscape character assessment provides a sound basis for guiding, informing and to make positive proposals for conserving character, enhancing it or regenerating it, as detailed proposals are developed.
44. The objectives of the Leicestershire, Leicester and Rutland Landscape and Woodland Strategy for the Lutterworth Lowlands character area should be used to guide detailed landscape character restoration proposals and mitigation measures. The Agency would therefore request that the proposed planning conditions adequately reflect the need to ensure that restoration and mitigation proposals are informed by a landscape character approach to the satisfaction of the County Council's own landscape architects.

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Highway Authority

45. Requests a contribution to the costs of drainage and improvement works to strengthen, repair and resurface Gibbet Lane between the main site frontage and the junction of Gibbet Lane and the A5, in accordance with discussions and agreement reached with Leicestershire County Council. The applicant would be required to enter into a legal agreement with the Leicestershire County Council in respect of the financial contribution to these works. Furthermore, visibility splays of not less than 4.5 metres by 120 metres should be provided at the junction of the plant site access with Gibbet Lane, and be maintained in perpetuity.

Transco

46. Transco operates a high pressure gas pipeline in the vicinity of the site (the 900mm Duddington to Churchover No. 2 Feeder), which was laid to appropriate standards and in accordance with relevant codes and procedures. The pipeline was originally routed in consultation with the planning authority to avoid areas which may be affected by future development.

Leicestershire Wildlife Trust

47. Has no comments on this application.

Leicestershire & Rutland Bridleways Association

48. Notes that while mineral planning permissions take cognisance of the archaeological heritage, they do not look at the equally interesting and important heritage of highways, in particular those now described as Rights of Way. There seems to be no requirement for research into old highways that may not yet be properly recorded, and their preservation or restoration.
49. The Leicestershire & Rutland Bridleways Association would like to see the following improvements to bridleways in the area:
- Upon its reinstation following the restoration of the site, Footpath X26 to be upgraded to a Bridleway;
 - A new bridleway to be created along the western side of the roof tile works, to link the existing Bridleway X27 to the Bridleway leading to Churchover (south of the A5);
 - A new Bridleway to be created alongside Footpath X22 (which runs from the A5 south of the site to the village of Shawell), or alternatively a new Bridleway to be created along the route of the dismantled railway, linking Gibbet Lane and the A5;
 - A new Bridleway to be created along the A5, linking the above proposed new Bridleway adjacent to the roof tile works with the one adjacent to Footpath X22.

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Leicestershire Footpaths Association

50. Accepts that due to the ongoing mineral extraction operations on the site, disruption to the original lines of footpaths is inevitable under the circumstances and therefore does not wish to make any observations.

Ramblers' Association

51. The Ramblers' Association is pleased to note that no diversions are planned to Bridleways X27 and X34 within the limits of the quarry, that the re-instatement of Footpath X26 and Bridleway X27 is still part of the long-term restoration plans, and that no change to the existing temporary diversions are planned in the interim. The Ramblers' Association would like to take this opportunity to ensure that Lafarge Aggregates is aware that there is an active proposal to retain part of the temporary route of Footpath X26 after the restoration of the original route. The length in question is south from the point where the footpath crosses the disused railway cutting, through to Gibbet Lane. This path would form part of Footpath X18, which has been illegally obstructed by development at Brooke House, Shawell.

Publicity/Representations

52. Six site notices were posted at various points along Gibbet Lane and near Cotesbach Fields Farm. Notification letters were sent to 74 neighbours. The review application was also publicised by a press advertisement in the Harborough Mail. No representations were received from the public.

Assessment of Proposal

53. The main purpose of submissions under the Environment Act is to ensure that the site is brought up to date with new, modern planning conditions, in order to properly control the continuation of mineral extraction. Refusing an application for determination of new conditions is not an option available to the planning authority. Nevertheless, the County Council does have powers to impose different conditions from those put forward by the applicant, subject to certain provisos. Consultees' comments and recommendations were taken into account in the review process, resulting in a number of amendments to the conditions originally proposed in this review submission.

Traffic

54. The review of planning conditions would not result in a change to the number of vehicles associated with mineral extraction or infilling operations. The applicant estimates that on average approximately 294 heavy goods vehicles are accessing the site per day, resulting in 588 vehicle trips. The Environment Act Review would not result in any change in working practices and vehicle numbers.

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55. However, there have been concerns raised by Shawell Parish Meeting on behalf of its residents over the growth in HGV traffic on Gibbet Lane over the years. It is proposed to add a condition limiting the number of vehicle movements and requiring Lafarge to keep records to demonstrate compliance with such limits.
56. The visibility splays at the access to the processing plant on the southern side of Gibbet Lane are currently inadequate, and the Highway Authority has therefore requested that larger visibility splays be provided. A planning condition requiring the construction of such visibility splays has been added to the schedule of updated conditions. The Highway Authority's original request to maintain the visibility splays in perpetuity was considered to be too onerous on the operator or his successor. Following officers' discussion with the Highway Authority the period of maintenance of the visibility splay has therefore been linked to the completion of site restoration.
57. Due to the amount of HGV traffic on Gibbet Lane and the fact that the road is in poor repair, the Highway Authority has requested Lafarge to make a contribution to the costs of drainage and improvement works to strengthen, repair and resurface Gibbet Lane between the main site frontage and the junction of Gibbet Lane and the A5. These works have been programmed to take place during the current financial year and are likely to be implemented in the summer of 2005.
58. Following discussions between the Highway Authority and Lafarge an agreement has been reached whereby the County Council will carry out the repairs to Gibbet Lane and meet the cost for labour, while Lafarge supply the materials. This would amount to a roughly equal split of costs for these works. Lafarge has confirmed its agreement to the proposed joint funding of these works and to accept the construction of an open drainage ditch required on the north side of Gibbet Lane.

