

**DEVELOPMENT CONTROL AND REGULATORY BOARD****10th OCTOBER 2019****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2017/1380/03 (2017/CM/0237/LCC) – 8th August 2017
- PROPOSAL:** Extension of the period for the operation of the Shawell roof tile works to 31st December 2030 or one year after the permanent cessation of sand and gravel production at the adjacent Shawell Quarry processing plant, whichever is sooner.
- LOCATION:** Shawell Tileworks, Gibbet Lane, Shawell, Leicestershire, LE17 6AB (Harborough District).
- APPLICANT:** Monier Redland.
- MAIN ISSUES:** Impact of the proposal upon the highway, the local landscape and the appropriateness of the continuation of this use in this location.
- RECOMMENDATION:** PERMIT subject to the conditions as set out in the appendix.

Circulation Under Sensitive Issues Procedures

Mr B.L. Pain, CC.

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PART B – MAIN REPORT

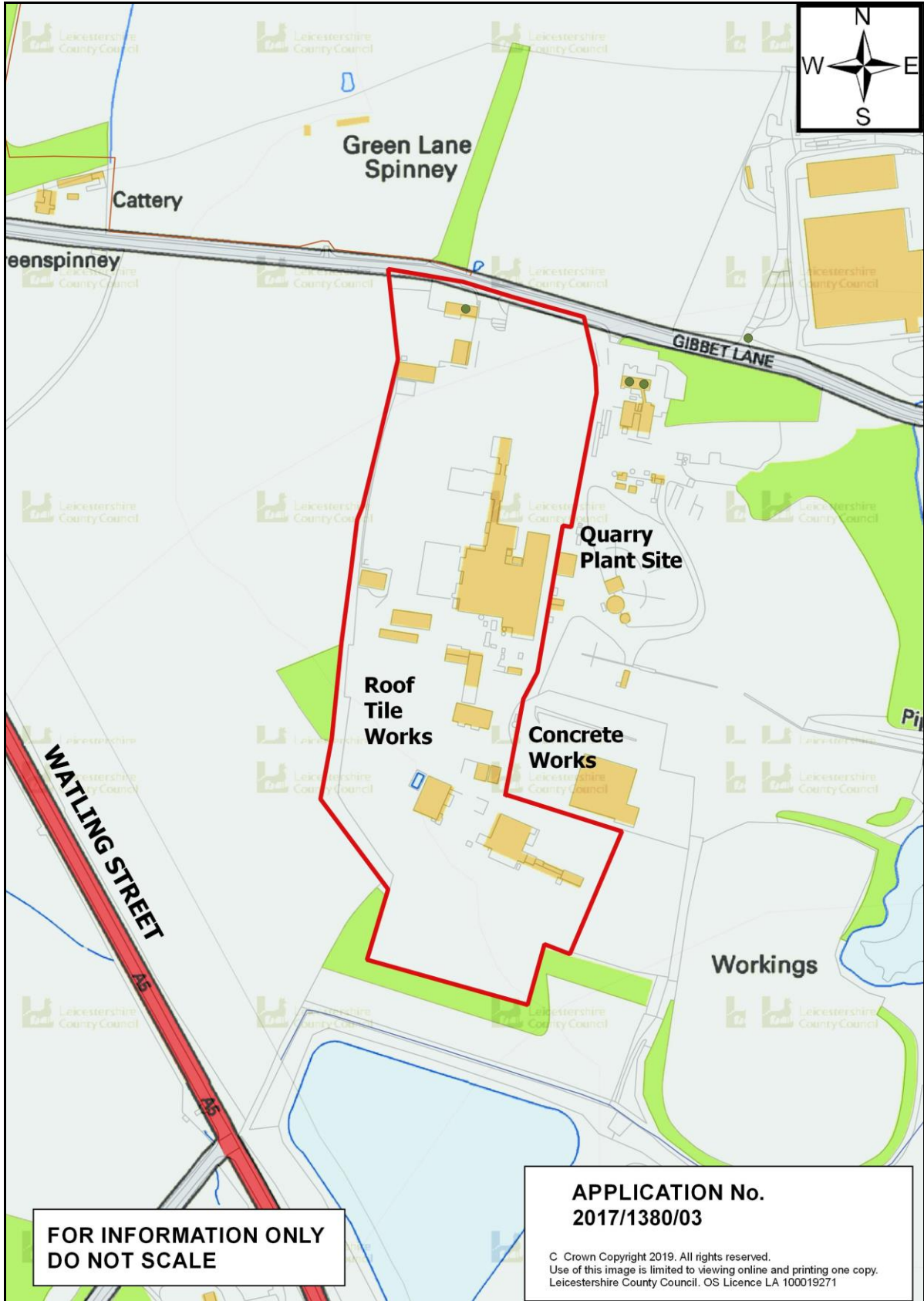
Description of site

1. Monier Redland Ltd., operate a roof tile production facility near to Shawell. The facility is located on the south side of Gibbet Lane, a narrow road linking the settlement of Shawell with the A5/A426 junction to the west of the site. Shawell Quarry/Cotesbach Landfill is located on the northern side of Gibbet Lane whilst the quarry processing plant, a redundant concrete works, an inert recycling operation, concrete batching plants and storage areas are to the south of this lane. The quarry processing plant, concrete works and storage areas abut the eastern boundary of the roof tile works. The area to the immediate south of the tile works is silt lagoons related to the mineral extraction operations. Whilst the area to the west is countryside, applications are with the County Council to extract mineral from this land (references 2017/0117/03 & 2018/1457/03). The nearest residential properties to the site are those to the west towards the A426/A5 roundabout.

Description of proposal

2. The tile works has been present in this location, in one form or another since the 1960s. The tile works was located here to make use of the sand extracted from the adjacent Shawell Quarry. The principal planning permission (reference 87/1036/3 as amended by permission reference 89/1322/3) allows the retention of the tile works until 29th September 2020 or the cessation of mineral extraction at the adjacent quarry, whichever is the earlier. There have been a number of subsequent planning permissions granted by the County Council within the tile works site for additional buildings and these are all also temporary.
