

## Item No. 11

## SCHEDULE D

<b>APPLICATION NUMBERS</b>	BC/CM/2008/19 & BC/CM/2008/20
<b>LOCATION</b>	Reach Lane Quarry, Heath & Reach
<b>PROPOSALS</b>	<ul style="list-style-type: none"><li>(i) Revised scheme for phasing of extraction and backfilling (following a landslip in June 2007) to comply with conditions 1, 13, 14 and 22 of planning permission number 9/2003. <b>(application no. BC/CM/2008/20)</b></li><li>(ii) Importation and disposal of inert waste to enable restoration of Reach Lane Quarry <b>(application no. BC/CM/2008/19)</b></li></ul>
<b>PARISH</b>	Heath & Reach
<b>WARD &amp; COUNCILLORS</b>	Plantation – Cllr. Alan Shadbolt & Cllr. Peter Rawcliffe
<b>CASE OFFICER</b>	David Peachey
<b>DATE REGISTERED</b>	31 <sup>st</sup> July 2008
<b>EXPIRY DATE</b>	30 <sup>th</sup> October 2008
<b>APPLICANT</b>	L.B Silica Sand Ltd
<b>AGENT</b>	Atkins Ltd
<b>REASON FOR COMMITTEE TO DETERMINE RECOMMENDED DECISION</b>	SIGNIFICANT OBJECTIONS & DEVELOPMENT IN THE GREEN BELT  <b>Refusal of both applications (ref. BC/CM/2008/20 &amp; BC/CM/2008/19) for the reasons set out at the end of this report.</b>

### Site Location:

Reach Lane Quarry comprises an active sand working extending to some 23 hectares, with associated processing plant and an office / worker's residence. It is bound by Reach Lane to the west, which for the most part marks the eastern edge of Heath & Reach village. Gig Lane and Eastern Way form the southern boundary of the working. The eastern boundary is delineated by Overend Green Lane. The nearest residential properties to the Reach Lane pit are situated on Gig Lane and along Thomas Street and Reach Lane, these being as little as 60 metres from the boundary of the curtilage of the quarry.

All commercial vehicles gain access to the public highway via Bryants Lane Quarry to the north, which is contiguous with the Reach Lane site. Both quarries have been operated by the applicant company since 2002, although they are still governed by separate mineral permissions as a consequence of divided ownership historically. The reality on the ground, however, is that the quarries are now worked as a single site, with sand transported from Bryants Lane Quarry into Reach Lane for blending and processing to produce a variety of sands.

All areas of the Reach Lane Quarry permission site have been worked at one time or another. Substantial volumes of clay overburden which originally laid over the sand have been utilised as backfill material to create terraced batters within a deep basin

landform. Only limited permitted reserves now remain. The highest point in the quarry (140 metres AOD) abuts Eastern Way in the vicinity of a water tower, which slopes down to the lowest part of the workings just above the water table (approximately 85 metres AOD).

### **Background:**

An Interim Development Order (I.D.O) consent to extract sand at Reach Lane was granted in June 1948. An updated scheme of conditions and working and restoration was submitted to Bedfordshire County Council, as required by the 1991 Planning & Compensation Act. A fresh I.DO approval with new set of schemes and conditions was determined on 13<sup>th</sup> February 1997.

Planning permission was granted by Bedfordshire County Council on 1<sup>st</sup> May 1984 for a 3.85 hectare north eastern extension to the original quarry adjoining Overend Green Lane. The period allowed for sand extraction expired in May 1999 and the area has been exhausted, although not yet finally restored. As this extension area falls within the curtilage of the active quarry site, it is encompassed in the latest amended restoration proposals which have been put forward as part of the current application for variation of conditions attached to the 2003 mineral permission.

On 30<sup>th</sup> April 2003, Bedfordshire County Council gave planning consent (ref. no. 9/2003) for a revised scheme of working, restoration, landscaping and aftercare as an amendment to the 1997 I.D.O approval. There were two main elements to the development permitted in 2003. First, there was the phased working of an additional 380,000 tonnes of sand from previously disturbed areas in the south western part of the quarry outside those parts of the site permitted to be worked under the terms of the 1997 I.D.O approval. Second, in order to address concerns about the long term slope stability, the existing 1 in 3 terraced sides of the pit were allowed to be re-contoured to a shallower final gradient of 1 in 5 to 1 in 7 utilising indigenous overburden material.

The permanent closure of the substandard Reach Lane Quarry entrance was secured by condition attached to permission no. 9/2003. A further condition was imposed to ensure that the *combined* level of HGV movements in connection with mineral operations at Bryants Lane and Reach Lane quarries did not exceed 160 per full working day, as already specified in the 1997 Bryants Lane consent.

Planning permission no. 9/2003 remains the extant consent for Reach Lane Quarry. It is accompanied by a Section 106 legal Agreement signed by the applicant company which imposes cessation dates for extraction and restoration taking into account the additional mineral permitted to be worked and the additional handling and movement of restoration materials needed to be undertaken. Sand extraction is required to finish and processing plant, machinery and foundations removed on or before 6 years and 9 months from the date of permission (i.e. by 29<sup>th</sup> January 2010). Final landscaping and restoration of the site is required to be completed on or before the expiry of 8 years from the date of permission (i.e. by 29<sup>th</sup> April 2011). The current approved afteruse of the quarry is open grassland and pasture with a wetland area at the base and pockets of woodland and hedgerows on the restored slopes.

### **The Applications:**

This report covers two separate but inter-related applications as described below:  
***BC/CM/2008/20 (Revised scheme for phasing of extraction and backfilling (following a landslip in June 2007) to comply with conditions 1, 13, 14 and 22 of planning permission no. 9/2003) –***

This applicant is seeking to vary four conditions of planning permission no. 9/2003 in order to implement revisions to the phasing and timetable of sand extraction, backfilling and restoration design.

#### Mineral Extraction:

The current approved mineral phasing plan which was devised by the applicant has been found to be unworkable because the phases were drawn too small to allow realistic handling and movement of sand and overburden. As a consequence, the approved sequence of extraction and backfilling has not been adhered to. In order to regularise the situation and find a practicable way forward, the applicant proposes to extract the remaining permitted reserves of approximately 327,000m<sup>3</sup> in two broad phases. This mineral is concentrated in the eastern section of the pit near the boundary with the Bryants Lane site and beneath the processing plant. There is also a relatively small volume of mineral in temporary stockpiles totalling 47,000m<sup>3</sup>. Outside the existing permitted extraction area, the applicant has identified a narrow band of mineral, which he estimates to contain 149,000m<sup>3</sup> of high quality silica sand; this comprises the third proposed extraction phase and is situated immediately to the north of the lagoons and processing plant. The mineral would continue to be worked dry in accordance with the present restriction on depth of working (i.e. not less than 1 metre above the water table). An indicative timetable for completion of each extraction phase has been provided. The final area to be worked would be beneath the processing plant, for which there is a proposed finish date of spring 2021. Based on current outputs, Reach Lane would have some 6.1 years of reserves if working was confined solely to that quarry. However, given that approximately half of the sand output includes mineral won from the Bryants Lane site, the timescale for completion of extraction and removal of the plant site is predicted to be as much as 12 years.

#### Revised restoration plan and afteruse

As the current plan for phased backfilling and restoration is unfeasible, the applicant has devised a new plan for finishing the site in a progressive manner within a specified timescale. The intention is to expedite the final restoration of the upper slopes of the eastern batter and an area abutting the water tower where no further mineral is proposed to be won. By leaving the existing slope profile largely intact except for localised re-grading, the applicant proposes to complete seeding and landscaping of these areas during autumn/winter 2010. Restoration of the south eastern corner of the site would follow, to be completed during autumn/winter 2011. Surplus placed overburden amounting to 86,000m<sup>3</sup> would need to be moved from this corner of the site to create the desired gradient on that and subsequent restoration phases. These initial phases constitute almost one third of the Reach Lane site.

