

DEVELOPMENT CONTROL AND REGULATORY BOARD**15TH MAY 2008****REPORT OF THE DIRECTOR OF COMMUNITY SERVICES****COUNTY MATTER****PART A – SUMMARY REPORT**

APP. NO. & DATE:	2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) – 2 nd October 2007
PROPOSAL:	Variation of conditions 2, 10, 50 & 51 of planning permissions 2003/0697/07 & 2003/0513/04 to permit the continuance of clay extraction and export from Heather Quarry without processing at Heather Brickworks
LOCATION:	Heather Quarry, Heather (North West Leicestershire District and Hinckley & Bosworth Borough)
APPLICANT:	Hanson Building Products Ltd.
MAIN ISSUES:	Variation of planning conditions - continuation of mineral extraction - HGV routeing agreement
RECOMMENDATION:	PERMIT subject to 12 conditions as set out in the appendix to the main report, and a legal agreement covering the routeing of HGVs to and from the site.

Circulation Under Sensitive Issues Procedures

Mr. P. A. Hyde, CC; & Mr. I. D. Ould, CC

Officer to Contact

Georg Urban (Tel. 0116 305 6756)
Email: planningcontrol@leics.gov.uk

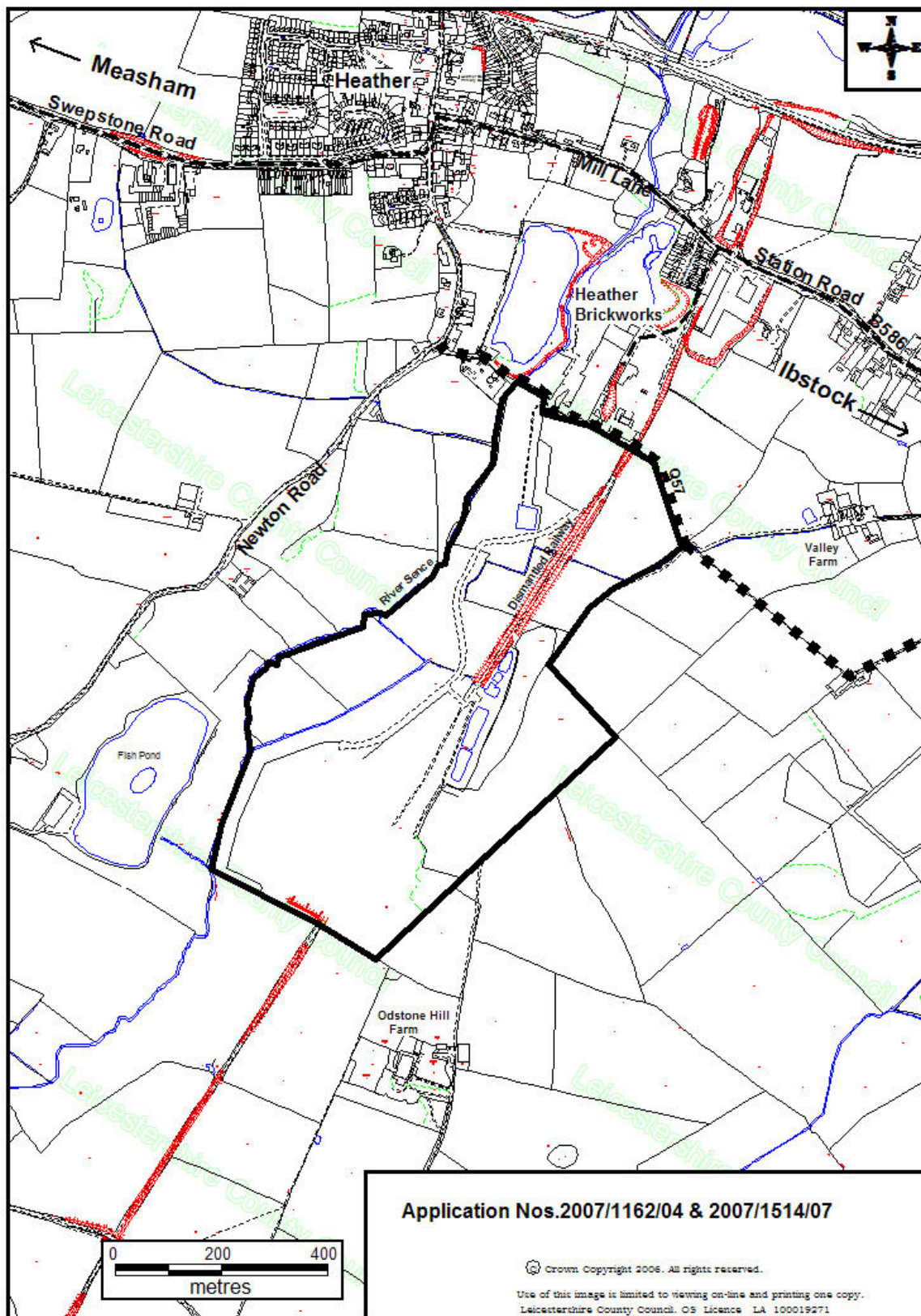
PART B – MAIN REPORT

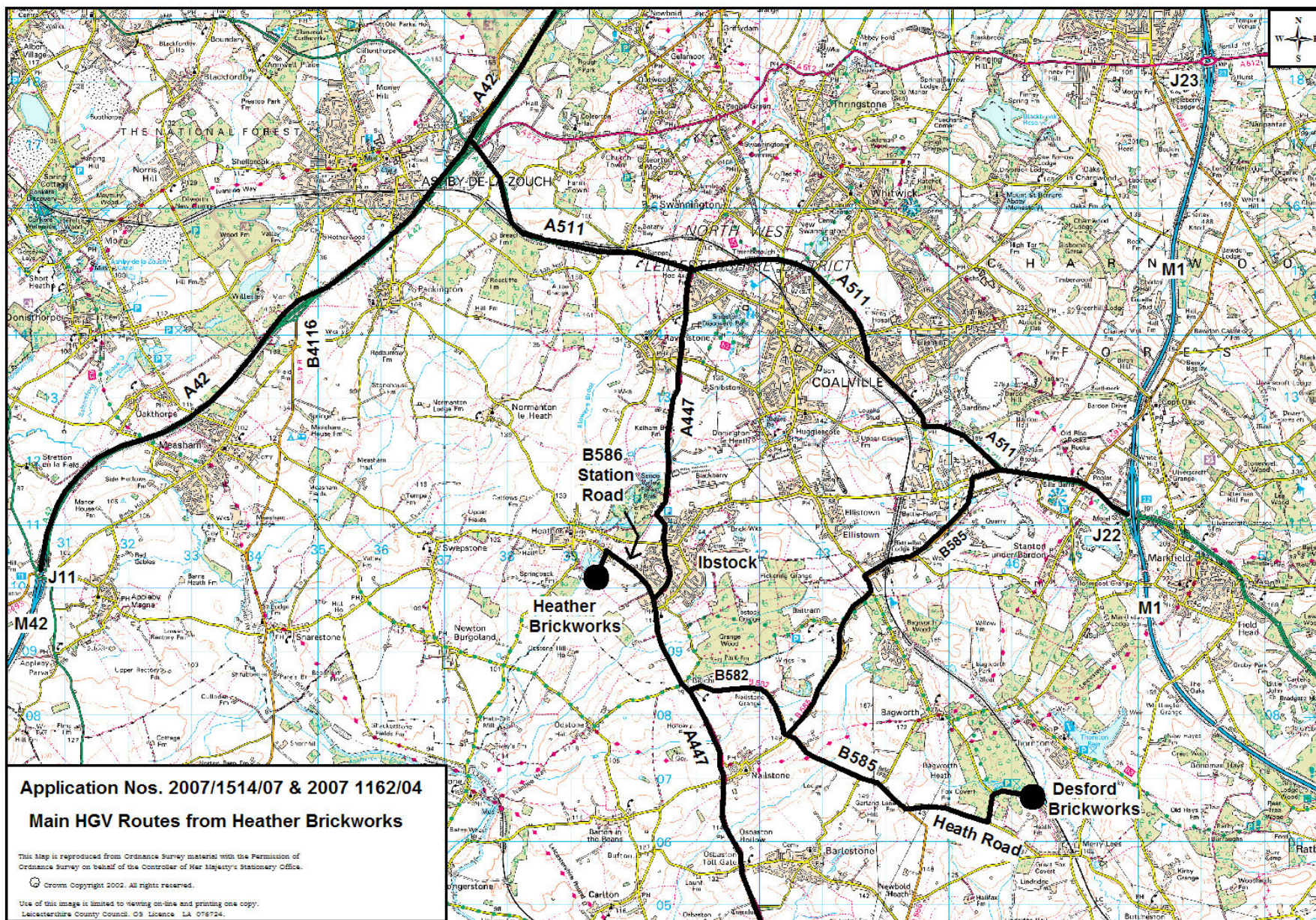
Background

1. Heather Quarry operates under a schedule of planning conditions which were submitted under the provisions of the Environment Act 1995 for the periodic review of mineral planning permissions, and approved in August 2004.
2. It includes a number of conditions which:
 - require the clay extracted at the quarry to be processed at the adjacent brickworks (condition 2);
 - prohibit the export of clay except via the adjacent brickworks (condition 10);
 - require the quarry to be restored in accordance with a revised restoration and aftercare scheme if mineral extraction ceases before the restoration of the site in accordance with the approved restoration scheme can be achieved (condition 50); and
 - link extraction operations at the quarry to the production operations at the adjacent brickworks, thereby requiring that mineral extraction at the quarry shall cease as and when production processes at the brickworks cease (condition 51).
3. Production at Heather Brickworks has ceased temporarily and the works were mothballed in November 2006. The planning conditions listed above therefore require clay extraction at the quarry to cease and the entire site to be restored in accordance with a revised restoration scheme. This would result in the sterilisation of existing (and permitted) clay reserves at the quarry. The operator, Hanson Building Products Limited, has applied for planning permission to vary the relevant conditions in order to continue the extraction of clay after the brickworks has ceased production.

