

## **MC/20/2806**

Date Received: 5 November 2020  
Location: Manor Farm Quarry Parsonage Lane  
Frindsbury Rochester  
Proposal: Variation of condition 1 (Time 6 years) on MC/20/0482 - To amend the requirement for the discontinuation of the in-filling operation does not fall until 31st December 2024  
Applicant: The Heritage Design & Development Team Ltd  
Agent: Mr Richard Smith  
Ward: Strood Rural  
Case Officer: Hannah Gunner  
Contact Number: 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 31st March 2021.**

### **Recommendation - Approval with Conditions**

- 1 The infill activity hereby permitted shall be discontinued by 31 December 2024 and all the buildings and structures with the development shall be removed and the land restored and landscaped in accordance with the details to be approved pursuant to conditions 12 and 14 of this permission.

Reason: To regulate and control the development permitted in the interests of visual amenity in accordance with Policy BNE1 of the Medway Local Plan 2003.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers: 779/14 revision A, 779/16 revision B, 779/17 revision B and 779/18 received on 7 June 2010; 779/15 revision B, 779/21, 779/22 revision A and 779/23 received on 23 June 2010; Planning Statement and Design and Access Statement received on 7 June 2010 and the Environmental Statement comprising: Non-Technical Summary received on 16 August 2010, Site Description and Development Proposals Section received on 16 June 2010, Ecological Impact Assessment dated May 2010 and received on 7 June 2010, Ground Conditions, Geotechnical and Contamination EIA Chapter received 16 August 2010, Contaminated Land Investigation received 7 June 2010, Noise Impact Assessment received 7 June 2010, Drainage Statement received 7 June 2010, Heritage Statement received 7 June 2010, Landscaping received 7 June 2010, Landscape and Visual Impact Assessment received 7 June 2010, Transport Assessment and Travel Plan received 7 June 2010, Parking and Servicing received 23 June

2010. Further Information received on 11 October 2010 and Further Information received on 1 June 2011.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 Only materials that accord with the SLR report 'Waste Acceptance Criteria and Procedures' dated July 2016 and submitted under conditions application MC/16/4633, shall be used for the infilling of the quarry.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23.

- 4 No material other than inert material shall be used to infill the quarry.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 5 All fill material shall only be tipped into the pit and shall not be stock piled anywhere within the site.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of visual amenity and the historic environment in accordance with Policies BNE1, BNE18, BNE25 and BNE34 of the Medway Local Plan 2003.

- 6 No processing of any waste material shall be undertaken within any part of the site.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 7 The planting and bunding to screen the temporary haul road shall be in accordance with drawings submitted under conditions application MC/16/3197: MBF/01, MBF/02, MBF/03, MBF/04, MBF/05 and MBF/06 and shall be retained for the duration of the infill activity.

Reason: To protect the appearance and character of the site and locality in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 8 Development and infilling activities at the site shall be undertaken in accordance with SLR report 'Construction Environmental Management Plan', dated September 2016, which was submitted under conditions application MC/16/4633.

Reason: To ensure protection of the environment and ecology and to prevent pollution and in the interests of the amenities of the surrounding area and

neighbouring occupiers in accordance with Policies BNE2, BNE5, BNE23, BNE37 and BNE39 of the Medway Local Plan 2003.

- 9 Long-term and future ecological monitoring and management shall take place in accordance with EAD Ecology 'Economic Management and Monitoring Plan', dated July 2016 and 'Economic Management and Monitoring Plan', dated September 2016, which were submitted under conditions application MC/16/3197.

Reason: To ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 10 Reviews of the long-term and future ecological management plan approved pursuant to condition 9 shall be submitted to the Local Planning Authority for written approval at a frequency of every two years and to be no later than 2 months preceding the anniversary date of this permission or at such greater frequencies that may be reasonably be agreed in writing with the Local Planning Authority. The ecological management plan shall thereafter be implemented in accordance with the approved revised details.

Reason: To ensure satisfactory arrangements are made to safeguard the habitats in the interests of ecology in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 11 The waterbody created following the infill of the quarry shall not be stocked with fish.

Reason: To encourage biodiversity in the interests of ecology in accordance with Policies BNE37 and BNE39 of the Medway Local Plan 2003.

