

Application No: 14/1944W

Location: MERE FARM QUARRY, CHELFORD ROAD, NETHER ALDERLEY, MACCLESFIELD, CHESHIRE, SK10 4SZ

Proposal: Variation of conditions 4 and 59 of permission 5/06/2940 to allow to extend the date in condition 4 from 28th April 2014 to 30th September 2016, and amend the approved restoration scheme to that shown on plan M103/222 rev C.

Applicant: Hanson Quarry Products Europe Ltd

Expiry Date: 12-Jun-2014

SUMMARY:

There is a presumption in the NPPF in favour of the sustainable development unless there are any adverse impacts that significantly and demonstrably outweigh the benefits.

In terms of sustainability the proposal would satisfy the economic sustainability role by ensuring that the remaining mineral reserves are fully utilised, contributing to the requirement for a seven year landbank for sand and gravel. It also provides direct and indirect benefits to the local economy by providing mineral required for a variety of industries and businesses and enables the site to be restored to a high standard.

This should be balanced against any potential harm to residential amenity and the environment resulting from the extended timescales for the restoration of the site. The benefits arising from the proposal are considered sufficient to outweigh any harm caused by the scheme, and the potential harm to residential amenity and the environment can be adequately mitigated by a range of planning conditions and through the controls in other environmental legislation. Subject to securing appropriate planning conditions and s106 legal agreement, the scheme would not give rise to any unacceptable impacts on the highway network, residential amenity or the local environment, nor would it have any adverse impacts on the landscape or any significant adverse visual impacts. As such the scheme is considered to accord with policies of MLP, MBLP and the approach of the NPPF and Local Plan Strategy.

SUMMARY RECOMMENDATION: Approve subject to S106 deed of variation and planning conditions

PROPOSAL

The application proposes the variation of conditions 4 and 59 of permission 5/06/2940 to seek an extension of time for the completion of mineral working and a minor revision to the approved restoration scheme.

Conditions 4 states:

'The winning and working of sand and gravel authorised by this permission shall cease and all buildings, plant machinery, and other structures, foundations and debris shall be removed from the site, and the site restored in accordance with the approved scheme by 28 April 2014'.

A variation to this condition is proposed to extend mineral operations on the site (including all restoration activities) until 30 September 2016.

The applicant also proposes to vary condition 59 which stipulates that the site shall be restored in full accordance with the approved restoration plans. An amendment is proposed to the approved restoration plan in order to take account of ecological mitigation identified within the findings of the ecological assessment undertaken as part of this application, and incorporate the revised lake profile created under permission 09/2806W to ensure consistency between both permissions. Further details are contained within this report.

A copy of the existing planning conditions has been provided in the key plans pack.

SITE DESCRIPTION

Mere Farm Quarry is located midway between Macclesfield and Knutsford approximately one kilometre from Chelford. The site is bounded by A537 Chelford Road to the south, B5359 Alderley Road to the west and A34 to the east; with access to the site taken from A537. Land use in the area is predominantly open farmland; with the settlement of Chelford to the west, and the A34 by-pass and Alderley Park approximately 700m to the north east.

The planning application boundary covers the whole quarry site aside from an area to the north west which is covered by a separate planning permission. The quarry covers an area of approximately 104 hectares and includes the plant site, silt lagoons, quarry infrastructure, soil bunds, operational land and undisturbed land. The site ceased sand extraction in December 2014. Work on the restoration is now progressing and is now in the process of completing the restoration works and exporting the remaining reserves of sand contained in stockpiles on the site. Significant parts of the site have already been restored to agricultural land, woodland, waterbodies and a large lake.

A number of residential properties lie in close proximity to the site, most notably properties on the northern site boundary along Bollington Lane which overlook the restored lake; on A537 Chelford Road where the closest properties are situated approximately 75m west of the access road; and along B5359 Alderley Road where properties lie approximately 700m from the site boundary. Existing screen mounding and tree planting provides a degree of visual screening for receptors to the west (B5359) and south (A537) from the operational areas of quarry; whilst existing woodland provides some screening to the north and east.

Public Right of Way 'Chelford FP2' and 'Nether Alderley FP50' cross the central part of the site and connects with Stubby Lane (a byway) and Alderley Road. This links to the wider public rights of way network surrounding the site.

RELEVANT HISTORY: The quarry has a long planning history; the most relevant of which is as follows:

- 5/99/0235P – extension to area of sand extraction and continuation of existing sand quarrying operations – granted April 2000 subject to s106 legal agreement concerning hydrological matters. Required cessation of mineral working by April 2014;
- 5/06/2940 – revision to restoration scheme of planning permission 5/99/0235P. Granted June 2008 subject to deed of variation to s106 legal agreement. Requires cessation of mineral working by April 2014.

