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## Appeal Decisions

Site visit made on 17 January 2023

**by Dr Rachael A Bust BSc (Hons) MA MSc LLM PhD MInstLM MCMI MEnvSci MRTPI**  
an Inspector appointed by the Secretary of State

**Decision date: 7 June 2023**

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### **Appeal A Ref: APP/X2600/W/21/3289250** **Grandcourt Quarry (Extension), Leziate Works, Station Road, Leziate, King's Lynn, Norfolk PE32 1EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for full planning permission.
  - The appeal is made by Sibelco UK Limited against Norfolk County Council.
  - The application Ref C/2/2018/2016, is dated 12 July 2018.
  - The development is the proposed extension of Grandcourt Quarry for the extraction of industrial sand with progressive restoration to nature conservation (including herb rich grassland, woodland and lake margins).
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### **Appeal B Ref: APP/X2600/W/21/3289252** **Grandcourt Quarry, Leziate Works, Station Road, Leziate, King's Lynn, Norfolk PE32 1EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Sibelco UK Limited against Norfolk County Council.
- The application Ref C/2/2018/2017 is dated 12 July 2018.
- The application sought planning permission for the extension to silica sand extraction operations with progressive restoration without complying with conditions attached to planning permission Ref C/2/2004/2034, dated 7 September 2007.
- The conditions in dispute are Nos 2, 3, 8 and 9 which state that:  
*"(2) The extraction of sand to which this permission relates shall cease and the site is restored in accordance with the approved restoration scheme described in condition 8, within 15 years of the commencement of development.*  
*(3) The development must be carried out in strict accordance with the approved application forms, plans, drawings, Environmental and Planning statements and other details submitted to accompany the application, as amended and as referred to Conditions 8 and 9 below.*  
*(8) The restoration of the site shall be carried out in accordance with the details set out in the Environmental and Planning Statements submitted to accompany the application, as amended by the revised restoration concept scheme received by the County Council on the 26 April 2006, which specifically safeguards the four veteran oaks and other specific trees on site.*  
*(9) The scheme of working shall be as described in the Environmental and Planning Statements submitted to accompany the application, as amended by the revised scheme of working shown on drawings titled Figure 4a, 5a, 6a, 7a, 8a, received by the County Council on the 26 April 2006, which specifically safeguards the four veteran oaks and other specific trees on site."*
- The reasons given for the conditions are:

*"(2) To ensure the proper and expeditious restoration of the site, including the protection of specifically identified trees, to accord with Adopted Minerals Local Plan (2004) Policy MIN 36.*

*(3) To define the terms of the consent and to ensure it operates in a way which does not adversely affect the amenities of the locality, to accord with Adopted Minerals Local Plan (2004) Policy MIN 6.*

*(8) To ensure the proper and expeditious restoration of the site, including the protection of specifically identified trees, to accord with Adopted Minerals Local Plan (2004) Policy MIN 36.*

*(9) To safeguard features of acknowledged landscape and ecological value to accord with Adopted Minerals Local Plan 2004 Policy MIN35."*

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## **Decisions**

1. Appeal A is allowed and planning permission is granted for the extension of Grandcourt Quarry for the extraction of industrial sand with progressive restoration to nature conservation (including herb rich grassland, woodland and lake margins) at Grandcourt Quarry, Leziate Works, Station Road, Leziate, King's Lynn, Norfolk PE32 1EH in accordance with the terms of the application, Ref C/2/2018/2016, dated 12 July 2018, subject to the conditions in the attached Schedule.
2. Appeal B is allowed and planning permission is granted for extension to silica sand extraction operations with progressive restoration at Grandcourt Quarry, Leziate Works, Station Road, Leziate, King's Lynn, Norfolk PE32 1EH in accordance with the application Ref C/2/2018/2017 dated 12 July 2018, without compliance with condition number(s) 2, 3, 8 and 9 previously imposed on planning permission Ref C/2/2004/2034 dated 7 September 2007 and subject to the conditions in the attached Schedule.

## **Preliminary Matters**

3. Grandcourt Quarry (the existing quarry) is a 158-hectare established industrial silica sand quarry and processing site. A proportion of the quarry has already been worked and restored or partly restored. Other worked out areas have been re-developed for leisure uses or nature conservation.
4. The first proposal (Appeal A) seeks permission for an extension to the existing quarry to release a further 3 million tonnes of specialist industrial sand to be extracted and processed for use in the UK glass industry. The second proposal (Appeal B) is as a direct consequence of the first proposal and seeks to vary the conditions of the original consent for the quarry in relation to timing of the working and restoration proposals to incorporate the extension.
5. Both appeals have been submitted as a consequence of the Council failing to make a decision within the statutory period as amended through the agreed extensions of time. The Council has confirmed that had it retained jurisdiction to determine the two applications it would have refused planning permission for both.
6. Whilst it is noted that there are emerging replacement parts of the development plan in progress, I have limited information regarding the number and nature of objections they have received to date and therefore the extent to which emerging plans may change prior to adoption. In any event, this appeal has been

determined in accordance with the adopted development plan at the time of the decision.

