

**DR/03/22****Report to:** DEVELOPMENT & REGULATION (28 January 2022)**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 2023 and February 2024 i.e. permissions issued from 22 February 2008 to 21 February 2009. 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 2007 and Feb 2008 mineral sites had either been completed and satisfactorily restored or the planning permission superseded by another more recent planning permission. Thus no ROMP applications were 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 2008 and 21 February 2009 and has assessed them for the need for Periodic Review.

Mineral planning permissions have been identified as issued in the relevant period, and two permissions have been identified as meeting the criteria for review at Wivenhoe Quarry and Mark Tye Brickworks. See Appendix 1.

The applicants will be notified of the review.

### **4 THE FUTURE PERIODIC REVIEW PROGRAMME**

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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 2022/early 2023.

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**BACKGROUND PAPERS**

70.421.50

Ref: P/DM/Claire Tomalin

**LOCAL MEMBER NOTIFICATION**

none

Review of Mineral Planning Permissions

PERIODIC REVIEWS – Predominant Mineral Planning permissions issued between 22 February 2008 to 21 February 2009 identification of Planning Permissions granted 15 years ago requiring Periodic Review between February 2023 and February 2024.

| Site Ref. | Address & Electoral Division                                       | Applic No.    | Description  | Decision Date | Periodic Review needed Yes/No  |
|-----------|--|---------------|--|---------------|--|
| 24 421 31 | Curry Farm,<br>Mill End,<br>Bradwell-on-Sea,<br>Maldon,<br>CM0 7HL | ESS/53/08/MAL | Continuation of use as a mineral extraction site without compliance with Cond 1 (accordance with approved plans) attached to review of minerals permission reference ESS/55/97/MAL R to allow restoration to 2 fishing lakes containing 4 islands instead of 1 fishing lake containing 2 islands | 18/02/2009    | No<br><br>Superseded by ESS/46/09/MAL<br>ESS/38/13/MAL, and<br>subsequently ESS/34/18/MAL    |
| 24 421 31 | Curry Farm,<br>Mill End,<br>Bradwell-on-Sea,<br>Maldon,<br>CM0 7HL | ESS/52/08/MAL | Continuation of use as a mineral extraction site without compliance with Condition 1 (accordance with approved plans) attached to planning permission reference ESS/07/00/MAL to allow restoration to 2 fishing lakes containing 4 islands instead of 1 fishing lake containing 2 islands        | 18/02/2009    | No<br><br>Superseded by ESS/40/09/MAL<br>ESS/37/13/MAL, and<br>subsequently by ESS/33/18/MAL |

| Site Ref. | Address & Electoral Division   | Applic No.            | Description   | Decision Date | Periodic Review needed Yes/No  |
|-----------|--|-----------------------|---|---------------|--|
| 13 421 15 | Church Lane,<br>Marks Tey,<br>Colchester,<br>CO6 1LN                       | ESS/26/08/COL         | Periodic review of mineral permission IDO/COL/1/92A for the extraction of brickearth clay and use in the adjacent brickworks  | 24/09/2008    | Yes<br><br>Notification will be required to be sent by 24 September 2022 |
| 12 421 35 | Land adjacent to Cressing Road,<br>Faulkbourne Farm,<br>Witham             | ESS/26/07/BTE         | Continuation of removal of minerals in the course of constructing an agricultural reservoir (planning permission ESS/20/05/BTE) without complying with condition 1 (accordance with approved plans) to allow the temporary retention of a water pond, provision of a mineral stockpiling area and bunded car park, shortening of screening bunds, erection of a single storey office and reinstatement of works | 21/04/2008    | No<br><br>Site restored and aftercare completed                          |
| 14 421 27 | Wivenhoe Quarry,<br>Alresford Road,<br>Wivenhoe,<br>Colchester,<br>CO7 9JY | ESS/24/04/TEN/<br>REV | Continuation of development approved under TEN/1544/90 (the extraction of sand and gravel, reinstatement with inert fill and restoration to agriculture, part to open water), without compliance with condition 47 (prohibiting importation of material for   | 28/04/2008    | Yes<br><br>Notification will be required to be sent by 28 April 2022     |

| Site Ref. | Address<br>&<br>Electoral Division                      | Applic No.    | Description   | Decision<br>Date | Periodic Review needed Yes/No   |
|-----------|---|---------------|---|------------------|---|
|           |   |               | processing) and condition 50 (imposing a time limit of 9 years from the date of commencement). The application proposes the postponement of extraction of the indigenous reserves for four years, to allow the importation, for processing and sale, of as dug sand and gravel from the agricultural reservoir construction site at Fen Farm. The life of the quarry, including the processing plant and coated roadstone plant, would be extended by six years to 31 December 2012.<br>ESS/18/07/TEN |                  |   |
| 14 421 12 | Martells Quarry,<br>Ardleigh,<br>Colchester,<br>CO7 7SP | ESS/18/07/TEN | The extension of Martell's Quarry on to 8.4 hectares of land at Slough Farm, the extraction of silica sand and gravel and restoration of the land to agriculture by infilling the void with solid, inert and commercial and industrial waste residue following recovery of all recyclables and mechanical biological  | 28/07/2008       | No<br><br>Superseded by ESS/46/14/TEN, ESS/23/15/TEN, ESS/53/17/TEN and subsequently by ESS/61/19/TEN |

| Site Ref. | Address<br>&<br>Electoral Division | Applic No. | Description  | Decision<br>Date | Periodic Review needed Yes/No |
|-----------|------------------------------------|------------|--|------------------|-------------------------------|
|           |                                    |            | treatment waste residue, the continued use of the existing mineral processing plant, storage area and haul roads and the continued use of the permitted recycling facility |                  |                               |