

## Item C2

### **Application to vary conditions 18 & 26 of planning permission TM/98/1843/MR100, as amended by planning permissions TM/05/1173 & TM/07/3100, to further relax the time limit for the submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**

A report by Head of Planning Applications Group to Planning Applications Committee on 3 November 2009.

Application by Borough Green Sand Pits Limited to vary conditions 18 & 26 of planning permission TM/98/1843/MR100, as amended by planning permissions TM/05/1173 & TM/07/3100, to further relax the time limit for the submission of restoration/landscaping planting and aftercare schemes respectively for the existing site by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent (TM/09/2028).

Recommendation: Planning permission be granted subject to conditions.

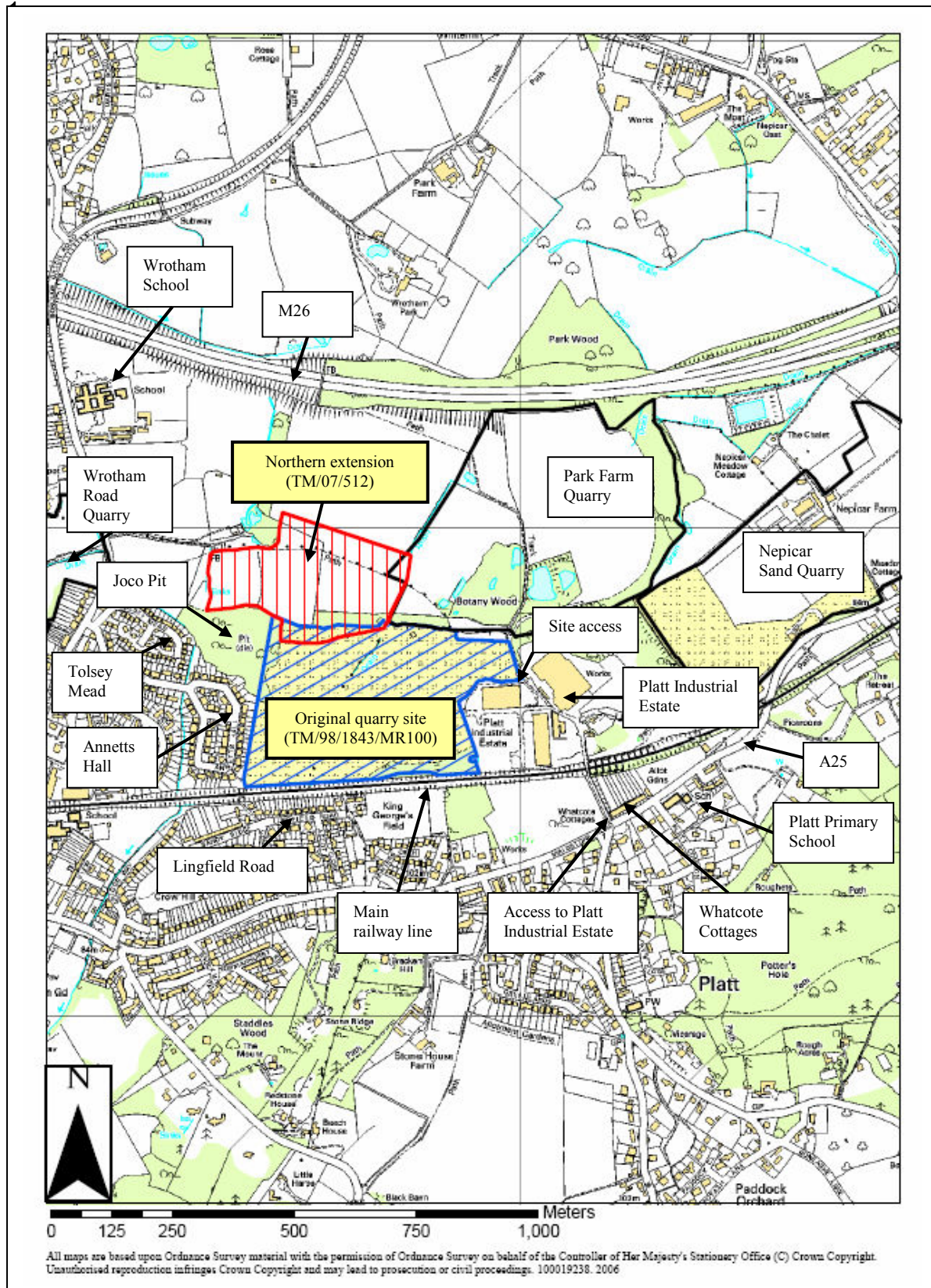
Local Members: Mrs V. Dagger

Unrestricted

#### **Site description and background**

1. Borough Green Sand Pit lies to the north of the mainline railway, west of Platt Industrial Estate, east of the Annetts Hall housing estate and to the south of woodland and open fields about 1 mile to the east of Borough Green village centre. The quarry is accessed from the A25 via Platt Industrial Estate. The nearest residential properties are at Annetts Hall (which adjoins the western boundary) and Lingfield Road (immediately to the south of the railway line). *A site location plan can be found on page C2.2.*
2. The site has a long history of mineral extraction activities dating back as far as 1952 when operations are understood to have commenced at Borough Green Sand Pit. Since then, a number of permissions have been granted within the original quarry area (as shown on Page C2.2) for sand extraction, restoration by infilling with inert waste and soil blending. The main mineral planning permission for the original quarry area is TM/98/1843/MR100 dated 15 March 2000. This updated the earlier mineral permissions in accordance with the terms of the Environment Act 1995 (i.e. the Minerals Review 'ROMP' process). This permission was most recently amended by TM/07/3100 on 3 June 2008 and this now represents the main planning permission for the original part of the site. Conditions 18 and 26 of planning permission TM/07/3100 respectively required the submission of schemes of restoration and landscape planting and aftercare, maintenance and management to be submitted for the approval of the County Council for this area by 3 June 2009.
