

<b>Committee Date</b>	28/01/20	
<b>Address</b>	Bournewood Sand And Gravel Swanley Bypass Swanley BR8 7FL	
<b>Application number</b>	<b>17/01564</b>	<b>Officer</b> Paul Mellor
<b>Ward</b>	Cray Valley East	
<b>Proposal (Summary)</b>	Variation of Condition 1 of planning permission ref. 10/00657/VAR (allowed at appeal under PINS ref. APP/G5180/A/11/2145860) to permit continued extraction of Thanet Sand until 31st March 2020 and restoration and recontouring with inert waste until 14th January 2021, with associated access, buildings and structures to remain until 14th January 2021.	
<b>Applicant</b>	<b>Agent</b>	
Killoughery Waste Management Ltd	Miss Maureen Darrie	
43A Willow Lane Mitcham CR4 4NA	The Stables Long Lane East Haddon Northampton NN6 8DU	
<b>Reason for referral to committee</b>	Call-in	<b>Councillor call in</b> Yes

<b>RECOMMENDATION</b>	<b>PERMISSION</b>
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<p><b>KEY DESIGNATIONS</b></p> <p>Biggin Hill Safeguarding Area Green Belt London City Airport Safeguarding Sites of Interest for Nat. Conservation Smoke Control SCA 20</p>
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<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Sui generis – mineral extraction	Sui generis – mineral extraction
Proposed	Sui generis – mineral extraction	Sui generis – mineral extraction

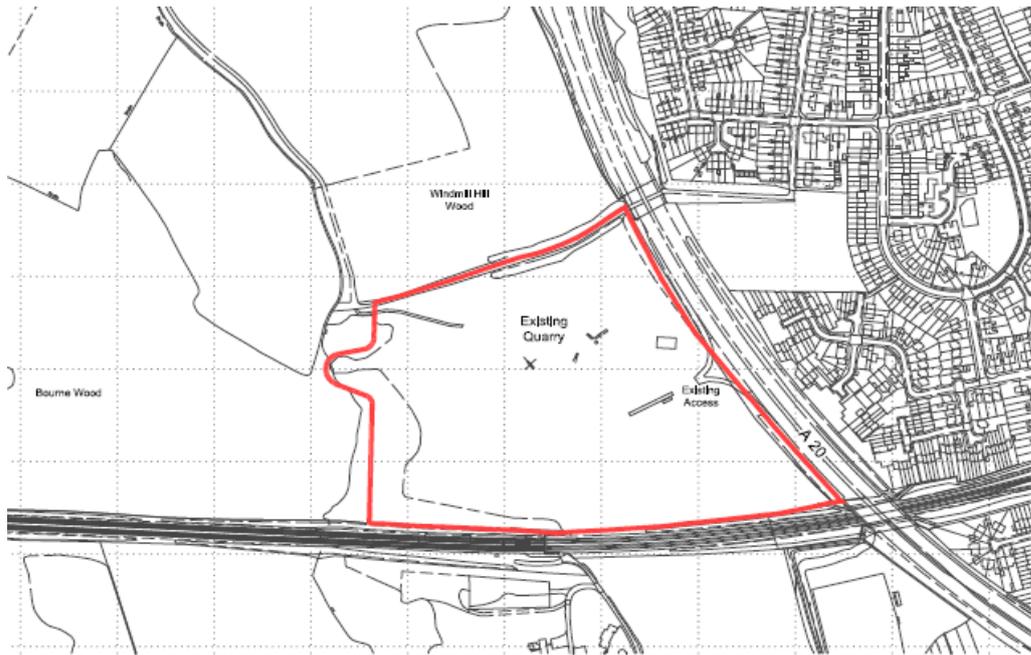
<b>Representation summary</b>	Neighbour letters were sent on 23.6.17 and again on 3.10.19. A site notice was displayed on 20.6.17 A press advert was published on 19.7.17	
Total number of responses	7	
Number in support	0	
Number of objections	5	

## 1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The development would not impact detrimentally on the openness and visual amenity of the Green Belt.
- The proposal would provide an economically viable and satisfactory solution to the completion of mineral extraction at the site and its subsequent restoration.
- The development would have no significant impact on highway safety, local residential amenity, the ecological value of the neighbouring Site of Importance for Nature Conservation and trees.

