

SECTION C
MINERALS AND WASTE MANAGEMENT

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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Planning application to vary conditions A4 and C1 of planning permission SH/99/1003/MR69 to retain the access to Kerton Road and delay reinstatement of the land until 31 December 2024, extend the date for completion of sand and gravel extraction until 31 December 2023 and remove all plant, machinery equipment and buildings and complete restoration of the site by 31 December 2024, together with amended plant and method of working pursuant to conditions A9 and C2 of planning permission SH/99/1003/MR69 at Denge Quarry, Kerton Road, Lydd, Kent, TN29 9NP – SH/17/0338 (KCC/SH/0070/2017)

A report by Head of Planning Applications Group to Planning Applications Committee on 19 June 2017

Application by Cemex UK Operations Limited for planning application to vary conditions A4 and C1 of planning permission SH/99/1003/MR69 to retain the access to Kerton Road and delay reinstatement of the land until 31 December 2024, extend the date for completion of sand and gravel extraction until 31 December 2023 and remove all plant, machinery equipment and buildings and complete restoration of the site by 31 December 2024, together with amended plant and method of working pursuant to conditions A9 and C2 of planning permission SH/99/1003/MR69 at Denge Quarry, Kerton Road, Lydd, Kent, TN29 9NP – SH/17/0338 (KCC/SH/0070/2017)

Recommendation: Permission be granted

Local Member: Mr Tony Hills

Classification: Unrestricted

Site and Surroundings

1. Denge Quarry is an existing sand and gravel site, located approximately 4km east of Lydd, to the south and west of Lydd-on-Sea, on the eastern edge of the Dungeness Peninsula. The site lies to the west of residential properties along Coast Drive, the nearest dwellings being located to the northeast and east on Williamson Road, Pleasance Road North and Coast Drive. Dungeness Peninsula is a generally level

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coastal area with levels in the immediate vicinity of the site at around 4.0-6.0 m above sea level.

2. There are several public rights of way across the Dungeness Peninsula. A public right of way (HL9) passes from the east of the site (southern end) skirting around passing to the south of the quarry before heading west across Denge Marsh towards Lydd. Further to the north, a network of footpaths connects Lydd-on-Sea to Dungeness Road to the west. The main surrounding land use is nature conservation, but there is also residential development to the north and east of the quarry, Dungeness nuclear power station to the south west and Lydd Airport to the north west of the site.
3. The Romney, Hythe and Dymchurch light railway passes north-south to the east of the site to the rear of the properties on Coast Drive.
4. Dungeness is an area of particular interest for its geology, the coastal geomorphology including its shingle foreshore and its associated flora and fauna. As such the site is surrounded by and partly lies within the Dungeness, Romney Marsh and Rye Bay Special Conservation Area (SAC) and Site of Special Scientific Interest (SSSI). The site is surrounded to the north, east and west by the Dungeness National Nature Reserve (NNR) and the environs of the site within the Dungeness, Romney Marsh and Rye RAMSAR and Special Protection Area (SPA). These are nationally and internationally important designations. The site is also important locally and identified as a Site of Nature Conservation Interest (SNCI) and forming part of a Local Landscape Area.
5. The quarry is approximately 40.2ha in area, including the plant area and access. The site access is off Kerton Road which leads to Coast Drive. The northern part of the application site is currently partially restored to a lake, with graded margins and islands. The southernmost part of the site comprises the processing plant site, and ancillary buildings including single storey office and weighbridge; processing plant and stockpiles, small silt lagoons and settlement ponds. The operational area is screened to the south, south-west and south-east by a 3.0m high soil bund.
6. The quarry is located in a sensitive hydrological and hydro-geological environment, with the site overlying an aquifer and with a number of drinking water abstraction boreholes located in the vicinity. The site is also located within land at risk of flooding and lies within Flood Zone 3.

Background and Recent Site History

7. Denge Quarry has been in operation for many years – the main extraction permission for Denge Quarry was granted on appeal in 1976. Following on from that the planning history is:

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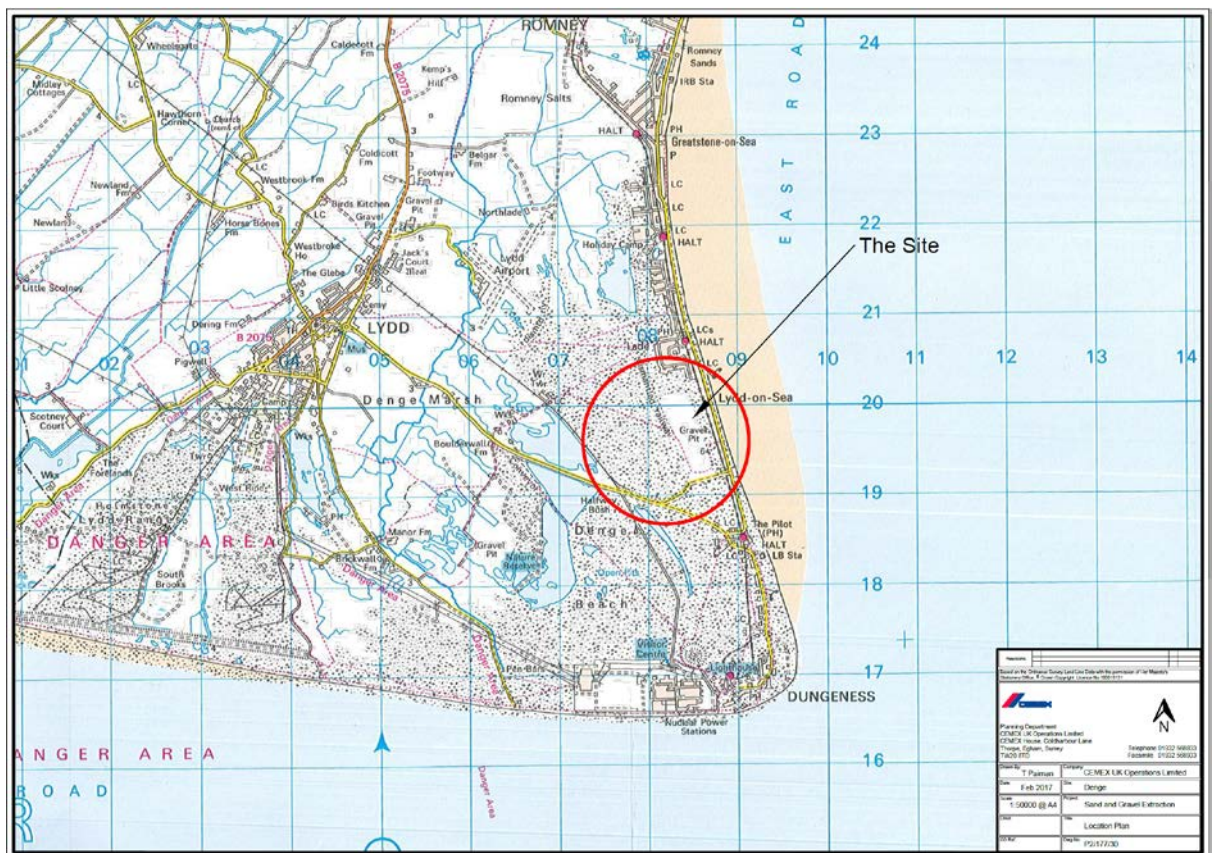
Variation of conditions of SH/99/1003/MR69 to retain the access to Kerton Road and delay reinstatement of the land until 31 December 2024, extend the date for completion of sand and gravel extraction until 31 December 2023 and remove all plant, machinery equipment and buildings and complete restoration of the site by 31 December 2024, together with amended plant and method of working Denge Quarry, Kerton Road, Lydd – SH/17/0338 (KCC/SH/0070/2017)

