



Direct Dial/Ext: 03000 416749
e-mail: andrew.tait@kent.gov.uk
Ask for: Andrew Tait
Date: 19 March 2019

Dear Member

PLANNING APPLICATIONS COMMITTEE - WEDNESDAY, 6 MARCH 2019

I enclose supplementary papers which were tabled at the meeting of the Planning Applications Committee on Wednesday, 6 March 2019. These are entitled "C1 Supplementary" and were provided to the Head of Planning Applications Group shortly before the meeting. They relate to:-

Agenda Item No

C1 **Applications TM/18/2549 and TM/18/2555 (KCC/TM/041/2018 and KCC/TM/0492/2018) - Variation of Conditions on Permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford; Aylesford Heritage Ltd (Pages 3 - 84)**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ben Watts', is written over a light blue horizontal line.

Benjamin Watts
General Counsel

This page is intentionally left blank

SECTION C1
MINERALS AND WASTE MANAGEMENT

Background Documents - the deposited documents; views and representations received as referred to in the reports and included in the development proposals dossier for each case; and other documents as might be additionally indicated.

Item C1

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 (KCC/TM/0491/2018) and TM/18/2555 (KCC/TM/0492/2018)

A report by Head of Planning Applications Group to Planning Applications Committee on 6 March 2019.

Applications by Aylesford Heritage Ltd for the:

- (i) Variation of conditions 20, 28 and 32 of planning permission TM/93/612 to provide a revised restoration and aftercare scheme and consistent noise limits for temporary operations such as restoration with those provided for by planning permission TM/97/751/MR102 for that part of Aylesford Quarry to the East of Bull Lane – **TM/18/2549** (KCC/TM/0491/2018); and
- (ii) Variation of conditions 36 and 39 and deletion of condition 44 of planning permission TM/97/751/MR102 to provide a revised restoration and aftercare scheme for that part of Aylesford Quarry to the East of Bull Lane – **TM/18/2555** (KCC/TM/0492/2018);

at Aylesford Quarry, Rochester Road, Aylesford, Kent, ME20 7DX.

Recommendation: Permissions be granted subject to conditions.

Local Member: Mr P Homewood

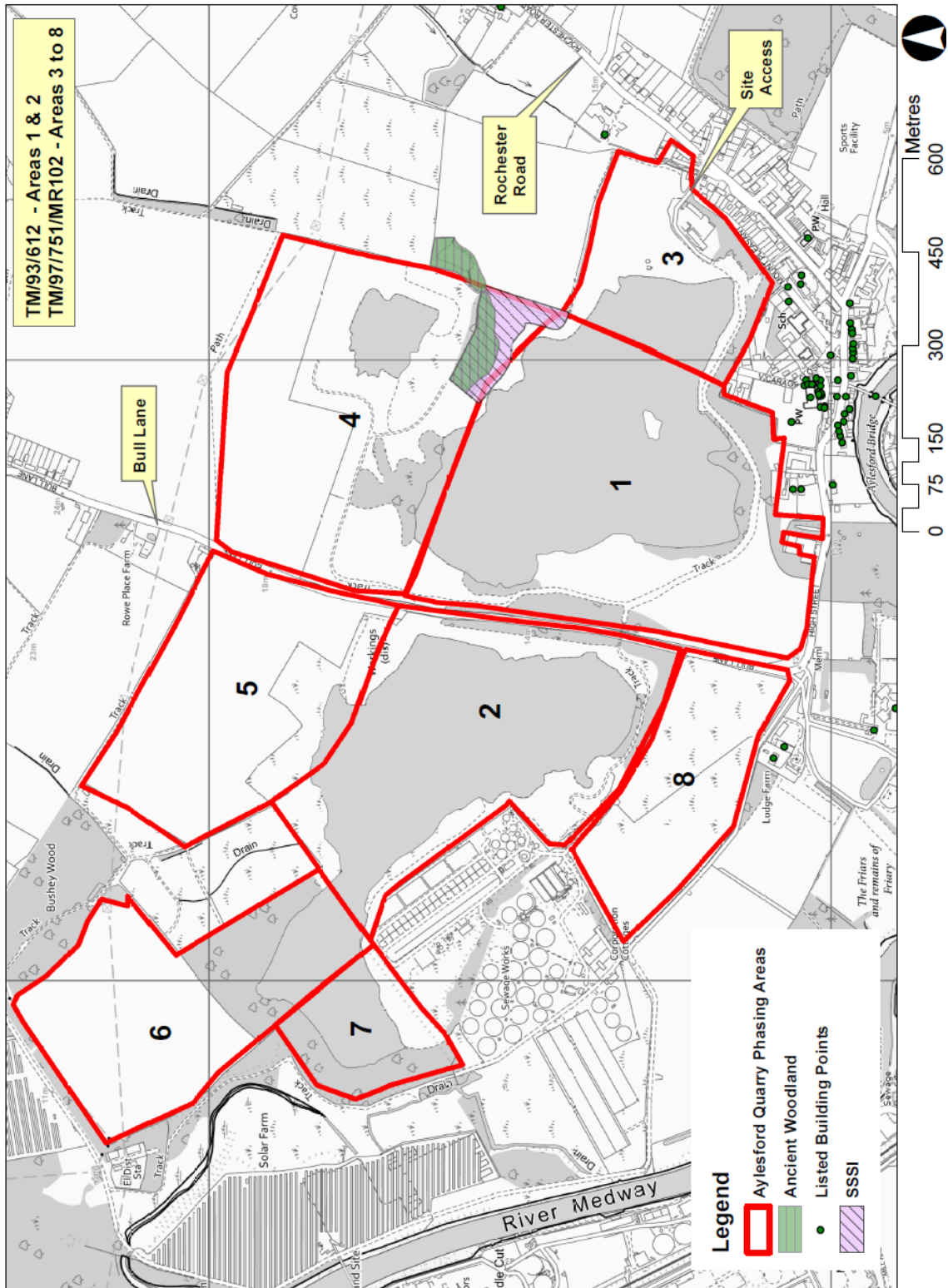
Unrestricted

Site description

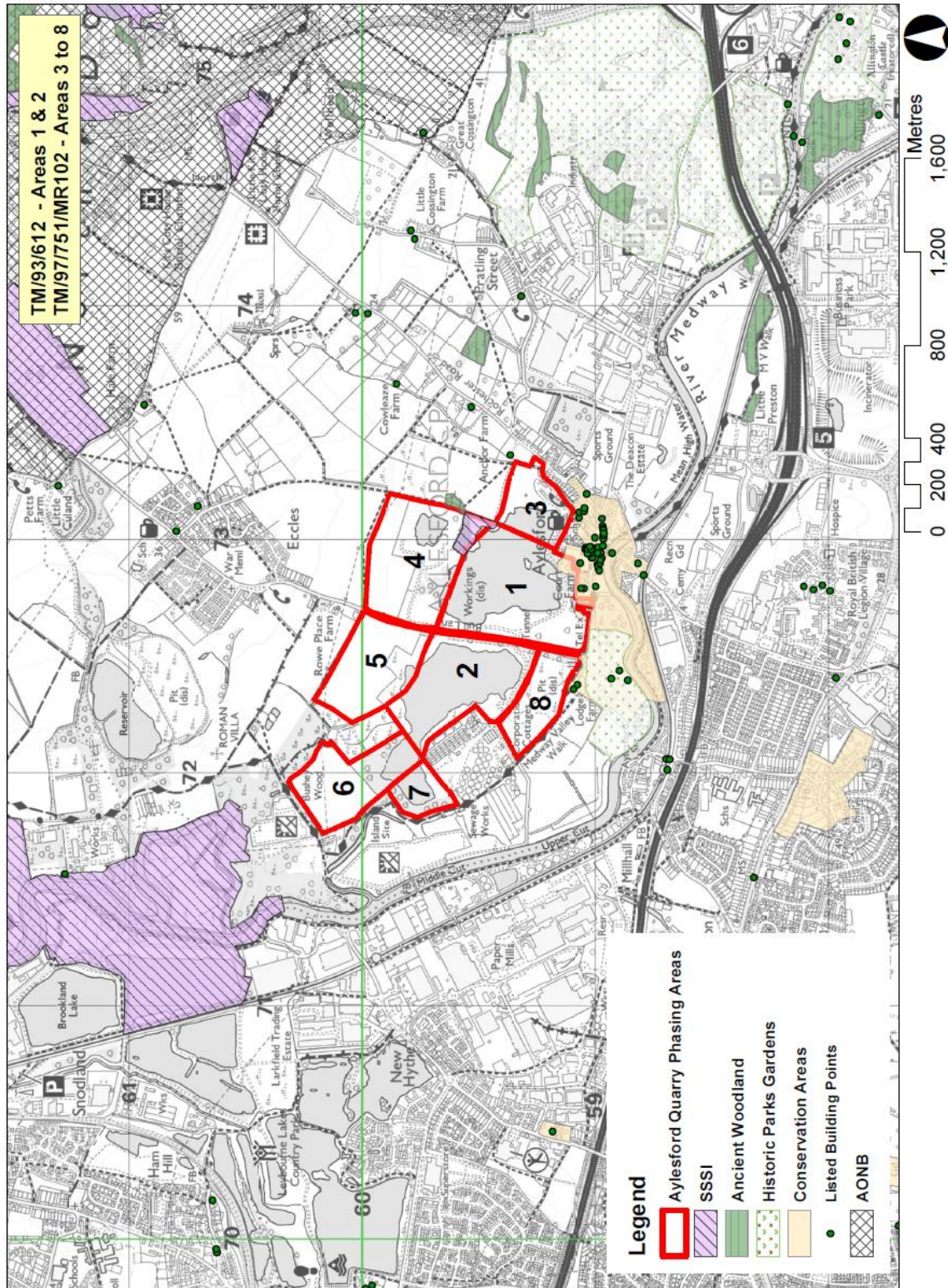
1. Aylesford Quarry lies approximately 5 kilometres to the north west of Maidstone, between Aylesford and the River Medway (to the south) and Eccles (to the north). It includes land to the east and west of Bull Lane. The eastern area of the quarry lies between Rochester Road and Bull Lane and the western area between Bull Lane and Aylesford Waste Water Treatment Works (WWTW) and Bushey Wood. Each of the areas contains a large lake created by soft sand working above and below water table, whilst the eastern area also contains a smaller lake created by clay extraction. The land around the lakes has either been worked or disturbed by quarry activities, was subject to earlier restoration (which has subsequently been disturbed to some degree) or has not been worked and remains in agricultural use. The quarry offices, workshop and staff car park lie at the eastern end of the site near Rochester Road.

Item C1

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555



The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555



The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

2. The main access to the eastern area of the quarry is via Rochester Road which provides access to the A229. The western area of the quarry can be accessed from Bull Lane via the Aylesford WWTW access. The two areas are linked by a vehicle tunnel under Bull Lane although this is not wide enough to accommodate most modern quarry plant, machinery, equipment and vehicles. The two areas were also previously linked by a crossing point over Bull Lane (for quarry plant, machinery, equipment and vehicles too large to use the tunnel), although this can no longer be used due to extraction that has taken place to the west of Bull Lane. Although the eastern area of the quarry contains no public rights of way, it is largely surrounded by public footpaths. The western area of the quarry is surrounded by a combination of bridleways, restricted byways and footpaths.
3. The site is not allocated for any specific purpose in the Tonbridge and Malling Local Development Framework (TMBC LDF) nor the Kent Minerals and Waste Local Plan (Kent MWLP), although the majority of the site is identified as being within a Mineral Safeguarding Area in the Kent MWLP (relating to Silica Sand / Construction Sand associated with Sandstone from the Folkestone Formation and of River Terrace Deposits). The site contains a Geological Site of Special Scientific Interest (SSSI) and an area of Ancient Woodland. It is identified as containing a Regionally Important Geological Site (RIGS) and being within the Strategic Gap in the Tonbridge and Malling Local Plan. The eastern section of the southern boundary of the eastern area of the quarry is subject to a linear group Tree Preservation Order (TPO). The Kent Downs Area of Outstanding Natural Beauty lies approximately 1 kilometre to the north west of the most northerly part of the site and the Aylesford Village Conservation Area lies just to the south. The Friars Historic Park and Garden (part of which is within the Aylesford Village Conservation Area) lies to the south of the site at Aylesford Priory. The Aylesford Village Conservation Area contains a number of listed buildings. These include the main block and gatehouse at the Friars and the Church of St Peter to the north of the High Street which are Grade 1, Court Farmhouse which is Grade 2* and 22 to 32 Mount Pleasant and numerous other properties and features which are Grade 2.

Planning History and Background

4. Mineral working at Aylesford Quarry has taken place in one form or another for over 100 years. Planning permission was first granted under the Interim Development Order (IDO) arrangements in the mid-1940's and a number of other planning permissions for mineral working and processing were subsequently granted. However, the Quarry is now subject to two extant planning permissions which provide for the extraction of minerals (TM/93/612 and TM/97/751/MR102). Each of the permissions includes land to the east and west of Bull Lane. Both of these permissions represents an "update" to the earlier planning permissions in that TM/93/612 was issued under the terms of the Planning and Compensation Act 1993 (updating the permissions granted before 1 July 1948) and TM/97/751/MR102 under the Environment Act 1995 (updating those granted after 30 June 1948). The extent of the areas covered by planning permissions TM/93/612 and TM/97/751/MR102 (including the phasing areas within these) and a number of the key features referred to in this report are shown on the drawings on pages C1.2 and C1.3.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

5. Other extant planning permissions include TM/98/462 (as amended by TM/00/2827 on appeal) and TM/04/1019. The former relates to a new access to the Quarry from Rochester Road (which has been implemented but never completed) and the latter relates to the site offices (which are currently subject to an application KCC/TM/0521/2018 seeking permission for their retention until 21 February 2042 or within 6 months of the permanent cessation of mineral working, whichever is the sooner). Although no longer extant, planning permissions were also granted for clay extraction in an area to the north of the main lake to the east of Bull Lane (most recently TM/05/2618 which varied condition 44 of planning permission TM/97/751/MR102).
6. Planning permissions TM/93/612 and TM/97/751/MR102 both include conditions which require the cessation of mineral working by 21 February 2042 (i.e. the date set out in relevant legislation). TM/97/751/MR102 requires that final restoration of the site be completed by that date or within 2 years of the completion of mineral working at Aylesford Quarry (whichever is the sooner). Both of the permissions also included conditions requiring the submission, prior approval and implementation of working, restoration and aftercare schemes. Whilst both permissions require the land to be restored to a standard reasonably fit for amenity, recreation and nature conservation purposes, the nature of the intended after-use was left to be determined as part of the detailed restoration scheme. Schemes of working and restoration were approved pursuant to conditions 12 and 28 of permission TM/93/612 on 1 November 1995. Schemes of working and restoration were approved pursuant to conditions 14 and 36 of permission TM/97/751/MR102 on 22 October 2002 and an aftercare scheme was approved pursuant to condition 39 on 8 January 2003. The approved schemes complement one another and provide arrangements for the working, restoration and aftercare of all of Aylesford Quarry. The restoration scheme approved pursuant to condition 36 of permission TM/97/751/MR102 was amended on 20 December 2005 by planning permission TM/05/2618 (in that it slightly increased the size of the clay lake area as a result of the further clay extraction that was permitted at that time). Since planning permission TM/05/2618 required clay extraction to cease by 31 December 2010 it is no longer relevant, except in so far as it amended the 2002 restoration scheme.
7. Planning permissions TM/93/612 and TM/97/751/MR102 include a large number of other conditions relating to all aspects of the working, restoration and aftercare of Aylesford Quarry. These include those in respect of: site access; depth, extent and method of working; soil handling and storage; hours of operation; noise limits; blasting; dust control; the removal of plant, buildings, machinery, sanitary facilities, foundations, bases, access roads and parking areas when no longer required for working and restoration; restoration and aftercare; replacement planting and seeding as necessary; and no filling materials from outside sources. Condition 2 of TM/96/612 and condition 2 of TM/97/751/MR102 largely restrict access to Rochester Road, although provision is made for some vehicles to use the WWTW access road (and previously a cross over between the land east and west of Bull Lane). Condition 16 of TM/96/612 and condition 22 of TM/97/751/MR102 restrict hours of operation to between 07:00 and 18:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays, with limited

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

provision for HGVs / tankers to leave the quarry at other times. Condition 20 of TM/96/612 and condition 25 of TM/97/751/MR102 limit noise from operations to no more than 55dB $L_{Aeq, 1 \text{ hour}}$ when measured at the nearest noise sensitive property, whilst condition 26 of TM/97/751/MR102 additionally allows up to 70dB $L_{Aeq, 1 \text{ hour}}$ limit for temporary operations such as site preparation, soil and overburden stripping, bund formation and removal and final restoration for up to 8 weeks a year. Condition 27 of TM/93/612 and condition 28 of TM/97/751/MR102 require dust mitigation measures to be employed, with the latter being more specific in terms of the measures to be implemented. Condition 44 of TM/97/751/MR102 effectively incorporated an earlier planning permission (TM/99/1539 dated 27 April 2000) for clay extraction in a relatively small part of the quarry which required the cessation of clay extraction and restoration by 31 December 2005. As noted above, condition 44 of TM/97/751/MR102 was effectively amended by planning permission TM/05/2618 (on 20 December 2005).

8. Operations at Aylesford Quarry ceased in 2012 when the previous owner (Cemex UK) decided to sell the site. The majority of the Quarry (east and west of Bull Lane) and some adjoining land was purchased by Aylesford Heritage Limited (AHL) in 2013. Those parts it did not acquire are either unworked (e.g. agricultural land to the north) or previously restored areas with the benefit of more recent planning permissions (e.g. the area to the west of Bull Lane and south of the WWTW access road used to train electrical field operatives how to erect and cable telegraph poles). Since 2012, no silica sand extraction has occurred (below water), limited quantities of construction sand have been extracted (above water) and various site management works have been undertaken. AHL made representations on the draft Kent MWLP and appeared at the Local Plan Inquiry in 2015. It argued that the silica sand resource at the site was not workable (unviable) and that only 150,000 – 200,000 tonnes (t) of building (soft) sand (i.e. construction sand) remained within the consented area. This position was accepted by the Inspector and resulted in Aylesford Quarry no longer being included in calculations of permitted silica sand reserves. However, he considered that the presence of a relatively limited amount of recoverable mineral meant that the site should remain within a Mineral Safeguarding Area (as now reflected in the adopted Plan).
9. AHL has aspirations to develop parts of Aylesford Quarry for non-minerals development. This is evidenced by an outline planning application (TM/17/02971) submitted to Tonbridge and Malling Borough Council (TMBC) seeking planning permission for the demolition of existing buildings, structures and hardstanding, land raising of development area, development of up to 146 dwellings as a mix of houses and apartments and provision of a local centre for use classes A2 (financial and professional services), A3 (café / restaurant), D1 (clinics / creche) and D2 (assembly and leisure) up to a total floorspace of 1,256 sq m (13,519 sq ft), and provision of new access road and pedestrian/cycle access, and provision of open space. This application (which relates to the south eastern part of the Quarry east of Bull Lane which previously contained the sand processing plant and which still contains the site offices and workshops and which is now referred to as Plot C) is scheduled to be the subject of a Public Inquiry to be held between 12 and 20 March 2019 (APP/H2265/W/18/3209279) as AHL has appealed against non-determination of the application. AHL's aspirations are also illustrated by its promotion of the appeal site

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

and other areas of Aylesford Quarry for inclusion in the emerging TMBC Local Plan (including at the Call for Sites stage). It should be noted that TMBC has indicated that it would have refused planning permission for application TM17/02971 had it still been in a position to do so and has decided to defend this position at the Public Inquiry. It is also not proposing to allocate any of the land at Aylesford Quarry for residential or other non-mineral development in its emerging Local Plan. It will be for the Planning Inspectorate to determine whether application TM/17/02971 (for housing / local centre) is permitted and for TMBC to determine whether any allocations for non-mineral development are included in the TMBC Local Plan having regard to an Inspector's Report following a Local Plan Inquiry.

10. Since the land outside AHL's ownership is either unworked or restored and need have no impact on the restoration of those parts within its control, these areas would not need to be subject to further restoration and aftercare requirements unless proposals come forward to extract minerals from them. In that eventuality, new schemes of working, restoration and aftercare would be needed. Given the underlying geology (whereby sand resources become deeper and are overlain by significantly greater depths of clay further north), the fact that working relatively small areas of land in these circumstances would be difficult (if not impossible) and as some of this other land has also been promoted for non-mineral development in the TMBC Local Plan, the likelihood of any proposals to extract minerals on land subject to planning permissions TM/93/612 and TM/97/751/MR102 within these areas is extremely remote.
11. KCC issued a screening opinion (KCC/SCR/TM/0109/2018) in respect of a number of potential applications relating to revised restoration proposals for Aylesford Quarry on 2 July 2018. At that stage it was unclear exactly which parts of the site would be included and, in particular, whether the proposals would involve works directly affecting the SSSI and Ancient Woodland. Regardless of this, the screening opinion concluded that the development the subject of the screening request constituted Schedule 1 development by virtue of paragraph 19 of Schedule 1 of the 2017 Regulations as the site exceeded 25 hectares (ha) and that Environmental Impact Assessment (EIA) was therefore required. It should be noted that the development now proposed does not include works directly affecting the SSSI or Ancient Woodland.

The Proposal

12. The applications propose:
 - (i) The variation of conditions 20, 28 and 32 of planning permission TM/93/612 to provide a revised restoration and aftercare scheme and consistent noise limits for temporary operations such as restoration with those provided for by planning permission TM/97/751/MR102 – TM/18/2549 (KCC/TM/0491/2018); and
 - (ii) The variation of conditions 36 and 39 and deletion of condition 44 of planning permission TM/97/751/MR102 to provide a revised restoration and aftercare scheme – TM/18/2555 (KCC/TM/0492/2018).

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

In both cases, the applications only include restoration and aftercare proposals for that part of Aylesford Quarry to the east of Bull Lane (referred to as the East Lake area by the applicant). The proposals would replace the restoration and aftercare schemes previously approved / permitted in 1995, 2002, 2003 and 2005 for the East Lake area and continue to provide land suitable for amenity, recreation and nature conservation purposes. Although the approved schemes illustrate the lake areas being used for a number of recreational purposes (such as fishing, sailing, water skiing and related facilities) it has previously been accepted that planning permission would be required for these activities and related development from TMBC and that they are not provided for by the mineral planning permissions. No public access to the site is either required or proposed at this stage. The applications are accompanied by the same Environmental Statement (ES). Application TM/18/2555 had initially proposed to vary condition 2 of TM/97/751/MR102 to allow the East Lake area to be accessed from Bull Lane. However, the application was amended to remove this element in November 2018.