3. Permission was also granted on 3 June 2008 for a Northern Extension to Borough Green Sand Pit under permission reference TM/07/512. This will involve the extraction

**Application to further relax time limit for submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**



**Application to further relax time limit for submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**

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of approximately 736,000 tonnes of building, construction and industrial (silica) sand in three phases from an extraction area of about 4.42 hectares (as shown on Page C2.2) and the restoration of the area with imported inert waste. The permission for the Northern Extension requires sand extraction and restoration to be completed by 31 December 2018. This is also the date by when restoration of the rest of the site must be completed.

4. Sand extraction has ceased within the original quarry area with restoration by backfilling with inert material having occurred and continuing to occur within the earliest phasing areas adjacent to the mainline railway line between residential properties in Annetts Hall and the western edge of Platt Industrial Estate. The original quarry site is to be restored to a private nature conservation area in accordance with a Landscape Strategy dated 1999 and a Landscape Management Plan dated 21 November 2002. The Northern Extension area is to be restored in accordance with the same principles as the original quarry area, but the final details of restoration and aftercare have been reserved by condition for later consideration and are required prior to the commencement of landfilling in that area.
5. The site lies to the South East of the North Downs Area of Outstanding Natural Beauty (AONB), within the Metropolitan Green Belt and adjacent to a public footpath (MR251) which runs east to west within the Northern Extension area.
6. There are a number of other quarries in the area, including Park Farm Quarry (Cemex) which is also accessed from the A25 via Platt Industrial Estate, Nepicar Sand Quarry (J Clubb Ltd) to the east, Wrotham Road Quarry and Landfill Site (Cemex) to the west and Ightham Sand Pit (H+H Celcon) and Crickett's Farm (Trodell Plant Ltd) further west.

