

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 as might be additionally indicated.

Item C1

Variation of condition 7 of planning permission TM/14/2728 to allow for a combined total of up to 240 HGV movements per day (120 in/120 out) to take place associated with all operations and uses at the site (including landfill, recycling and restoration) at Borough Green Quarry, Wrotham Road, Borough Green, Kent, TN15 8DG - TM/19/1779 (KCC/TM/0152/2019)

A report by Head of Planning Applications Group to Planning Applications Committee on 10th June 2020.

Application by Robert Body Haulage Ltd for a Section 73 application for the variation of condition 7 of planning permission TM/14/2728 to allow for a combined total of up to 240 HGV movements per day (120 in/120 out) to take place associated with all operations and uses at the site (including landfill, recycling and restoration) at Borough Green Quarry, Wrotham Road, Borough Green, Kent TN15 8DG - TM/19/1779 (KCC/TM/0152/2019).

Recommendation: Permission be granted, subject to conditions.

Local Member: Mr. H. Rayner

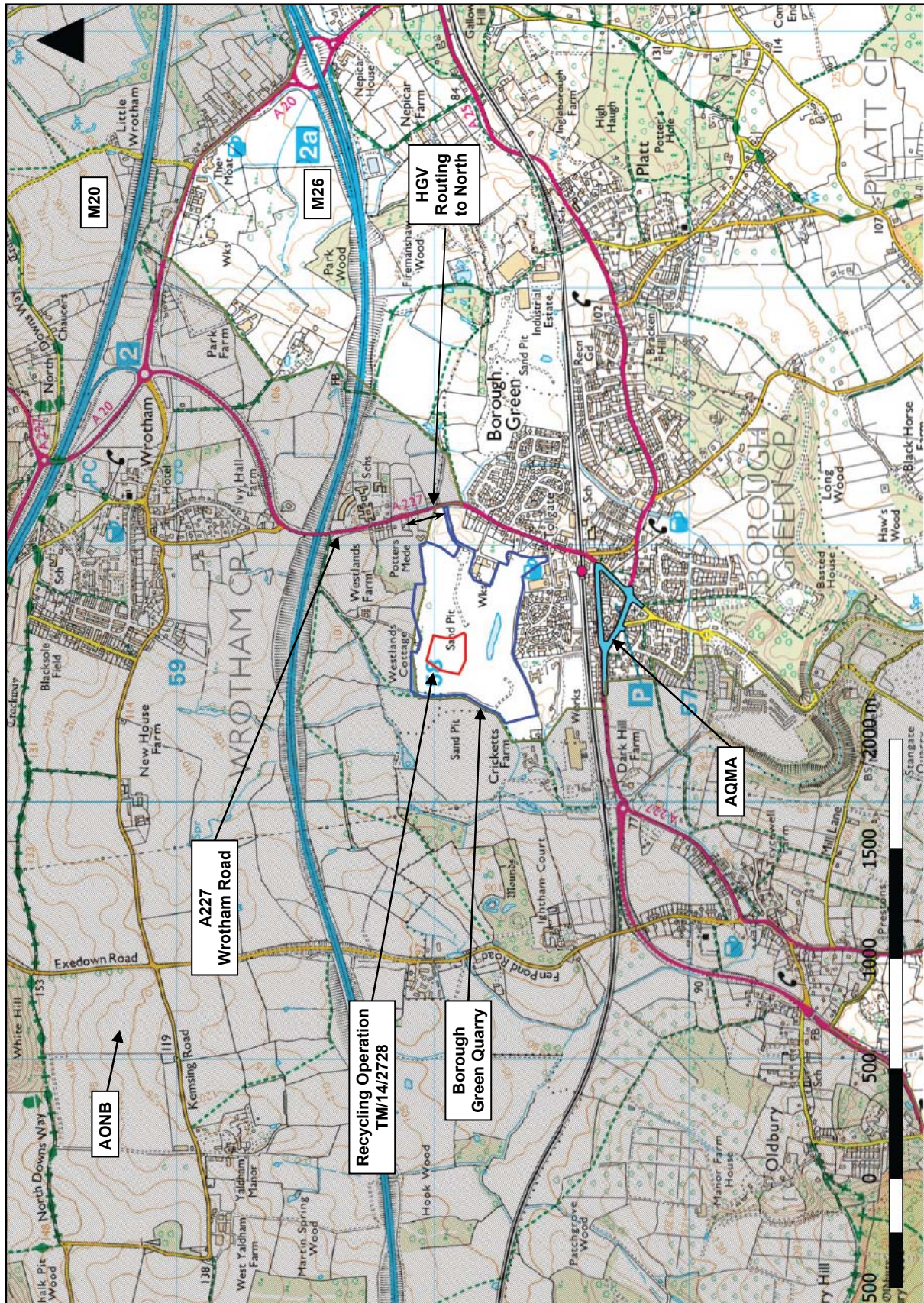
Classification: Unrestricted

Site

1. The application site falls within Borough Green Quarry (Landfill) ("the site"). The site is located west of Wrotham Road (the A227), immediately north of the built confines of Borough Green. The working area of the quarry covers approximately 13 hectares (ha) and is partially restored. The permitted sand reserves have long since been exhausted and mineral extraction has permanently ceased. The extraction left a void up to 35m deep across the quarry area. The extant planning permissions allow for the site to be backfilled with inert waste material and restored in accordance with an approved scheme. This scheme allows for the land to be restored to levels similar to the surrounding landscape. The infill of the site is well progressed with parts of the site reaching permitted levels. The permitted uses include provision for an ancillary temporary inert waste recycling facility that produces secondary aggregate for export from suitable waste materials. This facility is located within part of the remaining quarry void and is below surrounding ground levels. The quarry benefits from a dedicated site compound adjacent to the access, wheel washing facilities and a private access road that stretches c.140m east to the public highway. This access is shared with commercial / industrial units within the adjacent Long Pond Works site.
2. The quarry is in open countryside located within the Green Belt. The North Downs Area of Outstanding Natural Beauty (AONB) adjoins the site boundary immediately to the north. The southern section of the site falls within a Groundwater Source Protection Zone 3.

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General Location Plan



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Public Right of Way MR244 passes to the north and west. An Air Quality Management Area (AQMA) is designated around the road network at the centre of Borough Green, c.300m south of the closest site boundary and c.600m south of the site access.

3. Land to the north of the application site forms open countryside between Borough Green and the M26 Motorway, which passes east to west c.420m to the north. This land is principally in agricultural use. The Potters Mead Recreation Ground is located to the north-east, beyond which is a commercial unit and a small number of residential properties that line Wrotham Road to the north. Further to the north-east along Wrotham Road (c.230m) are Wrotham and Grange Park Schools. Land to the east, includes the commercial buildings within the Long Pond Works, which falls within the applicant's ownership and shares the main access to the quarry onto Wrotham Road. Beyond this, 100m east of the commercial units and 60m south of the site access road are residential properties that form the northern areas of Borough Green. Further to the east is Borough Green Sand Pit with further permitted quarrying operations beyond. Land to the south, forms residential properties within Borough Green, including a large residential home. Land to the west, includes the former Ightham Quarry, Cricketts Farm (a commercial base and compound for the O'Keefe Group) and a concrete block works (H+H Celcon).
4. The application site forms part of a wider area of land north of Borough Green and Platt being promoted as part of a proposed development known as "Borough Green Gardens" (BGG). This is a strategic mixed-use development allocated in the emerging Tonbridge and Malling Local Plan (Draft Policy LP29).

Background / Relevant Site History

5. Sand (mineral) extraction at Borough Green Quarry was originally granted under an Interim Development Order (IDO), which provides for both the extraction of sand and subsequent restoration of the quarry void (IDO permission TR1893, updated by TM/93/305). A small extension to the sand extraction to the north-west was granted and has been worked at the same time as the main quarry under Review of Old Mineral Permissions (ROMP) reference TM/01/1205/MR86. Henceforward, these permissions will be referred to as the 'mineral permissions'.
6. The conditions imposed on TM/93/305 were established following a High Court judgement in May 1996. These conditions include operations to cease by 21 February 2042, maintenance of site access, measures to prevent mud on the highway, a working programme, soil protection, hours of use, restoration, planting, aftercare, controls on permitted development rights and fencing. The ROMP permission (TM/01/1205/MR86) for the determination of new conditions was issued in April 2002. This permission repeats similar conditions to those referenced above, whilst also introducing a maximum depth of working for this part of the quarry (1.52m above the water table). There are no controls on either permission relating to the number of HGV movements associated with the quarry / landfill operations. Both permissions remain relevant and have been varied on several occasions over the years. The most relevant permissions / approvals are referenced below.
7. Planning permissions TM/08/2981 and TM/08/3175 varied the earlier mineral permissions to allow improvements to the access arrangements to Wrotham Road.