7. The Council's committee report of 4 February 2022 set out the overall adopted development plan context derived from the policies of the Norfolk Minerals and Waste Development Framework (DF)<sup>1</sup> adopted 2011 and the Mineral Site Specific Allocations Development Plan Document (DPD), adopted 2013 with amendments adopted 2017; King's Lynn and West Norfolk Local Development Framework Core Strategy (CS), adopted 2011 and Site Allocations and Development Management Policies Plan (DMP), adopted 2016. The Council's statement of case and committee report identified that they considered both applications would accord with the provisions of the adopted development plan, except in relation to Policy DM14 of the DF regarding after-use and restoration proposals.
8. An application for full costs has been made by the appellant which covers both appeals, this is the subject of a separate decision.

### **Main Issues**

9. For Appeal A the main issues are:
  - (a) whether the proposals for working and restoration are acceptable having regard to the effect on the public rights of way network, with particular reference to the East Winch Footpath No 2; and
  - (b) the mechanism to secure groundwater monitoring.
10. For Appeal B, the main issue is whether the revised proposal and timescales for working and restoration are necessary and acceptable.

### **Reasons**

#### **Appeal A**

11. The proposed extension to Grandcourt Quarry in Appeal A would involve the phased extraction of sand following removal of soils and overburden. The raw material would be transported via an existing internal haul route to the processing plant at Leziate.
12. The extension site as part of the original site would be progressively restored in phases following the sand extraction. The restoration scheme would incorporate wetlands including lake, species rich grassland, hedgerows and trees and agricultural land.

#### *Public Rights of Way*

13. The proposed extension would affect the current routes of the East Winch Bridleway No 1 (EWBr1) and the East Winch Footpath No 2 (EWFp2). During my site visit I walked along both public rights of way. I note that during the quarrying operations there would be temporary diversions for both public rights of way. As the connectivity of the network would be retained, I find no harm with this temporary aspect of the proposal during the works.
14. I am mindful that there is a separate process to divert a footpath/bridleway either temporarily or permanently. However, Policy DM14 of the DF requires that due

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<sup>1</sup> Norfolk Minerals and Waste Development Framework Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026.

consideration is given to opportunities to improve public access as part of the design of after-use and restoration proposals. As such this planning consideration is the focus for my assessment.

15. The proposed restoration plan<sup>2</sup> indicates that the bridleway EWBr1 would retain its north-south orientation. However, as a consequence of the creation of lakes and in particular the enlarged central lake, the north-south route would be reinstated further to the east from its current position. I find this would be an acceptable solution to maintain this section of the public right of way network.
16. The EWBr1 would be reinstated on a wide causeway lined by raised banks with hedges and hedgerow trees which once mature would provide an attractive route. As such I do not share the concerns that it would be less attractive because of the one-metre-high landscaped banks. Moreover, in my view, the banks would in fact provide a measure of safety from the water bodies for all users of the bridleway. This design has taken an opportunity to improve the public access with a more attractive route.
17. The footpath EWfp2 is presently a diagonal direct route across the open agricultural field, it serves as a link or shortcut from the A47 public highway to the EWBr1. As a consequence of the creation of the lakes arising from restoration, this right of way could not be reinstated on its existing route. The proposed restoration plan indicates it would realign along the inside of the field boundary in parallel with the A47.
18. Concerns have been raised about the experience for users of this proposed realignment upon restoration and that it would not be an adequate substitute for the present open nature of the current route. During my site visit I also walked the section of permissive footpath within the eastern portion of the appeal site which presently runs inside of the field boundary in parallel with the A47. It was a narrow footpath with additional planting on the roadside side. It, like the proposed section post restoration, is a relatively short section of the rights of way network in this area.
19. I consider that this provided a similar comparative experience to that which would be created by the proposed section of the EWfp2 upon restoration. I did not find this to be an unpleasant walk and was still a more attractive alternative to walking alongside the existing footway to the southside of the A47 which I also walked. The proposed additional planting would mature and further add natural environmental screening for users of the footpath from the vehicles on the A47. It therefore would take the opportunity to maintain the footpath as part of the rights of way network in this area.
20. A further concern has been raised that upon restoration the EWfp2 would permanently merge with EWBr1 to provide a section of combined public rights of way. Whilst it might be viewed that the merging of the two routes would result in a net reduction in routes, in this case, it would not result in an extinguishment of a route since the EWfp2 would not be lost. Furthermore, having seen this in other locations it is not unusual to have combined routes for parts of the rights of way network.
21. The proposed permanent combined route of EWBr1 and EWfp2 would be provided with a hoggin surface which is a low-maintenance, semi-permeable, bound

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<sup>2</sup> CE-GC0413-DW11L-FINAL

surface treatment. Consequently, this combined part of the route in my judgement would be more accessible and attractive to all users. As such it represents a beneficial enhancement to the present treatment of both EWBr1 and EWFp2.

22. The Rambler's Association referred to alternative route suggestions. However, this appeal must be determined on the proposal which has been presented.
23. Whilst I note the inclusion of the draft stopping up orders and accompanying objections appended to the Council's statement of case, they form part of a separate determination process which is not within the scope of this planning appeal.
24. In conclusion on this matter, I find that the proposals for working and restoration are acceptable having regard to the effect on the public rights of way network, in particular East Winch Footpath No 2. I am satisfied that due consideration has been given to the opportunity to improve public access within the restoration plans. It is my judgement that there would be no harm to the rights of way network from this appeal proposal. As such the proposal would comply with Policy DM14 of the DF. Furthermore, there would be no conflict with paragraph 100 of the National Planning Policy Framework (the Framework) which is centred on protecting, enhancing and taking opportunities to provide better facilities for users of the public rights of way networks.

