

## Item C2

### **Application for the variation of conditions 5, 6 and 16 of planning permission DA/07/1 (as amended) to allow modifications to phasing and soil storage arrangements and to increase the depth of excavation and resultant landfill of part of the northern extension at Pinden Quarry, Green Street Green Road, Dartford, Kent – DA/11/1043**

A report by Head of Planning Applications Unit to Planning Applications Committee on 8 November 2011.

Application by Pinden Limited for the variation of conditions 5, 6 and 16 of planning permission DA/07/1 (as amended) to allow modifications to phasing and soil storage arrangements and to increase the depth of excavation and resultant landfill of part of the northern extension at Pinden Quarry, Green Street Green Road, Dartford, Kent.

Recommendation: Permission be granted.

Local Members: Mr J Kite

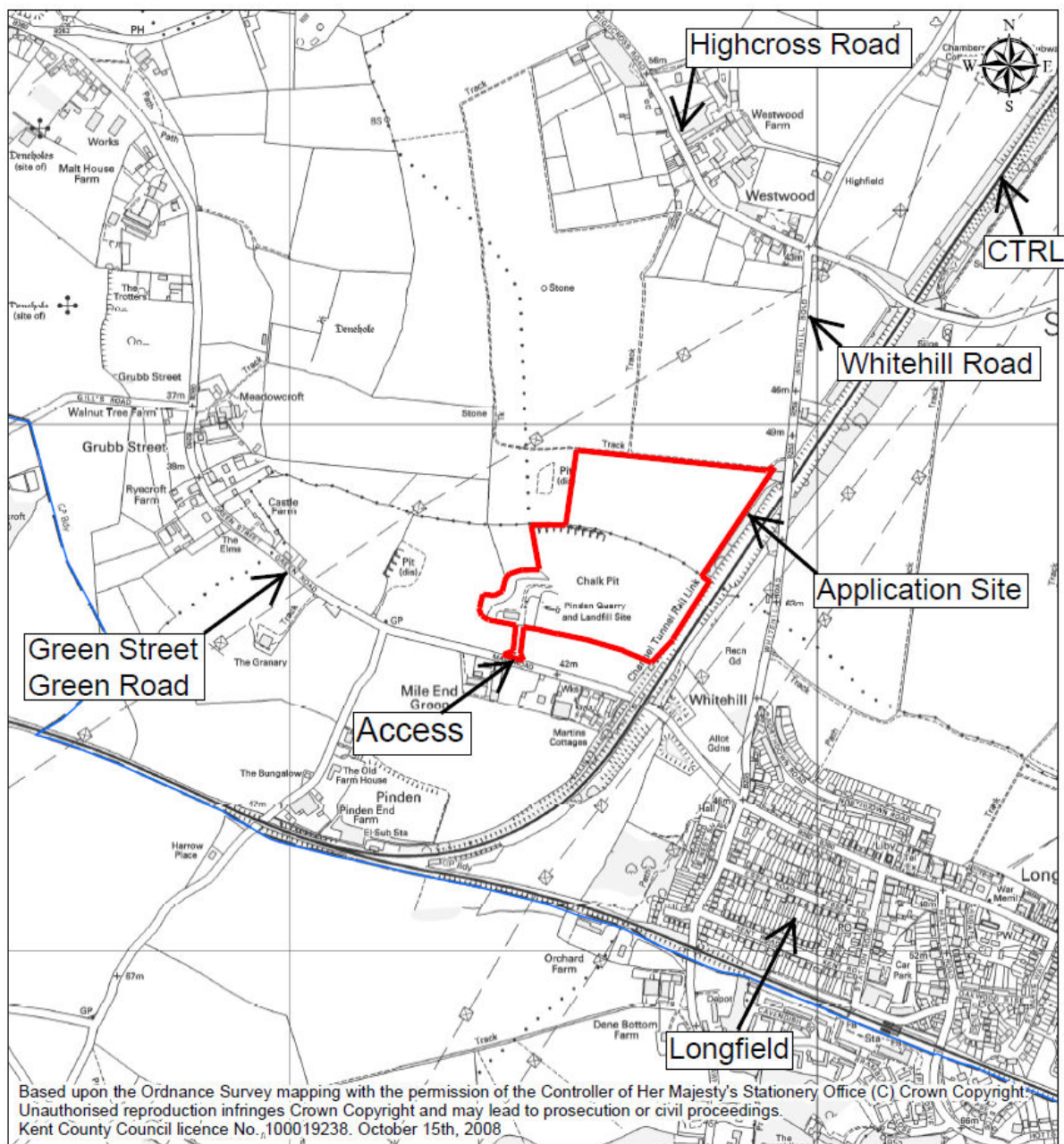
Unrestricted

#### **Site description and background**

1. Pinden Quarry lies to the north east of Longfield, to the north of the B260 Green Street Green Road (from which access to the site is obtained), to the west of the Channel Tunnel Rail Link (CTRL), to the east of previously worked and restored land and to the south of farmland. It is surrounded by high landscaped screening bunds and natural topography which assists in minimising views into the site from the surrounding area. Overhead power lines, a high pressure gas pipeline and Footpath DR48 pass to the west and north of the site. The site has a long history of minerals and waste related planning permissions and some refusals.
2. The site lies in the Metropolitan Green Belt and is partially within land subject to a CTRL safeguarding direction. The site lies approximately 300m to the south east and 100m to the west of Areas of Special Significance for Agriculture and 500m to the south of the Highcross Road, Westwood Area of Special Character. It also lies adjacent to the Longfield Local Wildlife Site (LWS) associated with the previously disused railway cutting (now the CTRL). It is not identified for any particular use in the Dartford Local Plan or Local Development Framework Core Strategy.
3. Although Pinden Quarry is identified as an existing chalk quarry for non-cement uses in the adopted Kent Minerals Local Plan Chalk and Clay (December 1997), none of the land is identified for future chalk working or covered by site specific proposals in the Plan. Similarly, neither the quarry nor its associated waste management uses are identified in the Kent Waste Local Plan (March 1998). The existing site and an extension to the west thereof are being promoted by the operator for future chalk extraction, hazardous waste landfill, a materials recovery facility and transfer station

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Site Location Plan



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through the Kent Minerals and Waste Development Framework.

4. The site comprises two main parts. The main (older) part of the site lies to the south of the hedgerow which forms the boundary between Longfield and New Barn Parish and Southfleet Parish. This previously formed part of a larger and much older (Interim Development Order) mineral permission that also included land to the west of the quarry. This IDO permission was “updated” in 2005 under the Planning and Compensation Act 1991 by planning permission DA/93/451 which provided for chalk extraction and restoration by landfilling to original levels. This part of the site also contains a variety of waste management uses initially provided for by planning permissions DA/90/416 (recycling and waste minimisation facility), DA/96/39 (extension of the storage area for the recycling and waste minimisation facility), DA/97/688 (materials recovery facility), DA/03/221 (soil blending), DA/03/210 (car parking, office and welding shed) and DA/05/90 (single storey extension and alterations to main building) which are linked to the life of the quarry. The second (more recent) part of the site lies to the north of the parish boundary and is accessed from the main part of the site through a gap in the hedgerow. This part of the site is currently used for chalk extraction and backfilling with inert (asbestos containing) waste.
5. The entire site was the subject of a consolidating planning permission DA/07/1 (dated 27 March 2008) which carried forward part of DA/93/451 and the permitted waste management uses and also provided for the northern extension to the site referred to in paragraph 4 above. It requires working at the site to cease by 21 February 2042 and the site to be restored to agricultural use at levels similar to those that existed prior to mineral working. The 2008 permission was granted on the basis that the northern extension was effectively “exchanged” for the permitted area to the west and was primarily done on the basis that it would serve to avoid the significant adverse impacts on local residents that would have occurred if the western extension provided for by DA/93/451 had been implemented. It should also be noted that the majority of the northern extension area had been subject to two earlier refusals of planning permission for extensions to the existing quarry with restoration by infilling with waste materials (DA/89/229 and DA/91/405). These refusals were on the grounds that the case of need for additional chalk reserves was considered to be insufficient to override the material, environmental and landscape interests that would be affected by further extending quarrying into open countryside. In each case the proposed quarry extensions were additional to existing permitted reserves such that need was an important material planning consideration.
6. A number of further planning permissions have been granted and approvals given since DA/07/1 was issued. These include DA/08/727 (amendments to the phasing provided for by DA/07/1), DA/08/1007 (installation and operation of supplementary materials recycling equipment), DA/10/1175 (further amendments to the phasing and use of specific parts of land within the site provided for by DA/07/1) and DA/11/893 (conversion of workshop / office building for extended office space and replacement

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workshop and parking spaces). As previously, these are all linked to the life of the main mineral permission. The nature of wastes accepted and either recycled or landfilled at the site are controlled by an Environmental Permit. The landfill materials include both bonded and bagged asbestos (i.e. “hazardous waste”).

