

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.

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**Item C1**

**SECTION 73 APPLICATION TO VARY CONDITION 4 OF PERMISSION TM/04/2028 TO ALLOW TIME FOR COMPLETION OF QUARRY RESTORATION UNTIL 30 NOVEMBER 2010 (INFILLING TO ORIGINAL GROUND LEVELS OF FORMER SAND QUARRY USING INERT WASTE MATERIALS) – WORKHOUSE QUARRY, WORKHOUSE ROAD, RYARSH**

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A report by Head of Planning Applications Group to Planning Applications Committee on 18 August 2009.

Application TM/09/1414 by Gallagher Aggregates Ltd to vary condition (4) of permission TM/04/2028 to allow time for completion of quarry restoration until 30 November 2010: infilling to original ground levels of former sand quarry using inert waste material – Workhouse Quarry, Workhouse Lane, Ryarsh (MR. 666 599)

Recommendation: Permission subject to conditions.

Local Member: Mrs S Hohler

Classification: Unrestricted

**Site**

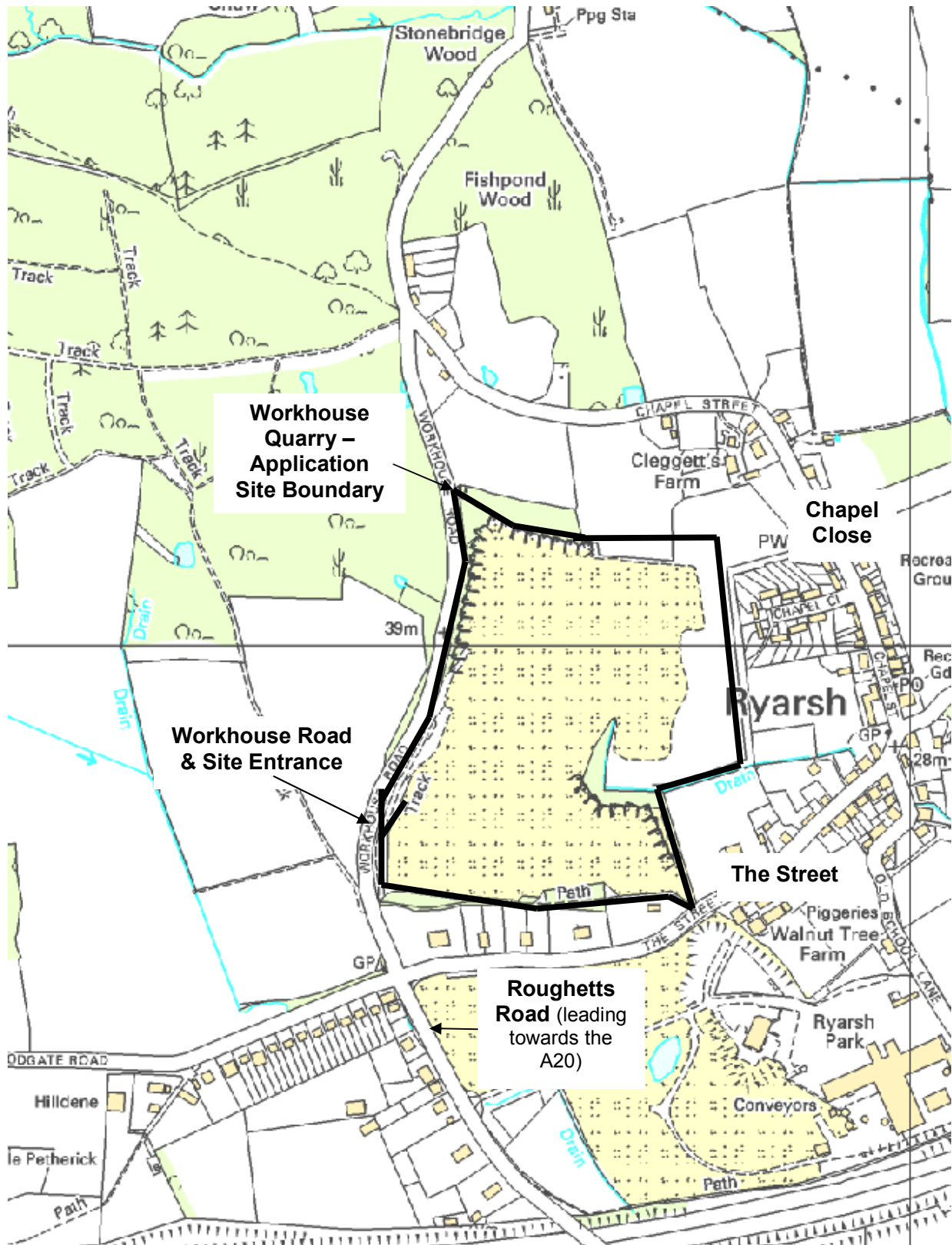
1. Workhouse Quarry is an 11.4 hectare former sand quarry and lies to the west and north-east of the village of Ryarsh. Prior to sand excavation, the site was open agricultural land and playing field. The site is located within a designated Area of Outstanding Natural Beauty (AONB). The closest residential properties to the site are located to the north-east (Chapel Close) and to the south/south-east (The Street). A site location plan is attached.

