

SECTION C
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

A section 73 application to revise the existing working, landscaping and restoration scheme pursuant to condition 19 of planning application TM/98/1815, including permanent re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR – TM/15/1636 (KCC/TM/0141/2015)

A report by Head of Planning Applications Group to Planning Applications Committee on 13th July 2016.

Application by J Clubb Ltd for a section 73 application to revise the existing working, landscaping and restoration scheme pursuant to condition 19 of planning application TM/98/1815, including permanent re-routeing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR – TM/15/1636 (KCC/TM/0141/2015)

Recommendation: Planning permission be granted subject to conditions.

Local Member: Mrs Valerie Dagger

Classification: Unrestricted

Site Description

1. Nepicar Farm is located about 15km to the west of Maidstone and 10km to the east of Sevenoaks on the north side of the A25 (Maidstone Road) between the villages of Borough Green and Wrotham Heath and lies within the Green Belt.
2. Access to the site is from the A25 Maidstone Road via a purpose designed entrance, constructed as part of the existing quarry. The A25 runs west to east from Surrey to Wrotham Heath where it joins the A20, which runs both northwards and eastwards. Access from the motorway network to the A20 is gained at Junction 2A of the M26. The Maidstone to London railway line passes the site immediately to the south of the A25 and about 6-8 m above road level. It crosses the main road over a bridge just to the west of the site.
3. The principle boundaries of the site, south, west, north and east respectively are the A25 Maidstone Road, extensive areas of former clay workings and woodland (Firemanshaw Wood), the M26 motorway, which is on an embankment and separated in part from the site by a drainage lagoon, and open grassland (which was formerly part of the farm beyond which lies Mill Wood).
4. Beyond the clay pit is the Platt Industrial Estate which is accessed via an estate road from the A25 further towards Borough Green. To the east of the open grassland

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

beyond the eastern boundary of the site is a large office complex known as Nepicar House which fronts the A20.

5. There are a number of residential properties along the north side of the A25 and to the south of the application site boundary, including Askew Bridge Cottages, Meadow Cottage, The Larches, Millwood and East Millwood. Slightly further south on the southern side of the A25 are North Downs and Lime Tree Cottage. To the north and within the general confines of Nepicar Farm but outside of the site, lie two cottages, Nepicar Meadow Cottage and The Chalet. These cottages gain access to the A25 over a private road across the application site, which is also part of the route of Public Right of Way (Restricted Byway) MR248 which terminates north of Nepicar House near the motorway junction.
6. The scarp slope of the North Downs lies approximately 1.5km to the north of the site but the southern edge of the Kent Downs Area of Outstanding Natural Beauty (AONB) lies beyond the M26 motorway and A20 London Road, some 300 metres from the site's northern boundary. A Special Landscape Area abuts part of the western and northern boundaries of the site and land immediately to the south, beyond the A25 Maidstone Road, is an Area of Local Importance. Part of Firemanshaw Wood is designated ancient woodland. The application site lies within the Green Belt.
7. Within the application site itself is the farm building complex of Nepicar Farm which includes an agricultural feed supplier (and formerly a sheep cheese centre, a farm shop and tea room) and a significant area of hardstanding which is used for the storage of farm equipment and occasionally as an equipment store for contractors working on the motorway. The approved mineral extraction scheme results in the removal of this complex of farm buildings and this remains the case in these amended proposals.

Background and Site History

8. The planning position at Nepicar has evolved over four separate planning permissions:
 - TM/93/1595 was granted in July 1994 and was for a dedicated sand supply to serve Ryarsh Brickworks. The brickworks ceased to manufacture calcium silicate bricks in 1997 and closed a short while later. To all intents and purposes it was superseded by TM/98/1815.
 - TM/98/1815 was granted in October 1999 and presents the base permission for the extraction of sand to a depth of 65m AOD, through 4 separate phased working areas with low level restoration to agriculture, some restoration planting and aftercare provision. The permission allowed the sand to be utilised elsewhere other than Ryarsh Brickworks.
 - TM/02/948 was granted in April 2002. The permission focused on the provision of a haul road to Park Farm Quarry through the existing Nepicar Quarry. The clay would be hauled through the sand workings at the same time as the sand was being extracted. Three successive separate haul routes were proposed at various levels within the quarry as sand extraction progressed. The impact was confined to phase 1

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

where working and restoration would be re-focused to facilitate the clay haul road. The Park Farm Clay extraction was not taken forward.

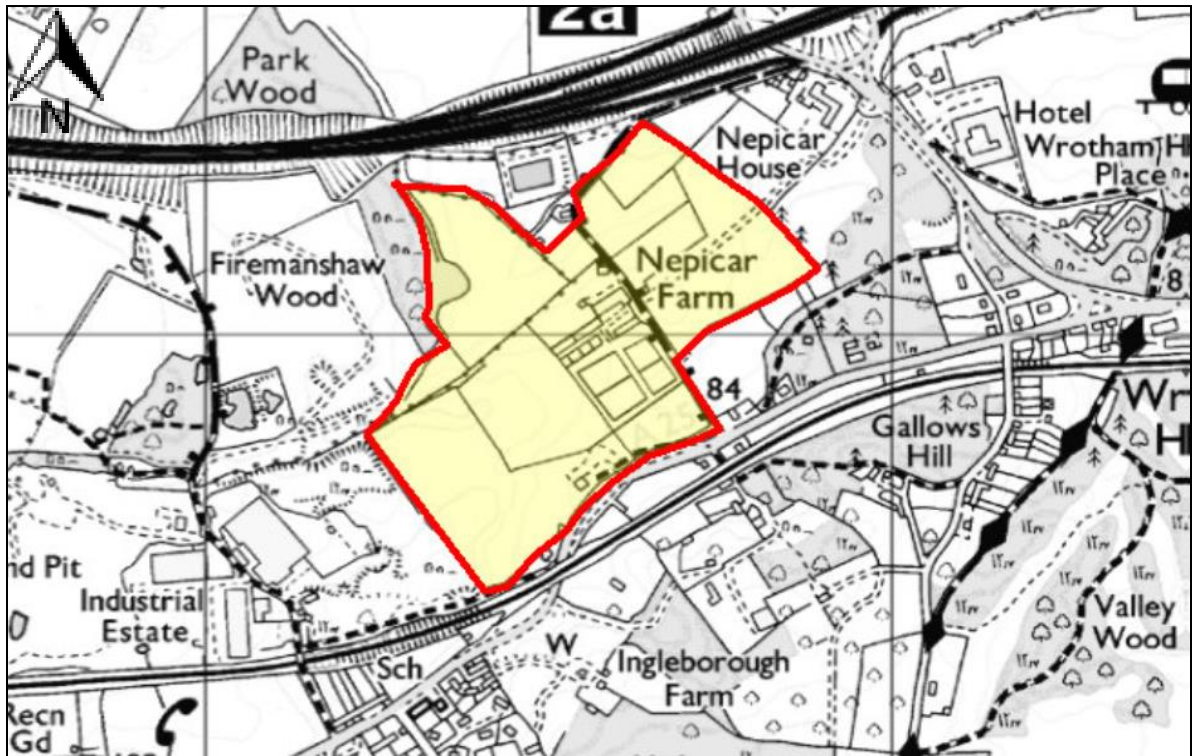
- TM/08/2653/A was granted in December 2008. Its impact is again confined to phase 1 and is simplistic in revising the scheme of sand working as a consequence of not providing a working haul road to Park Farm Quarry. The provision is simply to provide for a future haul route across phase 1 at a level of some 77- 80m AOD. (NB. It is proposed that the relevant condition from TM/98/1815 relating to the requirement to submit a scheme for the proposed road is not repeated if this Section 73 application is permitted.)
9. As suggested by the planning permissions above the quarry was originally conceived as a replacement source of sand for the Ryarsh Brickworks and was operated to supply sand to this single market and was designed to this end. Within 4 years of the original grant of planning permission the Ryarsh Brickworks closed so depriving the quarry of its principle sand market. The Applicant sought to continue quarrying operations which led to the grant of the 1999 permission. The original working and restoration was carried through into this later permission.
 10. The loss of the Ryarsh Brickworks as a market for Nepicar sand was a significant blow to the Applicant who was obliged to seek alternative markets for the sand. This meant the quarry working; landscaping and restoration did not proceed as expected. I am advised that for a number of years output was sluggish and below expectations. Quarry progression and hence restoration fell well behind the timescales envisaged at the time of the 1999 permission, such that working was fully contained within the area of Phase One for a long period of time. A change in the market in very recent times has led to the need to work the quarry in a different way and this is explained in detail in the application proposals.
 11. Provisions as to how the site is to be progressively worked, landscaped and restored is currently set out in condition 19 of TM/98/185 which states:

“The progressive working, landscaping and restoration of the site shall be carried out only in accordance with the details set out in Chapters 4 and 5 of the “Statement to Accompany Planning Application” and as identified on Plans C, F and G, Figures 1a-d and Figures 2–4 and as subsequently amplified by the applicant letter of 2 August 1999 and accompanying Plan H.”
 12. This provision was amended by the submission in August 2008 and drawings NEP/101 rev 1 and NEP/102 which were permitted as amendments to the condition 19 provisions. The submission states, paragraph 3.3 *“...it is not proposed to vary...method of working except in so far as no haul routes are to be constructed”*. It goes on *“...it is proposed to retain a landform with similar gradients to that approved and to safeguard a route to Park Farm Quarry, with the line of the road grassed rather than surfaced.”* This is the basis of permission TM/08/2653/A.
 13. Thus the extant planning regime consists of permission TM/98/1815 together with the revisions to condition 19 provided for through permission TM/08/2653/A. Restoration is currently approved to be a low level bowl shape land form and permission proposes that the access track (and PROW) serving Nepicar Meadow

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

Cottage and The Chalet is reinstated along a similar alignment to its current location.

