

WILTSHIRE COUNTY COUNCIL

AGENDA ITEM NO.

REGULATORY COMMITTEE
5th OCTOBER 2005

**WHITEPARISH: SECTION 73 APPLICATION: EXTRACTION OF SAND WITH
REINSTATEMENT TO AGRICULTURE USING SELECTED FILLING MATERIALS
WITHOUT COMPLIANCE WITH CONDITION 4 OF PLANNING PERMISSION S.03.0592
DATED 16th MAY 2003 TO ALLOW AN INCREASE IN THE RATE OF OUTPUT FROM
THE SITE TO 150,000 TONNES PER ANNUM, CONDITIONS 17 AND 18 TO ALLOW A
CHANGE IN PHASING, CONDITION 24 TO ALLOW A MINIMAL SETTLEMENT
ALLOWANCE ENSURING PONDING DOES NOT OCCUR AND CONDITION 30
TO BRING IT IN LINE WITH THE ALTERATIONS TO CONDITIONS 17 AND 18
AT BRICKWORTH QUARRY, HARESTOCK, WHITEPARISH, FOR
CLEANSING SERVICE GROUP LTD.
(Application No. S.05.8012)**

Purpose of Report

1. To consider the above application and to recommend that planning permission be granted without compliance with conditions 4, 17, 18 and 30. It is further recommended that condition 24 remain unchanged.

The Site

2. The site lies to the south-west of Whiteparish and south-east of the A36 and A27 Brickworth Corner junction.
3. A location plan is attached at **Appendix 1**.

Planning History

4. In brief, the planning history of the Brickworth Quarry site (formerly known as Moor Farm) is as follows: -

<u>S.91.0446</u>	Planning permission granted on 10 th March 1993 for sand extraction and reinstatement to agriculture using selected filling materials.
<u>S.94.1617</u>	Modification of condition 1 of planning permission S.91.0446 to extend the time limit for commencement of development granted on 22 nd June 1995.
<u>S.98.1159</u>	Modification of condition 1 of planning permission S.94.1617 to extend further the time limit for commencement of development granted on 16 th December 1998.
<u>S.00.1519</u>	Planning permission granted on 1 st August 2001 for construction and use of a private access road and new access onto the A36 at Brickworth Corner, relocation of weighbridge, office, car parking, wheel wash, fuel storage and workshop facilities following completion of legal agreement.

- S.00.1630 Modification to thirteen conditions of planning permission S.98.1159 to reference the new access arrangements permitted by S.00.1519 granted on 8th May 2001.
- S.01.0939 Modification of condition 1 of planning permission S.00.1630 to coordinate the time limit for commencement of development with that specified in condition 2 of planning permission S.00.1519 granted 3rd August 2001.
- S.02.0509 Modification of conditions 9 and 15 of planning permission S.00.1519 to allow for the submission of dust suppression and landscaping details to be made at a later date granted 28th October 2002.
- S.03.0592 Modification of condition 22 of planning permission S.01.0939 to allow for the erection of bunds around the perimeter of the site instead of fencing granted 16th May 2003.

Proposal

5. This application seeks permission to develop Brickworth Quarry without complying with a number of conditions previously imposed on the planning permission granted for the quarry development.
6. It is proposed to modify Conditions 4, 17, 18, 24 and 30 of Planning Permission S.03.0592 in the following manner:-
 - Condition 4 – to allow for an increase in the mineral output rate from the site from 100,000 tonnes per annum to 150,000 tonnes per annum.
 - Condition 17 – to allow for a change in the sequence of working on site to the following sequence: Phase 1, Phase 3, Phase 4 and Phase 2.
 - Condition 18 – to allow part of the extraction in Phase 3 to commence prior to the complete restoration of Phase 1.
 - Condition 24 – to allow for some settlement allowance in the final filling levels on the site, to ensure areas of ponding do not occur.
 - Condition 30 – to allow for changes to the timing of an agricultural aftercare scheme resulting from the changes requested for Condition 18.
7. The full wording of the conditions and the proposed modifications are set out in **Appendix 2**.

Planning Policy

8. Policies MSP1 and MSP3 of the Adopted Wiltshire Structure Plan are considered relevant to this application.
9. Policy 3 of the Adopted Wiltshire and Swindon Minerals Local Plan is considered relevant to this application.
10. Policies C2, C6 and G2 of the Adopted Salisbury District Local Plan are considered relevant to this application.
11. All relevant planning policies are set out in the attached **Appendix 3**.

