

MINERALS AND WASTE DISPOSAL

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

Item C1

Amendment to condition C10 of planning permission SH/99/1003/MR69 to vary the restoration proposals at Denge Pit, Kerton Road, Lydd - SH/08/963

A report by Head of Planning Applications Group to Planning Applications Committee on 26 May 2009.

SH/08/963 - Application by Cemex UK for an amendment to condition C10 of planning permission SH/99/1003/MR69 to vary the restoration proposals shown on drawing number P2/177/8/1 (Final Restoration) at Denge Pit, Kerton Road, Lydd.

Recommendation: Permission be granted subject to conditions.

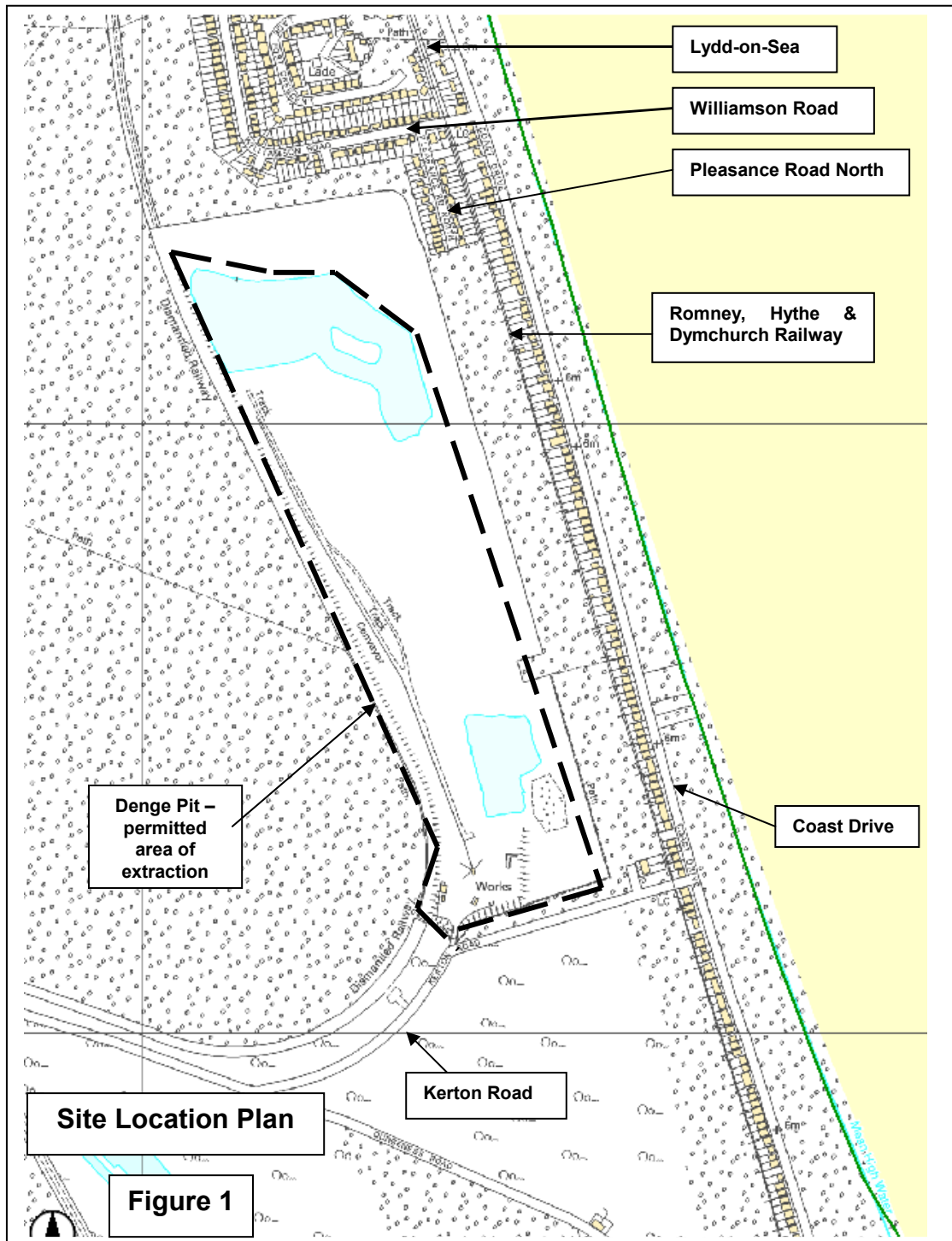
Local Member: Mr F. Wood-Brignall

Unrestricted

Site description and background

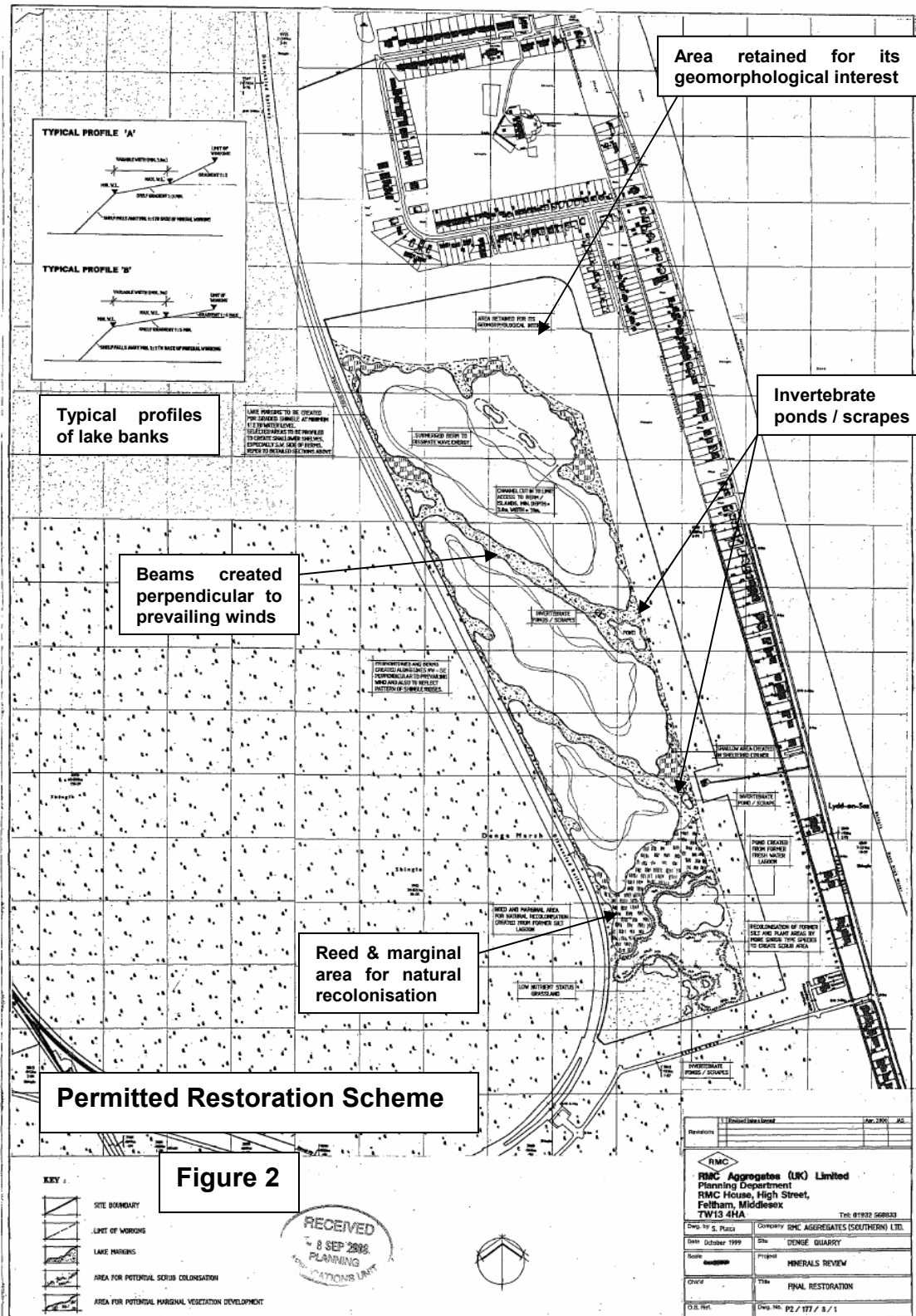
1. Denge Pit benefits from an active planning permission for the winning and working of sand and gravel. The quarry is located approximately 4 km east of Lydd, immediately to the south and west of Lydd-on-Sea, on the eastern edge of Dungeness Peninsula. Dungeness as a whole is considered to be an area of scientific interest due to its coastal geomorphology including its shingle foreshore and associated flora and fauna. Denge Pit site is surrounded by, and in part included within, the Dungeness, Romney Marsh and Rye Bay Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The permitted area of extraction is omitted from the above designations. However, the quarry is identified by the Shepway District Local Plan as being within a Site of Nature Conservation Interest and a Local Landscape Area. Denge Marsh to the west of site boundary is included within a Special Landscape Area. The Kent Minerals Local Plan: Construction Aggregates (1993) Proposals Map identifies the quarry as part of an existing sand and gravel working.
2. Entrance to the quarry is via a dedicated access road off Kerton Road. The quarry site covers an area of approximately 38 hectares of beach gravel deposits. Sand and gravel extraction has been carried out in the area for many years and Denge Pit currently operates under an existing mineral planning permission (reference SH/99/1003/MR69) which allows extraction until 31 December 2021. The planning permission requires the site to be restored to a nature reserve with a series of fresh water lakes / pools created by the removal of aggregate from below the water table.

