

**DEVELOPMENT CONTROL AND REGULATORY BOARD****11th July 2024****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2024/VOCM/0013/LCC (2024/00242/07)
Valid date: 07/02/2024
- PROPOSAL:** Variation of Condition 3 (Phase 1) of application
2022/VOCM/0070/LCC - Clay storage facility, extension of
time to complete restoration with final restoration to be
completed by 31st March 2026.
- LOCATION:** Donington Island, Spring Cottage Road, Ashby Woulds,
Blackfordby, DE12 6NA
- APPLICANT:** Wavin (UK) Ltd
- MAIN ISSUES:** Restoration, aftercare and after-use.
- 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

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PART B – MAIN REPORT

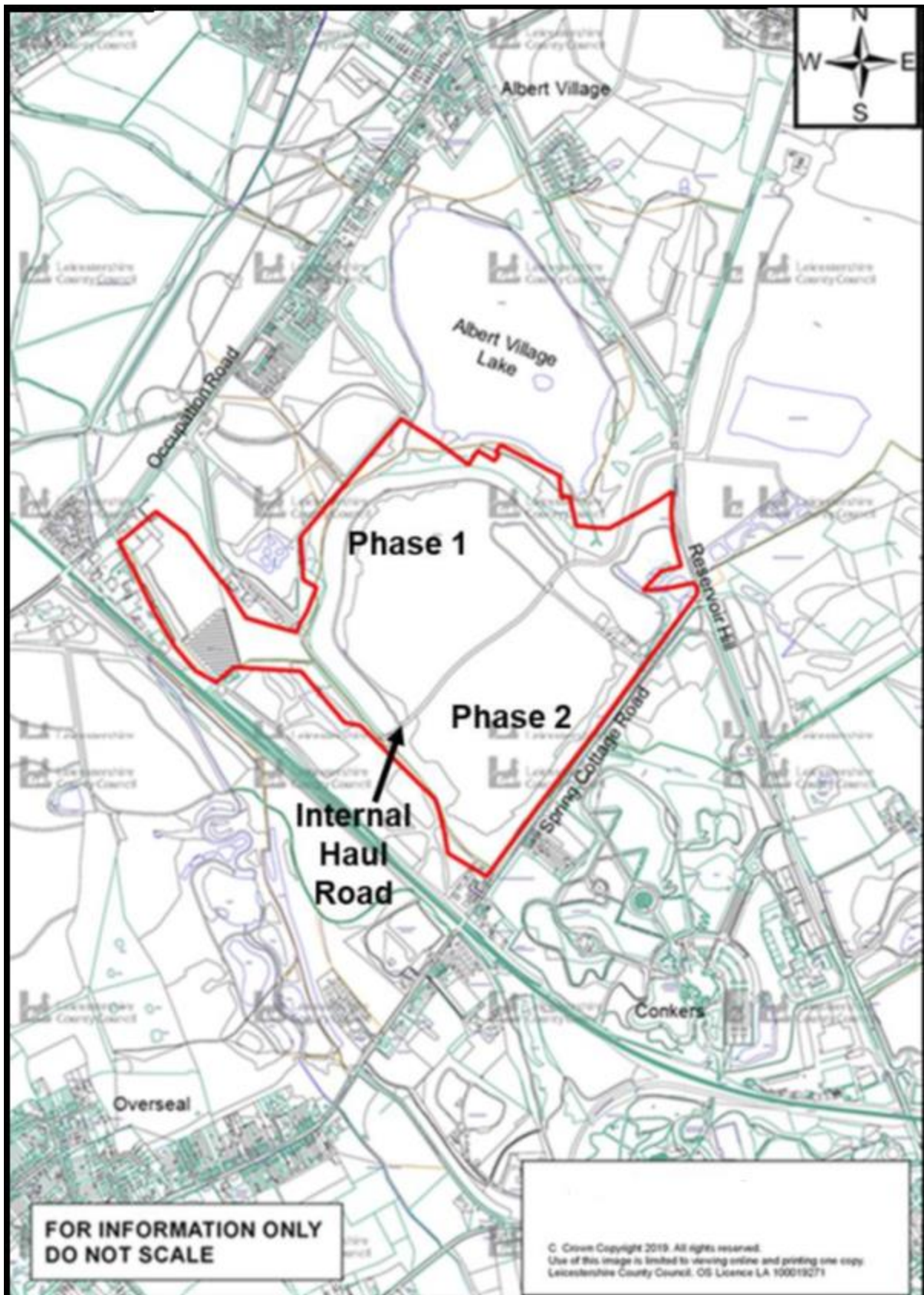
The Site and Surroundings

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 line beyond the vegetation. To the west is the Swainspark Industrial Estate. Public Right of Way (RoW) P39 runs along the south-west boundary of the site. RoW P22 and P23 running along the western boundary, with P23 heading northwards 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. The Donington Island site has a total area of approximately 42.75 hectares, that comprises two main sections, divided by an internal haul road running south-west to north-east. The north-western section is referred to as phase 1 and the south-eastern section is referred to as phase 2. The site offices and car parking are located on the eastern part of the site in phase 2. Clay stocking takes place in phase 2 and immediately north-west of the internal haul road in phase 1. The redline application boundary also includes an area to the south-east of Occupation Road.
3. The nearest residential properties are located to the south-east along Spring Cottage Road, approximately 20 metres from the site boundary at their closest. There are also residential properties located 280 metres to the north-west on Occupation Road.

Background

4. 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).



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 (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 (planning ref. 2015/0991/07).
8. Planning permission was granted in November 2018 (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 (2020/1610/07) to allow for an extension of time to delay restoration and submission of a detailed restoration scheme by 12 months.
11. Planning permission was granted in March 2023 (2022/0940/07) to vary:
 - Condition 4 – to extend the date for retention of the clay stocking areas until 31st July 2023 and extend the completion of the final restoration and planting works to 30th September 2024 in phase one.
 - Condition 15 – to permit the importation of soils and soil making materials.
 - Condition 30 and 31 – to extend the dates for the provision of the detailed restoration schemes for phase one and phase two until July 2023.
12. The discharge of Planning Conditions 30, 31, 32, 33 relating to permission ref: 2022/0940/07 for the restoration scheme for Phase 1 detailed and phase 2 and 3 – concept was approved in September 2023.