Site Location Plan



Proposal

14. This application seeks to update and revise the existing approved working and restoration provisions for the Quarry. The Applicant states that market conditions for industrial sand have changed in recent times and that demand within the County and Region has increased together with a marked reduction in the available productive capacity. This will be expanded upon later in my report but essentially the applicant wishes to access the different colours and grades of sand in order to respond to a more customer driven requirement for particular specification. The supporting statement sets out how the applicant has been able to establish new customers for Nepicar sand such that quarry development is now re-approaching the expectations at the time of the 1999 permission.
15. The principles of working, landscaping and restoration remain the same, the Applicant emphasise those main principles as being:
 - Primary purpose of the development is the extraction of sand;
 - Sand extraction is limited to a maximum depth of 65m AOD (condition 13);

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

- Tree and shrub landscaping provision is made;
- Restoration is to be agriculture and woodland. Conditions 15, 16, 17 and 21 deal with soil handling. This restoration is to be at a lower level, the back filling of the site is expressly not permitted by condition 21;
- Aftercare of the restored land is required by condition 22.

However the new market demands means that revisions are now desired to the details, particularly in respect of the methods of working and the phasing and direction of working. The application states that newly commissioned analysis confirms that remodelled phasing would better provide for access to the various sand colours (and thus grades) across each phase. The re-modelling would also maximise the sand that could be won, increasing volumes from 1.9mt to 2.3mt within the proposed new phases, whilst maintaining depth restrictions and the application boundary.

16. It is now also proposed to permanently relocate the access track (and PROW) serving Nepicar Meadow Cottage and The Chalet, to the eastern boundary of the site.

New Phasing

17. It is proposed that the site would be worked in four new phases as shown on Drawing No. 15032510v1 "Phase Volumes/Tonnages" and detailed on the individual "Proposed Re-Phasing" drawings. The expected duration of each of the phases is set out in the Table 1 below.

Table 1. Indicative Phase Duration.

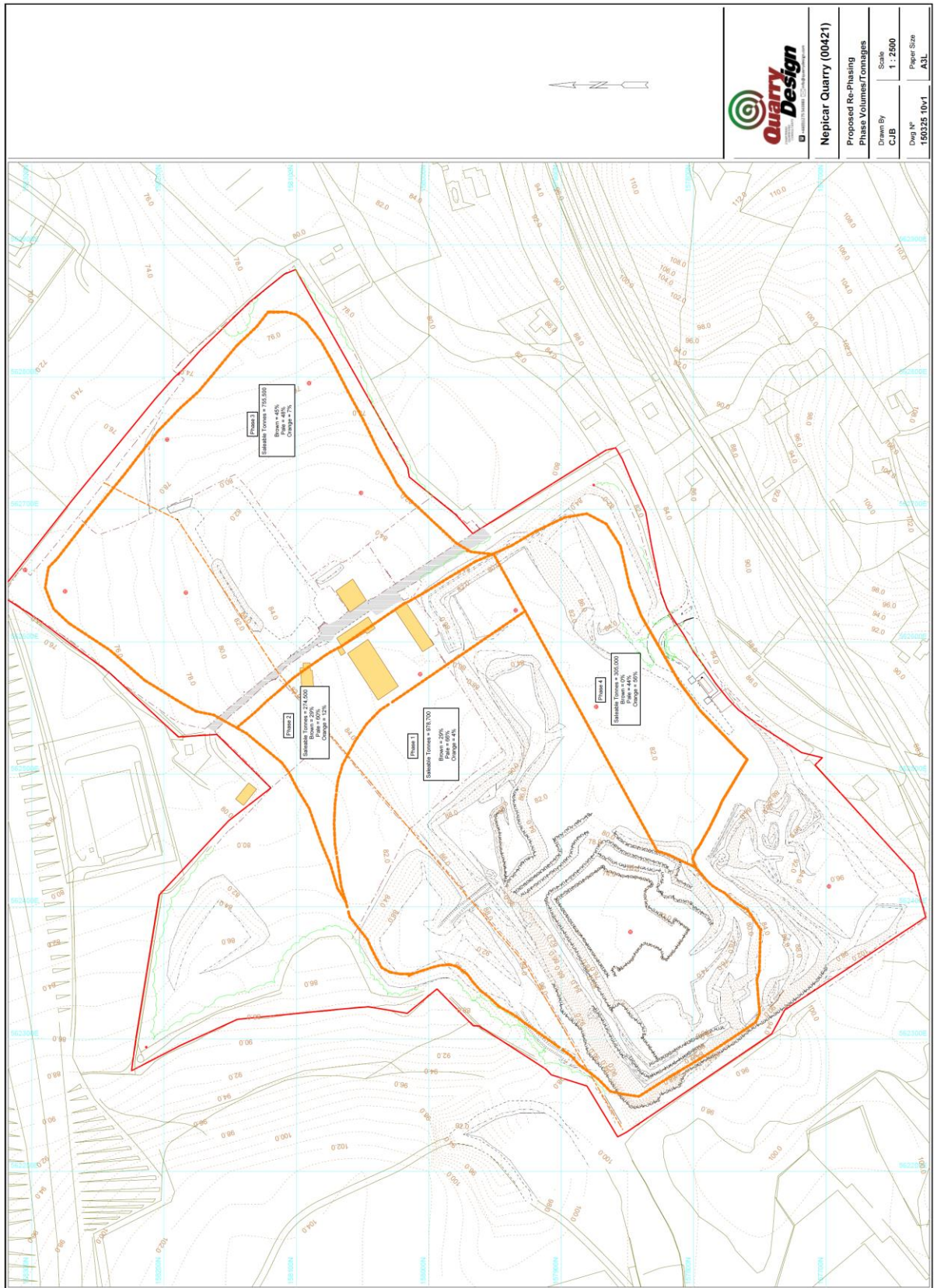
Phase	Commence	Duration (Years)
1	2015	6
2	2021	2
3	2023	5
4	2028	2

18. New phase 1 is based on the original and largest of all the phases but would cover a slightly larger area and still essentially covers the eastern half of the permitted site area. The part of existing phase two that had recently been opened and stripped would be temporarily restored and seeded and not be touched again until 2021 (part of new phase two). The restoration of the south west face and introduction of the haul road route would be progressed. The existing spoil tip adjacent to Askew Bridge Cottages would be re-engineered to provide fill for placement against the south west face thus replacing the benching with a more stable slope profile than originally proposed. (These engineering works are more or less complete now and the Applicant will progress with the introduction of the haul road (to Park Farm) and planting). The northern soil store would be removed and used to surface dress the profiled slope.

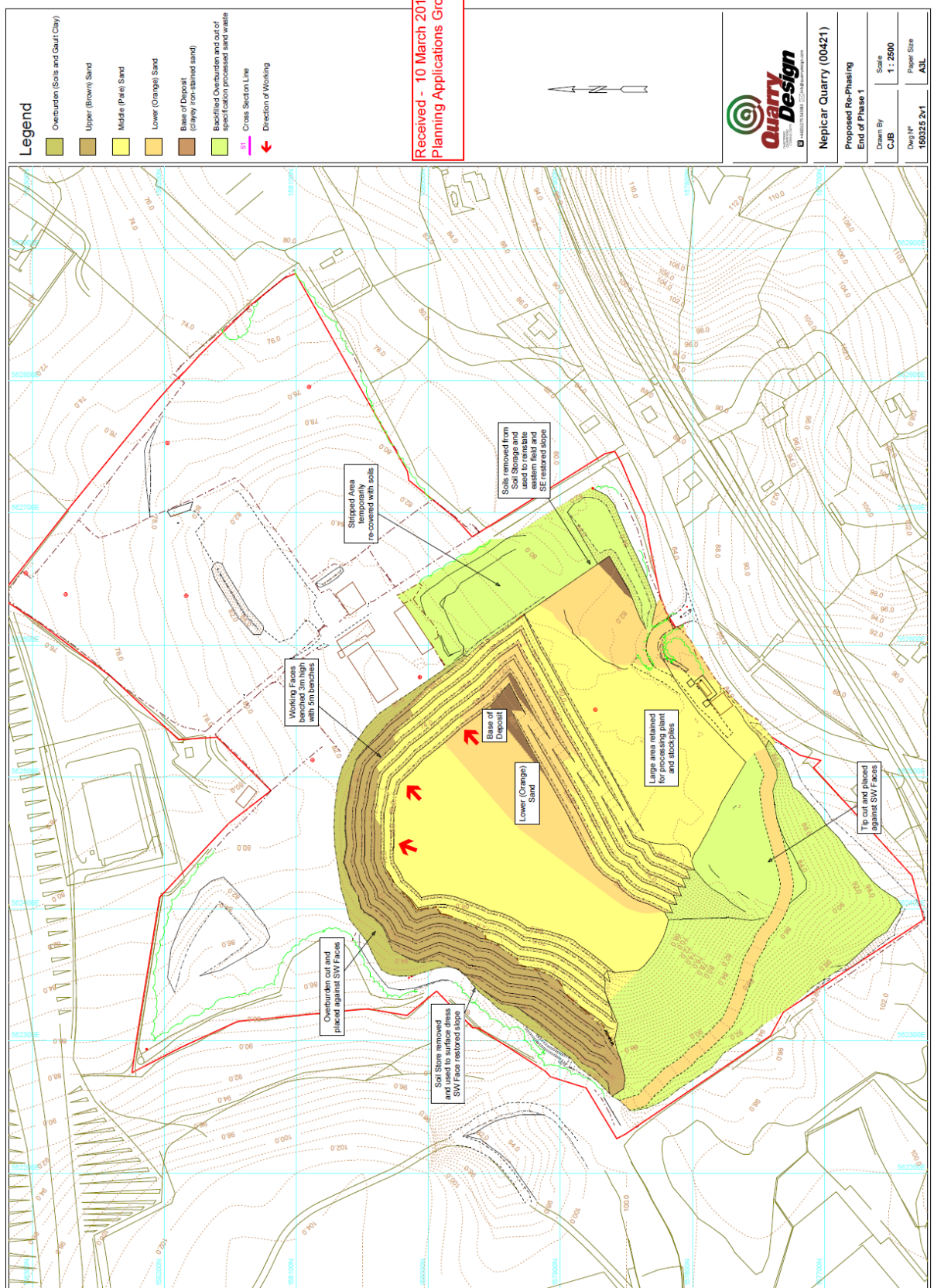
TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

