

committee DEVELOPMENT & REGULATION

date 22 March 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: The continuation of the development at the site without compliance with Condition 1 (Time period for implementation of development) attached to planning permission ESS/27/02/MAL to allow an additional period of 10 years for the Implementation of the development

Location: Royal Oak Quarry, Woodham Walter, Danbury, Essex.

Ref: ESS/70/12/MAL

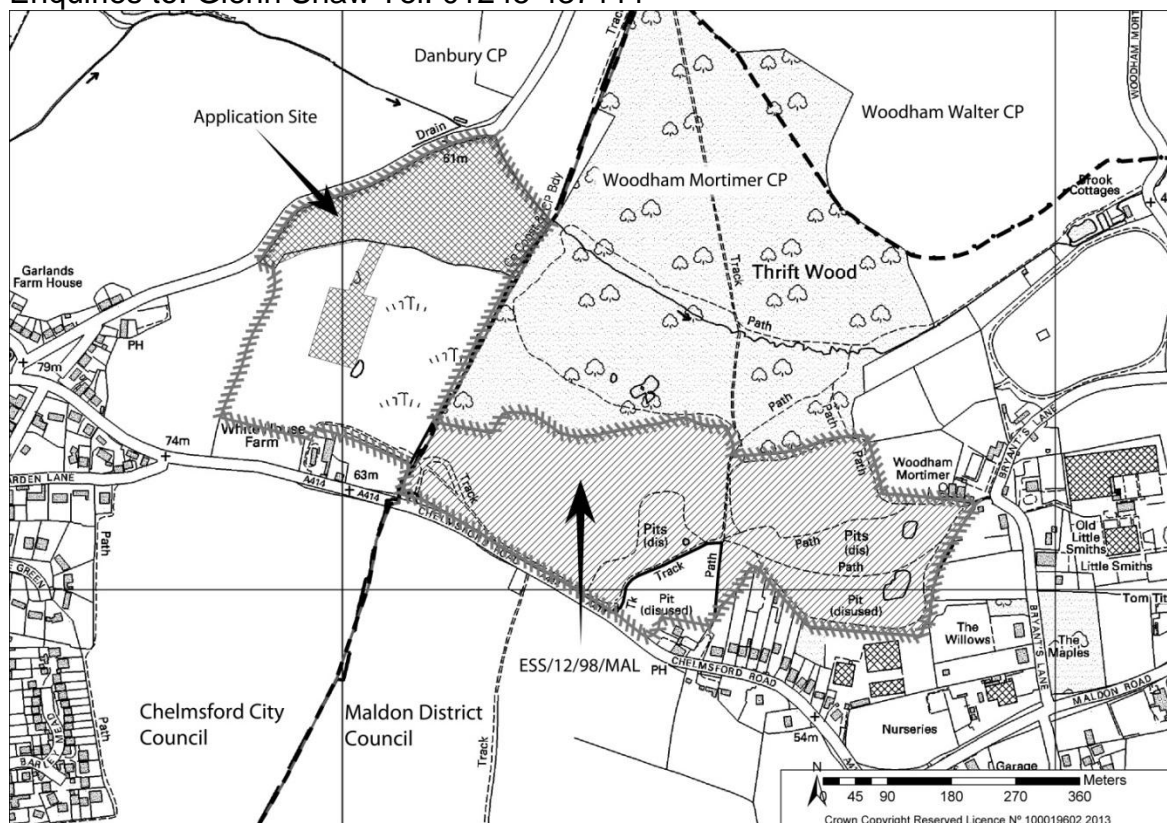
Proposal: The continuation of the development at the site without compliance with condition 5 attached to planning permission ESS/27/02/MAL to allow the permission to be limited to a period of 5 years from the date of commencement of development and condition 7 (Removal of plant, machinery, foundations, roadways and buildings by 30 June 2015) attached to planning permission ESS/27/02/MAL to allow a 15 year extension from the date of commencement of the development.

Location: Royal Oak Quarry, Woodham Walter, Danbury, Essex

Ref: ESS/71/12/MAL

Report by Assistant Director for Sustainable Environment & Enterprise.

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1. BACKGROUND

Royal Oak Quarry is a long established mineral working. Planning permission for sand and gravel extraction at Royal Oak was first granted in 1953. The total area of the site is approximately 24 ha.

The site was originally operated by Aggregate Industries. However in December 2011 Aggregate Industries ceased to operate the site and a new company Danbury Aggregates is now the current operator of the site.

For the purposes of this report Royal Oak is to be referred in two parts.

THE EXISTING SITE (Eastern side)

The location of this part of the site is from the access point on the A414 Chelmsford to Maldon road and goes in an easterly direction running parallel with the A414 to behind the Royal Oak public house (now an Indian restaurant). The area is approximately 14.89 Ha and is divided into 3 working phases and is actively being extracted.

In 1997 a Review of Mineral Permissions (ROMP) (ESS/61/96/MAL) (R) was carried out and an updated set of conditions was agreed. In March 1999 an extension to the working was approved (ESS/12/98/MAL as amended by ESS/34/11/MAL) and this permission incorporated the area undertaken by the Review of Mineral Permissions (ROMP) (ESS/61/96/MAL) (R). Condition 1 attached to planning permission ESS/12/98/MAL stated that the development had to commence before the expiration of 5 years from the date of the permission. The development began in February 2004. Condition 5 permitted the development to last for 10 years from the commencement date, such that with completion of extraction is by February 2014 with restoration required by 2017.

