



DEVELOPMENT CONTROL AND REGULATORY BOARD

15th July 2021

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

- APP.NO. & DATE:** 2021-0653-07 (2021-VOCM-0031-LCC) - 10th March 2021
- PROPOSAL:** Section 73 Application to Vary Condition 2 of Planning Permission 2006/1543/07 to allow for the export of up to 30,000 tonnes per annum (tpa) of clay from Duckery Quarry at Measham Brickworks.
- LOCATION:** Land at Measham Brickworks, Atherstone Road, Measham, Leicestershire. (North West Leicester District)
- APPLICANT:** Forterra Building Products Ltd.
- MAIN ISSUES:** Highways.
- RECOMMENDATION:** PERMIT subject to the completion of a legal agreement and subject to conditions as set out in the appendix to the main report.

Circulation Under Local Issues Alert Procedure

Mr. R. Ashman CC

Officer to Contact

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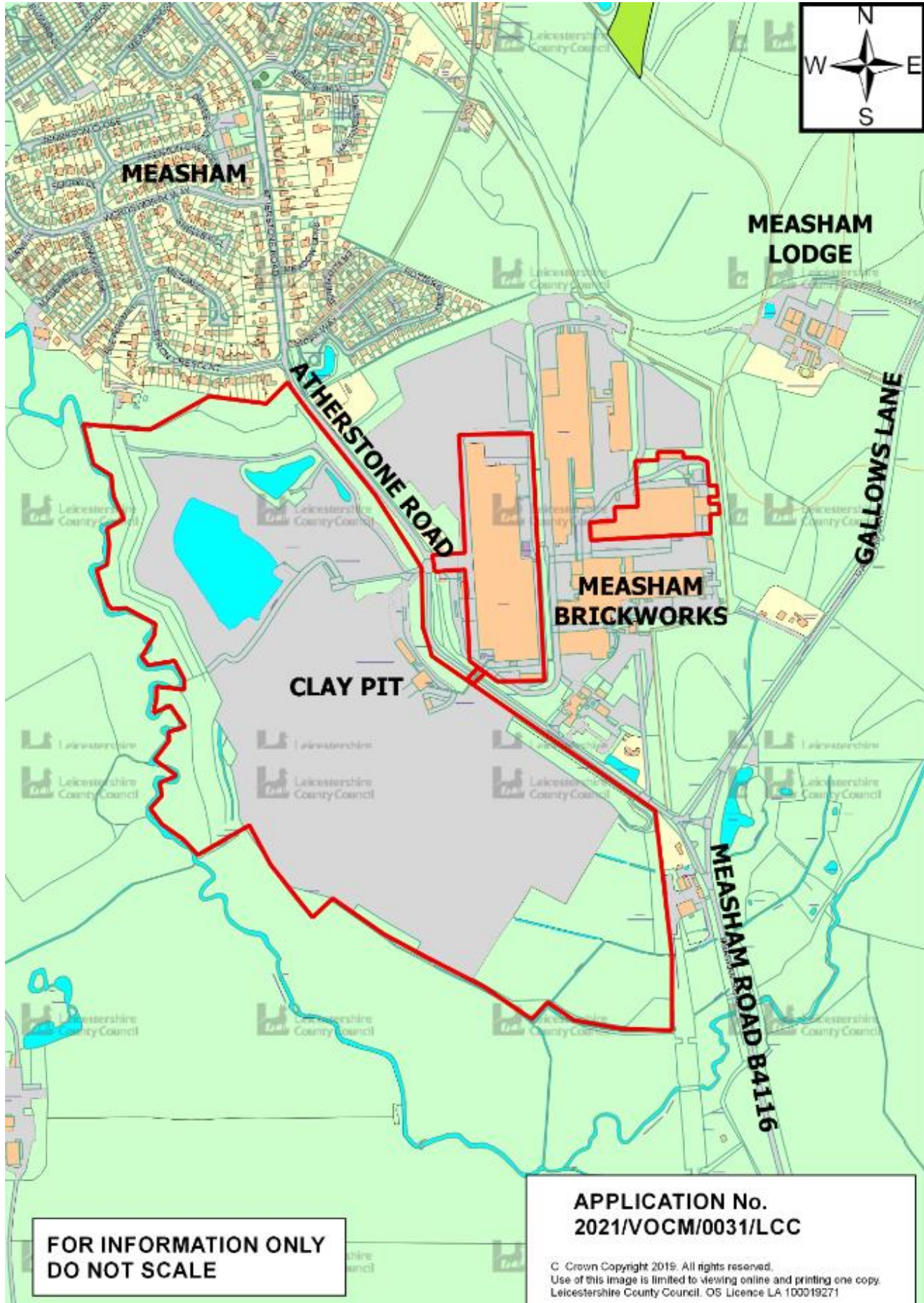
PART B – MAIN REPORT

The Site and Surroundings

1. Measham Brickworks is located to the south of the village of Measham. Measham Brickworks as a site comprises of 43.6 hectares, and can be split into two operational areas, the clay extraction area known as Duckery Quarry and the works land (the brickworks and terracotta complex). These two operations are subdivided by Atherstone Road.
2. Duckery Quarry is broadly bound to the north by residential properties, the closest being on Byron Crescent, to the north-east by Atherstone Road, to the south and the west by the River Mease. The works lies to the north-east of Atherstone Road. The works site is bound to the north by residential housing on Potters Way and agricultural fields, to the east by agricultural fields and Measham Lodge Business Park. The works area is occupied by a range of buildings and storage yard areas associated with the clay and concrete product manufacturing operations. Within the works area, the brickworks is located within the western part of the works site.
3. Measham brickworks lies in open countryside and within the River Mease Special Area of Conservation (SAC) and SSSI. Public footpath P87 runs along the eastern boundary of the works site. The whole site also lies within the National Forest.
4. There are three access points to Measham Brickworks via Atherstone Road. One entrance provides access to Duckery Quarry to the west of Atherstone Road and the two additional entrances access the brickwork and terracotta complex to the east of Atherstone Road. Staff and visitors predominantly use the southern entrance to the brickwork and terracotta complex, with the second entrance near the village of Measham used by HGV vehicles. Atherstone Road has a vehicle 7.5 tonne weight restriction limit restricting HGVs from travelling through Measham Village.