19. The removal of the northern soil store would allow a minor shift northwards of the excavation area in an area where the sand is available at the greatest depth. This would still be within the planning application boundary and the approved stand-off to Firemanshaw Wood and the residents of Nepicar Meadow Cottage would remain. The restored final faces on this northern boundary would be steeper than approved at 1:3.
20. A larger area is identified for the mobile processing plant and stockpiles than originally approved and these would remain in place until final restoration commences in phase 4.
21. New phase 2 is the smallest of the new phases and would carry forward the eastwards direction and working of phase one. Soils from phase two would be directly placed on land undergoing restoration in phase 1. Completion of this phase would require the demolition of Nepicar Farm and associated buildings.
22. Prior to excavation in phase 3, provision would be made for the permanent diversion of the access road (and PROW) to Nepicar Meadow Cottage and The Chalet around the northern and eastern perimeter of the site (see below). The north easterly direction of working would be continued throughout phase 3 with soils and overburden from this area being directly placed on areas being restored in phases 1 and 2.
23. New phase 4 would be the final extraction phase changing to working in a south easterly direction to work out reserves under the process and plant area. Soils from this phase would be used for restoration in phase 3. Any surplus soils would be utilised in final restoration needs and tree planting and landscaping would be completed.
24. The following pages show the phase volumes/tonnages plan, proposed phasing plans and final restoration plan.

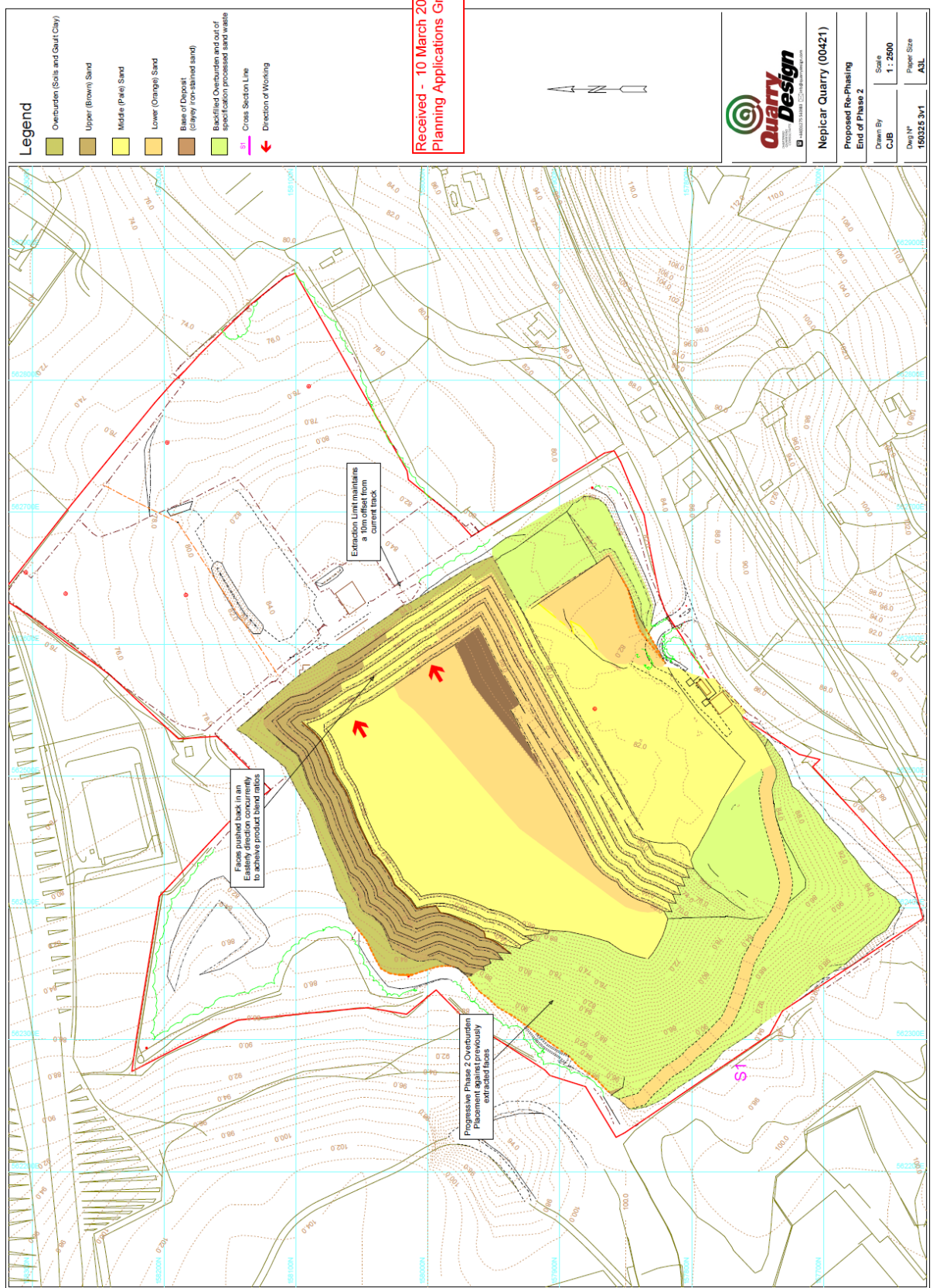
Item C1
TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd
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re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone
Road, Wrotham Heath, Kent, TN15 7SR



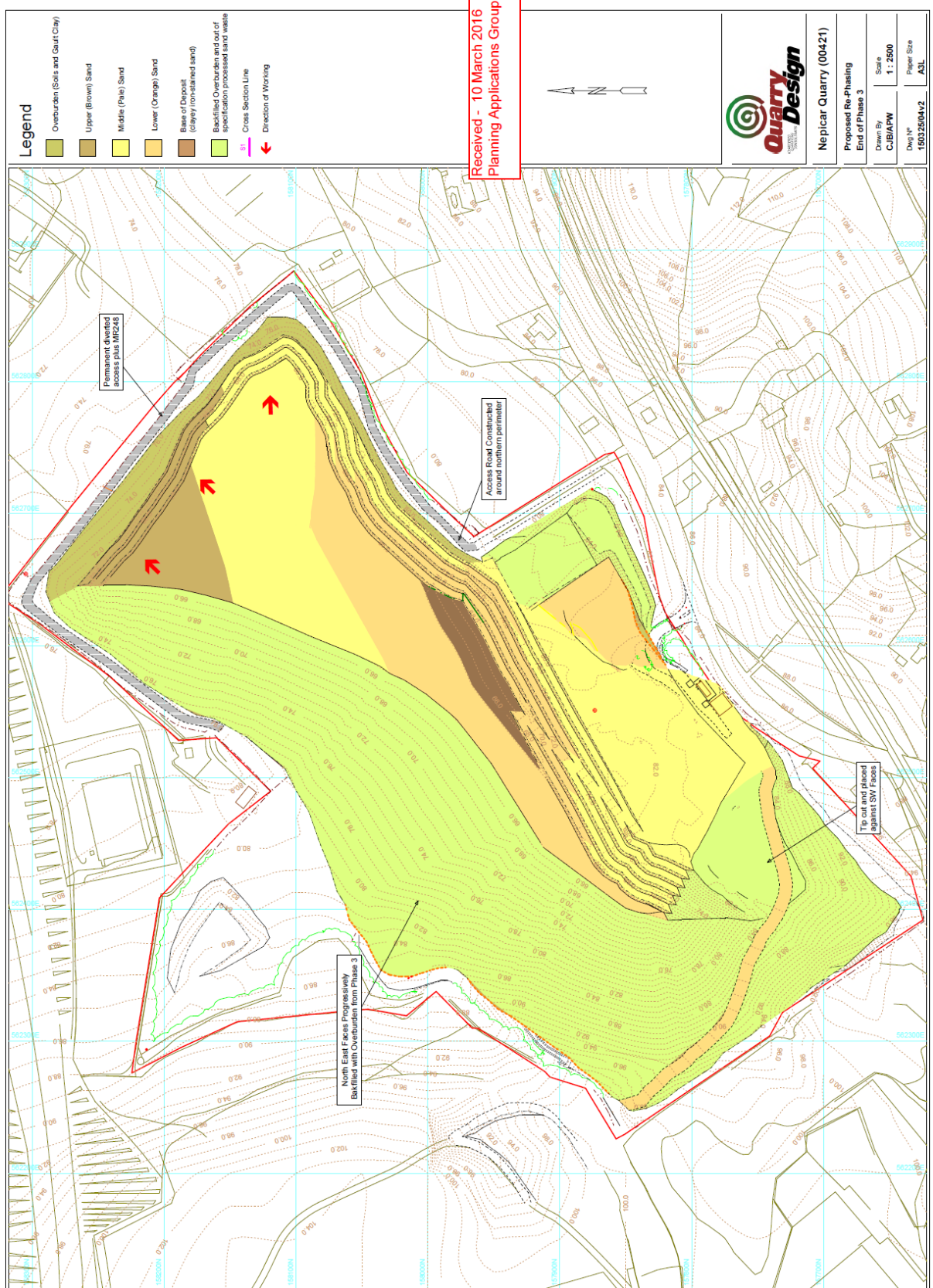
TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR



