

## Planning Committee

24 April 2012

**Reference:**  
**APP/11/01286**

**Area Team:**  
**North Team**

**Case Officer:**  
**Mr M Rushton**

**Ward:**  
**Hoylake and Meols**

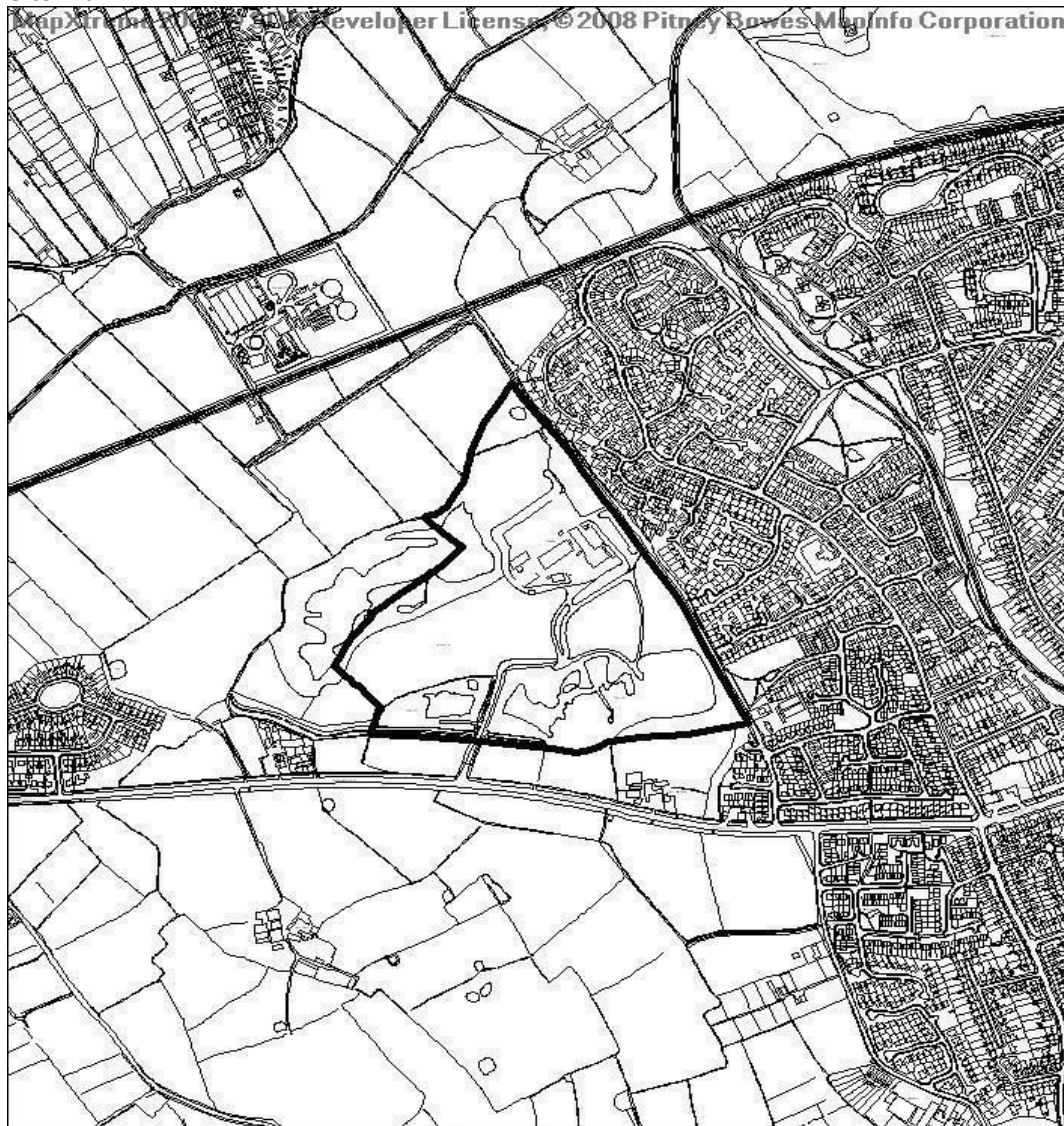
**Location:**  
**Proposal:**

Moreton Brickworks, CARR LANE, MORETON, CH46 5NB  
Variation of condition 28 of planning determination APP/2001/6405/D (for the extraction of clay), to allow an additional 2 years for the submission of restoration and aftercare schemes (extended from 03 January 2012 to 03 January 2014).

**Applicant:**  
**Agent :**

Brock PLC

**Site Plan:**



## **Development Plan Designation and Policies:**

Green Belt  
Area Requiring Landscape Renewal  
Mineral Reserve

## **Planning History:**

Interim Development Order permission no. 6663 for the extraction of clay – granted 1947.

Determination of conditions no. IDDOC/95/6338/D – determined 22/03/96.

APP/2001/6405/D – Variation of conditions of planning determination no. IDDOC/95/6338/D, conditions 1-47 to be replaced by new conditions 1-62 – approved conditionally 03/01/2002.

