

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

Section 73 application to vary conditions 1 & 6 of planning permission SW/15/502632 (the phased extraction of brickearth over 4 summer campaigns) to allow for an extended period of working and amended restoration scheme at Orchard Farm, School Lane, Iwade, Sittingbourne, Kent, ME9 8QH - SW/18/500195 (KCC/SW/0004/2018)

A report by Head of Planning Applications Group to Planning Applications Committee on 14 March 2018.

Application by Wienerberger Limited to vary conditions 1 & 6 of planning permission SW/15/502632 (the phased extraction of brickearth over 4 summer campaigns) to allow for an extended period of working and amended restoration scheme at Orchard Farm, School Lane, Iwade, Sittingbourne, Kent, ME9 8QH – SW/18/500195 (KCC/SW/0004/2018)

Recommendation: Permission be granted subject to conditions.

Local Member: Mr M Whiting

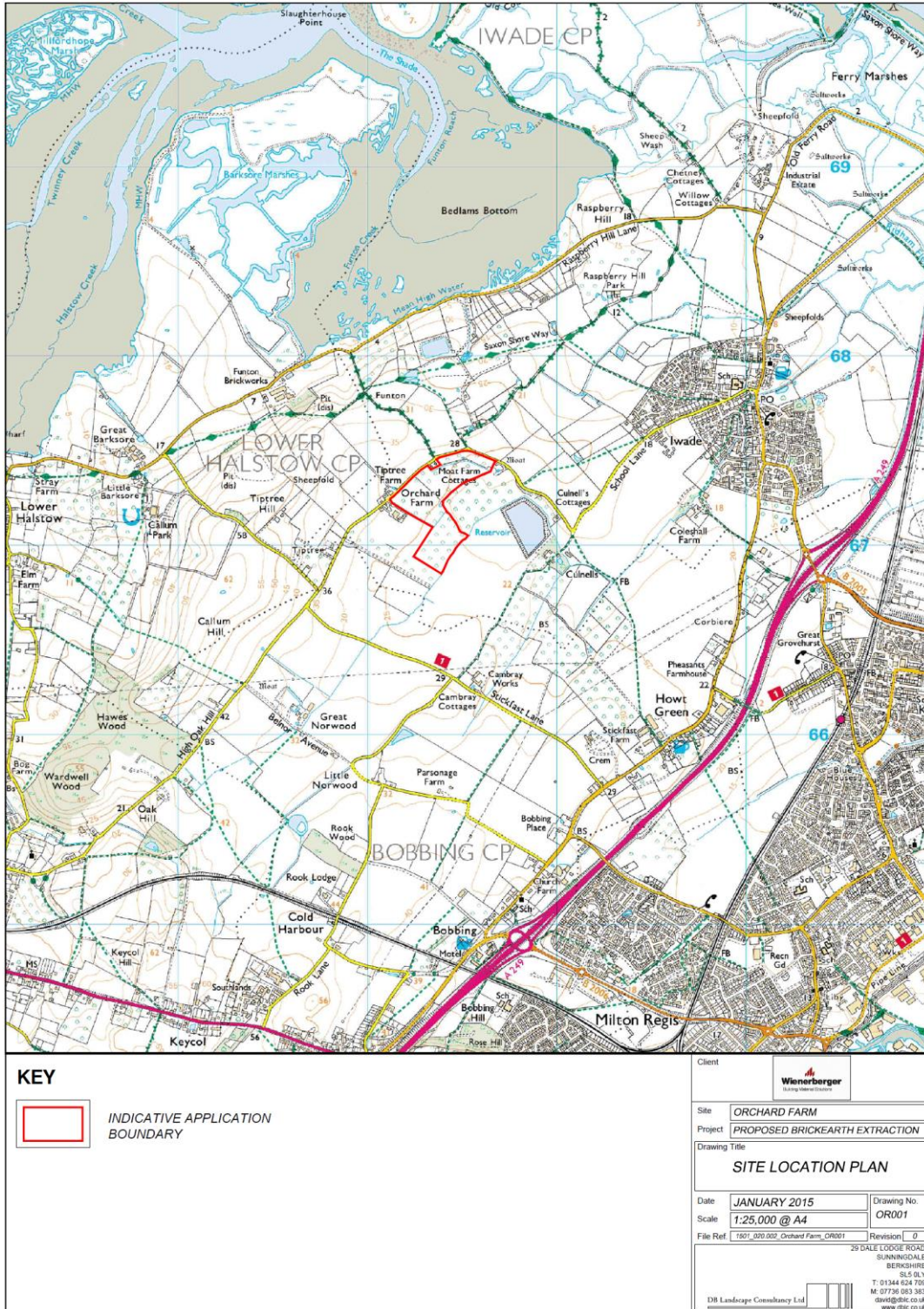
Unrestricted

Site description

1. The application site lies to the south of School Lane approximately 1-kilometre (km) west of Iwade and 2km west of Sittingbourne. The site slopes gently from a level of about 28.5m above ordnance datum (AOD) at the north-western corner to about 21.5m AOD at the south-eastern corner. Prior to the commencement of mineral working the site comprised orchard, arable land, several internal hedgerows and a small pond. The agricultural land comprises grades 2 and 3a (i.e. best and most versatile).
2. The permitted extraction area covers about 7.5 hectares (ha) of the 14.6ha site. The remaining land comprises an ecological receptor and mitigation area (1.5ha), settlement lagoon, topsoil and subsoil storage areas, brickearth stockpile area, concrete access road, HGV loading area and stand-offs between the extraction area and site boundary. A 5 metre (m) high straw bale noise barrier lies between the site access road and loading area and properties to the south-west and welfare facilities are provided in a small portacabin adjacent to the access road. The extraction area occupies the northern part of the site. To the south of this lie the concrete access road, HGV loading and brickearth stockpile areas. The settlement lagoon, topsoil and subsoil storage areas and ecological receptor and mitigation area lie further to the south-west / south. Brickearth from the site is used for brick manufacture at the Smeed Dean Brickworks in Sittingbourne.