Planning permission was granted in December 2011 (ref: 09/2806W) for a 6ha extension to the north west of the site. A small section of the main quarry site is included in this permission boundary to allow for revisions to the lake profile shown on the restoration plan which would be necessary following the continued extraction to the north west. The permission is subject to a s106 legal agreement concerning hydrological matters and long term management of the two western waterbodies, part of which overlaps with the boundary of permission 5/06/2940 (and thus the boundary of this application). The permission requires cessation of mineral working by April 2014.

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 14 concerning sustainable development; and paragraphs 144 and 145 with regards to planning for minerals, particularly aggregates including sand and gravel.

Development Plan:

The Development Plan for this area is the Cheshire Replacement Minerals Local Plan and the Macclesfield Borough Local Plan 2004 in which the site lies in the Green Belt.

The relevant Saved Policies are: -

Cheshire Replacement Minerals Local Plan (MLP)

Policy 1: Sustainability

Policy 2: Need

Policy 9: Planning Applications

Policy 15: Landscape

Policy 17: Visual Amenity

Policy 20: Archaeology
Policy 23: Nature Conservation
Policy 25: Ground Water/ Surface Water/ Flood Protection
Policy 26/27: Noise
Policy 28: Dust
Policy 29: Agricultural Land
Policy 31: Cumulative Impact
Policy 33: Public Right of Way
Policy 34: Highways
Policy 37: Hours of Operation
Policy 41: Restoration
Policy 42: Aftercare
Policy 47: Sand and Gravel Area of Search

Macclesfield Borough Local Plan (MBLP)

NE 2: Protection of Local Landscapes
NE 3: Landscape Conservation
NE 11 and NE14: Nature Conservation
GC 2: Green Belt
GC3: Visual Amenity
RT7: Cycleways, Bridleways and Footpaths
RT 8: Access to Countryside
DC3: Amenity
DC9: Tree Protection
DC11: Hedgerows
DC13 and DC14: Noise
DC17, DC19 and DC20: Water Resources

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG3 – Green Belt
SD1 – Sustainable Development
SD2 – Sustainable Development Principles
SC3 – Health and Well-being
SE3 – Biodiversity and Geodiversity
SE4 – Landscape
SE5 – Trees, Hedgerows and Woodland
SE7 – Historic Environment
SE10 – Sustainable Provision of Minerals
SE12 – Pollution, Land Contamination and Land Instability
SE13 – Flood Risk and Water Management
CO1 – Sustainable Travel and Transport

Other considerations

National Planning Practice Guidance

Circular 6/2005

Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (As amended)

EC Habitats Directive

Conservation of habitats and species regulations 2010

CONSULTATIONS:

Highways: No objection

Environmental Health: No objection

Nature Conservation:

Great Crested Newts

Note that great crested newts have been identified in additional ponds on site (ponds 4 and 5). The submitted restoration plan has consequently been amended to retain the Pond 5 also to provide a link of terrestrial habitat between the Pond 4 and Pond 5. Advise that this approach is acceptable to safeguard the identified great crested newt populations and would be likely to maintain the favourable conservation status of the species.

Important

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favourable conservation status of the species will be maintained.

Details of how the Habitat Regulations 'tests' were considered must be recorded within the committee/delegated report. Please refer to guidance issued by CE legal in respect of this issue.

Restoration Plan

An island is proposed for the North Lake. The island currently includes an area of woodland planting. Advise that the value of the island for wading birds would potentially be greatly increased if the tree planting was omitted from the plan. Recommend that the submitted plan be amended to include this minor alteration.

Public Rights of Way: The site is adjacent to Public Footpaths Chelford No. 2 and Nether Alderley No. 50 and Byway Open to All Traffic Nether Alderley No. 31. It appears unlikely that the proposal would affect the public right of way. Requests advices is added to any planning permission to ensure developers are aware of their obligations.

Environment Agency (EA): No objection in principle. Advice provided in respect of hydrological considerations should mineral extraction or associated activities continue beyond

the proposed end date of September 2016.

Landscape: No material effects upon the landscape would result from this development. In relation to visual impact, whilst the proposal would extend the operational life of the site, thus prolonging the visual impact on a number of receptors, the proposed changes will not have a significant impact in terms of visual effect.

Manchester Airport: No objections have been raised to the scheme however they note that the north lake is sufficiently large to attract a variety of hazardous waterfowl and the shallow margins make the lakes particularly attractive to dabbling species such as mallard that are important in birdstrikes. The proposed island in the north lake provides secure breeding habitat for wildfowl. The lake has clearly been designed to provide favourable habitat for water birds and provides new habitat to support additional (and potential substantial) numbers of waterfowl in the vicinity of the Airport and will result in an increase in waterfowl movements in the area. Any significant increase in waterfowl habitat and populations in the safeguarded area cannot be a positive development in terms of the local birdstrike hazard.