7. The site comprises 10 phases (2, 3A, 3B, 3C, 3D, 4, 5, 6, 7 and 8). Phases 2, 3A and 3B have been largely or partially restored, phase 3C is used for the stockpiling of soils, phase 3D is used for screening and blending soils (soil enhancement area), phase 4 has been excavated and is being backfilled with waste, phase 5 has been largely excavated, phase 6 has been partially excavated, phase 7 has been stripped of soils and phase 8 is used for materials processing (crushing, screening and stockpiling), waste transfer station and materials recycling facility and also contains the workshop, offices, weighbridges, wheelwash and parking areas. It should be noted that the extraction and restoration of phase 8 would necessitate the cessation of the materials recycling facility or MRF (incorporating all of the waste recycling operations referred to above) and that all the associated development (e.g. main building, other small buildings, car park, other areas of hardstanding, fixed plant and structures) would need to be removed as the site is finally restored to agricultural use. Plans illustrating the phasing arrangements are included at Appendices 1, 2 and 3 on pages C2.28 to C2.30.
8. Chalk is extracted in a phased manner by mechanical excavator on a campaign basis to meet market demand. The chalk is used primarily in construction or similar projects or as agricultural lime. Prior to extraction, topsoil and subsoil is stripped and stored in screen bunds. The resultant void is being backfilled with asbestos containing wastes (i.e. both the asbestos and anything that may have been contaminated by it such as wood and plastic sheeting). These include fibrous asbestos which is delivered “double bagged” in sealed skips and asbestos contaminated demolition waste which is delivered either in sealed skips or lined and covered lorries. In all cases the waste is immediately deposited in the base of the operational landfill cell and covered immediately with soils to prevent escape. The most recent cells are lined with clay prior to being landfilled. Once the cell is filled, it is capped with clay and soils are replaced and seeded. The landfill operation is regulated in accordance with the Environmental Permit to prevent pollution of the environment and harm to human health and is monitored regularly by the Environment Agency. Landfilling under controlled conditions such as those used at Pinden Quarry is the most effective way of disposing of asbestos waste.
9. The MRF enables value to be recovered from non-asbestos containing construction and demolition wastes and diversion from landfill. The MRF consists of a sequence of physical treatment steps involving the use of plant and equipment such as screeners, crushers, magnets and a manual picking station where selected materials are retrieved (e.g. bricks, hardcore, plastics soil and wood). Separated waste streams are either exported for use or final disposal and residual finely grained material is used as “cover” in the landfill. The soil blending facility involves the screening of source

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separated civic amenity waste soils to remove large items such as bricks, concrete, rubble and hardcore, which are redirected to the MRF for further recovery, and the blending of the soil with compost and sand to form a useful product beneficial to plant growth.

10. Planning permission DA/07/1 (as amended) includes 51 conditions. Those of most relevance to the current application are (in summary) as follows:-

- Cessation of operations by 21 February 2042 – *condition 2*;
- Cessation of all operations associated with the MRF prior to chalk extraction in phase 8 – *condition 5*;
- Detailed phasing arrangements (including locations where specific operations or uses may take place) – *condition 6*;
- No extraction below 30 metres above ordnance datum (AOD) – *condition 16*;
- Hours of working: 0700 and 1800 hours Monday to Friday and 0700 to 1300 on Saturdays (with no working at other times without the prior written approval of the County Planning Authority) – *condition 26*;
- Vehicle movements: 500 per day (250 in/250 out) combined site maximum Monday to Friday [270 movements – 135 in/135 out on Saturdays] – *condition 27*;
- Noise limits: not to exceed 55dB LAeq 1hr (free field) measured at site boundary / noise sensitive properties (as appropriate) – *condition 32*; and
- Dust control: specified measures (e.g. water spraying) – *condition 35*.

**The Proposal**

11. The application proposes the variation of conditions 5, 6 and 16 of planning permission DA/07/1 (as amended) to allow modifications to phasing and soil storage arrangements and to increase the depth of excavation and resultant landfill of part of the northern extension. No other variations to conditions or changes to existing operations are proposed. More specifically, the application proposes that:-

- Condition 5 be amended to allow future modifications to the detailed phasing arrangements to be submitted for and approved in writing by the County Council as opposed to requiring the submission of formal planning applications under Section 73 of the Town and Country Planning Act 1990 (as amended);
- Condition 6 be amended to allow future modifications to the detailed locations where specific operations or uses may take place to be submitted for and approved in writing by the County Council as opposed to requiring the submission of formal planning applications under Section 73 of the Town and Country Planning Act 1990 (as amended); and
- Condition 16 be amended to increase the depth of extraction from 30 metres AOD to 19 metres AOD and to allow the resultant larger void to be infilled with the same waste materials as those already permitted.

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12. With regard to conditions 5 and 6, the applicant notes that amendments have already been made to the original wording of these conditions and that future changes may be required to enhance operational performance and / or maintain high environmental standards at the site. The application also specifically seeks permission to temporarily store topsoil in a 1.5m high stockpile along the northern boundary of phase 2 (immediately to the south of the hedgerow forming the parish boundary and the west of the access through to the northern extension area) and to temporarily store subsoil in stockpiles not exceeding 2.5m high on the northern part of phase 3A (just to the south of the hedgerow forming the parish boundary and the east of the access through to the northern extension area) and on the eastern part of phase 7. These locations depart from those currently permitted by condition 6(d) or provided for in the working programme permitted under condition 5. The applicant states that these stockpiles (which are already in place) will be used for the restoration of phase 4 such that they will only remain in place for a relatively short period. The proposed locations of the temporary soil stockpiles are illustrated on the plan included at Appendix 4 on page C2.31.
13. With regard to condition 16, the applicant states that the proposed increase in depth would enable phases 5, 6 and 7 (in the northern extension area) to be worked to the same depth as the older phases in the main part of the site and generate about 110,000m<sup>3</sup> of additional chalk and 98,000m<sup>3</sup> of additional landfill capacity (the difference being as a result of infrastructure such as the landfill liner). As a result of changes to health and safety requirements (which have reduced the amount of chalk that can be safely removed) and a reassessment of the reserves the applicant states that this is only about 51,200 m<sup>3</sup> more chalk than was previously permitted by DA/07/1. Drawings illustrating the proposed deepening are included at Appendices 5 and 6 on pages C2.32 and C2.33.
14. The applicant includes a number of potential scenarios setting out how long it may take to complete chalk extraction and landfilling in both the northern extension area and the remaining part of phase 3 of the main site. The estimated duration is entirely dependent on the assumed extraction and landfilling rates. The applicant states that chalk extraction and landfilling in phases 3 to 7 inclusive were previously envisaged to be completed by about 2029 and 2035 respectively. The applicant's current assessment is that if the application is not permitted, extraction is likely to be completed by 2020 and landfilling by 2023. If the proposed deepening is permitted, these dates extend to 2022 and 2024 respectively. However, the applicant also suggests that extraction could be completed by the end of 2014 and landfilling by the end of 2018 if less conservative rates are assumed and no constraints are encountered (e.g. insitu chalk does not represent a constraint). The applicant further states that the void space in phase 8 is limited by the requirement under the Environmental Permit that only inert waste can be deposited in a significant part of that phase. On the basis of the above, the applicant states that the additional chalk extraction and landfilling would only be likely to increase the time taken to complete the working and restoration of phases 3 to 7 inclusive by about two years and that this

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would mean that these phases were restored about 10 years earlier than was envisaged when DA/07/1 was permitted. It states that this would enable the operator to meet a demonstrable need for chalk in Kent, prevent a county and regional shortfall in landfill void space for hazardous waste during the Kent Minerals and Waste Development Framework (MWDF) Plan period (i.e. by 2030) and avoid unnecessary sterilisation of the mineral resource and the associated landfill capacity without giving rise to any significant impacts.

15. The applicant also points out that there is nothing to prevent it delaying extraction and landfilling in the remaining part of phase 3 and in phase 8 and continuing to use these areas for the MRF and associated operations until nearer 21 February 2042 when the current permission requires the entire site to be restored. In view of this, although the applicant acknowledges that the proposal would generate a small number of additional HGVs transporting chalk and waste for landfilling, it states that the proposed increase in depth would not lead to any increase in HGV or other vehicle movements as it would simply utilise the available number of vehicle movements provided for by condition 27 (see paragraph 10 above) for the transportation of chalk, waste materials (for landfill or recycling) or recycled materials as operations dictate.
16. The application is accompanied by an Environmental Statement which revisits and updates that submitted in support of application DA/07/1 in 2007 to take account of any new environmental issues and information or legislative changes. In so doing, it addresses need, alternatives, landscape and visual impact, hydrogeology, noise, air quality, ecology, transport, stability and cumulative impacts. Archaeology and cultural heritage was scoped out on the basis that all of the northern extension area had already been stripped of soils and been subject to archaeological work.

**Planning Policy Context**

17. **National Planning Policies** – the most relevant National Planning Policies are set out in PPG2 (Green Belts), MPS1 (Planning and Minerals), MPS2 (Controlling and Mitigating the Environmental Effects of Minerals Extraction in England), PPS10 (Planning for Sustainable Waste Management), PPS23 (Planning and Pollution Control) and Waste Strategy for England 2007.

The draft National Planning Policy Framework (July 2011) is a material planning consideration. Although there is no specific policy on chalk, the section on minerals makes it clear that one of the Government's objectives for mineral planning is to secure an adequate and steady supply of indigenous minerals needed to support sustainable growth, whilst encouraging the recycling of suitable materials to minimise the requirement for new primary extraction. It also states that when determining planning applications, planning authorities should: give significant weight to the benefits of the mineral extraction (including to the economy); ensure there are no unacceptable adverse impacts on the natural and historic environment and human health (including cumulative impact); ensure noise, dust and particle emissions are

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controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties; and provide for restoration to be carried out to high environmental standards.