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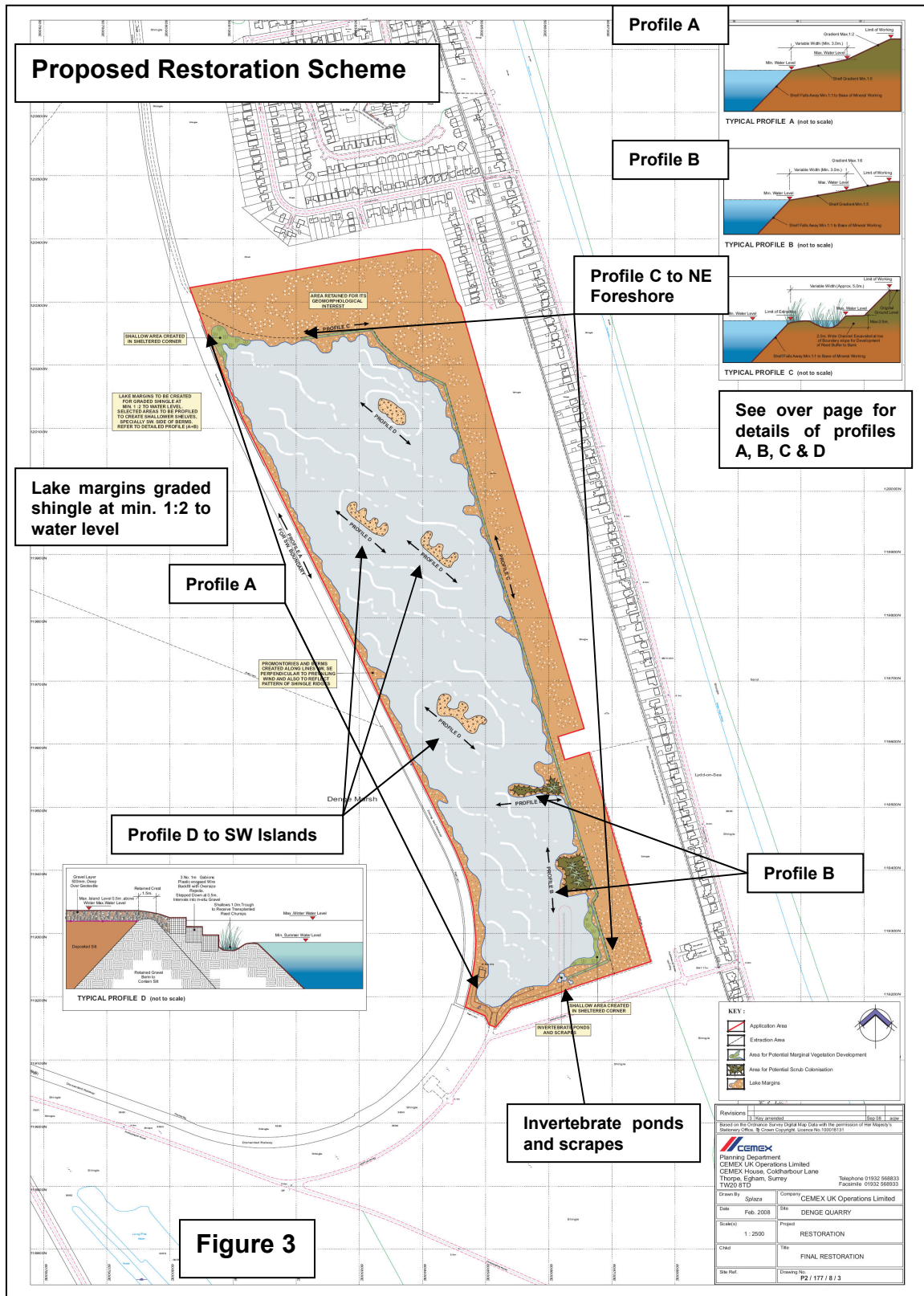


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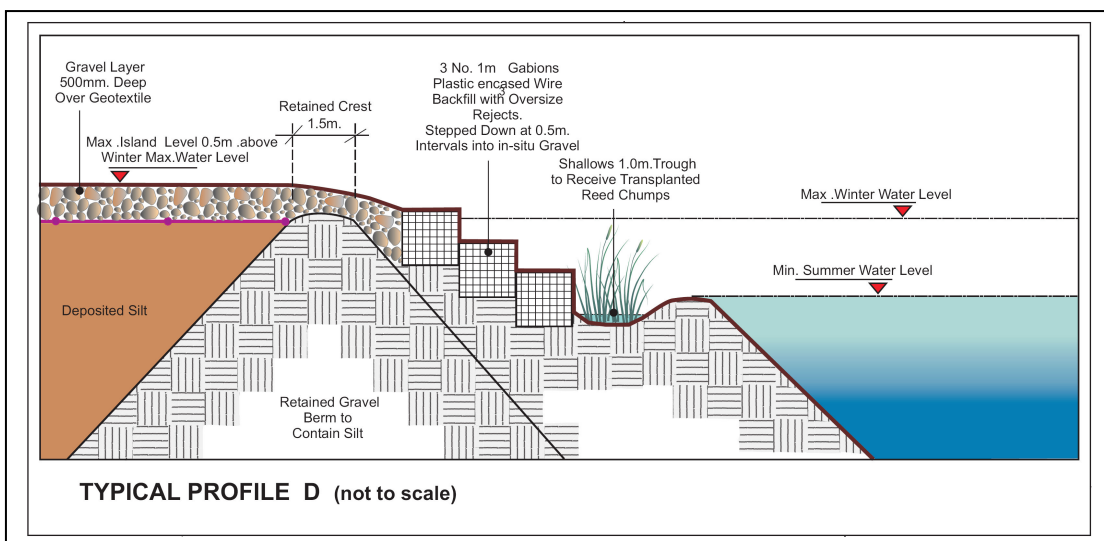
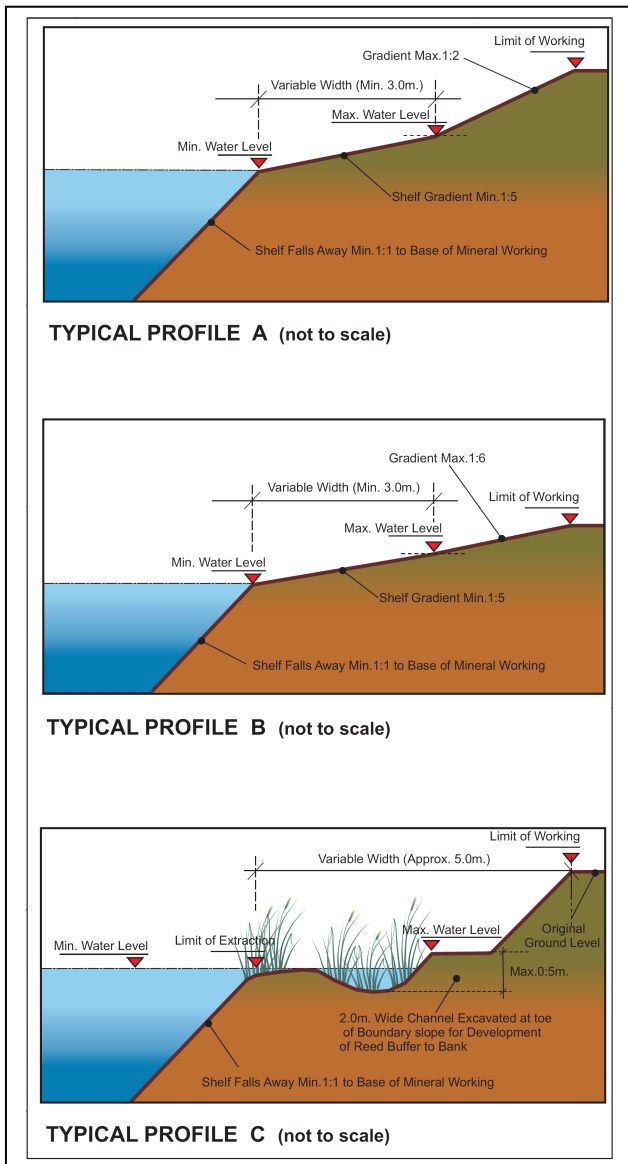