The remaining three phases (i.e. phases 3 - 6) would be reinstated undertaken over the period 2015 – 2022 utilising 384,500m<sup>3</sup> of reject materials or overburden derived from Bryants Lane and a similar volume of imported inert fill (see application no. BC/CM/2008/19). Condition 18 of planning permission 9/2003 already allows the import of overburden across the boundary from Bryants Lane. Completion of

restoration in phases 3 to 6 is dependant upon completion of extraction and infilling operations in those parts of the site. The processing plant is planned to be removed from the site at the site to in order to allow working of the sand beneath it as the final phase of extraction. The plant would need to be relocated to Bryants Lane, or replaced by a new facility, subject to planning consent being given.

The proposed restoration plan is broadly similar to details agreed in 2003 in that it shows a significant proportion of the quarry as open grassland, which would be suitable for grazing purposes, together with several blocks of tree / shrub planting to break up the extensive slopes. A general maintenance track would run along the southern and eastern perimeters of the site. The scheme also includes a more extensive pond (2.89ha) with a planted island, reedbed and copse. This water feature is proposed to be used for leisure purposes such as fishing if an appropriate user can be found. (Informal fishing would not require a separate planning consent). An access track would connect the fishing lake to the Bryants Lane Quarry entrance, although the lake could not be fully formed until subsequent completion of restoration in Bryants Lane Quarry.

#### Finished levels

The overall proposed restoration contours are broadly similar to those approved under permission no. 9/2003 and would marry with final levels put forward for the inert landfill area. The proposed batter would range between 1 in 6 and 1 in 7, which is fractionally shallower than the currently approved finished slopes. However, certain aspects of the new profile are different. The contours on the upper section of the eastern batter have been raised by around 2.5 metres to more closely reflect the existing topography and thereby facilitate early restoration by reducing the amount of overburden that would need to be removed from this area. A transitional slope of 1 in 12 has been introduced from the 100m AOD contour at the foot of the southern and eastern batters to tie in with contours at the base of the proposed landfill area. This would merge with an enlarged central pond feature, which would straddle the boundary with Bryants Lane Quarry. The applicant states that the reduced angle of slope at the base of the quarry would be conducive to safe and convenient after-use of the lake for fishing.

The applicant contends that a more interesting landform would be created by adding some variation to the detailed grading. A series of terrace or bench features containing french drains and/or swales would be assimilated into the overall slope profile to control the descent of surface water run off to the pond.

The restoration levels have been developed having regard to the adjoining Bryants Lane site, where most of the water feature would be positioned. A wider restoration Masterplan has been put forward to illustrate how the two restored sites would integrate at the boundary.

#### Public Access

The extant 2003 consent for Reach Lane Quarry includes provision for a 'public right of way' across the restored quarry site linking Reach Lane and Eastern Way, although the precise standard and alignment of the route has yet to be formally approved.

In light of consultee comments regarding the current application, the operator has offered to provide an additional section of public right of way within the curtilage of the quarry site. It would traverse a short section of the southern boundary eastwards

from the water tower and the entire length of the eastern boundary alongside Overend Green Lane. There would be entry / exit points at either end. The proposed route would effectively function as a continuation of the existing requisite right of way linking Reach Lane and Eastern Way. The applicant has indicated that this additional section of footpath could be installed at an advance stage upon completion of restoration of the initial phases in autumn/winter 2011. Whilst the quarry is still active, the applicant would want the status of the path to be permissive only. However, he is agreeable to it being formally adopted as a public right of way (footpath) when restoration of the whole site is concluded in 2022. This would need to be secured through a fresh Section 106 Agreement.

***BC/CM/2008/19 (Importation and disposal of inert to enable the restoration of Reach Lane Quarry) –***

The application originally proposed the importation and disposal of 524,000m<sup>3</sup> of inert waste in the south western part of the quarry, covering an area of 5.28 hectares. The initial proposal also sought to increase permitted final levels over the tipping area by raising the foot of the restored batter by 15 metres in conjunction with a wider amended restoration scheme for the rest of the quarry, which is subject of the parallel application described above (ref. BC/CM/2008/20).

The applicant has since amended the waste importation proposal by lowering restoration levels over the proposed infilling area (and over the wider quarry site where the import of inert waste would not take place) such that they now more closely resemble the existing approved landform. Modification of the proposed restoration levels has resulted in a reduction in the volume of inert waste required to restore the site. The requested importation figure now stands at 355,000m<sup>3</sup>, a reduction of 169,000m<sup>3</sup> from that originally proposed.

The applicant states that the importation of fill from external sources is necessary for the dual purpose of carrying out long term stabilisation of a substantial landslip close to the Gig Lane boundary and making up a deficit of restoration material for the Reach Lane site as a whole. The overall deficit of restoration material for Reach Lane Quarry is therefore proposed to be made up through a combination of 355,000m<sup>3</sup> of imported material and, as specified in the parallel application, 384,500m<sup>3</sup> of overburden from Bryants Lane Quarry.

The restored batter profile across the inert fill area would be in the region of 1 in 7.8, which represents a fractionally shallower gradient than the currently permitted gradient of 1 in 7.14. In order to assimilate the foot of the restored landfill area with the wider proposed site profile, the floor of the quarry would be infilled to form a transitional 1 in 12 slope below the 100 metre AOD contour. An indicative drainage plan accompanies the application to illustrate how the direction and velocity of surface water run-off to the pond would be controlled.

Waste would be brought to the operational landfill area where it would be spread, levelled, and compacted by a dozer. Based on a predicted annual tipping rate of 87,000m<sup>3</sup>, the proposed duration of the waste importation exercise is 4.1 years. Incoming HGVs would utilise the existing Bryants Lane Quarry entrance (where a weighbridge and hut are already situated for the mineral operation) and the existing internal haul road connecting Reach Lane Quarry. The information provided with the application suggests that the daily HGV movements associated with waste

importation exercise could be accommodated within the current combined limit for Reach and Bryants Lane Quarries (i.e. 160 movements per day). The applicant has indicated that a wheel wash would be installed at the site entrance to prevent the deposit of mud and debris on the public highway.

In respect of the existing requirement to provide a 'public right of way right of way linking Reach Lane and Eastern Way', a plan has been provided showing a suggested alignment. The applicant states that it would not be possible to open this route until reinstatement of the inert landfilling phase in autumn / winter 2016. A permissive path would be provided at the outset, which could then be formally adopted as a public right of way (footpath) upon completion of restoration in 2022.

## **RELEVANT DEVELOPMENT PLAN POLICIES & PLANNING GUIDANCE:**

- **Waste Strategy for England 2007**
- **East of England Plan (May 2008) – Revision to the Regional Spatial Strategy**
- **Planning Policy Statement 10 'Planning for Sustainable Waste Management' (PPS10)**
- **Planning Policy Statement 25 'Development and Flood Risk' (PPS25)**
- **Planning Policy Guidance Note 2 'Green Belts' (PPG2)**
- **Planning Policy Guidance Note 14 'Development on Unstable Land' (PPG14)**
- **Planning Policy Guidance Note 24: Planning & Noise (PPG24)**
- **Minerals Planning Guidance 5 'Stability in Surface Mineral Workings and Tips' (MPG5)**
- **Minerals Planning Guidance 7 'The Reclamation of Mineral Workings' (MPG7)**
- **Minerals Planning Guidance 15 'Provision of Silica Sand In England' (MPG15)**
- **Minerals Policy Statement 1 'Planning and Minerals' (MPS1)**
- **Bedfordshire & Luton Minerals & Waste Local Plan Adopted 2005 (MWLP)**
- **South Bedfordshire Local Plan Review Adopted 2004 (SBLPFR)**