Location of Proposed Development

4. Heather Brickworks is situated due south of the village of Heather and approximately 6km south-southeast of Ashby-de-la-Zouch. The brickworks has a main road access onto Mill Lane/Station Road (the B586 Heather to Ibstock road). The existing quarry workings, to which this application relates, are located to the south of the brickworks complex. The quarry is situated in a wide and shallow valley, with the River Sence forming the western boundary of the site.
5. Access to the quarry can only be obtained from the brickworks yard via an 8m wide gated entrance on the quarry's northern boundary. There is no direct road access to the quarry. Public Footpath Q57 links Heather with Ibstock and separates the quarry to the south of the footpath from the brickworks to the north. The footpath is fenced on both sides. The route of the footpath crosses the quarry access point. Warning signs have been erected to warn users of the footpath of heavy plant crossing and also to warn drivers about the possible presence of footpath users.





Planning History

6. Planning permission for the winning and working of marl at Tuckers Holt near Heather (to the west of the current quarry) was granted in 1960. Various planning permissions for clay extraction at Heather were granted in the 1970s and 1980s. The most recent mineral planning permission, granted in 1987, was subject to a review of planning conditions under the Environment Act 1995, and an updated schedule of planning conditions was subsequently approved in August 2004. It is these conditions which currently control the site.
7. In January 2005, permission was granted for an internal haul road, linking the extraction area in the south of the quarry to the brickworks and site access in the north.

Description of Proposal

8. Due to market forces and general overproduction of the product range within which the Brickworks operated, production at Heather Brickworks was suspended at the end of October 2006. The applicant advises that the brickworks has not been closed permanently but has been "mothballed" as a temporary measure, with a view to re-opening when the market position improves.
9. The updated schedule of planning conditions (references 2003/0513/04 & 2003/0697/07, approved under the Environment Act Review) includes four conditions which are of particular relevance to the current situation at the quarry. Condition 2 links the extraction of brickmaking clay at Heather Quarry to the manufacture of bricks and other clay products primarily at Heather Brickworks. Condition 10 states that clay extracted at the quarry shall only be transported directly to or via the adjoining brickworks, and that there shall not be any direct vehicular access between the quarry and the public highway. Condition 50 contains provisions for the restoration of the quarry in the event that the winning and working of mineral ceases before the approved restoration scheme can be implemented. Condition 51 links extraction operations at the quarry to the life of the adjacent brickworks and requires that at such a time when the manufacturing process at the brickworks ceases, mineral extraction at the quarry shall also cease and the quarry be restored.
10. Discussions have been held with the quarry operator with regard to the temporary closure of the brickworks and the relevance of this to the operation of the quarry under its planning conditions. Under the provisions of Condition 51, extraction operations at the quarry had to cease once the brickworks had closed. Planning legislation allows the mineral planning authority to enforce the restoration of a quarry even if not all the permitted reserves have been worked, if it appears to the authority that no mineral extraction has taken place at the site for a period of at least two years.
11. As Hanson Building Products Limited intends to continue extraction operations at the quarry during the period in which production at Heather Brickworks is suspended, the company now requests conditions 2, 10, 50 and 51 to be modified.

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

12. It is proposed to continue clay extraction in accordance with the scheme of working which was approved under the Environment Act Review in 2004. This scheme allowed clay to be worked on a "campaign" basis. Earthmoving contractors were being used once or twice a year to excavate clay and place it into a stockpile in the northern part of the quarry. Clay was then being fed from the stockpile into the brickworks on a daily basis throughout the year to meet the demands of brick production.
13. In the absence of brick manufacturing facilities at Heather, it is proposed to transfer the clay from the stockpile by lorry to other brickworks operated by the applicant for blending purposes. The proposed destinations for the majority, if not all the material are Desford Brickworks, approximately 7 miles southeast of Heather, and Kirton Brickworks in Nottinghamshire (approximately 55 miles north). In addition to these two brickworks, the applicant is also considering other brickworks within the company that might be in a position to receive this clay. However, a final decision on this would have to be based on the suitability of Heather clay, which will only become apparent if exports are permitted.
14. During previous years, the extraction rate at Heather quarry was approximately 90,000 tonnes (45,000m³) of brickclay per year, which equates to the raw material demands of the adjacent brickworks when at full production. The applicant states that the rate of clay extraction would not increase above this figure if the clay were to be exported rather than being used at Heather Brickworks.
15. At an average of 19 tonnes per load, the export of 90,000 tonnes of clay would generate approximately 4,740 lorry loads or 9,480 HGV movements. Assuming that the material is exported at a constant rate throughout the year, this would (at 48 operational weeks per year) equate to 99 loads (198 movements) per week or 20 loads (40 movements) per day. The applicant advises that the amount of clay exported may be subject to variations over time, as the exports would reflect changes in the day-to-day requirement for the material at the destination brickworks.
16. HGVs exiting Heather Quarry and Brickworks would be able to use an existing wheelwash located on the access road to the brickworks, in order to prevent mud being deposited on the public highway.

Hours of Operation

17. The permitted hours of working are 06:30-18:00 Mondays to Fridays and 06:30-14:30 on Saturdays, with no working permitted to take place on any Sunday, Bank Holiday or Public Holiday, except in the case of emergency or for essential pumping and maintenance work. No changes are proposed to these hours in terms of mineral extraction. Should planning permission be granted, the export of clay would also be restricted to these hours by means of a planning condition.