A range of conditions are required to ensure the proposal does not significantly increase levels of bird activity in the vicinity of the Airport including maintenance of the island in the north lake as an unvegetated feature, reduction of shallow margins, installation of marginal fencing, production of bird management plan and site management plan.

Further comments received from Manchester Airport concerning the requirements for mitigation are detailed below in the Officers Appraisal.

Natural England: no comments

Built Heritage: No objections

Parish council

Nether Alderley Parish Council strongly objects

The application does not address the applicant's failure to comply with Condition 42 on Planning application 09/2806W, which was approved on 2/12/2011 and that required the applicant to, within a year of the date of the permission for application 09/2806W, submit and receive approval for a detailed scheme for the **enhancement of public access** to the extension area.

The Parish Council understands that continued quarrying beyond April 2014 is reliant upon the formulation of a detailed enhanced access scheme and that permission cannot be given for continued quarrying without this obligation being fulfilled or enforced.

The Parish Council notes that the restoration plan submitted with application 14/1944W offers no further access amenity than was in place prior to the commencement of quarrying and, consequently, offers no enhancement of public access.

As stated in its previous response (dated 9th July 2014) to the original applications 14/1788W and 14/1944W that were submitted in April 2014, the Parish Council maintains the position that no applications relating to Mere Farm Quarry should be permitted until matters relating to

Condition 42 are addressed and resolved. The Parish Council upholds that issues relating to Condition 42 should be addressed at this stage.

Chelford Parish Council supports the request for an extension of time to 30th September 2016 in order to complete quarrying and restoration according to that shown on plan M103/222 rev C.

The Parish Council note that an earlier proposal for additional access has been removed from plan M104/222 and we agree with this. Our view is that for any increased access to be sustainable, it has to be consistent with future land use. Any future schemes would have to seek planning permission and the Parish Council and Chelford residents would be consulted at that time. We believe that it is at that point that it would be appropriate to consider public access.

REPRESENTATIONS:

Neighbour notification letters were sent to all adjoining occupants and a site notice erected.

In excess of 20 letters have been received objecting on the following grounds:

- Failure of applicant to propose a satisfactory scheme for enhanced public access as part of the restoration as required by the original planning permission;
- There has been a historical agreement/expectation that there would be enhanced access to the lakes;
- Previous planning committees have, in the determination of applications at this site, made it clear that there was an expectation that public access should be improved;
- It was previously agreed that there should be a circular route around the lakes
- Requirements of planning condition on 09/2806W permission for enhanced public access have not been satisfied which is a breach of condition and the council should consider enforcement action. As a result the current operations at the site fall outside of the scope of the existing planning permission and are unlawful;
- The site extension was granted on the basis that enhanced public access would be provided for leisure/recreation as compensation for loss of amenity to local residents;
- The further public access proposed should be shown on the restoration plan and considered as part of this application rather than sought through a condition, and should form part of a s106 legal agreement to ensure delivery;
- The application should be withdrawn and resubmitted with public access shown on restoration plan;
- The proposals for enhanced public access do not provide any enhancement and do not comply with planning policy;
- The path proposed is permissive only and could be withdrawn;
- Further adopted public rights of way should be provided to meet planning policy and provide enhancements to amenity and allow the restored site to be enjoyed by the local community;
- Lack of public access means there is no compensation for local community for impacts on amenity resulting from long period of quarrying;
- Quarry should make a contribution to upkeep of local parish hall to provide additional value to the community;
- Construction of the lake has resulted in physical (but not legal) loss of right of way;

- No confidence that public access enhancements will come forward as landowner have previously confirmed they do not support this.

In excess of 3 letters have also been received which raise concerns about providing further public access to the site, and make the following comments:

- The site has value ornithologically
- Lack of disturbance to birds needs to be maintained.
- The access afforded by the existing right of way is generous and there is no reason why this should be expanded.
- The site restoration is a rare opportunity to create something of special significance for Cheshire wildlife
- Site has developed a good variety of waterfowl birds during last 12 years and has Schedule 1 listed species
- Site recognised as second most important site in the county for Pochard
- Key to maintenance of the number and variety of birds is the relative seclusion and freedom from disturbance at the site
- There are already a number of historical quarries in the area that have been restored to fishing and recreation and we lack significant areas of land that are effective reserves for wildlife where public access is restricted.
- Disturbance severely diminishes the success of breeding, resting and feeding for so many animals
- Public access should not override a holistic and sustainable approach to restoration.
- There is an opportunity to work with conservation bodies for long term management

Applicants Supporting Information

The application is accompanied by planning drawings and an Environmental Statement (including non-technical summary) dated April 2014 on behalf of Hanson UK.