3. In 2006 an application was made to extend the site to the south. The 2006 application was for the creation of a hardstanding area for the storage of tile products. This extension then allowed existing hardstanding in the south east part of the site to be used by the, then operational, adjacent concrete works. To mitigate the impacts of this new hardstanding a scheme of landscaping was submitted and approved. This hardstanding is temporary until 29th September 2020 or one year after the permanent cessation of the operation of the tile works, whichever is the earlier (reference 2006/0333/03). The area of the tile works covers some 9.2 hectares.
4. This proposal is to extend the temporary nature of the areas used by the tile works until 31st December 2030 or one year after the permanent cessation of sand and gravel production at the adjacent Shawell Quarry processing plant, whichever is the sooner. The justification for the continued presence of the tile works is that it uses sand from the adjacent quarry.

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Planning Policy

Local Policies

5. The development plan in this instance consists of the Leicestershire Minerals and Waste Local Plan (LMWLP) (September 2019) and the Harborough Local Plan 2011-2031 (April 2019). The relevant policies and proposals are set out below.
 - *Policy M11: Safeguarding of Mineral Resources of the LMWLP.*
 - *Policy M13: Associated Industrial Development of the LMWLP.*
 - *Policy DM1: Sustainable Development of the LMWLP.*
 - *Policy DM2: Local Environment and Community Protection of the LMWLP.*
 - *Policy DM5: Landscape Impact of the LMWLP.*
 - *Policy DM9: Transportation by Road of the LMWLP.*
 - *Policy DM11: Cumulative Impact of the LMWLP.*
 - *Policy DM12: Restoration, Aftercare and After-use of the LMWLP.*

Harborough Local Plan 2011-2031

- *Policy GD3: Development in the Countryside.*
- *Policy GD5: Landscape and townscape character.*
- *Policy BE1: Provision of new business development.*
- *Policy BE3: Existing employment areas.*
- *Policy IN2: Sustainable transport.*

National

6. The revised NPPF (National Planning Policy Framework) was published 19 February 2019 and sets out the purpose of planning as helping to achieve sustainable development and to seek jointly and simultaneously economic, social and environmental gains. The NPPF states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, providing net gains in biodiversity.