- Planning permission SH/81/798 – permitted the erection of an aggregate processing plant – 26th January 1984.
 - An application for determination of new conditions (ROMP), reference SH/99/1003/MR69 was submitted in October 1999 and was accompanied by Environment Impact Assessment (EIA) and conditions were agreed 21 December 2000. *(This application site covered both New Romney Pit and Denge Pit and as such the conditions were split into 3 parts. Part A was conditions relating to the whole site (both quarries), Part B imposed additional conditions applying to New Romney Pit and Part C applied additional conditions to Denge Pit & plant site. New Romney Pit has been worked, restored and is out of aftercare).*
 - Permission reference SH/01/382 enabled the continued extraction of sand and gravel, use of the processing plant and site restoration without compliance with conditions A(13) C(5) and C(7) of SH/99/1003/MR69, this was permitted in April 2002. This involved mainly the future extraction of sand and gravel from below the water table at Denge Quarry and without complying with the previous salinity level condition C5 and removal of restrictions on pumping. Details submitted pursuant to conditions 1, 2, and 3 of permission SH01/382 were permitted in May 2002 relating to the provision of water monitoring details at Dungeness and the confirmation of the arrangement for the provision of appropriate plant to treat chlorides and a scheme of wash water recycling at Denge washing plant. Application SH/01/382 was supported by an EIA which focused on ecology and hydrogeology.
 - SH/08/963 permitted in May 2009 amended condition C10 of planning permission SH/99/1003/MR69 to vary the final restoration scheme.
 - SH/99/1003/MR69/RC2 and RC11 permitted in September 2011 amended the method of working and aftercare scheme of planning permission SH/99/1003/MR69. The method of working alteration enabled the means of transporting mineral to the processing plant from conveyor to vehicle movements.
8. The quarry has been worked by hydraulic excavator, loading shovel and field conveyor for the last five years and it is proposed that this method of working be continued for Phase 7 (which has yet to be worked). However the Applicant has identified that the current method of working by excavator close to the retreating face has resulted in a significant depth of sand and gravel left in-situ at the base of the lake. The long arm excavator has been unable to safely reach these reserves and excavate to the full permitted depth without becoming unstable. Surveys have identified 875,000 tonnes of mineral would potentially be sterilised if the excavator is unable to reach this reserve. Consequently the Applicant is now proposing a different method of working, involving an excavator on a floating pontoon, which necessitates a short extension to the end date of quarrying and restoration activities. (Full details are given in the proposal section of my report – Paragraphs 9-15 below).

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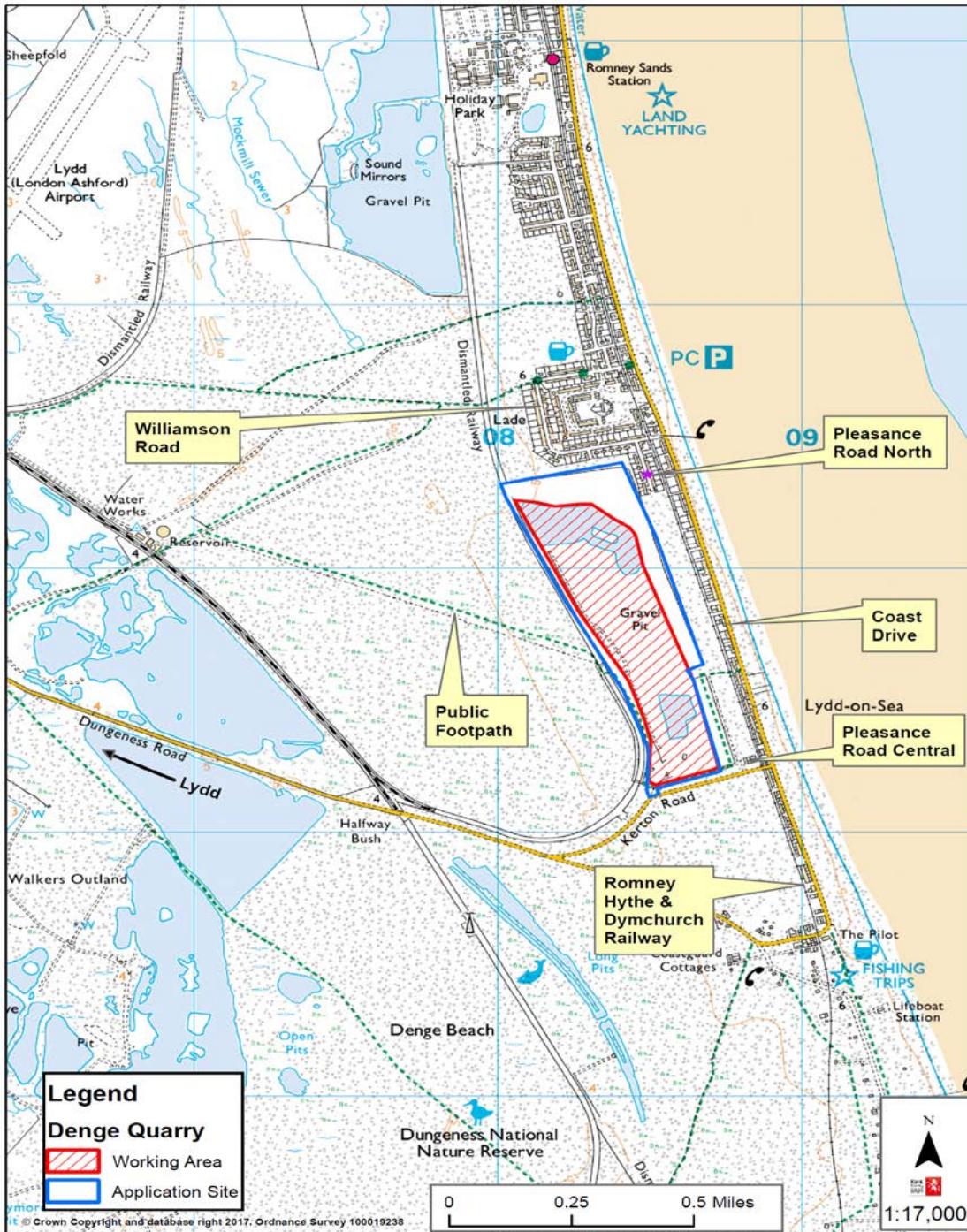
General Location Plan



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Site Plan



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Proposal

9. Planning permission exists for the extraction of sand and gravel from this site, to cease by 31 December 2020. Removal of the Kerton Road access and all plant and equipment and final restoration is to be completed by 2021. Phases 1-6 have been worked from north to south and operations are currently in Phase 7. No dewatering takes place and as the gravel is extracted a water filled void forms and this is expanding southwards in the direction of the dig. Areas have been left to form islands and final restoration will shape the lake in accordance with the approved restoration plan.
10. The Applicant has identified that current working practices has resulted in the land based excavator being unable to recover reserves from the base of the lake at the working face margins. Recent surveys of the lake floor have revealed that on average around 3 metres of material is not being extracted from the bottom of the face to the full permitted depth. The 875,000 tonnes left at the base of the worked phases could only be recovered by a change to the method of working. In order to change the method of working and recover the unworked sand and gravel at the bottom of the lake an additional three years of extraction is required with restoration works to be complete by 31 December 2024.
11. It is proposed to to continue working the remaining land in Phase 7 by excavator and conveyor and as the phase is worked the field conveyor will gradually be removed. After extraction in Phase 7 is complete it is proposed to change the method of working to a long arm excavator on a floating pontoon within the lake. The extracted sand and gravel would be dropped into bottom dump hopper barges moored alongside the floating platform. The barges would travel up and down the lake, towed by tug and taking the material back to a berth to be constructed at the southern end of the lake, close to the processing plant. It is anticipated that that two/three barges would be in operation and they would drop their load into the berth where it would be removed by another land based excavator into stockpiles ready for processing. The machine operator would be transported to the platform by small boat. The proposed method of working would start in the north of the lake in what was Phase 8 which would become Phase 13 and move southwards through renumbered Phases 14, 15, 16, 17 and 18. The plant site would be worked last by a combination of excavator on the pontoon and a retreating excavator on land in a west to east direction. Mineral from the extraction would continue to be fed to the existing processing plant by the hopper where it would be washed and graded to various sizes before being discharged to stockpiles on the ground. From these stockpiles the mineral would be loaded into lorries by loading shovel for transport off site to the customer.
12. As set out above the change of working method would require the construction of a docking berth for the mineral barges to discharge the extracted mineral. Construction works are expected to take a month and the berth would be constructed with