Site Restoration

18. The restoration proposals approved under the Environment Act Review include the progressive restoration of the site and the creation of two lakes in the centre of the extraction area and the creation of two small settlement ponds in the south western part of the site. No change is proposed to the approved restoration scheme.

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

Planning Policy

19. Planning Policy Statement 1 (PPS1) sets out the overarching planning policies on the delivery of sustainable development through the planning system. Minerals Policy Statement 1 (MPS1): *Planning and Minerals*, published in November 2006, sets out the key overarching policies and principles the Government expects Mineral Planning Authorities to follow when preparing minerals development frameworks and in considering applications.
20. The Development Plan in this instance comprises the Regional Spatial Strategy for the East Midlands, the extended policies of the Leicestershire, Leicester and Rutland Structure Plan, the Leicestershire Minerals Local Plan, the Leicestershire, Leicester and Rutland Waste Local Plan and the North West Leicestershire Local Plan.

Regional Spatial Strategy for the East Midlands (RSS8)

21. RSS 8 was agreed in March 2005. It sets out the regional guidance for development in the East Midlands and applies the general principles for sustainable development which are set out in national guidance.
22. The draft revision of the Regional Spatial Strategy was published in September 2006 and has undergone an Examination in Public during the summer of 2007. The Panel report was published in late November 2007.

Leicestershire, Leicester and Rutland Structure Plan

23. The Leicestershire, Leicester and Rutland Structure Plan 1996-2016 does not contain any saved policies which are relevant to this proposal.

Leicestershire Minerals Local Plan

24. *Policy 3* sets out the environmental considerations which will be taken into account when determining mineral planning applications. These include the impacts which traffic movements would have on residential amenity, the cumulative effect which proposed development would have, and the effect of development on public rights of way.
Policy 4 states that the County Council will encourage, wherever practicable, the use of rail, canal, conveyor or pipeline, and will restrict heavy lorry movements associated with mineral operations from using unsuitable roads by means of traffic management or other appropriate measures such as voluntary lorry routing agreements with operators.
25. *Policy 5* sets out measures to control the environmental effects of mineral operations through the imposition of suitable planning conditions.
Policy 6 states that the County Council will seek to secure planning obligations where appropriate in order to achieve control over mineral operations which cannot otherwise be adequately controlled by planning conditions.
Policy 11 sets out the matters in respect of which conditions will be imposed to ensure satisfactory restoration.

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

North West Leicestershire Local Plan

26. Policy E3 of the North West Leicestershire Local Plan states that development will not be permitted which, by reason of its (amongst other things) proximity, noise, vibration, smell, fumes, smoke, dust or excessive traffic generation, would be significantly detrimental to the amenities enjoyed by the occupiers of existing nearby dwellings.

Emerging Development Plan documents

27. The County Council is preparing its Minerals Development Framework (MDF), which is to replace the existing Minerals Local Plan. The Core Strategy and Development Control Policies document is intended to be submitted to the Secretary of State in June this year. Whilst limited weight can be attached to the emerging policies until they have undergone an Examination by a Planning Inspector, they are a material consideration in the determination of the current application.
28. The draft revision of the Regional Spatial Strategy was published in September 2006 and has undergone an Examination in Public during the summer of 2007. The Panel report was published in late November 2007.

Consultations – Initial responses

North West Leicestershire District Council (Planning)

29. North West Leicestershire District Council raises a holding objection to the application on the basis that the submissions do not provide sufficient information in relation to traffic movements to and from the site in order to assess the likely impact of the proposals on the amenities of existing residents in the locality. The District Council considers that this information should be sought from the applicants and provided before determination of the application, and would request the District Council is re-consulted by the County Council for its views upon the receipt of the necessary information in relation to traffic movements to and from the site.

Hinckley & Bosworth Borough Council (Planning)

30. Hinckley and Bosworth Borough Council objects to the application in its current form due to concerns regarding traffic generation and wider sustainability issues resulting from processing off site. At present, the proposal would remove any requirement for brickmaking to return to Heather Brickworks. However, it may be considered acceptable to vary the conditions to extend the current 2 year period to, say, 5 years, to provide a requirement for the Heather works to be brought back into use.

Heather Parish Council

31. Heather Parish Council comments as follows:

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

- Concern about how many HGVs will travel through the village on a daily basis loaded or empty.
- Speed bumps on Sweystone Road makes HGVs very noisy as they go over them. Could there be a set start and end time for travelling through the village?
- Concern about the very tight turning corner at the end of Mill Lane as lorries left turn onto Main Street. Mill Lane narrows at the top and thus means that the size of truck would almost certainly have to position in the middle of the road to enable turning left.
- There is a river bridge on Mill Lane. The Parish Councillors have some concerns over the fact that such heavy lorries using this road regularly could cause too much of a strain on that bridge.
- If traffic turned away from the village and up to the A447 and travelled to Measham via the A42, the problems that the Parish Councillors envisage happening on Mill Lane would be avoided, although they are fully aware that this would be a considerably longer route from pick up to drop off points.
- Concern about the wheel wash to be used as required. This sounds too open to interpretation. In the interest of keeping the village roads red clay free, the Parish Councillors feel that all lorries should be wheel washed.
- The Parish Councillors would like to ensure that all lorries were sheeted to stop dust, dirt and debris from flying off the lorries. This would be almost inevitable as they travelled over the speed bumps.
- Would there be any chance that the brickworks should be responsible for cleaning the roads taken by the lorries on a daily/regular basis.