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8. Approvals TM/93/305/R12 & 16 and TM/01/1205/MR86/R8 & 11 provide for a combined restoration and aftercare scheme for the entire site. The approved scheme allows for sequential and phased restoration using imported inert fill material to levels that tie in with the surrounding landform. The intended after uses include restoration to agriculture and landscape planting comprising woodland blocks and hedgerows. See approved "restoration plan" attached in Appendix 1.
9. Planning permission TM/06/2171 allowed for the recycling of inert waste / crushing and screening to produce secondary aggregates within part of the quarry void. This permission was granted on the basis that the recycling be completed on a campaign basis, as an ancillary operation within the main quarry / landfill activities. Condition (6) of the permission introduced limits on the total number of HGV movements to 110 per day (55 In / 55 Out). This was the first permission at the site to impose controls on vehicle numbers. The redline area of the development only covered part of the overall quarry, however on the basis that the application site and surrounding quarry were in the same ownership the condition sought to impose new highway controls on both recycling and retrospectively on the mineral permissions all the time the permitted recycling was taking place. The controls were based on the importation of not more than 300,000 tonnes per annum (tpa) and not more than 3,000 tonnes per day.
10. Planning permission TM/08/3715 varied the above permission TM/06/2171 to allow up to a total of 182 HGV movements per day (91 In / 91 Out), based on vehicles associated with both mineral and recycling operations handling up to 500,000 tonnes of material per year. The conditions imposed include the development to cease by February 2042 or on completion of restoration of the quarry, the recycling to continue on a campaign basis, dust mitigation, no HGVs to leave site during school term-time between 0800-0845 and 1500-1545 hours, wheel cleaning facilities and records of all movements to be maintained.
11. Planning permission TM/10/72 varied condition 3 of permission TM/08/3715 and conditions 6 & 12 of permission TM/93/305 to replace a section of the approved noise attenuation mound with a noise attenuation fence along the southern boundary.
12. In place of the above waste permissions, planning permission TM/14/2728 provides for the relocation and increase in the ground level for the recycling operations and the retention of the recycling plant for the duration of the landfill. TM/14/2728 is the key 'waste permission'. Condition (7) of this permission continues to limit HGV movements to 182 per day (91 In / 91 Out) in association with the quarry restoration, landfill and recycling operations. Other conditions imposed include:
 - operations to cease by 21 February 2042 or restoration of the quarry;
 - the cessation of all earlier recycling operations permitted on site;
 - hours of operation (between 0700 and 1800 hours Monday to Friday and between 0700 and 1:00 hours on Saturdays);
 - no HGVs to leave during peak school travel times (term time 0800 to 0845 and 1500 to 1545 hours Monday to Friday);
 - records of all HGV movements to be maintained;
 - wheel and chassis cleaning facilities;
 - HGVs to be covered;
 - 10mph speed limit on haul road;
 - implementation of a dust control scheme;

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- noise controls (55dB_{LAeq,1hr} daily and 70dB_{LAeq,1hr} for temporary operations, when measured at any noise sensitive property);
- a noise attenuation bund;
- operation of recycling plant and equipment within void (below 70 metres above ordnance datum (AOD)); and
- crushing and soil screening operations to not take place simultaneously.

TM/14/2728 also includes informatives encouraging routing of HGVs away from Borough Green Village; and maximising backloading of HGVs importing waste to export recyclable materials wherever possible.

13. Planning permission TM/14/1442 allows provision for an ancillary secure site compound and the overnight parking of HGVs on site. Amongst other matters, this permission imposes the same controls on hours of operation and numbers of HGV movements as set out above.
14. Land adjacent to the quarry, which shares the access road, known as Long Pond Works, has been subject to several recent commercial permissions granted by Tonbridge and Malling Borough Council (TMBC). TM/16/01859/FL grants permission for the demolition of 6 industrial buildings and construction of a replacement industrial unit and a flexible change of use within Use Classes B1, B2 and B8 as well as use by Robert Body Haulage for parking and maintenance of vehicles and office use as an administrative base. TM/18/01402/FL grants permission for an extension to the permitted industrial unit approved under planning reference TM/16/01859/FL and the provision of parking.
15. As indicated above, the site also forms part of the area of land promoted for the Borough Green Gardens (BGG) proposals. This land is identified in the emerging Local Plan as one of the sites the Borough Council is seeking to allocate as part of its new strategic housing provision for the next plan period. The emerging Local Plan has been submitted to the Secretary of State for Examination in Public (EIP). The appointed inspectors have requested that TMBC undertake further work and consultations prior to the first stage of the EIP later this year. Draft policy LP29 of the emerging Local Plan specifically identifies the site as part of a new mixed-use housing development. If allocated, and subsequently planning permission were to be granted, the wider scheme would provide for c.3,000 dwellings, a new relief road, 2ha of Employment Floorspace, healthcare, primary and secondary education provision.
16. BGG is one of 19 Garden Villages across the UK to be selected (in June 2019) as part of the Government's Garden Communities Programme, being delivered by Homes England / DHCLG. The programme provides funding to local planning authorities with the objective of delivering and accelerating such development projects.

Proposal

17. The application, made on behalf of Robert Body Haulage Ltd, seeks planning consent to vary condition (7) of permission TM/14/2728. The proposed variation would allow for a combined total of up to 240 HGV movements per day (120 in/120 out), to take place in association with the permitted operations and uses at the quarry (including landfill, recycling and restoration). The changes would result in an increase of 58 HGV

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movements (an additional 29 In / 29 Out) over the existing permitted limit of 182 movements allowed each day.

18. The objective of the application is to increase the rate at which infill material can be transported to site to accelerate the backfill and restoration of the quarry, whilst maintaining the recycling operations. The application documents (as amplified) state that the HGV movements allowed under the extant permissions (182 per day), would allow the permitted landfill restoration levels to be reached in a minimum of 8.5 years (i.e. by 2028). With the benefit of the increased HGV movements proposed (240 per day), the permitted levels could be achieved in 6.5 years (i.e. by 2026). The proposals highlight the associated environmental benefits of securing the early restoration of the site.
19. The application seeks to vary permission relating to the recycling operations instead of the above-mentioned mineral permissions for the quarry and infill (TM/93/305 & TM/01/1205/MR86). This is because these earlier permissions are not subject to any controls relating to HGV numbers or movements. The applicant also wishes to maintain the ancillary recycling operations, as an important part of its business for as long as possible during the final restoration.
20. The application is accompanied by a Transport Statement, which considers the in-combination changes in HGV movements in the context of existing traffic flows recorded on the A227 Wrotham Road. This demonstrates that on average HGV movements (including those associated with the existing permitted recycling / infill operations) account for c.5% of the traffic levels on this part of the highway network. The assessment demonstrates that the additional 58 movements proposed would result in a c.1% uplift in HGV traffic over the base flow (i.e. 6% of the overall flow). The assessment also includes a review of the collision data for Wrotham Road close to the site over the last 10 years. The results highlight a small number of recorded incidents with only one involving an HGV. The report assumes that all HGV site traffic would continue to be routed via the highway network to the north avoiding travel through Borough Green Village.
21. Notwithstanding the approved restoration, the application includes an "Outline Accelerated Earthwork Strategy" which the applicant states provides background details of an anticipated development platform relating to the BGG proposals. The potential BGG development platform is shown at a lower finished ground level than the approved landfill restoration scheme (i.e. requiring less volume of infill material and less time to deliver). The strategy confirms that, should BGG be found to be acceptable in future, an increased rate of infill would assist in delivering a more flexible development platform (where the BGG scheme relates to the application site).
22. For the avoidance of doubt, beyond the changes to the number of HGV movements permitted, the application does not seek to vary any of the other controls imposed on permission TM/14/2728 or any other permission relating to the quarry. Any proposals to depart from the existing permissions, including the working and restoration arrangements approved under the minerals permissions, would require a further separate planning application(s) to be made. Any application to engineer a development platform for future major housing, community or commercial development would need to be subject to the outcome of the Examination in Public of the emerging

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TMBC Local Plan, or in any event subject to a separate application to TMBC as part of the future aspirations for the use of the land.