## **Planning History**

Interim Development Order no. 1479 SB/83/1060	The winning of sand (dated 28th June 1948)  Extraction of sand from 3.85 hectares of agricultural land adjoining existing sand working. (Planning Permission no. 5/1984 dated 1 <sup>st</sup> May 1984)
Interim Development Order no. 1479 BC/CM/97/00031	Determination of schemes and conditions (dated 13 <sup>th</sup> February 1997) Variation of condition 17 of I.D.O no. 1479 to permit the importation of soil/peat for blending with sand (Planning Refusal no. 7/1997 dated 11 <sup>th</sup> December 1997)

BC/CM/2002/19

Revised scheme for restoration, landscaping and aftercare to comply with conditions no. 21 and variation of conditions 2, 3, 6 and 23 of I.D.O. no. 1479  
(Planning permission no. 9/2003 dated 30<sup>th</sup> April 2003)

**Representations:  
(Parish & Neighbours)**

Heath & Reach  
Parish Council

*BC/CM/2009/20 & BC/CM/2008/19* – Strongly oppose both applications and demand that an acceptable restoration plan be implemented which requires no further sand extraction or importation of inert fill, in line with the Section 106 Agreement of 2003. These two applications are not for restoration but for continued sand extraction and for use of the quarry as a waste management site within the Green Belt. The objections and concerns are set out in some detail, but can be summarised as follows:

- The Parish Council should not be obliged to wait more than another 10 years for the implementation of public access and rights of way through the quarry. The cessation dates imposed by the current Section 106 Agreement must be adhered to. The Parish do not regard the reasons given as sufficient to justify any extension of time. If the variation of time limits is permitted as requested, this will set a precedent for future extensions of deadlines.
- There should be a wider discussion of potential long term public use of the quarry.
- According to the information provided, the volume of sand to be extracted is greater than the amount to be imported as inert waste. Thus, there is sufficient material in Reach and Bryants Lane Quarries for immediate restoration.
- How closely would the Council monitor and control waste imported to the quarry to ensure only the deposit of inert waste?
- How would proper drainage be ensured given the large amounts of clay imports?
- As the quarry is so near to the centre of the village, noise is heard coming from the quarry as early as 6am. Proposed operating hours should be reduced to 0730 to 1800 hours Monday to Friday.
- The Parish Council has complained to the Council on a number of occasions about levels of dust on the surrounding highways, verges and pavements. Sand is deposited from the

wheels and bodies of lorries, particularly in wet or windy weather. Lorries delivering clay from Milton Keynes would make the roads muddy.

- Traffic management – Despite there being a HGV ban at Shenley Hill Road, there are still lorry movements through the village.
- What would be done to avoid a repeat of the June 2007 landslip? This has threatened the hedgerows of an ancient way (Gig Lane).
- There is nothing in the proposals which details the implications for Bryants Lane Quarry. The applicant has not provided alternative schemes to demonstrate what restoration could be achieved without the importation of material from Bryants Lane Quarry. The use of materials from Bryants Lane may leave this area deficient of restoration material.
- The proposed final landscaping scheme shows insufficient tree and shrub planting. The margins of the quarry are an eyesore and the old entrance is in a disgraceful condition. Also, there is no provision for the proper long term management of the pond other than a general statement regarding fishing. Substantial parts of the existing boundary tree line may need work, replacement or supplementing.
- The proposed permissive footpaths, whilst welcome, are not considered to be sufficient compensation to the local community for continued work in the quarry. Further benefits ought to be provided in the form of greater open access. The proposed route from the water tower to Overend Green Lane should be expedited as there is an urgent need to get walkers and riders off an increasingly dangerous section of Eastern Way between Gig Lane and Overend Green Lane. It is requested that section 'A' is constructed to bridleway specifications with entry from Gig Lane. This is because this route will connect the village with the bridleways to the east of Miletree Road. It should be a requirement that all routes across the quarry are designated as Rights of Way and not permissive paths, which would have no guarantee of continuity.
- It is suggested that a working / liaison group representing the various interested parties is created to work alongside the company and its agent in a constructive way.



No comments to make on either application.

Both planning applications were publicised in accordance with Article 8 of the Town and Country Planning (General Development Procedure) Order 1995, comprising advertisement in the local newspaper, the display of two site notices and notification of neighbours within 200 metres of the site boundary. The waste importation application was advertised as a departure from the Development Plan in accordance with regulations.

A combined total of 27 letters of objection were received from 18 households, plus one letter of objection from an agent acting for a neighbouring landowner (Arnold White Estates Ltd). In addition, Andrew Selous MP has written to the Council on two occasions to request that the comments of named constituents be taken into account by the decision-makers.

As the applicants put forward several amendments to the applications in March and July 2009, the Council undertook two further rounds of consultation and notification of neighbours who had made previously made representations.

An amalgamation of neighbour objections and concerns in connection with both applications is set out below:

- (a) A further extension to the operational life of the site so as to delay final restoration by another 10 years is not justified. The applications are entirely contrary to the Section 106 Agreement and the extraction and restoration deadlines specified therein, which should be enforced.
- (b) There is concern that the proposed further extraction of sand is driving the need for waste importation. There are other sand reserves in the area not close to the centre of a village.
- (c) It has not been demonstrated that the quantity of waste proposed to be imported is specifically needed to buttress the June 2007 slippage. The proposals are more for the purposes of waste management.
- (d) Concern about the nature of the waste which could enter the site and how this would be controlled and the health risks associated with airborne pollutants caused by waste tipping.
- (e) Highways Issues:
  - (i) the import of waste would generate a substantial increase in HGV movements on the route though the village which is already busy and dangerous;
  - (ii) poor state of Woburn Road;
  - (iii) speeding HGV vehicles through the village;

- (iv) noise from increased HGV traffic;
  - (v) an alternative site access could be provided at Eastern Way so that vehicles would utilise the A5 rather than travel through the village;
  - (vi) trafficking of mud and sand onto the highway and pavements; and
  - (vii) no measures are taken to dampen loads of sand.
- (f) Adverse impact of increased noise, dust and general disruption to the village;
  - (g) Landscape issues, including loss of countryside views and neglected quarry margins;
  - (h) Risk of recurrence of landslips, which could threaten the very existence of Gig Lane.
  - (i) Restoration proposals:
    - (i) should not involve any further extraction or importation of inert waste;
    - (ii) lack vision and do not offer reasonable long term benefits to the local community in terms of open public access and adequate tree and hedgerow planting;
    - (iii) do not include guaranteed provision of adopted public rights of way (bridleway links across the site would be particularly valuable to the local community). Permissive rights of way are not an acceptable substitute;
    - (iv) the proposed access track off Woburn Road to serve the fishing lake would generate traffic movements pass residential properties. Any such route would be better provided off Eastern Way or Overend Green Lane to avoid bringing traffic into the village.

One resident has commented that the applicant's offer of a right of way around the southern and eastern boundaries of the site should be seized upon.

### **Consultations/Publicity responses:**

Environment Agency *BC/CM/2008/20* – No objection to the revised scheme for phasing of extraction and backfilling and no concerns arise from proposed restoration contours.

*BC/CM/2008/19* – No objection. The Agency point out that the importation of inert waste materials will require an Environmental Permit, which will be subject to a groundwater risk assessment. It will be necessary to engineer a liner to contain the wastes and protect the underlying major aquifer. The Flood Risk Assessment (FRA) submitted with the application is acceptable and the

surface water drainage strategy should be implemented in accordance with this document. The soakaway at the base of the site should be constructed at a suitable distance from the edge of the sidewall liner to prevent undermining of the engineered waste containment.

Internal Drainage Board

*BC/CM/2008/20 & BC/CM/2008/19* – Note that the Flood Risk Assessment indicates no surface water flows would leave the site and hence enter the Board's district. Therefore, the Board has no comments to make.

