



**12<sup>th</sup> December 2017**

**Agenda Item: 7**

## **REPORT OF CORPORATE DIRECTOR – PLACE**

**NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/17/00897/CMM**

**PROPOSAL:** WINNING AND WORKING OF CLAY, SHALES, MUDSTONES, SANDSTONES AND SILTSTONES COMPRISING A WESTERN EXTENSION TO THE EXISTING KIRTON NORTH QUARRY WORKINGS. RESTORATION TO OPEN WATER, WOODLAND AND GRASSLAND. RETENTION OF TEMPORARY RAILWAY BRIDGE CROSSING AND HAUL ROAD, CLAY AND SOIL STOCKPILING AND VARIATION TO THE RESTORATION OF KIRTON NORTH.

**LOCATION:** KIRTON BRICKWORKS AND QUARRY, STATION ROAD, KIRTON, NG22 9LG.

**APPLICANT:** FORTERRA BUILDING PRODUCTS LIMITED

### **Purpose of Report**

1. To consider a planning application for a western extension to Kirton Quarry for the extraction of 5.5 million tonnes of brick clay from a 20 hectare area of land. The key issues relate to minerals policy issues concerning the allocation and extraction of brick making clay, the extraction of minerals from high quality agricultural land and the restoration provisions for the site, particularly the loss of agricultural land and ecological benefits derived from the restored site.
2. The recommendation is to grant conditional planning permission.

### **The Site and Surroundings**

3. Kirton Brickworks and quarry lie to east of Kirton village near Ollerton. The site obtains access from Cocking Hill which joins the A6075 Ollerton to Tuxford Road 150m to the west. (see plan 1)
4. Residential properties within Kirton village are located to the north-west and west of the site but are separated by agricultural land and intervening hedgerows/woodland.
5. The topography of the area includes a ridgeline of higher ground between the village and the quarry. Kirton quarry lies to the east of the ridgeline with elevations declining across the site from highs of approximately 70m above ordnance datum (AOD) in the south to 52m AOD in the east. Elevations

decline more steeply to the west of the ridge towards the village of Kirton. These changes in levels provide a visual screen between residential property and the quarry ensuring that the quarry is not visible from most properties in the village. (see Plan 2)

6. The nearest residential property, Hedgelands, is located to the north-west of the proposed extended quarry site. The boundary of the bungalow directly adjoins the planning application site although there would be a distance of around 100m retained to the nearest point of mineral extraction. There is clear visibility between the bungalow and the proposed quarry. Views into the proposed extended quarry would also be obtained along the A6075 and in particular at The Bungalow, which is located 320m north of the application site on higher land.
7. Otherwise the character of the surrounding area is primarily rural with agricultural fields forming the predominant land use to other directions and vegetation/mature hedgerows adding to the rural character. The hedgerow along the Kirton – Egmonton Road has been supplemented in advance of the anticipated mineral workings and is now in excess of 5m high along the majority of its length.
8. Kirton Brickworks has been operational since the 1950s. It manufactures in the region of 80 million facing bricks per year for the building industry, taking its raw material from the quarry using mainly red firing clay but also some cream 'buff' firing clay. Some clay is also imported from Waingroves Quarry, near Ripley, Derbyshire for blending. The site employs around 110 people either directly or in associated haulage.
9. Red firing clay is currently extracted from a 16.4 hectare area of land known as 'Kirton North'. This site is bounded to the north by the Kirton to Egmonton Road and to the west by a railway line. At the current level of brick production clay reserves in Kirton North will be exhausted by 2019. (see Plan 3)
10. Clay for the manufacture of buff bricks is extracted from the 'Cream Clay Quarry' which is situated on higher ground to the south-east of the applicant's land holding at Kirton (see Plan 1).
11. The boundaries of the planning application site extend to a total of 52.2 hectares, incorporating 20 hectares of land which would be developed as an extension to the clay extraction area (see Plan 4). The application site also includes land that would provide a 'buffer strip' to the west of the extraction area, the current working area (Kirton North) as well as areas which would be used for soil and clay stockpiling, but does not include the 'Cream Clay Quarry' or areas of previous quarry workings which have now been restored.
12. Kirton public footpath number 4 follows a route from Kirton village running along the western boundary of the site before crossing the railway line and existing haul route prior to continuing to the south through the remainder of the quarry.
13. The agricultural land within the proposed western clay extraction extension area and buffer zone incorporate 'Best and Most Versatile' agricultural soils including 11.5 hectares of Grade 2 soils and 8.9 hectares of subgrade 3a soils.

## Proposed Development

14. Mineral reserves in the existing red clay extraction area within the Kirton North quarry are anticipated to be exhausted by 2019. Planning permission is therefore requested for an extension to the red clay quarry (referred to as a western extension) to provide additional clay reserves for Kirton Brickworks. The development would yield 5.5 million tonnes of brick clay from a 20 hectare of land and secure mineral reserves for the production of bricks in the factory for a further 25 years. This equates to a level of extraction of around 220,000 tonnes per annum.
15. The proposed scheme of working would see the completion of mineral extraction within the existing Kirton North quarry prior to the progressive development of the Kirton West extension in four phases referenced as phases 5-8 (see plan). The phases have been drawn to retain hedgerows for as long as possible. (see plan 5)
16. Soil stripping would be undertaken on a phase by phase basis with soils either stored on site in temporary stockpiles/screening bunds or directly placed onto previous phases of the quarry for restoration purposes.
17. Bunding and screen planting would be progressively provided to screen quarrying operation. Prior to mineral extraction progressing into phase 6 boundary landscaping incorporating new hedgerow planting would be undertaken. This would be supplemented by the construction of a 3m screen mound along part of the western boundary of the extraction area as work starts in this phase. Upon entry into Phase 7 a new screening bund on the northern boundary would be provided, the bund would be contoured into the landscape at a level of 60m AOD to provide a visual and acoustic screen to the property Hedgeland.
18. Mineral extraction would progress utilising hydraulic excavators. The mineral would either continue to be extracted on a daily basis to directly feed the brickworks daily requirements or worked on a campaign basis utilising two or three intensive extraction campaigns each year with mineral being stockpiled on land adjacent to the brickworks. Minerals would be worked to a maximum depth of approximately 30m below existing ground levels on the western boundary. The mineral reserve is shallower in Phase 5 further east.
19. A more controlled environmentally sensitive method of working would be implemented in Phases 6B, 7B and all of Phase 8 where the workings are at their closest proximity to Hedgeland. Workings in the upper 5m of brick clay in sub phases 6B, 7B and all of Phase 8 would not be undertaken in the months of July and August (to avoid disturbance to residents more likely to be in their gardens or indoors with windows open at this time of year). The quarry would also be shut down in these phases between 12:00 – 13:00 (when noise monitoring indicates the lowest background noise levels in the surrounding area).
20. Surface water which enters the quarry would collect in the quarry void where it would be pumped into the existing settlement lagoons prior to it being discharged off-site in accordance with the site's existing discharge permits.

21. Extracted clay would continue to be hauled to the mineral stockpiling areas south of the railway line on haul roads via the Railway Bridge and then onward transfer for loading into the Brickworks.
22. The proposed hours of working would be unchanged from existing practice and are set out in the table below:

Operation / Time of Week	Mon - Fri	Saturday	Sundays, Bank or Public Holidays.
Minerals extraction, processing and treatment (tighter controls in the upper 5m of phase 6b, 7B and 8 – see paragraph 19)	0700 - 1800	0700 - 1300	Not at all
Stripping, replacement, regrading or ripping of soils or overburden	0700 - 1800	0700 - 1300	Not at all
Servicing, testing or maintenance of plant or machinery	0700 - 1800	0700 - 1800	Not at all

23. A non-working standoff of 20m from the railway boundary would be maintained as would the temporary railway bridge crossing to maintain access between the quarry and the brickworks.
24. Restoration would be undertaken on a progressive basis, providing two lakes separated by a narrow strip of land. The lake edges would be planted with a mix of woodland and species rich grassland. Agricultural fields would be retained in the buffer zone along the western edge of the site.
25. The eastern lake, the smaller of the two lakes would extend to 4.5 hectares and have a maximum water depth of 10m. The lake would be constructed within the boundaries of the existing Northern extension quarry. It would be restored at the earliest practical opportunity, coinciding with the commencement of quarrying in Phase 6. The subsequent planting and management of the restored site would have an ecological emphasis to provide a local nature reserve.
26. The larger western lake would extend to 20.6 hectares and have a maximum water depth of 10m. The lake would have steep sloped edges (1:3) around much of its perimeter although it would have more gentle slopes on its southern aspect. The lake would have a small island towards its southern edge.

27. Following the restoration of the site it would be landscaped/planted and managed. A mix of habitats would be provided including areas of grassland, trees, shrubs and hedgerows, lakes, reedbed and marshes.

Supplementary information submitted under Regulation 22.

28. Following the receipt of planning consultation responses and the officer assessment of the original planning submission it became apparent that further environmental assessments and clarifications were required to ensure that the EIA provides a full assessment of the potential environmental impacts and objections could be resolved. The applicant was therefore served with a formal request to submit supplementary information under Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (Reg. 22 request).
29. The response to the Reg. 22 request addresses the following matters:
- a. The submission of a Dingy Skipper survey: which confirms that Dingy Skipper butterfly habitat is present in the site, but did not identify the presence of the butterfly (potentially due to the time of year the survey was undertaken).
  - b. An aircraft safety report: Which assesses the level of risk to aircraft safety particularly in respect of birdstrike issues.
  - c. A response relating to the development/loss of best and most versatile agricultural land
  - d. A review of the restoration proposals for the site to incorporate additional ecological habitat incorporating:
    - Confirmation of the seed mixes, tree and landscape species which have been selected to maximise the ecological value of the restored site.
    - Provision of additional hedgerow planting throughout the site, increasing the length of new planting from 1480 metres (the original scheme proposed 600m).
    - The translocation of existing hedgerows where appropriate.
  - e. Revisions to the depth of excavation within the quarry base by increasing the over-dig by approximately 1m in depth to provide additional materials required to create the lake shallows within the revised restoration scheme.
  - f. An agreement to provide ten years of extended management for the site (i.e. statutory 5 years, plus 5 years)
30. These responses are considered in greater detail within the planning observations section of the report.