Additional / revised information received from the applicant during the processing of the application in response to consultee views and representations.

23. The applicant's agent (Barton Willmore) accepts that the Borough Green Gardens proposal cannot be afforded significant weight, considering the emerging status of the TMBC Local Plan. However, it considers that the BGG proposals can be afforded material weight. Barton Willmore draw attention to the conclusions drawn within TMBC's Delegated Report on this application, that BGG forms the largest strategic allocation in the emerging TMBC Local Plan and is therefore of critical importance in terms of meeting housing need in the Borough up to and beyond 2031. The response also recognises that BGG is formally part of the Government's Garden Communities Programme with Homes England. One of the key objectives of this Government programme is to provide/support the accelerated delivery of housing growth. Barton Willmore suggest that these matters can be weighed favourably in the overall planning balance for the application as against the policies in the Development Plan and the National Planning Policy Framework.
24. In terms of the recycling operations, the applicant states that this is an important part of the its business and the plan is to continue this temporary use for as long as possible whilst the quarry is being restored. The recycling operations are in the final phase of the quarry to be restored and would only be removed at that stage. The applicant's agent has stated that approximately 7 - 10% of the material received on site is recycled and that the calculated timeframes for restoration take account of continuing activity at this level.
25. In terms of comments regarding air quality and the AQMA located within Borough Green, the application confirms that HGV traffic to / from the site travels strictly to the north via Junction 2 of the M20 or 2a of the M26 thus avoiding travel through Borough Green. The applicant states that it is content to accept a new condition to this effect; the previous permission only reflected this requirement as an informative.

Planning Policy

26. The most relevant Government guidance and development plan policies are summarised below:
27. **National Planning Policies** – the relevant National Planning Policies are set out in the National Planning Policy Framework (NPPF) (2019) and the National Planning Policy for Waste (NPPW), and the associated National Planning Practice Guidance (NPPG), including the Minerals Planning Practice Guidance (MPPG). These are all material planning considerations.
28. **Kent Minerals and Waste Local Plan (2016) (Kent MWLP) Policies:** CSM1 (Sustainable Development); CSW1 (Sustainable Development), CSW2 (Waste Hierarchy); CSW11 (Permanent Deposit of Inert Waste); DM1 (Sustainable Design); DM2 (Environmental and Landscape Sites of International, National and Local Importance); DM4 (Green Belt); DM11 (Health and Amenity); DM12 (Cumulative

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Impact); DM13 (Transportation of Minerals and Waste) and DM19 (Restoration, Aftercare and After-use).

29. **Early Partial Review of the Kent Minerals and Waste Local Plan 2013-30 Pre-Submission Draft (November 2018) (EPRKMWLP).** This has no direct bearing on the current application. The Early Partial Review of the Kent MWLP was subject to an independent examination between 8 and 15 October 2019 and the Inspector's Report was published on 23 April 2020. The Report concludes that the Plan is sound provided that a number of main modifications are made. The main modifications were discussed at the examination hearings, subject to sustainability appraisal and public consultation and considered by the Inspector along with any representations made on them. Given this, it is appropriate that substantial weight be given to the Plan in the period prior to its adoption.
30. **Tonbridge and Malling Borough Council Local Development Framework: Core Strategy (2007) (TMBC CS) Policies:** CP1 (Sustainable Development); CP2 (Sustainable Transport); CP3 (Green Belt); CP6 (Separate Identity of Settlements); CP7 (Area of Outstanding Nature Beauty); CP14 (Development in the Countryside) and CP25 (Mitigation of Development Impacts).
31. **Tonbridge and Malling Borough Council Local Development Framework: Managing Development and the Environment Development Plan Document (2010) (TMBC MDE) Policies:** NE2 (Habitat Networks); NE3 (Impact of Development on Local Biodiversity); SQ4 (Air Quality); SQ6 (Noise); SQ7 (Health & Well-being); and SQ8 (Road Safety).
32. **Emerging Tonbridge and Malling Borough Council Local Plan Regulation 22 Submission (January 2019) (Emerging TMBC LP) Draft Policies:** LP1 (Presumption in Favour of Sustainable Development); LP11 (Designated Areas); LP12 (Areas of Outstanding Natural Beauty); LP20 (Air Quality); LP21 (Noise Quality); LP23 (Sustainable Transport); LP24 (Minerals and Waste); LP25 (Housing Allocations – Overview); LP26 (Housing Allocation – Policy Requirements), and LP29 (Strategic Site – Borough Green Gardens).

Consultations

33. **Tonbridge & Malling Borough Council – no objection** to the application.

The Borough Council's 'Delegated Report' states that:

"... The proposed increase to 240 [movements] is not an insignificant amount however, representing approximately a 31% increase over existing arrangements. The Council would ask KCC to very carefully consider the impact this would have on local residents and the road network and only grant permission for this increase if they are satisfied that the impacts would be acceptable in this regard.

At the same time the Council recognise that the additional movements will ultimately increase the rate at which the land is restored and therefore how soon the movements can cease altogether. This increased rate of restoration is important and will help support the delivery of the Borough Green Garden Community, one of the

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Council's key strategic allocations and a crucial element of future housing supply in the borough.

As such, the Council does not object to the proposal, subject to the impact on residents and the highways network being considered acceptable”.

34. **Borough Green Parish Council – objects** to the application on the grounds summarised below. It also further endorses Wrotham Parish Council's objections.

- Increase in noise and dust on local roads from HGV movements.
- Impact on air quality from an increase in HGVs moving through the village. Draws attention to the AQMA at the centre of Borough Green.
- Impacts on highway safety and congestion, including exacerbating existing problems with mud on the highway.
- A previously permitted increase in HGV movements from 110 to 182 was to allow extra traffic for recycling operations, not to increase landfill rates. 182 movements per day is adequate to enable backfill and restoration in the timescales originally permitted.
- The average percentage of HGV traffic on the A227 detailed in the Transport Statement at 6% is higher than expected for an average road. During the hours of operation, the average HGV traffic flow on the A227 with the additional movements proposed would equate to 8 HGV movements every 10 minutes (an increase of 1 movement every 10 minutes).
- Concerns about the cumulative impact of HGV movements with other local quarries and quarry related activities.
- Whilst the restriction on HGV movements during peak school travel times are still in place, the increase in HGVs would impact on nearby schools.
- Notes that whilst the HGV routing strategy proposed works for a percentage of the drivers, this expectation has not worked in every instance.
- Requests that the total number of HGV movements associated with Robert Body Haulage Ltd.'s operations at the quarry and within surrounding industrial and commercial uses (including Long Pond Works) are included in the overall total.
- The use of larger volumes of inert waste to infill the quarry would reduce the amount of material being recycled by the site, making the operations less sustainable. Considers that the change could impact on the county's recycling capacity, impacting on the Kent MWLP targets and increasing use of primary aggregate.
- Concerns that new housing built at Pearsall Place is not as well mitigated for noise and dust as other residential areas close to the quarry.
- The application is premature, as the sole reason for accelerating the landfill appears to be the proposals to build Borough Green Gardens. BGG has not even been approved as part of the Local Plan and is nowhere near the planning application stage.
- Notes that an essential requirement of the BGG scheme is the deliverability, which requires the land to be available by 2024. The consortium of landowners has given assurances on this availability as part of the examination of the draft local plan. The current application appears to contradict the assurances given. Notes that other quarry land also included within the BGG scheme are less advanced and presumably will also require amendments to the planning permissions, including HGV movements, to speed up operations. Considers this

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would come at the expense of recycled aggregate production, highway safety, congestion and local amenity and air pollution.

- Notes that the TMBC Local Plan Inquiry has been delayed due to the Inspector(s) raising questions that require further work by TMBC along with the potential for major modifications to the Plan as drafted. Considers there is no certainty that Policy 29 relating to BGGs will not be modified, which further reduces the weight that should be afforded to the emerging plan.

The Parish Council also wrote raising initial concerns regarding potential changes to the approved restoration to help accommodate a BGG development platform, subsequent inaccuracies in the stated timeframes for restoration and potential changes to the phased restoration. These matters have been clarified by the applicant, which states that the application solely relates to changes to the permitted HGV numbers and seeks to make no other amendments to the permitted restoration scheme.