Mid Beds Environmental Health Officer (EHO)

*BC/CM/2008/20 & BC/CM/2008/19* – No objection to the revised scheme provided there are no changes to details approved pursuant to conditions 16 and 17 of existing 2003 consent, which deal with noise and dust respectively (with the exception that condition 16 be amended to correctly reflect what is stated in MPG11 and MPS 2).

Heath & Safety Executive

*BC/CM/2008/20 & BC/CM/2008/19* – Comment that they have no particular concerns with the earthwork proposals. The document entitled "*Atkins Geotechnical Report on Heath & Reach Quarry June 2007 Slip*" contains an additional section (Addendum 1) which is an update to the original report sent to HSE. It would seem that the stability of the slip area will require the import of additional suitable material.

Anglian Water

No comments received.

Central Beds Highway Development Control Manager

*BC/CM/2008/20 & BC/CM/2008/19* – No objection. The information provided with both applications suggest that the daily HGV movements associated with the site would not change as a result of the applications and there is no request for any alteration to the current limit of 160 movements per day. Provided that any planning permissions are conditioned in a way that continues to restrict the operations to 160 movements per day, an objection on highway grounds cannot be sustained.

Natural England

*BC/CM/2008/20 & BC/CM/2008/19* – Do not object to the proposals, as it is not thought that the applications would result in an additional impact on the Kings and Bakers Woods and Heaths SSSI. However, the restoration plan is disappointing in both its ambition and detail. The applicant appears to miss a considerable opportunity to create heathland or acid grassland habitats given the geology of the area. These habitats are a priority at both local and national level and would help the authority achieve the aims of the Bedfordshire and Luton Biodiversity Action Plan. The applicant should be directed to improve upon the restoration

Greensand Trust

scheme in this respect.

*BC/CM/2008/20 & BC/CM/2008/19* – Would urge the Council to reject both applications. There are no calculations in the applications to show the amount of material that is necessary to specifically repair the slippage. The plans do not refer to the area of slippage or what remedial work is necessary to stabilise it. In fact, a connection between the slippage and the increased quantities of fill needed for restoration cannot be found in the application documents.

The June 2007 slippage occurred on a slope that has already be shown to be unstable. The slippage has occurred in an area where the applicant has only relatively recently acquired a permission to excavate extra sand. The assertion that the cause of the slippage was the diversion of surface water from Gig Lane seems unlikely. Water flowing into the tension cracks that already existed would seem a far more effective way of lubricating the slope. An independent assessment of the cause of the slip failure should be provided.

Despite the impact of the proposed development on the local community, the restoration proposals and their phasing make no attempt to ameliorate these impacts. The application makes no change to the proposed agricultural afteruse. To an extent this determines the requirement for finished land levels and thus generates the requirement for the amount of landfill. The Greensand Trust suggests that the target objective be reviewed, not least in the light of the extended period of disruption to the community, the increased income derived from extended operations and the potential to return value to local people in the longer term. An option to restore the site to open space for the good of the public and wildlife should be investigated. Restoration to a much more varied landscape is recommended.

As a minimum, the proposed public right of way linking Reach Lane and Eastern Way should have an additional arm extending around the site to the east to coincide with the reinstated Footpath No.1 across Bryants Lane Quarry. The creation of such new paths should be within the first phase of restoration. Access to the quarry should be possible from all four sides, with a network of paths across the site rather than minimal restricted rights of way, as part of the opening of the site to the public as a nature reserve. This would contribute to the wider Green Infrastructure network of green space and access for South Bedfordshire.

The proposed timescale for aftercare/maintenance of the site is 5 years – it should be a minimum of 10 years,

Countryside Access  
Service (Rights of  
Way Officer)

although 25 years would be more appropriate.

*BC/CM/2008/20 & BC/CM/2009/19* – Comment that the application should carry some community benefit given the impact of continued sand extraction and infill operations. In essence, this should be handing over the land to the community who would manage it as a public resource. Even though primarily agricultural, the land could still be managed as public open space. There is a need to provide more local and strategic open space in accordance with South Bedfordshire's Green Infrastructure Plan.

The proposed permissive footpaths should be bridleway to connect with the new Miletree ('Webbs Way') bridleway on the other side of Eastern Way and the rights of way network beyond in Hockcliffe and Battlesden. This should be secured by Section 106 Agreement. Anything less will not be accepted by the Countryside Access Service. Further linkages to the local road network should be provided, specifically at Eastern Way and Gig Lane.

As no further working of the section of the quarry alongside Overend Green and Eastern Way to the Water Tower is permitted, the Countryside Access Service does not understand why the first section of path cannot be dedicated with immediate effect. This would not compromise the restoration of the quarry.

In terms of the route alignment, it is shown to be very close to the existing boundary hedge on Overend Green, which could lead to a reduction in public access. Therefore, the route should run several metres in from the hedge. It is preferable that the route is not fenced and should be at least 4 metres-wide to allow for options for upgrading the surface of the route at a future date.

The proposed gradients appear to be suitable for bridleway access.

It is considered that current proposal still does not satisfy the requirements of condition 26 of planning permission 9/2003. If the applicant is prepared to provide a Public Bridleway between Reach Lane and Eastern Way and a Public Footpath from Overend Green to Eastern Way then the Countryside Access Service would be content to discharge on this condition.

The location and size of the proposed enlarged water body (mainly within Bryants Lane) has changed and now comes into conflict with the reinstatement of the legal alignment of Public Footpath No.1. There is concern that no provision is being made to safeguard the route of the public footpath and the lake itself could over time obstruct the legal line of the footpath. The Countryside Access Service would

therefore like to see either the size of the lake reduced or moved, or an undertaking via a Section 106 Agreement to provide suitable bank stabilisation to ensure that the footpath surface will not slip into the lake.

Parish Paths  
Partnership (P3  
Group)

*BC/CM/2008/20 & BC/CM/2009/19* – The P3 Group are pleased to note the offer of an additional length of footpath from Overend Green Lane to the Water Tower, which will help with our aim of providing a safe route along Eastern Way. It is expected that the route linking Reach Lane, Eastern Way and Overend Green should be a Public Bridleway, with additional access points. There is no reason why the route from the water tower to Overend Green should not be declared a right of way within the next two years.

Clarification is sought as to whether condition 26 attached to the 2003 permission is met by the current application proposals.

There is concern that final restoration has been pushed back to late 2022.

Ramblers Association  
(Leighton Buzzard  
Group)

*BC/CM/2008/19 & BC/CM/2009/20* – The Ramblers Association welcomes the eventual return of mining land to public use. The modifications to the applications are noted.

Beds & Cambs.  
Wildlife Trust  
Leighton Buzzard  
Society

No comments received.

Indicate their support for the proposed stabilisation works on the Gig Lane boundary.

## Determining Issues

The main considerations relating to these applications are:

1. **Green Belt**
2. **Environmental Considerations: Disturbance & Pollution Control**
3. **Landscape Impact**
4. **Transportation**
5. **Restoration, Rights of Way and Environmental & Community Benefit**
6. **Assessment of Justification and Need for Development**
7. **Conclusion and Fallback Position**

## Considerations

In deciding these applications, the Council must have regard to section 38(6) of the Planning and Compulsory Purchase Act 2004. Proposals must be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant development plan consists of The East of England Plan (May 2008), which effectively superseded the

Bedfordshire Structure Plan. Until the emerging policies of the Minerals & Waste Local Development Framework are adopted, the policies of the Bedfordshire & Luton Minerals & Waste Local Plan, Adopted January 2005 (MWLP) and the South Bedfordshire Local Plan First Review, Adopted January 2004 (SBLPFR), are formally saved and form the policy framework against which applications should be determined.