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reinforced sheet piling to the sides and would include a bunded refuelling area. The berth would measure 25m x 13m x 4m deep. Construction works would take place within quarry operating hours, which are 07.00 to 18.00 hours Mondays-Fridays and 07.00 to 13.00 hours on Saturdays and which would remain the same for the additional three years.

13. After the material has been processed it is delivered to customers by lorry. All gravel traffic (except for local deliveries to the Coast Drive area) turns right at Kerton Road and travels along Dungeness Road to Lydd and onto the B2075 (Romney Road) and then to the A259 just west of New Romney. Average lorry traffic amounts to some 64 movements per day and this would remain unchanged as a result of the proposed new method of working.
14. Planning permission has been granted for restoration to amenity, recreation and nature conservation which has already begun and will create new reed beds, shallow ponds and scrapes thus adding an additional 13ha of UK Biodiversity Action Plan (BAP) priority habitats¹. Restoration proposals would remain unchanged and would continue to be delivered progressively albeit over a longer period of time. A Unilateral Undertaking (legal agreement) is in place associated with planning permission SH/01/382 which provides for CEMEX to offer the freehold interest of the site to the Royals Society for the Protection of Birds (RSPB) on completion of restoration. It is intended that this legal commitment be taken forward with any planning permission allowing additional time for completion of restoration.
15. The proposals are considered to be 'EIA Development' and are therefore accompanied by an Environmental Statement (ES), the Applicant having previously sought a screening and scoping opinion from the County Council upon the proposals.

¹ UK BAP priority habitats cover a wide range of semi-natural habitat types, and were identified as being the most threatened and requiring conservation action.

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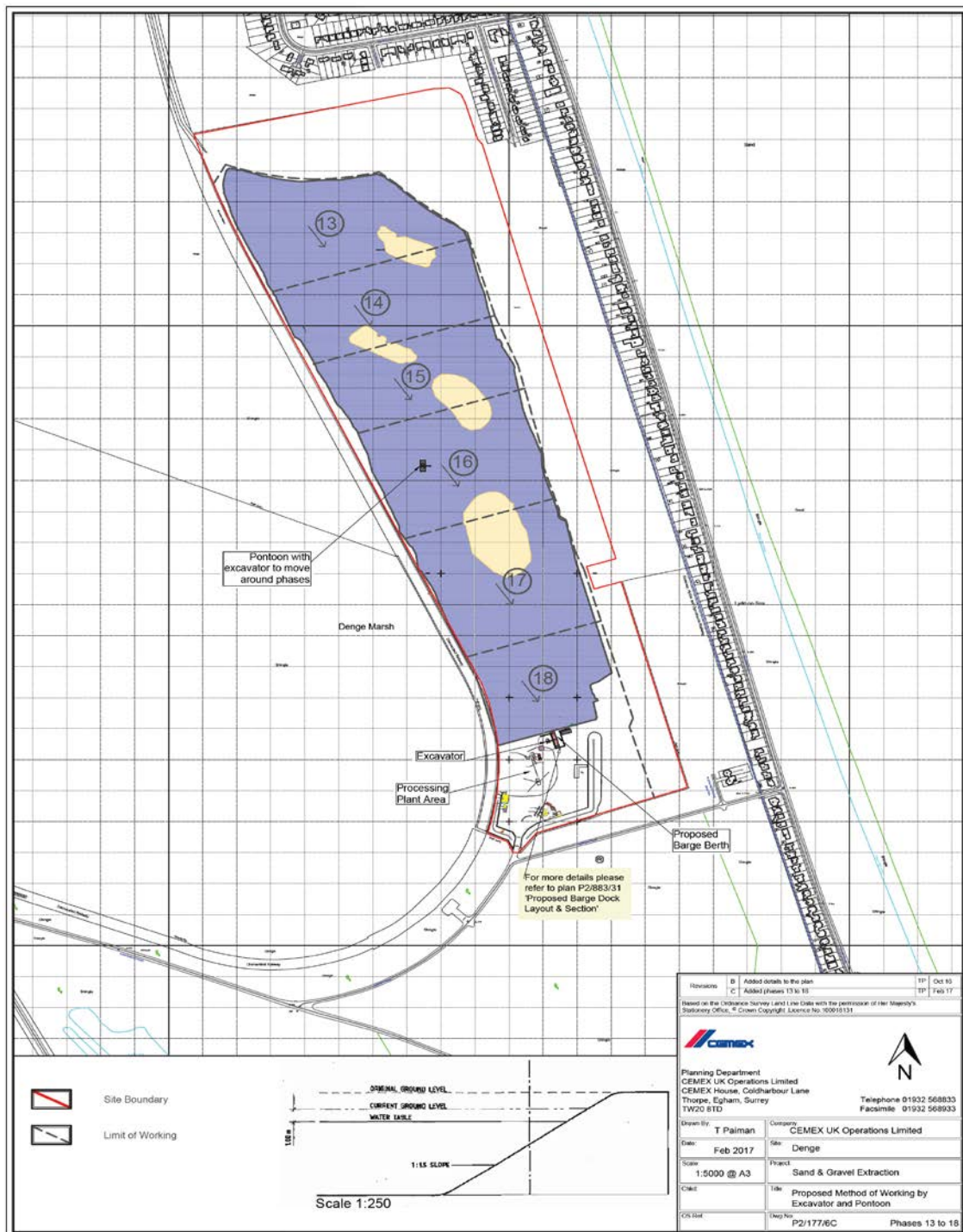
Existing Method of Working Phase 7