The draft does not contain specific waste policies since national waste planning policy is to be published alongside the National Waste Management Plan for England. Pending this, PPS10 is to remain in place. The other matters addressed in the draft Framework primarily carry forward existing national planning policies.

18. **South East Plan** – These include Policies SP5 (Green Belts), NRM2 (Water Quality), NRM5 (Conservation and Improvement of Biodiversity), NRM9 (Air Quality), NRM10 (Noise), W3 (Regional Self-sufficiency), W4 (Sub-regional Self-sufficiency), W5 (Targets for Diversion from Landfill), W6 (Recycling and Composting Targets), W7 (Waste Management Capacity Requirements), W13 (Landfill Requirements), W15 (Hazardous Waste), W14 (Restoration), W15 (Hazardous and Other Specialist Waste Facilities), W17 (Location of Waste Management Facilities), M2 (Recycled and Secondary Aggregates), M4 (Other Minerals), C4 (Landscape and Countryside Management) and BE6 (Management of the Historic Environment).
19. **Kent Minerals Local Plan: Chalk and Clay (December 1997)** – These include Policies CC1 and CC1A (Provision for Development), CC12 (Noise, Vibration and Dust), CC14 (Land Drainage and Flood Control and Unstable Land), CC15 (Nature Conservation), CC16 (Plant and Buildings), CC18 (Ancillary Operations), CC20 (Public Rights of Way), CC24 (Road Traffic and Access), CC26 (Visual Impact and Landscaping) and CC27 (Aftercare).
20. **Kent Waste Local Plan (1998)** – These include Policies W3 (Locational Criteria), W6 (Need), W7 (Re-use), W9 (Waste Separation and Transfer), W12 (Landfill of Mineral Voids), W18 (Noise, Dust and Odour), W19 (Groundwater), W20 (Unstable Land, Land Drainage and Flood Control), W21 (Nature Conservation), W22 (Road Traffic and Access), W25 (Plant and Buildings), W27 (Public Rights of Way), W31 (Visual Impact and Landscaping), W32 (Aftercare).
21. **The Borough of Dartford Local Plan (April 1995)** – Identifies that the application site lies in the Metropolitan Green Belt (GB1-2) and is partially within land subject to a Channel Tunnel Rail Link safeguarding direction.
22. **The Borough of Dartford Local Plan Review Second Deposit Draft (September 2002)** – Identifies that the application site lies in the Metropolitan Green Belt (GB1-6), is partially within land subject to a Channel Tunnel Rail Link safeguarding direction and is close to overhead power lines (BE17). Although not formally adopted, the plan was approved for development management purposes in 2004.

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23. **Dartford Borough Council Local Development Framework Core Strategy (September 2011)** – Policy CS13 seeks to resist inappropriate development in the Green Belt and Policy CS14 seeks (amongst other things) to protect local wildlife sites.
24. **Kent Minerals and Waste Development Framework: Minerals and Waste Core Strategy: Strategy and Policy Directions Consultation (May 2011)** – Has not yet reached Deposit stage such that it carries little weight as a material planning consideration. Although it does not identify a need for new chalk reserves to be identified in the plan period (i.e. until 2030) it does indicate that there is likely to be a need for additional hazardous waste management facilities if Kent is to remain net self-sufficient in terms of the provision of hazardous waste management capacity as the voidspace at Pinden is likely to be exhausted in 10 to 15 years. It should be noted that the Kent MWDF Minerals Topic Report 3: Other Minerals (May 2011) states that existing permitted chalk reserves are likely to be sufficient to meet demand for agricultural lime and engineering and construction uses until 2030 but that further permissions may be required for the latter towards the end of the plan period. Topic Report 3 is also clear that no new chalk reserves are required for cement use during this period. Kent MWDF Waste Topic Paper 5: Hazardous Waste Management (May 2011) states that there are currently no alternatives to the disposal of asbestos wastes by landfill and that future disposal could either be at a specific hazardous waste landfill or at a separate area (cell) at a non-hazardous landfill site. These and related issues will be considered further as the MWDF progresses and a Preferred Options consultation document is published.
25. **Kent Minerals and Waste Development Framework: Mineral Sites Development Plan Document Options Consultation (May 2011); Waste Sites Development Plan Document Options Consultation (May 2011); and Mineral and Waste Sites Development Plan Document Supplementary Options Consultation (October 2011)** – These include sites proposed by operators and landowners for inclusion in the Kent MWDF Sites Development Plan Documents (DPDs). At this stage, KCC has made no decision on any promoted sites and these documents carry no weight for development management purposes. However, it should be noted that the applicant's parent company (Sid Bishop & Sons) is promoting a lateral extension to Pinden Quarry for chalk extraction, infilling with asbestos / inert waste, MRF and transfer station. Sid Bishop & Sons estimates that this would provide a further 600,000 tonnes of chalk and that the life of the entire operation would be about 20 years.

**Consultations**

26. **Dartford Borough Council** – No objection subject to conditions 27 and 29 of planning permission DA/07/1 being attached to any consent granted by Kent County Council.

*Note: Condition 27 restricts the combined total of vehicle movements to no more than 500 per day (250 in/250 out) Monday to Friday and 270 (135 in/135 out) on Saturdays whilst condition 29 only allows access via the existing site access on Green Street*

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*Green Road (with appropriate visibility splays being maintained).*

**27. Southfleet Parish Council** – Objects to the application for various reasons:-

- Traffic impact / increased traffic movements;
- Duration of operations (no longer a “swap”);
- Geographical location of the site (circled by villages, settlements and other properties);
- Impact on topsoil quality (due to storage arrangements);
- Potential flood risk (due to clay capping of landfill);
- There are other (more suitable) sources of chalk (e.g. Eastern Quarry and Holborough have better transport links / trunk road access);
- Dartford Borough Council Core Strategy does not support expansion of Pinden;
- Kent MWDF only at consultation stage so its content on hazardous waste should not be considered a factor in support of the proposals;
- Proximity to Listed Buildings (at Highcross Road);
- Green Belt;
- Site highly visible from Highcross Road;
- Some existing landscaping has been unsuccessful;
- Noise impacts (complaints from residents of Highcross Road);
- Dust nuisance (prevailing south westerly winds carry dust over Southfleet); and
- Slope stability (of chalk).

It has also raised a number of detailed criticisms of the application and supporting information and stated that it does not consider that the applicant has made a case for the application to be allowed.

**28. Longfield and New Barn Parish Council** – Objects on the basis that the application contravenes the agreement of previous applications.

**29. Darenth Parish Council** – Has stated that it has no comments to make on the application.

**30. Environment Agency** – No objection subject to the infrastructure within Cell 3C being properly capped and connected to appropriate extraction systems to ensure: (i) no unauthorised emissions to atmosphere; and (ii) no foreign objects or liquids are able to enter the waste. Has also advised that the original Hydrogeological Risk Assessment (HRA) for site was assessed on the basis that extraction and infilling would take place to a depth of 19m AOD (as now proposed) and that the HRA will therefore not need to be revised and the current Environmental Permit will cover the proposal.

**31. KCC Highways and Transportation** – Has no objection on the basis that:-

- the existing site access is acceptable;

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- the carriageway is sufficiently wide to accommodate turning movements by large vehicles;
  - the associated visibility splays are appropriate;
  - the existing excavation and backfill activity has not caused any particular capacity or safety problems; and
  - the level of additional traffic indicated in the Transport Assessment (TA) would have a very minor effect on the junctions that have been considered and would not be sufficient to raise a highway objection.
32. **KCC Landscape Consultant (Jacobs)** – No objection in landscape and visual terms as the proposed development (including any additional time required to work and restore the site) would be unlikely to generate any significantly different effects than as a result of that already permitted.
33. **KCC Noise, Dust, and Odour Consultant (Jacobs)** – No objection subject to existing noise conditions (32, 33 and 34) and dust conditions (35 and 36) being retained. These accord with MPS2 and are considered equally applicable to the proposed development.
34. **KCC Minerals and Waste Policy Planning Manager** – Has advised that the Kent MWDF Core Strategy: Strategy and Policy Directions (May 2011) document did not include any draft policies on the need to make provision for chalk for agricultural and engineering purposes due to the large consented landbank for chalk that is or could be used for agricultural and engineering purposes (2.422 million tonnes on 1 January 2011). Although the May 2011 document stated that the permitted chalk reserves are likely to be sufficient to accommodate demand for agricultural and engineering purposes for the plan period, such that it did not indicate that new chalk sites would need to be identified in the MWDF, it also suggested that there may be a need for some further provision towards the end of this period if the increase in the use of agricultural chalk continues. However, it stated that this eventuality would be addressed by the identification of “areas of search” within which new sites would be expected to be found. Has also referred to the regional significance of Pinden Quarry for the landfilling of asbestos waste (inputs to the site were greater than those received by all other sites permitted to receive asbestos waste in the South East of England, East of England and London) and advised that the proposed additional landfill capacity (98,000m<sup>3</sup>) would assist Kent in remaining net self-sufficient in hazardous waste management. Has further advised that only two operators have put forward sites for hazardous waste landfill in response to the “call for sites” in 2010. Both were for the continuation / extension of existing landfill facilities at Norwood Quarry (air pollution control residues) and Pinden Quarry (asbestos wastes). The latter being by the current applicant (Pinden Ltd).
35. **High Speed 1 Ltd (HS1)** – Has requested the imposition of various conditions designed to protect its interests.