## 2. LOCATION

- 2.1. The site is located to the eastern edge of the Borough, between the A20 and railway line on the east and south sides and open land to the north and west. The site is already a working quarry with vehicular access directly onto the A20.
- 2.2. The site is located within the Metropolitan Green Belt and Flood Zone 1. Adjacent to the site is a Site of Importance for Nature Conservation (SINC) and an area of subject to a Tree Preservation Order.



### 3. PROPOSAL

3.1. The application is submitted under S73 of the Town and Country Planning Act 1990 to vary Condition 1 of permission ref. 10/00657/VAR, which was allowed on appeal. This particular condition requires the cessation of minerals extraction by 31<sup>st</sup> March 2017 and the completion of site restoration by 14<sup>th</sup> January 2018. The condition in full states:

‘The extraction hereby permitted shall cease on or before 31 March 2017, and the associated infilling shall cease on or before 14 January 2018. All associated buildings, structures, plant and machinery, including the bund formed along the boundary with the A20(T), and the access to the A20(T) shall be removed from the site on or before 14 January 2018 and the signage on the A20(T) shall be removed on or before 14 January 2018.’

3.2. The application seeks an extension of time in which to complete Thanet sand extraction, more of which exists at the site, and the restoration of the site to appropriate levels in a phased manner and in accordance with previously approved restoration plans.

3.3. The proposed extension of time will therefore alter the wording of Condition 1 to include continued extraction of Thanet sand up until 31<sup>st</sup> March 2020 and the restoration of the site, including the re-contouring of the land with inert waste to be completed by 14<sup>th</sup> January 2021. All structures and associated equipment will also be removed from the site by 14<sup>th</sup> January 2021.

3.4. The proposal therefore seeks to amend the wording of Condition 1 to read as follows:

‘The extraction hereby permitted shall cease on or before 31 March 2020, and the associated infilling shall cease on or before 14 January 2021. All associated buildings, structures, plant and machinery, including the bund formed along the boundary with

the A20(T), and the access to the A20(T) shall be removed from the site on or before 14 January 2021 and the signage on the A20(T) shall be removed on or before 14 January 2021.'

- 3.5. The application is submitted supported by a Planning Statement that explains that it is estimated that the site contains a further 180,000 cubic metres of Thanet sand and that there is a current demand for the mineral that makes the completion of the excavation a financially viable enterprise. The applicant has outlined that it is clear that the site cannot be left in its current condition and that they are confident that the extension of time sought is sufficient to complete the mineral extraction and restoration of the site.
- 3.6. A visit to the site was undertaken by officers on 20<sup>th</sup> September 2019 where the applicant outlined that only sand extraction and inert material infilling is currently occurring at the site. Material such as concrete and hardcore is brought into the site to be used to build and maintain the required roads to undertake the extraction operations. The inert materials being used to infill the quarry are hardcore, crushed materials and earth from other building sites. The applicant has also confirmed that all structures at the site are being used solely for this purpose, and there is no other activity at the site such as those subject to extant enforcement (specifically concrete batching and other waste sorting operations). The buildings at the site include a site office, storage/maintenance building, security building, first aid building, toilet building and other staff facilities. Some of the equipment previously at the site connected to unlawful operations by the previous site occupier has been removed, however at the time of the officer site visit the site still contains some equipment not associated with the current occupier (Killoughery).



#### **4. RELEVANT PLANNING HISTORY**

- 4.1. There is a lengthy planning history at the site, the most relevant and recent of which is set out as follows:
- 4.2. Application 10/00657 sought changes to conditions 1, 12 and 13 of permission 00/2071 so as to permit the use of the site for both sand extraction and infilling until January 2018. The application was refused by the Council on 13<sup>th</sup> January 2011 on the basis of the harm the ongoing extraction would cause. The application was subsequently allowed on appeal dated 8<sup>th</sup> August 2011.
- 4.3. Condition 2 of the Inspector's decision required the submission of a restoration and landscaping plan to be submitted to and approved by the Council within 3 months of the decision,. No such plan has been approved and therefore the current use of the site is in breach of this condition.
- 4.4. Application ref. 11/00140 was approved by the Council on 18<sup>th</sup> April 2011 for variation of conditions 1, 12, 13 and 16 of 00/02071 and condition 1 of 08/03444 to allow infilling only of existing quarry with inert waste and restoration with associated access, buildings and structures to continue/ remain until 14 January 2018.
- 4.5. Application ref. 11/04004 was refused by the Council on 18<sup>th</sup> September 2012 for change of use of part of existing quarry to allow for the pre-treatment of material prior to infilling by sorting/crushing to recycle any material that can be used to provide recycled aggregates for sale and the provision of associated storage bays. The refusal grounds were as follows:
- 4.6. 'The applicant has failed to demonstrate that very special circumstances exist to justify the grant of planning permission for a proposal which is industrial in nature and which is inappropriate in the Green Belt, harmful to the openness and character of the area and therefore contrary to Policies G1, G14 and G15 of the Unitary Development Plan, Policy 7.16 of the London Plan and guidance in the National Planning Policy Framework 2012.'
- 4.7. The application was subsequently dismissed on appeal on 13<sup>th</sup> June 2013.
- 4.8. Additional planning history at the site is set out as follows:
- 4.9. Application ref. 15/05258 was permitted for temporary relocation of site workshop and hardstanding for the washing of vehicles until 14th January 2018.
- 4.10. Application 09/02818 for an extension of time for extraction and infilling was withdrawn by the applicant in order that further discussions could take place.
- 4.11. Replacement workshop, weighbridge, offices and parking area were permitted in 2008 under reference 08/03444, as the area within which the original site offices were located is intended to be excavated.