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Consultations

Harborough District Council - Planning

7. No objection to this proposal.

Harborough District Council - EHO

8. No reply received.

Highway Authority

9. No objection. The County Highway Authority CHA has introduced weight restrictions on Gibbet Lane and Catthorpe Road in 2017 to alleviate local residents concerns and improved signing in the area to ensure HGVs use the most appropriate routes. Based on the information provided, the development does not conflict with paragraph 109 of the National Planning Policy Framework (2019).

Shawell Parish Meeting

10. An extension of up to 10 years is inappropriate; a shorter timeframe commensurate with the forecast life of the quarry will be sufficient. Any extension to the operation should be conditional on timely resolution of issues such as intrusive floodlighting, litter on carriageway and hedgerows, vehicle movements through the village, and a commitment from Redland to improve their response to any further issues. The original planning consent requires restoration of the land to its original use. The Council is very concerned that this may be relaxed, or that the site would be classed as "brownfield" making it vulnerable to alternative development. The original condition needs to be reinforced, and given the timescales for closure, the Council should expect to see in any extension plan which parts of the plant will continue and how the remaining plant will be dismantled and the site restored.

Publicity

11. The proposal has been advertised by neighbour letters dated 10th August 2017, site notices posted on 17th August 2017 and 12th August 2019, and a notice in a local newspaper published on 9th August 2017. No representations have been received within the prescribed period.

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Assessment of Proposal

12. The application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the main issues for consideration relate to the impact upon the highway, the local landscape and the appropriateness of the continuation of this use in this location.

Highways

13. The details provided by the applicant on the impact on the Highway estimate that in a year the site will use 95,436 tonnes of raw material to produce tiles. Of this, 72,324 tonnes is sand (and thus the dominant material in tile production). This is all sourced from the adjacent Shawell Quarry and this (with the reject tiles sent to the adjacent Shawell Quarry plant processing area) results in 2,739 HGV movements that avoid moving on the Highway; a gate between the two sites enables these movements. However, only around 50,000 tonnes is sand actually produced from Shawell, the remainder is other sand/material sourced from Shawell Quarry but not produced there such as Rugby/Mountsorrel Tile Sand Blend (RM). So, although this does not enter the tile works by the Highway it is, nevertheless, transported to the immediate area by road. There is also some 39 tonnes of silica sand that is imported in to the tile works that is not available from Shawell.
14. On the basis of the above the remainder of the raw materials (23,112 tonnes) and some other materials, such as pallets, result in some 25,211 tonnes being transported in to the site via the Highway. This, with the manufactured tiles (95,436 tonnes) leaving the site results in some 11,562 HGV movements per annum. Distributing this to a weekly basis results in some 232 HGV movements, rounded to 240 to take in to account variations in vehicle sizes and loads. The other activities on Gibbet Lane, such as the quarry, landfill, concrete batching plant, the waste recovery operations, all have their HGV movements limited by planning permissions. The age of this site and the lack of recent substantive planning permissions has meant that it has not been possible to control this site in a similar manner. However, it is considered that for the benefit of the amenity of the area and for consistency this site should be similarly controlled. Therefore, it is recommended that such a condition is attached to any planning permission.

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15. The sourcing of the substantial part of the raw materials for the production of tiles from the adjacent Shawell Quarry is the principal reason why the continuation of this operation is considered acceptable at this location. Therefore, any planning permission should seek to ensure that this acceptability remains and that the impact on the highway does not escalate through an increased importation of sand and the close association between the quarry and these operations remains.
16. The Highway Authority points out action has been taken to try and deter HGVs from using Shawell village but it is considered that a condition on any planning permission to control turns out of the site would assist in reducing any issues and protecting the amenity of Shawell village. Subject to the controls set out the impact of the proposal on the highway would be acceptable and meets the terms of policies M13, DM1, DM2 and DM9.

