



**DEVELOPMENT CONTROL AND REGULATORY BOARD**

**10<sup>th</sup> December 2020**

**REPORT OF THE CHIEF EXECUTIVE**

**COUNTY MATTER**

**PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2020/1610/07 (2020/VOCM/0156/LCC) – 12<sup>th</sup> October 2020
- PROPOSAL:** Variation of Condition 3 and 30 of Planning Permission 2017/1226/07 to allow for an extension of time to delay restoration and submission of a detailed restoration scheme by 12 months
- LOCATION:** Donington Island Claystocking Site, Spring Cottage Road, Ashby Woulds (North West Leicestershire District)
- APPLICANT:** Wavin Ltd.
- MAIN ISSUES:** Safeguarding fireclay resources and restoration.
- RECOMMENDATION:** PERMIT subject to the completion of a legal agreement and subject to conditions as set out in the appendix to the main report.

**Circulation Under Local Issues Alert Procedure**

Mr. S. D. Sheahan CC

**Officer to Contact**

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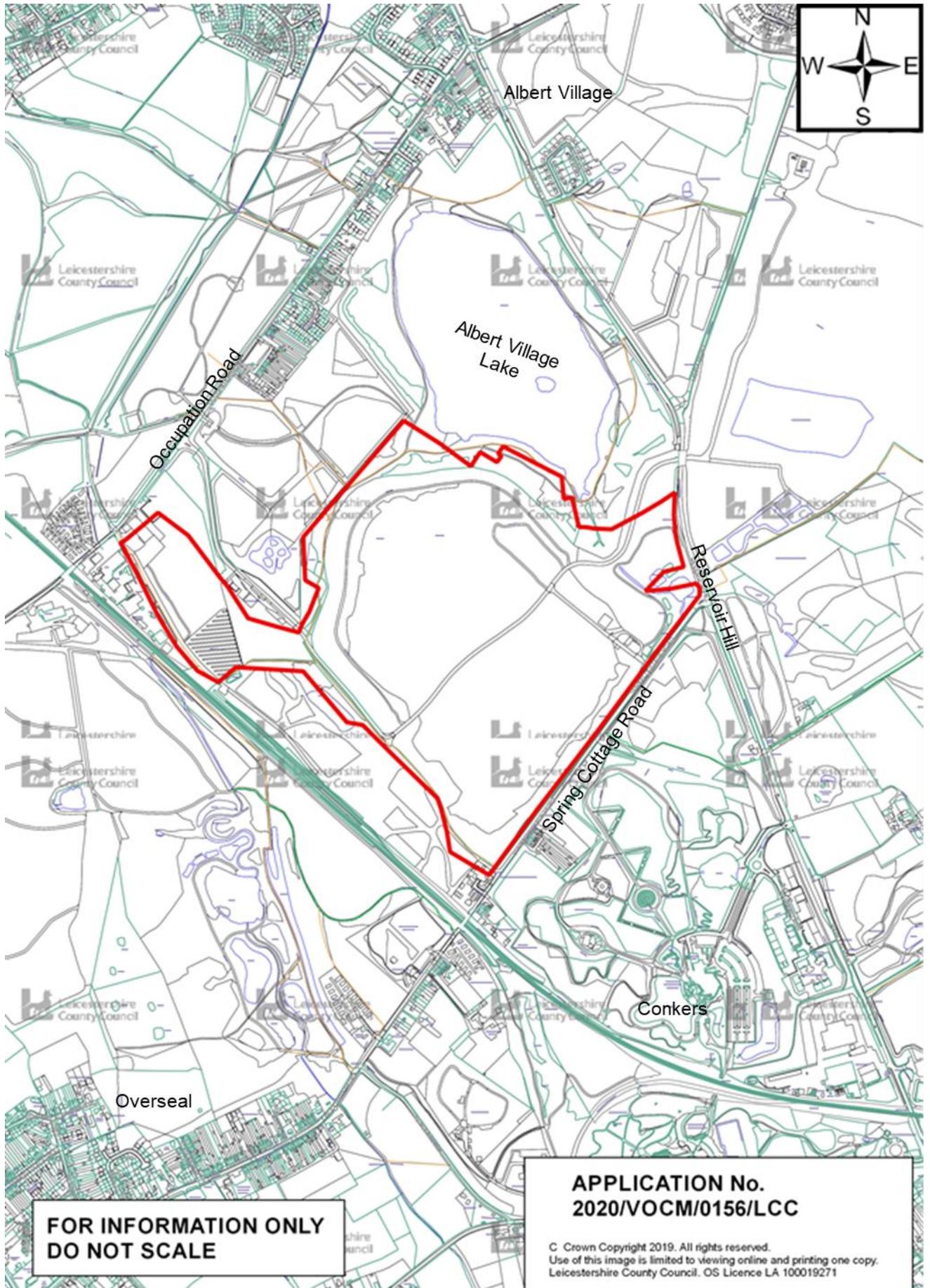
## **PART B – MAIN REPORT**