12. The applicant states that proposals for those parts of the quarry to the west of Bull Lane (the West Lake area) are to be addressed at a later date. Assuming that the applicant still intends to extract further mineral from west of Bull Lane, such proposals would need to include amended schemes for working, restoration and aftercare for that part of the site.
13. Both applications include a single revised restoration scheme for the East Lake area which uses the approved restoration scheme and current position as the baseline. The applicant states that the revised restoration scheme incorporates landscape features and the design intent of the approved scheme updated to reflect subsequent changes, including a higher lake level than previously envisaged and variations in the extent of quarry working adjacent to Bull Lane. It also states that the restoration strategy proposes a naturalistic wetland landscape based around the East Lake itself with areas of reedbed, open pasture, scrub, hedgerow and woodland to replace the damaged landscape left by previous quarrying activity. Existing stable slopes which are close in terms of topography to those of the approved scheme would be left undisturbed. Elsewhere, ground contours would be softened to produce more natural looking slopes. It further states that the revised scheme would enhance the biodiversity of the site and enable the SSSI, Ancient Woodland and RIGS sand face to be retained.
14. The revised restoration scheme sub-divides the East Lake area into a number of distinct areas: Plot C; Plot D; Northern Faces; Clay Lake; SSSI; Northern Fields; and Existing RIGS Sand Face. These are shown on the drawing included in Appendix 1 (page C1.51). Appendix 1 also contains a number of other drawings
15. The applicant states that where existing stable slopes are already restored at close to the approved topography they would be left undisturbed. Similarly, existing regenerating or planted vegetation would be retained, particularly along the southern, eastern and western boundaries of the East Lake area. The Northern Fields which are in agricultural use would be left undisturbed, the RIGS Sand Face on the northern edge of Plot C would be retained for its geological interest and the SSSI and overlying

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

area of Ancient Woodland (which are outside the approved mineral working area) would not be disturbed. The tunnel between Plot D and the West Lake area and older tunnels between Plot D and The Wharf (to the south of the site and Aylesford High Street) and Plot C and Rochester Road (under Mount Pleasant), would be retained and unaffected by the restoration proposals. Other parts of the East Lake area would be remodelled as follows:

- Plot C would be subject to cut and fill to achieve the proposed restoration levels once cleared of buildings and hard surfacing. Plot C currently has very variable topography and parts close to the shoreline of the East Lake are very irregular and lie just above the lake level. The proposed regrading and infilling (using indigenous materials from elsewhere within the East Lake area) would create a landform high enough to avoid flooding as the water level in the lake varies, be compatible with the open pastureland after-use proposed for this area and a sculptured shoreline that does not simply reflect that left after mineral working.
 - Plot D would be restored with the existing, irregular and in places low lying / seasonally wet floor level raised to 4m above ordnance datum (AOD), necessitating only relatively minor alterations to existing levels. This would be above the highest measured water level in the East Lake of 3.0m AOD. This land raising would allow the area to be restored to open pastureland.
 - That part of the Northern Faces parallel to Bull Lane (including part of the East Lake itself) would be backfilled using indigenous materials to replicate the previously approved landform.
 - That part of the Northern Faces along the north side of the East Lake (which the approved restoration scheme shows as part of the lake) would be reduced in height (i.e. cut) to reduce the steepness of the slopes close to north shoreline, enhance the stability of the shoreline and enable restoration to open pastureland. In doing this, it would generally replicate the topography of the approved restoration scheme.
 - The Clay Lake (which the permitted 2005 restoration scheme shows as a steep-sided bowl-shaped landform containing a shallow lake) would be backfilled with indigenous materials to create a shallow bowl-shaped landform which merges into the adjoining ground contours of the Northern Faces in order to provide for surface water to naturally run off into the East Lake. The applicant states that the proposed restoration would enhance the usability of this part of the site as open pastureland. Whilst the applicant has referred to the restoration scheme approved in 2002 (which provided for a smaller and less deep area of clay extraction than that permitted in 2005 which allowed extraction to 6.8m AOD as opposed to 11m AOD), I am satisfied that this does not undermine what is proposed or alter the overall conclusions of the EIA / ES since the schemes are broadly similar in their overall design and as the position on the ground more closely reflects the extent of the mineral working permitted in 2005 and is what has been used to inform the proposed development. The 2002 and 2005 restoration schemes are included in Appendix 1 (pages C1.52 and C1.53).
16. The applications include drawings which show the existing and proposed landforms and the cut and fill necessary to secure the latter. These are included in Appendix 1 (pages C1.54 to C1.56). The drawing on page C1.51 also includes details of the

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

amount of cut and fill proposed in each of the distinct areas referred to above. The Northern Faces would provide the majority of the cut required for the fill on this and the other areas of the site and the Clay Lake would be the major recipient. In net terms, the Northern Faces would contribute 158,000m³, whilst the Clay Lake and Plot C would receive 105,200m³ and 52,575m³ respectively. Plot D would receive 300m³. The SSSI, Northern Fields and main East Lake would not be subject to any cut or fill (although it should be noted that Plot C extends into the main East Lake at its eastern end). The materials balance calculations shown on the above drawing indicate a small excess of material (625m³). The applicant states that the volumes of materials available for restoration shown on the above drawing include stockpiles of topsoil and subsoil materials created during the working of the quarry and reserved for use in final restoration and that these will be excluded from the main cut and fill restoration works so they can be prioritised for use in areas to be planted with trees and hedgerows. For the avoidance of doubt, it is not proposed to import materials to the site for use in the revised restoration scheme.

17. The applications also include an aftercare and long term management programme for individual landscape areas and features within the East Lake area. The applicant proposes that this be supplemented within 6 months of planning permission being granted by a more detailed 5 year aftercare programme for all areas of new planting. The landscape restoration strategy is illustrated on the drawing included in Appendix 1 (page C1.57).
18. The applications (and associated ES) are supported by a number of expert reports which have been used to inform the proposals:
 - Stability Report;
 - Archaeological Assessment and Specification for Archaeological Building Recording;
 - Ecological Assessment;
 - Landscape Restoration Strategy Report and Masterplan;
 - Tree Report; and
 - Noise Assessment.
19. The Stability Report reviews the stability of the existing slopes and lake shoreline in the East Lake area and proposes remedial works to be undertaken prior to and during restoration. In doing so, it has regard to geology, groundwater and surface water. The report includes details of significant slope instability at the mid-point along the northern shore of the East Lake within the Northern Faces (which are at about 17m AOD), noting that a deep trench (-28m AOD and up to 100m wide – providing a lake depth of over 30m) lies immediately to the south within / near the edge of the lake (the majority of the lake being between -5 and -7m AOD – i.e. 7.5 to 10m deep). The instability is clear as evidenced by the significant slumping that has occurred in the bank above. The report states that whilst the weight of water within the trench provides a degree of stability to the bank above, further slope instability would be best addressed by cutting back the landform away from the north shore and dressing (soiling) and vegetating this. The Stability Report states that the platform elsewhere around the shoreline of the main East Lake is generally about 3m above lake water

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

level, that the slopes entering the lake are mostly between 1:1 (vertical:horizontal) (45°) and 1:1.5 (33°), that the excavated slopes below water continue at about 1:1.5 to 1:2.5 (22°) for another 2 to 3m and then about 1:10 (5° to 6°), with the shallow slopes comprising mainly silt discharged after mineral processing. It also states that exposed slopes above water level are relatively stable despite showing evidence of erosion from wave action. The land above the RIGS sand face is owned by the applicant. The Stability Report notes that the exposed RIGS sand face to be retained is approximately 10m high, its lower 4 to 5m face is at 1:0.6 to 1:0.4 (60° to 70°), the upper 4 to 5m face is at 1:2.5 to 1:1 (22° to 45°) and that a berm of fill material at the base of the sand face prevents any material released from it moving far from the base. It also notes that whilst the lower face is devoid of vegetation and will degrade / erode over time there is no evidence of deep seated slope failures or extensive surface water erosion. It further notes that the upper sand and gravel face is covered with a reasonably thick grass sward and some well-established shrubs. The Stability Report notes that the sand faces and slopes elsewhere around the perimeter East Lake area are generally at 1:1 (45°) and about 10m high, although the slopes are as much as 15m high (adjacent to Bull Lane) and significantly lower at the entrance to the site on Rochester Road. It also notes that the perimeter slopes are primarily covered in dense vegetation (which would limit erosion) and recommends new planting in unvegetated areas to further assist in maintaining stability.

20. The Stability Report notes that the former clay working area has no natural outlet for impounded water and is now a lake (the Clay Lake). It states that clay was worked to 7m AOD. It further states that the lake would be infilled and a platform created at about 14m AOD which would allow the restored land to drain naturally towards the main lake to the south (via a gravel filled pathway or similar sub-strata flow path) and avoid perched water becoming trapped. The platform would be bounded by a 1:5 slope which would separate it from the higher unworked land to east, north and west. The Stability Report notes that a shoreline plateau would be created at 4m AOD with a 1:6 to 1:10 slope cut back between this and the undisturbed Northern Fields to the north at a level of 17m AOD, although the precise arrangement would be dependent on the exact location of the interface between the Gault Clay and Folkestone formation. The slope would be dressed (soiled) and vegetated to minimise the likelihood of minor surface instability and future slope failures. The Stability Report notes that a plateau would be created in Plot C at between 4 and 6m AOD with a 1:100 slope falling towards the main lake and that the new or cut shoreline banks would require dressing and vegetation. It notes that a more level profile at 4m AOD would be created in Plot D with a 1:100 fall towards the main lake to provide better surface water drainage. The Stability Report clearly indicates that the potential for slope failure beyond the site boundary remains a low risk.
21. The Archaeological Assessment and Specification for Archaeological Building Recording proposes that quarry structures within the East Lake area lost as a result of restoration work would be recorded. No other archaeological work is proposed as the parts of the site that would be affected by the proposed restoration works have already been worked.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

22. The Ecological Assessment includes the results of an extended Phase 1 habitat survey and various surveys (some updated) for protected species. The Ecological Assessment concludes that there are no identified ecological conflicts arising from the scheme and states that the main emphasis of the revised restoration scheme is the protection, management and enhancement of biodiversity and creation of a green framework with enhanced connectivity to wildlife conservation areas off-site. The proposed biodiversity enhancements are stated to be:

- New woodland, scrub and hedgerow planting on the perimeter of the site and following internal boundaries providing north / south and east / west linkages across the site and to habitats outside the site;
- The retention, enhancement and management of the hedgerow along Bull Lane;
- The incorporation of hedgerow remnants along the northern boundary of the Northern Fields into a new field boundary hedge line;
- The management of the TPO woodland and other woodland on the eastern and southern quarry sides (to improve its health and condition and enhance biodiversity);
- The establishment of species-rich pasture on the re-contoured and infilled areas of the site introducing a new habitat type;
- The establishment of lake reed beds to provide a wide variety of wetland habitats; and
- The improvement of wildlife potential by the removal of invasive species and thinning out vegetation in the SSSI / Ancient Woodland area.

The Ecological Assessment recommends the preparation and implementation of an Ecological Design Strategy and a Mitigation Strategy (i.e. a site wide Ecological Management Plan).

23. The Landscape Restoration Strategy Report and Masterplan (which the applicant states complements the Ecological Assessment and should be read with the Tree Report) sets out the rationale for the revised restoration scheme having regard to the approved restoration scheme, the current position, designated areas, landscape character and planning policy. It states that open pasture would be established using species-rich donor seed and that reedbeds would be established using suitable donor material. It also includes detailed proposals for the tree and shrub species to be used (and respective ratios of each) in the woodland areas and hedgerows. It states that the revised restoration scheme (as described above) would visually enhance and integrate the restored quarry complex into the wider landscape character and setting of Aylesford and the North Downs AONB to the north and create a wide range of bio-diverse habitats. The Landscape Restoration Strategy Report and Masterplan sets out the overall aftercare and long term management actions for each of the identified areas of the East Lake area. Whilst a number of aftercare and long term management actions are set out (e.g. ground felling of encroaching vegetation from the face of the exposed gravel with no ground disturbance and the removal of slumped gravels from the base of the gravel face to re-expose the geological interest in the SSSI; ground felling of encroaching scrub and trees to prevent root action on the RIGS sand face; annual reed cutting and removal of cuttings from individual reed bed compartments on a 4 to 7 year rotation; grassland management to prevent scrub

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

succession with grass cut for hay and / or silage), it also proposes that a detailed aftercare programme for all areas of new planting be submitted within 6 months of permission being granted. The Tree Report includes details of existing trees and proposed protection measures (e.g. 7m stand-off to TPO, at least 5m stand-off to hedgerows and protective fencing) and management recommendations (e.g. regular tree health inspections, cutting ivy, lifting crowns, formative pruning and coppicing) for those to be retained.

24. The Noise Assessment includes predictions on the noise levels likely to be created by the implementation of the revised restoration scheme and concludes that the earthworks proposed in Plots C and Plot D would cause the 55dB $L_{Aeq, 1 \text{ hour}}$ limit to be exceeded at some of the houses near the southern boundary of the East Lake area. However, it confirms that those noise levels would be below the 70dB $L_{Aeq, 1 \text{ hour}}$ limit for temporary operations for up to 8 weeks a year provided for by condition 26 of planning permission TM/97/751/MR102.
25. The proposed deletion of condition 44 of planning permission TM/97/751/MR102 would simply remove the reference to clay extraction at Aylesford Quarry (given that condition 43 of TM/97/751/MR102 only now permits sand and gravel working at the site).

Planning Policy Context

26. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework (July 2018) and the National Planning Practice Guidance. These are material planning considerations.
27. **Kent Minerals and Waste Local Plan 2013-30 (July 2016)** – Policies CSM1 (Sustainable development), CSM5 (Land-won mineral safeguarding), DM1 (Sustainable design), DM2 (Environmental and landscape sites of international, national and local importance), DM3 (Ecological impact assessment), DM5 (Heritage assets), DM7 (Safeguarding mineral resources), DM10 (Water environment), DM11 (Health and amenity), DM12 (Cumulative impact), DM13 (Transportation of minerals and waste), DM14 (Public rights of way), DM16 (Information required in support of an application), DM18 (Land stability), DM19 (Restoration, aftercare and after-use)
28. **Tonbridge and Malling Borough Council LDF Core Strategy (September 2007)** – Policies CP1 (Sustainable development), CP5 (Strategic gap), CP7 (AONBs), CP8 (SSSIs), CP16 (Bushey Wood area of opportunity) and CP25 (Mitigation of development impacts).
29. **Tonbridge and Malling LDF Managing Development and the Environment DPD (April 2010)** – Policies CC3 (Mitigation – Sustainable drainage), NE1 (Local sites of wildlife, geological and geomorphological interest), NE2 (Habitat networks), NE3 (Impact of development on biodiversity), NE4 (Trees, hedgerows and woodland), SQ1 (Landscape and townscape protection and enhancement), SQ2 (Locally listed buildings), SQ3 (Historic parks and gardens), SQ4 (Air quality) and SQ8 (Road safety).

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

30. **Early Partial Review of the Kent Minerals and Waste Local Plan 2013-30 Pre-Submission draft (November 2018)** – Draft (modified) Policy DM7 (Safeguarding mineral resources).
31. **Tonbridge and Malling Borough Council Local Plan Regulation 19 Pre-Submission Publication (September 2018)** – Draft Policies LP1 (Presumption in favour of sustainable development), LP11 (Designated areas), LP12 (Areas of Outstanding Natural Beauty), LP13 (Local natural environment designations), LP18 (Sustainable drainage systems (SUDS)), LP19 (Habitat protection and creation), LP20 (Air quality), LP21 (Noise quality), LP22 (Contamination), LP23 (Sustainable transport), LP24 (Minerals and waste) and LP33 (Areas of opportunity – (a) Bushey Wood, Eccles).

Consultations

32. **Tonbridge and Malling Borough Council** – Objects to both applications for the following reasons:

Comments dated 30 November 2018:

- “1. *The Local Planning Authority does not consider that the applications made and currently under formal consideration by the Minerals Planning Authority satisfy the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, including under Regulation 18 (1-5) and Schedule 4. The applications are inadequate in both procedural and substantive terms. As such, the Local Planning Authority is of the view that the assessment underlying the purported Environmental Statement is inadequate, taken as a whole. It is therefore not possible for any informed or proper decision to be made as regards all likely significant environmental effects of the relevant development, when properly characterised.*
2. *Further to [1] above, the Local Planning Authority does not consider that the scope of subject matters which form the basis of purported Environmental Impact Assessment are adequate, or have allowed for any adequate assessment of all likely significant environmental impacts of the development, when properly characterised. The following subject matters require adequate assessment:*
- *Cumulative highway/traffic impacts for the lifetime of the project;*
 - *Public safety;*
 - *Land contamination;*
 - *Noise, dust and vibration;*
 - *Air quality; and*
 - *Socio-economic impacts.*
3. *Further to [1] and [2] above, the Local Planning Authority considers that the subject matters which have formed the basis of the purported Environmental*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

Impact Assessment overall have not been robustly or adequately assessed pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (including Regulation 18 (1-5) and Schedule) in other respects.

4. *Of relevance to the above, the Local Planning Authority notes that the basis for the assessment undertaken assumes an end use that comprises a nature conservation/amenity function. No adequate detail has been provided to specify this use. It is not clear whether the site will be made publically available or retained on a private basis, a matter that would have important implications for the parameters of the assessment to be undertaken. In addition, the Local Planning Authority is aware that the developer has a clear intention to utilise at least part of the site for residential purposes. There is no assessment of impacts on, or from, that residential development.*
5. *The Local Planning Authority considers that the single baseline scenario adopted in the assessment provides for an inadequate basis of assessment by virtue of the fact that it merely considers quarrying activities in full and in an abstract form. The Local Planning Authority is of the view that various and permuted baseline scenarios, prefaced upon minerals extraction either not being undertaken or being undertaken in part, should properly have been incorporated with the Environmental Statement and, in turn, should have informed the overall assessment of all likely significant effects.*

Informative

The County Council is advised that: The Local Planning Authority reserves the right to make further formal representations on the Environmental Statement and merits of the proposed development in the event that the above matters are refined. As such, the Local Planning Authority formally requests the County to give due notification upon any such further information being received. Equally, if the County does not intend to seek the resolve these matters, the Local Planning Authority requests notification to allow for its consideration over whether further representations are to be made.”

Further comments dated 7 February 2019:

“Thank you for your email, which we received on 30 January 2019, and for the opportunity to make further representations in connection with the applications currently under consideration by the County. I would ask that this letter be read in conjunction the representations previously made to the County in respect of this matter.

*Tonbridge and Malling BC acknowledge that the Secretary of State has now issued a formal screening opinion concluding that the residential development of part of this site does not fall to be considered as a part of a wider project for the purposes of applying the Environmental Impact Assessment Regulations (2017). However, and for the avoidance of any doubt, that does **not** alter the position of the Council in any way. The detailed commentary previously submitted was not simply predicated on the*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

argument that the residential development should be considered as part of the wider project, that is a subsidiary point and the decision from the Secretary of State on this is in no way determinative in respect of the current applications under consideration by the County.

In fact, very little of the Council's representations to the County discussed the failings of the Environmental Statement within the context of the view concerning the wider project (paragraphs 5.13 – 5.15 only specifically seek to set this out). Nothing concerning the far more substantive issues raised regarding the overall inadequacy of the submissions has been overridden as a result of the direction of the Secretary of State and the Council remains firmly of the view that in their current form the applications simply cannot be determined.

I would take the opportunity to reiterate the Council's previous objections in full as follows:

- 1 The Local Planning Authority does not consider that the applications made and currently under formal consideration by the Minerals Planning Authority satisfy the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, including under Regulation 18 (1-5) and Schedule 4. The applications are inadequate in both procedural and substantive terms. As such, the Local Planning Authority is of the view that the assessment underlying the purported Environmental Statement is inadequate, taken as a whole. It is therefore not possible for any informed or proper decision to be made as regards all likely significant environmental effects of the relevant development, when properly characterised.*
- 2 Further to [1] above, the Local Planning Authority does not consider that the scope of subject matters which form the basis of purported Environmental Impact Assessment are adequate, or have allowed for any adequate assessment of all likely significant environmental impacts of the development, when properly characterised. The following subject matters require adequate assessment:*
 - Cumulative highway/traffic impacts for the lifetime of the project;*
 - Public safety;*
 - Land contamination;*
 - Noise, dust and vibration;*
 - Air quality; and*
 - Socio-economic impacts.*
- 3 Further to [1] and [2] above, the Local Planning Authority considers that the subject matters which have formed the basis of the purported Environmental Impact Assessment overall have not been robustly or adequately assessed pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (including Regulation 18 (1-5) and Schedule) in other respects.*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

- 4 *Of relevance to the above, the Local Planning Authority notes that the basis for the assessment undertaken assumes an end use that comprises a nature conservation/amenity function. No adequate detail has been provided to specify this use. It is not clear whether the site will be made publically available or retained on a private basis, a matter that would have important implications for the parameters of the assessment to be undertaken. In addition, the Local Planning Authority is aware that the developer has a clear intention to utilise at least part of the site for residential purposes. There is no assessment of impacts on, or from, that residential development.*
- 5 *The Local Planning Authority considers that the single baseline scenario adopted in the assessment provides for an inadequate basis of assessment by virtue of the fact that it merely considers quarrying activities in full and in an abstract form. The Local Planning Authority is of the view that various and permuted baseline scenarios, prefaced upon minerals extraction either not being undertaken or being undertaken in part, should properly have been incorporated with the Environmental Statement and, in turn, should have informed the overall assessment of all likely significant effects.*

The Council would therefore strongly urge the County to seek to resolve these matters before making any recommendations to the Planning Committee. In the event that you do decide to proceed in any event, I would be grateful if you could arrange for a copy of the final report to be sent to me directly.”