## Consultations

31. The planning application has been subject to two rounds of planning consultation. The first consultation coincided with the original submission of the planning application. The second consultation coincided with the submission of the supplementary information provided under the Regulation 22 response. These consultation responses are summarised below, the original response is listed first with the Regulation 22 response listed thereafter. A summary of the consultees' overall position is also identified.
32. **Newark and Sherwood District Council:** *Raise no objections*
33. *Subject to NCC being satisfied the development complies with the development plan and there are no significant impacts to local residents.*
34. **Kirton Parish Council:** *Object to the planning application:*
35. *The Parish Council raised an objection to the (now withdrawn) Replacement Nottinghamshire Minerals Local Plan. The Parish wish to restate their objections which they made to the replacement plan in the context of this planning application due to the detrimental effect the development would have on Kirton village because of its proximity to residential property. In particular the following points are raised:*
  - *Previous Inspectors recommendations* - *Kirton Parish Council fails to understand how the findings of the Planning Inspectorate can be rejected. It is difficult to comprehend how circumstances can have changed so dramatically that the area can be rejected from one Local Plan and then sought to be included on the next.*
  - *Ridge Line* – *The Planning Inspectors report for the 2005 adopted Minerals Local Plan identified the importance of maintaining the ridge line between the quarry and the village, and stated in relation to the distance of mineral extraction from property that “the nearest part of Kirton built up area would be about 250m away which may begin to impact on the living conditions of residents from noise and dust”. Concern is raised that the current development would breach this ridgeline and is within 250m of properties.*
  - *Residential Properties* - *The allocation would have a detrimental impact on Hedglands and Kirton Park. These properties and those in the wider area would suffer from visual intrusion, noise and dust. Specifically in respect of Hedglands the Inspector stated that one isolated property “Hedglands” would practically abut the north east corner of the site” and “Therefore, I consider that the inclusion of the omission site in the Plan would lead to an unacceptable impact on the residential amenities of Hedglands, which planning considerations would be unlikely to overcome”*
  - *Heritage* - *The extension of the workings would effectively mean the south east area of the village would be quarry. A large part of the setting of the village would be destroyed, together with the associated*

*hedgerows and footpaths and would not ensure heritage assets and their settings would be retained or adequately protected.*

- *Landscape – The development would have a harmful impact on the local landscape and result in the loss of Golden Hill Lane and Cross Wong Lane and associated hedgerow which was noted by the previous Inspector.*
- *Ecological Impacts – There could be potential impacts to bats and other protected species*
- *Stability - There are concerns regarding the stability of the land behind the proposed workings and how that might affect the land on the village side.*
- *Drainage and Flooding - There have been issues with flooding in the village in the past with highway drains blocking with clay sludge. How would the proposed workings affect the hydrology of the area?*
- *Alternatives - No alternative site have been considered.*

36. **Environment Agency:** *Raise no objection*

37. *Subject to planning conditions being imposed to manage any unexpected contaminated material being encountered during quarrying works and controls being imposed on the maximum exaction depth at the base of the quarry to ensure that the underlying aquifer is not penetrated.*

38. Reg. 22 Response: *No further comments to make in response to the Reg. 22 information.*

39. **Natural England:** *Raise no objections to the development.*

- *Natural England confirm that the development would not significantly adversely impact Kirton Woods SSSI.*
- *Natural England note that the development would result in the loss of 20 hectares of best and most versatile agricultural (BMV) land which they would normally expect to be replaced following restoration to ensure that this resource is not lost. Further evidence was requested to demonstrate why it is not possible to re-instate this land as part of the restoration of the site.*

40. Reg.22 Response: *Natural England maintain their position of raising no objections to the planning application, but have a number of reservations in respect of the use of BMV land.*

- *Natural England identify in their consultation response Policy M3.16 of the adopted Nottinghamshire MLP, noting its policy approach which aims to protect best and most versatile agricultural land from minerals development by site selection of land of lower agricultural value, and when BMV land is developed aiming to re-instate the land to equivalent*

*value following mineral extraction with permanent loss only permitted when there is alternative and the need for the development outweighs the impact upon BMV land.*

- *Natural England state that BMV land should only be allocated for mineral extraction in development plans when restoration to BMV quality (by filling or lower level restoration) can reasonably be expected to be achieved.*
  - *Natural England consider in practice the re-instatement of BMV land at Kirton Quarry following mineral extraction would either require the void to be filled and soils replaced or the site to be restored at a lower level/ modified landform and pumping or sumps to remove drainage water.*
  - *Natural England favour the backfilling of the site to re-instate BMV land quality and ask NCC to challenge the applicant's statement made in their Reg. 22 response that a landfill at Kirton Quarry is not an acceptable option. Natural England identify policy support for disposal of inert waste for quarry restoration within The Waste Management Plan for England (P13).*
  - *Alternatively, Natural England request further investigation of the potential to incorporate drainage/water pumping in the restored void so as to maintain it in a dry condition and thus allow the reinstatement of BMV land.*
  - *Natural England therefore recommends other design options for the restoration landform should be considered with the aim of enabling more of the land to be restored to BMV quality.*
  - *The planning application utilises the surplus topsoil on the undisturbed areas of agricultural along the western boundary. Natural England consider this would be a waste of a soil resource and is unnecessary. The land already has a top soil depth of 0.3m and any increase in top soil depth above 0.4m is likely to result in the lower section of soil becoming compacted and anaerobic which is detrimental to plant roots.*
41. **NCC (Archaeology):** *Raise no objection subject to a planning condition requiring an archaeological evaluation of the site to be undertaken, followed by subsequent mitigation works, which are likely to encompass archaeological supervision of topsoil strips in specific areas of the site.*
42. **NCC (Highways):** *Raise no highway objections*
43. *There would be no change in the level of vehicle movements as a result of the development.*
44. **NCC (Nature Conservation):** *Raise no objection in principle, subject to some minor modifications.*
- *The site does not provide habitat for great crested newts.*
  - *Noise is unlikely to be a significant ecological issue.*



- *Although a breeding bird survey has not been undertaken, the arable agricultural use of the site means that it would only be likely to support common and widespread farmland birds.*
- *Impacts to surrounding habitats from changes to hydrology are not anticipated.*
- *The proposals result in the loss of 1.8km of hedgerow including around 400m of 'important' hedgerow as well as other hedgerows which have ecological value. The potential for the translocation of hedgerows should be investigated.*
- *The existing woodland belt along Kirton Road incorporates non-native plant species which can become invasive. A condition should be imposed to require the removal of these species.*
- *The site does not include any bat roosts. The surveys have identified seven bat species use the site for foraging/commuting over. The loss of the existing vegetation, particularly the hedgerows, would reduce the value of the habitat for bats. These impacts could be mitigated by ensuring that vegetation removal is phased with ongoing restoration works.*
- *Soil bunds within the site have potential to benefit birds, bats and insects.*
- *Dingy skipper butterfly survey results have not been submitted, these require submission.*
- *The landform produced following quarrying means that there are very limited opportunities for producing lakes with broad margins capable of supporting marginal vegetation (except for small areas in the south-west corner of the West Lake). It is requested that quarrying and restoration is designed to create a more varied landform with expanded areas of marginal vegetation, additional hedgerow planting, construction of wildlife ponds and use of appropriate species rich planting with appropriate habitat management/maintenance.*

45. Reg. 22 Response:

- *The Dingy Skippy survey identifies an absence of species, but it does confirm the habitat to be excellent for the species and therefore the habitat should be managed for the life of the quarry.*
- *The amendments to the restoration of the site provide additional areas of shallows to the lake edges and therefore improve the biodiversity of the restored site.*
- *Some minor modifications are requested to the proposed grass seed and hedgerow/woodland mixes to enhance their ecological value. These can be regulated by planning condition.*
- *Although an extension of 5 years to the statutory 5 year aftercare period is offered, given that reeds in particular can be difficult to establish properly, it is suggested that an extended period needs to be at least 10 years (i.e. 15 years in total).*