### **The Site and Surroundings**

1. The Donington Island clay stocking site is located within Ashby Woulds, to the south of Albert Village. The site is bounded to the north by Albert Village Lake and to the east by Reservoir Hill and Spring Cottage Road, beyond which is Conkers activity park. To the south and south-west there is existing vegetation, residential properties and a railway beyond the vegetation, and to the west is the Swainspark Industrial Estate. The site has a total area of 42.75 hectares. Public Rights of Way P39 runs along the south-west boundary of the site, with P22 and P23 running along the western boundary with P23 heading northwards around Albert Village Lake. The site lies within the National Forest and within the catchment area of the River Mease Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). Access to the site is off Spring Cottage Road.
2. The nearest residential properties are located to the south-east along Spring Cottage Road, approximately 20 metres from the site at their closest. There are also residential properties located 280 metres to the north-west on Occupation Road.

### **Background & Planning History**

3. In April 1978, planning permission ref. 1997/0008/07 (referred to as Donington Extension) was granted for the extraction of coal and clay from land south of Albert Village. The permission envisaged the storage of clay won in association with the coal. Planning permission was granted by the County Council in July 1978 for the temporary storage of refractory clays on the Donington site for a period up to 24th June 1994.
4. Planning permission was granted in December 1997 (reference 1997/0547/07) to retain the facility for clay stocking at the Donington site within a reduced site area for a period expiring on 31st December 2012. Planning permission was granted in February 2010 (2009/1207/07) for an extension of the expiry date of the clay stocking facility by 5 years to 31st December 2017.
5. Planning permission was granted in May 2015 to extend the use of the northern part of the site for clay stocking for a further 3 years until 31st December 2020 with the southern part retained for a further 15 years until 31st December 2032 (planning ref. 2015/0991/07).



6. Planning permission was granted in November 2018 (2017/1226/07) to allow for a temporary increase in HGV exports for a 12-month period.
7. In January 2020, a Non-Material Amendment (reference 2019-2205-07) application was permitted to allow for a 12-month extension for the submission of a restoration scheme.
8. Leicestershire has dominated fireclay supply in England for many years. In the 1970s to early 1980s, large quantities of fireclay were selectively extracted with coal but stockpiled separately according to clay quality. This clay has been recognised as an important national resource. Fireclays from the Donington Island site supply about half of the national fireclay supply. The availability of fireclays from opencast coal operations is likely to become increasingly limited, making the stockpiled clays even more important.

### **Description of Proposal**

9. This planning application seeks to vary Conditions 3 and 30 of planning permission ref. 2017/1226/07 to allow for an extension of time to delay restoration and submission of a detailed restoration scheme by 12 months.
10. The proposal seeks to extend the date for retention of the clay stocking area, the area north-west of the site and internal haul road, until 31<sup>st</sup> December 2021, which in turn would result in the final restoration and all planting works being completed by 31<sup>st</sup> December 2023.
11. The application also includes an area of clay storage to be retained until 31<sup>st</sup> August 2021. This area is a central strip across the site, located immediately north-west of the internal haul road which runs directly through Donington Island. The stockpiles in this location would be retained and gradually reduced, but not replenished. The stockpiles would be fully removed by 31<sup>st</sup> August 2021.
12. The southern part of the site which is to be retained until 31<sup>st</sup> December 2032 will remain as permitted and no further variations are proposed.
13. The applicant has stated that this variation is required due to the impact that the Covid-19 pandemic has had on the volumes of clay planned to be removed in 2020. They state that consultants and earthmovers have been unavailable, which has resulted in large volumes of clay remaining in-situ. The clays are a valuable resource for the applicant and there are a number of other national clayware manufacturing companies which rely on the clays at Donington.
14. The temporary planning permission to allow for an increase in HGV movements to transfer clay from Donington Island to Forest Works expired on 29<sup>th</sup> July 2020.