#### *Groundwater monitoring*

25. The Council remains somewhat concerned regarding the mechanism by which off-site groundwater monitoring and mitigation contained within a revised Water Management Plan (July 2021) is to be secured and implemented.
26. The original Water Management Plan was secured by condition 19 on the 2007 permission. From the evidence before me existing monitoring has involved use of both on-site and off-site locations which appear to have evolved over time. The revised monitoring regime would include new off-site monitoring locations in addition to on-site locations. The off-site locations would involve securing data from the Environment Agency (EA), Norfolk County Council Landfill Team (NCCLT) together with Middleton Aggregates.
27. Both the EA and NCCLT have been consulted on the revised Water Management Plan and have raised no specific concerns. Consequently, I see no reason not to conclude that there is a realistic prospect that the monitoring could be undertaken. Monitoring data for the existing quarry has been successfully obtained from Middleton Aggregates for many years. Therefore, on the evidence before me I have no reason to doubt that continued cooperation would be forthcoming.
28. Whilst it is the general principle as set out in the Planning Practice Guidance (PPG) that planning conditions requiring works or actions on land that is not controlled by the applicant or requires the consent or authorisation of another person or body can often fail the tests of reasonableness and enforceability. The planning permission for the existing quarry already secures this through the use of a planning condition even though monitoring has involved off-site locations. The existing mechanism is material to the determination of these appeals.
29. No substantive and cogent evidence has been presented that the existing approach of using a planning condition has been proven to be an inadequate

mechanism of monitoring both on site and off site to date in this case. Although moving forward the monitoring will involve new off-site locations the same principle of securing this through a planning condition is appropriate in this case. The appeal proposals are interlinked and are effectively a continuation of the existing operation. Consequently, I see no reasonable grounds to need to pursue an alternative approach to the use of a planning condition on this matter.

30. However, I do find that the revised Water Management Plan (WMP) is not sufficiently precise in relation to the location, timetable, monitoring and maintenance arrangements for the proposed new borehole.<sup>3</sup> As such it will be necessary for a specific condition on Appeal A to require the submission of these details prior to the commencement of development for the extension. This point was also raised by the Environment Agency in their consultation response on the revised WMP.
31. The Council also has concerns regarding the monitoring regime needing to extend beyond the working life of the proposal. However, conditions on a planning permission can continue to have effect beyond the period of working and/or restoration. For example, provisions relating to aftercare apply after the restoration. Nonetheless, the revised WMP does lack precision on the overall timeframe for monitoring, in particular the periods for monitoring post-completion of the working and restoration. However, this can be addressed as part of the new condition referred to above.
32. In conclusion on this matter, I find that the use of a planning condition to secure the groundwater monitoring requirements as amended and in particular using off-site locations is appropriate. As such it would comply with Policies CS13, DM3 and DM4 of the DF and Policy DM15 of the DMP.

## **Appeal B**

33. Appeal B is a section 73 application which is as a direct consequence of the proposed extension under Appeal A. As I have concluded that the proposed extension in Appeal A is acceptable it is therefore reasonable and necessary to extend the period for both the working and consequential restoration of Grandcourt Quarry including the extension. This is because access to the proposed extension is required through the existing quarry, thereby creating an integrated approach. Accordingly, it would not be feasible and practicable to deal with restoration except as a coordinated scheme across both the existing quarry and the extension in this case.
34. The proposed restoration scheme sets out an overall and comprehensive approach to restoration for both the existing quarry and the extension. It incorporates a water body which straddles the boundaries of both the existing quarry and the proposed extension. Whilst I note a concern raised about the principle of extending the timescale for the existing quarry, I understand that there will be concurrent working and therefore restoration can be undertaken comprehensively.
35. I therefore find that the revised proposal and timescales for working, and restoration are acceptable. Conditions 2, 3, 8 and 9 as set out in the banner heading to this decision and are not repeated here, remain necessary, but should be varied as set out in the Schedule to this decision to take account of the

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<sup>3</sup> Referenced as TBC (not yet drilled) in Table 2.1 and new borehole-location TBC in Figure 2.1 of the Water Management Plan (July 2021)



amended working and restoration scheme. Appeal B would therefore comply with the provisions of the development plan, in particular Policies DM14 and DM15 of the DF relating to progressive working, restoration and after-use; and cumulative impacts.

### **Other Matters relating to both Appeal A and B**

36. From the consultation responses to the application and appeal stage there are also other concerns which form part of the other considerations in this non-determination appeal process.