Landscape

17. Beyond the impact of the traffic to and from the proposal there is the visual impact of the buildings and the site's lighting towers. The buildings are a combination of grey and light green and are of a relatively low profile whereas the lighting towers although much taller and grey are relatively slimline. Views from the west and south are reduced with the existing vegetation on the boundary whereas views from the east are through the existing minerals processing area (although this is also temporary and with the cessation of mineral extraction would be restored). Therefore, the continuation of the tileworks would not have a significant additional impact on the local landscape. However, the acceptability of the works is only by virtue of its temporary nature and that, eventually, the site shall be restored alongside the minerals workings/operations and the area returned to a greenfield use.
18. On the basis of the above, any planning permission should contain a requirement for the site to be restored upon the cessation of the operations at the adjacent Shawell Quarry or by the date specified by the applicant (31st December 2030). This requirement should also address the issue of the cessation of tile manufacturing so that if tile production ceases the site is not left redundant and unrestored until such point as one of the other timescales is achieved. To date, no restoration scheme or restoration concept has been required or put forward for consideration but as per policy DM12 it would be expected that it would achieve a net gain to biodiversity and provide for a least one of the priority habitats of the local Biodiversity Action Plan.

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19. The landscaping around the site is well established and forms an important vegetative screen that assists in reducing the visual impact of the proposal. Therefore, the retention of the vegetation on the western boundary should be required by condition along the lines of that set out in Appendix A of Circular 11/95. The landscaping to the south of the more recent hardstanding at the southern end of the tile works (reference 2006/0333/03) is out of the control of the applicant and does not form part of this application; the land is owned by Tarmac. Planning permission 2006/0333/03 requires this landscaping to be protected and maintained for the duration of the tile works development. If this proposal was granted planning permission this requirement would remain upon Tarmac through the 2006/0333/03 planning permission. Subject to the controls set out the impact of the proposal would be acceptable and meets the terms of policies DM5 and GD5.

Location & Restoration

20. Policy GD3 of the Harborough Local Plan sets out the developments that would be acceptable in the countryside, of which this includes minerals and waste developments. However, the Harborough Local Plan does not recognise the tile works as an existing employment area (Policy BE3) or as an area for future employment development (Policy BE1). Notwithstanding that this site has not been identified as an acceptable location for employment, the countryside can be an acceptable location for this form of minerals related development, i.e. an ancillary operation to mineral extraction and making use of the mineral extracted in the immediate vicinity of the works.
21. It is considered that there is a clear link between this development and the adjacent mineral extraction and is thus acceptable (albeit that such developments should only be temporary). Indeed, the temporary nature of the tile works has been accepted in previous planning permissions such that the land below the tile works is consented for mineral extraction (reference 2004/1605/03) and could be worked as an extension to Shawell Quarry (although it is accepted that since the grant of this planning permission ownership of the tile works has transferred to a separate company to that which extracts the mineral). If the retention of the tile works was not for a temporary period then the issue of mineral sterilisation would be raised. Overall, notwithstanding the lack of conformity with policies BE1 and BE3 it is considered that this proposal accords with policies GD3 and M11 and is acceptable.

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Employment and Sustainable Travel

22. The site creates 100 jobs and the economic benefits of the proposal weigh heavily in its favour. The lack of sustainable transport options (walking, cycling and public transport) to and from this site for its employees and visitors weighs heavily against the proposal through the non-conformity to policy IN2. However, on balance it is considered that although not normally an ideal place for industry the link between the tile works and the quarry (through the use of its mineral) and the commensurate benefits that arise from this are sufficient to outweigh these concerns. The temporary nature of the use (with associated site restoration) assists with arriving at this conclusion.

Other Matters

23. It is considered that it is unlikely that the continuation of this development would lead to residential disturbance from either noise or dust either in isolation or cumulatively, neither of these have been raised now or previously as issues from the operation of the site; the site's hours of operation are not restricted and there is no reason for this situation to change. Shawell Parish Meeting have raised the matters of the site's restoration, the timescales for restoration, and HGV movements and these have all been considered above. However, other matters raised by the Parish Meeting relate to the management of the site and are unable to be addressed by this planning application. The applicant has responded to the points raised and comments that they were not invited to the last Parish Meeting but that they usually attended them, and that neither the issue of litter or lights have been passed to them previously. This will be something that will be taken up with the applicant if the concerns persist. Therefore, it is considered that the proposal meets the terms of policy MD11.

Conclusion

24. In conclusion, subject to appropriate conditions, the proposal is considered acceptable with regard to significant adverse impacts upon the local landscape or the highway from this proposal. There have been no objections from statutory consultees. However, planning permission should be temporary and require the subsequent restoration of the site. Consequently, it is considered that the proposal accords with the policies of the development plan and is recommended for approval.