46. **NCC (Flood Risk Management Team):** *Raise no objections.*
47. **Network Rail Civil Engineering:** *Raise no objections in principle.*
48. *Network Rail request a series of controls are imposed on the development so as to ensure the safety of the railway line is maintained.*
49. Reg 22 Response: *Do not raise any further comments other than to reiterate that restored slopes adjacent to railway lines should be stable.*
50. **Nottinghamshire Wildlife Trust:** *Object to the planning application.*
51. *The Wildlife Trust state that adequate surveys have not been carried out meaning that the full ecological value of the proposed extension is not known. In particular*
- *There are inadequate surveys for birds, amphibians (except Great Crested Newts) and reptiles.*
  - *The data trawl is incomplete and does not show all the potential bat species which may be feeding over the proposed quarry. Up to date data should therefore be used in the impact assessment and the field surveys should be completed to show bat activity across the seasons as advised in the BCT Guidelines.*
  - *The results of dingy skipper (butterfly) surveys require submission.*
  - *The Hedgerow Assessment does not sufficiently recognise the structural diversity of some of the hedgerows. A map should be provided of the hedgerow assessment results clearly showing the grade of each hedgerow and whether they are to be lost or retained.*
  - *The noise report has not considered changes in noise levels at ecological receptors and therefore potential noise effects to birds, bats and other sensitive species within surrounding woodland have not been assessed.*
  - *The hedgerows to be lost are mature and their removal would have a significant adverse effect which has been underestimated and should be considered major adverse and long term in effect.*
  - *The likely impacts of dust, hydrological and hydrogeological changes on sensitive ecological receptors, including the ancient woodland/SSSIs and LWS has not been adequately assessed.*
52. *The restoration scheme does not maximise biodiversity habitats. It is not designed to reflect the natural character of the area and the two large deep lakes do not provide a biodiversity rich habitat. The Wildlife Trust would expect to see smaller water bodies with more varied shaped edges, more hedgerows, more native woodlands and species rich grasslands, greater habitat for dingy skipper and an extended period of aftercare to manage the restored site.*
53. **National Planning Casework Unit:** *Raise no comments in connection with the environmental statement.*

54. **NCC (Countryside Access):** *Raise no objections on the basis that although Kirton Public Footpath No. 4 crosses the development it would not be affected by the proposal.*
55. **NCC (Noise Engineer):** *Raise no objection.*
56. *The noise assessment has been undertaken using an appropriate methodology and its conclusions demonstrate that the development would not result in any significant increase to the local noise climate. A series of planning conditions are recommended to regulate the quarry activities and limit the level of noise emissions from the site.*
57. Reg. 22 Response: *No further comments to make in response to the Reg. 22 information.*
58. **NCC (Reclamation):** *Raise no objections in principle, acknowledging that the current site activities are in compliance with the existing environmental controls imposed on the site.*
59. **Retford Gamston Airport:** *Raise no objections*
60. *The Airport originally raised an objection to the planning application on the basis that a bird strike assessment to consider potential impacts to aircraft safety of planes landing and taking off from Gamston Airfield.*
61. Reg. 22 submission: *The bird strike assessment submitted as part of the Reg. 22 response enables the airport to withdraw its original objection on the basis that the quarry design introduces design measures to minimise the number of birds attracted to the development. The distance from the airport means that aircraft are likely to be at around 1,150ft above ground level and therefore at a level which would not be influenced by birds utilising the habitat at Kirton.*
62. **Western Power Distribution:** *Raise no objections on the basis that there are no records of live cables crossing the development site. However, Western Power provide some general health and safety information in the event that an unmapped cable is discovered during site works.*
63. **National Grid (Gas), Severn Trent Water Limited, NCC (Built Heritage), NCC (Landscape) :** *No representations received. Any responses received shall be orally reported.*

## **Publicity**

64. *The application has been publicised by posting site notices, the publication of a press notice in the Newark Advertiser and sending neighbour notification letters to the nearest occupiers (17 properties) in accordance with the County Council's adopted Statement of Community Involvement Review.*
65. *In addition to the Council's advertising and publicity of the planning application, the developer has also undertaken a public exhibition and actively involved*

representatives of the local community with the preparation of the planning application through the quarry liaison meeting which is held every six months.

66. Two letters have been received which raise objection to the application on the following grounds
- The development is getting nearer to Kirton village and residential properties.
  - Concerns are raised regarding increased noise.
  - What are the impacts to wildlife?
  - Historically problems of flooding in Kirton village have been resolved by Kirton Brick Company and NCC, however concerns are raised that this new development will cause problems again in the village.
67. A further round of publicity has been undertaken in connection with the Reg. 22 submission (site notices and press notices). No further representations have been received.
68. Councillor Mike Pringle has been notified of the application.
69. The issues raised are considered in the Observations Section of this report.

## Observations

### Planning Policy

70. Planning law requires planning applications to be determined in accordance with the development plan (read as a whole) unless material considerations indicate otherwise. In this instance the most relevant development plan document relating to this minerals development is the 2005 adopted Nottinghamshire Minerals Local Plan (MLP). Policies within the Newark and Sherwood Adopted Core Strategy 2011 (N&S CS) and Allocations and Development Plan Document 2013 (N&S A&DPD) are also a material consideration but are less relevant to the decision since they do not deal specifically with minerals development.
71. In assessing the relative weight that should be given to policies within the MLP the National Planning Policy Framework (NPPF) (published in 2012) advises that a Local Plan should not be considered out-of-date simply because it was adopted prior to publication of the NPPF. Specifically the NPPF states that “due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF, the closer the policies in the plan to the policies in the NPPF the greater the weight that may be given to the policy”.
72. The MLP is generally supportive in relation to the working of clay for brick making, acknowledging that Nottinghamshire produces around 350,000 - 400,000tpa of brick clay which supports important brick manufacturing industries at two sites within the County (Dorket Head and Kirton). Paragraph 11.18 therefore states that *‘the main strategy of the Plan is to maintain supplies of clay to both brickworks throughout the plan period and where practical beyond’*.

73. MLP Policy M11.1 provides for a 15 hectare allocation of land for clay extraction at Kirton Quarry, the boundaries of which coincide with the current Kirton North extraction area. Since the M11.1 Kirton allocation has been developed the policy has not been saved. The plan does not specifically allocate any further land for clay extraction at Kirton Quarry.
74. Kirton Parish Council are concerned that this planning application seeks to develop land that is not allocated for mineral extraction in the adopted MLP, particularly since the local plan Inspector responsible for examination of the adopted MLP specifically decided to exclude part of the western extension land from allocation in the adopted MLP.
75. The reason why the adopted MLP does not incorporate a larger allocation is primarily because the adopted MLP focuses on meeting the supply needs of the mineral industry in Nottinghamshire for the plan period up to 31st December 2014. The M11.1 allocation was considered to be adequate size to ensure a continuity of mineral reserves to serve Kirton Quarry for this period and therefore a larger allocation was not made. Now that the M11.1 allocation has been developed and mineral resources are approaching exhaustion there is a need to identify additional mineral resources if continuity of mineral resources is to be maintained into Kirton Brickworks.
76. The availability of clay reserves to supply Kirton Quarry was considered as part of the draft replacement Nottinghamshire Minerals Local Plan wherein it was identified that there was a need for further mineral reserves to maintain an adequate supply of brick clay to serve Kirton brickworks and identified a 20.42 hectare allocation which broadly coincided with the boundaries of the Kirton West extension proposed in this planning application. However, at its meeting on 25th May 2017 the Council decided to withdraw the draft Minerals Local Plan and prepare a revised draft Minerals Local Plan. This decision was taken due to concerns about the level of sand and gravel provision rather than any concern regarding the merits or otherwise of the proposed Kirton West allocation. On the basis that this plan is now withdrawn no weight can be given to the allocations and policies which were incorporated within the draft replacement Nottinghamshire Minerals Local Plan in the determination of this planning application.
77. Although there is not a specific allocation for further mineral extraction at Kirton within the adopted MLP, paragraph 11.25 of this plan acknowledges that following the exhaustion of the mineral resources in Kirton North there will be a need to recover additional minerals to serve Kirton Brickworks and that this most likely would be sourced from land comprising the western extension, subject to the preservation of the existing ridge line and acceptable landscape effects. Kirton West therefore was not identified as an allocation within the adopted MLP since the underlying mineral was not anticipated to be needed until after the end date of the MLP (2015).
78. The fact that the land within Kirton West is not allocated for mineral extraction does not mean that the current planning application represents a departure to the development plan. The adopted MLP does not preclude an extension to Kirton Quarry. Quite the opposite, it readily acknowledges that there is a need

to provide additional land for clay extraction to ensure clay supplies are maintained for Kirton brickworks, which this planning application would ensure.

79. Paragraph 146 of the NPPF requires minerals planning authorities to plan for a steady and adequate supply of industrial minerals and specifically provide a stock of at least 25 years of permitted brick clay reserves to support the level of actual and proposed investment required for the maintenance and improvement of existing brick manufacturing plant and equipment in factories which are dependent on quarries for their continued existence.
80. The NPPF identifies that great weight should be given to the benefits derived from mineral extraction, including to the economy. This development would positively contribute towards securing the continued operation of Kirton Brickworks, maintaining the existing employment levels and also maintaining an important supply of quality bricks into Nottinghamshire and the Midlands region.
81. Paragraph 14 of the NPPF states that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted for development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the NPPF indicate that development should be restricted.
82. The technical assessments, mitigation proposals and established management controls employed by the operator and examined in the following sections of this report ensure that the operation of the Site would not give rise to unacceptable adverse impacts on the local and natural environment, or on public amenity, thus ensuring there would not be any significant adverse impacts from the development.
83. Therefore, whilst the site is not allocated for mineral extraction within the development plan, the continued supply of locally sourced mineral to support Kirton Brickworks is supported by the MLP, notably paragraphs 11.18 and 11.25. The development would also comply with the policy obligations imposed under NPPF Paragraph 146. The development therefore benefits from the presumption in favour of granting planning permission for sustainable development incorporated within Paragraph 14 of the NPPF.