- 4.12. In 2000 permission was granted by the Council for some changes to the permitted scheme under reference 00/02071 for Variation of condition 20 of application 96/00962 granted on appeal for extraction of Thanet Sand regarding restoration and re-contouring by disposal of inert waste, creation of vehicular access, the reduction in the width of the surface berm running along the eastern boundary of the site. Erection of repair shed. Erection of security compound comprising 3m high steel palisade fence around perimeter of compound, caravan for overnight accommodation for security guard, storage container, mess hut and 2 storey office/inspection facility. Erection of 3 metre high steel palisade fence along northern boundary of the site. This was the most recent permission for the site until its expiry in January 2011.
- 4.13. Details of dust suppression noise control and protection of the water course, signing changes on the A20(T) restoration and aftercare of the site, retention and protection of trees and hedgerows, trespass proof fence pursuant to conditions 06, 14, 17, and 18 of application 96/00962 granted on appeal for extraction of Thanet Sand and restoration and re-contouring by disposal of inert waste; creation of new vehicular access were approved under reference 99/02071.
- 4.14. Planning permission was initially granted at appeal under reference 96/00962 in 1997 for the "Extraction of Thanet sand and restoration and re-contouring by disposal of inert waste and creation of new vehicular access." at this site.
- 4.15. Enforcement history at the site is summarised by the following two extant notices:
- 4.16. 18/9/2069 Including the crushing/sorting of waste and stationing of machinery. Compliance was due 17/02/04. This notice was upheld on appeal and the Inspector removed the required restoration of the site as this had been previously covered and approved under previous planning history.
- 4.17. 09/00028 Cessation of concrete batching and stationing of vehicles/machinery not needed for quarry purposes. Only agreed machinery to remain on the site (this has not been complied with).

## 5. CONSULTATION SUMMARY

### A) Statutory

#### 5.1. GLA: **No objection**

The application does not raise any strategic issues. The GLA has confirmed that the application will not require a Stage 2 referral to the GLA and therefore planning permission may be granted accordingly. The GLA formal response will be reported verbally at the meeting following the Mayor's consideration of the Stage 1 report on 27<sup>th</sup> January.

#### 5.2. Highways Agency (Highways England): **No objection**

On the basis that the reserved matters proposals will not impact on the Strategic Road Network in Peak Hours. We therefore consider that the development will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para 10 and DCLG NPPF para 109), in this location. Highways England responded to a similar application in 2010 to extend the period of mineral extraction

and site restoration at Bournemouth Sand and Gravel with no objection. This application would not result in any additional development or trips and therefore, it is expected that the development would not have an impact on the SRN.

5.3. Natural England: **No objection**

Natural England currently has no comment to make on the variation of condition 1.

5.4. Environment Agency: **No objection**

An Enforcement Notice served on that Company, in 2016, for failure to demonstrate appropriate basal engineering has been installed, as required by the Environmental Permit, has yet to be complied with. Such works required by the Environment Agency to meet the terms of the Notice will require a significant excavation of already emplaced waste to demonstrate a clay liner is in place, or where this cannot be demonstrated, a retro placement of a liner to satisfy the permit condition. The Applicant has not yet provided satisfactory details of the necessary remedial works to comply with the Environmental Permit. We have no objection to a proposal for the completion and restoration of the quarry to meet the planning requirements. However, we will require the outstanding basal engineering works to be completed as required by the Environmental Permit to ensure the long term protection of the environment is maintained.

