

**DEVELOPMENT CONTROL AND REGULATORY BOARD****13th October 2022****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2022/VOCM/0070/LCC (2022/0940/07) – 30th May 2022.
- PROPOSAL:** Variation of Conditions 4 (clay stocking), Condition 15 (importation of material), Condition 30 and 31 (provision of detailed restoration scheme) of Planning Permission 2020/VOCM/0156/LCC.
- LOCATION:** Donington Island Clay stocking Site, Spring Cottage Road, Ashby Woulds, DE12 6NA (North West Leicestershire District).
- APPLICANT:** Wavin Ltd.
- MAIN ISSUES:** Safeguarding fireclay resources and restoration.
- RECOMMENDATION:** PERMIT subject to the completion of a legal agreement and subject to conditions as set out in appendix B to the main report.

Circulation Under Local Issues Alert Procedure

Mr R Ashman CC

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PART B – MAIN REPORT

The Site and Surroundings

1. The Donington Island clay stocking site is located within the Ashby Wolds, to the south of Albert Village. The site is bounded to the north by Albert Village Lake and to the east by Reservoir Hill and Spring Cottage Road, beyond which is the Conkers tourist attraction. To the south and south-west there is existing vegetation, residential properties and a railway beyond the vegetation. To the west is the Swainspark Industrial Estate. Public Rights of Way P39 runs along the south-west boundary of the site, with P22 running along the western boundary and P23 running along the northern boundary around Albert Village Lake. The site lies within the National Forest and within the catchment area of the River Mease Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). Access to the site is off Spring Cottage Road.
2. Donington Island as a site has a total area of approximately 42.75 hectares, that comprises of two main sections, divided by an internal haul road running south-west to north-east. The north-western section is referred to as phase one and the south-eastern section is referred to as phase two. The site offices and car parking are located on the eastern part of the site. Clay stocking takes place in the phase two and immediately north-west of the internal haul road in phase one. The remaining part of phase one contains materials required for restoration of the site.
3. The redline application boundary also includes an area to the south-east of Occupation Road. In the northern part of this area, planning permission was granted in April 2014 by North West Leicestershire District Council for the erection of one no. storage unit, fencing and associated parking. For the southern part of the area, planning permission was granted in January 2015 by North West Leicestershire District Council for the installation of up to 2000 panels in 16 parallel arrays with an output capacity of 500kW.
4. The nearest residential properties are located to the south-east along Spring Cottage Road, approximately 20 metres from the site at their closest. There are also residential properties located 280 metres to the north-west on Occupation Road.

Planning History

5. In April 1978, planning permission was granted for the extraction of coal and clay from land south of Albert Village. The applicant was the National Coal Board, and the development was referred to as 'Donington Extension'. The application, and subsequent permission, envisaged the storage of clay won in association with the coal extraction. Planning permission was granted by the County Council in

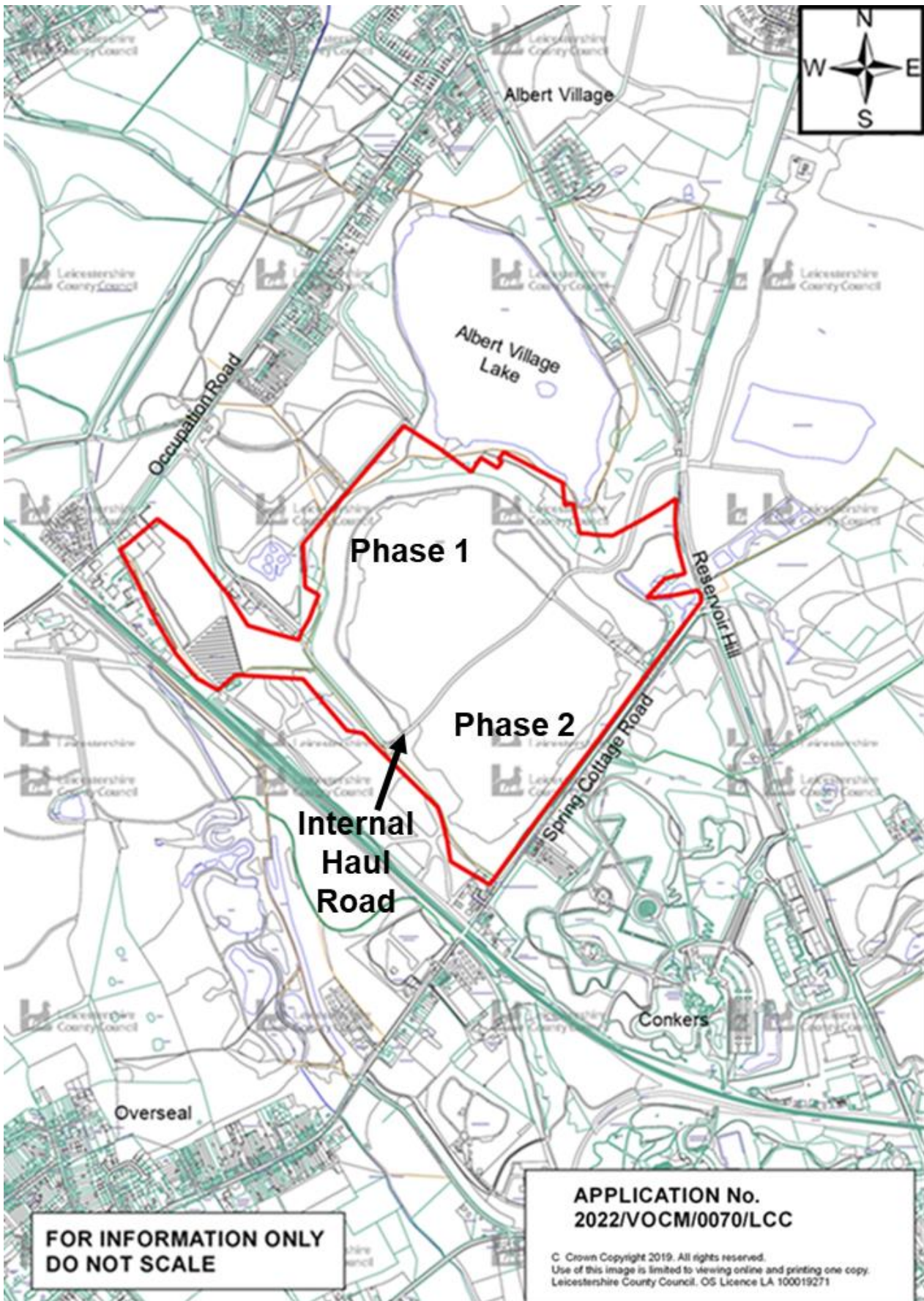
July 1978 for the temporary storage of refractory clays on the Donington site for a period up to 24th June 1994.

