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| Local Member | |
| Mr. R. Ford | Tamworth - Watling South |

Planning Committee 3 December 2020

Minerals County Matter

Application No (District): [T.18/03/905 MW](#) (Tamworth)

Applicant: Forterra Building Products Limited

Description Application to vary planning permission T.13/03/905 MW (as amended) to allow the supply of clay from the clay stock yard to the factory between the hours of 0700 to 1900 Monday to Friday, 0700 to 1900 on Saturdays and Sundays and the associated erection of an acoustic fence under planning permission [T.13/03/905 MW](#).

Location: Wilnecote Quarry, Hedging Lane, Wilnecote, Tamworth.

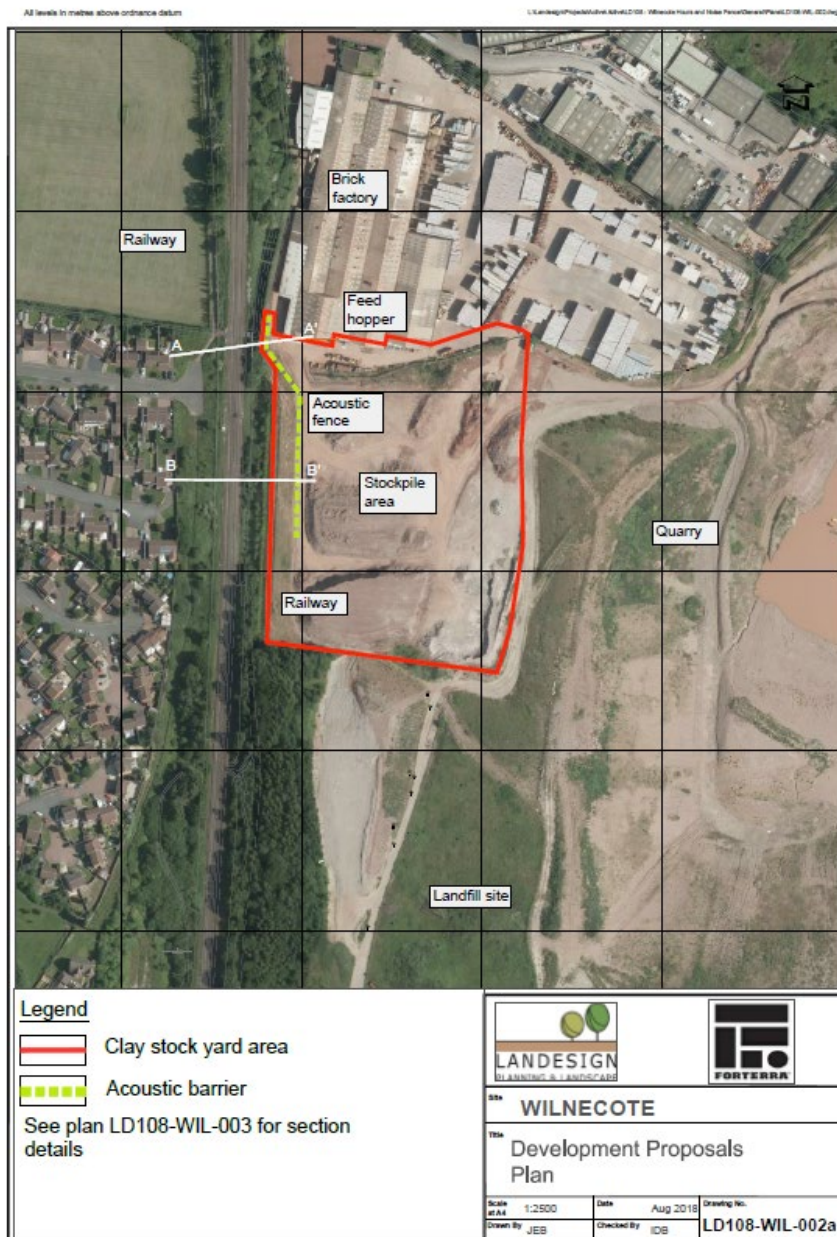
Background/Introduction

1. The extraction of clay and restoration by the importation of waste has been taking place in this location for a number of years. The applicant has confirmed that clay extraction commenced in the late 1940s. The quarry is operated in conjunction with Biffa Waste Services Limited (landfilling).
2. The current planning permission states the winning and working of mineral, landfill operations and restoration should be completed by 31 December 2035.
3. Planning permissions for the importation and stocking of clay for use in brick making were granted in March 2019 (ref. [T.18/01/905 MW](#)) and for an eastern extension in April 2019 (ref. [T.16/02/905 MW](#)).

Site and Surroundings

4. Wilnecote Quarry is located approximately 3.5 kilometres south of the centre of Tamworth, to the east of Dosthill and to the south-west of Hockley (shown on Plan 1). Access for the clay extraction operation is from the associated brickworks on Hedging Lane adjacent to the brickworks.
5. The quarry is bounded to the west by the Birmingham-Derby railway line, to the north by the company's brickworks, an Industrial Estate (Hedging Lane Industrial Estate) and residential properties; and to the east by agricultural land. To the south the boundary is formed by Rush Lane which also delineates the County boundary with Warwickshire at this point. 'Kingsley Brickworks' lies to the south of Rush Lane (operated by Weinerberger).

6. The clay stock yard is located to the northwest of the quarry (to the south of the brickworks). The use of this area is covered by planning permission [T.13/03/905 MW](#). The nearest residential properties to the stock yard area are located to the west and separated by the railway line.



Plan showing the brickworks, the stock yard area (edged in red) and the acoustic fence (dashed yellow line) [submitted with the application].



Photograph showing the view across the quarry from the east towards the stock yard, the brickworks, the railway line and the houses to the north and northwest.



Photographs showing the stock yard and bund(left) and the brickworks and stock yard (right).

