



Norfolk County Council

Planning (Regulatory) Committee

Date: **Friday, 26 October 2018**

Time: **10:00**

Venue: **Edwards Room, County Hall,
Martineau Lane, Norwich, Norfolk, NR1 2DH**

Persons attending the meeting are requested to turn off mobile phones.

Membership

Mr C Foulger - Chairman

Mr S Askew Mr B Long - Vice-Chairman

Mr R Brame Mr W Richmond

Mr D Collis Mr M Sands

Mr D Harrison Mr E Seward

Mr B Iles Mr M Storey

Dr C Jones Mr A White

At meetings of this Committee, members of the public are entitled to speak before decisions are made on planning applications. There is a set order in which the public or local members can speak on items at this Committee, as follows:

- Those objecting to the application
- District/Parish/Town Council representatives
- Those supporting the application (the applicant or their agent.)
- The Local Member for the area.

Anyone wishing to speak regarding one of the items going to the Committee must give written notice to the Committee Officer (committees@norfolk.gov.uk) at least 48 hours before the start of the meeting. The Committee Officer will ask which item you would like to speak about and in what respect you will be speaking. Further information can be found in [Part 4.4 of the Constitution](#).

**For further details and general enquiries about this Agenda
please contact the Committee Officer:**

Julie Mortimer on 01603 223055 or email committees@norfolk.gov.uk

Under the Council's protocol on the use of media equipment at meetings held in public, this meeting may be filmed, recorded or photographed. Anyone who wishes to do so must inform the Chairman and ensure that it is done in a manner clearly visible to anyone present. The wishes of any individual not to be recorded or filmed must be appropriately respected.

When the County Council have received letters of objection in respect of any application, these are summarised in the report. If you wish to read them in full, Members can do so either at the meeting itself or beforehand in the Community and Environmental Services Department, County Hall, Martineau Lane, Norwich.

A g e n d a

1. To receive apologies and details of any substitute members attending

2. To confirm the minutes from the Planning Regulatory Committee meeting held on 14 September 2018.

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3. **Declarations of Interest**

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter.

If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is not on your Register of Interests you must declare that interest at the meeting and not speak or vote on the matter

In either case you may remain in the room where the meeting is taking place. If you consider that it would be inappropriate in the circumstances to remain in the room, you may leave the room while the matter is dealt with.

If you do not have a Disclosable Pecuniary Interest you may nevertheless have an **Other Interest** in a matter to be discussed if it affects, to a greater extent than others in your division

- Your wellbeing or financial position, or
- that of your family or close friends
- Any body -
 - Exercising functions of a public nature.
 - Directed to charitable purposes; or
 - One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);

Of which you are in a position of general control or management.
If that is the case then you must declare such an interest but can speak and vote on the matter.

4. **Any items of business the Chairman decides should be considered as a matter of urgency**

5. **C/7/2015/7018: Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay**

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Report by the Executive Director of Community & Environmental Services.

6. **C/7/2015/7018: Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay**

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Report by the Executive Director of Community & Environmental Services.

**7. C/7/2018/7015: Quarry of Beacon Hill, Loddon Road, Norton Sub
Course**

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Report by the Executive Director of Community & Environmental Services.

Chris Walton
Head of Democratic Services

County Hall
Martineau Lane
Norwich
NR1 2DH

Date Agenda Published: 18 October 2018



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STANDING DUTIES

In assessing the merits of the proposals and reaching the recommendation made for each application, due regard has been given to the following duties and in determining the applications the members of the committee will also have due regard to these duties.

Equality Act 2010

It is unlawful to discriminate against, harass or victimise a person when providing a service or when exercising a public function. Prohibited conduct includes direct discrimination, indirect discrimination, harassment and victimisation and discrimination arising from a disability (treating a person unfavourably as a result of their disability, not because of the disability itself).

Direct discrimination occurs where the reason for a person being treated less favourably than another is because of a protected characteristic.

The act notes the protected characteristics of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The introduction of the general equality duties under this Act in April 2011 requires that the Council must in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by this Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
- Foster good relations between people who share a relevant protected characteristic and those who do not.

The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Crime and Disorder Act, 1998 (S17)

Without prejudice to any other obligation imposed on it, it shall be the duty of the County Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Human Rights Act 1998

The requirements of the Human Rights Act 1998 must be considered.

The human rights of the adjoining residents under Article 8, the right to respect for private and family life, and Article 1 of the First Protocol, the right of enjoyment of property are engaged. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity.

The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. A refusal of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

**Planning Regulatory Committee
Minutes of the Meeting Held on Friday 14 September 2018
at 10am in the Edwards Room, County Hall**

Present:

Mr C Foulger - Chairman

Mr S Askew
Mr D Collis
Mr D Harrison
Mr B Iles
Mrs B Jones

Mr W Richmond
Mr M Sands
Mr B Spratt
Mr M Storey
Mr A White

1 Apologies and Substitutions

Apologies for absence were received from Dr C Jones (Mrs B Jones substituted); Mr R Brame and Mr B Long (Mr B Spratt substituted).

2 Minutes from the meeting held on 13 July 2018

- 2.1 The minutes from the Planning (Regulatory) Committee meeting held on Friday 13 July 2018 were agreed as a correct record by the Committee and signed by the Chairman.

3 Declarations of Interest

No declarations of interest were made.

4 Urgent Business

There was no urgent business.

Applications referred to the Committee for determination.

5 C/5/2017/5007: SPC Atlas Works, Norwich Road, Lenwade

- 5.1 Proposal: To determine application for: Change of use from B8: Warehousing to a Sui Generis use for waste processing and the production of refuse derived fuel (RDF) with an annual throughput of 150,000 tonnes; Installation of office, 2 x weighbridges and photovoltaic panels, and highway improvement scheme consisting of the major upgrade and realignment of the north-western estate access

with the A1067.

- 5.2 The Committee received the report by the Executive Director of Community and Environmental Services seeking planning permission for the development of a waste processing and RDF production facility on a site that was both industrial land and moreover a site (WAS 78) that was allocated for waste development within the Councils adopted Waste Site Specific Allocations Development Plan Document. Therefore, in land use terms the proposal accorded with the development plan.
- 5.3.1 During the presentation of the report the Principal Planning Officer advised that the Committee had refused a very similar application in March 2017 which the applicant had since appealed. The Planning Inspectorate granted planning permission for that application subject to conditions. The Principal Planning Officer advised that the Planning Inspector's decision was a material consideration of significant weight on the basis that the principle of the nature of this development at the site had clearly now been established. He also advised that this new application offered an opportunity for Norfolk County Council to apply its own conditions should Members' grant planning permission.
- 5.3.2 The Committee was advised, since the publication of the report, that a letter had been received from Richard Buxton Associates indicating that counsel had been instructed to review the Planning Inspector's decision, which may possibly result in a Judicial Review of that decision. Richard Buxton contended that, on the basis the Inspector's decision could be quashed, it would undermine the reliance on it as a material consideration of significant weight.
- 5.3.3 Five additional letters of objection had been received since the report had been published, three from individuals who had previously commented on the application and two new letters of objection from individuals that hadn't previously commented. No new grounds of objection had been made other than it was a waste of Council time and money considering the application.
- 5.3.4 The Committee noted that the applicant had now signed a legal agreement relating to a £7500 contribution for the maintenance of the Marriott's Way.
- 5.3.5 The officer recommendation was to grant planning permission in accordance with the conditions in section 13 of the report, subject to any minor changes to the conditions.
- 5.4 Mr John Bailey, local resident, addressed the Committee in objection to the application, raising concerns about the proximity of the site to the river Wensum; the proposed size of the operation and, in the event of a fire at the site, the possibility of fire-water flooding into the River Wensum which was located approximately a football pitch away. He added that in his view a SSSI site should mean that and should be protected.
- 5.5 Mrs Mary Bishop, who owned a number of industrial units near the application site, addressed the Committee in objection to the application. Mrs Bishop read out

extracts from a letter received from Public Law Cambridge, challenging the Planning Inspector's decision on public law grounds. Mrs Bishop added that if the Committee granted planning permission, it could render Norfolk County Council vulnerable to a judicial review. Mrs Bishop also raised concern about the potential fire risk and considered that the risks had not been understood by either the Environment Agency or Natural England. Mrs Bishop felt that the Planning Inspector's decision could not be supported on the evidence she had been given.

- 5.6 Mr Paul Webb, local resident who lived at a property approximately 180m from the development, addressed the Committee in objection to the application. Mr Webb raised concerns about the environmental impacts the waste facility would pose on such an environmentally sensitive location, adding that he commended the Committee for refusing the application previously and that he was currently waiting to hear if there were sufficient grounds for a Judicial Review of the decision made by the Planning Inspector to overturn the County Council's previous decision. Mr Webb considered the waste industry had an appalling record of fires at waste sites and raised concern about possible failure to contain fire water in the event there was a fire at the site. He added that the River Wensum was linked to an aquifer which was located under the site and also that no surveys had been carried out into the integrity of the buildings. He added that no evidence had been shown about how contaminated fire water would be managed as this water needed impermeable surfaces to ensure there was no run-off. Mr Webb considered the applicant had provided insufficient information and urged the Committee to refuse the application.
- 5.7 Ms G Mead, local resident, addressed the Committee in objection to the application raising concerns about the location of the works/site and the potential impact on local people. Ms Mead urged the Committee to do the right thing and locate such a waste operation at a different site as the buildings were pre-1940 asbestos cladded buildings and other areas had more suitable buildings for current and future needs, which would help mitigate pollution. Ms Mead said approving the application was tantamount to imposing a psychological prison sentence on nearby residents from noise, smell as well as the detrimental impact from the site. Ms Mead felt other sites were more suitable and as Scotland were leading pioneers in waste disposal, lessons could be learned from there. Ms Mead also suggested a disused air base in Norfolk could offer a suitable site for this facility.
- 5.8 Mr G Youngs, addressed the Committee presenting the views of Amber Real Estate Investments (Industrial) Limited and Bernard Matthews Foods Limited. Mr Youngs raised concerns about the possible loss of the quality of the water course. He said the Bernard Matthews' hatchery contained approximately 1 million eggs, as well as a turkey plant, which was located approximately 300m and 700m from the site. Mr Youngs said that hygiene and security was critical to the whole operation. Bernard Matthews Ltd had a licence to draw water from the aquifer as there was no mains water connected and relied on the pure quality of the water. Mr Youngs added that the application did not include any information about water treatment and as water was used directly in the food processing operation, any pollution entering the water would have a huge detrimental impact on the business, which could ultimately lead to the closure of the factory whilst new eggs were sourced for the hatchery.

- 5.9 Ms J Wisby, Chairman of Great Witchingham Parish Council, addressed the Committee in objection to the application. The Parish Council had raised a number of concerns including the lack of an Environmental Permit; the inadequacy of the current highway infrastructure; possible water pollution/contamination. Ms Wisby added that Swannington with Alderford Parish Council had raised concerns about the lack of a transport plan and the increase in traffic movements. Ms Wisby also raised concerns about water run-off in the event of a fire which could cause contamination. She added that the revised drainage plans were flawed and the effects on the new Royal Norfolk Golf Club development had not been examined. She said the site already operated at capacity and that the significant difference between this application and the previous one was a revised drainage strategy; there was no significant difference to the application which had been determined on appeal; there had been a change in operating hours and that having a waste plant on top of the main water supply to a major city should not be allowed.
- 5.10 Ms R Goodall addressed the Committee on behalf of Weston Longville Parish Council in objection to the application, particularly around the planning conditions and the consultation. Ms Goodall said that the Executive Director of Community & Environmental Services had maintained there was no requirement to show a democratic need for the facility other than moving through the waste hierarchy and that doing nothing may be worse. Ms Goodall then referred to the proposed conditions which in her opinion did not provide any reassurance as too much was left to the Environment Agency for decisions such as noise and smell through the granting of an Environmental Permit. It was also felt that the site had been allowed to deteriorate and was not fit for the intended purpose and also that the £7,500 to maintain Marriotts Way was insufficient. She also felt decisions should not be delegated and that Weston & Morton villages had no neighbourhood plan so had been unable to comment on waste management which was unacceptable.
- 5.11 Mr R Hawker addressed the Committee on behalf of Hockering Parish Council, raising concerns about the process being flawed as well as transport issues, particularly the substantial increase in the number of lorry movements along the A1067 and B1535. Mr Hawker felt the application should not have been accepted until the previous application appeal decision was known. Mr Hawker encouraged the Committee to defer the application or impose more stringent conditions, eg operating from 7am to 7pm 7 days a week and traffic movements restricted to between 7am and 6pm Monday to Friday and 7am – 12 noon on Saturdays. Mr Hawker also stated that Hockering Parish Council had not been consulted on the application. Mr Hawker then showed a map of the HGV routes and encouraged the Committee to reject the application.
- 5.12 Mr Andrew Lake, Wiser Group, agent for the applicant, addressed the Committee. Mr Lake said he had previously worked as an Officer for the Environment Agency. Mr Lake stated that Atlas Works had a history of heavy industrial use over the years and that the site had been vacant for a number of years. He added that the application sought to provide a waste site, with Refuse Derived Fuel (RDF) an increasing way of providing a sustainable power source. Mr Lake added that the

updated drainage plan had been scrutinised and approved. He reassured the Committee that the risk assessment had identified the site as high risk but the proposed mitigation measures had been deemed satisfactory, adding that the two-stage drainage strategy had been designed to reduce/prevent pollution by treating water to an approved level before it was discharged. Mr Lake went on to state the provision for emergencies had been included, for example stop valves. Mr Lake also said that an Environmental Permit would be a requirement of the planning application if it was approved including more detailed inspections to ensure the site operated successfully.

- 5.13 Mr Greg Peck, as Local Councillor for Reepham Division, which covered the application site, addressed the Committee about several aspects of the application, adding that he had visited the site, and spent a considerable amount of time examining evidence and reading letters of objection. In Mr Peck's opinion the site was unsuitable for this operation as RDF plants in other parts of the country were usually purpose built, sealed units and were not asbestos clad which the current buildings were. Mr Peck added that the applicant had confirmed they had no intention of replacing or installing new buildings in the future. Mr Peck then raised concerns about the risk of fire, saying on average there were 300 fires per annum at waste sites and that there was no mention of the mitigation measures for coping with the volumes of water required to put out fires. Mr Peck felt that the decision should not be left to the Environment Agency and that if the decision was overturned on appeal, Norfolk County Council could leave itself open to costs. Mr Peck also mentioned possible river contamination, the buildings being unsuitable and with no plans to make them watertight as reasons to refuse the application. He asked the Committee to refuse the application, or to defer a decision until the outcome of the appeal process had been finalised.
- 5.15 The following points were noted in response to general questions from the Committee:
- 5.15.1 The Principal Planning Officer advised that the proposed hours of operation were the same as had been imposed by the Planning Inspectorate.
- 5.15.2 One Member said he had listened to the arguments and was of the firm opinion that the Planning Inspector had made the wrong decision as there did not appear to be any appreciable difference from the previous application. He added that the concerns remained the same, with inappropriate buildings, damage to local Businesses (eg Bernard Matthews), and permanent pollution to the aquifer. The same Member then referred to the recent waste site fire in Liverpool which had burned for nearly a week and said he would be interested to hear how much water had been used to put out that fire. It was suggested that the Committee should refuse the application and allow that decision to take its course through the Judicial Review process, adding the weight of the Planning Committee to the other objections.
- 5.15.3 One Member felt that the revised conditions were satisfactory in his opinion and that the Committee should allow the Environment Agency to carry out its

obligations.

- 5.15.4 Members asked for further details about the amount of water required if there was a fire at the site as they were not convinced that contaminated water would not get into the aquifer if there was a fire.
- 5.15.5 The Committee thanked all the speakers for attending the meeting and for expressing their views so well.
- 5.15.6 The Principal Planning Officer advised that the fire risk would be dealt within the Fire Risk Management Plan as part of the Environmental Permitting process. He added that Norfolk Fire & Rescue Service had been consulted as part of the planning process and had raised no objection to the application. The Environment Agency had however commented that the submitted draft fire prevention plan would not be acceptable without further work, but a full assessment of the Fire Prevention Plan would be carried out during determination of the Environmental Permit. This was outlined in paragraphs 7.17 to 7.19 of the report and from a planning perspective the site would be able to operate without further planning permission for new development, however an acceptable fire management plan would be required as part of the Environmental Permit in order for the facility to operate.
- 5.15.7 The Committee asked Mr Lake, as the agent for the applicant, to reassure it about the fire prevention plan which Mr Lake confirmed had been drafted. Mr Lake advised that the method of containment was using an impermeable surface area and a sealed bunker. The bunker would be inspected and any areas failing inspection would be repaired and treated accordingly to ensure they were impermeable and could contain any contaminated water. Contaminated water would be removed from the site in sealed tankers and taken to a treatment facility to be dealt with. Shut-off valves had been fitted to automatically contain water in the event of a fire which would automatically shut off as soon as a fire had been identified, with a manual override facility installed in the event the automatic shut off process failed. Any burnt material would be removed from the site as directed by the fire brigade.
- 5.15.8 As soon as a fire was noticed, before the fire brigade arrived and the alarm sounded, the automated system would shut off the valves, with a manual over-ride installed if the automated system failed.
- 5.15.9 Some Members again expressed concern about two major fires this year at waste plants and felt the current buildings at the site were not suitable. Concern was also expressed about the amount of waste material to be stored on the site which could cause leachate into the aquifer from rainwater, contaminating the water. They felt the provision of new buildings could put an entirely different aspect on the application. In reply the Principal Planning Officer advised that all of the materials stored externally would be strictly limited to inert waste, such as building rubble, soil, etc.
- 5.15.10 One Member felt they had not received sufficient reassurance if there was a breach

of contaminated water which then contaminated the water drunk by the people of Norwich and asked how long it would take for the clean-up operation to be effective. In response, Mr Lake, agent for the applicant, stated that when an incident occurred the Environment Agency was notified, with officers immediately being sent to the scene to manage the situation. The Environment Agency was duty bound to report the matter to Norfolk Fire & Rescue Service. The clean-up operation would take place immediately with the remediation work undertaken and overseen by the Environment Agency.

- 5.15.11 The Principal Planning Officer advised that, to his knowledge, there had been no incidents that had caused pollution to the aquifer from previous operations at the site. However, he added that the site had historically operated for a long time under a permission issued and regulated by Broadland District Council. Some Members felt that the current proposal was different as the site had not previously had 150k tonnes of refuse and waste stored there.
- 5.15.12 Mr Sands expressed the view that the application should be refused.
- 5.15.13 Mr Askew expressed his opinion that the Committee should defer the application until it was convinced sufficient mitigation plans were in place to reduce the risks, particularly with regard to concerns about the buildings; the risk to the aquifer and water pollution.
- 5.15.14 The Chairman advised that the Committee was unable to defer the application as a similar application had been refused previously and then been successful on appeal. He added that this application had been submitted with improvements and the Committee needed to consider it. The Chairman proposed a vote. A vote took place on a show of hands, with 4 votes counted in favour; 5 votes against and 1 abstention.
- 5.15.15 The Senior Lawyer (Planning & Environment) reminded the Committee of the implications of refusing an application contrary to officer recommendation: that if the Committee was minded to refuse the application, it would need to make its reasons very clear, that there was a possibility of the decision being overturned on appeal (particularly given that the previous, similar application had already been appealed successfully) and that there was an associated risk of a costs award against the authority.
- 5.15.16 Mr Sands suggested the application could be refused because of the unsuitability of the site; the site being above the aquifer; the risk of leachate into the aquifer; the buildings had been designed for a different purpose and no information had been submitted that the buildings would be upgraded to the standard required; the concrete floors were cracked and porous and no matter how carefully the site was managed, there could be water leachate and chemical contamination. He felt these details provided sufficient reasons for rejecting the application and that the Planning Inspector had got her decision wrong.

Mr Richmond added that the Committee could refuse the application on the

grounds of conflict between Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 – Policies CS14 (Environmental Protection) and DM2 (Core River Valleys).

- 5.16 Two Members requested that the individual votes of Members set out in paragraph 5.15.14 be recorded and suggested that one Member's vote had not been counted. The Committee agreed to record the votes cast in the above vote, to enable the status of all Members to be correctly recorded. In response to a query from Mr Sands, the Chairman clarified that the recorded vote was not a second vote on the application, it was to make clear how each Member of the Committee had voted. The results of the recorded vote were as follows:

Mr C Foulger	For
Mr S Askew	Against
Mr D Collis	Against
Mr D Harrison	For
Mr B Iles	For
Mrs B Jones	Against
Mr W Richmond	Against
Mr M Sands	Against
Mr B Spratt	For
Mr M Storey	Abstain
Mr A White	For

With 5 votes in favour, 5 votes against and 1 abstention, the Chairman exercised his casting vote in favour of approval of the application.

- 5.17 The Committee **RESOLVED** that the Executive Director of Community and Environmental Services should be authorised to:
- Grant planning permission subject to the conditions outlined in section 13 of the report, and a Unilateral Undertaking relating to the £7500 contribution for maintenance of the Marriott's Way.
 - Discharge conditions (in discussion with the Chairman and Vice-Chairman of the Committee) where those detailed in the report require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.
 - Delegate powers to officers (in discussion with the Chairman and Vice-Chairman of the Committee) to deal with any non-material amendments to the application that may be submitted.

The meeting concluded at 11.30 am.

Chairman



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Planning (Regulatory) Committee

Report title:	C/7/2015/7018: Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay, Norfolk NR35 2HJ
Date of meeting:	26 October 2018
Responsible Chief Officer:	Tom McCabe – Executive Director, Community and Environmental Services
Proposal and applicant: Variation of conditions 2, 3, 8, 16 & 18 of planning permission C/7/2013/7010 to extend duration of extraction and restoration until 31/12/25, allow for revised plans and plant details (part retrospective) and increase in quantity of imported aggregates, with increased depth of working and revised restoration: LP Pallett Quarry	

Executive summary

Planning permission is sought to vary five No. conditions of planning permission C/7/2013/7010 in order to extend the duration of extraction and restoration until 31/12/2025, allow for revised plans and plant details (part retrospective) and increase the quantity of imported aggregates, together with an increased depth of working and revised restoration. This application is to be considered concurrently with application reference C/7/2015/7019 as the two are inherently linked.