Public Rights of Way

59. The Public Rights of Way Officer has no objections to the proposals subject to the operating company applying for a Public Path Diversion Order to re-route the south eastern end of Footpath X26. He supports the general desire of the Leicestershire & Rutland Bridleways Association to see improved bridleway links. He would also support the upgrade of Footpath X26 to the status of Public Bridleway during site restoration, if this can be achieved. He has no objection to the creation of a new bridleway along the western edge of the roof tile works site to link the existing Bridleway X27 to the A5 opposite the bridleway to Churchover. However, he understands that these bridleways are outside the current application area. In addition, he would wish to see such a bridleway run outside the application site in adjacent fields, but he understands that this land is outside Lafarge Aggregates' ownership. Footpath X22 runs on land which is outside Lafarge Aggregates' ownership, and an upgrade of this footpath to Bridleway status would rely on the co-operation of other landowners. This would also be the case with the creation of a new bridleway adjacent to or along the dismantled railway, but out of the two the Public Rights of Way Officer would strongly support the latter if this could be achieved with negotiation with other parties.

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60. The Leicestershire & Rutland Bridleway Association would like to see a number of improvements to bridleways on and around the site. This is supported in principle by the County Council's Public Rights of Way Officer. However, some of the bridleways to which these suggestions for improvements relate are outside the site operator's ownership. Where this is the case, negotiations with the relevant landowners would be necessary, the outcome of which cannot be predicted. For this reason the inclusion of works to footpaths not within the review site area would fall outside the scope of the updated planning conditions.

Landscape Character and Visual Amenity

61. The Environmental Statement does contain a brief assessment of the landscape character and visual amenity of the site. The site and locality are not covered by landscape designations. The main effects of the development on the character of the landscape are the loss of hedgerow, tree and woodland cover during the working life of the site. A more detailed Visual Impact Assessment has not been undertaken because the operator considered that continued working within the active part of the site and the remaining consented area would not cause any significant additional effects on landscape character or visual amenity.
62. It is considered that the Landscape Character and Visual Amenity Assessment is satisfactory, although it is noted that it only refers to the main quarry and landfill area north of Gibbet Lane. It is unclear what form the access to the landfill gas utilisation plant will take. The submitted aftercare proposals cover only the agricultural areas. Aftercare details will of course need to be approved for woodland and hedge planting and the species-rich grassland.

Noise/Dust

63. In order to minimise noise and dust emissions from the site, all plant and machinery the site are fitted with silencers as appropriate and soil storage bunds are used to create visual and acoustic screens. A water bowser and road sweeper are employed within the working area to suppress dust.
64. The option of long-term monitoring of dust levels, using deposition gauges placed in various locations around the site, has been investigated. It was considered that such a requirement would be very onerous on the operator, given the cost of monitoring over several years and the fact that the data gained by this monitoring exercise would be of limited additional value for controlling dust emissions from the site.

Archaeology

65. Whilst part of the site has already been worked, backfilled and restored, there are some areas which have not been worked and which would therefore still have the potential to contain finds of archaeological interest. The County Archaeologist advises that a limited range of known archaeological sites and finds dating from prehistoric to medieval times have been recovered in the area, most notably the existence of *Tripontium*, a Roman small town approximately 1 km to the south of the existing quarry site, on the south western side of the A5 road..

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66. The desk-based assessment submitted as part of the Environmental Statement also notes degraded “ridge & furrow” earthworks immediately south of Cotesbach Fields Farm. The presence of these features indicates that the area was formerly within the medieval open fields of Cotesbach and Shawell and is therefore unlikely to have been the focus of medieval settlement. On the other hand, the survival of these features indicates that the site has seen little or no modern ploughing, and therefore may contain well-preserved pre-medieval buried archaeological remains.
67. Due to the nature of operations taking place on the site, the preservation of any finds *in situ* would not be possible. Consequently a planning condition has been added which requires that the operator make provision for a staged programme of further archaeological work. This should comprise initially exploratory investigation (geophysical survey, trial trenching) of those areas likely to be affected by extraction, soil storage or other activities resulting in soil stripping (e.g. landscaping). The result of this work will be used to develop an appropriate mitigation strategy comprising, as appropriate, details of contingency measures for emergency investigation and recording, which would be taken in the event of significant remains being discovered, as well as analysis, archive deposition and recording. Further soil stripping and mineral extraction is to be carried out in accordance with the approved scheme.

Other environmental impacts

68. The County Ecologist notes that operations will result in the destruction of species-rich hedgerows, ponds and semi-improved grassland and recommends that plans for their replacement be required by means of additional planning conditions. Green corridors and stepping stone habitat should be created as the site is restored, in order to join and enhance the existing habitats with those surrounding the site. It is commendable that a plan for the safeguarding of existing hedgerows on the site has been devised. In addition, it is recommended that a protected species survey be undertaken at the optimum time of year for the species involved.
69. In its consultation response, English Nature also expressed concern over the lack of surveys for legally protected species. This requirement has been addressed by including a planning condition requesting such surveys at the appropriate times of year for the species concerned (mainly in spring and early summer). The operating company has confirmed that protected species surveys have been commissioned.
70. The Environment Agency comments that the Environmental Impact Assessment does not discuss nor assess the impact of the development on water resources in and around the site in question. In this respect it has to be noted that risk assessments have been undertaken under other regimes such as the Landfill Regulations, and that groundwater is being monitored as part of the PPC landfill permitting regime. The impact of dewatering of the site on a number of nearby boreholes which supply water to the processing plant would also have been assessed before the discharge consent for the site was granted by the Environment Agency.

