Item C1

Applications for: (i) variation of conditions of permission MA/08/45 regarding revised proposals for Phase 1 slope remediation – MA/14/688 (KCC/MA/0103/2014); (ii) variation of condition 2 (working & restoration scheme) of MA/09/1013/MR108, a request for a temporary relaxation of condition 5 (extent of area outside agricultural use at any one time) and schemes submitted pursuant to conditions 14 (diversion of watercourse), 23 (archaeological work), 25 (compensatory habitat) & 29 (restoration & aftercare) – MA/14/689 (KCC/MA/0099/2014) at Lenham Quarry, Forstal Road, Lenham

A report by Head of Planning Applications Group to Planning Applications Committee on 22 October 2014.

Two applications by Brett Aggregates Limited for:

(i) Application to vary conditions of permission MA/08/45 regarding revised proposals for Phase 1 slope remediation – MA/14/688 (KCC/MA/0103/2014); and

(ii) Application to vary condition 2 (working and restoration scheme) of MA/09/1013/MR108, as well as a request for a temporary relaxation of condition 5 (extent of area outside agricultural use at any one time), accompanied by schemes submitted pursuant to conditions 14 (diversion of watercourse), 23 (archaeological work), 25 (compensatory habitat) & 29 (restoration and aftercare) – MA/14/689 (KCC/MA/0099/2014);

at Lenham Quarry, Forstal Road, Lenham, Kent, ME17 2JB

Recommendation: Permission be granted and approvals be given subject to conditions

Local Member: Mrs J. Whittle Classification: Unrestricted

Site

1. Lenham Quarry, also known as Shepherds Farm Quarry, is located immediately north of Lenham Forstal, Lenham Heath, 1km *(0.62 miles)* south of the Ashford Road (A20) between Lenham and Charing. The established sand quarry has been operational since the early 1990s and provides building sand for asphalt and mortar production. The permitted quarry covers an area of approximately 17 hectares (ha) *(42 acres)* and is subdivided into 4 phases of working (1, 2, 3, 3a). One of the four phases (Phase 3) is still currently in agricultural use and has not yet been directly affected by mineral working. Application (i) relating to revised proposals for Phase 1 slope remediation relates to the majority of the Phase 1 area in the south-western part of the quarry. Application (ii) relates to the entire quarry.

2. The entrance to the quarry is via a dedicated access road off Lenham Forstal Road to the west of the site. The quarry is bounded to the north by fields and the main line railway, to the east by fields and isolated residential and commercial properties, to the south by residential properties fronting onto Lenham Forstal Road and to the west by Lenham Forstal Road and fields. Further residential properties are located in Lenham Forstal to the south west and within a static caravan site (recently permitted) on land to the north west.

3. The M20 and High Speed 1 rail link pass 0.8km *(0.49 miles)* to the south. See attached location plan. The planning permission requires the quarry to be worked in 4 phases with the progressive restoration of each phase at a reduced ground level as working progresses to the next. The quarry plant, site offices, weighbridge, associated infrastructure and sand stockpiles are located in the north-western part of the site within Phase 3a which has been partially worked. The quarry is not easily visible from land immediately adjoining it and is well screened from Lenham Forstal Road to the west and other locations by existing soil bunds and landscape planting. However, it can be seen in long distance views from the Kent Downs Area of Outstanding Natural Beauty (AONB) approximately 2km *(1.24 miles)* to the north.

4. The quarry is identified as an existing site in the Kent Minerals Local Plan: Construction Aggregates (1993) and extensive areas of land to the east and west are identified as Areas of Search for potential future building sand extraction. A relatively small area of land immediately to the east of the quarry (Site 75: Boltons Field, Lenham Heath) is identified as Preferred Option for potential future sand extraction in the Mineral Sites Plan Preferred Options Consultation (May 2012). The quarry is identified on the Maidstone Borough Wide Local Plan (2000) Proposals Map as falling within the open countryside, with the unworked Phase 3 and land to the west (immediately to the south of the railway line) identified as a local Site of Nature Conservation Importance associated with pasture and ponds at Lenham Forstal. There are two listed buildings (Forstal Cottages) to the west of the site on the far side of Lenham Forstal Road. There are no other site specific designations, although more general development plan policies are set out in paragraph (21) below.

Background

5. Planning permission for the winning and working of sand, construction of an access road and restoration to agricultural use of land at Shepherds Farm was granted on appeal in 1989 under reference MA/87/114. The permission required that extraction be completed within 36 years (i.e. by 24 August 2025) and the site restored within a further 2 years. The permission included various conditions controlling operations on site. These included a restriction on the depth of excavation, hours of operation, noise limits, dust prevention measures, the prior approval of a working and restoration scheme and the progressive restoration of the site with no more than 4 hectares (excluding access road, processing plant area, areas of advanced tree planting, embankments and soil storage areas) being out of agricultural use at any one time.. Various approvals were subsequently given by the County Council pursuant to the permission, including the use of a sand washing plant to produce concreting sands. The previous owners (ARC Ltd / Hanson Aggregates) operated the washing plant as well as a dry screening plant at the quarry.

6. The applicant (Brett Aggregates) took ownership of the quarry in 2005. At the time of purchase the previous operator had been in breach of a number of the planning controls. The breaches included the over-extraction of sand from Phase 1 (resulting in the over steepening of the southern slope), exceedance of the permitted maximum depth of working and the installation of silt lagoons in the base of the quarry, all contributed to potential long-term land instability and difficulties in achieving the approved restoration. The planning breaches were reported to the County Council's Regulation Committee. To address these breaches and facilitate the restoration of the site the applicant submitted an application in 2008 for the importation of 237,000 m^3 of inert construction fill material over a three year period to remediate part of the southern slope by backfilling to a profile no steeper than 1v:2h[1], in accordance with the approved restoration scheme. The Planning Applications Committee granted permission for the above development (under reference MA/08/45) on 15 April 2008. At that time the Planning Applications Committee was satisfied that the importation of suitable inert materials would be the most appropriate way of securing the remediation and restoration of Phase 1 of the quarry. Amongst other things, this approach would delay the need for new extraction sites to be brought forward in the County by making prudent (sustainable) use of permitted reserves and assist in protecting other areas of the Kent countryside.

7. Planning permission MA/08/45 was granted subject to conditions, including: operations being completed within 3 years of commencement; no more than 237,000 m^3 of fill material being imported; no more than a combined total of 106 HGV movements per day (53 in / 53 out); development being carried out and monitored in accordance with a detailed design document; controls on hours of operation; noise limits; and dust mitigation measures. The necessary pre-development requirements in respect of detailed slope design and construction and fuel storage were approved pursuant to condition 6 and 7 on 12 August 2009.

8. The Environment Agency (EA) issued a recovery permit covering the landfill operations in July 2009. The applicant implemented the above planning permission in March 2011, with the removal of silt from one of the silt lagoons and its replacement with suitable granular material, together with the formation of a blanket over the remaining lagoons. Since this initial preparation work the applicant has struggled to source or import the required inert granular fill material necessary to safely construct the agreed 1v:2h slope. The applicant indicates that the problems sourcing the appropriate type of infill material are principally due to the drive to recycle waste, with granular fill materials often suitable for use in the production of recycled (secondary) aggregates.

9. Due to the delays in restoring Phase 1 of the quarry, a request to modify the working and restoration scheme for the overall site was made by the Brett Group in June 2006 and subsequently approved in August 2006 (under reference MA/87/114/R4 & R11). This allowed the temporary relaxation of the condition requiring the progressive restoration of the site (for a period of 18 months until 3 February 2008) to allow the applicant to continue mineral working in Phase 2 prior to restoring Phase 1, effectively allowing more than 4 hectares *(9.88 acres)* of the site to be out of agricultural use at any one time for the agreed period.

[1] "1v:2h" refers to the angle of the slope being 1 unit vertically for every 2 units horizontally.

10. The mineral permission (MA/87/114) was subject to a review under the Review of Old Mineral Permissions (ROMP) process in accordance with the Environment Act 1995 and new conditions and schemes of working, restoration and aftercare were permitted on 18 February 2010 (under reference MA/09/1013/MR108). This included similar conditions to those included on MA/87/114, updated as necessary to reflect more recent planning guidance and practices, and additionally reflected the fact that planning permission MA/08/45 had been granted.

11. A further request for a temporary relaxation of the requirement to have no more than 4ha out of agricultural use was approved on 18 May 2010, this time pursuant to condition 5 of planning permission (MA/09/1013/MR108). This further approval allowed the relaxation of condition 5 until 12 May 2013.

12. Whilst the extraction of sand from the site has reduced significantly since 2008, exports took place during 2011 and 2013.

Recent Site History

13. The recent planning history for the above site includes the following:

- MA/09/1013/MR108/R5 – Request for modification to progressive restoration pursuant to condition 5 of planning permission MA/09/1013/MR108 – Details approved on 18 May 2010.

- MA/09/1013/MR108 – Review of Old Mineral Permissions (ROMP) – Permission granted (subject to conditions) on 18 February 2010.

- MA/08/45/R6 & R7 – Details of a design document for the construction of the slope and proposed fuel storage pursuant to conditions (6) and (7) of planning permission MA/08/45 for site remediation works – Details approved on 12 August 2009.

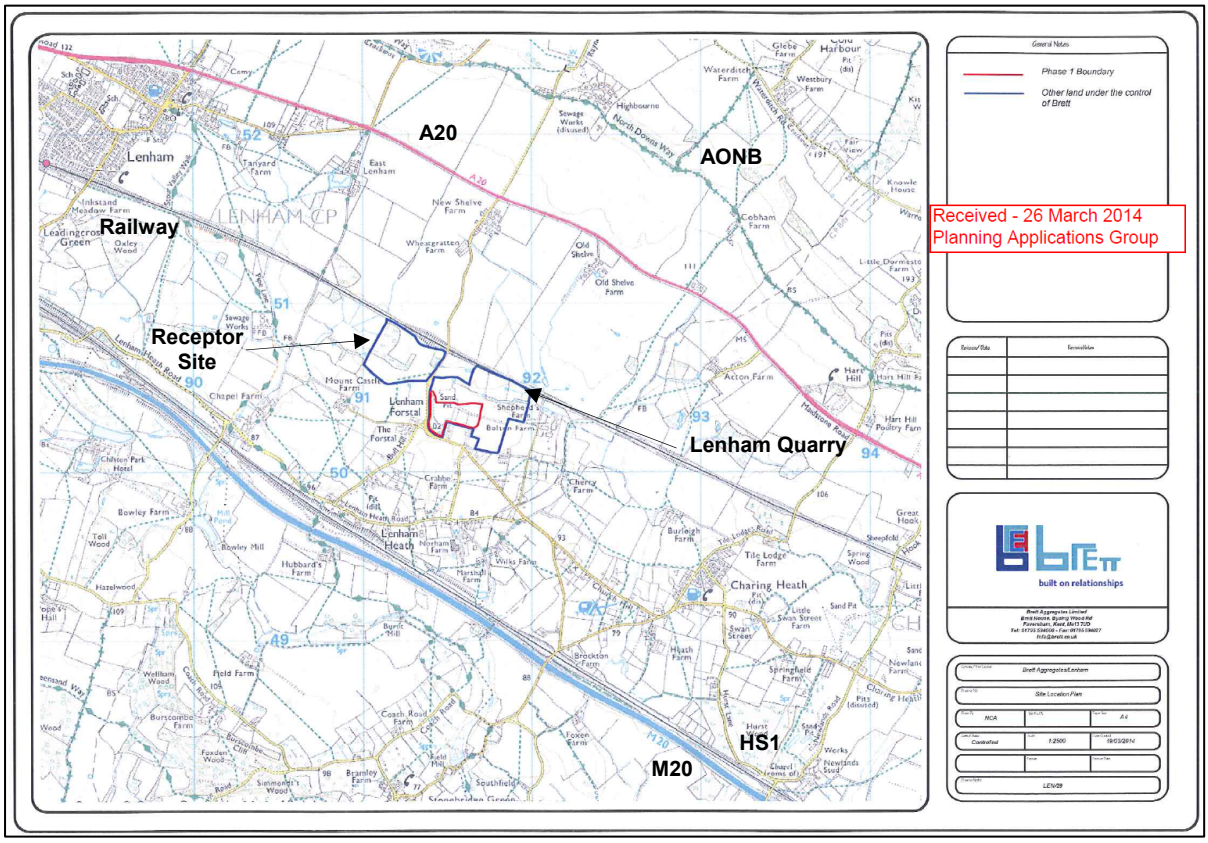
- MA/87/114/R4A & R11A – Request for modifications to working and restoration scheme and progressive restoration pursuant to conditions 4 and 11 of planning permission MA/87/114 – Details approved on 12 May 2008.