#### *Flood risk and climate change*

37. Concerns have been raised in relation to the potential for flood risk and the effect of climate change to affect the residential properties of East Winch. The submitted Flood Risk Assessment as amended indicates that the site lies within the EA's Flood Zone 1 and as such at risk of flooding less than a 1 in 1,000 year annual probability of river and sea flooding. No areas designated as Flood Zones 2 and 3 are within 250 metres of the site and flooding of the site is indicated to be extremely unlikely from fluvial sources. The FRA has taken into account climate change predictions based on the EA's current calculations. The Technical Note which provides the Flood Risk Assessment: Annex Update also indicates that sufficient capacity will be available within the restored lakes to accommodate additional surface water during a storm event.

38. Site specific calculations have been submitted to estimate surface water run-off which also takes into account the effect of climate change having regard to advice in the Framework. The pluvial flood risk during the quarry operational phase is assessed as being negligible. There is limited potential for groundwater flooding according to the British Geological Survey groundwater flooding map.

39. As such I am satisfied this matter has been adequately addressed and therefore raises no conflict with Policies CS13, DM13 and DM14 of the DF together with DM15 of the DMP. I note that the Council does not share these concerns.

#### *Designated heritage asset*

40. There are no designated heritage assets within the appeal site boundary. However, there are designated heritage assets within the vicinity, the closest being approximately 50 metres from the site boundary for Appeal A. Concerns have been raised in relation to the effect of the proposed quarry extension on the setting of the closest of these assets, All Saints Church, a Grade II\* Listed Building which is located to the south of the A47. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I therefore have a specific duty to address this matter. As such any harm carries considerable importance and weight in the decision-making process.

41. The significance of this designated heritage asset is derived from architectural and historical features of the late Saxon period church. It occupies a prominent geographical position, slightly elevated within a corner plot adjacent the A47 and Church Lane which provides for a prominent landscape feature. The open rural landscape to the north of the A47 contributes to the significance and understanding of the church's historic value.

42. The proposed extension would see extraction operations advance on the northern side of the A47 towards All Saints Church. The mineral extraction activity, albeit predominantly being below ground level, together with the proposed soil bunds would represent a temporary physical and visual change in the landscape to the north of the church and therefore its setting.
43. However, the extraction period intended for the proposed extension is limited, and phase 3 even more limited. Furthermore, the proposed revised restoration scheme reduced the size of the eastern lake and increased the proportion of agricultural land. As such the part of the appeal site closest to All Saints Church and therefore within its setting would be returned to open agricultural grassland which would restore the sense of the open countryside. I note that Historic England and the Norfolk Historic Environment Service have no outstanding objections and consider that the setting would be restored and preserved following the implementation of the revised restoration scheme.
44. Accordingly, I find that Appeal A would lead to less than substantial harm to the significance of the designated heritage asset in terms of its setting for a temporary period during the extraction period. Paragraph 202 of the Framework indicates that where a development proposal would lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits.
45. As a general principle, the Framework states that great weight should be given to the benefits of mineral extraction, including to the economy. Silica sand is a nationally important mineral referred to in the Framework (Annex 2). Grandcourt Quarry is an existing operation with processing plant and a railhead that serves the national demand for this industrial mineral. The quarry provides employment and supports the economy through the supply chains. All of which are public benefits of the proposals.
46. The Council indicated that the landbank for silica sand as of January 2022 was calculated to be 3.459 million tonnes which would provide for just over 4.3 years of permitted reserves. As such there is a significant shortfall in the 'at least 10 years' of permitted reserves as required by paragraph 214c) and footnote 74 of the Framework. Low stocks of permitted reserves to justify capital investment may be seen as a strong indicator of urgent need for additional sites. The appeal proposal would make a significant contribution to the shortfall in the landbank requirements for silica sand. As the extension is allocated as a specific site in Policy MIN 40 of the adopted DPD these proposals would contribute to delivery of the minerals strategy within the development plan which seeks to plan for the future in the public interest.
47. The value to the economy of the mineral to be excavated together with the shortage of silica sand in the County, attract great weight in favour of the appeal proposals. The temporary nature of mineral extraction and mitigation measures together with the restoration scheme with agricultural land satisfies Policy DM8 of the DF. This policy requires, amongst other things, that where harm to a heritage asset is identified, any adverse effects on the historic form, character and or setting of heritage assets can be adequately mitigated. Similar provisions are contained in Policies CS01 and CS12 of the CS and DM15 of the DMP. Accordingly, I find that the public benefits arising from the economic contribution of the mineral supply outweighs the temporary period of harm to the setting and thereby the significance of the designated heritage asset.



*Living conditions of nearby occupiers*

48. Various concerns relating to the effect of the proposals on the living conditions of nearby occupiers were raised, including noise, dust, air quality, contamination, privacy and disturbance. From the submitted evidence, particularly the technical topic-based assessments contained within the Environmental Statement, I am satisfied that these matters where necessary can be satisfactorily mitigated and controlled through the use of suitable planning conditions.
49. The Council has a range of planning enforcement related mechanisms available should they be necessary to address any future issues. This is also the case in relation to any alleged existing issues, I note concern was raised by an interested party in relation to dust relating to a particular storm event. Accordingly, the proposals satisfy Policies DM12 and DM15 of the DF, together with DM15 of the DMP.