Consultations

12. **Salisbury District Council** - objects to the application. Has no major concerns over the highway impact of the proposal, but not convinced that it is appropriate to grant an increase in output from the site because of concerns over the rate of subsequent restoration. Notes that no material has yet been brought in to fill the site, and a licence to allow this operation to begin has not yet been sought. Concerned that an increase in output would leave a large unfilled and unsightly void. Objects to any alteration of conditions 24 and 30 and to the introduction of any other material than the approved inert fill.
13. **Whiteparish Parish Council** - objects to the application for the following reasons:
- Condition 4 – no application has yet been made to the Environment Agency for a landfill licence so it will be impossible to comply with the conditions of the planning permission.
- Conditions 17, 18 and 20 – the proposed modifications are designed, in conjunction with the proposed modification to condition 24, to bring forward and accelerate sand extraction from phase 3 and then to gain consent to fill void with commercial and industrial waste.
- Condition 24 – there is no consent for anything other than inert waste to be deposited at the site.
14. **Environment Agency** - advises that in relation to the proposed modification of condition 24, the Agency has previously indicated that only inert material will be acceptable for landfilling at this site due to geological constraints. Recommends that because it will not be possible to specify the degree of settlement until the site is permitted/licensed, there should be no reference to settlement allowances for filling material and only final contours should be agreed. No objections in respect of the proposed modification of conditions 4, 17, 18 and 30.
15. **Highways Agency** - confirms that the A36 is a virtually de-trunked route and does not propose to give a direction restricting the grant of planning permission.
16. **Local Highway Authority** - confirms that the increase of two vehicle movements per hour has not been objected to by the Highways Agency as it would have a negligible impact on the local highway network. Therefore, no highway objection is raised.

Publicity

17. The application has been publicised by way of the local press and site notice. A letter of objection has been received from the Whiteparish Preservation Group and 207 letters of objection have also been received.
18. The concerns raised by the Whiteparish Preservation Group are as follows: -
- Condition 4 – an increase in the rate of output without replacement material would lead to an increased risk of a long-term scar on the landscape.
- Conditions 17, 18 and 30 – proposed changes to conditions 17 and 18 should not be accepted unless phase 4 of the site is also divided into sub-phases. Condition 30 should not therefore be altered

Condition 24 – the proposed modification presumes the acceptance of non-inert waste to be landfilled at the site, albeit the Waste Local Plan designates the site as an inert waste site. The Environment Agency has also stated that the Landfill Directive will restrict waste types to inert. By accepting the settlement allowance of 20% for phases 3 and 4, the County Council would be accepting that non-inert waste can be deposited at the site. By this logic there should not be a condition to an approval that presumes a planning benefit where none exists, or is likely to exist.

Traffic movements – an assumption is made in the calculation of traffic movements over the ‘backloading’ of waste vehicles with sand. However, it is highly unlikely that vehicles carrying waste will pick up a load of sand. It is stated within application documents that a further assessment of traffic movements will be made at a later date to ascertain the impact of a recycling facility. Therefore the accuracy of the calculations regarding vehicle movements is questioned.

Mismanagement of site – the applicant admits the site has far less sand than anticipated. There is concern that this mismanagement may eventually lead to uncontrolled dumping of non-inert waste at this site. The applicant should be made to comply with the existing planning consent.

19. The concerns raised in the letters of objection are as follows: -
- An increase in the rate of extraction without infill will lead to an increased risk of long-term scar on the countryside. The existing planning permission quite clearly states that each phase must be filled in before moving onto another phase.
 - The modification to condition 24 presumes the acceptance of non-inert waste on the site; the planning permission does not state this. The Waste Local Plan designates the site as inert and the Environment Agency says that only inert waste is acceptable on this site.
20. Copies of the representations received will be available in the **Members’ Room**.

Planning Considerations

21. Brickworth Quarry currently operates under a conditional planning permission granted in March 2003 (ref no. S.03.0592), which supersedes the original permission granted in 1993 and the subsequent permissions granted in 1995, 1998, 2001 and 2003.
22. This application proposes the modification of certain conditions to bring the operation of the quarry more in line with current site knowledge, modern quarrying practices and to meet an increased demand for soft sand within the local sub-region.
23. Applications to modify or vary the conditions attached to a planning permission are properly an application under Section 73 of the Town and Country Planning Act 1990. This section provides for applications to be made for planning permission without complying with conditions applied to a previous permission. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation.
24. Section 73 procedure for such applications requires the planning authority to consider only the question of the condition(s) subject to which planning permission should be granted.

25. If it is decided permission should be granted subject to conditions differing from the previous permission the planning authority may grant planning permission accordingly. Alternatively, if the planning authority decides that permission should be granted subject to the same conditions as in the previous permission, then it should refuse the application.
26. If the planning authority decides that some variation of conditions is acceptable, a new alternative permission will be created. It is then open to the applicant to choose whether to implement the new permission or the one originally granted.
27. In determining this application, it will be necessary to consider the condition, the reason for it, its function, the degree to which it makes the development acceptable, and therefore whether the variation would in this context be acceptable.