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71. With the exception of traffic, the environmental impact of landfill operations was not included in the Environmental Impact Assessment because it was believed that it could reasonably be assumed that this is being addressed by the waste permitting regime. A permit application was being determined by the Environment Agency concurrently with the Environment Act review submission.

Conclusion

72. This review process will result in an updated schedule of planning conditions attached to the existing mineral permissions for Shawell Quarry. During the review process, a number of issues had to be addressed, relating to the environmental impact of future operations on the site, especially traffic, public rights of way, archaeology and ecology. Where the development will have significant environmental impacts, these could be controlled by adequate mitigation measures or by means of suitably worded planning conditions. The ecological impacts would be mitigated by providing replacement habitats as part of the restoration proposals of the site.
73. The County Council is required to consider the recommended conditions in the light of paragraph 13 of Schedule 14 of the Environment Act 1995 and whether the conditions would restrict the working rights of the site to an unreasonable degree. In having regard to the Act and advice contained in MPG14, in the case of this submission it is not considered that the recommended conditions would affect working rights. The operating company has confirmed that the recommended conditions as set out in this report would be acceptable.

Recommendation

It is recommended that planning permissions 361/58, 4592/66, 1988/1547/03, 1989/0505/03, 1991/0358/03, 1991/0359/03, 1995/1488/03, 1998/0122/03 and 2002/1376/03 relating to Shawell Quarry be subject to the following conditions and informatives:

2004/1605/03 – continued

Conditions

Duration

1. Unless otherwise approved in writing by the Mineral Planning Authority, the extraction of minerals hereby permitted shall have ceased and the subsequent restoration of the site in accordance with the conditions below shall have been completed by 31 December 2021.

Definition of Development

2. These conditions shall apply to planning permission reference nos. 361/58, 4592/66, 1988/1547/03, 1989/0505/03, 1991/0358/03, 1991/0359/03, 1995/1488/03, 1998/0122/03 and 2002/1376/03 relating to Shawell Quarry and shall relate to the following development:
 - a) the extraction of sand and gravel and subsequent infilling of the void with overburden and imported waste material and regrading and restoration operations all within the areas shown edged red on Plan 2004/1605/03/M1 attached to and forming part of these conditions;
 - b) the retention and operation of the existing conveyor between the mineral extraction area and the processing plant as shown in yellow on Plan 2004/1605/03/M1;
 - c) the retention and operation of existing plant and machinery in operational areas including the sand and gravel processing plant.

Plant and facilities having separate permissions not included in the Environment Act Review and excluded from this definition are: the Readymix Plant (permission reference 3868/58), the Roof Tiling Plant (permission reference 1987/1036/03 and others), Concrete Products Factory (permission reference 1986/0140/03) and the Main Site Office and Laboratories.

Availability of Plans

3. A copy of this schedule of planning conditions including all documents referred to in it, together with all documents hereby approved and any other documents subsequently approved in accordance with any condition of this permission, shall be kept available for inspection on site during the prescribed working hours.

Working and Phasing Details

4. Unless required by the conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the details contained in the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 and accompanying Supporting Statement, Environmental Statement and Non-Technical Summary.

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5. Unless otherwise approved in writing by the Mineral Planning Authority, the working and restoration of the site shall be carried out progressively in accordance with the phasing shown on Plans 1493/3 and 1493/4 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004.
6. No excavation shall be carried out within 10 metres of Gibbet Lane.
7. No soil stripping or other operations connected with the extraction of minerals from the site shall be carried out within 35 metres of the boundary of the properties known as West Cottages located adjacent to the north eastern corner of the site.
8. The area shown edged brown on Plan 1493/2 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 shall be extracted and restored in accordance with a previously approved scheme of restoration and aftercare within two years of operations (excluding soil stripping) commencing in the area edged brown. Written notification of the date of commencement shall be sent to the Director of Community Services within 7 days of such commencement.
9. The area shown edged yellow on Plan 1493/2 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 shall be extracted and reinstated in accordance with a previously approved scheme of restoration and aftercare within five years of operations (excluding soil stripping) commencing in the area edged brown on Plan 1493/2.
10. The perimeter soil bunds located around the area edged brown on Plan 1493/2 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 shall be removed as soon as practicably possible after completion of restoration of the area edged brown. The programme for the removal of the bunds shall be submitted no later than 3 months from the date of cessation of extraction.

Other Reserves to be worked

11. No extraction of sand and gravel shall take place within the area edged dark blue on Plan 2004/1605/03/M1 until a scheme for the clearance, working and restoration of the site has been submitted to the Mineral Planning Authority for approval. The submitted scheme shall be accompanied by an Environmental Statement and shall include:
 - a) the clearance from the site of all plant, buildings, structure, machinery, roads, hardstandings and stockpiled material.

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- b) the sequence and method of working of the sand and gravel following the removal of the Roof Tile Works.
- c) the restoration of the ground surface to a condition suitable for agricultural or other agreed afteruse; and
- d) the seeding, planting and landscaping of the site in a manner appropriate to the afteruse to which the land is to be put.