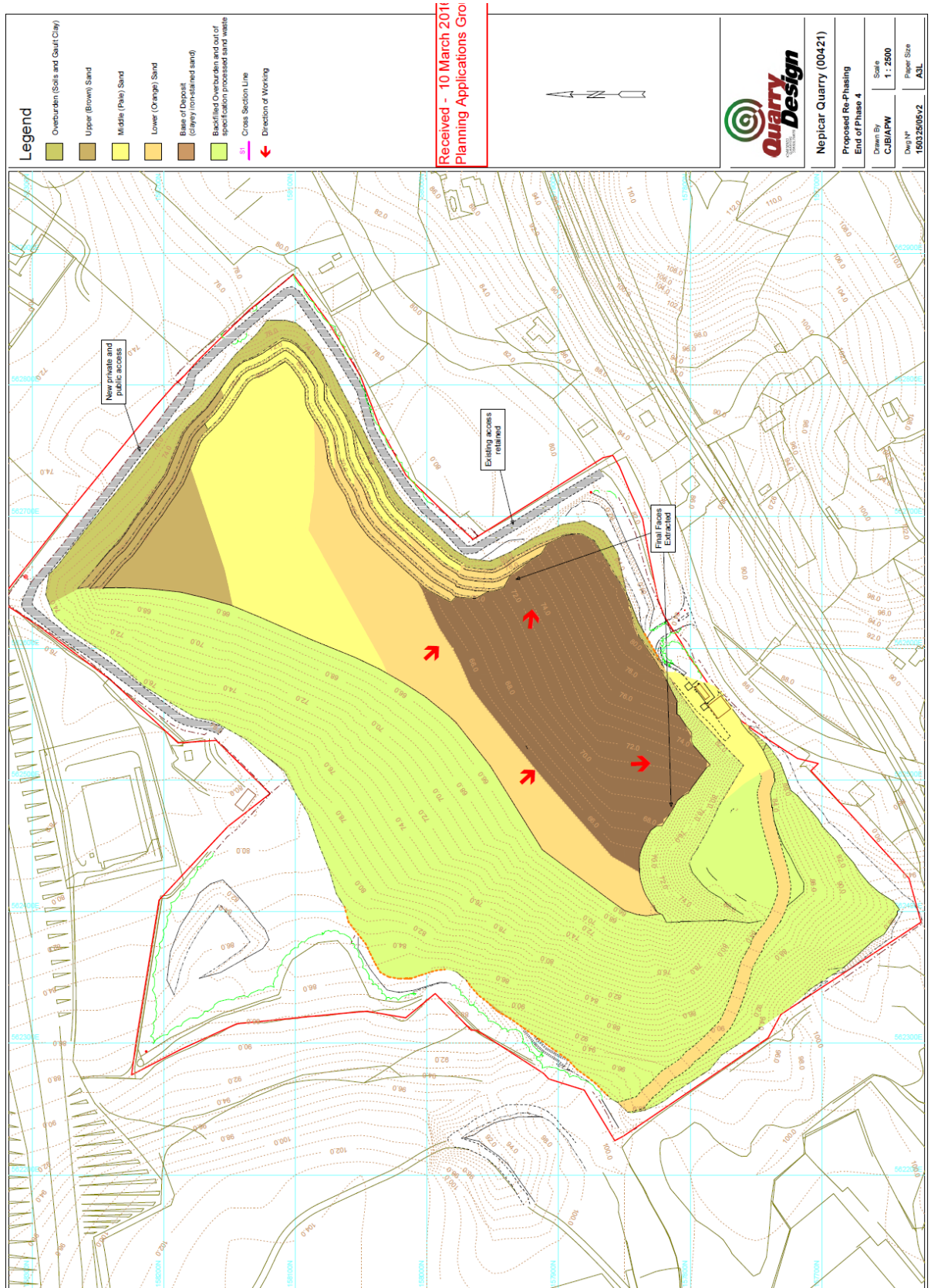
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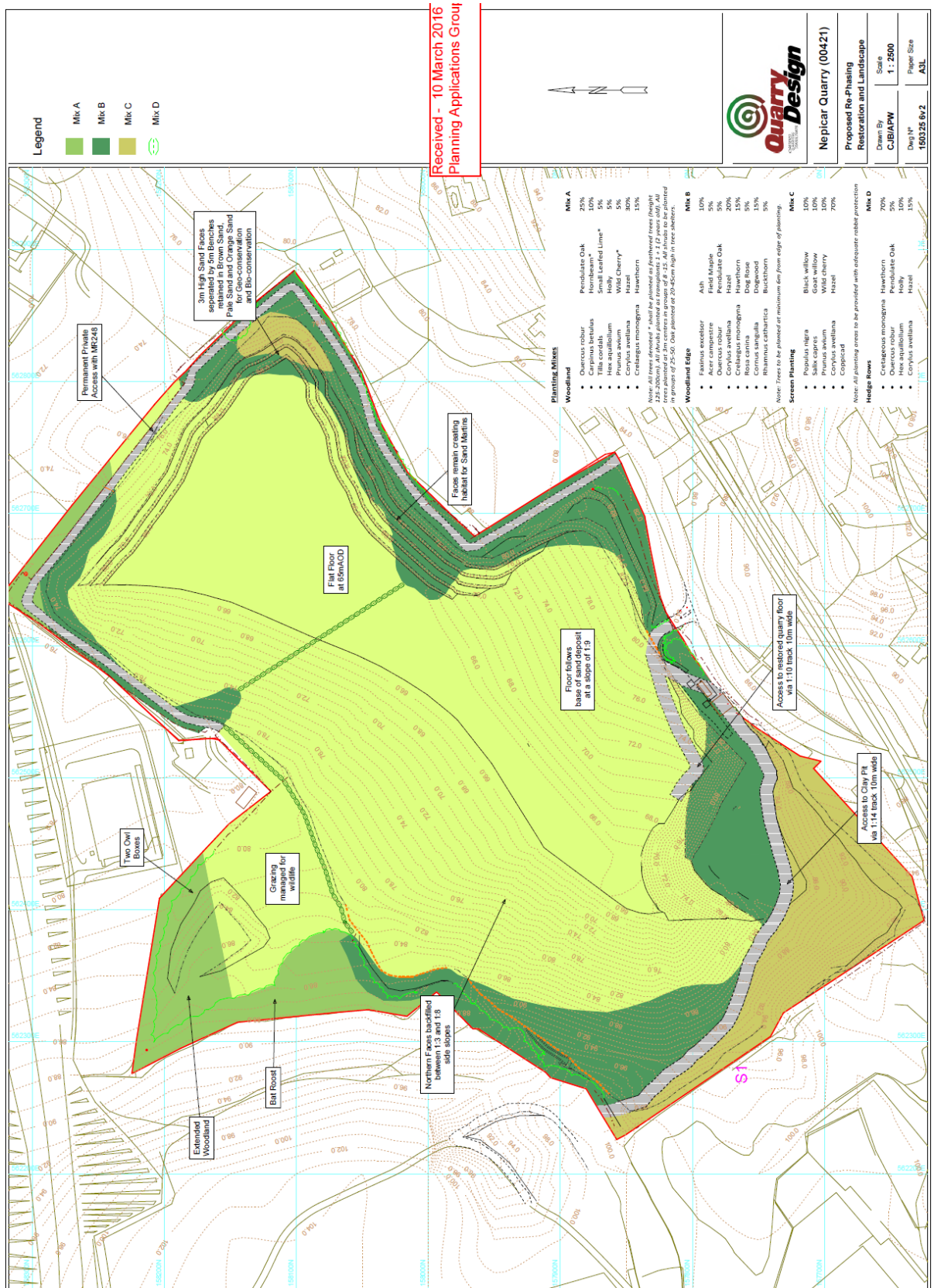
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TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR



TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR



TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

Processing

25. Excavation would be carried out by 360 degree excavator and dump trucks operating on a series of 5 metre wide benches at 3 metres high. The intention would be that sand is processed close to the working face; the various sands would be blended before being put through a mobile screen. This mobile plant would proceed around the site as the quarry phases moved forward, it is not intended at this stage that conveyors would be used, unlike proposed in the approved scheme. However the production conveyor would remain as currently located on the hard standing. Sands processed at the working face screens would be brought to the central point and stored in stockpiles until required by the customer whereupon it would be loaded onto lorries.
26. A new element to the sand production is the provision of a rain shelter to protect the stockpiled sands from the wet weather and maintain appropriate moisture content. It consists of a framed polyethylene lightweight structure capable of providing cover that provides a moveable lightweight structure capable of sheltering an area of 450 square metres. The application states that the structure would be coloured to match its background.