Condition 4

28. Condition 4 of the permission requires the quarry development to be carried out in accordance with details contained in the original 1991 planning application (S.91.0446), as amended by the 2000 application (S.00.1630). The 1991 application stated that sand would be produced from the quarry at a rate of 100,000 tonnes per annum.
29. This application proposes to carry out the quarry development without complying with this production rate, seeking permission to increase the rate to 150,000 tonnes per annum in order to meet increased local demand for soft (building) sand.
30. There is nothing in the 1991 application to indicate that a production rate of 100,000 tonnes per year was required to control environmental impacts or address any particular highway concern, only that this is the rate at which the then site operator proposed to work the deposit. Equally, there is nothing to dispute the applicant's suggestion that the figure of 100,000 tonnes was based on a general assessment of the local need for soft sand at the time of the 1991 application.
31. The proposed increase in production to 150,000 tonnes per year would mean that the reserve of sand would be consumed at a faster rate. However, there are no grounds for maintaining the production rate at 100,000 tonnes per year in order to conserve the resource. Officers do not consider that increasing the output rate would lead to large parts of the site being left open, thus causing detriment to the visual amenity of the area, because of the phased nature of site working that restricts mineral extraction from progressing until certain areas have been restored.
32. The main impact of increasing the rate of production would be the higher number of vehicle movements from the quarry. Therefore, the applicant employed a specialist highway and traffic consultancy to investigate the impact of increasing the output of sand from the site. The report produced by the consultants was submitted with the planning application and has been subject to consultations with the Highways Agency and the Local Highway Authority.
33. The report shows that the permitted production rate of 100,000 tonnes per annum equates to around 20 loads per day from the site (40 vehicle movements). Increasing production to 150,000 tonnes per annum would result in an additional 10 loads per day (20 vehicle movements). As the quarry operates from 0730 hours to 1700 hours, this equates to an increase from an average four HGV movements per hour to six HGV movements per hour.

34. Since the 1991 application was granted planning permission, a new access road and junction onto the A36 has been constructed to serve the quarry development. The junction operates under traffic signal control and the layout is to full Highways Agency standards. The Highways Agency and the Local Highway Authority both concur with the applicant's consultant that the two additional HGV movements per hour can be safely accommodated by the existing junction and would have little impact on the A36.
35. Concern has been expressed that the traffic figures quoted in the application documents reflect only a partial estimate of the HGV movements involved at the site and that increasing the rate at which sand is removed will result in increased numbers of HGVs importing infill materials, with the assumed 60% of vehicles delivering sand 'back-hauling' infill materials unlikely to be realised.
36. The applicant has acknowledged that once waste importation starts at the site the numbers of vehicles using the site will increase, but also pointed out that once sand extraction finishes and only waste importation is running the vehicle movements to and from the site will diminish. During the period when sand extraction and waste importation overlap, the vehicle movements would be around 20 extra a day (2 movements per hour) than that associated with a mineral output of 100,000 tonnes per annum. The applicant contends that, given the competitive nature of the mineral and waste industry, every opportunity will be taken to backload vehicles. Therefore, Officers consider the perceived problem over additional traffic flows to and from the site will not become manifest.
37. The proposed increase in output is therefore considered acceptable.

Condition 17

38. The 1991 application proposed that the extraction area be worked progressively in four main phases. In granting planning permission, the Mineral Planning Authority imposed a specific condition requiring the site to be worked in the following sequence: Phase 1, Phase 2, Phase 3 and Phase 4 (see plan attached at **Appendix 4**).
39. This sequence of working was devised so that the final phase to be worked and restored would be that closest to where the site entrance was to be located (i.e. Phase 4 to the south of the quarry). However, a new site entrance to the quarry was constructed in 2002 which relocated the entrance to the north of the quarry.
40. The 2000 application (ref. S.00.1630), which modified thirteen conditions of the planning permission for the quarry to reference the new access arrangements, did not take account of the required phasing of site operations.
41. Therefore, if the quarry is continued to be developed in accordance with the current condition 17, the final phase of working and restoration would be that part of the site farthest from the entrance. This is not good working practice and would lead to restored areas of the site becoming heavily trafficked by vehicles employed in restoration works on other parts of the site, resulting in soil compaction and a poor quality restoration.
42. The applicant wishes to alter the phasing to the following sequence: Phase 1, Phase 3, Phase 4 and Phase 2. This configuration would make Phase 2 the last to be worked and restored, as this is now closest to the new site entrance and where the site office and facilities are located.

43. Altering the phasing in this way would also overcome the problem of there being far less mineral available in Phase 2 than had originally been predicted (i.e. from survey data collected in 1977).
44. Officers are satisfied that this sequence represents good practice and is the most appropriate configuration for working and restoring the site. It is therefore considered that the proposed modification to condition 17 is acceptable.

Condition 18

45. Condition 18 prohibits mineral working commencing in Phase 3 until the restoration of Phase 1 has been completed. The reason for imposing this condition on the original permission was twofold: to ensure the area of land being worked or restored within the wider site was kept to a minimum to reduce the visual impact of the quarry, and to ensure that the site was restored progressively so as not to unduly affect the viability of the then Moor Farm agricultural holding.
46. Whilst the economic viability of the agricultural unit may be less of a factor than it was a decade ago, the wider area within which the quarry is located continues to be designated as a Special Landscape Area in the Development Plan. Therefore, Officers consider that the need for some form of restriction on site working remains justified.
47. Under the current permission mineral extraction may progress over two phases, but cannot continue into the third phase before the first phase has been restored. However, the alteration to the sequence of working resulting from the proposed modification to condition 17 would mean that working could not continue past the first phase until it had been completely worked-out and restored (i.e. there would be no second phase within which to continue with mineral extraction). Officers concur with the applicant that this is not a viable option and, as a consequence of the modification to condition 17, an alteration is required to condition 18.
48. The applicant proposes that condition 18 be modified to divide Phases 1 and 3 into three sub-phases (see plan attached at **Appendix 5**). This configuration would prohibit the working of Phase 3A until restoration of Phase 1A had been completed, with the same principle applicable to Phases 1B and 3B and Phases 1C and 3C. Dividing the phases in this way would enable mineral extraction to proceed into Phase 3 whilst restoration progresses in Phase 1.
49. Officers are satisfied that sub-dividing Phases 1 and 3 would enable the quarry to operate effectively whilst ensuring that mineral extraction does not outpace restoration works. It is considered that the proposed modification to condition 18 is acceptable.