35. **Wrotham Parish Council – objects** to the application. The Parish Council has made several representations. The key points raised can be summarised as follows:

- No justification is given for the application other than the future delivery of Borough Green Gardens.
- The BGG proposals should be given little weight in justifying the current application on the grounds that it has not yet been tested through the Local Plan Inquiry. Draws attention to the Inspector's concerns regarding the submission version of the Local Plan and the request for further work before the Plan is tested.
- Increased noise impacts from HGV movements on the local community, including the Secondary and Special Educational Needs Schools located adjacent to the A227.
- Impacts on local Air Quality. Notes that if permission were to be granted the number of HGV movements on the A227 when the site is operational (i.e. between 0700 and 1800 hours M-F) would rise from an average of 41 to 47 per hour, resulting in 447 HGV movements per day in addition to an average 6,766 non HGV movements recorded during this period each day. Notes the AQMA located to the south within Borough Green and that the Parish Council has commissioned its own air quality testing at other locations along the A227.
- HGV traffic on the A227 is particularly high at 6% of the total movements, considers that a normal distribution of traffic would result in between 2 – 3 % HGV movements.
- Concerns about cumulative impacts of HGV movements from multiple sites in the Borough Green area.
- Concerns that the applicant has little control over the routing of vehicles to the north as sought by an informative on the extant permission(s). Notes that this arrangement works for a percentage of drivers, however by no means all.

The Parish Council initially raised concerns about

- The application potentially seeking to vary the permitted restoration scheme to provide 'Development Platforms' for BGG.

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- Whether the Transport Statement and the predicted minimum timeframes for restoration of the quarry take account of delivery of material to the recycling operations, as the focus appears to be on infill and restoration only. Considers that diversion of material from the recycling operations to increase the rate of infill would be considered unsustainable by reducing the availability of secondary aggregates and increasing pressure on primary sources.
- Whether the scope of the Section 73 application received exceeds that of the original application and is therefore potentially unlawful and whether the documentation received meets the requirements for a valid application.

Officers responded to the Parish Council's initial concerns with further information received from the applicant, clarifying that:

- The application only relates to changes to the permitted number of HGV movements; no other controls imposed on permission TM/14/2728 or any other permission relating to the quarry is being varied or planning permission sought.
- The Transport Assessment and minimum infill timeframes proposed allow for existing levels of recycling (10%) to continue in tandem with the restoration work.

A full copy of the Parish Council's response is appended to this report (see Appendix 2).

36. **Platt Parish Council – objects** to the application and endorses Wrotham Parish Council's objections. Platt Parish Council considers that:
- Justification for the application is inadequate, drawing attention to community concerns about the proposed BGG scheme, including the relief road.
 - Little weight is given to noise and air quality impacts by the application, including impacts on nearby schools and residents.
 - Congestion on local roads has increased in the last 12 months, particularly during rush hour with increasing numbers of stationary vehicles waiting to join the major routes. This is impacting on air quality without the further pressure posed by this application.
 - The initial landfill application carefully considered the implications of the development, including the agreed rate of infill. Proposals to increase this rate are not justified and do not give enough consideration to residential amenities.
 - The proposals potentially do not accord with the permitted restoration scheme and do not offer credible reasons for this change, except for possible future developments.
37. **Environment Agency – no objection.**
38. **Natural England –** advises it has no comment on the variation proposed.
39. **Kent County Council Highways and Transportation (KCC H&T) – no objection** to the proposals, subject to the existing highway controls imposed on the extant permission being retained and a condition requiring details of a system of HGV monitoring and reporting.

Kent Highways draw attention to Paragraph 109 of the 2019 National Planning Policy Framework that states development should only be prevented or refused on highways

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grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The comments note the proposed increase in the permitted number of HGV movements from 182 per day to 240, the permitted hours of use 0700 to 1800 Monday to Friday and 0700 to 1300 on Saturday, the permitted HGV routing via the A227 Wrotham bypass to the north, the requirement that no site traffic to depart from or arrive at the quarry during peak school times (0800 to 0845 and 1500 to 1545), the recent improvements to the wheel washing facilities, and the distance of the private access road (100m+) before vehicles reach the public highway. The advice indicates that the 32% increase in vehicle movements proposed would be spread over the net 9½ hour operational day (or approximately 1 additional movement every 10 minutes). The comments acknowledge that (for the stretch of the A227 between the roundabout on the M20 and Borough Green) there have been four recorded injury crashes involving goods vehicles over the last 5 years (only one of which involved an HGV and this took place in foggy/misty weather conditions).

Highways and Transportation conclude that the increase in HGV movements proposed would not impact on highway safety and would not have a severe impact on the highway network. It therefore raises no objection, subject to the above conditions.

The comments also recommend an informative drawing the applicant's attention to the need to obtain permission for any works affecting highway land.

40. **Kent Downs AONB Unit** – no response received.
41. **KCC Noise Consultant (Amey)** – **no objection** to the application.

In commenting on the application, Amey reviewed the traffic flow data for the A227 (Wrotham Road) received. To demonstrate the likely effect on noise levels from the changes in the number of HGVs Amey undertook traffic noise predictions based on a representative location. The table below shows the results based on average observed 2016 traffic flow during the hours of operation (i.e. between 0700 – 1800 hours (excluding peak school travel times):

	Total flow	% HGV	Change in noise level dB
2016 baseline (without Borough Green Quarry)	6973	3.0%	0.0
2016 flows (Inc. permitted 182 HGV movements)	7155	5.4%	0.8
2016 flows (Inc. proposed 240 HGV movements (182 + 58 HGV)	7213	6.2%	1.1

The calculations show that based on the current proposal to increase HGVs by 58 (from 182 to 240), the level of noise would increase by around +0.3 dB (i.e. 1.1 minus 0.8). Therefore, as the noise impact due to an increase in HGV numbers by 58 would be minimal, Amey raise no objections on noise grounds.

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42. KCC Air Quality Consultant (Amey) – no objection to the application.

Amey advise that although the variation to the application is not accompanied by any detailed information on air quality, any air quality screening assessment undertaken on the proposed HGV movements would conclude that the air quality impacts would be negligible. Amey are satisfied that further information on the air quality impact of the HGV movements is not required in this case.

Amey's comments acknowledge the AQMA 600m to the south of the site. Whilst the proposed increase is above the screening criteria for assessment within or adjacent to (within 200m) of an AQMA, it notes that the proposed vehicles would move north, therefore would have no direct impact on the AQMA.

Amey therefore concludes that the proposed variation to the condition on the number of Heavy-Duty Vehicles (HDVs) (i.e. HGVs) movements would have a negligible air quality impact. This conclusion was drawn from the Institute of Air Quality Management Guidance "Land-Use Planning & Development Control: Planning for Air Quality" (January 2017), which indicates that an air quality assessment should be required for development that is not within or adjacent to an AQMA where the annual average daily traffic (AADT) flow of HDVs (i.e. HGVs) would increase by more than 100 (for development within or adjacent to an AQMA, the AADT figure is 25).

43. Campaign to Protect Rural England (CPRE) Kent – objects, on the following grounds:

- Impact of an increase of 58 HGV movements (or +32%) on highway safety and congestion.
- BGG is the main justification put forward by the applicant for the development. BGG is not reflected in an adopted local plan so can only be given minimal planning weight.
- The proposals include amendments to the permitted restoration plan that are not reflected in the application forms and are unsupported by the documentation received.
- The proposals would bring an end to the recycling operations, which would increase reliance on primary aggregates, impacting on the county's recycling capacity and environment.
- Cumulative impacts on air quality close to areas that exceed safe European levels of NO₂ and particulates. Any proposal to increase HGV movements is both detrimental to local amenity and potentially damaging to the health of children and other vulnerable members of the community.
- The quarry's proximity to two schools, one of which should be considered a highly sensitive noise receptor as it provides for pupils with special needs. Notes all HGV traffic is directed past these institutions under the existing planning permission.
- Concerns that any permission would set a precedent for other quarries in the area to apply to increase HGV movements to hasten quarrying and restoration to make land available for the BGG scheme. This would be detrimental to the Minerals and Waste Local Plan and the environment, both locally and further afield.

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Local Member

44. The local County Member for Malling West, Mr. Harry Rayner was notified of the application on 26 July 2019.

Publicity

45. The application was publicised by the posting of a site notice, an advertisement in a local newspaper, and the individual notification of 36 nearby properties.