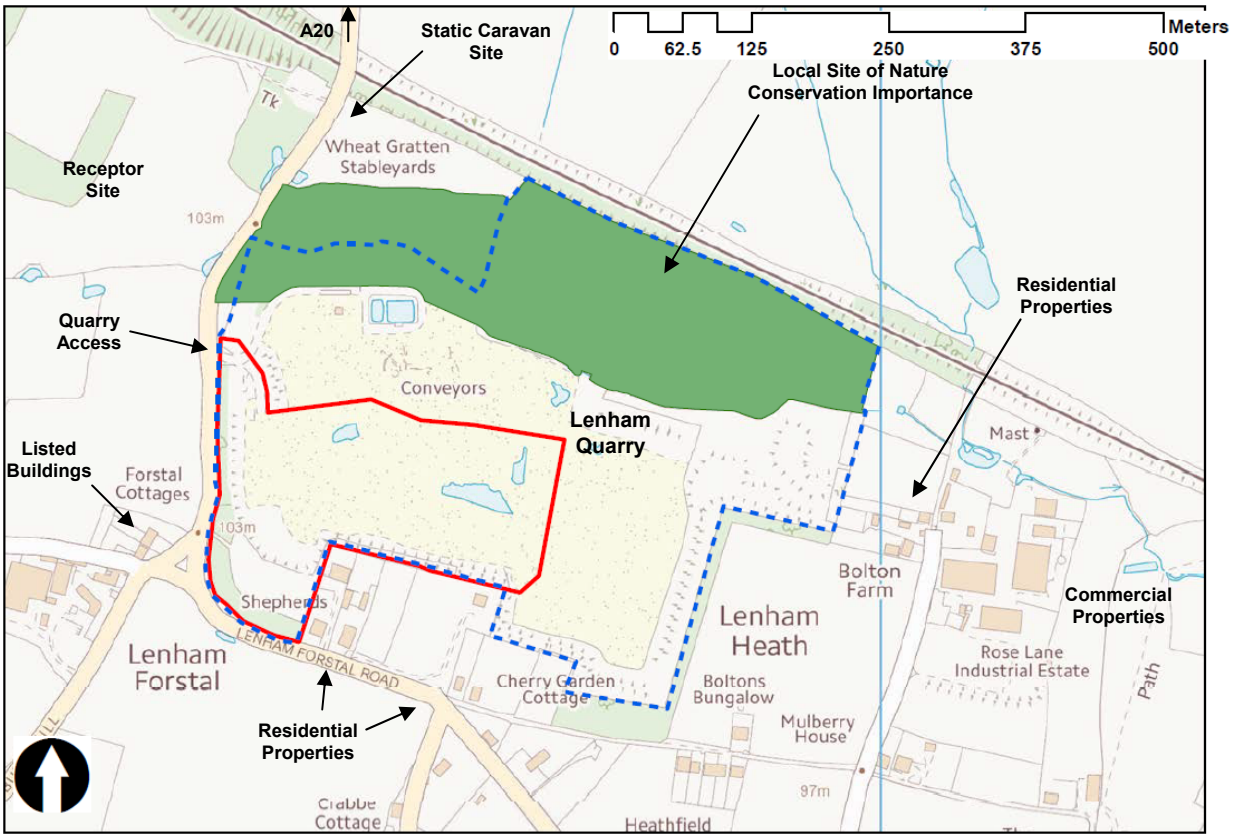
- MA/08/45 – Importation of inert materials over a three year period for site remediation works and associated office and wheel cleaning facilities – Permission granted (subject to conditions) on 17 April 2008.

Item C1

i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

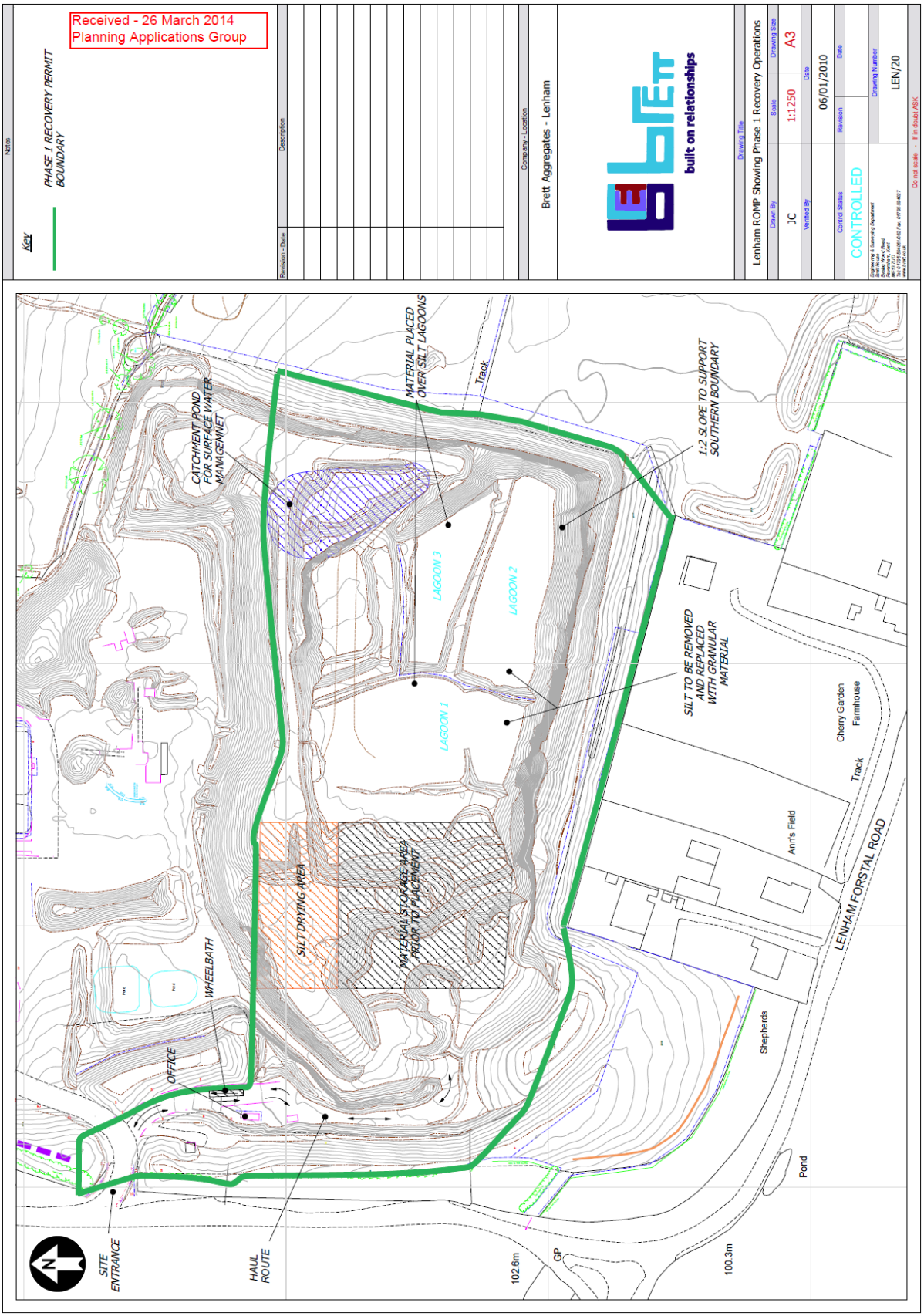
Location Plan





i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

Existing Site Layout within Phase 1 (including over steepened slope to south)



i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

Proposal

(i) Application MA/14/688 for revised proposals for Phase 1 slope remediation.

14. This application seeks to modify conditions 2, 3, 6 and 11 of planning permission MA/08/45 to enable:

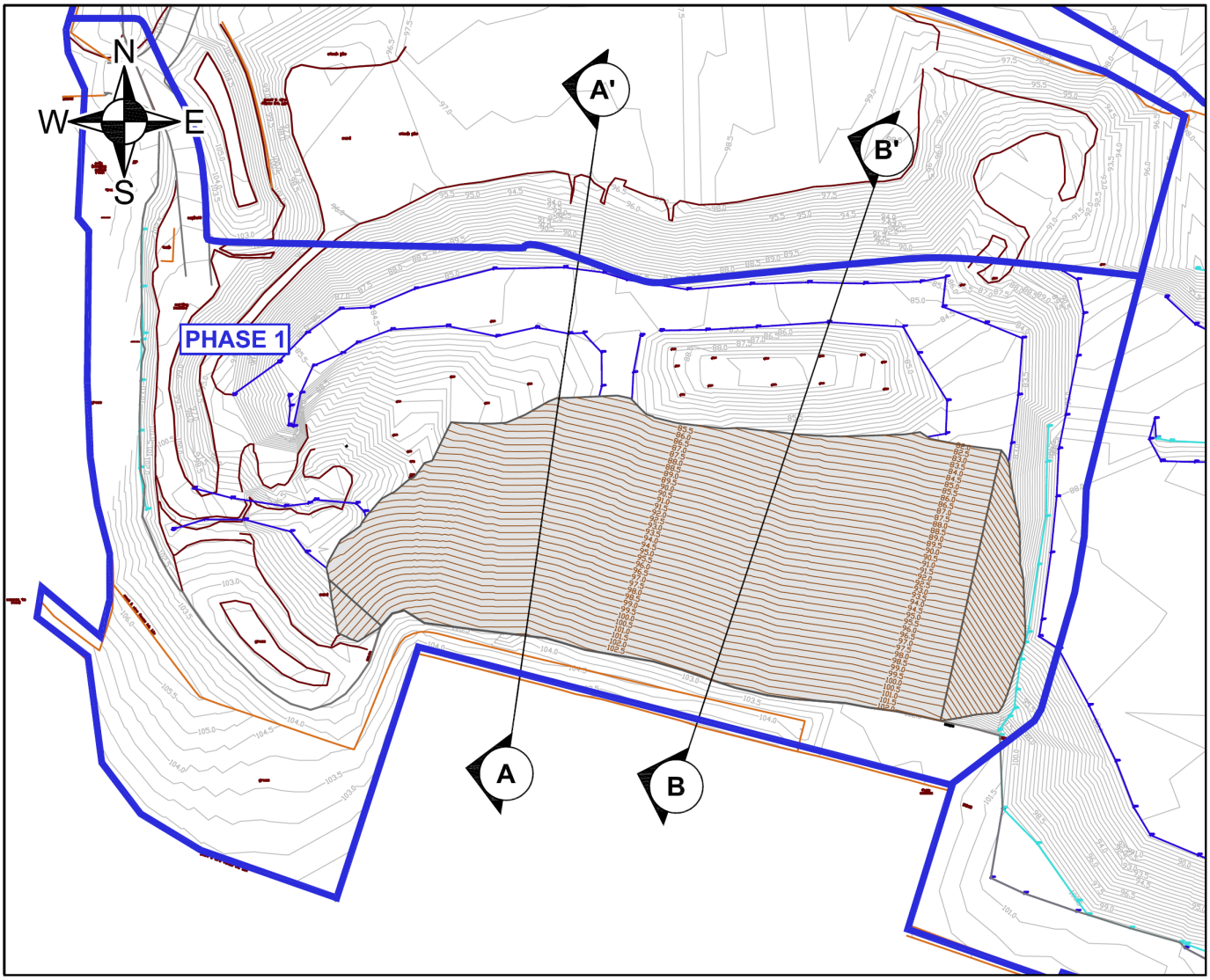
- An extension to the time allowed for the importation and deposit of inert waste material for slope remediation as part of the restoration of Phase 1 of the quarry. The application seeks permission for a further period of three year period from the date on which importation of materials commences. [Condition 2]
- A change to the pre-dominant type of inert fill material which is to be imported for use in the slope remediation work, whilst complying with the requirement that the materials used for slope remediation be restricted to inert waste materials which are the environmental and engineering equivalent of materials found on-site. The application seeks permission to modify the design of the southern slope so that it can be predominantly constructed from imported cohesive materials (clays), as opposed to the granular materials previously permitted. The cohesive materials would be similar in both physical and environmental properties to the indigenous Gault clay found over the northern part of the site. Whilst this type of material was included in the range of inert waste covered by the original permission, it is the balance between the different types of approved inert fill material that would change. Cohesive materials (clays) would be the predominant materials used in the slope remediation work. [Condition 3]
- Constructing the southern slope from imported clays would require a change to the approved slope design. To achieve long-term stability, the restored slope would need to be constructed at a shallower gradient at 1v:4h (1:4 slope), as opposed to the 1v:2h slope originally proposed. Please see proposed the proposed layout drawing and cross-sections included above. [Condition 6]
- Minor changes to the restoration proposals for the quarry as a whole, primarily resulting from the proposed change in slope profile within Phase 1. [Condition 11]

15. The application <u>does not</u> propose any other changes to the controls imposed on permission MA/08/45, including the volume of inert fill materials that would need to be imported to achieve the proposed slope design. The application proposes that all other conditions imposed on MA/08/45 should remain in effect. Materials balance calculations completed by the applicant indicate that the revised approach may require marginally less imported fill material than previous permitted (approximately 232,700m^3). This has been achieved by accepting that the maximum depth of the excavation remains at 81.5m AOD, whereas previous calculations had assumed a depth of 79m AOD would be possible.