Condition 24

50. This condition requires the site to be progressively restored in accordance with and to levels/contours as shown on a specified drawing. The reason given for the imposition of the condition reads: "to ensure that no surcharging of the site is undertaken."
51. The applicant contends that the approved restoration proposals as shown on the referenced drawing (Drawing No. TRA/MFH/REST/01) will give rise to the ponding of surface waters in certain areas within Phases 1 and 3, once settlement of the restored surface has taken place. However, the applicant has not pinpointed these areas or explained the extent of the perceived problem.

52. It is proposed that condition 24 be modified to take account of the settlement of waste material that would occur over time, thus addressing the potential for ponding and poor drainage. To this end, the applicant suggests that for Phases 1 and 2, which would be restored with inert waste material, a settlement allowance of 5% should be allowed. For Phases 3 and 4, a settlement allowance of 15-20% is suggested as this area could be restored with industrial and commercial waste. However, the applicant recognises that any settlement figure for Phases 3 and 4 will very much depend on the outcome of a PPC Permit application that will have to be submitted to the Environment Agency.
53. The proposed settlement figure for Phases 3 and 4 has been seen by the many objectors to the proposed modification of condition 24 as an attempt by the site operator to overturn a previous decision made by the Council during the adoption of the Wiltshire and Swindon Waste Local Plan to designate Brickworth Quarry as an inert waste only site.
54. However, it must be recognised that the Adopted Waste Local Plan does not designate Brickworth Quarry as an inert waste site. What the Waste Local Plan actually does do is to identify inert waste recycling as potential future use that could be developed at Brickworth Quarry. The Waste Local Plan correctly describes Brickworth Quarry as a permitted sand quarry with reinstatement to agriculture to be undertaken by means of the selected deposition of dry commercial and industrial waste and other waste of an inert non-hazardous nature. This description of the site reflects the wording of a condition of the planning permission for the site that defines the waste types that may be disposed of at the site. As the Local Plan Inspector noted at the time, it was not open to him to alter the wording of the condition/planning permission. Neither is it possible for the County Council, through the Waste Local Plan, to modify or revoke the conditions of the extant planning permission. Therefore, under the planning permission for the site, the site operator is permitted to dispose of industrial and commercial waste and inert non-hazardous waste and thus able to pursue a modification to condition 24.
55. However, the site is subject to both planning and pollution control regimes which, whilst complementary, are separate. Therefore, notwithstanding the status of the planning permission for the site, the operator will also require a PPC Permit for the site. As is acknowledged in the Waste Local Plan, the site operator has yet to submit or be granted a PPC permit for the deposit of industrial and commercial waste and the Environment Agency, which will determine any such application, has stated that the Landfill Directive will require any permit for landfill at this site to be restricted to the deposit of inert waste.
56. In commenting on the proposed modification to condition 24, the Environment Agency has reiterated its position that only inert material will be acceptable for landfilling at this site due to geological constraints. The Agency further advises that whilst the nature of the filling material will affect settlement, any settlement figure will only be agreed as and when the site is permitted/licensed. It will not be possible to specify the degree of settlement until the filling material has been agreed. Consequently, the Agency advises that only final contours should be agreed and there should be no reference to settlement allowances for filling materials.
57. Therefore, in light of the advice from the Environment Agency, Officers believe it would be premature for the County Council to consider any modification to condition 24 until the outcome of a PPC Permit application is known.

58. Moreover, Officers consider that the applicant's suggestion that condition 24 be modified to specify a settlement allowance in percentage terms would fail the tests set out in Government Circular 11/95 which relates to the use of planning conditions. Officers do not believe the wording proposed by the applicant to be either precise or enforceable and is therefore unacceptable.
59. Officers are therefore of the opinion that condition 24 should remain unchanged.

Condition 30

60. This condition details the requirement for a scheme of agricultural aftercare for each of the four phases of the site to be submitted to the Mineral Planning Authority for approval not later than three months before works to replace topsoil on each of the phases begin.
61. The applicant is concerned that by sub-dividing the phases, the current wording of the condition would require up to eight aftercare schemes (i.e. one for each sub-phase) to be prepared and submitted for approval. Officers concur with this interpretation of condition 30. Therefore, to avoid such a scenario, the applicant has suggested that the condition be altered to take account of the new phasing sub-sections.
62. Officers agree that condition 30 would require alteration to take account of the proposed changes to the phasing of site operations. The applicant has not suggested how condition 30 should be altered, but Officers consider it would be appropriate to strike-out condition 30 and replace it with a series of conditions that reflect current good practice for securing agricultural aftercare schemes. This would replace the need for individual schemes for each phase, with a requirement for an outline strategy for the whole site to be submitted for approval at an early stage and which then provides for a detailed annual programme of aftercare operations.