#### Socio-Economic Considerations

84. The NPPF expects planning decisions to proactively drive and support sustainable economic development and assist the expansion of business. It requires significant weight to be placed on the need to support economic growth through the planning system.
85. Kirton Parish Council state that part of the western extension was rejected by the Planning Inspector through the examination process into the 2005 adopted MLP. The Parish therefore cannot understand why circumstances have changed so dramatically to now permit quarrying on this land. The reason for this change comes down to timescales and mineral need. At the time of the examination into the adopted MLP the Inspector was considering the supply needs of the quarry up to the end date of the plan (2015). Since the mineral within the western extension was not required within this timeframe the

Inspector decided not to allocate the mineral within the western extension. The change in circumstances that occur now is that the minerals allocated within the adopted MLP are now predominantly exhausted but a continuing need for minerals exists.

86. The enlargement of the clay extraction quarry at Kirton would allow the brickworks to continue to operate and would maintain the existing economic and employment benefits which the quarry provides. Kirton Brickworks is a long established facility and a significant local employer with over 100 people employed at the works or in associated operations. In addition to the direct employment at the factory, the site also provides significant employment in associated activities such as road haulage and a wide variety of suppliers and local contractors.
87. The Brickworks is one of only two operating in Nottinghamshire and provides an important supply of quality bricks into the Midlands region, serving the needs of the construction industry. It is reliant on a consistent supply of clay from on-site resources which this scheme would provide. The socio-economic benefits of the scheme include:
  - The continued effective operation of the Kirton Brickworks factory;
  - security of existing employment at the site;
  - continued positive contribution of the site to the local and regional economy; and
  - maintenance of an important supply of bricks into the Midlands region and beyond.
88. It is concluded that the development would have a beneficial socio-economic effect.

#### Assessment of Environmental Effects

89. To assist the Council in making an assessment of the environmental effects of the development the planning application is supported by an Environmental Impact Assessment (EIA) prepared under the Environmental Impact Assessment Regulations. The EIA has been supplemented by additional information supplied through the Reg. 22 response. The EIA thoroughly assesses the environmental implications of development, its findings have been examined and appropriate technical advice has been taken through the planning consultation process. The conclusions of this assessment are considered below.

#### Observations on Proposed Method of Working and Restoration

90. The proposed quarrying scheme intensively works the mineral by extracting the full depth of mineral reserve within the site thus maximising the mineral yield from the development. This method of extraction results in a large and deep void with steep sided excavations to the quarry faces but ensures that minerals are not sterilised within the site. By maximising the amount of minerals

extracted from within the site the development prolongs the life of the quarry and therefore delays the need to develop further sites for mineral extraction.

91. The planning submission incorporates a detailed restoration and landscape planting scheme to restore the site. No importation of backfill materials/waste is proposed and therefore the excavated area would be retained within the restored site which would naturally backfill with water from surface and groundwater.
92. The restoration scheme seeks to divide the resultant void into two lakes. Material would be excavated from the base of quarry and placed against the quarry faces to provide some slackening of the angles at the lake edges. The applicant has undertaken material balance calculations to ensure that the restoration scheme is achievable and materials would be beneficially re-used in accordance with adopted MLP Policy M4.3: (Soil Conservation and use of soil making materials). Due to the depth of excavations the water depths in the lake would be deep and opportunities to provide marginal and shallow planting are restricted.
93. The restoration scheme enables the site to be restored on a phased progressive basis, providing the smaller eastern lake at an early stage of the development scheme. The phasing scheme also maintains agricultural land in beneficial use for as long as possible. These matters can be regulated by planning condition thus a restoration bond payment is not considered necessary.

#### Traffic

94. Policy M3.13 of the Adopted MLP states that planning permission will only be granted for minerals development where the highway network can satisfactorily accommodate the vehicle movements likely to be generated and would not cause unacceptable impact upon the environment and disturbance to local amenity.
95. All clay extracted from the quarry would be transported to the brickworks via the quarry haul road and therefore would not require haulage on the public highway. There would therefore be no change in the level of vehicle movements as a result of the scheme.
96. Lorry access into Kirton Brickworks and Quarry is from a purpose built junction off Cocking Hill some 150m from the A6075. The Scheme does not propose any changes to current access arrangements.
97. The development therefore would not change the existing traffic flows on the public highway associated with the operation of Kirton Quarry and brickworks and satisfies Policy M3.13 of the Adopted MLP.

#### Noise

98. Policy M3.5 of the Adopted MLP states that planning permission for minerals development will only be granted where noise emissions outside the boundary of the mineral workings do not exceed acceptable levels. The policy encourages conditions to be imposed on planning permissions to reduce the



potential for noise impact including restrictions over operating hours, sound proofing plant and machinery, setting maximum noise levels at sensitive locations, and the use of acoustic screening, such as baffle mounds or fencing.

99. The Planning Practice Guidance (PPG) on minerals states that mineral planning authorities should impose limits on the maximum level of noise at surrounding properties to ensure that noise levels attributable quarrying activities do not exceed the background level by more than 10dB(A) during normal working hours (0700-1900). The PPG acknowledges that there may be circumstances where achieving this noise limit can impose unreasonable burdens on the mineral operator. In such instances the noise limit should be set as near as possible to a 10dB(A) increase with a maximum absolute noise level of 55dB(A)  $L_{Aeq\ 1h}$ .
100. A noise assessment has been undertaken as part of the Environmental Statement to calculate the effect that the quarrying activities would have on the level of noise at three local residential properties which have been selected as being representative of the nearest noise sensitive properties to the site. (see Plan 5) Existing background noise recorded at these properties are set out below:
  - R1 - Kirton Park, 41dB  $L_{Aeq}$ ;
  - R2 - Hedgelands, 40dB  $L_{Aeq}$ ; and
  - R3 - The Bungalow, 39dB  $L_{Aeq}$ .
101. Worse case operational noise levels from extraction activities have been predicted on a phase by phase basis and show that the highest predicted noise from quarrying operations at these properties would be:
  - R1 - Kirton Park, 49dB  $L_{Aeq}$  (phase 7b);
  - R2 - Hedgelands, 52dB  $L_{Aeq}$  (phase 8); and
  - R3 - The Bungalow, 49dB (phase 4 and 8).
102. The noise levels are therefore predicted to be at or below the PPG noise limit of  $L_{A90}+10dB$  at Kirton Park and The Bungalow and thus justified noise nuisance from the operation of the quarry are not anticipated at these locations.
103. Within the vicinity of Hedgelands, it is calculated that the  $L_{A90}+10dB$  noise limit would be exceeded when clay is extracted at surface level in phase 7B (51dB or +11dB increase) and phase 8 (52dB or +12db). Once mineral extraction progresses to a depth of 5m below the existing ground level, the operational noise limit is exceeded by 1dB when working Phase 7B, but met during all other phases.
104. The applicant's noise assessment identifies a scheme of noise mitigation to minimise the magnitude of impact and control noise emissions with the following mitigation being suggested:
  - To only work the upper 5m of mudstone (after soil and overburden stripping) in sub-phase 6B, 7B and all of phase 8 outside the months of

July and August (when residents are most likely to be in their gardens or indoors with windows open), at greater depth the predicted noise levels would not exceed the PPG threshold at Hedgelands due to the shielding provided by the quarry;

- To shut down the quarry operations between 12:00-13:00 (when noise monitoring indicates the lowest background noise levels are reached) during working within sub-phase 6B, 7B and all of phase 8; and
- To advance mineral extraction towards Hedgelands thus ensuring that noise from the working face is screened by the depth of working.

105. Further mitigation of noise emissions can be regulated through planning conditions including:

- the enforcement of on-site low speed limits (10-20mph);
- one way haulage routes to reduce reversing alarms;
- appropriate use of silencers and reversing alarms on mobile plant, machinery and vehicles;
- good maintenance of the site road surface;
- The regulation of operating hours to restrict minerals extraction to between 0700 to 1800 Monday to Fridays and 0700 to 1300 Saturdays;
- The monitoring of noise levels to ensure they do not exceed the levels set out above and in the event that noise levels are exceeded a requirement to implement further noise limitation measures to ensure future compliance.

106. The noise assessment has also considered the level of noise from temporary site engineering activities including soil stripping and constructing/dismantling screen mounds and restoration work. The PPG acknowledges that these essential site works can result in elevated noise emissions which may exceed the normal operational daily limit. The PPG therefore permits an increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year to allow these activities to be undertaken. The noise assessment predicts the maximum noise level from these activities would occur during the engineering of phase 8 when a noise level of 55dB (A) LAeq is projected at Hedgelands. This level of noise is considered acceptable in the context of the PPG.

107. Subject to the imposition of controls over noise emissions from the development, in line with the recommendations made by the County Council's Noise Engineer, the noise emissions from the quarry ensure compliance with PPG Policy, would not be excessively high and the noise mitigation measures proposed by the operator would ensure compliance with adopted MLP Policy M3.5.

#### Air Quality (Dust)

108. Adopted MLP Policy M3.7 (Dust) and the NPPF encourage careful siting of potential dust emitting activities and the implementation of dust mitigation

measures to minimise the impact from dust emissions, encouraging the use of controls through planning conditions to appropriately regulate activities.

109. The operation of the quarry has potential to generate dust. The magnitude and significance of impact from dust emissions has been assessed through an air quality assessment which considers the potential for adverse dust impacts to occur using the source-pathway-receptor concept with particular regard to the potential for significant effects to occur as a consequence of uncontrolled dust emissions. The air quality assessment has been carried out in accordance with the relevant Planning Practice Guidance for England and 'Guidance on the Assessment of Mineral Dust Impacts for Planning' published by the Institute of Air Quality Management (IAQM, 2016).
110. The development scheme has been designed to reduce the potential for significant adverse air quality effects by:
  - Maintaining a minimum 100m stand-off to the nearest residential property;
  - Extracting mineral below ground level and behind screen bunds;
  - Controlling quarry workings when they are undertaken in closest proximity to residential property (in sub-phase 6A, 7B and 8) during the driest months (July and August);
  - The use of established compacted hardcore surfaced haul roads to reduce the potential for dust emissions from trafficking over unsurfaced tracks.
111. The company would continue to implement dust mitigation and abatement measures for dust control including:
  - Use of water bowzers and/or sprays to dampen stockpiles and internal haul roads, as necessary;
  - The use of internal haul roads by quarry traffic;
  - The temporary seeding of any exposed areas of soil storage; and
  - Upon request of the MPA the temporary cessation of soil stripping and quarrying operations during periods of dry and windy weather.