**Planning Obligation and Conditions**

*Planning obligation*

50. A Deed of Variation (DoV) including counterparts has been executed by the various landowners, the quarry operator, Norfolk County Council and the Secretary of State for Defence and submitted in November 2022. The Original Agreement remains in force except for the obligations as varied by the DoV.
51. The DoV seeks to vary the original agreement by updating definitions, plans and deleting and replacing the existing approved Bird Management Plan (also referred to as the Bird Hazard Management Plan).
52. The existing approved Bird Management Plan identifies species, the areas on which they are to be controlled, targets, methods and monitoring. The DoV extends the area to incorporate the quarry extension.
53. Policy DM7 of the DF seeks to ensure that any potential for bird hazards within an aerodrome safeguarding area is mitigated and managed. A planning obligation is the necessary mechanism to secure and ensure the long-term management of birds at the proposed lakes and lake margins at Grandcourt Quarry and Grandcourt extension to ensure that there is no additional bird hazard for aircraft using RAF Marham.
54. I am satisfied that the obligations contained in the DoV meet the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations. They are necessary to define the terms of the planning proposals in relation to both appeals and secure the updated Bird Management Plan.

*Planning conditions*

55. I have had regard to the tests and guidance for planning conditions contained in the Framework and PPG. Where necessary I have amended the wording suggested by parties in the interests of precision, for example the inclusion of a time clause or removal of the otherwise agreed in writing unnecessary tailpiece. There is also a need for consistency between the two inherently linked permissions. The main parties have had an opportunity to comment upon the conditions for both appeals during the appeal process without prejudice to the outcome and I have had regard to the comments received.

## *Appeal A*

56. Conditions relating to time limits and the approved plans and documents are necessary for precision and to provide certainty [1, 3]. For consistency with the existing quarry permission and having sought specific views of the main parties, I have included a condition which provides an end date for working and restoration phases of the incorporated extension for completeness [2]. The Council suggested an alternative timeframe for the working and restoration of the extension. However, given that these two appeals are inextricably linked by common working and restoration schemes, it would not be appropriate for the two appeals to have different timeframes.
57. Conditions relating to soil handling procedures, although operations should follow best practice as a matter of course, it is relevant to the development proposed and therefore reasonable to include such conditions [5, 6, 7, 8].
58. To protect the living conditions of surrounding occupiers, conditions relating to dust, noise, lighting, and the prohibition of waste or other material being brought onto or deposited on the site are necessary, reasonable and relevant to the development proposed [9, 10, 11, 12, 13, 4]. From the noise chapter of the Environmental Statement, it is noted that the maximum noise level permitted at Carrpit Cottage was not measured using a 'z' weighting and thereby was incorrectly abbreviated to dBLZeq (1hour). To accord with the submitted evidence this has been amended to refer to the standard 'a' weighting of dBLAeq (1 hour).
59. The hours of operation condition [26] also should include a specific restriction on certain temporary operations (as defined in the condition) which are potentially noisier activities and so should not be undertaken during the Saturday working hours in order to protect the living conditions of surrounding occupiers.
60. To further protect living conditions and provide certainty should any complaints relating to noise or dust be received and substantiated by the County Planning Authority; a condition to require the submission, approval and implementation of an action plan arising from such noise or dust complaints. A 2-week period for the operator to promptly respond and submit the action plan is included within condition [26] and it should be expected that the County Planning Authority would respond in a timely manner. The Council's suggestion included reference to consultation with the Environmental Health Officer. This has been omitted as it is not necessary to be specified in a condition. The County Planning Authority makes the decision on the conditions, which may or may not include any consultations it chooses to undertake.
61. A condition requiring the submission and approval of an Ecological Management Plan to set out the timings and details of the update surveys prior to each phase together the mitigation measures should they be required is necessary to safeguard biodiversity [16]. A Construction Environmental Management Plan, albeit it not strictly for 'construction' in this case, should set out operational arrangements and measures to protect biodiversity and the wider environment during the quarrying activity [17].
62. Conditions relation to landscaping and tree protection are necessary to manage the wider landscape impact and the biodiversity of the area [18, 19]. A specific condition relating to trees is necessary and appropriate having regard to the nature of the development. To oversee any archaeological features, conditions

are necessary to ensure that an Archaeological Mitigation Strategy (AMS) and Written Scheme of Investigation (WSI) are submitted, approved and implemented during the lifetime of the development [14, 15]. A WSI is prepared by the archaeologist specifically contracted to a development. As I cannot be sure that the consultant who prepared the submitted WSI in 2014 remains involved in the Grandcourt Quarry development, I have used the suggested wording provided by the Council. This will also enable a specific plan to which the WSI relates to be included for precision.

63. Several conditions relating to measures necessary to protect the water environment and contamination are necessary and relevant to the development proposed [20, 21, 22, 23, 24, 25].
64. It is common and relevant to the development to include a condition to ensure vehicles leaving the site do not deposit loose material on the highway in the interests of highway safety [27].
65. The restoration scheme forms part of the conditions and is within the list of approved plans. It is common and necessary for mineral proposals to set out the arrangements for the aftercare following on from restoration in a separate condition [28].