Other considerations

63. It should be noted that the original planning permission was granted in 1991 and has been superseded by other permissions which, except for the condition being modified, simply repeat the original wording of the conditions.
64. Since 1991 revised guidance on the use of planning conditions has been issued in a Government Circular and in good practice guides published by the Planning Officers Society. Whilst each Section 73 application approved created a new permission, the conditions were not amended to reflect the changing requirements in drafting planning conditions.
65. Officers consider that in granting any new planning permission for the site it would be proper and sensible to take the opportunity to review all conditions and ensure they reflect current practice. However, it must be recognised that the Council cannot re-write the permission.

Conclusion

66. The proposed modifications to conditions 4, 17, 18 and 30 are considered acceptable. The modifications are unlikely to result in adverse impacts on the Special Landscape Area within which the site is located or the local highway network.

67. However, the proposed modification to condition 24 would appear to be premature given that no application has yet been made to the Environment Agency for a PPC Permit for the site. This modification is therefore considered unacceptable. The applicant has not demonstrated why the previously approved final landform is now problematic or justified why the changes are required at this point in time.

Recommendation

68. That planning permission be granted for the extraction of sand with reinstatement to agriculture using selected filling materials, without compliance with conditions 4, 17, 18, and 30 of Planning Permission S.03.0592 dated 16th May 2003, subject to the following conditions:-

1. Written notification of the date of implementation of this permission shall be sent to the Mineral Planning Authority within seven days of such implementation.

Reason: *To enable the Mineral Planning Authority to monitor compliance with the conditions of this permission.*

2. Mineral working shall have ceased and the site shall have been restored in its entirety and in accordance with Drawing No. TRA/MFH/REST/01 dated July 2000 on or before 31st October 2012.

Reason: *To secure working and restoration within an acceptable timescale.*

3. The working and restoration of the site shall be carried out in accordance with the details shown on Drawing No. CSG/BWQ/PRP/01 dated May 2005.

Reason: *To enable the Mineral Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area.*

4. The output of mineral from the site shall not exceed a level of 150,000 tonnes per annum.

Reason: *In the interests of highway safety and to safeguard the amenities of local residents living along transport routes to/from the site.*

5. From the date of this permission the operators shall maintain records of their quarterly output and shall make them available to the Mineral Planning Authority within 14 days of the last day of March each year.

Reason: *In order that the Mineral Planning Authority can monitor the output of the site.*

6. Except for sand, no mineral, topsoil, subsoil or overburden shall be exported from the site.

Reason: *To ensure the preservation of such materials for use in restoration and landscaping.*

7. No mineral shall be brought onto the site from elsewhere for processing or manufacturing purposes.

Reason: *To protect the amenities of the local area.*

8. Access to and from the site for any purpose in connection with the development hereby approved shall only be gained via the junction onto the A36 at Brickworth Corner as approved under planning permission ref. S.00.1519 dated 1st August 2001.

Reason: *In the interests of highway safety.*

9. The layout, construction and surfacing of the service facilities area shall accord with those details previously approved under the planning permission that this permission supersedes.

Reason: *In the interests of highway safety.*

10. Provision shall be made for the protection and the maintenance of access to the oil pipeline which runs along the line of the site haul road.

Reason: *To safeguard the services that cross the site.*

11. No commercial vehicle shall enter the public highway unless its wheels and chassis have been cleaned to prevent mud, dust or other detritus being deposited on the highway.

Reason: *In the interests of highway safety and to prevent mud being taken onto the highway.*

12. Notwithstanding the provisions of Parts 19 and 21 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, replacing or re-enacting that Order) no fixed plant or machinery, buildings, structures and erections, or private ways shall be erected, extended, installed, rearranged, replaced, repaired or altered at the site without prior planning permission.

Reason: *There is an important need to secure control over additional plant and machinery to safeguard the Special Landscape Area designation of the local area.*

13. Except in emergencies to maintain safe quarry working (which shall be notified to the Mineral Planning Authority in writing within 7 days), no mineral extraction, reclamation, restoration or other works shall be carried out on the site except between the hours of:

0730 – 1700 Monday to Friday
0730 – 1200 Saturday

No mineral extraction, tipping or other works shall be carried out at any time on Sunday, Bank and National Holidays.

Reason: *To protect the amenities of local residents.*

14. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.

Reason: *To ensure the minimum disturbance from operations and avoidance of nuisance to the local community.*

15. Internal haul roads and other areas within the service facilities area which are used by vehicles shall be watered and treated with an approved dust laying agent at such intervals as may be necessary to prevent the raising of dust from those areas.

Reason: *To safeguard the amenity of adjoining residents and landowners.*

16. Within one year from the cessation of the infilling of the site, the site facilities area shall be cleared of all plant, buildings, structures and machinery, and the site restored in accordance with Drawing No. TRA/MFH/OP/01 dated July 2000.

Reason: *In the interests of the amenity of the local area.*

17. The mineral extraction area shall be worked in the following sequence: Phase 1, Phase 3, Phase 4 and Phase 2.

Reason: *To enable the Mineral Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area.*

18. Extraction in Phase 3A shall not be commenced until the restoration of Phase 1A has been completed. Extraction in Phase 3B shall not be commenced until the restoration of Phase 1B has been completed. Extraction in Phase 3C shall not be commenced until the restoration of Phase 1C has been completed. Extraction in Phase 4 shall not be commenced until the restoration of Phase 3A has been completed.