Summary of Proposals

7. The applicant initially proposed to move clay from the stock yard area to the adjacent factory between the hours of 0600 and 2300 seven days a week. The applicant later advised there were “some modifications to the internal plant process philosophies” and this resulted in the applicant amending the proposals to 0700 to 1900 Monday to Friday, 0700 to 1900 on Saturdays and Sundays.
8. The operating hours at the quarry are set out in Condition 14 of planning permission and the text highlighted in **bold** shows the restrictions for the movement of clay from the stock yard area to the brickwork:

No permitted operations shall take place within Wilnecote Quarry other than between the following hours:

- a) **the winning and working of minerals (including all stockpiling activities):**
 - **0800 to 1800 Monday to Friday**

- **0900 to 1300 on Saturdays**

No such activities shall be carried out on Sundays, Bank or Public Holidays;

b) landfill and final restoration operations:

- 0730 to 1800 Monday to Friday
- 0800 to 1200 on Saturdays

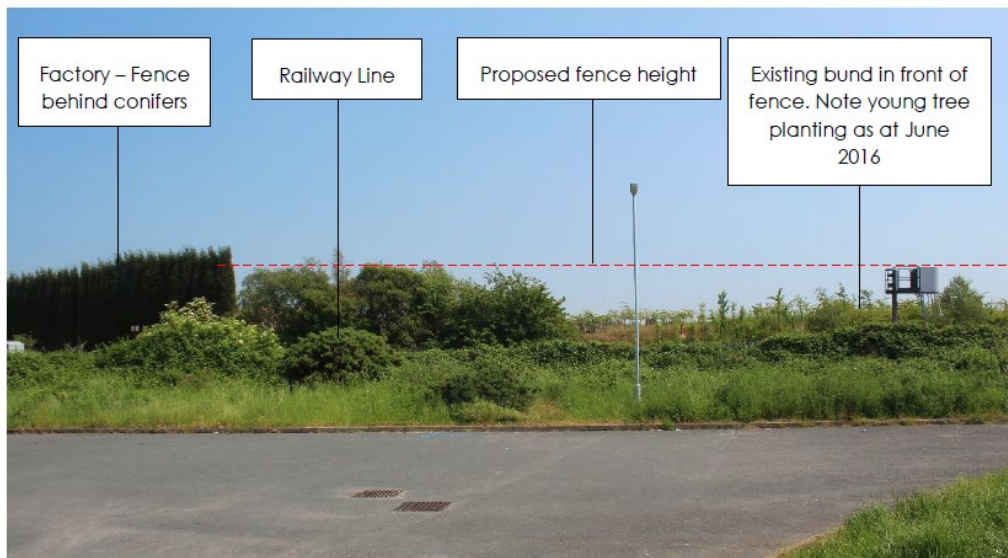
except on Saturdays immediately before or after a Bank Holiday when landfill operations shall take place between the hours 0800 to 1500.

c) **no permitted operations shall take place within 150 metres of any residential property except between the following hours:**

- **0800 to 1800 Monday to Friday**
- **0800 to 1200 on Saturdays.**

Note: there are properties within 150 metres of clay stock yard (to the west, separated by the railway line).

9. The proposed additional hours for the movement of clay from the stock yard to the brickworks are therefore:
 - 0700 to 0800 and 1800 to 1900 Monday to Friday;
 - 0700 to 0800 and 1200 to 1900 on Saturdays; and,
 - 0700 to 1900 on Sundays
10. No conditions are included on the planning permissions for the brickworks /'factory' which specify the operating hours.
11. The applicant is not applying to amend any of the other operations at the quarry including clay extraction and also the movement of clay from the quarry to the stock yard area.
12. The acoustic fence to provide noise mitigation would be located along the western boundary of the quarry adjacent to the brickworks. This fence would be up to 75 metres AOD and would be 130m in length. Due to the nature of the stock yard floor (lower in the north), the acoustic fence at the southern end would be 5.5 metres in height and the northern end of the fence would be approximately 8.5 metres in height.
13. A tree planted bund is also located along the western boundary which screens the quarry from residential properties on Cadogan Road. The height of the bund is approximately 73 metres AOD at its northern end but increases to 74 metres AOD at its southern end.



View towards Wilnecote Quarry from Cadogan Road shown on Plan 1 indicating the height of the acoustic fence (submitted in the Planning Statement (Figure 1)).

14. The application is accompanied by documents and plans including:

- Planning Statement
- Noise Report
- Development Proposals Plan
- Elevations and Section details

The Applicant's Case

15. The applicant has stated the change of hours for the supply of clay to the brickworks is to assist in a drive to supply the increasing national demand for housebuilding bricks between 2019 and 2022. The additional hours would allow clay to be fed into the factory for a longer period throughout the day than is currently permitted.
16. The applicant has indicated that maintaining a steady and adequate supply of bricks accords with the NPPF and various development plan documents and whilst an increase in hours is necessary, taken as a whole the proposals make a positive and significant contribution to sustainable economic development.
17. The applicant concludes that “the proposals comply with the development plan and national policy and there is also a proven policy need for more bricks to achieve the increased housing provision that the government is seeking to address in its national policies. Accordingly, the proposals fit with the requirements of paragraph 11 of the NPPF and should be granted planning permission”.

Relevant Planning History

18. Clay extraction has taken place at Wilnecote Quarry since the 1940s and planning permission was granted for the brickworks /'factory' in the 1960s. A summary of the relevant planning permissions is listed in [Appendix 1](#).

Environmental Impact Assessment (EIA)

19. As the proposed development (falls within / could fall within) the applicable thresholds and criteria for screening for EIA development (ref. Schedules 1 and 2 to the [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017](#)), the County Council has issued a "Screening Opinion" which concluded that the proposed development is not EIA development and therefore the planning application need not be accompanied by an Environmental Statement (ref: [SCE.250/T.18/03/905 MW](#) dated 8 October 2018).

Findings of Consultations

Internal

20. The Environmental Advice Team (EAT) no objections, subject to conditions to require a review of the existing landscaping within 6 months of the decision with any gapping up identified and to be planted in the first available planting season. The EAT noted there is no public rights of way crossing the site and there were no Historic Environment comments.
21. The Planning Regulation Team – no objection to the proposal following the submission of additions elevations. The Planning Regulation Team have confirmed that no complaints have been received since December 2018 (a concern about flooding).
22. The County Council's Noise Engineer is satisfied following the submission of supporting information including detailed noise calculations, that noise from the site operations could be undertaken to ensure the noise limit of 45 dB LAeq,1hr would not be exceeded.