- 12 Landscaping of the site shall be implemented in accordance with drawings submitted under conditions application MC/16/3197: MBF01, MBF02, MBF03, MBF04, MBF05 and MBF06.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 13 Landscaping of the development hereby approved shall be carried out in accordance with SLR document 'Conditions 13, Landscape Management Plan' (ref: 409.05632.00001, Version No: Draft1), dated November 2015, continuing for a period of 10 years from practical completion of the landscaping approved pursuant to condition 12.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy BNE1 and BNE6 of the Medway Local Plan 2003.

- 14 The restoration of the agricultural land on the site, including the timetable for the starting and completion of the restoration, the material to be used as part of the restoration, the contours of the restored land and monitoring proposals to measure the success of the restoration, including measures to be implemented should restoration of any part of the agricultural land fail, shall be in accordance with SLR document 'Conditions 13, Landscape Management Plan' (ref: 409.05632.00001, Version No: Draft1), dated November 2015 and drawings MFB/01, MFB/02, MFB/03, MFB/04 and MFB/05.

Reason: To ensure the restored land is suitable for agricultural after uses in accordance with paragraph 170(a) of the National Planning Policy Framework 2019.

- 15 No re-spreading of soil making materials, subsoil or topsoil shall take place on the agricultural land until the upper 500mm of the surface has been: prepared so that it does not contain toxic material injurious to plant growth; and ripped at a spacing of 500mm or closer to remove rock, stone, boulder, wire, rope, cable, other foreign objects or compacted layers capable of impeding normal agricultural or land drainage operations including mole ploughing or subsoiling.

Reason: To ensure the restored land is suitable for agricultural afteruses in accordance with paragraph 170(a) of the National Planning Policy Framework 2019.

- 16 Stones, materials and objects that exceed 200mm in any dimension and which occur on the surface of the ripped and loosened ground on the agricultural land shall be removed from the site or buried at a depth of not less than 2 metres below the final pre-settlement contours.

Reason: To ensure the restored land is suitable for agricultural after uses in accordance with paragraph 170(a) of the National Planning Policy Framework 2019.

- 17 Vehicle circulation, parking and turning areas within the site shall be carried out in accordance with Heritage Team Report 'Vehicle Circulation', dated November 2016, submitted under conditions application MC/16/4633.

Reason: Development without provision of adequate circulation, parking and turning facilities is likely to give rise to hazardous conditions in the public highway and in accordance with Policies T1, T2 and T13 of the Medway Local Plan 2003.

- 18 The disposal of surface water shall operate in accordance with details within the Heritage Team Report 'Condition 17', dated November 2016 and SLR letter, dated 8 November 2016, submitted under conditions application MC/16/4633.

Reason: To prevent the increased risk of flooding by ensuring the provision of satisfactory means of surface water disposal.

- 19 The infill activity shall only operate between the hours 08:00 to 17:30 hours Monday to Friday inclusive; 08:30 to 13:00 hours on Saturdays and no works on Sundays or Bank/Public holidays.

Reason: To regulate and control the permitted development in the interests of amenity, whilst balancing with the commercial factors, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 20 No goods will be loaded/unloaded stored or otherwise handled and no goods vehicles shall arrive or depart, within the application site outside the hours of 08:00 to 17:30 hours Mondays to Friday; 08:30 to 13:00 hours on Saturdays or at any time on Sundays or Public/Bank holidays.

Reason: To regulate and control the permitted development in the interests of amenity, whilst balancing with the commercial factors, in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 21 Acoustic fencing shall be retained for the duration of operations on the land in accordance with the Heritage Team Report 'Condition 21 - Acoustic Fence Details', dated November 2016, submitted under conditions application MC/16/4633.

Reason: To ensure the development does not prejudice the amenities of neighbouring properties in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 22 The management of dust associated with activities on the site shall take place in accordance with the SLR Report 'Dust Management Plan' (ref. 409.05632.00001) dated September 2015, submitted under conditions application MC/16/3197.