Access Road

27. Provision is to be made for a permanent private access to Nepicar Meadow Cottage and The Chalet to replace the Nepicar Farm access track that these properties have used to access the A25. A new access road would be constructed around the eastern perimeter of the site as shown on Drawing No. 50325/04v2. This would provide a permanent new access to the two properties at an early stage giving them a sole private access removed from sand extraction operations. The new track is proposed to be 3 metres wide, as per the existing track it would replace. The topsoil along the route would be removed for use in restoration at the quarry. Any steep areas, as in the south eastern corner of the perimeter, would be modified to create gradual slopes. The sub-base would be constructed of well compacted recycled hardcore, surfaced with compacted recycled road planings to provide a level surface and allow free drainage of rain water. The materials used in this construction would arise from the demolition of Nepicar Farm bungalow and associated farm buildings that are due to be removed before the existing byway is removed. The reuse of these demolition materials has the advantage of reducing any off site impacts. At the same time it is proposed to divert any utilities such as electricity and water which serve the residential properties to a new secure location along the new track away from the extraction area.

Revised Landscaping

28. The approved scheme provides for extensive landscaping around the perimeter of the site and the slopes of the excavated low level bowl landform. As a consequence of the proposed method and direction of working some revisions to the approved landscaping provision is necessary. The main differences with the new landscaping are as follows:

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

- The woodland planting at the south west edge of the quarry is adjusted to accommodate the revised route of the access to Park Farm Quarry;
 - the removal of the drainage pond from the proposed restoration means that there will be no wetland planting as shown on Dwg No NEP/101 Rev 1;
 - adjustment of new planting to fit the marginally steeper perimeter restoration slopes;
 - adjustment to planting along the eastern edge of the site so as to accommodate the new permanent access track and footpath;
 - new copses and hedgerow across the site on the approximate alignment of the old Nepicar Farm access track.
29. The woodland planting on the south west face is to be given priority in proposed new Phase One. Further woodland and screen planting would progress as quarrying and restoration of quarry margins allow.

Revised Restoration

30. As set out above the existing approved restoration provides for an excavated low level bowl feature to be put to an agricultural grazing afteruse. The proposed amendments to phasing and restoration are designed to maximise restoration in new phase one (the largest) as working progresses into phase two and subsequent phases. There are some changes to the margin profiles but the original objective of a return to agriculture with the same landform is to be retained. The slopes and quarry floor would be spread with soils and seeded to return them to grassland.
31. The main revision to the approved restoration is the removal of the drainage pond that was proposed in the south east margin of the site. Under the proposed amendments to the restoration contours this would no longer be the lowest part of the new quarry profile and to maintain a year round pond would require the importation of clay to line the area to sustain a water feature. The water levels at the site have been monitored by the Applicant since the quarrying activities commenced and they conclude that the underlying geology would continue to have natural drainage capacity such that an engineered drainage pond would not be necessary. This area would be grassed as with the remainder of the site.
32. The existing restoration scheme also allowed for the provision of a route into Park Farm Quarry, albeit in landform terms only with appropriate construction details reserved for the future should it be pursued. A small revision to the alignment of the 'green route' to Park Farm Quarry is proposed by moving it closer to the south west edge of the quarry.
33. As part of the revised restoration the Applicant also proposes enhancements to the ecological mitigation for the quarrying activities in and around the site. It is now proposed to leave a near vertical face of sand exposed in the south eastern quarry face to enhance provision for Sand Martins to colonise this restoration feature.

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

Planning Policy Context

34. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework (NPPF) (March 2012), the National Planning Policy for Waste (October 2014) (NPPW) and the associated Planning Practice Guidance (PPG) which includes a number of topic related parts including a Minerals PPG, a Natural Environment PPG, an Air Quality PPG and a Noise PPG. These are all material planning considerations.
35. **Kent Minerals Local Plan Construction Aggregates (December 1993)** – Saved Policies CA7 (Provision of geological information), CA12 (Silica Sand), CA16 (Traffic considerations), CA18 (Noise, vibration and dust), CA19 and CA20 (Plant and buildings), CA21 (Public rights of way), CA22 (Landscaping) and CA23 (Working and reclamation).
36. **Kent Waste Local Plan (1998)** – Saved Policies W6 (Need), W12 (Landfill of mineral voids), W18 (Noise, dust and odour), W19 (Groundwater), W20 (Land stability, land drainage and flood control), W21 (Nature conservation), W22 (Road traffic and access), W25 (plant and buildings), W27 (Public rights of way), W31 (Landscaping) and W32 (Aftercare).
37. **Tonbridge and Malling Borough Council LDF Core Strategy (September 2007)** – Policies CP1 (Sustainable Development), CP3 (Green Belt), CP7 (AONB), CP9 (Agricultural land), CP24 (Achieving a high quality environment) and CP25 (Mitigation of development impacts).
38. **Tonbridge and Malling LDF Managing Development and the Environment DPD (April 2010)** – Policies CC3 (Sustainable Drainage), NE1 (Local Wildlife Sites), NE2 (Habitat networks), NE3 (Impact on Biodiversity), NE4 (Trees, Hedges and Woodland), SQ1 (Landscape Protection and Enhancement), SQ2 (Locally listed buildings), SQ4 (Air quality), SQ8 (Road safety) and DC6 (Rural Lanes).
39. **Emerging Kent Minerals and Waste Local Plan 2013-30 (As modified May 2016)** (*incorporates Proposed Main and Additional Modifications (July 2015), Proposed Further Modifications (January 2016) and Inspector's Report (April 2016)*) - Draft Policies CSM1 (Sustainable development), CSM2 (Supply of land-won minerals in Kent), CSM 5 (Land-won Mineral Safeguarding), DM1 (Sustainable design), DM2 (Environmental and landscape sites of international, national and local importance), DM3 (Ecological impact assessment), DM4 (Green belt), DM5 (Heritage assets), DM6 (Historic environment assessment), DM10 (Water environment), DM11 (Health and amenity), DM12 (Cumulative impact), DM13 (Transportation of minerals and waste), DM14 (Public rights of way), DM16 (Information required in support of an application), DM17 (Planning obligations), DM18 (Land stability), DM19 (Restoration, aftercare and after-use) and DM20 (Ancillary development).

Consultations

40. A first round of consultation was carried out in May 2105. Following receipt of amended proposals primarily relating to the access road (and PROW) and additional

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

supporting information, a further round of consultation was carried out in March 2016.

41. **Tonbridge & Malling Borough Council** – No objection

Platt Parish Council – No objection (first consultation), no further views received.

Wrotham Parish Council - No objection

Amey - No objection comment as follows;

Landscaping - Documentation for the application has been put together with care and consideration to the area. The existing trees and the protection of trees externally to the site to reduce the visual impact of the site has been taken into consideration in the design. The proposed site is in a relatively remote location and suitable mitigation for the site's wildlife and visual impact on the area has been proposed by the applicant. As such it is not recommended that any further detailed assessments of the surrounding landscape character is undertaken as it is likely there will not be any adverse impacts on the land or to the wider countryside and surrounding fields and farm land and residential areas.

Noise - The new proposal does not change substantially the northern boundary of the works in the area closest to Nepicar Meadow Cottage and The Chalet. It is proposed to update the current planning condition on noise in line with our previous recommendations and in line with current Planning Practice Guidance – Minerals and National Planning Policy Framework. We agree with the approach being proposed.

Air Quality & Odour - It is not considered necessary to make any changes to the existing condition or the content of the approved dust attenuation scheme. The redirection of the PROW, relatively minor amendment to the landscape restoration and the provision of the new access track are not likely to result in any significant adverse dust impacts on local air quality

Environment Agency – No objection and comment as follows:

Contamination - As there is no change to the depth of sand extraction, or the final restoration levels, no objections to the proposal, any concerns are still satisfied by previous conditions incorporated into existing permissions.

Water Resources - It would appear that a clay lined, surface water fed, pond has been removed, this change does not generate any water resources concerns, however the pond may have been a mitigation measure that was required to address a particular loss of habitat, when the land at Nepicar was first exploited for minerals.

Waste - Demolition of farm buildings will take place and there might be contamination in the soil as detailed in the report, therefore waste materials must be correctly described/assessed and sent for recycling /disposal at a licensed facility. With regards the construction of a new track, if the contractor wishes to use waste materials for construction, they must apply for an exemption or appropriate permit, dependent upon waste volumes and waste types. They comment further that the site doesn't have a mining waste permit and the new proposals are unlikely to require one either, however the Applicant is advised to check with the EA.