A phasing programme was submitted as a part of ESS/12/98/MAL. The site was divided into 3 phases. Phase 1 was behind the Royal Oak public house (now and Indian Restaurant), Phase 2 was south of Thrift Wood and then moving west into Phase 3. It was anticipated in the original application that the site would now be nearing the end of the extraction phase. However, extraction is currently still taking place in phases 1 and 2 and extraction is unlikely to be completed by 2014.

The applicant has stated that the previous operator of the site sought to satisfy its local market for commercial reasons through windfall (predominantly reservoir) deposits processed at St Clere's Hall Pit to the west of Danbury.

The consequence has been that reserves at Royal Oak Quarry were not, under the previous operator's management, exploited as they could have been with the result that they have been preserved in-situ until needed to meet future local demand. The present operator (Danbury Aggregates) is now operating the site and intends to work the site more proactively.

These reserves within the site form part of the County landbank as an 'Operational Sand and Gravel Quarries with Permitted Reserves'

This permission also included the provision for a processing area located on the western end of the site. The processing area has not been installed as the as raised aggregate has been processed at St Clere's Hall Pit which is approximately 2 miles to the south west. Planning permission for the importation of as raised aggregate for processing at St Clere's Hall Pit expired in March 2012. However the current operators (Danbury Aggregates) of St Clere's Hall Pit have submitted an application (ESS/59/12/CHL) to allow importation and processing of "as raised" material from Royal Oak only until December 2013. This application is waiting to be determined.

Planning permission ESS/12/98/MAL allowed a maximum of 40 lorry movements (20 in 20 out) a day.

Condition 2 attached to planning permission ESS/12/98/MAL stated the extracted material would be worked dry. The previous operator discovered that the water table in phases 1 and 2 was much higher than anticipated which required 24 hour water pumping and furthermore the previous operator also sought an extension of time to allow the retention of the plant and machinery to coincide with the termination of the extraction date until 16th February 2014.

In November 2011 planning permission ESS/34/11/MAL was granted to allow night time pumping to address this issue and an extension of time for the retention of the plant and machinery (not currently installed) to coincide with the termination of the extraction date until 16th February 2014. ESS/34/11/MAL is now the extant permission for the eastern section of Royal Oak Quarry.

LATERAL EXTENSION (Western site)

Planning permission was granted in November 2002 (ESS/27/02/MAL) for the lateral extension to the existing quarry with restoration to agriculture. It is this planning permission which is the subject of the current two planning applications.

Condition 1 attached to planning permission ESS/27/02/MAL stated that the development shall be begun before the expiration of 10 years. However, Condition 33 required that no commencement of extraction could take place until extraction at the eastern site as permitted by ESS/34/11/MAL has been completed.

The original proposal estimated that there are 290,000 tonnes of recoverable mineral within the site and the estimated rate of extraction would be 180,000 tonnes per annum with restoration to existing levels would be provided by backfilling with 60,000m³ per annum which would give an estimate of life of 2.7 years to complete.

The site is permitted to be worked in a westerly direction which would be working towards high ground which would hide the working face.

The site is presently in arable cultivation.

There is a technical error within the Lateral Extension planning permission in that the planning permission relies upon the processing plant, haul road and access to the A414, but these are not within the application area for the Lateral Extension. While the planning permission for Lateral Extension seeks to retain the processing plant and access permitted under the planning permissions for the Existing Site this is not possible, the only way this could be achieved is through an application to amend the planning permission for the Existing Site (ESS/34/11/MAL).

ROMP

ESS/12/98/MAL remains the sustentative Mineral Permission for the Existing Site and was issued on 26 March 1999 such that a Review of Old Mineral Permission is required in 2014 and at that time all permission relating to Royal Oak including ESS/27/02/MAL and any amending permissions resulting from the current applications would also be reviewed.

2. SITE

Royal Oak Quarry is located approximately 1 mile southeast of the village of Danbury and approximately 3 miles west of Maldon.

The site which is the subject of these two planning applications occupies an area of approximately 4.1 Ha, described above as the Lateral Extension. The application site is bordered by Herbage Park Road on the north side of the site leads to Woodham Walter to the north east and Runsell Green to the south west.

Thrift Wood which is a County Wildlife Site and ancient woodland is adjacent to the application site's eastern boundary.

Immediately to the south are old mineral working associated with the quarry restored to low level agriculture.

There are residential properties in Runsell Green which are to the west and approximately 300 metres from the site. Cherry Orchard Lane is approximately 500 metres to the south west of the site. White House Farm is approximately 350 metres to the south of the site.

There are established hedges on the north, west and southern boundaries.

Access to the site is off the A414 (Chelmsford Road) Chelmsford to Maldon Road, via the Existing site.

This site which is the subject of these applications falls within boundary of Chelmsford City Council within the parish of Danbury, but its eastern boundary abuts the boundary of Maldon District Council and the Parish Woodham Mortimer and Hazeleigh.

The application is the preferred site "W" for mineral extraction in the Essex Minerals Local Plan adopted January 1997.

3. PROPOSAL

There are two separate applications varying conditions of the same planning permission.

ESS/70/12/MAL

Condition 1 attached to planning permission ESS/27/02/MAL states "*The development hereby permitted shall be begun before the expiration of 10 years from the date of this permission*".

The applicant is seeking an additional 10 years to commence the development.

ESS/71/12/MAL

This proposal is for the variation of two planning conditions attached to planning permission ESS/27/02/MAL

Condition 5 states that "*this permission shall be limited to period of 3½ years from the date of commencement of the development, by which time the operations shall have ceased and the site have been restored in accordance with the scheme approved under Condition 15*".

The applicant is seeking that this condition be amended to allow an additional 1½ years, for extraction, such that in total the applicant would have 5 years to complete the mineral extraction.