**Proposal**

7. The application proposes the variation of condition 18 (relating to restoration and landscape planting) and 26 (relating to aftercare, maintenance and management) of planning permission TM/98/1843/MR100 (as previously amended by planning permissions TM/05/1173 and TM/07/3100) to further relax the time limit for the submission of restoration and aftercare schemes for the original site by no later than 3 June 2010. This application has come forward as a result of the realisation by the applicant that it was unable to comply with the required timescales and as an attempt to regularise the current breach of planning control.
8. The applicant has set out a number of reasons why it was unable to submit the schemes by 3 June 2009. These included the realisation that existing permitted restoration levels would hinder ongoing sand processing and landfill operations within the site (e.g. flooding of the main processing and screening areas during high rainfall periods) and that the approved restoration scheme for the original site area would be detrimental to final restoration objectives for the site as a whole (i.e. both the original and Northern Extension areas). A review of best practice undertaken this year is likely to lead to the applicant seeking changes to the approved restoration scheme in the original quarry area in order to provide more effective management of surface water and water infiltration. To this effect, the operators are looking to review the restoration levels for the site as a whole with a view to satisfactorily addressing all environmental issues as

**Application to further relax time limit for submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**

---

well as ensuring that the future scheme represents modern best-practice measures for restoration of mineral workings without increasing overall site levels or the total amount of imported inert waste materials required to secure these objectives.

9. In support of the application, the applicant also proposes to bring forward the submission of the aftercare and restoration schemes required for the Northern Extension area such that these would be submitted alongside those for the original site and be considered together. In this way restoration and aftercare schemes for the entire site would be submitted by 3 June 2010. Whilst the applicant acknowledges that it is unfortunate that it has been unable to meet the requirements of conditions 18 and 26, it considers that there are real benefits in this approach.
10. The applicant has also provided additional supporting information to demonstrate that steps are underway to draw-up appropriate restoration and aftercare schemes by the 12 month extended deadline sought and has confirmed that it is actively involved in discussions with key stakeholders, such as the Environment Agency, and intends to provide officers with a draft submission for further discussion by the end of November 2009.

**Planning Policy Context**

11. The most relevant planning policies are set out below:

**National Planning Policies** – the most relevant National Planning Policies are set out in PPG2 (Green Belts), MPS1 (Planning and Minerals), MPS2 (Controlling and Mitigating the Environmental Effects of Minerals Extraction in England), MPG7 (Reclamation of Mineral Workings), PPS10 (Planning for Sustainable Waste Management), PPS23 (Planning and Pollution Control) and Waste Strategy for England 2007.

**South East Plan (May 2009)** – These include Policies SP5 (Green Belts), C3 (Areas of Outstanding Natural Beauty), C4 (Landscape and countryside management), NRM1 (Sustainable water resources and groundwater quality), NRM4 (Sustainable flood risk management) and W14 (Restoration).

**Kent Minerals Local Plan: Construction Aggregates (December 1993)** – These include Policies CA22 (Landscaping) and CA23 (Working and Reclamation Schemes).

**Kent Waste Local Plan (March 1998)** – These include Policies W12 (Landfill of Mineral Voids), W21 (Nature Conservation), W31 (Visual Impact and Landscaping) and W32 (Aftercare).

**Tonbridge and Malling Borough Council Local Development Framework Core Strategy (September 2007)** – These include Policies CP3 (Green Belt) and CP7 (AONB).

**Consultations**

12. **Tonbridge and Malling Borough Council** – Raises objection on the basis that the

**Application to further relax time limit for submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**

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applicant has had adequate time in which to fulfil the obligations of the planning conditions relating to the submission of landscaping, restoration and aftercare schemes and as no evidence has been presented within the application which would justify a further extension on the time limits for such compliance.

13. **Borough Green Parish Council** – Consider that the applicant has had adequate time to complete these schemes. There was an agreement that these details would be completed within the time limits thus the applicant was aware that a deadline had to be met. Under the circumstances, Borough Green Parish Council sees no reason to allow a further extension of time.
14. **Platt Parish Council** – The applicant states that it became aware of shortcomings in the existing permitted restoration levels last winter but has only now asked for an extension of time to submit the new schemes. On the basis that there has been a period of about eight months since that realisation by the applicant, during which time it should have been developing its proposals, we feel that a further full year should not be allowed and any approved time extension should be minimised with a maximum of six months.
15. **Wrotham Parish Council** – The applicant should be given no more than an additional six months for the submission of restoration/landscape planting and aftercare schemes and the revised deadline should be rigorously enforced by the County Planning Authority.
16. **Environment Agency** – No objections to the application for an extension to the time limit.