Due to the impact of Covid-19, the applicant has not been able to utilise this increase to its full effect and therefore clay stocks remain at Donington Island which would have been transferred to Forest Works without the disruption caused by the pandemic.

## **Planning Policy**

### **The Development Plan**

#### 15. *Leicestershire Minerals and Waste Local Plan (adopted September 2019)*

- Policy M6: Fireclay
- Policy DM2: Local Environment and Community Protection
- Policy DM5: Landscape Impact
- Policy DM12: Restoration, Aftercare and After-use

#### 16. *North West Leicestershire Local Plan (adopted November 2017)*

- Policy D2: Amenity
- Policy En3: The National Forest

## **National Policy**

### *National Planning Policy Framework (NPPF)*

17. The National Planning Policy Framework (NPPF) provides the Government's policies for the delivery of sustainable development through the planning system. It advocates a presumption in favour of sustainable development.

18. The NPPF recognises the essential role that minerals play in supporting sustainable economic growth and quality of life. It seeks to ensure that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. The NPPF also acknowledges that minerals are a finite resource and can only be worked where they are found. It also contains policies to safeguard minerals to ensure that they remain available for use. It states that local planning authorities should ensure worked land is reclaimed at the earliest opportunity.

## **Consultations**

19. **North West Leicestershire District Council (Planning)** – No objection.

20. **Ashby Woulds Town Council** – No objection.

21. **Environment Agency** – No comments.

22. **Natural England** – No objection. Based on the plans submitted, the proposed development will not have likely significant effects on the River Mease Special Area of Conservation and will not damage or destroy the interest features for which the site has been notified.
23. **National Forest Charitable Trust** – Supports the application. The National Forest Charitable Trust (Formally Heart of the National Forest Foundation) transforms dereliction at the heart of The National Forest, creating environmental, educational and recreational facilities for people to enjoy in perpetuity. The National Forest Charitable Trust considers that in order for a well thought out remediation to take place the submission of the remediation plan to the MPA should be delayed to December 2021. The Trust are working on designing a scheme that is integral to the Trust's vision of attracting visitors to the area whilst improving the environment. The work on developing the future plans for the site have been in limbo since the pandemic began and whilst the works are restarting it is likely to halt again as the pandemic continues through the next six months. Whilst the trust would like phase one remediation works to be completed by December 2021, they take advice on what is achievable in practice and therefore support moving the date back 12 months but hope it could be completed earlier.
24. **National Forest Company (NFC)** – NFC has concerns relating to a delay in restoration, visual impact on the surrounding areas of National Forest and impacts on the recreational use of the Forest. The NFC is responsible for leading the creation of the National Forest. The NFC comment that the site currently amounts to a non-conforming use which has a detrimental visual impact on the surrounding areas of National Forest and impacts negatively on the recreational use of the Forest. The NFC express concern that there appears to be continual slipping of the deadline for restoration of the site and a scheme for restoration would not be submitted until 2021 and the final restoration and planting works are not now scheduled to be completed until the end of 2023. The NFC considers that the operation of complex mineral sites can require flexibility, the history of the site shows that repeated previous opportunities for restoration have been missed and would express concern that a non-conforming use will continue to operate on the site to the detriment of the recreational use of the surrounding woodlands.
25. **Leicestershire County Council - Ecology** – No objection.
26. **Leicestershire County Council Landscape** – No objection.
27. **Leicestershire County Council Public Rights of Way** – No comments.
28. **North West Leicestershire District Council (Environmental Health)** – No response.

**Publicity and Representations**

29. The application has been publicised by site notices and a press notice in accordance with the County Council's adopted Statement of Community Involvement.
30. One letter of objection has been received stating "companies wanting to delay to suit their financial situation, the land next to Conkers needs transforming for the benefit of tourism and a clear message needs be sent that final dates cannot just be moved with a new application". The issue raised is considered below.

**Assessment of Proposal**

31. The planning application seeks to vary conditions 3 and 30 of planning permission 2017/1226/07 to allow for an extension of time to delay restoration and submission of a detailed restoration scheme by 12 months.