These matters can be regulated by planning condition.

112. The dust assessment has modelled the level of dust emissions at seven representative receptors in the vicinity of the proposed quarry, having regard to the mitigation measures proposed to be employed at the quarry. The assessment concludes that there is a low risk of adverse dust impact at the nearby residential properties Hedgelands and 10 Kirton Park with the magnitude of effect considered negligible at other receptors. Significant impacts to air quality or dust emissions are therefore not anticipated, subject to the dust controls identified above being regulated by planning condition, an approach which would be compliant with MLP Policy M3.7.

### Landscape and Visual Effects

113. Adopted MLP Policy M3.22 (Landscape Character) requires landscape character and local distinctiveness to be considered within planning decisions. The policy seeks to minimise impacts as far as possible and not grant planning permission for minerals developments which are likely to adversely impact the character and distinctiveness of the landscape unless there are reasons of overriding public interest.
114. Adopted MLP Policies M3.3 (Visual Intrusion) and M3.4 (Screening) aim to keep the visual impact of minerals development to an acceptable level, encouraging screening measures to minimise impacts as far as practicable.
115. The EIA incorporates a Landscape and Visual Impact Assessment which defines the existing or baseline landscape character and visual context of the site and the wider study area and then identifies likely effects of the scheme on landscape character and visual amenity.
116. The landscape and visual effects of the scheme have been assessed:
  - during the mineral extraction stage, anticipated to occur over a 20 year period; and
  - at year 10 following the completion of restoration, allowing time for any planting to partially mature.
117. In the context of the landscape baseline:
  - The site lies directly to the east of the junction of two National Character Areas (NCAs) - NCA 48: Trent and Belvoir Vales, and NCA 49: Sherwood, as defined by Natural England.
  - The site lies within an area categorised in the Nottinghamshire Landscape Character Assessment (2009) as the Mid Nottinghamshire Farmlands Landscape Character Area and the Sherwood Landscape Character Area.
  - The Nottinghamshire Landscape Character Areas are broken down at a local level into Policy Zones. The site lies within the Policy Zone MN PZ 15: Egmonton Village Farmlands with Ancient Woodlands, characterised as a predominantly gently undulating topography with intensive arable farming being the primary land use interspersed with blocks of mixed deciduous woodland and historic settlements to the east.
118. The appraisal of the landscape baseline has identified that:
  - The site does not lie within any area designated in terms of specific national statutory landscape designation such as National Park, Area of Outstanding Natural Beauty (AONB) or any local designation;
  - The study area incorporates Kirton Conservation Area, located to the north west of the site; in addition, Boughton, Wellow, Walesby, Laxton and Egmonton Conservation Areas fall within the study area;

- A public right of way (public footpath number 4), runs adjacent to Kirton West and this gives access to a reasonably interconnected network of public rights of way;
- The site's existing character is in keeping with the surrounding rural land use. It is considered to have a comparatively low landscape value by virtue of land use, scenic quality, rarity, conservation interest and perceptual aspects; and
- The site has limited recreational value.

119. The topography and extent of vegetation limit the visibility of the Site from the surrounding area although the quarry would be visible at close proximity. The landscape assessment therefore concludes:

- Clay extraction would have a moderate significant effect on landscape character at the site level during mineral extraction as a result of the change in land use type from agricultural to mineral extraction. The significance of landscape impact would reduce to a minor effect following the restoration of the site and subsequent landscape planting.
- Direct / indirect effects on MN PZ 15 Egmonton Village Farmlands with Ancient Woodlands would be minor during extraction and negligible following restoration/site replanting.
- Effects on the wider landscape character areas in the study area would be of negligible significance during extraction, reflecting the localised extent of indirect change and neutral following restoration.
- The significance of change in landscape character is therefore predominantly at the site scale.
- The restoration scheme seeks to integrate the restored workings into the landscape as far as practical albeit the character of the site would be change from an agricultural character to a lake character rather than back to arable fields.

120. MLP Policy M3.22 requires landscape effects to be minimised as far as practical. The quarry design has sought to minimise the impact as far as practicable by ensuring the ridge line between the extraction area and Kirton village is retained and by ensuring the boundary landscaping is retained. Nevertheless, negative landscape effects are unavoidable, particular at a local level where the change from agricultural use to quarry would have a moderate impact at a local level, although in the context of the wider landscape the quarry would have a negligible to minor effect. In cases where minerals developments have adverse impacts on the landscape, MLP Policy M3.22 provides scope to balance these impacts against the wider benefits that may be provided by the development. This assessment of planning balance is considered within the conclusions section of the report.

121. With regard to the level of visual impact from the development, the landscape and visual appraisal reaches the following conclusions:

- The scheme minimises the magnitude of visual impact as far as possible by retaining the existing vegetation and hedgerow boundary treatment which provide a visual screen for the quarry development.
- The quarry would be visible from higher land and property to the north and north east, a moderate visual impact from the mineral workings is anticipated in these locations. There would also be a moderate visual impact to users of footpath number 4 where there would be open views into both the existing and new workings.
- No views or significant change in visual impact would occur from viewpoints to the west and south. Furthermore the development would not be visible from residential properties in Kirton Village and its conservation area due to the presence of an intervening ridgeline of higher land which screens the development.
- The phased scheme of working ensures that mineral extraction would advance towards Hedglands thus ensuring that the extraction phase is at a lower level to this property and not visible. A noise bund constructed between the quarry and Hedglands would assist in screening views into the quarry, but would not fully screen views of the quarry from this property. Overall the magnitude of visual impact at Hedglands is considered to be relatively low and the effect of the screen mound would be reversible.

122. The topography of the site and the surrounding landscape assist in reducing the visual impact of the development as far as practical. In accordance with MLP Policy M3.4 boundary hedgerows have been retained, supplementary screening bunds have also been provided and a scheme of phased working is proposed to minimise the working face of the quarry as far as practical and provide for the early restoration of the current working area. Visual impacts from the development have therefore been minimised as far as possible in accordance with the objectives of MLP Policy M3.3. At most viewpoints the visual impact would be negligible or minor in magnitude. There would be some moderate visual impacts from land/property to the north east of the site and from the public footpath adjacent to the site during the operational life of the quarry with impacts reducing following site restoration. The conclusions section of the report gives consideration to these effects as part of the overall assessment of planning balance.

### Ecology

123. Paragraphs 109 and 118 of the NPPF seek to minimise biodiversity impacts from development by avoiding impacts to protected species and giving preference to the development of sites which are of lower ecological value. Where possible development should provide net gains to biodiversity and take opportunities to incorporate biodiversity in and around developments. MLP Policy M3.17 (Biodiversity) also seeks to minimise/avoid impacts to biodiversity, requiring that if the loss of habitat or features cannot be avoided, provision should be made for the creation of new habitat.

124. The Environmental Statement incorporates an ecological assessment of the development which assesses the existing ecological baseline of the site and considers the likely ecological impact of the scheme.
125. The ecological survey of the site utilises existing survey data and biological records (desktop data) to target the carrying out of field surveys for fauna to record the type, location and extent of vegetation and habitats within the Site, the suitability of these habitats to support protected or notable species and the carrying out of specific targeted surveys following this appraisal undertaken to established methodologies.
126. The desk survey identifies that the development site does not incorporate any ecological designated sites. In the wider area there are:
- four Sites of Special Scientific Interest (SSSIs) within 2km of the proposed extension boundary; the nearest is Wellow Park SSSI located approximately 0.9km south;
  - seven Local Wildlife Sites (LWSs) were found within 1km of the proposed extension boundary, the nearest is Kirton Brickworks LWS located approximately 0.1km to the south of Kirton West; and
  - records of a number of protected/notable species within 1km of the proposed extension, including bats, butterflies and moths, amphibians (not great crested newt), common lizard, brown hare, and harvest mouse.
127. The Phase 1 vegetation and habitat survey identifies that the majority of the Western Extension Site is currently in agricultural use interspersed by boundary hedgerows and trees. Other parts of the site incorporate parts of the quarry which is 'disturbed' in character. The targeted surveys identified that the site does not incorporate any bat roosts although bats were recorded flying over the site. There is no evidence of reptiles and the dingy skipper butterfly surveys submitted as part of the Reg. 22 process confirm that the site incorporates habitat which is suitable for these species. The hedgerows, trees and land within the site provide potential habitat for breeding farmland birds, but these species would be common and widespread farmland bird species. DNA testing for Great Crested Newts in the waterbodies within a 500m of the site came back negative. Overall the site is considered to have low nature conservation value.
128. Nottinghamshire Wildlife Trust have raised concerns that the ecological assessment undertaken by the developer incorporates inadequate surveys and therefore they are unable to make informed judgements in terms of the magnitude of impact to bats, reptiles and amphibians, birds and invertebrates. These concerns have been reviewed in consultation with NCC's Ecologist who is satisfied the surveys undertaken for the site are appropriate and enable satisfactory conclusions to be reached.
129. The ecological surveys demonstrate that the site has a low nature conservation value with most of the land within the site of the proposed extension under regular arable cultivation. The ecological effects of the development are limited to a small number of protected/notable species and habitats, principally the loss of hedgerows. The impacts would be temporary with potential for long term

overall beneficial effects as a result of the planting works that would be undertaken as part of the quarry development and restoration.