Condition 7 states that "*Unless the County Planning Authority otherwise agreed in writing any plant, buildings, machinery and internal haul road used in connection with the development hereby permitted shall be removed from the site when they are respectively no-longer required for the purpose for which they were installed, in any case not later than 30 June 2015 and upon their removal the land shall be restored in accordance with the agreed restoration scheme of this application and that approved under reference ESS/12/98/MAL*".

The applicant is seeking that this condition be amend to allow 15 years from the date of the permission for the removal of any plant, buildings, machinery and internal haul road used in connection with the development.

No other conditions are being varied by this application.

4. POLICIES

The following policies of the Minerals Local Plan (MLP) adopted January 1997 Chelmsford City Council Development Control Policies adopted 2008 (CCCDP) and Maldon District Council's Adopted Replacement Local Plan (MDRLP) adopted November 2005 provide the development plan framework for this application. The Essex Replacement Minerals Local Plan is now at Pre-Submission Draft stage and is a material consideration. The following policies are of relevance to this

application:

	MLP	RMLP	CCCDP	MDRLP
Preferred Sites	MLP2			
Access	MLP3			
Development Control	MLP13			
Protecting Existing Amenity			DC4	
Amenity and Pollution			DC29	
Minimising Environmental Impact			CP13	
Pollution Prevention				CON5
Development affecting locally designated nature conservation sites.				CC3
Development Management Criteria		DM1		
Protecting and enhancing the environment and local amenity		S10		

Paragraph 214 of the National Planning Policy Framework (NPPF) states that for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 (i.e. Development plan documents adopted in accordance with the Planning & Compulsory Purchase Act 2004 or published in the London Plan) even if there is a limited degree of conflict with the Framework.

It is considered that the Chelmsford City Council Development Framework 2001-2021 Core Strategy and Development Control Policies (adopted Feb 2008) fall within the meaning of paragraph 214 and should be given full weight even if there is a limited degree of conflict with the Framework.

Paragraph 215 of the NPPF states that in other cases, (and following this 12 month period), due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

It is considered that The Minerals Local plan (1997) (MLP) and Chelmsford City Council Development Control Policies Development Plan Document (CCCDPD) adopted February 2008 and Maldon District Council's Adopted Replacement Local Plan (MDRLP) adopted November 2005 the fall within the meaning of 'other cases' under paragraph 215, and therefore due weight should be given to the relevant policies according to their degree of consistency with the Framework. See appendix 1

5. CONSULTATIONS

CHELMSFORD CITY COUNCIL – No objection.

MALDON DISTRICT COUNCIL (Adjacent District) – No objections subject to all planning conditions are re-imposed and questions the length of time for condition 7.

ENVIRONMENT AGENCY – No objection.

PLACE SERVICES (Ecology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection. Subject to re-imposition of existing or updating existing conditions for the protection of hedges and ancient woodland.

PLACE SERVICES (Landscape) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection.

PLACE SERVICES (Archaeology) ENVIRONMENT, SUSTAINABILITY AND HIGHWAYS – No objection.

HIGHWAY AUTHORITY – No objection

DANBURY PARISH COUNCIL – No objection but request a specific end date and would expect to see a reduction in vehicle transits included in the conditions.

WOODHAM MORTIMER & HAZELEIGH PARISH COUNCIL (adjacent Parish) – Objects on the following grounds:

- The site has been operating for many years with continued renewed applications for extension, it was this council's expectation that all works would cease by 2013 and yet again the local residents would have to endure another extension with continued significant disturbance from noise nuisance and dust deposits.
- Continued operations produce an increase in large vehicular movements through Woodham Mortimer and Danbury causing disturbance along the already heavily used A414, the current use by these vehicles appears not to be monitored.
Previous approved applications have included conditions to re-landscape used up mineral extraction areas as the site progresses, so far there has been no environment friendly reinstatement of landscaping to areas no longer subject to extraction.
- Concern is raised regarding the effect of continued extraction to the surrounding water table level with consequent effect on woodland areas.
- It is our understanding a wash facility is available at the site which does not appear to be having much effect as there is consistent deposits of sand, grit and mud being depositing on the A414. A report recently conducted by Essex Highways has shown drains and gullies already blocked causing flood issues on the carriageway, continued extraction would intensify these issues.

WOODHAM WALTER PARISH COUNCIL (More than 250 metres from the site) – Objects on the following grounds:

- The extension of time and to the development.
- The site is on good quality agricultural land.
- Increase of traffic movements on A414.
- Mud and aggregate on Herbage Park Road.

- Pollution caused by noise, dust and light.

LOCAL MEMBER – CHELMER - Any comments received will be reported

LOCAL MEMBER – MALDON – Concerns about the longer period of use and mud, grit and sand on the road.

6. REPRESENTATIONS

110 properties were directly notified of the application. 8 letters of representation have been received. These relate to planning issues covering the following matters:

<u>Observation</u>	<u>Comment</u>
Congestion on A414	See appraisal
Mud and gravel on the A 414	See appraisal
Impact from noise	See appraisal
Impact from dust	See appraisal
Health issues for the schools and residents	See appraisal
Impact on the wildlife will continue to be disrupted	See appraisal
Live next door to another proposed site.	The proposed site referred to is at Tyndales Farm which has not been selected as a preferred site in the Pre Submission Draft MLP.
Protected status of the field hedges	See appraisal
Visual impact of the site	See appraisal
Hydrology. Construction of the lagoon has caused seepage into low lying areas.	This refers to ESS/34/11/MAL which is the eastern end of the quarry and not a part of this application site. See appraisal
Footpaths. The diversion of Footpaths 4 and 5 Woodham Mortimer has caused inconvenience to the users	This refers to ESS/34/11/MAL and the footpaths 4 and 5 Woodham Mortimer at the eastern end of quarry and is not a part of this application site
An Extension of time has only just been granted.	This refers to planning permission ESS/34/11/MAL and not a part of this application site.