5.5. Network Rail: **No objection**

After reviewing the associated information Network Rail have no objections to the proposals.

## **B) Local Groups**

6. Ramblers' Association: No comments received.

6.1. The Kent County Councillor for Swanley and Hextable has objected on the grounds that Bromley Council must not cede to a further extension of site operations as it has been previously agreed this site would only have permission to use this land up until 2018. Plenty of time has been given for the application to extract the sand required.

6.2. Kent County Council: No comments received. Under application ref. 11/00140 comments received stated that the use is appropriate in the Green Belt and that the infilling with inert waste offers an effective means of achieving the restoration of the land. It is further noted that the site offers a rare resource for the disposal of inert waste and makes a potentially significant contribution to reducing the export of construction, demolition and excavation waste from London for landfill into Kent and the south east.

6.3. Sevenoaks District Council: No Objection.

6.4. Swanley Town Council: Objection was raised when the original consultation was undertaken in 2017 - Degradation of air quality due to high levels of dust/pollution, new homes are planned to be built at St Marys in the next two years this will impact on the development and quality of life of new residents. The original permit for extraction had a time/date imposed by the Inspector which has already been extended twice, we believe it is time for the site to be returned to green belt. It has also been recorded that

there has been several breaches of Health & Safety on the site e.g. Broken Fences and a constant movement of large HGV transport. If Bromley Town Planning are minded to extend the permit then it is suggested that it only grants an extension of 1 year. Following re-consultation in October 2019, Swanley Town Council has confirmed that it has no comment.

- 6.5. Bromley Biodiversity Partnership: From an ecological viewpoint the quarry area would benefit from being left to rewild. Regarding sand martins, according to the BTO they are quick to colonise suitable habitats and so the lack of evidence of them at the development site shouldn't discourage leaving a suitable cliff face for them. The direction that the cliff faces '*makes little difference provided that it is sheltered from prevailing wind, rain and strong sunlight. The sector from north through east to south east is possibly the most favourable.*' Would it be possible to amend the restoration of the quarry site to keep the sand cliff and scrubby banks (which offer differing aspects for invertebrates and reptiles) and possibly also the water at its base rather than completely infilling it and covering it over with top soil? This area would be a fantastic rewilding project if left to itself (minus machinery & etc.). It would mean that the re-routed footpath would need to be retained as a legitimised PROW and the top of the cliff face would need to be fenced at the top for health & safety reasons. The sandy soil would encourage the development of Lowland Dry Acid Grassland, a priority habitat in the Bromley Biodiversity Plan & NERC Act, section 41 and rare in LBB. Bourne Wood SINC and the quarry site are part of a network of linked wildlife site which includes Hockenden Wood SINC, Hockenden Sand Pit SINC, St Paul's Cray Hill Park SINC & Ruxley Gravel Pits SSSI. The larger the area of linked countryside, the greater the biodiversity it supports.
- 6.6. Crockenhill Parish Council: The Parish Council would like the visual aspect to be considered. The machinery on the south side is an eyesore from Crockenhill and we would like to see it moved to a more screened position if possible.

### **C) Adjoining Occupiers**

7. Nearby owners/occupiers were notified of the application and representations received are summarised as follows:

#### 7.1. Objections:

- The quarry is an eye-sore when viewed from Stones Cross Road, Crockenhill. This is the S side alongside the railway and all manner of vehicles are placed there along the sky-line. The footpath from Crockenhill to Hockenden has been adversely affected by the works. The Company has not abided by current conditions placed on it and LBB has had to expend time and money to gain compliance. The quarry was established against the wishes of local people in Swanley and Crockenhill and the inspector deemed it acceptable because of the time limit of excavation and fill. The original conditions should be adhered to. We totally disagree with any extension of time of time for the bournewood and gravel /co
- They have already had more time than was originally permitted and we have had enough of the noise and pollution.

- The site does NOT preserve openness and visual amenities especially from Crockenhill. It would be great to have that view back following restoration of the site. In view of the proven case of dumped toxic waste in the past and the continued flaunting of the rules, burning rubbish and Sunday working perhaps the site should be closed down to allow investigation by the Environmental Agency into what percentage of waste dump was toxic/dangerous.
- Surely if the market for sand has remained constant, it should be concluded that the previous owners slowed sand extraction to prolong usage and therefore the 2018 deadline should be adhered to.
- The continuation of the land fill on this sight is totally altering the landscape of the area. The huge rise in earth levels must be having a geological effect.
- Also, since the transformation of the yard at Lower Hockenden Farm into an industrial vehicle training area, the number of very large industrial lorries etc. using Hockenden Lane has drastically increased which further affects the highway conditions.