130. A series of ecological mitigation measures have been identified by NCC's Ecology Officer which can be regulated through the planning conditions to limit and reduce the potential ecological effects of the development comprising:
- The planting of additional hedgerows within the site including the translocation of existing hedgerows to provide additional habitat, notably foraging habitat for bats.
  - The removal of potentially invasive species from the existing plantation woodland belts along Kirton Road including several inappropriate or non-native species such as grey alder which hybridises with native alder and can become invasive, Scot's pine and bird cherry.
  - Controls over vegetation clearance during the bird nesting season (which runs from March to August inclusive) to avoid impacts to nesting birds.
  - The establishment of wildflower areas on fallow areas taken out of arable production during the quarrying works and soils stockpiles to benefit birds, bats and insects.
  - The management of existing habitat within the Kirton Brickworks LWS 5/2195 to ensure it continues to provide appropriate habitat for Dingy Skipper butterflies.
131. In terms of the restoration proposals, these primarily involve the creation of two lakes; a smaller, East Lake of around 4.5 hectares in size and a much larger West Lake of 20.6 hectares. Opportunities have been taken to incorporate areas of tree and hedgerow planting, species-rich grassland, and marginal vegetation (including reedbeds) but open water within the lakes would be the predominant feature within the restoration of the site.
132. As part of the Reg. 22 request for additional information the applicant was asked to review the restoration arrangements for the site and create a more varied restoration landform with expanded areas of marginal vegetation, the provision of additional hedgerow planting including translocation of hedgerows, construction of wildlife ponds, the use of appropriate species rich planting, the restoration of the 'stand-off' land (fields 2 & 3) and appropriate habitat management/maintenance.
133. In response, the applicant has reviewed and amended the restoration arrangements for the site, making a series of modifications to the scheme including the provision of an additional island in the smaller eastern lake, increasing the amount of marginal aquatic vegetation (shallow water less than 1m in depth), reed bed/wet grassland on the lake edges, habitat suitable for dingy skipper, and increasing the length of hedgerows to enhance the ecological value of the restored site. To engineer these alterations it has been necessary to source more materials by increasing the depth of excavation within the centre of the main lake and using this material on the lake edges. Modifications have



also been made to the management of the fields 2 and 3 on the western edge of the lake to encourage species rich grassland in favour of agricultural use.

134. Paragraph 118 of the NPPF requires planning authorities, when determining planning applications, to ensure that significant ecological harm is avoided by developing sites of low ecological value and, where development is granted, ensure that satisfactory arrangements are put in place to mitigate/compensate any ecological impacts and where possible result in net gains to biodiversity.
135. The application site is not designated for its ecological value and the surveys which support the planning application demonstrate that it has comparatively low ecological value. The scheme of working and restoration proposals for the site would deliver ecological enhancements and thus comply with the policy approach set out within the NPPF as well as MLP Policy M3.17 (Biodiversity).
136. Opportunities to provide further ecological enhancements within the site are limited by the design of the restored landform which would be dominated by two large lakes offering limited ecological value due to their water depth. Any reduction to the depth of these lakes to enhance their ecological value could only be achieved by either the importation of fill materials (which is not proposed in this application) or the reduction in the quantity of mineral extraction directly affecting the amount of brick making clay available to the quarry and potentially bringing forward an earlier need to extract mineral from surrounding land or import clay from further afield. Further consideration to the balance between maximising the mineral yield and biodiversity benefits of the restored site is given in the conclusions section of the report.
137. A series of planning conditions have been identified to maximise the ecological value of the restored site including updated seeding and planting mixes, potential for an additional hedgerow on the northern boundary of the site and the translocation of hedgerows where appropriate. The applicant has agreed to extend the length of aftercare to be provided for the restored site to provide 10 years management (five years statutory and five years additional voluntarily), but is not agreeable to providing 15 years of aftercare which has been suggested by NCC's Ecologist. In this instance 10 years of aftercare is considered appropriate to ensure the successful establishment of the aftercare of the site.

#### Public Rights of Way

138. Adopted MLP Policy M3.26 (Public Access) aims to maintain the existing network of public rights of way and wherever possible take opportunities to enhance opportunities for public access.
139. The nearest public footpath (NCC reference 'footpath number 4') lies to the west of the extraction area, routed from Kirton village along the western boundary of the site and then crossing over the railway via a footbridge. The footpath then continues south, crossing over the quarry haul road and continuing through the remainder of the quarry. The quarry extension would not affect the route of the footpath and no diversion would be required as a result of the proposed works. The standoff provided on the western side of the site will ensure there is at least 75m between mineral extraction operations within Kirton West and the footpath.

The potential amenity effects on users of the PRow network has been considered as part of the individual technical assessments undertaken for the scheme (e.g. visual, dust, noise, etc.). Significant impacts are not predicted to footpath users, but quarry workings would be visible from the footpath.

140. As part of the development a new permissive footpath would be created comprising a circular path which would be opened following the restoration of this part of the site south of the railway line, approved under planning permission 3/12/01601/CMA. The provision of the permissive path would be regulated by planning condition.
141. Overall, it is concluded that the effects of the scheme on the public right of way network are of minor magnitude and moderate (beneficial) significance in the long term. The requirements of Policy M3.26 are therefore satisfied.

#### Hydrology, Pollution Control and Flood Risk

142. Adopted MLP Policy M3.8 (Water Environment) states that planning permission will only be granted for minerals development where surface water flows are not detrimentally altered, groundwater levels are not altered and there are no risks of pollution.
143. The existing quarry and the proposed extension work the Tarporley Siltstone Formation which overlays the Sherwood Sandstone, a Principal Aquifer. The Sherwood Sandstone is not penetrated during the course of quarrying with a minimum thickness of 20 m of mudstone retained at all times between the floor of the proposed extension and the Sherwood Sandstone which would minimise potential pollution pathways to the aquifer.
144. The operation of the quarry has potential to mobilise loose clay fines which have potential to be discharged from the site causing sedimentation. However, the discharge of water off-site would pass through settlement ponds to remove suspended solids and ensure that site drainage is compliant with the limits set in the existing water discharge permit.
145. Best practice measures for storage and handling of potentially contaminating materials are employed at the site and no pollution incidents have occurred in the past. The main fuel storage tanks are located within the Brickworks. Refuelling, if required in the quarry, is undertaken using a double-skinned bowser. Mobile plant in the quarry is equipped with spill mats and in the event of a larger spill equipment is available at the Brickworks to manage the clean-up.
146. Risks from pollution incidents are therefore considered to be very low to negligible from the scheme and subject to operational practices concerning fuel storage being regulated by planning condition, no additional mitigation is considered to be necessary.
147. Changes to groundwater levels as a result of the development are not anticipated. Monitoring data shows that groundwater levels in the proposed extension area are generally below the base of the proposed quarry floor. Based on the experience of the existing quarry no discernible impact on water

level is expected nor are there any anticipated impacts on groundwater levels around the site.

148. The development site lies in Flood Zone 1 and therefore has an extremely low probability of flooding during the working life of the quarry. Adopted MLP Policy M3.9 (Flooding) supports minerals development where it does not give rise to unacceptable impact on flood flows and flood storage capacity, or on the integrity or function of flood defences and local land drainage systems. A flood risk assessment (FRA) has been prepared to support this planning application. In accordance with NPPF requirements, the FRA has taken into account the effects of climate change when assessing the potential flood risk impacts. The FRA considers the risk of flooding from the following sources: fluvial, surface water run-off, groundwater flow, and sewer and/or mains leakage. The FRA identifies that:

- The likelihood of fluvial flooding within the site is considered to be 'very low' to 'negligible'. The NPPF advises that mineral extraction is an appropriate land use in this flood zone category.
- The overall risk from surface and groundwater flooding is low to very low. Surface and groundwater flows would collect in the base of the operational quarry and pumped into the existing surface water system. Post restoration surface and groundwater would flow through the restored lakes at a controlled rate into the existing surface water system ensuring that the overall risk from surface and groundwater flooding is low to very low.
- Flooding from sewer or mains leakage is not anticipated.
- The development would not increase the risk of flooding to external (off-site) receptors. This is because water flows during both the operation of the quarry and following its restoration are captured in the void/lake and discharged to the wider environment in a controlled manner at the greenfield run-off rate.

149. The FRA therefore concludes that the flood risk impacts associated with the development would be very low to negligible and no significant flood risk impacts are predicted. No specific mitigation measures are therefore required. The development therefore complies with adopted MLP Policy M3.9 and NPPF policy. Furthermore, no adverse impacts are anticipated to the water environment and therefore MLP Policy M3.8 is complied with.