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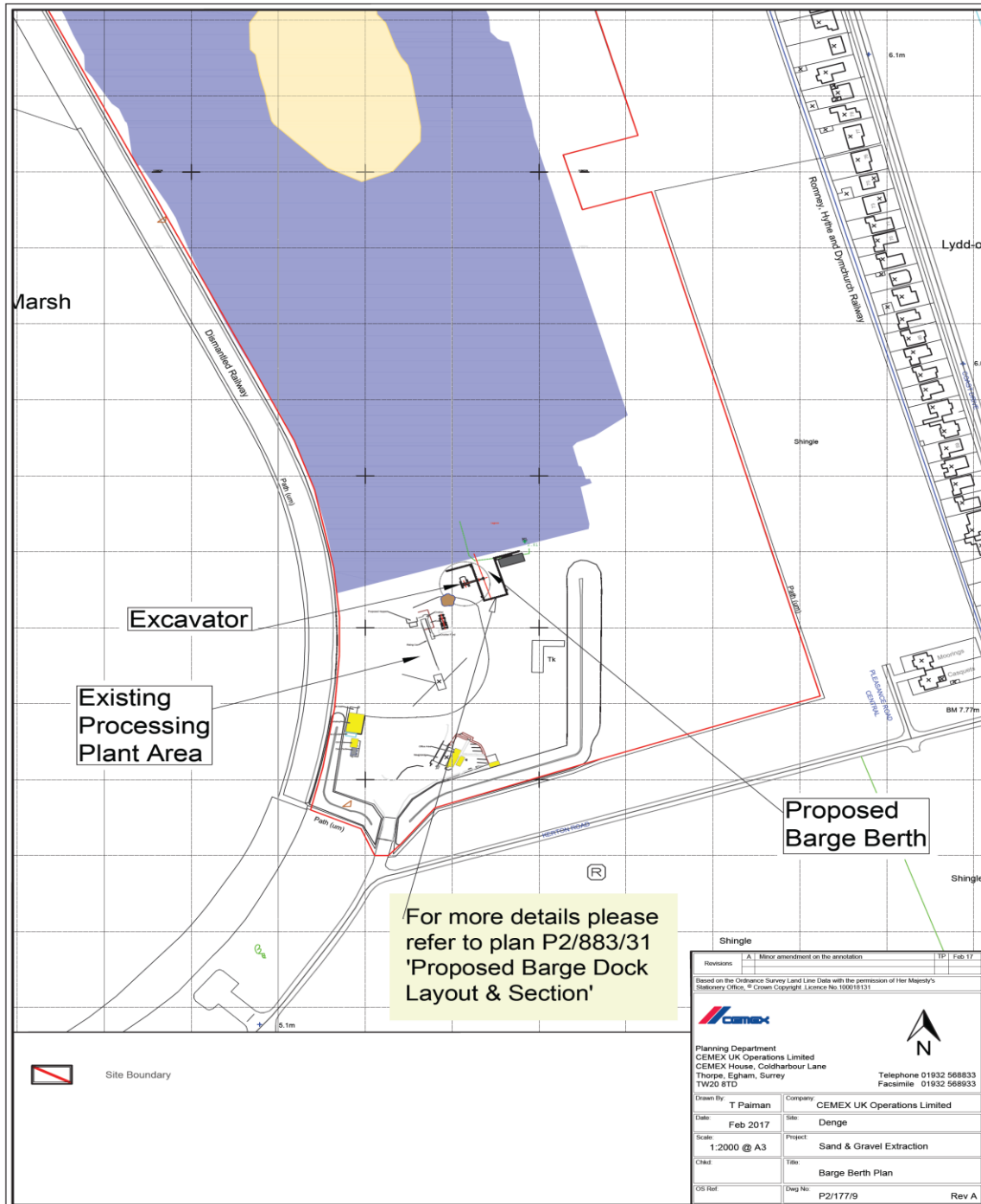
Proposed (renumbered) phases 13-18 - Excavator on pontoon



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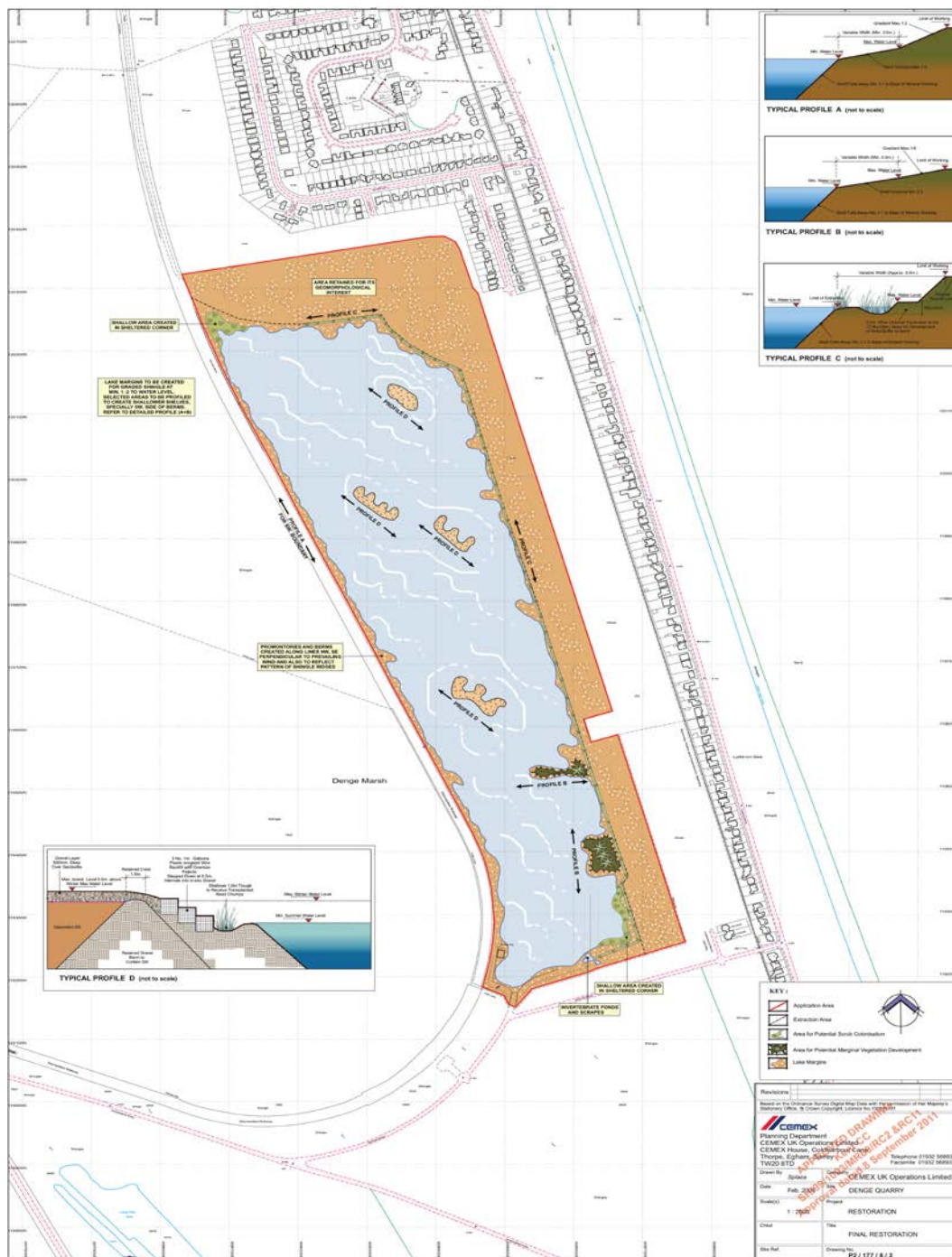
Barge Berth Plan



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Existing and Proposed Restoration



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Planning Policy

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

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

The NPPF contains a presumption in favour of sustainable development, which includes economic, social and environmental dimensions that should be sought jointly and simultaneously through the planning system. In terms of delivering sustainable development in relation to this development proposal, Chapters 1 (Building a strong, competitive economy), 3 (Supporting a prosperous rural economy), 4 (Promoting sustainable transport), 10 (Meeting the challenge of climate change, flooding and coastal change), 11 (Conserving and enhancing the natural environment), and 13 (Facilitating the sustainable use of minerals) are of particular relevance.

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

National Planning Policy Guidance (NPPG) (March 2014) supports the NPPF including guidance on planning for air quality, climate change, environmental impact assessment, flood risk and coastal change, light pollution, minerals, natural environment, noise, transport and waste (amongst other matters).