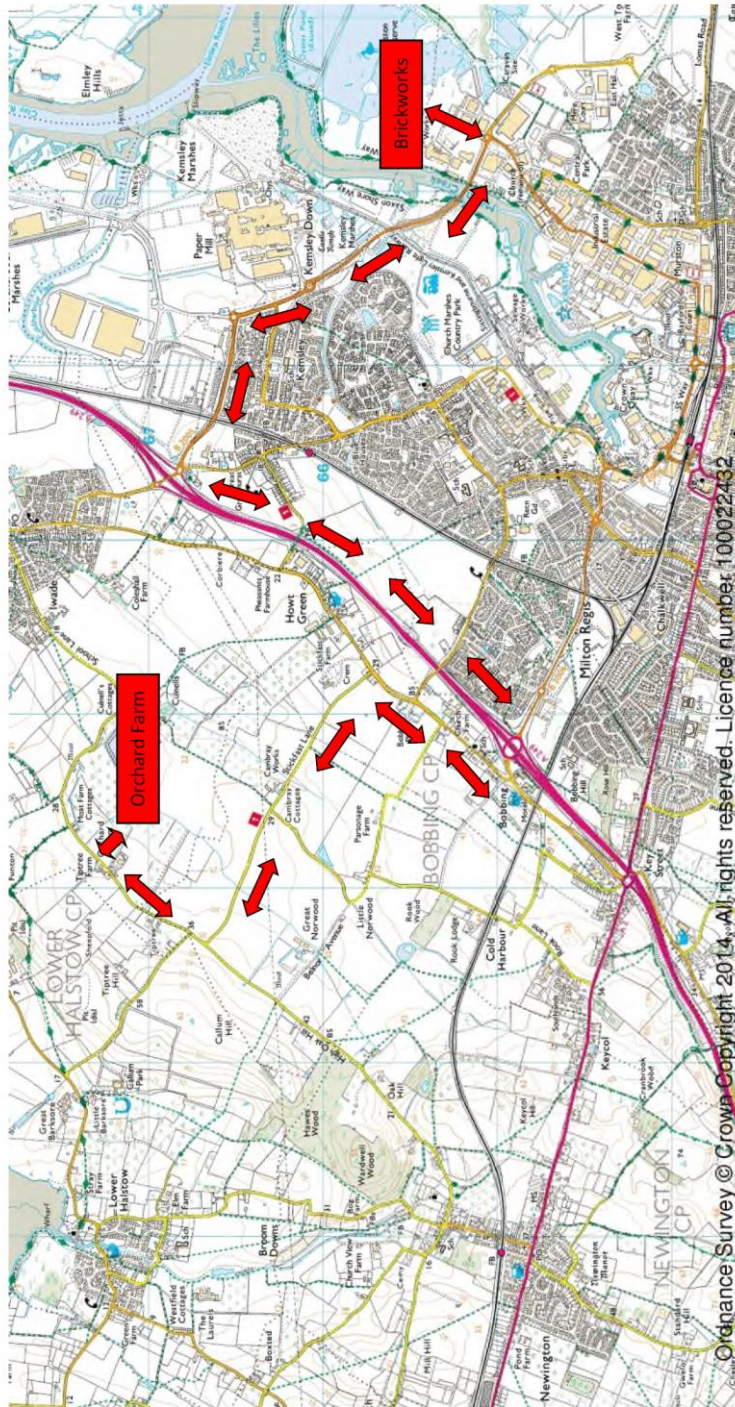
Section 73 application to vary conditions 1 & 6 of planning permission SW/15/502632 to allow for an extended period of working and amended restoration scheme at Orchard Farm, School Lane, Iwade, Sittingbourne, Kent, ME9 8QH - SW/18/500195

Site Location Plan



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HGV Route between Orchard Farm and the Smeed Dean Brickworks



APPROVED HAUL ROUTE BETWEEN ORCHARD FARM AND BRICKWORKS

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3. A few residential properties lie close to the site. Orchard Farm Cottages and Tiptree Cottage lie just to the west of the site access (to the south and north of School Lane respectively) and Moat Farm Cottages lie just to the north of the extraction area (to the south of School Lane). A small number of other residential properties and farm buildings lie to the east and west of the site off School Lane (e.g. Plantation Lodge, Orchard Farm Tiptree Farm and Tiptree Farm Bungalow).
4. HGV access to the site is via the 750m stretch of School Lane to the south west of the site entrance, Stickfast Lane and Sheppey Way onto the A249. HGVs then travel to the Smeed Dean Brickworks in Sittingbourne via the A249 and Swale Way. HGVs associated with mineral working at the site are not permitted to turn right out of or left into the site (i.e. they may not travel through Iwade). The site and associated HGV route are shown on the plans on pages C1.2 and C1.3.
5. The site is not within or immediately adjacent to any designated areas although the Medway Estuary and Marshes SSSI, SPA and Ramsar Site lie approximately 750m to the north. The site and much of the surrounding land is safeguarded by Policy CSM5 of the Kent Minerals and Waste Local Plan (Kent MWLP). The site lies in the countryside and is not allocated for any specific purpose in the Swale Borough Local Plan.

Planning History and background

6. Planning permission (SW/15/502632) was granted (under officer delegated authority) for the phased extraction of brickearth at Orchard Farm over 4 summer campaigns, the storage and transportation of materials to the nearby brickworks throughout the year, the creation of a new vehicle access and the phased restoration of land back to agricultural use on 15 July 2015. The permission provides for the extraction of about 150,000 tonnes (t) of brickearth in 4 phases at a rate of about 37,500 tonnes per annum (tpa). Approximately 2m (depth) of brickearth is removed and the site is restored on a phased basis to agricultural use at levels about 2m lower than prior to extraction with a 1:10 gradient between the unexcavated and excavated areas. The stockpile has the capacity to hold about 49,000t of brickearth. Extraction is undertaken by 360-degree excavator and dump truck and bulldozers and dump trucks used to construct the soil storage mounds (all in accordance with accepted best practice). Whilst the topsoil and subsoil from initial works and phase 1a were stockpiled separately on site, those from subsequent phases are directly placed to restore subsequent phases. The stockpiled soils are to be used to restore the final phase and complete restoration of the brickearth stockpiling area and soil stockpile areas. HGVs are loaded and exit the site without leaving the concrete access road and loading area. The concrete access road and loading area will be retained for agricultural use.
7. Condition 1 of planning permission SW/15/502632 requires that mineral extraction shall cease on or before 31 October 2018 and that all brickearth stockpiled at the site shall be removed and the site fully restored by 31 October 2019.
8. Condition 6 requires the site to be restored in accordance with a specific drawing which (amongst other things) indicates the retention of two mounds of brickearth

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(within the extraction area) around the electricity supply line support pylons which previously crossed the site. In applying for planning permission in 2015 the applicant had indicated its preference for the electricity supply lines to be relocated around the site and for the mounds to be removed to maximise extraction and provide a better restored landform. However, the relocation had not been agreed with UK Power Networks at that stage and the application was determined accordingly. The possibility of the power lines being relocated away from the extraction and operating areas is referred to in informative (g) attached to the planning permission which also indicates that it would be possible for the working and restoration scheme to be amended in this eventuality.