Concerns about the handling of the application and the display of content on the web site

The application was processed in accordance with SCI and web issues have been raised with the Council's IT support team. All correspondence sent by the council are dispatched by standard postal services and as such delivery cannot be guaranteed. The 250m notification radius is derived from the adopted Statement of Community Involvement.

Larger area should have been consulted.

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APPRAISAL

The key issues for consideration are:

- A. Principle of the development.
- B. Residential Impact
- C. Agriculture
- D. Traffic & Highways
- E. Ecology & Hydrology
- F. Landscape

A

PRINCIPLE OF THE DEVELOPMENT.

The issues for discussion are the principle of allowing a further 10 years for the commencement of development (ESS/70/12/MAL) extending it from November 2012 to November 2027 and extending the period of extraction from 3½ years to 5 years for extraction and the restoration and retention of the plant and machinery until the completion of the mineral extraction 15 years from date of any new permission (ESS/71/12/MAL).

ESS/70/12/MAL To allow a further 10 years for the commencement of the development.

The principle for mineral extraction for the lateral extension at Royal Oak Quarry has been established by planning permission ESS/27/02/MAL. The site is preferred site "W" for mineral extraction in the Essex Minerals Local Plan adopted November 1996 and the estimated 290,000 tonnes of mineral reserve form part of the Essex Sand and Gravel Land Bank. In order to protect the reserve it is necessary to allow an extension of time for commencement, subject to there being no other material considerations.

Condition 1 of planning permission ESS/12/98/MAL (Existing site) stated that the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission (November 1999). It was envisaged that the commencement of development of the Existing site of the Royal Oak would commence in 2002 with a permitted 10 year life of extraction with completion by 2012. Such that the Lateral Extension was permitted to commence upon completion of the Existing Site. However, the commencement of operations for the

Existing site did not begin until 2004, but is still required to be completed by 2014.

The applicant has stated in the submission that in relation to the Existing Site it is unlikely that the mineral will be extracted by 2014. This is stated to be due to the previous operators of Royal Oak Quarry satisfying its market from windfall sites (predominantly reservoir sites) and as a result of the economic climate extraction of mineral from the Existing Site has not progressed as originally planned. It is estimated that the Existing Site could take another 6 or 7 years and it is the operators' intention in the near future to submit an application for an extension of time for planning permission (ESS/34/11/MAL). However, the current applications have to be determined on the basis of existing planning permissions.

It is still appropriate that extraction of the Lateral Extension should not be commenced until the Existing Site is complete, to ensure progressive working and restoration.

The application is for an additional 10 years to commence the development this has been justified by the applicant on the basis that it could be at least 6 to 7 years (plus some flexibility) before the Existing Site is completed and then Lateral Extension could be commenced.

While the logic of this timescale is understood at the current time the Existing Site is required to be completed by 2014 and therefore the Lateral Extension could commence upon its completion. It is therefore felt that a 10 year period for commencement is not justified until the principle of additional time to work the Existing Site has been established through a further planning application. In addition the Existing Site requires a ROMP application prior to 26 March 2014 which will also require a review of all permissions at the Quarry including those for the Lateral Extension. It is therefore felt that while the commencement of the Lateral Extension may be some way off, a long commencement period, beyond the 5 years recommended in Circular 11/95 cannot in this instance be justified in light of the permitted timescales on existing permissions. An extension of the commencement period by a further 5 years would protect the mineral reserve and allow submission and determination of further planning applications (if acceptable) in relation to ESS/12/98/MAL and with respect to infrastructure required to serve the Lateral Extension.

Maldon District Council and Chelmsford City Council have not objected to the extension of time.

Woodham Walter Parish Council has objected to an additional period of time of 10 years for the commencement of the development and to the lateral extension.

Woodham Mortimer and Hazeleigh has objected as the site has been operating for many years with continued renewed extensions of time and expected that all works would cease by 2013.

While it understood that at the time of the applications there was an expectation that Royal Oak quarry (all parts) would be completed within 14 years of commencement each application has to be considered on its individual merits. The

principle of extraction has been established unless there has been a material change in circumstances then an extension for its commencement is acceptable. Whether there has been any material changes in circumstances will be considered in sections B, C, D, E and F of this report.

The site is a preferred site in the Minerals Local Plan and the permitted reserve forms part of the Essex landbank and can contribute to the on-going demand for construction material and would be in accordance with MLP policies MLP2. It is considered that there is justifiable need for this extension of time as the principle of the development has been established by ESS/27/02/MAL, however that a only a 5 year extension be granted rather than the applied for 10 years, as this would protect the reserve, but encourage early resolution of planning issues with respect to interrelated permissions and the deliverability of the reserve within the Lateral Extension;

ESS/71/12/MAL

Condition 5 – longer period to work and restore the Lateral Extension

This application seeks to extend the time period for extraction and restoration from 3½ to a 5 year period. The applicant has submitted when this permission was granted (November 2002) the economic conditions were very favourable but if the present economic climate should persist, there may not be time to complete the extraction and restoration of the site within a window of currently permitted 3½ years.