Policies M6 (*Requirements for determination of minerals applications*) and GE1 (*Matters to be addressed in planning applications*) of the MWLP set out the criteria for assessing minerals and waste applications. The applicants have sought to demonstrate the existence of remaining workable deposits and have put forward a programme of working and progressive restoration accompanied by a timetable. These are standard information requirements for the type of applications under consideration, as set out in policy M6 of the MWLP.

Policy GE1 of MWLP advises that minerals and waste planning applications must provide sufficient information to enable a full and proper assessment of all the issues arising, including need in the national, local and regional context, traffic implications and all relevant environmental impacts, as addressed below. A judgement needs to be made in each case as to whether or not adequate information has been provided on all relevant issues.

Policy W1 of the MWLP (*Key Principles*) states that planning permission for waste management proposals will only be granted where it:

- contributes to meeting the strategic aim of the Plan to reduce the amount of waste which goes to landfill;
- takes account of the waste hierarchy;
- does not significantly increase development options further up the hierarchy; and
- conforms with the proximity principle.

The applicant expects that much of the inert material would be sourced from the Bedfordshire and Milton Keynes area. Bedfordshire does not presently have sufficient capacity to recycle all construction and demolition waste arisings in the county and although landfill is considered the last resort within the waste hierarchy, inert waste landfills offer a solution to manage this waste. In this case, the applicant argues that the landfill proposal will be contributing to the restoration of a quarry void. It is not considered that the granting of permission for inert landfill at Reach Lane would impede development options further up the waste hierarchy (i.e. recycling and re-use). In this context, the proposal is deemed to accord with Policy W1 of the MWLP.

Policy W21 (*Inert waste landfill*) of the MWLP advises that the Planning Authority will not grant planning permission for landfill or other disposal to land of inert wastes except where proposals contribute to the restoration of old mineral workings or demonstrate a net environmental benefit. This mirrors the advice in MPG 7 (para. 21), which promotes the development of high standard restoration proposals and advises that landfilling of some sites can "...provide opportunities to re-create pre-working or acceptable, new landscapes". The proposal to import 355,000m<sup>3</sup> of inert material to make up

a deficit of restoration material and thereby achieve a landform capable of sustainable a suitable afteruse would, on the face of it, appear to accord with policy W21 and MPG7.

### **Green Belt**

PPG2 sets out national planning guidance in respect of sites within designated Green Belts. Reach Lane Quarry lies wholly within the South Bedfordshire Green Belt. The two-part test to be applied is whether development represents inappropriate development in the Green Belt and, if so, whether there are very special circumstances present which clearly outweigh both the harm caused by virtue of the inappropriateness and any other harm.

PPG2 lists the five purposes of including land in Green Belts:

- to check the unrestricted sprawl of large-built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The most important attribute of Green Belts is openness. This should be interpreted as meaning free from development in a broad sense; there is no definition placed upon it, and it is a matter of planning judgement in each case.

At a local level, guidance on Green Belts is contained in Policy GE5 (*Protection of Green Belt Land*) of the MWLP. It states that planning permission for waste development will only be granted where very special circumstances can be demonstrated to justify the proposal, such as securing the satisfactory restoration of a quarry or there are overriding community and environmental benefits. For all minerals and waste development, proposals should preserve the openness of the Green Belt.

### **Application BC/CM/2008/20 –**

Whilst there is not a general presumption against mineral working in the Green Belt, as there is with waste disposal operations, it is still necessary to consider whether proposed mineral extraction would compromise openness and conflict with the purposes of including land within the Green Belt. The advice in PPG2 at paragraph 3.11 is that minerals are exceptional in that they can be worked only where they are found and their extraction is only a temporary activity. Further guidance is provided in MPS1. In recognising that minerals are “*essential for development and through that for our quality of life and creation of sustainable communities*”, MPS 1 goes on to state that “*.....mineral extraction need not be inappropriate development in the Green Belt, nor conflict with the purposes of designating Green Belts*” but “*.....in permitting minerals development in the Green Belt, authorities should ensure that the high environmental standards are maintained during operation... and that sites are well restored to afteruses consistent with Green Belt*



*objectives.”*

The significantly greater time frame over which both extraction and restoration is intended to take place would undoubtedly have a degree of impact upon the scene, character and setting of the South Bedfordshire Green Belt in the Heath & Reach area. Although there would be no lateral extension of the quarry void, a considerable area of land (26 hectares) is affected by the proposals. Importantly, it is considered that the applicant could expedite restoration over a greater part of the quarry than shown on the proposed phasing plan. It is arguable therefore that this application for a revised scheme of phasing does not meet the dual criteria of ‘high environmental standards’ and ‘well restored’. On balance, it is concluded that such is the long delay to final restoration brought about by the revisions to phasing of extraction and backfilling that the development is deemed to be inappropriate development in the Green Belt contrary to national and local Green Belt policy.

However, the proposed final landform and proposed afteruse of the site for agriculture, amenity and areas of woodland is consistent with Green Belt objectives.

*Application BC/CM/2008/19 –*

Paragraph 3.12 of PPG2 states that the carrying out of engineering operations and other operations and the making of material changes of use of land will be inappropriate development “*unless they maintain openness and do not conflict with the purposes of including land within the Green Belt*”. It follows therefore that the disposal of waste is, by definition, considered to be inappropriate development, which is itself a source of policy harm.

Landfilling is not the currently approved method for restoring the quarry; the current consent stipulates that only on-site materials are permitted to be used (with an allowance for movement of restoration material across the boundary from Bryants Lane). The landfill element of the proposals must therefore be tested against Green Belt policy as an entirely new development.

The applicant contends that the proposed importation is in association with the restoration of a mineral working and therefore that the location of the development is integral to the application. There is recognition in Policy W21 of the MWLP that disposal of waste to contribute to the restoration of old mineral workings can be acceptable (subject to other relevant policies of the Development Plan).

In my judgement, the operations associated with the landfilling, the fact that these operations would take place for more than 4 years, the potential for the operations to be seen from time to time and the likely need for items such as security fencing and screen bunds would result in the landfilling element having an urbanising effect on an area of land which is supposed to be fully restored without the need for infill by April 2011. Weight should be attached to the *impact of operations and activities* to import waste. I am of the view that this would detract from the openness of the Green Belt. Whilst it is arguable that views of the landfill operation would be somewhat limited given the local topography and boundary vegetation, lack of visibility does not mean that openness would be preserved. If this approach was accepted, it

could be repeated and seriously compromise Green Belt policies. It is concluded that the application conflicts with PPG2 and policy GE5 of the MWLP.

### **Environmental Considerations: Disturbance & Pollution Control**

It is necessary to consider whether the development proposals would cause any other harm in terms of environmental disturbance or pollution.

#### **BC/CM/2008/20 & BC/CM/2008/19 (both applications) –**

Policy GE18 (*Disturbance*) of the MWLP states that planning permission will only be granted for minerals and waste development proposals which are likely to generate disturbance from noise, dust, mud on the highway, fumes, gases, odour, illumination, litter, birds or pests, where the anticipated disturbance is reduced as far as practicable and is outweighed by other planning benefits of the proposals. Furthermore, policy BE8 of the SBLPFR advises that proposals likely to generate disturbance and other pollution emissions must ensure that they do not unacceptably disturb or otherwise affect adjoining properties and uses.

The closest residential properties are 60 metres from the boundary of the curtilage of the quarry. Local residents have cited noise and dust emissions as reasons for objection to the proposals. My records indicate that there have been occasional complaints to the Minerals and Waste Team about noise relating to vehicle / plant activity near the entrance. There are however no technical objections from the Environmental Health Officer. Whilst I consider that there is a risk of nuisance at the nearest dwellings if proper controls are not in place, I am satisfied that noise and dust could be the subject of appropriate planning conditions in order to overcome any harm. Having regard to the advice in PPG24, I concur with the Environmental Health Officer's view that the same scheme of monitoring and control of noise can be imposed, as approved pursuant to the current mineral consent, in order to satisfactorily mitigate any noise impact. The applicant proposes to retain the same operating hours for all activities as specified in the existing minerals consent for Reach Lane (i.e. 0700 to 1700 hours Mondays to Fridays and 0700 to 1300 hours Saturdays). These are standard operating times for minerals and waste development and I do not see any overriding case for further restricting them in the event that new permissions are forthcoming.