33. **Aylesford Parish Council** – No objection to either application.
34. **Natural England** – No objection to either application. It notes that the SSSI and Ancient Woodland would not be disturbed and would remain intact and that the EIA clearly indicates that there would be no direct or indirect impacts on the SSSI. It welcomes the retention of the RIGs exposure as part of the proposed scheme. It notes that the Stability Report appears to confirm that there are no immediate concerns about the stability of the SSSI. It welcomes the emphasis on the need for long term management of the SSSI and suggests that the removal of any trees and scrub is helpful. It states that there is no need to keep the geological face exposed and that a light covering of herbaceous vegetation could be allowed to establish as the face can then be re-exposed when scientific access is needed. It also states that the area above the geological exposure and the ancient woodland should also be kept clear of trees and scrub as this is where boreholes or trial pits could be used to study the river terraces at some point in the future. It recommends that the suggested removal of slumped gravels at the base of the exposure not take place. Instead, it advises that if scientific access is required the material be temporarily removed and then replaced (on top of a geotextile) after any field survey work. It suggests that the Ancient Woodland be managed as such and according to good practice. It states that it has not been able to access the SSSI for some years and would appreciate the opportunity to do so (in order to reappraise its 2015 condition assessment).
35. **Historic England** – Has no comments to make on either application. It suggests that advice be obtained from KCC’s specialist conservation and archaeological advisers.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

36. **Environment Agency** – No objection to either application subject to the removal of any fish that may be in the clay lake prior to it being filled in. It also provides advice on environmental permitting, flood risk management, fish rescue, herbicide use and disposal of soil. It emphasises the importance of ponds and wetlands as important wildlife habitats that support a wide variety of plants and animals, including rare and endangered species, and recommends that this be taken into account when the application is determined. It also recommends that the applicant should supply a works method statement as part of the restoration scheme for the movement of materials which details the type, source and quantity of materials moved / imported and states that any materials used to backfill the lake should be of indigenous local cut so materials are the same as the underlying geology and prevent any potential groundwater quality impacts from non-similar soil types. This appears to be based on the idea that imported materials will be used, which is not the case. It has also suggested that there may be opportunities to reduce flood risk in the centre of Aylesford through the creation of a high level overflow channel on the land between Anchor Farm and the site itself and that it would support this idea in principle and would be happy to discuss this with the applicant and KCC. It has further suggested that there may be opportunities for meandering and other natural flood management measures upstream of the site (which it would support).
37. **Southern Water** – No objection to either application. It provides advice on sewers and the protection of its assets (including the proximity of planting to its apparatus).
38. **KCC SUDS** – No objection on either application. It advises that approval would be required from the Environment Agency for the infilling works in Flood Zone 2 and that careful consideration should be given to the displacement effects of infilling the clay lake to avoid flooding other areas or adversely affecting the water quality of other receiving bodies.
39. **KCC Highways and Transportation** – No objection on either application. It notes that the existing / permitted access on Rochester Road would continue to be used.
40. **KCC Archaeology** – No objection on either application. It is satisfied with the proposed Written Scheme of Investigation (WSI) relating to archaeological building recording.
41. **KCC Conservation Officer** – No objection on either application. Is of the opinion that the proposed works would have no unacceptable adverse impact on the setting, character or appearance of the Aylesford Conservation Area.
42. **KCC Noise Consultant** – No objection on either application. It has advised that some of the proposed works (in Plots C and D) would give rise to the 55dB $L_{Aeq, 1 \text{ hour}}$ noise limit (i.e. the limit for normal mineral working) being exceeded at the nearest noise sensitive property. However, it agrees that it is reasonable to allow up to 70dB $L_{Aeq, 1 \text{ hour}}$ for temporary operations such as site preparation, soil and overburden stripping, bund formation and removal and final restoration for up to 8 weeks a year and notes that this is already provided for by planning permission TM/07/751/MR102.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

43. **KCC Dust / Air Quality Consultant** – No objection on either application subject to the dust mitigation measures required by condition 28 of planning permission TM/97/751/MR102 being implemented during site activities. It notes that there will not be significant vehicle movements on the public highways (nor through neighbouring AQMAs) and is satisfied that risk of significant dust impact will be low.
44. **KCC Landscape Consultant** – It advises that the proposed Landscape Restoration Strategy / Masterplan is generally appropriate although additional details concerning the local donor material for the reed bed creation and the establishment of open pasture grassland is required. It suggests that additional wildflower plug planting reflecting local wildflower meadows may benefit the establishment of grassland biodiversity dependent on the locally sourced seed characteristics. It also suggests the restoration planting would benefit from the inclusion of larger tree planting in the form of heavy standards and feathered tree planting. It also recommends that soil testing is undertaken and subsequent ground preparation details and mix details are then established including any proposed topsoil application and soil amelioration if required. It further advises that UK provenance certification should be provided for the planting.
45. **KCC Geotechnical Consultant** – No objection to either application. It states that it is in general agreement with the conclusions of the submitted Land Stability Report.
46. **KCC Ecological Advice Service** – No objection subject to the provision of a detailed ecological mitigation strategy to ensure that the restoration works do not result in a breach of wildlife legislation and a site wide management plan being produced to ensure the created / restored / retained habitats are managed appropriately to retain the ecological interest of the site.

It notes that the ecological surveys indicate that the site and the applicant's wider land holdings contain 6 species of foraging / commuting bats, Great Crested Newts, slow worms, common lizards, grass snakes, notable bird species (during the breeding and wintering bird seasons) and rare and nationally rare terrestrial invertebrates, as well as an area of ancient woodland, a geological SSSI and the UK BAP Habitat "Open Mosaic Habitat on Previously Developed Land". It advises that the ecological surveys provide a good understanding of the species found within the site and that the restoration plan demonstrates that there would be sufficient habitat to support any increase in population size and distribution that may have arisen as a result of increased vegetation since the surveys were carried out (particularly as any increase is unlikely to be significant). It also advises that whilst the existing ecological surveys are sufficient to inform the determination of the planning application, updated ecological surveys would be required to inform a detailed mitigation strategy which will have to be implemented during the restoration works to ensure that the works do not result in a breach of wildlife legislation. It further advises that species mitigation must be designed to take in to account the applicant's future plans to avoid / minimise the risk of this being carried out more than once.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

It notes that the restoration plan proposes that hedgerow, scrub, woodland, reed beds and species rich grassland would be created within the restored site and that existing habitats including the area of Ancient woodland would be retained and is content that these habitats would retain the majority of the species interest of the site. However, it also notes that the development would result in a loss of “Open Mosaic Habitat on Previously Developed Land” and that the restoration plan does not indicate that bare ground / successional habitat areas would be created. It states that as the invertebrate surveys indicated that the open mosaic habitat areas had the greatest invertebrate interest within the site, there is a need to ensure that this interest is retained. Rather than seeking an amendment to the restoration scheme, it proposes that the site wide management plan provide for an area of the site to be cleared of vegetation every 1-2 years and allowed to naturally regenerate. (with the areas to be cleared agreed between the applicant and its ecologist).

47. **KCC Public Rights of Way** – Has no objections to either application.
48. **Kent Downs AONB Unit** – Has no comments to make on either application (having assessed the proposed restoration scheme against the previously approved scheme).
49. **Southern Gas Networks** – Advises that its gas pipe locations are available via its online service.
50. No responses have been received from **Kent Wildlife Trust, CPRE Kent, UK Power Networks** and **South East Water**.

Representations

51. The application was publicised by site notice and newspaper advertisement and the occupiers of all properties within 250 metres of the sites were notified on October 2018. Further site notices were put on and another newspaper advertisement published in November 2018 (due to the amendment to application TM/18/2555 no longer proposing to use Bull Lane for access).
52. Nine representations have been received (relating to both applications), including from the local MP (Tracey Crouch). The objections and concerns can be summarised as follows:
 - Access from / to and use of Bull Lane (relating to concerns about HGV and other traffic on Bull Lane through and near Eccles and at the junction between Bull Lane and Pilgrims Way);
 - HGV movements, traffic and congestion on unsuitable local roads more generally;
 - Noise and pollution impact on local properties;
 - Concerns about lack of consultation (i.e. not all Bull Lane / Eccles residents were notified by letter);
 - Concerns about the relationship with proposed new housing and other development on part of the site (the proposals appear to be designed to

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

facilitate that development) and in the area more generally; and

- Concerns that the proposed landscaping could introduce new barriers to future public access from the north and south of the site.

Local Member

53. County Council Member Mr P Homewood (Malling Rural North East) was notified in October and November 2018.

Discussion

54. The applications are being report to KCC's Planning Applications Committee for determination as planning objections have been received from Tonbridge and Malling Borough Council and those who have submitted representations.
55. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the development plan policies outlined in paragraphs 27 to 29 above are of most relevance. Material planning considerations include the national planning policies referred to in paragraph 26 and the draft development plan policies in paragraphs 30 and 31.
56. The main issues that require consideration are as follows:
- The adequacy of the Environmental Impact Assessment (EIA) and associated Environmental Statement (ES);
 - The impact on mineral resources;
 - Effective and appropriate restoration and aftercare for the permitted after-use;
 - Land stability;
 - Water environment (surface water and groundwater);
 - Impact on / loss of SSSI (and RIGS Sand Face);
 - Impact on heritage assets / archaeology;
 - Impact on / loss of Ancient Woodland;
 - Ecological impact;
 - Landscape impact;
 - Health and amenity;
 - Public rights of way;
 - Traffic impact;
 - Socio-economic impact; and
 - The relationship between the East and West Lake areas.

The adequacy of the Environmental Impact Assessment (EIA) and associated Environmental Statement (ES)

57. Tonbridge and Malling Borough Council (TMBC) has objected to the applications as it considers the EIA and associated ES to be procedurally and substantially inadequate

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

such that it believes an informed decision on whether there would be significant environmental effects is not possible. It considers this to be contrary to Regulation 18 (paragraphs 1 to 5) and Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the “EIA Regulations”). It states that the scope of the EIA / ES is inadequate in that it does not address: cumulative highway / traffic impacts for the lifetime of the project; public safety; land contamination; noise, dust and vibration; air quality; and socio-economic impacts. It also states that the subject matters that have been addressed in the EIA / ES have not been robustly or adequately assessed. TMBC also states that the basis for the assessment undertaken assumes a nature conservation / amenity function end use (after-use) although no adequate detail has been provided to specify this use and that is not clear whether the site will be made publicly available or retained on a private basis. It further states that there is no assessment of impacts on, or from, the proposed residential development. It also considers that additional baseline scenarios ought to have been considered (such as those where mineral extraction is either not undertaken or is undertaken in part as opposed to in full).

58. Regulation 18(3) of the EIA Regulations states (amongst other things) that an ES must include at least:
- (a) a description of the proposed development comprising information on the site, design, size and other relevant features of the development;
 - (b) a description of the likely significant effects of the proposed development on the environment;
 - (c) a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
 - (d) a description of the reasonable alternatives studied by the developer, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment;
 - (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
 - (f) any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected.

Regulation 18(4) states that an ES must also:

- (b) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment; and
- (c) be prepared, taking into account the results of any relevant UK environmental assessment, which are reasonably available to the person preparing the environmental statement, with a view to avoiding duplication of assessment.

Regulation 18(5) also requires that an ES be prepared by competent experts and be accompanied by a statement from the developer outlining the relevant expertise or

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

qualifications of such experts. Regulations 18(1) and 18(2) are not directly relevant in this case since they relate to “subsequent applications” (i.e. applications for approval of a matter where the approval is required by or under a condition to which a planning permission is subject and must be obtained before all or part of the development permitted by the planning permission may be begun). If a formal scoping opinion or direction had been issued (relating to the scope and level of detail of the information to be provided in the ES), Regulation 18(4)(a) states that the ES must also be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was subject to that opinion or direction). No formal scoping opinion or direction was issued in this case. Schedule 4 of the EIA Regulations expands upon Regulation 18(3) in setting out the information that should be included in an ES.

59. The officer delegated report relating to its objections indicated that TMBC believed that the current applications ought to be considered as part of a wider project with planning application TM/17/02971/OA (i.e. the housing / local centre proposals which are now the subject of the appeal (APP/H2265/W/18/3209279) referred to in paragraph 9 above). This is reinforced by the report to its Area 3 Planning Committee on 22 November 2018 relating to application TM/17/02971/OA in which TMBC sets out the position it intends to defend at the appeal. It should be noted that the need for the applications to be considered as part of a wider project has since been rejected by the Planning Inspectorate (PINS) and the Secretary of State in an EIA screening direction dated 16 January 2019. The screening direction concluded that planning application TM/17/02971/OA would not be likely to result in significant environmental impact, was not EIA development and that EIA was not required. It should also be noted in respect of the appeal site that the PINS screening direction states (amongst other things) that *“The site is located on a quarry with remaining deposits that are no longer viable to extract. It is understood that the quarry has an extant planning permission for a restoration scheme currently being revised by the Mineral Planning Authority that will be implemented on site before the proposals can be initiated.”* It should also be noted that TMBC appears to have accepted in paragraph 7.1(1) of the report to its Area 3 Planning Committee on 22 November 2018 that the EIA / ES submitted with the mineral planning applications *“may be adequate for KCC’s decision making”*.
60. The adequacy or otherwise of the EIA / ES is a matter for the determining authority (i.e. KCC) to decide having regard to the relevant regulations, the proposed development and relevant circumstances. It should be noted that no other consultees have objected or expressed any concern about the adequacy or otherwise of the EIA / ES, including those whose interests / responsibilities relate to the issues referred to by TMBC. Paragraph 035 of National Planning Practice Guidance for EIA (the EIA PPG) states that *“Whilst every Environmental Statement should provide a full factual description of the development, the emphasis should be on the “main” or “significant” environmental effects to which a development is likely to give rise. The Environmental Statement should be proportionate and not be any longer than is necessary to assess properly those effects. Where, for example, only one environmental factor is likely to be significantly affected, the assessment should focus on that issue only. Impacts which have little or no significance for the particular development in question will need only very brief treatment to indicate that their possible relevance has been*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

considered.” Paragraph 041 of the EIA PPG states that “The 2017 Regulations do not require an applicant to consider alternatives. However, where alternatives have been considered, paragraph 2 of [Schedule 4](#) requires the applicant to include in their Environmental Statement a description of the reasonable alternatives studied (for example in terms of development design, technology, location, size and scale) and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”

61. The mineral planning applications have been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and seek to vary conditions 20, 28 and 32 of planning permission TM/93/612 and conditions 36 and 39 of planning permission TM/97/751/MR102 and to delete condition 44 of planning permission TM/97/751/MR102 (i.e. applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted). Section 73 requires that the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application. National Planning Practice Guidance (NPPG) states that: (a) where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended; (b) a decision notice describing the new permission should be issued, setting out all of the conditions related to it; and (c) to assist with clarity decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Whilst Section 73 enables KCC to impose different conditions to those existing (including those which are not specifically proposed to be amended), it would be necessary to justify any such changes and ensure that they are reasonable having regard to relevant guidance.
62. In this case the primary reason for the applications is to secure a revised restoration scheme for the East Lake area (Aylesford Quarry east of Bull Lane) and provide for consistency between the noise conditions on the extant planning permissions. The applicant states that working, restoration and aftercare for the West Lake area (Aylesford Quarry west of Bull lane) will be addressed at a later date.
63. Although no formal scoping opinion or direction has been issued (such that Regulation 18(4)(a) is not relevant), KCC provided advice to the applicant in 2017 and 2018 on both the proposed and related development at Aylesford Quarry and those issues that might reasonably be scoped into an EIA / ES (or addressed in some other way as part of any planning application) if such an opinion were to be requested. In so far as relates to the development now proposed, the advice specifically indicated that landscape, ecology, archaeology / heritage, geotechnical / land stability and the water environment should be addressed. KCC also advised that it would be necessary for the applicant to demonstrate that the requirements of the existing conditions relating to

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

safeguarding the environment, health and amenity (e.g. those relating to noise and dust / air quality) remain appropriate and effective. The advice also specifically noted the importance of any proposals ensuring effective and appropriate restoration and aftercare for the intended after-use and (ideally) not adversely affecting the SSSI and Ancient Woodland. Given that planning permissions TM/93/612 and TM/97/751/MR102 include no specific limit on the number of HGV movements that can enter or leave the site via Rochester Road, and as planning permission TM/98/462 (amended by TM/00/2827) restricts HGV movements generated by all mineral and related development at the site to no more than 160 movements (80 in / 80 out) per day, the advice acknowledged that unless alternative access arrangement were proposed (e.g. using Bull Lane), highways and transportation was unlikely to be a significant consideration.

64. The EIA / ES addresses those matters which KCC informally advised should be included (i.e. landscape, ecology, archaeology / heritage, geotechnical / land stability and the water environment). It also briefly addresses the SSSI and Ancient Woodland, confirming that the revised restoration scheme would have no impact on these. Since the applications (as amended) propose to use the Rochester Road entrance and would give rise to only very limited numbers of HGV movements, highways and transportation was omitted from the EIA / ES. This is consistent with KCC's earlier advice. The extent to which those matters that have been scoped into the EIA / ES have been satisfactorily addressed and whether or not those matters which TMBC believes should have been included needed to be (i.e. cumulative highway / traffic impacts for the lifetime of the project, public safety, land contamination, noise, dust and vibration, air quality and socio-economic impacts) are addressed in the following sections of this report.

The impact on mineral resources

65. Paragraph 203 of the National Planning Policy Framework (NPPF) states that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs and that since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation. Paragraph 204 states (amongst other things) that planning policies should seek to safeguard mineral resources by defining Mineral Safeguarding Areas, that policies should be adopted to avoid sterilisation and that the prior extraction of minerals should be encouraged where practical and environmentally feasible. Paragraph 206 states that local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.
66. Ensuring the delivery of adequate and steady supplies of sand and gravel and the safeguarding of economic mineral resources for future generations are included in the spatial vision and strategic objectives of the Kent Minerals and Waste Local Plan (Kent MWLP). Policy CSM2 of the Kent MWLP seeks to ensure the supply of (amongst others) soft sand, sharp sand and gravel and silica sand. Policies CSM5 and DM7 of the Kent MWLP and draft (modified) Policy DM7 of the Early Partial Review of the Kent MWLP 2013-30 Pre-Submission draft (November 2018) seek to ensure that

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

economic mineral resources are not unnecessarily sterilised.

67. Whilst Aylesford Quarry was previously worked for soft sand above and below water table (with that below water table being silica sand), it has been accepted by KCC following the Kent MWLP Examination in 2015 that the only viable mineral reserves remaining at the quarry are a relatively limited amount of soft (building) sand above the water table primarily in the West Lake area. However, even though the amount of recoverable mineral may be small (up to 200,000 tonnes (t)), the site is still within a Mineral Safeguarding Area because of the remaining reserves of soft sand (including silica sand).
68. In responding to application TM/17/02971 (for housing / local centre) on behalf of KCC as Mineral Planning Authority in January 2018, KCC's Head of Planning Applications raised no objection on mineral sterilisation grounds although she did suggest that the minerals assessment information submitted by AHL in support of the application (effectively that submitted to and accepted at the Kent MWLP Examination) be supplemented by a short update on whether there have been significant changes in respect of economic viability since 2015. Such an assessment has now been undertaken on behalf of AHL and is included in the Proof of Evidence of David Thaddeus (Matthews and Son LLP Chartered Surveyors) which has been submitted to PINS for the Public Inquiry referred to in paragraph 9 above. The assessment confirms what KCC had previously indicated to TMBC (i.e. that there was no reason to believe that there have been any changes that might lead to the conclusion that silica sand extraction is now economically viable at Aylesford Quarry) and reaffirms the above position in terms of soft sand reserves (being in the West Lake area). The assessment suggests that it may be theoretically possible for up to 65,856t of silica sand to be extracted from part of the former plant site area. However, it indicates that this is likely to be "contaminated" by silt and other materials as a result of past disturbance and that it would be extremely difficult operationally. The assessment also indicates that that up to 530,000t of hoggin could be extracted from elsewhere at the site (i.e. the Northern Fields). In terms of the hoggin, it is understood that AHL may decide to submit a revised scheme of working to extract some or all of that material if it is unable to secure planning permission for the revised scheme of restoration and aftercare and residential development on the appeal site.
69. Given that the remaining workable reserves of soft sand above water are in the West Lake area, I am satisfied that there can be no objection on mineral sterilisation grounds to the East Lake area being fully restored or developed for an alternative use(s) provided it remains possible for the reserves in the West Lake area to be worked. Should this not be possible, consideration would need to be given to the implications of the remaining soft sand reserves being sterilised. The proposed deletion of condition 44 of TM/97/751/MR102 would serve to clarify that no further clay extraction will take place at the site and is therefore desirable. The clay at Aylesford Quarry is not included in any landbank and is not a safeguarded mineral.
70. The remaining soft sand reserves in the West Lake area lie within Area 5 of the TM/97/751/MR102 planning permission area (i.e. to the north of the western lake and immediately to the west of Bull Lane). Condition 2 of TM/97/751/MR102 requires the

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

existing Rochester Road access (or that also on Rochester Road provided for by planning permission TM/98/462 as amended by TM/00/2827 on appeal) to be used for Areas 3, 4, 5, 6 and 7, although it does additionally allow Area 8 (which lies to the south of the WWTW private access road) to use the WWTW access road (and hence Bull Lane). The approved scheme of working, restoration and aftercare for both TM/93/612 and TM/97/751/MR102 also requires that the Rochester Road access be used and for sand from the West Lake area being transported by dump truck through the tunnel under Bull Lane. However, as modern dump trucks are too large to travel through the tunnel an alternative means of transportation would be required. One alternative would be for planning permission to be obtained to remove the sand via Bull Lane. As noted elsewhere in this report objections from local residents to the use of Bull Lane through Eccles have been received and although Bull Lane is the signed HGV route to the Island Site (to the south west of Aylesford Quarry) it is by no means certain that such planning permission would be granted (although KCC has previously granted planning permission necessitating the use of Bull Lane to serve temporary waste management development at the Island Site with restrictions on the number of HGV movements each day and the timing of such movements). Another alternative would be to employ a relatively short length of field conveyor through the tunnel and for the excavated sand to be fed via a field hopper onto the conveyor for onward transportation through the East Lake area. The applicant has indicated verbally that if planning permission is secured for the proposed residential development but is not granted to allow the soft sand to be removed via Bull Lane, the remaining soft sand reserves may be used as part of that development (thereby making the multiple handling associated with use of a conveyor economically viable). I am satisfied that there remains a reasonable prospect of the remaining soft sand being worked (either via Bull Lane or through the tunnel).

71. For the reasons given above, I am satisfied that the proposed development is acceptable in the context of the mineral resource policies referred to in paragraphs 65 and 66 above.