External

23. Tamworth Borough Council - no response
24. Network Rail – no objection subject to:
- the acoustic fence being set back at least 1 metre from the railway boundary;
 - all foundations and construction and maintenance works must be undertaken from the applicant's land, and
 - as the fence is between 5.5m and 8.5m in height, the wind loading, construction, maintenance, excavation and foundation details as well as a 'RAMS' should be submitted to Network Rail.
25. Tamworth Borough Council Environmental Health Team has no objection following the proposal amendments to the hours.
26. Western Power (WPD) - WPD Electricity /WPD Surf Telecom provided information about apparatus in the vicinity of the proposed works

Publicity and Representations

27. Site notice: YES Press notice: NO

28. 88 neighbour notification letters were sent out and 11 representations have been received. The concerns raised in representations are summarised below:
- Excessive volume of traffic;
 - The changes in hours would exacerbate the existing noise and dust issues;
 - Excessive noise during early morning and evening due to vehicles, the use of machinery including reversing alarms/'bleepers';
 - Excessive working hours, pollution and noise from the companies within the industrial estate (Hedging Lane Industrial Estate)
 - Increase in traffic over 7 days a week;
 - The proposed noise barrier would not prevent dust being emitted over the longer hours;
 - Impact on housing development;
 - The acoustic fence would not stop noise from the plant;
 - No details provided how noise be monitored and controlled at weekends;
 - Noise would be unacceptable during Saturday afternoons and Sundays;
 - The noise barrier will not provide any mitigation for properties/ residents on 'Nimbus' (to the southern area of the stockpiles) and noise calculations have not been provided;
 - There needs to be a balance between commercial interests and residents;
 - Impact of employees from the factory changing shifts;
 - Odours/smells from the factory.

The development plan policies (and proposals) and the other material planning considerations relevant to this decision

29. National Planning Practice Guidance – Determining planning application - [How must decisions on applications for planning permission be made?](#) explains that:

'To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at [paragraph 11 \[not 14 as stated\] of the \[National Planning Policy\] Framework](#). If decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.'

30. [Appendix 2](#) lists the development plan policies (and proposals) and the other material planning considerations, relevant to this decision.

Observations

31. Having given careful consideration to the application and supporting information, including the information subsequently received, the consultee comments and the representations received the relevant development plan policies and the other material considerations, referred to above, the key issues are considered to be:

- Any material changes to the site, its surroundings or in terms of development plan policy considerations
- The site-specific development plan policy considerations and the matters raised by consultees and in representation including Green Belt;
- The need to review and update the planning conditions

Any material changes to the site, its surroundings or in terms of development plan policy considerations

32. Mineral extraction has taken place at this location since the 1940s. It was concluded in 2015 when the most recent planning application in relation to this part of the quarry to amend of approved quarry development drawings was determined that:

‘that the proposals accord with the relevant planning policies and guidance referred to above and can be adequately controlled and mitigated through the imposition of the previous conditions, updated as necessary’....

and

‘...that planning permission should be granted subject to planning conditions similar to those previously imposed, updated where necessary. It was also concluded that there is no need to carry forward the undertakings in the existing Section 106 legal agreement’.

33. Commentary: Since 2015 mineral extraction has continued, there has been a number of planning permissions granted at the site including an extension to the quarry (see [‘Relevant Planning History’](#)) and there have been a number of changes to the Development Plan and other material planning policy considerations. These include:

- the [‘National Planning Policy Framework’](#) (NPPF) published in 2012 and later updated (most recently in February 2019);
- [Tamworth Borough Council Local Plan](#) (adopted February 2016);
- the [Mineral Local Plan for Staffordshire](#) (MLP) was adopted in February 2017; [A [partial review of the Minerals Local Plan for Staffordshire](#) to check conformity with the revised National Planning Policy Framework also took place in February 2019], and;
- the [Planning Practice Guidance](#) (PPG) has been updated, the most recent update was in October 2019.

34. A planning permission was granted in 2019 for an eastern extension to the existing clay quarry with associated restoration. However, the planning permission boundary does not include the stock yard area (see Planning Application plan ([dwg No LD57-WIL-009](#))).

35. Section 17 of the NPPF advises:

‘It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since

minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation'. (Paragraph 203).

36. Paragraph 208 of the NPPF states that:

‘Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:

- a) co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes;
- b) encouraging safeguarding or stockpiling so that important minerals remain available for use;
- c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment [25 years for brick clay]; and
- d) taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made’.

37. The NPPF states that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy and when considering proposals for mineral extraction, and minerals planning authorities should:

- ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties (paragraph 205 (b)); and,
- provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions (paragraph 205 (e)).

38. The [Mineral Local Plan for Staffordshire](#) (MLP) was adopted in February 2017 and a partial review took place in 2019. The review concluded that the policies in the Minerals Local Plan conform with the revised NPPF and therefore they continue to carry weight in the determination of planning applications for mineral development.

39. Paragraph 3.7 of the Minerals Local Plan for Staffordshire also confirms the need for stock yards associated with clay working.

‘Clay workings tend to be long term operations and may involve simultaneous workings at different parts of a site to ensure that the correct blend of clays is achieved. Clay working will take place in campaigns rather than on a continuous basis and prior to delivery to the manufacturing plant, there will be a need for the excavated clay to be weathered prior to blending. This requires the creation of stockpiles, often within the quarry, and can involve the blending of material from other sites e.g. other clays and sands’

40. Policy 4.1 of the MLP requires consideration to be given to the impact of proposal for mineral development on people, local communities and the environment. For example, the following environmental considerations should be taken into account:

- 'a) Noise....
- c) Visual amenity....
- e) Traffic on the highway network;
- f) Public rights of way and public open space;
- h) The countryside;
- i) Landscape....
- j) Natural environment....'

41. Policy 4.2 of the MLP states that:

'Where unacceptable adverse effects cannot be avoided, adequate mitigation should be demonstrated. As a last resort, where unacceptable adverse effects cannot be avoided or adequately mitigated, compensatory measures will be taken into account'.