16. The application documents received in support of the proposals include a review and update of the technical reports accompanying application MA/08/45, where any matters have changed or been superceded. These reports include a Transport Assessment, Air Quality Assessment, Noise Assessment, Hydrogeology and Hydrological Assessment and Geotechnical Report. The application also includes a further Phase 1 Restoration Stability Assessment that provides technical details of the amended slope design proposed. The report concludes that the use of inert cohesive fill material (like

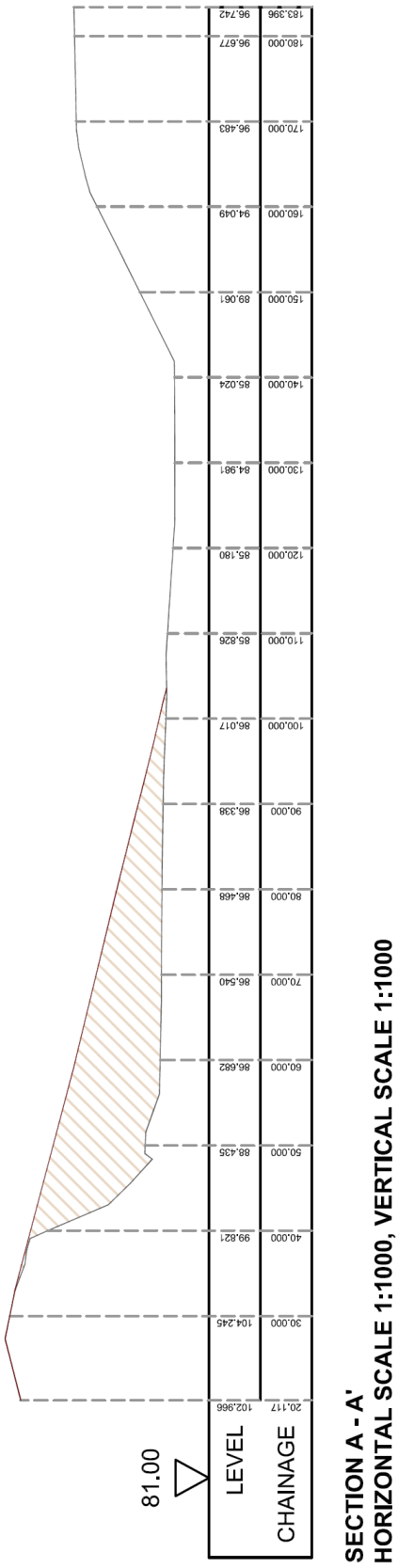
Gault Clay) would require a maximum external gradient of 1v:4h to maintain an acceptable factor of safety.

Layout Plan (Phase 1) - showing the footprint of proposed slope remediation work

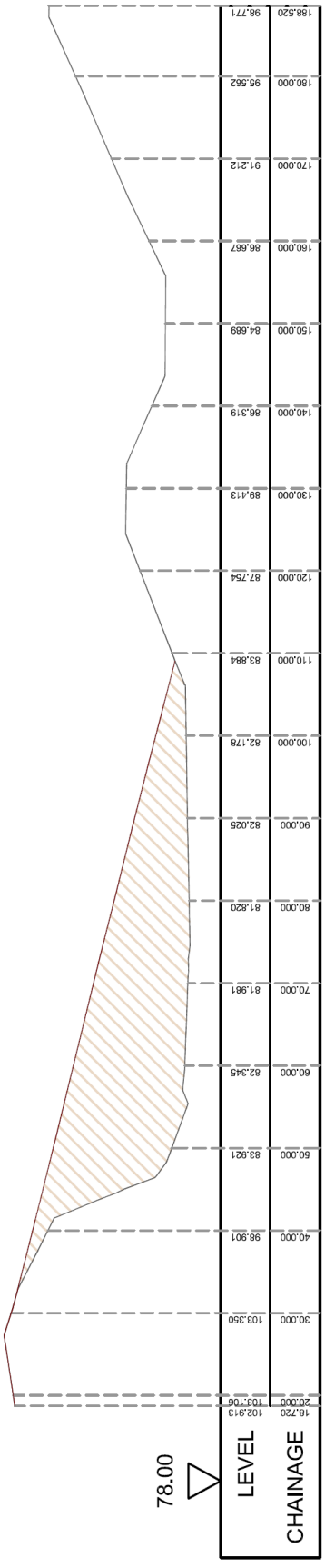


i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

Cross Sections - indicating level changes to achieve revised 1v:4h slope



SECTION A - A'
HORIZONTAL SCALE 1:1000, VERTICAL SCALE 1:1000



SECTION B - B'
HORIZONTAL SCALE 1:1000, VERTICAL SCALE 1:1000

i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

(ii) Application MA/14/689 to vary condition 2 of MA/09/1013/MR108, temporarily relax condition 5 and schemes pursuant to conditions 14, 23, 25 & 29.

17. The second application seeks to vary conditions placed on the ROMP permission (MA/09/1013/MR108), which forms the base consent for the whole quarry site. The proposals seek to modify:

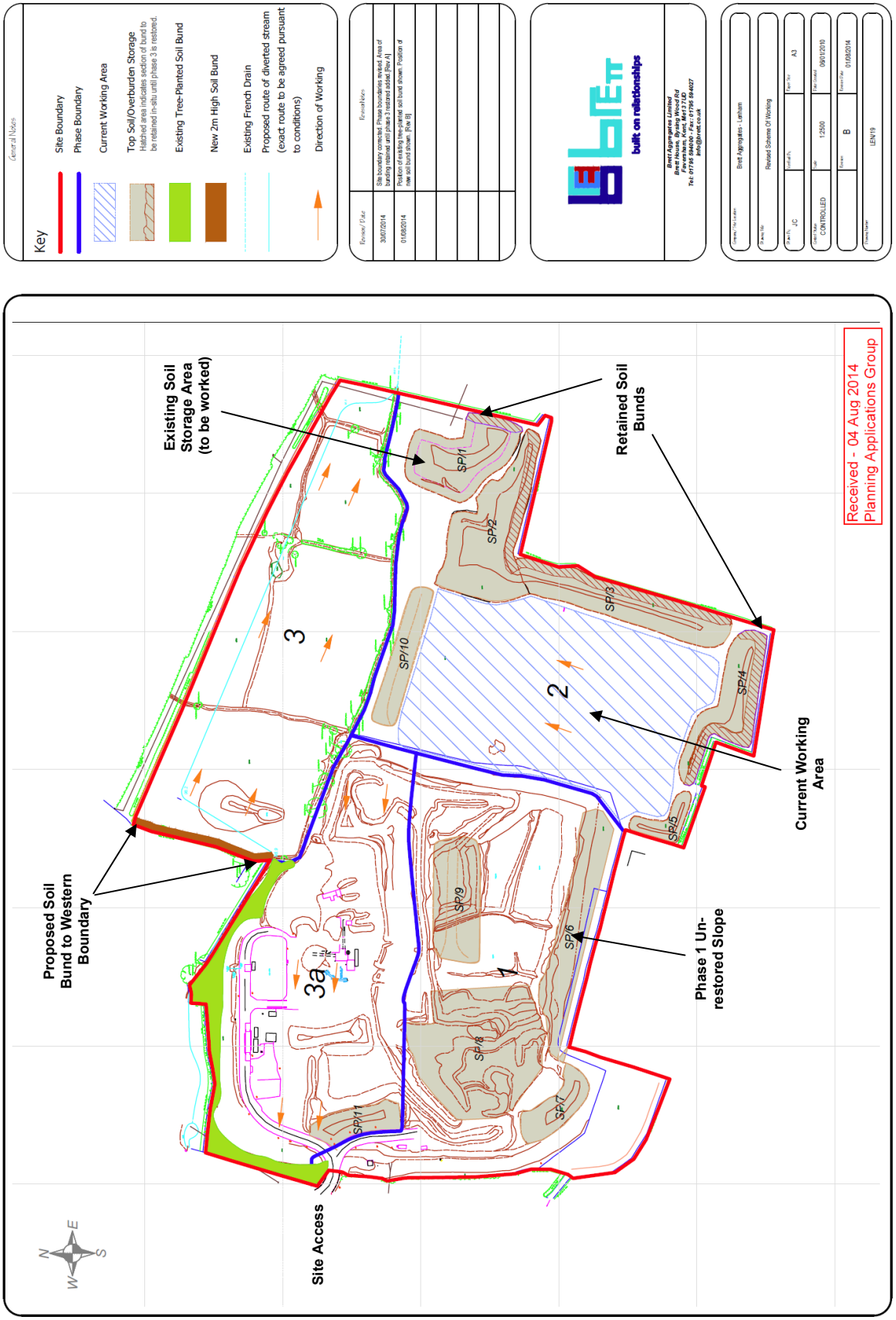
    - Condition 2 (working & restoration scheme) to allow changes to the approved final restoration scheme for the quarry to take account of the changes in slope design proposed within Phase 1 of the quarry by the application (i) above (MA/14/688). See attached drawing on page C1.14.
    - Condition 5 (extent of area outside agricultural use at any one time) to permit the further temporary relaxation of this condition to allow more than 4 hectares *(9.88 acres)* of the site (excluding access road, processing plant, advanced tree planting and soil storage areas) to be outside agricultural use at any one time. The application seeks the proposed relaxation to run simultaneously with the 3 year period requested to complete the remediation and restoration of Phase 1 proposed above. This would enable sand extraction within Phase 2 to continue whilst the Phase 1 remediation works are undertaken.

18. The application is also accompanied by four schemes submitted pursuant to conditions 14 (diversion of watercourse), 23 (archaeological work), 25 (compensatory habitat) and 29 (restoration & aftercare) of planning permission MA/09/1013/MR108. This permission requires that the proposed schemes are approved and implemented (as necessary) prior to operations commencing in Phase 3. These include:

    - A scheme of surface water management, including sustainable drainage and details of the permanent diversion of the watercourse on site. The submission proposes to divert the watercourse to an open gravity fed channel to be constructed as an embankment across part of the northern slope of Phase 3 of the quarry. See attached drawing on page C1.12.
    - A programme of archaeological work.
    - A scheme of compensatory habitat for ponds and grasslands that will be removed during the excavation of Phase 3, including details of the management and monitoring of this process. The proposed scheme includes creation of new habitats within a receptor site north-west of the quarry (on the far side of Lenham Forstal Road). See attached plan on page C1.13. The proposed habitat creation would cover neutral grassland (including translocated turves), enhanced existing agricultural grassland, the enhance of 2 existing ponds and creation of 4 new ponds.
    - A restoration and aftercare scheme, including ongoing monitoring, maintenance and management arrangements.