Background & Planning History

5. In July 2007, planning permission (reference 2006/1543/07) was granted for an extension to Duckery Quarry to extract additional clay reserves and the construction of a new brickworks to improve production rates and efficiency. The proposed development also included the construction of a new conveyor over Atherstone Road, landscaping and restoration to a large water feature.



6. In September 2018, a Non-Material Amendment was granted (reference 2018/NMA/0138/LCC) for minor changes to the approved lighting through upgrading the stockyard light fittings to LED lights, no layout change was proposed.

Description of Proposal

7. This application seeks to vary condition 2 of planning permission 2006/1543/07 to allow for the export of up to 30,000 tonnes per annum (tpa) of clay from the Duckery Quarry at the Measham Brickworks to Wilnecote Brickworks, in Tamworth, around 16km south east of Measham Brickworks.
8. It is proposed that the new condition is worded to read:
*“The development hereby permitted, which includes: clay extraction, sandstone extraction, mineral processing, mineral stocking, importation **and exportation** of mineral, clay product manufacturing, clay product stocking, internal conveying of minerals, construction of new brickworks, hopper and storage bays, demolition of existing brickworks, exportation of soils, screening, landscaping, planting and restoration of mineral working shall only be carried out within the land shown edged red on plan number MB 2 two of environmental statement dated September 2006”.*
9. The clay would be removed from the existing stockpile and loaded into road going HGVs using a rubber tyred loading shovel, the HGV would then leave the site, via the existing entrance and travel to Wilnecote Brickworks. The loaded HGV would pass through the existing wheel wash and use the existing site entrance to leave the quarry onto Atherstone Road. All HGV traffic is proposed to be routed southwards on Atherstone Road towards the junction with Gallows Lane (B4116). At that junction, all HGVs would travel north eastwards, crossing Bosworth Road and Sweptstone Road (the latter via a staggered junction), ultimately gaining access to the A42 at junction 12 (Ashby South).
10. As part of the application it is anticipated that the exports would occur during two campaigns a year, each being approximately eight weeks in duration, to meet the timing of stockpile replenishment at Wilnecote Brickworks. The proposed export of clay would result in an additional 20 HGV trips per day (40 movements) during each eight-week period, on that basis that exports are only carried out Monday to Friday.
11. As part of the application a transport assessment has been submitted, based on the worst-case scenario of an additional 40 movements per day. The vehicle access would be via the existing quarry access on the west site of Atherstone Road. The statement submitted with the application states that an additional 30,000 tonnes of material would generate an additional average of 6 HGV loads to be transferred daily over the course of a year if they were averaged equally.

2021-0653-07 (2021-VOCM-0031-LCC) - continued

However, to ensure the operation can potentially 'campaign' clays to Wilnecote to meet the stockpile replenishment timings it is proposed that there is flexibility with the HGV movements to allow for a higher number of daily HGV movements. The statement highlights that a worst-case scenario would be 20 HGV trips per day, across an 8-week period, twice a year. Therefore, the proposal would result in a maximum of 40 HGV movements per day, comprising of 20 HGV arrivals and 20 HGV departures.

12. The transport statement concluded that no highway deficiency exists within relevant proximity of the Forterra Site Access at Measham or the highway infrastructure leading to the A42 that may now or in the future pose a detrimental effect upon highway safety in the vicinity, and that the development proposals would not create an unacceptable impact on highway safety or lead to a severe impact on the road network in terms of highways and transport.
13. No additional mitigation measures are proposed and the proposal would adhere to the existing planning conditions.

Planning PolicyThe Development Plan

14. Development Plan in this instance is composed of the Leicestershire Minerals and Waste Local Plan up to 2031 and the North West Leicestershire Local Plan.
15. The relevant policies from the Development Plan are as follows:

The Leicestershire Minerals and Waste Local Plan – Up to 2031 (adopted September 2019)

- DM2 (*Local Environment and Community Protection*)
- DM3 (*Strategic Green Infrastructure*)
- DM7 (*Sites of Biodiversity/Geodiversity Interest*)
- DM9 (*Transportation by Road*)
- DM11 (*Cumulative Impact*)

North West Leicestershire Local Plan (adopted November 2017)

- Policy D2 (*Amenity*)
- Policy IF4 (*Transport and Infrastructure*)
- Policy EN2 (*River Mease Special Area of Conservation*)
- Policy EN3 (*The National Forest*)

National Policy

16. The National Planning Policy Framework (NPPF) recognises the essential role that minerals play in supporting sustainable economic growth and quality of life. Paragraph 205 states that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.

2021-0653-07 (2021-VOCM-0031-LCC) - continued

In considering proposals for mineral extraction, minerals planning authorities should (*inter alia*):

- c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties;

Consultations

- 17. **North West Leicestershire District Council (Planning)** – No objection, subject to the completion of a Habitat Regulations Assessment, that the application will have no adverse impacts and that the site will continue to operate as per the conditions associated with the 2006/1543/07 planning permission.
- 18. **North West Leicestershire District Council (Environmental Health)** – No reply received.
- 19. **Leicestershire County Council – Highways** – No objection.
- 20. **Environment Agency** – No comments.
- 21. **Natural England** – No objection, the changes to allow for the export of minerals is unlikely to have impacts on the River Mease SAC/SSSI.
- 22. **Measham Parish Council** – Commented that HGV 'must observe the weight restriction and also ask that up to date weight restriction signage is put up and that extra road cleaning is undertaken during the 2 periods each year.
- 23. **Appleby Magna Parish Council** – No reply received.
- 24. **Snarestone Parish Council** – No reply received

Publicity and Representations

- 25. The proposal has been advertised by a site notice on 9th April 2021 and a press notice posted in the Coalville Times on the 16th April 2021.
- 26. No representations from the public have been received.

Assessment of Proposal

- 27. This application seeks to vary condition 2 of planning permission 2006/1543/07 to allow for the export of up to 30,000 tonnes per annum (tpa) of clay from the Duckery Quarry at the Measham Brickworks to Wilnecote Brickworks, Tamworth.
- 28. The proposed exported clay would be removed from existing stockpiles at Measham Brickworks and loaded into HGVs and would leave the site via the existing entrance and travel to Wilnecote Brickworks.