Fuel, Oil and Chemical Storage - All precautions must be taken to avoid discharges and spills to the ground both during and after construction.

English Heritage – no views received to either consultation.

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

Kent Downs AONB – Commented initially that they had not been able to compare the proposed revisions with the approved scheme but pleased that no Ash is proposed and that native species would be included in the new planting and requested that particular attention is paid to ensuring that the north facing slopes are restored in an appropriate and timely manner to minimise impact on views from the North Downs. The second round of consultation included details of the existing approved phasing and restoration – no further comments received.

Kent Wildlife Trust – No views received to either consultation.

Natural England - Does not consider that this application poses any likely or significant risk to those features of the natural environment for which we would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation.

Whilst Natural England has no comments to make in relation to this application, given its proximity to the Kent Downs Area of Outstanding Natural Beauty (AONB) and the potential for the revised working, landscaping and restoration scheme to result in additional impacts to the AONB, we recommend the views of the Kent Downs AONB Unit are obtained.

Transportation Planning – No objection, as the traffic movements do not change.

Biodiversity – Comment that the Extended Phase 1 Habitat Survey & Bat Building Survey report details the results of initial ecological survey work and provides a framework for further necessary surveys that would ensure that appropriate mitigation is developed to minimise ecological impacts and prevent offences being committed. It is their preference, in accordance with Government guidance and good practice, for all ecological surveys to be carried out prior to determination of an application to ensure that all ecological impacts be addressed as material considerations to that decision, however the details within the survey report provide some comfort that there is a framework in place to carry out further detailed surveys to identify the ecological impacts and implement appropriate mitigation. These should be secured along with enhancement recommendations in paragraph 5.39 of the Revised Planning Statement.

Public Rights of Way Team – *“The permanent diversion of Restricted Byway MR248 to the eastern boundary of the Nepicar Farm site [as proposed] is the preferred option of the PROW and Access Service as this option allows for the movement of the PROW to a new permanent alignment in advance of any interference of the current alignment by quarrying activity. A route to the east is considered to have similar amenity to the existing route and retain as convenient a connection.*

Restoration of the current alignment, following sand extraction, to a standard not substantially less convenient for the public is not viewed as feasible given the likely gradients of the restored routes. Appropriate gradients may only be achieved through importation of vast quantities of material (over 1 million tonnes of inert fill) a process that will require further consents. Even if permitted this activity would

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

extend activity at Nepicar for years. Diversion to the west of the existing line may improve the amenity of the route in the long term but would follow the completion of phase 4 and see the access point shared, initially at least, with access to the site by vehicles associated with the quarry activity.

Early receipt of a completed application would be advised so as to avoid any potential delay to phase 3 of the quarrying operation. A specification is also enclosed setting out the minimum requirement for the diverted route "On the right track surfacing standards for shared use routes – specification A9, or to a specification to be agreed in advance of the making of any order. A higher specification may be appropriate if the track is required to support a private vehicle access to the "Chalet" in the long term. A running surface of 4 metres is requested with an additional 0.5 metres of soft margin either side if the route is to be enclosed. A minimum "buffer" strip of 3 metres is requested between the PROW and the established woodland screening around the site to prevent interference to users by overgrowth.

I would ask that a "Grampian" condition is included requiring the confirmation of an order to divert the Restricted Byway and the provision of the new route of Restricted Byway MR248 to a certifiable standard in advance of the start of phase 3 of the sand extraction as it affects the alignment of the Restricted Byway.

Reason: To ensure that the formal diversion of the Restricted Byway has been secured, that public access is maintained and adequately provided for."

Conservation Officer - No objection, the nearest Heritage Buildings, Nepicar House (Grade II*), Outbuildings to Nepicar House, Nepicar Cottage and Nepicar Lodge (all Grade II) are situated some distance from the site (adjacent the A20/M26 intersection) and well screened by trees. Only the chimneys of Nepicar House can be viewed from the access road which runs through the site to serve Nepicar Meadow Cottage and The Chalet. This access road is to be re-routed as part of the proposal. The buildings at Nepicar farm are 20th Century and mostly in poor condition. The residential buildings surrounding the site comprising Nepicar Meadow Cottage, The Chalet to the north, and those to the south along the Maidstone Road (A25) boundary including Meadow Cottage and Askew Bridge Cottages are also non-listed structures.

County Archaeological Officer – no views received

Local Member

42. The local County Member Mrs Valerie Dagger was notified of the application on 13 May 2015 and again on 16 March 2016, no comments have been received to date.

Publicity

43. The application was publicised by the posting of site notices, an advertisement in a

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

local newspaper, and the individual notification of 79 residential properties. A second round of neighbour notification to the same residents (including those who responded initially) was undertaken following receipt of amended proposals and additional supporting information.

Representations

44. In response to the initial publicity, 5 letters of representation were received. Objections largely related to the principle of sand extraction and associated noise, dust, vibration, fumes, light pollution and environmental impacts (green belt & farmland), particularly on wildlife and trees; as well as effects upon house values and the loss of Nepicar Farm, increases in traffic and loss of quality of life; and as such are not specific to the amendments proposed now. It was suggested that the operator should go and quarry elsewhere, away from residential properties, that the proposals would come closer than before and have greater visual impact on the nearest properties. Woodland planting in excess of 30 metres tall and 30 metres deep is suggested to fully screen the development. It is suggested that planning permission should be revoked or the new schemes should be stricter as the quarry and other mineral related development has no benefits to Platt. In commenting on the new schemes it is argued they will bring more and greater impacts in terms of noise, dust and visual impact, and objections are made to the visual impact of the proposed new rain shelter.
45. Following a further round of consultation upon the amended and additional information only one letter (from one of the initial objectors) has been received, although comments relate to the temporary use of the farmyard by road maintenance vehicles not associated with the quarry. The owners of Nepicar Meadow Cottage have stated they maintain their objection to the re-routeing of the access track.

Discussion

46. In considering this proposal regard must be had to the Development Plan Policies outlined in paragraphs 34 - 39 above. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Therefore the proposal needs to be considered in the context of the Development Plan Policies, Government Guidance and other material planning considerations arising from consultation and publicity.
47. The starting point in considering these proposals is to acknowledge that planning permission already exists for the extraction of sand at Nepicar Quarry. Paragraphs 8-13 of my report set out the background to the planning history. What is being proposed now relates solely to a change to the phasing, working and restoration of the permitted sand quarry to access the diversity of sands to meet the specific requirements of the customer.
48. The planning application boundary remains the same and the timing of final restoration would not change. On that basis the main issues are:

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

- Need and Market Demand
- Access/PROW
- Landscape including impact upon Green Belt
- Ecology

Need and Market Demand

49. National Planning Policy Framework (NPPF) sets out the purpose of the planning system to contribute to the achievement of sustainable development, in three roles, economic, social and environmental. Specifically the planning system needs to contribute to the building of a strong, responsive and competitive economy.
50. Paragraph 142 of the NPPF recognises that minerals are essential to support sustainable economic growth and our quality of life and that it is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. Specifically when considering planning applications authorities are encouraged to give great weight to the benefits of the mineral extraction, including to the economy, and provide for restoration and aftercare at the earliest opportunity to the highest environmental standards.
51. Paragraph 145 advises mineral planning authorities (mpa's) to plan for a steady and adequate supply of aggregates by making provision for the maintenance of at least a 7 year landbank (in so far as it relates to sand and gravel). Similarly paragraph 146 requires mpa's to plan for a steady and adequate supply of industrial minerals. It encourages safeguarding and stockpiling so that important minerals remain available for use. Nepicar Quarry contributes to both policy requirements and specifically provides a major contribution towards the Silica Sand supply in Kent. Indeed planning permission TM/98/1815 was granted (amongst other reasons) because of that very contribution the site would make. In more recent times it has become even more important that it continues to supply Silica Sand as it is now one of only 2 sites with a secure and viable deposit in excess of 10 years.
52. Nepicar has been operational for the last 15 years but the Applicant states that market conditions for industrial sand have changed in recent times and that demand within the County and Region has increased together with a marked reduction in the available productive capacity. The applicant commissioned new investigation and modelling studies including a series of new boreholes, detailed analysis of the nature of the full sand resource and an up to date topographical survey. Modelling of the resource to maximise sand extraction and to provide the basis for revised phasing, including calculations of all material volumes have been carried out by a qualified geologist.
53. Specifically the new market demands have meant the Applicant being challenged to provide the following:
- Providing for multiple customers rather than a single brickworks;
 - Multiple customers mean multiple specifications and new parameters;

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

- Increased blending of sands to meet specifications;
 - Increased sand stockpiling to provide for the larger number of customers;
 - Opening of multiple sand working faces to seek to provide the necessary sand for blending;
 - Maximising the sand for sale with the consequence of reducing sand rejects available for progressive restoration;
 - Greater operational area to accommodate the increased storage and multiple face working;
 - A modified operational regime with the use of different machinery and equipment to that envisaged in 1999.
54. The need to respond to the upturn in demand for sand and changing customer requirements have led to them being unable to work the quarry within the approved phases set out in the permission TM/98/1815. In order to access the various grades and colours of sand within the geological deposit, in quantities sufficient to be responsive to demand, the quarry needs to be worked in a different way to that approved, and phasing adjusted to enable access to sufficient sand of the required grade. The Applicant has come forward seeking approval for amendments to the approved schemes so that the quarry can be operated in compliance with the proposed amendments.
55. I am satisfied that to change the phasing and restoration plans as proposed would enable the Applicant to be more responsive to their customers and the building industry in general. The case to extract the mineral has already been made (by the grant of permission TM/98/1815) and the extent of the application boundary remains unchanged. The sand would be worked in any event but it is the extent and shape of each of the four phases that changes; a new means of phasing allows for the necessary blending of the brown, pale and orange sands. The ability to meet the more exacting requirements of the customer is supported by government policy in that it would allow the operator to provide more specifically for a strong and competitive economy.
56. Having accepted that the proposed amendments are necessary to enable customers more specific requirements to be met, it is also appropriate to consider the potential impacts of those changes upon the environment and amenity of the area when compared to the approved plans.

