

DEVELOPMENT CONTROL AND REGULATORY BOARD

18TH AUGUST 2005

REPORT OF THE DIRECTOR OF COMMUNITY SERVICES

REQUEST FOR VARIATION OF CONDITION

**LAFARGE AGGREGATES - EXTENSION OF TIME FOR COMPLETION OF
INFILLING WITH INERT WASTE AND SITE RESTORATION, HEMINGTON
QUARRY, TAMWORTH ROAD, HEMINGTON (NORTH WEST LEICESTERSHIRE
DISTRICT)**

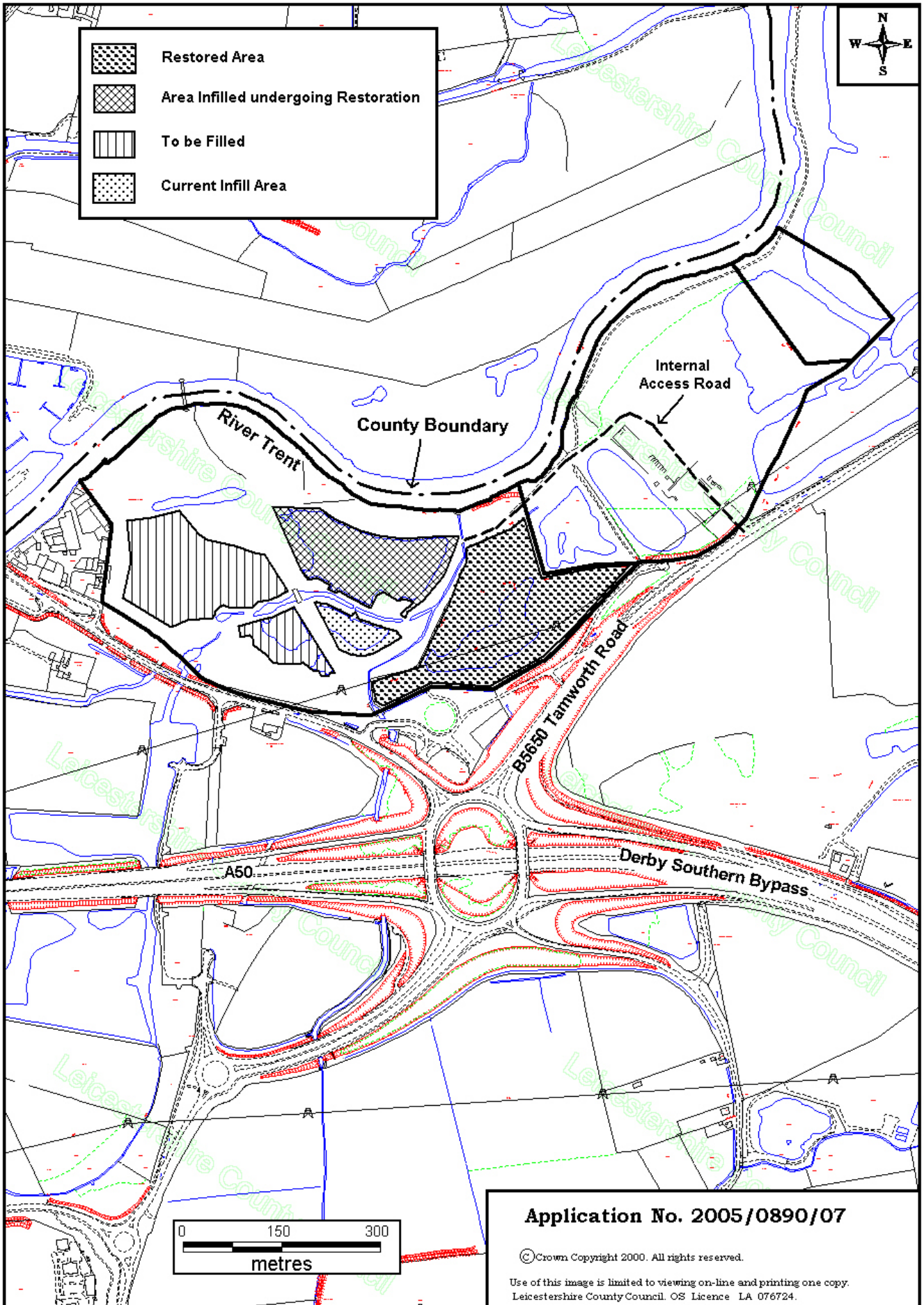
2005/0890/07 - 8th June 2005

Background and Planning History

1. Planning permission for the extraction of sand and gravel from land north of Tamworth Road, Hemington was originally granted in August 1984. The site has since received two planning permissions for extensions, once in June 1994 and again in September 1997 (96/0714/7).
2. Condition 2 of planning permission 96/0714/7 limits the duration of the development to a period 7 years from the date of commencement. The permission was implemented on 28th July 1998 and was therefore due to expire on 27th July 2005. Mineral extraction under this permission has been completed but infilling of the resultant void is incomplete.