9. The permission was subject to 48 conditions in total, including a number that required the prior approval of certain details before development could commence. A scheme of archaeological works was approved pursuant to condition 16 on 4 December 2015, a landscape scheme was approved pursuant to condition 45 on 17 February 2016 and off-site highway works, a traffic management plan and a road condition survey were approved pursuant to conditions 20, 21 and 22 on 24 June 2016. Condition 37 required a dust sampling survey to be undertaken before development commenced. Other conditions also required certain actions to be undertaken before materials were exported from the site. These included the provision of the off-site highway works required by condition 20 (i.e. the resurfacing of vehicle passing places in Stickfast Lane), the site access, parking and turning space required by condition 23, the provision of appropriate sight lines at the site access required by condition 25 and the provision of the 5m high straw bale noise barrier required by condition 35. All these requirements were complied with.
10. Other conditions include the following (with requirements summarised):
 - Extraction and restoration operations for a maximum of 8 consecutive weeks in any one calendar year – Condition 3;
 - Progressive restoration such that no more than 2ha (excluding the access road, soil and brickearth storage areas, settlement lagoon, stand-off's and ecological mitigation area) is unavailable for agricultural use at any one time – Condition 5;
 - No excavation below 20.5m AOD (except drainage ditches and surface water lagoon) – Condition 6;
 - No materials imported for backfilling / restoration – Condition 9;
 - Site preparation, extraction and restoration only between 07:00 and 18:00 hours Monday to Friday and between 07:00 and 13:00 hours on Saturdays – Condition 14;
 - Brickearth only to be loaded / removed from the site and HGVs only to enter or leave the site between 07:00 and 18:00 hours Monday to Friday – Condition 15;
 - Compliance with traffic management plan – Condition 21;
 - Maintenance inspections of School Lane and Stickfast Lane to be undertaken both during and after the development and any damage to the highway attributed to the development shall be repaired – Condition 22;
 - Measures shall be taken to ensure that vehicles associated with the

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development do not deposit mud or other materials on the public highway – Condition 26;

- No more than 10 HGVs associated with transporting brickearth shall enter and leave the site in any one day (i.e. 10 in / 10 out) – Condition 28;
- HGVs transporting brickearth shall be limited in size to the rigid tipper profile proposed in 2015 – Condition 29;
- HGVs shall not turn right out of or left into the site and shall follow the agreed routeing referred to in paragraph 4 above – Condition 30;
- All loaded open backed HGVs shall be sheeted – Condition 31;
- Noise associated with site preparation, bund formation, mineral extraction and restoration shall not exceed 65 dB_{L_{Aeq,1hr,freefield}} at Orchard Farm Cottages and 62 dB_{L_{Aeq,1hr,freefield}} at Moat Farm Cottages (unless agreed by KCC) – Condition 32;
- No work in phases 2 and 3 until a temporary 3m high straw bale noise barrier has been constructed between the extraction area and Moat Farm Cottages (unless agreed by KCC) – Condition 33;
- Noise from operations associated with stockpiling, loading and export of brickearth (including HGV movements) shall not exceed 47 dB_{L_{Aeq,1hr,freefield}} at any noise sensitive property – Condition 34;
- Maintenance of 5m high straw bale noise barrier for duration of operations – Condition 35;
- White noise or silent reversing alarms to be used for all plant and HGVs transporting brickearth – Condition 36;
- Dust control measures, surveys and additional mitigation as necessary – Conditions 37 and 38;
- Surface water management / drainage – Conditions 29, 40 and 41;
- Ecology – Conditions 42, 43 and 44 (including ecological mitigation and management plan);
- Landscaping scheme – Condition 45;
- Restoration to agriculture (at least 1.2m restoration profile with 0.6m brickearth, 0.3m topsoil and 0.3m subsoil above London Clay) – Condition 46; and
- 5-year aftercare period – Condition 48.

The Proposal

11. The application proposes the variation of conditions 1 and 6 of planning permission SW/15/502632 to allow:
 - brickearth extraction to continue until 31 October 2020 and for all brickearth stockpiled at the site to be removed and the site fully restored by 31 May 2022; and
 - the site to be restored in accordance with a revised restoration scheme.
12. The applicant states that a combination of factors has led to the extraction and removal of brickearth not being undertaken at the rate originally permitted. These include:

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- delays in securing the necessary approvals for the pre-development requirements set out in the planning permission (e.g. relating to the need to undertake ecological surveys and commence extraction at specific times of the year);
 - refurbishment works at the Smeed Dean Brickworks (meaning that it was unable to operate at its normal operating capacity therefore requiring less brickearth); and
 - the quantity of brickearth transported by each HGV has been slightly less than predicted as the material has not compacted to the degree expected.
13. The applicant states that it is still exporting brickearth from the stockpile from the first phase of extraction undertaken in 2016, that no extraction took place in 2017 and that extraction will resume in 2018. As a result, it states that:
- an additional two-year period is required to complete extraction from all 4 phases;
 - a further period (2 years and 7 months) is required after completion of extraction to remove the brickearth from the stockpile at Orchard Farm and fully restore the site; and
 - the additional time to complete extraction would then coincide with the expected commencement of mineral working at Paradise Farm (the applicant's long term permitted reserve between Hartlip and Newington).
14. The applicant states that the proposed revised restoration scheme reflects its ability to remove the two mounds of brickearth which would previously have been sterilised within the extraction area due to the pylons which supported the electricity supply lines which previously crossed the site. It would also enable the removal of a small additional quantity of brickearth from the south-western edge of the extraction area where a third pylon was located just outside the extraction area. The electricity supply lines have recently been relocated around the site and the support pylons removed. The applicant states that the removal of the mounds would allow the site to be worked in a more efficient way and improve the overall quality of the final restoration scheme.
15. Except for the amendments to conditions 1 and 6 and resultant changes to several other conditions to reflect the revised restoration scheme, no other amendments are proposed and the development would continue to be undertaken in accordance with that previously permitted. The permitted restoration / planting scheme, the proposed revised restoration / planting scheme and the proposed phasing arrangements are set out in the drawings included at Appendix 1 (pages C1.20 to C1.25).

Planning Policy Context

16. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework (March 2012) and the associated National Planning Practice Guidance, including the Minerals Planning Practice Guidance. The National Planning Policy Framework: Draft text for consultation (March 2018) is also relevant. These are all material planning considerations.