As discussed above, the application has to be based on the current related planning permissions, which would see this extension being worked in 2 years (while in reality this is unlikely), but if worked in 2 years' time it is likely that in the current economic market sales are slower and working of the sand and gravel is likely to take more than the original 3½ years and therefore an additional extension of 18 months is not unreasonable. If markets should pick up the planning permission requires progressive restoration and the site could be worked and restored within a shorter period.

There have been no objections to additional time to work the site.

In terms of policy the Minerals Local plan and the NPPF are of relevance. In terms of National Policy the National Planning Policy Framework (The Framework) dated March 2012 an economic role requires by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation and by identifying and coordinating development requirements, including the provision of infrastructure and further states in the chapter Delivering Sustainable Development should support existing business sectors, taking account of whether they are expanding or contracting and where possible, identify and plan for new or emerging sectors likely to locate in their area.

It is considered that in view of the circumstances described above a longer period for extraction and restoration is justified; however, it is necessary to consider the environmental impacts of the proposals as set out in sections B, C, D, E and F below.

Condition 7 – Retention period for supporting infrastructure

The applicant is also seeking an additional 15 years for retention of plant, machinery and internal haul road, such that it is still in place following completion of the Existing Site of the site. As mentioned in the background section, condition 7 is considered to be inappropriate and Ultra Vires in that it requires retention of the plant, haul road and access outside the Lateral Extension planning application area and required by planning permission ESS/12/98/MAL to be removed by 2014. The retention of the access onto the A414, the haul road and processing plant to serve the Lateral Extension can only be considered as part of an application to amend the planning permission (ESS/34/11/MAL) relating to the Existing Site which includes the access, haul road and permitted area for the processing plant. It is therefore not possible to amend the timescale of this condition. However, it is considered that it would be appropriate to delete this condition.

The acceptability of the retention of the internal haul road, processing plant and access on to the A414 could be considered as part of a separate application to vary the Existing Site planning permissions and/or the ROMP review of all the permissions for Royal Oak Quarry necessary in 2014.

Maldon District Council has raised queries to the length of time for the retention of the plant and machinery as it is considerably longer than originally approved. The concern is understood and the overall timescale and its acceptability for all of the Royal Oak Quarry would be considered as part of the ROMP review or application to vary the existing planning permissions of the site.

B RESIDENTIAL AMENITY

Policies of the NPPF, Chelmsford City Council and the Minerals Local Plans adopted and emerging Replacement Minerals Local Plan seek to protect residential amenity from noise, dust and visual impact.

Noise

Chelmsford City Council Policy DC29 Amenity and Pollution states:

Planning permission will be refused for development, including changes of use, which will or could potentially give rise to polluting emissions to land, air, and water by reason of noise, light, smell, fumes, vibration or other (including smoke, soot, ash, dust and grit) unless appropriate mitigation measures can be put in place and permanently maintained.

The NPPF states a maximum of 55dB(A) LAeq, 1h (free field), mineral planning authorities should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dB(A). It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10dB (A) without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55dB(A) LAeq, 1h (free field).

Representees and Woodham Walter Parish Council have raised objections with regard to noise issues. The applicant has responded by stating that :

A noise survey was submitted as a part of planning permission ESS/27/02/MAL. This survey was conducted at three locations. White House Farm (Site 1) approximately 300 m from the southern boundary, the Anchor Public House (Site 2) 200 metres from the south western boundary and the Royal Oak Public House (Site 3) which is over 500 metres from the site. The survey concluded that the noise levels at receptors 1 and 2 would be 53 dB LAeq (1 hr) and at receptor 3 would be 45 dB LAeq (1hr). The recommended noise level of 55 dB LAeq (1 hr) would not be exceeded. Further although no noise reduction levels were recommended by the noise survey as the working face would be below ground level, screening bunds would be constructed along the northern and western sides of the site and landscaping would be added which it was considered would reduce any impact by noise.

All the planning conditions relating to noise mitigation attached to planning permission ESS/27/02/MAL would be re-imposed. Both Chelmsford and Maldon District Councils have not objected to this proposal on noise grounds.

It is considered that subject to the re – imposition of noise conditions the development accords with MLP policy MLP13 Development Control ,RMLP DM1 Development Control, CCCDPD policy 29 Amenity and Pollution and the NPPF

Dust

CCCDPD policy CP 13 Minimising Environmental Impact states: *The Borough Council will seek to ensure that development proposals minimise their impact on the environment and that they do not give rise to significant and adverse impacts on health, amenity including air quality, and the wider environment.*

MDRLP policy CON5 Pollution prevention states: *that development having an adverse impact on the environment by means of pollution release to land, air, water (including groundwater) etc. will be refused. All developments will be expected to minimise their impact on the environment by adopting environmental best practice and implementing the necessary pollution prevention measures.*

The National Planning Policy Framework makes it clear that unavoidable dust emissions are controlled, mitigated or removed at source.

Representees and Woodham Walter Parish Council have raised objections with regard to dust coming from the site as this would cause health issues to the local residents and schools in the area.

The applicant has responded by stating the nearest property is the Anchor Public House at approximately 200 metres away from the south western boundary. The nearest school is approximately 1 mile towards the north west of the site. Planning permission ESS/27/02/MAL acknowledged that certain site operations could have

the potential to cause dust. However the applicant has stated that the as raised material is by its very nature in a damp condition. The applicant further states that as the phasing programme is divided into 3 phases only 1 phase would be stripped at any one time. The applicant has further stated that a water bowser would be available to dampen the haul roads trafficked by vehicles and all lorries leaving the site would be sheeted.

Chelmsford City Council and Maldon District Council have not objected on dust grounds.