6. Planning permission was granted in December 1997 (reference 1997/0547/07) to retain the facility for clay stocking at the Donington site within a reduced site area for a period expiring on 31st December 2012. Further planning permission was granted in February 2010 (reference 2009/1207/07) for an extension of the expiry date of the clay stocking facility by 5 years to 31st December 2017.
7. Planning permission was granted in May 2015 to extend the use of the northern part of the site for clay stocking for a further 3 years until 31st December 2020 with the southern part retained for a further 15 years until 31st December 2032 (reference 2015/0991/07).
8. Planning permission was granted in November 2018 (reference 2017/1226/07) to allow for a temporary increase in HGV exports for a 12-month period. This time period ended July 2020.
9. In January 2020, a Non-Material Amendment (reference 2019-2205-07) application was permitted to allow for a 12-month extension for the submission of a restoration scheme.
10. Planning permission was granted in February 2021 (reference 2020/1610/07) to allow for an extension of time to delay restoration and submission of a detailed restoration scheme by 12 months.

Planning Background

11. Under the existing legal agreement, Wavin (the site owners), shall transfer land at Donington to the National Forest Charitable Trust (or such body responsible for the National Forest). In April 2022, the National Forest Charitable Trust merged with the National Forest Company to provide a single larger organisation that brings together the assets and expertise of the two charities to realise the shared ambitions for the National Forest as a whole and the heart of the forest area in particular. The Trust is seeking to create a vibrant heart for The National Forest. This will include a 1000-acre woodland park, in which CONKERS has already been created, with opportunities for walking, cycling and discovery in the emerging woodland environment. The Trust has adopted a 20-year strategic framework and master plan for the creation of the Heart of the National Forest Park which proposes that the Donington clay stocking site be remediated for a range of recreational uses including visitor accommodation and land and water-based leisure facilities. A Vision and Action Plan for the Heart of the National Forest was published in September 2009. This acknowledged that some key water-based leisure attractions planned for the area have been delayed; that the Donington site was now likely to come forward much slower than was originally envisaged (due to clay stocks not being used

as fast as was anticipated); that Donington will not be available in the short or medium term; and that some projects such as Donington 2 lakes are likely to come forward later in the plan period (2020 - 2026).



Description of Proposal

12. The planning application seeks to vary Conditions 4, 15, 30 and 31 of planning permission 2020/1610/07.

Condition 4

13. Condition 4 of the existing planning permission states:

“Permission for the retention of the clay stocking area within the area hatched blue on drawing no.14184/501 dated April 2015 shall be limited until a period expiring on 31st December 2021. All restoration earthworks within this area and seeding of the restored land shall be completed by 30th September 2023 in accordance with the restoration scheme approved in accordance with condition no.30 below. Final restoration (including all planting works) shall be completed by 31st December 2023.”

14. The proposal seeks to vary Condition 4 to extend the date for retention of the clay stocking area in phase one until 31st July 2023. The clay stocking area in phase one is a central strip across the site, located immediately north-west of the internal haul road which runs directly through Donington Island.
15. In addition, the proposal also seeks for an extension of time for the completion of the final restoration and all planting works by 30th September 2024.
16. In summary, the application therefore proposes to extend the date for retention of the clay stocking area in phase one by 19 months from 31st December 2021 to 31st July 2023 and the completion of final restoration and planting by 9 months from 31st December 2023 to 30th September 2024.

Condition 15

17. Condition 15 of the existing planning permission states:

“The importation of material shall be restricted to clays for blending purposes. Such importation shall not exceed a level of 20,000 tonnes per annum. Records of such importation shall be maintained on a monthly basis, and shall be made available to the Mineral Planning Authority at any time upon request.”

18. The proposal seeks to vary Condition 15 to permit the importation of soils and soil making materials to enable a suitable growing medium for wildflower grassland as there are currently no soils stored on site.
19. The proposal requires this variation as there is a need for soils and soil making materials to be imported to enable the growth for species rich grassland. The proposal seeks to import up to 25,000m³ of soils and soil making materials. The

materials are likely to be from local construction and demolition projects. As part of the importation process, it has been proposed within the application that with the interests of sustainability of the site, a statement could be submitted to the Mineral Planning Authority prior to importation of materials which includes details on the origin and type of material.