32. Heather Parish Council points out that all of the above items are based on local knowledge of the roads that would most likely be used as opposed to the ones that could be used. The Parish Councillors are pleased that the site is not closing completely and is, therefore, still a local employer.

Shackerstone Parish Council

33. Shackerstone Parish Council states that it “would prefer for the existing approval to be retained with only the winning and working of minerals allowed at the site”. The Parish Council comments that this application can be interpreted as a way of never resuming brickmaking at the Heather site with ongoing extraction causing road traffic and road maintenance problems for years to come.

- The application does not state how much clay is to be extracted.
- The application does not state what road routes will be used from Station Road to move the clay to where it will be used. Traffic will cause problems in either Heather or Ibstock or both, and then in the villages beyond.
- The application does not place any limit on the size of vehicles to be used on the public road.
- The application does not provide any public road cleaning for the mess the lorries will make.
- The application does not offer any support to the Leicestershire Highways for road maintenance necessitated by the extra traffic proposed.

Shackerstone Parish Council also comments that the above application is very short of the detail which would be expected to enable a decision to be made.

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

Ibstock Parish Council

34. Has no observations to make.

Environment Agency

35. Has no objections to the proposal.

Leicestershire Footpath Association

36. The Leicestershire Footpath Association Committee considered the situation at Heather Quarry and brickworks at its meeting held on the 31st October. The Footpath Association's main concern is with footpath Q57, which has been walked from time to time. When the plant was in operation no problems were encountered, and now that the site is mothballed, it is a pleasant walk when either walking from Heather to Ibstock or vice versa. In these circumstances the Leicestershire Footpath Association would not object to any attempt to alter the planning conditions which have already been imposed on Hanson Building Products.

Highway Authority

37. The site and access falls within an area subject to a weight restriction. As such, all vehicles generated by the proposal could access the site through the [weight restricted] area to access the primary road network. If the routing of vehicles were unrestricted this would be unacceptable from a highways point of view. However, the Highway Authority would look favourably on the proposal subject to a condition or undertaking that all vehicles of 7.5 tonnes or above turn left into and right out of the site access onto Mill Lane.
38. The Highway Authority has requested traffic generation figures for this operation to be submitted, so that these can be compared with previous traffic levels generated by the brickworks when it was fully operational. Whilst the Highway Authority reserves a degree of judgement until such figures are available, it is concerned that if the use of the brickworks were to recommence whilst the export of clay is ongoing, the combined number of HGVs on the road network would cause problems. The Highway Authority would ideally wish to control HGV movements relating to this proposal such that as and when the brickworks recommences production, the applicants should cease all activities they are now seeking to introduce, unless otherwise agreed in writing by the Local Planning Authority.

Consultations – Further responses following the receipt of additional information from the applicant

39. Following the receipt of initial responses from consultees, the applicant was asked to provide additional information to address the points raised by consultees. This includes further information on vehicle movements. The additional information provided by the applicant has been incorporated in the *Assessment of Proposal* section of this report.

North West Leicestershire District Council (Planning)

40. Objects on the basis that the proposed scheme would inter alia provide for the exportation of clay on a "campaign basis" whereby such campaigns would be of an indeterminate length and frequency. Concerns are raised that by reason of the increased level of traffic generation during these "campaigns" the proposals could be to the detriment of the residents of dwellings in the locality in terms of noise and disturbance.
41. Having regard to the fact that the Mineral Planning Authority would consider imposing planning conditions to control the number of HGV movements associated with the export of clay and the cessation of clay exports as and when the Brickworks resumes production, and that it would be recommended to Members that the granting of planning permission should be subject to the site operator entering into a legal agreement which requires all HGV traffic to turn right out of the site and left into it, North West Leicestershire District Council subsequently considered that the imposition of such controls and the completion of a legal agreement to cover lorry routeing would address the District Council's previously stated objections. Subject to these provisos, North West Leicestershire District Council has withdrawn its objections.

Hinckley & Bosworth Borough Council (Planning)

42. Confirms that if the number of HGV movements relating to the transport of clay from the quarry is no more than the previously approved combined movements associated with brick production/clay transport from the site, this will go a long way to allaying the concerns expressed by the Borough Council in the formal consultation response on the application and to some of the objections by Shackerstone Parish Council.

Heather Parish Council

43. No further response submitted, as the additional information from the applicant has already been taken into account in the Parish Council's initial response.

Shackerstone Parish Council

44. No further comments submitted.

Highway Authority

45. The Highway Authority observes that if the complete annual production of clay were to be exported during a single export campaign lasting 8 weeks, this would result in up to 236 HGV movements per day. Consequently, the Highway Authority expresses concern over such a high number of HGV trips, as this would give rise to issues of highway safety and residential amenity. The export of clay should therefore not be restricted to specific periods but rather be spread out throughout the year. The number of vehicles per day should be restricted to that generated by sales from the brickworks when it was fully operational.