Objection is raised by Kirby Cane and Ellingham Parish Council as well as local residents. Their concerns relate primarily to the length of time that the quarry has been in operation, traffic and impacts on residential amenity. No objections have been raised by statutory consultees subject to suitably worded conditions being imposed on any grant of planning permission.

The key issues are the principle of development, impacts of the development on the highway network, residential amenity, visual amenity, geodiversity and, progressive working and restoration. The environmental impacts of the proposal have been carefully considered. It is considered that the proposal is in accordance with the policies contained within the development plan and national planning guidance, and therefore conditional planning permission is recommended.

Recommendation:

It is recommended that the Executive Director of Community and Environmental Services be authorised to:

- i. **Grant planning permission subject to the conditions outlined in section 12.**
- ii. **Discharge conditions where those detailed above require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.**
- iii. **Delegate powers to officers to deal with any non-material amendments to the application that may be submitted.**

1. The Proposal

- | | | | |
|------|-------------------------------|---|--|
| 1.1 | Location | : | Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay, Norfolk NR35 2HJ |
| 1.2 | Type of development | : | Extended time period for extraction and restoration of site;
Increased depth of working;
Provision of 'wet' processing plant/water management facility, crushing of gravel by mobile crushing unit and, provision of bagging hopper
Revised restoration;
Increased quantity of imported aggregates |
| 1.3 | Total tonnage | : | Estimated 300,000 tonnes (site as a whole) |
| 1.4 | Annual tonnage | : | Estimated 50,000 tonnes |
| 1.5 | Market served | : | 40km (25 miles) radius of quarry |
| 1.6 | Duration | : | Until 31 December 2025 (six years for extraction together with additional year for restoration). |
| 1.7 | Plant | : | Modular processing plant;
Mobile crushing unit;
Bagging hopper;
Mobile plant. |
| 1.8 | Hours of working | : | 07:00-17:00 Monday-Friday
07:00-13:00 Saturday
No working on Sundays or public holidays |
| 1.9 | Vehicle movements and numbers | : | Estimated 28 HGV movements daily, (14 in, 14 out). |
| 1.10 | Access | : | HGVs to exit site via existing access onto Yarmouth Road/Church Road which link the site to the A143. |
| 1.11 | Landscaping | : | No additional landscaping proposed: existing landscaping and surrounding soil bunds largely conceal site from wider public views. |
| 1.12 | Restoration and after-use | : | Restoration to acid grassland and small water body. |

2. Constraints

2.1 The following constraints apply to the application site:

- Kirby Cane Bridleway 5 follows part of the southwest boundary of the working.
- The site is located some 0.88km from Geldeston Conservation Area
- The boundary of the Broads Authority area is some 0.9km to the south.
- The site is located within Groundwater Protection Zone 2.

- The site is located within a geological SSSI (Leet Hill, Kirby Cane), and some 1.5km from Geldeston Meadows SSSI.
- The site is located within 5km of the Broadland SPA, The Broads SAC and Broadland Ramsar.

3. Planning History

- 3.1 Kirby Cane Quarry has been an active site for the production of sand and gravel since the first planning permission was issued in the early 1960's. Since then a number of further planning permissions, including physical extensions to the quarry, have been granted. As regards the site under consideration, the following applications are relevant:
- 3.2 **C/7/2013/7010** - Retention of ancillary buildings; Importation of aggregates, crushed rock, recycled aggregates and soils for re-sale; Extraction and processing of sand and gravel on previously worked land – Approved 2013.
- 3.3 **C/7/2013/7008** - Variation of conditions 1 and 2 of PP C/7/2009/7009 to extend the duration of extraction and restoration until 30/09/2018, and to revise phasing details - Approved 2013
- 3.4 **C/7/2009/7009** - Variation of condition 1 of PP C/7/2004/7018 to extend the duration of extraction and restoration until 30/3/2013 - Approved 2012
- 3.5 **C/7/2004/7018** - Extraction of sand and gravel to enable restoration to shallow slopes, wood and acidic grassland with an open geological face - Approved 2005
- 3.6 **C/7/2003/7020** - Variation of C1 of PP C/7/00/7024 to extend permission period until 24.10.04 - Approved 2003
- 3.7 **C/7/2000/7024** - Continuation of PP C/7/1993/7007 to extract remaining sand and gravel reserves - Approved 2000
- 3.8 **C/7/1993/7007** - Renewal for extraction of sand and gravel, together with limited northerly extension - Approved 1994

4. Planning Policy

- 4.1 Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (2011)
- | | | |
|---|------|--|
| : | CS1 | Minerals Extraction |
| | CS2 | General locations for mineral extraction and associated facilities |
| | CS13 | Climate change and renewable energy generation |
| | CS14 | Environmental protection |
| | CS15 | Transport |
| | CS16 | Safeguarding mineral and waste sites and mineral resources |
| | CS17 | Use of secondary and recycled aggregates |
| | DM1 | Nature conservation |
| | DM3 | Groundwater and surface water |
| | DM4 | Flood risk |

			DM8	Design, local landscape character
			DM10	Transport
			DM12	Amenity
			DM13	Air quality
			DM14	Progressive working, restoration and after-use
			DM15	Cumulative impacts
			DM16	Soils
4.2	Norfolk Minerals and Waste Local Plan: Initial Consultation: Emerging Policies (2018)	:		Emerging policies currently being consulted under Local Plan Review – however, afforded little weight at this time.
4.3	Joint Core Strategy for Broadland, Norwich and South Norfolk (2011/2014)	:	Policy 1: Addressing climate change and protecting environmental assets Policy 2: Promoting good design Policy 18: The Broads	
4.4	South Norfolk Local Plan DM Policies Document (2015)	:	DM 1.1 Ensuring development management contributes to achieving sustainable development in South Norfolk DM 1.4 Environmental quality and local distinctiveness DM 3.8 Design principles applying to all development DM 3.11 Road safety and free flow of traffic DM 3.13 Amenity, noise and quality of life DM 3.14 Pollution, health and safety DM 4.5 Landscape Character and River Valleys DM 4.9 Incorporating landscape into design DM 4.10 Heritage Assets	
4.5	Neighbourhood Plan	:		The area in which the planning application is located does not have an adopted Neighbourhood Development Plan or Neighbourhood Plan in progress.
4.6	The National Planning Policy Framework (2018)	:	Ch 9 Ch 12 Ch 14 Ch 15 Ch 16 Ch 17	Promoting sustainable transport Achieving well-designed places Meeting the challenge of climate change, flooding and coastal change Conserving and enhancing the natural environment Conserving and enhancing the historic environment Facilitating the sustainable use of minerals
4.7	Planning Practice Guidance (2016)	:		Minerals

5. Consultations

- 5.1 South Norfolk Council : No objections
- 5.2 The Broads Authority : No objection
- 5.3 Suffolk County Council : No response received at time of writing this report
- 5.4 Kirby Cane and Ellingham Parish Council : Original submission:
Request that there should be no extra traffic and no extra noise as a result of the application
Additional Information:
Raise objection due to conflict with the following policies of the Norfolk Minerals and Waste LDF:-
Policy DM10 – Transport :
Concerned that the increased vehicle movements will adversely impact on local residents due to noise and light pollution, as well as their health and safety on narrow local roads which already struggle to accommodate large aggregate lorries and even smaller vehicles towing trailers;
Policy DM12 – Amenity :
Not convinced that local amenity will not be affected by noise made by the machinery;
Policy DM14 – Progressive working :
Concerned that there appears to have been no ongoing restoration carried out at the site.
Express concern that successive applications have been made to extend the use of the site, continuing the operation well beyond that which had originally been anticipated by local residents.
- 5.5 Stockton Parish Council : No response received at time of writing this report
- 5.6 Highway Authority (NCC) : No objection subject to:
- all other highway related conditions on PP C/7/2013/7010 being included on any consent notice issued;
 - importation of material should cease at the same time as cessation of quarry operations;
 - condition in relation to lorry management plan

- 5.7 EHO - South Norfolk DC : Does not consider there to be sustainable grounds to object to this application;
Considers that existing noise limits imposed by permission C/7/2013/7010, set at boundary of Leet Hill Cottages, comply with current Government Guidance, thus there will not be a lowering of protection afforded to residents of Leet Hill Cottages;
Comments that there are no noise limits imposed by permission C/7/2013/7010 which directly relate to protecting Leet Hill Farm;
Suggests conditions in relation to review of approved scheme for management of dust and imposition of noise limits as measured on boundary of Leet Hill Farm
- 5.8 Environment Agency : No objection. Provide advisory comments in relation to requirement for Environmental Permit.
- 5.9 Lead Local Flood Authority : Original submission:
No comments to make
Revised Timescale:
No comments to make
- 5.10 Natural England : Original submission:
No objection, subject to conditions in relation to geological conservation, as follows:-
- Submission and approval of revised restoration plan;
 - Outline landscaping and aftercare scheme;
 - Review of approved scheme for geological monitoring and recording;
- Additional information:
Comment that information provided in relation to Restoration Plan and aftercare is insufficient to ensure sustainable geo-conservation of features for which SSSI is notified;
Advises that a comprehensive Restoration Management Plan must be produced for approval;
NE agrees that wherever possible a gentler gradient would be preferable for successful colonisation of vegetation;
NE welcomes planting of native tree species on western side of quarry;
Comment that tree planting shall be undertaken

away from edges or tops of faces to minimise potential for windthrow and Restoration Management Plan should incorporate regular arboreal checks and management of woodland, in order to minimise windthrow etc.

Revised Restoration:

No objection, subject to conditions to secure a Comprehensive Restoration Management Plan and accompanying after-care scheme

5.11 County Ecologist

: Original submission:

Raises concern in relation to proposed restoration and aftercare of the site, including proposed restoration profile, vegetation management and tree mix.

Provides advisory comments in relation to nesting birds.

Additional information:

Holding objection;

Remains concerned with proposed restoration scheme, particularly with proposed steep slopes; Considers that proposed water body, will be too deep and steep sided to be of value to biodiversity;

Considers that proposal fails to meet requirements of relevant planning policies in relation to biodiversity.

Revised Restoration:

No objection, subject to conditions in relation to restoration and aftercare.

5.12 Senior Green
Infrastructure Officer
(NCC)

: Original submission:

Raises concern in relation to proposed restoration and aftercare of the site, including proposed restoration profile, vegetation establishment / management, depth of woodland planting and tree mix.

Additional information:

Holding objection;

Remains concerned in relation to proposed restoration and aftercare of site, including proposed restoration profile, vegetation management and depth of woodland planting;

Considers that proposed restoration profile does not sufficiently reflect the surrounding landscape context;

Considers that proposal fails to meet requirements of relevant planning policies in relation to landscape.

Revised Restoration:

No objection subject to conditions in relation to restoration and aftercare

- | | | | |
|------|----------------------------------|---|---|
| 5.13 | Anglian Water | : | No response received at time of writing this report |
| 5.14 | Public Rights of Way (NCC) | : | No objections |
| 5.15 | Ramblers Association | : | No response received at time of writing this report |
| 5.16 | Norfolk Geodiversity Partnership | : | No response received |
| 5.17 | Local residents | : | Representations have been received from six local residents (in the form of five written representations). Objections and concerns are raised on the following grounds: |

Traffic / highways

- Concern over increased traffic, increased vehicle size, highway width and highway safety;
- Concern with lack of footpath and passing places between Church Road and site entrance;
- Concern that proposed traffic movements equate to one 20 tonne vehicle travelling along Yarmouth Road every 15-20 minutes;
- Concern that amount of lorries going to and from the quarry far exceeds the 12 lorries per day stated in the original application;
- Concern with lack of wheel wash system to prevent vehicles depositing material onto the highway;
- Concern with lack of weighbridge and possible break-up of road surface;
- The corner of Church Road and Yarmouth Road is constantly being repaired

Amenity

- Concern with increased noise;
- Comment that lorries have gone past our house for several years between the hours

- of 06.30 and midnight;
- we are constantly woken up by lorries;
- Continuation of working has been to the detriment of people living on the route of traffic to and from the quarry;
- Would not object as much if opening hours were reduced so the quarry did not open until 8am;
- Noise from repair works to the corner of Church Road and Yarmouth Road
- The noise and dirt have gone on long enough

Timescale

- The quarry was supposed to close many years ago and the site restored;
- What is the point of imposing restoration dates and conditions on permissions?
- At a parish council meeting last year the quarry owner stated that he would not be seeking further planning permission; he has reneged on that statement

Other concerns

- Can see no benefit to the local community;
- Suggest that this aggregate can be obtained elsewhere;
- Comment that no notification of the application under consideration was received

Other (non-material) concerns:

- the value of our property will reduce

The response of this authority to these comments is discussed in the 'Issues' section of this report.

5.18 County Councillor (Mrs Margaret Stone) : No response received at time of writing this report

6. Assessment

Proposal

6.1 The statement submitted in support of the application states that the applicant company are experiencing a strong increase in local demand for the products they can supply. Permission is sought for variation of conditions 2, 3, 8, 16 & 18

of permission reference C/7/2013/7010 to extend timescales for completion of extraction and restoration, allow for revised plans and plant details and, increase in quantity of imported aggregates, with increased depth of working and revised restoration. The specific changes proposed are as follows:-

- 6.2 Condition 2 requires cessation of development and restoration of the site by 30 September 2018. Based upon current / forecast annual output and additional reserves yielded by the proposed increase in depth of excavation (condition 16 refers), permission is sought to extend the timescale for cessation of development and completion of restoration for a further seven years (until 31 December 2025).
- 6.3 Condition 3 relates to the development details, including processing plant: currently, as-raised mineral is 'dry' screened on site prior to stockpiling. The development details would be revised to include the following:-
- Provision of modular 'wet' processing plant and water management facility (series of small, shallow settlement ponds) (part retrospective);
 - Allow for crushing of gravel by mobile crushing unit on a campaign basis;
 - Provision of bagging hopper to provide bagged aggregates for sale (retrospective);
 - Provision for parking of mobile plant and two/three lorries.
- 6.4 Condition 8 restricts the total amount of aggregates, crushed rock, recycled aggregates and soils brought onto the site for resale to 5,000 tonnes per annum. The applicant seeks permission to increase the quantity of imported aggregates to 10,000 tonnes.
- 6.5 Condition 16 restricts the depth of excavation to 5m A.O.D. The supporting statement advises that, trial pits have proved that some 100,000 tonnes of good quality sand and gravel (circa 50% gravel content) remain beneath the floor of the working and that the groundwater level is some 1-2 metres below floor level (i.e. around 3m AOD). Permission is sought to increase the depth of excavation to 0m A.O.D. and to work the mineral 'wet' without dewatering.
- 6.6 Condition 18 relates to the restoration details; the current approved restoration scheme would be revised to include the following:-
- Revised final restoration levels – internal sand faces graded to slopes between 1:2 and 1:4
 - Replacement of agricultural land in base of quarry with small water body with underwater marginal ledge to allow establishment of reed and other emergent plants
 - Seeding of quarry slopes and floor to acid grassland
 - Reduced woodland planting on western outer face of site/replacement of agricultural land on north west margins, and substitution with acid grassland
 - Retention of currently regenerated benches / face and existing trees in south west corner
 - Retention of menage (horse exercise/schooling yard) in south west corner

- 6.7 Prior to purchase of Kirby Cane quarry in 2011 by the current owner, the quarry had been mothballed by the previous owner, in 2007. As at 2011, the southern central area of the quarry void had been restored to agricultural use. In 2015 soils were stripped from this restored area to facilitate the proposed use of this area for wet processing and stockpiling of mineral. A Breach of Condition Notice was issued in 2015 which requires removal of the processing plant. The application under consideration seeks to address the amendments needed to regularise the present position as well as address the future requirements.

Site

- 6.8 The application site relates to Kirby Cane Quarry, which is being progressively worked for sand and gravel, and restored at lower level. The quarry occupies a position within undulating agricultural land at the northern fringe of the Waveney Valley, and is bounded to the southwest by Yarmouth Road, to the west by a woodland belt and by agricultural land on all other sides. The site lies some 0.7km north east of the village of Kirby Cane.
- 6.9 The application site comprises of the central and south eastern area of the quarry which comprises of previously worked land, part used for screening and stockpiling of excavated sand and gravel, and part formerly restored to agriculture. The closest residential properties are a number of properties located at Leet Hill, between 90m and 114m west of the proposed western limit of extraction and a number of properties located opposite the south west boundary of the quarry beyond Yarmouth Road, the closest of which is some 96m from the quarry's southern boundary. The site is accessed via Yarmouth Road which joins Church Road some 0.9km to the west which in turn links the site to the A143 some 150m to the north.

Environmental Impact Assessment (EIA)

- 6.10 The application under consideration was screened upon receipt in respect of any requirement for an EIA in accordance with the EIA Regulations, when it was concluded that the application is not EIA development.
- 6.11 Having assessed the application and taken into account the consultation responses received, the proposal has been re-screened for EIA and the CPA remain of the view that the development is not EIA development.

Principle of development

- 6.12 The underlying principle in respect of planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

- 6.13 In terms of the development plan, the County Planning Authority considers the relevant documents in relation to this application are the: policies in the adopted NMWLDF: Core Strategy (2011), the adopted Joint Core Strategy (2011/2014), and the South Norfolk Local Plan DM Policies Document (2015). Given that the review of the Norfolk Minerals and Waste Local Plan is at an early stage, the

emerging Plan is apportioned little weight. In addition, the guidance within the NPPF and Planning Practice Guidance is material to the consideration of the application.

- 6.14 The application relates to a previously permitted mineral working: the principle of development which this application seeks to vary was most recently considered acceptable in 2013, subject to conditions (ref. C/7/2013/7010). Access arrangements would remain unchanged.
- 6.15 Policy CS2 of the NMWLDF Core Strategy sets out the principles for the locations for mineral extraction, and places a preference for sites which are “close and/or well-related via appropriate transport infrastructure,” to the major urban areas. Whilst the site is some 20km (12.5 miles) from the Norwich Policy Area and Great Yarmouth urban area, the site is well connected to the strategic road network, with a site access onto Yarmouth Road, Kirby Cane some 0.9km from its junction with Church Road, a road classified by the NCC Route Hierarchy as a HGV Access Route, which in turn links with the A143, a principal Primary Route which has the highest category on the hierarchy. Therefore, it is considered that the location of the proposed site is broadly compliant with the requirements of policy CS2 of the NMWLDF.
- 6.16 Para. 205 of the NPPF requires LPAs to give great weight to the benefits of mineral extraction, including to the economy. The application includes a proposed increase in the depth of excavation at the site: the full recovery of the mineral would make the most efficient use of the mineral resource. As regards the proposed increase in import of recycled aggregates, para. 204 of the NPPF requires planning to take account of the contribution that recycled materials would make to the supply of materials, and to safeguard existing, planned and potential sites for handling and distribution of recycled aggregate material. It is therefore considered that the proposal would be in general accordance with the aims of the NPPF.
- 6.17 Notwithstanding all other material considerations it is considered that the principle of this development could be acceptable at this location and would not be out of character for the immediate area.

Mineral Supply / Need

- 6.18 NMWLDF CS policy CS1 and Section 17 of the NPPF apply.
- 6.19 As at the end of September 2018, the estimated sand and gravel landbank for Norfolk, calculated in accordance with the National Planning Practice Guidance (based on the past 10 years average sales), stood at 9.62 years. This includes the existing permitted reserves remaining at Kirby Cane (approximately 200,000 tonnes as at September 2018). The application includes a proposed increase in the permitted depth of excavation at the site which is expected to yield some additional 100,000 tonnes of sand and gravel. If approved, the proposal would increase the landbank, as at the end of October 2018, from 9.53 years’ worth of supply to 9.61 years’ worth of supply.
- 6.20 Overall, given the above and the relatively small volume of additional mineral to be recovered, the proposal is not considered to be contrary to the requirements of the relevant development plan policy and NPPF.

Amenity (noise, dust, light pollution, air quality)

- 6.21 NMWLDF CS Policies DM12 and DM13, South Norfolk Local Plan DM

Policies Document Policies DM 3.13 and DM 3.14, and Section 15 of the NPPF apply.

- 6.22 The nearest sensitive receptors are a number of properties located at Leet Hill, at least 40m from the quarry boundary/between 90m and 114m west of the proposed western limit of extraction and a number of properties located opposite the south west boundary of the site beyond Yarmouth Road, at least some 96m from the quarry's southern boundary. The impact of the development on neighbouring occupiers was considered acceptable when permission was most recently granted in 2013. A number of changes to the existing working arrangements at the site are proposed comprising of a proposed increase in the permitted depth of excavation at the site, additional time for working and restoration of the site, and processing of mineral.
- 6.23 Kirby Cane Parish Council raises objection on the grounds that local amenity will be impacted by noise from proposed plant and, by noise and light pollution arising from increased vehicle movements. Concern has also been raised by local residents in relation to increased noise from the development. The supporting statement concludes that, the proposed development is all in the base of the quarry so has no additional impact on local amenity and there will be no material change to air quality in the locality.
- 6.24 Concern is expressed by local residents that, lorries have travelled past their house for several years between the hours of 06.30 and midnight and, they are constantly woken up by lorries. The current permitted hours of working are 0700 - 1800 hours Monday to Friday and 0700 - 1300 hours on Saturday. The movement of HGVs on the highway network to/from the site outside these hours is not subject to planning control. Whilst this issue is partly related to site management and is not considered to merit refusal of the application, this issue has been drawn to the attention of the applicant in the interest of encouraging good management of the site and of traffic visiting it.
- 6.25 South Norfolk EHO has been consulted on the application and raises no objection on amenity grounds. As regards noise, the EHO comments that existing noise limits imposed by permission C/7/13/7010, set at the boundary of Leet Hill Cottages, comply with current Government Guidance, and considers that there will not be a lowering of protection afforded to residents of these cottages. The EHO further comments that there are no noise limits imposed by permission C/7/13/7010 which directly relate to protecting Leet Hill Farm, (located opposite the south west boundary of the site). The EHO suggests conditions in relation to noise limits as measured on the boundary of Leet Hill Farm; it is considered reasonable to condition this matter as part of any consent granted in order to safeguard residential amenity.
- 6.26 As regards dust, the EHO suggests a condition in relation to review of the approved scheme for dust management; it is considered reasonable to condition this matter as part of any consent granted in order to safeguard local amenity.
- 6.27 Representation is made by a local resident such that, they would not object as much if opening hours were reduced. As detailed above, the current permitted hours of working are 0700 - 1800 hours Monday to Friday and 0700 - 1300 hours on Saturday; these fall within the parameters of 'normal working hours' for mineral workings as recognised by National Planning Practice Guidance and there are relatively few properties close to the site in this case. The proposal

does not provide for any amendment to current permitted hours of working. South Norfolk Council EHO has been consulted on the application and does not raise objection. Taking this into account, it is not considered that there will be undue disturbance from the proposed working hours.