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3. The closest residential properties to the site are located in excess of 120m away, to the north-east and east on Williamson Road, Pleasance Road North and Coast Drive. The Romney, Hythe and Dymchurch light railway passes north-south just to the east of the site. Public footpath (HL8) passes around the southern end of the site before heading west across Denge Marsh toward Lydd.
4. The quarry plant, site office, weighbridge and associated facilities, including material stock piles, are located at the southern end of the site. The quarry, which is surrounded by raised landscape bunds, is worked in phases in a generally southerly direction. Operations are currently taking place near the northern end of the site. Excavation of material takes place below the water table creating a fresh water lake. The permission includes measures to ensure that the lake does not become saline.
5. The majority of the quarry site and the adjacent properties fall outside land identified at high risk of flooding from the sea. The site is for the most part position within a Zone 1 Flood Risk Area, which is considered to have a low chance of flooding (0.5% in any year). Only a small proportion of the southern end of quarry site is subject an increased tidal flood risk. The quarry also lies within a Ground and Surface Water Source Protection Zone (SPZ) 1, 2, and 3 for the Denge public water supplies.

Proposal

6. The application proposes an amendment to the final restoration scheme for Denge Pit approved under condition C10 of planning permission SH/99/1003/MR69. A copy of the approved restoration scheme is included on page C1.3 (figure 2).
7. The changes proposed would not affect the final use of the site as a nature reserve. The amendments would include the removal of gravel berms (bars), originally shown extending across the quarry and dividing the lake area. The proposed scheme would increase the overall surface area of the lake to the south and by removing the berms, which would be replaced by a number of island landforms. A copy of the proposed restoration scheme is included on pages C1.4 and C1.5.
8. The applicant states one of the main reasons for the proposed revisions to the restoration scheme would be to minimise the use of mineral resources that would otherwise be required to achieve the approved scheme. It was originally envisaged that sands from the base of the workings and silt produced from the processing operations would be used to create the berms. However, it was subsequently found that excavation of basal sand is too difficult to achieve in practice and that the processing operation produces insufficient silt for the purpose of creating the berms. As a result, if the restoration scheme remains as approved it would be necessary for the berms to be constructed using primary aggregate. The applicant also states that the berms across the lake would need to be wider than those approved due to the required angle of repose that can be achieved with the plant equipment available. On this basis, the amount of primary aggregate available for extraction would be reduced if the restoration scheme were to remain as permitted.
9. The application proposes a revised landscape strategy to compensate for the removal of the berms. The amended scheme proposes to create a number of islands (as shown on the revised layout plan). These would be formed by excavating a hole in to the gravel deposit, back-filling it with silt and topping off with a layer of gravel on geotextile. The

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south-west side of the islands, facing the prevailing winds, would be protected by retained gravel in three rows of 1m high gabion baskets. The application states that the purpose of the islands would be to break up wave action and protect the north-east foreshore from the prevailing wind. The islands would also provide isolated habitats for flora and fauna that would be less likely to be disturbed or suffer from predation than under the approved layout.

10. The treatment shown to the lake banks under typical profiles A and B on the proposed scheme (primarily the western edge of the lake created) would remain largely the same as on the approved plan. However, typical profile C proposed for the north-east and east foreshore would vary the approved land form. The changes to this profile would include the digging of a 2m wide shallow channel at the toe of the edge of the quarry to create a reed buffer to the bank. The plan also includes areas for potential scrub colonisation, areas for potential marginal vegetation development, shallow sheltered areas, and invertebrate pond and scrapes.
11. Following receipt of initial consultee views the applicant provided further information in response to correspondence received from Shepway District Council, Lydd Town Council, the Environment Agency, Natural England, Kent Wildlife Trust and comments received from nearby residents. The comments received from the applicant include the following statements:

'The proposed formation and quantity of habitats has been amended as part of the revised restoration plan but it is hoped that the quality of habitat proposed has been enhanced. The proposed restoration scheme continues to provide areas for potential scrub colonisation and marginal vegetation development. It is proposed that vegetation lost from within the extraction area would be compensated along the eastern extraction boundary with an additional channel being created for reed bed establishment and scrub colonisation. Although the plan indicates less planting the bank formation and islands lend themselves to natural regeneration and colonisation especially along the eastern boundary, providing long term habitat creation and biodiversity. The proposed management of the site shall promote natural regeneration and biodiversity. It is hoped these aims shall reduce concerns of initial loss of planting and support the long term aims of the site.'

12. In addition to the above Cemex also forwarded the following comments from the Royal Society for the Preservation of Birds (RSPB):

'The plans which CEMEX have submitted for the variation of restoration proposals, Denge Pit Lydd were produced in consultation with Natural England and the RSPB. The main conservation concern over the earlier plans was that the proposed berms would have been of limited conservation benefit. They were to be constructed of surplus sand from the excavation rather than shingle and so there would have been no retention of any shingle features of geomorphological interest and therefore no benefit to the flora or fauna associated with the shingle habitat. The original idea behind the former design of the berms was to reduce the wave fetch and resulting shoreline erosion. The RSPB and NE came to the conclusion that Islands could have a similar anti erosion effect with the added benefit of providing safe roosting and nesting sites for wetland birds, including possible seabird colonies.'