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36. **Network Rail** – No objections provided there are no variations to the previous conditions relating to Network Rail's interests. States that it does not disagree with the stability assessment contained in the Environmental Statement.
37. **Thames Water** – As the proposals do not affect its interests, it has no observations to make.
38. **Natural England** – The proposals do not have any additional ecological or landscape impacts to those addressed in the existing permission and as such it has no comments to make.
39. **KCC Biodiversity Officer** – Has reviewed the information submitted and has no comments to make on the proposals.
40. No comments have been received from **Kent Wildlife Trust** and **National Grid**.

**Representations**

41. The application has been publicised both by site notice and newspaper advertisement. All residential and other properties (23 in number) within 250 metres of the site were consulted.
42. Two letters of objection have been received from residents of Mile End Green (opposite the site entrance on Green Street Green Road). The objections relate to:-
  - Dust / air quality impacts from lorries and excavations (including diesel fumes from lorries waiting to enter the site); and
  - Hours of use (including allegations of breaches of permitted opening hours with lorries entering and leaving the site too early or in the evening).
43. One respondent also suggested that KCC should undertake a dust and particulates survey and publish the results to local residents to enable them to see the current level of pollution before the application is determined.

**Local Members**

44. County Council Member Mr J Kite was notified in August 2011. No comments have been received.

**Discussion**

45. 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 planning considerations indicate otherwise. In the context of this application,

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the development plan policies set out in paragraphs 18 to 21 and 23 are of greatest relevance. Material planning considerations include the existing and emerging national and local policies set out in paragraphs 17 and 22. It should be noted that the South East Plan (SE Plan) remains part of the development plan although the Government's intention to abolish regional spatial strategies is a material planning consideration and the weight given to it is a matter for the decision maker. The draft National Planning Policy Framework (NPPF) is also a material planning consideration. However, given the nature of the proposals it is of limited relevance in this case as the mineral elements largely carry forward the policies in MPS1 and as PPS10 is to remain in place until any new waste policies are published alongside the new National Waste Management Plan for England. A further material planning consideration is Circular 11/95: The Use of Conditions in Planning Permissions (1995) which sets out the general criteria for the validity of planning conditions and the "six tests" that all conditions should meet.

46. The application has been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended). Although such applications are normally described as being to remove, amend or vary a planning condition(s), Section 73 actually provides for the development of land without compliance with a condition(s) attached to an earlier permission. Any planning permission granted pursuant to Section 73 represents a wholly new planning permission and the applicant would then have the option as to which planning permission it wished to rely upon. Section 73 enables the planning authority to decide that planning permission should be granted subject to conditions different from those existing, the same as those existing (in which case permission should be refused) or unconditionally. In principle, the scope of the planning authority's jurisdiction when considering a Section 73 application is more limited than when considering a full application and it does not empower the planning authority to rewrite the permission altogether. However, the planning authority is not constrained in its consideration of the full planning merits.
47. The main issues to be considered in this case relate to:-
  - Need for chalk extraction and hazardous waste landfill;
  - Potential alternatives;
  - Landscape and visual impact;
  - Potential pollution and amenity impacts (e.g. water environment, noise, air quality and health impacts);
  - Traffic and associated impacts;
  - Stability;
  - Ecology;
  - Green Belt.
48. A number of other issues have also been raised which will also need to be addressed.

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Need for chalk extraction and hazardous waste landfill

49. The main national planning policy for winning and working chalk is set out in MPG10 and relates to the needs of the cement industry. Other uses for chalk are only covered by the general objective in MPS1 which requires that an adequate and steady supply of minerals needed by society and the economy should be secured consistent with environmental concerns. These national policies are reflected at the regional level in Policy M4 of the SE Plan and at the local level in Policy CC1 of the Kent Minerals Local Plan Chalk and Clay (Kent MLPC&C). Policy M4 states that a permitted reserve of chalk for cement manufacture should be maintained throughout the plan period in Kent and Medway sufficient to last for at least 25 years at current production rates. Policy CC1 states that permission will be granted for mineral working at the locations and in the circumstances identified in the Plan. Pinden is not identified as a location for chalk extraction. The draft NPPF effectively carries forward the objectives of MPG10 and MPS1 and adds that significant weight should be given to the benefits of mineral extraction, including to the economy.
50. National planning policy for waste management is set out in PPS10 and is, in turn, reflected at the regional level. Policy W15 of the SE Plan identifies hazardous waste landfill capacity, particularly to serve the needs of the south and south-east of the region, as a priority. It also states that waste development documents will identify and safeguard sites for storage, treatment and remediation of contaminated soils and demolition waste and, where necessary, encourage the creation of protective cells for stable hazardous waste. The SE Plan also contains policies designed to support diversion of waste from landfill and meet recycling and recovery targets. The Kent Waste Local Plan (Kent WLP) contains no specific policies relating to hazardous waste but again supports recycling and recovery and the appropriate use of inert waste for restoration of mineral voids. Waste Strategy for England (2007) and the Government's Review of Waste Policy in England (2011) are clear that there will still be some hazardous wastes (such as asbestos) for which landfill remains the best or least worst option.
51. The applicant states that there is a need for chalk for agricultural and engineering purposes and a need for hazardous waste (asbestos) landfill based on its own experiences of exports (chalk) from and imports (asbestos wastes) to the site and its assessment of remaining chalk / voidspace.
52. In terms of chalk, the applicant has provided details of its exports since 2005. The figures vary between a low of 18,954 tonnes (10,530m<sup>3</sup>) in 2008 and a high of 363,184 tonnes (201,769m<sup>3</sup>) in 2009. It states that the lower figure was in the year when operations were curtailed awaiting planning permission for the northern extension and the higher figure in a year when several infrastructure and bulk fill projects were being served simultaneously. It also states that demand for agricultural lime has shown a progressive increase since 2008 and that the upper chalk strata levels are most suitable for this. It has also calculated that 1.152 million tonnes (0.64 million m<sup>3</sup>) of

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chalk remain at the site assuming that all phases are to be worked (including phase 8 which it may decide to leave in situ to allow recycling operations to continue until the existing planning permission expires in February 2042). It further estimates that all chalk reserves could be exhausted by between 2014 and 2020 depending on extraction rates. It should be noted that the applicant disputes some of the chalk reserve figures used as part of the evidence base for the Kent Minerals and Waste Development Framework (Kent MWDF) and argues that undue reliance has been placed on permitted reserves at old or dormant sites that may be unable to actively contribute to real chalk supply during the plan period as they are commercially unviable. On this basis it contends that there is a need for additional chalk reserves to be identified and has indicated that it may challenge the Kent MWDF unless changes are made in respect of these matters. The proposal would result in there being a total of 750,000m<sup>3</sup> of chalk reserves (1.35 million tonnes) at the site.

53. Pinden Quarry has not traditionally supplied chalk to the cement industry although the applicant has recently stated that it has exported material to a site at Tilbury for cement production. However, as the reserves necessary to meet planning policy requirements in the County are met at Holborough, there is no need for chalk from Pinden for cement production. On this basis, only the general need requirements set out in paragraph 49 above are relevant.
54. KCC's Minerals and Waste Policy Planning Manager has advised that permitted chalk reserves are likely to be sufficient to accommodate demand for agricultural and engineering purposes for most if not all of the plan period. Although the applicant disputes this, I am satisfied that there is no need for additional chalk reserves to be permitted at this time. However, I am mindful that if the current application is refused and the need for additional reserves is subsequently accepted during the period prior to adoption of the Kent MWDF Core Strategy or Mineral Sites Development Plan Document (DPD), the chalk reserves between 30m and 19m AOD would be sterilised as the void created above 30m AOD would already have been wholly or largely landfilled. It is also worth noting that the proposed deepening would only provide an additional 110,000m<sup>3</sup> (198,000t) of chalk. This is not significant and would have no real significance for any decisions required during preparation of the Kent MWDF. I am also mindful that need is not an overriding constraint, although it is significant if a proposal gives rise to material harm, and that the draft NPPF emphasises the need to consider the economic benefits of development in support of sustainable growth and states that significant weight should be given to the benefits of mineral extraction (including the economy). In this context it is worth noting that Pinden Limited has 65 employees.
55. In terms of hazardous waste (asbestos) landfill, the applicant has provided details of waste deposited since September 2007. It states that the average rate of deposition between 2007 and 2011 was 74,200m<sup>3</sup> per year. In respect of the northern extension, it states that 85,000m<sup>3</sup> of waste was deposited in phase 4 between 2 August 2010 and 7 May 2011 (equivalent to a rate of 110,500m<sup>3</sup> per year). It has estimated that

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483,000m<sup>3</sup> of voidspace remains in phases 4 to 7 (inclusive). The proposal would result in there being a total voidspace of 581,000m<sup>3</sup>. The applicant agrees with the acknowledged need for additional hazardous waste landfill set out in the Kent MWDF Core Strategy: Strategy and Policy Directions (May 2011) document and associated technical papers.