Conditions 30 and 31

20. Condition 30 of the existing planning permission states:

“a detailed restoration scheme for the area hatched blue on drawing no. 20235/103 dated October 2020 shall be submitted to the Mineral Planning Authority for approval by no later than 31st December 2021. The scheme shall include proposals for the restoration (including seeding, planting, landscaping) of that part of the site together with a timetable for the completion of the works.”

21. Condition 31 of the existing planning permission states:

“the area hatched pink on drawing no. 14184/501 dated April 2015 shall be restored in a progressive manner in accordance with a scheme of phasing which has been submitted to and approved in writing by the Mineral Planning Authority. The scheme of phasing shall be submitted to the Mineral Planning Authority by no later than 31st December 2022. The scheme shall specify a timetable for the submission of detailed restoration schemes and the completion of restoration works for each phase”

22. The proposal seeks to vary Condition 30 and 31 to extend the dates for the provision of the detailed restoration schemes for phase one and phase two until 31st July 2023 – which would delay the submission of the restoration schemes for phase one and phase two by 19 months from 31st December 2021 and by 7 months from 31st December 2022, respectively.

Details and reasons for the time extensions

23. The proposal to vary conditions, 4, 15, 30 and 31 is in order to provide a long-term resource for a number of national clayware manufacturing companies dependent on the facility, the various grades of fireclay stocked at Donington Island ensure that continued supply is maintained for blends used in the manufacture of products such as bricks, pipes and tiles.

24. Large volumes of economic clays are still stored on the phase one site and due to the uncertainty over the phase one restoration, the works to remove all the clay stocks could not be achieved within the previously permitted timescale. The proposal for an extension of time would avoid sterilisation of these economic clays and allow for a landform to be created that is suitable for any proposed

restoration scheme which can be agreed in principle by the County Council and the National Forest Company.

25. To comply with Condition 30 of the existing planning permission, a scheme was submitted to the Mineral Planning Authority in December 2021. The submitted scheme had been formed through discussions with the applicant (Wavin) and The Heart of the National Forest Trust (HOTNFT) for the site to be restored to leisure/amenity use including a large lake.
26. The HOTNFT ceased to exist on the 1st April 2022 and has been replaced by The National Forest Company which is taking over the responsibility of the site and currently reviewing and deciding upon what they require in terms of an end restoration scheme. Therefore, the extension of time is sought to allow The National Forest Company time to consider a revised restoration scheme.

Great Crested Newts

27. Condition 29 of the existing planning permission requires a Great Crested Newt (GCN) survey to be carried out prior to the commencement of any restoration works. As part of the application, the supporting statement states that Wavin have GCN surveys on-going.

Planning Policy

The Development Plan

28. Leicestershire Minerals and Waste Local Plan (adopted September 2019)

- Policy M6: Fireclay
- Policy DM2: Local Environment and Community Protection
- Policy DM5: Landscape Impact
- Policy DM12: Restoration, Aftercare and After-use

29. *North West Leicestershire Local Plan (adopted November 2017)*

- Policy D2: Amenity
- Policy En3: The National Forest

National Policy

30. *National Planning Policy Framework (NPPF) (2021)*

- Paragraph 11: Presumption in favour of sustainable development
- Paragraph 209: Facilitating the sustainable use of minerals
- Paragraph 211 (e): Provide for restoration and aftercare at the earliest opportunity

Consultations

31. **North West Leicestershire District Council** – No objections.
32. **Natural England** – No comments to make on the application.
33. **LCC Ecology** – No objections or comments to make on this application for an extension of time.
34. **LCC Landscape** - No objection and no further comments.
35. **National Forest Company (NFC)** – NFC are working with the applicant on the long-term future for this site as the current s106 agreement includes the potential transfer of the land to the NFC. Whilst the NFC would like to see the land restored at the earliest opportunity, the delay in submitting the details required under these conditions does allow for further work to be completed on the future use of the site which then allows the restoration to be designed in a way to facilitate that future use.
30. **North West Leicestershire District Council (Environmental Health), the Environment Agency, and Ashby Woulds Town Council** have not responded. Any response received will be orally reported.

Publicity and Representations

36. The application has been publicised by means of site notices and a press notice in accordance with the County Council's adopted Statement of Community Involvement.
37. One representation from the public has been received commenting about the amount of time the applicant has been allowed to submit an application seeking to delay restoration. The representation also raises concerns about the delay in restoration of the site for a number of years.
38. The issue raised is considered in the Assessment of Proposal section of this report.

Assessment of Proposal

39. The planning application seeks to vary the following conditions of Planning Permission 2020/1610/07:
 - a) Condition 4 - to extend the date for retention of the clay stocking area until 31st July 2023 and extend the completion of the final restoration and all planting works by 30th September 2024 in phase one.
 - b) Condition 15 - to permit the importation of soils and soil making materials.

- c) Conditions 30 and 31 to extend the dates for the provision of the detailed restoration schemes for phase one and phase two until 31st July 2023.