29. The proposed variation of condition two states:

*“The development hereby permitted, which includes: clay extraction, sandstone extraction, mineral processing, mineral stocking, importation **and exportation** of mineral, clay product manufacturing, clay product stocking, internal conveying of minerals, construction of new brickworks, hopper and storage bays, demolition of existing brickworks, exportation of soils, screening, landscaping, planting and restoration of mineral working shall only be carried out within the land shown edged red on plan number MB 2 two of environmental statement dated September 2006”.*

However, the proposed condition does not specify the exportation amount applied for, therefore it is recommended that condition two reads as:

*The development hereby permitted, which includes: clay extraction, sandstone extraction, mineral processing, mineral stocking, importation of mineral, **exportation of up to 30,000 tonnes per annum of clay from Duckery Quarry**, product manufacturing, clay product stocking, internal conveying of minerals, construction of new brickworks, hopper and storage bays, demolition of existing brickworks, exportation of soils, screening, landscaping, planting and restoration of mineral working shall only be carried out within the land shown edged red on plan no. MB 2/2 of Environmental Statement dated September 2006.*

Highways

30. There are three access points to Measham Brickworks, all via Atherstone Road, and this road has a vehicle weight limit restricting HGVs from travelling through Measham Village. All HGV traffic is proposed to be routed southwards on Atherstone Road towards the junction with Gallows Lane (B4116). At that junction, all HGVs would travel north eastwards, crossing Bosworth Road and Sweptstone Road (the latter via a staggered junction), ultimately gaining access to the A42 at junction 12 (Ashby South).
31. The proposal to export 30,000 tonnes per annum (tpa) of clay is anticipated to occur during two campaigns a year, each being approximately eight weeks in duration, to meet the timing of stockpile replenishment at Wilnecote Brickworks – equating to an additional 20 loads per day (40 movements) during each eight week period), on the basis that exports are only carried out Monday to Friday.
32. As part of the application a transport assessment has been submitted based on the worst-case scenario of an additional 40 movements. The statement states that an additional 30,000 tonnes of material would generate an additional average of 6 HGV loads to be transferred daily. However, to ensure the operation can potentially ‘campaign’ clays to Wilnecote to meet the stockpile replenishment timings it is proposed that there is flexibility with the HGV movements to allow for a higher number of daily HGV movements. The statement highlights that a worst-case scenario would be 20 HGV loads per day, across an 8-week period, twice a year. Therefore, the proposal would

2021-0653-07 (2021-VOCM-0031-LCC) - continued

result in a maximum of 40 HGV movements, comprising 20 HGV arrivals and 20 HGV departures.

33. The Highway Authority has no objections to the proposal and commented that all HGVs associated with the proposal would use the existing access on Atherstone Road and the internal routing of HGVs will ensure that on leaving the site, all vehicles will be able to use the existing wheel washing facility. In addition, the proposed routing is acceptable and the Highways Authority does not consider that the proposal would exacerbate the likelihood of further Personal Injury Collisions occurring.
34. The Parish Council commented on the use of the HGVs observing the weight restriction on Atherstone Road and requested that up to date weight restriction signage is installed and that extra road cleaning is undertaken during the 2 periods each year. Firstly, with regards to observing the weight restriction, there are conditions on the planning permission which require the HGVs to turn left out of the works access and right out of Duckery Quarry to avoid Measham Village. The enforcement of 7.5t weight restrictions is the responsibility of the Police and falls outside the remit of the planning application. Secondly, there are currently two weight restriction signs on Atherstone Road close to the brickworks entrance, and the responsibility of placing, erecting and maintaining traffic signs are the responsibility of the highway authority. The weight restriction signage cannot be covered under the planning permission as the signage is not covered within the red line for the planning application. The Highways Authority has checked the location and position of the signs and they accord with the weight restrictions and therefore do not need updating. Finally, there is an existing condition on the planning permission that ensures the road is kept in a good state of repair.
35. Subject to conditions relating to the HGV direction, wheel wash facilities, and road condition the application is considered acceptable.

Local Environment

36. The proposal would result in an increase of vehicle movements which will impact the local environment and community with the greatest impact being the increase in HGVs passing isolated rural properties along the route from the brickworks to the A42. This impact is not likely to be significant and it is recommended that a condition is proposed to ensure that HGV movements are secured in line with the proposal. In addition, the planning permission will continue to have the appropriate measures to protect against any detrimental impacts on the amenity and health of people and the environment. Subject to conditions relating to HGV movements and the continuation of conditions to protect amenity and the environment the proposal is considered acceptable in accordance with Policy DM2 of the Leicestershire Minerals and Waste Local Plan and Policy D2 of North West District Council Local Plan.

Public Rights of Way

37. Public Footpath P87 would not be affected by the development proposals.

National Forest

38. Although Measham Brickworks lies within the National Forest, the proposal is for exporting mineral and therefore does not adversely affect the function or purpose of the National Forest designation, nor does it affect the wider countryside and therefore it would not be appropriate to require additional planting as part of this application.

River Mease Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)

39. The site lies within the catchment area of the River Mease SSSI and Special Area of Conservation (SAC). North West Leicestershire District Council Planning Team has requested that a Habitat Regulations Assessment is completed. The Conservation (Natural Habitats etc.) Regulations 1994 require that an "Appropriate Assessment" be made in respect of any decision to be taken for any permission for a project which either alone or in combination with other plans or projects would be likely to have a significant effect on a European Site, and is not directly connected with the management of the site for nature conservation. This application alone would not have a significant effect on the interest features of the River Mease Special Area of Conservation. In addition, an appropriate assessment was undertaken for planning permission 2006/1543/07, the initial screening for this application concluded that there may be a likely effect from the proposed development on the River Mease SAC objectives. A scoping exercise was then undertaken to assess if the proposed development would have an adverse impact on the River Mease. It was concluded that the proposed development under the 2006/1543/07 planning permission would not have an adverse impact on the River Mease with appropriate monitoring and mitigation measures in place that can be controlled by the imposition of planning conditions.
40. This existing operation as varied by this proposal would not have a detrimental impact on the integrity of the River Mease Special Area of Conservation, due to appropriate monitoring and mitigation in place through the imposition of existing conditions and the fact these conditions would be carried forward. A Habitat Assessment was carried out as part of the application (Appendix A). The proposals have been assessed in accordance with Part 6 (Regulations 63 and 64) of The Conservation of Habitats and Species Regulations 2017 as set out in Appendix A of this report. The proposal is unlikely to significantly affect the features for which the site is classified as a SAC. It is considered that there would be no significant cumulative impacts with other developments in the SAC

2021-0653-07 (2021-VOCM-0031-LCC) - continued

catchment. Natural England has assessed the application and considers that the proposed development is unlikely to impact the River Mease SAC or SSSI. Overall, it is considered that the proposal would not have significant effects on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

41. Overall, subject to the existing conditions on the planning permission 2006/1543/07 being carried forward the proposal would not have a detrimental impact on the integrity of the River Mease Special Area of Conservation and therefore the development is considered acceptable in accordance with Policy En2 of the North West Leicestershire Local Plan.