At the present time, there is only a wheel shaker grid next to the weighbridge and this has not necessarily proved to be effective in preventing the deposition of sand and debris on highway and pavements. Indeed, this issue has given rise to several complaints over recent years and is also identified as a concern by residents and the parish council in response to publicity of the applications. However, it is considered that the existing approved scheme for monitoring and control of dust could be carried forward and attached as a condition on any new grant of permission, provided that it is reinforced by a requirement for installation of a wheel wash.

Policy GE20 (*Water Resources*) of the MWLP states that permission will not

be granted for minerals and waste development proposals where the proposal would have an unacceptable impact on the quality or quantity of groundwater and/or surface water drainage, and the flow of groundwater on or in the vicinity of the site.

The applicant considers that both applications do not pose any risk to the water environment. The Environment Agency has no adverse comments to make in respect of either application.

The importation of inert waste materials will require an Environmental Permit from the Environment Agency, which will be subject to a groundwater risk assessment, and it will be necessary to engineer a liner to contain the wastes and protect the underlying major aquifer. The process of obtaining an Environmental Permit has been progressed in tandem with landfill application but can only be issued upon the grant of a relevant planning permission.

In accordance with the requirements of PPS25, a Flood Risk Assessment (FRA) accompanies the inert landfill application. This to ensure that sufficient attenuation for a flood event with a 1 in 100 annual probability is catered for in the landfill design. Rainwater will primarily run off the waste due to low permeability.

A surface water management strategy has been submitted for the landfill area and the wider quarry site. Control of run off is paramount in maintaining the quality of the restored surface in the long term. The strategy has been designed with the terrace features in mind, which would accommodate french drains and/or swales to direct surface run off to the water body. The Environment Agency has confirmed that the drainage details are acceptable and should be implemented accordingly. I therefore find that both applications comply with policies GE20 and GE26 of the MWLP.

### **Landscape Impact**

**BC/CM/2008/20 & BC/CM/2008/19 (both applications) –**

Policy GE9 (*Landscape Protection and Landscaping*) of the MWLP requires that development proposals must be sympathetic to local landscape character and any adverse impacts should be reduced as far as practicable and outweighed by other planning benefits.

The site lies within open countryside on the north east side of Heath and Reach village. I am of the opinion that the proposed extension to the operational life of the mineral site and the subsequent postponement of restoration, together with the introduction of landfill operations, would bring additional harm to the visual amenity of the Green Belt and detract from the rural character of the area.

In terms of the proposed *final* landform, the levels are deemed to be broadly acceptable, subject to the inclusion of a larger extent of woodland and woodland edge planting in the proposals so as to ensure harmony with local landscape character.

## **Transportation**

### **Application BC/CM/2008/20 –**

Policy GE23 (*Transport: Suitability of Local Road Network*) of the MWLP states that planning permission will only be granted where the material is capable of being transported to and from sites via the strategic highway network. The suitability and capacity of access routes must also be taken into account.

No additional HGV movements are proposed in connection with the proposed revisions to the mineral operation. On this basis, there is no objection from a highways perspective.

### **Application BC/CM/2008/19 –**

Reach Lane and Bryants Lane Quarries are currently permitted a combined maximum of 160 movements per day, utilising the recently improved shared entrance off Woburn Road. The applicant has calculated that over representative three-month periods during 2006 and 2007, the combined mineral operation for both quarries generated an average of 71.3 movements. Based on the assumption that all loads delivered to the site would involve 20 tonne gross weight tipper lorries with a maximum body volume of 15m<sup>3</sup>, there would need to be an average of 22 loads delivered per full working day (equating to 44 vehicle movements) in order to achieve the desired importation figure of 355,000m<sup>3</sup> over the 4 year tipping period requested. Without doubt, therefore, waste importation traffic could be accommodated within the daily movement limit currently imposed by the 2003 permission, unless mineral operations intensified. In reality, however, there are fluctuations in available waste volumes as and when large contracts became available, so at certain times the applicant would want to operate at the maximum level of 160 movements.

Neighbours have raised the concern that there would be a significant increase on recent *actual* traffic levels. However, my Highways Development Control Officer is of the opinion that there are no sound highway reasons for imposing a reduced limit on traffic movements in and out of the shared access. The access itself and the approach roads are adequate to cater for the peak level of traffic currently permitted to use the site.

The site entrance lies on the edge of Heath & Reach village, approximately 1.75 km to the south of the A5 roundabout at Sheep Lane, which forms the nearest point on the strategic highway network. The recent implementation of lorry ban zones covering the north and east of Leighton Buzzard means that *through* traffic must not use Woburn Road, Heath & Reach. Unless mineral deliveries or waste collections are made locally, HGV movements must not take place through the village and all lorries must instead turn right (northwards) towards the A5.

An alternative route to the strategic highway has been suggested by a local resident. This would involve the creation of a new access onto Eastern Way from which vehicles could head north eastwards to the Fourne Turn junction on the A5 trunk road, thereby ensuring that traffic would avoid Heath & Reach altogether. However, it is known from dealing with traffic issues on other sites in the Heath & Reach area that the Highways Agency would resist

any development which increased current traffic flow on the Fourne Turn junction due to topography and visibility concerns.

I conclude that the landfilling application conforms to policy GE23 of the MWLP.

### **Restoration, Rights of Way and Environmental & Community Benefit**

*BC/CM/2008/20 & BC/CM/2008/19 (both applications) –*

Policy GE26 (*Restoration*) of the MWLP requires that all proposals for all non-permanent minerals development include high quality restoration of the site within a reasonable timescale. Opportunities for habitat creation should also be considered and, where practical and desirable, incorporated into restoration proposals.

MPG7 (Annex A, para. A9) states that the final landform should be the best available compromise between the intended afteruse, compatibility with the natural landscape and slope stability. Shallower slopes are necessary towards the base of the quarry to ensure safe and convenient use of the water body for fishing / other amenity use and to enable silt fall out. The proposed southern and eastern batter slopes of around 1 in 5 to 1 in 8 contain subtle changes to the existing approved gradients, but are seen as adequate for long term quarry slope conditions at the site. The proposed overall landform would be capable of sustaining the main intended afteruse of the site for agriculture (i.e. grassland / grazing).

The revised restoration drawing is broadly similar to the currently approved one. It contains the same component parts of open grassland with a central water body feature and blocks of tree planting. Whilst it is recognised that the creation of an extensive area of species-rich grassland would be of benefit to biodiversity, the new plan does not confer any significant improvement over the agreed one in terms of habitat creation and landscape design. I note that the latest plan appears to contain marginally less planting and two additional hedgerows to partition the site have been deleted from the proposals.

Policy GE21 of the MWLP requires minerals proposals, that would lead to disruption of the public right of way network, to provide suitable alternative arrangements to maintain or enhance public access opportunities and restoration proposals to enhance and/or extend opportunities for public access. The applicant offers to provide a permissive footpath from the water tower on Eastern Way to Overend Green Farm following the perimeter of the site. This would be installed in two years' time upon reinstatement of the eastern batter. The applicant has indicated that this route could be dedicated as a public right of way (footpath) upon completion of final restoration in 2021-22. Taken together with the existing requirement under the 2003 permission for a right of way across the southern part of the restored quarry, a crucial link to the wider path network could be secured. Implementation of the existing right of way requirement would have to put back from 2011 until 2021-22 as a consequence of the inert landfill and revised phasing proposals. The delay to restoration of the Reach Lane site until 2021-22 would not

disrupt the *existing* rights of way network - a footpath closure and temporary diversion order affects the Bryants Lane permission site only. The applicant is also intent on providing the route of the current temporary diversion across Bryants Lane as a Public Footpath upon final restoration although, potentially, adoption of that route could not take place until 2042.