## **Summary Of Representations and Consultations Received:**

### REPRESENTATIONS

In accordance with the Council's Guidance on Publicity for Applications, 48 letters of notification were sent to adjoining properties and a Site Notice was displayed. A press notice was also placed in the Wirral Globe, in the week commencing 03rd January 2012. At the time of writing, 2 representations have been received from the occupiers of 7 Linear Park and 18 Earlswood Close, making the following comment:

1. The original timescale was set for a reason and the reason has not changed.

A non-qualifying petition of opposition has also been received, listing signatures from 10 separate households, listing concerns at past noise and vibration impacts from heavy plant and lorries using Carr Lane – it is requested that planning permission is refused to avoid similar disturbance in the future.

### CONSULTATIONS

Director of Law, HR and Asset Management (Pollution Control Division) – no objection.

Director of Technical Services (Traffic and Transportation Division) – no objection.

Wirral Wildlife – no comments received.

Natural England – given the nature and scale of this proposal, raise no objection to the proposal being carried out in accordance with the terms and conditions of the application and submitted plans. It is expected that the LPA will assess and consider the possible impacts resulting from the proposal on protected species, local wildlife sites, and consider securing measures to enhance biodiversity.

Environment Agency - no objection in principle, but suggest that the Council should consider whether the variation of condition would have a knock-on effect on the achievement of early or progressive restoration of the site because there are a number of other conditions that in turn relate to Condition 28.

Wirral Society - express grave concern at the need for the time extension. The Society would have hoped that the site would be returned to a suitable state by now, and enquire what sanctions can be applied re the failure to meet the original timescale; what evidence the applicant is giving to prove that this extension will be adhered to; and suggest a performance bond to ensure compliance if the extension is granted.

Mersey Environment Advisory Service - advise that planning permission might be granted, but conditionally on carrying out appropriate surveys and submitting a revised Environmental Statement (ES). Milestones could be set for the completion of work on the ES (e.g. within 1 year) prior to submission of a new restoration and aftercare scheme after two years. Advise that an Environmental Appraisal required should include:

- a desktop study and consultation with Cheshire rECOrd to identify any records for protected and/or notable species, sites and habitats on or within 2km of the site;
- an Extended Phase 1 Habitat survey to identify the habitats present on and adjoining the site, with maps and target notes appended to the report, in accordance with methods set out in the JNCC Handbook for Phase 1 Habitat Survey;
- the potential for protected and/or notable species and any requirements for specialist surveys e.g. breeding birds, bats, water vole. Where specialist surveys are required, the report should identify when these surveys will be undertaken;
- identify any ecological impacts as a result of ongoing use or future site use and suggest measures for avoidance and/or mitigation;
- identify opportunities to maximise the contribution of the proposed development to biodiversity in line with the biodiversity duty set out in Sections 40 and 41 of the Natural Environment and Rural Communities Act (NERC) 2006 and the NPPF;
- identify any invasive species list on Schedule 9 of the Wildlife and Countryside Act 1981 as amended, present on the site or within 7m of the site boundary. The location and extent of any invasive species should be shown on a scaled plan included with the survey report.

#### **Director's Comments:**

#### **REASON FOR REFERRAL TO PLANNING COMMITTEE**

Councillor Blakeley has requested this application be removed from delegation and considered by the Planning Committee on behalf of local residents, given concerns that the application will potentially have a detrimental effect on the amenity that residents who live in the ward would otherwise enjoy.

In addition, the application seeks variations to a Major Development and is therefore required to be considered by the Planning Committee under the Council's adopted Scheme of Delegation for Determining Planning Applications.

#### **INTRODUCTION**

This is not an application to extract clay. The proposal seeks a variation of a planning condition imposed on a previous grant of permission, reference APP/2001/6405/D. That permission in turn was an application to vary conditions which applied to an existing planning permission for clay extraction which had already been implemented. The original planning permission for clay extraction was granted in 1947, permission no. 6663, with 'modern' operating and restoration conditions being determined and applied in 1996 (under reference IDDOC/95/6338/D) as a result of legislation which required the imposition of such conditions to very old mineral extraction permissions.

The condition for which a variation is sought required the submission of restoration and aftercare schemes to the Mineral Planning Authority for its approval in writing within 10 years of the grant of permission APP/2001/6405/D (i.e. by 03/01/2012, since that permission was granted 03/01/2002). The variation sought would allow a further two years for the submission of restoration and aftercare schemes.

It should be noted that the existing permissions at the site permit the winning and working of materials at the site until 21 February 2042.