Description of Proposal

13. The planning application seeks to vary Condition 3 of planning permission 2022/0940/07.
14. Condition 3 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 July 2023. Final restoration (including all planting works) shall be completed by 30th September 2024.

15. The proposal seeks to vary Condition 3 to allow for an extension of time for the completion of the final restoration of Phase 1 and all planting works by 30th March 2026. The phase 1 area is currently at the stage of reprofiling of the existing site prior to seeding and planting commencing.

Details and reasons for the time extensions

16. A final restoration scheme for Phase 1 was submitted to the Mineral Planning Authority and approved in September 2023. The submitted scheme had been formed by discussions between the applicant (Wavin) and The Heart of the National Forest Trust (HOTNFT) for the site to provide biodiversity in the form of leisure/amenity use including a large lake, significant areas of native woodland planting, woodland edge wildflowers and a footpath network around the lower lake.
17. The reasons the applicant have provided for seeking the additional time for restoration are listed below:
 - a) *Since the restoration scheme was approved on the 26th September 2023, no further groundworks for re-contouring have been undertaken due to the site becoming so waterlogged that working conditions were considered unsafe and postponed until the following year. There are still approximately 280,000m³ of clay profiling works to be undertaken this year to the approved restoration contours, subject to suitable weather conditions.*
 - b) *Between Sept to Nov inclusive, 294mm of rain fell which equated to 157% of the long-term average rainfall, This meant the operators had to pump daily to ensure water was managed and the site was unsafe to reprofile during this time.*
 - c) *There are no reserves of topsoils or subsoils to restore the final landform. This shall be created with selected better quality clay material within the site which is classed as soil making material. A lot of natural revegetation is expected to take place within the grassland areas in addition to hydroseeding a wildflower mix which will create a biodiverse landform.*
 - d) *The contouring of the site to the approved levels is due to re-commence in Spring 2024. Due to the lack of available soils required to establish a grass sward, hydroseeding is the method to be undertaken for the best chance of success. Prior to hydroseeding, the clay subsoil surface will be ripped to alleviate compaction and improve drainage.*
 - e) *Hydroseeded areas shall only be spread having regard to the weather conditions prevailing at the time. If weather conditions are unsuitable, this will inevitably cause delays and saturated areas will need to dry out before any respreading can take place.*