Planning Policy Assessment

40. The NPPF states that, since minerals are a finite natural resource, it is important to make best use of them to secure their long-term conservation (paragraph 209); and that Mineral Planning Authorities should plan for a steady and adequate supply of industrial minerals by, amongst other things, encouraging stockpiling so that important minerals remain available for use (paragraph 214). Fireclay is identified as one of the minerals which are necessary to meet society's needs. The NPPF also states that Mineral Planning Authorities should provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions (paragraph 211).
41. Leicestershire has dominated fireclay supply in England for many years. In the 1970s to early 1980s, large quantities of fireclay were selectively extracted with coal but stockpiled separately according to clay quality. This clay has been recognised as an important national resource. The availability of fireclays from opencast coal operations is likely to become increasingly limited, making the stockpiled clays even more important.
42. It is acknowledged that this is not the first extension of time for the restoration of Donington Island, and this application would further delay the restoration of the site, which does not accord with the NPPF's drive to have sites restored at the earliest opportunity. However, this must be balanced against securing the use of important minerals and producing a restoration scheme of high environmental standards.
43. Donington Island is a temporary stocking facility for fireclay, hosting as the principal source of fireclay within Leicestershire, the site contained around 546,500 tonnes of clay in stockpiles at the end of August 2022. The clays at Donington Island are a valuable resource for Wavin and a number of other national clayware manufacturing companies who are reliant on this material, so it is of local and national importance that these clays are not sterilised. Donington Island is an allocated site within the Leicestershire Minerals and Waste Local Plan as part of Policy M6 (Fireclay) which states that the County Council will ensure a steady and adequate supply of fireclay by establishing a temporary stocking and blending facility within the Donington Island Site, subject to site-specific planning requirements including:
- a) Rationalisation of the current stocking and blending area to achieve a reduced footprint of the working area within an agreed timetable and utilising the minimum area of land necessary to maintain supplies of fireclay.

- b) Details of the routeing of HGVs so as to avoid local communities as far as is reasonably practicable.
 - c) Surveys of site and surroundings to determine the value of existing habitats and whether Great Crested Newts are on site.
 - d) Provision of a phased landscaping scheme incorporating the retention and enhancement of existing boundary vegetation.
 - e) Assessment of flood risk.
 - f) Timely restoration of those areas no longer utilised to stock and blend clay.
 - g) Restoration to include species-rich grassland, wetland, and native deciduous woodland.
44. The proposal seeks the following: extend the date for the retention of the clay stocking area until 31st July 2023; extend the dates for the provision of the detailed restoration schemes for phase one and phase two until 31st July 2023; and an extension of time for the completion of the final restoration and all planting works for phase one by 30th September 2024. Any grant of planning permission would accord with parts (a) – (e) inclusive of Policy M6 of the Leicestershire Minerals and Waste Local Plan.
45. As part of the existing planning permission, Condition 30 requires that a detailed restoration scheme be submitted to the Mineral Planning Authority for approval before 31st December 2021 – this was undertaken, however the details submitted were insufficient and did not accord with part (g) above, which is a requirement of Policy M6 of the Leicestershire Minerals and Waste Local Plan. Therefore, to enable a high standard restoration plan to be submitted, more time is sought from the Minerals Planning Authority by the applicant (Wavin), to work with the National Forest to design a restoration scheme which facilitates its future uses and accords with the requirements of policies M6.
46. In light of the above, the proposal is considered acceptable in accordance with the NPPF and Policy D6 of the Leicestershire Minerals and Waste Local Plan.

River Mease SSSI and Special Area of Conservation (SAC)

47. The site lies within the catchment area of the River Mease SSSI and SAC. The Conservation (Natural Habitats etc.) Regulations 2017 requires 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. In this instance, Natural England have no comments to make on the variations of Conditions 4, 15, 30 and 31.
48. The existing planning permission (2020/1610/07) received comments from Natural England in which, Natural England considered that the proposed

development will not have likely significant effects on the River Mease Special Area of Conservation and will not damage or destroy the interest features.

49. Donington Island lies within the catchment area of the River Mease SSSI and SAC, therefore a screening assessment was undertaken to screen if the proposal is directly connected with or necessary for the conservation management of a European site or risks having a significant effect on a European site on its own or in combination with other proposals. This screening is set out in Appendix A of this report and concluded that the proposal would not have a significant adverse effect 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.

Local Environment

50. The delay in the restoration, the retention of the stockpiles and the importation of soils will result in the site operating for a longer period than previously consented, which will impact the local environment and community. 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, which includes, but not limited to restrictions on working hours, a dust action plan, dust and noise monitoring and noise limits.
51. Subject to the existing conditions being carried forward with the grant of planning permission, the proposal is considered acceptable in accordance with Policy DM2 of the Leicestershire Minerals and Waste Local Plan.

Landscape and Visual Impact

52. The site lies within the National Forest. As the proposal is a delay in the restoration, importation of soils and soil making materials and the retention of a clay stocking area, it is not a new development and is not required to contribute towards the creation of the forest in accordance with National Forest Planting Guidelines.
53. It is recognised that the proposal delays the restoration, however, by doing so it enables the applicant and The National Forest Company to work together with the Mineral Planning Authority to design a scheme that is integral to the Trust's vision of attracting visitors to the area whilst improving the environment and according with Leicestershire Minerals and Waste Local Plan. Therefore, the proposal is in accordance with Policy En3 of the North West Leicestershire Local Plan.

Restoration, After-use and Long-Term Management

Importation of Soils

54. The proposal incorporates the variation of Condition 15 to permit the importation of 25,000m³ of soils and soil making materials for the restoration of the site. As part of the application, the applicant has suggested a statement could be submitted to the Mineral Planning Authority prior to importation of materials which includes details on the origin and type of material.
55. In certain restoration cases, where insufficient soils exist on site the applicant will need to make provision to ensure that adequate soils or soil making materials are available to restore the site satisfactorily. The manner in which the soil materials are handled is a key element, including storage methods, timing and means of soil movements, and machinery to be used will be required. Therefore, it is recommended that a condition is imposed requiring details relating to the origin, use, storage, and movement of soils to be submitted to the Mineral Planning Authority prior to the importation of materials. Subject to such a condition, this aspect is in accordance with Policy DM12 of the Leicestershire Minerals and Waste Local Plan.