APPRAISAL:

The key issues are:

- Principle of further mineral extraction until September 2016
- Impact on airport safeguarding
- Development in the green belt
- Impact on proposal on nature conservation interests
- Control of environmental pollution
- Landscape and visual impacts
- Highway impacts
- Public access provision

Economic Sustainability

The NPPF (paragraph 142) identifies that minerals are essential to support sustainable economic growth and it is important to ensure a sufficient supply of material to meet the

needs of the country. Since minerals are a finite natural resource, and can only be worked where they are found, NPPF states that it is important to make best use of them to secure their long-term conservation. Paragraph 144 requires Local Planning Authorities to give *'great weight to the benefits of the mineral extraction, including to the economy'*, and *'as far as is practical, provide for the maintenance of landbanks'*. Paragraph 145 of NPPF and the CRMLP requires minerals planning authorities to plan for a steady and adequate supply of aggregates; making provision for the maintenance of landbanks of at least 7 years for sand and gravel. Equally NPPF seeks the restoration and aftercare of mineral sites at the earliest opportunity (Paragraph 144). The most recent Local Aggregate Assessment (2014) identifies that Cheshire East has an aggregate reserve of 5.17 million tonnes (which equates to a landbank of 7.2 years).

The operator estimates that there are approximately 45,000 tonnes of mineral remaining in stockpiles on the site awaiting export. The proposal would ensure the remaining mineral reserves are fully utilised, thereby helping to maintain the landbank required by national planning policy as well as providing direct and indirect benefits to the local economy by providing a source of aggregate and ensuring the site is fully restored to an acceptable condition. As such this complies with the approach of the NPPF and the MLP.

Impact on airport safeguarding

The approved restoration scheme includes for the creation of three large waterbodies, agricultural land, unimproved grassland, hedgerows, woodland planting, and fringe reed planting. Large portions of the site have already been restored including the central lake, parts of the western lakes and east of Stubby Lane.

The site lies approximately 7km to the south east of Manchester Airport and is within the bird hazard safeguarding zone. Manchester Airport initially raised concerns over the proposals to restore the northern and southern lake on the western extent of the site due to risk of birdstrike as this could provide favourable habitat to support potentially substantial numbers of hazardous waterfowl, and the proposed island within the northern lake provides secure breeding for wildfowl, particularly geese. No objections were raised however planning conditions were recommended to secure alterations to restoration scheme to ensure there was no increase in the level of bird activity in the vicinity of the airport.

The restoration proposals for this part of the site have already been approved under permission 5/06/2940 (and subsequently amended under permission 09/2806W). This application largely seeks to retain the same proposals. Manchester Airport were originally consulted on both previous permissions and the restoration scheme was subsequently amended to address their concerns. This now forms the basis of the approved scheme.

Despite this, and following further negotiations with Manchester Airport, the applicant has agreed to modify the restoration scheme to provide for:

- reduced areas of shallow margin and maximised reed planting to minimise access to the shallows;
- final planting scheme for north lake to be submitted for approval;
- development of an extensive bird management plan in liaison with Manchester Airport;

- revision to the existing s106 to provide for long term habitat maintenance arrangements as secured under 09/2806W. This would include management of the reed beds, management of the north island as an unvegetated area and incorporation of management actions identified from the bird management plan.

These provisions can be secured by planning condition and a revision to the s106 legal agreement and both Manchester Airport and the Nature Conservation officer are content with this approach.

Development in the Green Belt

The application site is located in the Green Belt. NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Mineral development is not inappropriate in Green Belt provided it preserve the openness of the Green Belt and does not conflict with the purposes of including land within it. MLP advises that mineral extraction need not be inappropriate within Green Belt provided that high environmental standards are maintained and the site well restored.

The principle of continued mineral development on this site has already been accepted and no changes to the approved development are proposed aside from an extension of time and minor amendments to the restoration scheme. As such, the 'appropriateness' of the development in the Green Belt has already been previously assessed and accepted. Whilst the development would prolong the period within which there would be an impact on the openness and visual amenity of the Green Belt, there would be no increase in the degree of harm over this period as the operations would remain the same, and the degree of intrusion into the openness of the Green Belt will continue to reduce as restoration progresses and worked areas reduce. The site is also well screened by existing vegetation and the advanced planting which assists in reducing the overall impacts associated with mineral operations. Furthermore the development provides for a good quality restoration scheme which ensures high environmental standards are achieved in the green belt. As such it is not considered that this development would conflict with the objectives for the use of land in the Green Belt and complies with the approach of the MLP and the NPPF.

Environmental Sustainability

Impact on nature conservation interests

Policy 23 of MLP requires mineral development to ensure the local network of nature conservation features are maintained and proposals which would adversely affect nature conservation interests will not normally be permitted (MBLP policy NE11).