- 6.28 Taking the above into account, it is not considered that the proposal would cause impacts significantly greater than those that already take place. There are a number of conditions on the existing permission which are aimed at protecting the amenity of neighbours and it is recommended that these are retained should permission be granted.
- 6.29 To conclude on the amenity issues, mineral extraction and associated development is likely to give rise to local impacts. However, given the advice of the EHO it would be difficult to sustain an objection to the proposal on amenity/air quality grounds. It is therefore not considered that the development will cause unacceptable impact to the amenities of neighbouring occupiers or the local area. On balance, subject to the aforementioned conditions, the development is considered to be acceptable in terms of the relevant planning policies and NPPF.

Landscape / Design

- 6.30 NMWLDF CS Policies CS14 and DM8, Joint Core Strategy Policy 2, South Norfolk Local Plan Development Management Policies Document policies DM 1.4, DM 3.8, DM 4.5 and DM 4.9 and, Sections 12 and 15 of the NPPF apply.
- 6.31 Whilst the site in itself has no landscape designation, the site lies some 0.9km north of the boundary of the Broads Authority Area, a nationally designated landscape. In the South Norfolk Landscape Assessment (2001), the site is identified as lying within the C2; Thurlton Tributary Farmland with Parkland landscape character area. This comprises land which rises gently from the low-lying Waveney valley with areas of flatter plateau cut by narrow tributaries which create local undulations in the landform.
- 6.32 A combination of topography, landscaping and surrounding soil bunds results in the existing site being largely concealed from wider public views. The application under consideration does not seek to make any alterations to existing screening arrangements at the site. The development proposals are within previously worked land and would not result in further encroachment into surrounding land: the processing and stockpiling of excavated and imported material, and lorry parking would take place on the floor of the application site. Prior to bringing this application before the committee negotiations have taken place and improvements made in relation to the proposed restoration profile. This resulted in submission of a revised restoration scheme which would introduce: an increase in exposed internal sand faces with slopes between 1:2 and 1:4; restoration of the quarry slopes and floor to acid grassland; replacement of agricultural land with a small waterbody and acid grassland; and, woodland planting.
- 6.33 It is not considered that the proposed extension of time for completion of extraction and restoration, increased depth of working and revisions to restoration would cause landscape impacts significantly greater than those that already take place.
- 6.34 The proposed processing plant and bagging hopper subject of the application under consideration are of a functional design and whilst they cannot be

considered 'good design', are reflective of this form of development and the development is only for a temporary period. It is therefore considered that the design of the plant is acceptable in the context of the site and there will be no material harm caused to the character and quality of the local area. Therefore, it is considered these are material considerations that outweigh the conflict with policy DM8 of the NMWLDF CS.

6.35 The Council's Green Infrastructure Officer has been consulted on the application and raises no objection on landscape grounds, subject to conditions in relation to restoration and aftercare.

6.36 Subject to the aforementioned conditions, it is considered that the proposal would result in no unacceptable adverse impacts on the landscape or visual amenity. The development is therefore considered to be acceptable and compliant with the landscape principles set out in the relevant planning policies, and objectives of the NPPF.

Biodiversity and geodiversity

6.37 NMWLDF CS Policies CS14 and DM14, South Norfolk Local Plan DM Policies Document policy DM 1.4, and Section 15 of the NPPF apply.

Biodiversity

6.38 As regards biodiversity, the application site carries no particular nature conservation designation: the site is located some 1.5km from Geldeston Meadows SSSI.

6.39 As detailed elsewhere in this report, prior to bringing this application before the committee negotiations have taken place and improvements made in relation to the proposed restoration profile and contours of the water body. This resulted in submission of a revised restoration scheme which would introduce: an increase in exposed internal sand faces with slopes between 1:2 and 1:4; restoration of the quarry slopes and floor to acid grassland; replacement of agricultural land with a small, reed-edged water body and acid grassland and, woodland planting.

6.40 The proposed restoration scheme has conservation potential. The Council's Ecologist has been consulted on the application and raises no objection on ecological grounds, subject to conditions in relation to restoration and aftercare; this would seem to be a reasonable request.

Geodiversity

6.41 The application site is within a geological Site of Special Scientific Interest (Leet Hill, Kirby Cane SSSI). Prior to bringing this application before the committee negotiations have taken place in relation to the proposed restoration and management of features of geological interest. This resulted in submission of a revised restoration scheme which would introduce internal sand faces with slopes between 1:2 and 1:4, seeded to acid grassland, and provision of an exposed geological face along the eastern / north eastern margins.

6.42 Natural England has been consulted on this application and raises no objection to the proposal in relation to the impact upon the geological SSSI, subject to conditions to secure a Comprehensive Restoration Management Plan and accompanying after-care scheme. These conditions are recommended to ensure that the development would not damage or destroy the interest features for which this SSSI is notified.

6.43 Given the above, it is considered that the proposal will not have any unacceptable adverse impacts on biodiversity and geodiversity. Subject to the aforementioned conditions, the development is considered to be acceptable and compliant with the relevant planning policies, and objectives

of the NPPF.

6.44 Habitats Regulations

The application site is located within 5km of the Broadland SPA, The Broads SAC and Broadland RAMSAR which are internationally protected habitats. The application has been assessed in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017. It is considered that the development does not have a significant impact on the integrity of any protected habitat, accordingly, there is no requirement for the CPA to undertake an Appropriate Assessment of the development.

Historic Environment

6.45 The Planning (Listed Buildings and Conservations Areas) Act 1990, NMWLDF CS policies CS14 and DM8, South Norfolk Local Plan Development Management Policies Document policy DM 4.10, and Section 16 of the NPPF apply.

6.46 Geldeston Conservation Area is located some 0.9km south east of the site, separated by agricultural land and residential development.

6.47 As detailed elsewhere in this report, a combination of topography, landscaping and surrounding soil bunds results in the existing site being largely concealed from wider public views. The application under consideration does not seek to make any alterations to existing screening arrangements at the site. The development proposals are within previously worked land and would not result in further encroachment into surrounding land: processing and stockpiling of excavated material would take place on the floor of the site. It is not considered that the proposed extension of time for completion of extraction and restoration, increased depth of working and revisions to restoration would cause impacts significantly greater than those that already take place. It is therefore considered that the proposal would not have a detrimental impact on the character, appearance, setting or views into or out of the conservation area.

6.48 Given the above, it is therefore concluded that the proposal will not have a detrimental impact upon or cause any harm to heritage assets and the application is not considered to be in conflict with the Planning (Listed Buildings and Conservation Areas) Act 1990, the relevant planning policies, or the NPPF.

Transport

6.49 NMWLDF CS policies CS15 and DM10, South Norfolk Local Plan DM Policies Document Policy DM 3.11, and Section 9 of the NPPF apply.

6.50 Based upon an assumed annual output of 50,000 tonnes and 'back load' delivery of 5,000 tonnes of imported aggregates, the existing permission (reference C/7/2013/7010) estimated that 10 x 20 tonnes loads would leave the site daily (20 movements). The application under consideration provides for an increase in annual volume of imported aggregates to 10,000 tonnes. With exception of delivery of bulk aggregates, which will be delivered by articulated vehicles, materials will be carried by rigid 4-axle 'tipper' wagons. Whilst the target for sales is 50,000 tonnes per annum (tpa), in order to provide a robust traffic calculation this has been increased to 70,000 tpa: based upon an estimated annual output of 70,000 tonnes (including imported aggregates), the application estimates 28 HGV movements daily, (14 in, 14 out). Spread over the permitted weekday working hours this equates to one vehicle movement approximately every 23 minutes. The existing access arrangements at the site would remain unchanged: HGVs would exit the site via the existing access onto Yarmouth Road/Church

Road, to the A143.

- 6.51 Kirby Cane Parish Council raises objection on the grounds that increased vehicle movements will adversely impact on local amenity, and is also concerned with resident's health and safety arising from passage of aggregate wagons on narrow local roads. Representation is made by a local resident that continuation of working has been to the detriment of people living on the route of traffic to and from the quarry, whilst representations from local residents also indicate that there is a perceived high level of danger and perceived impact on amenity arising from increased vehicle traffic and vehicle size.
- 6.52 The Highway Authority has been consulted on the application and raises no objection, subject to: (i) all highway related conditions on permission C/7/2013/7010 being re-imposed; (ii) condition restricting the importation of material to a temporary period lasting until the cessation date for the mineral operation; (iii) a condition in relation to lorry management plan. Given the rural nature of the area and rural road network, this would seem to be a reasonable request.
- 6.53 Whilst the parish council's and residents' concerns in relation to traffic movements are appreciated, in practice the traffic figures provided in the application are an estimate of the average daily flow. The activity of a site will depend on market forces and there is clearly scope for fluctuation in the amount of vehicle movements. The number of movements associated with the current permission is not subject to planning condition. Given that the surrounding highway network is considered adequate for the development, it would be difficult to justify a condition placing a specific limit on daily traffic flows.
- 6.54 Concern is expressed by a local resident in relation to lack of a wheel wash system at the site to prevent vehicles depositing material onto the highway. Permission reference C/7/2013/7010 provided for installation of a wheel cleaner / wash down area, subject to condition requiring details of any wheel cleaning / wash down facilities to be submitted for approval prior to installation of any such facility. To date, no such details have been submitted for approval and, from discussion with this authority's monitoring team it is understood that such a facility has not been installed. It is recommended that this condition is retained should permission be granted. Notwithstanding the current absence of such wheel cleaning facilities at the site, a further condition on the existing permission requires that vehicles shall not be in a condition whereby they would deposit mud or other loose material on the public highway and it is recommended that this is retained should permission be granted.
- 6.55 Concern is also expressed by local residents in relation to lack of a weighbridge at the site and break-up of the local road surface. Application reference C/7/2013/7010 also provided for installation of a weighbridge at the site. From discussion with this authority's monitoring team it is understood that a weighbridge has since been installed. In terms of planning considerations, damage to the road surface is not considered sufficient to merit refusal.
- 6.56 To conclude on the highway issues, mineral extraction and associated development is likely to give rise to local impacts. However, it is considered that the extension of timescales and increased vehicle movements will not cause any unacceptable impacts in highway terms. On balance, subject to the

aforementioned conditions, the development is considered to be acceptable and compliant with the relevant planning policies and NPPF.

Flood risk / surface water management

- 6.57 NMWLDF CS policies CS13 and DM4, JCS Policy 1, and Section 14 of the NPPF apply.
- 6.58 The site lies within Flood Zone 1, which is an area at low risk of flooding. The application provides for revised restoration contours and levels, and provision of a small water body, which would result in creation of additional flood storage volume. As regards the flood zone constraint, sand and gravel workings are identified as 'water-compatible development' in the table of Flood Risk Vulnerability Classification as set out in Planning Practice Guidance (PPG). PPG further advises that 'water-compatible development' is appropriate in Flood Zone 1. On this basis, the proposal is considered acceptable in terms of development within flood zone 1.
- 6.59 The development lies within the flow path of the Environment Agency Updated Flood Map for Surface Water (1 in 30yr and 1 in 100yr events). As regards surface water management, PPG (Flood Risk and Coastal Change – opportunities for reducing flood risk overall, paragraph 050), requires opportunities be sought to reduce the overall level of flood risk in the area and beyond, for instance, through layout and form of development, and the appropriate application of sustainable drainage systems. PPG, Paragraph 079 further states that consideration of devising a sustainable drainage system depends on the proposed development and its location. Specifically it states that sustainable drainage systems may not be practicable for mineral extraction.
- 6.60 As detailed above, the proposals are considered to be water compatible and the proposed development will result in creation of additional flood storage volume. Based on the information provided, the Lead Local Flood Authority has raised no objection on flood risk grounds.
- 6.61 It is therefore considered, taking into account the above, that the development would not materially increase the risk of flooding and the proposal would not be in conflict with the relevant planning policies and objectives of the NPPF.

Groundwater and surface water

- 6.62 NMWLDF CS policy DM3 and Section 15 of the NPPF apply.
- 6.63 The site is located within Groundwater Protection Zone 2 and in close proximity to a public water supply abstraction. The application provides for revised restoration levels and introduction of a small water body. Whilst the proposal includes excavation of mineral from below the groundwater, the supporting statement advises that no dewatering is proposed. The Environment Agency has been consulted and raises no objection in relation to groundwater protection. No response has been received from the consultation with Anglian Water. Given the above, it is therefore considered that the proposal would not be in conflict with the relevant planning policy or NPPF.

Protection of best and most versatile agricultural land

- 6.64 NMWLDF CS policy DM16 and Section 15 of the NPPF apply.
- 6.65 The whole of the quarry site, which covers an area of some 8.5 hectares, was formerly agricultural land grade 3. The current approved restoration scheme for the site includes low level agriculture, woodland and acid grassland. As at 2011, the southern central area of the quarry void had been restored to agriculture:

- soils have subsequently been stripped from this restored area to facilitate the proposed use for processing and stockpiling of mineral. The proposed restoration scheme provides for replacement of formerly proposed agricultural land with a small water body and acid grassland. Natural England has been consulted on the application and raises no objection on soil resource grounds.
- 6.66 Whilst the proposal would result in the loss of a relatively small area of grade 3 agricultural land beyond that currently approved (i.e. on those areas to be restored to open water and acid grassland), given that the loss of agricultural land is not so significant as to raise a soils objection and biodiversity enhancements are proposed, it is concluded that the proposal will cause no material harm to soil resources and is not in conflict with the relevant planning policy and NPPF.
- Progressive working, restoration and after-use**
- 6.67 NMWLDF CS policy DM14 and Section 17 of the NPPF apply.
- 6.68 The proposal involves an extension of the time period for working and restoration of the site, together with a revised restoration.
- 6.69 The Parish Council and local residents express concern that successive applications have been made to extend the use of the site, continuing the operation well beyond that which had originally been anticipated by local residents.
- 6.70 Planning Practice Guidance recognises that working of minerals is a temporary use of land, although it often takes place over a long period of time. Part I of Schedule 5 to the 1990 Act requires all planning permissions for mineral working to be subject to a time limit condition.
- 6.71 When permission for that part of the site under consideration was originally granted, the permitted timescale was based upon the previous owner's estimated timescale for completion of extraction, which would have been based upon historic and predicted sales from the site. Prior to purchase of Kirby Cane quarry in 2011 by the current owner, the quarry had been mothballed by the previous owner, in 2007. It is understood that this was due to the economic downturn and lack of demand for the remaining mineral. For the purposes of the permission that this application seeks to vary (ref: C/7/2013/7010), the current owner therefore had to revise the proposed timescales for completion of mineral extraction and restoration, accordingly.
- 6.72 As regards the proposed timescales, based upon forecast annual output and additional reserves yielded by the proposed increase in depth of excavation / revised restoration contours, the application as originally submitted provided for extension of timescale for working and completion of restoration for a further three years (until 30 September 2021). Whilst sand and gravel production for Norfolk as a whole has shown a recent upward trend during the period from 2014 to 31 December 2016, since applications C/7/2015/7018 and C/7/2015/7019 were submitted the output from the quarry has been limited. During the determination process the applicant took the decision to amend the proposed timescale so as to provide for a further six years for cessation of extraction together with an additional year for completion of restoration (i.e. until 31 December 2025). As regards justification for the amended timescale, the applicant states that the principal market is for processed sand and gravel and, in the event that the plant is approved, the target for sales will be some 50,000 tonnes per annum: current activity at the site has been heavily constrained due

- to the 'as dug' quality of the sand and gravel. The proposed amendments have been the subject of further consultation and notification.
- 6.73 Para 203 of the NPPF recognises that minerals can only be worked where they are found and best use needs to be made of them to secure their long-term conservation. The full recovery of the mineral would make the most efficient use of the mineral resource.
- 6.74 The proposed extension of time will allow working and restoration of the site to be completed. Although the extension of time would prolong any impacts on nearby residents, the impacts are limited and are considered to be outweighed by the benefits of restoration of the site.
- 6.75 During the determination process additional details relating to phased and progressive working and restoration were requested. This resulted in further detailed plans being provided by the applicant to indicate that the proposed extraction area of the site would be divided into four phases in total, which will be worked and restored consecutively. Working would commence in the north east corner and progress in an anti-clockwise direction (the direction of working is similar to that approved pursuant to original permission C/7/04/7018). The final phase involves shaping of the floor of the void and removal of plant and buildings.
- 6.76 The approved restoration scheme for the site is to low level agriculture, woodland and acid grassland with retention of benched geological faces. Kirby Cane Parish Council raises objection on the grounds that there appears to have been no ongoing restoration carried out at the site. Prior to purchase of Kirby Cane quarry in 2011 by the current owner, the quarry had been mothballed by the previous owner, in 2007. As at 2011, the eastern margins and the southern central area of the quarry void had been restored. Soils have subsequently been stripped from the restored southern central area to facilitate the proposed use for wet processing and stockpiling of mineral. As detailed elsewhere in this report, the application under consideration seeks to address the amendments needed to regularise the present position.
- 6.77 The application provides for changes to the approved restoration, including revised restoration contours, replacement of agricultural land with a small water body and acid grassland, reduced woodland planting and, retention of a horse exercise/schooling yard (menage).
- 6.78 The proposal includes provision of biodiversity and landscape enhancements and the restoration is considered acceptable by the Council's Ecologist and Landscape Officer, subject to conditions.
- 6.79 The application site is within a geological SSSI. The application proposes that the sand faces of the void will be graded to between 1:2 and 1:4, and seeded to acid grassland. As detailed elsewhere in this report, Natural England has considered the application and raises no objection, subject to conditions to secure a Comprehensive Restoration Management Plan and accompanying after-care scheme.
- 6.80 As regards retention of the menage, this comprises of a sand surfaced, all-weather yard, part enclosed with post and rail fencing and with gated access from Kirby Cane Bridleway 5, adjoining the south western margins of the existing void. It would appear from examination of our records that this yard is located within the area subject of planning permission reference C/7/2013/7008. Given that the current use of this area of land would appear to be for horse related purposes for non-agricultural purposes, it is considered that a material change of

use of the land has occurred for which planning permission is required. The applicant's agent advises that the menage was in place / use before the quarry was sold to the applicant (2011). Given that this form of development is not a County matter, this matter has been referred to South Norfolk Council Planning Enforcement team for consideration.

- 6.81 The proposal includes provision of biodiversity and landscape enhancements and the restoration is considered acceptable. Given the above, subject to conditions, it is concluded that the proposal accords with the relevant planning policies and the requirements of the NPPF in this respect.

Sustainability

- 6.82 NMWLDF CS policies CS13 and DM11, and Section 14 of the NPPF apply.
- 6.83 The application includes installation of an aggregates processing plant which, subject to maintenance, will not be in need of regular replacement. It is therefore considered that there would be no conflict with policy DM11 which requires applications to demonstrate consideration of sustainable construction.
- 6.84 The application advises that the proposed processing plant will run on electrical power supplied by a generator unit fuelled by biodiesel (a renewable energy source). Given the relatively short timescale of the proposed extension period, the proposed measure is considered sufficient to ensure compliance with the relevant planning policy and NPPF.

Intentional Unauthorised Development

- 6.85 Following the Chief Planner's letter of 31 August 2015 to planning authorities, intentional unauthorised development is now a material consideration in the determination of all planning applications received from 31 August 2015. In making unauthorised development a material consideration, the Government was particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt. In this case, the development has taken place on a site outside a defined Green Belt. Whilst regrettable, in this instance it is not felt that the part retrospective nature of the application would represent a ground for refusal of planning permission for this development and very little weight is given to this in the planning balance.

Responses to the representations received

- 6.86 The application was advertised by means of neighbour notification letters, site notice, and an advertisement in the Eastern Daily Press newspaper.
- 6.87 A number of concerns/objections were raised, which are summarised in the first section of this report. With exception of the issues detailed below, the response of this authority to those comments is discussed above in the 'Assessment' section of this report.
- 6.88 Representation is made that the proposal offers no benefit to the local community. Para 203 of the NPPF underlines that, it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.
- 6.89 Representation is made that this aggregate can be obtained elsewhere. Para. 203 of the NPPF recognises that minerals can only be worked where they are found, whilst para. 207 underlines that MPA's should plan for a steady and adequate supply of aggregates by: ensuring that large landbanks bound up in very few sites do not stifle competition.
- 6.90 Concern is raised by two local residents that a letter of notification in relation to the planning application was not received. In accordance with the requirements

- of The Town and Country Planning (Development Management Procedure)(England) Order 2015, notification of the application was undertaken using the methods detailed in the 'Representations' section of this report, including neighbour notification letters addressed to the property concerned.
- 6.91 Concern has been expressed by local residents in relation to depreciation of property value, however, devaluation of property is not a material planning consideration.
- The Community Infrastructure Levy (CIL)**
- 6.92 No additional floorspace would be created by the development hence the development is not CIL liable.
- Local Finance Considerations**
- 6.93 In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County Planning Authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 6.94 In this instance it is not considered that there are local finance considerations material to this decision.