Legal Agreement

42. Measham Brickworks site is the subject of an existing Section 106 agreement which covers Permissive Footpaths and Jubilee Pit Conservation Area.
43. Any grant of planning permission for the proposed development would be subject to the prior completion of a revised legal agreement. A legal agreement associated with this planning permission would include all aspects of the existing Section 106 agreement.
44. Subject to the continuation of the control on the Permissive Footpaths and Jubilee Pit Conservation Area within a legal agreement, the development is considered acceptable.

Other Matters

45. The submission of this Section 73 application has presented an opportunity to update conditions which referred to and required information to be submitted to and approved by the Mineral Planning Authority. The conditions that required this information have been updated to reflect the most recent information submitted.

Conclusion

46. It is considered that the variation of condition 2 of planning permission 2006/1543/07 to allow for the export of up to 30,000 tonnes per annum (tpa) of clay from the Duckery Quarry at the Measham Brickworks is acceptable and that the measures contained within the planning application together with the imposition of conditions and completion of a legal agreement will mean that the proposed development would not cause an unacceptable impact to local residents and the local environment. It is therefore recommended that the proposed development be permitted subject to conditions and the completion of a legal agreement.

2021-0653-07 (2021-VOCM-0031-LCC) - continued

Statement of Positive and Proactive Engagement

47. In determining this application, the Minerals Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations and, consultation responses. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

Recommendation

Recommendations in support of an application:

1. PERMIT subject to the conditions set out in Appendix B and the prior completion of a S106 legal agreement covering Permissive Footpaths and Jubilee Pit Conservation Area.

Officer to Contact

Katie Ferguson (Tel: 0116 305 7325)
E-Mail planningcontrol@leics.gov.uk

Habitats Regulations Assessment

Part 6 (Regulations 63 and 64) of The Conservation of Habitats and Species Regulations 2017 (as amended)

PROJECT: Variation of condition 2 of planning permission 2006/1543/07 to allow for the export of up to 30,000 tonnes per annum (tpa) of clay from the Duckery Quarry at the Measham Brickworks.

Location and Description of Proposal

Measham Brickworks is located to the south of the village of Measham. Measham Brickworks as a site comprises of 43.6 hectares, and can be split into two operational areas, the clay extraction area known as Duckery Quarry and the works land (the brickworks and terracotta complex). These two operations are subdivided by Atherstone Road.

Duckery Quarry comprises 38.4 hectares and is broadly bound to the north by residential properties, the closest being on Byron Crescent, to the north-east by Atherstone Road, to the south and the west by the River Mease. The works comprises of 18.3 hectares and lies to the north-east of Atherstone Road. The works site is bound to the north by residential housing on Potters Way and agricultural fields, to the east by agricultural fields and Measham Lodge Business Park. The works area is occupied by a range of buildings and storage yard areas associated with the clay and concrete product manufacturing operations. Within the works area, the brickworks is located within the western part of the works site.

Measham brickwork's lies in open countryside and within the River Mease Special Area of Conservation (SAC) and SSSI. Public footpath P87 runs along the eastern boundary of the works site. The whole site also lies within the National For

This application seeks to vary condition 2 of planning permission 2006/1543/07 to allow for the export of up to 30,000 tonnes per annum (tpa) of clay from the Duckery Quarry at the Measham Brickworks.

As part of the application it is anticipated that the exports would occur during two campaigns a year, each being approximately eight weeks in duration, to meet the timing of stockpile replenishment at Wilnecote Brickworks – equating to an additional 20 loads per day (40 movements) during each eight week period), assuming exports are only carried out Monday to Friday.

As part of the application a transport assessment has been submitted, it is based on the worst-case scenario of an additional 40 movements. The vehicle access would be via the existing quarry access on the west site of Atherstone Road. The statement

2021-0653-07 (2021-VOCM-0031-LCC) - continued

states that an additional 30,000 tonnes of material would generate an additional average of 6 HGV loads to be transferred daily. However, to ensure the operation can potentially 'campaign' clays to Wilnecote to meet the stockpile replenishment timings it is proposed that there is flexibility with the HGV movements to allow for a higher number of daily HGV movements. The statement highlights that a worst-case scenario would be 20 HGV loads per day, across an 8-week period, twice a year. Therefore, the proposal the proposal would result in a maximum of 40 HGV movements, comprising of 20 HGV arrivals and 20 HGV departures.

Interest Features

The River Mease Special Area of Conservation (SAC) is classified on the basis of:

- Spined Loach (*Cobitis taenia*) and Bullhead (*Cottus gobio*) are Annex II species that are a primary reason for the site being designated a SAC
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation are Annex I habitats that are present as a qualifying feature, but are not a primary reason for the site being designated
- White-clawed crayfish (*Austropotamobius pallipes*) and Otter (*Lutra lutra*) are Annex II species that are present as a qualifying feature, but are not a primary reason for the site being designated.

Is the proposal directly connected with or necessary to management of the site for nature conservation?

The project is not connected with or necessary to the management of the site for nature conservation purposes. A Habitats Regulation Assessment has therefore been undertaken to assess the implications of the project in view of the site's conservation objectives.

Significance Test and Assessment of implications of the proposal on the integrity of the European Site

Measham Brickworks lies within the River Mease Special Area of Conservation (SAC) and SSSI. The proposal would not result in any harmful discharges from the application site into the River Mease. It is considered that there would be no significant cumulative impacts with other developments in the SAC catchment. Natural England (the appropriate nature conservation body) has assessed the application and considers that the proposed development is unlikely to impact the River Mease SAC or SSSI. Therefore, it is considered that no Appropriate Assessment is required in this instance.