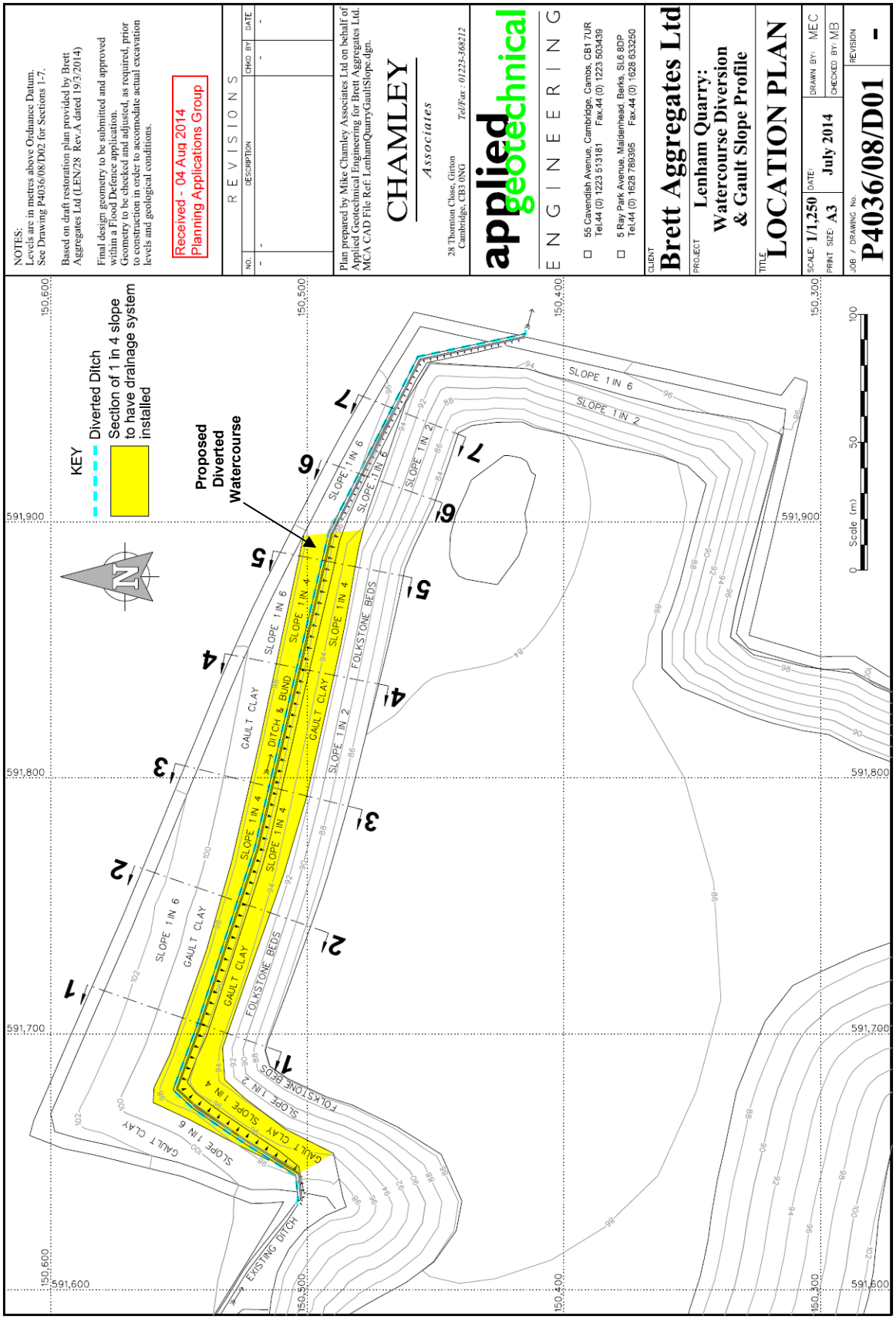
i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

Revised Scheme of Working, including retained and proposed soil bunds



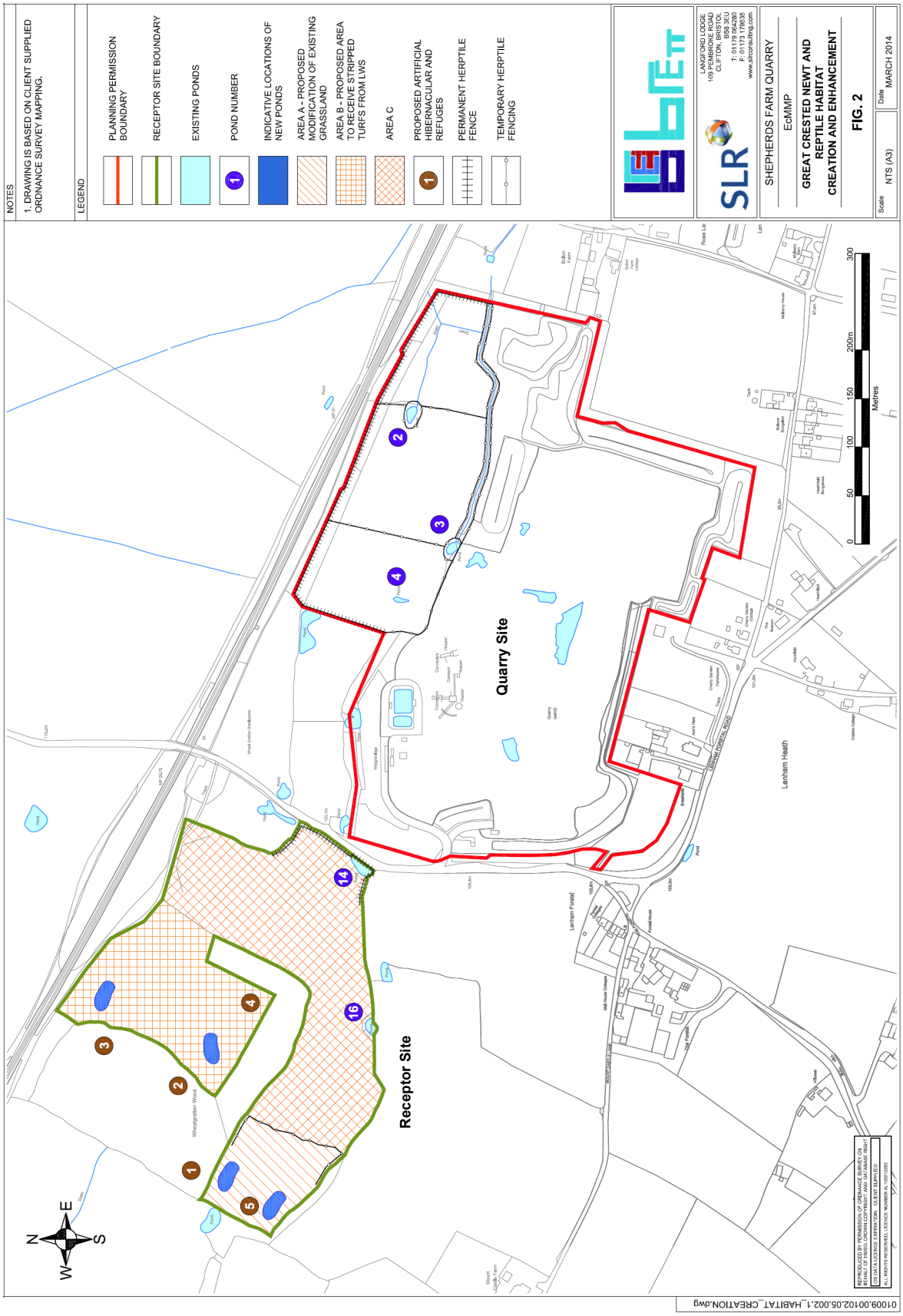
i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

Watercourse Diversion and Gault Slope Profile (Phase 3)



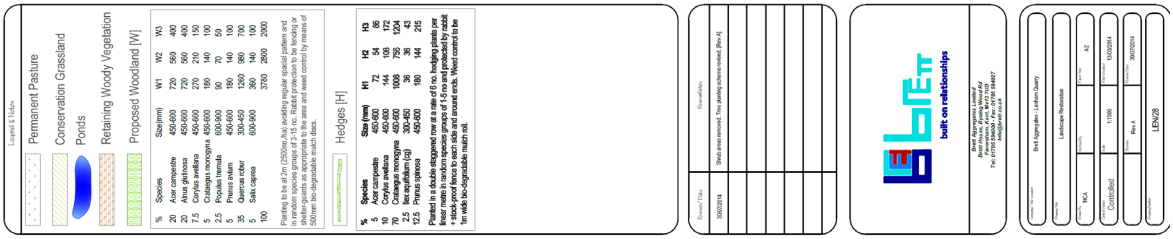
i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

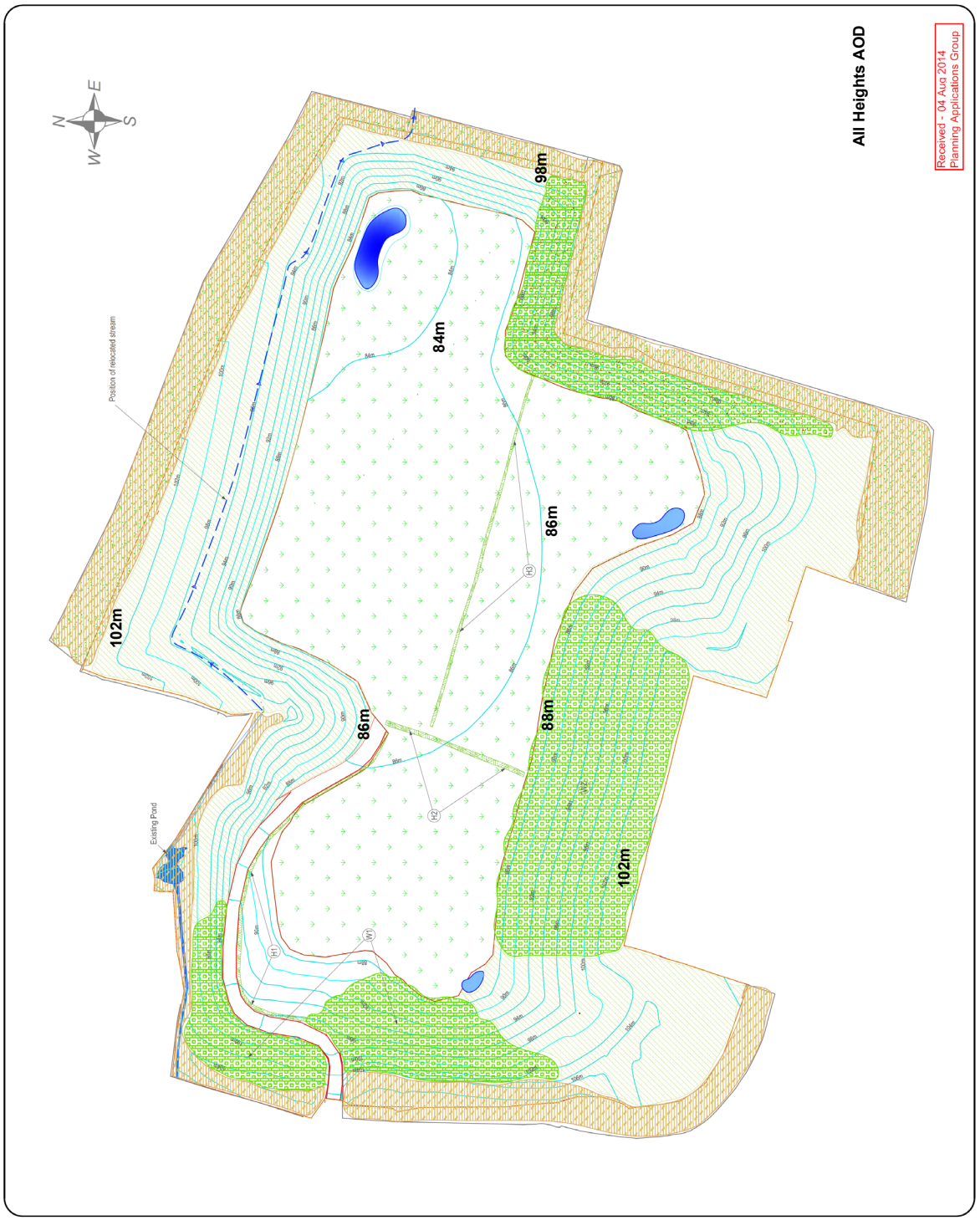
Habitat Creation and Enhancement Plan, including receptor site and new habitat



i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

Final Landscape Restoration Scheme *(for entire quarry)*





i) Revised proposals for Phase 1 slope remediation – MA/14/688; and ii) application to vary condition 2 of MA/09/1013/MR108, temporary relaxation of condition 5 and schemes pursuant to conditions 14, 23, 25 & 29 – MA/14/689 at Lenham Quarry, Lenham.