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17. **Kent Minerals and Waste Local Plan 2013-30 (July 2016)** – Policies CSM1 (Sustainable development), CSM2 (Supply of land-won minerals in Kent), CSM5 (Land-won mineral safeguarding), DM1 (Sustainable design), DM2 (Environmental and landscape sites of international, national and local importance), DM3 (Ecological impact assessment), 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), DM15 (Safeguarding of transportation infrastructure), DM16 (Information required in support of an application), DM17 (Planning obligations), DM18 (Land stability) and DM19 (Restoration, aftercare and after-use).
18. **Bearing Fruits 2031: The Swale Borough Local Plan (July 2017)** – Policies ST1 (Delivering sustainable development in Swale), ST3 (Swale settlement strategy), CP1 (Building a strong, competitive economy), CP7 (Conserving and enhancing the natural environment – providing for green infrastructure), CP8 (Conserving and enhancing the historic environment), DM3 (The rural economy), DM6 (Managing transport demand and impact), DM14 (General development criteria), DM21 (Water, flooding and drainage), DM24 (Conserving and enhancing valued landscapes), DM28 (Biodiversity and geological conservation), DM29 (Woodlands, trees and hedges) and DM31 (Agricultural land).

Consultations

19. **Swale Borough Council** – No objection, subject to no objection from statutory consultees.
20. **Iwade Parish Council** – No objection.
21. **Bobbing Parish Council** – No comments received.
22. **Highways England** – No objection.
23. **KCC Highways and Transportation** – No objection, subject to the requirement for an additional interim road condition survey to be carried out within 6 months of planning permission being granted and any necessary works arising from this being carried out within an agreed timetable.

Having considered the issues and concerns raised by the residents in respect of the condition of the roads serving the site (referred to in paragraphs 32 and 33 below), it has advised that it is satisfied that the proposed planning conditions are sufficient to enable the Highway Authority to maintain the infrastructure to an appropriate standard. It notes that any degradation that may have occurred since the development commenced will be identifiable from the road condition survey undertaken in 2016 and that if this is attributable to development traffic the applicant will need to rectify it. If degradation is not attributable to development traffic, it will be necessary for this to be addressed through the Highway Authority's public responsibility and the Operations Team will act appropriately. It also advises that the specific concerns relating to flooding and drainage referred to in paragraph 33 below have been passed to the

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Operations Team to investigate and that if this is attributable to development traffic, repairs will be required under the terms of the proposed planning condition. It has further advised that the other highway related issues referred to in paragraphs 32 and 33 appear to be matters of compliance with existing planning conditions which can be addressed through planning enforcement should this be necessary.

24. **Environment Agency** – No objection.
25. **Natural England** – No objection. It is satisfied that the proposed development is unlikely to have a significant impact on the interest features for which the Medway Estuary & Marshes SPA and Ramsar Site are classified and that appropriate assessment is not required. It is also satisfied that the proposed development would not damage or destroy the interest features for which the Medway Estuary & Marshes SSSI has been notified. It has advised that KCC have regard to its standing advice on protected species.
26. **UK Power Networks** – No objection.
27. **Southern Water** – No objection.
28. **KCC Ecological Advice Service** – No objection, subject to the site being restored in accordance with the submitted landscaping plan.
29. **KCC Archaeology** – No objection, subject to the approved archaeological scheme being complied with.
30. **KCC Sustainable Drainage Team (SUDS)** – No objection, subject to the permitted drainage details being complied with.

Representations

31. The application was publicised by site notice and newspaper advertisement and the occupiers of all properties within 250 metres of the site and on School Lane to the west of the site entrance and Stickfast Lane (i.e. on the HGV route between the site and Shephey Way) were notified in January 2018.
32. One letter of objection has been received from a resident of School Lane. The objections can be summarised as follows:
 - Impact on the countryside and residents;
 - Poor site management;
 - No additional time should be allowed;
 - HGVs arriving at the site before 07:00 hours and leaving after 18:00 hours (particularly in summer months);
 - Extraction taking place after 18:00 hours (during the summer of 2016);
 - Adverse impact of HGVs on Stickfast Lane and School Lane (e.g. uneven surface, cracks and potholes);
 - Speeding HGVs;

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- Vibration from HGVs; and
 - Mud / brickearth on local roads and HGVs not being sheeted.
33. Another letter expressing concerns (but not formally objecting) has been received from a resident living at the junction of Sheppey Way and Stickfast Lane. The concerns can be summarised as follows:
- Increased traffic;
 - Degradation of the road surface;
 - Damage to boundary wall of property;
 - Creation of a rut in the road adjacent to the wall leading to surface water draining onto the foundations of a brick outbuilding and cesspit (leading to increased costs associated with emptying the cesspit, the need for repairs to the building and, potentially, subsidence to the property);
 - Vibration from HGVs;
 - HGVs passing the property from 06:30 hours;
 - Noise from HGVs (including audible alarms due to HGVs needing to reverse to allow other traffic to pass at a narrow point on Stickfast Lane); and
 - HGV speed.

Local Member

34. County Council Member Mr M Whiting (Swale West) was notified in January 2018. Mrs S Gent (Sittingbourne North) was also notified as the adjoining Member.

Discussion

35. No statutory or other consultees have objected to or raised any concerns about the proposed development. However, one local resident has objected and another expressed concern. The reasons for objection / concern primarily relate to the impact of HGV movements on School Lane and Stickfast Lane although concerns have also been raised about the management of the site and associated impact on the countryside.
36. 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 17 and 18 are of most relevance. Material planning considerations include the published and emerging national planning policies referred to in paragraph 16. Whilst the National Planning Policy Framework (NPPF): Draft text for consultation (March 2018) proposes a number of changes to the published NPPF (March 2012) in terms of structure and detailed content, I am satisfied that these do not significantly alter overall policy in so far as it is relevant to the determination of this application. On that basis, I only refer to the published version in the rest of this report.