7.2. Please note the above is a summary of objections received and full text is available on the Council's website.

## **8. POLICIES AND GUIDANCE**

8.1. Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:

- the provisions of the development plan, so far as material to the application,
- any local finance considerations, so far as material to the application, and
- any other material considerations.

8.2. Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

8.3. The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.

8.4. The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.

8.5. The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.

8.6. The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.

8.7. Ahead of publication of the final plan, the SoS can direct the Mayor to make changes to the plan, and the London Assembly can veto the plan. These factors affect the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.

8.8. The application falls to be determined in accordance with the following policies:

London Plan Policies:

- 5.2 – Minimising Carbon Dioxide Emissions
- 5.12 – Flood Risk Management
- 5.13 – Sustainable Drainage
- 5.16 – Waste Net Self-Sufficiency
- 5.17 – Waste Capacity
- 5.18 – Construction, Excavation and Demolition Waste
- 5.19 - Hazardous Waste
- 5.21 – Contaminated Land
- 5.22 - Hazardous Substances and Installations
- 6.3 - Assessing the Effects of Development on Transport Capacity
- 6.11 Smoothing Traffic Flow and Tackling Congestion
- 7.14 – Improving Air Quality
- 7.15 – Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes
- 7.16 – Green Belt
- 7.19 – Biodiversity and Access to Nature
- 7.20 – Geological Conservation
- 7.21 – Trees and Woodlands

Draft London Plan:

- GG2 – Making the Best Use of Land
- GG5 – Growing a Good Economy
- G2 – London's Green Belt
- G6 - Biodiversity and Access to Nature
- G7 – Trees and Woodlands
- SI1 – Improving Air Quality
- SI7 - Reducing Waste and Supporting the Circular Economy
- SI8 - Waste Capacity and Net Waste Self-Sufficiency
- SI12 – Flood Risk Management
- SI13 – Sustainable Drainage
- T3 – Transport Capacity, Connectivity and Safeguarding
- T4 – Assessing and Mitigating Transport Impacts

Bromley Local Plan 2019:

- Policy 31 - Relieving Congestion
- Policy 32 – Road Safety
- Policy 49 – Green Belt
- Policy 67 – Mineral Workings and Associated Development

Policy 69 – Development and Nature Conservation Sites  
Policy 70 – Wildlife Features  
Policy 72 – Protected Species  
Policy 73 – Development and Trees  
Policy 74 – Conservation and Management of Trees and Woodlands  
Policy 77 – Landscape Quality and Character  
Policy 112 – Planning for Sustainable Waste Management  
Policy 115 – Reducing Flood Risk  
Policy 116 – Sustainable Urban Drainage Systems (SUDS)  
Policy 117 – Water and Wastewater Infrastructure Capacity  
Policy 118 – Contaminated Land  
Policy 119 – Noise Pollution  
Policy 120 – Air Quality  
Policy 122 – Light Pollution

Additional Guidance:

National Planning Policy for Waste (2014)

## **9. ASSESSMENT**

9.1. The main issues to be considered in respect of this application are:

- Mineral Workings and Associated Development
- Impact on Neighbouring Amenities
- Flood Risk, Drainage and Environmental Impact
- Highways and Traffic Issues
- Ecology and Trees
- Sustainability

### Mineral Workings and Associated Development

#### **Acceptable**

9.2. The site lies within the Green Belt and it is necessary to consider relevant policies in relation to this, and additionally highway and footpath matters, residential amenities, environmental impact, footpath diversion, mineral planning, waste and recycling and the impact on the Site for Nature Conservation which is to the west of the site, slightly overlapping the application area, in Bourne Wood. All of these are issues which have been previously considered and for this application, the impact resulting from an increased time for infilling must be considered with regard to current policy.

9.3. It is necessary in this case to balance the benefits of allowing additional time to achieve the infilling at this site with any harm caused for an extended period of 3 years. In particular it is pertinent to examine whether the background justification for the original appeal decision still exists, and whether the extension of the timescale for the proposal can be supported by current planning policies. In light of information set out in the Planning Statement accompanying the application it would seem permission ought to be granted for an extension in order to have any certainty that

the land will be suitably restored, given the current state of the site, and the likely timescale to complete works.