The existing wording for condition 28 to APP/2001/6405/D is:

*Within 10 years of the date of this determination or, in the event of an appeal being lodged against this determination, within 10 years of final determination restoration and aftercare schemes shall be submitted to the mineral planning authority for its approval in writing.*

*If schemes have not been submitted within the period specified in this condition the winning and working of mineral from the site shall cease until such time as schemes have been submitted. If schemes have not been approved by the mineral planning authority within six months of them having been submitted the winning and working of minerals shall cease unless and until an appeal against such failure to approve has been made to the Secretary of State and unless that appeal is still current and undecided. In such an eventuality the winning and working of minerals shall cease if the appeal is dismissed and it shall not recommence until schemes have been approved, except if part of the 10 year period in which schemes may be submitted remains unexpired, in which circumstance, the mineral extraction activity may continue for the unexpired period.*

**Reason:** *In the interests of proper site restoration and afteruse.*

The variation sought is to delay the requirement for a restoration scheme to be submitted for a further two years, i.e. by the date 3rd January 2014. The reworded condition might read:

*By no later than the 3rd January 2014 restoration and aftercare schemes shall be submitted to the mineral planning authority for its approval in writing.*

*If schemes have not been submitted by this specified date the winning and working of mineral from the site shall cease until such time as schemes have been submitted. If schemes have not been approved by the mineral planning authority within six months of them having been submitted the winning and working of minerals shall cease unless and until an appeal against such failure to approve has been made to the Secretary of State and unless that appeal is still current and undecided. In such an eventuality the winning and working of minerals shall cease if the appeal is dismissed and it shall not recommence until schemes have been approved, except if the date of 3rd January 2014 has not passed, in which circumstance, the mineral extraction activity may continue until that date.*

**Reason:** *In the interests of proper site restoration and afteruse.*

It should be noted that other conditions within the permission granted secure the subsequent implementation of the restoration and aftercare schemes (condition 29) and the scope of the restoration scheme (condition 30). Condition 29 requires that the restoration scheme referred to in condition 28 is carried out and completed within 2 years of the cessation of working or such other period as may be approved in writing by the mineral planning authority.

## **PRINCIPLE OF DEVELOPMENT**

The principle of the use of the land is established by the previous grants of permission, detailed in the above introduction to this report. The proposal seeks a variation of a planning condition imposed on a previous grant of permission, reference APP/2001/6405/D.

## **SITE AND SURROUNDINGS**

The application site is the majority of the site known as North Wirral Brickworks, though other parts of the quarry subject to later permissions are not included. The land has been worked for clay, and includes a number of un-restored clay workings supporting large water bodies; a series of buildings formerly used for brickworks; and a large former brick storage area. The site lies in the Green Belt, in close proximity to residential properties and the Birkenhead to West Kirby rail line. Meols Meadow SSSI is in close proximity to the north.

## **POLICY CONTEXT**

The application site at Carr Lane, in addition to land further to the north, is identified as a mineral reserve in Wirral's UDP under Policy MI1 – The Control of Clay Extraction. The policy outlines that the Local Planning Authority will control and monitor the extraction of clay within the Borough to ensure that any adverse environmental impact is minimized. The supporting text to the application notes that the Carr Lane site includes small amounts of winnable clay, with 23 hectares in active working or restoration, and a further 19 hectares reserved for future working.

The National Planning Policy Framework requires Minerals Planning Authorities, in preparing Local Plans and determining planning applications to ensure worked land is reclaimed at earliest opportunity and that high quality restoration and aftercare of the minerals site takes place to high environmental standards.

The proposal is not for additional working, rather it is for the variation of a condition which requires the submission of a restoration and aftercare scheme and would now prevent the winning and working of mineral from the site. The applicant's supporting letter outlines a rationale for delay of the submission of the scheme - i.e. in order that it would fully take into account the soon to be published Local Development Framework and Waste Development Plan (DPD). The logic as presented is not accepted as a clear rationale for the delay of submission of a restoration and aftercare scheme, and there is benefit to seeing such matters considered at the earliest opportunity. That said, it is not considered that there are reasonable grounds to refuse permission for a short (2 year) delay in the submission of a restoration scheme. No variation has been sought to those conditions which would require implementation of restoration works, so it is considered that restoration can still be secured at the earliest opportunity following the cessation of workings.

The grant of a variation also permits consideration of conditions imposed. During the ten years that have elapsed since the grant of planning permission in January 2002, it is considered that: environmental conditions on the site are likely to have changed substantially; the baseline information in the Environmental Statement has become outdated; regulatory changes have come into force, and; flood risk data has changed in the vicinity. These factors present a clear logic for the need to secure new ecological and environmental survey information for the site, to inform restoration and aftercare schemes. The permission granted in 2002 does not include a specific mechanism to secure such work - the grant of permission for a variation of condition 28 would present the opportunity to secure the completion and submission of important ecological and environmental surveys. A further condition, no. 63 is therefore proposed to secure appraisal information within 12 months, should permission be granted.

## **APPEARANCE AND AMENITY ISSUES**

It is not considered that there are amenity or appearance issues presented by the variation of condition sought.

## **SEPARATION DISTANCES**

The Council's adopted separation distances are not relevant in this instance, given the nature of the variation sought.

## **HIGHWAY/TRAFFIC IMPLICATIONS**

There are no significant highway safety or traffic management implications arising from the application. The Director of Technical Services (Traffic and Transportation Division) has raised no objection to the proposed variation.

## **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

There are no significant environmental/sustainability issues relating to this application.