In the case of mineral related development, the NPPG recognises that minerals make an essential contribution to the country's prosperity and quality of life. It recognises the supply of minerals has a number of special characteristics that are not present in other types of development:

- minerals can only be worked (i.e. extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited. Working is a temporary use of land, although it often takes place over a long period of time;
- working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated;
- since extraction of minerals is a continuous process of development, there is a requirement for routine monitoring, and if necessary, enforcement to secure

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compliance with conditions that are necessary to mitigate impacts of minerals working operations; and

- following working, land should be restored to make it suitable for beneficial after-use.

The guidance lists environmental issues of mineral working that should be addressed by mineral planning authorities including amongst other matters; noise, dust, air quality, visual impact, landscape character, archaeology & heritage, traffic, contamination, designated nature conservation sites, geological and geomorphological features, restoration and aftercare, groundwater issues and water abstraction.

It also gives guidance to mineral planning authorities on ensuring adequate resources of aggregates to contribute to local and national need, through Local Aggregate Assessments and Aggregate Landbanks. The NPPF requires for Mineral Planning Authorities' (MPA's) to plan for the steady and adequate supply of aggregates based on a rolling average of 10 years sales data and other relevant information and an assessment of supply options.

17. Development Plan Policies:

Kent Minerals and Waste Local Plan (MWLP) 2013-30 July 2016 - Policies include: CSM1 (Sustainable Development), CSM2 (Supply of Land Won Minerals), DM1 (Sustainable design), DM2 (Environmental and Landscape Sites of International, National and Local Importance), DM3 (Ecological Impact Assessment), DM10 (Water Environment), DM11 (Health and Amenity), DM 12 (Cumulative Impact), DM13 (Transportation of Minerals and Waste), DM 14 (Public Rights of Way), and DM 19 (Restoration, Aftercare and Afteruse).

Shepway Core Strategy Local Plan 2013: the most relevant Policies include: DSD (Delivering Sustainable Development), CSD4 (Green Infrastructure of National Networks, Open Spaces and Recreation), CSD5 (Water and Coastal Environmental Management in Shepway).

Shepway Local Plan Review Saved Policies 2006: Policies U4 (Protection of surface and ground water resources), CO1 (Development in the Countryside), CO4 (Special Landscape Area), CO6 (Heritage Coast and undeveloped Coast), CO11 (Nature Conservation), CO13 (Nature Conservation) and CO14 (Dungeness).

Consultations

18. **Shepway District Council** – No objection. Confirm that in 2016 there were 3 complaints relating to dust and 1 relating to noise from machinery.

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19. **Lydd Town Council** – Supports the application but wishes to see greater control and monitoring of the lorry movements and appropriate mitigation of noise and dust from loading operations.
20. **Environment Agency** – No objection subject to any necessary changes been made to the mining and extractive waste environmental waste permit.
21. **Natural England** – Has no comments on the application.
22. **Affinity Water** – No views received
23. **Amey - Air Quality** – “This is a robust assessment and based on monitoring data dust emissions have been well managed and off-site impacts have been negligible. However the increased risk of impacts at the receptor ‘Moorings’ as operations move south in phase 7 and the extended operation, means that continued monitoring and continued management of emissions is required.

It is recommended that the management measures described in section 10.10 of the ES are combined with those described in Appendix 4D. This would provide a consolidated list of management measures which would represent best practice for management of on-site dust for the extended operation. We do not think the submission of a formal dust management plan is required but we do recommend the continuation of monitoring and the retention of conditions A8, A16 and C8 to ensure best practice for the management of on-site emissions is followed for the extended operation.”

24. **Amey – Landscaping** – No significant increase in visual effects, no objection.
25. **Amey – Noise** – It is considered the assessment of potential noise effects are credible and reasonable, and therefore propose the existing planning conditions limiting working hours and noise from the site are retained.
26. **Transportation Planning** – Has no objection to the proposals on the grounds of highway capacity or on highway safety grounds subject to existing conditions related to traffic movements and operational timings been carried forward onto any new consent granted. Is satisfied that existing routes to and from the site appropriately utilise the highway network so as to avoid as far as possible amenity impacts upon local residents.
27. **Public Rights of Way** - No comments to make on the application.
28. **Biodiversity** – Satisfied that no further information in relation to the designated sites is required. Support the precautionary approach by an experienced ecologist prior to any vegetation clearance when the berth is constructed and as necessary during excavation and restoration.

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29. **County Archaeological Officer** – No views received
30. **Sustainable Drainage** – No comments on the application.
31. **CPRE Protect Kent** – No objection in principle but wish to see that lorry loads of stone are secured appropriately to avoid stones being dropped at the access and onto local roads and causing hazards for users of the highway.
32. **Kent Wildlife Trust** – No views received.
33. **R.S.P.B.** – No views received.
34. **Romney Hythe & Dymchurch Railway** – No views received.
35. **Health and Safety Executive (Quarry)** – No comments to make - have not identified any areas of potential conflict with health and safety requirements.

Local Member

36. The local County Member for Romney Marsh Mr Tony Hills has commented that he supports the views expressed in the Lydd Town Council response.

Publicity

37. The application was publicised by the posting of site notices, an advertisement in a local newspaper, and the individual notification of 295 nearby residential properties.

Representations

38. In response to the above publicity, 6 letters of objection have been received. The material objections raised can be summarised as follows:
 - There are constant heavy commercial vehicle movements resulting in noise, pollution and quarry dust, five and a half days a week. This results in damage to parked cars, layers of dust on paintwork and electric windows. Everything is covered in a coating of abrasive dust, we cannot open windows and our health suffers.
 - The proposals to add barges, conveyors and more stockpiles will add to the already unacceptable noise.
 - Lorries have been recorded leaving the site as early as 6.30am.
 - We and neighbours have had to complain to the Borough Council about noise, dust and out of hour's operations.

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- The highway from Dungeness to Lydd is in a poor state of repair and should be fully surveyed with a repair schedule put in place before granting additional traffic from the quarry.
- There have been issues with the use of a 'shaker' machine which was very noisy and dusty; damping equipment was faulty at the time of use. Stockpiles were so high they were visible above the screening bunds. What controls are in place to these practices will not continue in the future.
- Industrial lighting shines into properties from early evening in winter months.
- We knew the quarry was operating when we moved here but had a limited operational life; the extensions are being sought for the income with no consideration for local residents. The quarry has already had several extensions, what assurances are there that they won't come back again.
- If the lake is made deeper how safe are the houses on Coast Road?
- The quarry is surrounded by nature reserves and areas of scientific interest and it is time for extraction to stop and the land used for purpose more in keeping with this.
- Pleasance Road Central is only 100 metres from the quarry and we have never seen any noise monitoring taking place.
- Local residents deserve a quiet life and the site should be handed over to the RSPB as and when originally planned.

Discussion

39. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, the proposals need to be considered in the context of the Development Plan Policies, the National Planning Policy Framework, other Government Policy and any other material planning considerations. In considering this proposal the planning policies outlined in paragraphs 15 and 16 above are particularly relevant. The key planning considerations include:
- Need/Sustainable mineral development
 - Hydrology/hydrogeology/flooding (particularly salinity/chloride concentrations and groundwater protection more generally);
 - Ecology;
 - Noise Impact;
 - Air quality/dust impact;
 - Landscape and visual impact
 - Highways
40. Planning permission for the extraction of sand and gravel has been in place for a number years and extraction operations at Denge Quarry are due to cease by 31 December 2020, with restoration works to be complete by 31 December 2021. All

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plant, equipment and buildings are also to be removed, including the access to Kerton Road and the land reinstated by 31 December 2021.