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Recommendation

- A. Permit subject to the conditions, as set out in the appendix.
- B. To endorse, as requested by The Town & Country Planning (Development Management Procedure) Order 2015 (as amended):

- (i) How we have worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework, which advises that planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, by seeking to approve applications for sustainable development where possible. During the application process the applicant was provided the opportunity to provide additional information on the highway and land ownership to make the application acceptable.

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Appendix

Conditions

1. This operation of the roof tile works is limited to the period expiring on 31st December 2030 or on the date one year after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or the cessation of tile manufacturing, whichever is the earlier. Within one year of the expiry of that period, all buildings, structures and hardstandings on the site shown edged red on plan 'Title Number LT461832' received 1st August 2019 and the whole of the site shall be restored in accordance with the scheme as approved by condition 8 (eight) of this planning permission.
2. This permission shall relate to the temporary retention of all buildings and structures located on the site shown edged red on plan 'Title Number LT461832' received 1st August 2019 at the date of this permission.
3. The use of the buildings and site shall be restricted to the manufacture of roof tiles and associated operations, activities and uses.

Access and Traffic

4. The number of heavy goods vehicle movements on the Highway generated by the development hereby permitted shall not exceed 240 in any week (i.e. 120 HGVs entering the site and 120 HGVs exiting the site). The operator shall keep a record of all heavy goods vehicles accessing and leaving the site. Back records shall be kept for a minimum of 12 months and access to these records shall be afforded to the Mineral Planning Authority on request.
5. Notwithstanding condition 4 (four) above no heavy goods vehicles shall use the Highway to import sand (with the exception of silica sand) in to the site as shown edged red on plan 'Title Number LT461832' received 1st August 2019
6. All heavy good vehicles leaving the site shall turn right onto Gibbet Lane unless for the purposes of local tile delivery.

Landscape

7. No trees or hedgerow shrubs on the western boundary shall be topped, lopped, cut down, uprooted or destroyed without the written approval of the Mineral Planning Authority. If any retained tree or hedgerow shrub dies, another tree or shrub shall be planted at the same place and that tree and shrub shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Mineral Planning Authority.

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Site Restoration

8. No later than 31st December 2030 or within six months after the permanent cessation of sand and gravel production at the adjacent Cotesbach-Shawell Quarry processing plant or six months after the cessation of tile manufacturing, whichever is the earlier a scheme of site clearance and reclamation of the site as shown edged red on plan 'Title Number LT461832' received 1st August 2019 shall be submitted for the approval of the Minerals Planning Authority. Such a scheme shall include details of the demolition and removal of the buildings, structures and hardstandings, provisions for the replacement and/or restoration of soils, the retention and protection of the existing trees and hedgerow on the western boundary, the planting of appropriate vegetation to enable the site to be brought back into a beneficial afteruse (amenity, biodiversity, woodland, agriculture) and for a five year aftercare period, and the timescales for achieving all the details in the scheme. Works shall then be carried out in accordance with the approved scheme.

Reasons

1. The site is in a rural area where planning permission would not normally be granted for the erection of industrial or associated buildings. This permission is granted for a temporary period only and for a specific use having regard to the special circumstances relating to the close proximity to the source of aggregate raw material required in the manufacturing process. The Mineral Planning Authority is of the opinion that when that raw material is exhausted this and no other manufacturing process or storage use should be permitted on this site and the site should be restored in a timely manner to agricultural land or such other form as may be appropriate to the rural character of the locality.
- & 3.
2. For the avoidance of doubt.
4. In the interest of highway safety and the amenities of the area.
5. To ensure that the relationship between the proposed use and existing activities at Shawell Quarry remains and for the amenities of the area.
6. In the interest of the amenities of the area and to ensure that heavy goods vehicles do not make use of inappropriate roads.
7. In the interest of the visual amenity and biodiversity of the area.
8. To provide for the restoration of the site in a satisfactory manner and timescale.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the following 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 Children and Young People's Service and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970, 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 Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

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

BACKGROUND PAPERS

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

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

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

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

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

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

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

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