7. Resource Implications

- 7.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.
- 7.2 **Staff:** The development has no staffing implications from the Planning Regulatory perspective.
- 7.3 **Property:** The development has no property implication from the Planning Regulatory perspective.
- 7.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

8. Other Implications

- 8.1 **Human rights**
- 8.2 The requirements of the Human Rights Act 1998 must be considered and the European Convention on Human Rights on which the Act is based. There is a human right provided by the First Article to the First Protocol which is the peaceful enjoyment of property. This right applies to companies as well as natural persons. Should the committee be minded to refuse planning permission it would be interfering with the human right relating to the peaceful enjoyment of property. However, if the committee refused planning permission it would do so based on sound planning reasons, based on the need to protect the environment and the amenities of nearby residents and these reasons would justify the interference and would therefore be regarded as a proportionate interference to the right, balancing the public good with the private right.
- 8.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the

right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.

- 8.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. A refusal or conditional approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

8.5 **Equality Impact Assessment (EqIA)**

- 8.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.

- 8.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.

- 8.8 **Communications:** There are no communication issues from a planning perspective.

- 8.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.

- 8.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

9. Section 17 – Crime and Disorder Act

- 9.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during the consideration of the application.

10. Risk Implications/Assessment

- 10.1 There are no risk issues from a planning perspective.

11. Conclusion and Reasons for Grant of Planning Permission

- 11.1 Planning permission is sought to vary five no. conditions of planning permission C/7/2013/7010 in order to extend the duration of extraction and restoration until 31/12/25, allow for revised plans and plant details (part retrospective) and increase the quantity of imported aggregates, together with an increased depth of working and revised restoration. No changes are proposed to the existing access arrangements.

- 11.2 Objection has been raised by Kirby Cane and Ellingham Parish Council as well as local residents. Their concerns relate primarily to the length of time that the quarry has been in operation, traffic and impacts on residential amenity.

- 11.3 The environmental impacts of the proposal under consideration have been carefully considered. The extension of time sought is considered acceptable in order to allow sufficient time for the completion of extraction and restoration of

- the site. No objections have been raised by statutory consultees subject to suitably worded conditions being imposed on any grant of planning permission.
- 11.4 For the reasons detailed in this report, subject to approval of application reference C/7/2015/7019, the proposal is considered to accord with all relevant development plan policies and national planning and minerals guidance and the development is considered acceptable.
- 11.5 The proposed development is therefore considered to be acceptable and there are no other material considerations which indicate that planning permission should be refused. Accordingly, full conditional planning permission is recommended subject to appropriate planning conditions.

12. Conditions

- 12.1 The development to which this permission relates shall cease and the site shall be restored in accordance with condition 21 of this permission by 31 December 2025.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.2 Except as modified by the contents of the application forms, plans, drawings and other documents, as detailed below:

- Application 2 - Site Plan showing Application Area; Plan No. 1125/A2 v2; dated 25-02-2013
- Site Plan; Plan No. 1125/S/1 v5; dated 05-02-2018; received 3 August 2018
- Illustrative Restoration Plan; Plan No. 1125/R/1 v4; dated 12-06-2017; received 21 June 2017

- Document entitled Kirby Cane Quarry – Section 73 Application; unreferenced; prepared by D.K. Symes Associates; dated October 2015, as modified by the provisions of:

- the contents of the e-mail from D.K. Symes Associates to Norfolk County Council dated 15 August 2016 17:05 hours;
- the contents of the letter, reference DKS/ab/1125, from D.K. Symes Associates to Norfolk County Council dated 19th June 2017;
- Document entitled Kirby Cane Quarry Leet Hill Norfolk – Further Information; unreferenced; prepared by D.K. Symes Associates; dated August 2018; received 3 August 2018;
- the contents of the e-mail from D.K. Symes Associates to Norfolk County Council dated 26 September 2018 15:39 hours;

as modified by the provisions of details to be approved pursuant to condition nos. 3, 4, 5, 6, 7, 8, 9, 10 and 11 below,

the development must be carried out in strict accordance with the application form, plans, drawings and other documents and details approved pursuant to planning application reference C/7/2013/7010.

Reason: For the avoidance of doubt and in the interests of proper planning

- 12.3 Within three months of the date of this permission, a Lorry Management Plan for the routing of HGVs to and from the site shall be submitted to the County Planning Authority for its approval in writing. The Plan shall make provision for:
- a) Monitoring of the approved arrangements during the life of the site;
 - b) Ensuring that all drivers of vehicles under the control of the applicant are made aware of the approved arrangements, and;
 - c) The disciplinary steps that will be exercised in the event of a default.

The approved scheme shall thereafter be implemented in full for the duration of the development hereby permitted.

Reason:

In the interests of highway safety, in accordance with Policies DM10 and CS15 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.4 Within three months of the date of this permission, details of a sign(s) advising drivers of vehicle routes to be taken to and from the site, shall be submitted to the County Planning Authority for its approval in writing, in consultation with the Highway Authority. The development shall thereafter only be carried out in accordance with the approved details with the sign(s) being erected and thereafter maintained at the site exit for the duration of the development hereby permitted.

Reason:

In the interests of highway safety and safeguarding local amenity, in accordance with Policies CS15, DM10 and DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.5 Notwithstanding the provisions of the scheme for the management of dust emanating from the site approved under discharge application reference C/7/2014/7029 and held on that file, within three months of the date of this permission, a revised scheme for the management of dust emanating from the site shall be submitted to the County Planning Authority for its approval in writing. The development shall thereafter only be carried out in accordance with the approved scheme.

Reason:

To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.6 Notwithstanding the approved documents and, provisions of the Scheme for Geological Monitoring and Study submitted under the cover of Cemex's letter dated 20 December 2005 pursuant to condition 13 of planning permission reference C/7/2004/7018 and held on that file, within three months of the date of this permission, a revised Scheme for Geological Monitoring and Study shall be submitted to the County Planning Authority for its approval in writing. The Scheme shall include details of:

- i) the maintenance of a watching brief to allow early identification of geological features exposed during excavation or other operations;

ii) arrangements to be made for consultation with the County Planning Authority should such features (including any significant finds or major changes to the distribution of the strata) be detected, and;

iii) access to the site to allow geological study and research.

The development shall thereafter only be carried out in accordance with the approved scheme.

Reason:

In the interests of protecting sites of geological interest in accordance with Policy CS14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026

- 12.7 Notwithstanding the provisions of the scheme for parking, turning, loading and unloading of vehicles submitted pursuant to condition no. 8 of planning permission C/7/2004/7018 and held on that file reference, within three months of the date of this permission, a revised scheme for parking, turning, loading and unloading of vehicles shall be submitted to the County Planning Authority for its approval in writing. The development shall thereafter only be carried out in accordance with the approved scheme.

Reason:

In the interests of highway safety, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.8 Notwithstanding the provisions of Illustrative Restoration Plan - Plan No. 1125/R/1 v4, and except as modified by details to be approved pursuant to condition no. 10 below, within three months of the date of this permission, a Restoration Management Plan shall to be submitted to the County Planning Authority for its approval in writing. The scheme shall include details of the following:

- the widths of the shallow ledges that will be created in the water body;
- sourcing of reeds and timing of reed planting;
- final soil preparation
- seeding, including rate and timing of seeding;
- grassland seed mixture/species;
- size and species of trees, planting and arrangements for their protection and maintenance;
- boundary treatments
- post-restoration management strategies, including those responsible for undertaking management and aftercare, frequency of management, and the funding of management provisions
- provision for restoration of those faces found to contain the special features of geological interest to 1:2 or 1:3 slopes
- post-restoration access to the site and quarry faces, including provision of space between the faces and the edge of the water body for access and operation of a mechanical excavator, including performing turning circles and movements, and for temporary storage of material cleared from the face to allow geological study and research.
- the seasonal variation in water levels of the water body and an assessment as

to whether it could restrict post-restoration access to the faces for geological researchers and machinery

- the maximum water level of the water in the water body and duration
- the appropriate process for researchers to gain access to the site for geological field work
- provision for vegetation management (scrub control) on the quarry faces and access route to the base of the faces
- provision for regular arboreal checks and suitable management of the woodland planting, in order to minimise windthrow and the potential for falling trees to disturb and destabilise the unconsolidated geology, avoid colonisation by species with wind-blown seed dispersal, and include seedling pulling to reduce scrub encroachment on any faces
- inclusion of the Geotechnical Assessment Kirby Cane Quarry prepared by Key GeoSolutions Ltd dated February 2016, as referenced in the letter from D.K. Symes Associates to Norfolk County Council, reference DKS/yw/1125, dated 15th August 2016.

The Restoration Management Plan as may be so approved, shall be implemented over a period of five years following the completion of restoration.

Reason:

- 12.9 To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026. An aftercare scheme specifying such steps as may be necessary to bring the land to the required standard for biodiversity shall be submitted for the written approval of the County Planning Authority not later than six months from the date of this permission. The scheme shall include:

- Details of the maintenance regime for the acid grassland;
- provision for the creation and management of suitable habitat for Sandy Stiltball fungi in accordance with the principles shown on Illustrative Restoration Plan – Plan No. 1125/R/1 v4 dated 12-06-2017.

The aftercare scheme as may be so approved, shall be implemented over a period of five years following the completion of restoration, or in the case of phased restoration, in stages of five years duration dating from each completed restoration phase.

Reason:

- 12.10 To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026. Notwithstanding the provisions of Illustrative Restoration Plan - Plan No. 1125/R/1 v4, in the event that prior to completion of winning and working of mineral geological features are found, which in the opinion of the County Planning Authority in consultation with Natural England constitute special features of geological interest which need to be retained intact and in-situ, post-working, a revised scheme of restoration shall be submitted to the County Planning Authority for its approval in writing, in consultation with Natural England. Such scheme shall include provision for restoration of those faces found to contain the special features of geological interest.

The scheme shall be implemented as approved.

Reason:

- 12.11 To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026. Notwithstanding the provisions of Plan No. 1125/O/1 and paragraph 4.4.2 of the document entitled Kirby Cane Quarry Bungay, Norfolk - Application for Retention of ancillary buildings (retrospective); Importation in bulk of aggregates, crushed rock, recycled aggregates and soils for re-sale (retrospective); Extraction and processing of sand and gravel on previously worked land with restoration to shallow slopes, wood and acidic grassland with an open geological face – Revised, submitted pursuant to application reference C/7/2013/7010 and held on that file, prior to installation of any wheel cleaning / wash down facilities, details of such facilities shall be submitted to the County Planning Authority for its approval in writing.

Reason:

- 12.12 In the interests of highway safety, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking, re-enacting or modifying this Order, no further buildings, plant or machinery, nor structures of the nature of plant or machinery, other than that permitted under this planning permission, shall be erected on the site, except with permission granted on an application under Part III of the Town and Country Planning Act 1990.

Reason: To control possible future development which would otherwise be permitted but which may have a detrimental effect on amenity or the landscape, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.13 The total amount of aggregates, crushed rock, recycled aggregates and soils brought onto the site shall not exceed 10,000 tonnes per annum. From the date of this permission the operator shall maintain records of the monthly input of material into the site and shall make the records available to the County Planning Authority at any time upon request. All records shall be kept for at least 12 months.

Reason:

- 12.14 In the interests of highway safety, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026. With the exception of noise emitted from the site during soil stripping operations, bund formation and the final restoration processes, noise emitted from the site shall not exceed 45dB expressed as LAeq, 1 hour (freefield), as measured on the boundaries of Leet Hill Cottages and Leet Hill Farm at the locations shown on the plans attached to this decision notice

Reason:

To protect the amenities of residential properties, in accordance with Policy

- DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.
- 12.15 Noise levels caused by soil stripping operations, bund formation and the final restoration processes shall not exceed 45dB expressed as LAeq, 1 hour (free field) as measured on the boundaries of Leet Hill Cottages and Leet Hill Farm at the locations shown on the plans attached to this decision notice, other than for a period of eight weeks in any 12 month period at which times the noise level at the locations shall not exceed 70 dB LAeq (1 hour) free field.

Reason:

To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.16 No reversing beepers or other means of audible warning of reversing vehicles shall be fixed to, or used on, any site vehicles or mobile plant, other than those which use white noise or equivalent.

Reason: To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.17 No plant or machinery shall be used on the site unless it is maintained in a condition whereby it is efficiently silenced in accordance with the manufacturer's specification.

Reason:

To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.18 No operation authorised or required under this permission or under Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, including the movement of vehicles and operation of any plant, shall take place on Sundays or public holidays, or other than during the following periods:
07.00 - 18.00 Mondays to Fridays
07.00 - 13.00 Saturdays.

Reason:

To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.19 No excavations shall be carried out at a depth greater than 0 metres above ordnance datum (A.O.D.)

Reason:

To safeguard hydrological interests, in accordance with Policy DM3 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.20 Vehicles leaving the site shall not be in a condition whereby they would deposit mud or other loose material on the public highway.

Reason:

In the interests of highway safety, in accordance with Policy DM10 of the Norfolk

- Minerals and Waste Core Strategy DPD 2010-2026.
- 12.21 The restoration of the site shall be carried out in accordance with the submitted scheme shown on Illustrative Restoration Plan - Plan No. 1125/R/1 v4 - dated 12-06-2017, as amended by the requirements of the schemes to be approved pursuant to conditions 8 and 10 of this permission.
- Reason:
To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.
- 12.22 No topsoil storage bunds shall exceed three metres in height and no subsoil or overburden storage bunds shall exceed five metres in height. Any heap which is to stay in position for more than six months shall be seeded with grass, weed-killed and adequately maintained.
- Reason:
To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.
- 12.23 Handling, movement and re-spreading of topsoil and subsoil shall not take place except when the soils are in a suitably dry and friable condition, and in such a way and with such equipment as to ensure minimum compaction. (No handling of topsoil and subsoil shall take place except between 1st April and 31st October unless otherwise agreed in writing beforehand by the County Planning Authority.)
- Reason:
To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

Background Papers

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (2011)

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

Joint Core Strategy for Broadland, Norwich and South Norfolk (2011/2014)

https://www.south-norfolk.gov.uk/sites/default/files/JCS_Adopted_Version_Jan_2014.pdf

South Norfolk Local Plan DM Policies Document (2015)

https://www.south-norfolk.gov.uk/sites/default/files/Development_Management_Policies_Document_0.pdf

The National Planning Policy Framework (NPPF) (2018)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Practice Guidance (2014)

<https://www.gov.uk/government/collections/planning-practice-guidance>

Officer Contact

If you have any questions about matters contained in this paper please get in touch with:

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If you need this report in large print, audio, Braille, alternative format or in a different language please contact 0344 800 8020 and ask for Andrew Harriss or textphone 0344 800 8011 and we will do our best to help.



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 Survey 1000193492

27 September 2018
 Geldeston FB The Locks Inn

C/7/2015/7018

Kirby Cane

0 250 500 1,000 Metres

46

Norfolk County Council

1:15,000



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 Survey 100019340

27 September 2018

C/7/2015/7018
 Kirby Cane

0 25 50 100 150 200
 Metres

47

Norfolk County Council
 1:3,000

Planning (Regulatory) Committee

Report title:	C/7/2015/7019: Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay, Norfolk NR35 2HJ
Date of meeting:	26 October 2018
Responsible Chief Officer:	Tom McCabe - Executive Director, Community and Environmental Services
Proposal and applicant: Variation of conditions 1, 4 & 18 of planning permission C/7/2013/7008 to extend duration of extraction and restoration until 31/12/2025, with increased depth of working and revised restoration: LP Pallett Quarry Ltd	

Executive summary

Planning permission is sought to vary three No. conditions of planning permission C/7/2013/7008 in order to extend the duration of extraction and restoration until 31/12/25, together with an increased depth of working and revised restoration. This application is to be considered concurrently with application reference C/7/2015/7018 as the two are inherently linked.

Objection is raised by the local member, Kirby Cane and Ellingham Parish Council as well as local residents. Their concerns relate primarily to the length of time that the quarry has been in operation, traffic and impacts on residential amenity. No objections have been raised by statutory consultees subject to suitably worded conditions being imposed on any grant of planning permission.

The key issues are the principle of development, impacts of the development on the highway network, residential amenity, visual amenity, geodiversity and, progressive working and restoration. The environmental impacts of the proposal have been carefully considered. It is considered that the proposal is in accordance with the policies contained within the development plan and national planning guidance, and therefore conditional planning permission is recommended.

Recommendation:

It is recommended that the Executive Director of Community and Environmental Services be authorised to:

- i. **Grant planning permission subject to the conditions outlined in section 12.**
- ii. **Discharge conditions where those detailed above require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.**
- iii. **Delegate powers to officers to deal with any non-material amendments to the application that may be submitted.**

1. The Proposal

1.1	Location	: Kirby Cane Quarry, Yarmouth Road, Kirby Cane, Bungay, Norfolk NR35 2HJ
1.2	Type of development	: Extended time period for extraction and restoration of site; Increased depth of working; Revised restoration;
1.3	Total tonnage	: Estimated 300,000 tonnes (site as a whole)
1.4	Annual tonnage	: Estimated 50,000 tonnes
1.5	Market served	: 40km (25 miles) radius of quarry
1.6	Duration	: Until 31 December 2025 (six years for extraction together with additional year for restoration).
1.7	Plant	: Mobile plant.
1.8	Hours of working	: 07:00-17:00 Monday-Friday 07:00-13:00 Saturday No working on Sundays or public holidays
1.9	Vehicle movements and numbers	: Estimated 28 HGV movements daily, (14 in, 14 out).
1.10	Access	: HGVs to exit site via existing access onto Yarmouth Road/Church Road which link the site to the A143.
1.11	Landscaping	: No additional landscaping proposed: existing landscaping and surrounding soil bunds largely conceal site from wider public views.
1.12	Restoration and after-use	: Restoration to acid grassland and small water body.

2. Constraints

2.1 The following constraints apply to the application site:

- Kirby Cane Bridleway 5 follows part of the southwest boundary of the working.
- The site is located some 0.88km from Geldeston Conservation Area
- The boundary of the Broads Authority area is some 0.9km to the south.
- The site is located within Groundwater Protection Zone 2.
- The site is located within a geological SSSI (Leet Hill, Kirby Cane), and some 1.5km from Geldeston Meadows SSSI.
- The site is located within 5km of the Broadland SPA, The Broads SAC and Broadland Ramsar.

3. Planning History

- 3.1 Kirby Cane Quarry has been an active site for production of sand and gravel since the first planning permission was issued in the early 1960's. Since then a number of further permissions, including physical extensions to the quarry, have been granted. As regards the site under consideration, the following applications are relevant:
- 3.2 **C/7/2013/7010** - Retention of ancillary buildings; Importation of aggregates, crushed rock, recycled aggregates and soils for re-sale; Extraction and processing of sand and gravel on previously worked land – Approved 2013.
- 3.3 **C/7/2013/7008** - Variation of conditions 1 and 2 of PP C/7/2009/7009 to extend the duration of extraction and restoration until 30/09/2018, and to revise phasing details - Approved 2013
- 3.4 **C/7/2009/7009** - Variation of condition 1 of PP C/7/2004/7018 to extend the duration of extraction and restoration until 30/3/2013 - Approved 2012
- 3.5 **C/7/2004/7018** - Extraction of sand and gravel to enable restoration to shallow slopes, wood and acidic grassland with an open geological face - Approved 2005
- 3.6 **C/7/2003/7020** - Variation of C1 of PP C/7/00/7024 to extend permission period until 24.10.04 - Approved 2003
- 3.7 **C/7/2000/7024** - Continuation of PP C/7/1993/7007 to extract remaining sand and gravel reserves - Approved 2000
- 3.8 **C/7/1993/7007** - Renewal for extraction of sand and gravel, together with limited northerly extension - Approved 1994

4. Planning Policy

- 4.1 Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (2011)
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| : | CS1 | Minerals Extraction |
| | CS2 | General locations for mineral extraction and associated facilities |
| | CS13 | Climate change and renewable energy generation |
| | CS14 | Environmental protection |
| | CS15 | Transport |
| | CS16 | Safeguarding mineral and waste sites and mineral resources |
| | CS17 | Use of secondary and recycled aggregates |
| | DM1 | Nature conservation |
| | DM3 | Groundwater and surface water |
| | DM4 | Flood risk |

			DM8	Design, local landscape character
			DM10	Transport
			DM12	Amenity
			DM13	Air quality
			DM14	Progressive working, restoration and after-use
			DM15	Cumulative impacts
			DM16	Soils
4.2	Norfolk Minerals and Waste Local Plan: Initial Consultation: Emerging Policies (2018)	:		Emerging policies currently being consulted under Local Plan Review – however, afforded little weight at this time.
4.3	Joint Core Strategy for Broadland, Norwich and South Norfolk (2011/2014)	:	Policy 1: Addressing climate change and protecting environmental assets Policy 2: Promoting good design Policy 18: The Broads	
4.4	South Norfolk Local Plan DM Policies Document (2015)	:	DM 1.1 Ensuring development management contributes to achieving sustainable development in South Norfolk DM 1.4 Environmental quality and local distinctiveness DM 3.8 Design principles applying to all development DM 3.11 Road safety and free flow of traffic DM 3.13 Amenity, noise and quality of life DM 3.14 Pollution, health and safety DM 4.5 Landscape Character and River Valleys DM 4.9 Incorporating landscape into design DM 4.10 Heritage Assets	
4.5	Neighbourhood Plan	:		The area in which the planning application is located does not have an adopted Neighbourhood Development Plan or Neighbourhood Plan in progress.
4.6	The National Planning Policy Framework (2018)	:	Ch 9 Ch 12 Ch 14 Ch 15 Ch 16 Ch 17	Promoting sustainable transport Achieving well-designed places Meeting the challenge of climate change, flooding and coastal change Conserving and enhancing the natural environment Conserving and enhancing the historic environment Facilitating the sustainable use of minerals
4.7	Planning Practice Guidance (2016)	:		Minerals

5. Consultations

- 5.1 South Norfolk Council : No response received
- 5.2 The Broads Authority : No objection
- 5.3 Suffolk County Council : No response received at time of writing this report
- 5.4 Kirby Cane and Ellingham Parish Council : Original submission:
Request that there should be no extra traffic and no extra noise as a result of the application
Additional Information:
Raise objection due to conflict with the following policies of the Norfolk Minerals and Waste LDF:-
Policy DM10 – Transport :
Concerned that the increased vehicle movements will adversely impact on local residents due to noise and light pollution, as well as their health and safety on narrow local roads which already struggle to accommodate large aggregate lorries and even smaller vehicles towing trailers;
Policy DM12 – Amenity :
Not convinced that local amenity will not be affected by noise made by the machinery;
Policy DM14 – Progressive working :
Concerned that there appears to have been no ongoing restoration carried out at the site.
Express concern that successive applications have been made to extend the use of the site, continuing the operation well beyond that which had originally been anticipated by local residents.
- 5.5 Stockton Parish Council : No response received at time of writing this report
- 5.6 Highway Authority (NCC) : No objection subject to:
- all highway related conditions on PP C/7/2013/7008 being included on any consent notice issued;
 - condition in relation to lorry management plan
- 5.7 EHO - South Norfolk DC : Does not consider there to be sustainable grounds to object to this application;

		<p>Considers that existing noise limits imposed by permission C/7/2013/7008, set at boundary of Leet Hill Cottages, comply with current Government Guidance, thus there will not be a lowering of protection afforded to residents of Leet Hill Cottages;</p> <p>Comments that there are no noise limits imposed by permission C/7/2013/7008 which directly relate to protecting Leet Hill Farm;</p> <p>Suggests conditions in relation to review of approved scheme for management of dust and imposition of noise limits as measured on boundary of Leet Hill Farm</p>
5.8	Environment Agency	: No objection. Provide advisory comments in relation to requirement for Environmental Permit.
5.9	Lead Local Flood Authority	<p>: <u>Original submission:</u></p> <p>No comments to make</p> <p><u>Revised Timescale:</u></p> <p>No comments to make</p>
5.10	Natural England	<p>: <u>Original submission:</u></p> <p>No objection, subject to conditions in relation to geological conservation, as follows:-</p> <ul style="list-style-type: none"> • Submission and approval of revised restoration plan; • Outline landscaping and aftercare scheme; • Review of approved scheme for geological monitoring and recording; <p><u>Additional information:</u></p> <p>Comment that information provided in relation to Restoration Plan and aftercare is insufficient to ensure sustainable geo-conservation of features for which SSSI is notified;</p> <p>Advises that a comprehensive Restoration Management Plan must be produced for approval;</p> <p>NE agrees that wherever possible a gentler gradient would be preferable for successful colonisation of vegetation;</p> <p>NE welcomes planting of native tree species on western side of quarry;</p> <p>Comment that tree planting shall be undertaken away from edges or tops of faces to minimise potential for windthrow and Restoration Management Plan should incorporate regular</p>

arboreal checks and management of woodland, in order to minimise windthrow etc.