Restoration

56. As part of the application, it is proposed to extend the date for retention of the clay stocking area, located on a central strip across the site, immediately north-west of the internal haul road, by 19 months. This would extend the duration of clay stocking in this area from 31st December 2021 to 31st July 2023.

Phase One

57. Phase one of Donington Island is to the north of the internal haul road. The application submission proposes to delay the submission of the phase one restoration scheme by 19 months, from 31st December 2021 to 31st July 2023, which in turn will extend the overall restoration timeframes for the site, delaying the full restoration of the site by 9 months, from 31st December 2023 to 30th September 2024.
58. As per the existing planning permission, a restoration scheme was submitted to the Mineral Planning Authority in December 2021 for phase one. However, the scheme was not of a high environmental standard, lacked detail and did not comply with the site's legal agreement or the site allocation requirements within the Leicestershire Minerals and Waste Local Plan. Discussions took place between the applicant (Wavin), Mineral Planning Authority, Leicestershire County Council Landscape and Ecology Officers and the National Forest and it was agreed that due to the recent changes to the National Forest Charitable Trust and in order to get a restoration scheme of a high environmental standard

which is policy compliant and takes into account phase Two of the site, more time was required to allow for the National Forest Company and Wavin to create a concept that is not only achievable for Wavin but also integral to the Trust's vision of attracting visitors to the area whilst improving the environment.

Phase Two

59. Phase two of Donington Island comprises the area to the south of the internal haul road. The application submission proposes to delay the submission of the phase two restoration scheme by 7 months, from 31st December 2022 to 31st July 2023.
60. As part of the existing planning permission, retention of the clay stocking area in phase two can operate until 31st December 2032 and final restoration will be completed by 31st December 2033. The restoration of phase two will remain as permitted and no further variations are proposed.
61. The delay of 7 months in the submission of the restoration scheme for phase two is to allow the whole of Donington Island to be submitted under one restoration scheme, rather than phase one and phase two being considered separately and in isolation. This should enable the site to be viewed within its wider surroundings, comply with national policy by creating a restoration scheme of a high environmental standard, comply with the site allocation requirements as set out in the Leicestershire Minerals and Waste Local Plan whilst allowing enough time for the National Forest Company to work with Wavin on the long-term future use of the site.
62. A representation was received in relation to the time extension to the restoration. It has been acknowledged by the applicant that delaying the restoration of the site doesn't accord with policy and the NPPF's encouragement to carry out restoration and aftercare at the earliest opportunity. However, National Policy also emphasises that restoration should be carried out to high environmental standards. The key reason for the application being submitted is to allow for a restoration scheme that is of a high standard. The time extension will result in the site operating for a longer period than previously consented, which will impact the local environment and community. However, 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. On balance, producing a high standard restoration scheme is more significant than having Donington Island restored within the current timescales but to a poor standard and sterilising nationally and locally important clays.
63. The NFC expressed that whilst it would like to see the land restored at the earliest opportunity, the delay in submitting the details required under these conditions does allow for further work to be completed on the future use of the

site which then allows the restoration to be designed in a way to facilitate that future use. Although it is particularly important that temporary development sites are properly restored, the proposal to delay the submission of the restoration schemes of phase one and two and the final restoration date of phase one, will safeguard an important raw material in accordance with the NPPF and the Development Plan. It is considered that the importance of the clay stocking facility overrides the delay in the restoration of the site that will inevitably result. In addition, the delay in the submission of the restoration scheme will enable a high-quality restoration scheme to be submitted, which meets the requirements of the NFC, is achievable by Wavin whilst complying with policy and site allocation requirements. Therefore, the proposal is acceptable in accordance with Policy DM12 of the Leicestershire Minerals and Waste Local Plan.

64. It is important that mineral sites are properly restored, in which phased restoration is the most favoured option, in accordance with the NPPF and the Leicestershire Minerals and Waste Local Plan. Despite the application delaying the submission of the restoration schemes for the site to be considered as a whole to provide the highest possible standard for the restoration of the site, the overall restoration of the site, even with phase one being delayed will remain phased, with phase one being completed by 30th September 2024 and phase two being completed by 31st December 2033.
65. To summarise, it is acknowledged that by allowing this proposal, there would be a delay in the submission of the restoration schemes and the overall restoration of phase one. However, this must be balanced against securing the use of important materials and the submission of a restoration scheme that is of a high environmental standard. The clays at Donington Island are a valuable resource for Wavin and a number of other national clayware manufacturing companies who are reliant on these clays, so it is of local and national importance that these clays are not sterilised. The final restoration of phase two remains unchanged, with the clay stocking in phased two expiring on 31st December 2021 and the final restoration (including all planting works) shall be completed by 31st December 2023. Therefore, on balance the proposal for the retention of clay stocks in phase one for an additional 19 months, the delay in the submission of the phase one and phase two restoration schemes by 19 and 7 months respectively, and the overall delay in the phase one final restoration by 9 months is acceptable in order to maintain an area for continued clay stocking and blending and ensure a sufficient supply of fireclay to serve local manufacturing provision in accordance with the NPPF and Policy M6 of the Leicestershire Minerals and Waste Local Plan, whilst also enabling a high-quality restoration scheme to be submitted which is acceptable in accordance with Policy DM12 of the Leicestershire Minerals and Waste Local Plan.

Aftercare

66. The existing planning permission includes a condition which requires restored land to be treated and managed over a period of at least 5 years in accordance with an aftercare scheme.
67. Subject to the existing condition being carried forward with the grant of planning permission, the proposal is considered acceptable in accordance with Policy DM12 of the Leicestershire Minerals and Waste Local Plan.