It is considered that subject to the re – imposition of dust control conditions the development accords with CCCDPD policy 29 Amenity and Pollution, MDRLP policy CON5 Pollution Prevention, MLP Policy MLP 13 Development Control and the NPPF

Visual Impact

CCCDPD Policy DC4 - Protecting Existing Amenity states: *All development proposals should safeguard the amenities of the occupiers of any nearby properties by ensuring that development would not result in excessive noise, activity or vehicle movements, overlooking or visual intrusion and the built form would not adversely prejudice outlook, privacy, or light enjoyed by the occupiers of nearby properties.*

One letter of representation has been received regarding the visual impact of the site on their property.

A visual impact assessment was submitted with planning permission ESS/27/02/MAL. The visual impact assessment identified that the Zone of Visual Influence was largely confined to the site boundary, Thrift Wood and the boundary hedges. Direct views into the site were from the Runsell Green to Woodham Walter Road as there were gaps in the roadside hedge. As already stated the site would be worked in phases and the working face would be below ground level and screening bunds would be constructed along the northern and western sides of the site. Hedgerow planting would be undertaken to fill the gaps on the Runsell Green to Woodham Walter road.

Chelmsford City Council, Maldon District Council and the parish councils of Danbury, Woodham Walter and Woodham Mortimer and Hazeleigh have not objected to the proposal on visual grounds.

It is considered that subject to the re – imposition of conditions the development accords with CCCDPD policy DC4 – Protecting Existing Amenity. MDRLP policy CON5 Pollution Prevention and MLP policy, MLP13 Development Control and RMLP policy S10 Protecting and enhancing the environment and local amenity.

C AGRICULTURE.

Woodham Walter Parish Council has objected to the proposal as agricultural land would be lost. The principle for the development was approved by planning

permission ESS/27/02/MAL and on completion of extraction the site would be restored to agriculture, such that there would only be a temporary loss of agricultural land.

D HIGHWAYS.

Representees and both Woodham Mortimer and Hazeleigh and Woodham Walter Parish Councils have objected as the continuation of operations would produce large vehicle movement on the A414 leading to more congestion. The principle for the development was approved by planning permission ESS/27/02/MAL which permitted 40 lorry movements a day and the present planning permission for the Existing site (ESS/34/11/MAL) permits 40 lorry movements a day. It is considered that the permitted number of lorry movements would not adversely impact on the local road network. The Highways Authority have not objected to the application and the A414 forms part of the main distributor network.

Woodham Mortimer and Hazeleigh PC and the local member have also raised the issue of mud, sand and grit on the road which could intensify the blocked drains and gullies on the main road and Representees have raised the issue that the potential of mud and grit could cause chipped or broken windscreens. It is considered that these issues relate to the both the existing operations on site and the continuation of such by the application. However, there is a wheel cleaning facility on site and since the need for its use has been emphasised, plus improvements to the surfacing of the haul road inside the site have been made incidents of mud on the road have reduced.

Woodham Walter PC have also objected that as the site is adjacent to Herbage Park Road , mud and aggregate could have detrimental effect on highway safety. As stated above a screening bund would run parallel to Herbage Park Road and the existing hedge would be gapped up and all site traffic would use internal haul roads and the existing access onto the A414, such that there should be no significant adverse impact on the highway of Herbage Park Road

The Highway Authority has responded by stated they have not received any reports of mud on the road or gullies being blocked by material coming from the existing quarry and have not objected to the development.

It is considered that subject to the re – imposition of conditions with respect to vehicle numbers and measures to prevent being carried out onto the highway the development accords with MLP policies MLP4 Access and MLP13 Development Control.

E ECOLOGY & HYDROLOGY

Representations have been received regarding the status of the hedge and the impact on Thrift Wood (County Wildlife Site) and local wildlife. The principle of the development was approved by planning permission ESS/27/02/MAL. A scheme was submitted establishing a buffer zone of at least 10 metres between the extraction area and Thrift Wood and the hedge.

Place Services Ecology and Places Services Landscape have not objected to the development subject to the re-imposition of conditions (updated as necessary) being imposed which cover a landscaping scheme and buffer zones to protect the hedgerows and Thrift Wood during the development.

It is considered that subject to the re – imposition of conditions (updated as necessary) the development accords with MLP policy MLP13 Development Control and CCCDPD policy CP13 Minimising Environmental Impact and RMLP policy S10 Protecting and enhancing the environment and local amenity .

MDRLP policy CC3 Development affecting locally designated nature conservation sites states

Proposals for development within or affecting areas designated as Local Nature Reserves (LNR), Wildlife Sites (WS)(formerly SINC)s, or Regionally Important Geological Sites (RIGS) will not be permitted unless:

- 1. The reasons for the proposal outweigh the need to safeguard the conservation or geological value of the site, and*
- 2. The proposal does not cause loss or damage to the nature conservation or geological interest of the site in which the development is proposed, or*
- 3. Any adverse or potentially adverse effects on a LNR, WS or RIGS of a proposal will be satisfactorily mitigated, for example through the creation of habitats of equal quality and value elsewhere on the site or in the District.*

Concerns have been raised by Woodham Mortimer and Hazeleigh Parish Council and Representatives regarding continued extraction affecting the surrounding groundwater table and its subsequent potential impact on Thrift Wood.

An Environmental Statement which contained a Hydrology Statement was submitted with planning permission ESS/27/02/MAL and this was updated for this application. The applicant has stated that the material would be worked dry and no de- watering would be necessary as condition17 attached to planning permission ESS/27/02/MAL states that no extraction shall take place below the saturated level. As stated above a buffer of 10 metres would put in place between the extraction area and Thrift Wood which it is considered would protect the wood from the development.

