

committee                      DEVELOPMENT & REGULATION

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**INFORMATION ITEM: Report on the programme of Periodic Reviews Of Mineral Planning Permissions**

Report by Acting Head of County Planning

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**1. PURPOSE OF THE REPORT**

To update Members on the current status of the MPA's programme of Periodic Reviews of mineral planning permissions (also known as ROMPS).

**2. BACKGROUND**

The Environment Act 1995 introduced a requirement for periodic review of all mineral permissions when 15 years old. The review programme gives Mineral Planning Authorities the opportunity to ensure that conditions attached to mineral planning permissions remain up-to-date and relevant.

The Planning Practice Guidance (PPG) outlines the manner in which Periodic Reviews are undertaken.

In order to ensure Members are kept up to date it has been agreed previously that a report would be produced annually advising of sites needing review in the next year.

The provisions of the Environment Act 1995 were amended on the 23 June 2013 under new provisions within The Growth and Infrastructure Act 2013. The amendments give discretion to MPAs over when the initial review is undertaken. The MPA may choose a longer period than 15 years, if circumstances are appropriate, as long as it is not less than 15 years and also subject to a provision that the interval between any two reviews not being less than 15 years.

It is not the case that all old mineral planning permission will require view. The PPG advises "*Mineral Planning Authorities should usually only seek a review of planning conditions when monitoring visits have revealed an issue that is not adequately regulated by planning conditions, which the operator has been made aware and has not been able to address*"

**3. PERIODIC REVIEWS**

Under the Environment Act 1995 the MPA is required to review mineral planning

permission issued after 22 February 1982 that are 15 years old. The MPA must notify the operator at least 12 months prior to the permission being 15 years old.

This year the MPA must review permissions to be 15 years old between Feb 2018 and Feb 2019 i.e. permission issued from 22 February 2003 to 21 February 2004. This ensures the Authority has the opportunity to notify the operator 1 year in advance as required by the regulations.

The Periodic Review process makes no distinction between active and dormant sites. An updated set of conditions must be submitted for both types of site by the applicant. If no submission is received by the date stipulated by the MPA, the mineral permission ceases to have effect, although restoration and aftercare conditions still apply.

Review applications may be subject to Environmental Impact Assessment. Once a Periodic Review application is received, the MPA has three months (16 weeks if accompanied by an EIA) in which to make a decision on the application and if no decision is reached, the application is automatically approved. The applicant may however agree to extend the period for determination.

If the MPA imposes new conditions that unreasonably restrict working rights, a liability to compensation may arise. There must, therefore, be exceptional circumstances for such conditions to be imposed.

## **The Periodic Review programme in Essex**

### Mineral Permissions Previously Identified for Review

In April 2016 one site was identified as potentially requiring review. Frances Flowers operators of Chalk Farm at Newport were notified of need for review of planning permission reference ESS/23/01/UTT (R) in May 2016. The operator subsequently requested a postponement of the review which is permitted under the Act. The postponement was considered by Members in a report to Committee in July 2016, where it was agreed that in view of the fact the existing conditions were up to date, as a result of subsequent variation applications and no issues were arising as a result of the quarry operations a review at this time was not necessary and was postponed for 15 years.

### Future permissions identified for Review

The MPA has now considered all predominant planning permissions granted within the administrative area of Essex between 22 February 2003 and 21 February 2004 and assessed them for the need for Periodic Review. Full details are contained in Appendix 1 attached.

One site has been identified as potentially requiring notification of review in 2017/18.

Planning Permission ESS/22/00/TEN at Fingringhoe Quarry, Colchester may require review, however this may not be necessary if a planning application for

inert landfilling (as allocated within the Replacement Waste Local Plan) is submitted and approved before the Review date.

### **The future Periodic Review programme**

A further annual update report on the outcome of each year's Periodic Review exercise will be presented to the Development and Regulation Committee in early 2018.