42. Policy 4.3 of the MLP seeks to ensure when assessing the impacts of the proposals for mineral development and the mitigation and/ or compensatory measures:

'...permission will only be granted where it has been demonstrated that there are no unacceptable adverse impacts on human health, general amenity and the natural and historic environment, or the material planning benefits of the proposals outweigh the material planning objections.'

43. [Planning Practice Guidance](#) states that the planning for the supply of minerals has a number of special characteristics that are not present in other development; minerals can only be worked (i.e. extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited; working is a temporary use of land, although it often takes place over a long period of time; working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated; and following working, land should be restored to make it suitable for beneficial after-use (ref. [Minerals, Minerals Overview, What are mineral resources and why is planning permission required?](#)).

44. Commentary: Wilnecote Quarry is identified in the 'Policies and Proposals Map' of the MLP as a Mineral Infrastructure site. The proposed involves amendments to hours that clay can be moved from the stock yard to the brickworks. The amendment to the hours would allow the clay extracted at Wilnecote Quarry and also imported (ref. importation and stocking of clay for use in brick making was granted in March 2019 (ref. [T.18/01/905 MW](#)) to meet the demand from the construction industry.

45. The applicant has indicated that the extend hours are:

'...aimed at maintaining a steady and adequate supply of bricks to the construction industry to meet the anticipated upturn in demand that will

inevitably flow from the government policy for increased housing development' and

'will provide medium term support to assist in supplying increased national demand for housebuilder bricks between 2019 and 2022'.

46. The applicant has also stated that the proposal will:

'Maintain a steady and adequate supply of bricks for housing and other infrastructure in Staffordshire and the surrounding areas.

Address an anticipated and already evident increase in demand for house builder bricks in the period to 2022 and specification bricks beyond 2022

It will maintain the existing jobs at the brickworks for an extended period and presents the potential to generate additional employment due to the planned increase in production.

47. Conclusion: Having regard to the policies and other material considerations referred to above, it is reasonable to conclude that the proposals supporting the continued operation of the brickworks are acceptable in principle. The site-specific considerations are discussed below.

The site-specific development plan policy considerations and the matters raised by consultees and in representation including Green Belt;

The Green Belt policy considerations

48. The site lies within the Southern Staffordshire Green Belt.

49. The NPPF ([Section 13](#)) and, the [Tamworth Borough Council Local Plan](#) (Policy EN2) seek to ensure that consideration is given the impact of development in the Green Belt and that substantial weight is given to any harm to the Green Belt. The NPPF (paragraph 143) states that:

'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'

50. Paragraph 146 of the NPPF states that:

'Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- (a) mineral extraction'...

51. The Minerals Local Plan (Policy 4) and para. 7.33 explains that:

'National policy requires the protection of Green Belt but recognises that mineral extraction need not be inappropriate in the Green Belt provided that the mineral extraction preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt'

52. Commentary: In 2015 when the application to amend the approved quarry development drawings in order to maximise reserve recovery from the site was determined ([T.13/03/905 MW](#)), it was concluded that the proposals were not inappropriate in Green Belt policy terms as they preserved the openness of the Green Belt and did not conflict with the purposes of including land in Green Belt, for the following reasons:

- ‘Minerals can only be worked where they occur;
- The limited scale, duration and temporary nature of the mineral operations;
- Controls can be imposed by planning conditions to minimise visual impact and require the site to be well restored to high environmental standards’.

53. The applicant has stated that:

‘The storing of clay in the Green Belt next to the brick factory at the Wilnecote site has previously been assessed against Green Belt policy on many occasions and has always been found to be acceptable’

‘The proposed change of hours for feeding material from the permitted stock yards to the factory will not therefore have an effect on the openness of the Green Belt’

‘The acoustic fence is built development and sits part in and part out of the Green Belt. That part of the acoustic fence that sits in the Green Belt could, in isolation, be seen as inappropriate. However, as with the stock yard, its primary aim is to assist as part of a mineral extraction development which paragraph 146 of the NPPF identifies as being not inappropriate in the Green Belt’. And;

The fence has been purposefully positioned so that it sits behind the existing screening bund so eventually it will quickly become hidden by the trees on the bund’.

54. The proposed amendments to the hours for the movement of clay from the stock yard area (within the Green Belt) to the brickworks (not within the Green Belt) and the erection of the noise acoustic fence (within the Green belt), it is reasonable to conclude that the changes to the permitted development would constitute ‘inappropriate development’ in the Green Belt, however, ‘very special circumstances’ exist, namely: the scale and nature of the changes in relation to the existing permitted development and the location adjacent to the railway line and in close proximity to the Hedging Lane Industrial Estate which when considered together outweigh the harm to the openness of the Green Belt.

55. When considering inappropriate development in Green Belt land, it is necessary to have regard to the [Town and Country Planning \(Consultation\) \(England\) Direction 2009](#). The Direction requires the Mineral Planning Authority to consult the Secretary of State at the Ministry for Housing, Communities and Local Government on inappropriate developments in the Green Belt, where it intends to approve a building

or buildings where the floor space to be created by the development is 1,000 square metres or more; or any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt. In this case, for the reasons explained above it is considered that the proposed development would not have a significant impact on the Green belt and therefore there is no need to refer the decision to the Secretary of State c/o the National Planning Casework Unit before planning permission can be issued.

56. Conclusion: Having regard to policies, guidance and other material considerations referred to above, it is reasonable to conclude in this case the changes in operating hours and the erection of a noise acoustic fence are 'inappropriate development' in the Green Belt policy terms, however, there are 'very special circumstances' which outweigh the harm to the openness of the Green Belt and due to the nature scale and location there is no need to refer this case to the Secretary of State at the Ministry for Housing, Communities and Local Government.