Proposal

3. Lafarge Aggregates have applied for an extension of the permitted end date to 31st March 2008 for the completion of infilling operations and restoration.
4. The first phase of the site has been satisfactorily restored and is in aftercare. Phase 2 has been filled and is currently undergoing restoration through soil replacement. The remaining void space requires a further 100,000 cubic metres of imported inert fill to enable restoration to be completed. The input rate for 2004 was 41,000 cubic metres. Infilling is therefore expected to take a further 2 years.
5. The applicant states that the site has proved difficult to operate during winter months because of the proximity of the infill areas to the River Trent, and the frequency of flooding which occurs in this particular part of the Hemington site. Infill operations have therefore rotated between the Company's Hemington and Lockington sites on a seasonal basis as Lockington is much less prone to



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flooding in winter months. The Hemington site re-opened in April this year and is expected to remain open until the Autumn, when deteriorating ground conditions are likely to result in temporary suspension of operations.

6. The remaining void space is likely to take a further two summer seasons to complete. The Company's earliest provisional target would be to complete infilling by October 2006. The Company consider that it is appropriate however to provide a reasonable level of flexibility for both infilling and soil replacement operations in the light of anticipated seasonal winter site closures. It is therefore proposed that the following timescales apply to the development:

- Completion of importation of infill material by 30th June 2007
- Completion of soil replacement and earthworks by 31st October 2007
- Completion of landscaping works by 31st March 2008.

Planning Policy

Government Guidance

7. Minerals Policy Guidance Note (MPG) 1, *General Considerations and the Development Plan System* (1996), provides advice on policies and the operation of the planning system with regard to minerals. It states that land taken for mineral extraction or the deposit of mineral wastes should not become derelict and should be reclaimed to a standard suitable for beneficial after-use as soon as possible.
8. MPG7 *The Reclamation of Mineral Workings* (1996) gives detailed advice on the planning considerations, consultations and conditions which are necessary to ensure that land worked for minerals is returned to a beneficial after-use at the earliest opportunity.

Leicestershire, Leicester & Rutland Structure Plan (2005)

9. Resource Management Policy 9 deals with the environmental impact caused by developments related to mineral operations.
10. Resource Management Policy 13 sets out the County Council's intentions for the restoration of mineral workings and related development. This should be achieved to an acceptable after-use at the earliest possible opportunity.

Leicestershire Minerals Local Plan (May 1995)

11. Policy 2 of the Minerals Local Plan sets out a list of factors that will be taken into account in assessing proposals for mineral extraction.
12. Policy 3 indicates instances where mineral working will not normally be allowed by virtue of the impact on environmentally sensitive areas.
13. Policy 5 sets out measures to control the environmental effects of mineral operations through the imposition of suitable planning conditions.

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14. Policy 11 identifies the kinds of conditions likely to be attached to any permission in order to achieve high quality restoration and aftercare.
15. Policy 13 lists considerations to be taken into account in the assessment of proposals which involve the disposal of waste materials.

Leicestershire, Leicester and Rutland Waste Local Plan

16. Policy WLP 7 lists the factors which the planning authority will take into account when assessing proposals for waste management.
17. Policy WLP 8 lists environmental considerations for the determination of waste management proposals.
18. Policy WLP 13 sets out the matters in respect of which conditions will be imposed to ensure satisfactory restoration of waste management development.

Consultations

North West Leicestershire District Council – Planning

19. No objections.

Castle Donington Parish Council

20. No objections.

Lockington cum Hemington Parish Council

21. No objections.

Shardlow and Great Wilne Parish Council

22. No reply received at the time that this report was published.

Environment Agency

23. No objections.

Highways Authority

24. No comment.

Publicity

25. The proposal was advertised by neighbour notification dated 21st June 2005, by site notice posted on 23rd June 2005, and by press notice dated 13th July 2005.