Revised Restoration:

No objection, subject to conditions to secure a Comprehensive Restoration Management Plan and accompanying after-care scheme

5.11 County Ecologist

: Original submission:

Raises concern in relation to proposed restoration and aftercare of the site, including proposed restoration profile, vegetation management and tree mix.

Provides advisory comments in relation to nesting birds.

Additional information:

Holding objection;

Remains concerned with proposed restoration scheme, particularly with proposed steep slopes; Considers that proposed water body, will be too deep and steep sided to be of value to biodiversity;

Considers that proposal fails to meet requirements of relevant planning policies in relation to biodiversity.

Revised Restoration:

No objection, subject to conditions in relation to restoration and aftercare.

5.12 Senior Green
Infrastructure Officer
(NCC)

: Original submission:

Raises concern in relation to proposed restoration and aftercare of the site, including proposed restoration profile, vegetation establishment / management, depth of woodland planting and tree mix.

Additional information:

Holding objection;

Remains concerned in relation to proposed restoration and aftercare of site, including proposed restoration profile, vegetation management and depth of woodland planting; Considers that proposed restoration profile does not sufficiently reflect the surrounding landscape context;

Considers that proposal fails to meet requirements of relevant planning policies in relation to landscape.

Revised Restoration:

No objection subject to conditions in relation to restoration and aftercare

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| 5.13 | Norfolk Historic Environment Service | : | No need to apply any archaeological conditions; as far as we are concerned all the work is complete. |
| 5.14 | Anglian Water | : | No response received at time of writing this report |
| 5.15 | Public Rights of Way (NCC) | : | No objections |
| 5.16 | Ramblers Association | : | No response received at time of writing this report |
| 5.17 | Norfolk Geodiversity Partnership | : | <p>Provide the following observations:</p> <ul style="list-style-type: none">• Leet Hill Quarry SSSI is important as it provides evidence for understanding key phases in the development of landscape in East Anglia between about 650,000 and 450,000 years before present time (BP).• Welcome proposal to deepen excavation as it would allow fluvial sand and gravel deposits of the Ingham Formation, to be exposed for ongoing scientific study.• Unclear from submission how access to full range of geological strata will be conserved.• Recommend that, instead of a single graded slope, a series of inclined benches would be sufficient to expose and permit access to strata and meet safety considerations. |
| 5.18 | Local residents | : | <p>Representations have been received from five local residents (in the form of four written representations). Objections and concerns are raised on the following grounds:</p> <p><i>Traffic / highways</i></p> <ul style="list-style-type: none">• Concern over increased traffic, increased vehicle size, highway width and highway safety;• Concern with lack of footpath and passing |

places between Church Road and site entrance;

- Concern that proposed traffic movements equate to one 20 tonne vehicle travelling along Yarmouth Road every 15-20 minutes;
- Extra lorry movements along Yarmouth Road and Church Road are detrimental to the relative peace of the area;
- Would appreciate strict adherence to the times of lorry movements allowed, as at present;
- Concern with lack of wheel wash system to prevent vehicles depositing material onto the highway;
- Concern with lack of weighbridge and possible break-up of road surface
- The corner of Church Road and Yarmouth Road is constantly being repaired

Amenity

- Concern with increased noise;
- Comment that lorries have gone past our house for several years between the hours of 06.30 and midnight;
- Continuation of working has been to the detriment of people living on the route of traffic to and from the quarry;
- Noise from repair works to the corner of Church Road and Yarmouth Road;
- The noise and dirt have gone on long enough

Timescale

- The quarry was supposed to close many years ago and the site restored;
- What is the point of imposing restoration dates and conditions on permissions?
- At a parish council meeting last year the quarry owner stated that he would not be seeking further planning permission; he has reneged on that statement
- Look forward to the final closure of the quarry, having made full use of its mineral wealth;

Other concerns / comments

- Can see no benefit to the local community;
- Suggest that this aggregate can be obtained elsewhere;
- Comment that no notification of the application under consideration was received

Other (non-material) concerns:

- the value of our property will reduce

The response of this authority to these comments is discussed in the 'Issues' section of this report.

- 5.19 County Councillor (Mrs Margaret Stone) : Supports the application, subject to the Parish Council not raising objections.

6. Assessment

Proposal

- 6.1 The statement submitted in support of the application states that the applicant company are experiencing a strong increase in local demand for the products they can supply. Permission is sought for variation of conditions 1, 4 & 18 of planning permission C/7/2013/7008 to extend timescales for completion of extraction and restoration, with increased depth of working and revised restoration. The specific changes proposed are as follows:-
- 6.2 Condition 1 requires cessation of development and restoration of the site by 30 September 2018. Based upon current / forecast annual output and additional reserves yielded by the proposed increase in depth of excavation (condition 4 refers), permission is sought to extend the timescale for cessation of development and completion of restoration for a further seven years (until 31 December 2025).
- 6.3 Condition 4 restricts the depth of excavation to 5m A.O.D. The supporting statement advises that, trial pits have proved that some 100,000 tonnes of good quality sand and gravel (circa 50% gravel content) remain beneath the floor of the working and that the groundwater level is some 1-2 metres below floor level (i.e. around 3m AOD). Permission is sought to increase the depth of excavation to 0m A.O.D. and to work the mineral 'wet' without dewatering.
- 6.4 Condition 18 relates to the restoration details; the restoration scheme would be revised to include the following:-
- Revised final restoration levels – internal sand faces graded to slopes between 1:2 and 1:4
 - Replacement of agricultural land in base of quarry with small water body with underwater marginal ledge to allow establishment of reed and other emergent

plants

- Seeding of quarry slopes and floor to acid grassland
- Reduced woodland planting on western outer face of site/replacement of agricultural land on north west margins, and substitution with acid grassland
- Retention of currently regenerated benches / face and existing trees in south west corner
- Retention of horse exercise/schooling yard (menage) in south west corner

Site

- 6.5 The application site relates to Kirby Cane Quarry, which is being progressively worked for sand and gravel, and restored at lower level. The quarry occupies a position within undulating agricultural land at the northern fringe of the Waveney Valley, and is bounded to the southwest by Yarmouth Road, to the west by a woodland belt and by agricultural land on all other sides. The site lies some 0.7km north east of the village of Kirby Cane.
- 6.6 The application site comprises of the western and northern area of the quarry which includes the current extraction area and bulk of remaining permitted reserves. The closest residential properties are a number of properties located at Leet Hill, between 90m and 114m west of the proposed western limit of extraction and a number of properties located opposite the south west boundary of the quarry beyond Yarmouth Road, the closest of which is some 96m from the quarry's southern boundary. The site is accessed via Yarmouth Road which joins Church Road some 0.9km to the west which in turn links the site to the A143 some 150m to the north.

Environmental Impact Assessment (EIA)

- 6.7 The application under consideration was screened upon receipt in respect of any requirement for an EIA in accordance with the EIA Regulations, when it was concluded that the application is not EIA development.
- 6.8 Having assessed the application and taken into account the consultation responses received, the proposal has been re-screened for EIA and the CPA remain of the view that the development is not EIA development.

Principle of development

- 6.9 The underlying principle in respect of planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

- 6.10 In terms of the development plan, the County Planning Authority considers the relevant documents in relation to this application are the: policies in the adopted NMWLDF: Core Strategy (2011), the adopted Joint Core Strategy (2011/2014),

and the South Norfolk Local Plan DM Policies Document (2015). Given that the review of the Norfolk Minerals and Waste Local Plan is at an early stage, the emerging Plan is apportioned little weight. In addition, the guidance within the NPPF and Planning Practice Guidance is material to the consideration of the application.

- 6.11 The application relates to a previously permitted mineral working: the principle of development which this application seeks to vary was most recently considered acceptable in 2013, subject to conditions (ref. C/7/2013/7008). Access arrangements would remain unchanged.
- 6.12 Policy CS2 of the NMWLDF Core Strategy sets out the principles for the locations for mineral extraction, and places a preference for sites which are “close and/or well-related via appropriate transport infrastructure,” to the major urban areas. Whilst the site is some 20km (12.5 miles) from the Norwich Policy Area and Great Yarmouth urban area, the site is well connected to the strategic road network, with a site access onto Yarmouth Road, Kirby Cane some 0.9km from its junction with Church Road, a road classified by the NCC Route Hierarchy as a HGV Access Route, which in turn links with the A143, a principal Primary Route which has the highest category on the hierarchy. Therefore, it is considered that the location of the proposed site is broadly compliant with the requirements of policy CS2 of the NMWLDF.
- 6.13 Para. 205 of the NPPF requires LPAs to give great weight to the benefits of mineral extraction, including to the economy. The application includes a proposed increase in the depth of excavation at the site: the full recovery of the mineral would make the most efficient use of the mineral resource. It is therefore considered that the proposal would be in general accordance with the aims of the NPPF.
- 6.14 Notwithstanding all other material considerations it is considered that the principle of this development could be acceptable at this location and would not be out of character for the immediate area.

Mineral Supply / Need

- 6.15 NMWLDF CS policy CS1 and Section 17 of the NPPF apply.
- 6.16 As at the end of September 2018, the estimated sand and gravel landbank for Norfolk, calculated in accordance with the National Planning Practice Guidance (based on the past 10 years average sales), stood at 9.62 years. This includes the existing permitted reserves remaining at Kirby Cane (approximately 200,000 tonnes as at September 2018). The application includes a proposed increase in the permitted depth of excavation at the site which is expected to yield some additional 100,000 tonnes of sand and gravel. If approved, the proposal would increase the landbank, as at the end of October 2018, from 9.53 years’ worth of supply to 9.61 years’ worth of supply.
- 6.17 Overall, given the above and the relatively small volume of additional mineral to be recovered, the proposal is not considered to be contrary to the requirements of the relevant development plan policy and NPPF.

Amenity (noise, dust, light pollution, air quality)

- 6.18 NMWLDF CS Policies DM12 and DM13, South Norfolk Local Plan DM Policies Document Policies DM 3.13 and DM 3.14, and Section 15 of the NPPF apply.

- 6.19 The nearest sensitive receptors are a number of properties located at Leet Hill, at least 40m from the quarry boundary/between 90m and 114m west of the proposed western limit of extraction and a number of properties located opposite the south west boundary of the site beyond Yarmouth Road, at least some 96m from the quarry's southern boundary. The impact of the development on neighbouring occupiers was considered acceptable when permission was most recently granted in 2013. A number of changes to the existing working arrangements at the site are proposed comprising of a proposed increase in the permitted depth of excavation at the site, additional time for working and restoration of the site, and processing of mineral. The proposal does not provide for any amendment to current permitted hours of working.
- 6.20 Kirby Cane Parish Council raises objection on the grounds that local amenity will be affected by noise from the proposed plant and, by noise and light pollution arising from increased vehicle movements. Concern has also been raised by local residents in relation to increased noise from the development. The supporting statement concludes that, the proposed development is all in the base of the quarry so has no additional impact on local amenity and there will be no material change to air quality in the locality.
- 6.21 Representation has been made by a local resident such that, they would appreciate strict adherence to the times of lorry movements allowed, as at present. Concern is also expressed by local residents that, lorries have travelled past their house for several years between the hours of 06.30 and midnight and, they are constantly woken up by lorries. The current permitted hours of working are 0700 - 1800 hours Monday to Friday and 0700 - 1300 hours on Saturday. The movement of HGVs on the highway network to/from the site outside these hours is not subject to planning control. Whilst this issue is partly related to site management and is not considered to merit refusal of the application, this issue has been drawn to the attention of the applicant in the interest of encouraging good management of the site and of traffic visiting it.
- 6.22 South Norfolk EHO has been consulted on the application and does not raise objection on amenity grounds. As regards noise, the EHO comments that existing noise limits imposed by permission C/7/13/7008, set at the boundary of Leet Hill Cottages, comply with current Government Guidance, and considers that there will not be a lowering of protection afforded to residents of these cottages. The EHO further comments that there are no noise limits imposed by permission C/7/13/7008 which directly relate to protecting Leet Hill Farm, (located opposite the south west boundary of the site). The EHO suggests conditions in relation to noise limits as measured on the boundary of Leet Hill Farm; it is considered reasonable to condition this matter as part of any consent granted in order to safeguard residential amenity.
- 6.23 As regards dust, the EHO suggests a condition in relation to review of the approved scheme for dust management; it is considered reasonable to condition this matter as part of any consent granted in order to safeguard local amenity.
- 6.24 Taking the above into account, it is not considered that the proposal would cause impacts to amenity significantly greater than those that already take place. There are a number of conditions on the existing permission which are aimed at protecting the amenity of neighbours and it is recommended that these are retained should permission be granted.

- 6.25 To conclude on the amenity issues, mineral extraction and associated development is likely to give rise to local impacts. However, given the advice of the EHO it would be difficult to sustain an objection to the proposal on amenity/air quality grounds. It is therefore not considered that the development will cause unacceptable impact to the amenities of neighbouring occupiers or the local area. On balance, subject to the aforementioned conditions, the development is considered to be acceptable in terms of the relevant planning policies and NPPF.

Landscape / Design

- 6.26 NMWLDF CS Policies CS14 and DM8, Joint Core Strategy Policy 2, South Norfolk Local Plan Development Management Policies Document policies DM 1.4, DM 3.8, DM 4.5 and DM 4.9 and, Sections 12 and 15 of the NPPF apply.
- 6.27 Whilst the site in itself has no landscape designation, the site lies some 0.9km north of the boundary of the Broads Authority Area, a nationally designated landscape. In the South Norfolk Landscape Assessment (2001), the site is identified as lying within the C2; Thurlton Tributary Farmland with Parkland landscape character area. This comprises land which rises gently from the low lying Waveney valley with areas of flatter plateau cut by narrow tributaries which create local undulations in the landform.
- 6.28 A combination of topography, landscaping and surrounding soil bunds results in the existing site being largely concealed from wider public views. The application under consideration does not seek to make any alterations to existing screening arrangements at the site. The development proposals are within previously permitted land and would not result in further encroachment into surrounding land. Prior to bringing this application before the committee negotiations have taken place and improvements made in relation to the proposed restoration profile. This resulted in submission of a revised restoration scheme which would introduce: an increase in exposed internal sand faces with slopes between 1:2 and 1:4; restoration of the quarry slopes and floor to acid grassland; replacement of agricultural land with a small waterbody and acid grassland; and, woodland planting.
- 6.29 It is not considered that the proposed extension of time for completion of extraction and restoration, increased depth of working and revisions to restoration would cause landscape impacts significantly greater than those that already take place.
- 6.30 The Council's Green Infrastructure Officer has been consulted on the application and raises no objection on landscape grounds, subject to conditions in relation to restoration and aftercare; this would seem to be a reasonable request.
- 6.31 Subject to the aforementioned conditions, it is considered that the proposal would result in no unacceptable adverse impacts on the landscape or visual amenity. The development is therefore considered to be acceptable and compliant with the landscape principles set out in the relevant planning policies, and objectives of the NPPF.

Biodiversity and geodiversity

- 6.32 NMWLDF CS Policies CS14 and DM14, South Norfolk Local Plan DM Policies Document policy DM 1.4, and Section 15 of the NPPF apply.
- Biodiversity*
- 6.33 As regards biodiversity, the application site carries no particular nature conservation designation: the site is located some 1.5km from Geldeston

Meadows SSSI.

- 6.34 As detailed elsewhere in this report, prior to bringing this application before the committee negotiations have taken place and improvements made in relation to the proposed restoration profile and contours of the water body. This resulted in submission of a revised restoration scheme which would introduce: an increase in exposed internal sand faces with slopes between 1:2 and 1:4; restoration of the quarry slopes and floor to acid grassland; replacement of agricultural land with a small, reed-edged water body and acid grassland and, woodland planting.
- 6.35 The proposed restoration scheme has conservation potential. The Council's Ecologist has been consulted on the application and raises no objection on ecological grounds, subject to conditions in relation to restoration and aftercare.
- Geodiversity*
- 6.36 The application site is within a geological Site of Special Scientific Interest (Leet Hill, Kirby Cane SSSI). Prior to bringing this application before the committee negotiations have taken place in relation to the proposed restoration and management of features of geological interest. This resulted in submission of a revised restoration scheme which would introduce internal sand faces with slopes between 1:2 and 1:4, seeded to acid grassland, and provision of an exposed geological face along the eastern / north eastern margins.
- 6.37 Natural England has been consulted on this application and raises no objection to the proposal in relation to the impact upon the geological SSSI, subject to conditions to secure a Comprehensive Restoration Management Plan and accompanying after-care scheme. These conditions are recommended to ensure that the development would not damage or destroy the interest features for which this SSSI is notified. It is therefore proposed that they are added to the consent should permission be granted.
- 6.38 Given the above, it is considered that the proposal will not have any unacceptable adverse impacts on biodiversity and geodiversity. Subject to the aforementioned conditions, the development is considered to be acceptable and compliant with the relevant planning policies, and objectives of the NPPF.

6.39 Habitats Regulations

The application site is located within 5km of the Broadland SPA, The Broads SAC and Broadland RAMSAR which are internationally protected habitats. The application has been assessed in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017. It is considered that the development does not have a significant impact on the integrity of any protected habitat, accordingly, there is no requirement for the CPA to undertake an Appropriate Assessment of the development.

Historic Environment

- 6.40 The Planning (Listed Buildings and Conservations Areas) Act 1990, NMWLDF CS policies CS14 and DM8, South Norfolk Local Plan Development Management Policies Document policy DM 4.10, and Section 16 of the NPPF apply.
- 6.41 Geldeston Conservation Area is located some 0.9km south east of the site, separated by agricultural land and residential development.
- 6.42 As detailed elsewhere in this report, a combination of topography, landscaping and surrounding soil bunds results in the existing site being largely concealed

from wider public views. The application under consideration does not seek to make any alterations to existing screening arrangements at the site. The development proposals are within previously permitted land and would not result in further encroachment into surrounding land. It is not considered that the proposed extension of time for completion of extraction and restoration, increased depth of working and revisions to restoration would cause impacts significantly greater than those that already take place. It is therefore considered that the proposal would not have a detrimental impact on the character, appearance, setting or views into or out of the conservation area.

- 6.43 Given the above, it is therefore concluded that the proposal will not have a detrimental impact upon or cause any harm to heritage assets and the application is not considered to be in conflict with the Planning (Listed Buildings and Conservation Areas) Act 1990, the relevant planning policies, or the NPPF.

Transport

- 6.44 NMWLDF CS policies CS15 and DM10, South Norfolk Local Plan DM Policies Document Policy DM 3.11, and Section 9 of the NPPF apply.
- 6.45 Based upon an assumed annual output of 50,000 tonnes, the existing permission (reference C/7/2013/7008) estimated that 10 x 20 tonnes loads would leave the site daily (20 movements). With exception of delivery of bulk aggregates, which will be delivered by articulated vehicles, materials will be carried by rigid 4-axle 'tipper' wagons. Whilst the target for sales is 50,000 tonnes per annum (tpa), in order to provide a robust traffic calculation this has been increased to 70,000 tpa: based upon an estimated annual output of 70,000 tonnes (including imported aggregates), the application estimates 28 HGV movements daily, (14 in, 14 out). Spread over the permitted weekday working hours this equates to one vehicle movement approximately every 23 minutes. The existing access arrangements at the site would remain unchanged: HGVs would exit the site via the existing access onto Yarmouth Road/Church Road, to the A143.
- 6.46 Kirby Cane Parish Council raises objection on the grounds that increased vehicle movements will adversely impact on local amenity, and is also concerned with resident's health and safety arising from passage of aggregate wagons on narrow local roads. Representation is made by a local resident that continuation of working has been to the detriment of people living on the route of traffic to and from the quarry, whilst representations from local residents also indicate that there is a perceived high level of danger and perceived impact on amenity arising from increased vehicle traffic and vehicle size.
- 6.47 The Highway Authority has been consulted on the application and raises no objection, subject to: (i) all highway related conditions on PP C/7/2013/7008 being re-imposed; (ii) condition in relation to lorry management plan. Given the rural nature of the area and rural road network, this would seem to be a reasonable request.