Permission 5/06/2940 made provisions for the creation of great crested newt mitigation ponds to the west of Stubby Lane to replace those removed as part of historical mineral extraction. The approved restoration plan also included for the removal of ponds and the loss of terrestrial habitat. The ecological assessment submitted for this application identifies a medium population of great crested newts in these mitigation ponds, within the freshwater lagoon and also within the ponds identified for removal under the current restoration plan.

The applicant therefore proposes an amendment to the restoration scheme to retain a pond on the north east boundary, provision of a 40m wide habitat corridor between the pond and Stubby Lane (which is fenced off from grazing), and a further 15m wide fenced off strip alongside Stubby Lane to link to the pond on the southern boundary - thus providing connectivity between the two areas of habitat. Some minor amendments to the amount of woodland planting and agricultural grassland are also proposed within these areas to offset those areas now to be retained for great crested newt mitigation. The proposed restoration plan also incorporates the site extension permitted under 09/2806W which includes for woodland planting, and fringe reed planting on the banks of the north lake.

In order to provide consistency across the site, the requirements of the s106 legal agreement on 09/2806W for long term habitat management of the north and south lake, part of which falls within the boundary of this application, would be replicated on any new permission.

Whilst the restoration of the quarry is not anticipated to result in significant adverse impacts on the great crested newt population and could potentially provide an increase in suitable terrestrial and aquatic habitat, there is potential for temporary disturbance or harm to small numbers of the population during the restoration works. The temporary impact is not considered to be significant to maintenance of the population but without appropriate mitigation the restoration works could result in an offence.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must consider the three tests in respect of the Habitats Directive. They are that:

- (i) there is no satisfactory alternative
- (ii) the development is of overriding public interest.
- (iii) the favourable conservation status of the species will be maintained.

Evidence of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, if there is:

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range
- a specified reason such as imperative, overriding public interest.

The UK implemented the EC Directive in The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection:

- a licensing system administered by Natural England which repeats the above tests
- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements.

Circular 6/2005 (dated 16 August 2005) advises LPAs that:

“It is essential that the presence of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”

Regulation 9(5) the 2010 Habitats Regulations places an obligation upon planning authorities to give consideration to European protected species in the exercise of their functions. The recent ‘Whooley’ and ‘Morge’ judicial reviews have clarified the position of planning authorities in respect of this legislation.

The Habitat Regulations 2010 require Local Authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- the proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment ;
- there is no satisfactory alternative;
- there is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

Current case law instructs that if it is considered clear or very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative, or because there are no conceivable “other imperative reasons of overriding public interest”, then planning permission should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Test 1: “preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment”

The impacts of mineral extraction and subsequent site restoration on great crested newt population have previously been considered acceptable through the grant of previous planning permissions; and the amendments now being sought only relate to the time period for the completing the works and the incorporation of newt mitigation to the final restoration scheme. This first test has previously been met and the circumstances have not changed in this respect.

The economic benefits of this application in respect of maintaining supply of mineral to meet national planning policy requirements, and to enable the site to be restored to a high standard are set out above. Whilst the restoration of the quarry may result in some disturbance or harm to small numbers of the population; any such harm could be managed and the restoration would provide enhancement for the species.

Given this need it is therefore considered that the development proposal contributes to meeting an imperative public interest, and that the interest is sufficient to override the protection of, and any potential impact on great crested newts, setting aside the proposed mitigation.

Test 2: No satisfactory alternative

The alternative option is a 'do nothing scenario'. However this would still result in the same impact on great crested newts as there would remain an obligation to restore the quarry to the approved restoration plan which would result in the loss of ponds and terrestrial habitat.

Test 3: "the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range".

The revised restoration scheme ensures that both ponds east of Stubby Lane are retained; however there will be loss and/or disturbance to areas of suitable terrestrial habitat whilst the restoration works are undertaken and as such there is a low risk great crested newts could be present. The mitigation scheme outlines the capture and exclusion methods which will be used to protect any great crested newts during the restoration works such as trapping, temporary newt fencing and relocation to a suitable terrestrial habitat. Following restoration, both ponds and terrestrial habitat will be retained, along with provision of wide corridors of terrestrial habitat connecting the two ponds. Subject to these measures being implemented, the ecological assessment concludes there will be little risk of harm/disturbance to the species. The nature conservation officer advises that the mitigation measures identified are acceptable to safeguard the identified great crested newt populations and would be likely to maintain the favourable conservation status of the species. Therefore, providing appropriate conditions are included, it is considered that the proposal meets the third test

Overall, therefore it is considered that the development contributes to meeting an imperative public interest, there is no satisfactory alternatives, and that the interest is sufficient to override the protection of, and any potential impact on great crested newts, setting aside the proposed mitigation. It is considered that Natural England would grant a licence in this instance.