Reason: To ensure the development does not prejudice the amenities of neighbouring properties in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 23 The works shall only be carried out in accordance with the remediation scheme within documents: SLR report 'Groundwater Monitoring report' (ref: 409.05632.00001, dated September 2015); SLR report 'Addendum contaminated Land Investigation' (ref: 409.05632.00001, dated November 2015; 'Appendix a' GEA report 'Contaminated Land Site Investigation', dated May 2008; 'Appendix b' (Laboratory Analysis results); GEA 'Contamination Investigation Report' (dated May 2008). Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 24 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared and submitted to, for approval in writing by, the Local Planning Authority prior to the remediation works being undertaken. Following the completion of the measures identified in the approved remediation scheme a verification report, demonstrating that the remediation works set are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, must be prepared, and submitted in writing to, for approval in writing by, the Local Planning Authority.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

- 25 Vehicle routing and access and egress arrangements to the site for vehicles carrying fill materials, or having deposited fill materials, shall be only in accordance with the Heritage Team Report 'Condition 28 - Vehicle Route Plan', dated November 2016.

Reason: To safeguard the residential amenity within the vicinity of the application site in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 26 Should the infilling activity hereby permitted cease for a period of more than 6 months, prior to the expiration of this planning permission, the contingency plan shall be implemented at that time, in accordance with the Heritage Team document 'Contingency Plan document', dated February 2016 and within one month of the implementation having commenced a timetable for the completion of the works within the approved contingency plan, other than ongoing monitoring detailed in that document, shall be submitted to and agreed in writing with the Local Planning Authority. The approved contingency plan works shall be carried out in accordance with the approved timetable and going monitoring in accordance with the details within the approved contingency plan.

Reason: To ensure satisfactory arrangements are made to safeguard the character and appearance of the locality, quality of agricultural land and habitats in the interests of visual amenity and ecology in accordance with Policies BNE1, BNE6, BNE12, BNE14, BNE18, BNE34, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 170 of the National Planning Policy Framework 2019.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This application is for the variation of condition 1 of planning permission MC/20/0482 (original permission MC/10/2068) to amend the requirement for the discontinuation of the infilling operation to be extended until 31 December 2024.

Condition 1 currently reads:

The infill activity hereby permitted shall be discontinued within 6 years from, the date of decision being, 18 February 2015 and all buildings and structures associated with the development shall be removed and the land restored and landscaped in accordance with the details to be approved pursuant to conditions 12 and 14 of this permission.

Reason: To regulate and control the development permitted in the interests of visual amenity in accordance with Policy BNE1 of the Medway Local Plan 2003.

Proposed variation to read as follows:

*The infill activity hereby permitted shall be discontinued by 31 December 2024 and all the buildings and structures with the development shall be removed and the land restored and landscaped in accordance with the details to be approved pursuant to conditions 12 and 14 of this permission.*

*Reason: To regulate and control the development permitted in the interests of visual amenity in accordance with Policy BNE1 of the Medway Local Plan 2003.*

## **Relevant Planning History**

MC/20/0482	Variation of conditions 19 (hours infilling) and 20 (loading/handling etc) of planning permission MC/10/2068 - Condition 19 To amend the infill activity hours and shall only operate between the hours 0f 08:00 to 17:30 Monday to Friday inclusive , 08:30 to 13:00 hours on Saturdays and no works on Sundays or Bank/Public holidays and condition 20 no goods will be loaded/unloaded stored or otherwise handled and no goods vehicles shall arrive or depart, within the application site outside the hours of 08:00 to 17:30 hours Mondays to Friday; 08:30 to 13:00 hours on Saturdays or at any time on Sundays or Public/Bank holidays Decision – Approved with conditions Date – 17 July 2020
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MC/18/3446	Variation of conditions 19 and 20 of planning permission MC/10/2068 Decision – Approved with conditions Date – 26 March 2019
MC/17/0825	Removal of condition 29 (contingency plan for cessation of works) on planning permission MC/10/2068 Decision - Withdrawn
MC/17/0803	Details pursuant to condition 29 on planning permission MC/10/2068 to infill the existing disused chalk pit and construct temporary access road Decision - Undetermined
MC/16/4633	Details pursuant to conditions 3, 8, 17, 18, 21 and 28 of planning permission MC/10/2068 Application to infill the existing disused chalk pit and construct temporary access road Decision - All conditions discharged Date – 21 March 2017
MC/16/3197	Details pursuant to conditions 7, 9, 12, 13, 14, 22, 24 and 25 on planning permission MC/10/2068 for application to infill the existing disused chalk pit and construct temporary access road Decision - Some conditions discharged Date – 24 January 2019
MC/10/2068	Application to infill the existing disused chalk pit and construct temporary access road Decision – Approved with conditions Date – 18 May 2015

## Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties. Southern Water, the Environment Agency, Historic England, the RSPB, Natural England, and Kent Wildlife Trust were also consulted.