Public Rights of Way

68. Public Rights of Way P39 runs along the south-west boundary of the site, with P22 running along the western boundary and P23 running along the northern boundary around Albert Village Lake. The proposal will not impact the public right of way network or impact the amenity of the rights of way users, and therefore the development is considered acceptable.

Traffic and Access

69. The proposal seeks to vary four planning conditions in relation to extending the final restoration date for the site and permit the importation of soils and soil making materials. As part of the application there are no alterations to the existing site access arrangements or vehicle movements.
70. The existing planning permission includes a condition which restricts the total number of lorry movements (in and out) for any working day, associated with the transportation of clay shall not exceed 88 movement. In addition, there are also conditions which restrict the access to the site via Spring Cottage Road only, along with the inclusion signage to make sure heavy vehicles turn left only onto Spring Cottage Road.
71. Subject to the existing conditions being carried forward with the grant of planning permission, the proposal is considered acceptable in accordance with Policy D2 of the Leicestershire Minerals and Waste Local Plan.

Legal Agreement

72. Donington Island clay stocking site is the subject of an existing legal agreement which covers HGV routeing, transfer of land to the National Forest Charitable Trust, public access, and aftercare management.
73. Any grant of planning permission for the proposed development would be subject to the prior completion of an update to the existing legal agreement. The legal agreement associated with this planning permission would include all aspects of the existing Section 106 agreement, which includes: HGV routeing, transfer of land to the National Forest Charitable Trust, public access, and aftercare management. The applicant would be expected to cover all

reasonable costs incurred by the County Council in the drafting and execution of the agreement.

Conclusion

74. The planning application seeks to vary the following conditions of Planning Permission 2020/1610/07:
- a) Condition 4 - to extend the date for retention of the clay stocking area until 31st July 2023 and extend the completion of the final restoration and all planting works by 30th September 2024 in phase one.
 - b) Condition 15 - to permit the importation of soils and soil making materials.
 - c) Conditions 30 and 31 to extend the dates for the provision of the detailed restoration schemes for phase one and phase two until 31st July 2023.
75. It is considered that the various 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 unacceptable impact to local residents and the local environment. In addition, the delay in restoration would avoid sterilisation of nationally and locally important clay whilst also enabling a higher quality restoration scheme to be submitted.
76. It is therefore recommended that the proposed development be permitted subject to the imposition of conditions and the completion of a legal agreement.

Statement of Positive and Proactive Engagement

77. In determining this application, the Minerals Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and the representations that have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

Recommendation

Recommendations in support of an application:

78. PERMIT subject to the conditions set out in Appendix B and the prior completion of a S106 legal agreement covering HGV routeing, transfer of land, public access and aftercare management.

Officer to Contact

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Habitats Regulations Assessment Screening

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

PROJECT: Variation of Conditions 4 (clay stocking), Condition 15 (importation of material), Condition 30 and 31 (provision of detailed restoration scheme) of Planning Permission 2020/VOCM/0156/LCC) – Donington Island Clay stocking Site, Spring Cottage Road, Ashby Woulds, DE12 6NA.

Location and Description of Proposal

The planning application seeks to vary Condition 4, to extend the date for retention of the clay stocking area in phase one until 31st July 2023 and an extension of time for the completion of the final restoration and all planting works by 30th September 2024; Condition 15, permit the importation of soils and soil making materials; Conditions 30 and 31, to extend the dates for the provision of the detailed restoration schemes for phase one and phase two until 31st July 2023 – which would delay the submission of the restoration schemes for phase one and phase two by 19 months from 31st December 2021 and by 7 months from 31st December 2022, respectively; of planning permission 2020/1610/07.

The Donington Island clay stocking site is located within the Ashby Woulds, to the south of Albert Village. The site is bounded to the north by Albert Village Lake and to the east by Reservoir Hill and Spring Cottage Road, beyond which is the Conkers tourist attraction. To the south and south-west there is existing vegetation, residential properties and a railway beyond the vegetation. To the west is the Swainspark Industrial Estate.

The site lies within the National Forest and within the catchment area of the River Mease Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). Access to the site is off Spring Cottage Road.

Interest Features

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

- Floating formations of water crowfoot (*Ranunculus*) of plain and sub-mountainous rivers;
- Populations of bullhead (*Cottus gobio*);
- Populations of spined loach (*Cobitis taenia*);
- Populations of white-clawed crayfish (*Austropotamobius pallipes*);

And the river and adjoining land as habitat for:

- Populations of otter (*Lutra lutra*)

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

The proposal is not connected with or necessary to the management of the site for nature conservation purposes. Therefore, a Habitats Regulation Assessment Screening has been undertaken to assess the potential implications of the proposal on the SAC.

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

The site lies within the catchment area of the River Mease Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) .

The proposal is for the variation of four conditions, relating to the delay the submission of restoration schemes, the delay in the overall restoration of phase one of the site and the importation of soil and soil making materials.

In this instance, it is considered that the proposed development will not have likely significant effects on the River Mease Special Area of Conservation and will not damage or destroy the interest features. The County Council is consequently not required to carry out an Appropriate Assessment.

Conclusion

Overall, it is considered that the proposal would not have a significant adverse effect 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



Date: 21st September 2022

Conditions

General

1. The permission relates to the extension of the life of the clay stocking facility at Donington Island within the land shown edged red on Drawing no.14184/500 dated April 2015 submitted with the planning application (2015/0991/07).

Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.

2. Operations associated with the clay stocking facility shall only be carried out within the area bounded by the existing perimeter bund forming part of the current site layout as shown on Drawing no.14184/500 dated April 2015 submitted with the planning application (2015/0991/07).

Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.