56. KCC's Minerals and Waste Policy Planning Manager has referred to the regional significance of Pinden Quarry for the landfilling of asbestos waste and advised that the proposed additional landfill capacity (98,000m<sup>3</sup>) would assist Kent in remaining net self-sufficient in hazardous waste management. I am satisfied that there is a need for additional hazardous waste landfill capacity and that the provision of additional voidspace would accord with the objectives of PPS10 and Policy W15 of the SE Plan. This need also adds weight to the case for allowing the extraction of additional chalk at this time regardless of the merit or otherwise of specifically permitting further chalk reserves at the site.

Potential alternatives

57. The alternatives considered by the applicant are:-

- Continue to work the site in accordance with the existing permission thereby sterilising potential chalk reserves and associated landfill voidspace;
- Deeper extraction (as applied for) to provide additional chalk and landfill voidspace;
- A lateral extension of the quarry (as is being promoted through the Kent MWDF);
- Landraising at the site; and
- Chalk extraction and hazardous waste landfill elsewhere (either together or separately).

It concludes that deeper extraction is the most favourable at this stage as it would provide additional chalk and voidspace without giving rise to any additional environmental impacts.

58. Southfleet Parish Council has objected to the proposals as it considers that there are other more suitable sources of chalk (e.g. Eastern Quarry and Holborough) which have better transport links and trunk road access. However, it should be noted that Eastern Quarry is no longer a working chalk quarry and is being developed for residential use as part of a planning permission granted by Dartford Borough Council. The chalk reserves at Holborough represent the strategic reserves required for the permitted new cement works at that site. The older reserves at Holborough that did not form part of the cement works permission may no longer be worked.
59. Given that the need for additional hazardous waste landfill has been accepted in paragraph 56 above, and subject to the conclusions drawn elsewhere in this report, I am minded to accept that the proposed alternative is preferable. The principle of any

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lateral extension to the site or any of the other alternatives suggested by the applicant will be tested, as necessary, during the preparation and adoption of the Kent MWDF.

Landscape and visual impact

60. Government policy on both minerals and waste seeks to ensure that landscape impacts of development proposals are acceptable. PPS10 states that landscape, design and visual impact are important locational criteria and MPS1 that the character of rural and urban areas should be protected and enhanced by careful planning and design of any proposals for mineral development. Similar requirements are reflected in Policy W14 of the SE Plan. Policy W32 of the Kent WLP requires that proposals incorporate satisfactory operation, restoration and aftercare schemes. Policies CC26 and CC27 of the Kent MLPC&C respectively require minerals proposals to be acceptable in terms of landscaping and include satisfactory working and reclamation schemes. The draft NPPF effectively carries forward the objectives of MPS1 in so far as it relates to the proposals. Although in the Green Belt, the site is not subject to any specific landscape designations. The Green Belt issues are addressed in paragraphs 88 to 90 below.
61. Southfleet Parish Council has objected to the proposals on the grounds that the site is highly visible from Highcross Road and as some of the existing landscape planting has been unsuccessful. It could also be argued that the representations relating to the impact of HGVs entering and leaving the site could be regarded as including visual impact concerns. KCC's landscape consultant is satisfied that the proposals would not give rise to any significantly different effects than those already permitted.
62. The application proposes no significant changes to the existing permitted scheme of working and no changes to the permitted restoration or aftercare. The applicant has demonstrated that the additional extraction and landfilling would not increase the duration of operations beyond those envisaged when the northern extension was determined and has explained that regardless of the outcome of the application, recycling operations are likely to continue until 2042 as provided for by the existing permissions. Whilst the proposals could result in additional time being required to complete the working and restoration of the northern extension area (about two years based on the applicant's estimates), such that the associated landscape screening bunds would remain in place for longer than may be the case if the application were refused, there is no guarantee that this would be so as the operator may decide to manage the release of remaining chalk and voidspace over a longer period.
63. Since the landscape screening bunds and associated landscape (hedgerow) planting around the northern extension area were found to be acceptable as part of planning permission DA/07/1 and have been found to represent an acceptable means of mitigating the landscape and visual impacts associated with working that part of the site, I am satisfied that the proposed deepening would have no significant impact in terms of landscape and visual impact. Notwithstanding this, I accept that some of the

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existing landscape planting has not been entirely successful. These issues are currently addressed by the existing permission such that replacements are required as necessary. The most recent permission at the site (DA/11/893) also provides for additional planting between the site and Green Street Green Road. In the event that permission is granted, it would be necessary for suitable conditions to be included to ensure the effective restoration and aftercare of the site and for the ongoing maintenance of all planting and for replacements as necessary. It would also be desirable to include a new condition specifically requiring additional landscape enhancement measures, particularly along the site frontage with Green Street Green Road. This issue has previously been discussed at the Pinden Liaison meetings and the input of the local parish councils would be desirable before any decisions are made about any such landscape enhancements.

64. The temporary storage of soils on parts of phases 2, 3A and 7 (which are already in place due to an urgent operational need to store the soils stripped from the northern extension area) are not intrusive in the landscape, although the soils on phase 3A are partially visible in some distant views. The visual impact of the soils in phases 2 and 3A is mitigated by the fact that the stockpiles are no higher than the height of the hedgerow immediately to the north and as they will only be in place until required for the restoration of phase 4 (infilling of which is already well advanced). The soil stockpile in phase 7 is not visible from outside the site.
65. Subject to the above conditions, the proposed development would not give rise to any significant adverse landscape and visual impact and would accord with the policies referred to in paragraph 60 above.

Potential pollution and amenity impacts (e.g. water environment, noise, air quality and health impacts)

66. Government policy on both minerals and waste seeks to ensure that potential adverse amenity and health impacts associated with development proposals are minimised. PPS10 makes it clear that modern, appropriately located, well-run and well-regulated, waste management facilities operated in line with current pollution control techniques and standards should pose little risk to human health and that the detailed consideration of a waste management process and the implications (if any) for human health is the responsibility of the pollution control authorities. It further states that: the planning and pollution control regimes should complement rather than duplicate each other; waste planning authorities should concern themselves with implementing the planning strategy in the development plan and not with the control of processes which are a matter for the pollution control authorities; and waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. Although the draft NPPF does not include waste policy, it is worth noting that in considering the potential effects of pollution on health, amenity and the environment, paragraphs 171 and 172 of the draft make it clear that planning authorities should focus on whether the development itself is an acceptable use of

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land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Paragraph 172 also states that planning authorities should assume that these regimes will operate effectively. MPS1 and MPS2 both seek to ensure that mineral proposals are acceptable in terms of amenity and related health impacts.

67. SE Plan Policies NRM9 and NRM10 respectively seek improvements in air quality and measures to reduce noise pollution. Policies NRM1 and NRM2 seek to protect and enhance water resources and quality. Policy W17 states that the suitability of waste management sites should be assessed on the basis of being capable of meeting a range of locally based environmental and amenity criteria. Kent WLP Policy W18 requires planning authorities to be satisfied as to the means of control of noise, dust, odours and other emissions for waste management proposals, particularly in respect of potential impact on neighbouring land uses and amenity. The requirements of this policy are mirrored in Policy CC12 of the Kent MLPC&C. Policy W27 of the Kent WLP and Policy CC20 of the Kent MLPC&C require rights of way or their users' interests to be safeguarded from proposals. Policy W19 of the Kent WLP requires the quality and quantity of surface and groundwater resources to be protected. Policy W20 of the Kent WLP and Policy CC14 of the Kent MLPC&C require land drainage, flood control and land stability to be safeguarded.
68. Southfleet Parish Council has objected on the grounds of noise impacts (referring to complaints from residents of Highcross Road), dust nuisance (as prevailing south westerly winds carry dust over Southfleet) and potential flood risk (due to the clay capping of the landfill). Concerns were also expressed by representatives of Southfleet Parish Council at the Liaison Meeting on 25 October 2011 about noise from reversing alarms. Two local residents have also raised concerns about dust and air quality associated with HGVs and excavations. One of the local residents has also suggested that KCC should undertake a dust and particulates survey and publish the results to local residents to enable them to see the current level of pollution before the application is determined. It has also been alleged that the existing limits on hours of operation have been breached (with lorries entering or leaving the site too early in the morning or in the evening).
69. No objections have been received from Dartford Borough Council and Thames Water and no objections have been received from the Environment Agency and KCC's Noise, Dust and Odour Consultant subject to conditions. The Environment Agency has requested that Cell 3C should be properly capped and connected to appropriate extraction systems to ensure no unauthorised emissions to atmosphere and no foreign objects or liquids are able to enter the waste. KCC's Noise, Dust and Odour Consultant is satisfied that the existing noise and dust conditions (32 to 36) remain appropriate and should be retained on any new permission.
70. Planning permission DA/07/1 (as amended) includes a number of conditions designed to prevent pollution and minimise adverse amenity impacts. In addition to those which

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relate to the duration of operations (condition 2) and the working programme itself which implicitly address various matters (conditions 4 to 18), others explicitly relate to waste types (condition 25), hours of operation (condition 26), noise, dust, litter and odour (conditions 32 to 36), water protection and pollution control (conditions 37 and 38) and landfill gas and leachate control (condition 39).