Effective and appropriate restoration and aftercare for the intended after-use

72. Paragraph 204 of the NPPF states (amongst other things) that planning policies should ensure that worked land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites takes place. Paragraph 205 states that when considering proposals for mineral extraction, mineral planning authorities should provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. The National Planning Practice Guidance for Minerals (the Minerals PPG) includes further guidance on the restoration and aftercare of mineral sites. It further reinforces the desirability of ensuring that land is reclaimed at the earliest opportunity and that high quality restoration and aftercare of mineral sites takes place. Amongst other things, it states that separate planning permission is likely to be required for most forms of after-use except agriculture and forestry, nature conservation and informal recreation which does not involve substantial public use.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

73. The restoration of mineral sites to the highest possible standard to sustainable after-uses that benefit the Kent community economically, socially or environmentally and, where possible, with after-uses which conserve and improve local landscape character and incorporate opportunities for biodiversity is one of the strategic objectives of the Kent MWLP and is consistent with its spatial vision. This strategic objective is also reflected in Policies DM1, DM2, DM3, DM5, DM10, DM16, DM18 and DM19 of the Kent MWLP.
74. The key restoration, aftercare and after-use requirements for mineral sites are set out in Policy DM19 of the Kent MWLP. The other policies referred to above, set out the policy requirements in terms of specific topic areas such as sustainable design (DM1), environmental and landscape sites of international, national and local importance (DM2), ecological impact assessment (DM3), heritage assets (DM5), water environment (DM10), information required in support of an application (DM16) and land stability (DM18). These topic areas are also addressed to some degree in Policies CP1, CP7 and CP8 of the TMBC LDF Core Strategy, Policies CC3, NE1, NE2, NE3, NE4, SQ1, SQ2 and SQ3 of the TMBC LDF Managing Development and the Environment (MDE) DPD and draft Policies LP1, LP11, LP12, LP13, LP18 and LP19 of the emerging TMBC Local Plan.
75. Policy DM19 of the Kent MWLP states that satisfactory provision should be made for high standards of restoration and aftercare such that the intended after-use of the site is achieved in a timely manner and that restoration plans should be submitted with the planning application which reflect the proposed after-use and include appropriate details. These include: a site-based landscape strategy for the restoration scheme; the key landscape and biodiversity opportunities and constraints ensuring connectivity with surrounding landscape and habitats; the geological, archaeological and historic heritage and landscape features and their settings; consideration of land stability after restoration; details of the proposed final landform; types, quantities and source of soils or soil making materials to be used; proposals for meeting targets or biodiversity gain; planting of new native woodlands; details of the seeding of grass and planting of trees, shrubs and hedges; and a programme of aftercare to include details of vegetation establishment, vegetation management and biodiversity habitat management. It also states that aftercare schemes should incorporate an aftercare period of at least five years.
76. The applications include a Landscape Restoration Strategy and Masterplan which, when read with the other documents submitted with the applications, broadly addresses the matters referred to in Policy DM19 and / or proposes that further details be secured by condition if planning permission is granted. The applications propose a nature conservation / amenity after-use for the East Lake area. Restoration would be undertaken using indigenous materials already on site, including soils previously set aside for restoration purposes.
77. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to whether or not the proposals would provide effective and appropriate restoration and aftercare for the permitted after-use, they do refer to a lack of clarity about the after-use and whether or not public access would be provided.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

They also refer to the applicant's intention to use part of the site for residential purposes and the fact that there is no assessment of impacts on, or from, that residential development. These matters are also referred to in the associated officer delegated report which also states that these issues have additional implications for land stability, the water environment, health and amenity, socio-economics, land contamination and highway impacts.

78. No objections have been raised by other consultees or others to the proposed restoration and aftercare strategy.
79. As noted in paragraph 6 above, both TM/93/612 and TM/97/751/MR102 require the cessation of mineral working by 21 February 2042. TM/93/612 includes no specific date for the completion of restoration whereas condition 1 of TM/97/751/MR102 states that final restoration must be completed by 21 February 2042 or within 2 years of the completion of extraction. Although condition 30 of TM/93/612 additionally seeks to provide for the restoration and landscaping of those parts of the site covered by that permission if excavation ceases and does not recommence to any substantial extent for a period of 2 years, this is incapable of preventing further mineral working prior to 21 February 2042 and may not necessarily ensure that those parts of Aylesford Quarry are fully restored given the relationship with TM/97/751/MR102. There is no such condition on TM/97/751/MR102. Preventing further mineral working prior to 21 February 2042 can only be secured by formally revoking the planning permissions (which would give rise to compensation) or implementing new development which prevents mineral working on any affected area of the site. Given this, approving the proposed revised restoration scheme for the East Lake area probably represents the best way of ensuring that a significant part of Aylesford Quarry is fully restored as soon as possible.
80. The question of whether the proposed development complies with Policy DM19 is dependent on the conclusions of the following sections.

Land stability

81. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the natural and historic environment or human health. Paragraph 170 states that planning decisions should contribute to and enhance the natural environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of land instability and remediating and mitigating unstable land where possible. Paragraph 178 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks from land instability. In respect of slope stability, the Minerals PPG advises that the consideration needed at the time of an application will vary between mineral workings depending on a number of factors such as the depth of working, the nature of materials excavated and the nature of the restoration proposals. Land stability is further addressed in the Land Stability PPG. Amongst other things, this provides advice on the content of stability reports.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

82. Policy DM18 of the Kent MWLP states that planning permission will be granted for minerals development where it is demonstrated that it would not result in land instability and that proposals that could give rise to land instability must include a stability report and measures to ensure land stability. In this case, land instability has already occurred as a result of past mineral extraction and measures are required to minimise the risk of further instability. The applications include a stability report which addresses this issue.
83. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to land stability, its officer delegated report relating to its objections does. In respect of the applicant's Stability Report it states: *"This provides only background information concerning the context of the site; explains the geology of the site and area, levels and gradients involved; sets out the proposed works, and concludes no risks established or substantive mitigation. It is unclear from the information what land raising is necessary as part of the residential scheme or the restoration proposals. The materials proposed for, their transportation onto site, and the construction method(s) envisaged for, altering land levels are not defined clearly or at all. The ES lifts certain aspects of the conclusions of the report and concludes a positive impact (due to landscaping apparently) once the restoration is complete. This does not amount to EIA in respect of land stability and no substantive assessment on this can be reasonably or rationally concluded."*
84. Notwithstanding these comments, no objections have been raised by consultees (including KCC's Geotechnical Consultant) or others in respect of land stability.
85. When read in their entirety the applications are clear why significant land remodelling works are required and how these would be undertaken. As noted in paragraph 19 above, significant slumping has occurred (and continues to occur) to north of the main lake. Left in its current form, it is clear that the instability will continue leading to further slumping and loss of land to the north of the main lake (including ultimately at least some of the SSSI) as materials fall into the deep water immediately to the south. The significant "cut" proposed in the Northern Faces is designed to minimise future instability by reducing gradients in this part of the East Lake area. The proposed infilling of the Clay Lake to the north of these unstable slopes would avoid perched water exacerbating instability to the south as it tries to drain towards the main lake. The applications include details of the cut and fill required to achieve the proposed final restoration contours for each part of the East Lake area. As noted in paragraph 16 above, landraising ("fill") is proposed in a number of areas of the site. Whilst it would appear that some of this has been designed with the applicant's current and future aspirations in mind (e.g. the proposed residential development in Plot C and proposed TMBC Local Plan allocation in Plot D), this does not undermine what is proposed as long as KCC is satisfied that what is proposed is acceptable in terms of providing an effective and appropriate restoration solution for the mineral site and does not give rise to unacceptable adverse impacts.
86. It should be noted that altering the current levels in Plots C and D would enable the land to be used more effectively following restoration regardless of whether residential

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

development were to take place. In terms of the required after-use (which may reasonably include agricultural land as well as the stated nature conservation / amenity use), restoration of these areas to open pasture draining gently into the main lake (1:80 to 1:100) would be beneficial. The proposed infilling at the eastern end of the main lake in Plot C would increase the usable area of land in that area without prejudicing the future use of the lake. With the exception of the infill proposed within the main lake itself, the majority of the fill proposed in Plots C and D would actually be cut within these areas. For the avoidance of doubt, all materials used in the proposed restoration of the East Lake area would be sourced from within the East Lake area. No materials are proposed to be imported to the site. The restoration operations would be undertaken using an excavator in cut area, a tracked dozer and vibratory roller in fill area and up to 4 dump trucks transporting material between the two areas.

87. Whilst the retention of the SSSI and RIGS Sand Face may lead to some future instability in those particular parts of the East Lake area, I am satisfied that the proposed revised restoration scheme would provide an acceptable solution in terms of slope stability and is therefore generally consistent with the objectives of Policy DM18 and the NPPF and associated Minerals and Land Stability PPGs. In coming to this view, I am mindful that fully resolving the potential instability in all parts of the East Lake area would necessitate either the removal of all or part of the SSSI and RIGS exposure or (if environmentally acceptable) the importation of huge quantities of restoration materials from outside the site and infilling the main lake. I am also content that land stability has been adequately addressed in the EIA / ES.

Water environment (surface water and groundwater)

88. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the natural environment. Paragraph 163 states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 170 states that planning decisions should contribute to and enhance the natural environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Paragraph 178 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks from land contamination.
89. Policy DM10 of the Kent MWLP states that planning permission will be granted for minerals development where it would not result in the deterioration of physical state, water quality or ecological status of any water resource and water body (including rivers, streams, lakes and ponds), have an unacceptable impact on groundwater Source Protection Zones (SPZs) or exacerbate flood risk. It also states that proposals must include measures to ensure the achievement of no deterioration and improved ecological status of all waterbodies within the site and / or hydrologically connected to the site and that a hydrogeological assessment may be required to demonstrate the effects of the proposed development on the water environment and how these may be mitigated to an acceptable level.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

90. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to the water environment, its officer delegated report relating to its objections does. In respect of the water environment it states: *"This is addressed only very briefly in the ES in terms of surface water and groundwater impacts. The only conclusion is that there would be a generally positive impact as a result apparently of biodiversity enhancements (presumably in terms of the completed development but this is not made clear). There is no technical evidence to support this claim/conclusion, and so it is not founded on any clear basis and is limited in nature in any respect. Consideration is inadequate."* TMBC has also objected on the grounds that the EIA / ES does not include land contamination.
91. Notwithstanding these comments, no objections have been raised by consultees (including the Environment Agency and KCC SUDS) or others in respect of the water environment.
92. As noted above, surface water and groundwater impacts are addressed in the application (specifically in the ES and the associated Stability Report).
93. Whilst the water environment is addressed relatively briefly in the applications, it is evident from technical consultee responses that sufficient information has been included in respect of relevant issues. It should also be noted that existing conditions relating to the water environment would continue to apply during the proposed restoration. These include those imposed to minimise the risk of pollution of any water course or the aquifer such as no fill materials from outside sources being imported to the site and appropriate arrangements being employed for oil, fuel, lubricant or other potential pollutant storage. The other key control relating to the water environment relates to the permitted depth of working. However, since no further extraction is proposed below water level in the East Lake area, this is no longer directly relevant.
94. Whilst land contamination is not specifically addressed in the EIA / ES, it is possible that land may have been contaminated by pollutants (such as fuels and oils) as a result of operations that have occurred on site. The potential for this is more likely in parts of Plot C which previously contained the processing plant and which still contains the workshops and office building as well as hardstanding and the remains of other structures. Given this possibility, I consider it appropriate to include a new condition which would require works to cease in any part of the East Lake area where any ground contamination is encountered during the restoration works until such time as an appropriate method statement for remediating this has been agreed with KCC and successfully implemented. In the event that this becomes necessary, it would also be appropriate to secure a verification report confirming that the contamination has been satisfactorily dealt with before restoration works re-commence on the affected part of the site. The applicant has agreed to this approach.
95. Given the above and since it is not proposed to import materials to the site for infilling and restoration, I do not consider that the works method statement proposed by the Environment Agency (detailing the type, source and quantity of materials to be used to backfill the Clay Lake) is necessary. As noted in paragraph 36 above, the

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

Environment Agency has suggested that there may be opportunities to reduce flood risk in the centre of Aylesford through the creation of a high level overflow channel on the land between Anchor Farm and the site itself. It has indicated that it would support this idea in principle and would be happy to discuss this with the applicant and KCC. It has further suggested that there may be opportunities for meandering and other natural flood management measures upstream of the site (which it would again support). Whilst the applicant owns much of the land between Aylesford Quarry and Anchor Farm, it is understood that it does not own it all (including the stream itself). Given this, and as this is not directly related to the acceptability or otherwise of the proposed revised restoration scheme, I consider it appropriate to include an informative on any planning permissions that may be granted encouraging the applicant to participate in discussions with the Environment Agency and others to explore these and related issues further.

96. Subject to the imposition of a new condition to address potential land contamination, I am satisfied that the proposed development would not adversely affect the water environment and would accord with Policy DM10. I am also content that the water environment has been adequately addressed in the EIA / ES.

Impact on / loss of SSSI (and RIGS Sand Face)

97. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the natural environment. Paragraph 170 states that planning decisions should contribute to and enhance the natural environment by protecting and enhancing sites of geological value (in a manner commensurate with their statutory status or identified quality). Paragraph 175 states that when determining planning applications, local planning authorities should not normally permit development which is likely to have an adverse effect on a SSSI.
98. Policy DM2 of the Kent MWLP states that proposals for minerals development will be required to ensure that there is no unacceptable adverse impact on the integrity, character, appearance and function, biodiversity interests, or geological interests of sites of national importance such as Sites of Special Scientific Interest (SSSIs). It states that proposals for minerals development within or outside of SSSIs that are likely to have any unacceptable adverse impact on a SSSI will not be granted planning permission except in exceptional circumstances where it can be demonstrated that the benefits of the development outweigh any impacts that it is likely to have on the features of the site that make it of special scientific interest and the benefits of the development outweigh any impacts that it is likely to have on the national network of SSSIs.
99. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to the impact on / loss of the SSSI, its officer delegated report relating to its objections does. In respect of the impact on / loss of the SSSI it states: "*No specific reports. The ES merely suggests that no restoration works are required within the SSSI, and on this basis, that no impacts are to be considered. This is demonstrably narrow and inadequate in EIA terms, particularly given that the County (albeit*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

informally, it appears) scoped this topic in to the EIA.”

100. Notwithstanding these comments, no objections have been raised by consultees (including Natural England and KCC Archaeology) or others in respect of the impact on / loss of the SSSI (which lies within TM/97/751/MR102). Natural England accepts that there would be no direct or indirect impact on the SSSI and that there appear to be no immediate concerns over its stability. Natural England also welcomes the proposals for the long term management of the SSSI and makes a number of suggestions as to how this could be improved from its perspective (see paragraph 34 above). It would also appreciate the opportunity to access the SSSI in order to reappraise its previous condition assessment.
101. As noted in paragraph 11 above, when KCC issued its screening opinion on potential applications for revised restoration at Aylesford Quarry it was unclear whether the works would directly affect the SSSI. Discussions that took place between KCC, AHL and Natural England had referred to the possibility that the SSSI (and Ancient Woodland) might be directly affected and, indeed, removed in order to provide the greatest possible long term stability in this part of the site. Natural England was opposed in principle to any proposals that would have resulted in the loss of the SSSI (in whole or part) in the absence of a suitable alternative site being provided. AHL has always maintained that this is not possible. The possibility that AHL might propose to remove the SSSI (in whole or in part) or bring forward proposals that may indirectly affect it influenced KCC's approach to the potential scope of any EIA and why the impact on / loss of the SSSI was “informally” scoped into it. However, the current proposals would both retain the SSSI and provide measures for its long term management.
102. KCC Archaeology was also previously involved in discussions with AHL and Natural England about revised restoration proposals. It's interest in the SSSI related to the potential for Palaeolithic remains and geo-archaeology, as well as archaeology more generally in any previously unworked / undisturbed parts of the site. Since the SSSI would be retained and no previously unworked / undisturbed parts of the site would be affected by the revised restoration proposals it is unsurprising that it has raised no objection.
103. In respect of locally important sites such as Local Geological Sites (i.e. Regionally Important Geological Site (RIGS)), Policy DM2 states that minerals proposals located within such sites will not be granted planning permission unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for such that there is a net planning benefit.
104. As with the SSSI, the RIGS (which lies within TM/97/751/MR102) would be retained as part of the restoration proposals and measures are proposed for its long term management. This is welcomed by Natural England.
105. Subject to Natural England's suggestions in respect of the long term management of the SSSI being incorporated into the proposals (something that can be addressed by condition and incorporated into the proposed detailed aftercare / management

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

programme), I am satisfied that the proposed development would not adversely affect the SSSI or the RIGS and would accord with Policy DM2. I consider that encouraging the applicant to allow Natural England to access the site is something that can reasonably be addressed by an informative. I am also content that the impact on / loss of the SSSI and any impact on the RIGS have been adequately addressed in the EIA / ES.

Impact on heritage assets / archaeology

106. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the historic environment. Paragraphs 184 to 202 contain policies relating to conserving and enhancing the historic environment. In respect of archaeology, the Minerals PPG refers to the Minerals and Historic Environment Forum's Practice Guide on mineral extraction and archaeology (June 2008).
107. Policy DM5 states proposals for minerals development will be required to ensure that Kent's heritage assets and their settings, including locally listed heritage assets, registered historic parks and gardens, Listed Buildings, conservation areas, Scheduled Ancient Monuments and archaeological sites and features are conserved in a manner appropriate to their significance. It also states that proposals should result in no unacceptable adverse impact on Kent's historic environment and, wherever possible, opportunities must be sought to maintain or enhance historic assets affected by the proposals. Minerals and/or waste proposals that would have an impact on a heritage asset will not be granted planning permission unless it can be demonstrated that there is an overriding need for development and any impacts can be mitigated or compensated for, such that there is a net planning benefit.
108. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to the impact on heritage assets / archaeology, its officer delegated report relating to its objections does. In respect of the applicant's Archaeological Report it states: *"The report describes the broad evolution of the site in historical terms and sets out the need to record buildings in situ, setting out a suggested methodology for doing so which appears, of which the County may have been notified. The ES merely refers back to the methodology for such recording of buildings. This does not comply with EIA requirements and no substantive assessment on this can possibly be accurately concluded, giving rise to inadequacy. The ES discusses matters of heritage, asserting no impact on the Aylesford Conservation Area (due apparently, to woodland management and landscaping). This conclusion is not based on any technical evidence or assessment. The heritage section does not incorporate any discussion any of the nearby listed buildings that would unarguably be impacted by the development. The scope of the assessment in respect of heritage assets makes no regard to heritage assets other than the CA. There are a number of important listed buildings in the immediate vicinity of the site (some immediately adjacent to its boundary) and to fail even to attempt to assess the likely significant impacts on their setting demonstrates the inadequacy of the heritage assessment. An adequate assessment as to likely significant impacts on Old Mill House, 22 -32 Mount*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

Please and Trinity Court must be incorporated.”

109. Notwithstanding these comments, no objections have been raised by consultees (including Historic England, KCC Archaeology and KCC Conservation Officer) or others in respect of the impact on heritage assets / archaeology. Securing the advice of KCC Archaeology and KCC Conservation Officer is consistent with the advice given by Historic England.
110. As noted in respect of the SSSI above, it was previously believed that the applications may include proposals for works in previously unworked / undisturbed parts of the site. Given that this is not the case, and the land that would be subject to the proposed restoration works has been worked to a depth of at least 3 or 4m below original ground level, KCC Archaeology is satisfied that the proposed written scheme of investigation (WSI) set out in the applicant's Archaeological Report is sufficient to address any archaeological interest. KCC Conservation Officer is of the opinion that the proposed works would have no unacceptable adverse impact on the setting, character and appearance of the Aylesford Conservation Area. Since the Listed Buildings lie within the Aylesford Conservation Area and the Friars Historic Park and Garden lies both within this and further to the south west of the site, I am satisfied that the proposed restoration works would similarly have no unacceptable impact on them or their settings. In this context it should be noted that the proposed works are only temporary, that restoration is a requirement of the mineral planning permissions and that the restoration proposals for the East Lake area are similar to those previously approved in terms of their overall appearance. Clearly the proposals will give rise to other impacts (e.g. noise and dust) which may have a temporary adverse impact on the local area. However, the acceptability or otherwise of those is addressed elsewhere in this report.
111. Subject to the written scheme of investigation (WSI) set out in the applicant's Archaeological Report being implemented as proposed, I am satisfied that the proposed development would be acceptable in terms of its impact on heritage assets / archaeology and would accord with Policy DM5. I am also content that the impact on heritage assets / archaeology has been adequately addressed in the EIA / ES.

Impact on / loss of Ancient Woodland

112. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the natural environment. Paragraph 175 states that when determining planning applications, local planning authorities should refuse development that would result in the loss of irreplaceable habitats such as Ancient Woodland unless there are wholly exceptional reasons and a suitable compensation strategy exists.
113. Policy DM2 of the Kent MWLP states that proposals for minerals development will be required to ensure that there is no unacceptable adverse impact on the integrity, character, appearance and function, biodiversity interests, or geological interests of sites of national importance such as Ancient Woodland. It states that minerals

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

proposals located within or considered likely to have any unacceptable adverse impact on Ancient Woodland will not be granted planning unless the need for, and the benefits of the development in that location clearly outweigh any loss.

114. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to the impact on / loss of Ancient Woodland, its officer delegated report relating to its objections does. In respect of the impact on / loss of Ancient Woodland it states: *"No specific reports. The ES merely suggests that no restoration works are required within the SSSI, and non this basis, that no impacts are to be considered. This is demonstrably narrow and inadequate in EIA terms, particularly given that the County (albeit informally, it appears) scoped this topic in to the EIA."*
115. Notwithstanding these comments (which actually refer to the SSSI rather than the Ancient Woodland), no objections have been raised by consultees (including Natural England, KCC's Landscape Consultant and KCC Ecological Advice Service) or others in respect of the impact on / loss of Ancient Woodland. The Ancient Woodland occupies the northern part of the SSSI (within TM/97/751/MR102) and an area of land immediately to the north east of this (outside the mineral site).
116. As in the case of the SSSI, the applicant had originally considered the possibility of removing all or part of the Ancient Woodland in order to provide the greatest possible long term stability in this part of the site and this resulted in the impact on / loss of Ancient Woodland being "informally" scoped into the EIA. However, the revised restoration proposals do not propose any works in the Ancient Woodland other than the long term management proposals relating to the SSSI.
117. Subject to the long term management proposals referred to elsewhere in this report being secured, I am satisfied that the proposed development would not adversely affect the Ancient Woodland and would accord with Policy DM2. I am also content that impact of / loss of Ancient Woodland has been adequately addressed in the EIA / ES.