- 9.4. Regarding the need for void space for inert waste, in 1997 there was an identified need for void space for inert waste which was considered by the Inspector to partly justify allowing the appeal. Since that time the current London Plan has been published and this includes policies specifically relating waste. Bournemouth Sand and Gravel can be regarded as an existing landfill site, however no substantive evidence has been provided that it meets any specific need. At the time of the original decision, the Inspector stated that the site would "need to attract a relatively small proportion of [the significant amounts of inert waste exported into Kent for disposal] in order to keep pace with extraction."
- 9.5. Despite the positive economic conditions prevailing through the early 2000s, the pace of works at the site appeared to have been slow. However, information previously submitted confirmed that during 2009, a total of 315,836 tonnes of inert waste was delivered to the site and this equates to 143,562 cubic metres of fill at a rate of 2.2 tonnes per cubic metre. The Planning Statement submitted with the current application estimates that there is still approximately 180,000 cubic metres of Thanet sand to be extracted and that a further 550,000 cubic metres of inert materials is required to complete the infill and site restoration, at a similar conversion rate. The applicant is confident that this can be achieved in the time scale outlined in the application description, in spite of the current condition of the site and this was confirmed at the September site meeting.
- 9.6. London Plan Policy 5.18 states that 'new construction, excavation and demolition (CE&D) waste management facilities should be encouraged at existing waste sites, including safeguarded wharves, and supported by:
  - a. using mineral extraction sites for CE&D recycling
  - b. ensuring that major development sites are required to recycle CE&D waste on-site, wherever practicable, supported through planning conditions.
- 9.7. Waste should be removed from construction sites, and materials brought to the site, by water or rail transport wherever that is practicable.'
- 9.8. The supporting text states that 're-use and recycling rates for construction, excavation and demolition (CE&D) waste in London are already high – estimated at 82 per cent for 2008. Nevertheless, the Mayor believes that there is room for improvement. Policy 5.16 sets a target of 95 per cent for recycling/ reuse of CE&D waste by 2020, and the Mayor supports more beneficial and higher order uses of this inert waste, for example, in conjunction with land reclamation or coastal defences. A combination of on-site mobile facilities on construction sites, effective use of existing waste processing sites and, where appropriate, safeguarded wharves, and the provision of recycling facilities at aggregate extraction sites, should be capable of meeting the anticipated future requirement within London to achieve a more beneficial re-use of this material.'
- 9.9. The NPPF outlines at Paragraph 146 that mineral extraction is not inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it. Waste deposit however is not recognised either

in the NPPF or the Bromley Local Plan as being an exception to the general presumption against inappropriate development.

- 9.10. Such a use is inappropriate in the Green Belt and there must be 'very special circumstances' to warrant overriding the general presumption against it. In this instance the infilling of the site following extraction of the valued Thanet Sand was considered to be a suitable very special circumstance which justified such inappropriate activity. Given the current existence of a large quarried area, it is considered that the need to infill this area can also be regarded as very special circumstances since the benefits to the Green Belt (and consequences of not infilling the site) are obvious in this case and have been under the recent planning history.
- 9.11. With regard to the timescale, the Council raised concerns about this at the first public inquiry, stating that a marginally viable operation might be drawn out over many years with continuing impact upon the character and appearance of the wider locality. The Inspector recognised that there are uncertainties concerning the timescale of extraction and restoration, however he was satisfied that on the balance of probabilities that the Bournewood operation could be carried through in the envisaged 10-11 year timescale. The Inspector placed considerable weight upon the limited period over which the activity would take place. Notwithstanding the above points, regard must be given to the current situation in terms of the existence of a partially excavated quarry in the Green Belt. It would seem preferable to infill and restore this, even if this will take a longer time than that outlined in the 2011 permission, rather than being left with uncertainty about the land and how it might be restored. Planning conditions are recommended to secure the satisfactory restoration of the site and to prevent the potential abandonment of the land.
- 9.12. There have been concerns that vehicular access to the site has been gained via a widened public footpath from Hockenden Lane, and this was previously considered to be an ongoing matter. Following a recent officer visit to the site, this access is gated and the applicant has confirmed that it is not used by the extraction operation. Should this application be approved a condition specifically prohibiting the use of this access to the site and requiring the reinstatement of suitable boundary enclosures could be imposed.
- 9.13. The previous permission for the site is for the extraction of sand and infilling with inert materials, and any revised permission issued as a result of this application is for the infilling of the existing void with inert materials. Processing of materials does not form part of the permission. There have been concerns that recycling of materials has been ongoing at the site in breach of a previously issued enforcement notice, along with concrete batching, and indeed an Environment Agency permit issued to Bournewood Sand and Gravel excluded such activity. The applicant has confirmed that these uses have ceased. The current site occupier has also confirmed that some concrete products are brought into the site, however these are required to construct the temporary roads required to extract materials from the site using the necessary machinery and vehicles. The use of the site solely for the extraction of Thanet sand and the infilling/restoration with inert material can be conditioned to ensure that this can be suitably controlled should permission be granted.