The Environment Agency was consulted and has not objected to the development.

It is considered that subject to the re – imposition of conditions relating to extraction the development accords with MLP policy MLP 13 Development Control and MDRLP policy CC3 Development affecting locally designated nature conservation sites.

F LANDSCAPE.

Woodham Mortimer and Hazeleigh Parish Council have objected that landscaping has not been implemented on areas no longer subject to extraction. As stated above the development has not commenced. It is considered that this is referring to planting required upon restoration of the area of planning permission ESS/34/11/MAL which is at the eastern end of the Royal Oak Quarry and is not the subject of this application.

Places Services Landscape has not objected to the development.

It is considered that subject to the re – imposition of conditions the development accords with MLP policy MLP13 Development Control.

7. CONCLUSION

ESS/70/12/MAL – Condition 1

Royal Oak Quarry is a preferred mineral site within the MLP and the principle for development was approved by ES/27/02/MAL. It is considered that the applicant has demonstrated the need for an extension of time to the commencement period, in that the Lateral Extension cannot commence until the Existing Site is completed and this has been delayed due to previous operators actions and the current economic climate. However, the application is for a further 10 years for commencement which is not considered justified at this time, when the adjacent Existing Site is currently only permitted until 2014. It is considered an extension of the commencement period by a further 5 years would protect the mineral reserve and allow the operator time to submit planning applications and subject to their acceptability address the timescales issues with respect to the Existing Site (ESS/12/98/MAL).

The proposal is considered subject to the amended timescale, to be in compliance with MLP policy MLP2 Preferred Sites and the NPPF, in that it would protect a permitted reserve forming part of the County Landbank.

ESS/71/12/MAL – Condition 5 & 7

It is considered based on the current rate of extraction within the adjacent site and the current economic climate and extension of time from 3½ to 5 years is reasonable and would ensure the full working of the reserve and allow restoration of the site to agriculture.

With regard to condition 7, this condition was imposed inappropriately at the time of the original application and retention of the infrastructure can only be achieved through an application to retain this infrastructure beyond the life of the Existing Site permission. Therefore the condition should be deleted.

In terms of the impact on local amenity, it is considered that that the mitigation proposed within the original application and the current application would ensure there was no adverse impact on residential or local amenity, particularly with respect to noise, dust and ecology and therefore is in accordance with MDRLP policies CON5 Pollution prevention and CCCDPD policies DC4 Protecting Existing

Amenity , DC29 Amenity and Pollution and CP13 Minimising Environmental Impact and MLP policies MLP 3 Access and MLP13 Development control and RMLP policies DM1development Management Control and S10 Protecting and enhancing the environment and local amenity .

RECOMMENDED

That planning permission be **granted** subject to the following amended wording for Condition 1 to state:

Condition 1

The development hereby permitted shall be begun before the expiry of 5 years from the date of this permission. Written notification of the date of commencement shall be sent to the Mineral Planning Authority within 7 days of such commencement.

and that Condition 5 be varied to state:

Condition 5

This permission shall be limited to a period of 5 years from the date of commencement of the development by which time the development shall have ceased and the site shall have been restored in accordance with scheme approved under Condition 2

and:

That condition 7 is deleted and all other conditions of ESS/27/02/MAL to be re-imposed and updated as appropriate.

BACKGROUND PAPERS

Consultation replies

Representations P/DC/Glenn Shaw/ESS/27/02/MAL

THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

It is considered that an Appropriate Assessment under Regulation 61 of The Conservation of Habitats and Species Regulations 2010 is not required in respect of this application.

EQUALITIES IMPACT ASSESSMENT: The report only concerns the determination of an application for planning permission and takes into account any equalities implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

APPLICANT IN A POSITIVE AND PROACTIVE MANNER

In determining this planning application, the Local Planning Authority had pre-application discussions with the applicant and has worked in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This has been particularly necessary as the authority has had need to approve variations different to that applied for. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

LOCAL MEMBER NOTIFICATION

CHELMSFORD - Chelmer

MALDON - Maldon

APPENDIX 1

Consideration of Consistency of Policies

Minerals Local Plan Adopted January 1997

REF	Policy	Consistency with NPPF.
MLP2	<p>Mineral working will be permitted only where there is an identified national, regional or local need for the mineral concerned.</p> <p>In the case of preferred sites the principle of extraction has been accepted and the need for the release of the mineral proven. Applications would be allowed unless the proposal fails to meet a pre-condition or requirement in Schedule 1 or there are unforeseen unacceptable environmental or other problems.</p>	<p>Paragraph 145 of the NPPF places an obligation on MPAs to take account of National and Sub National guidelines when planning for the future demand for and supply of aggregates.</p> <p>Landbanks are stated as being “principally an indicator of the security of supply” in paragraph 145 of the Framework, whereas policy MLP2 treats it as the only indicator.</p> <p>At paragraph 11 & 12 the NPPF states that “the development plan as the starting point for decision making...unless other material considerations indicate otherwise.</p> <p>The NPPF leaves the MPA to identify sites.</p> <p>It is considered that MLP2 is in conformity with the NPPF</p>
MLP3	<p>Access from a mineral working will preferably be by a short length of existing road to the main highway network</p>	<p>Paragraph 32 of the NPPF requires LPAs decisions to take account inter alia that “...safe and suitable access to the site can be achieved for all people...” and in Paragraph 35 developments should be located and designed where practical to...” inter alia “...create safe and secure layouts”</p> <p>It is therefore considered that MLP3 is in conformity with NPPF as it seeks to provide safe and suitable accesses.</p>
MLP13	<p>Planning applications for mineral extraction and related development will be refused where there would be an unacceptable effect on any of the following:</p> <p>The visual and aural environment; Local residents’ (or others’) amenity; Landscape and the countryside; The highway network; Water resources; Nature conservation</p>	<p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter alia “...unacceptable adverse impacts on the natural and historic environment, human health...” and</p> <p>In addition in paragraph 144 “...that any unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits...”</p>