Ecological impact

118. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the natural environment. Paragraph 170 states that planning decisions should contribute to and enhance the natural environment by protecting and enhancing sites of biodiversity value (in a manner commensurate with their statutory status or identified quality) and minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that when determining planning applications, local planning authorities should refuse development which that would result in significant harm to biodiversity if this cannot (as a last resort) be compensated for.
119. Policy DM3 of the Kent MWLP states that proposals for minerals development will be required to ensure that it results in no unacceptable adverse impacts on Kent's important biodiversity assets (such as European and nationally protected species and

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

habitats and species of principal importance for the conservation of biodiversity / Biodiversity Action Plan habitats and species). It also states that proposals that are likely to have unacceptable adverse impacts upon important biodiversity assets will need to demonstrate that an adequate level of ecological assessment has been undertaken and will only be granted planning permission following: (1) an ecological assessment of the site, including preliminary ecological appraisal and, where likely presence is identified, specific protected species surveys; (2) consideration of the need for, and benefits of, the development and the reasons for locating the development in its proposed location; (3) the identification and securing of measures to mitigate any adverse impacts (direct, indirect and cumulative); (4) the identification and securing of compensatory measures where adverse impacts cannot be avoided or mitigated for; and (5) the identification and securing of opportunities to make a positive contribution to the protection, enhancement, creation and management of biodiversity.

120. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to ecological impact, its officer delegated report relating to its objections does. In respect of the applicant's Ecological Assessment it states: *"This is an update report following an earlier report produced on behalf of the developer in relation to the residential planning application for part of the site. This document is however far more akin to what would be expected in order to assess impacts and propose mitigation measures. It will also be noted that the report indicates that the assessment provides a baseline for assessing ecological impacts of proposed mineral extraction and residential development across the site, and so is contradictory in terms of what the developer actually says these applications relate to. Some mitigation measures are proposed, but these are predicated predominately on the end use rather than throughout the lifetime of the development, from commencement. The ES fails to address development holistically, considering cumulative impacts. The ES inadequately lists a series of enhancement measures intended to be secured at the completion of the development (nature conservation and amenity use)."*
121. Notwithstanding these comments, no objections have been raised by consultees (including Natural England, KCC Ecological Advice Service and the Environment Agency) or others in respect of ecological impact.
122. The applicant's Ecological Assessment includes both the update report referred to by TMBC (dated September 2018 and based on site surveys undertaken in August 2018) and an earlier Ecological Assessment (dated December 2016 and based on site surveys in 2015 and 2016). Whilst the 2016 Ecological Assessment refers to providing a baseline for assessing ecological impacts for both mineral and residential development across the East Lake area (which in itself does not undermine its findings and recommendations), the updated 2018 Ecological Assessment specifically relates to the proposed revised restoration strategy. The updated 2018 Ecological Assessment identifies any changes that have occurred since the earlier report and updates the conclusions and recommendations as necessary. The updated 2018 Ecological Assessment has informed the Landscape Restoration Strategy Report and Masterplan and needs to be read with these and the Tree Report. It concludes that there are no identified ecological conflicts arising from the proposed revised restoration scheme and that the recommendations of the earlier report remain valid.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

123. The approach to ecology and the findings and recommendations of the assessments have been accepted by KCC Ecological Advice Service. It has no objection to the proposed revised restoration scheme subject to the provision of a detailed ecological mitigation strategy (informed by updated ecological surveys) to ensure that the restoration works do not result in a breach of wildlife legislation and a site wide management plan being produced to ensure the created / restored / retained habitats are managed appropriately to retain the ecological interest of the site. It proposes that the site wide management plan provide for additional open mosaic habitat and is content that this can be addressed in that context. These matters are capable of being secured by condition.
124. Ensuring that any fish that may be present in the Clay Lake are removed before it is infilled (as requirement of the Environment Agency) is capable of being addressed by condition. The applicant has indicated that it is content with this.
125. Subject to the provision of a detailed ecological mitigation strategy and a site wide management plan, I am satisfied that the proposed development would be acceptable in terms of ecological impact and would accord with Policy DM3. I am also content that ecological impact has been adequately addressed in the EIA / ES.

Landscape impact

126. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the natural environment. Paragraph 170 states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues.
127. Policy DM2 of the Kent MWLP states that proposals for minerals development will be required to ensure that there is no unacceptable adverse impact on the integrity, character, appearance and function, biodiversity interests, or geological interests of sites of international, national and local importance. It states that Areas of Outstanding Natural Beauty (AONBs) are to have the highest level of protection in relation to landscape and scenic beauty and that proposals outside, but within the setting of, AONBs will be considered having regard to the effect on the purpose of conserving and enhancing the natural beauty of the AONB. It further states that the consideration of such applications will assess (amongst other things) the need for the development.
128. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to landscape impact, its officer delegated report relating to its objections does. In respect of the applicant's Landscape Restoration Strategy Report it states: "*Landscape analysis as submitted is notably limited to discussion about SSSI and CA, and only at the completion stage of the project. General assessment of tree*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

quality across the site and mitigation measures set out. The ES explains the documents should be read together and draws very broad (and inadequate) conclusions in terms of positive long term impacts arising from restoration (nature conservation and amenity use). A proper discussion must adequately address the likely significant landscape impacts and likely significant impacts to the setting of the AONB, to the north of the site. The assessment is inadequate.”

129. Notwithstanding these comments, no objections have been raised by consultees (including Natural England, the Kent Downs AONB Unit and KCC's Landscape Consultant) or others in respect of landscape impact.
130. The proposed revised restoration scheme is broadly similar to that previously approved and unless planning permission were to be obtained to import large quantities of restoration materials to supplement those available on site the ability of the applicant to secure a significantly different landform is unlikely. Only indigenous materials already on site would be used, including soils previously set aside for restoration purposes. Tree protection measures are proposed and would serve to ensure that existing trees to be retained (including those subject to the Group Tree Preservation Order (TPO)) are safeguarded from the proposed works. The applicant proposes that a detailed aftercare programme be submitted within 6 months of approval / permission. This would provide more detailed proposals for the aftercare actions and long term management set out in its Landscape Restoration Strategy, including those for the SSSI, RIGS Sand Face, semi-natural woodland, TPO woodland, Plots C and D, the Northern Faces, Northern Fields and Clay Lake areas.
131. KCC's Landscape Consultant is satisfied that the proposed revised restoration scheme is acceptable subject to the provision of additional details on reed bed creation and seed mixes, wildflower plug planting, larger tree planting / feathered tree planting, soil testing and amelioration measures as necessary and UK provenance certification. These are all capable of being secured by a condition requiring that the proposed landscaping scheme be updated to reflect these requirements. Since neither Natural England nor the Kent Downs AONB Unit have raised objections, it is reasonable to assume that impacts on the AONB are not significant.
132. In providing for the restoration of that part of Aylesford Quarry to the east of Bull Lane, the proposed scheme would serve to maintain the Strategic Gap. Whether the applicant's aspirations for non-mineral development at the site would do so is a matter for TMBC and / or PINS / the Secretary of State.
133. One local resident has expressed the concern that the proposed landscaping could introduce new barriers to future public access from the north and south of the site. Since public access is not proposed at this time I consider it premature to specifically seek to address this now. However, I am satisfied that the proposed landscaping would not prejudice future public access and that any new proposals for the future use of the site are capable of addressing this and any other public access issues as necessary.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

134. Subject to the provision of an updated landscaping scheme and detailed aftercare programme within 6 months of approval / permission and implementation of the proposed tree protection measures, I am satisfied that the proposed development would be acceptable in terms of landscape impact and would accord with Policy DM2. I am also content that landscape impact has been adequately addressed in the EIA / ES.

Health and amenity

135. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on human health and that any avoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source and that appropriate noise limits are established for extraction in proximity to noise sensitive properties. Paragraph 178 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks from land instability and contamination.
136. Policy DM11 of the Kent MWLP states minerals development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from noise, dust, vibration, odour, emissions, bioaerosols, illumination, visual intrusion, traffic or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. It states that this may include production of an air quality assessment of the impact of the proposed development and its associated traffic movements and necessary mitigation measures required through planning condition and / or planning obligation. This will be a particular requirement where a proposal might adversely affect the air quality in an AQMA. It further states that proposals will also be required to ensure that there is no unacceptable adverse impact on the use of other land for other purposes.
137. Although TMBC's reasons for objection referred to in paragraph 32 above do not specifically refer to health and amenity, they do state that a number of related issues (e.g. noise, dust and vibration, air quality and public safety) have not been robustly or adequately assessed. Its officer delegated report relating to its objections does refer to health and amenity. In respect of the applicant's Noise Assessment it states: *"One baseline scenario is stated, within the context of the quarry being in full operation (see above comments on baseline flaws). On this basis the ES concludes no amenity impact on the basis that planning conditions would adequately govern. There is no cumulative assessment of impacts and with regard to all relevant baseline scenarios. Matters of health and amenity should reasonably include issues of broader public safety and given the nature of the site and works required to facilitate restoration this should not least be considered in terms of safety during the restoration phase both for those involved in those operations but also more broadly given the fact that the site is bounded almost entirely by a network of public footpaths. As set out above, there is inadequate clarity over how the restored site will be used. The purported use is for nature conservation/amenity purposes but with no reference being given as to whether the land would be publically accessible. This would ultimately have a bearing on the likely significant impacts on safety given the restored site would contain altered land*

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

levels (and thus links to land stability considerations) and large expanses of deep water. This also has relevance when considering the developer's wider aspiration to develop the site, at least in part, for residential purposes and the potential for safety and amenity to be impacted (and to what extent being dependant on the phasing of each element - which is also unknown)."

138. Notwithstanding these comments, no objections have been raised by consultees (including KCC's Noise and Dust / Air Quality Consultants) or others in respect of health and amenity. It should also be noted that in respect of "Consultees" the TMBC officer delegated report states "4.1 None by TMBC: since it is not the determining authority." This suggests that TMBC's Environmental Health Officers have not specifically commented on these and related issues and that it is reasonable for KCC to rely on its own independent consultants for advice on these and related issues.
139. With the exception of the proposed variation of condition 20 of TM/93/612 to allow the 55dB $L_{Aeq, 1 \text{ hour}}$ noise limit to be exceeded for up to 8 weeks in any year (i.e. up to the 70dB $L_{Aeq, 1 \text{ hour}}$ limit provided for by condition 26 of TM/97/751/MR102), no variations are proposed to the hours of operation, noise limits or dust mitigation measures which have previously been found to be acceptable. Although no changes are specifically proposed to the existing conditions which permit blasting at the site (as a means of breaking up very hard ironstone bands within the mineral), blasting has not been undertaken for many years and it is understood that no further blasting would take place. I am content that no further consideration is required on blasting.
140. The proposed amendment to condition 20 of TM/93/612 accords with the Minerals Planning Practice Guidance (PPG) which advises that 55dB $L_{Aeq, 1 \text{ hour}}$ be regarded as the maximum noise limit for mineral operations during the day and that 70dB $L_{Aeq, 1 \text{ hour}}$ be allowed for up to 8 weeks in any year to facilitate essential temporary operations (including restoration). KCC's Noise Consultant has confirmed that these noise limits are acceptable. Since the applicant's Noise Assessment is based on a series of 9 detailed phases being employed for restoration works, I consider it appropriate to require that the restoration works be undertaken in accordance with that phasing. This would ensure that the assumptions used in the assessment remain valid and that noise impact is minimised. It would also be beneficial in minimising dust impacts.
141. Condition 28 of TM/97/751/MR102 requires that measures be taken to mitigate potential dust problems. These include: ceasing work if wind speed, dryness and wind direction could lead to dust nuisance; control of vehicle speeds within the site; unpaved site roads to be maintained by regular grading to create a good travelling surface and prevent fugitive emissions; use of a water bowser to damp down site roads and open areas; minimising the drop height of material to reduce the distance fine particles have to fall; wetting down of stockpiles during dry periods of weather and / or high winds; sweeping of surfaced access roads to reduce the build up of dust particles; sheeting of loaded lorries; and grass seeding of soil mounds. Although sheeting is not employed on dump trucks used to transport restoration materials within a site, the other measures referred to remain valid and should continue to be employed as necessary during restoration. Since these measures are more

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

comprehensive than those referred to in condition 27 of TM/93/612, I propose that the requirements of condition 28 are applied to the proposed development. This is consistent with KCC Dust / Air Quality Consultant's advice. KCC's Dust / Air Quality Consultant has also noted that there would not be significant HGV movements on the public highway (including through neighbouring AQMAs) and has raised no objection in terms of air quality impacts associated with traffic.

142. Condition 16 of TM/96/612 and condition 22 of TM/97/751/MR102 restrict hours of operation to between 07:00 and 18:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays. No changes are proposed to these hours and I consider them to remain acceptable.
143. Whilst land stability is addressed so far as is reasonably possible given the desirability of retaining the SSSI and RIGS Sand Face, the restored landform (with deep water and steep cliff faces in places) has the potential to present some danger to future users. However, as public access to the site is not proposed as part of the revised restoration scheme I consider the potential dangers to be acceptable for the proposed uses that are provided for at this stage within the overall description of nature conservation / amenity use. The majority of the restored site would either be water (ecological amenity / nature conservation) or open pasture (agricultural / ecological amenity / nature conservation), together with areas of woodland and scrub (ecological amenity / nature conservation) and those involved in the future management of the site would be aware of the potential dangers. Notwithstanding this, it would be appropriate to ensure that measures continue to be maintained to remind site personnel and discourage unauthorised public access to those parts of the site which might pose the greatest danger. I consider that the use of suitable fencing in the vicinity of the SSSI and RIGS Sand Face and signage in the vicinity of these and the main lake would be appropriate in this case. This can be secured by condition.
144. The need for further consideration of public safety within the restored site would be dependent on the detailed nature of any proposals for its use. In terms of the proposed residential use in Plot C, the use of appropriate fencing and signage may be sufficient. Future proposals for other parts of the site may give rise to the need for more detailed consideration (something which should be done as part of those proposals).
145. Subject to the re-imposition of the existing conditions relating to noise, dust and hours of operation (amended as referred to above), implementation of the proposed phasing and the provision of suitable fencing and signage, I am satisfied that the proposed development would be acceptable in terms of health and amenity and would accord with Policy DM11. I am also content that health and amenity has been adequately addressed in the EIA / ES.

Public rights of way

146. Paragraph 98 of the NPPF states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

147. Policy DM14 of the Kent MWLP states that planning permission will only be granted for minerals development that adversely affect a Public Right of Way, if: (1) satisfactory prior provisions for its diversion are made which are both convenient and safe for users of the Public Rights of Way; (2) provision is created for an acceptable alternative route both during operations and following restoration of the site; and (3) opportunities are taken wherever possible to secure appropriate, improved access into the countryside.
148. No objections have been raised by consultees (including KCC PROW) or others in respect of public rights of way.
149. No public rights of way are directly affected by the proposed development and any impacts on users would be temporary. I am satisfied that the noise and dust controls referred to above would be sufficient to ensure that there would be no unacceptable impact on users.
150. As noted earlier in this report, no public access to the site is proposed. Since no provision was specifically made requiring this when the mineral permissions were granted and as existing rights of way would not be adversely affected, I do not believe that this can be required. As also noted above, any proposals for future uses at the site will be a matter for TMBC (or, in the case of the current appeal, PINS / the Secretary of State). The desirability or otherwise of public access can be considered further as part of those proposals.
151. I am satisfied that the proposed development would be acceptable in terms of public rights of way and would accord with Policy DM14. I am content that there was no need for public rights of way to have been scoped into the EIA / ES.

Traffic impact

152. Paragraph 205 of the NPPF states that when considering proposals for mineral extraction, mineral planning authorities should (amongst other things) ensure that there are no unacceptable adverse impacts on the natural and historic environment and human health and that any avoidable noise, dust and particle emissions are controlled, mitigated or removed at source. Paragraph 108 states that in assessing applications, it should be ensured that safe and suitable access to the site can be achieved for all users and that any significant impacts from the development on the transport network (in terms of capacity or congestion) or any highway safety can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
153. Policy DM13 of the Kent MWLP states that minerals development will be required to demonstrate that emissions associated with road transport movements are minimised as far as practicable and by preference being given to non-road modes of transport. Where development requires road transport, proposals will be required to demonstrate

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

that: (1) the proposed access arrangements are safe and appropriate to the scale and nature of movements associated with the proposed development such that the impact of traffic generated is not detrimental to road safety; (2) the highway network is able to accommodate the traffic flows that would be generated, as demonstrated through a transport assessment, and the impact of traffic generated does not have an unacceptable adverse impact on the environment or local community; and (3) emission control and reduction measures, such as deployment of low emission vehicles and vehicle scheduling to avoid movements in peak hours. Particular emphasis will be given to such measures where development is proposed within an AQMA.

154. TMBC's reasons for objection referred to in paragraph 32 above include traffic impact. Its objection and associated officer delegated report state that cumulative highway / traffic impacts for the lifetime of the project have not been robustly or adequately assessed. Objections have also been received in respect of traffic impact from local residents and the local MP.
155. No objections have been raised by other consultees (including KCC Highways and Transportation (H&T)) in respect of traffic impact.
156. Neither TM/93/612 nor TM/97/751/MR102 contain any limit on HGV movements during normal working hours. Whilst it could be argued that the 160 movements (80 in / 80 out) limit per day imposed by TM/98/462 (as amended by TM/00/2827 on appeal) applies as that planning permission has been implemented, this is largely academic at this stage since the only HGV movements now proposed would relate to those bringing in (and subsequently removing) the plant and equipment required to undertake the restoration works. Following the withdrawal of the proposed use of an access on Bull Lane, all vehicles would enter and leave the site via the permitted access on Rochester Road.
157. Since the application proposes to use the permitted access on Rochester Road and the number of HGV movements would be significantly lower than any limit which may apply, I can see no reason to justify TMBC's suggestion that the consideration of highway / traffic impacts is inadequate. It should be noted that regardless of the outcome of the current applications, Aylesford Quarry will still need to be restored and that any alternative restoration proposals would give rise to some HGV movements. Any highway / traffic implications of future land uses / development is a matter for TMBC and / or PINS / the Secretary of State to consider when determining those proposals. As noted in paragraph 141 above, KCC's Dust / Air Quality Consultant has raised no objection in terms of air quality from traffic impact as there would not be significant HGV movements on the public highway (including through neighbouring AQMAs).
158. The objections from the local residents and the local MP referred to in paragraph 52 above primarily relate to the proposed use of the access off Bull Lane which would have led to HGV traffic through Eccles and along Pilgrims Way. Since this element of the proposals was withdrawn in November 2018 and all traffic would use Rochester Road I consider these concerns to have been overcome. However, the

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

representations clearly indicate that any proposals to remove sand from the West Lake area using Bull Lane are likely to attract objection. The potential implications of such objections for remaining mineral reserves at Aylesford Quarry is addressed further in paragraph 70 above.

159. I am satisfied that the proposed development would be acceptable in terms of traffic impact and would accord with Policy DM13. I am content that there was no need for traffic impact to have been scoped into the EIA / ES.

Socio-economic impact

160. As noted in paragraph 57 above, TMBC has stated that the EIA / ES is inadequate in that it has not addressed cumulative highway / traffic impacts for the lifetime of the project, public safety, land contamination, noise, dust and vibration, air quality and socio-economic impacts. It has also stated that those matters that have been scoped in have not been robustly or adequately assessed. The above sections of this report effectively address and respond to all but socio-economic impacts.
161. Since the proposed development relates to the provision of an alternative restoration scheme for a permitted mineral site rather than an entirely new proposal for mineral working and the proposed restoration and after-use is broadly the same as already permitted, I see no reason to require further information on socio-economic impacts or for the applicant to have specifically scoped the topic into the EIA / ES. It is clear that ensuring that the East Lake area is restored is preferable (and more sustainable) to the site remaining in its current unrestored condition for many more years. It is also clear that it is not possible for the East Lake area to be restored in accordance with the schemes approved in 2002 or 2005 as mineral working has not been undertaken to the full extent provided for in the related working schemes. It is also clear that there are benefits in amending the earlier schemes to provide an acceptable long term restoration solution which not only is acceptable as proposed but offers the potential for future non-mineral development (subject planning permission being obtained).

The relationship between the East and West Lake areas

162. As noted in paragraph 12 above, the applicant states that proposals for those parts of Aylesford Quarry to the west of Bull Lane will be addressed at a later date. On that basis, if planning permission is granted for the proposed development in the East Lake area it would be necessary for all of the existing conditions and approved details currently provided for by planning permissions TM/93/612 and TM/97/751/MR102 to be retained in so far as they relate to the West Lake area. This would, in effect, mean that any planning permissions granted for TM/18/2549 and TM/18/2555 would each include two sets of conditions.
163. Given that further silica sand extraction is not viable, as a result of land ownership constraints and the size of the tunnel under Bull Lane, it is likely that further variations to the conditions and approved details relating to the West Lake area would need to be secured before that part of Aylesford Quarry could be fully restored in any event. It is understood that the applicant is awaiting the outcome of the current mineral

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

applications and the appeal in respect of application TM/17/02971 before deciding how best to work any remaining soft sand and restore the West Lake area.

Other issues

164. Proposed residential / other non-minerals development: As noted in paragraph 52 above, concerns have been expressed by local residents about the relationship between the proposed revised restoration scheme and the new housing and other development proposed on part of the site (application TM/17/02971) and in the area more generally. It has also been suggested that the revised restoration proposals have been designed to facilitate that development.
165. As noted in paragraph 85 above, whether or not the revised restoration scheme has been designed to facilitate the applicant's other development aspirations for the site is not relevant to KCC's determination of the mineral applications provided it is satisfied that what is proposed is acceptable in terms of providing an effective and appropriate restoration solution for the mineral site and does not give rise to unacceptable adverse impacts. I conclude elsewhere in this report that the proposed scheme is acceptable in these contexts. The acceptability or otherwise of any other proposals is a matter for TMBC and / or PINS / the Secretary of State.
166. The adequacy of consultation: As noted in paragraph 52 above, concerns have been expressed by local residents that not all Bull Lane / Eccles residents were notified by letter about the applications. All properties within 250m of the application sites (including a number on Bull lane in Eccles) were notified, site notices were erected and newspaper advertisements published. This accords with KCC's Statement of Community Involvement and goes beyond that required by legislation. Notwithstanding this, since access is no longer proposed from Bull Lane this is no longer of relevance.