## **HEALTH ISSUES**

There are no health implications relating to this application.

## **CONCLUSION**

The proposed variation does not conflict with the provisions of the NPPF or Unitary Development Plan Policy MI1, and it is not considered that there are reasonable grounds to refuse permission for a delay in the submission of a restoration and aftercare scheme.

### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national and regional policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed variation does not conflict with the provisions of the National Planning Policy Framework or Unitary Development Plan Policy MI1, and it is not considered that there are reasonable grounds to refuse permission for a delay in the submission of a restoration and aftercare scheme.

**Recommended Decision:**                      **Approve**

### **Recommended Conditions and Reasons:**

1.     The winning and working of minerals shall cease not later than 21 February 2042.  
**Reason:** In accordance with the Planning and Compensation Act 1991.
  
2.     No vehicles, plant or equipment shall be parked or stored on the site except those belonging to members of staff or associated with brick making, clay excavation, restoration operations, or aftercare operations on the site.  
**Reason:** To prevent inappropriate development in the green belt.
  
3.     All vehicles used for the transportation of clay from any part of the site to the on site brick manufacturing factory shall use internal site roads only and clay intended for that factory shall not be transported outside the site.  
**Reason:** In the interests of highway safety and residential amenities.
  
4.     Access to and from the site for all purposes connected with the winning and working of minerals, including restoration and operations and the removal of clay from the site shall be directly from Birkenhead Road only.  
**Reason:** In the interests of highway safety and residential amenities.
  
5.     Within six months of the date on which the new conditions are finally determined in accordance with the provisions in Section 22 and Schedule 2 of the Planning and Compensation Act 1991, a notice board shall be erected at the site entrance with Birkenhead Road, indicating the name and telephone number of the operating company and representative of the operators

The notice board shall be maintained in sound and legible condition throughout the period of working, restoration and aftercare.

**Reason:** In the interests of safety and site monitoring.

6. Water from the site shall be discharged into approved settlement ponds before discharging into any ditch, stream, watercourse or culvert outside the site. From the commencement of the development until restoration of the site, mud and silt must be removed from the settlement ponds to avoid reducing their capacity for retaining water.

Facilities shall be made available in order to provide extra treatment where necessary (eg addition of coagulant) and shall be used so that any discolouring effect of the discharges is controlled to a level acceptable to the mineral planning authority.

Upon cessation of mineral extraction, all settlement ponds shall be emptied and filled with dry, inert material of a type to be agreed beforehand in writing by the mineral planning authority unless the ponds are to be retained as part of the approved restoration scheme for the site.

**Reason:** To prevent pollution of watercourses and ground water.

7. Before any further winning and working of minerals takes place the signs shown on submitted drawing 000/003/A2C concerning directions for vehicular traffic shall be erected and shall be retained until the completion of restoration of the site. Details of the size of the signs shall be submitted to and approved in writing by the mineral planning authority before they are erected. Letters on the signs shall have a minimum height of 50mm. and the signs shall contain a border around the outside of the words of 75mm. minimum width. No sign shall be erected less than 1 metre above ground level and shall not exceed a total height of 2.5 metres above ground level.

**Reason:** In the interests of highway safety.

8. A minimum of 8 metres of unexcavated land shall be left undisturbed around the perimeter of the site where it adjoins:

(a) Carr Lane and

(b) Any areas of land that have not been the subject of mineral extraction.

**Reason:** To provide space for remedial works and gas monitoring boreholes and to protect existing hedges.

9. A minimum distance of 50 metres shall be maintained between any dwelling and the nearest mineral extraction area.

**Reason:** To protect residential amenities.

10. The maximum depth of extraction shall be 12 metres below ordnance datum, as indicated on the applicant's submitted plan No 333/109.

**Reason:** For the avoidance of doubt and in accordance with the proposals made by the applicant.

11. Parking, loading and unloading shall only take place in the areas referred to in submitted drawing no. 000/003/A2C.

**Reason:** In the interests of amenity and proper site operation.

12. Notwithstanding Part 19 of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), planning permission shall be required under Part III of the Town & Country Planning Act 1990 for the erection, or siting of any building, plant or machinery or structure or erection of the nature of plant and machinery.

**Reason:** To enable the mineral planning authority to retain control over potentially intrusive development in the green belt.

13. Stockpiles of mineral shall not be located within areas 10, 11 and 12 as shown in submitted plan 000/003/A2C and any stockpiles shall be no higher than the nearest unexcavated land or perimeter screen mounds if the stockpiles are closer to such mounds. For the avoidance of doubt the term mineral in the context of this condition excludes top soil or subsoil.

