

DR/02/23**Report to:** DEVELOPMENT & REGULATION (27 January 2023)**INFORMATION ITEM: Report on the programme of Periodic Review of Mineral Planning Permissions****Report author:** Chief Planning Officer (County Planning and Major Development)**Enquiries to:** Claire Tomalin Tel: 03330 136821**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 review. 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 permissions 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 report addresses the permissions to be 15 years old between February 2024 and February 2025 i.e. permissions issued from 22 February 2009 to 21 February 2010. This gives the authority the necessary 12 months prior notification.

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

For permissions issued between Feb 2008 and Feb 2009 two permissions were identified for review. A permission (Ref ESS/26/08/COL) for clay extraction at Marks Tey Brick Works, Colchester was identified for review and a ROMP application was submitted in November 2022. A permission (ESS/24/04/TEN/REV) for sand and gravel extraction at Wivenhoe Quarry was also identified but on closer examination of the planning history it was established that the planning permission had been superseded by a subsequent planning permission and no ROMP was required.

Future permissions identified for Review

The MPA has now considered all predominant planning permissions granted within the administrative area of Essex between 22 February 2009 and 21 February 2010 and has assessed them for the need for Periodic Review.

Only 1 mineral planning permission has been identified issued in the relevant period potentially requiring review see Appendix 1. The one planning permission potentially requiring review is a permission subject of a previous ROMP review. The planning permission is ESS/51/08/ROC (R) at Barling Quarry. Mineral extraction and landfilling has been completed at the site, but the site has not completed restoration. There is a separate planning permission that permits

surcharging of the site ESS/47/10/ROC, but this does not cover the full area of planning permission ESS/51/08/ROC(R). In addition there remains an outstanding application for Barling Quarry ESS/38/16/ROC a variation of ESS/47/10/ROC, seeking additional time to complete the surcharging and restoration. The determination of this application has been delayed due to the proximity of the site to ecological sensitive areas and the need for Appropriate Assessment under the Habitats Regulations. If and when determined the outstanding application anticipates the restoration would be completed by end of November 2025. As explained in section 2 of this report it is possible under the Environment Act to agree a longer period than 15 years for a review, in this case it is considered appropriate to delay the requirement for a Review until 1 December 2025, by which time hopefully the restoration will have been completed and a ROMP not required. The operator is agreeable to this approach and this will be confirmed in writing.

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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 late 2023/early 2024.

BACKGROUND PAPERS

70.421.50

Ref: P/DM/Claire Tomalin

LOCAL MEMBER NOTIFICATION

ROCHFORD – Rochford South

Review of Mineral Planning Permissions

PERIODIC REVIEWS – Predominant Mineral Planning permissions issued between 22 February 2009 to 21 February 2010 identification of Planning Permissions granted 15 years ago requiring Periodic Review between February 2024 and February 2025.

Site Ref.	Address & Electoral Division	Applic No.	Description	Decision Date	Periodic Review needed Yes/No
24 421 17b	Southminster Hall, Goldsands Road, Southminster, CM0 7JR SOUTHMINSTER	ESS/09/08/MAL	Cont. of dev for "Digging of sand & gravel & Erection of Washing Plant" (ref ESS/15/97/MAL[R]) without complying with condition 1 (approved plans, 2 (time limit), 3 (removal of permitted development rights) to allow for the ext. of time for completion of S&G ext. & restoration until 31 August 2015 & amend. to working scheme, access & inclusion of mobile soil screener resulting in variation of cond. 4,10,13,16,18 & 25 also consequential amendments to details condition 6, 7&15	31/03/2009	No Superseded by ESS/34/10/MAL and then ESS/54/13/MAL.
34 421 15	Barling Marsh Quarry and Landfill Site, Mucking Hall Road, Barling Magna, Rochford, SS3 0NR ROCHFORD SOUTH	ESS/51/08/ROC R	Review of Old Mineral Planning Permission (ROMP) application for Planning Permission ref: ROC/634/90 dated 19 November 2003 at Barling	29/04/2009	Yes – but review to be postponed until 1 December 2025.