PROW/Access

57. Planning permission TM/98/1815 carried through the proposals to temporarily divert the access road and PROW to accommodate mineral extraction from the original Phases 3 & 4 of TM/93/1595. Final restoration would see the route reinstated roughly back to its original position, although the illustrative restoration plans suggested a slightly less straight and regimented route.
58. Not a great deal of information was supplied with either of the earlier applications (referred to above) at the time of their submission as the need to temporarily divert the road was some way off in the future. There was no comment from the Public Rights of Way Officer in the committee report associated with TM/98/1815 and the consent relies upon the stated actions contained within the supporting statement and

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

the approved phasing drawings to detail proposals in relation to the access road and PROW. No consideration appears to have been given to appropriateness of the resulting gradient.

59. The application before Members now proposes a permanent relocation of this access road/PROW around the eastern boundary of the site. There are two separate issues to consider here, firstly those relating to the diversion of the public right of way and the second the access to the residential properties.
60. Early consultation with PROW officers on this application identified that under current legislation they would not be prepared to consider a temporary diversion unless they could be satisfied that the restricted byway could be reinstated on its original alignment. It should be noted that this would be the case when it came to consider PROW arrangements irrespective of this latest planning application. The restored gradients up to the residential properties are such that it would not be suitable for all of the public traffic expected of the route (including equestrians, cyclists, horse-drawn vehicles and mobility vehicles) and could not therefore be considered acceptable on its original alignment. As permitted the gradient was around 1 in 8 and the proposed contours are now marginally steeper at around 1 in 7, were the track to be reinstated on the same alignment. On this basis the Applicant was encouraged to look for alternative arrangements for the PROW.
61. Initially a meandering route to the west of the present position was proposed but this was considered quite tortuous, would have introduced an intrusive feature across the landscape and would still have required a temporary diversion in the short term. It also would have shared the quarry access onto the A25, whilst the quarry was operational.
62. Consideration was also given to whether sand could be imported to restore levels of the track back to existing levels. The creation of such an engineered spine would mean that the restored land to the north would be left as a small bowl feature that would not be conducive to good agricultural uses and would also result in a very unnatural feature in the landscape. Such a proposal would require the importation of up to 1 million tonnes of material to create a stable raised platform, would need to be subject to a separate planning application as there is currently no permission for importation, and it would also likely need to be subject to a waste permit from the Environment Agency. Any such proposal would need to be considered against national and local waste policies which seek to protect the local landscape and amenity of the local area from the impact of waste related works. It would also have introduced a prominent feature across the site which would have negative impact on the openness of the Green Belt. Furthermore, and assuming the planning permission were granted, the construction of the raised spine could add a further 10 years beyond completion of sand extraction, potentially 20 years hence. A temporary diversion of the access and PROW would be required for the whole of this period.
63. Given the disadvantages outlined above the applicant has proposed a permanent re-routeing of the PROW around the eastern perimeter of the site. This is promoted as having the following advantages:

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

- There would be no need for a temporary arrangement as the PROW would be moved onto a permanent route.
 - It could be relocated before sand extraction intrudes on the current route.
 - Sympathetic planting and its relocation nearer to existing woodland would enhance the amenity and landscape quality of the PROW.
64. The applicant has submitted a draft application to divert the public right of way in support of this planning application, but no formal application has been made to date. It is proposed that MR248 be permanently diverted along the new permanent access track proposed to Nepicar Meadow Cottage and The Chalet. Paragraph 4.8 of the supporting statement says, “...*This track will be constructed before new Phase Three of quarrying is entered onto. The diversion runs from the A25 along the retained existing access track before diverting north eastwards to follow round the perimeter of the Nepicar site to join up with the existing route of MR248. This will be taken forward through the formal submission to permanently divert MR248. A copy of the draft application is included at Appendix C. JCL is of the view that all outstanding PROW issues can be resolved outside of this minor amendment application.*”
65. The PROW Officer has indicated that he is satisfied with the proposed route however it is suggested that a condition (Grampian) which prevents the commencement of phase three (approx. 2023) until such time as a diversion order is confirmed should be conditioned. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects and in the circumstances I do not consider to impose such a condition would be reasonable. Whilst I understand the desire to ensure adequate accommodation for the completion of the diversion order it would not in my view be reasonable to propose a condition on this section 73 application which requires the confirmation of a diversion order under different legislative provision. The applicant is aware of the need to gain permission to divert the restricted byway and has stated this would be taken forward through the formal submission to permanently divert MR248. A condition requiring the applicant to carry out the development as proposed in their application would endorse this commitment. Furthermore the County Council as Highway Authority has a duty to protect the PROW and to ensure it is not disturbed prior to orders for the diversion of the highway being confirmed. It also has powers under the Highways Act both to restore the surface should it be disturbed and to bring forward prosecution if unauthorised works are carried out. Should the diversion order application be unsuccessful there would be sufficient time for the applicant to reconsider how they might proceed with mineral extraction before entering phase three.
66. I am therefore satisfied that the revised alignment is acceptable from a public right of way perspective.
67. I now turn to the implications of re-routeing the track in relation to residential access. I understand the owners of Nepicar Meadow Cottage have a legal right to use the access on its current alignment, (the owners of the Chalet may have the same rights but the applicant and KCC has been unable to make contact with them). The owners of Nepicar Meadow Cottage are concerned about its relocation as it would in their view result in a less direct access to their property.

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

68. To reinstate the track along its original alignment following extraction of the sand is not possible without the consequential need to import significant volumes of material to engineer an appropriate gradient with acceptable batters (see paragraph 62 above). Introducing such an engineered feature in the landscape would in my view have a negative impact on the openness on the green belt. It is recognised that the re-routing as now proposed would result in a longer access route to the two residential properties however there are also some advantages offered by its relocation.
- It would allow for certainty by providing a permanent solution for access to the residential properties, thereby reducing disturbance and inconvenience;
 - it would also allow for a permanent relocation of utility provision, currently within the access track;
 - it would be constructed to an appropriate standard but in keeping with the rural nature of the restored site;
 - it would provide vehicular access solely for the 2 residential properties; it would no longer be shared with a farmstead;
 - sympathetic planting would enhance the amenity and landscape quality of the track;
 - the public right of way would join up with the existing network in the northern corner of the application site, away from the residential properties, allowing for much greater privacy; (the Applicant has suggested a clear distinction between public and private access could be made by providing a gate).

In addition whilst strictly not a planning consideration,

- the Applicant would meet the reasonable costs to complete a deed of variation to show the new access as the permanent right of access between Nepicar Meadow Cottage and the A25;
 - the new access would be provided and maintained at the expense of the Applicant.
69. These planning advantages must be weighed against the inconvenience of a longer route for the two residential properties and the impacts upon the landscape of importing significant volumes of materials to create a landform with a suitable gradient on the current alignment.
70. On balance it is my view that the relocated access provides an appropriate alternative giving a permanent solution, with opportunities for environmental and privacy benefits to the residents. As such the permitted mineral extraction and subsequent restoration could also continue with minimum disturbance to those properties. It is important to note that any outstanding legal dispute over the access is matter for the applicant to resolve; provided that the County Council is satisfied in planning terms with the alternative access that is being proposed it should not prevent this application from being positively determined. I am aware the two parties are currently in dialogue regarding current access rights. A condition requiring submission of the details of the proposed track would ensure a scheme giving adequate accommodation for all vehicles visiting the the residential properties.

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

71. The County Council can only consider the proposals before it; and on balance the revised alignment offers improved amenity value for the users of the PROW and is reasonable in landscape and amenity terms and is therefore considered acceptable.