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37. The principle of brickearth extraction and restoration to agriculture at a lower level at Orchard Farm has already been established by planning permission SW/15/502632 (dated 15 July 2015). It is therefore necessary to consider whether anything has changed since the permission was granted and whether the proposed amendments (i.e. additional time to complete working and restoration and an amended restoration scheme) are acceptable.
38. The main change that has occurred since 2015 is that planning permission SW/16/507594 was granted on 5 May 2017 to the same applicant for brickearth extraction at Paradise Farm. That permission provides for the extraction of about 751,000t of brickearth from 18 phases over a period of about 18 years (i.e. at a rate of about 41,722tpa). The permission includes conditions which require the prior approval of details before the development can commence. These details have yet to be submitted and approved and development has not yet commenced.
39. Paragraph 146 of the NPPF states that mineral planning authorities (MPAs) should plan for a steady and adequate supply of brick clay (brickearth) by providing a stock of permitted reserves (a landbank) of at least 25 years to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment. This requirement is reflected in Policy CSM2 of the Kent MWLP. Given that only one of the four phases has been worked so far, I estimate that approximately 112,500t of brickearth remains to be extracted at Orchard Farm. On this basis the combined total of permitted reserves of brickearth controlled by the applicant at Paradise Farm and Orchard Farm is about 863,500t. Assuming an extraction rate of 37,500tpa (as at Orchard Farm), this would supply the Smeed Dean Brickworks for about 23 years. Assuming the higher rate of extraction proposed at Paradise Farm (i.e. 41,722tpa), this figure would reduce to about 21 years. In either case, it would be less than 25 years. If the remaining permitted brickearth reserves (currently held by Ibstock Brick Ltd) were available to the applicant, this figure could potentially exceed 25 years. However, the applicant's ability to secure these reserves and the quantity of brickearth that could still be viably extracted at Hempstead House within the remaining permitted life of that site is uncertain.¹ With the exception of the relatively small areas of land that were initially proposed to be extracted at Paradise Farm but which were removed prior to determination of that application, no new brickearth sites are being proposed for inclusion in the Kent Minerals Sites Plan. On this basis, I am satisfied that there is planning policy support for the proposed development in enabling all the permitted brickearth reserves at Orchard Farm to be worked and that subject to no overriding reason to the contrary there is no reason why planning permission should be granted to extend the life of the site in this case.
40. Given the above, and having regard to consultee responses and the representation that has been received, I consider that other matters that need to be addressed are as follows:
- Highways and transportation;

¹ The Hempstead House permission (SW/13/939) requires that extraction cease by the end of September 2020 and restoration be completed by 31 October 2020.

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- Landscape and visual impact;
- Noise, dust and air quality impacts;
- Water environment (hydrology, hydrogeology and groundwater impacts);
- Ecology;
- Archaeology, heritage and conservation;
- Agricultural land / soils.

Highways and transportation

41. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the natural and historic environment and human health from traffic. Paragraph 144 states that regard should be given to such matters when determining planning applications. Policy DM13 of the Kent MWLP states that where new development would require road transport, proposed access arrangements must be safe and appropriate, traffic generated must not be detrimental to road safety, the highway network must be able to accommodate the traffic generated and its impact must not have an unacceptable adverse effect on the environment or local community. Policies DM6 and DM14 of the Swale Borough Local Plan (Swale BLP) include similar objectives.
42. Although neither KCC Highways and Transportation (H&T), Highways England nor any other consultee have objected to the application due to issues associated with highways and transportation, one local resident has done so and another has raised concerns. The objections / concerns relate to the adverse impact of HGVs on Stickfast Lane and School Lane (e.g. uneven surface, cracks and potholes), speeding HGVs, vibration from HGVs, HGVs arriving at the site before 07:00 hours and leaving after 18:00 hours, mud / brickearth being deposited on local roads (possibly due to HGVs not being sheeted), noise from HGVs (including reversing alarms), damage to a boundary wall and adverse impacts on a property due to drainage from the highway.
43. The Orchard Farm site lies within an area to the west of the A249 between Iwade and Bobbing that is subject to a 7.5t weight restriction. HGV access from Orchard Farm would normally need to be through Iwade due to the access via Stickfast Lane to Sheppey Way at Bobbing passing completely through the restriction that covers those specific roads. However, KCC H&T has previously accepted that the use of Stickfast Lane is preferable to using School Lane through Iwade (due to concerns about road widths, traffic calming measures and traffic impact, including that associated with Iwade Primary School) and has issued an exemption certificate to allow HGVs associated with the Orchard Farm site to use this route. These and related issues were discussed in detail between the applicant and KCC H&T prior to planning application SW/15/502632 being submitted and the application was accompanied by a transport assessment.
44. The applicant has responded to the objections / concerns that have been raised by residents. It states that HGVs associated with its operations do not speed, that its drivers undergo training to ensure vehicle safety and that HGVs arrive at about 07:10 hours and normally finish by 16:15 hours. It accepts that a very small number of HGVs

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have left the site unsheeted but states that once this was brought to its attention and the driver warned this has not been repeated. It also states that its production manager uses the roads regularly and has not witnessed mud on the road but that drivers are briefed to call for a road sweeper should they see mud on the road. It further states that the fact that HGVs remain on the concrete access and loading area and this is kept clean serves to minimise the risk of mud being deposited on the road.

45. KCC H&T's response to the objections / concerns that have been raised are set out in paragraph 23 above. This clearly indicates that the objections / concerns that have been raised above are capable of being satisfactorily addressed either through existing / proposed conditions or as part of the Highway Authority's public responsibilities.
46. As noted in paragraphs 9 and 10 above, planning permission SW/15/502632 is subject to controls and measures which are designed to minimise impacts associated with HGVs. Notwithstanding the objection and concerns that have been received, I am not aware of any complaints about operations at the site since mineral working began. I am content that the existing planning conditions provide appropriate mechanisms for controlling / addressing such issues had KCC been aware of any complaints or concerns. Whilst some noise and vibration from HGVs using the public highway (including reversing alarms) is unavoidable, I am satisfied that the number of HGVs and the permitted hours of operation are such that impacts are not significant.
47. Subject to the re-imposition of the conditions imposed on planning permission SW/15/502632, updated as necessary to reflect the details approved since 2015 and now proposed and amended to provide for the further road condition survey requested by KCC H&T, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of highways and transportation.

Landscape and visual impact

48. Paragraph 144 of the NPPF states that mineral development should not give rise to unacceptable adverse impacts on the natural and historic environment and that restoration and aftercare should be provided at the earliest opportunity and be carried out to high environmental standards through the application of appropriate conditions where necessary. Policy DM1 of the Kent MWLP supports sustainable development and states that minerals proposals should demonstrate that they have been designed to avoid causing any unacceptable adverse impact on the environment and communities by appropriate measures to protect and enhance the character and quality of the site's location. Policy DM19 requires that provision be made for high standards of restoration, aftercare and after-use such that the intended after-use of the site is achieved in a timely manner. It also states that restoration plans should reflect the proposed after-use and, where appropriate, include details such as: the site boundaries and areas identified for soil and overburden storage; directions of phasing of working and restoration and how they are integrated into the working scheme; the proposed final landform; the seeding of grass or other crops and planting of trees, shrubs and hedges; a programme of aftercare (including vegetation establishment and management); and the restoration of the majority of the site back to agriculture, if the site consists of the best and most versatile agricultural land. It further states that

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aftercare schemes should incorporate an aftercare period of at least 5 years. Policies DM14, DM24 and DM29 of the Swale BLP seek to minimise landscape impact and protect and enhance landscape, trees and hedgerows.