71. Notwithstanding Southfleet Parish Council's assertion that noise and dust impacts are experienced in Highcross Road, no complaints have been received from residents of Highcross Road since planning permission DA/07/1 was permitted. This is not to say that no noise and dust impacts have been experienced, but it would suggest that the distance from the site and the controls and related mitigation that is already in place have been largely successful in minimising impacts. In the absence of complaints from users of Footpath DR48, I consider that this conclusion could also reasonably apply to impacts on the right of way. Concern about noise from reversing alarms is a common issue at minerals and waste sites. Condition 24 of planning permission DA/07/1 (as amended) states that "measures shall be taken to minimise any adverse noise impacts associated plant and vehicle movements in site including, where possible, the use of less intrusive reversing alarms and routeing arrangements to minimise the need for reversing at the site". As a result of the issue being raised at the recent liaison meeting, the operator has agreed to review its use of reversing alarms and implement quieter devices (subject to health and safety requirements). I am satisfied that the existing condition can require quieter reversing alarms provided these meet health and safety requirements and that the existing condition remains appropriate.
  
72. The existing site screening bunds between the main site and properties on Green Street Green Road and around the northern extension area have also served to minimise impacts on other properties although the two local residents that have commented have expressed concerns about dust impacts. As the local residents that have responded live on Green Street Green Road, it is most likely that the dust impacts they have experienced are from the recycling operations in the main part of the site rather than extraction and infilling operations in the northern extension or as a result of stockpiled soils adjacent to or within that area. Indeed, this is supported by the fact that the Environment Agency investigated a dust complaint in August 2011 that was found to relate to a temporary failure of dust suppression equipment in the recycling area with resultant impacts on properties on Green Street Green Road. On this basis, permitting deeper extraction in phases 5, 6 and 7 and the stockpiling of soils in the proposed locations would be unlikely to have any significant impact in terms of dust for those residents. Notwithstanding the objections, I consider that the existing dust controls should be included in any new permission. Controls are also provided for in the Environmental Permit. I also consider that the existing noise conditions for both day to day operations (condition 32) and temporary operations such as the movement, storage and replacement of soils (condition 33) should be replicated (i.e. 55dB LAeq 1hr (free field) and 70dB LAeq 1hr (free field) respectively). This would accord with the advice of KCC's Noise, Dust and Odour Consultant. The

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Environmental Permit includes requirements in respect of air quality monitoring and I see no reason to require additional monitoring either prior to determination of the current application or as part of any new planning permission. It is worth noting that a monitoring validation exercise by the Environment Agency in 2009 – 2010 designed to reassure local residents that the site was operating properly following implementation of the northern extension permission confirmed no asbestos fibre releases and validated the methodology used by Pinden Limited's air quality consultants.

73. Although Southfleet Parish Council has expressed concerns about potential flooding as a result of the clay capping for the landfill, I note that the Environment Agency has no such concerns. The use of a clay cap is a requirement of the Environmental Permit and would be installed over the entire site as landfilling progresses regardless of the outcome of the current application. With regard to the Environment Agency's comments summarised in paragraph 30 above, it should be noted that permission has already been granted for the capping and use of Cell 3C for the stockpiling of soils (DA/10/1175). I also consider that these are matters for it to address under the Environmental Permit rather than for KCC to address in any planning permission.
74. Although complaints have been received about adherence to the permitted hours of operation, the operator has always denied that it has starting working before 0700 or after 1800 hours Monday to Friday (0700 and 1300 on Saturdays). I have no evidence to dispute the operator's assertion.
75. I am satisfied that all of these conditions remain valid, provide satisfactory controls and should be repeated as part of any new permission (updated as necessary to reflect approvals given and permissions granted since 2008). Provided this is the case, the proposals would accord with the planning policies referred to in paragraphs 66 and 67 above.

Traffic and associated impacts

76. Government guidance on both minerals and waste seeks to ensure that transportation impacts of development proposals are minimised. PPS10 states that the selection of sites for new or enhanced waste management facilities should involve consideration of the capacity of existing and potential transport infrastructure to support the sustainable movement of waste and that the suitability of the road network and the extent to which access would require reliance on local roads are criteria that should be considered. Good transport connections are also encouraged in MPS1 and Policy W17 of the SE Plan. Policy W22 of the Kent WLP and Policy CC24 of the Kent MLPC&C require waste management and minerals proposals to be acceptable in terms of highway safety and capacity and for the developer to provide for any necessary improvements.
77. Southfleet Parish Council has objected to the proposals due to traffic impact and increased traffic movements whilst two local residents have raised concerns about the impact of HGVs.

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78. Dartford Borough Council has no objection subject to the combined total of vehicle movements being limited to no more than 500 per day (250 in/250 out) Monday to Friday and 270 (135 in/135 out) on Saturdays and access being only via the existing site access on Green Street Green Road (with appropriate visibility splays being maintained). KCC Highways and Transportation has no objection on the basis that the existing site access and highway network are acceptable, existing operations have not caused any particular capacity or safety problems and as any additional traffic would have a very minor effect on relevant junctions.
79. As set out elsewhere in this report, the applicant has made it clear that it intends to continue recycling operations on the main part of the site until 2042. These recycling operations can legitimately continue in phases 3D and 8 shown on the phasing drawing included at Appendix 1 (page C2.28) and soil storage can continue on phase 3C until further extraction and/or landfilling takes place in phases 3D and 8. This means that regardless of the outcome of the current application, vehicles will continue to enter and leave the site for a further 30 years. As condition 27 only sets a maximum number of vehicle movements (i.e. a combined total) but does not stipulate what these movements may be used for, the operator could continue to utilise as many of the permitted 500 movements (270 on Saturdays) for recycling operations as it wishes during this period. Whilst there would clearly be a physical limit to the amount of recycling that could take place given the size of the site, which may provide a natural limit on vehicle movements, such that some reduction in actual vehicle movements may occur if permission were refused, it is clear that it would be possible for a significant proportion of this number to continue to be used. The issue is further complicated by the uncertainty over how long it may take to complete extraction and landfilling in phases 4, 5, 6 and 7, as the operator could decide to manage the release of remaining chalk reserves and landfill voidspace over a time of its choosing and as there are no restrictions on the size or type of vehicles that can be used. It is also worth noting that the restriction on vehicle movements applies to cars and vans as well as HGVs. Details obtained from the operator for 10, 11 and 12 October 2011 indicate that about 22.5% of all vehicle movements (i.e. 82 of the 364 total movements per day based on an average of the 3 days) were staff car movements. It should also be noted that details of vehicle movements per day for each month provided to the Liaison Group by the operator have consistently demonstrated compliance with condition 27.
80. Given that KCC Highways and Transportation considers that the site can continue to operate satisfactorily in terms of highway capacity and safety and Dartford Borough Council has no objection to the proposals subject to the existing vehicle limit being retained as part of any new permission, I see no justification for refusing permission on highway grounds or amending the existing restriction on vehicle numbers. I am also satisfied that the proposals would accord with the above planning policies provided that the requirements of conditions 27 and 29 of planning permission DA/07/1 (as amended) are included as part of any new permission.

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Stability

81. As set out in paragraph 67 above, Policy W20 of the Kent WLP and Policy CC14 of the Kent MLPC&C require land stability to be safeguarded.
82. Although Southfleet Parish Council has expressed concerns about the stability of deeper chalk extraction, no objections have been received about land stability by technical consultees. However, Network Rail and High Speed 1 have both requested that those conditions imposed on planning permission DA/07/1 (as amended) designed to protect the stability of the rail line and safeguard its related interests are repeated in any new permission. These include stand-off's between the railway line and excavation areas and quarried slopes not exceeding 1 vertical to 0.6 horizontal. The Environment Agency (responsible for the Environmental Permit) has raised no objections in terms of stability.
83. It should be noted that the older part of Pinden Quarry was previously worked to 19m AOD and that the Health and Safety Executive (Mines and Quarries) imposes detailed requirements designed to ensure the stability of quarries (including the retention of unworked benches as the quarry void is created).
84. I am satisfied that provided all existing conditions relating to stability and the rail line are repeated, the proposals would be acceptable in terms of these interests and would accord with the above policies.

Ecology

85. MPS1 and PPS10 are clear that wildlife and biodiversity interests are important locational criteria when considering minerals and waste proposals. Policy NRM5 of the SE Plan seeks to maintain and enhance the region's biodiversity and actively pursue opportunities to achieve a net gain across the region. Policy CC15 of the Kent MLPC&C and Policy W21 of the Kent WLP require proposals to be acceptable in terms of potential impacts on environmental resources such as Local Wildlife Sites or require appropriate mitigation for protecting such interests. Policy CS14 of the Dartford Core Strategy seeks (amongst other things) to protect local wildlife sites. Securing nature conservation interest is also a Green Belt objective.
86. No objections have been raised in respect of ecological matters.
87. Condition 42 of planning permission DA/07/1 (as amended) and the monitoring and mitigation scheme approved pursuant thereto specifically seek to ensure that the Longfield Local Wildlife Site is protected from dust impacts associated with soil stripping, handling and replacement and landfill operations. Subject to the requirements of condition 42 and the approved scheme being retained as part of any new permission, together with those which require the restoration and aftercare of the

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site, I am satisfied that there would be no adverse impact in terms of ecology / biodiversity and that the proposals would accord with the above planning policies.