#### *Appeal B*

66. The original condition 2 requires the cessation of work and restoration within a period of time. To take account of the proposed working and restoration of the existing quarry with the proposed extension, it is necessary and reasonable to extend the previously imposed end date and advance it to the end of 2031 in accordance with the appellant's submission. This should ensure that the extraction of silica sand and the restoration of Grandcourt Quarry post extraction would have been completed by that date.
67. The original conditions 3, 8 and 9 require compliance with approved details. As such it is necessary in the interests of best practice and certainty for all parties to update the references to the revised details for precision.
68. The Council suggested for ease of monitoring and enforcement purposes the suggested conditions for Appeal A could be used for Appeal B. However, I am mindful of the advice in the PPG and that the section 73 application is not a complete re-consideration of the application. The PPG makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. I have considered the conditions imposed on the previous planning permission together with those suggested by the Council and appellant in the light of advice in Paragraph 55 of the Framework and the PPG. I have some evidence<sup>4</sup> before me of those previously imposed conditions which have been partially discharged. As such I have re-worded the partially discharged conditions to ensure they remain relevant to the development permitted.
69. As the planning permission being varied has already begun, a condition relating to the commencement of the development is no longer relevant, consequently the conditions in the attached schedule for Appeal B have been re-numbered.

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<sup>4</sup> Norfolk County Council letter dated 11/10/2012.

70. Original condition 4 referred to the previous General Permitted Development Order. This reference has been updated, together with addition of the common wording to refer to any Order revoking, re-enacting or modifying the Order. A further amendment has been made for consistency with the extension permission that there should be no temporary operations (as defined in the condition) undertaken during the Saturday hours of operation. These amendments are necessary for precision.
71. From the noise chapter of the Environmental Statement, it is noted that the maximum noise level permitted in original condition 5 at Carrpit Cottage was not measured using a 'z' weighting and thereby it was incorrectly abbreviated to dBLZeq (1 hour). To accord with the submitted evidence this has been amended to refer to the standard 'a' weighting of dBLAeq (1 hour). Original condition 6 related to the maintenance of plant and machinery to minimise noise omitted a reference to standards and as such I find it is not precise. The inclusion of a reference to the maintenance to the manufacturer's specification provides such precision.
72. Notwithstanding original condition 15 having been partially discharged relating to overburden stockpiles and soil bunds, as a consequence of the revised working scheme to incorporate the extension, it is necessary to retain the condition and re-impose the requirement for submission and approval of details for any additional overburden stockpiles and soil bunds that may now be necessary. A time period for submission of details was also necessary.

### **Conclusion**

73. I have found no harm in relation to the main issues identified for both appeals. Although less than substantial harm to the setting and thereby the significance of the designated heritage asset from the temporary change would arise from the extension site, I am mindful that the revised restoration scheme once implemented would restore and preserve the setting. The public benefits of allowing the continued delivery of the nationally important mineral from an existing established site with processing plant and railhead, providing employment and supporting the wider supply chain together with the post-restoration biodiversity and environmental benefits collectively outweigh the less than substantial harm.
74. Having carefully considered all matters raised, the two proposals would not be contrary to the development plan when taken as a whole. There are no material considerations to suggest decisions should be made other than in accordance with the development plan and therefore both appeals should be allowed and planning permission be granted subject to the conditions set out in the attached Schedule.

*Rachael A Bust*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

### **APPEAL A Ref: APP/X2600/W/21/3289250**

1. The development hereby permitted shall commence not later than three years from the date of this permission. Within seven days of the commencement of operations, the operator shall notify the County Planning Authority in writing of the exact start date.
2. The extraction of sand to which this permission relates shall cease and the site be restored in accordance with the approved Restoration Masterplan (CE-GC0413-DW11L-Final) by 31 December 2031.
3. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan K01/P15/014A, dated 02.07.2018

Planning Application Boundary K01/P15/041C, dated 31.08.2012

Site Plan K01/P15/087A, dated 02.07.2018

Rights of Way and Services K01/P15/040, dated 26.06.2014

Proposed Quarry Development K01/P15/051C, dated 10/08/2020

Proposed Phasing and Application Area K01/P15/043B, dated 10/08/2020

Phase 1 Development K01/P15/032C, dated 10/08/2020

Phase 2 Development K01/P15/030C, dated 10/08/2020

Phase 3 Development K01/P15/031C, dated 10/08/2020

Overburden Mound and Pond Cross Section K01/P15/090B, dated 25/08/2020

Extension Restoration Plan GC0413-DW15E-Final, dated 28 Jul 2021

Restoration Masterplan GC0413-DW11L-Final, 28 Jul 2021

4. No waste or other material shall be brought onto or deposited on site for the purposes of restoration.

#### *Soil handling procedures*

5. 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 to ensure minimum compaction.
6. Topsoil, subsoil and overburden shall be stored separately in predetermined locations. Storage piles of topsoil should be no higher than three metres.
7. To avoid compaction plant and machinery shall not run over topsoil and subsoil.
8. All soils that are to remain in store for in excess of six months shall be seeded to limit noxious weeds.

#### *Dust*

9. No development shall take place in the extended site until a Dust Management Plan incorporating the submitted Dust Monitoring Scheme and Dust Action Plan has been submitted for the written approval of the County Planning Authority. The Dust Management Plan shall include details relating to stockpiles, bunds, any further measures for the internal quarry haul route, working operations and restoration. The extended site shall thereafter be operated in accordance with approved Dust Management Plan.