- 6.48 Whilst the parish council's and residents' concerns in relation to traffic movements are appreciated, in practice the traffic figures provided in the application are an estimate of the average daily flow. The activity of a site will depend on market forces and there is clearly scope for fluctuation in the amount of vehicle movements. The number of movements associated with the current permission is not subject to planning condition. Given that the surrounding highway network is considered adequate for the development, it would be difficult to justify a condition placing a specific limit on daily traffic flows.
- 6.49 Concern is also expressed by local residents in relation to lack of a weighbridge at the site and break-up of the local road surface. Application reference C/7/2013/7010 also provided for installation of a weighbridge at the site. From discussion with this authority's monitoring team it is understood that a weighbridge has since been installed. In terms of planning considerations, damage to the road surface is not considered sufficient to merit refusal.
- 6.50 To conclude on the highway issues, mineral extraction and associated development is likely to give rise to local impacts. However, it is considered that the extension of timescales and increased vehicle movements will not cause any unacceptable impacts in highway terms. On balance, subject to the aforementioned conditions, the development is considered to be acceptable and compliant with the relevant planning policies and NPPF.

Flood risk / surface water management

- 6.51 NMWLDF CS policies CS13 and DM4, JCS Policy 1, and Section 14 of the NPPF apply.
- 6.52 The site lies within Flood Zone 1, which is an area at low risk of flooding. The application provides for revised restoration contours and levels, and provision of a small water body, which would result in creation of additional flood storage volume. As regards the flood zone constraint, sand and gravel workings are identified as 'water-compatible development' in the table of Flood Risk Vulnerability Classification as set out in Planning Practice Guidance (PPG). PPG further advises that 'water-compatible development' is appropriate in Flood Zone 1. On this basis, the proposal is considered acceptable in terms of development within flood zone 1.
- 6.53 The development lies within the flow path of the Environment Agency Updated Flood Map for Surface Water (1 in 30yr and 1 in 100yr events). As regards surface water management, PPG (Flood Risk and Coastal Change – opportunities for reducing flood risk overall, paragraph 050), requires opportunities be sought to reduce the overall level of flood risk in the area and beyond, for instance, through layout and form of development, and the appropriate application of sustainable drainage systems. PPG, Paragraph 079 further states that consideration of devising a sustainable drainage system depends on the proposed development and its location. Specifically it states that sustainable drainage systems may not be practicable for mineral extraction.
- 6.54 As detailed above, the proposals are considered to be water compatible and the proposed development will result in creation of additional flood storage volume. Based on the information provided, the Lead Local Flood Authority has raised no objection on flood risk grounds.

- 6.55 It is therefore considered, taking into account the above, that the development would not materially increase the risk of flooding and the proposal would not be in conflict with the relevant planning policies and objectives of the NPPF.

Groundwater and surface water

- 6.56 NMWLDF CS policy DM3 and Section 15 of the NPPF apply.
- 6.57 The site is located within Groundwater Protection Zone 2 and in close proximity to a public water supply abstraction. The application provides for revised restoration levels and introduction of a small water body. Whilst the proposal includes excavation of mineral from below the groundwater, the supporting statement advises that no dewatering is proposed. The Environment Agency has been consulted and raises no objection in relation to groundwater protection. No response has been received from the consultation with Anglian Water. Given the above, it is therefore considered that the proposal would not be in conflict with the relevant planning policy or NPPF.

Protection of best and most versatile agricultural land

- 6.58 NMWLDF CS policy DM16 and Section 15 of the NPPF apply.
- 6.59 The whole of the quarry site, which covers an area of some 8.5 hectares, was formerly agricultural land grade 3. The current approved restoration scheme for the site includes low level agriculture, woodland and acid grassland. As at 2011, the southern central area of the quarry void had been restored to agriculture: soils have subsequently been stripped from this restored area to facilitate the proposed use for processing and stockpiling of mineral. The proposed restoration scheme provides for replacement of formerly proposed agricultural land with a small water body and acid grassland. Natural England has been consulted on the application and raises no objection on soil resource grounds.
- 6.60 Whilst the proposal would result in the loss of a relatively small area of grade 3 agricultural land beyond that currently approved (i.e. on those areas to be restored to open water and acid grassland), given that the loss of agricultural land is not so significant as to raise a soils objection and biodiversity enhancements are proposed, it is concluded that the proposal will cause no material harm to soil resources and is not in conflict with the relevant planning policy and NPPF.

Progressive working, restoration and after-use

- 6.61 NMWLDF CS policy DM14 and Section 17 of the NPPF apply.
- 6.62 The site is being progressively worked in phases, anti-clockwise from east to west. The proposal involves an extension of the time period for working and restoration of the site, together with a revised restoration.
- 6.63 The Parish Council and local residents express concern that successive applications have been made to extend the use of the site, continuing the operation well beyond that which had originally been anticipated by local residents.
- 6.64 Planning Practice Guidance recognises that working of minerals is a temporary use of land, although it often takes place over a long period of time. Part I of Schedule 5 to the 1990 Act requires all planning permissions for mineral working to be subject to a time limit condition.
- 6.65 When permission for that part of the site under consideration was originally granted, the permitted timescale was based upon the previous owner's estimated timescale for completion of extraction, which would have been based upon historic and predicted sales from the site. Prior to purchase of Kirby Cane quarry in 2011 by the current owner, the quarry had been

- mothballed by the previous owner, in 2007. It is understood that this was due to the economic downturn and lack of demand for the remaining mineral. For the purposes of the permission that this application seeks to vary (ref: C/7/2013/7008), the current owner therefore had to revise the proposed timescales for completion of mineral extraction and restoration, accordingly.
- 6.66 As regards the proposed time scales, based upon forecast annual output and additional reserves yielded by the proposed increase in depth of excavation / revised restoration contours, the application as originally submitted provided for extension of timescale for working and completion of restoration for a further three years (until 30 September 2021). Whilst sand and gravel production for Norfolk as a whole has shown a recent upward trend during the period from 2014 to 31 December 2016, since applications C/7/2015/7018 and C/7/2015/7019 were submitted the output from the quarry has been limited. During the determination process the applicant took the decision to amend the proposed timescale so as to provide for a further six years for cessation of extraction together with an additional year for completion of restoration (i.e. until 31 December 2025). As regards justification for the amended timescale, the applicant states that the principal market is for processed sand and gravel and, in the event that the plant is approved, the target for sales will be some 50,000 tonnes per annum: current activity at the site has been heavily constrained due to the 'as dug' quality of the sand and gravel. The proposed amendments have been the subject of further consultation and notification.
- 6.67 Para 203 of the NPPF recognises that minerals can only be worked where they are found and best use needs to be made of them to secure their long-term conservation. The full recovery of the mineral would make the most efficient use of the mineral resource.
- 6.68 The proposed extension of time will allow working and restoration of the site to be completed. Although the extension of time would prolong any impacts on nearby residents, the impacts are limited and are considered to be outweighed by the benefits of restoration of the site.
- 6.69 During the determination process additional details relating to phased and progressive working and restoration were requested. This resulted in further detailed plans being provided by the applicant to indicate that the proposed extraction area of the site would be divided into four phases in total, which will be worked and restored consecutively. Working would commence in the north east corner and progress in an anti-clockwise direction (the direction of working is similar to that approved pursuant to original permission C/7/04/7018). The final phase involves shaping of the floor of the void and removal of plant and buildings.
- 6.70 The approved restoration scheme for the site is to low level agriculture, woodland and acid grassland with retention of benched geological faces. Kirby Cane Parish Council raises objection on the grounds that there appears to have been no ongoing restoration carried out at the site. Prior to purchase of Kirby Cane quarry in 2011 by the current owner, the quarry had been mothballed by the previous owner, in 2007. As at 2011, no part of the area subject of the application under consideration had been restored; only the eastern margins and the southern central area of the adjoining quarry void had been restored. The application site comprises of the western and northern area of the quarry which includes the current extraction area and bulk of remaining permitted reserves.

- 6.71 The application provides for changes to the approved restoration, including revised restoration contours, replacement of agricultural land with a small water body and acid grassland, reduced woodland planting and, retention of a horse exercise/schooling yard (menage).
- 6.72 The proposal includes provision of biodiversity and landscape enhancements and the restoration is considered acceptable by the Council's Ecologist and Landscape Officer, subject to conditions.
- 6.73 The application site is within a geological SSSI. The application proposes that the sand faces of the void will be graded to between 1:2 and 1:4, and seeded to acid grassland. As detailed elsewhere in this report, Natural England has considered the application and raises no objection, subject to conditions to secure a Comprehensive Restoration Management Plan and accompanying after-care scheme.
- 6.74 As regards retention of the menage, this comprises of a sand surfaced, all-weather yard, part enclosed with post and rail fencing and with gated access from Kirby Cane Bridleway 5, adjoining the south western margins of the existing void. It would appear from examination of our records that this yard is located within the area subject of planning permission reference C/7/2013/7008. Given that the current use of this area of land would appear to be for horse related purposes for non-agricultural purposes, it is considered that a material change of use of the land has occurred for which planning permission is required. The applicant's agent advises that the menage was in place / use before the quarry was sold to the applicant (2011). Given that this form of development is not a County matter, this matter has been referred to South Norfolk Council Planning Enforcement team for consideration.
- 6.75 The proposal includes provision of biodiversity and landscape enhancements and the restoration is considered acceptable. Given the above, subject to conditions, it is concluded that the proposal accords with the relevant planning policies and the requirements of the NPPF in this respect.
- Sustainability**
- 6.76 NMWLDF CS policies CS13 and DM11, and Section 14 of the NPPF apply.
- 6.77 Linked application reference C/7/2015/7018 includes installation of an aggregates processing plant which, subject to maintenance, will not be in need of regular replacement. It is therefore considered that there would be no conflict with policy DM11 which requires applications to demonstrate consideration of sustainable construction.
- 6.78 Application C/7/2015/7019 advises that the proposed processing plant will run on electrical power supplied by a generator unit fuelled by biodiesel (a renewable energy source). Given the relatively short timescale of the proposed extension period, the proposed measure is considered sufficient to ensure compliance with the relevant planning policy and NPPF.
- Responses to the representations received**
- 6.79 The application was advertised by means of neighbour notification letters, site notice, and an advertisement in the Eastern Daily Press newspaper.
- 6.80 A number of concerns/objections were raised, which are summarised in the first section of this report. With exception of the issues detailed below, the response of this authority to those comments is discussed above in the 'Assessment'

section of this report.

6.81 Representation has been received from a local resident such that they look forward to the final closure of the quarry, having made full use of its mineral wealth. The application includes a proposed increase in the depth of excavation at the site: the full recovery of the mineral would make the most efficient use of the mineral resource.

6.82 Representation is made that the proposal offers no benefit to the local community. Para 203 of the NPPF underlines that, it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.

6.83 Representation is made that this aggregate can be obtained elsewhere. Para. 203 of the NPPF recognises that minerals can only be worked where they are found, whilst para. 207 underlines that MPA's should plan for a steady and adequate supply of aggregates by: ensuring that large landbanks bound up in very few sites do not stifle competition.

6.84 Concern is raised by two local residents that a letter of notification in relation to the planning application was not received. In accordance with the requirements of The Town and Country Planning (Development Management Procedure)(England) Order 2015, notification of the application was undertaken using the methods detailed in the 'Representations' section of this report, including neighbour notification letters addressed to the property concerned.

6.85 Concern has been expressed by local residents in relation to depreciation of property value, however, devaluation of property is not a material planning consideration.

The Community Infrastructure Levy (CIL)

6.86 No additional floorspace would be created by the development hence the development is not CIL liable.

Local Finance Considerations

6.87 In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County Planning Authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

6.88 In this instance it is not considered that there are local finance considerations material to this decision.

7. Resource Implications

7.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.

7.2 **Staff:** The development has no staffing implications from the Planning Regulatory perspective.

7.3 **Property:** The development has no property implication from the Planning Regulatory perspective.

7.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

8. Other Implications

8.1 Human rights

8.2 The requirements of the Human Rights Act 1998 must be considered and the European Convention on Human Rights on which the Act is based. There is a human right provided by the First Article to the First Protocol which is the peaceful enjoyment of property. This right applies to companies as well as natural persons. Should the committee be minded to refuse planning permission it would be interfering with the human right relating to the peaceful enjoyment of property. However, if the committee refused planning permission it would do so based on sound planning reasons, based on the need to protect the environment and the amenities of nearby residents and these reasons would justify the interference and would therefore be regarded as a proportionate interference to the right, balancing the public good with the private right.

8.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights, that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.

8.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1, that is the right to make use of their land. A refusal or conditional approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.

8.5 Equality Impact Assessment (EqIA)

8.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.

8.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.

8.8 **Communications:** There are no communication issues from a planning perspective.

8.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.

8.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.

9. Section 17 – Crime and Disorder Act

9.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during the consideration of the application.

10. Risk Implications/Assessment

- 10.1 There are no risk issues from a planning perspective.

11. Conclusion and Reasons for Grant of Planning Permission

- 11.1 Planning permission is sought to vary three no. conditions of planning permission C/7/2013/7008 in order to extend the duration of extraction and restoration until 31/12/25, together with an increased depth of working and revised restoration. No changes are proposed to the existing access arrangements.
- 11.2 Objection has been raised by Kirby Cane and Ellingham Parish Council as well as local residents. Their concerns relate primarily to the length of time that the quarry has been in operation, traffic and impacts on residential amenity.
- 11.3 The environmental impacts of the proposal under consideration have been carefully considered. The extension of time sought is considered acceptable in order to allow sufficient time for the completion of extraction and restoration of the site. No objections have been raised by statutory consultees subject to suitably worded conditions being imposed on any grant of planning permission.
- 11.4 For the reasons detailed in this report, subject to approval of application reference C/7/2015/7018, the proposal is considered to accord with all relevant development plan policies and national planning and minerals guidance and the development is considered acceptable.
- 11.5 The proposed development is therefore considered to be acceptable and there are no other material considerations which indicate that planning permission should be refused. Accordingly, full conditional planning permission is recommended subject to appropriate planning conditions.

12. Conditions

- 12.1 The development to which this permission relates shall cease and the site shall be restored in accordance with condition 19 of this permission by 31 December 2025.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.2 Except as modified by the contents of the application forms, plans, drawings and other documents, as detailed below:

- Application 1 - Site Plan showing Application Area; Plan No. 1125/A1 v2; dated 25-02-2013

- Site Plan; Plan No. 1125/S/1 v5; dated 05-02-2018; received 3 August 2018

- Illustrative Restoration Plan; Plan No. 1125/R/1 v4; dated 12-06-2017; received 21 June 2017

- Document entitled Kirby Cane Quarry – Section 73 Application; unreferenced; prepared by D.K. Symes Associates; dated October 2015, as modified by the provisions of:

- the contents of the e-mail from D.K. Symes Associates to Norfolk County

Council dated 15 August 2016 17:05 hours;

- the contents of the letter, reference DKS/ab/1125, from D.K. Symes Associates to Norfolk County Council dated 19th June 2017;

- Document entitled Kirby Cane Quarry Leet Hill Norfolk – Further Information; unreferenced; prepared by D.K. Symes Associates; dated August 2018; received 3 August 2018;

- the contents of the e-mail from D.K. Symes Associates to Norfolk County Council dated 26 September 2018 15:39 hours;

as modified by the provisions of details to be approved pursuant to condition nos. 3, 4, 5, 6, 7, 8, 9 and 10 below,

the development must be carried out in strict accordance with the application form, plans, drawings and other documents and details approved pursuant to planning application reference C/7/2013/7008.

Reason: For the avoidance of doubt and in the interests of proper planning

- 12.3 Within three months of the date of this permission, a Lorry Management Plan for the routing of HGVs to and from the site shall be submitted to the County Planning Authority for its approval in writing. The Plan shall make provision for:

- a) Monitoring of the approved arrangements during the life of the site;
- b) Ensuring that all drivers of vehicles under the control of the applicant are made aware of the approved arrangements, and;
- c) The disciplinary steps that will be exercised in the event of a default.

The approved scheme shall thereafter be implemented in full for the duration of the development hereby permitted.

Reason:

In the interests of highway safety, in accordance with Policies DM10 and CS15 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.4 Within three months of the date of this permission, details of a sign(s) advising drivers of vehicle routes to be taken to and from the site, shall be submitted to the County Planning Authority for its approval in writing, in consultation with the Highway Authority. The development shall thereafter only be carried out in accordance with the approved details with the sign(s) being erected and thereafter maintained at the site exit for the duration of the development hereby permitted.

Reason:

In the interests of highway safety and safeguarding local amenity, in accordance with Policies CS15, DM10 and DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.5 Notwithstanding the provisions of the Scheme of Dust Control and Monitoring dated December 2005 submitted pursuant to condition no. 6 of Planning Permission C/7/2004/7018 and held on that file reference, within three months of the date of this permission, a revised scheme for the management of dust

emanating from the site shall be submitted to the County Planning Authority for its approval in writing. The development shall thereafter only be carried out in accordance with the approved scheme.

Reason:

To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.6 Notwithstanding the approved documents and, provisions of the Scheme for Geological Monitoring and Study submitted under the cover of Cemex's letter dated 20 December 2005 pursuant to condition 13 of planning permission reference C/7/2004/7018 and held on that file, within three months of the date of this permission, a revised Scheme for Geological Monitoring and Study shall be submitted to the County Planning Authority for its approval in writing. The Scheme shall include details of:

i) the maintenance of a watching brief to allow early identification of geological features exposed during excavation or other operations;

ii) arrangements to be made for consultation with the County Planning Authority should such features (including any significant finds or major changes to the distribution of the strata) be detected, and;

iii) access to the site to allow geological study and research.

The development shall thereafter only be carried out in accordance with the approved scheme.

Reason:

In the interests of protecting sites of geological interest in accordance with Policy CS14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.7 Notwithstanding the provisions of the scheme for parking, turning, loading and unloading of vehicles submitted pursuant to condition no. 8 of planning permission C/7/2004/7018 and held on that file reference, within three months of the date of this permission, a revised scheme for parking, turning, loading and unloading of vehicles shall be submitted to the County Planning Authority for its approval in writing. The development shall thereafter only be carried out in accordance with the approved scheme.

Reason:

In the interests of highway safety, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.8 Notwithstanding the provisions of Illustrative Restoration Plan - Plan No. 1125/R/1 v4, and except as modified by details to be approved pursuant to condition no. 10 below, within three months of the date of this permission, a Restoration Management Plan shall to be submitted to the County Planning Authority for its approval in writing. The scheme shall include details of the following:

- the widths of the shallow ledges that will be created in the water body;

- sourcing of reeds and timing of reed planting;
- final soil preparation
- seeding, including rate and timing of seeding;
- grassland seed mixture/species;
- size and species of trees, planting and arrangements for their protection and maintenance;
- boundary treatments
- post-restoration management strategies, including those responsible for undertaking management and aftercare, frequency of management, and the funding of management provisions
- provision for restoration of those faces found to contain the special features of geological interest to 1:2 or 1:3 slopes
- post-restoration access to the site and quarry faces, including provision of space between the faces and the edge of the water body for access and operation of a mechanical excavator, including performing turning circles and movements, and for temporary storage of material cleared from the face to allow geological study and research.
- the seasonal variation in water levels of the water body and an assessment as to whether it could restrict post-restoration access to the faces for geological researchers and machinery
- the maximum water level of the water in the water body and duration
- the appropriate process for researchers to gain access to the site for geological field work
- provision for vegetation management (scrub control) on the quarry faces and access route to the base of the faces
- provision for regular arboreal checks and suitable management of the woodland planting, in order to minimise windthrow and the potential for falling trees to disturb and destabilise the unconsolidated geology, avoid colonisation by species with wind blown seed dispersal, and include seedling pulling to reduce scrub encroachment on any faces
- inclusion of the Geotechnical Assessment Kirby Cane Quarry prepared by Key GeoSolutions Ltd dated February 2016, as referenced in the letter from D.K. Symes Associates to Norfolk County Council, reference DKS/yw/1125, dated 15th August 2016.

The Restoration Management Plan as may be so approved, shall be implemented over a period of five years following the completion of restoration.

Reason:

12.9 To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026. An aftercare scheme specifying such steps as may be necessary to bring the land to the required standard for biodiversity shall be submitted for the written approval of the County Planning Authority not later than six months from the date of this permission. The scheme shall include:

- Details of the maintenance regime for the acid grassland;
- provision for the creation and management of suitable habitat for Sandy Stiltball fungi in accordance with the principles shown on Illustrative Restoration Plan – Plan No. 1125/R/1 v4 dated 12-06-2017.

The aftercare scheme as may be so approved, shall be implemented over a period of five years following the completion of restoration, or in the case of phased restoration, in stages of five years duration dating from each completed restoration phase.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.10 Notwithstanding the provisions of Illustrative Restoration Plan - Plan No. 1125/R/1 v4, in the event that prior to completion of winning and working of mineral geological features are found, which in the opinion of the County Planning Authority in consultation with Natural England constitute special features of geological interest which need to be retained intact and in-situ, post-working, a revised scheme of restoration shall be submitted to the County Planning Authority for its approval in writing, in consultation with Natural England. Such scheme shall include provision for restoration of those faces found to contain the special features of geological interest.