- f) *Following the completion of the ground profiling and establishment of a grass sward, tree planting is due be carried out in the first planting season (between November and March inclusive in 2024/25). It is anticipated that the full landscape scheme would be completed by the end of the 2025/26 planting season.*
- g) *There are approximately 8 Hectares within the Phase 1 area that will require hydroseeding for the creation of grassland and tree areas. Approximately 4,800 trees are to be notch planted with compost within the optimum planting season which is between November and March.*
- h) *Planting a large number of trees out of season can lead to a larger failure rate so therefore this 4 to 5 month window is critical for achieving the best chance of success for a large number of trees. We are advised by our appointed restoration consultants that two Winter windows in 2024/25 and 2025/26 would be recommended.*

Great Crested Newts

18. 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

Leicestershire Minerals and Waste Local Plan (adopted September 2019)

- Policy M6: Fireclay
- Policy DM2: Local Environment and Community Protection
- Policy DM3: Strategic Green Infrastructure
- Policy DM5: Landscape Impact
- Policy DM12: Restoration, Aftercare and After-use

North West Leicestershire Local Plan (adopted as amended by Partial Review November 2021)

- Policy D2: Amenity
- Policy IF1: Development and Infrastructure
- Policy IF2: Community and Cultural Facilities
- Policy IF3: Open Space, Sport and Recreation Facilities
- Policy En1: Nature Conservation
- Policy En2: River Mease Special Area of Conservation
- Policy En3: The National Forest

National Policy

National Planning Policy Framework (NPPF) (December 2023)

19. Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. While Paragraph 8 defines the three objectives of economic, social and environmental and how these three independent aims should be pursued in a supportive manner to secure net gains in each.
20. Paragraphs 215 highlights that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.
21. Paragraph 217 section (e) seeks that for mineral attraction that the authorities should provide for restoration and aftercare at the earliest opportunity, to be carried out to high environment standards.

Consultations

22. **North West Leicestershire District Council** – No objections.
23. **Ashby Woulds Town Council** – No objection.
24. **North West Leicestershire District Council (Environmental Health Officer)** – No objection.
25. **National Forest Company (NFC)** – No objections, stating that 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. That the NFC would like to see the land restored at the earliest opportunity.
26. **Environment Agency** – No comment to make on the application.
27. **Natural England** – No comment to make on the application.
28. **Leicestershire County Council Ecology** – No comments received at time of preparation of report.
29. **Leicestershire County Council Landscape** – No objection.

Publicity and Representations

30. 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.
31. One representation from the public has been received objecting to a further extension of time for the restoration of this site. It is also highlighting that the site is adjacent to local attractions and that tourism is on the rise, so restoration should take place at the earliest opportunity. Concern is also raised that, if approved, the applicant will seek another extension of time in 2026, further delaying restoration of the site.