Further Supporting Information

19. Following formal consultations and the receipt of various comments from statutory consultees and nearby residents, the applicant provided further supporting information including:
    - Confirmation that should permission be granted it would be happy to accept a condition that specifies that restoration of Phase 1 be completed in three years from the grant of permission.
    - An updated Scheme of Working for the quarry and associated drawing (No. LEN/19 Rev B – page C1.11) (Condition 2).
    - A technical note and associated drawings providing further information on the Stream Channel Design and Gault Slope Profile, alongside details of an impermeable lining material (Condition 14).
    - A revised Ecological Mitigation and Management Scheme and additional clarification.
    - An addendum to the Noise Assessment.
    - An updated Restoration and Aftercare Scheme and Landscape Restoration plan.
    - A revised addendum to the Dust Assessment.

20. It should be noted that in addition to providing further supporting information the applicant also offered to meet with third parties to review the application and discuss any concerns relating to the applications or the management of the site. In this instance no one was able to take up the offer.

Planning Policy

21. The Government Policy and Guidance and Development Plan Policies summarised below are particularly relevant to the consideration of this application:

    (i) **National Planning Policy and Guidance** – the most relevant National planning policies and policy guidance are set out within the following documents:

    National Planning Policy Framework (NPPF) (March 2012) sets out the Government's planning policies for England and is a material consideration in the determination of planning applications. The Framework does not change the status of the development plan (included below), which remains the starting point for decision making.

    The NPPF contains a presumption in favour of sustainable development, which includes economic, social and environmental dimensions that should be sought jointly and simultaneously through the planning system. In terms of delivering sustainable development in relation to this development proposal, Chapters 11 (Conserving and enhancing the natural environment), 12 (Conserving and enhancing the historic environment), 13 (Facilitating the sustainable use of minerals) and accompanying Technical Guidance are of particular relevance: The Framework places great weight on the benefits of mineral extraction, including to the economy, and seeks to make the best use of minerals as a finite

natural resource, avoiding needless sterilisation. Chapter 13 seeks to ensure that there are no unacceptable adverse impacts on the natural, historic environment and human health from mineral extraction, ensuring that any unavoidable noise and dust are controlled, mitigated or removed at source, whilst establishing appropriate noise limits at noise sensitive properties. Chapter 13 also seeks provision for the restoration and aftercare of mineral sites, to be carried out at the earliest opportunity to high environmental standards.

The NPPF seeks local planning authorities to look for solutions rather than problems and to approve sustainable development that accords with the development plan, unless material considerations indicate otherwise. Where the development plan is absent, silent or out-of-date, the Framework seeks that permission be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against NPPF policies.

National Planning Policy Guidance (NPPG) (March 2014) including planning for air quality, conserving and enhancing the historic environment, land stability, minerals, natural environment and noise.

Planning Policy Statement (PPS) 10 (Planning for Sustainable Waste Management) sets out Government policy on waste. The key planning objectives set out in PPS10 can be summarised as: providing a framework for delivering sustainable waste management through the movement of waste management up the waste hierarchy; helping implement the national waste strategy and supporting targets that are consistent with obligations required under European legislation; helping to secure the recovery or disposal of waste without endangering human health and without harming the environment; ensuring that communities take more responsibility for their own waste (self-sufficiency) and enabling sufficient and timely provision of waste management facilities to meet the local needs; enabling waste to be managed in one of the nearest appropriate installations (proximity); and recognising the particular locational needs of some types of waste management, together with wider environmental and economic benefits of sustainable waste management, as material considerations that should be given significant weight in determining whether proposals should be given planning permission.

(ii) **Development Plan Policies:**

Kent Waste Local Plan (KWLP) (1998) – the most relevant Policies include: W5 (Land Raising), W6 (Need), W12 (Landfill of Mineral Voids), W18 (Control of Noise, Dust, and Odour), W19 (Groundwater Protection), W20 (Land Stability, Drainage and Flood Control), W21 (Nature Conservation), W22 (Road Traffic and Access), W31 (Landscaping) and W32 (Restoration and Aftercare).

Kent Minerals Local Plan: Construction Aggregates (KMLP) (1993) – Policies include: CA10 (Mineral Consultation Areas), CA16 (Traffic Considerations), CA18 (Noise, Vibration and Dust), CA22 (Landscaping) and CA23 (Working and Reclamation).

Maidstone Borough Wide Local Plan (MLP) (2000) – the most relevant saved

policies include: ENV6 (Landscaping), ENV28 (Countryside), ENV41 (Ponds, Marshlands and other forms of Wetlands).

(iii) **Emerging Policy**

Kent Minerals and Waste Local Plan (MWLP) 2013-30 Submission Document (July 2014) – Draft Policies CSM1 (Sustainable development), CSM2 (Supply of Land-won Minerals in Kent), CSM5 (Land-won Mineral Safeguarding), CSW1 (Sustainable development), CSW2 (Waste hierarchy), CSW12 (Inert Waste Management in Kent), 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 and Importation Infrastructure), DM9 (The water environment), DM10 (Health and amenity), DM11 (Cumulative impact), DM12 (Transportation of minerals and waste), DM17 (Land Stability) and DM18 (Restoration and Aftercare)

Kent Minerals and Waste Development Framework: Minerals Sites Plan Preferred Options Consultation (2012) – identifies land adjacent to the application site at Boltons Field as a potential location for an extension to the quarry (Site 75: Boltons Field, Lenham Heath).

Members will be aware that the pre-submission consultation draft of the Kent Minerals and Waste Local Plan 2013-2030 was endorsed by the full Council on 12 December 2013 for submission to the Secretary of State following a period of consultation. The consultation on the Submission Document took place between 31 July and 12 September 2014 with the Plan due to be submitted at the beginning of November 2014. On the basis that the document has not yet reached submission stage, the draft Plan and its policies carry limited weight as material planning considerations.

Maidstone Borough Local Plan Public Consultation Draft: Regulation 18 Consultation (2014) – Draft Policies: NPPF1 (Presumption in favour of Sustainable Development), SS1 (Spatial Strategy), SP5 (Countryside), DM4 (Principles of good design), DM9 (Non Conforming Uses), DM10 (Historic and Natural Environment) and DM30 (Design Principles in the Countryside).

This document has not yet reached submission stage, as such the draft Plan and its policies carry limited weight as material planning considerations.

Consultations

(i) Application MA/14/688 for revised proposals for Phase 1 slope remediation.

22. *Details of the application documents submitted on 26 March 2014 were sent to all consultees on 16 April 2014. Further supporting information was submitted by the applicant on 11 July 2014 and subsequently made available to key consultees. The following comments have been received.*

23. **Maidstone Borough Council:** raise no objection to the application, with a request that KCC give full consideration to preserving the amenities of local residents.

24. **Lenham Parish Council:** no comments received.

25. **Environment Agency:** raise no objection to the application. The Agency notes that the variation to allow use of imported clay for slope remediation, in place of inert granular fill would be acceptable.

26. **Natural England:** raise no comment on the application.

27. **Kent Wildlife Trust:** no comments received.

28. **CPRE Protect Kent:** no comments received.

29. **Network Rail:** raise no objection, recommends that the applicant contacts Network Rail's Assest Protection team prior to any work commencing on site to discuss details design and construction details where necessary.

30. **Health & Safety Executive:** no comments received.

31. **South East Water:** no comments received.

32. **Kent County Council Highways and Transportation:** raise no objection to the application, subject to conditions on the existing planning permission being re-imposed on any new consent, including conditions 12 (volumes of imported materials to not exceed 237,000m^3), 13 (total of 106 HGV movements (53 in / 53 out)), 14 (records of all HGV movements), 15 (all HGVs to be sheeted), 16 (HGVs to be routed north towards Ashford Road (A20)) and 17 (provision of wheel-washing facilities).

33. **The County Council's Geotechnical Consultants**: raise no objections to the application and comments as follows:

    'The slope stability analysis [included with the application] *sensibly assumes a worse case of imported Gault Clay fill. We accept the parameters used, assumed groundwater conditions and the outcome which shows that a 1v:4h slope would have an adequate factor of safety'.*

    'Fills other than Gault Clay would usually have better geotechnical properties and therefore most inert fills would be acceptable for inclusion in the 1v:4h buttress slope. A minimum undrained shear strength of 50 kPa is specificed which would effectively preclude unsuitable imported materials such as soft alluvium'.

    The Geotechnical Consultant recommends that the existing geotechnical conditions imposed on permission MA/08/45 remain relevant and should be imposed on any new permission, including only inert materials that are the environmental and engineering equivalent of on-site materials to be imported and the submission of annual and final geotechnical verification reports.

34. **The County Council's Noise Consultants**: raise no objection to the application, subject to the inclusion of the noise conditions previously imposed on planning permission MA/08/45, being controls on the hours of use (0700 – 1800 hours Monday

to Friday and 0700 - 1300 hours on Saturdays), no more than a combined total of 106 HGV movements (53 in / 53 out) and noise from operations on site not to exceed 55dB(A) LAeq 1 hour (free field) measured adjacent to any noise sensitive property.

35. **The County Council's Air Quality Consultants:** raise no objection to the application, subject to the inclusion of air quality conditions previously imposed on permission MA/85/45 including volume of inert material imported shall not exceed 237,000m^3, no more than a combined total of 106 HGV movements (53 in / 53 out), all HGVs shall be sheeted, HGV routing north via Ashford Road (A20), provision of wheel-washing facilities proposed and measures to minimise and control the emission of dust as proposed within the application.

36. **The County Council's Sustainable Drainage Engineer:** raises no comments on the application.

37. **The County Council's Landscape Advice Service:** raise no objection to varying the proposals for the Phase 1 slope remediation.

38. **The County Council's Ecological Advice Service**: raise no comments on the application.

(ii) Application MA/14/689 to vary condition 2 of MA/09/1013/MR108, temporarily relax condition 5 and schemes pursuant to conditions 14, 23, 25 & 29.

39. *Details of the application documents submitted on 26 March 2014 were sent to all consultees on 16 April 2014. Supplementary supporting details submitted by the applicant on 11 July 2014, 4 August 2014, 3 September 2014 and 14 September 2014 in response to comments received were subsequently made available. The following comments have been received on the basis of the above details.*

40. **Maidstone Borough Council:** raise no objection to the application.

41. **Lenham Parish Council:** no comments received.

42. **Environment Agency:** raise no objection to the application.

43. **Natural England:** raise no objection to the application.

44. **CPRE Protect Kent:** no comments received.

45. **Kent Wildlife Trust:** raise no objection to the working scheme and positively welcome the general thrust of the revised restoration scheme.

46. **Network Rail:** raise no objection, recommends that the applicant contacts Network Rail's Asset Protection prior to works commencing on site.

47. **Health & Safety Executive:** no comments received.

48. **South East Water:** no comments received.

49. **Kent County Council Highways and Transportation:** raise no objection to the application.

50. **The County Council's Geotechnical Consultants**: raise no concerns about the geotechnical aspects of the application (notably slope stability), subject to the work being carried out in accordance with the revised scheme of working submitted in support of the application.

51. **The County Council's Air Quality Consultants:** confirm no significant effects on air quality are expected at the sensitive receptors with the *proposed* mitigation measures in place.

    Mitigation measures for air quality (dust) must include those described in the revised 'Dust Assessment Addendum'. The location and features of the earth bunds must agree with those shown on drawing 'LEN 19 Rev B – Revised Scheme of Working' (included on page C1.11) and the site operated in accordance with the 'Revised Scheme of Working' dated July 2014.

52. **The County Council's Noise Consultants**: confirm no significant effects on noise are expected at the sentive receptors with the proposed migitation measures in place.

    The soil bunds *proposed* are expected to work as noise barriers and should be delivered and maintained in accordance with drawing 'LEN 19 Rev B – Revised Scheme of Working'. The construction of the 'new 2m high soil bund' on the western boundary of Phase 3 should be constructed before work commences on this phase of the quarry.

53. **The County Council's Sustainable Drainage Engineer:** raises no concerns, subject to the ordinary watercourse's ability to convey water remaining uninterrupted (whether through the existing or realigned channel)**.**

    Advises that, irrespective of any planning permission granted, any diversion, culvert, weir, dam or like obstruction to the flow of the identified watercourse will require the explicit consent of the Lead Flood Authority (Kent County Council) under the Land Drainage Act 1991, as amended by regulations of the Flood and Water Management Act 2010.

    Confirms that any watercourse within the site's boundary would be classified as an 'ordinary watercourse' and would not be maintained by the Environment Agency or by an Internal Drainage Board. In the absence of any express agreement to the contrary, maintenance of the watercourse will be the responsibility of the riparian owners. Recommends that the applicant contacts the Lead Flood Authority at the earliest convenience to discuss the necessary Flood Defence Consent.