**Local Member**

17. The local County Member, Mrs. V. Dagger was notified of the application on 19 August 2009.

**Publicity**

18. The application was publicised by the posting of a site notice, a newspaper advertisement, and all local residents / business properties within 250 metres of the application site were notified by post.

**Representations**

19. At the time of writing this report, 13 letters of representation have been received. The representations relate to the following issues: -
  - Whilst we are sympathetic to the reason for this request to relax time limit, we do not see why such a plan could not be submitted even if the timing of such work is set far enough into the future for them to be able to finish extracting sand from the area in question. Therefore, should the application be approved, an immovable time limit should be applied so that the applicant cannot, in six months time, come back and ask for yet a further extension;
  - Concerns relating to the delay of site restoration, and connections with possible

**Application to further relax time limit for submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**

---

future major development within the locality for a large rail road transport transfer depot;

- The quarry is an essential part of surface water control to prevent flooding in southern part of Borough Green – any future development on this land will lead to flooding of surrounding residential properties;
- Lack of detail from the applicant relating to real reasons for their request for additional time – no overriding reason for further relaxing the time limit;
- Application will be a blight on my personal views and will be an environmental disaster;
- Currently we have noticed the noise of the night trains increasing and the sand from the quarry is bearable but still a pain. If the application goes through I can not see any improvement at all and Borough Green, Platt and Wrotham will become the next Croydon;
- The quarry in question has been in operation for many years and as a local resident, we have had to put up with the noise, dust, etc. for the twenty three years that I have resided here. I am objecting to the proposal to extend the working time on the following grounds – the past year has seen a considerable increase in the noise factor causing great inconvenience and annoyance; the dust and sand is a constant source of irritancy as it smothers the interior of our house on a permanent basis; and the dust and sand is a contributory factor to a decline in my respiratory/chest condition;
- Against the application because this is green belt land and therefore special care and attention should be shown towards it. Restoration should be a priority to assist in the speedy return of wildlife.

**Discussion**

20. The application is being reported to committee as a result of the objections from Tonbridge & Malling Borough Council, Borough Green, Platt and Wrotham Parish Councils and local residents that are summarised in paragraphs (12) to (19) above.
21. Section 38(6) of the 2004 Planning and Compulsory Purchase Act states that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Therefore the proposal needs to be considered in the context of the Development Plan policies and Government Guidance outlined in paragraph (11) above and other material planning considerations (including those arising from consultation and publicity). The main issues in this case are whether the proposed 12 month extension of time for the submission of restoration and aftercare schemes would adversely affect the effective working of the site, unduly delay effective restoration of the site or lead to any other unacceptable impacts. In addition, consideration is required as to whether the additional time sought is necessary and of a reasonable duration.
22. The guiding principles of restoration have already been established for the original site in TM/98/1843/MR100 (as amended by TM/07/3100) and for the northern extension by TM/07/515. Effective and timely restoration of the site is important, particularly given the site's location within the Metropolitan Green Belt and near the Kent Downs AONB.
23. Planning Policy Guidance Note 2 recognises that there is a general presumption against



**Application to further relax time limit for submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**

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inappropriate development in the Green Belt and that such development should not be permitted except in very special circumstance. However, it goes on to say that as minerals can only be worked where they are found and their extraction is a temporary activity, extraction need not be inappropriate development and need not conflict with the purposes of including land in Green Belts provided that high environmental standards are maintained and that the site is well restored. Policy SP5 of the South East Plan, and Policy CP3 of the Tonbridge & Malling Local Development Framework Core Strategy also recognises the importance of Green Belts. Policy C3 of the South East Plan and Policy CP7 of the Tonbridge & Malling Local Development Framework Core Strategy seek to preserve the distinctive character and natural beauty of the landscape in AONBs. Policy C4 of the South East Plan seek to (amongst other things) to protect and enhance the diversity and local distinctiveness of the region's landscape, informed by landscape character assessment, outside nationally designated areas.