32. The issues raised are considered in the Assessment of Proposal section of this report.

Assessment of Proposal

Planning Policy Assessment

33. 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 2015); and that Mineral Planning Authorities should plan for a steady and adequate supply of industrial minerals by. 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 217e).
34. 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. Fireclays from the Donington Island site supply about half of the national fireclay supply. Last year saw the closure of the UK's last opencast coal mine, the availability of fireclays from opencast coal operations will become increasingly limited, making the stockpiled clays even more important.
35. 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.
36. Donington Island is a temporary stocking facility for fireclay, hosting as the principal source of fireclay within Leicestershire, the site contained around 403,000 tonnes of clay in stockpiles at the end of June 2024 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 routing 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.
37. The proposal seeks an extension of time for the completion of the final restoration and all planting works for phase one till by 31st March 2026. Any grant of planning permission would accord with parts (a) – (e) inclusive of Policy M6 of the Leicestershire Minerals and Waste Local Plan.
38. As part of the existing planning permission, Conditions 30, 31, 32 and 33 had required that a detailed restoration scheme be submitted to the Mineral Planning Authority, this was submitted and subsequently approved in full for Phase 1. The detailed scheme had accorded with the requirement of Policy DM12 of the Leicestershire Minerals and Waste Local Plan. Therefore, it is considered that a high standard restoration plan has been secured, as sought from the Minerals Planning Authority by the applicant (Wavin), who has worked with the National Forest to design the restoration scheme which facilitates its future uses and accords with the requirements of policies DM12.
39. In light of the above, the proposal is considered acceptable in accordance with the NPPF and Policy M6 of the Leicestershire Minerals and Waste Local Plan.

River Mease SSSI and Special Area of Conservation (SAC)

40. 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 Condition 3.
41. During the assessment of an earlier planning permission (2020/1610/07) Natural England had considered that the development would not have likely significant effects on the River Mease Special Area of Conservation and would not damage or destroy the interest features. Natural England have provided no further comments on application ref: 2022/0940/07 or the current application.
42. Donington Island lies within the catchment area of the River Mease SSSI and SAC, therefore a screening assessment was undertaken for planning permissions ref: 2020/1610/07 and 2022/0940/07 to screen if the proposals were directly connected with or necessary for the conservation management of a European site or risked having a significant effect on a European site on its own or in combination with other proposals. The screening concluded that the proposals 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 was not required. A further screening assessment has been undertaken for this application.

Local Environment

43. The delay in the restoration 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 is not limited to restrictions on working hours, a dust action plan, dust and noise monitoring and noise limits.
44. 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

45. The site lies within the National Forest. As the proposal is a delay in the restoration, 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.
46. It is recognised that the proposal delays the restoration, however, this has largely been due to excessive rainfall over the last 12 months, which has resulted in reprofile works being halted due to flooding and unsafe working environment. Also due to lack of available soils required to establish a grass sward, hydroseeding is the method to be utilised for best prospect of success. Following ground profiling and establishment of grass sward, tree planting would follow in the first planting season between November and March inclusive in 2024/25. It is projected that the full landscape scheme would be completed by the end of the 2025/26 planting season. The applicant has worked with the National Forest Company to design a scheme that is integral to the NFC's vision of attracting visitors to the area whilst improving the environment and in accordance with the 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

Phase One

47. Phase one of Donington Island is to the north of the internal haul road. The application submission proposes to extend the overall restoration timeframe of phase one, delaying the full restoration of the site by 18 months, from 30th September 2024 to 31st March 2026.

Phase Two

48. Phase two of Donington Island comprises the area to the south of the internal haul road. As part of the existing planning permission, retention of the clay stocking area in phase 2 can operate until 31st December 2032 and final restoration will be completed by 31st December 2033. The restoration of phase 2 will remain as permitted and no further variations are proposed.

49. 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 does not accord with policy and the NPPF's statement that restoration and aftercare should be carried out at the earliest opportunity. National Policy also emphasises that restoration should be carried out to high environmental standards. The primary reason for the current application being submitted is due to poor weather conditions which had resulted in the site being waterlogged, inaccessible and unsafe to work in. A water pump is currently being used to drain the site to assist with the removal of water and allow safe access to the site, this will enable works for the restoration scheme to achieve a high standard and be successful. 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. While there would be an unavoidable delay largely due to extreme poor weather conditions could not have been forecasted or planned for, the overall proposed works are of a sufficiently high standard that the site and its potential users would benefit from in the future.
50. The NFC expressed that whilst it would like to see the land restored at the earliest opportunity, that they have been working proactively with the applicant on the long-term future for the site and transfer of the land to the NFC. That the restoration scheme will enable a high-quality restoration scheme to be delivered, 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.
51. It is important that mineral sites are properly restored, in which phased restoration is the most favoured option. Despite the application delaying the phase 1 restoration scheme for the site, the overall restoration of the site, even with phase one being delayed will remain phased, with phase one being completed by 31st March 2026 and phase two being completed by 31st December 2033.
52. 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 has to be considered in the context of site conditions that would allow for the restoration to be successful and a safe working environment for the contractors.
53. The clays at Donington Island are a valuable resource for Wavin and a number of other national clayware manufacturing companies which are reliant on these clays, so it is of local and national importance that these clays are not sterilised. Therefore, on balance the proposal to delay the phase one final restoration by 18 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 delivered in accordance with Policy DM12 of the Leicestershire Minerals and Waste Local Plan.