Conclusion

167. The applications propose the variation of conditions 28 and 32 of planning permission TM/93/612 and conditions 36 and 39 of planning permission TM/97/751/MR102 to provide a revised restoration and aftercare scheme for that part of Aylesford Quarry to the east of Bull Lane (the East Lake area). The applicant wishes to restore this part of the site for beneficial after-use now that the economically viable mineral has been worked out. In so doing, it wishes to address land stability so far as is reasonably possible having regard to the importance of retaining the SSSI and Ancient Woodland within and immediately adjoining the site boundary. No changes are proposed in respect of that part of Aylesford Quarry to the west of Bull Lane (the West Lake area). The applicant states that proposals for the West Lake area would be proposed separately. Application TM/18/2549 also proposes the variation of condition 20 of TM/93/612 to provide consistent noise limits with those of TM/97/751/MR102 (in respect of temporary restoration operations). Application TM/18/2555 also proposes the deletion of condition 44 (as no further clay extraction is allowed).

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

168. TMBC has objected to the applications as it considers the EIA and associated ES to be procedurally and substantially inadequate such that it believes an informed decision on whether there would be significant environmental effects is not possible. In particular it considers the scope of the EIA / ES to be inadequate (in not addressing a number of topics) and that the subject matters that have been addressed in the EIA / ES have not been robustly or adequately assessed. It also considers that inadequate information has been provided on the proposed after-use, on whether the site would be made publicly available or retained on a private basis and that there is no assessment of impacts on, or from, the residential development proposed by planning application TM/17/02971 (i.e. the housing / local centre proposals that will be determined following a Public Inquiry which is scheduled to take place between 12 and 20 March 2019). It further considers that additional baseline scenarios ought to have been considered in the EIA / ES.
169. A number of objections have been raised by local residents and the local MP. However, these primarily relate to the proposed use of Bull Lane (through Eccles) to access the site. This was initially proposed as part of application TM/18/2555 but was withdrawn in November 2018 and access would now only be via the permitted access on Rochester Road. The other concerns raised by local residents relate to a perceived lack of consultation with Eccles residents, the relationship with proposed new housing development on part of the site and in the area more generally and future public access to and through the site.
170. With the exception of those of TMBC, no objections have been received from consultees about the adequacy or otherwise of the EIA / ES or what is actually proposed (in cases subject to conditions), including those whose interests / responsibilities relate to the issues referred to by TMBC. KCC's in-house specialists and its external consultants have similarly raised no concerns or objections (in cases subject to conditions).
171. The adequacy or otherwise of the EIA / ES is a matter for the determining authority (i.e. KCC) to decide having regard to the relevant regulations, the proposed development and relevant circumstances. Having given careful consideration to the objections raised by TMBC and taken advice from KCC's legal advisors (Invicta Law) I am satisfied that the EIA / ES is both adequate and sufficiently robust to enable an informed decision on whether there would be significant environmental effects. It should be noted that the applicant has addressed the topics which KCC informally advised should be scoped into the EIA / ES in 2017 and 2018 and that the relative brevity afforded to the SSSI and Ancient Woodland in the EIA / ES reflects the fact that the revised restoration scheme does not propose to disturb these as had previously been indicated as a possibility. It should also be noted that there are no current planning permissions or Local Plan allocations which provide for any other alternative uses at Aylesford Quarry and that the environmental or other implications of any such proposed development are matters for the relevant authority (TMBC, PINS / Secretary of State) to assess as necessary when any application is determined or Local Plan allocation considered. Notwithstanding this, there is no reason why the revised restoration scheme for the East Lake area should not be completed prior to any other development taking place at the site (particularly in respect of the housing /

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

local centre development proposed by TM/17/02971 which relies on Plot C being restored). Indeed, any decision on TM/17/02971 could be made conditional on that happening.

172. Having considered all relevant issues, I am satisfied that the proposed development would provide an effective and appropriate restoration and aftercare scheme for the permitted after-use (nature conservation / amenity use) of the East Lake area subject to the imposition of conditions. I am also satisfied that it would be appropriate to vary condition 20 of TM/93/612 to provide the proposed consistency between the noise conditions and that the deletion of condition 44 of TM/97/751/MR102 would clarify that no further clay extraction will take place. I consider that this position is reinforced by the lack of objection to the proposed development by technical consultees and KCC's in-house specialists and external consultants.

173. I therefore recommend accordingly.

Recommendation

174. I RECOMMEND that:

(i) PERMISSION BE GRANTED for the variation of conditions 20, 28 and 32 of planning permission TM/93/612 to provide a revised restoration and aftercare scheme and consistent noise limits for temporary operations such as restoration with those provided for by planning permission TM/97/751/MR102 for that part of Aylesford Quarry to the East of Bull Lane (application TM/18/2549), SUBJECT TO conditions covering amongst other matters:

- The existing conditions on planning permission TM/93/612 continuing to apply to the West Lake area (subject to minor alterations to reflect any approvals given pursuant to that planning permission);
- The existing conditions on planning permission TM/93/612 continuing to apply to the East Lake area (subject to minor alterations to reflect any approvals given pursuant to that planning permission and except where proposed to be amended by TM/18/2549 and therefore to be replaced / supplemented);
- a new condition to address potential land contamination;
- Natural England's suggestions in respect of the long term management of the SSSI being incorporated into the aftercare / long term management;
- the written scheme of investigation (WSI) set out in the applicant's Archaeological Report being implemented as proposed;
- the provision of a detailed ecological mitigation strategy and a site wide management plan;
- the provision of an updated landscaping scheme and detailed aftercare programme within 6 months of approval / permission;
- the implementation of the proposed tree protection measures;
- the implementation of the proposed phasing;

Item C1

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

- the provision of suitable fencing and signage; and
- (ii) PERMISSION BE GRANTED for the variation of conditions 36 and 39 and deletion of condition 44 of planning permission TM/97/751/MR102 to provide a revised restoration and aftercare scheme for that part of Aylesford Quarry to the East of Bull Lane (application TM/18/2555), SUBJECT TO conditions covering amongst other matters:
- The existing conditions on planning permission TM/97/751/MR102 continuing to apply to the West Lake area (subject to minor alterations to reflect any approvals given pursuant to that planning permission);
 - The existing conditions on planning permission TM/97/751/MR102 continuing to apply to the East Lake area (subject to minor alterations to reflect any approvals given pursuant to that planning permission and except where proposed to be amended by TM/18/2555 and therefore to be replaced or, in the case of condition 44, deleted);
 - a new condition to address potential land contamination;
 - Natural England's suggestions in respect of the long term management of the SSSI being incorporated into the aftercare / long term management;
 - the written scheme of investigation (WSI) set out in the applicant's Archaeological Report being implemented as proposed;
 - the provision of a detailed ecological mitigation strategy and a site wide management plan;
 - the provision of an updated landscaping scheme and detailed aftercare programme within 6 months of approval / permission and implementation of the proposed tree protection measures;
 - the implementation of the proposed phasing;
 - the provision of suitable fencing and signage; and
 - the following informatives:
 - The applicant being encouraged to allow Natural England to access the SSSI; and
 - The applicant being encouraged to participate in discussions with the Environment Agency and others to explore opportunities to:
 - (a) reduce flood risk in the centre of Aylesford through the creation of a high level overflow channel on the land between Anchor Farm and Aylesford Quarry; and
 - (b) for meandering and other natural flood management measures upstream of the site.

Case Officer: Jim Wooldridge

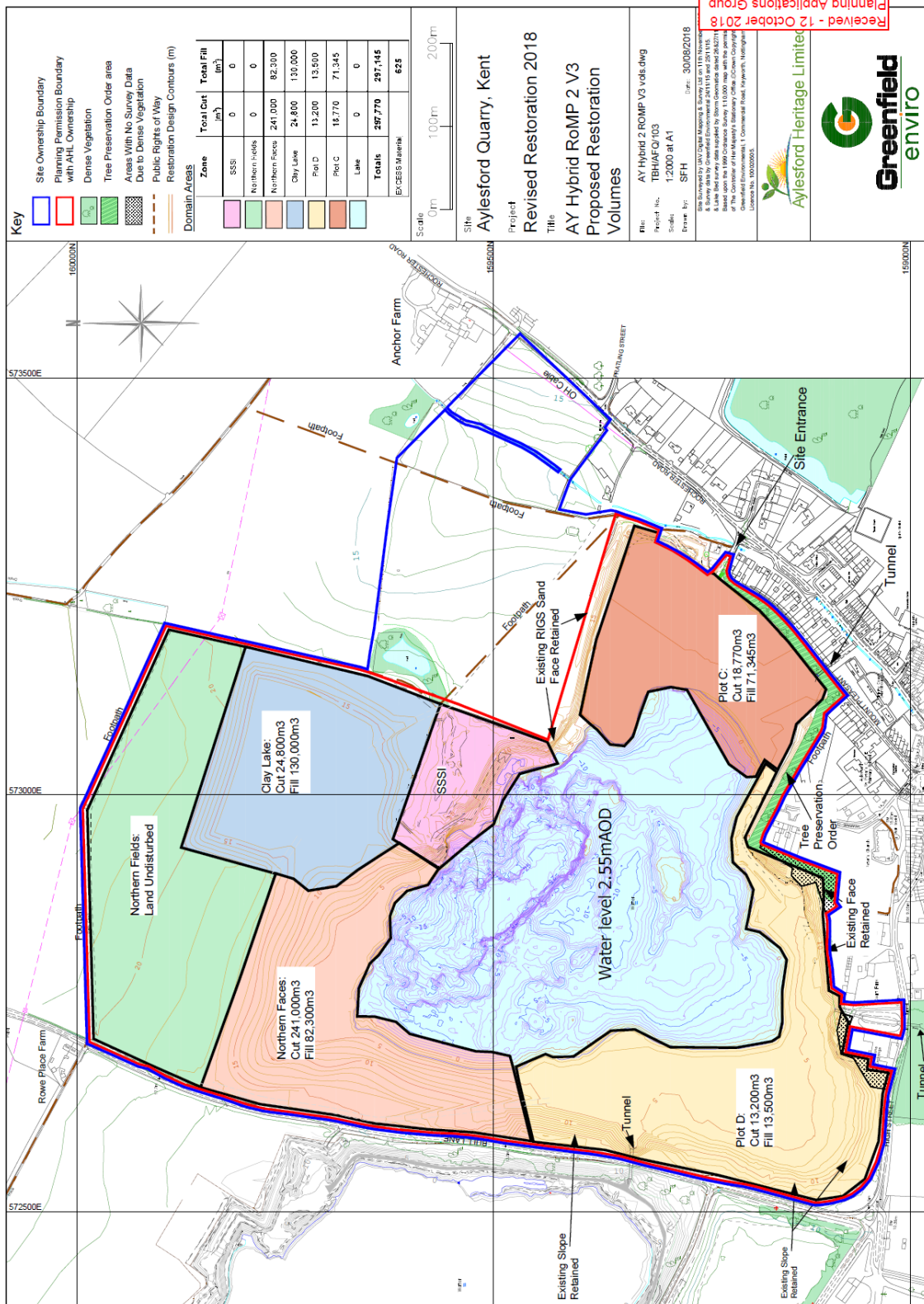
Tel. no. 03000 413484

Background Documents: see section heading.

Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (Schedule 4): <http://www.legislation.gov.uk/ukxi/2017/571/schedule/4/made>

Appendix 1 to Item C1

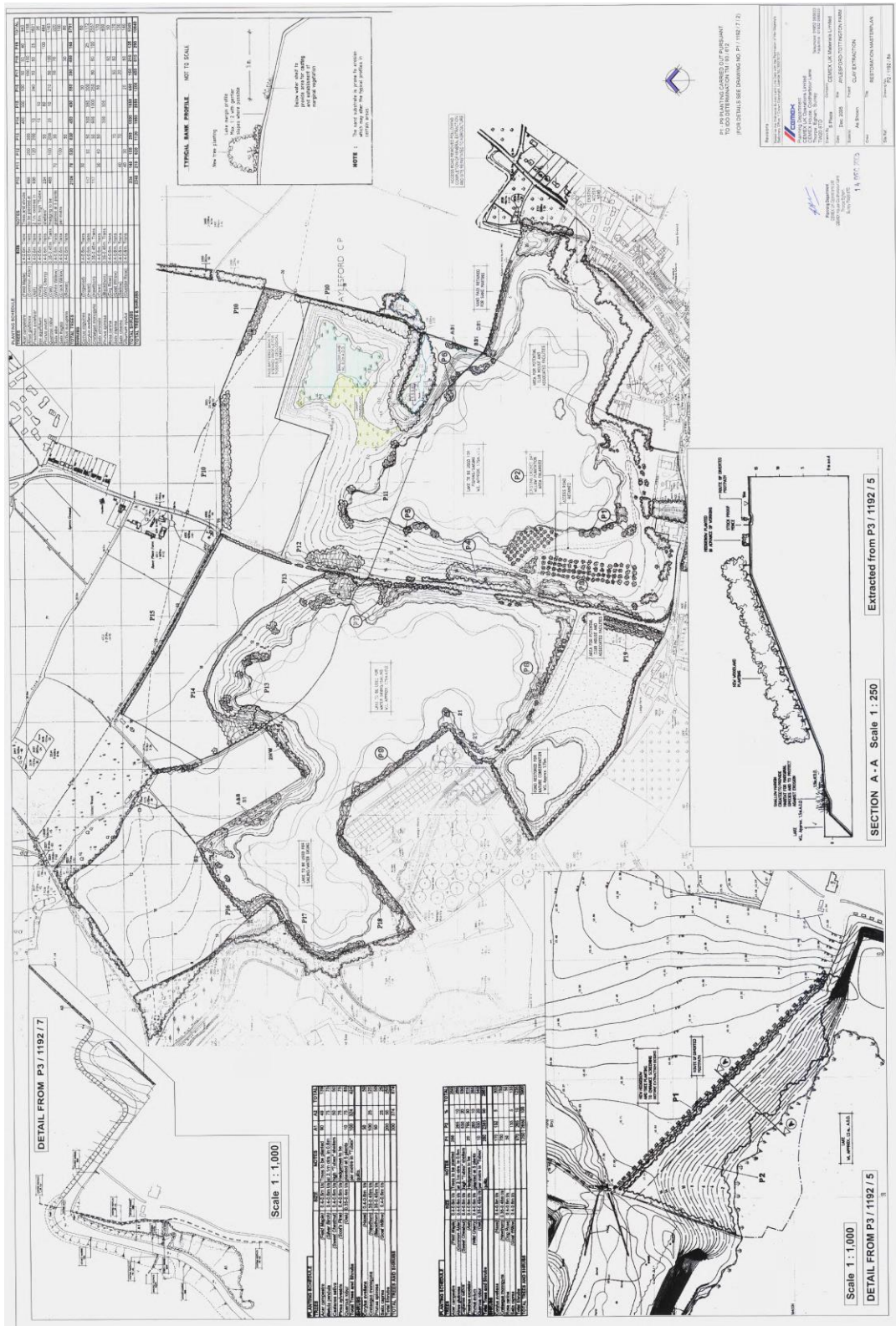
The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555



Appendix 1 to Item C1
The variation of conditions on planning permissions TM/93/612 and
TM/97/751/MR102 to provide a revised restoration and aftercare
scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent –
TM/18/2549 and TM/18/2555

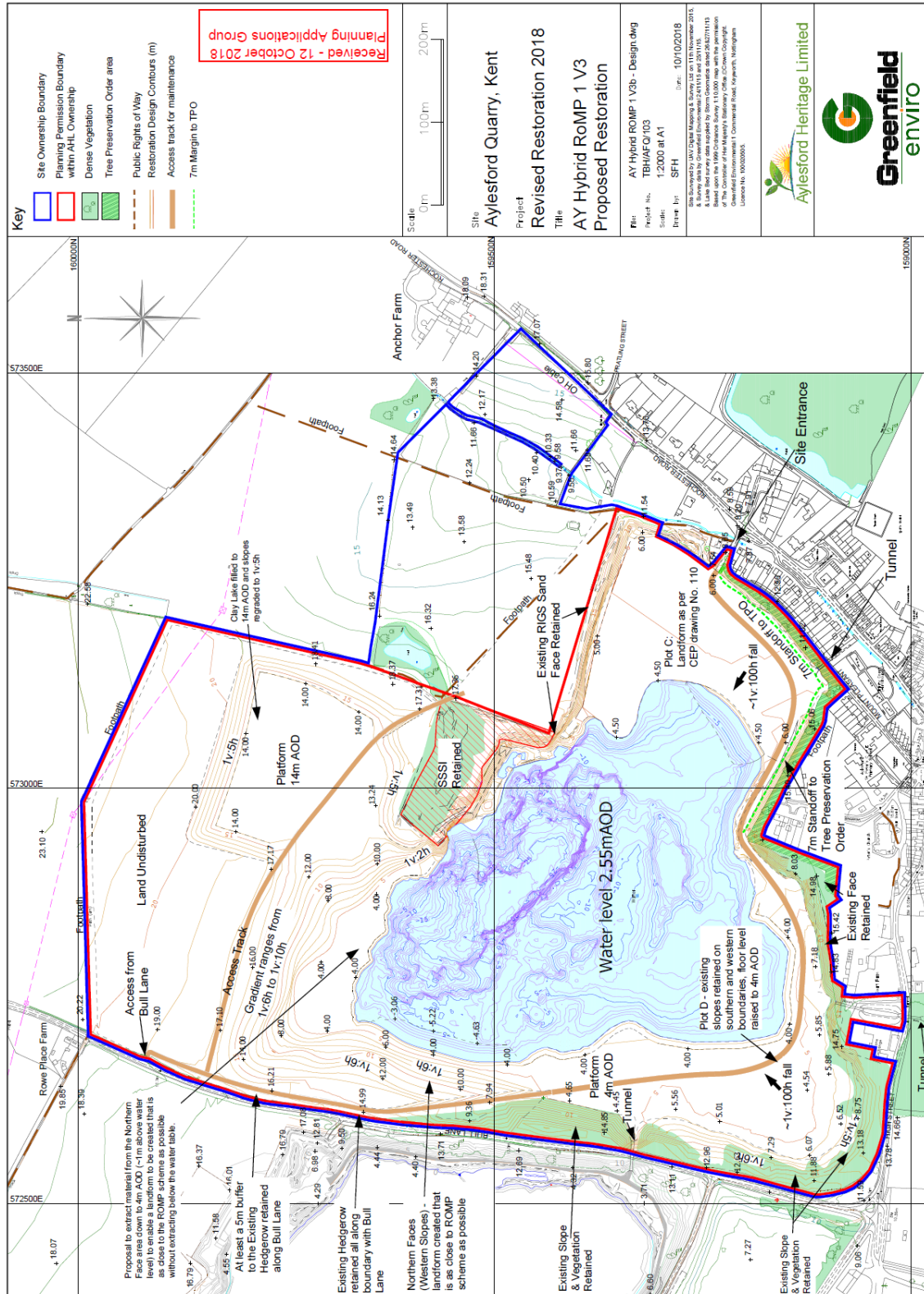


Appendix 1 to Item C1
The variation of conditions on planning permissions TM/93/612 and
TM/97/751/MR102 to provide a revised restoration and aftercare
scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent –
TM/18/2549 and TM/18/2555