41. The current method of working by excavator has resulted in a quantity of permitted reserves unworked at the base of the margins of the lake (875,000 tonnes). In order to avoid the sterilisation of these permitted reserves it is proposed that the method of working be changed to use a long arm excavator on a floating platform within the lake. The extracted mineral would be transferred by barge to a newly constructed berth for discharge. It is anticipated this would take a further three years for extraction and an additional year for restoration beyond the current end dates.

Need and Sustainability

42. Need - As set out above planning permission already exists for the extraction of these reserves but the practicalities of the current method of working has meant it has not been possible to safely remove them. Not changing the method of working would result in the mineral remaining unworked and therefore sterilised. It is appropriate in those circumstances to consider whether there is a need to avoid the sterilisation of the 875,000 tonnes of reserves. The Kent Minerals and Waste Local Plan 2016 (KMWLP) has in accordance with National Planning Policy Framework (NPPF) identified separate landbanks for the sharp sand and gravels used in concreting and the soft sands used in asphalt and mortar production (Policy CSM 2). The sand and gravels extracted at Denge Quarry are the beach shingle gravels deposited by the sea.
43. The Kent Local Aggregate Assessment (LAA) produced by the County Council (in accordance with the NPPF and informing the KMWLP) provides an understanding of how it will maintain the necessary steady and sustainable supply of construction aggregates to meet local demand. The LAA should identify the current reserves and assess how they comply with the NPPF requirement to maintain at least a 7 year landbank of land-won aggregate minerals based on the last 10 years average production.
- The Kent 10 year sales average 2006-15 is 0.61mtpa
 - A rolling 7 year landbank requires reserves to be $7 \times 0.61 = 4.27$ mtpa
 - Permitted reserves at the end of 2015 are recorded as 3.79mt (this includes the 875,000 tonnes unworked at Denge).
 - The current reserve base falls short by 0.48mtpa.

Given that land-won resources of sharp sand and gravels is a depleting resource in Kent it is considered highly unlikely the situation will improve. No new planning permissions are coming through at this time and it is therefore anticipated that the NPPF landbank requirements for this aggregate mineral are not going to be met over the life of the Plan 2013-2030. It is therefore clear that the permitted reserves at Denge are important and should not be lost, to do so would result in an even bigger shortfall in meeting landbank requirements by land-won supplies.

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44. Sustainability – It is recognised both in the NPPF and Policy CSM1 of the KMWLP that minerals are essential to support sustainable economic growth and play a key role in the delivery of sustainable development. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs to prosper. However, since minerals are finite natural resources and can only be worked where they are found it is important to make the best use of them and to ensure they are husbanded wisely.
45. The 875,000 tonnes of sand and gravel at Denge already have planning permission to be extracted. If the mineral is not recovered whilst the infrastructure is in place and operations are active, then the mineral would be left in-situ and effectively sterilised. It is unlikely that a new planning permission would be granted in the future to remove the sand and gravel once the restoration is commenced and the ecological environment established.
46. The proposed change of method of working and extension to the working and restoration end dates seek to ensure that this valuable permitted reserve is not lost. There is a demonstrable need to safeguard the remaining resource at Denge if the County Council is to meet NPPF landbank expectations. Policy advice is that there should be a presumption in favour of sustainable development and on this basis I am satisfied that there is a need for the proposal.

Hydrology, Hydrogeology and Flood Risk

47. The quarry site is located in a sensitive hydrological and hydrogeological environment, with the site over-lying an aquifer and with a number of abstraction boreholes located in the vicinity. There are also a number of open water bodies close to the site created largely by historical gravel extraction and they form an important habitat for birds and are part of the RSPB reserve. These surface water bodies are in hydraulic continuity with groundwater and therefore water level and quality are connected. Any activities that impact recharge to groundwater may have an impact on hydraulically connected surface water, and vice versa. Of particular importance is to ensure that groundwater abstraction and operations within the quarry do not lead to saline water being drawn into the aquifer. CEMEX undertake extensive monitoring of groundwater and surface water electrical conductivity (EC) and chloride in their own monitoring wells, in selected Affinity Water (local water company) wells and at key surface water locations. In summary the data show that chloride and EC are low inland and increase at the coast. The presence of a hydrogeological ridge which runs through the centre of the site prevents saline intrusion and it is important to consider whether quarrying activities is having an adverse effect on this ridge.
48. On-going monitoring and reporting arrangements were secured by condition on planning permission SH/01/382 which amended previous water quality arrangements on the original permission, and the Denge Quarry Monitoring Group (DQMG) was

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formed. This group is made up of representatives from Affinity Water, RSPB, Natural England, Environment Agency and CEMEX. The purpose of the group is to review the environmental data collected by CEMEX on an annual basis to ensure that the key receptors are not being impacted. The data collected over the last eleven years of monitoring suggests that the quarrying is having no significant effect.

49. The existing permission SH/99/1003/MR69 allows extraction to 6.0m below Ordnance Datum (BOD) except within 10m of the western margin of the site where no excavation may take place below 2m AOD. This would not change and to ensure the depth of extraction in the lake is met and not exceeded a barometer would be set on the bucket excavator bucket. The processing area has a managed drainage system and surface water management would not change as a result of the proposals.
50. In addition an assessment of flood risk has been undertaken in accordance with the NPPF and following the National Planning Policy Guidelines (NPPG) and considers the impact of working the reserves by a different method, working the reserves to the permitted depths and an extended duration of the operations on the quarry site and surroundings. The findings are presented in the ES. Denge Quarry is located on Flood Zone 3 that has a higher than 1 in 100 chance of flooding. The assessment recognises that mineral working has taken place here for many years and that mineral working is water compatible. The assessment identifies that working the mineral for an additional three years would have minimal impact on the flood risk to the site and surrounding area. Furthermore extracting the gravel to the permitted depth would have a small future beneficial impact by creating a small additional area of flood water storage.
51. It is considered that the proposed change to the method of working is unlikely to have any significant effect on impacts upon controlled waters so long as appropriate precautions are taken to prevent fuel and oil spills. It is proposed that groundwater and surface water sampling according to the current monitoring plan continue to be reviewed by the DQMG and the operator continue to follow good quarry working practices. There are no objections to the proposals from a water quality point of view. The site is at low risk of flooding from all sources and the proposed changes are not likely to impact upon the overall flood risk of the operations. No change in flood storage, generation of flood run-off or impact on the movement of flood water would result from the proposed changes. On that basis I am satisfied that the proposals are acceptable in terms of their potential impacts upon the water environment.

Ecology

52. As set out in the site description there are a number of international/national nature conservation designations either adjacent or within very close proximity of Denge Quarry. Specifically breeding and wintering birds and a range of terrestrial invertebrates are likely to use habitats within and adjacent to the site. Brown Hare are known to be present in the shingle habitat and reptiles may also be present within the

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site. The Environmental Statement has considered in detail the likelihood, scale and significance of likely significant effect upon the ecology in and around the quarry site. It is considered there would be no negative impacts to breeding birds, reptiles and invertebrates as habitats of most importance to these species would be retained and protected throughout the additional period of the works proposed.