Noise

57. Paragraph 205 (c) of the [NPPF](#) requires that mineral planning authorities:
- 'ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties'
58. Policy 4 of the MLP requires that in assessing the impact of proposals for mineral development consideration should be given to noise (Policy 4.1 (a)).
59. Paragraph 7.27 of the MLP refers to:
- 'National guidance (which) indicates that in support of mineral development proposals a noise impact assessment should be provided together with proposals to mitigate the noise. Where permission can be granted there will be a need to establish noise limits at noise sensitive properties and the guidance indicates the limits for short term noisy activities such as soil stripping. National policy also requires that areas of tranquillity should be protected from adverse noise impacts'.
60. [Planning Practice Guidance](#) for [mineral extraction](#) states that Mineral Planning Authorities should aim to establish a noise limit, through a planning condition, at the noise-sensitive property:
- that does not exceed the background noise level (LA90,1h) by more than 10 dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10 dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55 dB(A) LAeq, 1h (free field).
 - For operations during the evening (1900-2200), the noise limits should not exceed the background noise level (LA90,1h) by more than 10 dB(A) and should not exceed 55 dB(A) LAeq, 1h (free field).

- For any operations during the period 22.00 – 07.00, noise limits should be set to reduce to a minimum any adverse impacts, without imposing unreasonable burdens on the mineral operator. In any event the noise limit should not exceed 42 dB(A) LAeq,1h (free field) at a noise sensitive property.

(ref. Planning Practice Guidance; [Minerals](#), Minerals Overview, [Assessing environmental impacts from minerals extraction](#), Noise emissions).

61. Commentary: Representations have been received from a resident near to the quarry who raised concerns relating to the noise produced during the movement of the clay from the stock yard to the brickworks.
62. The applicant has submitted a Noise Report which details the surveys of the existing noise climate undertaken, the site noise calculations and noise assessment to check the potential impact of the changes to the operating hours on nearby dwellings and the need for mitigation and noise control, for stock yard and loading activity.
63. The report concludes that with the noise control measures (the acoustic fence) in place the calculated site noise levels for the operations associated with the revised working scheme would comply with the proposed site noise limits.
64. The applicant has provided additional information to address matters raised by the County Council's Noise Engineer and also Tamworth Borough Council's Environmental Health Team.
65. There are conditions on the mineral planning permission (ref. [T.13/03/905 MW](#)) which seek to manage noise from the site. These include the requirement to submit a noise monitoring scheme (this scheme has not been submitted) to ensure that:
 - no permitted operations at Wilnecote Quarry shall take place which would result in site attributable noise levels exceeding 52 dB LAeq (1 hour) at noise sensitive locations in Fairway and 55 dB LAeq (1 hour) at all other noise sensitive locations (Condition 26).
 - for temporary activities not exceeding 8 weeks duration in any 12-month period such as screen bund construction, soil stripping or soil replacement, site attributable noise shall not exceed 70 dB LAeq (1 hour) at any noise sensitive location (Condition 27).
 - best practicable means should be used to minimise the noise generated by the permitted operations (Condition 28)
 - all vehicles, plant and machinery should be fitted with silencers in accordance with the manufacturer's recommendations and should be operated to minimise noise emissions (Condition 28), and;
 - all plant or equipment should be fitted with a suitable white noise reversing system or such other system which will minimise the level and generation of noise emissions from reversing warnings (Condition 29).

66. The planning permission granted by Tamworth Borough Council (on behalf of Staffordshire County Council) for the brickworks /factory (ref. [T.4253](#) dated 7 December 1965) includes a condition to ensure that 'no process should be carried out on the land which would injure the amenities of the nearby residential neighbourhood by reason of noise, vibration, smoke, fumes, dust or smell.' There are no conditions in the later permissions to control noise.
67. As indicated above, the [Planning Practice Guidance](#) for assessing environmental issues of minerals working including noise, states the 'total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field) for the hour of 0700-1900'. The current planning permission includes a condition specifying this limit (condition 26).
68. The County Council's Noise Engineer has confirmed following the submission of detailed noise calculations, that noise from the site operations could be undertaken to ensure the noise limit of 45 dB LAeq,1hr would be not exceeded during the additional hours. Tamworth Borough Council's Environmental Health Officer had no objections in relation to the revised hours.
69. In this case, based on the calculated noise levels detailed in the 'Noise Technical Note' submitted by the applicant, it is considered appropriate to include a condition setting out the limit for the additional hours (i.e. specifically for the movement of clay from the stock yard to the brickworks of 45 dB LAeq,1hr) and to ensure that no additional operations take place on a Sunday except moving of clay.
70. Conclusion: Having regard to the above-mentioned policies, guidance, conditions, consultee comments and representations received, it is reasonable to conclude that subject to the recommended conditions, the proposed development would not result in an unacceptable adverse noise impact.

Dust / odour

71. Paragraph 205 (c) of the [NPPF](#) also requires that mineral planning authorities to:

'ensure that any unavoidable ...dust and particle emissions...are controlled, mitigated or removed at source...'
72. Policy 4 of the [MLP](#) requires that in assessing the impact of proposals for mineral development consideration should be given to air quality (Policy 4.1 (b)).
73. Commentary: Local residents have raised concerns about air quality from brick dust produced by the brickworks, dust from the stock yard area and odours associated with the brickworks/factory.
74. The applicant has stated the operations would be managed as part of the existing dust management scheme.
75. There are conditions on the current mineral planning permission that this application is amending (ref. [T.13/03/905 MW](#)) which seek to ensure that vehicles leaving the Quarry do not 'emit' dust on the highway (Condition 11); to ensure that the best practicable means are employed at all times to minimise generation and dispersal of dust caused by all operations and the measures should include those detailed in the Environmental Statement which accompanied the application (Condition 23); and, to require that the operations do not result in deposition of site generated dust exceeding a level of 250

milligrams per square metre per day at any residential property outside of Wilnecote Quarry (Condition 23).

76. Conditions have also been included on the planning permission granted in 2019 for the eastern extension (ref. [T.16/02/905 MW](#)). Conditions 28 and 29 of the permission require dust suppression to be carried out in accordance with the Dust Impact Report submitted with the application and that best practicable means are employed to minimise the generation and dispersal of dust.
77. In relation to this application, no objections have been received from the Planning Regulation Team or Tamworth Borough Council Environmental Health. In addition, Tamworth Borough Council Environmental Health could act to ensure that there is no statutory dust nuisance.
78. Conclusion: Having regard to the above-mentioned policies, guidance, conditions and consultee comments, it is reasonable to conclude that subject to the recommended conditions, the proposals can reasonably be controlled such that they would not give rise to any unacceptable adverse dust impacts.