Duration

3. Permission for the retention of the clay stocking area within the area hatched blue on drawing no.14184/501 dated April 2015 shall be limited until a period expiring on 31st July 2023. Final restoration (including all planting works) shall be completed by 30th September 2024.

Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.

4. Permission for the retention of the clay stocking area within the area hatched pink on drawing no.14184/501 dated April 2015 shall be limited until a period expiring on 31st December 2032. Within 12 months of that date, this area shall have been restored in accordance with the restoration schemes approved in accordance with condition no.32 below.

Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.

Restriction of Permitted Development Rights

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, replacing or re-enacting that Order), no additional fixed plant or machinery, buildings, structures, erections, lights and fences shall be erected, extended, or installed at the site without the prior approval in writing of the Mineral Planning Authority.

Reason: To protect the amenities of the area/In the interests of local amenity.

Hours of Operation

6. Except in emergencies (which shall be notified to the Mineral Planning Authority as soon as practicable):
 - (a) no operations shall be carried out at the site except between the following times:
0700 hours and 1900 hours Monday to Friday; and
0700 hours and 1300 hours Saturday;
 - (b) no operations associated with the removal of material from any environmental banks and storage areas shall be carried out within 200 metres of any occupied residential property except between 0900 hours and 1700 hours Monday to Friday;
 - (c) no operations shall be carried out at the site on Sundays or public or bank holidays.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

Access

7. There shall be no vehicular access to or from the site for any purpose in connection with the development hereby permitted except by Spring Cottage Road.

Reason: In the interests of highway safety and the amenities of the area.

8. Visibility splays of 2.4 metres by 104 metres shall be provided at the junction of the access with Spring Cottage Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

9. The total number of lorry movements (in and out) for any working day (averaged over 5 working days) associated with the transportation of clay shall not exceed 88 via the access onto Spring Cottage Road.

Records of such lorry movements shall be maintained on a daily basis, and shall be made available to the Mineral Planning Authority at any time upon request. All records shall be kept for at least 12 months.

Reason: In the interests of highway safety and the amenities of the area.

10. The access onto Spring Cottage Road shall be provided with adequate wheel cleaning facilities. Such facilities shall be maintained and used as may be necessary to ensure that no mud or other detritus is carried onto the highway. The Site Compound off Spring Cottage Road shall be laid out in accordance with the details set out in Drawing No.14184/504 dated September 2015.

Reason: In the interests of highway safety and to prevent mud and dust being deposited on the highway.

11. The surfacing of the site access shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times throughout the duration of the operations hereby permitted. Cut off drains shall be provided within the site in order to ensure that no clay enters the public highway which has the potential to block up the highway drainage system in the vicinity.

Reason: In the interests of highway safety and to prevent mud and dust being deposited on the highway.

12. All heavy vehicles (over 1.5 tonnes unladen) leaving via the accesses off Spring Cottage Road shall turn left only onto Spring Cottage Road. Signs erected to advise drivers of the approved vehicle routes shall be maintained for the duration of the operations hereby permitted.

Reason: In the interests of highway safety and the amenities of the area.

13. No laden lorry shall leave the site and enter the public highway unless it is sheeted.

Reason: In the interests of highway safety and the amenities of the area.

Importation of Clays

14. The importation of material shall be restricted to clays for blending purposes and soils and soil making materials for restoration purposes. Such importation shall not exceed a level of 20,000 tonnes per annum. Records of such importation shall be maintained on a monthly basis, and shall be made available to the Mineral Planning Authority at any time upon request.

Reason: To protect the amenities of the area and in the interests of local amenity.

15. The importation of clay shall only be carried out between the hours of 0700 hours and 1900 hours Monday to Friday and 0700 hours and 1300 hours Saturdays. No importation shall take place on Sundays or public or bank holidays.

Reason: To protect the amenities of the area/In the interests of local amenity.

16. Prior to the importation of soils or soil making materials a statement, including details on the origin, storage, movements, handling, use, and type of material, shall be submitted to, and approved in writing by, the Mineral Planning Authority.

Reason: To protect the amenities of the area and in the interests of local amenity.

Dust

17. All operations shall be carried out in a manner to minimise the emission of dust from the site. In order to minimise any dust created by site activities, measures shall be taken as specified in the Dust Action Plan set out in paragraph 6.2.8 of the 2015/0991/07 planning application supporting statement, dated September 2015.

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

18. If, in the opinion of the Mineral Planning Authority, any operations on site give rise to unacceptable levels of dust leaving the site, such as during adverse conditions due to strong winds combined with dry weather, such operations shall be temporarily suspended until such time as the operations can be resumed without causing such nuisance, either by a change in working, weather conditions or by taking other additional measures.

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

19. Dust monitoring shall be carried out at six monthly intervals along the perimeter bund, at the locations show on Plan 14184/503 in accordance with paragraph 6.2.9 of the planning statement accompanying the 2015/0091/07 planning application.

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

Noise

20. Measures shall be taken within the site to ensure that the best practicable means are used to control the emission of noise from the site and to 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. Such measures shall include those set out in paragraphs 6.3.7 – 6.3.10 of the planning statement accompanying the 2015/0091/07 planning application.

Reason: To minimise the adverse impact of noise from site operations on local residents.

21. Except for operations defined in condition no.22 below, noise levels from operations within the site shall not exceed 55dB LAeq (1 hour), freefield at any noise sensitive property.

Reason: To minimise the adverse impact of noise from site operations on local residents.