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

46. On the basis that there are currently no restrictions on brick exports and that clay exports are to cease as and when the brickworks starts up again, the Highway Authority consider that (subject to an average of 200 heavy goods vehicle movements per week, and a peak figure of 400 HGV movements per week) a highway safety objection could not be sustained. This is on the basis that all said vehicles turn left into the site and right out of the site.

Publicity

47. The planning application has been advertised by two site notices posted on Mill Lane near the site entrance and at the crossing point between the quarry and the brickworks on Footpath Q57 on 15 October 2007, an advertisement in the Coalville Times on 19 October 2007 and by individual notification letters to 29 properties on Station Terrace. No representations have been received within the prescribed period.

Assessment of Proposal

48. Planning legislation requires that development has to be in accordance with the Development Plan, unless material considerations indicate otherwise. The main material considerations relating to this development proposal are the impact of vehicle traffic generated by the export of clay and vehicle routeing in terms of weight restrictions on the road network.

Planning Policy

49. Minerals Policy Statement 1 (MPS1): *Planning and Minerals* sets out the key principles which the Government expects Mineral Planning Authorities to follow in considering planning applications. These include the requirement to safeguard mineral resources, and the requirement to secure working practices which prevent, or reduce as far as possible, the impacts on the environment and human health arising from extraction, processing or transportation of minerals. In doing so, Mineral Planning Authorities have to take account of the benefit, including the reduction in carbon emissions, which local supplies of minerals would make, as the use of local supplies would reduce the impact of transporting minerals over long distances by road.
50. Annex 2 to MPS 1 contains specific policies relating to brick clay. It acknowledges that it is generally desirable to extract brick clay as close as possible to the brickworks that it is supplied to. Notwithstanding this, account should be taken of the need to provide brick clay from a number of different sources to enable appropriate blends to be made. Where materials for blending need to be supplied from various sources, it may be necessary to hold stocks of such clay at the brickworks where the material is to be used, or elsewhere.
51. MPAs should also take into account the need to provide a stock of permitted reserves to support new or existing manufacturing plant. The landbank for brick clay should be sufficient to provide for 25 years of production at each manufacturing site.

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

52. *MPS2: Controlling & Mitigating the Environmental Effects of Minerals Extraction in England* requires MPAs to incorporate the objectives of sustainable development in minerals planning. These objectives recognise the potential conflict between the exploitation of resources and environmental aims. In order to reconcile such conflicts, MPAs should aim to ensure that the environmental impacts caused by mineral operations and the transport of minerals are kept to an acceptable minimum.

Vehicle movements

53. In order to address the initial concerns of consultees referred to above, the applicant has provided traffic figures for Heather Quarry and Brickworks. It is estimated that when the brickworks was fully operational, it generated the following numbers of HGV movements:

	Average		Peak	
	Loads per week	Movements per week	Loads per week	Movements per week
Brick deliveries	75	150	112	224
Star Lane Clay Export ¹	16	32	24	48
Desford Clay Import ²	20	40	20	40
Coal Slurry Import	0	0	26	52
Miscellaneous (10% of above) ³	11	22	18	36
TOTALS	122	244	200	400
Conversion to Annual Totals	5,856	11,712		
Conversion to Daily Totals	25	50	40	80

Conversion of average loads per week to annual totals assumes 48 production weeks per year. Conversion of average and peak loads per week to daily totals assumes 5 working days per week on the assumption that most activity would take place Monday to Friday.

1) This figure related to the limited export of clay from Heather Brickworks to Star Lane Brickworks in Essex. Star Lane Brickworks has since closed and clay exports from Heather to Star Lane have ceased.

2) This figure relates to vehicle movements generated by the export of brickclay from Desford Brickworks to Heather Brickworks (variation of condition 1 of planning permission 1997/0659/04)

3) This includes deliveries of plant and equipment, fuel deliveries and maintenance visits.

Table 1: Estimated HGV movements at Heather Brickworks (data supplied by the applicant)

54. The applicant advises that these figures do not relate to any specific periods in time. They were calculated from average vehicle movements when the site was fully operational and working at full capacity. It can be assumed that the estimated average vehicle numbers represent typical figures in the years prior to the brickworks being mothballed. The peak figures contained in the table are assumed values which are based on a 50% increase for brick deliveries and clay export.

Export of “as raised” material from Heather Quarry

55. The applicant proposes to continue the extraction of brick clay at Heather Quarry and to export the mineral “as raised”, i.e. in unprocessed form, to supply brickworks in Desford in Leicestershire and Kirton in Nottinghamshire. The clay would be worked at Heather on a “campaign” basis during two campaigns per year, initially stockpiled at Heather and then exported by lorry to its destination. The trips generated by the proposed export of clay would to a large extent

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

replace the traffic generated by the sales of finished bricks from Heather, although the sale of stock at Heather is currently still ongoing (albeit on a low level due to a lack of demand in the market). Should planning permission be granted, the export of "as raised" mineral could be required to cease as and when the brickworks resumes production.