**Planning Policy Assessment**

32. The NPPF states that, since minerals are a finite natural resource, it is important to make best use of them to secure their long-term conservation; and that Minerals Planning Authorities should plan for a steady and adequate supply of industrial minerals by, amongst other things, encouraging stockpiling so that important minerals remain available for use. Fireclay is identified as one of the minerals which are necessary to meet society's needs. The NPPF also states that local planning authorities should ensure worked land is reclaimed at the earliest opportunity.
33. It is acknowledged that in allowing this proposal, there would be a modest delay in the restoration of the site. However, this has to be balanced against securing the use of important minerals. The clays at Donington Island are a valuable resource, so it is of local and national importance that these clays are not sterilised. The restoration delay links specifically to the northern part of the site, the southern part of the site which is to be retained until 31st December 2032 will remain as permitted and no further variations are proposed. Therefore, on balance, the proposal for a relatively modest delay in restoration by 12 months is acceptable in order to maintain an area for continued clay stocking and blending and ensure a sufficient supply of fireclay to serve local manufacturing provision in accordance with the NPPF; and policy M6 of the Leicestershire Minerals and Waste Local Plan; and policy D2 of the North West Leicestershire Local Plan.

**River Mease SSSI and Special Area of Conservation**

34. The site lies within the catchment area of the River Mease SSSI and Special Area of Conservation (SAC). The Conservation (Natural Habitats etc.) Regulations 1994 require that an "Appropriate Assessment" be made in respect

of any decision to be taken for any permission for a project which either alone or in combination with other plans or projects would be likely to have a significant effect on a European Site, and is not directly connected with the management of the site for nature conservation. In this instance, Natural England considers that the proposed development will not have likely significant effects on the River Mease Special Area of Conservation and will not damage or destroy the interest features. The County Council is consequently not required to carry out an Appropriate Assessment.

### Local Environment

35. The restoration date being delayed for the northern part of the site will result in the site operating for a longer period than previously approved, which will have a modest impact upon the local environment and community. However, the planning permission will continue to have the appropriate measures to protect against any detrimental impacts on the amenity and health of people and the environment. Therefore, the proposal is considered acceptable in accordance with policy D2 of the Leicestershire Minerals and Waste Local Plan.

### Landscape and Visual Impact

36. The site lies within the National Forest. As the proposal is a delay in the restoration it is not a new development and is not required to contribute towards the creation of the forest in accordance with National Forest Planting Guidelines. Although the proposal delays the restoration, by doing so it enables the applicant and The National Forest Charitable Trust to work together to design a scheme that is integral to the Trust's vision of attracting visitors to the area whilst improving the environment. Therefore, the proposal is in accordance with policy En3 of the North West Leicestershire Local Plan.
37. The NFC made comments relating to the site having detrimental visual impacts of the surrounding area. The retention of the clay stocking area will have some visual impact, but it is not considered that this impact will be significant. Landscape and visual impacts are likely to decline over the extension period as the stockpiles reduce. In addition, the operations at Donington Island are contained within landscaped bunds, which have helped to reduce the impact of the clay stocking operations to an acceptable level. Therefore, the proposal is considered to be in accordance with policy DM5 of the Leicestershire Minerals and Waste Local Plan.

### Restoration, After-use and Long-Term Management

38. The applicant has indicated that the extension in the timetable to restore the northern part of the site is due to the impact the Covid-19 pandemic has had on the volumes of clay planned to be removed in 2020, with consultants and

earthmovers being unavailable, resulting in large volumes of clay remaining in-situ. The movement of clay halts if there are adverse weather conditions, so the impact of Covid-19 over the peak operational season (i.e. summer) has significantly reduced the amount of clay which could be removed, and in turn the restoration of the site cannot be completed within the previously agreed timescale. If an extension of time is not granted, there is a risk that this may sterilise approximately 700,000 tonnes of clay.