Restriction of Permitted Development Rights

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended):

- a) no fixed plant or machinery, buildings, structures and erections shall be erected, extended, installed or replaced at the site without the prior approval in writing of the Director of Community Services; and
- b) no pole-mounted floodlights shall be installed or erected at the site unless details of them have been submitted to and agreed in writing by the Director of Community Services.

Hours of Operation

13. Except in emergencies to maintain safe working conditions (which shall be notified to the Director of Community Services as soon as practicable):

- a) no operations shall be carried out at the site except between the following times:

0700 hours and 1900 hours Monday to Friday; and
0700 hours and 1400 hours Saturday.

- b) No operations (other than water pumping) shall be carried out at the site on Sundays or Public or Bank Holidays with the exception of Good Friday.

For the avoidance of doubt the above hours of operation shall apply to all activities on the site, including mineral extraction, landfilling, the operation of the processing plant and other associated activities.

14. Notwithstanding the requirements of condition 13 above, except in emergencies to maintain safe working conditions, no working in connection with the development hereby permitted shall be carried out within 100 metres of any occupied dwelling outside the hours of 0730-1730 Mondays to Fridays and 0730-1300 on Saturdays.

2004/1605/03 – continuedAccess, Traffic and Protection of the Public Highway

15. Vehicular access to and from the operational area on the north side of Gibbet Lane shall be gained only via the existing access from Gibbet Lane shown marked X on Plan 2004/1605/03/M1 attached to and forming part of these conditions.
16. Unless otherwise agreed in writing by the Mineral Planning Authority, no topsoil, subsoil, overburden or waste material shall be removed from the site.
17. No excavated sand and gravel or other material shall be removed from the mineral extraction area as shown edged orange on Plan 2004/1605/03/M1 attached to and forming part of these conditions, 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 2004/1605/03/M1 unless otherwise agreed in writing by the Director of Community Services.
18. Sand and gravel and mineral products shall only be transported from the site onto the public highway by means of the existing access to the processing plant site from Gibbet Lane, as shown marked Y on Plan 2004/1605/03/M1 attached to and forming part of these conditions.
19. The access from Gibbet Lane shown marked X on Plan 2004/1605/03/M1 attached to and forming part of these conditions shall be maintained with visibility splays of a minimum of 4.5 metres by 120 metres. Within the area between the splay lines and the highway boundary nothing shall be erected or allowed to grow to a height which impedes visibility as laid down in the current design standards in the Department of Transport Design Manual for Roads and Bridges Volume 6, "Road Geometry Section 1 - Links Part 1 Highway Link Design".
20. Within 2 months of the date of these conditions coming into effect, details of the improvement of the visibility splays of the access from Gibbet Lane marked Y on Plan 2004/1605/03/M1 attached to and forming part of these conditions shall be submitted to the Director of Community Services for written approval. Such details shall include visibility splays of not less than 4.5 metres by 120 metres in accordance with the standards contained in "Places, Streets and Movement" and the current County Council design guide and shall be so maintained until the final restoration of the site, including the area edged dark blue on Plan 2004/1605/03/M1, has been completed. Nothing shall be erected or allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
21. The accesses from Gibbet Lane marked X and Y on Plan 2004/1605/03/M1 attached to and forming part of this permission shall be maintained in a clean and hard surfaced condition for a minimum distance of 100 metres back from the edge of the highway carriageway throughout the duration of the operations hereby permitted.

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22. Wheel cleaning facilities shall be installed to a standard, and used as necessary, to ensure that no mud or other detritus is carried onto the highway from any of the approved accesses.
23. The number of lorry trips generated by this development shall not exceed 3292 in any week. A record of all goods vehicles accessing or leaving the site each day shall be kept by the operator for a minimum of 12 months and access to this record shall be afforded to the Director of Community Services on request.

Types of Waste

24. Unless otherwise agreed in writing by the Mineral Planning Authority, tipping of waste materials shall be restricted to inert, household, commercial and industrial waste and bonded asbestos.

Groundwater and Surface Water Protection

25. Following the completion of mineral extraction from any phase of the site, the excavated area shall be backfilled with overburden and waste materials and regraded to the final pre-settlement levels shown on Plan 1493/5 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004, allowing for subsequent re-spreading of subsoil and topsoil.
26. The deposition of waste shall take place in accordance with the details provided in the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004, and following capping the landfill cells shall be covered with a layer of overburden prior to the replacement of soils.
27. The restored surface shall be free from risk of ponding or erosion and shall have a minimum gradient of 1 in 100 to enable surface water drainage and so as to be suitable for agricultural use.
28. The tipping of waste materials shall be carried out in accordance with the Permit issued under Regulation 10 of the Pollution Prevention and Control Regulations 2000 (Permit no. BK 1449 dated 12 July 2001 or any other relevant permit subsequently issued).
29. Measures shall be taken as may be agreed by the Director of Community Services to ensure the operations hereby permitted do not impair or render less efficient drainage from areas adjoining the site.
30. Measures shall be taken as may be agreed by the Director of Community Services to ensure that the operations hereby permitted do not give rise to any damage of any land or watercourse by erosion or flooding and do not give rise to the silting or pollution of any land or watercourse and to ensure that all water entering or arising on the site is satisfactorily discharged from the site or otherwise disposed of. Measures taken shall include the provision

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for the settlement of suspended solids prior to the discharge of water from the site to the satisfaction of the Mineral Planning Authority.