- 9.14. It is clear that the activity subject of this application is harmful to the character and appearance of the area and the Green Belt given its scale and the nature of the activity. It also gives rise to concerns from local residents in terms of noise, dust, highway safety and other impacts, which is apparent from the correspondence received in response to local consultation. Whilst it is accepted that these concerns can be reduced through the imposition and enforcement of planning conditions, it is necessary to consider this impact in considering the extension of time requested, alongside the other pertinent issues such as the future for the quarry and how the land will be returned to open Green Belt.
- 9.15. In determining this application Members need to consider primarily whether the existence of Thanet sand and the commercial viability of the use justifies the requested extension to activities at the site. Works commenced in January 2000 at the site and have therefore been ongoing for almost twenty years, however infilling has apparently only been ongoing since 2007 following delays in issuing the environmental permit. It is questionable whether best endeavours have been made to comply with the proposed timescales throughout this period, and whilst the change in site occupier is a factor in this, it is clear that careful consideration must be given to all the issues discussed above.
- 9.16. However, given the current state of the site Members may consider it would be appropriate to grant an extension of time and accept that the very special circumstances exist to justify the completion of Thanet sand extraction and the infilling of the existing void and site restoration in this Green Belt location, given the likely consequences of refusal.

#### Neighbouring Amenity

##### **Acceptable**

- 9.17. The proposal would have little impact on the residential amenities of Bromley Residents, as there are no nearby residential properties. The closest dwellings within the Borough are sited to the northwest on Hockenden Lane and these are not affected provided that the second access to the north of the site remains disused.
- 9.18. To the south and east of the site, residential properties within the District of Sevenoaks would continue to be affected and this is acknowledged, however these properties are separated from the site by the A20 to the east and the railway line to the south. In each case, the separation provides some mitigation to the noise and disturbance generated by the use, however it is considered that the proposed operation at the site for a further period of time is required in order to achieve the desired outcome, with the short-term disturbance considered necessary to achieve the long-term appropriate Green Belt use of the site. It is also noted that Sevenoaks District Council has raised no objections.

## Flood Risk, Drainage and Environmental Impact

### **Acceptable**

- 9.19. The site is Located in Flood Zone 1 and therefore has a low probability of flood risk. Of greater significance to the site is the potential for contamination, pollution and the nature of the material being used to infill the quarry. Bearing in mind that Bournewood are the environmental permit holders, an Enforcement Notice was served on that Company in 2016 for failure to demonstrate appropriate basal engineering has been installed, as required by the Environmental Permit. This has yet to be complied with. Such works required by the Environment Agency to meet the terms of the Notice will require a significant excavation of already emplaced waste to demonstrate a clay liner is in place, or where this cannot be demonstrated, a retro placement of a liner to satisfy the permit condition. The applicant has stated in their Planning Statement that they are in dialogue with the Environment Agency to ensure that the requirements of the Environmental Permit are fulfilled however the Environment Agency has confirmed that the applicant has not yet provided satisfactory details of the necessary remedial works to comply with the Environmental Permit. The Environment Agency has no objection to a proposal for the completion and restoration of the quarry to meet the planning requirements, however they require the outstanding basal engineering works to be completed as required by the Environmental Permit to ensure the long term protection of the environment is maintained.

## Highways

### **Acceptable**

- 9.20. The application indicates that the level of traffic will not alter but does not give any details of the current trip generation from the site. It is known that there have been complaints that a second access to the site from Hockenden Lane has been used, however the applicant has confirmed that this access is no longer used. This area of the site, to the north western corner, is the route of a registered right of way (part Byway part Footpath 170). This should not be used by heavy vehicles and it is noted that the Inspector previously imposed a condition that only the A20 access should be used. This section of the A20 is part of the Trunk road network for which the Highways Agency would be responsible, although no objection had previously been raised by Highways England. The conditions suggested by the Inspector relating to highway safety should be repeated. The applicant is also advised of the need to make a new diversion order to divert part of Footpath 170.