48. No consultee has objected to the proposed removal of the mounds of brickearth (including UK Power Networks) or to the resultant revised restoration scheme. However, one resident has objected to the application due to the impact of mineral working on the countryside and the appearance of the site.
49. The applicant has responded to the objections that has been raised. It states that the planning permission is temporary, that the site is well laid out in accordance with the planning permission and that the proposed revised restoration scheme would continue to enable the site to be fully restored in a holistic way.
50. I am satisfied that the proposed removal of the mounds and the resultant revised restoration scheme would improve the final landform. I am also satisfied that the removal of the additional brickearth associated with this would not have a significant impact on the time required to complete working and restoration. Whilst the proposed additional time to complete extraction and restoration would result in the site being disturbed for longer than originally envisaged (i.e. 2 additional years for extraction and 2 years and 7 months for the removal of all extracted brickearth from the site and completion of restoration), it should be noted that working and restoration is phased and that condition 5 limits the amount of land out of agricultural use as a result of mineral extraction to no more than 2ha at any one time.
51. Subject to the re-imposition of the conditions imposed on planning permission SW/15/502632, updated as necessary to reflect the details approved since 2015 and amended to provide for the amendments now proposed, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of landscape and visual impact.

Noise, dust and air quality impacts

52. Paragraph 144 of the NPPF states that local planning authorities should ensure that there are no unacceptable adverse impacts on human health when granting permission for mineral development and that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source and appropriate noise limits are established for extraction in proximity to noise sensitive properties. Policies CSM1 and DM1 of the Kent MWLP support sustainable development. Policy DM11 states that minerals development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from noise, dust, vibration, odour, emissions or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. Policy DM14 of the Swale BLP states that development proposals should cause no significant harm to amenity and other sensitive uses or areas.
53. Although no consultees have objected to the application due to issues associated with noise, dust and air quality impacts, one resident has raised related concerns. The

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objections relate to alleged poor site management and a breach of the permitted hours of operation, leading to adverse impact on the local community.

54. The applicant has responded to the objections / concerns that have been raised. It states that the site is managed in accordance with the planning permission and that extraction has not taken place outside the permitted hours.
55. KCC's Noise and Air Quality Consultants had no objection to permission being granted in 2015 subject to the imposition of, and compliance with, the conditions that were included in planning permission SW/15/502632 and KCC's Air Quality Consultant was satisfied that the results of the dust sampling survey undertaken in 2015 provided an appropriate baseline against which to assess the dust monitoring required for each phase of development. The dust monitoring that has been undertaken since 2015 has also been accepted by KCC as demonstrating the effectiveness of the dust controls. The noise attenuation required by the planning permission has also been implemented as required and the absence of complaints during operations would appear to indicate its effectiveness. Notwithstanding the concerns that have been raised, I am not aware of any complaints about operations at the site since mineral working began. I am content that the existing planning conditions provide appropriate mechanisms for controlling / addressing such issues had KCC been aware of any complaints or concerns. If residents have reason to believe that any of the conditions are not being complied with, they should bring this to KCC's attention in order that this can be investigated and action taken as necessary.
56. Subject to the re-imposition of the conditions imposed on planning permission SW/15/502632 relating to noise, dust and air quality, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of these issues.

Water environment (hydrology, hydrogeology and groundwater impacts)

57. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the natural and historic environment and human health from flooding, the flow and quantity of surface and groundwater and contamination (including cumulatively). Paragraph 144 states that regard should be given to such matters when determining planning applications. Policy DM1 of the Kent MWLP states that minerals proposals should demonstrate that they have been designed to utilise sustainable drainage systems wherever practicable. Policy DM10 states that permission will be granted for minerals development where it does not: result in the deterioration of physical state, water quality or ecological status of any waterbody; have an unacceptable impact on groundwater Source Protection Zones; and exacerbate flood risk in areas prone to flooding and elsewhere, both now and in the future. It also states that all minerals proposals must include measures to ensure the achievement of both no deterioration and improved ecological status of all waterbodies within the site and/or hydrologically connected to the site and that a hydrogeological assessment may be required to demonstrate the effects of the proposed development on the water environment and how these may be mitigated to

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an acceptable level. Policy DM21 of the Swale BLP includes similar objectives.

58. No objections have been received from the Environment Agency, KCC Sustainable Drainage Team (SUDS) or other consultees and no representations have been made in respect of issues relating to the water environment.
59. Subject to the re-imposition of the drainage conditions imposed on planning permission SW/15/502632 and conditions to provide for the amendments to the working and restoration scheme now proposed, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of the water environment.

Ecology

60. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the natural environment and ensure that worked land is reclaimed at the earliest opportunity and that high-quality restoration and aftercare of mineral sites takes place, including for biodiversity. Paragraph 144 states that regard should be given to such matters when determining planning applications. Paragraph 118 states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. Policy DM1 of the Kent MWLP states that minerals proposals should demonstrate that they have been designed to protect and enhance the character and quality of the site's setting and its biodiversity interests or mitigate and if necessary compensating for any predicted loss. Policy DM2 states that proposals for minerals development must ensure that there is no unacceptable adverse impact on sites of international, national or local importance unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for, such that there is a net planning benefit. Policy DM3 states that proposals will be required to demonstrate that they result in no unacceptable adverse impacts on Kent's important biodiversity assets and that proposals that are likely to give rise to such impacts will need to demonstrate that an adequate level of ecological assessment has been undertaken and will only be granted permission following (amongst other things): an ecological assessment of the site (including specific protected species surveys as necessary); the identification and securing of measures to mitigate any adverse impacts; the identification and securing of compensatory measures where adverse impacts cannot be avoided or mitigated for; and the identification and securing of opportunities to make a positive contribution to the protection, enhancement, creation and management of biodiversity. Policy DM19 states that restoration plans should include details of (amongst other things) key landscape and biodiversity opportunities and constraints ensuring connectivity with surrounding landscape and habitats and proposals for meeting targets or biodiversity gain. Policies CP7 and DM28 of the Swale BLP include similar objectives
61. No objections have been received from Natural England, KCC Ecological Advice Service or other consultees and no representations have been made in respect of ecological issues. KCC Ecological Advice Service wishes to ensure that the site is

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restored in accordance with the submitted landscaping plan which provides for both new and replacement hedgerow and woodland shaw planting. It also includes the ecological mitigation area which has already been established.