24. For the site to be effectively worked and restored and meet the requirements of the above planning policies it is essential for appropriate landscape, restoration and aftercare schemes to be in place. This is also a requirement of Policies CA22 and CA23 of the Kent Minerals Local Plan: Construction Aggregates and Policies W31 and W32 of the Kent Waste Local Plan. It is therefore desirable for any schemes that are submitted for approval to be based on sound and up to date guidance and principles and to address the entire site (i.e. original site and northern extension). Subject to any new submission date being within a reasonable time period, allowing additional time for the applicant to complete its consideration of these matters in consultation with relevant parties (including County Council planning officers) is clearly preferable to seeking compliance with a particular date if the alternative were to lead to the submission of sub-optimal or unacceptable schemes. It is also worth noting that although the conditions required the submission of the schemes by 3 June 2009, they do not require restoration of any particular areas of the site by this date or any date immediately thereafter. These matters are addressed elsewhere in the relevant permissions. Restoration can only be completed as and when operations on site reach a certain point and in accordance with permitted phasing. In this context, it should be noted that the proposed 12 month delay in submitting the schemes would have no significant impact on the operator's ability to continue to work and restore the site in accordance with existing permitted details. On this basis, I consider that allowing additional time for the submission of the schemes (until 3 June 2010) would remain consistent with the above development plan policies.
25. Whilst it is unfortunate that the application was submitted one month after the required date for the submission of the restoration and aftercare schemes this does not preclude the County Council determining the application and permitting an alternative date. Neither does it affect my view that delaying submission until 3 June 2010 would be acceptable.
26. Borough Green, Platt and Wrotham Parish Councils have suggested that the County Council should consider only allowing the applicant up to a maximum of six months to make the necessary submissions. In practical terms, I do not consider that an additional six months (i.e. until 3 December 2009) would provide a realistic timescale for the preparation and submission of the required schemes given the need for the further discussions referred to above. Although concerns have been expressed by local residents that the applicant may seek a further relaxation of the time period for the

**Application to further relax time limit for submission of restoration and aftercare schemes by no later than 3 June 2010 at Borough Green Sand Pit, Platt Industrial Estate, St Mary's Platt, Borough Green, Kent – TM/09/2028**

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submission of the schemes, I believe the additional time period sought to be reasonable and that it should provide sufficient time for appropriate scheme to be prepared and submitted. The further benefit suggested by the applicant of the additional time period enabling the submission of a single scheme for both the original site and northern extension (i.e. relating to conditions attached to TM/07/3310 and TM/07/515) is also a factor in favour of the proposal.

27. It should be noted that many of the residential concerns that have been received relate to the potential future development of the site and surrounding area as a rail/freight transport hub rather than the proposed development itself. In particular, the suggestion that the applicant is 'stalling' or delaying restoration of Borough Green Sand Pit pending a decision on these proposals. Whilst these issues are clearly of concern to local residents, they are not relevant for consideration as part of this application.

**Conclusion**

28. Whilst it is unfortunate that the applicant has found it necessary to seek further time to submit the required restoration and aftercare schemes, I am satisfied that the proposed 12 month extension of time would not adversely affect the effective working of the site, unduly delay effective restoration of the site or lead to any other unacceptable impacts. I am also satisfied that the additional time sought is both necessary and of a reasonable duration in this case. For the reasons given above, I am also satisfied that the proposal remains consistent with development plan policy and that there are no material planning considerations that indicate permission should be refused. I therefore recommend accordingly.

**Recommendation**

29. I RECOMMEND that PLANNING PERMISSION BE GRANTED, SUBJECT TO the detailed restoration and landscape planting scheme and aftercare, maintenance and management scheme for the application site being submitted by 3 June 2010 and all other conditions imposed on planning permission TM/98/1843/MR100, as amended by planning permission TM/07/3100, remaining in full force and effect.

Case Officer: Julian Moat
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Background Documents: see section heading.
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