**Planning Background and Proposal**

2. This former quarry was first granted permission on appeal in 1963 (ref. MK/4/61/661) specifically to enable continuing supply of sand for brickmaking purposes at the nearby Ryarsh brickwork's. A significant extension eastwards was approved in 1987 (ref.: TM/86/1717). The sand was restricted to use at the brickwork's and all sand was transported from the site via a tunnel conveyor to the brickwork's.

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### **APPLICATION SECTION 73 APPLICATION TO VARY CONDITION (4) OF PERMISSION TM/04/2028 TO ALLOW TIME FOR COMPLETION OF QUARRY RESTORATION UNTIL 30 NOVEMBER 2010 (INFILLING TO ORIGINAL GROUND LEVELS OF FORMER SAND QUARRY USING INERT WASTE MATERIAL) – WORKHOUSE QUARRY, WORKHOUSE ROAD, RYARSH**

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3. Subsequent permissions were granted in respect of the method of working, including that under permission reference TM/96/898, which set a final deadline for completing sand extraction by October 1996. Since then a number of applications have been submitted which have sought to vary the approved restoration scheme, one of which was permitted under the provisions of the Minerals Review Legislation (ref. TM/97/580/MR99). This permission also provided for the importation of some 180,000m<sup>3</sup> of inert waste material in order to provide less steeply sloping quarry sides and to provide falls for drainage across the quarry floor. The permission required operations to be completed by August 2000.
4. In May 2001, Members resolved to grant permission (ref. TM/00/896) for a mid level restoration scheme, involving the importation of an additional volume of inert waste materials. The resolution to grant permission was subject to the applicant entering into a legal agreement in order to secure a restoration bond, which would have been called upon in the event of the applicant failing to complete restoration within a required timescale. The application was later withdrawn when the terms of the legal agreement could not be agreed. However, prior to its withdrawal in anticipation of the permission being issued and to avoid any further delay in restoration, the applicant continued to import materials to the site. As a result a substantial amount of material had already been infilled in phases 1 and 2, alongside the eastern boundary albeit without the benefit of planning permission.
5. In December 2002, a request for Endorsement of action I had taken to regularise infilling operations at Workhouse Quarry, was sought from Members of the Regulation Committee Panel. It was agreed that the Applicant be invited to submit a planning application to regularise infilling of the site which had taken place to date. Subsequently the applicant formally submitted two planning applications, the first to regularise infilling which had already taken place and the second to infill the former quarry to original ground levels (ref.: TM/02/3577). Both applications were granted planning permission in March 2003.
6. To achieve the higher standard of restoration to original ground levels the consent granted under reference TM/02/3577 allowed the importation of some 800-900,000m<sup>3</sup> of inert and restoration soils. Based on the applicants previous experience of operating the site, provided an import of 200,000m<sup>3</sup> per year could be sustained, infill and final restoration was anticipated during 2007. However, this permission was granted with a number of planning conditions requiring amongst other matters, the applicant to undertake highway improvements to a stretch of Workhouse Road via a section 278 legal agreement with the Highway Authority. Conditions also required the applicant to commence infilling by 12 June 2004 and that infilling works should be complete by 31 December 2007. This permission was not implemented for a number of reasons including the need to complete the legal agreement necessary to secure the road improvements to Workhouse Road before any further materials could be imported to the site and the need to obtain an IPPC (Integrated Pollution Prevention Control) permit from the Environment Agency (EA). As a result Gallaghers (GAL) had to seek a variation to a number of conditions under permission TM/02/3577 in order to allow the site to be finally restored.