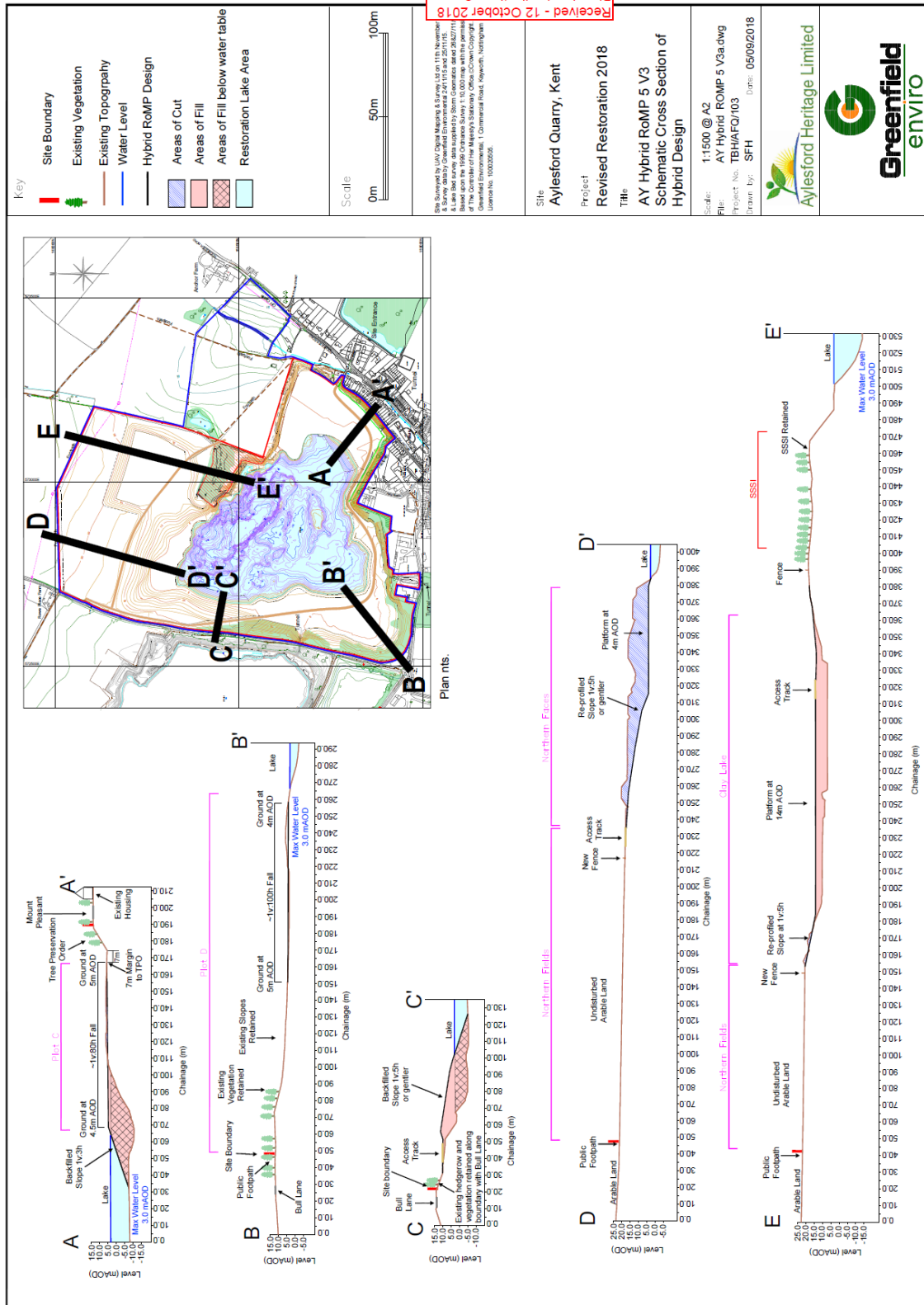
Appendix 1 to Item C1

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555



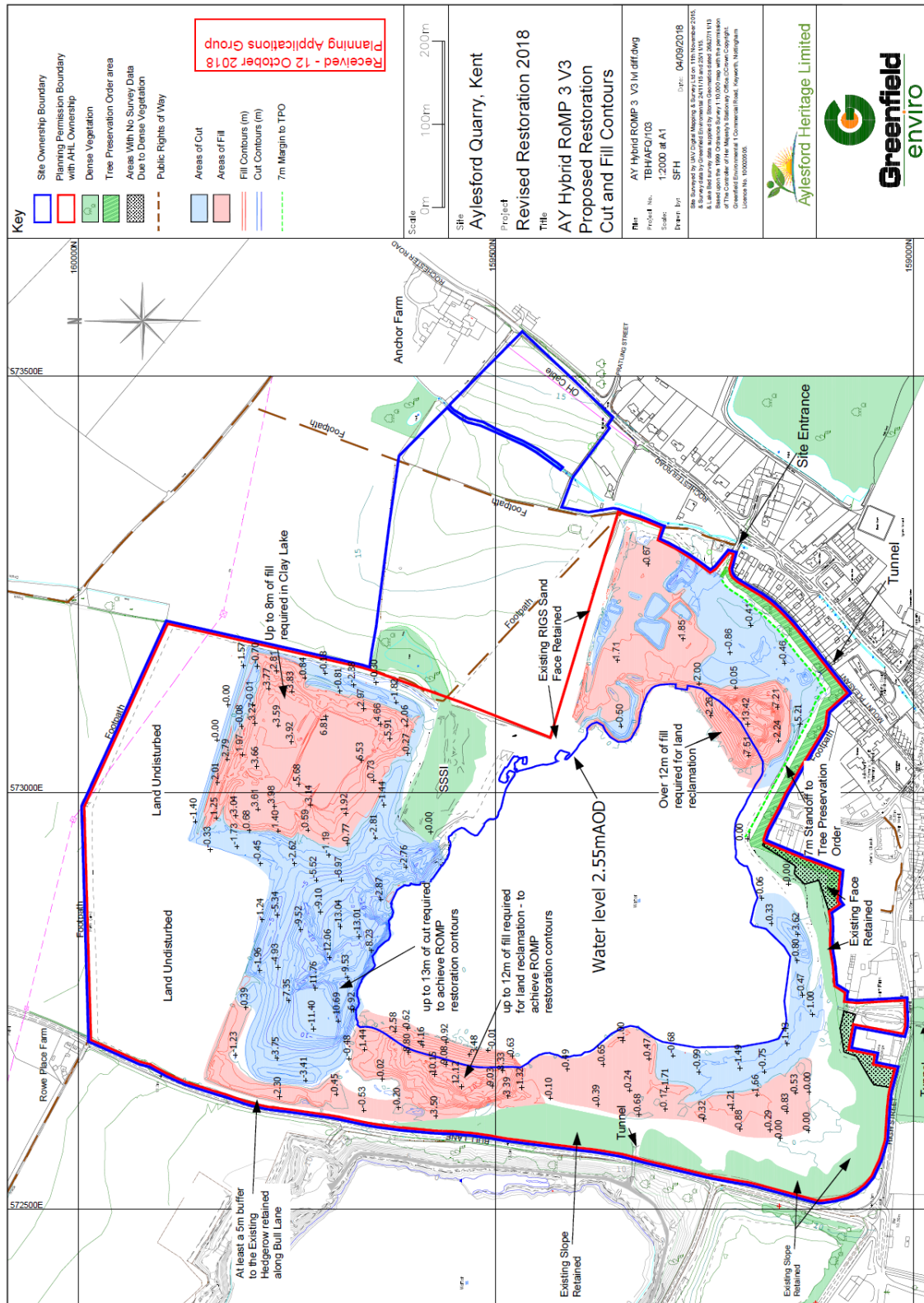
Appendix 1 to Item C1

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555

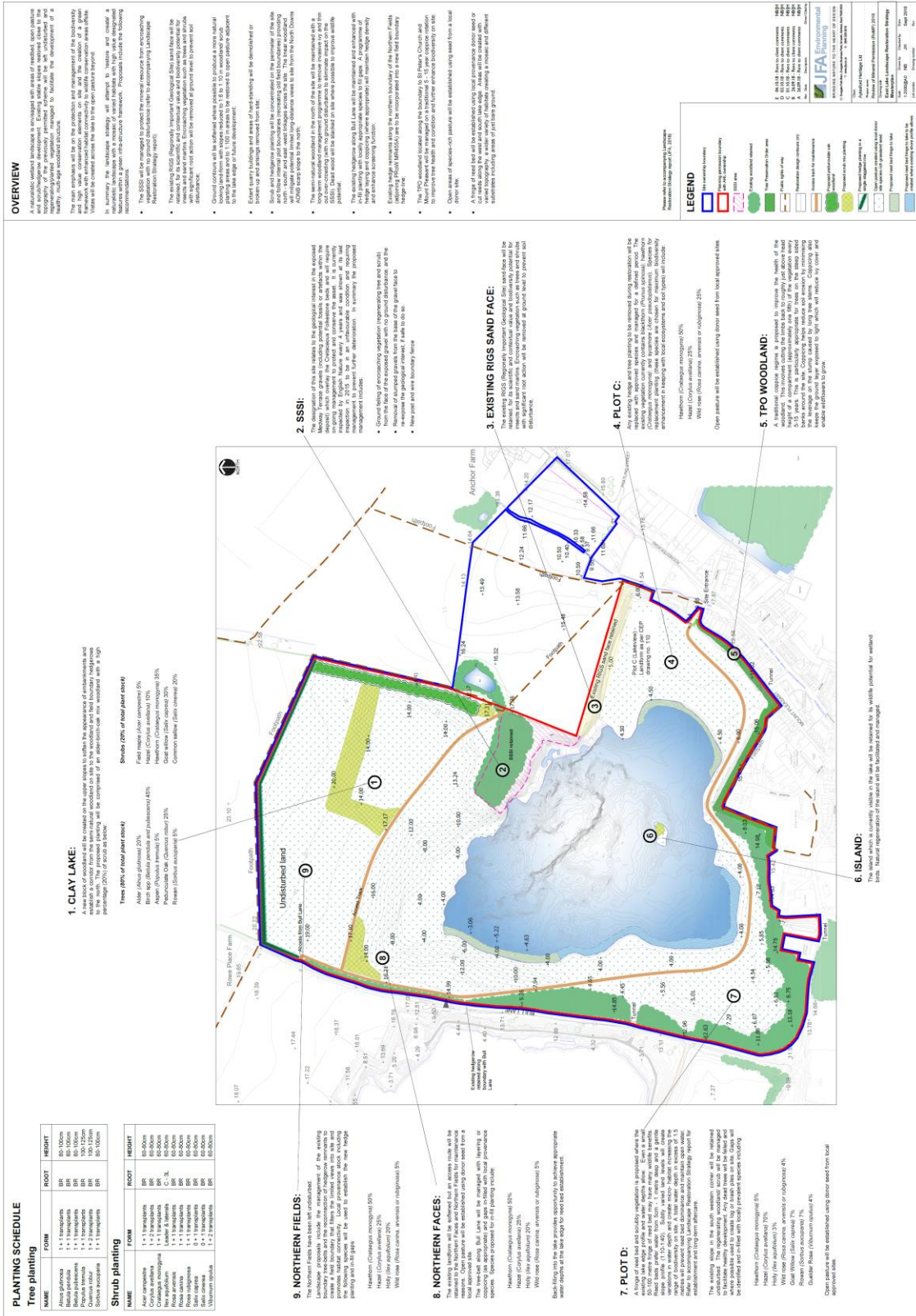


Appendix 1 to Item C1

The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555



The variation of conditions on planning permissions TM/93/612 and TM/97/751/MR102 to provide a revised restoration and aftercare scheme at Aylesford Quarry, Rochester Road, Aylesford, Kent – TM/18/2549 and TM/18/2555



This page is intentionally left blank



www.tmbc.gov.uk

Do It On-line: www.tmbc.gov.uk

Email: legal.services@tmbc.gov.uk

Sharon Thompson
Head of Planning
Kent County Council

Contact Kevin Toogood
Email kevin.toogood@tmbc.gov.uk
Your ref

URGENT - BY EMAIL ONLY

Our ref
Date 5 March 2019

Dear Sirs,

**Re: Minerals Application TM/93/612; TM/97/751/MR102
Aylesford Quarry**

I am instructed by Tonbridge and Malling Borough Council ("TMBC") in connection with the minerals applications TM/93/612 and TM/97/751/MR102 due to be determined by KCC as Minerals Planning Authority tomorrow. These applications relate to restoration and aftercare conditions for Aylesford Quarry, and amount to Schedule 1 EIA development requiring an Environmental Impact Assessment to be carried out.

You will be familiar with the legal and technical requirements as to the adequacy of an Environmental Assessment and the consequences upon any permission granted based upon a flawed assessment.

TMBC considered the applications as a consultee and provided a thorough response to the proposals, detailed in the attached TMBC Officer's Report. A professional assessment of the Environmental Statement ("ES"), carried out by TMBC's Development Manager who is highly experienced in EIA matters, sets out a series of failings in that ES (see the tables at section 5.3 and 5.23 of the attached report). Assessed against the requirements of the Regulations, it is clear that the ES fails to deal with matters required by law. In particular, the requirements of Schedule 4 paragraphs 3, 5 and 6 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 are not met.

Furthermore, due to such failings, the KCC Officer's Report ("OR") draws a series of conclusions which are irrational as they are based upon flawed evidence. In particular, the conclusions at paragraphs 87, 92, 111, 117, 125, 134 and 145 are irrational and *Wednesbury* unreasonable.

The OR fails properly to address the matters raised by TMBC. By providing only a summary of the concerns raised, and in reaching flawed conclusions upon the adequacy of the ES, the OR is misleading and gives KCC Members a false impression that permission could be granted at this time.

In light of these significant and numerous flaws in both the ES and OR, KCC should not determine the application as it stands. The Applicant should have the opportunity to address the failings of the ES such that KCC officers can reach proper conclusions upon the matters considered necessary for EIA. If the County Council proceeds to determine these applications tomorrow, any decision issued will be susceptible to judicial review.

KCC members should be made aware of the contents of this letter prior to any consideration of the applications, failure to notify them of these matters may lead to further grounds for challenge.

Yours sincerely

Kevin Toogood
Solicitor-Advocate (Higher Courts Civil Proceedings)

**Applications delegated to Director of Planning,
Housing & Environmental Health to determine**

Aylesford	24 October 2018	(A)TM/18/02549/MIN
Aylesford North And Walderslade		(B)TM/18/02555/MIN

Target Date for representations: 21 November 2018

Proposal: (A) Variation of conditions 20, 28 and 32 of planning permission TM/93/612 to provide a revised restoration and aftercare scheme and consistent noise limits for temporary operations such as restoration with those provided for by planning permission TM/97/751/WR102 (KCC ref: KCC/TM/0491/2018)

(B) Variation of conditions 2, 36 and 39 and deletion of condition 44 of planning permission TM/97/751/MR102 to provide revised restoration and aftercare scheme and access arrangements for that part of Aylesford Quarry. KCC ref: KCC/TM/0492/2018

Location: Former Aylesford Quarry Rochester Road Aylesford Kent

1. Description of Proposal:

1.1 Application (A) seeks to vary conditions 20, 28 and 32 of planning permission TM/93/612 to provide a revised restoration and aftercare scheme. The conditions in question are reproduced as follows:

20. Noise from operations on the site, including both fixed and mobile plant and machinery, shall not exceed 55dB LA eq 1h [free field] as measured at the nearest noise sensitive property, and the operators shall take such measures to the satisfaction of the County Planning Authority as may be necessary to ensure that this noise level is not exceeded.

28. Within twelve months of the date of this permission a scheme of restoration shall be submitted to the County Planning Authority for approval; such a scheme shall incorporate the general principles indicated on drawing number P1/1191/7 and shall include provision for:-

- (a)the nature of the intended after-use of the site;*
- (b) the sequence and phasing of restoration showing clearly their relationship to the working scheme;*
- (c) interim restoration measures in Area 2;*
- (d) restoration of the worked quarry margins in Area 2 with reference to final slope profiles and tree screen planting;*
- (e) lake shore profile and details of margin preparation related to the intended after-use of the site;*
- (f) the relationship to approved working and restoration schemes for planning permissions MK/4/49/338, MK/4/22/753 and TM/76/169;*
- (g) the details of additional tree planting outlined on drawing P1 /1192/7; the relationship of planting proposals to existing agreed schemes;*
- (h) the restoration and aftercare of the area known as "The Wharf";*
- (i) a timetable for implementation; and thereafter shall be implemented as approved.*

32. *Within 12 months of the date of this permission an aftercare scheme requiring such steps to be taken, for a period of five years, from completion of restoration in any part of the site, as may be necessary to return the land to a standard reasonably fit for amenity, recreation and nature conservation purposes.*

1.2 Application (B) seeks to vary conditions 2, 36 and 39 and delete condition 44 of planning permission TM/97/751/MR102 to provide revised restoration and aftercare scheme and access arrangements for that part of Aylesford Quarry. The conditions in question are reproduced as follows:

2. *Prior to the bringing into use of the new Quarry access to Rochester Road provided for under planning permission TM/98/462 as amended by Appeal Decision APP/W2275/A/01/1070715 granted on 23 November 2001, the only vehicular access to and egress from the site shall be by way of the access to Rochester Road shown on Dwg. No. P2/1192/3/1. Thereafter the Quarry access shall only be as provided for under planning permission TM/98/462 as amended by Appeal Decision APP/W2275/A/01/1070715. The only exception shall be the access to Area 8 where access shall be obtained from the private road serving Aylesford Waste Water Treatment Works as shown on plan no. P2/1192/3/1.*

36. *Within six months of the date of this permission a scheme of restoration shall be submitted to the mineral planning authority for approval; such a scheme shall incorporate the general principles indicated on drawing number P2/1192/4 and shall include provision for:*

- (a) the nature of the intended after-use of the site;*
- (b) the sequence and phasing of restoration showing clearly their relationship to the working scheme;*
- (c) interim restoration measures in Area 8;*
- (d) restoration of the intended quarry margins with reference to final slope profiles and tree screen planting;*
- (e) lake shore profile and details of margin preparation related to the intended after-use of the site;*
- (f) the relationship to working and restoration schemes for adjacent land pursuant to permissions TM/93/612, TM/99/1539 and TM/98/463;*
- (g) the details of additional tree planting outlined on drawing P2/1192/4 and the relationship of planting proposals to existing agreed schemes; and*
- (h) a timetable for implementation; and thereafter the scheme shall be implemented as approved.*

39. *Within 12 months of the date of this determination an aftercare scheme requiring such steps to be taken, for a period of five years, from completion of restoration in any part of the site, as may be necessary to return the land to a standard reasonably fit for amenity, recreation and nature conservation purposes. The aftercare scheme shall take account of aftercare provision under permissions TM/93/612 and TM/98/463.*

44. *Notwithstanding the requirements of condition (43) above, in that part of Area 4 identified as 'clay working area' on Dwg. No. P21192/3/1, clay may be worked for a temporary period subject to the following:*

The extraction of clay permitted under planning permission reference TM/99/1539 shall cease on or before 31 December 2005.

Clay shall be worked only to supply the Tilmanstone Brickworks.

The clay excavation shall be carried out and completed in all respects strictly in accordance with the documents and drawings submitted contained in the application as amplified and as permitted under reference TM/99/1539 and no variations or omissions shall take place without the prior approval in writing of the mineral planning authority.

No extraction of clay shall take place below 11 metres AOD.

The clay working area shall be restored in accordance with the details of planning permission TM/99/1539.

- 1.3 Both applications appear to have been made to vary conditions that relate to the restoration of the site so that reference may be made to revised plans in order to allow for the extinguishment of the minerals consent and restoration to come forward. Together, the applications suggest that restoration will allow for nature conservation and amenity enhancements, etc.
- 1.4 The applications have purportedly been subject to EIA following the issue of a formal screening opinion by the County and what is being held out (by the applicant) as an 'Environmental Statement', comprising the following technical documents:
 - (i) Stability report;
 - (ii) Archaeological report;
 - (iii) Ecological assessment;
 - (iv) Landscape restoration strategy and masterplan;
 - (v) Tree report; and
 - (vi) Noise report.
- 1.5 Prior to these applications an outline planning application was submitted to TMBC (as local planning authority) for 146 residential units and associated infrastructure on part of the quarry site (cited on the plans as Plot C). This application is now subject to a non-determination appeal, to be considered by way of public inquiry that commences on 12 March 2019. The significance of this is discussed below.

2. The Site:

- 2.1 The application site relates to the eastern part of Aylesford sand pit and covers an area of approximately 4.92ha. The site is located immediately to the north and west of Aylesford Village and abuts the Aylesford Conservation Area. The quarry has an extant permission for the working of sand, gravel and clay deposits.

3. Planning History (relevant):

TM/18/01640/CCEASC screening opinion EIA 2 July 2018
required

Request for screening opinion under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017: to determine whether an Environmental Impact Assessment will need to accompany any one or

all of the planning applications proposed to be submitted for revised restoration proposals for the Aylesford Quarry site (KCC ref: KCC/SCR/TM/0109/2018)

TM/17/02971/OA Subject to non-determination appeal

Outline application with all matters reserved except for access: Demolition of existing buildings, structures and hardstanding, land raising of development area, development of up to 146 dwellings as a mix of houses and apartments and provision of a local centre for Use Classes A2 (financial and professional services), A3 (cafe/restaurant), D1 (clinics/creche) and D2 (assembly and leisure) up to a total floorspace of 1,256 sq. m (13,519 sq. ft), and provision of new access road and pedestrian/cycle access, and provision of open space.

3.1 Various other planning applications, across many years, relate to the operation of the site as a quarry.

4. Consultees:

4.1 None by TMBC: since it is not the determining authority.

5. Relevant Policies & Determining Issues:

5.1 KCC as the determining MPA issued a screening opinion advising that the development as set out above is Schedule 1 EIA development. Both applications are identical in their content and conclusions. The following comments therefore address both procedural and substantive matters (to the extent possible).

Town and Country Planning (Environmental Impact Assessment) Regulations 2017/571:

5.2 There is considerable doubt whether the applications before the County for their determination satisfy the Town and Country Planning (Environmental Impact Assessment) Regulations 2017/571 (the Regulations), for various reasons. There is consequently doubt over whether the applications being consulted upon by the County are even valid or proper applications, being ones that may properly be determined at this time.

5.3 There are considered to be important omissions and/or flaws in the content of the purported ES, as submitted, with regard to the requirements of Schedule 4 of the Regulations. The ES is inadequate. Examples underscoring the inadequacy of the ES are summarised in outline within the table below and which is not intended to provide an exhaustive critique of the ES:

Officer Delegated Report

Regulation	Requirement	Comments
1	<p>A description of the development, including in particular:</p> <p>(a) a description of the location of the development;</p> <p>(b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;</p> <p>(c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;</p> <p>(d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.</p>	<p>The description of the development is set out at Section 3 of the ES. States that the restoration scheme for the East lake area (Appendix 2 of the document) involving earthworks, regrading of land, cut and fill, incorporation of landscape features.</p> <p>Reference to the end use subsequent to restoration is only contained within the "non-technical summary" (as entitled within the document) as being amenity, recreation and nature conservation uses and then again, scant reference in Section 6 but no adequate information is given as to the precise nature of the end use (publicly accessible for example) and no reference or acknowledgement is made to the broader intention of the developer to secure residential development.</p> <p>In addition, little to no reference is made to the different phases of development and the likely impacts of each phase, or the phases cumulatively. Given the current condition of the site, the significant extent of required earthworks and the required sequencing of these works, such an assessment is crucial to understanding likely impacts, both singularly and cumulatively.</p>
2	<p>A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.</p>	<p>None provided.</p>
3	<p>A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge</p>	<p>Baseline scenario is uninformed and inadequate: the ES refers to the fallback of quarrying operations. The extent to which such quarrying may in future be undertaken, and in respect of what area is not identified. The assessment of likely significant effects is necessarily dependent on the appropriate formulation of adequate baseline scenarios.</p>

<p>4</p>	<p>A description of the factors specified in regulation 4(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.</p>	<p>Inadequate and incomplete information provided in this respect, particularly in light of the fact that the end use and baseline scenarios are inadequate.</p>
<p>5</p>	<p>A description of the likely significant effects of the development on the environment resulting from, inter alia:</p> <p>(a) the construction and existence of the development, including, where relevant, demolition works;</p> <p>(b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;</p> <p>(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;</p> <p>(d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);</p> <p>(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;</p> <p>(f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;</p> <p>(g) the technologies and the substances used.</p> <p>The description of the likely significant effects on the factors specified in regulation 4(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection</p>	<p>As above in general terms. The ES mentions impacts within the context of a discussion on planning merits and mitigation, and not a holistic assessment of likely significant impacts. The ES is inadequately detailed with regard to the various phases of the development. This is emphasised by the inadequately formulated, incomplete or poorly expressed baseline and end use scenarios.</p> <p>The subject matters for likely significant effects, as stated, are as follows:</p> <p>Land stability; Impact on/loss of SSSI; Impact on/loss of ancient woodland; Water environment; Impact on heritage assets/archaeology; Ecological impact; Landscape impact; Health and amenity.</p> <p>My main report outlines various reasons why the assessment of these subject matters, are inadequate. Given the nature of the site and development proposed (both in terms of the notably limited brief set out in the ES and the wider project known to be proposed, the following subject matters are additionally required to be scoped in for assessment: 1(5) of Schedule 4:</p> <p>Transport and highways; Noise; Vibration; Air quality and dust; Public safety; Socio-economic; Land contamination</p>

Officer Delegated Report

	objectives established at Union or Member State level which are relevant to the project, including in particular those established under Council Directive 92/43/EEC(1) and Directive 2009/147/EC(2).	No explanation has been attempted to clarify why any/all of the above have been scoped out of the assessment.
6	A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.	Some methodologies provided only, in few instances.
7	A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.	Vague and inadequate references made to abstractly framed mitigation measures within the ES. These ambiguities are highlighted by the incompleteness of the ES.
8	A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU(3) of the European Parliament and of the Council or Council Directive 2009/71/Euratom(4) or UK environmental assessments may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.	None which are of particular relevance given the nature of the existing land use and the nature of the works required to be undertaken as part of the purported restoration scheme.
9	A non-technical summary of the information provided under paragraphs 1 to 8.	The non-technical summary is contained within the opening section of the ES. Much of the discussion within the body of the ES

		is taken verbatim from the non-technical summary and provides no further technical evidence on any matters required under Schedule 4 of the Regulations. In fact, the ES is nothing more than an introductory document in the form of a (inadequate) planning statement that appends various technical reports. This is inadequate for the purposes of the Regulations.
10	A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.	Appendices 3 – 8 (inclusive) set out the reports that have been produced 'to inform' the ES.