Reason: *To enable the Mineral Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area.*

19. Any oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container's or containers' total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls.

Reason: *To minimise the risk of pollution of groundwater.*

20. The site operator shall afford access to the site at all reasonable times to archaeologists nominated by the Mineral Planning Authority who shall be allowed to observe the excavations and record items of interest and finds.

Reason: *To enable sites of archaeological interest to be investigated and recorded.*

21. At least 10 days prior notice of the commencement of soil stripping within any working phase shall be sent to the Mineral Planning Authority to enable archaeological observation to be arranged.

Reason: *To enable sites of archaeological interest to be investigated and recorded.*

22. The 5 metre perimeter bund to Phases 1, 2 and 3 shall be constructed and maintained in accordance with the details shown on Drawing No. CSG/MFM/LAY/02 dated March 2003. The site operator shall ensure that throughout the life of site operations trees and/or shrubs on the edge of the woodland adjacent to the bund are monitored on a regular basis. Where the health of trees and/or shrubs appears to be deteriorating the site operator shall submit mitigation measures to the Mineral Planning Authority for approval. The approved measures shall be implemented in full.

Reason: *To safeguard the site and the ecological interest of the surrounding woodland.*

23. Trees, shrubs and hedges planted in accordance with the approved scheme of landscaping for the Brickworth Corner Junction shall be maintained and any plants which at any time during the development and aftercare period die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

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

24. The extracted areas shall be progressively restored following mineral extraction in accordance with and to the levels shown on Drawing No. TRA/MCH/REST/01 dated July 2000.

Reason: *To ensure that no surcharging of the site is undertaken.*

25. This permission shall only relate to the deposit of dry commercial and industrial waste and other waste of an inert non-hazardous nature.

Reason: *For the avoidance of doubt.*

26. Measures shall be taken for the protection of the high pressure gas main and oil pipeline shown on Drawing No. TRA/MFH/OP/01 dated July 2000 from damage during extraction, infilling and restoration of the site.

Reason: *To safeguard the services crossing the site.*

27. No movement of soil shall be carried out except when the full depth of soil to be stripped or otherwise transported is in a dry and friable condition such that the topsoil can be separated from the subsoil without difficulty and so it is not damaged by machinery passing over it.

Reason: *To prevent damage to soils.*

28. Upon the completion of tipping operations in each phase, the final layer of the fill shall consist of permeable and obstruction free material, including subsoil, to a depth of 1 metre and finished with a layer of not less than 0.25 metre of topsoil (for the avoidance of doubt, obstruction free means free of any object likely to damage or obstruct a plough or hinder the installation of field drainage). No soil movement shall take place during wet conditions.

Reason: *To ensure the satisfactory restoration of the site to agricultural use.*

29. Following the completion of the re-spreading and cultivation of the topsoil, the land shall be sown with a suitable grass seed mix or other vegetation or crop to be approved by the Mineral Planning Authority.

Reason: *To ensure the satisfactory restoration of the site to agricultural use.*

30. An agricultural aftercare scheme outline strategy shall be submitted for the written approval of the Mineral Planning Authority at least three months before spreading of subsoil commences. The strategy shall provide for:

- (a) The physical characteristics of the land to be restored, as far as it is practical to do so, to what they were when the land was last used for agriculture as satisfies the requirements of paragraph 3(1) of Schedule 5 of the 1990 Act.
- (b) A five year period of aftercare in accordance with Annex A of MPG7, specifying the steps to be taken and the period during which they are to be taken, and who will be responsible for taking those steps. The scheme shall include provision of a field drainage system and provide for an annual meeting with the Mineral Planning Authority.
- (c) A detailed annual programme, in accordance with Annex A of MPG7 to be submitted to the Mineral Planning Authority.

Reason: *To comply with the requirements of Schedule 5 of the Town and Country Planning Act 1990 and to ensure that the reclaimed land is correctly husbanded and to bring the land to the standard required for agricultural use.*

31. At least once every year during the aftercare period a site meeting shall be arranged by the mineral operator, to which the Mineral Planning Authority and the landowner shall be invited to monitor previous performance and to discuss and agree future aftercare proposals. The meeting shall also be attended by the person(s) responsible for undertaking the aftercare steps.

Reason: *To ensure the productive afteruse of the land and in accordance with the guidance provided by MPG7.*

32. Upon completion of restoration of the site to agricultural use, the access to Brickworth Corner Junction shall be downgraded and laid out in accordance with a detailed scheme to be submitted to and approved by the Mineral Planning Authority.

Reason: *In the interests of the amenity of the area and highway safety.*

33. The previously approved scheme of drainage works shall be implemented in full.

Reason: *In the interests of ensuring the proper drainage of the site.*

GEORGE BATTEN

Director of Environmental Services

Report Author

JASON DAY

Principal Planning Officer

The following unpublished documents have been relied on in the preparation of this Report:

Consultation replies

CONDITIONS AND PROPOSED MODIFICATIONS

Condition 4

Existing wording

Unless otherwise approved by the Mineral Planning Authority or required by the conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the details contained in the submitted planning application No. S.91.0446 dated 3rd April 1991 and the accompanying supporting statement, except as amended by details contained in submitted planning application No. S.00.1630 and accompanying Drawing Nos. TRA/MFH/APP/01, TRA/MFH/OP/01, TRA/MFH/SEC/01, TRA/MFH/SEC/02 and TRA/MFA/REST/01 inclusive.