**Reason:** In the interests of visual amenity.

14. No topsoil or subsoil shall be removed from the site.

**Reason:** To preserve any suitable remaining on site materials for site restoration.

15. Save for pumping operations which may be necessary in connection with operations required by condition 6 operations authorised by the planning permissions and this determination, including the movement of heavy vehicles and plant within the site and heavy goods vehicles and plant entering and leaving the site shall be restricted to the following periods:-

07.00 to 19.00 hours Monday to Fridays  
07.00 to 13.00 hours Saturdays

Maintenance, servicing and testing of plant and vehicles required in the operation of the site shall be restricted to the following periods:-

06.30 to 19.30 hours Mondays to Fridays  
06.30 to 17.30 hours Saturdays

No operations or maintenance, servicing and testing of plant and vehicles shall take place outside these hours or on Sundays or Public Holidays except with the prior written approval of the mineral planning authority.

**Reason:** To protect nearby residents from excessive noise.

16. No landscape earthworks authorised by this determination within 8 metres of the site perimeter shall be carried out except between the hours of 08.30 and 17.00 Mondays to Fridays inclusive, unless otherwise agreed in writing with the mineral planning authority. No landscape earthworks shall take place on Saturdays, Sundays, Bank or Public Holidays.

**Reason:** To protect nearby residents from excessive noise.



17. The base of all storage mounds shall be located a minimum distance of four metres away from any existing hedge or tree on the perimeter of the site.

**Reason:** To protect existing hedges and trees.

18. Existing wheel cleaning equipment shall be maintained and shall remain positioned in its existing location shown on Working Plan No. 000/003/A2C.

**Reason:** In the interests of highway safety.

19. All heavy goods vehicles leaving the site shall have their wheels cleaned by the equipment referred to in condition 18 or such other equipment as may be approved by the Mineral Planning Authority.

**Reason:** In the interests of highway safety.

20. At all times when the site is operational, a water bowser or similar for the suppression of dust on all internal roads and areas crossed by heavy goods vehicles and plant shall be available within the site and shall be kept in full working order. The equipment shall be used as may be necessary to water areas within the site, so as to prevent the raising of dust.

**Reason:** To minimise the nuisance from dust.

21. Any existing internal roads shall be maintained and kept suitably hard surfaced with quarried limestone, brick hardcore, furnace slag, crushed concrete, tarmac or other materials agreed beforehand in writing with the Mineral Planning Authority. Any new internal roads shall be similarly treated before they are brought into use.

**Reason:** To minimise the nuisance from dust.

22. Noise levels from soil replacement or baffle mound formation, shall not exceed 70 dBL Aeq (1 hour) (freefield) measured at 1 metre from the facade of any house. Such operations shall not exceed a total of 8 weeks in any 12 month period and shall only take place between 08.30 and 17.00 hours Monday to Friday.

**Reason:** To protect nearby residents from excessive noise.

23. Other than those operations and restrictions referred to in condition 22 noise from the operations and any associated activities shall not exceed the following level when measured at 1 metre from the facade of any house:-

55 dBL Aeq (1 hour) (freefield) between

08.00 and 19.00 hours Mondays to Fridays and  
08.00 and 13.00 hours Saturday

**Reason:** To protect nearby residents from excessive noise.

24. Between 06.30 and 08.00 hours and between 19.00 and 19.30 hours Monday to Friday and on Saturday between 06.30 and 08.00 hours and between 13.00 and 17.30 hours noise from the operations and any associated activities shall not exceed the following (measured as 1 hour Leq):-

a) 47 dBA at the nearest house in Cardus Close.

b) 53 dBA at any point 30 metres to the east of the site boundary to the north of the brickwork buildings.

c) 48 dBA at the nearest house in Barn Hey Crescent.

**Reason:** To protect nearby residents from excessive noise.

25. All hedges and trees on the perimeter of the site shall be retained.

**Reason:** To protect trees and hedges.

26. By no later than the 3rd January 2014 restoration and aftercare schemes shall be submitted to the mineral planning authority for its approval in writing.

If schemes have not been submitted by this specified date the winning and working of mineral from the site shall cease until such time as schemes have been submitted. If schemes have not been approved by the mineral planning authority within six months of them having been submitted the winning and working of minerals shall cease unless and until an appeal against such failure to approve has been made to the Secretary of State and unless that appeal is still current and undecided. In such an eventuality the winning and working of minerals shall cease if the appeal is dismissed and it shall not recommence until schemes have been approved, except if the date of 3rd January 2014 has not passed, in which circumstance, the mineral extraction activity may continue until that date.

**Reason:** In the interests of proper site restoration and afteruse.

27. The restoration scheme referred to in condition 26 shall be carried out and completed within 2 years of the cessation of working or such other period as may be approved in writing by the mineral planning authority during consideration of the restoration scheme referred to in condition 26.

**Reason:** In the interests of proper site restoration and afteruse.

28. The restoration scheme referred to in condition 27 shall provide for the restoration of the whole of the area subject to the scheme and shall include the following:-

(a) final levels and gradients in the form of contour lines on which the final restoration and afteruse shall take place.

(b) locations and depths of any water areas which may form part of the final restored site.

(c) details of the use of soils and soil making materials, depth and nature of topsoil and subsoil and handling methods for soil movement.

(d) details of the type of vegetation (including numbers of species of trees, shrubs and other plants and grass and hedgerow seed mixes) over all areas not to be permanent water features.