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### **BACKGROUND PAPERS**

70.421.50

Ref: P/DM/Claire Tomalin

### **LOCAL MEMBER NOTIFICATION**

CHELMSFORD – Broomfield & Writtle

CHELMSFORD – Great Baddow

COLCHESTER – Stanway & Payfleet

BRAINTREE – Witham North

TENDRING - Tendring Rural West

UTTLESFORD - Stansted

Review of Mineral Planning Permissions

PERIODIC REVIEWS – Predominant Mineral Planning permissions issued between 22 February 2003 to 21 February 2004 identification of Planning Permissions granted 15 years ago requiring Periodic Review between February 2018 and February 2019

| Site Ref. | Address<br>&<br>Electoral Division  | Applic No.    | Description  | Decision Date | Periodic Review needed Y/N   |
|-----------|---|---------------|--|---------------|--|
| 23 421 11 | Roxwell Landfill,<br>Chignal St James,<br>Chelmsford, CM1 4TZ<br><br>CHELMSFORD –<br>Broomfield & Writtle | ESS/10/02/CHL | Variation of Condition 58 attached to approved application CHL/445/91 to allow the importation of minerals, other than those indigenous to this site, for processing, treatment or refinement  | 08/04/03      | May be required.<br><br>This planning permission was superseded by planning permission ESS/60/11/CHL, which raised the height of the restoration profile. A further application (ref ESS/05/15/CHL) which would supersede ESS/60/11/CHL (which revised the profile of the restoration) has been resolved to be granted subject to a legal agreement. |
| 23 421 34 | Manor Farm,<br>Great Baddow,<br>Chelmsford, CM2 7RT<br><br>CHELMSFORD – Great Baddow                      | ESS/37/00/CHL | Construction of an irrigation reservoir of approx. 223,000m cubed capacity including the extraction & removal of approx. 250,000 tonnes of as dug sand & gravel. Restoration is to be to conservation water area incorporating the irrigation reservoir. | 09/04/03      | N<br>Site fully restored and completed its aftercare period.   |

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|-----------|---|-----------------|---|----------|---|
| 14 421 34 | Hill Farm Reservoir,<br>Crown Lane,<br>Tendring,<br>Clacton-on-Sea, CO16 0BJ  | ESS/05/02/TEN   | Removal of minerals & surplus soils associated with the construction of an extension to the agricultural reservoir.   | 09/04/03 | N<br><br>Extraction, restoration and aftercare completed.   |
|           | TENDRING - Tendring Rural West  | ESS/06/02/TEN   | Variation of conditions 2 (plans to incorporate extension area) & 9(time limit) of ESS/1/97/TEN   |          |   |
| 12 421 14 | Scripps Farm,<br>Coggeshall,<br>Colchester<br><br>BRAINTREE – Witham North  | ESS/13/02/BTE/R | Review of Mineral Planning permission BRD/275/69  | 12/06/03 | N<br><br>Planning permission superseded by ESS/59/12/BTE and this newer permission has adequate restoration and aftercare conditions. The site is fully restored and in aftercare.                                |
| 13 421 09 | Land South of Fingringhoe,<br>Fingringhoe Quarry,<br>Ballast Quay,<br>Fingringhoe,<br>Colchester<br><br>COLCHESTER – Stanway & Payfleet | ESS/22/00/COL   | Extraction of sand and gravel as an extension to existing workings, restoration to agriculture and temporary diversion of Furneaux Lane                             | 17/12/03 | May be required<br><br>Updated conditions may be required if a planning application to restore the site with inert waste (as allocated in the RWLP) is not submitted and determined before the notification date. |
| 23 421 33 | Land at Writtle College,<br>Writtle,<br>Chelmsford,CM1 3SB<br><br>CHELMSFORD – Broomfield & Writtle                                     | ESS/62/03/CHL   | Proposed variation of condition 2 attached to approved application ESS/43/01/CHL to allow for amendments to the alignment & method of construction of the haul road | 06/01/04 | N<br><br>Extraction, restoration and aftercare completed  |