31. Any facilities for the storage of oils, fuels or chemicals shall be either stored in double skinned tanks or sited on impervious bases and surrounded by impervious bund walls. The volume of the banded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels, plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessel overflow pipe outlets shall be detailed to discharge downwards into the bund.
32. Within 6 months of the date of these conditions coming into effect, a scheme for the disposal of foul and surface waters shall be submitted for the written approval of the Director of Community Services, and thereafter implemented as approved.
33. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall pass through an oil interceptor designed and constructed to have a capacity and details which are compatible with the site which is being drained. Roof water shall not pass through the interceptor.

Noise

34. Monitoring of noise levels shall be carried out in accordance with a revised noise monitoring scheme to be submitted for the written approval of the Director of Community Services within 2 months of the date of these conditions coming into effect. The scheme shall include the following:
 - a) measurements confirming existing background noise levels;
 - b) predicted noise levels arising from operations at the site;
 - c) noise monitoring locations; and
 - d) frequency and duration of noise measurements.
35. Except during periods of bund construction and removal, soil stripping and final restoration, the level of noise arising from any operation or item of plant or machinery, when measured at a height of 1.2 metres above ground level and 3.6 metres from the facade of any occupied residential property in the vicinity of the site, shall not exceed 55 dB LAeq (free field) or 10 dB(A) above the agreed background level (whichever is the lower) during any 30 minute period at any time.

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36. During periods of bund construction and removal, soil stripping and final restoration, the level of noise arising from these operations, when measured at a height of 1.2 metres above ground level and 3.6 metres from the face of any occupied residential property in the vicinity of the site, shall not exceed 70 dB LAeq (free field) during any 30 minute period at any time.

Dust

37. 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.
38. At such times as, in the opinion of the Director of Community Services, 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, weather conditions or by taking other additional measures.

General Provisions for Environmental Protection

39. Measures shall be taken as may be agreed by the Director of Community Services to ensure that operations on the site do not give rise to any nuisance in the locality by reason of noise, dust, illumination or any other cause, to the satisfaction of the Director of Community Services. All plant and machinery used shall be effectively silenced or baffled and maintained in a good working condition. Pumps shall whenever possible be electrically operated. Where pumps are operated by internal combustion engine, they shall be sited and screened in such a manner as to minimise the noise emanating from them as may be agreed by the Director of Community Services. Haul roads and dry exposed material shall be sprayed with water and plant and machinery shall be fitted with dust suppression or containment measures as may be necessary to avoid the creation of dust nuisance.

Landscape/Ecology

40. Within 6 months of these conditions coming into effect, a scheme for the protection of trees and hedgerows on the site shall be submitted to the Director of Community Services for approval. Such scheme shall record the condition of those trees and hedgerows to be retained and set out measures for their maintenance and protection. All hedgerows and trees to be retained shall be protected from damage throughout the duration of the operations. Maintenance shall include the cutting and trimming of hedgerows at the appropriate season and the replacement of any shrub or tree that may be seriously damaged or become seriously diseased or die or be removed with a plant of similar species within the next planting season. No soil stripping, storage of any material or regrading shall take place within 2 metres of any hedge or within the canopies of any isolated tree that is to be retained.

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41. The belt of trees planted along the north eastern edge of the site and shown on Plan 1493/2 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 shall be maintained for a minimum of 5 years following the completion of restoration of the last part of the site to be restored, so as to provide a continuous screen of trees between the mineral extraction area and West Cottages.
42. Following the completion of restoration of any phase of the site the landscaping of that phase shall be carried out in the first available planting season in accordance with a scheme of restoration and aftercare previously submitted to and approved by the Director of Community Services. All trees and shrubs shall be maintained for a period of 5 years following planting in accordance with the scheme. Maintenance shall include the cutting and trimming of hedges at the appropriate season and the replacement of any shrub or tree that may be seriously damaged or become seriously diseased or die or be removed with a plant of similar species within the next available planting season.
43. No operations shall take place in the remaining unstripped areas within phases 7, 8, 9 and 10 shown on Plan 1493/3 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 until surveys have been carried out by suitably qualified persons and at the optimum time of year to confirm the presence or absence and, if applicable, the location of any protected species on the site. In the event that the presence of protected species on the site is confirmed, a strategy for the protection of the relevant species shall be submitted for the written approval by the Director of Community Services, and any operations on the site shall be carried out in accordance with the requirements of such protection strategy.

Archaeology

44. No soil stripping operations shall take place in the remaining unstripped areas within phases 7, 8, 9 and 10 shown on Plan 1493/3 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 until the operator has secured the implementation of a programme of archaeological work. The archaeological programme shall take place in accordance with a written scheme of investigation which shall be submitted for written approval by the Director of Community Services. The scheme shall provide for:
 - a) controls and supervision to be in place during soil and overburden stripping and mineral extraction;
 - b) a metal detecting programme;
 - c) contingency measures for emergency investigation and recording of any significant remains; and
 - d) analysis, archive deposition and reporting.

2004/1605/03 – continued

The archaeological work shall be undertaken by a suitably qualified body acceptable to the Director of Community Services. The development shall only be carried out in accordance with the approved scheme.

Site Maintenance and Safety

45. Unless otherwise agreed in writing by the Director of Community Services, no stripping of soil from any part of the site shall commence until all hedges, fences and walls around the perimeter of that part of the site have been made stockproof, and they shall be maintained in a stockproof condition and protected from damage for the duration of mineral extraction and restoration operations on that part of the site. Where the external boundary of any part of the site that is the subject of soil stripping, mineral extraction or restoration operations does not coincide with an existing hedge, fence or wall then stockproof fencing shall be erected along that boundary and shall be maintained for the duration of working and restoration operations on that part of the site.
46. All areas of the site that are not the subject of mineral extraction, restoration or associated operations and all topsoil, subsoil, soil making material and overburden mounds shall be kept free from weeds and measures shall be taken to destroy weeds at an early stage of growth to prevent seeding, to the reasonable satisfaction of the Director of Community Services.