**Three** letters have been received raising the following objections and concerns:

- Applicants trying to move the goalposts due to their own inadequacies
- Not as many vehicles per day as originally quoted
- Covid19 is not an excuse
- The applicants have changed the long-term plans for the infill
- Area has endangered species of hedgerow
- Makes a mockery of the Council's original decision
- Too many conditions have already been changed
- Quarry should be restored, landscaped, and turned back to nature

- Sick and tired of noise and dust

**The Environment Agency** have written advising they have no comments to make.

**Natural England** have written advising they have no comments to make.

**Southern Water** have written advising they have no comments to make.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2019 and are considered to conform.

## **Planning Appraisal**

### *Background*

Within the supporting documentation provided with the application the applicant has explained the reasoning behind the proposed extension. The main reasons for requesting the extension are:

- Environmental Permit was not issued until 21 March 2018
- Berwick Way access road had to be constructed and a geological barrier system had to be engineered
- Infilling did not commence until 3 years and 3 months after permission
- Commissioners Road quarry infill is a competing site and is also taking much local waste soil, slowing down activity here
- Lockdown and COVID restrictions have reduced demand for waste soils in the locality

### *Principle*

The reason for the limited timescales for infill activity was to regulate and control the development permitted in the interests of visual amenity.

The key matter therefore that warranted the imposition of the conditions originally was related to visual amenity. It is also relevant to the consideration that the core principles of the NPPF seeks to 'build a strong, responsive and competitive economy' and planning decisions should 'help create conditions in which businesses can invest, expand and adapt' with significant weight placed on 'the need to support economic growth and productivity, considering both local business needs and wider opportunities for development.'

Since the granting of the original planning permission the access road to the site from Anthony's Way has been constructed and condition 28 of the original planning permission (now condition 25 of MC/20/0482) controls that commercial vehicles to and

from the site only use that access. The alteration to the operational hours was also approved under planning reference MC/20/0482.

The Local Planning Authority (LPA) have been in constant contact with the applicants throughout the infill to date and are aware of the difficulties that were faced in relation to obtaining permits. The LPA is also aware of the competitive pricing at other quarry infill sites locally.

During the previous temporary permission there have been no complaints received by the Local Authority. It is considered that this extension to the timescales for the infill will take the pressure off the applicants and ensure that the job can be completed. This will be to the benefit of neighbours in the longer term as an incomplete fill will not enhance the area.

### *Highways*

In respect to the matter of traffic movements, the applicant has stated that the infilling operation requires a finite amount of imported material – which in turn is a finite amount of vehicle movements. The number of vehicle movements originally approved is not altering, but the frequency of the movements is just not as intense as originally considered.

The applicant's information that has been supplied with this application demonstrates that the approval of this application would not result in any harmful impact on the highway both in term of network flow and safety.

It is therefore considered the proposal conforms with Policy T1 of the Local Plan and paragraph 109 of the NPPF.

### *Other matters*

It should be noted that there are no environmental concerns in relation to the variation of this condition. No comments have been received from Natural England and the Environment Agency in relation to this proposal.

It should also be noted that whilst 1 of the letters received by neighbours referred to the dust and noise disturbance because of this quarry infill, Environmental Protection have checked records and they, to date, have not received any complaints against this site.

### **Conclusions and Reasons**

The proposal to extend the time restriction on the filling operation is considered acceptable and would ensure that the amenities of nearby residents are sufficiently protected whilst supporting the business opportunities arising from the operations of the site. The proposal complies with Policies BNE1 and T1 of the Medway Local Plan 2003 and paragraphs 109 and 127 of the NPPF 2019.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the level of representation contrary to officer recommendation.

This application was originally taken to the 3 March 2021 Planning Committee but was deferred due to Members wanting additional information on the infill process. Specifically, some background in relation to the current position on site, information on the current fill levels and realistic information about completion timings. The applicant has submitted a comprehensive supplementary document that deals with these concerns and has been circulated to Members prior to this committee.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>