Representations

46. In response to the publicity, 10 letters objecting to the application have been received. The key concerns and objections raised can be summarised as follows:
- Impacts on residential amenities from an increase in HGV movements, exacerbating noise, dust, litter and vibration.
 - 240 HGV movements per day, approximately 30 per hour or 1 trip every 2 minutes would have an unacceptable impact on local amenities.
 - Damage to the carriageway on Wrotham Road, opposite residential property, increases noise and vibration generated by HGV movements, potentially damaging property, disrupting sleep and impacting on local amenities.
 - Complaints have already been made about the number of lorries associated with the existing operations.
 - Noise from the site constitutes a statutory nuisance under the Environmental Protection Act 1990.
 - Impacts on air pollution and in turn human health resulting from additional HGV movements. Notes air quality is already above safe levels within the Borough Green area. Draws attention to the schools along the route that would be directly impacted.
 - Roads around Borough Green are already congested with significant HGV traffic due to the H&H Brick Factory and the absence of a West Bound Slip on the M26.
 - Highway safety concerns about mud being tracked from the quarry onto the public highway.
 - Highway safety concerns about the size of local roads and footways and the proximity of traffic, including HGVs, to pedestrians (including school children) that regularly walk along the A227.
 - Increased danger to residents pulling off / onto the highway from their driveways.
 - Wrotham Road (A227) already has a speed camera due to the number of accidents. An increase in traffic would exacerbate the risk.
 - Requests that serious consideration be given to traffic calming measures, such as the implementation of a 20mph Average Speed Check.
 - Concerns about additional wear and tear on the highway and additional maintenance costs on the public purse.
 - Impact of additional HGV's on wildlife and the Area of Outstanding Natural Beauty.
 - Potential risk of pollution, dust and ground contamination resulting from the materials being transported to site.

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- Considers that the main reason for the application is to speed up restoration operations to help facilitate the BGG proposals. The application is considered premature with the BGG scheme only at an early stage and is not allocated in an adopted local plan nor does it benefit from planning permission. Notes the BGG scheme may never happen.

Discussion

47. The application proposes the variation of condition 7 of planning permission TM/14/2728 to allow for a combined total of up to 240 HGV movements per day (120 in/120 out) to take place in association with all operations and uses at the site (including landfill, recycling and restoration). This is an increase of 58 movements per day (29 in / 29 out) over the permitted arrangements (a 32% increase). The proposed change would enable a rise in the rate of infill of the remaining quarry void; thereby reducing the minimum time needed to restore the site. Whilst the permissions would in theory allow operations on site to continue up until February 2042, the applicant estimates that the additional HGV movements would enable the permitted restoration landform to be completed sooner, within 6.5 years. This would be 2 years sooner than the minimum time needed under the existing permissions. The application proposes no other changes to the permitted arrangements, or the conditions imposed on the extant permission(s).
48. The application is being reported to the Planning Applications Committee as a result of 10 letters of objection from nearby residents (raising concerns about highway safety and congestion, air quality and local amenity impacts) and objections received from Borough Green, Wrotham and Platt Parish Councils and CPRE Kent. No objections have been received from the technical consultees. See the Consultation and Representations sections above for details of all views received.
49. In considering this proposal, regard must be had to the development plan policies outlined in the Planning Policy section. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Therefore, the proposal needs to be considered in the context of the development plan policies, Government guidance and any other material planning considerations.
50. In my opinion, the key material planning considerations in this case can be summarised by the following headings:
 - Need / Sustainability (including Borough Green Gardens / Emerging TMBC Local Plan).
 - Green Belt and Landscape (including the AONB).
 - Highway considerations.
 - Local amenity considerations (including noise and air quality).
 - Nature conservation.
 - Other procedural matters.

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Need / Sustainability

51. Paragraph 205 of the NPPF and Paragraph 7 of the NPPW seek mineral and/or waste development that provides for restoration and aftercare of permitted sites at the earliest opportunity, with the work to be carried out to high environmental standards, through the application of appropriate conditions.
52. Policy CSW1 and CSW2 of the Kent MWLP provides support for disposal of inert waste where the development is sustainable, is for the restoration of landfill sites or mineral workings, would have environmental benefits and sufficient material is available. Policy DM1 seeks to maximise the re-use or recycling of materials. Policy DM19 seeks to secure a high standard of restoration and aftercare such that the intended after-use of the site is achieved in a timely manner, including providing where necessary for its long-term management.
53. Policy CP1 of the TMBC CS seeks to balance the need for development against the need to protect and enhance the natural and built environment. Policies LP1 of the Emerging TMBC LP sets out a presumption in favour of sustainable development through growth that brings benefits for all sectors of the community, including existing residents, businesses, organisations, alongside new development. Policy LP24 requires development that complies with relevant policies in the adopted Kent Minerals and Waste Local Plan.
54. Draft Policies LP25, LP26 and LP29 of the Emerging TMBC LP provide support for and proposes to safeguard land for the development of Borough Green Gardens (BGG) Phases 1A and 1B during the plan period to 2031. This would include the entire Borough Green Quarry area as part of a much larger potential development north of Borough Green and Platt. The proposals promote a major development for approximately 3,000 dwellings, other commercial and community uses, subject to preparation and approval of a masterplan, including key infrastructure (such as a bypass).
55. As indicated above, the emerging TMBC LP has been submitted for Examination in Public (EIP), however this process has been delayed by the Planning Inspectors considering the Plan. The delay is due to the Inspectors' concerns regarding parts of the evidence base for the Plan, particularly that relating to Green Belt, sustainability appraisal and the site selection process. The Inspectors have requested that TMBC undertake further work and associated consultation prior to a phased approach to the subsequent EIP. The first phase of hearings due later this year will cover legal compliance and procedural matters; the Green Belt; and the site selection process. With phase two of the hearing sessions only scheduled once phase one is completed. TMBC has recently completed a Local Plan Post-Submission Consultation relating to information published in response to the Inspectors' request. On the basis that the emerging Plan has yet to be subject to the EIP process, the objectives and policies included can only be given limited weight in determining the current application.
56. Objections received from the community question the need for the increase in HGV movements proposed, including whether this application to increase the rate of infill is premature given the status of the emerging TMBC Local Plan and associated policies relating to the BGG scheme. The concerns also question whether the proposed approach would divert material from the recycling operation taking place on site

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making the whole operation less sustainable. The concerns are summarised above in some detail and a copy of Wrotham Parish Council's most recent letter of representation is appended to this report.

57. Tonbridge and Malling Borough Council raises no objections to the application. In doing so the Borough Council draws attention to local amenity and highway safety considerations; balancing these against the increased rate of infill, reduced overall timeframes and the support this would provide to the delivery of the Borough Green Gardens proposal. TMBC state that this project is a strategic allocation and a crucial element of future housing supply in the borough.
58. In weighing the potential impact on the recycling operation as a result of increased HGV movements and higher volumes of materials received, it's worth noting that the recycling operations permitted at the quarry are ancillary to the primary use of the land. The primary use being an inert landfill securing the appropriate restoration of a former quarry. The recycling taking place is subject to a separate temporary permission that will need to cease (unless further permissions are granted that allow its retention and relocation) when the infill operation reaches the permitted recycling area. The operator is also within its right to cease the recycling at anytime and concentrate on the infill operations. Therefore, whilst the recycling operation is a valuable and sustainable facility, which the applicant indicates recycles approximately 10% of the material received to produce secondary aggregates, the perceived impacts of the proposals on this use can be given little weight. Notwithstanding, the application confirms that recycling would continue at its present rate if permission were to be granted. The estimated minimum timeframes quoted to complete the restoration of the quarry take account of the material that would continue to be diverted to produce secondary aggregates for sale.
59. For the avoidance of any confusion, the application purely seeks to increase vehicle movements and the subsequent increase in material that would accelerate the restoration of the site. No other development work or changes to the permitted development are proposed. This includes no changes to the working methodology and/or revisions to the permitted restoration landform to accommodate future development. If proposed, changes to the restoration scheme to accommodate future aspirations to redevelop the site would require a fresh application to the Borough Council.
60. The question in this instance purely relates to whether it is acceptable to accelerate the restoration of the quarry in accordance with the previously permitted restoration scheme.
61. Subject to the consideration of the matters set out below, Government and development plan policies lend weight to restoration and aftercare of permitted sites at the earliest opportunity, with the work to be carried out to high environmental standards. I am content that the opportunity to accelerate the restoration of the site to an earlier point than 2042 would bring with it medium to long term environmental benefits. These would include bringing the quarried land back into a productive afteruse at an early stage, the cessation of permitted operations with associated reduction in noise and dust generated by this activity and ultimately removal of the need for HGV movements associated with the site from the road network at an earlier stage. The above points would have environmental and amenity benefits at the

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expense of an additional 29 HGVs per day for a temporary period. This approach is consistent with national and local development plan policies referenced within this section, which provide 'in principle' support, subject to the application according with other development plan policies.