Green Belt

88. PPG2 states that there is a general presumption against inappropriate development in the Green Belt and that such development should not be approved except in very special circumstances. However, it goes on to say that minerals can only be worked where they are found, their extraction is a temporary activity and extraction need not be inappropriate development and need not conflict with the purposes of including land in Green Belts provided that high environmental standards are maintained and that the site is well restored. Paragraph 145 of the draft NPPF effectively carries this forward and states that mineral extraction is not inappropriate in the Green Belt provided it preserves openness and does not conflict with the purposes of including land in such areas. Policy CS13 of the Dartford Core Strategy seeks to resist inappropriate development in the Green Belt.
89. Southfleet Parish Council has objected to the proposals on Green Belt grounds. No objections have been received from other consultees (including Dartford Borough Council).
90. Whilst the site lies in the Green Belt it is clear from the above policies that provided the proposal incorporates high environmental standards and appropriate restoration this need not be inappropriate development nor preclude development. This position was accepted when application DA/07/1 was permitted. As there would be no change to the proposed restoration scheme and the deepening of phases 5, 6 and 7 would have no impact in Green Belt terms other than the possibility that the area may not be worked and restored as quickly as would otherwise be the case (albeit that this would still be more rapidly than was envisaged when DA/07/1 was determined), I see no reason to come to a different conclusion in this case and I see no reason to refuse the application on Green Belt grounds subject to the imposition of various conditions that carry forward those imposed as part of DA/07/1 (e.g. duration, scheme of working, removal of permitted development rights, hours of operation, lighting, landscape, restoration and aftercare).

Other issues

91. Southfleet Parish Council has raised a number of other issues that are not already addressed above. I address each in turn below.
92. Impact on topsoil quality (due to storage arrangements): Although the proposed soil stockpile areas are in different locations than previously permitted, no changes are proposed to the storage arrangements themselves. Conditions 43 to 46 (inclusive) of planning permission DA/07/1 (as amended) and the scheme approved pursuant to condition 43 deal with all aspects of soil handling and storage apart from locations

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(e.g. handling methodology, storage heights and retention for use in restoration). These requirements remain appropriate and should be included on any new permission.

93. Proximity to Listed Buildings (at Highcross Road): There are no listed buildings within 250 metres of the site. The proposed development would have no greater impact on any listed buildings than was the case when application DA/07/1 was determined and I am satisfied that the proposals would have no significant impact on the setting of any listed building.
94. Duration of operations (no longer a “swap”): Although the northern extension area may not be worked and restored as quickly as would be the case if the proposed deepening of phases 5, 6 and 7 were not permitted, it is clear from supporting information provided with the application that this is likely to be done more rapidly than was envisaged when DA/07/1 was determined. It is also clear that there is no means of requiring the northern extension area to be worked within any particular time period provided the entire site is restored prior to 21 February 2042 and that the applicant is likely to continue recycling operations until just before this date. On this basis, and as the additional chalk and landfill voidspace is relatively small, I am satisfied that the potential extended duration of operations is acceptable. Although the proposals no longer represent the exchange of an equivalent working area (“swap”) as was the case with DA/07/1, each application must be treated on its merits. For the reasons outlined elsewhere in this report, I consider the proposals to be acceptable.
95. Geographical location of the site (circled by villages, settlements and other properties): The impact of the proposed development on residential and other properties in the area is addressed in the above sections on landscape and visual impact, potential pollution and amenity impacts and traffic and associated impacts and has been found to be acceptable.
96. Dartford Borough Council Core Strategy does not support expansion of Pinden: Since the Dartford LDF does not address minerals and waste, there is no reason why it should do so. Indeed, all minerals and waste matters will be addressed in the Kent MWDF.
97. Kent MWDF only at consultation stage so its content on hazardous waste should not be considered a factor in support of the proposals: I have accepted in paragraphs 24 and 25 above that the emerging Kent MWDF Core Strategy carries little weight as a material planning consideration and that the sites proposed by operators and landowners for inclusion in the Kent MWDF Sites DPDs carry no weight. However, when considered alongside Policy W15 of the SE Plan and both the existing and emerging Waste Strategy for England, information contained in the emerging Kent MWDF evidence base is relevant. The need for hazardous waste is addressed in paragraphs 50, 55 and 56 above.

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98. Although Longfield and New Barn Parish Council has objected to the application, it has simply stated that this is because “*it contravenes the agreement of previous applications*”. In the absence of elaboration, I consider that it is reasonable to assume that its concerns are addressed elsewhere in this report.
99. The proposed variations to conditions 5 and 6 of planning permission DA/07/1 (as amended) would simply enable future amendments to the overall scheme of working to be approved by the County Planning Authority rather than require the submission of a formal planning application as is currently the case. In the case of the amendments made since planning permission DA/07/1 was granted in 2008 (i.e. DA/08/72 and DA/10/1175), these have all been relatively minor such that they could reasonably have been dealt with in the way now proposed. Indeed, the proposed mechanism is generally used for the majority of minerals and waste sites elsewhere in Kent. For these reasons, and as KCC would still have the ability to refuse future proposals of this nature if they are deemed inappropriate or require a formal application to be submitted if the proposed amendment related to any fundamental change to the permitted development, I see no reason not to vary conditions 5 and 6 as proposed.

**Conclusion**

100. Notwithstanding the applicant’s assertion that new chalk reserves should be permitted, and the information it has submitted in support of this, I do not accept that there is a need for additional chalk reserves to be released at this time. However, in the absence of material harm this is not an overriding constraint to the proposed development. I do accept that there is a need for additional hazardous waste landfill capacity and that its provision would accord with national and regional planning policy. For the reasons set out in paragraphs 60 to 99 above, I am satisfied that the proposed development would give rise to no significant impact and would accord with the relevant planning policies. Given this, I am also satisfied that the proposed deepening of phases 5, 6 and 7 is preferable to the potential alternatives considered by the applicant. I am also satisfied that the proposals would accord with Circular 11/95 and therefore recommend accordingly.

**Recommendation**

101. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO conditions that:-
- (a) amend the wording of condition 16 of planning permission DA/07/1 (as amended) to increase the permitted depth of extraction in phases 5, 6 and 7 of the northern extension area to 30 metres AOD;
  - (b) amend the wording of conditions 5 and 6 of planning permission DA/07/1 (as amended) to enable future changes to the scheme of working to be approved in writing by the County Planning Authority rather than require a further planning permission to be obtained and reflect approval of the temporary soil stockpiles on phases 2, 3A and 7;

**Item C2**

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- (c) carry forward those conditions attached to planning permission DA/07/1 (as amended), with such modifications as are necessary to reflect more recent permissions and approvals; and
- (d) secure improved / additional landscape planting (particularly along the site frontage with Green Street Green Road).

Case Officer: Jim Wooldridge
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Tel. no. 01622 221060
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Background Documents: see section heading.
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**APPENDIX 1 TO ITEM C2**

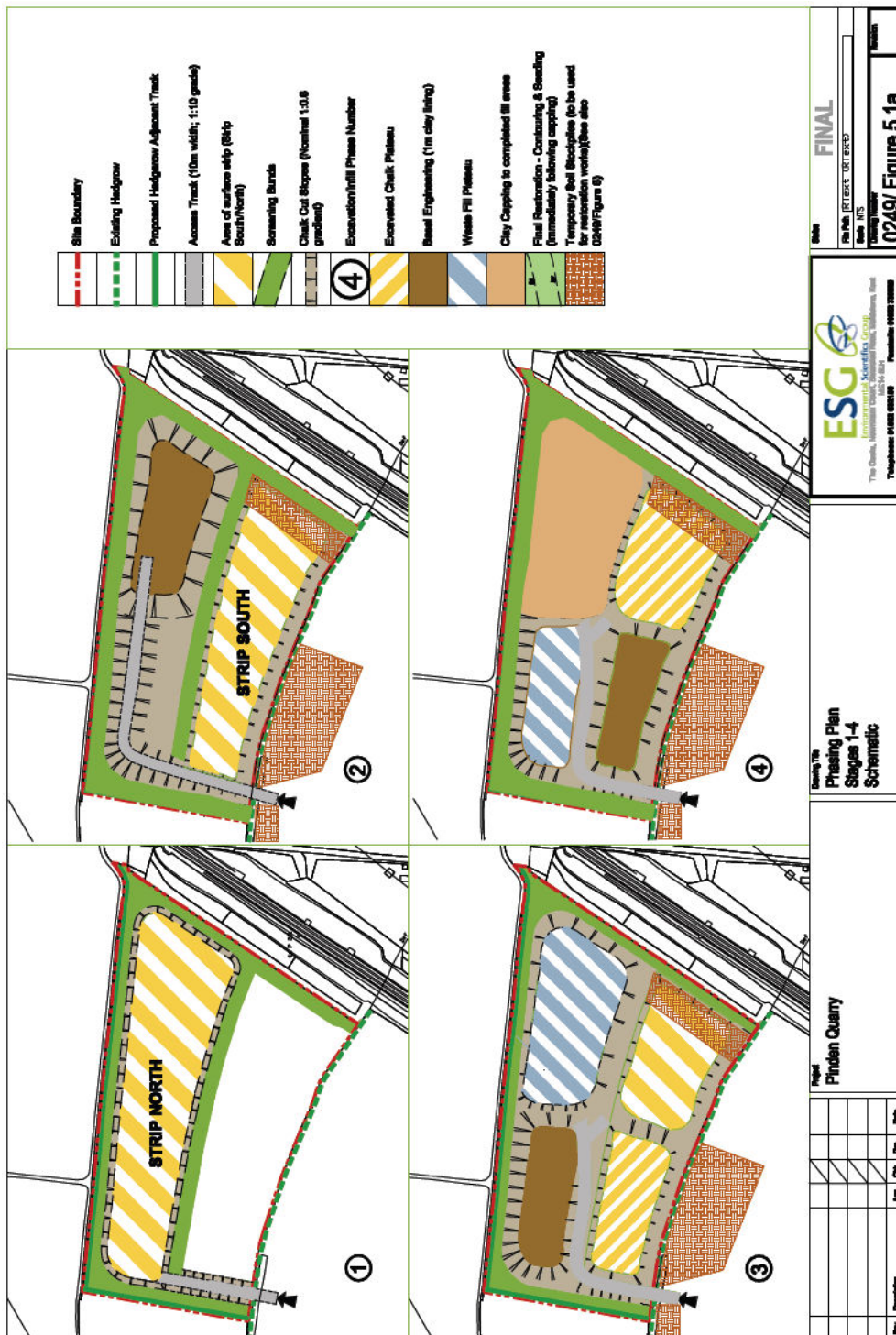
**Restoration and Phasing Plan**



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**APPENDIX 2 TO ITEM C2**

Phasing Plan (Stages 1 – 4 Schematic)