Conclusion

Overall, it is considered that the proposal would not have significant effects on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI and in this case an Appropriate Assessment is not required.

Signed

K Ferguson.

Date: 25th June 2021

Conditions

1. The development hereby permitted shall be deemed to have commenced on the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Definition and scope of permission

2. The development hereby permitted, which includes: clay extraction, sandstone extraction, mineral processing, mineral stocking, importation of mineral, exportation of up to 30,000 tonnes per annum of clay from Duckery Quarry, product manufacturing, clay product stocking, internal conveying of minerals, construction of new brickworks, hopper and storage bays, demolition of existing brickworks, exportation of soils, screening, landscaping, planting and restoration of mineral working shall only be carried out within the land shown edged red on plan no. MB 2/2 of Environmental Statement dated September 2006.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

3. Unless otherwise agreed in writing by the Mineral Planning Authority or required by the conditions attached to this permission, the development hereby permitted shall only be carried out in accordance with:
 - Details contained in the submitted Application No. 2006/1543/07 dated September 2006, including accompanying statement, drawings, appendices and response to consultation February 2007;
 - Details contained in the submitted Application no 2021-0653-07:
 - Application form dated 16th February 2021,
 - Planning statement reference 403.05921.00065, dated January 2021
 - Transport statement, reference 403.05921.00066, dated November 2020.

Reason: To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.

Restriction of Permitted Development Rights

4. Notwithstanding the provision of the Town and Country Planning General Development Order 1995 for those areas outside existing and new brickworks buildings:
 - 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 Mineral Planning Authority.
 - b) No lights or fences shall be installed or erected at the site unless details of them have been submitted to and agreed in writing by the Mineral Planning Authority.

Reason: To restrict development not authorised by this permission.

Hours of Operation

5. Except in emergencies to maintain safe quarry working or unless otherwise agreed in writing by the Mineral Planning Authority:
 - a) No extraction or tipping at Duckery Quarry shall take place except between hours of 0800 and 1800 Monday to Friday and 0800 and 1400 Saturday.
 - b) No mineral haulage, either into or from the Duckery Quarry shall be carried out except between hours of 0700 to 1800 Monday to Friday and 0700 and 1400 Saturday.
 - c) No vehicles shall use the haul road around the western and northern boundary of the works site except between hours of 0700 to 1800 Monday to Friday and 0700 to 1400 Saturday or in an emergency.
 - d) No construction of the proposed conveyor, hopper, storage bays and new brickworks shall take place except between the hours of 08.00 and 18.00 Monday to Friday and 08.00 and 1400 Saturday.
 - e) No other permitted operations shall take place except between the hours of 08.00 and 18.00 Monday to Friday and 08.00 to 14.00 Saturday except that water pumping within Duckery Quarry and the use of internal haul roads within the brickworks complex not referred to in 5C can take place at any time.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

Access

6. Unless otherwise agreed in writing by the Mineral Planning Authority no HGV's or internal mineral traffic shall use any access points other than those into the Duckery Quarry and the works site stockyards.

Reason: In the interest of highway safety.

7. No HGV's shall turn right out of the works access.

Reason: In the interest of highway safety.

8. No HGV's exiting the Duckery Quarry shall turn left.

Reason: In the interest of highway safety.

9. No HGV's shall access or exit the works site via the access onto Gallows Lane, adjacent to Coronet House.

Reason: In the interest of highway safety.

10. The wheel cleaning facilities currently situated in the Duckery Quarry site consisting of a wheel bath concrete roadway and water sprays onto the roadway shall be maintained for the duration of this permission and used as necessary to ensure that no mud or other detritus is carried onto the highway.

Reason: In the interest of highway safety.

11. The operator/application shall, as necessary carry out any measures to ensure that entrances onto Atherstone Road are kept free from mud or other detritus at all times.

Reason: In the interest of highway safety.

Haul Road

12. Unless otherwise agreed in writing by the Mineral Planning Authority internal haul roads shall be in accordance with drawing No. MB5/8.

Reason: In the interest of highway safety.

Traffic

13. The visibility splays of Gallows Lane along Jubilee Pit and the re-profiling of the hedgerow along Gallows Lane as shown on plan 2007/0543/07/M1 shall be maintained **at all times** until the brickworks cease operations in accordance with the approved detail as follows:

- Document titled 'Submission for the Discharge of Condition 13 of Planning Permission 2006/1543/07', Reference 404.0027.00157, dated February 2008;
- Drawing titled 'Roadside Verge Management', Drawing No. 1, reference 403-0027-00157_0208_C13_001_403SW, dated February 2008.

The visibility splays of Gallows Lane along Jubilee Pit and the re-profiling of the hedgerow along Gallows Lane shall be maintained at all times in accordance with the approved details until the brickworks cease operations.

Reason: In the interest of highway safety.

14. HGV movements associated with the exportation of clay shall not exceed 40 movements (20 in and 20 out) in any day. Written records of these HGV movements shall be kept and copies of these records shall be made available to the MPA within 7 days of a written request being made

Reason: In protect the amenity of the locality from the effects of vehicle movements from the development.

Dust

15. Unless otherwise agreed in writing with the Mineral Planning Authority dust suppression methods shall be implemented in accordance with table 13/9 of the Environmental Statement dated September 2006.

Reason: To protect the amenity of the locality from the effects of dust arising from the development.

16. At such times as operations on site give rise to unacceptable levels of dust leaving the site such as during adverse conditions due to strong winds combined with dry weather, such operations shall be temporarily suspended

2021-0653-07 (2021-VOCM-0031-LCC) - continued

until the operations can be resumed without causing nuisance, either by change in working, weather conditions or other additional measures.

Reason: To protect the amenity of the locality from the effect so of dust arising from the development.