With respect to other species the ecological assessment identifies that badgers have previously been noted at the site but are not located in areas that will be affected by the remaining works proposed. There are bat roosting opportunities within mature trees within and around the site and areas for commuting and foraging. There are also opportunities for nesting birds across the site, and habitats suitable for reptiles and invertebrates.

The ecological assessment identifies that there are no proposals to cause significant disturbance to areas previously restored which are now developing some nature conservation interest and there are not expected to be any significant impacts on any species present. The restoration works will incorporate appropriate mitigation to protect habitats and the nature conservation officer does not raise any concerns. Subject to securing the identified mitigation by planning condition, the scheme would comply with policy 23 of MLP, NE11 of MBLP, the NPPF and the approach of the emerging Local Plan Strategy.

Pollution control and hydrology

The NPPF requires that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source. MLP policies 25, 26, and 28 do not permit development which would give rise to unacceptable levels of water, noise or dust pollution. MBLP policy DC3 does not support development which would significantly injure the amenities of nearby residents or sensitive receptors due to (amongst others) noise, dust or environmental pollution; whilst policy DC19 does not normally support proposals which would damage groundwater resources or prevent the use of those resources.

The NPPG sets a range of appropriate noise standards for normal mineral operations including normal activities not exceeding background noise levels by 10dB(A) during normal working hours; and total noise from operations not exceeding not exceeding 55dB(A) or 42dB(A) during night time. The noise assessment considers the impacts from continued activities at the site to determine the magnitude of impact and significant of effect on local noise sensitive properties. The removal of soil storage bunds required as part of the final restoration works are likely to be the most intrusive remaining activity as some of the bunds lie in close proximity to sensitive receptors. The impact of these activities has already been assessed and considered acceptable in the grant of the previous mineral permissions. It is also noted that the removal of the bunds is a short term one off activity. The noise levels at nearby residential receptors are predicted to remain within the relevant NPPG noise standards at all times and as such the impact is assessed as negligible to slight.

The noise controls on the existing permission would be replicated on any new consent including setting noise level limits at the nearest noise sensitive properties and restrictions on timescales for particularly noise generating activities such as bund formation. No concerns have been raised by Environmental Health to the proposal.

No changes are proposed to the methods of working and existing operational practices to control pollution to air and water currently adopted on the site. The existing suite of planning conditions imposed on the current consent would be replicated to ensure there is no harm to the local environment, human health or amenity. Equally the regulatory controls imposed by other environmental legislation would remain in force.

There are measures in place under the existing permissions for effects on local groundwater levels and surface water features to be monitored by the operator using an extensive network of monitoring equipment in accordance with a monitoring scheme approved under the s106 legal agreement, with particular focus on ensuring there is no derogation of flow in Bag Brook and water level in Ash Lea. The detailed monitoring demonstrates that the quarrying is not having a significant impact on surrounding groundwater or surface water features. These measures would be replicated on any new consent and the requirement for monitoring will remain in place until expiry of the aftercare period following completion of the site restoration. On this basis the scheme accords with those policies listed above, the approach of the NPPF and emerging Local Plan Strategy.

Landscape and visual impacts

New development should not have an unacceptable impact on the landscape or on the visual amenities of sensitive properties (MLP policy 15 and 17) and should respect local landscape character (MBLP policy NE2 and Local Plan Strategy policy SE4). The main visual receptors are those to the south west and on Bollington Lane who overlook the restored lake. Views of

the plant site are well screened by dense woodland and hedgerow, and limited by surrounding topography. Views of the current working area are largely screened by existing woodland, hedgerows, and soil bunds. There are distant views of the pump house and there will be short term views of the restoration activities as the soil bunds are progressively removed as this area is restored, however the impacts would be the same as those generated if the site were restored in line with the consented timescales.

Whilst the visual impact of quarrying activities would be prolonged, the site benefits from well established screening provided by soil bunds, vegetation and natural topography and the impacts would reduce over time as the restoration progresses.

The proposed modifications to the restoration scheme would make minor variations to the proportions of woodland, grassland, agricultural land and hedgerow established on site to compensate for areas lost to ecological mitigation and take account of the site extension approved under 09/2806W; however the overall resultant landscape established would reflect the character of the local area and would not be dissimilar to that proposed on the approved restoration scheme. The landscape officer considers that there would be no significant impacts in terms of visual effects. As such the scheme accords with policies 15 and 17 of MLP, MBLP policy NE2, the approach of the NPPF and policy SE4 of the emerging Local Plan Strategy.