56. The applicant has stated that on leaving the site, vehicles travelling from Heather to Desford Brickworks would turn right towards Ibstock and then travel south on the A447 before turning onto the B582 towards Desford. Vehicles travelling to Kirton Brickworks would also turn right towards Ibstock, but then travel north on the A447 towards Coalville. At Coalville, they may either travel east on the A511 and join the northbound M1 motorway at Junction 22, or travel west on the A511 towards Ashby-de-la-Zouch and then north on the A42, before joining the M1 northbound at Junction 23A.

Weight Restricted Areas

57. The County Council has implemented a county-wide strategy of weight limits and weight restrictions to prevent lorries with a gross plated weight of more than 7.5 tonnes from using roads that are unsuitable for such vehicles. In addition, the County Council has identified a network of strategic lorry routes which HGVs must use unless they are making a delivery into a weight restricted area. These strategic routes include the M1 motorway, the A42, the A511 between Ashby-de-la-Zouch and Junction 22 of the M1, the A447, the B582, the B585 and the B4116.

Other environmental impacts

58. Heather Parish Council voiced concern over the ambiguous statement by the applicant over the use of the wheel wash, and requests that all lorries should use the wheel wash. Experience at other quarries in Leicestershire shows that a requirement to use a wheel wash regardless of weather conditions may increase the occurrence of mud on roads in certain weather conditions, e.g. in dry weather. It would, however, be possible to require the operator by means of a legal agreement to arrange for the roads to be cleaned when necessary. The Parish Council also asks that lorries be sheeted in order to reduce dust and debris from falling off the vehicles. Should planning permission be granted it could be subject to a planning condition requiring that all laden HGVs entering or leaving the site shall be sheeted. The Parish Council's request for a road sweeper to clean the highway on a regular basis could be the subject of a legal agreement between the site operator and the County Council.
59. The Parish Council also raised a number of issues which relate to heavy goods vehicles turning left at the site entrance and travelling through the village of Heather. It is proposed that if planning permission is granted, HGVs associated with this development should be required by legal agreement to turn right at the site entrance. HGVs therefore would not travel through Heather.

Conclusion

60. The scheme of working which was approved under the Environment Act Review in 2004 describes five phases of working. Extraction operations are currently taking place in Phase 1. Phases 2 to 5 are yet to be worked. The applicant estimates that the quarry contains a reserve of approximately 850,000-900,000 cubic metres (equivalent to 1.7-1.8 million tonnes) of brick-making clay within the remaining consented area.
61. At a rate of extraction of 90,000 tonnes per annum, the remaining permitted clay reserves at Heather Quarry would last for approximately 19 years. A refusal of planning permission and subsequent restoration of the quarry in accordance with a revised restoration scheme before the permitted reserves have been worked would sterilise these reserves, which would be contrary to Government policy set out in MPS1 in respect of the safeguarding of mineral resources and maintaining land banks.
62. Provided that the export of "as raised" clay is spread evenly throughout the year, the number of HGV movements generated by the development would be lower than the total of HGV movements generated when the Heather Brickworks was in full production. It is considered that a refusal of planning permission on grounds of adverse impacts on the amenity of local residents and adverse highway impacts would be unlikely to be upheld at appeal. I am not aware of operations at Heather Quarry (and Brickworks) having given rise to complaints in terms of adverse environmental impact from clay extraction or vehicle traffic in the past. Extraction operations would be undertaken on a campaign basis during short periods of each year, in accordance with the updated schedule of planning conditions which were approved under the Environment Act. The number and routeing of HGV movements associated with the export of clay could be controlled by means of planning conditions and a legal agreement between the operator and the County Council.
63. On balance it is therefore considered that planning permission should be granted for the proposed development for a temporary period of 5 years, subject to the planning conditions set out in the appendix to this report, and the applicant entering into a legal agreement covering the routeing of vehicles accessing and leaving the site, the number of vehicles travelling through Heather and the times of day when they would be permitted to do so, the cleaning of public highways and the cessation of export of clay by road as soon as production at the adjacent brickworks recommences.

Recommendation

A. PERMIT subject to the conditions as set out in the appendix and subject to the prior completion of a legal agreement covering the following matters:

- Lorry routing between Heather Quarry and the non-restricted road network;
- The use of wheel cleaning equipment at the site;
- The cleaning of the public highway from mud and detritus as and when required.

B. To endorse, as required by the Town and Country Planning (General Development Procedure) Order 1995 (as amended), a summary of the:

- (i) Policies and proposals in the development plan which are relevant to the decision, as follows:

This application has been determined in accordance with the Town and Country Planning Acts, and in the context of the Government's current planning policy guidance and the relevant Circulars, together with the relevant development plan policies, including the following, and those referred to under the specific conditions as set out in the appendix:-

Leicestershire Minerals Local Plan
Policies 3, 4, 5, 6 and 11

North West Leicestershire Local Plan
Policy E3

- (ii) Reasons for the grant of planning permission, as set out in Conclusion above.