39. The NFC expressed concerns about the continual slipping of the deadline for restoration of the site and a scheme for restoration. In addition, a representation from the public was made relating to the delay in restoration of the site. While it is important that temporary development sites are properly restored, a 12-month extension for the submission of a restoration scheme and for the restoration completion date will safeguard an important raw material in accordance with the NPPF and the development plan. It is considered that the importance of the clay stocking facility outweighs the modest delay in the restoration of the site. In addition, the delay in the submission of the restoration scheme will enable an achievable and high-quality restoration scheme to be submitted. Therefore, the proposal is acceptable in accordance with policy DM12 of the Leicestershire Minerals and Waste Local Plan.
40. Under the existing legal agreement, the applicant shall transfer land at Donington to the National Forest Charitable Trust. The National Forest Charitable Trust is a charity which aims to create a vibrant heart in the midst of The National Forest. This will include a 400-hectare woodland park, in which Conkers has already been created, with opportunities for walking, cycling and discovery in the emerging woodland environment. The Trust has adopted a 20-year strategic framework and master plan for the creation of the Heart of the National Forest Park which proposes that the Donington clay stocking site be remediated for a range of recreational uses including visitor accommodation and land and water-based leisure facilities. A Vision and Action Plan for the Heart of the National Forest was published in September 2009. This acknowledged that some key water based leisure attractions planned for the area have been delayed; that the Donington site was now likely to come forward much slower than was originally envisaged (due to clay stocks not being used as fast as was anticipated); that Donington will not be available in the short or medium term; and that some projects are likely to come forward later in the plan period (2020 - 2026). The National Forest Charitable Trust understands that in order for a well thought out remediation to take place the submission of the remediation plan should be delayed to December 2021. The Trust are aiming to design a scheme that is integral to the Trust's vision of attracting visitors to the area whilst improving the environment, a scheme which has been delayed due to the pandemic. On this basis, the application accords with policy DM12 of the Leicestershire Minerals and Waste Local Plan.

Public Rights of Way

41. Public Right of Way P39 runs along the south-west boundary of the site, with P22 and P23 running along the western boundary with P23 heading northwards around Albert Village Lake. The proposal will not impact the public right of way network or impact the amenity of the rights of way users.

Legal Agreement

42. Donington Island clay stocking site is the subject of an existing legal agreement which covers HGV routeing, transfer of land to the National Forest Charitable Trust, public access, a restriction on the submission of future planning applications and aftercare management.
43. In November 2018 a Deed of Variation was undertaken to increase HGV exports for a 12-month period. This Deed of Variation ties the 2017/1226/07 planning permission to the original section 106 agreement.
44. Any grant of planning permission for the proposed development would be subject to the completion of an update to the existing legal agreement. A legal agreement associated with this planning permission would include all aspects of the existing section 106 agreement but would remove the clause that restricted the submission of future planning applications to allow for this extension of time to be granted. The inclusion of this commitment from the applicant to not apply for further extensions of time was requested by the National Forest Company to allow for the site to be restored in a timescale closer to that originally envisioned. It would not be appropriate to prevent any further planning applications.
45. Before the submission of this application, the applicant has stated that they have liaised with the Heart of the Forest Trust's senior board members, which are supportive of the revised approach as they see it as vital that any scheme designed is achievable based on the material that is available for restoration and will be integral in the provision of a scheme that will attract visitors to the area whilst being sustainable and beneficial to the area. The existing control on HGV routeing, transfer of land to the National Forest Charitable Trust, public access and aftercare management remain in full force and effect.

Conclusion

46. A 12-month extension for the submission of a restoration scheme and for the restoration of the existing clay stocking facility at Donington Island will safeguard an important raw material in accordance with National Planning Policy and the Development Plan. It is considered that the importance of the clay stocking facility outweighs the modest harm caused by the delay.

47. It is considered that the various measures contained within the planning application together with the imposition of conditions and completion of a legal agreement will mean that the proposed development would not cause unacceptable impact to local residents or the local environment.

### **Statement of Positive and Proactive Engagement**

48. In determining this application, the Minerals Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and the representations that have been received. This approach accords with the National Planning Policy Framework.

### **Recommendation**

Recommendations in support of an application:

1. PERMIT subject to the conditions set out in Appendix A and the prior completion of a S106 legal agreement covering HGV routeing, transfer of land, public access and aftercare management.

### **Officer to Contact**

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### Conditions

1. The Minerals Planning Authority (MPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of the development hereby permitted.

*Reason: To assist with the monitoring of conditions attached to the planning permission and for the avoidance of doubt.*

### General

2. The permission relates to the extension of the life of the clay stocking facility at Donington Island within the land shown edged red on Drawing no.14184/500 dated April 2015 submitted with the planning application (2015/0991/07).

*Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.*

3. Operations associated with the clay stocking facility shall only be carried out within the area bounded by the existing perimeter bund forming part of the current site layout as shown on Drawing no.14184/500 dated April 2015 submitted with the planning application (2015/0991/07).

*Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.*

### Duration

4. Permission for the retention of the clay stocking area within the area hatched blue on drawing no.14184/501 dated April 2015 shall be limited until a period expiring on 31st December 2021. All restoration earthworks within this area and seeding of the restored land shall be completed by 30th September 2023 in accordance with the restoration scheme approved in accordance with condition no.30 below. Final restoration (including all planting works) shall be completed by 31st December 2023.

*Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.*

5. Permission for the retention of the clay stocking area within the area hatched pink on drawing no.14184/501 dated April 2015 shall be limited until a period expiring on 31st December 2032. Within 12 months of that date, this area shall

have been restored in accordance with the restoration schemes approved in accordance with condition no.32 below.

*Reason: For the avoidance of doubt, to ensure the development is carried out in a satisfactory manner, and to provide for the completion and restoration of the site within an agreed timescale in the interests of the amenities of the area.*

#### Restriction of Permitted Development Rights

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, replacing or re-enacting that Order), no additional fixed plant or machinery, buildings, structures, erections, lights and fences shall be erected, extended, or installed at the site without the prior approval in writing of the Mineral Planning Authority.

*Reason: To protect the amenities of the area/In the interests of local amenity.*

#### Hours of Operation

7. Except in emergencies (which shall be notified to the Mineral Planning Authority as soon as practicable):
  - (a) no operations shall be carried out at the site except between the following times:  
0700 hours and 1900 hours Monday to Friday; and  
0700 hours and 1300 hours Saturday;
  - (b) no operations associated with the removal of material from any environmental banks and storage areas shall be carried out within 200 metres of any occupied residential property except between 0900 hours and 1700 hours Monday to Friday;
  - (c) no operations shall be carried out at the site on Sundays or public or bank holidays.

*Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.*

#### Access

8. There shall be no vehicular access to or from the site for any purpose in connection with the development hereby permitted except by Spring Cottage Road. The existing access off Spring Cottage Road may only be used by

vehicles moving clay to and from the Forest Works at Blackfordby and by private vehicles of staff employed at the site.

*Reason: In the interests of highway safety and the amenities of the area.*

9. Visibility splays of 2.4 metres by 104 metres shall be provided at the junction of the access with Spring Cottage Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

*Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.*

10. The total number of lorry movements (in and out) for any working day (averaged over 5 working days) associated with the transportation of clay shall not exceed 88 via the access onto Spring Cottage Road.

Records of such lorry movements shall be maintained on a daily basis, and shall be made available to the Mineral Planning Authority at any time upon request. All records shall be kept for at least 12 months.

*Reason: In the interests of highway safety and the amenities of the area.*

11. The access onto Spring Cottage Road shall be provided with adequate wheel cleaning facilities. Such facilities shall be maintained and used as may be necessary to ensure that no mud or other detritus is carried onto the highway. The Site Compound off Spring Cottage Road shall be laid out in accordance with the details set out in Drawing No.14184/504 dated September 2015.

*Reason: In the interests of highway safety and to prevent mud and dust being deposited on the highway.*

12. The surfacing of the site access shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times throughout the duration of the operations hereby permitted. Cut off drains shall be provided within the site in order to ensure that no clay enters the public highway which has the potential to block up the highway drainage system in the vicinity.

*Reason: In the interests of highway safety and to prevent mud and dust being deposited on the highway.*

13. All heavy vehicles (over 1.5 tonnes unladen) leaving via the accesses off Spring Cottage Road shall turn left only onto Spring Cottage Road. Signs erected to

advise drivers of the approved vehicle routes shall be maintained for the duration of the operations hereby permitted.

*Reason: In the interests of highway safety and the amenities of the area.*

14. No laden lorry shall leave the site and enter the public highway unless it is sheeted.

*Reason: In the interests of highway safety and the amenities of the area.*

#### Importation of Clays

15. The importation of material shall be restricted to clays for blending purposes. Such importation shall not exceed a level of 20,000 tonnes per annum. Records of such importation shall be maintained on a monthly basis, and shall be made available to the Mineral Planning Authority at any time upon request.

*Reason: To protect the amenities of the area and in the interests of local amenity.*

16. The importation of clay shall only be carried out between the hours of 0700 hours and 1900 hours Monday to Friday and 0700 hours and 1300 hours Saturdays. No importation shall take place on Sundays or public or bank holidays.

*Reason: To protect the amenities of the area/In the interests of local amenity.*

#### Dust

17. All operations shall be carried out in a manner to minimise the emission of dust from the site. In order to minimise any dust created by site activities, measures shall be taken as specified in the Dust Action Plan set out in paragraph 6.2.8 of the 2015/0991/07 planning application supporting statement, dated September 2015.