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7. Permission was later granted under reference TM/04/2028 to re-commence infilling of the site and for a corresponding extension of time for the completion of restoration by 30 June 2009. This allowed time for negotiations on the legal agreement to be concluded with the Highway Authority and for the EA to determine and issue the permit.
8. Since the granting of the last permission, Gallaghers have successfully completed final restoration of phases 1-3 of the site (i.e. that part of the site closest to Chapel Close) and have undertaken to complete phase 4 by summer 2009 with near completion of phase 5 closely following behind (i.e. the section of the site closest to residents of The Street). However the timescale for final restoration has now lapsed and the operator has had to seek a further extension of time to finally complete.
9. By the time of this meeting, the operator was hopeful that the completion of phase 4 would have been achieved along with near completion of phase 5, the closest phases of the site to local residents. However given the recent downturn in the economy and specifically the lack of available restoration materials generated from the construction industry that provide the main source of inert infill material required for this site, progress has been lower than anticipated. The operator now seeks an extension of time to complete restoration of the remaining phases, which they anticipate can be completed by November 2010.

### **Planning Policy Context**

10. **National Planning Policies** – The most relevant National Planning Policies are set out in PPG2 (Green Belts, 1995), MPS2 (Controlling and Mitigating the Environmental Effects of Mineral Extraction in England, including Annex 1: Dust, 2005), PPS10 (Planning for Sustainable Waste Management, 2005) and PPS23 (Planning and Pollution Control, 2004).
11. **South East Plan (2009)** – These include Policies SP5 (Green Belts), C3 (Areas of Outstanding Natural Beauty), W14 (high quality restoration and, where appropriate, aftercare of waste management sites).
12. **Kent Minerals Local Plan Construction Aggregates (1993)** - Policy CA18 (noise, vibration and dust).
13. **Kent Waste Local Plan (1998)** - These include Policies W12 (restoration of mineral workings), W18 (noise, dust and odour), W22 (road traffic and access), W31 (landscaping) and W32 (restoration and aftercare schemes)
14. **Tonbridge and Malling Borough Council Local Development Framework Core Strategy (2007)** - These include Policies CP1 (sustainable development), CP3 (Metropolitan Green Belt) and CP7 (Area of Outstanding Natural Beauty)

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**Consultations**

15. **Tonbridge and Malling Borough Council:** No objection raised subject to an informative stating that the concerns of local residents with regard to the restoration of the site should be investigated and be given due weight.
16. **Ryarsh Parish Council:** No objection raised.
17. **County Transport Operations Officer (Traffic Planning):** No objections raised on highway grounds.

**Local Member**

18. The Local Member, Mrs S Hohler, was notified of the application on 3 June 2009. No comments have been received to date.

**Representations**

19. The application was publicised by the posting of a site notice and the individual notification of 77 nearby properties. Letters of representation have been received from 3 local residents, two of which reside at the same address. Their objections are as summarised as follows:
  - Concerns that the operators are overtipping given the original levels of this site pre-sand extraction.
  - Noise generated by HGVs on site, including from reversing beepers
  - Dust generated from restoration works taking place immediately behind properties in The Street
  - Mud along Roughetts Road

**Discussion**

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this application, the development plan policies outlined in paragraphs 10 to 14 are of greatest relevance. The national planning policies and associated guidance are also of particular relevance and represent important material planning considerations. Other material planning considerations include existing planning permissions and approvals.