(e) details of the afteruse of all parts of the site.

- (f) the location and composition of any hedges and the location and type of any fences.
- (g) the soiling of all areas which are not designed to be permanent water areas.
- (h) preparation of the land for cultivation.
- (i) details of the measures to be taken to protect any water areas designed to form part of the restored site from pollution by any existing waste material that has previously been deposited on the site of this application.

**Reason:** In the interests of proper site restoration and afteruse.

29. Stockpiles consisting solely of subsoil shall not exceed 4 metres in height.

**Reason:** To prevent damage and degradation of restoration materials.

30. Top soil and subsoil shall not be stored in the same stockpile except in the following circumstances:-

- a) the stockpile shall be no more than 4 metres in height.
- b) only subsoil shall occupy the bottom 2 metres of any such stockpile.
- c) any topsoil shall be stored separately from and above the subsoil.
- d) before the placement of any topsoil on the subsoil comprising any stockpile the mineral planning authority shall be given at least 14 days notice in writing to enable it to inspect the stockpile.

**Reason:** To prevent damage and degradation of restoration materials.

31. Except in the circumstances set out in condition 30 topsoil shall be stored in a stockpile separate from any other material and stockpiles shall not exceed 2 metres in height.

**Reason:** To prevent damage and degradation of restoration materials.

32. The surface of any subsoil, topsoil or subsoil/topsoil stockpiles shall be seeded with a leguminous seed mixture, details of which shall be submitted to and agreed in writing by the Mineral Planning Authority before the formation of any stockpiles. Seeding shall take place within six months of deposition of the stockpile to the satisfaction of the Mineral Planning Authority.

**Reason:** To prevent damage and degradation of restoration materials.

33. The soil stockpiles shall only be located in the areas indicated on drawing no. 000/003/A2C and shall have side slopes no steeper than 1 in 1.

**Reason:** To prevent damage and degradation of restoration materials.

34. Plant and vehicles shall not cross or rest on areas of deposited topsoil or subsoil except for the purpose of working the soil in accordance with the aftercare plan.

**Reason:** To prevent damage and degradation of restoration materials.

35. The movement of topsoil and subsoil shall only be carried out when the material to be moved is sufficiently dry to minimise structural damage and only in dry weather conditions and in any event only between April and September.

**Reason:** To prevent damage and degradation of restoration materials.

36. For the purposes of this determination the permanent cessation of the winning and working of minerals shall mean not carrying out any mineral extraction for a period of 10 years from any location within the areas subject to the determination of conditions in applications IDDOC/95/6338/D and EADOC/97/6665/D.

**Reason:** In the interests of proper site restoration and afteruse.

37. Without prejudice to the requirements of conditions 26 and 27 in the event that the winning and working of minerals permanently ceases before the date specified in condition 1 without the full depth of mineral having been excavated, schemes of restoration and aftercare, which shall include the matters referred to in conditions 28 and 38, shall be submitted within 12 months of permanent cessation for the written approval of the mineral planning authority. Within 2 years of the written approval of the schemes by the mineral planning authority or any schemes which are approved on appeal by the Secretary of State or imposed by the mineral planning authority (or such other period as may be approved in writing by the mineral planning authority) the whole site shall be restored in accordance with the approved or imposed scheme. In the event of schemes being submitted to but not approved by the mineral planning authority and where no appeal is made against such non approval the mineral planning authority shall impose schemes. Afteruse of the site in accordance with the approved or imposed scheme shall take place immediately following completion of restoration.

**Reason:** In the interests of proper site restoration and afteruse.

38. The restoration and aftercare schemes referred to in conditions 26 and 37 shall include details of the management of restored soils; (including fertiliser type, rates, method and timing of application); planting and maintenance of vegetation and drainage patterns for a five year aftercare period; provision of a proper means of surface water and soil drainage; a programme of work.

**Reason:** In the interests of proper site restoration and afteruse.

39. Restoration of the site shall not involve the use of any imported controlled waste other than that which is already on the site and not the subject of the enforcement notice issued on 2nd November 1989 nor shall it involve the filling of any existing or future voids with controlled waste already on the site, unless a separate planning permission is granted for such operations. For the avoidance of doubt, in this context 'the site' means the area subject of this application - ie the areas subject of Interim Development Order permission no. 6663.

**Reason:** In the interests of proper site restoration and afteruse.

40. Details of the type and amount of any imported materials to be used in the restoration of the site shall be provided as part of any restoration scheme. For the avoidance of doubt, (i) such materials cannot include any controlled waste (see condition 39) and (ii)

'restoration' has the meaning given to the word in Minerals Planning Guidance (MPG) 14 paragraph 115.

**Reason:** In the interests of proper site restoration and afteruse.

41. All soil materials used for restoration shall be free of stones greater than 150mm diameter and other deleterious materials.

**Reason:** In the interests of proper site restoration and afteruse.

42. No further work shall take place nor shall any vehicle, plant or equipment enter or be placed or allowed to remain on an area after it has been restored without the prior written agreement of the Mineral Planning Authority unless it is needed in connection with the maintenance of the area or the approved afteruse.