Soil Handling

47. All soils and soil making materials shall only be stripped, stored and replaced in accordance with this schedule of conditions.
48. No soil stripping operations which may impact on any breeding birds shall be carried out unless appropriate mitigation and compensation measures have been implemented in accordance with a scheme agreed by the Director of Community Services.
49. In each calendar year, the Director of Community Services shall be notified in writing at least 5 days before each of the following stages:
 - a) before each phase of soil stripping is due to commence;
 - b) when overburden has been prepared ready for soil replacement to allow inspection of the area before further restoration of this part is carried out;
 - c) when soil making material or subsoil has been prepared ready for topsoil replacement to allow inspection of the area before further restoration of this part is carried out; and
 - d) on completion of topsoil replacement to allow an opportunity to inspect the completed works before the commencement of any cultivation and seeding operations.

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50. By 31 January in any calendar year, the Director of Community Services shall be supplied with a plan showing:
- a) the area stripped of topsoil, subsoil, and soil making material;
 - b) the location of each soil storage mound; and
 - c) the quantity and nature of material therein.

Soil Stripping

51. In each calendar year, topsoil stripping shall not commence on any phase until any standing crop or vegetation has been cut and removed.
52. The two main subsoil types shall be stripped separately where present to their full depth - upper subsoil (depth 250-600mm) and lower subsoil (depth 600-1000mm) and, wherever possible, both topsoil and subsoil shall be directly placed as part of restoration.
53. No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for purposes of undertaking permitted operations. Essential trafficking routes shall be marked in such a manner as to give effect to this condition. No part of the site shall be excavated or used for a road, or for the stationing of plant or buildings, or storage of subsoil or overburden or waste or mineral deposits, until all available topsoil and subsoil has been stripped from that part. The exception is that topsoils may be stored on like topsoils and subsoils may be stored on like subsoils.
54. Topsoil, subsoil and soil making material shall only be stripped when they are in a dry and friable condition. No movement of soil shall occur:
- a) during the months of November to March (inclusive), unless otherwise approved in writing by the Director of Community Services;
 - b) when the soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the "Worm Test" as set out in BS 1377:1975 - British Standard Methods Test for Soils for Civil Engineering Purposes; or
 - c) when there are pools of water on the soil surface.

Soil Storage

55. All topsoil and subsoil shall be permanently retained on site and used in restoration. Available soil making materials shall be recovered during excavation, as necessary, to achieve restoration of the site in accordance with the submissions detailed under Condition 4 of this permission.

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56. All topsoil, subsoil and soil making material shall be stored in accordance with submissions detailed under Condition 4 of this permission, and in separate mounds which:
- a) for topsoil storage mounds, shall not exceed 3 metres in height with 1:3 external batters and 1:1.5 internal batters, and for subsoil mounds, shall not exceed 5 metres in height with 1:3 external batters and 1:1.5 internal batters, unless otherwise approved in writing by the Director of Community Services;
 - b) shall be constructed with only the minimum amount of soil compaction to ensure stability and so shaped as to avoid collection of water in surface undulations;
 - c) shall not be traversed by heavy vehicles or machinery except where essential for purposes of mound construction or maintenance;
 - d) shall not be subsequently moved or added to until required for restoration unless otherwise approved in writing by the Director of Community Services;
 - e) have a minimum 3 metre stand-off around each storage mound;
 - f) shall only store topsoils on like texture topsoils and subsoils on like texture subsoils; and
 - g) if continuous mounds are used, dissimilar soils shall be separated by a third material previously approved in writing by the Director of Community Services.
57. All storage mounds that will remain in situ for more than 3 months or over winter shall be seeded with a suitable grass seed mix and thereafter maintained in a weed free condition.
58. Unless otherwise approved in writing by the Mineral Planning Authority, overburden shall only be stored above existing ground level in the location shown on Plan 1493/3 submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004. Overburden storage mounds shall not exceed 10 metres in height above existing ground levels.

Restoration and Aftercare - Ground Preparation

59. Following the replacement of overburden and prior to the replacement of subsoil on any part of the site, the upper layers of the overburden shall be subsoiled (rooted) with a heavy duty subsoiler to ensure that within a total depth of 1.0 metre below the surface of the replaced topsoil there is:
- a) no waste material or other sterile material injurious to plant life;

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- b) no rock, stone, boulder or other material capable of preventing or impeding normal agricultural or land drainage operations;
- c) no wire rope, cable or other foreign objects;
- d) no excessively compacted zone;
- e) a reasonably level, but uncompacted, surface suitable to receive subsoil.

Restoration and Aftercare - Soil Replacement

- 60. Following any necessary ripping of the overburden on any part of the site, subsoil shall be re-spread evenly over the overburden to such depth as to ensure that on re-spreading of topsoil there is a combined depth of topsoil and subsoil of at least 1 metre.
- 61. All operations involving soil replacement, subsoiling and cultivation treatments shall only be carried out when the full volume of soil involved is in a suitably dry soil moisture condition to minimise soil damage and to maximise the effects of the subsoiling operations.
- 62. Measures shall be taken to ensure that no mixing of topsoil, subsoil, overburden and waste infill material takes place during restoration operations.
- 63. Topsoils shall not be spread over subsoils within areas to be restored to species rich grassland unless they are sourced from the field containing semi-improved grassland identified in Appendix 1 of the Environmental Statement submitted with the Environment Act Review submission reference 2004/1605/03 dated 24 September 2004 and where shown on Plan 1493/Sk1.