Site Ref.	Address & Electoral Division	Applic No.	Description	Decision Date	Periodic Review needed Yes/No
			Marsh Quarry and Landfill Site		
14 421 18	Plumpton Farm, Ford Lane, Alresford, Colchester, CO7 8BB BRIGHTLINGSEA	ESS/04/09/TEN	Continuation of development without complying with condition 17 (restoration) attached to planning permission ref ESS/52/97/TEN (R) seeking variations to the approved restoration Scheme to allow for revised contours and the existing amenity lakes to be used for nature conservation purposes, angling and the creation of wet grassland conservation areas	22/05/2009	No Superseded by ESS/57/12/TEN,
13 421 19	Colchester Quarry (Stanway Hall), Warren Lane, Stanway, Colchester, CO3 0NN STANWAY and PYEFLEET	ESS/06/09/COL	Continuation of development without compliance with conditions 6 (working and restoration scheme) and 15 (restoration scheme) attached to planning permission reference ESS/14/06/COL to extend the time for the submission of a detailed working and restoration scheme until 01 June 2010 (AMENDED DESCRIPTION)	29/06/2009	No The area of ESS/06/09/COL was included within the application for ESS/23/14/COL and thus supersedes the older permission.

Site Ref.	Address & Electoral Division	Applic No.	Description	Decision Date	Periodic Review needed Yes/No
12 421 35	Land adjacent to Cressing Road, Faulkbourne Farm, Witham WITHAM NORTHERN	ESS/23/09/BTE	Continuation of removal of minerals in the course of constructing an agricultural reservoir without compliance with condition 6 (time limit of 04 May 2009) attached to planning permission ref ESS/26/07/BTE to allow a further 12 months for completion of development by 04 May 2010	20/10/2009	No Superseded by ESS/14/10/BTE and in any event site completed and restoration and aftercare completed.
13 421 09	Fingringhoe Quarry, Ballast Quay, Fingringhoe, Colchester STANWAY and PYEFLEET	ESS/35/09/COL	Continuation of extraction of sand and gravel as an extension to existing workings, restoration to agriculture and temporary diversion of Furneaux Lane without compliance with condition 2 (location of conveyor tunnel) of planning permission ESS/22/00/COL to amend the position of the conveyor 120 metres to the east of the original position under the new Furneaux Lane	05/11/2009	No Mineral extraction is completed and the site is being restored. The restoration and aftercare conditions are considered adequate, such that no ROMP is required.
11 421 18	Hollow Road, Widdington, Saffron Walden, CB113SL	ESS/44/08/UTT	Continuation of the evacuation of sand and subsequent restoration of the land to agricultural use,	27/11/2009	No Superseded by ESS/34/13/UTT, ESS/30/14/UTT, ESS/03/16/UTT

Site Ref.	Address & Electoral Division	Applic No.	Description	Decision Date	Periodic Review needed Yes/No
	STANSTED		including deposit of refuse (inert waste only), without compliance with conditions 3 (cessation of operations by 30 June 2009 and restoration by 30 June 2010) and 4 (removal of buildings, plant and machinery by 30 November 2009) attached to planning permission reference ESS/33/02/UTT/REV		ESS/35/18/UTT and ESS/68/21/UTT (decision pending legal agreement)
23 421 32	Old Hall and Generals Farms, Boreham, Chelmsford, CM2 6GF CHELMER	ESS/33/09/CHL	Continuation of removal of minerals in the course of constructing an agricultural reservoir (planning permission ESS/05/09/CHL) without compliance with condition 2 (permission end date September 2009) to require cessation of permission and completion by 26 September 2011	07/12/2009	No Site completed including restoration and aftercare
24 421 20	Curry Farm, Mill End, Bradwell-on-Sea, Maldon, CM0 7HL SOUTHMINSTER	ESS/46/09/MAL	Continuation of use as a mineral extraction site without compliance with conditions 3 (site and restoration time limit) & 10 (removal of plant) attached to planning permission	21/12/2009	No Superseded by ESS/38/13/MAL and ESS/34/18/MAL

Site Ref.	Address & Electoral Division	Applic No.	Description	Decision Date	Periodic Review needed Yes/No
			ESS/53/08/MAL to allow for all operations and uses associated with the winning and working of sand and gravel, its processing and ancillary uses to be completed by 31 December 2013 and restoration to be completed by 31 December 2014		
24 421 20	Curry Farm, Mill End, Bradwell-on-Sea, Maldon, CM0 7HL SOUTHMINSTER	ESS/40/09/MAL	Variation of condition 3 (completion of site operations and restoration) and condition 10 (removal of development) relating to planning permission reference ESS/52/08/MAL to allow all site operations to be completed by 31 December 2013 and restoration to be completed by 31 December 2014 (condition 3), and the removal of all buildings, plant machinery foundations, hardstanding, roadways, structures and erections to be removed by 31 December 2014 (condition 10)	21/12/2009	No Superseded by ESS/37/13/MAL and ESS/33/18/MAL