Breeding seabirds, especially Sandwich and Little Terns have declined in the South East in recent years and it is thought that this may be due in part, to a lack of suitable

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undisturbed breeding sites. Seabird colonies tend to move around every few years, often in response to predation and so it is important to ensure that there are a number of potential breeding sites for them to choose from. These new purpose built islands, closer to the coast and tern feeding areas should be ideal. It was also noted that recent site investigations had indicated that the material suitable for berm or island creation was much more limited than was originally thought and it was felt that the series of islands as shown in the revised plan would make a better use of the limited material available.

The original plan included the creation of areas of sand and silt suitable for low nutrient grassland, reed and scrub together with a series of invertebrate ponds. The RSPB has extensive experience with the creation of these habitats elsewhere on the peninsula and would question the value of creating more at this location. Firstly, this area is subject to much more human disturbance than any other part of the RSPB reserve and so there is a need to protect wildlife by the creation of islands and the planting of reed screening. The value of scrub on this artificial area is questionable, especially in the light of the problems and issues of scrub management in the area of the Long Pits. Extensive areas of low nutrient grassland have been created elsewhere on the RSPB reserve together with many ponds and a whole series of new ponds are proposed to the north along the disturbed shoreline of Lade Pit. In view of the extensive provision of these habitats elsewhere and given the lack of any good breeding islands close to the coast, it is the view of both the RSPB and NE, that these proposed variations would be an improvement. It is also important to note that subject to these changes being implemented, the RSPB has agreed to take on the management of the site as an extension to its reserve.

The proposed variation also makes new provision for a linear reedbed along the exposed shoreline where the prevailing winds are likely to cause erosion. The RSPB have tried and tested this method of shoreline protection elsewhere on the reserve and it has proved to be very effective. Not only is the shoreline protected at the outset before the reed becomes established, but by the time the outer bund starts to erode, the planted reed is established and provides additional shoreline protection. The growth of this reed also provides some screening from disturbance and forms an important habitat in its own right.'

Planning Policy Context

13. National Planning Policy – the most relevant National Planning Policies are set out in PPS1 (Sustainable Development), PPS9 (Biodiversity and Geological Conservation), PPS25 (Development and Flood Risk), MPS1 (Planning and Minerals), MPS2 (Controlling and Mitigating the Environmental Effects of Mineral Extraction), MPG5 (Stability in Surface Mineral Workings and Tips).

Regional Planning Policy – the most relevant Regional Planning Policies are set out in the South East Plan. These include South East Plan Policies CC1 (Sustainable Development), NRM1 (Sustainable Water Resources and Groundwater), NRM4 (Sustainable Flood Risk Management), NRM5 (Conservation and Improvement of Biodiversity), NRM8 (Coastal Management), M3 (Primary Aggregates) and C4 (Landscape and Countryside Management).

Kent and Medway Structure Plan (2006) – the most relevant Policies include: SP1 (Conserving Kent's Environment and Ensuring Sustainable Pattern of Development), SS8 (Development in the Countryside), EN1 (Protecting Kent's Countryside), EN2

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(Protecting Kent's Coast), EN3 (Protecting and Enhancing Countryside Character), EN5 (Special Landscape Areas), EN6 (International and National Wildlife Designations), EN8 (Protection, Conservation and Enhancement of Biodiversity), NR1 (Development and the Prudent Use of Natural Resources), NR5 (Pollution Impacts), NR8 (Water Quality), NR10 (Development and Flood Risk), MN3 (Assessment Criteria for Minerals Proposals) and MN5 (Provision for Construction Aggregates).

Kent Minerals Local Plan Construction Aggregates (1993) – the saved Policies include: CA22 (Landscaping) and CA23 (Working and Reclamation).

Shepway District Local Plan Review (2006) – Proposals Map. The most relevant Local Plan Policies include CO1 (Development in the countryside), CO4 (Special Landscape Area) CO5 (Local Landscape Area), CO8 (Nature Conservation: International Designation), CO9 (Nature Conservation: National Designation), CO10 (Nature Conservation: Sub Regional Designation), CO11 (Protection species, habitats & landscape), CO13 (Protection of the freshwater environment), CO14 (Protection of Dungeness landscape, flora & fauna) and U4 (Protection of Ground & Surface Water Resources).

Consultations

14. **Shepway District Council** – No objection to the proposal. However, it comments as follows:

'In consideration of nature conservation the area is located within an area of nature conservation interest, covered by policy CO10 of the Shepway District Local Plan Review, which seeks to safeguard such areas for nature conservation/scientific interest. In this respect, it is considered that the proposed changes to re-grade and alter the geomorphic profile of the pond embankments would be beneficial to ecological pond life and nature conservation creating more varied habitats. It is also considered that the new profile of the embankments and formation of islands would break up wave action and the expanse of water.

In addition, the formation of islands would create further areas for habitats, perhaps nesting sites for birds and small mammals and sheltered bays for other pond life. It is not considered that the additional minor increase in the size of the lake (as a result of the berms not being created) would be demonstrably harmful to nature conservation objectives. As such no objection is raised in this regard and it is recommended that further advice and guidance be taken from Natural England.

In terms of the visual landscape impact the site is contained within the Local Landscape Area as shown on the Local Plan Review proposals map and covered by Policy CO5. In this regard the development is considered overall to be acceptable with no harmful impact on the surrounding landscape amenity. Whilst this area is flat with wide reaching views across the landscape, it is considered these changes would be likely to give a more natural appearance to the lake/pond. As such, in accordance with Policy CO5, it is considered to enhance the landscape character and have no change to the functioning of the Local Landscape Areas.'