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21. This proposal is for a variation of an existing planning permission which currently allows the applicant to carry out restoration of this old mineral working site and restore it to 'original' levels. The principle of allowing importation of inert waste materials in order to achieve restoration to this level has therefore already been established under the existing consent(s) (ref. TM/02/3577 and TM/04/2028). A number of key factors have historically delayed the final restoration of this site. As referred to in para. 6 above the operators experienced a significant delay following the need to secure road improvements to Workhouse Road, which was subject to a section 278 legal agreement and the need to obtain a Permit from the Environment Agency prior to the re-commencement of infilling on site. Once these had been secured unfortunately a significant period of time had lapsed such that the operator was required to seek an extension of time to complete restoration and at the time they were confident that provided suitable restoration material could be sustained at a rate of 200,000m<sup>2</sup> per year the deadline of June 2009 could be met.
22. Earlier this year GAL completed a review of the void remaining to be filled at the quarry and raised early concerns with KCC that they would unlikely to be able to meet the 30 June 2009 restoration date due to the speed and severity of the downturn in the economy, particularly with respect to the construction industry which is their main source of restoration materials necessary to complete restoration at Workhouse Quarry. Whilst significant progress has been made with the completion of phases 1-3 of the site (see *figure 1*) and with phases 4 and 5 currently due for completion this summer, the operators remain confident that provided the market picks up and suitable material becomes available they can meet the required restoration of the remaining phases before the end of November 2010.
23. There have been no objections in principle from consultees to a further extension of time within which to complete final restoration and I am satisfied that the operator is working in accordance with the approved restoration scheme and to the levels required. I am mindful that the delays incurred on the final phases of restoration are outside the operators control and is a common feature being experienced by other operators in similar situations across the County. Whilst local residents have been generally complimentary on the quality of restoration achieved so far in phases 1-3, they have raised a number of concerns particularly in relation to noise and dust on site and mud being carried from vehicles along Roughetts Road.

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24. The operator hopes to have completed phase 4 of the site at the time of reporting to Members of the Committee and are currently anticipating that phase 5 will be near completion by the end of summer 2009. Both phases are the areas of the site located closest to local residents. In relation to concerns raised by local residents who live in The Street concerning noise and dust generated from HGV activity on site, the current planning permission requires that noise from operations shall not exceed 55 dB(A)L Aeq 1 hour as measured at the boundary of the site. A condition is already imposed requiring dust suppression and dampening down of any dust from the site as necessary. Given phases 4 and 5 are close to completion, the next stage of restoration would require the operator to move works further north of the site and subsequently further away from local residents which would reduce any noise and dust impacts currently being experienced by local residents residing in The Street. I am therefore satisfied that should Members be minded to grant planning consent, conditions could be imposed on any planning permission which replicate those already established on site and would enable the continued monitoring of noise and dust impacts at the sites boundary and would be consistent with the requirements of Policy W18 of the adopted Kent Waste Local Plan.