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

Conditions

1. This permission relates to the variation of conditions 2, 10, 50 & 51 of planning permissions 2003/0513/04 & 2003/0697/07 to permit the continuance of clay extraction and export of clay from Heather Quarry without processing at Heather Brickworks.
2. This permission shall be limited to a period of 5 years from the date of this permission, or until the date when the production of bricks or other building materials at Heather Brickworks resumes, whichever is the earlier, by which time the export of clay from Heather Quarry without prior processing at Heather Brickworks shall have ceased.
3. Until such a time as specified in condition 2 above, condition 2 of planning permissions 2003/0513/04 & 2003/0697/07 shall read as follows:
This permission relates only to the extraction of brickmaking clay from, and the subsequent restoration of, the land edged red on Drawing 2003/0513/04//2003/0697/07/M1 attached to and forming part of this permission.
4. Until such a time as specified in condition 2 above, condition 10 of planning permissions 2003/0513/04 & 2003/0697/07 shall read as follows:
Clay extracted from the site shall only be transported directly to or via the adjoining site currently referred to as Heather Brickworks; there shall be no direct vehicular access between the site and any highway other than from the clay stockpile and loading area. No clay shall be transported via the access to Newton Road.
5. Until such a time as specified in condition 2 above, condition 50 of planning permissions 2003/0513/04 & 2003/0697/07 shall read as follows:
Unless otherwise agreed in writing by the Mineral Planning Authority, in the event of a cessation of winning and working of minerals prior to the achievement of completion of the approved restoration and aftercare schemes, which in the opinion of the Director of Community Services constitutes a permanent cessation within the terms of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, a revised restoration and aftercare scheme shall be submitted to the Mineral Planning Authority for approval within 6 months of the cessation. The approved revised scheme shall be completed in all respects within 2 years of the written approval unless otherwise agreed in writing by the Mineral Planning Authority.
6. Until such a time as specified in condition 2 above, condition 51 of planning permissions 2003/0513/04 & 2003/0697/07 shall read as follows:
Notwithstanding the requirements of condition 5 above, and only if agreed in writing by the Mineral Planning Authority, the winning and working of mineral may be suspended temporarily for an agreed period of time which may be longer than that set out in paragraph 5 of Schedule 9 of the Town and Country Planning Act 1990 (as amended). In the event of such an agreement, the site operator shall

2007/1514/07 & 2007/1162/04 (2007/C129/07 & 2007/C130/04) - continued

submit a written scheme of interim restoration measures for the approval of the Director of Community Services. Such a scheme shall contain details of interim restoration measures to be carried out following the suspension of operations at the site (including a timetable for their implementation) and management operations to be undertaken during the time of the temporary suspension. During the period of temporary suspension the site shall at all times be managed in accordance with the approved scheme. Following the end of the agreed period of temporary suspension, the provisions of Condition 5 above shall come into effect, unless otherwise agreed in writing by the Mineral Planning Authority.

7. Unless otherwise required by the conditions attached to this permission, the development hereby permitted shall in all other respects be carried out in accordance with the schedule of planning conditions approved under reference no. 2003/0513/04 and 2003/0697/07.

Hours of Operation

8. Unless otherwise agreed in writing by the Mineral Planning Authority, no heavy goods vehicles shall access or leave the site except during the permitted hours of operation.

Access and Traffic

9. The number of HGV movements generated by the export of clay from the site shall not exceed 400 per week, subject to a total of 9,480 per year. The operator shall keep a record of all heavy goods vehicles accessing and leaving the site. Back records shall be kept for a minimum of 24 months and access to these records shall be afforded to the Director of Community Services on request.
10. All heavy goods vehicles shall enter the site by turning left from Station Road, and all such vehicles leaving the site shall turn right onto Station Road.
11. All laden heavy goods vehicles entering or leaving the site shall be sheeted, or carry their cargo in an otherwise enclosed loadspace.
12. Wheel cleaning facilities shall be used as necessary to ensure that no mud or detritus is carried onto the highway by vehicles leaving the site.

Reasons

- 1 & 3 For the avoidance of doubt, and to ensure that the development is carried out in a satisfactory manner. (Leicestershire Minerals Local Plan Policy 5)
- 2 To enable the County Planning Authority to reconsider the development in the light of any change in circumstances at the site. (Leicestershire Minerals Local Plan Policy 5)
- 4 In the interests of highway safety. (Leicestershire Minerals Local Plan Policies 4 and 5o)
- 5 To enable the Mineral Planning Authority to adequately control the development and to ensure the land is restored to a condition capable of beneficial afteruse. (Leicestershire Minerals Local Plan Policy 5)
- 6 For the avoidance of doubt, to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area. (Leicestershire Minerals Local Plan Policy 11)
- 7 To ensure the development is implemented in all respects in accordance with the submitted details, in the interest of the amenities of the area and for the avoidance of doubt (Leicestershire Minerals Local Plan Policy 5)
- 8 In the interests of local amenity. (Leicestershire Minerals Local Plan & 10 Policy 5)
- 9, 11 In the interest of highway safety and the amenities of the area.
& 12 (Leicestershire Minerals Local Plan Policy 5j)
-

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all preceding applications.

EQUAL OPPORTUNITIES IMPLICATIONS

Unless otherwise stated in the report there are no discernible equal opportunities implications.

IMPLICATIONS FOR DISABLED PERSONS

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

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970, the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Disability Discrimination Act 1995. You are advised to contact the County Council's Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

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

BACKGROUND PAPERS

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

SECTION 38(6) OF PLANNING AND 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. the Regional Spatial Strategy, Structure Plan or any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are 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.