*Reason: To protect the amenities of the locality from the effects of dust arising from the development.*

18. If, in the opinion of the Mineral Planning Authority, any operations on site give rise to unacceptable levels of dust leaving the site, such as during adverse conditions due to strong winds combined with dry weather, such operations shall be temporarily suspended until such time as the operations can be resumed without causing such nuisance, either by a change in working, weather conditions or by taking other additional measures.

*Reason: To protect the amenities of the locality from the effects of dust arising from the development.*

19. Dust monitoring shall be carried out at six monthly intervals along the perimeter bund, at the locations show on Plan 14184/503 in accordance with paragraph 6.2.9 of the planning statement accompanying the 2015/0091/07 planning application.

*Reason: To protect the amenities of the locality from the effects of dust arising from the development.*

### Noise

20. Measures shall be taken within the site to ensure that the best practicable means are used to control the emission of noise from the site and to ensure so far as is reasonably practicable that the operations carried out within the site do not give rise to nuisance at nearby residential properties. Such measures shall include those set out in paragraphs 6.3.7 – 6.3.10 of the planning statement accompanying the 2015/0091/07 planning application.

*Reason: To minimise the adverse impact of noise from site operations on local residents.*

21. Except for operations defined in condition no.22 below, noise levels from operations within the site shall not exceed 55dB LAeq (1 hour), freefield at any noise sensitive property.

*Reason: To minimise the adverse impact of noise from site operations on local residents.*

22. Noise levels arising from the removal of perimeter soil/clay mounds and restoration activities (temporary operations) shall be minimised as far as is reasonably practicable and in any case should not exceed 70dB LAeq (1 hour), freefield at any noise sensitive property. Such temporary operations which exceed the normal day to day criterion set out in condition no.21 above shall only be carried out between the hours of 0900 and 1700 Monday to Friday and shall be limited to a total of 8 weeks in any 12 month period for any individual noise sensitive property. At least 3 days prior notice of the commencement of such temporary operations shall be given to the Mineral Planning Authority. A written record shall be kept of the dates that these activities are taking place and made available on request.

*Reason: To minimise the adverse impact of noise from site operations on local residents.*

23. Noise monitoring shall be carried out at three monthly intervals for the duration of the planning permission period in accordance with the details set out in paragraphs 6.3.11 – 6.3.13 of the statement accompanying the 2015/0091/07 planning application. Noise monitoring results shall be provided to the Mineral Planning Authority. The monitoring scheme shall be kept under regular review and may be varied or amended by agreement with the Mineral Planning Authority.

*Reason: To minimise the adverse impact of noise from site operations on local residents.*

24. In the event that noise monitoring indicates that the levels set out in condition nos. 21 and 22 above are being exceeded, the operations generating that noise shall cease as soon as the monitoring identifies the breach. The Mineral Planning Authority shall be notified immediately, and appropriate remedial measures agreed and undertaken as soon as reasonably practicable.

*Reason: To minimise the adverse impact of noise from site operations on local residents.*

#### Other Environmental Protection

25. Measures shall be taken and the development carried out in such a manner as to ensure that, so far as is reasonably practicable, the operations carried out within the site do not give rise to nuisance at nearby residential properties by reason of illumination. So far as is reasonably practicable, lights shall not be directed beyond the boundaries of the site particularly during hours of darkness.

*Reason: To protect the amenities of the area/In the interests of local amenity.*

26. There shall be no unlicensed discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

*Reason: To prevent pollution of the water environment.*

27. Surface water management arrangements for the site shall be undertaken in accordance with the Surface Water Management Plan prepared by S.M.Foster Associates Limited dated 28th September 2015 (Ref:033/38/swmp/0915), as amended by the Addendum dated December 2015.

*Reason: To prevent pollution of the water environment.*

#### Landscaping

28. The existing bund around the clay stocking area shall be retained and managed throughout the duration of clay stocking operations to maintain satisfactory vegetation cover, weed control and to avoid erosion and waterlogging. All necessary steps shall be taken to destroy weeds at an early stage of growth to prevent seeding.

*Reason: To protect visual amenity in the locality.*

### Ecology

29. Prior to the commencement of restoration works within the area hatched blue on drawing no. 14184/501 dated April 2015, a great crested newt survey shall be carried out for all ponds within the site, including any new ponds or temporary water bodies, and submitted to the Mineral Planning Authority. If the survey shows that Great Crested Newts are present, a mitigation plan shall be submitted to the Mineral Planning Authority for approval.