**Reason:** In the interests of proper site restoration and afteruse.

43. All plant associated with the excavation of clay shall be removed from the site on completion of clay extraction, unless it is required for the restoration of the site.

**Reason:** In the interests of proper site restoration and afteruse.

44. The approved aftercare scheme(s) shall be implemented immediately following the completion of the relevant restoration scheme.

**Reason:** In the interests of proper site restoration and afteruse.

45. Unless previously agreed in writing by the Mineral Planning Authority, upon permanent cessation of mineral extraction all haul roads/access roads/areas of hardstanding created in connection with the development subject of Interim Development Order permission no. 6663 and this determination shall be broken up and removed from the site and the land restored in accordance with the approved scheme(s).

**Reason:** In the interests of proper site restoration and afteruse.

46. For the avoidance of doubt with the exception of the extraction depth referred to in Condition 10 none of the proposals contained in the submitted plans 333/101 to 125 or the submitted reports entitled 'Quality Assessment of Land Use, Restoration and Afteruse Proposals', 'Carr Lane Wildlife Reserve and Community Woodland Management Plan' or the document attached to Cass Associates letters of 27th January 1995 are approved for the purposes of this determination.

**Reason:** In the interests of proper site restoration and afteruse.

47. All mobile fuel tanks shall incorporate an inner fuel holding tank and an outer bund tank of capacity at least equal to 110% of the inner tank. All filling points, vents, gauges and sight glasses shall be located within the bund.

Oils, chemicals and greases shall be placed in a secure store and kept within the manufacturer's container.

**Reason:** To prevent pollution of watercourses and groundwater.

48. This determination relates to the area granted permission under interim development order permission no. 6663 on 8th July 1947, this area being edged red on the plan endorsed 'approved' with Hoylake Urban District Council's stamp. In so far as it refers to the area subject of the interim development order permission, plan no. 000/003/A2C shall form part of this determination.

**Reason:** For the avoidance of doubt.

49. Within six months of the date of this determination, or within six months of the recommencement of mineral extraction operations whichever is later a scheme for the disposal of all surface, ground and foul water arising within the site shall be submitted to, and for the approval of, the Mineral Planning Authority. Such a scheme shall be designed so as to avoid the contamination of surface and ground waters outside the site, and shall include details of the design and capacity of all settling ponds, drains, outfalls and sluices.

**Reason:** To ensure that drainage and settlement provision is adequate to avoid contamination of surface and ground waters, and in particular that the nearby Meols Meadows SSSI is not affected.

50. Within six months of the date of this determination, or within six months of the recommencement of mineral extraction operations whichever is later a scheme for the monitoring of surface water flow and quality from the site shall be submitted to, and for the approval of, the Mineral Planning Authority. Such a scheme shall include details of the measurements to be taken, and the frequency of monitoring.

**Reason:** To monitor the levels and quality of surface and ground waters

51. Within six months of the date of this determination, or within six months of the recommencement of mineral extraction operations whichever is later a scheme for the monitoring of ground water levels and quality shall be submitted to, for the approval of, the Mineral Planning Authority. Such a scheme shall include:

- a. the locations of monitoring boreholes along the northern margins of Areas 2 and 10, and within Area 1, as shown on Drawing 000/003/A2C;
- b. the measurements to be taken and the frequency of monitoring.

**Reason:** To monitor the levels and quality of surface and ground waters.

52. The drainage scheme approved under Condition 49 above shall be implemented within one month of its approval, and maintained throughout the operation of the site, unless revised proposals are approved in writing by the Mineral Planning Authority under condition 55 below.

**Reason:** To ensure that the approved drainage, surface water and ground water drainage and monitoring schemes are implemented and amended as appropriate.

53. Notwithstanding the generality of Condition 52 above, the details of final restoration of any part of the site required by Conditions 26 and 27 shall include provision for any necessary amendments to the drainage scheme which arise as the site is restored.

**Reason:** To ensure that the approved drainage, surface water and ground water drainage

and monitoring schemes are implemented and amended as appropriate.

54. The surface and ground water monitoring schemes approved under Condition 50 and 51 above shall be implemented throughout the operation of the site, unless otherwise agreed in writing beforehand by the Mineral Planning Authority. The results of the monitoring schemes shall be submitted to the Mineral Planning Authority within twenty eight days of each measurement being carried out.

**Reason:** To ensure that the approved drainage, surface water and ground water drainage and monitoring schemes are implemented and amended as appropriate.

55. In the event that the results of the ground water and surface water monitoring schemes approved under Conditions 50 and 51 above indicate that the operation of the site is likely to harm the nature conservation interests of the nearby Meols Meadow SSSI due to the quantity of water disposed of, then:

- a. a revised drainage scheme shall be submitted to the Mineral Planning Authority to replace the scheme approved under Condition 49 above; and
- b. the revised drainage scheme shall be implemented within one month of its approval in writing by the Mineral Planning Authority.