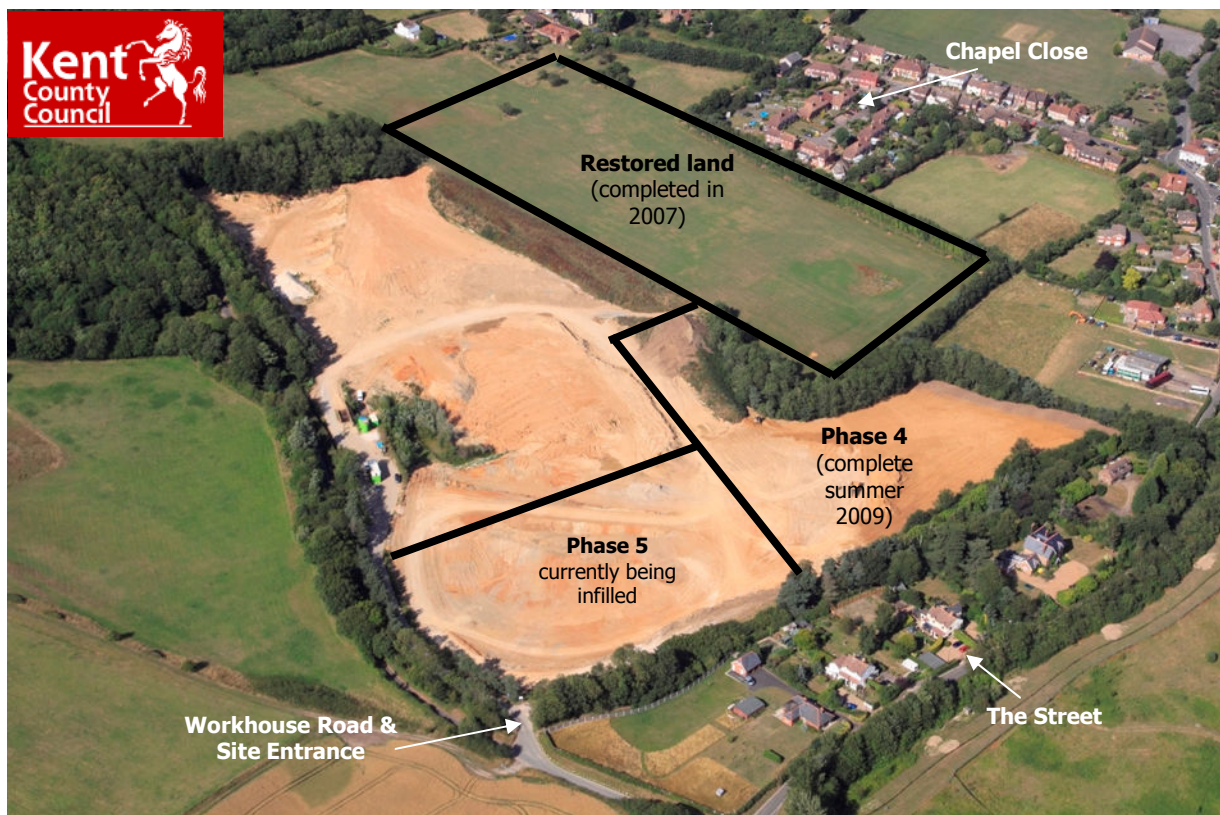


Figure 1

**APPLICATION SECTION 73 APPLICATION TO VARY CONDITION (4) OF PERMISSION TM/04/2028 TO ALLOW TIME FOR COMPLETION OF QUARRY RESTORATION UNTIL 30 NOVEMBER 2010 (INFILLING TO ORIGINAL GROUND LEVELS OF FORMER SAND QUARRY USING INERT WASTE MATERIAL) – WORKHOUSE QUARRY, WORKHOUSE ROAD, RYARSH**

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**Conclusion**

25. Previous planning permissions considered by Members under TM/02/3577 and TM/04/2028, to restore the site to a higher level or to original levels was considered to represent an improvement within the context of long term visual impact therefore restoration to surrounding ground levels has already been established and supported in principle. I remain satisfied that the proposal is consistent with Policies W14 of the South East Plan and W12 of the Kent Waste Local Plan. The operator has suffered some difficulties meeting the imposed timescales for restoration of this site for a number of reasons outside of his control. Having visited the site on a regular basis it is clear that whilst GAL have been having some difficulties in attracting sufficient quantities of restoration material to the site, the operator is progressing on site as best he can during this difficult time. Since 2007 and the completion of phases 1-3, significant progress has been made in moving towards final restoration of this site as is currently being demonstrated by progress being made in phases 4 and 5. The previous consents were considered against the relevant development plan policies and its full restoration back to original levels was supported by Members. I am satisfied that a further time extension to complete restoration is justified for a further 15 months (until November 2010). I therefore recommend accordingly.

**Recommendation**

26. I RECOMMEND that PERMISSION BE GRANTED subject to conditions covering amongst other matters; infilling and final restoration to be completed by November 2010, hours of working, vehicle number restrictions, implementation of drainage scheme approved, wheel cleaning, noise and dust controls and requiring that upon completion of restoration that reinstatement of Workhouse Road be completed in accordance with Keith Funnell drawing number RQ/L10B received with accompanying letter dated 15 November 2004 as approved on 23 December 2004.

Case Officer: Angela Watts
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Background Documents: See Section Heading
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