54. **The County Council's Landscape Advice Service:** raise no objection to the application. Confirms that the proposed scheme is satisfactory from a landscape point of view and should provide an improvement to the condition of the landscape character at the site.

55. **The County Council's Ecological Advice Service**: raise no objection to the application.

    To enable KCC to monitor the progress and success of the compensatory measures proposed pursuant to condition 25, the key element within the updated *Ecological Mitigation and Management Plan* is the annual submission of the review of monitoring and management actions taken and necessary management prescriptions for the forthcoming year. The outcomes from this scheme will help to inform decisions in relation to site restoration and mitigation requirements for other schemes.

    Confirms that the *Updated Restoration and Aftercare Scheme* submitted pursuant to condition 29 is considered acceptable from a biodiversity perspective.

56. **The County Council's Archaeological Officer:** raises no objections to the application. Confirms that the Programme of Archaeological Works submitted is acceptable, subject to the work on Phase 3 being carried out in accordance with the specification.

Local Member

57. The local County Member for Maidstone Rural East, Mrs J. Whittle was notified of both applications on 16 April 2014.

Publicity

58. The applications were publicised by the posting of a joint site notice, a joint advertisement in a local newspaper and the individual notification of 51 nearby properties.

Representations

59. At the time of writing this report, 5 letters of representation have been received from 2 nearby properties concerning both applications – (i) MA/14/688 and (ii) MA/14/689. The representations relate to the following issues:-

    - Raises concern about the delays in restoring Phase 1 of the quarry, considers that the restoration should have commenced long ago. Considers a further extension of time to be unjustified and objects to the proposed three years. Considers that the restoration must be commenced again and completed within the shortest possible timeframes, with no further extensions.
    - Considers the applicant's justification for the delays (being the downturn in the economy and the subsequent lack of appropriate fill materials) to be immaterial as the requirement to restore the site is not dependent on the cost implications.
    - Raises concern over potential amenity impacts that could affect nearby properties.
    - Considers that the existing bunds that surround the site must be retained to attempt to mitigate the increased noise and dust levels that would affect nearby properties. Considers that this should be a condition on any planning permission.
    - Raises concern about mistakes within the initial dust assessment submitted by the applicant, notes that the report incorrectly identifies the distances from the working

areas within the quarry to nearby residential properties. *It should be noted that the applicant addressed this point by submitting a revised dust assessment, which has been considered by the County Council's Dust Consultants in making the above recommendations.*

- Raises concern over the overall delays in working the quarry.
- Raises concern that the quarry has been 'mothballed' and has not been actively worked for 2 years. Considers that the evidence made available by the applicant is not adequate to confirm that the site has been worked in this timeframe. On this basis considers that under the requirements of condition (28) of permission MA/09/1013/MR108 restoration of the entire site should be commenced and the quarry closed thereafter.
- Requests that the Planning Authority enforce the conditions of permission MA/09/1013/MR108 without relaxing the condition relating to the timing of operations.
- Requests that the County Planning Authority reaffirms the 25 August 2025 end date for cessation of mineral extraction at the quarry and that no extensions to this date be made available.
- Raises concern that by granting extensions to timeframes to restore the first phase of the quarry this will lead to subsequent requests for other extensions to the time allowed to work the quarry.
- Strongly objects to the diversion of any streams that pass through the quarry as the watercourses feed a well within a neighbouring property.
- Considers that the watercourses form a natural wetland within the quarry site that should be preserved.
- Raises concern that the applicant is not abiding by the agreed working programme.
- Raises concerns that a plan included with the original Ecological Mitigation and Management Plan incorrectly labels the boundary between Phases 2 and 3. The concern being that a top soil / overburden storage area to the east of Phase 2 (adjacent to Boltons Farm Cottage and Bolton Farmhouse) is retained and not incorporated into a new Phase 3 to be worked.
- Raises concern that due to the quarry not being worked the site is subject to regular trespass, including children, grazing of horses and individuals using firearms and dogs to hunt rabbits. Considers that the site should be patrolled 24/7 from now on.
- Raised concern that Ragwort is being allowed to grow within the quarry site and that as a result seeds are blown into neighbouring paddocks. Notes that Ragwort is a notified plant species that is poisonous to horses and should not be allowed to grow in large quantities. Any self-seeded plants causes concern for the welfare of the animals that use the paddocks and the work required to keep the paddocks free of this plant species.

Discussion

60. Application (i) seeks planning permission to vary conditions of permission MA/08/45 relating to revised proposals for Phase 1 slope remediation (reference MA/14/688). Application (ii) seeks permission to vary condition 2 (working and restoration scheme) of MA/09/1013/MR108 and includes requests for a temporary relaxation of condition 5 (extent of area outside agricultural use at any one time) and the approval of schemes pursuant to conditions 14 (diversion of watercourse), 23 (archaeological work), 25 (compensatory habitat) & 29 (restoration and aftercare) (reference MA/14/689). The

applications are being reported to the Planning Applications Committee as a result of 5 letters of objection received from the occupiers of 2 nearby properties. See paragraph (22) to (56) and (59) for details of all consultee views received.

61. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, the proposals need to be considered in the context of the Development Plan Policies, the National Planning Policy Framework, other Government Policy and any other material planning considerations. In considering this proposal the planning policies outlined in paragraph (21) above are particularly relevant.

62. The key determining considerations in these particular cases can be addressed under the following headings:

(i) Application MA/14/688 for revised proposals for Phase 1 slope remediation.

- geotechnical and slope design considerations;
- extension to the time allowed for the importation and deposit of inert waste material for slope remediation; and
- highway, local amenity and other considerations.

(ii) Application MA/14/689 to vary condition 2 of MA/09/1013/MR108, temporarily relax condition 5 and schemes pursuant to conditions 14, 23, 25 & 29.

- variation of condition 2 (working and restoration scheme);
- temporary relaxation of condition 5 to allow more than 4ha to be out of agricultural use;
- condition 14 (diversion of watercourse);
- condition 23 (archaeological work);
- condition 25 (compensatory habitat);
- condition 29 (restoration and aftercare); and
- other considerations.

(i) Application MA/14/688 for revised proposals for Phase 1 slope remediation.

63. This application seeks to vary an existing planning permission to extend the time allowed to complete the proposed restoration and remediation of Phase 1 of the quarry. The proposals also seek to amend the design of the proposed restored slope to allow the use of a wider range of inert fill materials, whilst still complying with the requirement that they be the environmental and engineering equivalent of other materials found on site. There are no other changes to the planning permission being proposed.

64. The principle of the development is established through permission MA/08/45. In April 2008 the Planning Applications Committee considered that the importation of inert material to site was the most sustainable way of securing the satisfactory restoration of Phase 1 of the quarry without sterilising part of the permitted mineral reserve. At the time the Committee were satisfied that the impacts of the development could be reasonably mitigated by the conditions imposed. These environmental controls would

remain largely unchanged by the proposals put forward within application (i) MA/14/688.

Geotechnical and slope design considerations

65. Kent Waste Local Plan Policy W20 requires waste proposals demonstrate that they are acceptable in terms of land settlement and stability. The National Planning Policy Guidance (NPPG) confirms that the planning system has an important role in considering land stability by minimising the risk and effects of land stability on property, infrastructure and the public and by bring unstable land, wherever possible, back into productive use. The site operator also has a general duty under the Quarries Regulations 1999 to ensure the safety of quarry excavations and tips and that once abandoned the quarry is left in a safe condition.

66. Planning permission MA/08/45 allows for the importation of inert construction fill material to remediate and restore Phase 1 of the quarry, including raising the level of the quarry floor and buttressing the southern face of the quarry by backfilling to a slope with a profile of 1v:2h. The existing slope to the south of Phase 1 exists at an average gradient of 1v:1h, with steeper gradients across the mid-slope. Technical advice has confirmed that if left in its current condition the slope would undergo progressive failure and in the longer term it is considered likely to degrade to a point which may compromise the site boundary and impact on adjacent land.

67. To achieve a stable slope at a gradient of 1v:2h with an acceptable factor of safety, the original permission sets out detailed criteria that the proposed fill material would need to meet. In order to provide stable slopes the majority of the imported fill had to be restricted to inert granular material, which has a higher shear strength. Following the implementation of the permission the applicant has not been able to source the granular material necessary to undertake the remediation work as agreed. The applicant indicates that the lack of available appropriate material is likely to be due to the drive to recycle this type of waste, which can be suitable for use in the production of recycled aggregates.

68. Given the difficulties obtaining the necessary materials, the applicant has confirmed that it has carefully considered the options available in order to advance the restoration of Phase 1 of the quarry. The current application seeks permission to modify the approved approach to the remediation so that the slope can be constructed from a wider mix of imported inert fill materials, including cohesive materials (clays). Inert cohesive materials are considered to be similar in both environmental and engineering properties to the indigenous Gault clay found over the northern part of the site and were included in the types of waste that could be imported under the existing permission. However, the current application seeks to change the balance between different types of approved inert fill materials to allow a range of cohesive materials to be used as the predominant material in the construction of the slope. If granular materials can be sourced, they would remain suitable for use in the revised buttress design.

69. A geotechnical report prepared by the applicant confirms that constructing the southern slope from imported clays would require changes to the approved design. A shallower slope would be needed to achieve the long-term stability of the landform. The technical

report recommends that to maintain an acceptable factor of safety whilst using a mix of cohesive materials the proposed slope should be constructed to a maximum external gradient of 1v:4h. The shallower gradient being proposed would result in minor changes to the overall footprint of the southern slope and to the approved scheme of restoration scheme.

70. The application confirms that despite the proposed changes, there would not be a need to import more inert fill materials than is already permitted (237,000m^3). By accepting that the maximum depth of the quarry at 81.5m Above Ordinance Datum (AOD) (as opposed to the previously assumed 79m AOD), the materials balance calculations for the site indicate a deficit of approximately 233,500 m^3, which could result in marginally less inert fill material being needed to constructed the revised slope design.

71. After examining the application and the supporting technical report, the County Council's geotechnical consultant has confirmed that the revised approach to the design of the slope would have an adequate factor of safety. He raises no objections to the application subject to the development being carried out in accordance with the proposed scheme and recommends that the existing geotechnical conditions imposed on permission MA/08/45 remain relevant and should be re-imposed on any new permission. These include only inert materials that are the environmental and engineering equivalent of on-site materials to be imported and the submission of annual and final geotechnical verification reports. It is also noted that the Environment Agency raise no objection to the application, confirming that the use of imported clay in place of inert granular fill materials would be acceptable from an environmental perspective.

72. In terms of the slope design the County Council's Landscape Advice Service has confirmed that it has no concerns over the proposed variation to the slope remediation and that, as part of the overall restoration scheme, it should improve the condition of the landscape character. Given these views and that (in visual terms) the design of the revised landform does not significantly depart from the approved restoration scheme, the proposed approach is considered acceptable and would accord with the relevant development plan policies. I am also satisfied that the development would not impact on the setting of the nearby listed buildings due to the topography and intervening landscaping / tree planting.

73. Taking into consideration the views of consultees, including the recommendations made by the County Council's geotechnical consultant, Landscape Advice Service and the views of the Environment Agency, I am satisfied that the proposed amendments to the slope design and mix of fill materials would be acceptable in terms of geotechnical and land stability considerations and would accord with the relevant development plan policies and government policy and guidance, subject to the conditions recommended above.

Extension to the time allowed for the importation and deposit of inert waste material for slope remediation

74. A key aspect of the application is the proposed variation of condition 2 of MA/08/45 to allow a 3 year extension to the timeframes allowed to complete the restoration of Phase 1 through the importation of inert materials to site.

75. In response to the application one neighbouring resident has raised concern over the delays in restoring Phase 1 of the quarry. The respondent suggests that a further three year extension is unjustified and that the restoration should commence and be completed within the shortest possible timeframe. The resident considers that the applicant's justification for the delays (including the downturn in the economy and the subsequent lack of suitable fill materials) to be immaterial as the requirement to restore the site is not dependent on cost considerations.

76. In response to concerns raised about the time taken to complete the restoration, the applicant has advised that, subject to planning permission, its intention would be to commence the slope remediation as soon as possible, ideally this autumn. The applicant considers that the combination of the improvements in the economy and the broadening of the inert materials which could be used within the slope remediation work, would make sourcing suitable inert fill material much easier. In a change to the application as initially submitted the applicant has indicated that should permission be granted, a condition requiring that the restoration be completed within 3 years of the date of the permission (rather from the date of implementation) would be acceptable.