#### Agriculture and Soils

150. Adopted MLP Policy M3.16 (Protection of best and most versatile agricultural land) states that planning permission will only be granted for minerals development on best and most versatile (BMV) agricultural land (grades 1, 2 and 3a) where it can be demonstrated that either:
- a. the development would not affect the long term agricultural potential of the site; or

- b. there is no available alternative and the need for the development outweighs the agricultural interest; or
  - c. available land of lower value has sustainability considerations which outweighs the agricultural land quality.
151. MLP Policy M3.16 favours the use of lowest grade of agricultural land where there is a choice of various grades of agricultural land. This approach is consistent with the NPPF which under paragraphs 112 and 143 seeks to safeguard BMV agricultural land from development.
152. The proposed Kirton West extraction area amounts to some 20.2 hectares of land from which soils would be stripped prior to the extraction of brick clay. An agricultural land survey has been undertaken in support of the planning application which identifies that 11.4 hectares of this land is Grade 2 quality and 8.8 ha is subgrade 3a quality and therefore BMV land.
153. The Environmental Statement sets out that soils would be stripped, handled, transported and stored in accordance with industry best practice set out within DEFRA Good Practice Guidance for Handling Soils. Nevertheless, the overall effect of the scheme would be the loss of approximately 20 hectares of BMV agricultural land comprising arable land and hedgerows.
154. As part of their Reg. 22 response, the applicants have been requested to provide further justification for the loss of this amount of BMV land. Their response is summarised below:
- It has been understood for very many years that the Kirton brickworks mineral reserves lie within an area including BMV soils.
  - The existing Kirton North working area included an area of agricultural land classification (ALC) Grade 1 land in addition to some of ALC Grade 2. This classification was known when the County Council allocated Kirton North in the adopted 2004 MLP (and subsequently granted permission in 2006).
  - The ALC classification of Kirton West was known when the site was allocated in the draft Replacement MLP (recently withdrawn).
  - There is no viable restoration option at Kirton West that would avoid the loss of BMV land. Backfilling the mineral void with imported materials to create a new landform that could be restored to agriculture is not an option given any support by adopted or draft minerals policy, the local community or financially viable given the distance of the site from the source of likely arisings.
  - The NCC policy requirement is directed at promoting biodiversity and habitat creation. Given the depth of mineral extraction necessary to fully utilise the insitu brick clay resource, a deep excavation that will partially fill with water i.e. restored to lakes is the only option. Some subsoils (approximately 31,000m<sup>3</sup> or 31% of the total sub soil strip) will be used to engineer the side slopes of the lagoon that lie below the final water level. The remaining 69.4% of sub-soils and 100% of topsoils will be re-employed above the finished lake level.

- The applicant recognises that subsoils and top-soils used in restoration above the final water level will not all be put to agriculture use and the topsoils forming the top-soil screening bunds on the edge of phases 6-8 will be bladed out into the fields to increase soil depths but the developer has had to balance the competing aims of protecting the soil resource against mineral recovery and the policy requirement to provide ecological enhancements upon restoration.
155. Natural England have not formally objected to the planning application but they have a series of reservations in respect of the use of BMV land in their responses to both the original and Reg. 22 consultations and ask the Council to carefully consider the amount of BMV land that is proposed to be lost, whether there is potential to develop alternative sites of lower agricultural value and if not whether there is potential to re-instate BMV within the restoration of the site.
  156. With regard to site selection, the Kirton West extraction area sought consent within this planning application would form a logical extension to the existing Kirton North extraction area, utilising much of the existing site infrastructure including haulage roads and drainage facilities. Alternative sites are likely to be much more remote from the existing brickworks, increasing haulage distances and potentially resulting in haulage on the public highway which is less sustainable. Whilst acknowledging that the draft Replacement MLP has now been withdrawn, it is understandable why the developer has brought forward this planning application at this time having regard to the pressing need for additional mineral reserves to maintain supplies into Kirton brickworks, and the policy allocation that was in place prior to the withdrawal of the draft Replacement MLP.
  157. Natural England request that further consideration is given to the potential to backfill the void to re-instate the land to its original levels and re-instate BMV, or alternatively to install pumps to drain any water that collects in the void and thus allow BMV to be recreated at a lower level in the void.
  158. The planning application does not seek consent for the importation of waste (either inert or non-hazardous) to facilitate the restoration of the site. The applicant states that such a proposal is unlikely to be acceptable to the local community. Waste importation has potential to generate some significant environmental impacts over and above those associated with the mineral extraction scheme assessed in the ES. In particular noise levels at nearby properties are likely to exceed NPPF standards due to the operation of heavy compactors necessary to operate a landfill site, and vehicle movements associated with delivering waste to the site are likely to require access via the Kirton to Egmonton road, a narrow country lane which is not considered suitable for such access. The applicant also questions whether waste disposal is financially viable given the distance of Kirton from the origin of wastes. The applicant's reasoning for not incorporating backfilling of the void with waste as part of the planning application is therefore understandable.
  159. The applicant's submission that there is a lack of available alternatives to supply clay to maintain production at Kirton brickworks is therefore accepted. On this basis the development of the site is potentially supported by MLP Policy M3.16

criteria b which allows the development of BMV land when 'there is no available alternative and the need for the development outweighs the agricultural interest'. In this regard, Members are reminded of the great weight that is afforded to the benefits of mineral extraction in the NPPF (paragraph 144).

160. With regard to low level agricultural restoration, the characteristics of the local topography, geology and hydrogeology do not lend themselves to this form of restoration. The quarry sides and base are engineered into low permeability clays and therefore any surface and ground water flows which enter the void would collect in the base and not permeate out and thus a lake would naturally form. Whilst it is technically feasible to permanently de-water and pump the void to allow it to be retained dry, this would not be sustainable in the longer term due to the cost of running and maintaining pumps. This option therefore has understandably not been incorporated within the restoration proposals for the site.
161. Finally, Natural England's concerns regarding the need and sustainability of increasing soil depths on the undisturbed areas of agricultural land along the western boundary are noted. It is readily acknowledged that there is an abundance of soils on the site in relation to the amount of 'dry' land proposed within the restoration scheme. The failure to maximise the full benefit from the soil resource is therefore an unavoidable impact if this planning application was granted planning permission.
162. The NPPF, its accompanying PPG and MLP Policy M3.16 direct that agricultural land quality should be taken into account alongside other sustainability issues. These matters are considered within the conclusions section of this report and in particular the balance between loss of BMV agricultural land against the need for the mineral resource, the associated socio-economic benefits, biodiversity considerations and lack of available alternatives. The overall conclusion reached is that the benefits provided by the development outweigh any harm caused by the loss of BMV agricultural land.

#### Aircraft Safety

163. In the UK, Airfield Safeguarding Areas (ASAs) are designated within 13km (8 miles) of an airfield. The purpose of safeguarding is to ensure that the operation and development of civil and military airfields is not inhibited by developments including those which have the potential to increase the number of birds and the 'birdstrike' risk. This zone is based on a statistic that 95% of bird strikes occur when aircraft are flying below 2000ft, and that an aircraft approaching an aerodrome on a normal approach would descend below 2000ft approximately 13km from the runway.
164. The planning application for Kirton Brickworks Quarry lies within 8km of Retford Gamston Airport and therefore within its safeguarded area. The airport has therefore been consulted on the planning application for their observations on the potential risks of bird strike hazard as a result of the proposed development.
165. Retford Gamston Airport initially raised an objection to the planning application on the basis that a bird strike assessment had not been undertaken to support the planning submission. To resolve this objection an Aircraft Safety

Assessment has been undertaken and submitted as part of the Reg. 22 Submission. The assessment acknowledges that the lakes created by the restoration of the site would be attractive to waterfowl, but with careful management the resultant risks can be managed to an acceptable level.

166. A key factor in reaching this conclusion is the distance of the quarry from the airfield which means that aircraft are likely to have gained altitude at the point they fly over the quarry and thus be above the height that most birdstrike issues occur. Risks would also be managed by a mitigation strategy that would control the design and subsequent management of the site to make it less desirable for birds. The mitigation strategy incorporates a series of measures including the incorporation of deep lakes with steep sides and marginal planting to make the lakes less accessible to bird species, allowing public access, minimising the size of water bodies, reducing nesting potential and not stocking the lakes with fish. Subject to the implementation of appropriate mitigation the overall magnitude of impact is predicted to be low neutral whilst still ensuring that the restoration of the site provides ecological benefit.
167. Retford Gamston Airport has reviewed the birdstrike assessment provided as part of the Reg. 22 response and withdrawn their original objection to the planning application based on its findings subject to the implementation of the proposed mitigation scheme throughout the after-care period of the site. It is recommended the birdstrike mitigation measures are regulated by planning condition, subject to a review of the specific arrangements at the time of undertaking the restoration of the western lake.

#### Cultural Heritage

168. Adopted MLP Policy M3.25 (Listed buildings and Conservation Areas) seeks to ensure that minerals developments do not cause unacceptable harm to conservation areas, listed buildings, historic battlefields and historic parks and gardens.
169. In line with the requirements set out in Paragraphs 128 and 129 of the NPPF the applicant has described the significance of the heritage assets and the level of detail is considered proportionate to understand the assets' importance and the potential impact of the proposal on their significance.
170. NPPF Paragraph 132 states that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be given to its preservation. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
171. The heritage assessment identifies that the site of the Kirton western extension does not incorporate any statutorily protected heritage assets but there are two non-designated heritage assets within the site (the Lancashire, Derbyshire and East Coast Railway ( a former mineral railway line) and a Pond at Kirton), both of which are considered to have a low heritage value. Within a 500m radius of the site there are four listed buildings, all located within the Kirton Conservation

Area and a further 21 non-designated heritage assets. In terms of effect on the heritage assets it is concluded that there would be no significant adverse effects from the scheme on heritage assets including listed buildings within Kirton Conservation Area and the Lancashire, Derbyshire and East Coast Railway. The development therefore is compliant with MLP Policy M3.25 and NPPF policy concerning the protection of the cultural heritage.