Traffic

79. Policy 4 of the MLP requires that in assessing the impact of proposals for mineral development consideration should be given to traffic on the highway network.
80. Paragraph 109 to the NPPF explains states that:
- ‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’
81. Commentary: Local resident raised concerns related to vehicles associated with the proposal. The applicant has explained that the proposals involve no vehicle movements onto the public highway and the noise fence has been proposed to manage noise from the loading machinery operating in the stockyard but these vehicles are site vehicles only and have no interaction with traffic flows off site.
82. The existing planning permission for this area of the quarry (ref. [T.13/03/905 MW](#)) and for the brickworks do not include conditions to control vehicles leaving the site.
83. Conditions were included on the planning permission granted in 2019 concerning vehicle movements:
- Condition 19 of [T.16/02/905 MW](#) (eastern extension) limits the number of vehicles associated with ‘bulk clay mineral sales’ to 1000 movements per year (500 in and 500 out); and a maximum of 24 movements during a full working day (12 in and 12 out), and;
 - Condition 11 of [T.18/01/905 MW](#) (the import of clay for use in the brickworks) limits the number of vehicles to 38 per full working day (19 in and 19 out)
84. Conditions are included on the planning permissions to ensure that all vehicles leaving the quarry do not deposit mud or other debris on the highway (Condition 11 of

[T.13/03/905 MW](#); Condition 21 of [T.16/02/905 MW](#) and Condition 14 of [T.18/01/905 MW](#)).

85. Conclusion: Having regard to the above-mentioned policies, guidance and conditions, it is reasonable to conclude that, the proposals can reasonably be controlled such that they would not give rise to any unacceptable adverse impact in terms of traffic or harm to the transport network.

The need to review and update the planning conditions and the Need for a Legal Agreement

86. The NPPF ([Section 4](#), paragraph 54) states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through conditions. Paragraph 55 of the NPPF explains that:

‘Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects’.

87. Policy 4.5 in the [Mineral Local Plan for Staffordshire](#) seeks to minimise the impact of mineral development and to ensure higher environmental standards.

88. The Planning Practice Guidance states:

‘To assist with clarity decision notices for the grant of planning permission under [section 73 of the Town and Country Planning Act 1990](#) should also repeat the relevant conditions from the original planning permission, unless they have already been discharged’ ([Planning Practice Guidance, Flexible options for planning permissions; How can a proposal that has planning permission be amended?](#), What is the effect of a grant of permission?, paragraph 015).

89. The Planning Practice Guidance also states:

‘In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission’ ([Planning Practice Guidance, Use of planning conditions, The use of pre-commencement conditions](#), How are conditions treated under section 73?, paragraph: 040).

90. [The Environment Act 1995](#) introduced the requirement to Review Old Mineral Permissions (known as ‘ROMPs’) and carry out Periodic Reviews of the mineral permissions at least every 15 years to ensure that modern conditions apply. The Mineral Planning Authority has recently received legal advice that Periodic Reviews take effect from the date of the latest mineral permission, including section 73 applications not to comply with (to vary the permission).

91. Commentary: In this case, conditions were granted in November 1994 (ref. [T.17380](#)) and varied in 2015 (ref. [T.13/03/905 MW](#)). The 15-year Periodic Review of the current planning permission is therefore due in 2030 (the cessation date is 31 December

2035). It is therefore reasonable and necessary to carry out a review of the conditions now as part of the consideration of this application.

92. Based on the above guidance, it is considered that most of the conditions (which were reviewed in 2015) remain relevant, however it is considered reasonable and necessary to update the following conditions in addition to condition 14 which is the subject of this application:

- Condition 1 to refer to the latest approved plans and documents submitted with the current application;
- Condition 9 to refer to the latest Town and Country Planning (General Permitted Development) Order.
- Conditions 25 and 26 to update the requirement for a noise monitoring scheme and to set the noise limit for the additional hours.
- Condition 45 (Knowledge of the Conditions) now an Informative in accordance with current practice.
- New condition to require gapping up of the landscaping bund adjacent to the railway
- New condition to require details of the acoustic fence prior to the change in hours

93. Conclusion: Having regard to the policies and guidance referred to above, it is concluded that it is reasonable and necessary to recommend a number of updates to existing conditions to minimise the impact of mineral development and to ensure the quarry continues to operate to high environmental standards.

Overall Conclusion

94. Overall, as an exercise of judgement, taking the relevant up-to-date development plan policies as a whole and having given consideration to application, the supporting information, including the information subsequently received, the consultee comments, the representations and the other material considerations, all referred to above, it is reasonable to conclude that the proposed development accords with the development plan and as such represents sustainable development, and there are no clear and convincing reasons to indicate that the application for planning permission should not be permitted.

Recommendation

PERMIT the application for vary planning permission T.13/03/905 MW (as amended) to allow the supply of clay from the clay stock yard to the factory between the hours of 0700 to 1900 Monday to Friday, 0700 to 1900 on Saturdays and Sundays and the associated erection of an acoustic fence under planning permission [T.13/03/905 MW](#) at Wilnecote Quarry, Hedging Lane, Wilnecote, Tamworth, subject to the conditions and informatives listed below.

The updated planning conditions to include the conditions of the extant planning

permission ref [T.13/03/905 MW](#) (the updated /new conditions are highlighted in **bold**):

1. Definition of consent [**Update to include reference to the documents and plans of the existing and new permissions and approved details**].
2. Commencement of the development.
3. Cessation of the development - no later than 31 December 2035.
4. Notification within 14 days in the event that operations ceases prior to 31 December 2035.
5. Expiry of the permission when the site has been restored and subject to aftercare.
6. Restriction on Permitted Development Rights [**Update to reference the latest Town and Country Planning (General Permitted Development) Order**].
7. Define the access to the Site.
8. To ensure the access roads are maintained in good condition and capable of being swept.
9. No HGVs /service vehicles associated with the development shall leave the Site in a condition whereby mud, dirt or deleterious material is deposited on the public highway.
10. No loads of mineral shall leave Wilnecote Quarry unless the load has first been securely contained or sheeted.
11. Hours of Operation

No permitted operations shall take place within Wilnecote Quarry other than between the following hours:

- a) the winning and working of minerals (including all stockpiling activities **except for the additional hours to allow for the movement of clay from the stock yard to the brickworks see (d) below**):
 - 0800 to 1800 Monday to Friday
 - 0900 to 1300 on Saturdays

No such activities shall be carried out on Sundays, Bank or Public Holidays;

- b) landfill and final restoration operations:
 - 0730 to 1800 Monday to Friday
 - 0800 to 1200 on Saturdays

except on Saturdays immediately before or after a Bank Holiday when landfill operations shall take place between the hours 0800 to 1500.