Noise

17. Measures shall be taken within the site to ensure that the best practicable means are used to control the emissions of noise from the site and ensure so far as is reasonably practicable that the operations carried out within the site do not give rise to nuisance at nearby residential properties.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

18. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufactures specification at all times and shall be fitted with and use effective silencers. Any breakdown or malfunction of silencing equipment or screening shall be treated as an emergency and should be dealt with immediately. Where a repair cannot be affected within a reasonable period, the equipment affected should be taken out of service.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

19. All audible warning devices fitted to mobile plant, vehicles and machinery whilst affording the required safety protection shall be designed and operated so as to minimise disturbance to nearby residents.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

20. Except for temporary operations noise levels from operations within the site shall not exceed 55dBL_{aeq} (1 hour) freefield at any noise sensitive property.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

21. Noise levels arising from soil stripping, overburden movements and construction and soiling screening embankments for the Duckery Quarry extension shall be minimised as far as is reasonably practicable and in any case shall not exceed 70dB L_{aeq} (1 hour) freefield at any noise sensitive property. Such noisier activities should not affect any individual noise sensitive property for more than 8 weeks in any year. Advanced notice of the commencement of such noisier activities shall be given in writing to the Mineral Planning Authority.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

22. Any pumps operated outside the hours of operation specified under the condition headed Hours of Operation shall be operated and sited so as to minimise impact on residents from noise.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

23. Noise monitoring shall be carried out in accordance with the following:
- Noise Monitoring Scheme Pursuant to Condition 22 of Planning Permission 2006/1543/07, reference 404.0027.00157, dated February 2008;
 - Monitoring shall be undertaken every 12 months at each noise sensitive location for four non-consecutive 15-minute periods to obtain an hour period.
 - Noise monitoring shall be reviewed every 12 to 24 months to ensure no breach of condition, that all relevant mitigation measures are in place and the frequency of noise monitoring is acceptable;
 - Should a noise limit be breached during a survey the County Council shall be notified in writing and any mitigation measures shall be approved in writing by the Mineral Planning Authority;
 - Should a noise complaint be received the County Council shall be notified and an appropriate investigation shall be undertaken to resolve any noise nuisance;
 - Once noise monitoring has been undertaken a report of the results shall be submitted within one month to the Mineral Planning Authority.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

24. In the event of any complaint being received regarding noise, dust or lighting from the site, the operator shall inform the Mineral Planning Authority within 24 hours. If, in the opinion of the Mineral Planning Authority, it is considered that the complaint warrants further investigation, a report shall be submitted to him. Where necessary, a scheme of mitigation measures shall be submitted to and be approved by the Mineral Planning Authority and subsequently implemented. The scheme of measures shall seek to mitigate the effects of the operation that gave rise to the original complaint.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

Soil Stripping and Handling

25. Soil movement operation shall only be carried out when the full volume of soil involved is in a dry and friable condition, Conditions shall be sufficiently dry for the topsoil to be separated from the subsoil without any difficulty.

Reason: To protect the soil resource and to aid the final restoration of the site.

26. No plant or vehicles shall cross any area of un-stripped topsoil or subsoil except where such trafficking is unavoidable in undertaking soil handling operations hereby permitted. Where trafficking does occur it shall be kept to the essential minimum and all available topsoil (and subsoil) shall be stripped from that part where trafficking occurs.

Reason: To protect the soil resource and to aid the final restoration of the site.

27. Before topsoil's and subsoil's are stripped from any part of the site, a scheme of soil movement shall be submitted to and approved by the Mineral Planning Authority. Such a scheme shall identify the origin, intermediate storage and final use of soils, as defined by soil units, together with details balancing the quantities, depths and areas involved. Soil movements shall be carried out in accordance with the approved scheme.

Reason: To protect the soil resource and to aid the final restoration of the site.

28. Topsoil and subsoil shall be separately stripped to their full depth and shall wherever possible be immediately respread in their correct sequence to the same settled depth. If immediate respreading is not practicable, the topsoil and subsoil shall be stored separately for subsequent use.

Reason: To protect the soil resource and to aid the final restoration of the site.

29. All topsoil, subsoil, imported soils and soil making materials shall each be stored in separate mounds, which do not overlap. Mounds shall be located in positions specified and agreed with the Mineral Planning Authority in advance. Topsoil mounds shall not exceed 3 metres in height and subsoil mounds shall not exceed 5 metres in height.

Reason: To protect the soil resource and to aid the final restoration of the site.

30. All soil storage mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except where essential for purpose of mound construction or removal for restoration purposes.

Reason: To protect the soil resource and to aid the final restoration of the site.

31. All storage mounds that will remain in situ for more than 6 months or over winter are to be seeded in accordance with a specification agreed with the Mineral Planning Authority prior to mound construction. Mounds shall be managed throughout the period of storage to maintain satisfactory vegetation cover, weed control and to avoid erosion or waterlogging.

Reason: To protect the soil resource and to aid the final restoration of the site.

32. The exportation of soil off site shall be carried out in accordance with the approved details:
- Document titled 'MEASHAM QUARRY PERMISSION REF. 2006/1543/07 – 2010 QUARRY DEVELOPMENTS AND PLANNING UPDATE, reference M112/P1.006/TD and dated 22nd June 2010.
 - Approval letter from the Mineral Planning Authority to Mr. Darling titled 'Measham Quarry – Submissions under permission no.2006/1543/07' dated 2nd July 2010.

Reason: To protect the soil resource and to aid the final restoration of the site.

Landscaping

33. Landscaping shall be carried out in accordance with the following:

- 'Details Pursuant to Condition 32 Measham Brickworks Quarry, Leicestershire, Landscaping Scheme, SLR Ref: 403-0027-00157, dated September 2010;
- Unless otherwise agreed in writing by the Mineral Planning Authority, an annual landscape monitoring visit shall be arranged in either April or May each year to assess the effectiveness of the scheme approved above and to ascertain whether works, in addition to those works identified in the approved scheme, are necessary in the coming year. Any works identified shall be carried out as soon as practicable and prior to the next landscape monitoring visit.

Reason: In the interest of the amenity of the local area and to ensure the development is adequately screened.

34. All tree, shrubs and hedges along the boundaries of the site shall be retained, protected and maintained throughout the duration of the operations hereby permitted. Whilst operations, including the passage of vehicles are occurring within the vicinity of trees and hedges to be retained an area around the trees and hedges at a distance equivalent to not less than the existing spread of branches from the trunk and in any case not less than 3 metres shall be cordoned off with distinctive markings.