#### Archaeology

172. The Environmental Statement submitted in support of the planning application incorporates an archaeological assessment. This assessment identifies that the site does not incorporate any known archaeological remains of national importance or features which warrant preservation in situ and the site has a low potential for yielding any significant archaeological remains.
173. Adopted MLP Policy M3.24 (Archaeology) identifies that mineral workings on sites which incorporate archaeological remains of less than national importance (as is the case here) can be worked provided it is demonstrated that the importance of the development outweighs the significance of remains and subject to provision being made through the planning permission for the appropriate excavation and recording of any remains.
174. Based on the paucity of archaeological remains noted during previous watching brief mitigation within and adjacent to the site, it is concluded that the site is likely to have a low archaeological value, but the presence of archaeology cannot be dismissed. It is therefore concluded that the need for the development outweighs the preservation of this potentially limited resource.
175. No specific archaeological mitigation is recommended in this instance over and above the implementation of a programme of archaeological work in accordance with a written scheme of investigation which could be secured through planning condition.

#### Consideration of cumulative and combined effects

176. Significant adverse cumulative effects are not anticipated from the scheme, this is because the individual assessments of environmental impact do not identify any significant residual impacts associated with the proposals; and because the site is in a rural area, with few close by receptors, and therefore the likelihood for significant cumulative effects to occur as a result of the scheme is extremely low.

#### **Other Options Considered**

177. Schedule 4 Part II(4) of the EIA Regulations require an Environmental Statement to provide an outline of the main alternatives considered by the applicant and an indication of the main reasons for choosing a development having taken account of the environmental effects.
178. The alternatives considered by the operator with respect to the scheme at Kirton include:



- a. Extraction footprint: The applicant considers the proposed mineral extraction footprint enables the recovery of the maximum mineral resource within Kirton West as efficiently as possible whilst minimising as far as possible the potential visual and amenity impacts of the scheme. Limiting the extent of extraction over the ridgeline lying east (and above) Kirton village will minimise visual impact and landscape concerns, it provides appropriate stand-offs to residential property and the adjacent footpath. The extension area is also consistent with that which is identified in the emerging NCC Minerals Local Plan (Policy MP6: Brick Clay Provision -site allocation Policy MP6a: Kirton West). An alternative area, either reduced or larger than the proposed site allocation, was not considered to be the preferred option at the present time.
- b. Phasing sequence: The proposed phased working scheme reduces potential visual and noise impacts from the extraction operations. It also minimises the area that is taken from agricultural use or awaiting final restoration at any point in time, enabling the restoration works in Kirton North to be undertaken at the earliest opportunity. It also enables the Cross Wong Lane hedgelines to be retained for a longer duration to preserve bat routes, etc. for as long as possible and provide time for the advanced planting hedgelines to mature.
- c. Method of working: The method of working proposed for Kirton West will follow the established general method of working for Kirton North, but with more restrictive working during certain phases which is considered to be effective both in terms of efficient recovery of the mineral and also in terms of minimising potential adverse impacts on public amenity. The scheme provides scope to either work the mineral on a daily basis or to work it on a campaign and stockpile basis to provide more flexibility to the operator.
- d. Mitigation approach: The environmental mitigation measures incorporated within the planning submission including advance planting and landscaping, placement of temporary acoustic screens, and additional controls over workings in locations sensitive to noise have been drawn up to ensure the development does not give rise to unacceptable environmental impacts.
- e. Restoration scheme: The proposed restoration scheme would complement and enhance the existing restoration at the site. The incorporation of two lakes within the design enables the existing Kirton North workings to be restored at an early stage and provides biodiversity benefits.

179. The development scheme has been formed as part of an iterative process and is considered appropriate taking into account the need to balance the interests of the development plan and material considerations, stakeholders and the effects of mitigation, whereby the residual effects of the scheme are considered low or minimal. The scheme is considered to be an appropriate and deliverable option for the extraction of minerals at the site.

## **Statutory and Policy Implications**

180. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### Crime and Disorder Implications

181. The development would extend the existing quarry making use of the established security features within the site including the haul roads and plant site. The site is enclosed by perimeter fencing and signage to restrict public access.

### Data Protection and Information Governance

182. All members of the public who have made representations on this application are informed that copies of their representations, including their names and addresses, are publically available and are retained for the period of the application and for a relevant period thereafter.

### Human Rights Implications

173. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol and Article 6 may be affected. The proposals have the potential to introduce impacts of noise, dust and visual impact within the local area. The significance of these impacts would be most notable at the properties in closest proximity to the site, but the magnitude of impacts are generally assessed as minor. These potential impacts need to be balanced against the wider benefits the proposals would provide in terms of providing a continuity of mineral resources. Members will need to consider whether these benefits would outweigh the potential impacts.

### Implications for Service Users

183. The extension to Kirton Quarry would ensure that Kirton Quarry brickworks maintains a continuity of local clay for the manufacturing of bricks.

### Implications for Sustainability and the Environment

184. These have been considered within the observations section above.
185. There are no financial implications, human resource implications, public sector equality duty implications, safeguarding of children and adults at risk implications, smarter working implications or NHS constitution (public health services) implications.

## Conclusion

186. Brick clay reserves in the current Kirton North Quarry will be exhausted by 2019 and therefore a need for additional mineral reserves to maintain production at the Kirton Brickworks exists.
187. The adopted Nottinghamshire Minerals Local Plan does not allocate any additional land for clay extraction at Kirton beyond the existing consented boundaries of the quarry. The development of the western extension proposed in this application therefore would be undertaken on a site that is not allocated for mineral extraction in the development plan.
188. Paragraph 146 of the NPPF requires minerals planning authorities to plan for a steady and adequate supply of industrial minerals and specifically provide a stock of at least 25 years of permitted brick clay reserves to support the level of actual and proposed investment required for the operation of brick manufacturing factories. The 20 hectare extension proposed in this planning application would yield 5.5 million tonnes of brick clay and secure mineral reserves for the production of bricks in the factory for a further 25 years.
189. The NPPF also requires planning authorities to give great weight to the benefits derived from mineral extraction, particularly the economic benefits. This development would secure the long term future of Kirton Brickworks, a major contributor to the local economy which employs over 100 staff. The expansion of the quarry would also maintain an important supply of quality bricks (80 million bricks per year) into Nottinghamshire and the Midlands region. The development is therefore positively supported by NPPF economic and minerals policy.
190. The environmental effects of the development have been carefully assessed within the applicant's planning application and Environmental Statement including the additional information supplied under Regulation 22. These documents have been reviewed through the assessment of the planning application and the consultation responses. The results of these assessments are set out within this report wherein significant adverse impacts have not been identified. Best practice measures, controlled through planning conditions requiring specific mitigation are recommended to be applied where appropriate to reduce potential environmental impacts.
191. The quarrying scheme works the mineral reserve to its full depth, achieving a high minerals yield in relation to the site area and avoiding any mineral sterilisation and delays the need to extract further greenfield land at an earlier date. This method of extraction results in a deep excavation directly influencing the restoration of the site. The topography and hydrogeology of the site means that the resultant void would backfill with water removing any opportunity to re-instate the former BMV agricultural land across the site. Natural England have reservations about the loss of this BMV land but have not raised a formal objection to the planning application.
192. The working and restoration of the site would change the landscape character of the site from arable farmland to an operation quarry followed by open water habitat and lakeside habitat. These changes would also have a visual effect.

Notwithstanding these landscape changes, the restoration of the site would create an attractive lake based habitat accessible to the public by permissive paths and linked to the local public footpath network.

193. The depth of the water limits opportunities to create a more varied ecological habitat across the site and Nottinghamshire Wildlife Trust have raised an objection on this basis. Ecological enhancements have been made to the restoration of the site through the Reg. 22 submission and NCC's Ecological Officer is satisfied that the scheme of working and restoration would deliver ecological enhancements over the existing agricultural use of the site and thus comply with the policy approach set out within the NPPF as well as MLP Policy M3.17 (Biodiversity).
194. Whilst acknowledging that the scheme does have some negative effects, the overall conclusion is in favour of granting planning permission on the basis that there is a clear and established need for the clay and its continued supply would provide socio-economic benefits. The NPPF requires the planning system to support business and attach significant weight in planning decisions to economic growth and maintaining a steady supply of minerals to the industry.
195. Therefore, subject to the imposition of the planning conditions set out within Appendix A of this report, the overall balanced conclusion is to support a grant of planning permission.

### **Statement of Positive and Proactive Engagement**

196. In determining this application the Mineral Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; encouraging pre-application community engagement which the applicant acceded to by holding a pre-application exhibition and a leaflet drop; and the scoping of the application. The proposals and the content of the Environmental Statement have been assessed against relevant Development Plan policies, the National Planning Policy Framework, including the accompanying technical guidance and European Regulations. The Mineral Planning Authority has identified all material considerations; forwarded consultation responses that have been received in a timely manner; considered any valid representations received; liaised with consultees to resolve issues and progressed towards a timely determination of the application. Issues of concern have been raised with the applicant including matters concerning ecology, restoration, aircraft safety and the sustainable use of soils and have been addressed through negotiation and acceptable amendments to the proposals requested through a Regulation 22 submission. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

## **RECOMMENDATIONS**

197. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

**ADRIAN SMITH**

**Corporate Director – Place**

### **Constitutional Comments [RHC 23/11/2017]**

Planning & Licensing Committee is the appropriate body to consider the contents of this report.

### **Comments of the Service Director - Finance [SES 17/11/17]**

There are no specific financial implications arising directly from this report.

### **Background Papers Available for Inspection**

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

### **Electoral Division(s) and Member(s) Affected**

Ollerton

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ES/3656      DLGS REFERENCE  
W001709      COMMITTEE REPORT REFERENCE