### *Noise*

10. No plant or machinery shall be used on site unless it is maintained in a condition whereby it is effectively silenced in accordance with the manufacturer's specifications.
11. For temporary operations such as site preparation, soil and over burden stripping, screening bund formation and removal, and final restoration, the noise level due to such works at the nearest point to each dwelling shall not exceed 70dBLAeq (15 minutes). Temporary operations shall not exceed a total of eight weeks in any calendar year.
12. Except for the temporary operations, the noise level due to operations at the site shall not exceed:
  - 49 dBLAeq (1 hour) at Grandcourt Farmhouse
  - 50 dBLAeq (1 hour) at the site of Grandcourt Bungalow
  - 46 dBLAeq (1 hour) at Carrpit Cottage

Measurements taken to verify compliance shall have regard to the effects of extraneous noise and shall be corrected for such effects.

13. In the event a complaint is received relating to noise or dust which is substantiated by the County Planning Authority, an action plan to control the emissions shall within 2 weeks be submitted for approval to the County Planning Authority. The approved action plan shall be implemented on site thereafter.

### *Lighting*

13. No external lighting shall be installed on the site unless it is maintained such that it will not cause glare beyond the site boundaries.

### *Cultural Heritage*

14. No quarrying extraction or enabling works shall take place other than in accordance with the Archaeological Mitigation Strategy and until a Written Scheme of Investigation completed by the appointed archaeological contractor has been submitted and approved in writing by the County Planning Authority. No development shall take place other than in accordance with the approved Written Scheme of Investigation.
15. Each phase of quarrying shall not be undertaken until post investigation assessment has been completed on the previous phase of site investigations in accordance with the programme set out in the approved archaeological written scheme of investigation and provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

### *Ecology*

16. Prior to commencement in any new phase, an Ecological Management Plan which provides details of the timings of reptile and badger surveys prior to soil stripping in that phase, measures for translocation of any reptiles (if required) and mitigation should Great Crested Newts be identified, shall be submitted to and approved in writing by the County Planning Authority. No development shall take place other than in accordance with the approved Ecological Management Plan.



17. No development (including demolition ground works) or vegetation clearance shall take place until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the County Planning Authority.

The CEMP: Biodiversity shall include the following:

- Risk assessment of potentially damaging construction activities.
- Identification of "Biodiversity Protection Zones".
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- A list of responsible persons and the lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- The use of protective fenced, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction phases strictly in accordance with the approved details as agreed in writing by the County Planning Authority.

#### *Landscaping*

18. No development shall take place until a Landscaping Scheme has been submitted to and agreed in writing by the County Planning Authority. The scheme shall include details of size, species and spacing of trees, hedges and shrubs, arrangements for their protection and maintenance, and details of construction and maintenance of soil bunds. The scheme shall be implemented in the first planting season following the approval of the scheme and shall make provision for the following:

- The screening of the operations by trees, hedges and soil bunds
- The protection and maintenance of existing trees and hedges which are to be retained on site
- Re-seeding and re-planting where failures or damage occur within a period of five years from the date of planting; and
- The replacement planting of any damaged or dead trees of similar size and species at the next appropriate planting season.

19. No development shall take place until an updated Tree Protection Plan has been submitted for the written approval of the County Planning Authority illustrating a fifteen-metre stand-off in all directions for all trees to be retained on site. The site shall not be operated except in accordance with the approved Tree Protection Plan.

#### *Hydrogeology*

20. All fuel shall be stored in bunded areas.
21. All mobile plant using fuel shall be located on hardstanding when not in use.
22. All immobile plant using fuel shall be located on hardstanding.
23. If, during development, contamination not previously identified is found to be present on site then no further development shall be carried out until a

Remediation Strategy detailing how this unsuspected contamination shall be dealt with has been submitted for the written approval of the County Planning Authority. The approved Remediation Strategy shall be implemented thereafter.

24. The development shall be undertaken in accordance with the Water Management Plan and any addendum. The operator shall provide an annual monitoring report to the County Planning Authority by the 31 March each year. The data collected shall be forwarded to the County Planning Authority on annual basis. The annual monitoring report shall present data on the following:

- Groundwater levels
- Groundwater quality
- Dewatering rates
- Stream flow
- Surface water quality
- Augmentation volumes to date
- Breach of target levels and actions taken

The content of the Water Management Plan will be reviewed and agreed by the County Planning Authority every year.

25. Notwithstanding the above, no development shall take place until an addendum to the Water Management Plan is submitted to and approved in writing by the County Planning Authority. The addendum shall cover the following:

- Location, timetable, monitoring and maintenance arrangement for the proposed new borehole.
- Confirmation relating to the overall timeframe for water monitoring, in particular, the monitoring and maintenance arrangements post-completion of working and restoration of the site.
- Details relating to triggers to determine when the water quality and levels are affected such that mitigation is required and the arrangements for such mitigation.

The provisions of the approved addendum to the Water Management Plan shall be followed thereafter.

#### *Hours of Operation*

26. No operations 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, or any Order revoking, re-enacting or modifying this Order, 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 hours Mondays to Fridays

07.00 - 13.00 hours Saturdays.