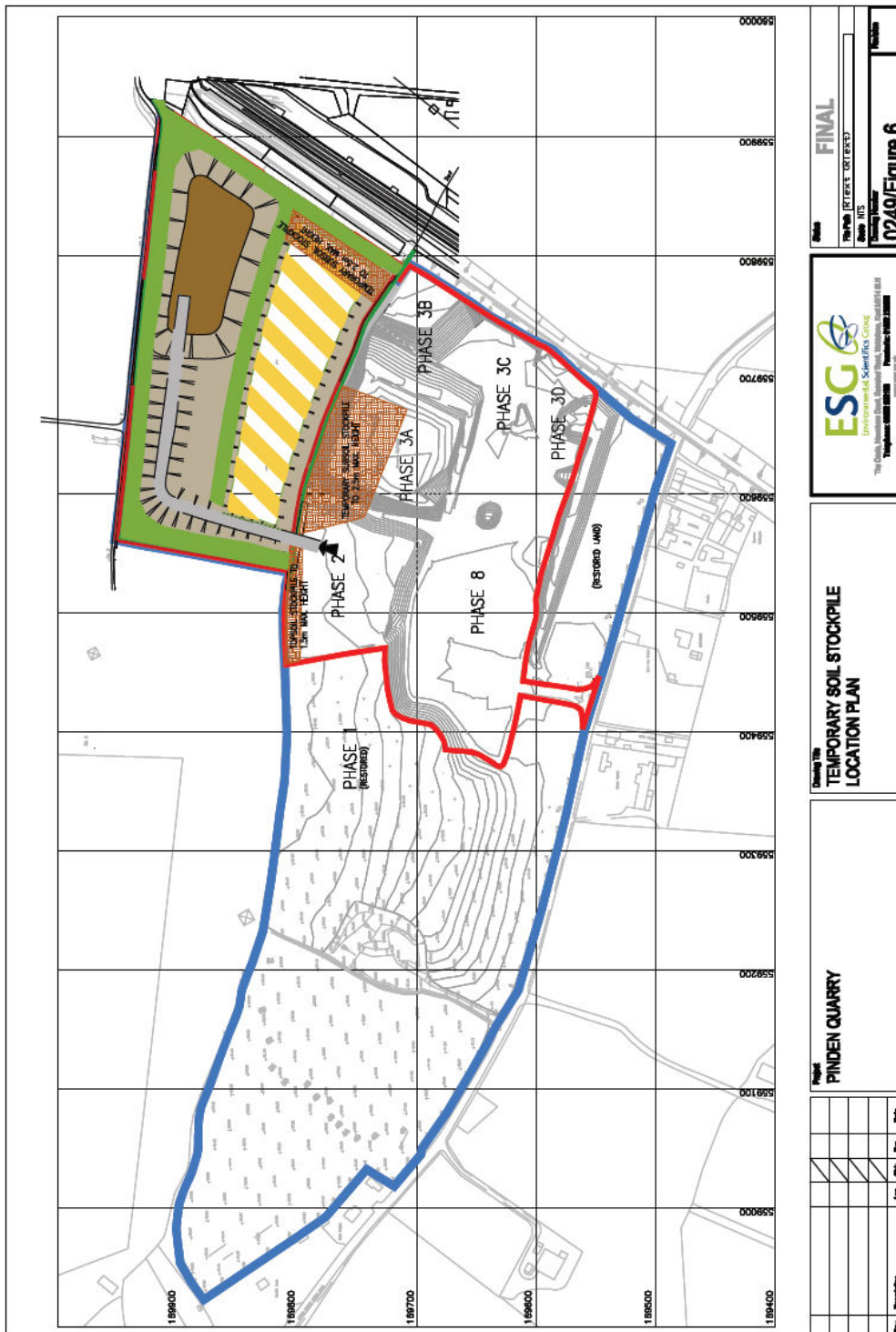




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**APPENDIX 4 TO ITEM C2**

**Temporary Soil Stockpile Location Plan**



Scale: **FINAL**  
 Title: **TEMPORARY SOIL STOCKPILE LOCATION PLAN**  
 Date: 11/05/2011  
 Drawing No: **0249/Figure 6**



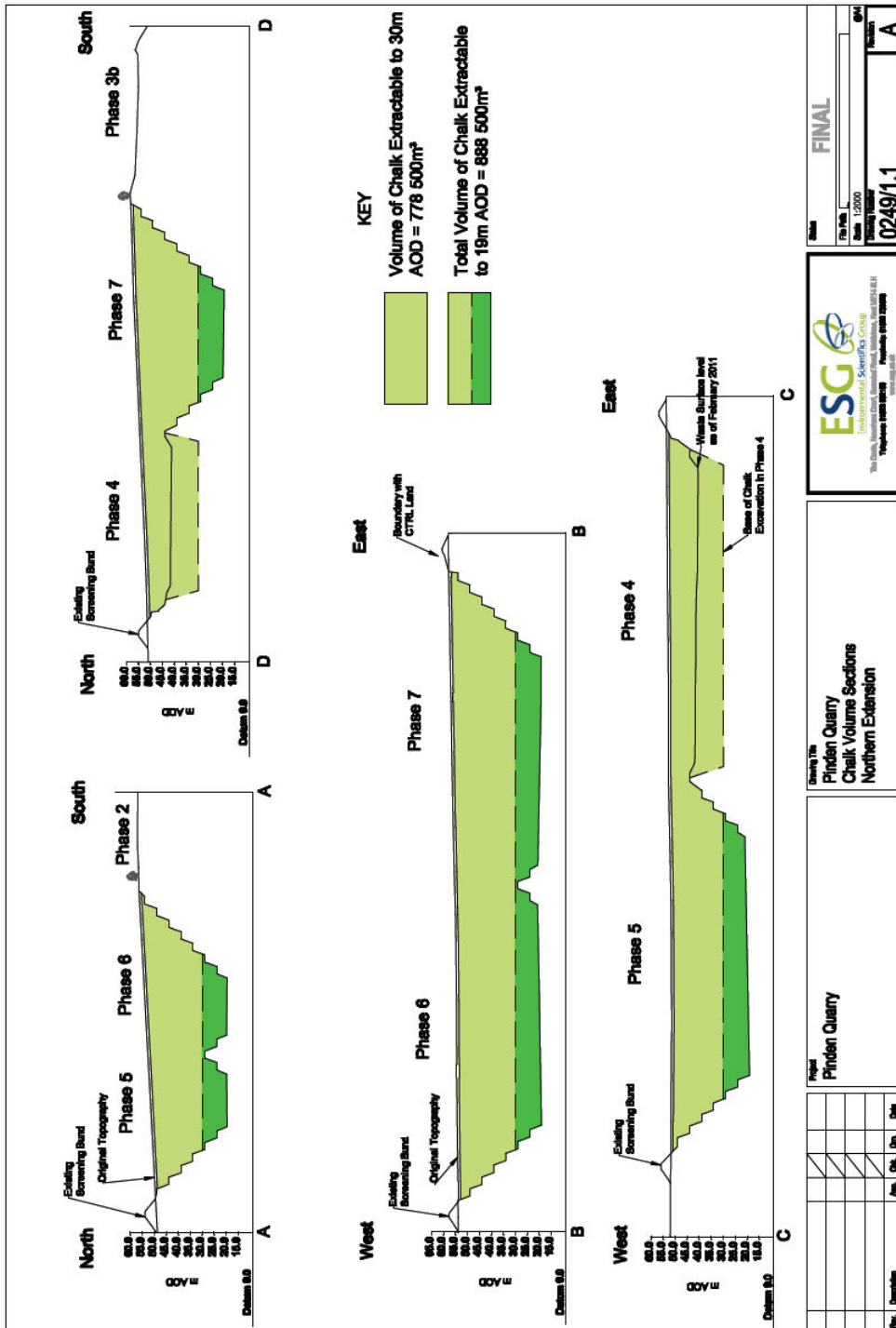
Drawing No: **TEMPORARY SOIL STOCKPILE LOCATION PLAN**

Project: **PINDEN QUARRY**

**Item C2**  
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**APPENDIX 5 TO ITEM C2**

**Chalk Volume Sections (Northern Extension)**



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**APPENDIX 6 TO ITEM C2**

**Chalk Volume Section Locations (Northern Extension)**