77. Whilst the delays in completing the restoration of Phase 1 of the quarry are regrettable, I accept the applicant's reasons for this and consider that the development now proposed appears capable of securing the safe and successful restoration of the site at the earliest opportunity. Ideally, this should take place as swiftly as possible. However, I do not consider that it would be appropriate to recommend a reduction in the 3 year timeframe proposed. The application was originally assessed and accepted as a 3 year project and to require that the work be carried out any quicker could potentially result in an increase in the permitted number of vehicle movements each day and the intensity of activity on site such that it could have additional amenity or other impacts. In addition to this there would be no guarantee that the applicant would be able to source the necessary materials in a shorter timeframe. I consider that the proposed period of time is entirely reasonable given the volume of materials and the work involved and would allow the restoration to take place well within the permitted timeframes for the quarry. The applicant has stated a clear intention to commence the work as soon as practicable. I am therefore satisfied that a further 3 year period is acceptable subject to this period being from the date of any new planning permission.

Highway, local amenity and other considerations

78. The NPPF requires mineral planning authorities to ensure that proposals do not have unacceptable adverse effects on the natural or historic environment or on human health, including noise, dust, visual intrusion, traffic and surface and groundwater quality.

79. With the exception of the variation of conditions 2, 3, 6 and 11 to allow the proposed change to predominant fill materials to be used along with the amendments to the overall slope design and the request to increase the time allowed to complete the restoration, this application does not seek to alter any of the other conditions imposed on MA/08/45. The conditions imposed on MA/08/45 include a maximum limit on the account of fill material that can be imported (237,000 m^3), a combined maximum of 106 HGV movements per day (53 in / 53 out), hours of operation (0700 to 1800 hours

Monday to Friday and 0700 to 1300 hours on Saturdays), noise limits (55dB LAeq 1 hour) and dust mitigation measures. The application includes a review of the various technical reports that accompanied application MA/08/45 which conclude that the supporting information remains relevant and valid and that the proposed mitigation continues to form part of the slope remediation proposals.

80. No objections have been received to this application from consultees, including Maidstone Borough Council, the Environment Agency, Kent County Council Highways and Transportation, or the County Council's Noise and Air Quality consultants.

81. The Planning Applications Committee considered the potential environmental and amenity impacts of the proposals in April 2008 and found them to be acceptable subject to the conditions imposed the planning permission (MA/08/45). Given that there would be no changes to the proposed volume of inert fill being imported to site, the number of HGV movements, the type of plant that would be used and no other material changes in so far as they relate to the proposed development, I am content that the proposals could be adequately controlled by the imposition of the existing conditions with no significant adverse impacts on the local environment or local amenity should permission be granted. I am therefore satisfied that the proposed development would be acceptable in highway, environmental and amenity terms and would continue to accord with the relevant development plan and Government policies detailed above.

(ii) Application MA/14/689 to vary condition 2 of MA/09/1013/MR108, temporarily relax condition 5 and schemes pursuant to conditions 14, 23, 25 & 29.

Variation of condition 2 (working and restoration scheme)

82. Condition 2 of permission MA/09/1013/MR108 states that no operations shall take place without the prior approval of the County Planning Authority except in accordance with details of the working and restoration schemes submitted with the minerals review (ROMP) application (MA/09/1013/MR108). The current application seeks to vary condition 2 to allow for the revised scheme of working and restoration that has been submitted with the application pursuant to condition 29. The changes to the restoration scheme are primarily to accommodate the revised slope design proposed within application (i) above. A copy of the revised 'Landscape Restoration' drawing is included above. The revised landscape restoration details are considered fully along with the accompanying 'Updated Restoration and Aftercare Scheme' in paragraphs (110 -113) below.

83. The 'Revised Scheme of Working' (and accompanying drawing LEN/19 included on page C1.11) have been updated at the County Council's request in order to address: details of the soil bunds to be retained / positioned as part of the noise and dust mitigation for Phases 2 and 3; a clearer indication of the timing of the restoration of Phase 1 in relation to the continued working and restoration of Phase 2 and the timing of commencement of operations in Phase 3; and an updated approach to the working of Phase 3 that takes account of the proposed approach to the permanent diversion to the existing water course (considered in paragraphs (96 - 101) below).

84. Members will note that concern has been raised by neighbouring residents regarding various aspects of the working programme and continued operation of the site. These

comments are summarised in paragraph (59) and include concerns over the potential amenity impacts of future phases of extraction, the need to retain the existing soil bunds to the eastern boundary and some confusion in the local community over the extent of the area of permitted for sand extraction.

85. The amenity impacts of the proposed quarry operations were considered in detail and accepted at appeal under the base permission (MA/87/114). The controls put in place under this permission were reviewed and accepted under the ROMP permission (MA/09/1013/MR108). These include conditions that restrict noise to no more than 55dB (A) LAeq at sensitive properties from day to day operations and 70 dB (A) LAeq for up to 8 weeks a year for soil / overburden stripping / placement and acoustic visual bund construction and require dust mitigation measures to prevent nuisance from windblown dust.

86. Whilst the potential noise and dust impacts of the quarry on the vast majority of properties that surround the quarry were satisfactorily considered under the previous noise and dust assessments (including the ROMP application), the more recent development of a static caravan site on land to the north west necessitated additional assessments. The updated noise and dust assessments provided by the applicant conclude that once the surrounding landscape, screening bunds and permitted mitigation measures are taken into account, the residual impact of operations on site would be acceptable at all receptor locations. The Revised Scheme of Working proposes to retain soil bunds (at a height of 3m) along the site boundaries to the south, east and south-east of Phase 2 until such time as all of the sand extraction in Phases 2 and 3 is complete and the soil is needed in the restoration of Phase 3. The proposals also include the provision of a new 2m soil bund to the north-western boundary during the operation of Phase 3. See drawing LEN/19 included on page (C1.11) for further details.

87. The County Council's Noise and Air Quality consultants have considered the addendum's to the noise and dust assessments received with the application and have advised that, subject to the proposed mitigation measures (including the soil bunds) being implemented, there would be no significant effects at the sensitive properties. All existing noise and dust conditions imposed on MA/09/1013/MR103 (that are not proposed to be amended by this application) would need to be re-imposed on any new planning permission.

88. The comments received from nearby residents appear to result, at least in part, from some confusion over the extent of the permitted working area within the quarry site. The concerns received focus on an existing soil storage area located to the east of the quarry. For the avoidance of doubt, whilst this area has been used for the storage of topsoil and overburden stripped from Phases 1 and 2, the land beneath forms part of the working area originally permitted with sand to be extracted as part of Phase 2 of the quarry. The materials stored on this part of the site would be used to restore Phase 1 and parts of Phase 2. As indicated above, the applicant has confirmed that a soil bund 3 m high would be retained at this point until extraction in Phases 2 and 3 are complete. This approach to the working of the quarry was fully assessed under the base permission and ROMP permission and is considered to be acceptable. It also accords with the NPPF, NPPG and the Development Plan.

89. No objections have been raised by Maidstone Borough Council or the Environment Agency. Taking this into account alongside the recommendation of the County Council's Noise and Air Quality Consultant, I am satisfied that the proposed variation to condition 2 to allow the revised schemes of working and restoration would be acceptable, subject to the existing planning conditions relating to noise and dust placed on MA/09/1013/MR108 being re-imposed on any new permission. The details of the proposed restoration scheme are considered in more detail within paragraphs (110 - 113) below.

Temporary relaxation of condition 5 to allow more than 4ha to be out of agricultural use

90. Condition 5 of MA/09/1013/MR108 requires the progressive restoration of the open quarry (*to lower levels*) as work proceeds on site, such that no more than 4 hectares (excluding access road, processing plant area, areas of advanced tree planting and soil storage areas) are out of agricultural use at any one time (without the prior approval of the County Planning Authority).

91. Due to the delays in restoring Phase 1, condition 5 has been relaxed (on a temporary basis) on a number of occasions to afford the applicant an opportunity to progress with extraction of sand from Phase 2 whilst not prejudicing quarry restoration. This has enabled the quarry to continue to be worked and has ensured that an available supply of sand is maintained on site. As a result, Phase 2 has been partially worked (as shown on the 'Revised Scheme of Working' drawing included on page (C1.11)) and more than 4 hectares of the defined quarry area is already open and outside agricultural use. The applicant is seeking a further temporary relaxation of condition 5 for a period of 3 years to allow the revised approach to the restoration of Phase 1 (as proposed within application (i) MA/14/688) to continue in tandem with extraction of sand from Phase 2.

92. Members will note that a number of the concerns raised by local residents relate to delays in the working and restoration of the quarry, including fears that these delays could ultimately result in a request to extend the life of the quarry beyond the final date for the cessation of all extraction within the quarry (i.e. 24 August 2025). One of the representations received requests that the County Planning Authority reaffirms the 25 August 2025 end date for the quarry and that no extensions to this date be made available. I propose that the same end-date be replicated on any new planning permission. Whilst I am not aware that the applicant has any plans to seek to vary this requirement, it should be noted that the planning system would allow such an application to be made and that its acceptability or otherwise would need to be assessed at that time.

93. The residents have also noted that the quarry has been 'mothballed' over the last few years. Their comments suggest that no work has taken place over the last 2 years such that they consider that the requirements of condition (28) of permission MA/09/1013/MR108 should be enforced, the site restored and the quarry closed thereafter. Condition 28 states that if excavation ceases and does not recommence to any substantial extent for a period of 2 years, or such longer period as may be agreed by the County Planning Authority, the workings shall be restored and landscaped within a further period of one year in accordance with the approved restoration scheme. The

applicant has indicated that whilst operations on site have been significantly reduced in recent years, limited quantities of sand have been exported over this timeframe such that the requirements of condition 28 would not come into effect.

94. The intention of condition 28 is to ensure that the County Planning Authority has a mechanism to secure the proper restoration of the site within a reasonable timescale if the site is abandoned or partially worked and not recommenced to any substantial extent. It should be noted that even if condition 28 were to be triggered, and restoration sought by the Planning Authority, the planning permission for extraction of sand from the site would continue to run until 25 August 2025. As such, subject to operations being carried out in accordance with the various conditions, the quarry could be re-opened and worked at any point until this final date. I am satisfied that the applicant has exported some sand (albeit in limited quantities) over the last few years and that it does not intend to abandon the quarry such that it will be worked and restored. On this basis, I do not believe that the requirements of condition 28 are applicable in this instance. The only way the County Planning Authority could prevent further mineral working at the site prior to 2025 would be to formally revoke the permission. This would have significant cost implications for the County Council by way of compensation, as well as unnecessarily sterilise minerals.

95. As indicated above, whilst the delays in restoring Phase 1 are not ideal it is important that this work is secured in the most sustainable way. It is also important that the available permitted mineral resource is safeguarded and extracted in a sustainable manner, thereby helping to maintain the County Council's landbank of construction sand. A decision not to allow the temporary relaxation of condition 5 would delay further work within Phase 2 until Phase 1 is restored. This would, in turn, further delay the working of the overall quarry without actually resulting in additional land being returned to agricultural use. I note that none of the consultees have raised any objection to this proposal and therefore consider that a further temporary relaxation of the condition 5 would be acceptable. However, as with previous approvals I consider that until such time as Phase 1 of the quarry is restored this should be limited to the extraction of material from Phase 2 only, with any work in Phase 3 being limited to preparatory works, works relating to the compensatory habitat and the diversion of watercourse (discussed below).

Condition 14 (diversion of watercourse)

96. A small watercourse flows in an easterly direction across the north-eastern part of the quarry and forms the southern boundary of Phase 3 of the permitted operations. The principle of diverting the watercourse to enable the extraction of sand from Phase 3 whilst maintaining the flow of water across the site to properties to the east has already been established such that this principle should not be revisited if an acceptable solution for its diversion is proposed.

97. Members will note that one of the representations received from a local resident raises an objection to the diversion of any stream that pass through the quarry as the watercourses feed a well within a neighbouring property. The respondent considers that the stream forms a natural wetland within the quarry should be preserved.

98. Condition 14 of permission MA/09/1013/MR108 requires the submission of a detailed scheme of surface water management for approval prior to any work taking place affecting the watercourse. The scheme is required to include details of the temporary diversion of the watercourse during mineral extraction; the permanent location and engineering design of the realigned watercourse upon restoration; and timescales for implementation.