		The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to "...accommodate the efficient delivery of good and supplies..." (Paragraph 35)
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Chelmsford City Council Development Control Policies adopted 2008 (CCCDCP)

DC4	<p>Protecting Existing Amenity</p> <p>All development proposals should safeguard the amenities of the occupiers of any nearby properties by ensuring that development would not result in excessive noise, activity or vehicle movements, overlooking or visual intrusion and the built form would not adversely prejudice outlook, privacy, or light enjoyed by the occupiers of nearby properties.</p>	<p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter alia "...unacceptable adverse impacts on the natural and historic environment, human health..." and</p> <p>In addition in paragraph 144 "...that any unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits..."</p> <p>The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to "...accommodate the efficient delivery of good and supplies..." (Paragraph 35)</p>
DC29	<p>Amenity and Pollution</p> <p>Planning permission will be refused for development, including changes of use, which will or could potentially give rise to polluting emissions to land, air and water by reason of noise, light, smell, fumes, vibration or other (including smoke, soot, ash, dust and grit) unless appropriate mitigation measures can be put in place and permanently maintained.</p>	<p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter alia "...unacceptable adverse impacts on the natural and historic environment, human health..." and</p> <p>In addition in paragraph 144 "...that any unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits..."</p> <p>The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to "...accommodate the efficient delivery of good and supplies..." (Paragraph 35)</p>
CP13	<p>Minimising Environmental Impact</p> <p>The Borough Council will seek to ensure that development proposals minimise their impact on the</p>	<p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter alia "...unacceptable adverse impacts on the</p>

	environment and that they do not give rise to significant and adverse impacts on health, amenity including air quality, and the wider environment.	<p>natural and historic environment, human health..." and</p> <p>In addition in paragraph 144 "...that any unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits..."</p> <p>The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to "...accommodate the efficient delivery of good and supplies..." (Paragraph 35)</p>
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Maldon District Council's Adopted Replacement Local Plan (MDRLP) adopted November

CON5	Pollution Prevention that development having an adverse impact on the environment by means of pollution release to land, air, water (including groundwater) etc. will be refused. All developments will be expected to minimise their impact on the environment by adopting environmental best practice and implementing the necessary pollution prevention measures.	<p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter alia "...unacceptable adverse impacts on the natural and historic environment, human health..." and</p> <p>In addition in paragraph 144 "...that any unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits..."</p> <p>The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to "...accommodate the efficient delivery of good and supplies..." (Paragraph 35)</p>
CC3	Development affecting locally designated nature conservation sites Proposals for development within or affecting areas designated as Local Nature Reserves (LNR), Wildlife Sites (WS)(formerly SINCs), or Regionally Important Geological Sites (RIGS) will not be permitted unless:	The NPPF at Paragraph 109 requires the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued Landscapes, geological conservation interests and soil.

The Pre Submission Replacement Local Minerals Local Plan January 2013

DM1	Development Management Control Proposals for minerals development will be permitted subject to it being	The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter
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	<p>demonstrated that the development would not have an unacceptable impact, including cumulative impact with other developments, upon:</p> <ol style="list-style-type: none"> 1. Local amenity (including demonstrating that the impacts of noise levels, air quality and dust emissions, light pollution and vibration are acceptable), 2. The health of local residents adjoining the site, 3. The quality and quantity of water within water courses, groundwater and surface water, 4. Drainage systems, 5. The soil resource from the best and most versatile agricultural land, 6. Farming, horticulture and forestry, 7. Aircraft safety due to the risk of bird strike, 8. The safety and capacity of the highway network, 9. Public Open Space, the definitive Public Rights of Way network and outdoor recreation facilities, 10. The appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to its local distinctiveness, 11. Land stability, 12. The natural and geological environment (including biodiversity and ecological conditions for habitats and species), 13. The historic environment including heritage and archaeological assets. 	<p>alia“...unacceptable adverse impacts on the natural and historic environment, human health...” and</p> <p>In addition in paragraph 144 “...that any unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits...”</p> <p>The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to “...accommodate the efficient delivery of good and supplies...” (Paragraph 35)</p>
S10	<p>Protecting and enhancing the environment and local amenity. Applications for minerals development shall demonstrate that :</p> <p>a) Appropriate consideration has been given to public health and safety, amenity, quality of life of</p>	<p>The NPPF at Paragraph 144 requires when LPAs are determining applications to ensure applications does cause inter alia“...unacceptable adverse impacts on the natural and historic environment, human health...” and</p> <p>In addition in paragraph 144 “...that any</p>

	<p>nearby communities, and the natural, built, and historic environment,</p> <p>b) Appropriate mitigation measures shall be included in the proposed scheme of development and</p> <p>c) No unacceptable adverse impacts would arise and;</p> <p>d) Opportunities have been taken to improve/ enhance the environment and amenity.</p>	<p>unavoidable noise, dust and particle emissions and blasting vibrations are controlled...and establish appropriate noise limits...”</p> <p>The NPPF supports sustainable transport including requiring development to have safe and suitable access (Paragraph 32) and locating development to “...accommodate the efficient delivery of good and supplies...” (Paragraph 35)</p>
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