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Representations Received

26. No representations have been received.

Assessment of Proposals

27. The early restoration of mineral sites to a beneficial afteruse is supported by Development Plan policy and encouraged by National Planning Policy Guidance. The early restoration of Hemington Quarry is in the interests of local amenity and the environment. The aim should be to achieve this as soon as reasonably practicable.
28. Delay in the restoration of the site has largely been out of the control of the Company and could not have been foreseen when the planning application was originally submitted in 1996. At that time, it was anticipated that operations, including reinstatement, would be completed within a total of 7 years. In granting permission, the range of wastes that could be imported for infilling was restricted at the request of the Environment Agency. The availability of these waste types has been affected by the introduction of Landfill Tax so that the progress of infilling operations over the last few years has been slower than anticipated. Recycling initiatives have also contributed to a reduction in the availability of suitable waste material.
29. Tipping operations have been undertaken in an acceptable manner throughout the duration of the planning permission and no complaints have been received. It is accepted that restoration should be completed to the currently approved final contours in the interests of satisfactory agricultural restoration. There is therefore a need for an additional period of time to ensure that this is achieved.
30. The proposed extension of time will enable the site to be restored in accordance with the approved restoration scheme. There would be no increase over and above current vehicle numbers or other additional environmental impacts. It should be noted that over the years the operation of the site has not generated any complaints.
31. There is a clear need to ensure that the restoration of this site is completed to a high standard. Resource Management Policy 13 of the Leicestershire, Leicester and Rutland Structure Plan requires the restoration of mineral workings to an acceptable use at the earliest opportunity. Policy 11 of the Leicestershire Minerals Local Plan aims to ensure the high quality restoration of worked-out mineral operations. It is considered that in this instance the aim of these policies, the high quality restoration of a mineral site, is best achieved if additional time is available to complete restoration works.
32. A refusal of this application would mean that site restoration operations would have to cease some time in advance of the completion of works. This would result in a partially restored site. This situation would clearly be undesirable and contrary to the aims of the relevant Development Plan policies.

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33. Whilst it is regrettable that restoration of the site has not yet been accomplished, there are extenuating circumstances. The underlying aim remains the satisfactory reclamation of the mineral working void. It is therefore considered that planning permission should be granted subject to the imposition of appropriate conditions to control the development.

Conclusion

34. In the case of this proposal, the benefits of completing the restoration of the site would only be available if the timescale for restoration is extended beyond the deadlines set in the original planning permission. Extending the duration of operations would allow the agreed afteruse for the site to be implemented. This consideration outweighs any adverse impact which operations at the site may have on the surrounding area. In this respect it also has to be noted that operations at the site have not given rise to complaints.

Recommendation

1. PERMIT subject to the conditions as set out in the appendix.
2. To endorse, as required by The Town and Country Planning (General Development Procedure) Order 1995 (as amended), a summary of the:
 - a. policies and proposals in the development plan which are relevant to the decision, as follows:
 - i. This application has been determined in accordance with the Town and Country Planning Acts, and in the context of the Government's current planning policy guidance and the relevant Circulars, together with the relevant development plan policies, including the following, and those referred to under the specific conditions as set out in the appendix:-

Leicestershire, Leicester and Rutland Structure Plan: Resource Management Policy 9 & 13.
Leicestershire Minerals Local Plan: Policies 2, 3, 5, 11 & 13
Leicestershire, Leicester and Rutland Waste Local Plan Policies WLP 7, WLP 8 & WLP 13
 - b. reasons for the grant of planning permission, as follows:
 - i. The County Council considers that the proposed development accords with the development plan and there are no material considerations that indicate that the decision should be made otherwise. The County Council also considers that any harm to the local environment as a result of the proposed development would reasonably be mitigated by the imposition of conditions as set out in the appendix, and that any harm would be outweighed by the benefits associated with the proposal.

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Background Papers

Planning permission no. 96/0714/7.

Circulation Under Sensitive Issues Procedures

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CONDITIONS

1. The importation of waste shall cease no later than 30th June 2007.
2. All restoration earthworks (including all soil replacement operations) shall be completed by 31st October 2007.
3. Final restoration (including all planting works) shall be completed by 31st March 2008.
4. In all other respects, the development shall be carried out in accordance with Planning Permission No. 96/0714/07 dated 2nd September 1997 and the conditions attached thereto.

Reasons

- 1,2 To protect the amenities of the area and ensure the satisfactory restoration of
&3 the site within a reasonable timescale. (Leicestershire Minerals Local Plan Policies 5 and 11)
4. For the avoidance of doubt.

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 and to the Disability Discrimination Act 1995.

You are advised to contact the County Council's Human Resources Department 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.