5.4 In addition, Regulation 18(5) sets out that in order to ensure the completeness and quality of the environmental statement:

(a) the developer must ensure that the environmental statement is prepared by competent experts; and

(b) the environmental statement must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts.

5.5 The consenting authority is under a duty to ensure it is satisfied as to the competency of the experts for these purposes. Appendix 9 provides a statement of relevant expertise and states that the ES has been authored by the developer, citing his general experience in planning matters with particular reference to minerals and waste planning. There is however no notably expertise cited in respect of the matters upon which the author has made various assumptions and assertions in the ES particularly with regard to technical matters that are founded on no or no apparent evidence base, still less an evidence base that is robust (see table below, for examples).

5.6 It is considered that the County cannot properly conclude that the Regulations (including regulation 18(5)) are met.

5.7 Notwithstanding the above, substantive observations are also made, below.

The Scope:

5.8 It is suggested by the information submitted that the scope of the EIA was agreed informally with the County, and not by means of any formal opinion having been issued. Certainly, TMBC was not consulted this scope. On this basis it is assumed that no opinion was formally issued. Matters that have been scoped in are set out below:

(i) Land stability;

- (ii) Impact on/loss of SSSI;
- (iii) Impact on/loss of ancient woodland;
- (iv) Water environment;
- (v) Impact on heritage assets/archaeology;
- (vi) Ecological impact;
- (vii) Landscape impact;
- (viii) Health and amenity.

5.9 Given the nature of the site and development proposed (even when just assuming the developer's stance on this), this scope is inadequately narrow. As a minimum, in addition to the above, the following matters should have been included and in order to address short term construction and operational phases (which no chapter of the ES adequately does):

- (i) Cumulative highway/traffic impacts for the lifetime of the project;
- (ii) Public safety;
- (iii) Land contamination;
- (iv) Noise, dust and vibration;
- (v) Air quality; and
- (vi) Socio-economic impacts.

The Baseline:

5.10 The Regulations (the relevant breadth of which is not rehearsed here in full) prescribe that EIA must include: a "*description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge*".

5.11 The lawful planning fallback position is set out within the applications as being the full operation of the quarry in accordance with the extant minerals consent. This is agreed. This however cannot define entirely the baseline scenarios that must be considered. There is a requirement for the ES to formulate all appropriate baseline scenarios and progress to adequately identify and assess all likely significant effects in light of the appropriate baselines.

5.12 However, minerals extraction (and to the fullest extent of the extant permission) does not itself characterise the baseline scenario. This is not least because it is unknown, which is indeed characteristic of a fallback position, whether quarrying will be continued. There is similarly doubt over the extent of any quarrying that may continue. Notably, no alternative baseline scenarios have been identified or assessed. No explanation is given for this approach.

The Project:

5.13 It will be understood that TMBC considers that the residential scheme should be taken together with the restoration scheme - to which Applications (A) and (B) relate - as a single project for the purposes of the Regulations. To undertake EIA in respect of the residential and restoration schemes separately (which has apparently been the applicant's approach), rather than holistically, is unlikely to satisfy the Regulations on account that cumulative impacts arising from the relevant, larger proposal for development, have not been identified or assessed.

5.14 It should be acknowledged that a proposal for development should not be taken in isolation if, in reality, it is most appropriately to be regarded as an integral part of what amounts to a more substantial development. The importance of not "salami slicing" what amounts to the relevant development scheme for the purposes of EIA, is well established.

5.15 TMBC has taken the opportunity to advise the Planning Inspectorate of its outline view at an early stage. TMBC is presently awaiting a formal determination as to whether they consider EIA is required for the project as a whole. We understand that they are currently undertaking their own screening exercise accordingly. There are also wide reaching consequences in terms of the potential impacts of this development that require consideration.

5.16 In terms of applications (A) and (B), the assessment that has been provided is based on an end use that is not, in point of fact, characterised in whole by the developer. They are therefore ultimately prefaced on inappropriate assumptions.

5.17 This has more immediate implications for the consideration of applications (A) and (B) not least because of the apparent ambiguity of the end use of the site, once restoration has taken place. A scheme must be readily ascertainable in order to allow for EIA to effectively take place. At present, there is a broader intention for at least part of the site to be used for residential purposes, with the remainder supposedly given over to a nature conservation/amenity use - but it is unclear on what basis. It is ultimately impossible therefore to accurately assess and adjudge the adequacy of impact mitigation.

The End User

5.18 Notwithstanding the above, even were the development to be viewed narrowly and in isolation (i.e. treating separately, the restoration scheme and the subsequent use

of the land for what is described as nature conservation/amenity purposes) there remain notable unknown quantities that prevent any robust and adequate assessment.

- 5.19 There is a notable lack of clarity over how the restored site will be used in practical terms. The purported use is stated to be for nature conservation/amenity purposes but no reference is made regarding whether the land would be publically used or accessible by any means. This is ultimately capable of influencing the likely significant impacts on safety given the restored site would contain altered land levels (and thus links to land stability considerations) and large expanses of deep water.
- 5.20 This is also relevant when considering the developer’s wider aspirations to develop the site, at least in part, for residential purposes and the potential for safety and amenity to be impacted (and to what extent being dependant on the phasing of each element - which is also unknown).
- 5.21 This is also relevant to land stability, water environment, and health and amenity (when considering the topics scoped in to the assessment) as well as to socio-economic, land contamination and highway impacts, being subject matters that should properly have been scoped in to the assessment.
- 5.22 The fundamental ambiguities that arise mean that the (limited) assessment that is recorded is flawed, incomplete and inadequate.

Technical Evidence:

- 5.23 Broadly, the submitted technical evidence and assertions made within the ES fail to correlate in various instances. The technical reports are deficient in their content and, in some cases, are non-existent. The ES purports instead to report its own technical judgements, without evidence base or expertise. Of the matters scoped into the EIA, the following comments (which should not be taken as being exhaustive) are made:

Topic	Evidence	Commentary
Land stability	Stability Report prepared by the Civil Engineering Practice, dated October 2018 (Appendix 3)	<p>This provides only background information concerning the context of the site; explains the geology of the site and area, levels and gradients involved; sets out the proposed works, and concludes no risks established or substantive mitigation. It is unclear from the information what land raising is necessary as part of the residential scheme or the restoration proposals.</p> <p>The materials proposed for, their transportation onto site, and the construction method(s) envisaged for, altering land levels are not defined clearly or at all.</p> <p>The ES lifts certain aspects of the conclusions of the report and concludes a positive impact (due to</p>

Officer Delegated Report

		<p>landscaping apparently) once the restoration is complete.</p> <p>This does not amount to EIA in respect of land stability and no substantive assessment on this can be reasonably or rationally concluded.</p>
Impact on/loss of SSSI	None	<p>No specific reports. The ES merely suggests that no restoration works are required within the SSSI, and on this basis, that no impacts are to be considered. This is demonstrably narrow and inadequate in EIA terms, particularly given that the County (albeit informally, it appears) scoped this topic in to the EIA.</p>
Impact on/loss of ancient woodland	None	<p>No specific reports. The ES merely suggests that no restoration works are required within the SSSI, and on this basis, that no impacts are to be considered. This is demonstrably narrow and inadequate in EIA terms, particularly given that the County (albeit informally, it appears) scoped this topic in to the EIA.</p>
Water environment	None	<p>This is addressed only very briefly in the ES in terms of surface water and groundwater impacts. The only conclusion is that there would be a generally positive impact as a result apparently of biodiversity enhancements (presumably in terms of the completed development but this is not made clear).</p> <p>There is no technical evidence to support this claim/conclusion, and so it is not founded on any clear basis and is limited in nature in any respect. Consideration is inadequate.</p>
Impact on heritage assets/archaeology	Archaeological Report prepared by SWAT dated October 2018 (Appendix 4)	<p>The report describes the broad evolution of the site in historical terms and sets out the need to record buildings in situ, setting out a suggested methodology for doing so which appears, of which the County may have been notified.</p> <p>The ES merely refers back to the methodology for such recording of buildings. This does not comply with EIA requirements and no substantive assessment on this can possibly be accurately concluded, giving rise to inadequacy.</p> <p>The ES discusses matters of heritage, asserting no impact on the Aylesford Conservation Area (due apparently, to woodland management and landscaping). This conclusion is not based on any technical evidence or assessment. The heritage section does not incorporate any discussion any of the nearby listed buildings that would unarguably be impacted by the development.</p>

		<p>The scope of the assessment in respect of heritage assets makes no regard to heritage assets other than the CA. There are a number of important listed buildings in the immediate vicinity of the site (some immediately adjacent to its boundary) and to fail even to attempt to assess the likely significant impacts on their setting demonstrates the inadequacy of the heritage assessment.</p> <p>An adequate assessment as to likely significant impacts on Old Mill House, 22 -32 Mount Please and Trinity Court must be incorporated.</p>
<p>Ecological impact</p>	<p>Ecological Assessment prepared by JFA Environmental Planning, dated September 2018 (Appendix 5)</p>	<p>This is an update report following an earlier report produced on behalf of the developer in relation to the residential planning application for part of the site. This document is however far more akin to what would be expected in order to assess impacts and propose mitigation measures. It will also be noted that the report indicates that the assessment provides a baseline for assessing ecological impacts of proposed mineral extraction and residential development across the site, and so is contradictory in terms of what the developer actually says <u>these applications</u> relate to. Some mitigation measures are proposed, but these are predicated predominately on the end use rather than throughout the lifetime of the development, from commencement.</p> <p>The ES fails to address development holistically, considering cumulative impacts.</p> <p>The ES inadequately lists a series of enhancement measures intended to be secured at the completion of the development (nature conservation and amenity use).</p>
<p>Landscape impact</p>	<p>Landscape Restoration Strategy Report prepared by JFA Environmental Planning, dated October 2018 (Appendix 6)</p> <p>Tree Report prepared by Tree Ventures Ltd, dated September 2018 (Appendix 7)</p>	<p>Landscape analysis as submitted is notably limited to discussion about SSSI and CA, and only at the completion stage of the project.</p> <p>General assessment of tree quality across the site and mitigation measures set out</p> <p>The ES explains the documents should be read together and draws very broad (and inadequate) conclusions in terms of positive long term impacts arising from restoration (nature conservation and amenity use)</p> <p>A proper discussion must adequately address the likely significant landscape impacts and likely significant impacts to the setting of the AONB, to the north of the site. The assessment is inadequate.</p>

<p>Health and amenity</p>	<p>Noise Assessment prepared by Peter Moore Acoustics Ltd, dated October 2018 (Appendix 8)</p>	<p>One baseline scenario is stated, within the context of the quarry being in full operation (see above comments on baseline flaws). On this basis the ES concludes no amenity impact on the basis that planning conditions would adequately govern. There is no cumulative assessment of impacts and with regard to all relevant baseline scenarios.</p> <p>Matters of health and amenity should reasonably include issues of broader public safety and given the nature of the site and works required to facilitate restoration this should not least be considered in terms of safety during the restoration phase both for those involved in those operations but also more broadly given the fact that the site is bounded almost entirely by a network of public footpaths.</p> <p>As set out above, there is inadequate clarity over how the restored site will be used. The purported use is for nature conservation/amenity purposes but with no reference being given as to whether the land would be publically accessible. This would ultimately have a bearing on the likely significant impacts on safety given the restored site would contain altered land levels (and thus links to land stability considerations) and large expanses of deep water. This also has relevance when considering the developer's wider aspiration to develop the site, at least in part, for residential purposes and the potential for safety and amenity to be impacted (and to what extent being dependant on the phasing of each element - which is also unknown).</p>
---------------------------	--	---

Conclusion:

- 5.24 The strong appearance is that there are various errors, in light of the inadequacy of the ES, arising in respect of both applications. As such, it is not considered possible for the County to determine the applications at present.
- 5.25 Moreover, the equally strong appearance is that the applications are merely an attempt at extinguishing in effect the extant minerals consent and associated early restoration. The applications are prefaced upon a flawed or non-existent evidence basis, and so erroneously assess on this basis alone that there would be no significant environmental effects. Aside from the adoption of flawed or incomplete baseline scenarios, and the incompleteness of the evidence base, the conclusions of the assessment conducted are also flawed.
- 5.26 In these circumstances TMBC is unable to make detailed representations on the proposed development in terms of its merit, impacts, and all likely significant effects.

6. Recommendation:

6.1 Objections Be Raised to Kent County Council as Minerals Planning Authority in respect of Applications (A) and (B) as follows:

Reasons:

- 1 The Local Planning Authority does not consider that the applications made and currently under formal consideration by the Minerals Planning Authority satisfy the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, including under Regulation 18 (1-5) and Schedule 4. The applications are inadequate in both procedural and substantive terms. As such, the Local Planning Authority is of the view that the assessment underlying the purported Environmental Statement is inadequate, taken as a whole. It is therefore not possible for any informed or proper decision to be made as regards all likely significant environmental effects of the relevant development, when properly characterised.
- 2 Further to [1] above, the Local Planning Authority does not consider that the scope of subject matters which form the basis of purported Environmental Impact Assessment are adequate, or have allowed for any adequate assessment of all likely significant environmental impacts of the development, when properly characterised. The following subject matters require adequate assessment:
 - Cumulative highway/traffic impacts for the lifetime of the project;
 - Public safety;
 - Land contamination;
 - Noise, dust and vibration;
 - Air quality; and
 - Socio-economic impacts.
- 3 Further to [1] and [2] above, the Local Planning Authority considers that the subject matters which have formed the basis of the purported Environmental Impact Assessment overall have not been robustly or adequately assessed pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (including Regulation 18 (1-5) and Schedule) in other respects.
- 4 Of relevance to the above, the Local Planning Authority notes that the basis for the assessment undertaken assumes an end use that comprises a nature conservation/amenity function. No adequate detail has been provided to specify this use. It is not clear whether the site will be made publically available or retained on a private basis, a matter that would have important implications for the parameters of the assessment to be undertaken. In addition, the Local Planning Authority is aware

that the developer has a clear intention to utilise at least part of the site for residential purposes. There is no assessment of impacts on, or from, that residential development.

- 5 The Local Planning Authority considers that the single baseline scenario adopted in the assessment provides for an inadequate basis of assessment by virtue of the fact that it merely considers quarrying activities in full and in an abstract form. The Local Planning Authority is of the view that various and permuted baseline scenarios, prefaced upon minerals extraction either not being undertaken or being undertaken in part, should properly have been incorporated with the Environmental Statement and, in turn, should have informed the overall assessment of all likely significant effects.

Informative:

The County Council is advised that:

- 1 **The Local Planning Authority reserves the right to make further formal representations on the Environmental Statement and merits of the proposed development in the event that the above matters are refined. As such, the Local Planning Authority formally requests the County to give due notification upon any such further information being received. Equally, if the County does not intend to seek the resolve these matters, the Local Planning Authority requests notification to allow for its consideration over whether further representations are to be made.**

Signed.....
Emma Keefe

Endorsed By.....

Dated:

STATUTORY INSTRUMENTS

2017 No. 571

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

PART 5

Publicity and procedures on submission of environmental statements and decision making

Environmental statements

18.—(1) Subject to regulation 9, an EIA application must be accompanied by an environmental statement for the purposes of these Regulations.

(2) A subsequent application is to be taken to be accompanied by an environmental statement for the purpose of paragraph (1) where the application for planning permission to which it relates was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, but this is subject to regulation 9.

(3) An environmental statement is a statement which includes at least—

- (a) a description of the proposed development comprising information on the site, design, size and other relevant features of the development;
- (b) a description of the likely significant effects of the proposed development on the environment;
- (c) a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the developer, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and
- (f) any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected.

(4) An environmental statement must—

- (a) where a scoping opinion or direction has been issued in accordance with regulation 15 or 16, be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was subject to that opinion or direction);
- (b) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment; and

- (c) be prepared, taking into account the results of any relevant UK environmental assessment, which are reasonably available to the person preparing the environmental statement, with a view to avoiding duplication of assessment.
- (5) In order to ensure the completeness and quality of the environmental statement—
 - (a) the developer must ensure that the environmental statement is prepared by competent experts; and
 - (b) the environmental statement must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts.

SCHEDULE 4

Regulation 18(3)

INFORMATION FOR INCLUSION IN ENVIRONMENTAL STATEMENTS

1. A description of the development, including in particular:
 - (a) a description of the location of the development;
 - (b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
 - (c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
 - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors specified in regulation 4(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
5. A description of the likely significant effects of the development on the environment resulting from, inter alia:
 - (a) the construction and existence of the development, including, where relevant, demolition works;
 - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
 - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
 - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
 - (e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
 - (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
 - (g) the technologies and the substances used.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The description of the likely significant effects on the factors specified in regulation 4(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project, including in particular those established under Council Directive 92/43/EEC(1) and Directive 2009/147/EC(2).

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

8. A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU(3) of the European Parliament and of the Council or Council Directive 2009/71/Euratom(4) or UK environmental assessments may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

9. A non-technical summary of the information provided under paragraphs 1 to 8.

10. A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.

(1) OJ No L 206, 22 7 1992, p 7

(2) OJ No L 20, 26 1 2010, p 7

(3) OJ No L 197, 24 7 2012, p 1

(4) OJ No L 172, 2 7 2009, p 18

Wooldridge, Jim - GT EPE

From: Bonser, Sarah - IL
Sent: 06 March 2019 09:28
To: Wooldridge, Jim - GT EPE; Thompson, Sharon - GT EPE
Subject: Aylesford Quarry minerals applications - Planning Applications Committee 6/3/1

Dear Jim and Sharon

I refer to the email from Kevin Toogood, Principal Litigation Solicitor at Tonbridge and Malling Borough Council and his letter and attachment.

My colleague Susan Mauger (Senior Solicitor) has previously advised in this matter and I restate her advice below:

The main issue to be considered is as follows:

Whether the EIA / ES as currently undertaken / submitted is sufficient to enable KCC to determine the application positively without a significant risk of legal challenge (having regard to T&MBC's position set out in its objections to the mineral planning applications and accompanying delegated report, its report on application TM/17/02971/OA, the PINS Screening Opinion and the correspondence and advice provided by AHL); and

My thoughts are:

It is a matter for the decision maker to determine whether the EIA/ES is sufficient to determine the application positively. As T&MBC have taken the view that the residential application was not EIA, I fail to see why it should now be EIA development under the purported "single project" with the applications before KCC in respect of the restoration of the land. It is condition of the minerals permission that the land be restored. The applications have been screened and in consultation with KCC on the scope of the EIA/ES the application was accompanied by an EIA/ES. The decision maker should under the EIA Regulations 2017 Schedule 3 take into account the cumulation of the impact of other existing and/or approved development. There is no existing or approved development at this time to take a view on cumulative impact.

As it is a matter for the decision maker to determine whether it has sufficient information to determine the applications, it is unlikely that the courts would interfere with that decision unless it could be shown to be Wednesbury unreasonable.

T&MBC have made representations on the suitability of the EIA but fail to provide clear and cogent reasons for that opinion in circumstances where the residential scheme is outside the scope of the need for an EIA/ES.

PINs have now determined in their screening opinion that the application for residential development is not EIA development and confirm that the residential development will only occur after the restoration works are completed under the proposed amendments to the restoration scheme currently under consideration by the Minerals Authority.

In respect of the more recent representations:

Whilst I note TMBC's contention that the conclusions at paras 87, 92, 111, 117, 125 134 and 135 of the officer's report are "irrational and Wednesbury unreasonable" by reference to the table provided by TMBC at para 5.3 and 5.7 of the report attached to the letter, I cannot see how that statement can be supported in circumstances where the statutory consultees, being Historic England, Natural England, the AONB management Unit and KCC archaeology unit, each have no adverse comment to make on the ES.

Whilst there is always a possibility of a legal challenge whenever a planning permission is granted, I repeat my conclusion from the previous advice; it is unlikely that the courts would interfere with that decision unless it could be shown to be Wednesbury unreasonable.

Please let me know if I can assist further.

Kind regards

Sarah

Sarah Bonser

Head of Planning & Highways Group

Invicta Law Ltd - Priory Gate - 29 Union Street - Maidstone - ME14 1PT

e: Sarah.Bonser@invicta.law
t: 03000 415863 - Direct Line
t: 03000 411100 - General Office/Reception
m: 07515 190611
dx: 133544 Maidstone
w: <http://www.invicta.law/>



The content of this email is confidential and intended for the recipient specified in the body of this email only. It is strictly prohibited to share any part of this message with any third party without the prior written consent of the sender. If you have received this email by mistake, please notify the sender immediately and follow by deleting this email. If you are not the intended recipient disclosing, copying, distributing or taking any action based upon or in reliance upon the content of this email is strictly prohibited.

WARNING Invicta Law Limited has taken reasonable precautions to ensure that no viruses are present in this email. Email transmission is not guaranteed to be secure or free of error. Information can be intercepted, lost, destroyed, corrupted, arrive late or incomplete. The company does not accept any liability for any loss or damage arising from the use of this email or any attachments.

Invicta Law is a registered trade mark and trading name of Invicta Law Limited, a private limited company registered in England & Wales No. 10079679. Authorised and regulated by the Solicitors Regulation Authority registration number 631355.