Reason: In the interest of the amenity of the local area and to ensure the development is adequately screened.

Archaeology

35. All development within Duckey Quarry shall be carried out in accordance with the scheme titled 'Archaeological Watching Brief Method Statement', reference 406.0027.267 and dated July 2010. No development shall take place except in accordance with the agreed programme.

Reason: To ensure that adequate archaeological investigation and recording is undertaken prior to the development taking place

Lighting

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

Reason: To protect the amenity of the local residents.

37. Unless otherwise agreed in writing by the Mineral Planning Authority external lighting located on and around the new brickworks shall be in accordance with details submitted on the 26th March 2008 (Darksky 2, as shown on drawing No. PRO-1029-08 and JMG027/E04-D).

Reason: To protect the amenity of the local residents.

New Brickworks

38. The new brickworks shall be constructed in accordance with details previously submitted and approved in writing by the Mineral Planning Authority.

Reason: To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.

39. The external colour of the new brickworks shall be carried out in accordance with the following details:

- The brick factory shall be finished in a moorland green colour and doors finished in a mushroom colour as shown on drawing no. MB6/15 dated Oct 2007;
- The chimney shall be finished in a Goosewing Grey and Albatross as shown on Building Colour Schemes – Option 1 (drawing number MB6/6, Jan 2007).

The brickworks and chimney shall be maintained in the approved colours at all times.

Reason: In the interest of the amenity of the local area and to ensure the development is adequately screened.

40. Within 6 months of the date of this permission, a detailed plan of the works site identifying all existing uses, access points, haul roads and buildings shall be submitted to the Mineral Planning Authority. The plan shall be reviewed every five years and submitted to the Mineral Planning Authority.

Reason: To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.

Conveyor / Feed Hopper and Crusher Building

41. The feed hopper, crusher building and conveyor over Atherstone Road shall be constructed in accordance with drawing titled 'Proposed Quarry Elevations, drawing number PRO-1029-09 and dated 25.0.08.

Reason: To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.

42. The external colour of the new hoppers, stores shall be carried out in accordance with the following:

- The cladding to the hopper and crusher enclosures/buildings shall be treated and maintained in a Moorland Green (12B21) to the sides (elevations) and Olive Green (12B27) to the roof.

The external colour of the new hoppers, stores shall be maintained in the approved colours at all times.

Reason: In the interest of the amenity of the local area and to ensure the development is adequately screened

43. The conveyor cladding shall be carried out constructed and maintained in accordance with document titled 'Submission for the Discharge of Conditions

2021-0653-07 (2021-VOCM-0031-LCC) - continued

38, 43, 44 and 54, reference 403.0027.00157, dated October 2007 and the discharge letter from the Mineral Planning Authority dated 15/4.2008.

Reason: In the interest of the amenity of the local area and to ensure the development is adequately screened

Duckery Quarry / Duckery Quarry Extension

44. Unless otherwise agreed in writing by the Mineral Planning Authority mineral extraction shall be carried out in accordance with drawing No. MB 5/3, MB 5/4, MB 5/5, MB 5/6, MB 5/7 and details contained within the Environmental Statement (Sept 2006) and Responses of Consultee (February 2007).

Reason: To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.

45. Unless otherwise agreed in writing with the Mineral Planning Authority, in March of each year, a plan shall be submitted to the Mineral Planning Authority showing progress of phased extraction, future extraction, existing contours, current depth, soil stripping, soil storage, internal haul roads, raw material stockpiles, and progressive restoration at a date within 28 days prior to submission. The details shall include the area stripped of topsoil and subsoil, the location of each soil and overburden storage mound and the quantity and nature of material therein. The operator shall meet, unless otherwise agreed in writing, with the Mineral Planning Authority, at an annual site and management meeting to discuss the details submitted pursuant to this condition and the anticipated programme of working for the next 12 months.

Reason: To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.

46. The maximum height of any stockpile of clay, sands or sandstone (either won on site or imported) within Duckery Quarry shall not exceed existing surface /screening mound levels within the site.

Reason: To enable the MPA to adequately control the development and to minimise its impact on the amenities of the local area.

47. In each calendar year, the Mineral Planning Authority shall be notified in writing no earlier than 10 but at least 5 days before each of the following stages;
- a) soil stripping is due to commence
 - b) 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;

Reason: To enable the effects of the development to be adequately monitored during the course of the operations.

Hydrology / Pollution and Drainage Protection

48. The provision and implementation of surface water run-off limitation shall be carried out in accordance with the document titled 'Surface Water and Flood Management Plan Pursuant to Conditions 50, 51 and 59 of Planning Permission 2006/1543/07, reference 403-0027-00157, February 2008.

Reason: To minimise the risk of groundwater pollution and cater for different geological or hydrological conditions below the working level and to minimise the effect on local ground water resources and River Mease.

49. The disposal of foul and surface waters shall be carried out in accordance with the document titled 'Surface Water and Flood Management Plan Pursuant to Conditions 50, 51 and 59 of Planning Permission 2006/1543/07, reference 403-0027-00157, February 2008.

Reason: To minimise the risk of groundwater pollution and cater for different geological or hydrological conditions below the working level and to minimise the effect on local ground water resources and River Mease.

50. There shall be no discharge of foul or contaminated drainage from the site to either groundwater or any surface waters whether direct or via soakaway.

Reason: To minimise the risk of groundwater pollution and cater for different geological or hydrological conditions below the working level and to minimise the effect on local ground water resources and River Mease.

51. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is, multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, and or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To minimise the risk of groundwater pollution and cater for different geological or hydrological conditions below the working level and to minimise the effect on local ground water resources and River Mease.

52. Within three months of the site operator receiving a written request from the Mineral Planning Authority to the extent that the submission approved by letter dated 1st October 2010 requires reviewing, the operator shall submit in writing to the Mineral Planning Authority, for its approval, a revised scheme which shall include, as a minimum, the following details:

- Existing groundwater flow data
- Monitoring locations
- Trigger levels
- Monitoring procedures
- Frequency of monitoring

2021-0653-07 (2021-VOCM-0031-LCC) - continued

- Mitigation measures
- Water quality
- Results

And any other matters the Mineral Planning Authority considers necessary. The revised scheme shall be implemented in full immediately following such approval from the Mineral Planning Authority.