53. With specific regard to breeding birds the movement of tugs and barges during the excavation works has the potential to cause disruption. It is considered that current quarrying activity already causes some disruption to breeding on the islands; however it is also acknowledged that over time birds do habituate to disturbance and therefore some species do breed on the islands. It is expected that should permission be granted for this proposal excavation works would commence in the autumn, outside of the breeding season after which on-going activities would deter any birds which may be susceptible from disturbance from breeding within the islands. Whilst the proposed works may discourage some breeding activity the nearby surrounding habitat (comprising shingle, restored gravel pits, scrub and coastline) provides other places for the birds to breed. The occupation of the islands by roosting birds is unlikely to be affected as the operations do not take place during night time hours and surrounding environments provide a multitude of alternative foraging habitat for birds in the day.
54. Current measures to minimise the impacts upon the nature conservation sites would be taken forward through existing conditions that would be repeated on any new planning permission that may be granted. It is not proposed that the final restoration scheme would change in any way as a result in the method of working or the extension of time for the operations. Neither the RSPB, Natural England nor our own ecology advisors raise any objection to the proposals and on that basis there are no outstanding ecological issues. Given the above conclusions (and specifically the advice of Natural England upon the previous scoping opinion request) it is not considered that there is likely to be any significant effect upon the European sites and therefore no further consideration of the proposals is required under the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations).

Legal Agreement

55. The current planning permission is subject to a legal agreement between CEMEX (formerly RMC) and the County Council relating to the planning permission SH/99/1003/MR69 which applied to both New Romney Pit and Denge Pit (this application site). In simple terms the agreement required CEMEX to offer to transfer the freehold interest in both pits to the RSPB following extraction of all the permitted sand and gravel reserves. New Romney Pit has been completed and the RSPB now has the freehold on this land. With regard to Denge, the agreement further required the development to cease by 1 April 2017 unless it had by that date offered to transfer to the RSPB the freehold interest in the land. CEMEX has liaised with the RSPB and explained that extraction of the permitted reserves is not yet complete and permission is being sought for an additional 3 years period

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56. Clearly the undertaking to transfer the land cannot be completed at this time as the site is still being worked. It is still intended that the land be transferred to the RSPB and CEMEX have agreed in writing to extend the unilateral agreement to reflect the extended time period. Any decision on this application should be subject to the amendment of the legal agreement to reflect the extended time period and planning permission reference.

Noise

57. It is appropriate to consider how the proposed change in working method and the extension of time for the extraction and restoration would impact upon likelihood of potential noise issues; this is an area of concern for the Town Council and Local Member.
58. The NPPF requires planning authorities to ensure unavoidable noise emissions from mineral development are controlled, mitigated or removed at source and establish appropriate noise limits for extraction in proximity to noise sensitive properties. The supporting Planning Practice Guidance (PPG) gives specific advice and includes appropriate noise criteria for normal operations which it suggests are secured through an appropriate condition. The existing permission is subject to a noise condition. In addition the Applicant has carried out a recent noise survey to inform the EIA. Existing noise levels were measured at the residential properties close to the site to enable the existing background noise levels to be measured and characterised.
59. A series of noise predictions have been made to the identified noise sensitive premises and these have been assessed against current noise standards for mineral extraction and operations. The noise assessment considered the worst case noise scenarios when operations and activities would all be taking place at the same time and at their closest distances to sensitive properties. The results concluded that the changes in activities would not exceed existing background noise levels by +10dB (A) and would not exceed the government guidance daytime noise limit for quarries of 55 dB LAeq, 1h or the 70dB LAeq, 1h criterion considered for temporary mineral activities such as construction or restoration works.
60. The assessment concludes that with good practice measures and appropriate noise control measures the quarry would continue to operate using the new proposed method of working in line with the PPG for mineral sites. My noise advisor is content that the appropriate methodology has been used to carry out these assessments and subject to retaining the working hours restrictions (which also apply to movement and loading/unloading of HGV's) and noise limit conditions (at the levels referred to above) they would support the proposals. Accordingly I am satisfied that the sufficient safeguards and mitigation is in place to address the concerns of the local community.

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Air Quality/Dust

61. As part of the Environmental Impact Assessment an air quality assessment of the proposals was undertaken in accordance with the guidance for dust emissions provided in the Planning Practice Guidance to the NPPF. Existing dust deposited and particulate levels were monitored at sensitive receptor monitoring points around the site and were categorised as typical of a rural area. The assessment considers potential emissions from proposed operations from extraction, handling, processing and onward transportation and the likely scale of any impacts. It recognises that the plant required to extract and process mineral at Denge Quarry, together with associated vehicle movements have the potential to generate dust and other airborne pollutants in the vicinity of the operations. Existing climatic conditions such as wind speed and direction and rainfall have been assessed to give an indication of how frequently the site could be susceptible to fugitive dust events. It concludes such events would be relatively few and that by following best practice dust control measures the site could be operated with minimal impact on boundary locations.
62. The sand and gravel to be extracted would have a relatively high moisture content which would reduce the potential for dust emission from handling the material. Notwithstanding this it is proposed to minimise drop heights from the excavator to the barges and processing plant, impose a speed limit within the site of 10mph and to employ the use of a water bowser. Internal haul roads consist of compacted material which would be regularly maintained to minimise dust generation and all mobile plant would be regularly maintained and exhausts and cooling fans would be positioned away from the ground to prevent dust mobilisation. A summary of dust control measures are set out in Appendix 4D of the ES.
63. The permitted mineral processing plant (on hardstanding) would continue to be utilised and as such processing sand and gravel is a wet operation, however additional water would be used to minimise dust emissions. All lorries leaving the site loaded with aggregate would continue to be sheeted and required to pass through the on-site wheel wash. The Applicants proposes to continue to use a road sweeper on the local highway network.
64. Restoration of the site after extraction is to a lake and therefore would require little work to create the final restoration scheme. An excavator and bulldozer would be used to create the lake margins but these items of plant would not be employed at the same time. These operations would be subject to the same dust mitigation measures as described above. To minimise dust emissions from these final works.
65. My dust advisor is content that the correct assessment methodologies have been used in the ES and they are accurate, robust and fit for purpose. He also confers that the emissions from phases 1-6 (carried out thus far) in combination with existing control measures have been well managed sufficient to minimise impacts at the sensitive properties and off-site. However he acknowledges some complaints and comments

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that the potential for increased risk at the receptor at Moorings, Pleasance Road Central as operations move south in phase 7 and the extended operations, means that continued monitoring and continued management of emissions is required. The ES sets out a number of management measures such as regular visual inspections, keeping a log of complaints and remedial actions where appropriate, including temporary suspension of any dust generating activities until mitigation is implemented or weather conditions change. It is proposed that these measures combined with the dust control measures described in Appendix 4D should be included in an appropriate dust condition should permission be granted. It is considered that this would provide a consolidated list of management measures which along with continued monitoring and retention of conditions on the original planning permission relating to maintenance of vehicles, plant and machinery, dust control and heights of stockpiles would represent best practice for management of on-site dust for the extended operations.

Landscape and Visual Impact

66. A Landscape and Visual Impact Assessment has been undertaken assessing the impact of continuing to work Denge Quarry for the additional period of three years and the impact of changing the current method of working to recover the unworked permitted reserves. The site lies within the National Landscape Character Area No. 123 Romney Marshes, at a more detailed County level the surrounding landscape is identified by the County Council as Dungeness Shingle. The Landscape Character Assessment emphasises the dominance of the flat landform with the microrelief of long shingle ridges; this relatively sparsely populated and inaccessible landscape contrasts with the many visual detractors including the power station, large-scale gravel extraction, security fencing and transmission towers.
67. The proposed extension of time means the quarry would continue to be perceptible in the local context, as seen from the south with the retained plant site, and as seen from footpaths to the east and west and properties to the north and east. However the change in working practices also has the potential to impact upon the landscape. The construction of the new barge unloading facility is a low-level development set within the existing operational plant area and would of itself of a lesser landscape and visual impact. The operation of the floating pontoon is of a similar height to an excavator working from original ground levels and is therefore considered of minimal impact. The operation of the barge to transport material from the excavation areas to the processing plant replaces transportation by dumper truck and conveyor across the site at original ground levels, and again is considered to be of less impact. Lighting is only used on site during dark conditions for health and safety reasons and is switched off outside of operating hours. The office area does have motion activated security lighting but this is only operative when the site is unattended. My landscape advisor considers the proposals would not be more visually intrusive and on that basis raises no objection to the application.