Highway impacts

MLP policy requires new development to ensure that the volume and nature of traffic generated does not create an unacceptable adverse impact on amenity or road safety and the traffic can be accommodated within the existing highway network; whilst MBLP states that traffic generation from new development should not significantly injure the amenities of residents (policy DC3). There is only a small quantity of remaining reserves of sand left to be exported off site, after which the bulk of site traffic will significantly reduce with the only movements largely associated with restoration activities. The Transport Statement identifies that historically traffic movements to the quarry were at a level of 120-140 movements per day (60 – 70 two way movements). The average daily vehicle movements in 2013 were 44 movements (22 two way movements). Given that there is approximately 45,000 tonnes remaining, the level of vehicle movements are anticipated to be well below previous levels, with traffic levels during restoration likely to be negligible.

The Transport Statement identifies traffic flow along A537 remaining well within capacity and there are no known accident or highways safety issues. Traffic from Mere Farm quarry represents only a small proportion of the HGV traffic on A537 and quarry traffic is split equally east and west bound so the impacts on traffic volumes on the junctions at either end of A537 are low. Overall the Transport Statement concludes that the impacts of the proposed development will be minimum and the highways officer raises no objection or comment. As such the development is considered to accord with MLP policy 34, DC3 of MBLP and the NPPF.

SOCIAL SUSTAINABILITY

Public access provision

Concern has been raised from members of the public and the parish councils regarding the need to widen the existing public access across the site as part of this development. They suggest that there has historically been an expectation that improvements to the public right of way network would be provided on restoration of the site; and that the restoration scheme does not provide any element of enhancement which conflicts with planning policy. Reference is also made to requirements of a condition on the 09/2806W permission for enhancements to public access not being fulfilled and concern is raised that any enhancements will not be forthcoming or permanent.

MLP policy encourages any restoration to, where appropriate, make a positive contribution to the public rights of way network; whilst Policy RT8 of MBLP states that encouragement will be given for the public to gain access to wider areas of the countryside for informal recreation, however proposals will be subject to countryside and conservation policies. NPPF also states that planning policies should seek to protect and enhance public rights of way and access, and local authorities should seek opportunities to provide better facilities for users.

With regard to the restoration of mineral sites MLP policy 23 requires there to be a positive contribution to the nature conservation and physical environmental resources of the area. MBLP does not normally permit development which would adversely affect nature conservation interests (Policy NE11).

The NPPF encourages there to be high quality restoration of mineral sites, including for agriculture, geodiversity, biodiversity, native woodland, the historic environment and recreation. It also requires mineral development to ensure there are no unacceptable adverse impacts on the natural environment. With respect to biodiversity, development should ensure that impacts are minimised and provide for net gains where possible. The NPPF also seeks to promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations.

There are three public rights of way which currently cross the site. Byway No. 31 Nether Alderley (Stubby Lane) lies to the east of the central lake and connects A537 to Bollington Lane. Public Footpath No.50 Nether Alderley joins Stubby Lane and runs north west to the western extent of the central lake, where it then connects to Public Footpath No. 2 Chelford which runs south west to connect with B5359 Alderley Road. These connect to a wider public rights of way network within the local area. The footpaths are now on their final reinstated alignment, having been previously diverted to accommodate the quarrying and it is understood that they are used on a regular basis by the local community.

The officer's report to Strategic Planning Board for the site extension (09/2806W) noted that:

- the landowners to whom the land will revert on completion of the restoration have indicated that they will not allow further public access;
- there are currently no proposals for future leisure or recreational uses; and future uses would need to be subject to further planning applications;
- it appears appropriate in policy terms to require an enhancement in public access as part of the restoration as the landowners will stand to benefit from the extraction and this will prolong the life of the quarry; and
- a circular walking route could be created around the northern lake.

A planning condition was subsequently imposed requiring a detailed scheme for the enhancement of public access to the extension site. At the time of the submission of this planning application no details had been submitted to discharge this condition; however the planning authority are aware that the mineral operator was undertaking discussions with their landscape and ecological consultants, and with the landowners and local community through the liaison group to try to reach agreement on a suitable scheme which met the requirements of this condition but also maintained the overall broad restoration principles.

This detail has recently been submitted for approval and a further permissive footpath is proposed on the eastern side of the north lake creating a circulatory path on the eastern side which connects to FP2 Chelford. In order to enhance public views across the restored quarry site, selective vegetation control is proposed in this area to open up views across the footpaths routes. The requirement for the provision of the further footpath would be replicated on any new consent.

As detailed above restoration principles have been established through historical permissions for the land to revert back to a mixture of agriculture, woodland, nature conservation habitat and a series of lakes with an element of public access through the existing public rights of way network. A large proportion of the site has now been restored in accordance with these principles, and parts of the site are now in aftercare. In addition the north and south lake are subject to a requirement for long term habitat management for a 10 year period (following the 5 year standard aftercare) secured through a s106 legal agreement on permission 09/2806W. The boundary of the management area overlaps onto land within the 5/06/2940 permission.