Reason: To minimise the risk of groundwater pollution and cater for different geological or hydrological conditions below the working level and to minimise the effect on local ground water resources and River Mease.

53. Should groundwater levels, water quality or river flows be detrimentally affected in the opinion of the Mineral Planning Authority operations shall cease and further mitigation measures shall be agreed in writing by the Mineral Planning Authority. Operations would then comply with the approved mitigation measures.

Reason: To minimise the risk of groundwater pollution and cater for different geological or hydrological conditions below the working level and to minimise the effect on local ground water resources and River Mease.

54. No mineral extraction shall take place within the approved extension area within 91 metres distance of the River Mease.

Reason: To minimise the risk of groundwater pollution and cater for different geological or hydrological conditions below the working level and to minimise the effect on local ground water resources and River Mease.

Ecology

55. Any development shall accord with the approved ecological management plan as detailed below:

- Document titled 'Discharge of Condition 57 of Planning Permission 2006/1543/07, dated October 2008, Reference 403-0027-00246;
- Drawing Titled 'Habitat Survey Drawing 1' dated September 2008;
- Works to trees or hedgerows shall be undertaken outside of the bird breeding season (March to August), unless it can be demonstrated by a suitably qualified ecologist that no nesting birds are present.

Reason: In the interest of amenity and wildlife conservation.

56. No trees or hedgerow shall be felled between March and October (inclusive)

Reason: In the interest of amenity and wildlife conservation.

Flood

57. The provision and implementation of flood storage works shall be carried out in accordance with the document titled 'Flood Storage Works', reference 416.00027.00294, dated 12th September 2013.

2021-0653-07 (2021-VOCM-0031-LCC) - continued

Reason: To minimise the impact of flooding on the local watercourses and local environment.

58. There shall be no storage of any materials including soil within that part of the site which lies within the floodplain.

Reason: To minimise the impact of flooding on the local watercourses and local environment.

59. No raising of ground levels shall take place within the floodplain of the River Mease.

Reason: To minimise the impact of flooding on the local watercourses and local environment.

Restoration and Reclamation

60. The restoration and reclamation the Duckery Quarry shall be carried out in accordance with the following details:

- 403-00027-00374 titled 'Revised Detailed Restoration Scheme pursuant to Condition 62' and dated August 2014;
- Plan No. 2 – REV A dated July 2014; and
- Covering letter dated 26th August 2014;
- All *Alnus glutinosa* planted stock shall be sourced from *Phytophthora* free nurseries and *Sambucus nigra* shall be omitted from the planting mixes;
- All new hedge plants and trees shall be protected from rabbit damage for at least five years from their planting.

Reason: To ensure that the site is reclaimed in an orderly manner to a condition capable of beneficial afteruse and in the interest of amenity of local residents

Aftercare and Management

61. Prior to the completion of the reclamation of Duckery Quarry a scheme for the aftercare and management of the restored and reclaimed land in order to bring it to a condition suitable for long term beneficial use and the maintenance of that beneficial use shall be submitted to the Mineral Planning Authority for written approval. The submitted scheme shall cover a minimum aftercare period of 5 years and shall specify the steps that are to be taken over that period and in addition shall include the provisions to be made for subsequent management of land and vegetation throughout the duration of the mineral working operations hereby permitted; the matters to be included in the scheme shall include:

- planting;
- cultivating;
- fertilising;
- water formation;
- water stock;
- draining;
- management of the land;

- rights of way

The scheme of aftercare and management shall be subject to annual review throughout the life of the Duckery Quarry and associated brickworks and in the light of circumstances appertaining at the time of the review the scheme may be modified in agreement with the Mineral Planning Authority.

Reason: To ensure that the site is reclaimed in an orderly manner to a condition capable of beneficial afteruse and in the interest of amenity of local residents

62. Before June of every year an annual aftercare and management meeting shall take place on site between the operator and Mineral Planning Authority. The date of the meeting shall be confirmed in writing by the operator not later than 2 weeks prior to the meeting.

Reason: To ensure that the site is reclaimed in an orderly manner to a condition capable of beneficial afteruse and in the interest of amenity of local residents.

Premature Cessation of Extraction

63. In the event of a cessation of winning and working of minerals prior to the completion of all permitted extraction, which in the opinion of the Mineral Planning Authority constitutes a permanent cessation within the terms of paragraph 3 of schedule 9 of the Town and Country Planning Act 1990, a reclamation scheme (to include details of aftercare) shall be submitted in writing for approval to the Mineral Planning Authority within 6 months of such cessation. The scheme shall address the matters set out in condition no 60. The approved scheme shall be fully implemented within 12 month of the written approval unless otherwise agreed in writing by the Mineral Planning Authority.

Reason: To ensure that the site is reclaimed in an orderly manner to a condition capable of beneficial afteruse and in the interest of amenity of local residents

Duration

64. This permission shall expire on 31st December 2042 by which date all mineral extraction shall have ceased and the extraction areas shall have been restored and reclaimed in accordance with the conditions attached to this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

65. Unless otherwise agreed in writing by the Mineral Planning Authority the use of the brick factory and works buildings shall cease not later than 2 years from the permanent cessation of clay extraction and all buildings, plant, machinery shall have been removed and the site restored in accordance with details which have previously been submitted to and approved in writing by the Mineral Planning Authority.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2021-0653-07 (2021-VOCM-0031-LCC) - continued

DEVELOPMENT CONTROL AND REGULATORY BOARD

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

EQUALITY AND HUMAN RIGHTS IMPLICATIONS

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

IMPLICATIONS FOR DISABLED PERSONS

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

Note to Applicant Department

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

COMMUNITY SAFETY IMPLICATIONS

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

BACKGROUND PAPERS

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

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

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

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

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

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

- Section 70(2) : determination of applications;
- Section 77(4) : called-in applications (applying s. 70);
- Section 79(4) : planning appeals (applying s. 70);
- Section 81(3) : provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
- Section 91(2) : power to vary period in statutory condition requiring development to be begun;
- Section 92(6) : power to vary applicable period for outline planning permission;
- Section 97(2) : revocation or modification of planning permission;
- Section 102(1) : discontinuance orders;

2021-0653-07 (2021-VOCM-0031-LCC) - continued

- 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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