- c) no permitted operations **except for the movement of clay from the stock yard to the brickworks (see (d) below)** shall take place within 150 metres of any residential property other than between the following hours:
- 0800 to 1800 Monday to Friday
 - 0800 to 1200 on Saturdays.
- d) **the movement of clay from the stock yard to the brickworks may also take place between the following 'additional hours':**
- **0700 to 0800 and 1800 to 1900 Monday to Friday**
 - **0700 to 0800 and 1200 to 1900 on Saturdays;**
 - **0700 to 1900 on Sundays**

No such activities shall be carried out on Bank or Public Holidays

Note: these hours are in addition to (c) above as the stock yard is within 150 metres of residential property.

12. The quarry to be worked in accordance with the approved Working Scheme as amended by the 'Final Face Development in Eastern Extension' plan (dwg no W22/39) and as described in the Environmental Statement.
13. To require the submission of a detailed Progress Plan to update the approved Working Scheme.
14. To require the submission of Progress Plans every 5 years.
15. All mine shafts encountered within Wilnecote Quarry are adequately capped or treated.
16. Implementation of measures to ensure the stability of the adjoining land and to prevent slippage.
17. All topsoil and subsoil retained for the use in the restoration of Wilnecote Quarry
18. Soil stripping should be carried out in accordance with guidance set out in the DEFRA publication 'Good practice guide for handling soils: April 2000'.
19. Soil should be cultivated to relieve compaction, stone picked to remove all stones or similar impediments, fertilised, sown and planted in accordance with the Restoration and Aftercare Scheme.
20. Best practicable means shall be employed at all times to minimise generation and dispersal of dust.
21. No operations hereby permitted or required shall be carried out which would result in deposition of site generated dust exceeding a level of 250 milligrams per square meter per day at any residential property outside of Wilnecote Quarry.

22. To require the submission of a Noise Monitoring Scheme **which shall include a noise monitoring location in Cadogan Road.**
23. To ensure that site attributable noise levels do not exceed 52 dB LAeq (1 hour) at noise sensitive locations in Fairway and 55 dB LAeq (1 hour) at all other noise sensitive locations **except for site attributable noise levels resulting from the transport of clay between the stock yard to the brickworks which shall not exceed 45 dB LAeq (1 hour) at noise sensitive locations in Cadogan Road during the 'additional hours' (Condition 11 (d)).**
24. Temporary activities not exceeding 8 weeks duration in any 12-month period such as screen bund construction, soil stripping or soil replacement, site attributable noise do not exceed 70 dB LAeq (1 hour) at any noise sensitive location.
25. Best practicable means should be used to minimise the noise generated by permitted operations.
26. All plant or equipment should be fitted with a suitable white noise reversing system or other system to minimise the level and generation of noise emissions from reversing warnings.
27. No blasting should be carried out.
28. Best practicable means should be used to minimise the vibration and odour generated by the permitted operations
29. Any external floodlighting or other illumination should be positioned so as not to cause glare at nearby properties or glare to road or rail users.
30. No waste should be imported into Wilnecote Quarry for landfill or restoration purposes other than inert and non-hazardous municipal, industrial and commercial wastes.
31. Measures should be implemented to prevent windblown materials escaping from site.
32. The operational area of the quarry should be securely fenced and gated.
33. The access and egress onto Rush Lane should be gated and the gates shall be securely locked outside the permitted hours.
34. All established woodland and scrub areas, and established hedgerows and proposed tree and hedgerow planting should be maintained.
35. The screen bund and acoustic fence along the western boundary of Wilnecote Quarry and adjoining the bungalow on Rush Lane shall be maintained.
36. All buildings, structures, perimeter security fencing, gates and hard surfaces within Wilnecote Quarry should be maintained.
37. The quarry should be progressively restored to agriculture and woodland in accordance with the approved plans.

38. To require the review of the approved Restoration Strategy within 12 months of the decision.
39. To require the review of the approved Restoration Strategy after 10 years then every 5 years until no further review is necessary.
40. Notification when final restoration of each phase of the development is due to be completed.
41. To require the submission of a detailed Restoration and 5-year Aftercare Scheme within 12 months of the review of the approved Restoration Strategy.
42. In the event that the Restoration Strategy is revised, to require the submission of a Revised Restoration and 5-year Aftercare Scheme.
43. In the event that operations cease for 5 years, to require the submission of a revised detailed Restoration and 5-year Aftercare Scheme

New conditions

1. **To require the 'gaps' on the landscaping bund adjacent to the railway to be planted with new whips using fast growing species such as hawthorn in the first available planting season following the date of the permission.**
2. **To require, prior to the construction of the acoustic fence, the details of the wind loading, construction, maintenance, excavation and foundations to be submitted and approved in writing by the Mineral Planning Authority (in consultation with Network Rail) and the approved acoustic fence to be erect prior to the change in hours and thereafter maintained.**

Informatives

1: Knowledge of the Conditions

2: Network Rail

The developer to be advised of the comments originally made by British Rail Property Broad on 19 February 1991 and 7 November 1998.

The applicant is advised to consult the Network Rail Asset Protection Project Manager and complete an Asset Protection Development Questionnaire.