This application is not proposing any amendments to the restoration plans, aside from that required to ensure that the increased ecological habitat now established on the site is protected; and to update the restoration scheme to incorporate the amendments resulting from the 09/2806W site extension. Should planning permission be granted, the requirements for the long term management of lake habitats through a s106 legal agreement would be replicated.

Concern has been raised by local birdwatchers and active members of the Cheshire and Wirral Ornithological society over the potential impacts of increased public access on the bird population attracted to the site. In particular they identify that the site provides habitat for a good variety of waterfowl species including UK BAP and a Schedule I listed species. They highlight that many other restored quarries have wide public access which limits their value for wild birds and there are few sites where access is restricted for wildlife protection. They also point to the Cheshire and Wirral Bird Report for 2013 which identifies that this quarry is now the second most important site in the county for Pochard.

Mineral planning policy requires a positive contribution to public access 'where appropriate'; but also requires there to be positive enhancement of nature conservation. Clearly a delicate balance needs to be achieved between adequate public access for the local community and the protection of sensitive wildlife habitats. Whilst the public rights of way are now fully reinstated and in use, the site manages to provide a successful habitat for an increasing range of birds, indicating that a correct balance has potentially been achieved.

There is concern that the provision of further public access around the lake could lead to increased disturbance to these habitats, which would be to the detriment of their long term

sustainability and ultimately conflict with the original aims of the restoration schemes previously approved. The Nature Conservation Officer advises that Mere Farm quarry in its current form as a partially restored/partially active quarry is very important for birds in the Cheshire context. As the activities on site gradually cease and the restoration progresses, the ornithological interest of the site will inevitably change with some bird species possibly being lost and some new species becoming established. The officer advises that many of the important birds, particularly the larger species associated with more open habitats are very sensitive to disturbance and in general, the higher the level of disturbance, the more detrimental this would be to nesting/wintering birds.

Given that the existing restoration scheme (including the provisions secured under 09/2806W) will result in a net gain for public access across the site which meets the requirements of MLP policy 33, it is not considered appropriate at this advanced stage in the site's restoration to require further public access given the nature conservation value of the restored site. Furthermore, it is noted that one of the landowners has indicated in previous liaison meetings that they would be unwilling to agree to any further public access provision. As such, the scheme is considered to accord with the policies listed above, the approach of the NPPF and the emerging Local Plan Strategy.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report.

With respect to the comment that the mineral operator should contribute to the upkeep of the parish hall, any financial contributions would need to be secured through a s106 agreement. NPPF makes it clear that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

In this case based on the points above it is not considered that there is sufficient justification to require such financial contributions and as such this does not accord with the provisions of the NPPF.

PLANNING BALANCE

Taking account of Paragraph 14 and 143 of the NPPF there is a presumption in favour of the sustainable development unless there are any adverse impacts that *significantly and demonstrably* outweigh the benefits.

The economic benefits of the scheme are clear in that it enables the remaining mineral reserve to be exported and utilised thereby providing direct and indirect benefits to the local

economy by providing a source of aggregate. The sand also contributes to the overall landbank requirement set out in NPPF. The scheme would also present clear environmental benefits in terms of enabling the site to be properly restored to a high standard, and provides for an overall net gain for nature conservation. This should be balanced against any potential harm to residential amenity and the environment resulting from the extended timescale for completing the mineral activities and site restoration.

The benefits arising from the proposal are considered sufficient to outweigh any harm caused by the scheme, and the potential harm to residential amenity and the environment can be adequately mitigated by replication of the existing controls through the planning conditions and s106 legal agreement and through the controls in other environmental legislation. As such the scheme is considered to accord with policies of MLP, MBLP and the approach of the NPPF and Local Plan Strategy.

RECOMMENDATION

That the application be approved subject to Deed of Variation to the existing Section 106 Planning Obligation securing the same obligations as 5/06/2940 namely:

- **monitor hydrology and comply with hydrometric monitoring scheme**
- **allow access to the company to carry out the obligations**

and the addition of the following:

- **Replication of the requirements under the s106 agreement attached to permission 09/2806W in respect of a habitat management plan, and the addition of bird management measures identified in the bird management plan for a period of 10 years after the aftercare period.**

And

Subject to the imposition of planning conditions in respect of:

- **All the conditions attached to permission 5/06/2940 unless amended by those below;**
- **Revised restoration plan;**
- **Extension of time to 30 September 2016**
- **Provision of ecological mitigation measures**

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Principal Planning Manager in consultation with the Chairman of the Strategic Planning

Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.