62. Setting aside the Borough Green Gardens (BGG) proposals which I recommend should be given little weight at this time, I am content that the application receives support in principle from Government and development plan policies, subject to the further considerations set out below, including Green Belt and landscape; highways, local amenity and biodiversity considerations. The need / support identified should be balanced against any harm identified within the sections below.

Green Belt and Landscape (including the AONB)

63. The quarry site is located within the Green Belt in open countryside and is adjacent to, although outside, the southern boundary of the North Downs AONB. The application does not propose any physical development on site; however, it would increase traffic flows associated with the ongoing restoration of the quarry and increase the intensity of existing operations, including the volume of material imported each day for use within the recycling and infill operations.
64. Paragraphs 143 and 144 of the NPPF require the Green Belt to be protected from inappropriate development that would be harmful to the open character of the countryside. It states that inappropriate development should not be approved except in very special circumstances. Paragraph 146 indicates that certain forms of development are not considered inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it; these exceptions include mineral extraction and engineering operations.
65. Policy DM4 of the MWLP, CP3 of the TMBC CS and draft policy LP11 of the Emerging TMBC LP require development that complies with national policy on Green Belt.
66. Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Whilst the application is classified as major development by virtue of being a variation of a minerals/ waste permission, in terms of any landscape assessment, the NPPF states that for the purposes of paragraphs 172 and 173, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
67. The NPPG states that development within the settings of the above areas needs sensitive handling that takes potential impacts into account.
68. Policies DM1 and DM2 of the Kent MWLP seek to protect and enhance the character and quality of the site's setting and its biodiversity interests, including conserving and enhancing the natural beauty of the AONB. Policy CP7 of the TMBC CS seeks to protect natural beauty and quiet enjoyment of the AONB, other than in exceptional

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circumstances. Policy CP14 limits development in the countryside to amongst others development required for the limited expansion of an existing authorised employment use; and any other development for which a rural location is essential.

69. Draft policy LP12 from the Emerging TMBC LP states that other development within the AONBs and their settings will be permitted provided that the development would conserve or enhance the special qualities, distinctive character and tranquillity of the AONB.
70. In this instance the development proposed would not alter the existing land use or physical development in the green belt or in the context of landscape considerations. Taking account of the similarities of the development to the previous scheme, the potential harm to green belt principles would be similar to that which has already been accepted. The extant minerals / waste permissions are temporary in nature and the permitted restoration (which would not be altered by this application) is to return the site to an open agricultural and ecological afteruse. The approved restoration scheme is included in Appendix 1 of this report. The current application would not vary this approved arrangement. By accelerating the restoration work, it could be argued that the early restoration of the former quarry site would hasten benefits that would improve the openness and overall visual impacts of the site in the context of the above designations and the wider countryside. Any decisions on future uses of the site fall beyond the scope of this application and would need to be dealt with at the appropriate time as part of the Examination of the TMBC Local Plan and any subsequent planning applications.
71. I am satisfied that the proposed increase in HGV numbers each day (and the associated intensification of activity on site) would not have significant material impacts on green belt and landscape considerations and that the application would be in accordance with Government and development plan policies referenced in the context of this section of the report.

Highway considerations

72. Paragraphs 108 - 109 of the NPPF seek development that promotes sustainable transport modes, taking account of the type of development and its location; ensures safe and suitable access; and that any significant impacts on the transport network (in terms of capacity and congestion), or on highway safety, can be mitigated to an acceptable degree. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 7 (and Appendix B) of the NPPW require that development has suitable access to the highway network.
73. Policy DM13 of the Kent MWLP requires: the proposed access arrangements are safe and appropriate to the scale and nature of movements associated with the development such that the impact of traffic generated is not detrimental to road safety; that the highway network is able to accommodate the traffic flows and does not have an unacceptable adverse impact on the environment or the local community.
74. Policies CP2 of the TMBC CS, SQ8 of the TMBC MDE and draft policy LP23 of the emerging TMBC LP require development to be compatible with the character and

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capacity of the highway network in terms of the volume and nature of traffic generated and that would not result in significant harm to highway safety.

75. Members will note that objections on the grounds of highway safety and congestion have been received from the local Parish Councils and several residents. These objections draw attention to the significance of a 32% increase on HGVs associated with the site (an additional 58 movements (29in / 29out)). These concerns are that the cumulative impact of the increase in HGVs moving to and from the site would increase highway safety concerns (including to pedestrians attending the nearby schools), would add to existing congestion problems on the A227, would result in increased highway maintenance issues, generate noise along the access route resulting in amenity impacts and contribute to air quality issues in the area (particularly within the nearby Borough Green AQMA). Representations from the Parish Councils draw particular attention to the sensitivities of the two local schools located north of the application site off the A227.
76. KCC H&T has looked at this application on two separate occasions in providing its comments included above. This includes considering the application in the context of highway safety concerns received from the community and in the context of the cumulative impact with existing uses. KCC H&T's recommendations note that the HGV movements proposed would be restricted to 0700 to 1800 Monday to Friday and 0700 to 1300 on Saturday, with no departures or arrivals during peak school times (0800 to 0845 and 1500 to 1545), that all HGVs would be routed via the A227 Wrotham bypass to the north, and that the wheel cleaning facilities in place are satisfactory. The advice indicates that the 32% increase in vehicle movements proposed would be spread over the net 9½ hour operational day (or approximately 1 additional movement every 10 minutes). The comments note that (for the stretch of the A227 between the roundabout on the M20 and Borough Green) there have been four recorded injury crashes involving goods vehicles over the last 5 years (one of which involved an HGV and this took place in foggy/misty weather conditions). Taking the above into account, KCC H&T advise that the increase in HGV movements proposed would not impact on highway safety and would not have a severe impact on the highway network. It therefore raises no objection, subject to the existing highway controls imposed on the extant permission being retained and a condition requiring details of a system of HGV monitoring and reporting.
77. The extant permission already includes a condition requiring a written record of all HGV movements to and from the site to be maintained and made available to the Planning Authority on request. I am content that this arrangement is consistent with the approach taken on other sites around the county and should be sufficient to meet KCC H&T's request.
78. The routing of HGVs to the north away from Borough Green is included as an informative on the extant permission(s). Borough Green Parish Council's comments acknowledge the HGV routing strategy works for a percentage of the drivers; however, the expectation has not worked in every instance. In response to the concerns raised the applicant has agreed to accept the routing requirements as a condition in place of the existing informative. The approach would afford the Planning Authority greater control to ensure the routing agreed is adhered to. This could be achieved by requiring all HGVs associated with the restoration, landfill and recycling operations to make a left turn out of and a right turn into the site (i.e. routing vehicles to the north via

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the A227 Wrotham Road).