3: Western Power Distribution

The applicant is advised that Electricity / Surf Telecom apparatus is located adjacent to the quarry. The applicant should therefore be aware of the Western Power Distribution safe working practices. These are available from <https://www.westernpower.co.uk/Safety-and-education/Health-Safety/Public-Safety-advice.aspx>

4: Environmental Permit

The Site is subject to an Environmental Permit issued by them or covered by an exemption and for further advice the applicant should contact the Environment Agency.

5: Section 106 Legal Agreement

The applicant is reminded of the terms of the Section 106 Legal Agreement associated with planning permissions [T.16/02/905 MW](#) and [T.18/01/905 MW](#) including the requirement to maintain regular dialogue with local residents and neighbouring businesses concerning the operation of Wilnecote Quarry to ensure that any problems that arise are resolved at the earliest opportunity.

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Due to current Coronavirus restriction, the list of background papers for this report is only available on request by email sent to planning@staffordshire.gov.uk and can only be provided by email.

Appendix 1 Summary of the relevant planning permissions

Wilnecote Quarry operated under a 'consolidating' planning permission (ref [T.17380](#) dated 22 November 1994), which replaced a number of permissions that allowed the extraction of clay and waste disposal. The consolidating planning permission was varied in July 1995 (ref. [T.22183](#) dated 19 July 1995), in July 1997 (ref. [T.22910](#) dated 7 July 1997) and in July 2002 (ref. [T.02/09/905 MW](#) dated 22 July 2002). In 2015, the three main planning permissions allowing the extraction of clay and waste disposal were varied:

- vary condition 7 of planning permission [T.17380](#) to amend the approved quarry development drawings in order to maximise reserve recovery from the site ([T.13/03/905 MW](#) dated 27 January 2015) [the existing stock yards are located within this area];
- vary conditions 1, 9 and 16 of planning permission [T.05/08/905 MW](#) to amend the approved quarry development drawings in order to maximise reserve recovery from the site (ref. [T.13/02/905 MW](#) dated 27 January 2015); and,
- permit a minor extension to the existing mineral working area to allow construction of an internal site access road (ref. [T.13/01/905 MW](#) dated 27 January 2015).

Planning permission was granted in April 2019 for an eastern extension to the existing clay quarry (ref. [T.16/02/905 MW](#)). A Section 106 Legal Agreement was signed on 18 April 2019 (S106), the undertaking included in this agreement are as follows:

- a) To require the applicant to agree the HGV route between the quarry and the Strategic Highway Network in connection with the bulk clay sales traffic;
- b) To require the applicant to reconstruct, resurface, repair and maintain the vehicular access on to Hedging Lane in accordance with approved details; and,
- c) To require the applicant to establish a site liaison committee and to invite key stakeholders including local residents/landowners and representatives on behalf of the County, and Borough Councils to attend in accordance with approved terms of reference
- d) To require the submission of up to date Financial Statements prior to the commencement of working in Phases 1, 2 and 3 and restoration in Phase 3.

Planning permission was granted in March 2019 for the importation and stocking of clay for use in brick making (ref. [T.18/01/905 MW](#)). A S106 dated 27 February 2019, the undertakings included in this agreement are detailed above in a and b.

Planning permission was granted in the 1960's for the brickworks (ref. [T.4253](#)) and the brickworks has been extended following the grant of a number of subsequent planning permissions:

- to construct a lean-to building against structure to house a new drying plant used in the manufacture of bricks (ref. [T.12206](#) dated 17 May 1982);
- to construct a building to house gas governors (ref. [T.13274](#) dated 28 September 1983);
- to erect 2 no chimneys each of 25 m in height for exhaust emissions from proposed

tunnel kiln and intermittent kilns (ref. [T.18926](#) dated 29 August 1990);

- to extend the existing brickworks to allow extension to brickmaking capacity, erection of new office block, formation of new carpark and associated landscaping works (ref. [T.18283](#) dated 31 December 1990);
- two extensions to the brickworks factory and installation of a 25m flue stack for the use in the production of brick specials (ref. [T.03/02/905 MW](#) dated 4 June 2003).

Condition 14 of the planning permission (ref. [T.18283](#)) to extend the brickworks states that the use of the development should cease on 31 December 2049 or upon exhaustion of permitted mineral reserves contained within adjoining land under the control of the applicant, whichever is the sooner. All buildings, plant, machinery and materials should then be removed, and the site should be restored in accordance with a scheme to be approved.

[Return to Relevant Planning History](#)

Appendix 2 The development plan policies (and proposals) and the other material planning considerations, relevant to this decision

The development plan policies and proposals

The [Minerals Local Plan for Staffordshire](#) (2015 to 2030) (adopted 16 February 2017):

- Policy 4: Minimising the impact of mineral development;
 - Policy 4.1: environmental considerations;
 - Policy 4.5: higher environmental standards;
- Policy 6: Restoration of mineral sites.
 - Policy 6.1: restoration requirements;
 - Policy 6.3: regular review of the restoration strategies / plans;
 - Policy 6.4: financial guarantees.
- Paragraph 3.7 and 3.10 to 3.15 of the MLP concerning 'Brick Clays'.

[Tamworth Borough Council Local Plan 2006-2031](#) (adopted February 2016):

- Policy SS1 - The Spatial Strategy for Tamworth;
- Policy SS2 - Presumption in Favour of Sustainable Development;
- Policy EN2 - Green Belt;
- Policy EN5 - Design of New Development;
- Policy EN4 - Protecting and Enhancing Biodiversity;
- Policy SU3 - Climate Change Mitigation; and,
- Policy SU5 - Pollution, Ground Conditions and Minerals and Soils.

The other material planning considerations:

[National Planning Policy Framework \(NPPF\)](#) (updated July 2018):

- Section 6 - Building a strong, competitive economy;
- Section 9 - Promoting sustainable transport;
- Section 12 - Achieving well-designed places;
- Section 13 - Protecting Green Belt land;
- Section 15 - Conserving and enhancing the natural environment;

- Section 17 - Facilitating the sustainable use of minerals.

Planning Practice Guidance including

- Design: process and tools
- Health and wellbeing
- Light pollution
- Minerals
- Natural environment
- Noise
- Open space, sports and recreation facilities, public rights of way and local green space
- Use of planning conditions
- Water supply, wastewater and water quality

[Return to Observation section of the report.](#)