The scheme shall be implemented as approved.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking, re-enacting or modifying this Order, no further buildings, plant or machinery, nor structures of the nature of plant or machinery, other than that permitted under this planning permission, shall be erected on the site, except with permission granted on an application under Part III of the Town and Country Planning Act 1990.

Reason:

To control possible future development which would otherwise be permitted but which may have a detrimental effect on amenity or the landscape, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.12 With the exception of noise emitted from the site during soil stripping operations, bund formation and the final restoration processes, noise emitted from the site shall not exceed 45dB expressed as LAeq, 1 hour (freefield), as measured on the boundaries of Leet Hill Cottages and Leet Hill Farm at the locations shown on the plans attached to this decision notice

Reason:

To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.13 Noise levels caused by soil stripping operations, bund formation and the final restoration processes shall not exceed 45dB expressed as LAeq, 1 hour (free field) as measured on the boundaries of Leet Hill Cottages and Leet Hill Farm at

the locations shown on the plans attached to this decision notice, other than for a period of eight weeks in any 12 month period at which times the noise level at the locations shall not exceed 70 dB LAeq (1 hour) free field.

Reason:

To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.14 No reversing beepers or other means of audible warning of reversing vehicles shall be fixed to, or used on, any site vehicles or mobile plant, other than those which use white noise or equivalent.

Reason: To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.15 No plant or machinery shall be used on the site unless it is maintained in a condition whereby it is efficiently silenced in accordance with the manufacturer's specification.

Reason:

To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.16 No operation authorised or required under this permission or under Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, including the movement of vehicles and operation of any plant, shall take place on Sundays or public holidays, or other than during the following periods:
07.00 - 18.00 Mondays to Fridays
07.00 - 13.00 Saturdays.

Reason:

To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.17 Vehicles leaving the site shall not be in a condition whereby they would deposit mud or other loose material on the public highway.

Reason:

In the interests of highway safety, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.18 No excavations shall be carried out at a depth greater than 0 metres above ordnance datum (A.O.D.)

Reason:

To safeguard hydrological interests in accordance with Policy DM3 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.19 The restoration of the site shall be carried out in accordance with the submitted scheme shown on Illustrative Restoration Plan - Plan No. 1125/R/1 v4 – dated 12-06-2017, as amended by the requirements of the schemes to be approved

pursuant to conditions 8 and 10 of this permission.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.20 Until the topsoil and subsoil have been stripped from the site, the land shall not be traversed by any plant or machinery, save that which is engaged in stripping operations, and all such machinery shall be used in such a way as to minimise soil compaction.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.21 Handling, movement and re-spreading of topsoil and subsoil shall not take place except when the soils are in a suitably dry and friable condition, and in such a way and with such equipment as to ensure minimum compaction. (No handling of topsoil and subsoil shall take place except between 1st April and 31st October unless otherwise agreed in writing beforehand by the County Planning Authority.)

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 12.22 No topsoil storage bunds shall exceed 3 metres in height and no subsoil or overburden storage bund shall exceed 5 metres in height. Any heap which is to stay in position for more than six months shall be seeded with grass, weed killed and adequately maintained.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

Background Papers

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026 (2011)

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

Joint Core Strategy for Broadland, Norwich and South Norfolk (2011/2014)

https://www.south-norfolk.gov.uk/sites/default/files/JCS_Adopted_Version_Jan_2014.pdf

South Norfolk Local Plan DM Policies Document (2015)

https://www.south-norfolk.gov.uk/sites/default/files/Development_Management_Policies_Document_0.pdf

The National Planning Policy Framework (NPPF) (2018)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Practice Guidance (2014)

<https://www.gov.uk/government/collections/planning-practice-guidance>

Officer Contact

If you have any questions about matters contained in this paper please get in touch with:

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If you need this report in large print, audio, Braille, alternative format or in a different language please contact 0344 800 8020 and ask for Andrew Harriss or textphone 0344 800 8011 and we will do our best to help.



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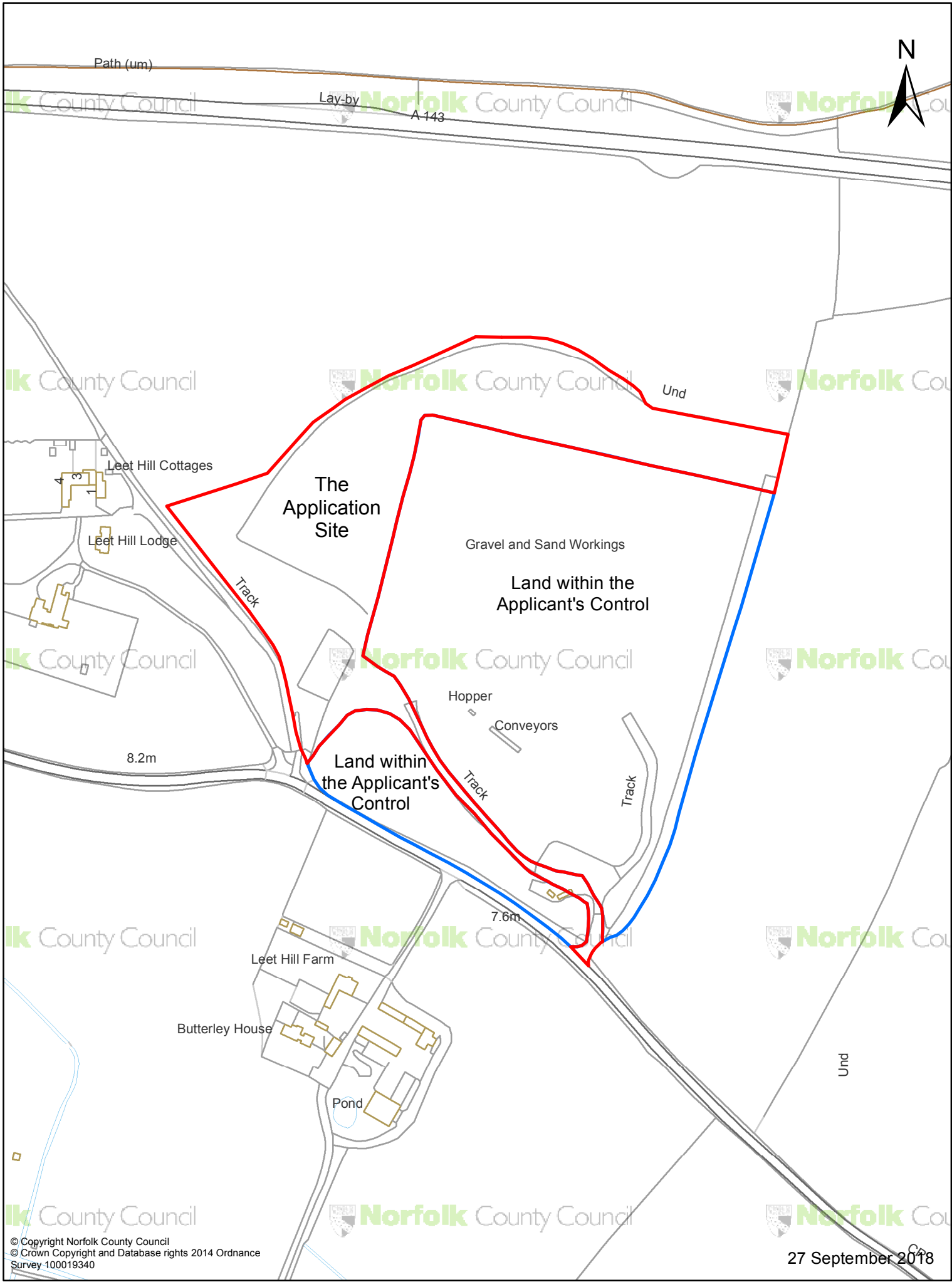
27 September 2018

C/7/2015/7019
 Kirby Cane

0 250 500 1,000 Metres

Norfolk County Council

1:15,000



C/7/2015/7019
Kirby Cane

0 25 50 100 150 200
Metres

79

Norfolk County Council

1:3,000

27 September 2018

Planning (Regulatory) Committee

Report title:	C/7/2018/7005: Quarry of Beacon Hill, Loddon Road, Norton Sub Course, Norfolk, NR14 6RY
Date of meeting:	26 October 2018
Responsible Chief Officer:	Tom McCabe, Executive Director of Community and Environmental Services
Proposal and applicant: Variation of Conditions 9 (dust scheme) and 11 (protection of existing trees) of planning permission C/7/2012/7017 (CEMEX UK)	

Executive summary

Planning permission is sought for the variation of Conditions 9 (dust scheme) and 11 (protection of existing trees) of planning permission C/7/2012/7017. The amendments proposed are minor in nature and refer to the removal of a dust netting scheme to be replaced by a dust action plan and the amendment of the proposed fencing for tree protection on the site from heras fencing to wooden posts with galvanised wire.

The principle of development on the site was considered acceptable under application reference C/7/2012/7017, this application seeks to determine whether the amendments to the dust management scheme and fencing is acceptable on the site and in accordance with the development plan policy. The application has received 7 objections from local residents which are addressed in the report.

The application is recommended for approval.

Recommendation:

It is recommended that the Executive Director of Community and Environmental Services be authorised to:

- I. **Grant planning permission subject to the conditions outlined in section 13.**
- II. **Discharge conditions where those detailed above require the submission and implementation of a scheme, or further details, either before development commences, or within a specified date of planning permission being granted.**
- III. **Delegate powers to officers to deal with any non-material amendments to the application that may be submitted.**

1. The Proposal

- 1.1 Type of development : Variation of Conditions 9 (dust scheme) and 11 (protection of existing trees) of planning permission C/7/2012/7017.
- 1.2 Site / extraction area : No changes proposed:

- 27 Hectares/ 39.1 hectares
- 1.3 Total tonnage : No changes proposed.
2.37 million
- 1.4 Annual tonnage : No changes proposed.
100-200,000 tonnes
- 1.5 Market served : No changes proposed.
South Norfolk / Norwich / Great Yarmouth / North Suffolk
- 1.6 Duration : No changes proposed.
11-21 years
- 1.7 Hours of working / operation : No changes proposed.
07.00 – 18.00 hours Monday to Friday;
07.00 – 13.00 hours Saturday
No operations on Sundays or Bank Holidays
(as currently permitted)
- 1.8 Vehicle movements and numbers : No changes proposed.
11 years duration : 200,000 tonnes per annum
35 x 20 tonne loads out per day = 70 movements
21 years duration : 100,000 tonnes per annum
18 x 20 tonne loads out per day = 36 movements
Average
23 loads out per day = 46 movements
- 1.9 Access : No changes proposed.
Existing purpose built haul road to Ferry Road
- 1.10 Landscaping : No changes proposed.
Screen bunding and existing planting belts
- 1.11 Restoration and after-use : No changes proposed.
To agriculture and heathland
- 1.12 Description of proposal
The application seeks to vary conditions 9 and 11 of existing planning permission C/7/2012/7017 at quarry of Beacon Hill Loddon. The relevant conditions of C/7/2012/7017 state.
- 1.13 Condition 9 required a scheme for the erection of dust netting to be implemented on the site in accordance with the details approved under discharge application reference C/7/2015/7010. The application seeks to vary this condition to adapt the proposed dust management scheme removing the requirement of dust netting. The applicant believes the amended scheme would be both more

effective at minimising dust and more in keeping with the rural nature of the site.

- 1.14 Condition 11 required that the scheme for the protection of existing trees be implemented in accordance with the details shown on submitted Dwg no. N10617_TS02 dated Nov 2011 which showed the use of metal heras fencing on the site. This application seeks to amend the proposed protection of the local arboriculture to wooden fencing. This is to improve the visual effect of the tree protection used on the site.
- 1.15 Therefore, the application is retrospective in that a different type of fencing has been erected on site to that approved. Whilst retrospective development has not actually been carried out in respect of the dust netting that has not been erected, this is contrary to condition 9 of the permission.

2. Site

- 2.1 The site, known as Norton Subcourse Quarry, occupies a position within an area of undulating countryside rising gently up from the low-lying land of the Broads to the north and west. The site is being progressively worked for sand and gravel, and progressively restored to low level heathland and agriculture.
- 2.2 The existing site is bounded to the west by Ferry Road with agricultural land on all other sides. The Broads Authority Area boundary runs directly to the west of the site along Ferry Road; to the north of the site it is formed by Low Road some 280m from the site. The site is accessed from the south via an existing purpose built haul road off Ferry Road, Raveningham, close to its junction with the B1136 (Yarmouth Road).
- 2.3 The site covers the same land as application reference C/7/2012/7017.

3. Constraints

- 3.1 The following constraints apply to the application site:
- The Broads Authority Area lies some 10m from the western boundary of the site and some 210m north of the site.
 - Hardley Flood SSSI is situated some 0.9km to the west of the site.
 - The site is located within 5km of the Broadland Special Protection Area (SPA) and Breydon Water SPA.
 - The site is located within 5km of The Broads Special Area of Conservation (SAC).
 - The site is located within 5km of Broadland RAMSAR, and Breydon Water RAMSAR.
 - The site is located some 3.6km from the Mid-Yare National Nature Reserve.
 - Wherryman's Way (Norfolk Trail) runs directly to the west of the site along Ferry Road.

4. Planning History

- 4.1 The following is the planning history of this site, as determined by Norfolk County Council:
- 4.2 **C/7/2012/7017:** Norton Subcourse Quarry, Loddon Road, Norton Subcourse Extension to existing quarry involving the extraction of sand and gravel from three parcels of land with restoration to agriculture and heathland integrating with existing restored areas, retention of existing aggregate processing plant, silt lagoons, stocking area and access / haul road:
Cemex UK Operations Ltd -Approved 2015
- 4.3 **C/7/2015/7010:** Discharge of conditions 5, 6, 7, 9 and 14 of PP C/7/2012/7017
- 4.4 **C/7/2016/7016:** Discharge of Condition no. 8 (reversing alarms) of PP C/7/2012/7017

5. Planning Policy

Development Plan Policy

- 5.1 **Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011) (NMWDF)**
CS1: Minerals Extraction
CS2: General locations for mineral extraction and associated facilities
CS13: Climate change
CS14: Environmental protection
CS15: Transport
CS16: Safeguarding mineral sites and mineral resources
CS17: Use of secondary and recycled aggregates
DM1: Nature conservation
DM3: Groundwater and surface water
DM4: Flood Risk
DM8: Design, local landscape character
DM9: Archaeological sites
DM10: Transport
DM11: Sustainable Construction and operations
DM12: Amenity
DM13: Air Quality
DM14: Progressive working, restoration and after-use
DM15: Cumulative impacts
DM16: Soils

- 5.2 **South Norfolk Local Plan Development Management Policies Document (2015)**
- Policy DM 1.1 Ensuring development management contributes to achieving sustainable development in South Norfolk
 - Policy DM 1.3 The sustainable location of new development
 - Policy DM 1.4 Environmental quality and local distinctiveness
 - Policy DM 2.8 Equestrian and other changes of use of agricultural land
 - Policy DM 3.8 Design Principles
 - Policy DM 3.11 Road safety and the free flow of traffic
 - Policy DM 3.12 Provision of vehicle parking
 - Policy DM 3.13 Amenity, noise and quality of life
 - Policy DM 3.14 Pollution, health and safety
 - Policy DM 4.2 Sustainable drainage and water management
 - Policy DM 4.5 Landscape Character
 - Policy DM 4.9 Incorporating landscape into design
 - Policy DM 4.10 Heritage Assets
- 5.3 **Joint Core Strategy for Broadland, Norwich and South Norfolk (2011/2014)**
- Policy 1 – Addressing climate change and protecting environmental assets
 - Policy 2 - Promoting good design
 - Policy 16 – Other Villages
- Other Material Considerations**
- 5.4 **The National Planning Policy Framework (2018)**
- 5.5 **National Planning Policy for Waste (2014)**
- 5.6 **Waste Management Plan for England (2013)**
- 6. Consultations**
- | | | |
|-----|---|---|
| 6.1 | Broads Authority | : No objection |
| 6.2 | South Norfolk District council | : No objection |
| 6.3 | Norton Subcourse Parish council | No objection |
| 6.4 | Hales & Heckingham Parish Council (Adjacent parish council) | : Objects to the application – Fencing proposed is not environmental friendly/ lack of confidence in dust control measures. |

- 6.5 Environmental Health Officer (South Norfolk) : No comments received.
- 6.6 Environment Agency : No objection.
- 6.7 Health and Safety Executive : No objection.
- 6.8 Ecologist (NCC) : No objection
- 6.9 Senior Arb and Woodland Officer (NCC) No objection.
- 6.10 County Councillor (Cllr Stone) : No comments received
- 6.11 Representations
- 6.12 The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper.
- 6.13 Seven letters from local residents were received for the application. The responses and concerns are on the grounds of:
- 6.14
- the removal of mature trees and woodland belts, due to the impact on amenity, loss of and degradation of local ecological habitats important for biodiversity the visual impact of the loss of these trees also the effect it will have on the dust and the noise from the site.
 - the use of barbed wire on the proposed mitigation fencing on the site. Concerns were raised that this would be wildlife endangering and would be utilitarian in appearance.
 - concerns that consultation with all consultees had not been met.
 - the removal of the dust netting to be replaced by the dust action plan. It was noted that “the quarry already has anecdotal history of not managing its dust production” that the proposed action plan was “flimsy” and would not “provide adequate protection for residents. Given the frequency of north easterly winds in this part of the world the residents of Hales village lying south west of the site are being put at risk from the resultant dust pollution. Closer neighbours on other boundaries are also at an increased risk”.
 - that any changes to the original application would lead to more dust reaching the local population and that current mitigation is ineffectual.

7. **Assessment**

- 7.1 The issues to be assessed for this application are:

Principle of development

A basic principle when assessing planning applications is outlined in Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004 which states:

“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

- 7.2 In terms of the development plan, the County Planning Authority considers the relevant documents in relation to this application are the Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (the “NMWDF Core Strategy”), the *South Norfolk* Council Core Strategy (2015), Joint Core Strategy for Broadland, Norwich and South Norfolk (2014), Whilst not part of the development plan, policies within the National Planning Policy Framework (2018) and National Planning Policy for Waste (2014) are also a further material consideration of significant weight.

- 7.3 The principle of mineral extraction on the site was considered acceptable under C/7/2012/7017, this application seeks to determine whether the amendments to the dust management scheme and proposed fencing is acceptable on the site.

Amenity (noise, dust, light pollution etc)

- 7.4 Policy DM12 of the NMWLDF states that, development would be permitted only where it can be demonstrated that unacceptable impact to local amenity will not arise, whilst Policy DM13 requires applicants to demonstrate that proposals effectively minimise harmful emissions to air.
- 7.5 The impact of the original development on amenity was assessed under C/7/2012/7017 as acceptable. This application seeks to amend the requirement for dust netting and to change the fencing style for arboricultural protection only.
- 7.6 Under application C/7/2012/7017 it was noted that dust may be generated by soil handling, mineral extraction, stockpiling, loading and transportation of material. However an Air Quality Assessment and Dust Management Scheme was submitted as part of the original application’s Environmental Statement. The Assessment noted that the proposed minerals is wet when extracted, thereby reducing dust nuisance. Proposed dust mitigation measures under C/7/2012/7017 included spraying of stockpiles and haul road with water, sheeting of vehicles and a 20mph speed limit along the internal haul road. Dust monitoring, in the form of sticky pads, will be undertaken at points on land within the applicant’s control to assess the effectiveness of the control measures. The assessment explains that the bulldozer and dump trucks operating at the site are fitted with exhaust equipment in accordance with EU legislation.
- 7.7 The assessment under the original application reference C/7/2012/7017 concluded that, the proposed dust mitigation measures together with dust monitoring and management procedure for dust control would ensure that the extraction operation could be established and operated in a manner which would

eliminate any impact from dust on the surrounding environment or adverse effect on local amenity. The Management Scheme details that in the event of any complaint being received by the operator regarding dust from the site, where necessary a scheme of mitigation measures or monitoring shall be submitted to the CPA for its approval and subsequent implementation.

- 7.8 Under the original application South Norfolk's EHO was consulted and raised no objection in principle subject to conditions of dust netting being implemented. It was noted that that several properties appear to be within 100m of the proposed workings and recommends a condition to require erection of dust netting between these properties and the workings when they are taking place. This should ensure that respirable (breathable) dust does not reach the properties, or the amenity area immediately around them that is commonly used as a garden. It is this request for dust netting that is the subject of this variation application.
- 7.9 It should be noted that all dust management plans and mitigation provided under C/7/2012/7017 must continue to be implemented on the site should this application be approved except for the implementation of the dust netting.
- 7.10 The applicant has stated that the mesh size of the dust netting would not be effective and would cause visual amenity impacts, in place the applicant has proposed to adopt and implement a dust action plan
- 7.11 The dust action plan states that a tractor and water bowser would be available on the site at all times. And that the dowsing would be deployed to damp down the dust source. In addition the access road would be subject to the water bowser. A maximum speed of 10mph would be on place on the site and that the exposure of free falling material would be minimised.
- 7.12 The wind direction in the region would predominantly carry dust north easterly. The village of Norton Subcourse is located to the south east and therefore would not be in the position of these winds. There are however nine properties to the north and one property located to the north east. These properties are located roughly 1km from the center of the site and 300m from the closest edge of the red line.
- 7.13 The approved landscaping plan for C/7/2012/7017 shows advance planting and existing vegetation between the proposed extraction area to the north and the 9 properties to the north and one to the north east. This would cause additional screening for dust to these properties.
- 7.14 The agent has in addition advised that should residents feel impacted by noise or dust they could contact the site in order for the applicant to alleviate / mitigate disturbance where possible. Since determination of the original application, one objection was received on the grounds of dust in February 2015. Officers investigated this complaint and visited the site however no evidence of dust was found at the complainant's property. No further complaints have been received.
- 7.15 It is regrettable that despite a number of attempts to obtain comments from the District Council's EHO, no comments have been forthcoming at the time of the finalisation of this report. However, it is considered that a mix of the dust management plan, dowsing of material, previously approved dust

management, wind direction and the landscaping approved under C/7/2012/7015 that dust would be suitably mitigated on the site, without the need for dust netting.