79. Notwithstanding, the location has good access to the Primary Road Network with direct access to an A-road leading to junctions with the M20 / M26 approximately 1.5km (1 mile) to the north and east. The routing of HGVs away from the centre of Borough Green limits any impact on congestion within the settlement and avoids HGVs associated with the site travelling through the AQMA. The comments received from KCC H&T suggest that the road network has adequate capacity to accommodate the moderate increase in HGV numbers proposed and that there is no evidence of any particular highway safety concerns. The increase in vehicle numbers would have a short term effect, however I am content that this would not be significant and the development would help to speed up the restoration of the site, which would ultimately remove the associated HGV movements from the network completely. The controls on the extant permission, including limitations on movements during peak school travel times would be retained if permission were to be granted.
80. Representations received from the community have requested consideration be given to further traffic calming measures as a result of the proposed development, including the possible implementation of a 20mph speed limit and further speed cameras. The temporary nature, scale of the development and the likely impacts are not considered sufficient to justify material changes to the highway network. The concerns about highway maintenance were brought to the attention of KCC H&T. Specific issues relating to the condition of the carriageway should be reported direct to KCC H&T so that these can be assessed and maintained as necessary. The HGV movements from this site only form a small part of the overall traffic flow on what is an important A-road. It is not justifiable in this instance to require the applicant to contribute to maintenance of the highway given the relatively small number of additional HGV movements being proposed.
81. Concern has been raised by the local community regarding issues of mud being tracked onto the public highway. I am aware that this has been a problem in the past. However, the applicant has implemented an improved system including a wheel spinner and two sequential wheel washes that HGVs leaving the site must pass through. The site also benefits from a 140m stretch of private access road before vehicles enter the public highway, further reducing the potential for there to be impacts. The extant permissions include conditions requiring use of the wheel cleaning facilities, all loaded vehicles to be sheeted or covered, implementation of a dust control scheme and a 10mph speed limit on the access road. KCC H&T's comments confirm that the arrangements in place are satisfactory to safeguard against mud on the highway.
82. The highway considerations need to be set in the context of the site's planning history and the extant permissions that cover operations within the quarry. As discussed above, whilst the recycling permission imposes limits on maximum HGV numbers, the mineral permissions are not subject to the same level of control. If the applicant were to cease the recycling operations, then technically it would be able to operate the site without limits on vehicle numbers. Therefore, whilst the current proposal seeks to increase HGV numbers, this would be preferable as opposed to the alternative which would remove the control completely. Notwithstanding this, as set out above I am content that the proposals would not have an unacceptable impact on the highway network either from a highway safety or capacity perspective.

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83. Subject to consideration of the amenity impacts of the increase in HGV movements below, I am content that the impacts of the proposed development could be suitably managed and mitigated through the conditions imposed on the extant permission and those discussed above. Subject to these conditions, I am content that the development would be acceptable in highway terms and would accord with relevant Government and development plan policies.

Local amenity considerations (including noise and air quality)

84. Paragraph 170 of the NPPF seeks to prevent development from contributing to unacceptable levels of soil, air, water or noise pollution and that development should, wherever possible, help to improve local environmental conditions such as air and water quality. Paragraph 180 states that planning decisions should ensure that development is appropriate for its location considering the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. Paragraph 181 states planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking account of the presence of Air Quality Management Areas (AQMAs) and Clean Air Zones (CAZs). Paragraph 205 seeks to ensure that minerals development has no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, including cumulative effects. This includes ensuring that any unavoidable noise, dust and particle emissions are controlled, mitigated or removed at source, and that appropriate noise limits for extraction in proximity to noise sensitive properties are established. Appendix B of the NPPW states that proximity of sensitive receptors, including ecological and human receptors, and the extent to which adverse emissions can be controlled using appropriate and well-maintained and managed equipment and vehicles, should form part of the decision process.
85. Policies DM11, DM12 and DM13 of the Kent MWLP seeks development that is unlikely to generate unacceptable adverse impacts from noise, dust, vibration, odour, emissions, bioaerosols, illumination, visual intrusion, traffic or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. This includes the collective effect with other development and consideration mitigation and control measures, including in relation to air quality. Policy CS25 of the TMBC CS states that where development that causes material harm to a natural or historic resource is exceptionally justified, appropriate mitigation measures will be required to minimise or counteract any adverse impacts. Policy SQ4 of the TMBC MDE and draft policy LP20 of the Emerging TMBC LP require development that does not result in a significant deterioration of the air quality of the area, either individually or cumulatively with other proposals or existing uses in the vicinity. Draft policy LP21 of the Emerging TMBC LP requires development that is located, designed and controlled to minimise the impact of noise on neighbouring properties and the prevailing acoustic environment.
86. Representations received from the Parish Council's and residents raise concern about the potential for an increase in HGV movements to impact on local amenity, including through increase noise, dust, litter and vibration exacerbating existing concerns. The representations also raise concern about the potential impact on air quality. The comments draw attention to the proximity of the application site to the nearby AQMA and that air quality in this location is already above safe levels. The comments also

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draw attention to the schools along the route that are directly impacted by vehicle movements on the A227.

87. In addition to consulting with the Borough Council and the Environment Agency on these local environmental matters, Officers have also sought advice from the County Council's Technical Consultants for Noise and Air Quality. In this instance the technical consultees have raised no objections. Please see consideration of the key matters below.

Noise and vibration

88. Planning permission TM/14/2728 includes controls on the permitted hours of use of operations to 0700 to 1800 hours Monday to Friday and 0700 to 1300 hours on Saturdays. The hours of use imposed on the mineral permissions are the same now that there is no longer any sand being exported from the site. The controls imposed in relation to movements during peak school hours further reduces the time HGVs can be operated from the site. The application does not seek to vary these arrangements.
89. Permission TM/93/305 includes a requirement that all vehicles and plant employed within the site shall always be fully maintained in sound working order and shall be fitted with and use effective silencers provided in accordance with the manufacturers' recommendations. Permission TM/14/2728 adds specific noise limits measured at any noise sensitive property of 55dB_{LAeq,1hr} under normal operations and for up to eight weeks a year 70dB_{LAeq,1hr} for temporary operations associated with the placement of final restoration materials or the construction of noise attenuation bunds.
90. Representations received from the local community raise concerns about the potential for the increase in movements and in turn the volume of material imported each day to increase noise levels associated with the site further impacting on local amenities. As set out above the planning permissions include noise controls and mitigation measures that seek to limit the impact of the development on the surrounding environment. These are considered sufficient to control operations on site such that even with the changes the operations would not have an unacceptable impact on local amenity.
91. Concern has also been raised about the noise and vibration impacts of HGVs once on the public highway. If residents have concerns about specific sections of the road that cause undue noise or vibration due to traffic using the public highway this should be reported to Kent H&T so that the fault can be investigated and repaired where appropriate. The A227 is part of the primary road network and is designed to carry traffic of all types. The applicant can only be expected to provide mitigation that is proportionate and reasonable given the use being proposed. The addition of 58 new HGV movements per day onto the highway network is not considered a significant change, particularly when viewed in the context of the daily number of vehicles that use the public highway at this location which is an A-road with direct connection to the primary highway network..
92. The application was not accompanied by a specific noise assessment, however in commenting the County Council's Noise Consultants have undertaken traffic and noise predictions based on existing traffic flows. The calculations predict that an increase in HGV movements of 58 (i.e. 182 to 240 movements), would result in a change of +0.3

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dB over existing noise levels. The noise consultants recommend that this impact would be minimal.

93. Properties located close to or on the A227, including the local schools are subject to noise from the public highway and from the nearby M26. The changes proposed by the current application need to be assessed in the context of the existing noise environment and the level of changes likely to take place as a result of the development. Given the conclusions of the consultants and the noise mitigation and controls in place under the extant permissions, I am content that the increase in HGV movements would not have an unacceptable impact on noise or vibration over that which already form part of the environment in this location.

Air quality

94. Objections have been received from the three Parish Councils, CPRE and from residents raising concern about the potential impact of increased HGV movements on local air quality.
95. The County Council's Air Quality Consultant (Amey) has considered the application in the context of Government and development plan policy and professional technical guidance, including the Institute of Air Quality Management (IAQM) Guidance "Land-Use Planning & Development Control: Planning for Air Quality" (January 2017). Amey notes the AQMA located away to the south of the site and the proposed routing of the vehicles in line with the existing arrangements (i.e. HGVs travelling north on the A227 towards nearby motorway junctions and away from Borough Green). Amey confirms that it is satisfied that no further air quality information is necessary in this case. Given the number of vehicle movements involved and the direction of travel proposed, Amey recommends that the proposed changes would have a negligible air quality impact.
96. For Members information, IAQM Guidance states that, for changes to the annual average daily traffic (AADT) flow of Heavy Duty Vehicles (i.e. HGVs) below 100 not within an AQMA or below 25 movements for development within or adjacent to (within 200m) of an AQMA, an air quality assessment is not necessary. Since the operational areas, site compound and access road are more than 200m from the AQMA and the increase in HGV movements proposed (58 per day) would travel to the north away from the management area the need for an air quality assessment cannot be justified. On this basis, the above guidance indicates that the impacts of the changes should be considered as having an insignificant effect.
97. Given the technical advice set out above, in my opinion there are not grounds to sustain an objection to the application on air quality. The changes proposed are not of a sufficient scale to trigger the need for further assessment. Any impacts from the change in the maximum HGV numbers must also be set in the context of the extant planning permissions and the potential for the site to be lawfully operated without any controls on HGV numbers. It is also of note that the changes proposed would be temporary if granted. The impact of which would be to advance the restoration of the quarry and ultimately remove all HGV movements associated with the restoration of this site from the highway network. Taking the above considerations into account, I am content that the application would be acceptable in the context of Government and development plan policies relating to air quality.