Final Landscaping/Restoration

- 64. Not later than 6 months after the cessation of the extraction of sand and gravel from the areas shown edged orange and dark blue on Plan 2004/1605/03/M1, a scheme for the clearance and restoration of the processing plant area shown edged light blue on Plan 2004/1605/03/M1 shall be submitted to the Mineral Planning Authority for approval. The submitted scheme shall include:
 - a) the removal from the site of all plant, buildings, structures, machinery, roads, hardstandings and stockpiled material;
 - b) the restoration of the ground surface to a condition suitable for agricultural or other agreed afteruse; and
 - c) the seeding, planting and landscaping of the site in a manner appropriate to the afteruse to which the land is to be put.

2004/1605/03 – continued

65. Unless otherwise agreed in writing by the Mineral Planning Authority, within 2 years from the cessation of the processing of sand and gravel extracted from the areas shown edged orange and dark blue on Plan 2004/1605/03/M1, the area shown edged light blue on Plan 2004/1605/03/M1 shall be restored in accordance with the scheme of clearance and restoration as agreed in writing by the Mineral Planning Authority.

Temporary Restoration

66. Within 6 months of being notified by the Mineral Planning Authority that (in its opinion) there has been a permanent cessation of mineral extraction and landfilling at the site prior to the achievement of final site restoration, a reclamation scheme (to include details of aftercare) shall be submitted in writing for approval to the Mineral Planning Authority. (Permanent cessation will be taken to mean where no winning and working of minerals or landfilling has occurred, to any substantial extent, at the site for a period of at least 2 years and it appears to the Mineral Planning Authority that resumption of the winning and working of mineral or landfilling at the site is unlikely). The approved scheme shall be fully implemented within 12 months of the written approval unless otherwise agreed in writing by the Mineral Planning Authority.

Aftercare

67. Within 6 months of the date of these conditions coming into effect, a scheme of restoration and aftercare shall be submitted to the Director of Community Services for approval. The submitted scheme shall provide an outline strategy for the 5 year aftercare period and shall specify the steps that are to be taken, and the period during which they are to be taken, in order to bring the newly restored land to the required standard for use for agriculture and nature conservation and the subsequent management of the restored land and vegetation. The steps shall include planting, cultivating, fertilising, watering, draining, and otherwise treating and managing the land. The land shall be treated and managed over a period of 5 years in accordance with the approved scheme, commencing on the date that restoration is completed to the satisfaction of the Minerals Planning Authority.

Removal of Buildings, Plant and Machinery

68. Within one year of the completion of the restoration of the site, all buildings, plant, structures and machinery used in connection with the mineral extraction and restoration operations hereby permitted, including the conveyor shown marked yellow on Plan 2004/1605/03/M1 attached to and forming part of these conditions (but excluding plant and facilities having separate permissions) shall be removed and the land concerned shall be reinstated to its original condition and any vehicle parking areas and, unless required to be retained for the purposes of the agricultural use of the land, all haul roads shall be removed and the land reinstated to its original condition in accordance with an agreed scheme of restoration and aftercare.

2004/1605/03 – continued

Reasons

1. To provide for the completion and progressive restoration of the site within a specified timescale in the interest of the amenities of the area (Leicestershire Minerals Local Plan Policy 5a).
2. For the avoidance of doubt, and to ensure that the development is carried out in a satisfactory manner (Leicestershire Minerals Local Plan Policy 5).
3. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner in the interests of amenities in the area (Leicestershire Minerals Local Plan Policies 1 and 5).
- 4, 28. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner in the interests of amenities in the area (Leicestershire Minerals Local Plan Policies 1 and 5).
- 5, 25, 26, 27. For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and progressive restoration of the site in the interests of the amenities of the area (Leicestershire Minerals Local Plan Policies 5 and 11).
6. To safeguard the adjoining highway (Leicestershire Minerals Local Plan Policy 5).
7. In the interests of local amenity (Leicestershire Minerals Local Plan Policy 5).
- 8, 9, 10, 24. For the avoidance of doubt, and to ensure the development is carried out in a satisfactory manner in the interests of the amenities of the area (Leicestershire Minerals Local Plan Policy 5).
- 11, 65. To ensure the satisfactory restoration of the site, and in the interests of the visual amenity of the area (Leicestershire Minerals Local Plan Policy 11).
12. To retain control of these matters which may have an effect on the amenities of the area (Leicestershire Minerals Local Plan Policy 5).
- 13, 14. In the interests of local amenity (Leicestershire Minerals Local Plan Policy 5i).
15. In the interests of highway safety and the amenities of the area (Leicestershire Minerals Local Plan Policy 5).