## Ecology and Trees

### **Acceptable**

- 9.21. The proposed extension of time for continued sand extraction on this site would not appear to risk any further impact on trees or the neighbouring Site of Importance for Nature Conservation (SINC) at Bourne Wood. This neighbouring woodland to the west is not only subject to a TPO but also on Natural England's Priority Habitat Inventory (being deciduous woodland) and has Ancient woodland status. Given the

council's duty under the Natural Environment and Rural Communities Act 2006 to conserve biodiversity, the site represents a significant opportunity to enhance trees and biodiversity. Permission therefore provides the opportunity for the whole site to be prepared and planted in a suitable manner to provide a wildlife habitat. This may include woodland species and the potential to extend Bourne Wood and the area available for wildlife habitat. It is noted that the land was not wooded prior to the commencement of the extraction works and therefore it may not be considered reasonable to impose a condition that requires anything further than restoration to its original condition. That said, a condition can be imposed to secure details of landscaping and this may include trees, vegetation and other biodiversity enhancements to supplement the importance of Bourne Wood.

- 9.22. The site offers an opportunity for rewilding. The existing cliff face created by the quarrying activity has the potential to support sand martins and the existing water at the base of the quarry could also form an important wild feature. The potential for rewilding and a holistic approach to the restoration of the site may be considered as part of the wider restoration and landscaping condition which can be imposed to require the applicant to submit such details post-decision.

### Sustainability

#### **Acceptable**

- 9.23. The NPPF requires Local Planning Authorities to adopt proactive strategies to mitigate and adapt to climate change. London Plan and Draft Local Plan Policies advocate the need for sustainable development. All new development should address climate change and reduce carbon emissions.
- 9.24. Policy 5.3 Sustainable Design and Construction of the London Plan states that the highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the effects of climate change over their lifetime. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.

#### **Conclusion**

- 9.25. Having had regard to the above, it is considered that the development in the manner proposed is acceptable in that it would not impact detrimentally on the openness and visual amenity of the Green Belt. The proposal would provide an economically viable and satisfactory solution to the completion of mineral extraction at the site and its subsequent restoration. The development would have no significant impact on highway safety, local residential amenity, the ecological value of the neighbouring Site of Importance for Nature Conservation and trees.
- 9.26. Background papers referred to during production of this report comprise all correspondence on the files set out in the Planning History section above, excluding exempt information.

**RECOMMENDATION: PERMISSION**

**Subject to the following conditions:**

- 1. Cessation of extraction on 31<sup>st</sup> March 2020**
- 2. List of equipment for extraction and infilling**
- 3. List of equipment for restoration**
- 4. No topsoil, subsoil or overburden shall be removed from the site.**
- 5. Any floodlighting shall be in accordance with details that have first been submitted to and approved in writing by the local planning authority.**
- 6. The depth of working shall not be below 55m AOD.**
- 7. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls.**
- 8. Entry to and exit from the site for the extraction and infilling shall be solely via the existing access to the A20(T).**
- 9. All loaded lorries shall leave the site with their cargo area sheeted over.**
- 10. All mud shall be removed off the access road at the end of the working Day.**
- 11. Hours of operation.**
- 12. Only inert waste shall be imported to the site for restoration purposes.**
- 13. No vehicle used on the site in connection with the aftercare of the landscaping shall exceed 5 tonnes GVW, unless otherwise approved in writing by the local planning authority.**
- 14. Submission of restoration details within 3 months.**
- 15. Replacement of trees that die, are removed or become seriously damaged.**
- 16. Extraction, infilling, restoration and aftercare permitted or required by this permission to be carried out in accordance with condition 14.**
- 17. access to the site shall be the access identified in the scheme approved under paragraph b. of Part B of condition 14 only.**
- 18. Emissions from the activities shall be free from noise and vibration at levels likely to cause annoyance outside the site.**

**19. The site must be operated so as to ensure that no dust from it is received at neighbouring residential properties.**

**20. Ecological Appraisal**

**21. Retrospective examination of the basal liner**

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**

**Informatives**

1. Diversion of Footpath 170
2. Environment Agency requirement for the provision of a basal engineering works.
3. Engagement with Connect Plus Services concerning the removal of the access and egress of the A20(T).