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Nature conservation

98. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural environment by (amongst other things) protecting and enhancing sites of biodiversity value (in a manner commensurate with their statutory status) whilst minimising impacts on and providing net gains for biodiversity. Policies DM2 and DM3 of the Kent MWLP require minerals and waste developments to ensure no unacceptable adverse impacts on Kent's important biodiversity assets. Policy NE1, NE2 and NE3 of TMBC MDE seek to protect, conserve and enhance biodiversity including priority habitats, species and features.
99. The changes to the permission proposed (i.e. an additional 58 HGV movements (29 in / 29 out) each day) is unlikely to result in a significant change in the impact of the quarry on nature conservation interests. The impacts of working and restoring the site with the associated disruption have already been accepted and the permissions include mitigation measures to minimise any impacts. The considerations above establish that the technical consultees have no objections to the application in terms of changes to air quality. In the medium term the measures in place would provide for a high-quality restoration of the site back to agriculture with woodland planting and hedgerows and this would ultimately provide for biodiversity enhancements to the area. As stated above, Government and development plan policies provide support for restoration of quarry sites to be carried out as early as possible. Any increase in the rate of restoration would arguably bring about environmental improvements at an earlier point. Therefore, I recommend that the application is acceptable in terms of Government and development plan policies relating to nature conservation.

Other Procedural Considerations

100. Wrotham Parish Council's comments raise concern that the application is incorrectly made / unlawful in that it does not seek to vary the correct planning permission (TM/14/2728), as this relates to the permitted recycling operations within the quarry and not the mineral permissions (TM/93/305 and TM/01/1205/MR86), which allow for the infill and restoration of the quarry. As discussed above, the application seeks to vary TM/14/2728 on the basis that the applicant wishes to retain the recycling operation as long as practicable during the restoration, and more importantly the mineral permissions referenced are not subject to specific controls on HGV movements. If the applicant were to cease the recycling operations and only rely on the mineral permissions there are no limits on the numbers of HGV movements to vary; therefore technically permission would not be required for the changes proposed by this application or a greater number of HGV movements.
101. Wrotham Parish Council's representation also raises concern that the application has not been lawfully made as the site location plan accompanying the submission outlines the entire infill area within the quarry site, instead of the red line area permitted by the permission being varied (TM/14/2728), which covers a smaller area within the remaining quarry void. Government guidance indicates that applications to amend or remove conditions under Section 73 of the 1990 Planning Act need to be accompanied by sufficient information to enable the planning authority to identify the previous grant of planning permission and the associated condition(s) which the applicant is seeking to vary. The Development Management Procedure Order is clear that applications made pursuant to Section 73 do not specifically require a plan that identifies the land

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to which the application relates (a site location plan) in order to make the application valid. Plans / drawings are only required where the application seeks to vary a permitted plan or drawing. In this instance given the application seeks to vary a condition that does not reference or rely on plans /drawings, the details received were considered acceptable and in accordance with the legislation. The site location plan received can be viewed as background information and not vital to the validation or lawful consideration of the application.

102. Concerns were also raised that the application as submitted seeks to vary development outside the red line area of TM/14/2728 to enable changes to the permitted infill and restoration, including changes to the phasing of the backfill and changes to the permitted restoration levels to create a development platform for the emerging BGG scheme. The 'Outline Accelerated Earthwork Strategy' received with the application documents has caused unnecessary confusion. This document references the aspirations for a new development platform in place of the permitted restoration and fails to reference the permitted scheme in the calculated timeframes to complete work on site. As previously discussed, this matter was addressed by the applicant in response to initial comments from consultees and further calculations based on the permitted restoration scheme were provided. Notwithstanding, in terms of the application before the committee, the proposal does not seek to vary the restoration methodology or permitted landform, it purely relates to changes to the number of HGV movements allowed. Even if the proposals did seek to vary the restoration arrangements the application does not address itself to the correct planning permissions to enable this change and would require separate applications to be made to achieve this type of amendment.
103. The objections received from the surrounding parish councils express concerns that the changes are being driven by the BGG scheme and the reassurances given on the deliverability of this scheme, which are tied to the restoration of the land. As stated above the application does not seek a change to the permitted restoration scheme. Matters relating to deliverability and timing of possible future development relating to BGG is a matter for the Planning Inspectors and the Borough Council as part of the EIP process on the emerging Local Plan or any planning application relating to BGG and as indicated above should carry little weight in determining this application.

Conclusion

104. The application proposes development that would involve a variation of planning permission TM/14/2728 to allow for a combined total of up to 240 HGV movements per day (120 in/120 out) in association with combined quarry activities (including landfill, recycling and restoration work). This would equate to an increase of 58 HGV movements (an additional 29 In / 29 Out) over the existing permitted limit of 182 movements per day.
105. I note the objections received from the Parish Councils, CPRE and the local community relating to the need for the development, highway, air quality and local amenity considerations. These concerns are material to the consideration of this application. As set out within the discussion section above, whilst the increase in movements and infill activity would have some impacts on the local area, including environmental and amenity impacts, based on the responses from the technical consultees I do not consider that these impacts carry sufficient weight to justify a

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recommendation for refusal. The assessments carried out within the application documents (as amplified) and by the technical consultees demonstrate that the extant conditions, alongside further controls limiting HGV movements associated with the quarry to the north, would minimise impacts on the local environment to an acceptable level. In my opinion the residual impact of an increase in HGV numbers would be offset by the benefits of securing the opportunity for an earlier restoration of the former quarry into a productive afteruse. The acceleration of the operations would also bring about the cessation of all HGV movements associated with the restoration at an earlier point.

106. Under the extant permission(s) the above mentioned afteruse is limited to agriculture and ecological enhancement (see approved plan included in appendix 1). Any future consideration of the use of this land for other development is not relevant to this application and would be a matter for the Borough Council and the Planning Inspectorate through the ongoing Local Plan process and any subsequent planning application(s).

107. I therefore recommend permission be granted, subject to the imposition of the conditions set out within the section below.

Recommendation

108. I RECOMMEND that PERMISSION BE GRANTED to vary condition 7 of TM/14/2728 to allow a maximum of 240 HGV movements per day (120 in/120 out), SUBJECT TO the imposition of conditions covering (amongst other matters) the following:

- Condition 7 being varied accordingly to read:
 - HGV movements associated with the quarry restoration, landfill and recycling operations shall, together, not exceed 240 HGV movements per day (120 in / 120 out).
 - The re-imposition of all other conditions previously imposed on permission TM/14/2728 (updated where relevant to reflect current practices). These extant conditions cover:
 - operations to cease by 21 February 2042 or restoration of the quarry;
 - the cessation of all earlier recycling operations permitted on site;
 - hours of operation (07:00 and 18:00 hours Monday to Friday and between 07:00 and 13:00 hours on Saturdays);
 - no HGVs to leave during peak school travel times (term time 08.00 to 08.45 and 15.00 to 15.45 Monday to Friday);
 - wheels and chassis cleaning;
 - HGVs to be sheeted / covered;
 - 10mph speed limit on haul road;
 - Implementation of the approved dust control scheme;
 - noise controls (55dB_{LAeq,1hr} daily and 70dB_{LAeq,1hr} for temporary operations, when measured at any noise sensitive property);
 - maintenance of a noise attenuation bund;
 - operation of recycling plant and equipment within void (below 70 metres above ordnance datum (AOD));
 - crushing and soil screening operations to not take place simultaneously;
- and

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- records of all HGV movements to be maintained.
- All HGVs associated with the restoration, landfill and recycling operations to make a left turn out of and a right turn into the site (i.e. routing all HGVs to the north via the A227 Wrotham Road).

Informative(s)

- The applicant be advised that separate approvals from the Highway Authority are required for any works affecting publicly owned highway land.

Case Officer: James Bickle

Tel. no: 03000 413334

Background Documents: see section heading

See separate appendices:

Appendix 1 – Approved Restoration Plan

Appendix 2 – Wrotham Parish Council's Representations