Landscape

72. The proposed amendments to the phasing and restoration essentially relate to a change in the direction and phasing of extraction operations and consequential changes to the landscaping and restoration provisions. The approved landscaping scheme provides for extensive landscaping around the perimeter of the site and the slopes of the excavated low level landform.
73. The specific changes to the phasing are detailed in the proposal section earlier in my report but they essentially follow the same principles of additional woodland planting around the edge of the site. Slight amendments to the restoration contours have meant that there is no longer a requirement for a functional drainage pond within the site following extraction and so this is now omitted from the proposals (this was not originally proposed as an ecological mitigation measure). Two new hedgerows are proposed to create three field units, one running east west to the north of the extraction area, thereby separating the grazing land to be managed for wildlife. The second runs north south along a similar alignment to that of the existing track, thereby maintaining a visual separation and reflecting the historical field boundaries. Following negotiations the woodland planting area in the north western tip of the site is proposed to be extended further thereby offering even greater opportunity for management for wildlife (see below). The amended restoration phasing follows the principles of the currently approved scheme in that it provides for progressive restoration as the phases are worked thorough. The final phase of excavation is now proposed to move southwards towards the access road thus ensuring that the eastern, northern and western boundaries can be restored as early as possible.
74. It is recognised that this site lies within the Green Belt, and that planning permission has already been granted for the mineral extraction. Amendments to the phasing and restoration plans means that as the extraction area moves southwards out of the quarry the amount of open mineral working significantly reduces. This combined with extended areas of woodland planting minimises the impact upon this Green Belt location. The phased approach to restoration would reduce the temporary impact upon longer distance views from the AONB to the north of the motorway, and further to the east.
75. The proposed rain shelter would be a new feature at the site and would be located within the processing area to provide cover for the various stockpiles of sand as required. The application states that as a flexible mobile structure its introduction to the quarry would not require specific permission. On the basis of the description contained in the supporting statement I have no reason to disagree, however no specific dimensions or details of mobility are provided, only illustrative details of the type of structure. There are a number of matters to establish before it could be concluded that the proposal is not development (thereby not requiring planning permission); or indeed if it is, whether it is permitted development (rights which are removed by condition 25 of TM/98/1815), and whether it would require prior

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

approval. I therefore propose an informative to the effect that the County Council reserves its position until such time as the applicant is able to provide exact details of the proposed shelter to be utilised.

Ecology

76. The Applicant had already committed to increase ecological enhancements around the site under the existing planning permission and the proposals already included woodland, hedgerow and buffer planting (as discussed above). In addition to the new habitat creation for the Sand Martins, the Applicant considers there is scope for the triangular area of the site that lies to the north of the extraction area between Firemanshaw Wood and Nepicar Meadow Cottage, just left to grazing under the approved scheme, to enhance the ecological potential of this unworked area. The Applicant has therefore proposed the following wildlife enhancements be incorporated into the final restoration of the quarry:

- Provision of a new field boundary as identified on Dwg 1503256v2;
- a management regime that provides for continued grazing with an emphasis on wildlife habitat enhancement;
- new planting across the northern section of the triangular land to strengthen the link between existing woodland to the east and west and so enhancing the corridor for wildlife movement, the new area of planting would comprise Woodland Mix A as identified on Dwg 1503256v2;
- the provision of two nesting boxes for owls;
- provision of a bat roost at an appropriate location within the eastern edge of Firemanshaw Wood;
- appropriate management and aftercare.

77. Furthermore additional habitat surveys carried out in January of this year resulted in a new biodiversity report which also recommends further measures to increase biodiversity and create a net gain for wildlife within and around the site. My ecological advisor has acknowledged this would ensure a sufficient framework were in place to carry out further detailed surveys to identify ecological impacts and implement appropriate mitigation. Such measure would include bat and bird boxes as well as creation of hibernacula for invertebrates as well as refugia for reptiles and amphibians. The Applicant has indicated that they are prepared to accept a condition to secure such a provision.

Noise

78. Noise from operations on the site, including vehicles, mobile plant and machinery is already controlled through the scheme approved pursuant to condition 27 of TM/98/1815. The overall noise climate at the Quarry is influenced by the close proximity of the M26 motorway to the north. To date the original concept of transporting sand by conveyor has not been taken forward; mobile equipment has been used for the past 20 years in the quarry, and it is proposed that this method would continue. However the Applicant has noted the advice provided by the County Council's noise consultant and is happy to accept a new condition more in line with current Planning Practice Guidance, as follows:

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

- *Noise levels from the site shall not exceed 55dB LAeq,1h,freefield at any of the sensitive receptors around the site. For temporary operations such as the construction and removal of earth bunds to act as noise barriers and the construction of the new access to Nepicar Meadow Cottage and The Chalet, an increased temporary daytime noise limit of up to 70dB LAeq,1h,freefield shall be permitted for a period of up to eight weeks in a year. If considered necessary by the local Environmental Health Officer, the applicant shall construct earth mounds to provide noise attenuation to Nepicar Meadow Cottage and The Chalet when quarrying operations approach them. The applicant shall ensure that reversing beepers used by mobile equipment on the site are non-tonal.*

It is proposed therefore that this condition replace the relevant noise condition on the original planning permission.

79. Part of the current provision for noise mitigation is the construction of attenuation bunds to provide an acoustic screen for the nearest residential properties. This would be carried through to this latest proposal. As the phasing of mineral extraction moves closer to those properties the above condition would require the Applicant to provide temporary acoustic bunds were it considered necessary. The Applicant is in dialogue with the owners of Nepicar Meadow Cottage with regard to the provision of the 'southern leg' of the bund within the next few months. Currently the owners wish to retain their views to the west and therefore have requested that the 'western leg' of the bund is not constructed.

Conclusion

80. It is recognised that when planning permission is initially granted for mineral extraction proposals it is based upon the best information available at that time. Given the longevity of these types of development it is often necessary to amend schemes as knowledge about the geological deposit and technology advances. The Applicant has recently found it necessary to extract outside the constraints of the originally approved phasing plan to get to the various colours and grades of sand required to meet customer specification. A minor amendment is therefore sought to enable the applicant to work within an approved scheme.
81. This proposal seeks only to vary the phasing and restoration plans but also requires some adjustment to the approved landscape plans. It has also provided the opportunity for the Applicant to re-consider the ecological mitigation and to take a clear and permanent approach to the treatment of the PROW and access road.
82. The site continues to be an important source of silica sand (a nationally important mineral) and therefore being able to meet the specific demand of the customer ensures efficient use of this valuable mineral resource. I am satisfied that the proposed changes to phasing and restoration plans do not have any greater impact upon the landscape or its Green Belt location than the approved scheme. The Applicant has taken the opportunity to propose greater ecological measures as part of the restoration and aftercare and proposes to maintain mitigation measures to

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

ensure minimal impact upon the amenity of the area. A scheme for dealing with the relocation of the PROW and access to the residential properties is considered acceptable.

83. As this is a section 73 application the decision effectively result in the issue of a new planning permission which repeats all of the remaining original conditions. Any of the other conditions which require updating or adjustment to reflect current circumstances would be amended accordingly.

Recommendation

84. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO:

- (a) the re-imposition of conditions previously imposed on permission TM/98/1815 (updated and amended as necessary) including:
- the development being carried out in accordance with the approved details;
 - the only access to be used by traffic entering or leaving the site shall be the existing quarry access from the A25;
 - no excavation within 30 metres of the boundary of the M26;
 - safeguarding of visibility splays
 - measures to prevent mud and debris on the public highway;
 - sheeting of loaded vehicles
 - maintenance of surface of access road;
 - signs indicating left turn only onto A25;
 - restriction on average weekly traffic flows from Nepicar (and Park Farm Quarry)
 - no excavation within 30 metres of Askew Bridge Cottages;
 - no extraction below 65 metres AOD;
 - no materials imported for processing, storage or distribution;
 - retention of soils and overburden on site;
 - appropriate handling of soils;
 - appropriate treatment of stockpiles and no more than 5 metres in height;
 - submission of alternative restoration scheme in event of cessation of working prior to completion
 - retention of trees and shrubs for 5 years
 - no importation except topsoil and subsoil
 - aftercare
 - operating hours 0700-1800 hours Monday–Friday, essential maintenance only 0700-1300 hours Saturday, no operations Sunday, Bank or Public Holidays;
 - scheme of Woodland and Wildlife Habitat Aftercare implemented
 - removal of permitted development rights to erect, extend, install or replace fixed plant, machinery, buildings, structures, erections unless agreed in writing with Mineral Planning Authority;
 - display of planning permission;
 - control of noise (replacement condition as suggested by noise advisor);
 - proper maintenance of vehicles, plant and machinery;
 - control of dust;
 - removal of all buildings, machinery, foundations and bases and site restored;

TM/15/1636 (KCC/TM/0141/2015) - Section 73 application by J Clubb Ltd to revise the existing working, landscaping and restoration scheme, including re-routing of track (and public right of way) at Nepicar Sand Quarry, Maidstone Road, Wrotham Heath, Kent, TN15 7SR

- prevention measures for fly tipping
 - monitoring of groundwater;
 - safe storage of oils and chemicals
 - maintain 75 % silica sand sales
 - silica sand sale records;
- (b) new conditions including, amongst other matters, the following:
- progressive working, landscaping and restoration in accordance with plans submitted;
 - an application for the diversion of the PROW/access road shall be submitted prior to extraction commencing in phase 3 as set out in the supporting statement;
 - details of the specification of the access track shall be submitted to the Mineral Planning Authority for approval and thereafter implemented as approved;
 - additional ecological measures identified in Corylus Ecology Report January 2016 to be carried out.
- (c) an informative advising the applicant to supply exact details of the proposed rain shelter prior to it being brought onto site in order that the County Council can conclude on the need for permission or prior approval (or otherwise).

Case Officer: Andrea Hopkins

Tel. no: 03000 413394

Background Documents: see section heading