15. **Lydd Town Council** – Objects to the application on the grounds of the replacement of sand/shingle bars/ berms with islands. The Town Council is concerned that the removal of the berms from the scheme would have the potential to increase wave damage to the

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foreshore increasing flood risk to nearby properties.

The Town Council's comments can be summarised as follows:

'The Planning and Environment Committee of Lydd Town Council is concerned with the increased free surface of the redesigned lake. There are similar lakes nearby, and experience has shown, that in certain weather conditions, waves may form that may threaten the foreshore. As the foreshore is adjacent to a number of local properties, it is considered that the concern is justified.

In terms of the angle and distribution of the various types of slope around the lake, the Committee did not express any view, because it did not feel qualified to comment on what is mainly a technical matter.

The Council notes that the RSPB and Natural England may be consulted and therefore they may be better placed to comment on the overall suitability of the new proposal in terms of wildlife habitat.'

The Town Council maintains its objection to the application in light of the additional information received from the applicant. It states that residents have made their concerns clear on this subject and believes their concerns are justified. It asks that CEMEX submit revised proposals with the sand bars or berms retained.

16. Environment Agency – No objection. Its comments can be summarised as follows:

- The application site lies in a Source Protection Zone for the Denge public water supplies. It recommends that care should be taken to prevent any risk to the groundwater at the abstraction points.
- It is not aware of any direct link between the proposed island landforms and increased risk of flooding. Recommends that the lake bank batters should be no steeper than 1 vertical to 5 horizontal (as proposed). These profiles, together with additional protection and planting on bank profile C, should serve to reduce wave action and impact upon the lake banks.
- The alterations to the restoration proposals represent a substantial change to the agreed proposal, which would result in significantly less marginal and reed habitat than the original scheme. As these habitats are identified as a priority under the government's Biodiversity Action Plan (BAP) scheme, it encourages their creation elsewhere on the site if feasible.

17. Natural England – No objection. Its comments can be summarised as follows:

- The application site is adjacent to the Dungeness, Romney Marsh and Rye Bay SSSI, which is part of the Dungeness, Romney Marsh and Rye Bay SAC.
- The proximity to these European sites means that determination of the application should be undertaken with regard to the requirements of The Conservation (Natural Habitat, &c.) Regulations 1994. The proximity to the SSSI involves a duty on public bodies, including local planning authorities, to *'take reasonable steps, consistent with the proper exercise of the authority's functions, to further conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest'*.
- It considers that, the location, nature and scale of the proposed application are such

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that it will not be likely to have a significant effect on the interest features of the European site or the SSSI subject to conditions covering no works to infringe on the SSSI or SAC and, on completion of the works, all redundant materials to be removed from site to an authorised waste disposal site.

- It advises that an Appropriate Assessment is not necessary.
- It notes that the revised restoration proposal seems to provide much less area for potential scrub colonisation and marginal vegetation development which may have an impact on the biodiversity. However, the provision of islands rather than berms will create a more secure habitat for certain species with regard to predation.

18. **Kent Wildlife Trust** – Following initial concerns over the proposals, the Trust raises no objection. It comments as follows:

‘A reasoned justification has now been provided for replacing the approved berms with islands and for omitting the low nutrient grassland, reed and marginal area, scrub and many invertebrate ponds and scrapes from the restoration plan. In light of this information, the Trust is entirely satisfied that the revisions to the original restoration scheme will achieve the same if not a better outcome for wildlife.’

19. **RSPB** – No objection. Has advised that the additional information submitted by the applicant explaining the reasons for the proposed changes to the restoration scheme accurately reflects comments made previously by Natural England and the RSPB during pre-application discussions.

20. **The County Council’s Biodiversity Officer** – Initially raised concerns about the application. However, following the additional information received from the applicant confirms that the changes would be of benefit to the biodiversity of the site.

21. **The County Council’s Minerals Technical Officer** – No objection. Has advised that the alleged subsidence of shingle to the rear of a nearby property is entirely due to localised settlement and movement within the garden and is not attributable to quarrying activities. In addition, he comments that if there was subsidence due to quarrying activity of the scale implied he would expect to see cracks in the patio surface and walls of the house.

22. **Public Rights of Way** – No comments have been received at the time of writing this report. Any views received prior to the Committee meeting will be reported verbally.

23. **Folkestone and Dover Water Company** – No comments have been received at the time of writing this report. Any views received prior to the Committee meeting will be reported verbally.

Publicity and Representations

24. The application has been publicised by a site notice and newspaper advertisement. 286 neighbouring properties were notified. 2 letters of representation have been received. The objections raised relate to the following issues:-

- Concerns over an increased possibility of flooding, in light of the recent weather and the prevailing winds that whip across the existing lake causing wave action that crashes against the edge of the lake causing erosion. Considers that the removal of

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- the sandbars from the proposals would intensify the issue.
- Concern that the lake is expanding toward property in Pleasance Road North. Residents thought the excavation of gravel was being stopped not extended.
- Concern that the level of shingle in the gardens of residential property in Pleasance Road North has reduced in the last few years. Considers excavation should be stopped to prevent flooding of gardens and damage to property.
- Removing the sandbars from the restoration scheme would reduce bracing support to the sides of the lake potentially creating further slippage and adding to the problems of subsidence to neighbouring property.
- Asks whether the Council or operator of the pit can give written assurance that the shingle slippage will not occur and whether a guarantee can be provided to meet full repair costs of repairing damage to properties caused by slippage/ subsidence and compensation for any loss in value as a result.
- Urges the Planning Authority to defer a decision on the application until a qualified and independent body carries out further investigations into subsidence.