Proposed wording

Unless otherwise approved by the Mineral Planning Authority or required by the conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the details contained in the submitted planning application No. S.91.0446 dated 3rd April 1991 and the accompanying supporting statement, except as amended by details contained in submitted planning application No. S.00.1630 (including Drawing Nos. TRA/MFH/APP/01, TRA/MFH/OP/01, TRA/MFH/SEC/01, TRA/MFH/SEC/02 and TRA/MFA/REST/01 inclusive) and by details in planning application S. altering the permitted output rate of the site.

Condition 17

Existing wording

Unless otherwise approved by the Mineral Planning Authority, the mineral extraction area shall be worked in the following sequence: Phase 1, Phase 2, Phase 3 and Phase 4.

Proposed wording

The mineral extraction area shall be worked in the following sequence: Phase 1, Phase 3, Phase 4 and Phase 2.

Condition 18

Existing wording

Unless otherwise approved by the Mineral Planning Authority, the working and restoration of the site shall be carried out in accordance with the details shown on Drawing No. TRA/MFH/OP/01. Extraction in Phase 3 shall not be commenced until the restoration of Phase 1 has been completed.

Proposed wording

The working and restoration of the site shall be carried out in accordance with the details shown on Drawing No. CSG/BWQ/PRP/01. Extraction in one sub-phase will not commence until the corresponding sub-phase has been restored to the agreed final levels, unless the phasing is altered by subsequent planning permissions.

Condition 24

Existing wording

Unless otherwise approved by the Director of Environmental Services, the extracted areas shall be progressively restored following mineral extraction in accordance with and to the levels shown on Drawing No. TRA/MCH/REST/01 submitted and forming part of the application.

Proposed wording

The extracted areas shall be progressively restored following mineral extraction in accordance with and to the levels shown on Drawing No. CSG/BWQ/RES/01 submitted and forming part of the application. The settlement allowance figure for inert filling will not exceed 5%. The settlement allowance figure for commercial and industrial waste filling will be agreed with the Mineral Planning Authority prior to implementation but in any event will not exceed 20%.

Condition 30

Existing wording

Not later than three months prior to the replacement of topsoil on Phase 1, a scheme of agriculture aftercare specifying such steps as may be necessary over a period of five years from the date of re-spreading of the topsoil, to bring the land to a standard suitable for long term agricultural use, shall be submitted to the Mineral Planning Authority for approval in consultation with the Ministry of Agriculture Fisheries and Food. The submitted scheme shall specify the steps to be taken and state the five-year period over which they are to be taken. The steps shall include planting, cultivating, fertilising, watering, drainage, fencing and other treating and managing the land. The same procedure shall be followed for the remaining three phases.

Proposed wording

No alternate wording has been proposed.

RELEVANT PLANNING POLICIES

ADOPTED WILTSHIRE STRUCTURE PLAN - 2011

MSP1

A CONTRIBUTION TO MEETING LOCAL, REGIONAL AND NATIONAL NEEDS FOR MINERALS WILL BE MAINTAINED AT A LEVEL WHICH IS APPROPRIATE TO THE NATURE AND EXTENT OF THE PLAN AREA'S MINERAL RESOURCES AND WHICH WOULD NOT GIVE RISE TO UNACCEPTABLE IMPACTS.

MINERAL DEVELOPMENTS AND ASSOCIATED DEVELOPMENT WHICH WOULD HAVE SIGNIFICANT ADVERSE EFFECTS ON THE ENVIRONMENT WILL BE RESISTED, UNLESS THE NEED FOR THE PARTICULAR MINERAL IS OVERRIDING.

ENCOURAGEMENT WILL BE GIVEN TO THE EFFICIENT USE OF ALL MINERALS AND MAXIMISING THE USE OF SECONDARY AND RECYCLED AGGREGATES WHEREVER PRACTICABLE, TO REDUCE THE NEED FOR MINERAL EXTRACTION.

MSP3

LAND USED FOR MINERALS EXPLORATION OR WORKING OR FOR ASSOCIATED PLANT OR BUILDINGS SHOULD BE RESTORED AT THE EARLIEST OPPORTUNITY TO A STATE WHICH WILL PRESERVE OR ENHANCE THE OVERALL QUALITY OF THE ENVIRONMENT AND WHICH IS SUITABLE FOR A BENEFICIAL AFTER-USE APPROPRIATE TO THE LOCATION. IN PARTICULAR:

- (i) THE AGRICULTURAL POTENTIAL OF ANY AREA OF BEST AND MOST VERSATILE AGRICULTURAL LAND SHOULD BE MAINTAINED OR ENHANCED BY RESTORATION OF THE SITE; AND
- (ii) WHERE APPROPRIATE, RESTORED LAND SHOULD BE SUBJECT TO A PERIOD OF AFTERCARE.