62. Subject to the re-imposition of the conditions imposed on planning permission SW/15/502632, updated as necessary to reflect the details approved since 2015 and amended to provide for the amendments now proposed, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of ecology.

Archaeology, heritage and conservation

63. Paragraph 143 of the NPPF states that local plans should set out environmental criteria against which planning applications should be assessed to ensure that permitted operations do not have unacceptable impacts on the historic environment. Paragraph 144 states that regard should be given to such matters when determining planning applications. Policy DM5 of the Kent MWLP states that proposals for minerals developments will be required to ensure that Kent's heritage assets and their settings, including locally listed heritage assets and archaeological sites are conserved in a manner appropriate to their significance. It also states that proposals should result in no unacceptable adverse impact on Kent's historic environment and, wherever possible, opportunities must be sought to maintain or enhance historic assets affected by the proposals. Policies CP8 and DM14 of the Swale BLP include similar objectives.
64. No objections have been received from KCC Archaeology or other consultees and no representations have been made in respect of archaeological issues. KCC Archaeology wishes to ensure that the approved scheme of archaeological works is complied with.
65. Subject to the imposition of a condition which requires the approved scheme of archaeological works to be complied with, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of archaeology.

Agricultural land / soils

66. Paragraph 143 of the NPPF states that local plans should include policies to ensure worked land is reclaimed at the earliest opportunity and that high-quality restoration and aftercare takes place, including for agriculture (safeguarding the long-term potential of best and most versatile agricultural land and conserving soil resources). Paragraph 144 states that regard should be given to such matters when applications are determined and conditions applied where necessary. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing soils. Policy DM1 of the Kent MWLP states that proposals for minerals development will be required to demonstrate that they have been designed to minimise the loss of best and most versatile agricultural land. Policy DM19 also aims to protect agricultural land and soils. Policy DM31 of the Swale BLP also seeks to protect good quality agricultural land

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67. No objections have been received from Natural England or other consultees and no representations have been made in respect of agricultural land / soils issues.
68. Subject to the re-imposition of conditions to ensure that soils are handled as previously permitted and the site is worked and restored as now proposed, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of agricultural land / soils issues.

Conclusion

69. The application proposes the variation of conditions 1 and 6 of planning permission SW/15/502632 to allow brickearth extraction to continue until 31 October 2020, for all brickearth stockpiled at the site to be removed and the site fully restored by 31 May 2022 and for the site to be restored in accordance with a revised restoration scheme. The principle of brickearth extraction and restoration to agriculture at a lower level at Orchard Farm has already been established by planning permission SW/15/502632 (dated 15 July 2015). Whilst there have been a number of changes since that planning permission was granted (e.g. the granting of planning permission at Paradise Farm), I am satisfied that these are not sufficient to warrant refusal. I am also satisfied that the proposed amendments (i.e. additional time to complete working and restoration and an amended restoration scheme) are acceptable.
70. Notwithstanding the objections and concerns raised by the two residents, none of the consultees have raised objection subject to the re-imposition of appropriate conditions (including that to secure a further road condition survey within 6 months).
71. I am satisfied that the proposed development gives rise to no material harm, is in accordance with the development plan and that there are no material considerations that indicate that the application should be refused. I am also satisfied that any harm that would arise from the proposed development would reasonably be mitigated by the imposition of the proposed conditions. I therefore recommend accordingly.

Recommendation

72. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO conditions covering amongst other matters:
- The cessation of brickearth extraction by 31 October 2020;
 - The removal of all brickearth stockpiled at the site and the completion of restoration by 31 May 2022;
 - The restoration of the site in accordance with the proposed revised restoration scheme;
 - The requirement for a further road condition survey within 6 months; and
 - The re-imposition of the conditions imposed on planning permission SW/15/502632 with such amendments as are necessary to reflect the above changes and the approvals given pursuant to the permission.

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Case Officer: Jim Wooldridge

Tel. no: 03000 413484

Background Documents: see section heading

Appendix 1 to Item C1 Section 73 application to vary conditions 1 & 6 of planning permission SW/15/502632 to allow for an extended period of working and amended restoration scheme at Orchard Farm, School Lane, Iwade, Sittingbourne, Kent, ME9 8QH - SW/18/500195