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- 16, 17, For the avoidance of doubt, and to ensure that the development is carried out in accordance with the approved conditions and in a satisfactory manner in the interests of the amenity of the area (Leicestershire Minerals Local Plan Policies 5 and 11).
- 18.
- 19, 20, In the interests of highway safety (Leicestershire Minerals Local Plan Policy 5).
- 21, 22.
- 29, 30. In the interests of the drainage of the area and the avoidance of pollution (Leicestershire Minerals Local Plan Policy 5e and Leicestershire, Leicester and Rutland Waste Local Plan Policy WLP 11).
- 31, 32, To prevent pollution of the water environment (Leicestershire Minerals Local Plan Policy 5e, Leicestershire, Leicester and Rutland Waste Local Plan Policy WLP 8 and Harborough District Local Plan Policy RM/1).
- 33.
- 34, 35, To minimise the adverse impacts on local residents of noise generated by operations on the site (Leicestershire Minerals Local Plan Policy 5).
- 36.
- 37, 38. To protect the amenities of the locality from the effects of dust arising from the development (Leicestershire Minerals Local Plan Policy 5g).
39. To minimise the adverse impact on the local community generated by operations on the site (Leicestershire Minerals Local Plan Policy 5).
- 40, 41, In the interests of local amenity (Leicestershire Minerals Local Plan Policy 5).
- 42.
43. To prevent any harm or disturbance being caused to protected species as a result of the development (Leicestershire Minerals Local Plan Policy 5 and Harborough District Local Plan Policy RM/11).
44. To ensure satisfactory archaeological investigation and recording (Leicestershire, Leicester and Rutland Structure Plan Environment Policy 1, Leicestershire Minerals Local Plan Policy 5 and Harborough District Local Plan Policy RM/13).
- 45, 46. In the interests of the visual amenity of the area and the use of adjoining agricultural land (Leicestershire Minerals Local Plan Policy 5 and Harborough District Local Plan Policy RM/9).
47. To protect the soil resource and to aid the final restoration of the site; and pursuant to Leicestershire Minerals Local Plan Policy 11).
48. To prevent any harm or disturbance being caused to breeding birds as a result of the development (Leicestershire Minerals Local Plan Policy 5 and Harborough District Local Plan Policy RM/11).

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- 49-52, In the interests of satisfactory restoration of the site.
 56-64, (Leicestershire Minerals Local Plan Policies 5 and 11).
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53. In the interests of satisfactory restoration of the site, and to prevent damage to soils by avoiding movement whilst soils are wet or excessively moist and as such do not meet the defined criteria (Leicestershire Minerals Local Plan Policies 5 and 11).
54. To avoid damage to the soils caused by their movement when wet (Leicestershire Minerals Local Plan Policy 11).
55. To prevent the loss or damage of soil, or mixing of soils and overburden (Leicestershire Minerals Local Plan Policies 5 and 11).
66. To enable the Mineral Planning Authority to adequately control the development and to ensure that the land is restored to a condition capable of beneficial afteruse (Leicestershire Minerals Local Plan Policy 11).
67. To ensure that a suitable regime of agricultural husbandry is pursued to bring the land to the required standard for the approved afteruse (Leicestershire Minerals Local Plan Policy 11).

Informatives

1. All soil handling operations should be carried out having regard to the Defra “Good Practice Guide for Handling Soils”.

Policies and Proposals in the Development Plan Relevant to the DecisionLeicestershire, Leicester and Rutland Structure Plan (March 2005)

Strategy Policy 8 – Development in the Countryside

Environment Policy 1 – Historic Environment

Environment Policy 3 – Biodiversity

Environment Policy 3A – Protection of Important Species and Habitats

Resource Management Policy 7 – Land Release – Minerals

Resource Management Policy 8 – Land Release – Waste Management

Resource Management Policy 9 – Environmental Impact of Mineral Extraction and Waste Management

Resource Management Policy 13 – Restoration Aftercare and Afteruse

Leicestershire Minerals Local Plan (1996)

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

Policy 9 – Review of Mineral Working Sites;

Policy 11 – Restoration and Aftercare Conditions.

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Leicestershire, Leicester and Rutland Waste Local Plan 1995-2006 (2002)

Policy WLP 8 – Environmental Considerations

Policy WLP 11 – Planning Conditions

Policy WLP 12 – Planning Obligations

Policy WLP 13 – Restoration of Completed Waste Management Operations

Harborough District Local Plan (2001)

Policy RM/1 – Groundwater Protection

Policy RM/9 – Protection of Ecological Features

Policy RM/10 – Protection of Ecological and Geological Diversity

Policy RM/11 – Protected Species and their Habitats

Policy RM/12 – Protection of Scheduled Ancient Monuments and other
Archaeological Remains

Policy RM/13 – Development Affecting Sites of Identified Archaeological Interest

Policy RM/15 – Recording of Archaeological Remains

Policy EV/1 – Safeguarding of the Environment

Policy EV/5 – Development in the Countryside

Policy EV/20 – Landscaping

Policy EV/23 – Prevention of Adverse Impacts arising from Development

Background Papers

Planning permissions 361/58, 4592/66, 1988/1547/03, 1989/0505/03,
1991/0358/03, 1991/0359/03, 1995/1488/03, 1998/0122/03 and 2002/1376/03
relating to Shawell Quarry

Application for the Determination of Conditions for a Minerals Site, reference
2004/1605/03

Circulation Under Sensitive Issues Procedures

Mr. I. M. Morris CC

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DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all preceding applications.

EQUAL OPPORTUNITIES IMPLICATIONS

Unless otherwise stated in the report there are no discernible equal opportunities implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Education and the Director of 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.

You are advised to contact the County Council's Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

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 54A OF TOWN AND COUNTRY PLANNING ACT 1990

Members are reminded that Section 54A of the 1990 Act requires that:

"Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. the Structure Plan or 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:

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 (the phrase occurs also in the new s. 172 which is substituted by the Planning and Compensation Act 1991, but not in the new provisions relating to planning contravention notices (new s. 171C) and breach of condition notices (new s. 187A);
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.