Local Member

25. The Local County Member for Romney Marsh, Mr F. Wood-Brignall, was notified of the application on 9 September 2008.

Discussion

26. 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, this proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material planning considerations. In considering this proposal the Development Plan Policies outlined in paragraph (13) above are particularly relevant.

27. The main determining issues relate to the following points:

- biodiversity considerations;
- the use of primary aggregate;
- landscape considerations;
- the impact on flood risk through the changes proposed in the landform;
- geotechnical and stability considerations; and
- groundwater protection.

Biodiversity considerations

28. The application site is surrounded by an area designated at an international, national and local level for its biodiversity and geological interest, including the Dungeness, Romney Marsh and Rye Bay Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The permitted extraction area within the quarry site is located in an area of nature conservation interest which seeks to safeguard the habitat and landscape features. The remainder of the site to the north and east is within the SAC and SSSI.

29. In the light of the sensitive nature of the surrounding area it is important that the proposals would not materially harm biodiversity or geological interests. The principle of

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sand and gravel extraction from the quarry is well established by planning permission reference SH/99/1003.

30. I note that Natural England is satisfied that an Appropriate Assessment is not required on the basis that the location, nature and scale of the application are such that it will not be likely to have a significant effect on the interest features of the European site (SAC) or the SSSI.
31. Planning Policy Statement (PPS) 9 seeks to promote sustainable development by ensuring that biological and geological diversity are conserved and enhanced. Minerals Policy Statement (MPS) 1 seeks to protect and enhance the physical and natural environment whilst making efficient use of resources and energy. These national policies are reflected in the development plan at the regional and sub-regional level in Policies CC1 and NRM5 of the emerging South East Plan and Policies SP1, EN6, EN7 and EN8 of the Kent and Medway Structure Plan.
32. Given the application proposes a change to the permitted final restoration scheme for the quarry, it is necessary to consider whether the proposed scheme would have a positive or detrimental impact on long term biodiversity. Natural England and the Environment Agency both comment that the proposed scheme could result in a reduction in area made available for scrub colonisation and marginal vegetation development which may have an impact on biodiversity. However, Natural England has not raised an objection to the application and states that the provision of islands rather than berms would create a more secure habitat for certain species. Following initial concerns, Kent Wildlife Trust has raised no objection and comments that it is *'entirely satisfied that the revisions to the original restoration scheme will achieve the same if not a better outcome for wildlife'*. Shepway District Council comments that the proposed changes to re-grade the profile of the lake edges would be beneficial to nature conservation, through the creation of more varied habitats. It also notes that the minor increase in the size of the lake would not result in demonstrable harm to nature conservation objectives.
33. The revised restoration scheme includes an increase in the overall size of the lake and a change to the landform and the habitats created. These changes include the re-profiling of over a kilometre of the eastern lake margins at the toe of the boundary slope to create a shallow platform and channel within the lake. This feature would allow conditions for reed beds to establish and scrub colonisation. The applicant acknowledges that the revised plan includes less planting. However it believes that the revised landform offers an improvement in the quality of habitat proposed and states that the long term management of the site would promote natural regeneration and biodiversity.
34. The RSPB and Natural England were involved in the design of the proposed restoration scheme at pre-application stage. Both agree that the berms originally proposed to be created from sand and silt would have had limited conservation benefit (in terms of flora and fauna) and would bear no relation to any of the shingle features of geomorphological interest. They also agree that the formation of islands instead of berms would benefit wetland birds by providing safe roosting and nesting sites and make better use of available materials. The RSPB is also satisfied that the proposed reduction in low nutrient grassland, scrub colonisation and invertebrate ponds is acceptable given its extensive experience with the creation of these habitats and the amount of provision elsewhere in the area when considered against the benefits associated with the new scheme.

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35. Given consultee responses, I am satisfied that the proposed changes would maintain and possibly enhance the long term biodiversity of the site. On this basis, the application accords with the appropriate National, Regional and Local Policies with regard to biodiversity considerations.

Use of primary aggregate

36. The emerging South East Plan Policies M3 and CC1 seek sustainable use of mineral and other resources. Policy M3 also requires mineral planning authorities (MPAs) to maintain landbanks of at least 7 years for land-won sand and gravel. These requirements are reflected in Kent and Medway Structure Plan Policies SP1 and MN5. Kent and Medway Structure Plan Policy MN3 and Kent Minerals Local Plan: Construction Aggregates Policy CA23 both require appropriate working, restoration and after-use for mineral sites.
37. The proposed amendments to the final restoration scheme would result in sand and shingle berms across the lake being replaced with islands. For the reasons given in paragraph 8 above, if the scheme is not amended this would result in good quality primary aggregate being utilised for berm creation. This would be contrary to the aims of sustainable mineral development and would have an adverse (albeit unquantified) impact on permitted reserves.
38. The fact that saleable mineral reserves would be lost is a material consideration and subject to the proposed landform being acceptable in all other respects as an alternative arrangement to the berms, I am satisfied that the proposed development would be consistent with the aims of the emerging South East Plan, Kent and Medway Structure Plan and other relevant mineral policy in that it would safeguard permitted mineral reserves that could be put to a more suitable and sustainable use. This approach would, in turn, assist in reducing the need for new extraction sites to be brought forward in the County by making prudent use of permitted reserves and would assist in protecting other areas of the Kent countryside in accordance with Kent and Medway Structure Plan Policies SP1, EN1 and EN3.

Landscape considerations

39. Emerging South East Plan Policy C4 seeks to preserve and enhance the landscape and countryside. Kent and Medway Structure Plan Policies EN1, EN2, EN3, EN5 and Shepway Local Plan Policies CO1, CO4 and CO5 seek to protect the countryside and minimise the visual impact on the landscape from development. This is of particular relevance within the Local Landscape Area and adjacent Special Landscape Area.
40. The proposed changes would enhance the visual impact of the restored quarry and result in a more natural landform better reflecting other lakes in the area. For these reasons, the proposals are considered to be acceptable in landscape terms and would accord with the above policies.