The applicant has rejected the suggestion, as put forward by certain consultees and the parish council that the proposed route around the edge of the restored quarry should be dedicated as a Public Bridleway and that more general public access should be provided. Such improvements to the restoration scheme would help to mitigate the extended period of disruption to the community and accord with the aims and objectives of the Greensand Trust, thus finding support under policies GE3 and GE21 of the MWLP.

### **Assessment of Justification and Need for Development**

#### **Application BC/CM/2008/20 –**

Mineral Extraction and Importance of Deposits: The applicant seeks to extend the period of extraction at the site beyond the current expiry date of 30<sup>th</sup> January 2010 (which itself was a 6-year extension of time) until spring 2015. This will allow 327,000m<sup>3</sup> (523,200 tonnes) of remaining sand to be won from existing permitted phases plus a further 149,000m<sup>3</sup> (238,400 tonnes) of additional reserves outside those permitted areas, which appears to have been sterilised historically due to the incompatibility of the two quarries when ownership was divided. Given that the two sites are now in single ownership, it is now possible to extract mineral up to the boundary.

When the previous application was being considered in 2002/03, there were said to be approximately 500,000 tonnes of permitted reserves (i.e. within the current permitted extraction area). The Council has questioned why, some 6 years later, the quantity of mineral left in the permitted phases has increased considerably when it is not being proposed to increase the depth of working. (Extraction is currently restricted to 1 metre above the water table and it is understood that the current materials balance modelling exercise was undertaken using this basal contour as the typical water table levels and not been reviewed and changed). According to the applicant, this discrepancy may have occurred due to incorrect assumptions used for the basal levels, although there is no clear explanation.

There is no question that the Reach / Bryants Lane complex contains some valuable silica sand reserves. However, the proposed extraction has implications for the environment, landscape and local community in that not only would it lead to significant delay to final restoration and thus bring a degree of prolonged disturbance to the area, but also exacerbate a shortage of on-site backfill material. This must be carefully balanced against the need for the mineral.

Silica sand (also known as industrial sand) is recognised as a scarce resource limited to a few areas of the country. It is an essential raw material, principally for glass manufacture and foundry castings, although none of the deposits in Bedfordshire are used for these purposes. Instead, the purest

'silver' sands in this area tend to be used as specialist non-staining and neutral sports applications. Other local silica sands which are yellow, orange or brown in colour have a range of different end-uses such as water filtration and for types of horticultural, root-zone and amenity products.

MPG15 advocates the importance of safeguarding nationally important silica sand resources, stating in paragraph 2 that there is a "...need to protect unworked silica sand deposits against sterilisation by other forms of development except where there are overriding planning reasons for releasing this land for other purposes". Further, in paragraph 65, MPG15 goes on to state that regard should be given to ".....whether the particular nature and qualities of the silica sand, such as suitability for particular end-use not met by other available sources in the area or region, in itself justifies granting permission".

The applicant's 'need' argument for the current extraction proposal is that sand deposits in Reach Lane Quarry are capable of being used in a wide range of final products, perhaps more so than any other silica sand deposit in the country. The versatility of the sand in Reach Lane is illustrated by the different uses, which have included leisure uses (e.g. Queens Club, Wimbledon), railway engineering, laboratory testing for experiments in space with NASA, film sets and horticulture. In view of the versatility of the sand, the applicant considers that it should be treated as 'unique'. The applicant estimates that 65 - 70 per cent of the sand in the additional area of workable reserves (phase B) contains industrial sand, with the remainder comprising building sand. Information on the quality of the reserves in terms of a chemical analysis of two sand products show that silica content is in excess of 98 and 99 per cent respectively.

The recent '*Bedfordshire Silica Sand Study 2006/07*' commissioned by Bedfordshire County Council and published in February 2008 demonstrated that a number of silica sand quarries within the area supply a range of specialist sands to a similar range of end-uses as those indicated in a 2002 report on the Reach Lane deposits (submitted by the applicant company as supporting information for the current application). However, the '*Bedfordshire Silica Sand Study 2006/07*' only considered Reach / Bryants Lane Quarry in very general terms due to a lack of information provided by the operator. Therefore, the Mineral Planning Authority has sought specialist advice from the author of the Silica Sand Study (Cuesta Consulting Ltd).

As noted in the *Bedfordshire Silica Sand Study*, subtle colour differences are commonly a major factor in the suitability of a particular sand for specific end uses, and are usually associated with differences between individual layers of sand within the overall deposit. The applicant has previously indicated that such differences are of great importance and that particular care is taken to extract the different colours and qualities of sand so that they can be either processed separately or blended to meet customer requirements.

In view of this, it is surprising that no detailed site investigations appear to have been carried out by the operator to assess the variations in colour and grading within the deposits now proposed for extraction. Evidence provided by the applicant shows only rudimentary descriptions, including only 'brown sands', 'blue clays' and rubble sandstone. This suggests either that the

individual coloured sand horizons do not exist in this part of the site, or that the applicant was not interested in such detail. Either way, it is difficult to understand how, in the absence of such information, the applicant can claim that the proposed extraction will yield the suggested range of specialist sand types.

Taken together, the information supplied by the applicant, and (just as importantly), the lack of more detailed information, suggest that the sands to be extracted as part of the proposed extraction are likely to be dominated by low grade construction sands rather than specialist sands for industrial and other uses. Although the applicant has suggested that a range of products are capable of being supplied from the proposed excavations, he has not offered robust and credible evidence to support this assertion.

In the absence of robust and credible evidence to the contrary, and in light of evidence which shows the presence of only brown sand, the Council's consultant is of the view that the proposed extraction will yield sand that is likely to be suitable only for general construction uses. As previous studies have shown, there is no shortage of permitted reserves of such material in Bedfordshire.

Based on the consultant's verdict that the need for mineral has not been demonstrated, it not possible to consider what landbank, if any, is appropriate.

#### Backfilling & Restoration:

A modelling exercise has been undertaken by the applicant comparing the base of sand extraction to the proposed restoration contours in order to calculate the overall volume of material needed to achieve the desired landform and the volume of indigenous overburden materials available for this purpose. It is calculated that there is a total restoration material deficit of 739,000m<sup>3</sup>. Given that the previous modelling exercise accompanying the 2002 application determined that no importation of fill was necessary to achieve the desired final levels, it is not clear how such a substantial shortage of material has come about (even taking into account the slight increase in proposed restoration levels). I can only conclude that serious miscalculation occurred when the previous modelling exercise was undertaken.

The applicant has confirmed that the restoration materials deficit is based on the assumption that all of the remaining permitted reserves (327,000m<sup>3</sup>) and the additional volume of 149,000m<sup>3</sup> from the new proposed phase would be extracted. It would appear therefore that the proposal to continue sand extraction at the site in order to exhaust the existing permitted area and exploit a newly identified wedge of mineral is a factor in the stated shortage of restoration material.