99. Initially it was anticipated that the watercourse would need to be temporarily diverted to enable Phase 3 to be worked, with a permanent diversion at a later stage. After reviewing the available options, the applicant proposes to adjust the working of Phase 3 to prioritise extraction from the northern part of the phase. This approach would enable the construction of the northern slope down to a level where the foundation of the diversion route could be created. Thereby avoiding the need to temporarily divert the watercourse and enabling a permanent diversion channel to be established early in operations. Work to the south could then be undertaken at a later stage once the diversion is complete. To ensure the stability of the landform the proposed approach would adopt a lined open channel created by forming an embankment across the slope constructed so as not to destabilise the underlying clay. The proposed design is supported by drainage calculations and a scheme to manage surface water runoff within the excavation.

100. Neither the Environment Agency nor the County Council's Sustainable Drainage Engineer raise any concerns over the proposals. The Sustainable Drainage Engineer advises that any diversion, culvert, weir, dam or like obstruction to the flow of the identified watercourse would require a separate consent by the Lead Flood Authority (Kent County Council) under the Land Drainage Act 1991, as amended by regulations of the Flood and Water Management Act 2010. In relelation to the geotechnical aspects of the slope design, embankment and channel the County Council's Geotechnical Consultants raise no objections, subject to the work being carried out in accordance with the revised scheme of working submitted in support of the application.

101. Notwithstanding the concerns expressed by the local residents I am satisfied, having regard to the technical consultee comments, that the proposed scheme would be the most sustainable approach to the diversion of the watercourse and would maintain the necessary flow through the site to properties beyond. The proposed design and the revised approach to the working of Phase 3 of the quarry would preclude the need to temporarily divert the watercourse and enable the new channel to be constructed with a gradient that would allow the watercourse to flow without the need for a pump. The open channel would also present an opportunity to create a new habitat on site and ensure that the scheme can be easily maintained. I am therefore content that the submitted details satisfy the requirements of condition 14 and should be approved.

Condition 23 (archaeological work)

102. Prior to any work taking place in Phase 3 of the quarry, condition 23 of planning permission MA/09/1013/MR108 requires the applicant to submit details of a programme of archaeological work for approval. This is required to ensure that any features of archaeological interest within Phase 3 are properly examined and recorded.

103. The application documents received include a written scheme of investigation addressing the above condition. The scheme acknowledges that whilst the site contains no designated heritage assets and no Historic Environment Records, a large number of finds have been made in the vicinity, indicating potential for archaeological remains to be preserved within Phase 3 of the site. Following advice from the County Council's Heritage Conservation Group, the scheme proposes a strip map and sample operation, comprising monitoring of topsoil stripping, identification and recording of a full plan of archaeological remains present and the investigation of a sample of those remains. Following the fieldwork the results would be analysed and reported, with an archive of finds deposited with a suitable museum.

104. Where a heritage asset would be lost the NPPF seeks to ensure that developers record and advance understanding of its significance in a manner proportionate to its importance and the impact. The County Council's Archaeological Officer has considered the programme of work and advised that the proposals are acceptable, subject to work within Phase 3 being carried out in accordance with the specification. The Archaeological Officer has requested that condition 23 be partially discharged to confirm that the programme of works is acceptable and only fully discharged once the extent of post excavation and publication work has been agreed and a full report on the archaeological fieldwork received.

105. On the basis of the above, I am content that the proposed programme of archaeological works satisfies the pre-commencement aspects of condition 23 such that the condition should be partially discharged in accordance with the recommendations above.

Condition 25 (compensatory habitat)

106. Chapter 11 of the NPPF (Conserving and enhancing the natural environment) recognises that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on biodiversity. Policies W21 of the Kent WLP and ENV28 of the Maidstone Local Plan seek to protect existing habitats and biodiversity and, where possible, seek opportunities to incorporate biodiversity enhancements in and around development.

107. Members will note that Phase 3 of the permitted quarry falls within a local Site of Nature Conservation Importance (Local Wildlife Site) associated with pasture and ponds at Lenham Forstal. Condition 25 requires the submission of a scheme of compensatory habitat to create replacement ponds and grassland, including the translocation of species to a receptor site and a management and monitoring plan.

108. Phase 3 includes 3.23ha (7.9 acres) of unimproved neutral grassland, standing water, hedgerows, dry ditch and running water habitats, which support various species, some of which are protected and may require European licences to translocate. The applicant has provided an Ecological Mitigation and Management Plan, which has been revised and amplified in response to consultees' comments, including those received from Natural England, Kent Wildlife Trust and the County Council's Ecological Advice Service. The latest vision to the Plan proposes a detailed mitigation strategy for the habitats that would be lost. The strategy would involve the creation of 6ha (14.8 acres) of compensatory habitat on a receptor site within land to the west, which currently

compromises agricultural grassland. The proposed enhancements to the receptor site would take place prior to the start of excavation of Phase 3 and include the creation of four replacement ponds and the enhancement of two existing ponds, the translocation of neutral grassland turves removed from Phase 3 and the seeding and planting of new species to create replacement grassland and wetland habitats. The proposals include the monitoring of the new habitats for up to 9 years after the translocations are complete to ensure the success of the scheme. In the long-term, further mitigation is proposed through the phased restoration of the entire quarry site.

109. All of the consultees that have helped guide the revisions to the Mitigation and Management Plan have confirmed that they are satisfied with the latest scheme. On the basis of this specialist advice, I content that the proposed approach to condition 25 would be acceptable, would accord with the development plan policies in place and should be approved.

Condition 29 (restoration and aftercare)

110. The NPPF encourages restoration and aftercare of mineral sites at the earliest opportunity and to the highest environmental standards.

111. Condition 29 requires the submission of a restoration and aftercare scheme (including a programme of work, maintenance and monitoring) for approval by the County Planning Authority in accordance with the principles set out by the documentation received in support of permission MA/09/1013/MR108. The application includes a detailed 'Updated Restoration and Aftercare Scheme' that address the requirements of condition 29, whilst varying the scheme slightly from that approved (in principle) under MA/09/1013/MR108, primarily to take account of the above mentioned changes to the restoration of the slopes within Phase 1. This scheme was amended by the applicant during the consideration of the submission to take account of comments made by Kent Wildlife Trust and the County Council's Ecological and Landscape Advice Services. The final restoration scheme being proposed is included on page (C1.14). The scheme includes restoration of the land at a reduced ground level to include agricultural land (permanent pasture), conservation grassland, woodland, new hedgerows, the diverted watercourse and new ponds.

112. In commenting on the revised scheme the County Council's Landscape Advice Service advises that the updated Restoration and Aftercare scheme is thorough and successfully covers the elements required under condition 29, confirming that the proposed scheme is satisfactory from a landscape point of view and should provide an improvement to the condition of the landscape character at the site. The County Council's Ecological Advice Service raises no concerns regarding the submitted scheme and recommend that condition 29 be discharged. Kent Wildlife Trust positively welcomes the general trust of the revised restoration scheme and Maidstone Borough Council raises no concerns.

113. On the strength of positive comments raised by the technical consultees, I am satisfied that the revised restoration and aftercare scheme would continue to ensure that the site is returned to an effective after use, restoring the land to a high environmental standard that would be acceptable in visual terms and would not conflict with the setting of the

nearby listed buildings nor long distance views from the AONB. I am therefore content that the proposed scheme is acceptable and that the condition should be discharged.

Other considerations

114. Members will note that concerns have been raised by local residents regarding the potential misuse of the application site by people trespassing on land within the applicant's control. The concerns received suggest that this has been occurring on a regular basis and is being worsened by the reduction in activity within the quarry over the last few years. Whilst I can appreciate local residents concerns, particularly over the alleged use of firearms, this is a site management issue (and potentially a matter for the police) and is not one that could be controlled through the planning system. This type of issue could occur irrespective of the land use, whether as a quarry or in agricultural use. The applicant has acknowledged the concerns raised and is prepared to address the issue as far as they are able. The applicant has asked that the local community contact it direct with details of previous concerns or in the future if the issues continue to arise. Whilst it will not be possible for the applicant to monitor the site 24 hours a day, I would suggest that if the proposed applications were permitted and activity within the quarry picks up again this would help increase monitoring and may reduce the opportunity for further incidents to take place.

115. I also note the concerns raised by a neighbouring resident regarding the potential growth of Ragwort within the quarry site and the possibility of this plant spreading into neighbouring property, raising concern for the wellbeing of horses grazing adjacent land. The applicant has advised that it employs ground-work contractors to maintain the site during the growing season and that part of its responsibilities are to ensure that no Ragwort and other weeds are allowed to grow uncontrolled on site. Condition 2 of the ROMP permission (MA/09/1013/MR108) includes a requirement that all soil mounds remaining more than 6 months shall be seeded with grass seed mixture and kept weed free. This requirement affords the County Planning Authority an element of control over some areas of the quarry and if it is not satisfied that the maintenance is being carried out it could take action to secure compliance. Those parts of the site that have yet to be worked and remain in agricultural use (Phase 3) fall beyond the scope of the above condition and any maintenance required would be a matter for the applicant / landowner. Notwithstanding the above, having visited the site on several occasions over the past few years (including during the summer months) I can confirm that the site is generally well maintained and appears to be cared for in an appropriate manner. As the applicant is now aware of the local concerns and has measures in place to address this issue, I see no reason to extend the requirement of the current condition.

Conclusion

(i) Application MA/14/688 for revised proposals for Phase 1 slope remediation.

116. I am satisfied that the proposed variation of conditions 2, 3, 6 and 11 of permission MA/08/45 to allow a change to predominant fill materials to be used in the construction of the proposed slope, the subsequent amendments to the overall slope design and the request to increase the time allowed to complete the restoration would accord with the relevant development plan policies. The proposed variations would not significantly change the permitted development and I am content that the proposals would not give

rise to significant adverse impacts and that any impacts that may arise could be satisfactorily mitigated by re-imposing the conditions placed on the base permission.

117. I am also satisfied that the proposed approach continues to represent the most sustainable solution to resolving the breaches in planning control and the restoration of Phase 1 of the quarry without sterilising the permitted primary aggregates on site. I therefore recommend accordingly.

(ii) Application MA/14/689 to vary condition 2 of MA/09/1013/MR108, temporarily relax condition 5 and schemes pursuant to conditions 14, 23, 25 & 29.

118. I am satisfied that the proposals are sustainable and consistent with the relevant development plan and government policies against which the application should be considered and that there are no material planning considerations that indicate the application should be refused.

119. I therefore recommend that permission be granted to vary condition 2 of MA/09/1013/MR108 and that approval be given to the temporary relaxation of condition 5 and to the schemes received pursuant to conditions *14, 23, 25 & 29*.

Recommendation

120. I RECOMMEND that:

(i) Application MA/14/688 for revised proposals for Phase 1 slope remediation.

PERMISSION BE GRANTED in respect of planning application MA/14/688, SUBJECT TO:

- the re-imposition of conditions previously imposed on permission MA/08/45 updated and amended as necessary;
- a variation of condition 2 requiring the importation and deposit of inert waste to cease on or before 3 years from the date of the planning permission; and
- variations to conditions 3, 6 and 11 to permit the revised approach to the slope construction and design;

(ii) Application MA/14/689 to vary condition 2 of MA/09/1013/MR108, temporarily relax condition 5 and schemes pursuant to conditions 14, 23, 25 & 29.

PERMISSION BE GRANTED in respect of planning application MA/14/689, SUBJECT TO:

- the re-imposition of conditions previously imposed on permission MA/09/1013/MR108 updated and amended as necessary;
- a variation to condition 2 permitting the revised working and restoration schemes; and
- a condition ensuring that the soil bunds proposed within the Revised Scheme of Working are maintained on site during excavation of sand from Phases 2 and 3 (as recommended by the County Council's Noise and Air Quality Consultants as

part of the noise and dust attenuation); and

APPROVAL BE GIVEN in respect of

- the temporary relaxation of condition 5 (to allow more than 4ha of the site to be outside agricultural use at one time) for a temporary period of 3 years from the date of the planning permission, subject to operations being limited to the extraction of material from Phase 2 only, with any work in Phase 3 being restricted to preparatory works, works relating to the compensatory habitat and the diversion of watercourse; and
- the schemes submitted pursuant to conditions 14, 23, 25 and 29.

I FURTHER RECOMMEND THAT AN INFORMATIVE be added to the decision notice recommending that the applicant contacts the Lead Flood Authority to discuss and obtain the consent required under the Land Drainage Act 1991, as amended by regulations of the Flood and Water Management Act 2010, to divert the identified watercourse.

Case Officer: James Bickle	Tel. no: 03000 413334

Background Documents: see section heading