Flood Risk

41. Views received from Lydd Town Council and two nearby residents include objections over the potential for the proposed changes to the size and shape of the lake to increase the flood risk to the surrounding area (including residential properties). The objections

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specifically suggest that the planned increase in the surface area of the lake could generate wave action which would threaten the foreshore during certain weather conditions as is the case at other similar lakes in the area. They further suggest that the removal of the berms, which would otherwise sub-divide the surface of the lake, would increase the fetch and in turn the size of the waves generated by the prevailing wind across the lake surface and increase the potential for erosion of the lake edge.

42. The existing planning permission provides for the extraction of mineral below the water table and the creation of a lake as part of the restoration of the site. The key issue in respect of flood risk is whether the proposed changes would materially increase such risk.
43. Whilst part of the Dungeness Peninsula is identified as being at increased risk of tidal flooding from the sea, the majority of the application site and nearby housing in Lydd-on-Sea fall within Zone 1 of the Environment Agency's Flood Risk Map. This is the lowest flood risk and means that the site has a predicted chance of flooding in any one year of less than 0.5%. Only small sections of the southern end of the quarry site fall within an area identified as having an increase risk of flooding.
44. In considering the above, it should be noted that the lake would not move closer to residential properties and that the stand-off between the lake and the nearest residential properties is at least 120m. However, the applicant acknowledges that there is a need to provide structures within the area of open water created by the quarry to minimise wave action.
45. The proposed islands within the lake would assist in sheltering the lake foreshore nearest residential properties from the prevailing wind and associated wave action. The mitigation afforded by the islands would be enhanced by the creation of a new bank profile on the northern and eastern lake banks (see the location and design of typical profile C on pages C1.4 and C1.5). The 2.0m wide channel and associated shallow reed bed at the toe of the bank would serve to provide significant protection against wave action by absorbing the energy of waves travelling across the lake and reduce the likelihood of bank erosion.
46. It should be noted that the Environment Agency has raised no objection to the application and, in terms of any flood risk, has commented that it is not aware of any direct link between the proposed island creation and increased risk of flooding. The Environment Agency is also happy with the proposed lake bank batters and notes that the planting on profile C should reduce wave action and associated impacts upon the lake banks.
47. On this basis, I consider that the proposed changes to the restoration scheme would not materially impact on the flood risk to properties near the site and would not conflict with the relevant development plan policies such that there is no reason to refuse the application on flood risk grounds.

Geotechnical

48. One of the residents of Pleasance Road North has alleged that extraction within the quarry has resulted in subsidence in the level of shingle within his rear garden and has suggested that the proposed removal of the berms from the restoration scheme would reduce the bracing support to the lake banks creating the potential for further slippage.

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The resident's response included photographs taken in 2002 and 2008 which appear to show some settlement of shingle immediately adjacent to an outdoor patio area. He advises that the property, which is over 120m from the closest area of extraction at the north-east end of the quarry, was built in 2000.

49. The County Council's Minerals Technical Officer has commented on the concerns raised. In his opinion, the changes to the restoration scheme would not impact on the stability of the surrounding area and the reduction in the level of shingle within nearby gardens is entirely due to localised settlement and movement within the garden.
50. Notwithstanding the resident's concerns, I accept the advice of the Minerals Technical Officer and believe that the changes in shingle levels shown in the photographs are consistent with settlement that would have occurred following construction of the property and the adjoining patio, exacerbated by that associated with people stepping off the patio area into the garden, and the movement of shingle more generally within the garden. It should also be noted that shingle levels elsewhere at the rear of the property do not appear to have altered between the dates of the photographs. I consider that the removal of the berms would have no impact on ground levels at nearby properties.

Groundwater protection

51. The application site is identified as being within a ground and surface water source protection zone where operations have the potential to adversely affect groundwater.
52. The Environment Agency has no objection to the proposals on water protection grounds subject to the operator taking care to prevent any risk to groundwater at the local abstraction points. As no significant changes are proposed to site operations and existing controls would continue to apply, I consider that the proposals would accord with relevant development plan policies and see no reason to refuse the application for ground or surface water reasons.

Conclusion

53. The planning application seeks to vary the details of the final restoration scheme for Denge Pit. The proposed scheme preserves the final land use as a nature reserve but varies the details of the proposed lake. The replacement of the berms / bars that were originally shown spanning the lake with a number of islands would allow the works to achieve the final landform to be carried out primarily using site-won by-products instead of permitted primary aggregate reserves.
54. I am satisfied that the proposed changes to the restoration scheme would not have a detrimental impact on the biodiversity of the proposed nature reserve and, through the inclusion of inshore islands and substantial reed beds, would help to protect and encourage wetland birds that have recently struggled to establish populations in the area. I am also satisfied that the revised scheme includes adequate measures to protect the lake banks from erosion and slippage and minimise the risk of flooding or associated impacts on residential or other properties in the area and that there would be no change in terms of the stability of the quarry. In coming to this view, I have had particular regard to the comments of those with particular responsibility for these issues (i.e. Natural England, Kent Wildlife Trust, the RSPB and the Environment Agency).
55. On this basis, I consider that the application accords with national, regional and sub-

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regional planning policy and recommend accordingly.

Recommendation

56. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO the imposition of conditions to cover (amongst other matters) the following:-

- the development being carried out in accordance with the submitted plans and associated details;
- no works or storage of materials to infringe on the Dungeness, Romney Marsh and Rye Bay SSSI or SAC; and
- all other conditions attached to planning permission SH/99/1003/MR69 remaining in full force and effect.

Case Officer: James Bickle

Tel. no. 01622 221068

Background Documents: see section heading.
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