There shall be no temporary operations including site preparation, soil and overburden stripping or screening and bund formation undertaken during the Saturday hours of operation.

#### *Highways*

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

### *Aftercare*

28. A detailed aftercare scheme specifying such steps as may be necessary to bring the land to the required standard for use for agriculture, species rich grassland and woodland shall be submitted for the written approval of the County Planning Authority in writing not later than twelve months from the date of this permission. 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.

### **APPEAL B Ref: APP/X2600/W/21/3289252**

1. The extraction of sand to which this permission relates shall cease and the site shall be restored in accordance with the approved restoration scheme by 31 December 2031.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed below:

Site Location Plan K01/P25/011A, dated 04/07/2018

Planning Application Boundary K01/P25/032A, undated

Site Plan K01/P25/011A, dated 04.07.2018

Services, Utilities and Rights of Way K01/P25/004, dated 27.06.2014

Proposed Quarry Development K01/P25/010, dated 18.12.2014

Phase 3 (Amended Stage 1) K01/P25/001B, dated 10/08/2020

Phase 3 (Amended Stage 2) K01/P25/002B, dated 10/08/2020

Phase 3 (Amended Stage 3) K01/P25/003B, dated 10/08/2020

Phase 4 K01/P25/006, dated 19.12.2014

Restoration Masterplan GC0413-DW11L-Final, dated 28 Jul 2021

3. No operation authorised under this permission or Under Part 17 of Schedule 2, of the Town and Country Planning (General Permitted Development) Order 2015, or any Order revoking, re-enacting or modifying this Order, 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 hours Mondays to Fridays

07.00 - 13.00 hours Saturdays

There shall be no temporary operations including site preparation, soil and overburden stripping or screening and bund formation undertaken during the Saturday hours of operation.

4. With the exception of noise generated during soil movement and bund/baffle mound construction and removal, noise emitted from the site shall not exceed:

49 dBLAeq (1 hour) at Grandcourt Farmhouse

50 dBLAeq (1 hour) at Grandcourt Bungalow

46 dBLAeq (1 hour) at Carrpit Cottage

The properties detailed above are as identified in the approved Environmental and Planning Statements submitted to accompany the application.

5. 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.
6. Measures shall be taken to minimise dust nuisance and sand blow caused by the operations, including spraying of road surfaces, plant area and stockpiles.
7. The restoration of the site shall be carried out in accordance with the details set out on the approved Restoration Masterplan, drawing reference CE-GC0413-DW11L-Final.
8. The Scheme of Working shall be carried out as illustrated on drawing reference K01/P25/010.
9. The operations shall continue to be undertaken in accordance with the approved haul road details as previously approved and implemented.
10. There shall be no access for any vehicles servicing the approved extraction areas except via the approved haul road.
11. Within six months of the date of this permission a revised Landscaping Scheme shall be submitted to and agreed in writing by the County Planning Authority. The scheme shall be implemented in accordance with the time period previously agreed in writing with the County Planning Authority. The revised scheme shall include details of size, species and spacing of trees, hedges and shrubs, arrangements for their protection and maintenance, and details of construction and maintenance of soil bunds. The scheme shall be implemented in the first planting season following the approval of the scheme and shall make provision for the following:
  - The screening of the operations by trees, hedges and soil bunds
  - The protection and maintenance of existing trees and hedges which are to be retained on site
  - Re-seeding and re-planting where failures or damage occur within a period of five years from the date of planting; and
  - The replacement planting of any damaged or dead trees of similar size and species at the next appropriate planting season.
12. No topsoil or subsoil shall be taken off the site.
13. 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.
14. Notwithstanding the existing details previously approved within six months of the date of this permission, full details of the design and positioning of overburden stockpiles and soil bunds arising from the revised working scheme, including details of their height, and showing how they will be specifically designed to minimise problems caused by dust, shall be submitted to and approved in writing by the County Planning Authority.
15. The operations shall continue to be undertaken in accordance with the approved programme of archaeological work and the approved Written Scheme of Investigation.

16. The alternative route for the bridleway proposed during the operations on site (subject to any Diversion Order under the relevant legislation) shall be maintained in a safe and usable condition. It shall also be subject to appropriate signing, the details of which shall have been agreed in writing with the County Planning Authority, including provision of signage to warn of the potential conflict with the haul road.
17. The fence described in the letter from the applicant dated 24 May 2006 for the exclusion of newts from the operational area and approved by planning permission C/2/2004/2034 shall be maintained and kept in the approved location for the duration of operations.
18. The Water Management Plan shall be implemented as approved.
19. The operations shall continue to be undertaken in accordance with the approved Conservation Management Plan.
20. The operations shall continue to be undertaken in accordance with the approved aftercare scheme.
21. Any external lighting installed on the site shall be maintained in such a way that it will not cause glare beyond the site boundaries.
22. Any oil storage tanks on the site shall be sited on impervious bases and surrounded by oil tight bund walls; the bunded areas shall be capable of containing 110% of the tank volume and shall enclose all fill and draw pipes. Any mobile oils storage bowser or proprietary prefabricated tank system shall have an additional containment facility for attached ancillary equipment and pipe work to provide both primary and secondary containment.

End of Schedule