ADOPTED WILTSHIRE AND SWINDON MINERALS LOCAL PLAN

POLICY 3: CONSIDERATIONS IN THE ASSESSMENT OF MINERALS DEVELOPMENT PROPOSALS

PROPOSALS FOR MINERALS DEVELOPMENT, WILL BE ASSESSED AGAINST THE FOLLOWING CONSIDERATIONS, WHERE THEY ARE RELEVANT:

1. EVIDENCE THAT THERE IS A NEED FOR THE DEVELOPMENT, INCLUDING AN ASSESSMENT OF THE QUANTITY AND QUALITY OF THE MINERALS TO BE EXTRACTED AND/OR PROCESSED, AND THE END USES FOR WHICH THEY ARE SUITABLE;
2. ANY SIGNIFICANT ADVERSE IMPACT THAT PROPOSALS FOR ANY STRUCTURES AND BUILDINGS AND THE PROPOSED SCHEME OF WORKING, PROCESSING AND TRANSPORTATION OF THE MINERAL WOULD HAVE;

3. THE ACCEPTABILITY OF THE PROPOSALS FOR THE RESTORATION OF THE SITE AND ITS AFTER-USE(S); AND
4. ANY SIGNIFICANT ANTICIPATED ADVERSE ENVIRONMENTAL IMPACTS INCLUDING CUMULATIVE IMPACTS, (WHEN TAKEN TOGETHER WITH OTHER EXISTING PERMITTED DEVELOPMENTS) THAT THE DEVELOPMENT IS LIKELY TO HAVE, AND THE EXTENT TO WHICH PROPOSED MITIGATION MEASURES WOULD MAKE THEM ACCEPTABLE.

ADOPTED SALISBURY DISTRICT LOCAL PLAN JUNE 2003

C2

DEVELOPMENT IN THE COUNTRYSIDE WILL BE STRICTLY LIMITED AND WILL NOT BE PERMITTED UNLESS IT WOULD BENEFIT THE LOCAL ECONOMY AND MAINTAIN OR ENHANCE THE ENVIRONMENT.

C6

WITHIN THE SPECIAL LANDSCAPE AREA, PROPOSALS FOR DEVELOPMENT IN THE COUNTRYSIDE WILL BE CONSIDERED HAVING PARTICULAR REGARD TO THE HIGH QUALITY OF THE LANDSCAPE. WHERE PROPOSALS WHICH WOULD NOT HAVE AN ADVERSE EFFECT ON THE QUALITY ON THE LANDSCAPE ARE ACCEPTABLE, THEY WILL BE SUBJECT TO THE FOLLOWING CRITERIA:

- (i) THE SITING AND SCALE OF DEVELOPMENT TO BE SYMPATHETIC WITH THE LANDSCAPE; AND
- (ii) HIGH STANDARDS OF LANDSCAPING AND DESIGN, USING MATERIALS WHICH ARE APPROPRIATE TO THE LOCALITY AND REFLECT THE CHARACTER OF THE AREA.

G2

NEW DEVELOPMENT WILL BE CONSIDERED AGAINST THE FOLLOWING CRITERIA:

- (i) A SATISFACTORY MEANS OF ACCESS AND TURNING SPACE WITHIN THE SITE, WHERE APPROPRIATE, TOGETHER WITH PARKING IN ACCORDANCE WITH THE GUIDANCE AT APPENDICES V AND VI OF THE LOCAL PLAN;
- (ii) AVOIDANCE OF PLACING AN UNDUE BURDEN ON EXISTING OR PROPOSED SERVICES AND FACILITIES, THE EXISTING OR PROPOSED LOCAL ROAD NETWORK OR OTHER INFRASTRUCTURE;
- (iii) A MINIMUM LOSS OF DISTURBANCE TO FORESTRY LAND AND THE BEST AND MOST VERSATILE AGRICULTURAL LAND, AND AVOID THE SEVERANCE OF HOLDINGS;
- (iv) RESPECT FOR EXISTING BENEFICIAL LANDSCAPE, ECOLOGICAL, ARCHAEOLOGICAL OR ARCHITECTURAL FEATURES AND INCLUDE MEASURES FOR THE ENHANCEMENT OF SUCH FEATURES AND THE LANDSCAPING OF THE SITE WHERE APPROPRIATE;

- (v) AVOIDANCE OF THE LOSS OF IMPORTANT OPEN AREAS, A GAP IN A FRONTAGE OR NATURAL OR BUILT FEATURES (SUCH AS TREES, HEDGES OR OTHER HABITATS, WALL, FENCES AND BANKS), WHICH IT IS DESIRABLE TO RETAIN;
- (vi) AVOIDANCE OF UNDULY DISTURBING, INTERFERING, CONFLICTING WITH OR OVERLOOKING ADJOINING DWELLINGS OR USES TO THE DETRIMENT OF EXISTING OCCUPIERS;
- (vii) AVOIDANCE OF LOCATIONS WHICH ARE LIABLE TO ENVIRONMENTAL PROBLEMS DUE TO THEIR PROXIMITY TO INCOMPATIBLE DEVELOPMENT;
- (viii) AVOIDANCE OF DETRIMENT TO PUBLIC HEALTH OR POLLUTION TO THE ENVIRONMENT BY THE EMISSION OF EXCESSIVE NOISE, LIGHT INTRUSION, SMOKE, FUMES, EFFLUENT OR VIBRATION; AND INCORPORATION OF ENERGY EFFICIENT DESIGN THROUGH BUILDING DESIGN, LAYOUT AND ORIENTATION.