Aftercare

54. The existing planning permission includes a condition which requires restored land to be managed over a period of at least 5 years in accordance with an aftercare scheme.
55. 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

56. Public Rights of Way P39 runs along the south-west boundary of the site, with P22 and P23 running along the western boundary with P23 heading northwards 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

57. The proposal seeks to vary one planning condition in relation to extending the final restoration date for the site. As part of the application there are no alterations to the existing site access arrangements or vehicle movements.
58. 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 to no more than 88 movements. 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.
59. 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

60. 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.
61. 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

62. The planning application seeks to vary condition 3 of Planning Permission 2022/VOCM/0070/LCC to extend the date for the completion of the final restoration of Phase 1 and all planting works by 30th March 2026.
63. It is considered that the various measures contained within the planning application for the required extension of time are necessary to achieve the planned restoration and provide the optimum prospect of success. The imposition of conditions and completion of a legal agreement will mean that the proposed development would not cause further 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 the restoration scheme to be achieved.
64. 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

65. 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 all valid representations 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:

1. 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.

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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 3 (restoration) of Planning Permission 2022/VOCM/0070/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 3, an extension of time for the completion of the final restoration of (Phase 1) planting works until 31st March 2026. 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 one condition, relating to the delay in the overall restoration of phase one of the site.

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: 17th June 2024

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.22089/109 Rev A dated July 2023 submitted with the planning application (2022/0940/07).

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. The final restoration of Phase 1 (including all planting works) as detailed in the submitted supporting letter Ref:24000 date 22nd January 2023, shall be completed by 31st March 2026.

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, submitted with the planning application (2022/0940/07).

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. The restoration scheme for Phased 1 area shall be implemented in accordance with approved details on drawing no. 22089/109 Rev A dated July 2023 and the Restoration and Aftercare Report for Phase 1 dated July 2023 (Rev B), of approved application reference no. 2022/0940/04/CV/30,31,32,33.

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

31. The Phase 2 and 3 areas on drawing no. 22089/109 Rev A dated July 2023 shall be restored in a progressive manner in accordance with a scheme of phasing which shall be submitted to and approved in writing by the Mineral Planning Authority by no later than 31st December 2025, and would be completed in accordance with these approved details. Restoration shall take place in accordance with the approved scheme.

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

32. Detailed restoration schemes for phases 2 and 3 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 scheme to be submitted pursuant to condition no 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.

Notes to the Applicant

1. The consent of Severn Trent Water will be required for either a direct or indirect connection to the public sewerage system under the provisions of Section 106 of the Water Industries Act 1991. Current guidance notes and an application form can be found at www.stwater.co.uk or by contacting Severn Trent Water New Connections Team (01332 683369).
2. Although statutory sewer records do not show any public sewers within the site there may be sewers which have recently been adopted under the Transfer of Sewer Regulations. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and it is advised that Severn Trent Water should be contacted (0247 771 6843).
3. The Environment Agency advises that all building work should be in compliance with best working practices and in particular Government guidance on 'Construction, inspection and maintenance' www.gov.uk/guidance/pollution-prevention-for-businesses#construction-inspection-and-maintenance. You are advised to contact the Environment Agency to arrange a site meeting to agree necessary measures to prevent pollution of the water environment during the construction phase of the development. The Environment Agency can carry out pollution prevention visits. Please contact EastMidWaterQuality@environment-agency.gov.uk for further information and advice.

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.