**Reason:** Surrounding the site in order that potential impacts on Meols Meadow SSSI arising from the development can be identified, assessed and where appropriate incorporated into the design of the final restoration scheme for the site.

56. Within six months of the date of this determination, or before excavation proceeds below 0m. Ordnance Datum (whichever the sooner) the applicant shall submit records of boreholes constructed and logged in accordance with BS5930, at not more than 150 metres spacing around the periphery of the proposed clay extraction area (unless revised proposals are approved in writing by the Mineral Planning Authority) in order to prove the nature of the ground and the groundwater conditions therein.

The depth of these boreholes shall be adequate to provide the information necessary to carry out geotechnical analysis demonstrating stability of the base and sides of the proposed excavation.

Piezometers shall be installed in all individual sand and gravel or sandstone layers encountered in such boreholes, and the sections of open borehole between the piezometers shall be sealed to prevent leakage of water between geological layers unless revised proposals are approved in writing by the Mineral Planning Authority.

**Reason:** To prove the existence of the clay mineral to the depths proposed to be worked (mineral cannot be worked where it does not exist).

57. Once installed, the piezometers shall be protected against damage or interference and subject to monthly water level monitoring to be submitted to the Mineral Planning Authority within 15 weeks of each set of readings, unless revised proposals are approved in writing by the Mineral Planning Authority.

If any of the monitoring piezometers is lost or damaged rendering it inoperable, it must be replaced within ten weeks of the damage or loss.

**Reason:** To prove the existence of the clay mineral to the depths proposed to be worked. (Mineral cannot be worked where it does not exist).

To provide ground water and geological information fundamentally required to assess the practical geotechnical stability of the site, in particular the stability of the excavation sides and the ability of residual superficial deposits to resist basal heave caused by groundwater pressure in the underlying strata.

This information will also provide essential information required for the planning and assessment of the feasibility of restoration proposals (see conditions 59 and 60).

58. No waste or restoration materials other than topsoil or subsoil in accordance with the Interdepartmental Committee on the Redevelopment of Contaminated Land Guidelines 59/83 for Parks, Playing Fields and Open Space shall be imported to the site until a restoration scheme has been agreed with the Mineral Planning Authority.

**Reason:** To protect water resources.

59. No restoration scheme shall incorporate a water body with a top water level above the base of the existing waste deposits in or beneath the adjoining land affected by the Enforcement Notice referred to on drawing 333/109 unless hydraulic isolation from those wastes can be demonstrated to the written satisfaction of the mineral planning authority as advised by the Environment Agency.

**Reason:** To protect water resources.

60. There shall be no deposit of waste or restoration materials direct into Controlled Waters and controlled waste or leachate from it must not come into contact with groundwater, unless hydraulic isolation from those waters can be demonstrated to the written satisfaction of the Mineral Planning Authority as advised by the Environment Agency.

**Reason:** To protect water resources.

61. Within 12 months of the date of this decision, an Ecological Appraisal shall be submitted to the mineral planning authority for its approval in writing.

For the avoidance of doubt, the Ecological Appraisal shall include the following matters:

- a desktop study and consultation with Cheshire rECOrd to identify any records for protected and/or notable species, sites and habitats on or within 2km of the site;
- an Extended Phase 1 Habitat survey to identify the habitats present on and adjoining the site, with maps and target notes appended to the report, in accordance with methods set out in the JNCC Handbook for Phase 1 Habitat Survey;
- the potential for protected and/or notable species and any requirements for specialist surveys e.g. breeding birds, bats, water vole. Where specialist surveys are required, the report should identify when these surveys will be undertaken to inform the restoration and aftercare of the site;
- identify any ecological impacts as a result of ongoing use or future site use and suggest measures for avoidance and/or mitigation;
- identify opportunities to maximise the contribution of the proposed development to biodiversity in line with the biodiversity duty set out in Sections 40 and 41 of the Natural Environment and Rural Communities Act (NERC) 2006 and the NPPF;



- identify any invasive species list on Schedule 9 of the Wildlife and Countryside Act 1981 as amended, present on the site or within 7m of the site boundary. The location and extent of any invasive species should be shown on a scaled plan included with the survey report.

If an Appraisal has not been submitted by this specified date the winning and working of mineral from the site shall cease until such time as an Appraisal has been submitted. If the Appraisal has not been approved by the mineral planning authority within six months of it been submitted, the winning and working of minerals shall cease unless and until an appeal against such failure to approve has been made to the Secretary of State and unless that appeal is still current and undecided. In such an eventuality the winning and working of minerals shall cease if the appeal is dismissed and it shall not recommence until an Appraisal has been approved, except if the date is still within 12 months of the date of this permission, in which case the mineral extraction activity may continue until that date.

**Reason:** In the interests of ensuring appropriate updated ecological and environmental information, to update the Environmental Statement to APP/2001/6405/D and inform the restoration and aftercare of the site, having regard to UPD Policies NC01, NC4 and NC7, and the National Planning Policy Framework.

**Last Comments By:** 02/02/2012 12:20:34

**Expiry Date:** 19/03/2012