Permitted Restoration Scheme



Appendix 1 to Item C1

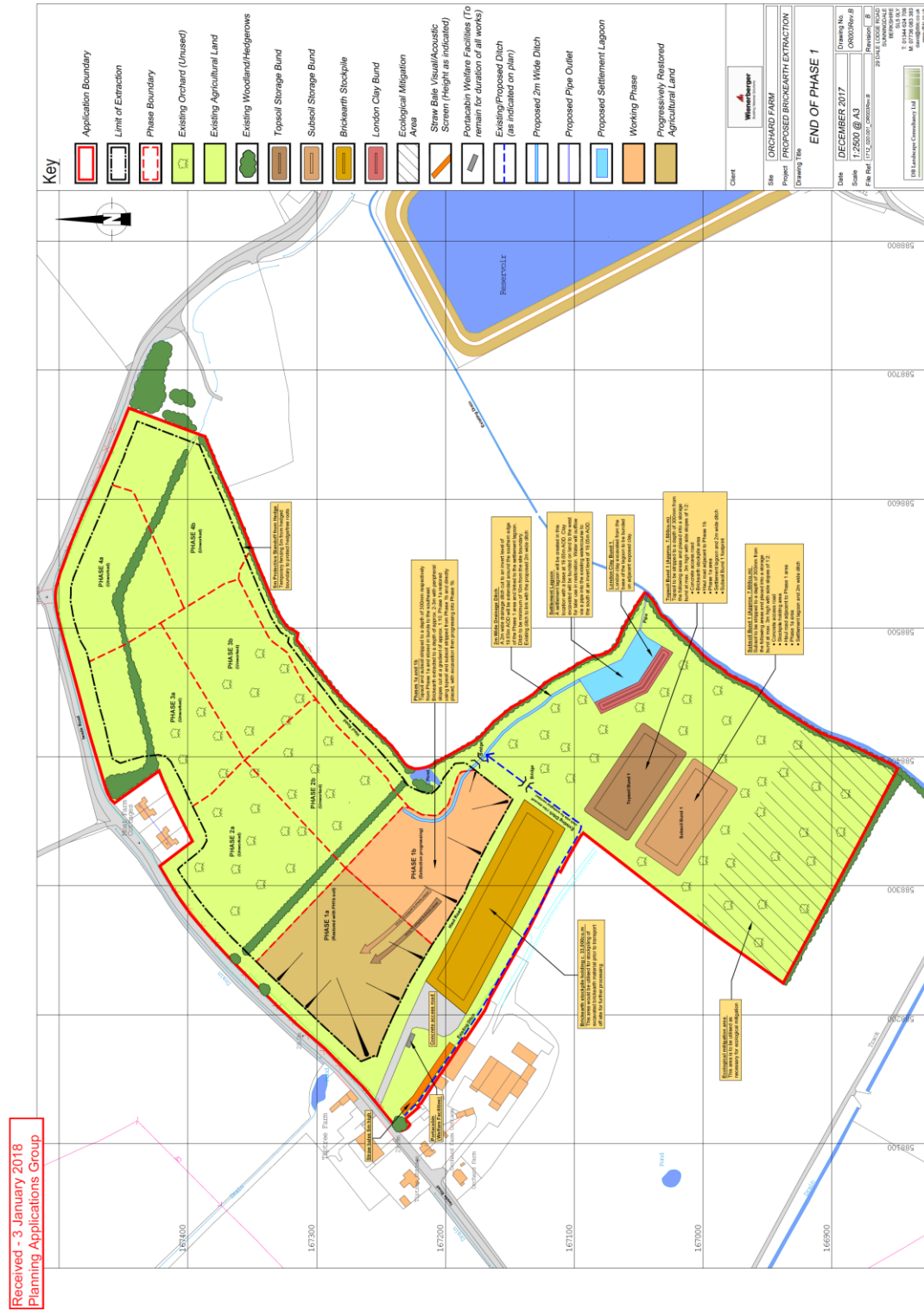
Section 73 application to vary conditions 1 & 6 of planning permission SW/15/502632 to allow for an extended period of working and amended restoration scheme at Orchard Farm, School Lane, Iwade, Sittingbourne, Kent, ME9 8QH - SW/18/500195

Proposed Restoration Scheme



Appendix 1 to Item C1
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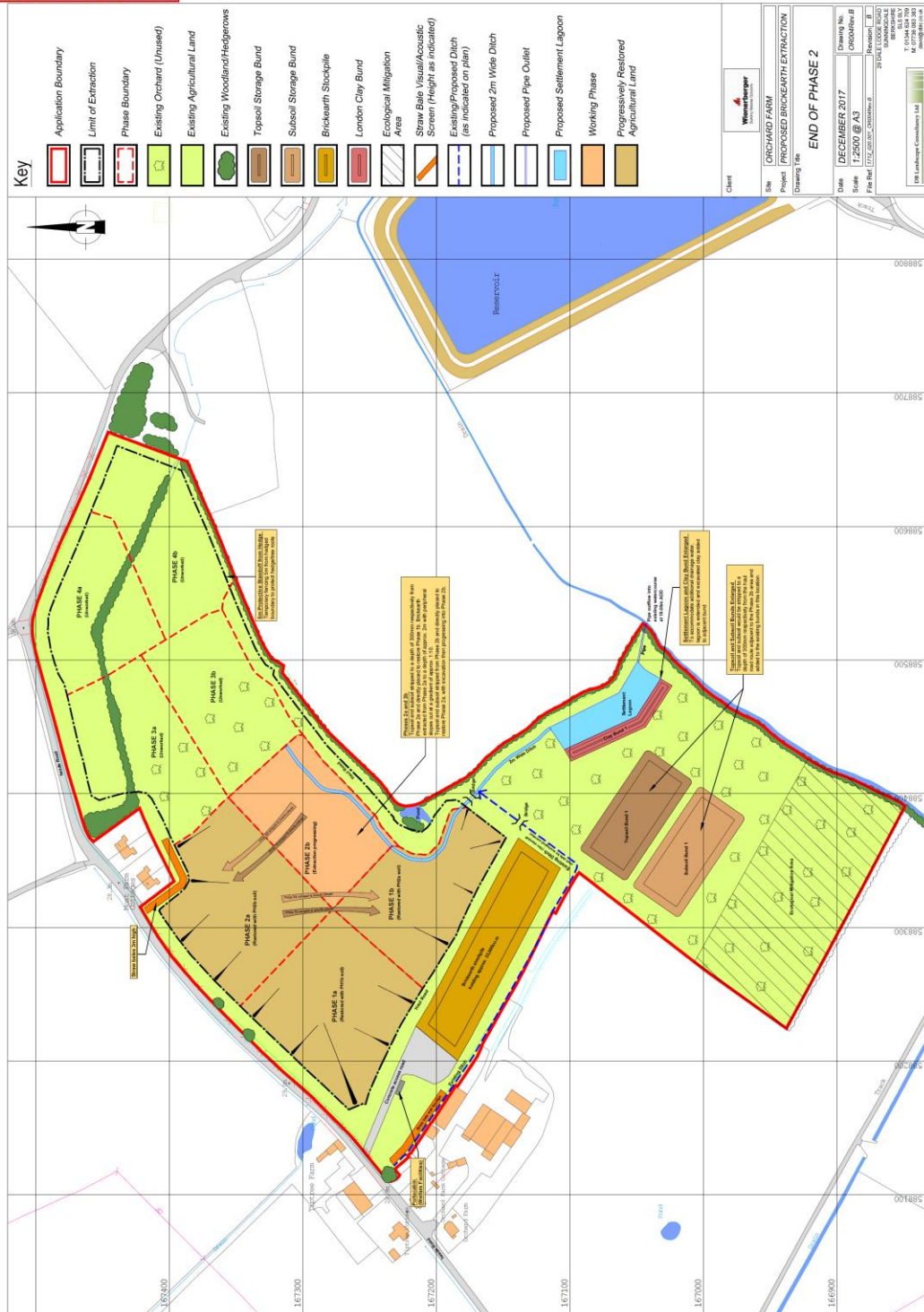
End of Phase 1



Appendix 1 to Item C1 Section 73 application to vary conditions 1 & 6 of planning permission SW/15/502632 to allow for an extended period of working and amended restoration scheme at Orchard Farm, School Lane, Iwade, Sittingbourne, Kent, ME9 8QH - SW/18/500195

End of Phase 2

Received - 3 January 2018
Planning Applications Group



Appendix 1 to Item C1

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End of Phase 3

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