22. Noise levels arising from the removal of perimeter soil/clay mounds and restoration activities (temporary operations) shall be minimised as far as is

reasonably practicable and in any case should not exceed 70dB LAeq (1 hour), freefield at any noise sensitive property. Such temporary operations which exceed the normal day to day criterion set out in condition no.21 above shall only be carried out between the hours of 0900 and 1700 Monday to Friday and shall be limited to a total of 8 weeks in any 12 month period for any individual noise sensitive property. At least 3 days prior notice of the commencement of such temporary operations shall be given to the Mineral Planning Authority. A written record shall be kept of the dates that these activities are taking place and made available on request.

Reason: To minimise the adverse impact of noise from site operations on local residents.

23. Noise monitoring shall be carried out at three monthly intervals for the duration of the planning permission period in accordance with the details set out in paragraphs 6.3.11 – 6.3.13 of the statement accompanying the 2015/0091/07 planning application. Noise monitoring results shall be provided to the Mineral Planning Authority. The monitoring scheme shall be kept under regular review and may be varied or amended by agreement with the Mineral Planning Authority.

Reason: To minimise the adverse impact of noise from site operations on local residents.

24. In the event that noise monitoring indicates that the levels set out in condition nos. 21 and 22 above are being exceeded, the operations generating that noise shall cease as soon as the monitoring identifies the breach. The Mineral Planning Authority shall be notified immediately, and appropriate remedial measures agreed and undertaken as soon as reasonably practicable.

Reason: To minimise the adverse impact of noise from site operations on local residents.

Other Environmental Protection

25. Measures shall be taken and the development carried out in such a manner as to ensure that, so far as is reasonably practicable, the operations carried out within the site do not give rise to nuisance at nearby residential properties by reason of illumination. So far as is reasonably practicable, lights shall not be directed beyond the boundaries of the site particularly during hours of darkness.

Reason: To protect the amenities of the area/In the interests of local amenity.

26. There shall be no unlicensed discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

Reason: To prevent pollution of the water environment.

27. Surface water management arrangements for the site shall be undertaken in accordance with the Surface Water Management Plan prepared by S.M.Foster Associates Limited dated 28th September 2015 (Ref:033/38/swmp/0915), as amended by the Addendum dated December 2015.

Reason: To prevent pollution of the water environment.

Landscaping

28. The existing bund around the clay stocking area shall be retained and managed throughout the duration of clay stocking operations to maintain satisfactory vegetation cover, weed control and to avoid erosion and waterlogging. All necessary steps shall be taken to destroy weeds at an early stage of growth to prevent seeding.

Reason: To protect visual amenity in the locality.

Ecology

29. Prior to the commencement of restoration works within the area hatched blue on drawing no. 14184/501 dated April 2015, a great crested newt survey shall be carried out for all ponds within the site, including any new ponds or temporary water bodies, and submitted to the Mineral Planning Authority. If the survey shows that Great Crested Newts are present, a mitigation plan shall be submitted to the Mineral Planning Authority for approval.

Reason: To minimise the effects on nature conservation interests.

Restoration

30. A detailed restoration scheme for the area hatched blue on drawing no. 20235/103 dated October 2020 shall be submitted to the Mineral Planning Authority for approval by no later than 31st July 2023. The scheme shall include proposals for the restoration (including seeding, planting, landscaping) of that part of the site together with a timetable for the completion of the works. Restoration shall take place in accordance with the approved scheme.

Reason: In the interests of satisfactory restoration of the site.

31. The area hatched pink on drawing no. 14184/501 dated April 2015 shall be restored in a progressive manner in accordance with a scheme of phasing which has been submitted to, and approved in writing by, the Mineral Planning Authority. The scheme of phasing shall be submitted to the Mineral Planning Authority by no later than 31st July 2023. The scheme shall specify a timetable for the submission of detailed restoration schemes and the completion of restoration works for each phase.

Reason: In the interests of satisfactory restoration of the site.

32. Detailed restoration schemes for each phase shall be submitted to the Mineral Planning Authority for approval in accordance with the timetable set out in the scheme of phasing approved pursuant to condition no.31 above. The schemes shall include proposals for the ultimate removal of all plant, buildings, structures, machinery, roads and hardstandings, and stored materials, the restoration of the site to a condition suitable for an agreed afteruse, and the seeding, planting and landscaping of the site in a manner appropriate to the afteruse to which the

site is to be put. Restoration shall be carried out in accordance with the timescales and details as approved.

Reason: In the interests of satisfactory restoration of the site.

33. The restoration schemes submitted pursuant to condition nos.30 and 32 above should include detailed information on the composition of the clays and soil making materials with a method statement on how the material is to be deposited to avoid compaction. In addition, the method statement should outline how deficiencies in soil nutrients are to be mitigated by incorporation of imported organic material.

Reason: In the interests of satisfactory restoration of the site.

Aftercare

34. Following the restoration of any part of site in accordance with condition nos.30 and 32 above, the restored land shall be treated and managed over a period of at least 5 years in accordance with an aftercare scheme which has previously been submitted to and approved in writing by the Mineral Planning Authority. The submitted scheme shall specify the steps that will be taken to bring the newly restored land to a condition capable of long term beneficial use. The scheme shall be submitted within 6 months of the date of approval of the restoration schemes submitted under condition nos.30 and 32 above.

Reason: To ensure the site is restored to a condition suitable for long term beneficial use.

DEVELOPMENT CONTROL AND REGULATORY BOARD

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

EQUALITY AND HUMAN RIGHTS IMPLICATIONS

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

IMPLICATIONS FOR DISABLED PERSONS

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

Note to Applicant Department

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

COMMUNITY SAFETY IMPLICATIONS

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

BACKGROUND PAPERS

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

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

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

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

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

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

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