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68. The proposed changes should be considered against the background of the existing operational mineral operations which have been taking place for over forty years. The majority of the existing wider quarry site and its operations are not visually prominent within the surrounding area. The plant site itself is screened by existing temporary soil bunds within the quarry site which function well and would be retained for the additional period. The most prominent viewpoint into the site is from a short length of the public footpath west of the application area. However it is acknowledged that this is a view which has been possible for many years and it is not considered appropriate to establish further screening for the limited extension of time proposed, particularly as such features would themselves be visually intrusive in the flat open landscape context.

Highways

69. The application was also subject to a transport assessment which is included in the ES. It has considered the potential effects of the quarry related traffic, the appropriateness of the highway network and access roads and assessed road traffic accident data. It also considers the proposals in light of national and local transport policy
70. It is intended that processed aggregate would be exported from the site using the same vehicle types as at present, typically 20t-capacity 8-wheel rigid tipper lorries operated by CEMEX and based at the site. Vehicles would operate within the same working hours as at present (07.00-18.00 Monday–Friday and 07.00-13.00 on Saturdays, and including as at present the exception of up to 4 pre-loaded vehicles exiting the site between 06.00-07.00 Monday-Friday). Operational traffic movements to/from the site would remain at around 32 visits (64 movements) per day. The traffic movements would be spread throughout the day amounting to an average around 6 movements per hour.
71. All vehicular access would be via the existing quarry access from Kerton Road which it is also proposed to retain for the extended operating period and removed as part of the final restoration of the site. The applicant has stated routeing of operational vehicles would remain as existing whereby with the exception of local deliveries all traffic travels west along Kerton Road, Dungeness Road, Harden Road, Romney Road and onto the A259 west of New Romney. All loaded vehicles leaving the site would be sheeted.
72. The Highways Officer has considered the proposals and the information contained in the transport assessment. He comments that in terms of the number of vehicles associated with the proposals, the business has been in operation for a number of years without issue and the proposal does not increase movements that are already on the network at present. On that basis he has no objection to the proposals in highway capacity terms, and noting no crash cluster sites in the vicinity involving a HGV element is also satisfied with the proposals on highway safety grounds.

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Considering the other quarry businesses nearby, the beach re-profiling in the area as well as the power station coastal protection works in recent times, not all HGV traffic can be attributed to the application site and he acknowledges existing routing from this site already uses the largest roads and by default the most appropriate routes. In light of the above the proposals are considered acceptable in highways terms.

73. Amenity impacts from the quarry vehicles would be controlled by the measures outlined in the dust section of my report but essentially would include ensuring all vehicles are appropriately sheeted when leaving with loaded aggregates and ensuring they exit via the on-site wheel wash. Maintenance of internal haul roads and appropriate use of a water bowser and road sweeper would further minimise the potential impact from HGV's at the site.

Conclusions

74. The NPPF states that where development accords with the Development Plan planning permission should be granted without delay. It also states that where the Development Plan is absent, silent or relevant policies are out of date, then permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.
75. The existing permission was granted following consideration of potential impacts and a number of conditions were attached to that planning permission which requires operations to be carried out in such a way as to reduce any potential impacts and with appropriate mitigation. This planning application has reconsidered those potential impacts in the light of the proposed changes to the method of working and for the extended period of operations and restoration. The proposals have been the subject of a full EIA and the ES presents the conclusions of the detailed assessments which have been carried out. Consideration has been given to the water environment (including flood risk), ecology, noise, dust, landscape impacts and transport and the relevant national and local planning policy. It is concluded that switching to using a floating pontoon and barges to discharge the extracted reserves with continued mitigation the amenity impacts discussed above can managed appropriately. Water quality monitoring would continue to take place and the results reported to the Denge Quarry Monitoring Group.
76. Furthermore Policy DM11 of the KMWLP requires mineral proposals to demonstrate that there will be no adverse impacts from noise, dust, visual intrusion, emissions or traffic or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. These issues have been assessed as part of the EIA and it is concluded the proposals would not have a significant adverse impact upon the health or amenity of the residents or community using the area (public footpaths) close to the quarry, if the various mitigation measures built into the method of working operations are implemented.

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77. It is recognised that planning permission is already in place for the removal of the 875,000 tonnes of reserve that have yet to be worked. Without the proposed change to working methods the reserves would effectively be sterilised. Planning Policy seeks to ensure the sustainable use of minerals and it is acknowledged that sand and gravel is in scarce supply and there is a recognised need to maintain an appropriate landbank of aggregates to meet the needs of a prosperous construction industry. I am satisfied that there is a sufficient need to ensure that these permitted reserves are not lost and the proposals to change to method of working offers a sustainable use of these mineral resources. This is especially so as these reserves are already counted as contributing to the aims of maintaining a steady supply of minerals as set out in mineral policy in the NPPF (paragraph 145) and Policy CSM2 of the KMWLP 2016. On that basis the demonstrated need to extract these reserves should be weighed favourably against the potential impacts of an extended period of working and the changes to methods of working.
78. It is not considered there would be any cumulative or significant combined impacts associated with extending the lifetime of the quarrying operations or changing the method of working.
79. I am satisfied the proposed development complies in all relevant aspects with the NPPF to which the presumption in favour of sustainable development therefore applies. It is concluded that the proposals comply with the adopted KMWLP 2016 and the relevant policies of the Shepway Core Strategy 2013 and the saved policies of the Shepway Local Plan 2016.
80. I recommend that planning permission should be granted for these proposals.
81. This application seeks to vary condition A4, and C1 (time limits) and vary the schemes relating to the plant and method of working pursuant to conditions A9 and C2 of planning permission SH/99/1003/MR69. As a Section 73 application which effectively results in a new permission it will be necessary to repeat and update (where appropriate) all other conditions on that planning permission including those that have been amended by other applications (see history section of report at paragraph 7). Specifically it should be noted that the requirement for continued water quality monitoring and reporting to the Denge Quarry Monitoring Group will continue (see paragraph 48 of report).

Recommendation

82. I RECOMMEND that subject to the prior completion of an amended unilateral undertaking as set out in paragraphs 55-56 of my report PLANNING PERMISSION BE GRANTED SUBJECT TO the imposition of conditions covering (amongst other matters) the following:

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- Extraction to be completed by 31 December 2024, removal of plant and equipment and site restored by 31 December 2024,
- Access via Kerton Road only, access to be removed and land restored by 31 December 2024,
- Site to be worked and restored and follow aftercare in accordance with approved drawings,
- Sheeting of vehicles,
- Hours of operation 0700-1800 Monday – Friday, 0700-1300 Saturdays, no working on Sundays and Bank Holidays.
- No more than 4 pre-loaded HGV's shall leave the site between 0600-0700 hours Monday-Friday.
- Vehicles, plant and machinery to be fully maintained and use of effective silencers,
- Processing plant, buildings and weighbridge only as identified on drawings and removal of Permitted Development rights for any other built development,
- Appropriate handling and storage of fuel, oil and lubricants,
- Noise from operations within specified limits and retention of noise bunds,
- Dust risk assessment, monitoring and mitigation measures to be as identified in Chapter 10.10 and Appendix 4 of the ES,
- Maintenance of the concrete surface of the access road, to be kept free of mud and debris,

Case Officer: Andrea Hopkins

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Background Documents: see section heading