If the Council decided that no further extraction of material should be allowed beyond the expiry date of 30 January 2010, it seems to me that this would most likely eradicate the need to import fill, although there would still be a need to source restoration material from Bryants Lane. Even if a limited proportion of the identified mineral reserves were permitted to be worked after January 2010, it seems that there would be scope to obtain more



restoration material from Bryants Lane than presently proposed since the total quantity of available overburden in Bryants Lane Quarry is substantial at 604,000m<sup>3</sup>. Indigenous reject materials on Bryants Lane Quarry are available for use in the restoration of Reach Lane Quarry and supporting the June 2007 slip area and this approach would not bring about the same degree of delay to final restoration than would result from reliance upon imported fill to make up a large proportion of the material deficit. A caveat of this approach, however, is that increasing the volume of clay sourced from Bryants Lane raises the prospect that some inert waste *may* be required to achieve a suitable restoration of that site and ensure integration at the boundary with Reach Lane Quarry. I am very much of the view, however, that a clear and tangible planning benefit arises from getting one site fully restored without further significant delay, rather than potentially ending up with a scenario where both quarries are being restored simultaneously in a number of years' time. This approach accords with policy GE26 of the MWLP bearing in mind that any proposal to import waste to Bryants Lane may not necessarily extend the overall operational life of that site since, as things stand, it does not have to be finally restored until 2042. (The merits of any proposal to bring waste into Bryants Lane would need to be addressed as an entirely separate exercise through the planning application process. Final contours have yet to be approved and cannot be considered as part of these applications).

The applicant has submitted new drawings showing a completely revised sequence of extraction, backfilling / infilling and restoration material movements together with a timescale for progressive working and restoration. This has been devised to tie in with the proposed programme of further sand extraction and landfilling, although it is not clear from the submitted plans whether or not minor re-profiling of the 1999 slip area behind the processing plant is intended take place as part of the restoration programme. This phasing information is a standard requirement for determination of applications of this nature, as prescribed by policy M6 b) & d) of the MWLP, particularly as in this case the operator has not adhered to current approved phasing plans and seeks to regularise the situation on the ground by demonstrating a clear and progressive way forward.

Application BC/CM/2008/19 – The applicant asserts that there is a fundamental need for the import of waste to the quarry. First, inert material would be placed from the base of the June 2007 slip failure to provide an overall buttress and address the issue of long term stability. Second, an overall deficit of restoration material exists such that the proposed final contours cannot be achieved without fill from external sources.

An application of this nature must be accompanied by a slope stability report prepared by a “competent person”, in accordance with advice in PPG14 and MPG5. The report included with this application explains the emergency interim works that have already been undertaken and approved by the Health and Safety Executive. Essentially these works involved reducing the steepness of the temporary clay overburden slope to a batter of between 1 in 3 and 1 in 4. The slope stability report recommends that further earthworks are now put in place to address the long term risk of further slippage by

creating a safe permanent batter in the region of 1 in 5.

The application fails to demonstrate that imported inert wastes are *specifically* needed to remediate the slip in the long term and nor has any evidence been provided to substantiate the assertion that there is a lack of suitable overburden material on site (i.e. including Bryants Lane Quarry) to address the slope failure.

There is no apparent geotechnical reason why formation of the existing approved restoration batter across the June 2007 slip area would not provide a suitable long term solution since it comprises an overall gradient in the region of 1 in 5, as advocated by the latest slope stability report. In other words, the amended contours put forward for the slip area, which as already mentioned are not substantially different from those already agreed, do not appear to be necessary on grounds of slope stability alone. In fact, this view must apply to the wider site. A key benefit of the changed restoration scheme that was agreed in 2003 is that it presented an adequate long term solution to slope stability concerns in light of a previous major landslide which occurred in 1999 on a different section of the Gig Lane slope near the processing plant and other minor failures. There is no evidence to suggest that the current restoration scheme, which provides for overall slopes of 1 in 5 would not now provide an adequate factor of safety. The most recent major slippage in June 2007 occurred on a temporary, steep-sided backfilled slope shortly following extraction operations there rather than on any reinstated slope. Therefore, the June 2007 incident concerns operational issues and is not a reflection of any inadequacy of the current approved final slopes.

### **Conclusion and 'Fallback' Position**

It is necessary to conduct a balancing exercise, weighing against the harm by reason of inappropriateness, and any other harm, other circumstances (which may include claimed advantages) in order to form a view whether the other circumstances amounted to very special circumstances, thereby justifying the grant of planning permission. This is the test to be applied, as set out in para. 3.2 of PPG2. The fact that harm may be slight or absent will rarely be sufficient to constitute very special circumstances. It is incumbent on the applicant to demonstrate very special circumstances.

Having concluded that the proposals would constitute inappropriate development in the Green Belt, and attach substantial weight to that harm, I have identified that it would further harm the Green Belt because it would cause some loss of openness.

In terms of landscape impacts, I have concluded that there would be prolonged disturbance to the rural locality to the extent there would be conflict with the aims of policy GE9 of the MWLP.

I have also formed the view, taking into account the advice of Cuesta Consulting Ltd, that there is no evidence of an overriding need for the proposed excavation of mineral. Nor is there an overriding need to import inert waste. I have come to the view that the proposed importation exercise is not essential to achieve a satisfactory restoration of the Reach Lane site because it has not been demonstrated why overburden and reject materials

should not or cannot be sourced from elsewhere on the quarry complex.

Having considered the harm which the development would cause, I am required to assess whether the applicant has demonstrated that there are other factors which clearly outweigh the harm and other matters identified above.

It is recognised that there are some benefits with the proposals. I afford some weight to the additional community benefit which would accrue from the amended restoration plans, in particular the offer of an additional stretch of public right of way which would provide an important link to other routes on the network. However, this alone is not capable of outweighing the harm to the Green Belt and the other concerns identified.

In the event that this Committee is minded to refuse both applications, the applicant will be required to comply with the timescales contained within the current Section 106 Agreement by ceasing mineral extraction on 30 January 2010 and implementing the approved restoration plans by 30 April 2011. A quantity of remaining mineral would be sterilised. A further consequence of refusal is that it will not be possible to implement the applicant's offer of a permissive footpath from the water tower to Overend Green Farm, and dedication of this route upon final restoration in 2021/22.

Because the applications are inextricably linked, refusing one of the applications and approving the other is not deemed to be an option.

## **RECOMMENDATION**

### **BC/CM/2009/20 - Revised scheme for phasing of extraction and backfilling (following a landslide in June 2007) to comply with conditions 1, 13, 14 and 22 of planning permission number 9/2003**

- That planning permission be refused for the following reasons:

1. The proposal is in conflict with PPG2 and Policy GE5 of the MWLP in that it constitutes inappropriate development in the South Bedfordshire Green Belt, for which no very special circumstances have been demonstrated.
2. The site would not be finally restored within a satisfactory timescale, contrary to policy GE26 of the MWLP.
3. The proposal fails the test in policy GE9 of the MWLP in that it would considerably prolong the adverse impact of the rural landscape and no other benefits have been demonstrated to clearly outweigh the harm to the landscape character of the area.
4. No overriding need for the proposed extraction of mineral from the site has been demonstrated, contrary to policies M6 a), M33 and GE1 a) of the MWLP.

5. The amended restoration proposals in terms of landform, landscaping, public access and afteruses do not present any significant benefit over the currently approved plans, and are therefore not supported by policies GE3, GE21 and GE26 of the MWLP.

**BC/CM/2008/19 - BC/CM/2008/19 (Importation and disposal of inert to enable the restoration of Reach Lane Quarry)**

- That planning permission be refused for the following reasons:

1. The proposal is in conflict with Policy GE5 of the MWLP in that it constitutes inappropriate development in the South Bedfordshire Green Belt, for which no very special circumstances have been demonstrated.
2. It has not been demonstrated that there is an overriding need to import inert waste to the site. Nor has any overall planning benefit been demonstrated. The proposal is therefore contrary to policies GE1 a) and W21 of the MWLP.
3. The proposal fails the test in policy GE9 of the MWLP in that it would considerably prolong the adverse impact of the rural landscape and no other benefits have been demonstrated to clearly outweigh the harm to the landscape character of the area.
4. The development would bring about a substantial delay to the final restoration of the site contrary to policies GE26 and GE21 of the MWLP.

**DECISION**

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