- 7.16 Subject to conditions ensuring the implementation of these features, it is therefore considered that no material harm would be caused to neighbouring occupiers and the proposal is therefore considered to be in accordance with NMWDF CS Policies DM12 and DM13, NMWDF Mineral Site Specific Allocations DPD Policies MIN 83, MIN 90 and MIN 91, and Government guidance in paragraph 144 of the NPPF.

Design / Landscape / Trees

- 7.17 Policy DM8 of the NMWDF expects applicants to show how proposals will address landscape impacts and states that, development will be permitted if it will not harm the conservation of, or prevent enhancement of, its surroundings with regard to landscape character, taking into account mitigation measures.
- 7.18 The impact of the original development on design and existing landscaping and trees was assessed under C/7/2012/7017 as acceptable. The application proposes to amend the previously approved "Heras" type panel's fence protection under C/7/2012/7017 for a treated timber straining post with galvanised wire. It is considered that the wooden fencing is more in keeping with the local area and would result in an improved design.
- 7.19 The application does not seek to amend the number of trees being removed from the site but only seeks to vary the style of fencing and removing of the need for dust netting on site. The arboricultural officer was consulted on the application and noted no objection to the scheme. Otherwise the application does not seek to amend any design / landscaping features of the application approved under application C/7/2012/7017.
- 7.20 Objections were raised to the removal of mature trees and woodland belts. This application does not include the removal of any further trees. The submitted AIA is a copy of that approved under application C/7/2012/7017, with an amendment to section 9.1 which notes that "All trees that are to be retained on or in close proximity to the site will be protected by approved drawing no. N10617_TS02." There are no other amendments to this document from that approved under C/7/2012/7017. Whilst it is regrettable that the original application did require the removal of trees this was considered acceptable at the time. In this instance the removal of trees does not form part of the variation and therefore is not a material consideration in this instance.
- 7.21 Objections were also raised to the barbed wire on the proposed mitigation fencing. The original fencing drawing shown on the site had incorrectly labelled the fencing as barbed. Most of the fencing is implemented on site and thus is retrospective in nature. Following the site visit it became clear that the fencing was galvanised not barbed. The drawings have subsequently been amended. Concerns regarding that the fencing would be utilitarian in appearance is noted however it is considered that this would be a visual improvement from the originally approved heras fencing.
- 7.22 Given the above the application is considered in accordance with the aforementioned policies.

Biodiversity and geodiversity

- 7.23 When the original application, reference C/7/2012/7015, was approved the impacts of the development on biodiversity and geodiversity were considered acceptable. The application does not propose any changes to the biodiversity or geodiversity features of the site as previously approved.

7.24 Appropriate Assessment

The application site is located within 5km of the Broadland Special Protection Area (SPA), Breydon Water SPA, The Broads Special Area of Conservation (SAC), Broadland RAMSAR and Breydon Water RAMSAR. The application has been assessed in accordance with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 and based on the information submitted to the County Planning Authority (CPA) it is considered that the development does not have a significant impact on the integrity of any protected habitat. Accordingly, there is no requirement for the CPA to undertake an Appropriate Assessment of the development.

Transport

- 7.25 The impact of the original development on transport was assessed under C/7/2012/7017 as acceptable. The application proposes no amendments to the access or vehicle movements to and from the site, and the application remains compliant with NMWDF policies CS15 & DM10.

Groundwater/surface water

- 7.26 The impact of the original development on ground water/surface was assessed under C/7/2012/7017 as acceptable. This application does not seek to amend the floor space of any factors material to groundwater or surface water and therefore is considered acceptable.

Flood risk

- 7.27 The impact of the original developments flood risk was assessed under C/7/2012/7017 as acceptable. This application does not seek to amend the floor space of any factors material to flood risk and therefore is considered acceptable.

Environmental Impact Assessment

- 7.28 In accordance with the Town and Country Planning Environmental (Impact Assessment) Regulations 2017 the application was screened on receipt and re-screened at the determination stage and it is not considered that the development would have significant impacts on the environment. No Environmental Impact Assessment is therefore required.

Responses to the representations received

- 7.29 The application was advertised by means of neighbour notification letters, site notices, and an advertisement in the Eastern Daily Press newspaper. A number of concerns/objections were raised which have been assessed within the main report.
- 7.30 With regards to concerns raised that the consultation process had not been followed, all statutory consultees were sent out correspondence when the

application was initially received and consulted on. In addition, 33 properties were also consulted, the application was advertised in the EDP, and a site notice erected. The County Planning Authority has performed its statutory consultation and publicity requirements as well as its own set out in its adopted Statement of Community Involvement.

7.31 Intentional Unauthorized Development

Following the Chief Planner's letter of 31 August 2015 to planning authorities, intentional unauthorised development is now a material consideration in the determination of all planning applications received after 31 August 2015. This is therefore capable of being a material consideration in the determination of this application.

7.32 In this instance following the site visit it has become apparent that the alternative fencing had been erected on the site.

7.33 Whilst regrettable, in this instance it is not felt that the retrospective nature of the application would represent a ground for refusing planning permission for this development and no weight is given to this in the planning balance.

The Community Infrastructure Levy

7.34 The development isn't CIL liable.

Local Finance Considerations

7.35 In accordance with Section 70(2) of the Town and Country Planning Act 1990 (as amended) the County planning authority must have regard to a local finance consideration as far as it is material. Section 74 of the 1990 Act defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.36 In this instance it is not considered that there are local finance considerations material to this decision.

8. Resource Implications

8.1 **Finance:** The development has no financial implications from the Planning Regulatory perspective.

8.2 **Staff:** The development has no staffing implications from the Planning Regulatory perspective.

8.3 **Property:** The development has no property implication from the Planning Regulatory perspective.

8.4 **IT:** The development has no IT implications from the Planning Regulatory perspective.

9. Other Implications

9.1 **Human rights**

- 9.2 The requirements of the Human Rights Act 1998 must be considered. Should permission not be granted Human Rights are not likely to apply on behalf of the applicant.
- 9.3 The human rights of the adjoining residents are engaged under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. A grant of planning permission may infringe those rights but they are qualified rights that is that they can be balanced against the economic interests of the community as a whole and the human rights of other individuals. In making that balance it may also be taken into account that the amenity of local residents could be adequately safeguarded by conditions albeit with the exception of visual amenity. However, in this instance it is not considered that the human rights of adjoining residents would be infringed.
- 9.4 The human rights of the owners of the application site may be engaged under the First Protocol Article 1 that is the right to make use of their land. An approval of planning permission may infringe that right but the right is a qualified right and may be balanced against the need to protect the environment and the amenity of adjoining residents.
- 9.5 **Equality Impact Assessment (EqIA)**
- 9.6 The Council's planning functions are subject to equality impact assessments, including the process for identifying issues such as building accessibility. None have been identified in this case.
- 9.7 **Legal Implications:** There are no legal implications from the Planning Regulatory perspective.
- 9.8 **Communications:** There are no communication issues from a planning perspective.
- 9.9 **Health and Safety Implications:** There are no health and safety implications from a planning perspective.
- 9.10 **Any other implications:** Officers have considered all the implications which members should be aware of. Apart from those listed in the report (above), there are no other implications to take into account.
- 10. Section 17 – Crime and Disorder Act**
- 10.1 It is not considered that the implementation of the proposal would generate any issues of crime and disorder, and there have been no such matters raised during the consideration of the application.
- 11. Risk Implications/Assessment**
- 11.1 There are no risk issues from a planning perspective.
- 12. Conclusion and Reasons for Granting/Refusing of Planning Permission**
- 12.1 This application seeks to amend the proposed arboricultural fencing and remove the requirement for dust netting only.
- 12.2 The wider use of the site for mineral extraction was considered acceptable under C/7/2012/7017. The proposed amendments are considered minor in nature and that there are suitable mitigation techniques to ensure no harm is caused by the

variation to the application

- 12.4 The proposed development is considered acceptable and there are no other material considerations why it should not be permitted. Accordingly, full conditional planning permission is recommended.

13. Conditions

- 13.1 The extraction of sand and gravel to which this permission relates shall not commence before extraction is completed on phase 9 and restoration completed on Phase 8 of the adjacent site (reference C/7/2014/7025) and shall cease and the site shall be restored in accordance with condition number 19 by 20th February 2036.

Reason:

To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.2 Except as modified by the provisions of the documents and plans as detailed below

a) Proposed Replacement Dust monitoring and Tree Protection Schemes. Norton Subcourse Quarry, Loddon Road, Nr Hales, Norfolk Planning permission No. C/7/2012/7017 CEMEX UK Materials Ltd. Town and County Planning Act 1990 (as amended); dated 17th April 2018;

b) Dust Action Plan – Norton Subcourse Quarry; undated;

c) Tree Survey, Arboricultural Implications Assessment and Method Statement; dated November 2011, Revised May 2018;

d) Timber Post and 3 Strand Wire Fencing; L/FE/04; undated; received 20/09/2018;

The development hereby permitted must be carried out in strict accordance with the plans and documents approved under C/7/2012/7017

Reason: For the avoidance of doubt and in the interests of proper planning:

- 13.3 Should for any reason, reprofiling and regrading in the area of phases 11, 12 and 13 underneath the electricity pylons not be undertaken as indicated on Drawing Nos. P2/982/10 Phases 11-15 inclusive; P2/982/10 Rest. Phase 14a and P2/982/10 Final Restoration, phases 11, 12 and 13 shall be worked and restored in a progressive manner as shown on Drawing Nos. P2/982/3B Rev C Phase 11, P2/982/3C Rev C Phase 12, P2/982/3D Rev C Phase 13, P2/982/3E Rev C Phase 14, P2/982/3D Rev C Phase 15, P2/982/3E Rev C Rest. Phase 14, P2/982/3F Final Restoration, all dated Aug 13, all received 29 Aug 2014 2014 (all as approved under C/7/2012/2017), in support of the application, and the restoration drawing (pylons retained) to be approved pursuant to condition number 12 of this permission.

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.4 The development shall take place in accordance with the Archaeological Written Scheme of Investigation as approved under C/7/2015/7010.

Reason: To ensure adequate time is available to investigate any features of archaeological interest, in accordance with Policy DM9 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.5 No operations shall take place until the Archaeological Site Investigation and Post Investigation Assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition number 4 of this permission and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure adequate time is available to investigate any features of archaeological interest, in accordance with Policy DM9 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.6 A copy of the watching brief report in relation to the palaeochannel deposit (as set out in the submitted Palaeolithic Mitigation Strategy dated 2014 (as approved under C/7/2012/2017)) shall be submitted to the County Planning Authority within three months of the field working being completed by the person or persons/organisation.

Reason: To safeguard any features of geodiversity, in accordance with Policy CS14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.7 The development shall only be carried out in accordance with the scheme for the attenuation of noise from reversing alarms at the site as approved under planning permission C/7/2016/7016.

Reason: To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.8 Removal of trees identified in the submitted Initial Ecological Assessment dated September 2013 (as approved under C/7/2012/2017) as having the potential to hold roosting bats shall not commence until a further bat survey of the trees so identified is carried out, to include appropriate activity surveys in accordance with Bat Conservation Trust Bat Surveys: Good Practice Guidelines, and, if necessary, a detailed mitigation plan including a schedule of works and timings has been submitted to and approved in writing by the County Planning Authority. Such approved mitigation plan shall thereafter be implemented in full.

Reason: To safeguard the presence and population of a protected species in accordance with UK and European Law, and Policy CS14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.9 Prior to commencement of operations in phase 10, the scheme for the protection of existing trees shall be implemented in accordance with the details shown on submitted Dwg No. N10617_TS02 dated Nov 2011 (as approved under C/7/2012/2017) and Timber Post and 3 Strand Wire Fencing; L/FE/04; undated; received 20/09/2018; and be maintained in full for the period whilst works are in progress. For the duration of the works to erect the tree protection barrier a suitably qualified Arboricultural Consultant must be present to examine the ongoing work

Reason: In the interests of protecting existing vegetation in accordance with policy CS14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.10 Prior to commencement of operations in phases 11 to 13 inclusive, the scheme for the protection of existing trees shall be implemented in accordance with the details shown on submitted Dwg No. N10617_TS02 dated Nov 2011, (as approved under C/7/2012/2017) and be maintained in full for the period whilst works are in progress. For the duration of the works to erect the tree protection barrier a suitably qualified Arboricultural Consultant must be present to examine the ongoing work
- Reason: In the interests of protecting existing vegetation in accordance with policy CS14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.
- 13.11 Prior to commencement of operations in phases 14 and 15, the scheme for the protection of existing trees shall be implemented in accordance with the details shown on submitted Dwg No. N10617_TS02 dated Nov 2011 (as approved under C/7/2012/2017), and be maintained in full for the period whilst works are in progress. For the duration of the works to erect the tree protection barrier a suitably qualified Arboricultural Consultant must be present to examine the ongoing work
- Reason: In the interests of protecting existing vegetation in accordance with policy CS14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.
- 13.12 The development must be completed in accordance with Drawing No. P2/982/9B Alternative restoration – Pylons Retained; dated 12 November 2015 submitted and approved under C/7/2015/7010.
- Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026
- 13.13 With the exception of temporary operations including soil stripping, construction and removal of screening bunds and the final restoration processes, noise levels caused by operations shall be attenuated and in any event shall not exceed the following levels at any of the noise sensitive properties identified within Appendix 5 of the Environmental Statement, Noise Assessment, dated 11 August 2010 (as approved under C/7/2012/2017) between the hours of operation specified in condition number 17 of this permission.
- | Location | Noise limit |
|--------------------|-------------|
| Beacon Farm | 45 db LAeqT |
| Hill House | 45 dB LAeqT |
| Leys Farm Bungalow | 41 dB LAeqT |
| Firs Farm | 41 dB LAeqT |
| Carr Farm Cottages | 41 dB LAeqT |
| Sunnyside | 45 dB LAeqT |
- Reason: To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.
- 13.14 Noise levels caused by temporary operations including soil stripping, construction and removal of screening bunds and the final restoration shall not exceed the

levels specified in Condition number 13 other than for a period of eight weeks in any 12 month period notifiable in writing in advance to the County Planning Authority. At such times the noise level at sensitive properties shall not exceed a maximum limit of 70 dBLAeq (1 hour).

Reason: To protect the amenities of residential properties, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.15 No plant or machinery shall be used on the site unless it is maintained in a condition whereby it is efficiently silenced in accordance with the manufacturer's specifications.

Reason: To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.16 Any dust nuisance and sand blow caused by the operations, shall be mitigated in accordance with the submitted details contained in Appendix 6 of the Environmental Statement, Norton Subcourse, Dust Management Scheme, dated February 2013 (as approved under C/7/2012/2017).

Reason: To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.17 No operation authorised or required under this permission including the movement of vehicles and operation of any plant, shall take place on Sundays or public holidays, or other than during the following periods:

07.00 - 18.00 Mondays to Fridays

07.00 - 13.00 Saturdays.

Reason: To protect the amenities of residential properties and the surrounding area, in accordance with Policy DM12 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.18 Vehicles leaving the site shall not be in a condition whereby they would deposit mud or other loose material on the public highway.

Reason: In the interests of highway safety, in accordance with Policy DM10 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.19 Unless modified by the provisions of condition number 3 of this permission, the restoration of the site shall be completed in accordance with the submitted scheme shown on Drawing No. P2/982/4C Rev C Restoration Plan, dated Sept 2013 as supplemented by the submitted details contained in the document entitled, Norton Subcourse, Norfolk Outline Five Year Aftercare Scheme, prepared by Cemex UK Operations Ltd, dated September 2013 (as approved under C/7/2012/2017).

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.20 Handling, movement and re-spreading of topsoil and subsoil shall not take place except when the soils are in a suitably dry and friable condition, and in such a way and with such equipment as to ensure minimum compaction. (No handling of

topsoil and subsoil shall take place except between 1st April and 31st October unless otherwise agreed in writing beforehand by the County Planning Authority.)

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.21 Until the topsoil and subsoil have been stripped from the site, the land shall not be traversed by any plant or machinery, save that which is engaged in stripping operations, and all such machinery shall be used in such a way as to minimise soil compaction.

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.22 All stones and deleterious materials in excess of 15cm in any dimension which arise from the ripping of the subsoil and topsoil shall be removed from the site.

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.23 The submitted Outline Five Year Aftercare Scheme, reference Norton Subcourse, Norfolk dated September 2013, (as approved under C/7/2012/2017) specifying such steps as may be necessary to bring the land to the required standard for use for agriculture and heathland, shall be implemented over a period of five years following the completion of restoration or in the case of phased restoration in stages each of five years duration dating from each completed restoration phase.

Reason: To ensure the proper and expeditious restoration of the site, in accordance with Policy DM14 of the Norfolk Minerals and Waste Core Strategy DPD 2010-2026.

- 13.24 Informatives:

The applicant needs to ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and European Protected Species legislation when carrying out tree felling

The applicant is reminded that under the Wildlife and Countryside Act 1981 it is illegal to set any trap or snare likely to cause injury to protected species such as badger, or hedgehog. Hedgehogs are a Biodiversity Action Plan Species, with populations in Eastern England having heavily declined.

Background Papers

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2016 (2011)

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/minerals-and-waste-planning-policies/adopted-policy-documents>

The National Planning Policy Framework (NPPF) (2018)

<http://planningguidance.planningportal.gov.uk/>

Planning Practice Guidance (2014)

<http://planningguidance.planningportal.gov.uk/>

National Planning Policy for Waste (2014):

<https://www.gov.uk/government/publications/national-planning-policy-for-waste>

Waste Management Plan for England (2013)

<https://www.gov.uk/government/publications/waste-management-plan-for-england>

Government's Ministerial Statement on Intentional Unauthorized Development

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457632/Final_Chief_Planning_Officer_letter_and_written_statement.pdf

Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

Officer name : Hannah Northrop

Tel No. : 01603 222757

Email address : Hannah.northrop@norfolk.gov.uk



If you need this report in large print, audio, braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.

WARNING NOTICE - FOOTPATH DIVERSIONS

Be aware that flood alleviation works are taking place along the Rivers Yare and Great Ouse. Some riverside paths will be subject to temporary diversions.



C/2018/7015

Norton Subcourse

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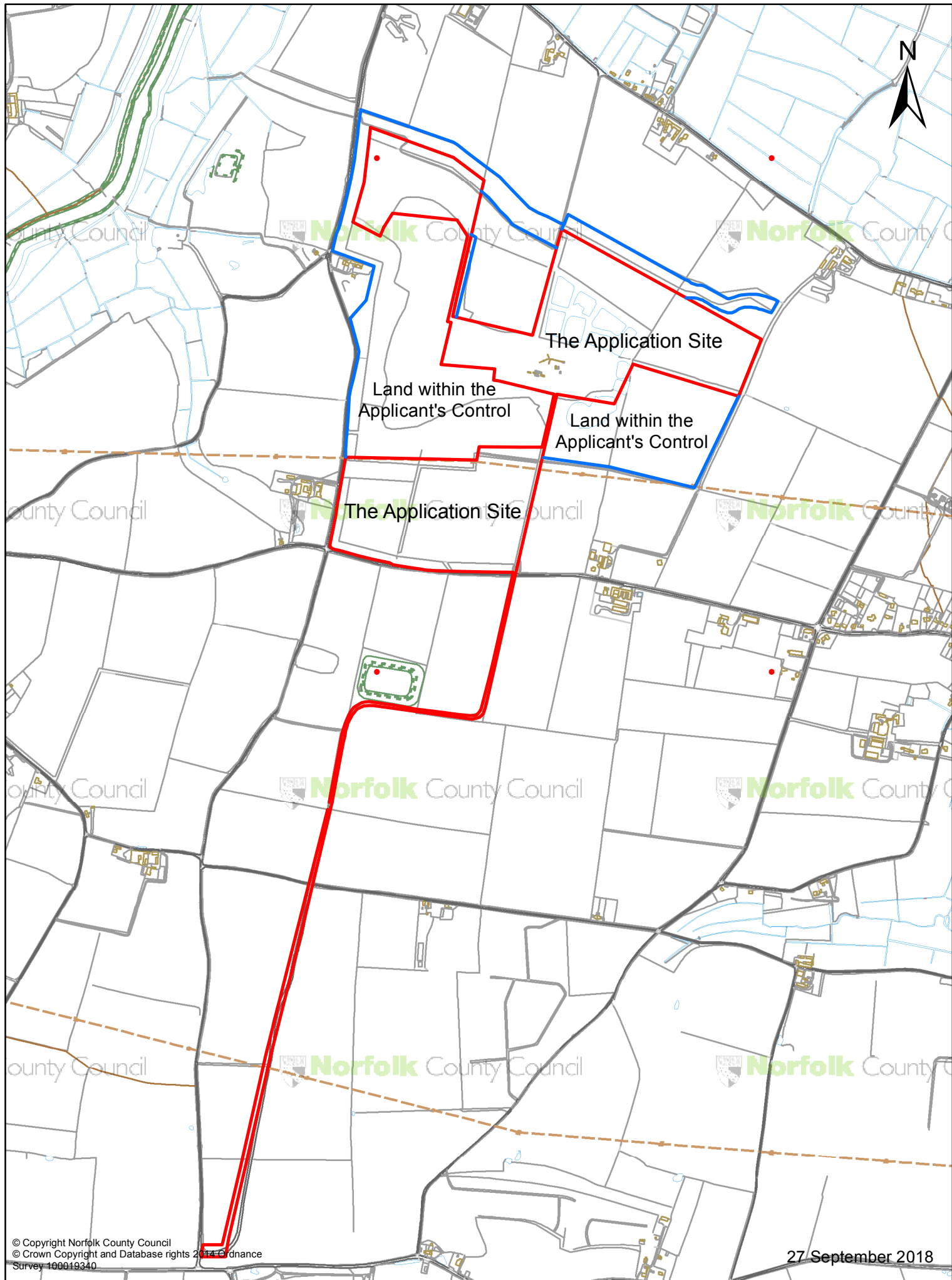
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Metres



Norfolk County Council

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27 September 2018

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 Norton Subcourse

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