*Reason: To minimise the effects on nature conservation interests.*

### Restoration

30. A detailed restoration scheme for the area hatched blue on drawing no. 20235/103 dated October 2020 shall be submitted to the Mineral Planning Authority for approval by no later than 31st December 2021. The scheme shall include proposals for the restoration (including seeding, planting, landscaping) of that part of the site together with a timetable for the completion of the works.

*Reason: In the interests of satisfactory restoration of the site.*

31. The area hatched pink on drawing no. 14184/501 dated April 2015 shall be restored in a progressive manner in accordance with a scheme of phasing which has been submitted to and approved in writing by the Mineral Planning Authority. The scheme of phasing shall be submitted to the Mineral Planning Authority by no later than 31st December 2022. The scheme shall specify a timetable for the submission of detailed restoration schemes and the completion of restoration works for each phase.

*Reason: In the interests of satisfactory restoration of the site.*

32. Detailed restoration schemes for each phase shall be submitted to the Mineral Planning Authority for approval in accordance with the timetable set out in the scheme of phasing approved pursuant to condition no.31 above. The schemes shall include proposals for the ultimate removal of all plant, buildings, structures, machinery, roads and hardstandings, and stored materials, the restoration of the site to a condition suitable for an agreed afteruse, and the seeding, planting

and landscaping of the site in a manner appropriate to the afteruse to which the site is to be put. Restoration shall be carried out in accordance with the timescales and details as approved.

*Reason: In the interests of satisfactory restoration of the site.*

33. The restoration schemes submitted pursuant to condition nos.30 and 32 above should include detailed information on the composition of the clays and soil making materials with a method statement on how the material is to be deposited to avoid compaction. In addition, the method statement should outline how deficiencies in soil nutrients are to be mitigated by incorporation of imported organic material.

*Reason: In the interests of satisfactory restoration of the site.*

#### Aftercare

34. Following the restoration of any part of site in accordance with condition nos.30 and 32 above, the restored land shall be treated and managed over a period of at least 5 years in accordance with an aftercare scheme which has previously been submitted to and approved in writing by the Mineral Planning Authority. The submitted scheme shall specify the steps that will be taken to bring the newly restored land to a condition capable of long term beneficial use. The scheme shall be submitted within 6 months of the date of approval of the restoration schemes submitted under condition nos.30 and 32 above.

*Reason: To ensure the site is restored to a condition suitable for long term beneficial use.*

**DEVELOPMENT CONTROL AND REGULATORY BOARD**

The considerations set out below apply to all the preceding applications.

**EQUALITY AND HUMAN RIGHTS IMPLICATIONS**

Unless otherwise stated in the report there are no discernible equality and human rights implications.

**IMPLICATIONS FOR DISABLED PERSONS**

On all educational proposals the Director of Children and Family Services and the Director of Corporate Resources will be informed as follows:

**Note to Applicant Department**

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970 and the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Equality Act 2010. You are advised to contact the Equalities function of the County Council's Policy and Partnerships Team if you require further advice on this aspect of the proposal.

**COMMUNITY SAFETY IMPLICATIONS**

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

**BACKGROUND PAPERS**

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

**SECTION 38(6) OF PLANNING AND COMPULSORY PURCHASE ACT 2004**

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

- |                   |   |  |
|-------------------|---|--|
| Section 70(2)     | : | determination of applications;   |
| Section 77(4)     | : | called-in applications (applying s. 70);   |
| Section 79(4)     | : | planning appeals (applying s. 70);   |
| Section 81(3)     | : | provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991); |
| Section 91(2)     | : | power to vary period in statutory condition requiring development to be begun;   |
| Section 92(6)     | : | power to vary applicable period for outline planning permission;   |
| Section 97(2)     | : | revocation or modification of planning permission;   |
| Section 102(1)    | : | discontinuance orders;   |
| Section 172(1)    | : | enforcement notices;   |
| Section 177(2)    | : | Secretary of State's power to grant planning permission on enforcement appeal;   |
| Section 226(2)    | : | compulsory acquisition of land for planning purposes;  |
| Section 294(3)    | : | special enforcement notices in relation to Crown land;   |
| Sched. 9 para (1) | : | minerals discontinuance orders.  |