

**Open Report on behalf of Richard Wills
Executive Director, Environment & Economy**

Report to:	Planning and Regulation Committee
Date:	14 May 2018
Subject:	Outcome of Planning Appeal – Proposed Quarry, Gorse Lane, Denton, Grantham – S26/1611/15

Summary:

This report sets out the outcome of an appeal following the Council's decision to refuse planning permission relating to Mick George Limited's application for the extraction of limestone and importation of sustainable inert fill to achieve a beneficial restoration of a proposed quarry located off Gorse Lane, Denton.

A copy of the Inspector's decision letter is attached as Appendix A.

Recommendation:

That the decision of the Planning Inspectorate is noted.

The Proposal and Decision

1. In May 2015 Mick George Limited submitted a planning application (ref: S26/1611/15) seeking permission for the extraction of limestone and importation of sustainable inert fill to achieve a beneficial restoration on land located off Gorse Lane, Denton. The site is located approximately 3.8km from the south-western edge of Grantham, 800m south of the entrance to the village of Denton, 1.5km to the south-west of the village of Harlaxton and 1.5km to the north-west of the village of Wyville.
2. The proposal sought to extract 5.65 million tonnes of limestone from an extraction area covering 77 hectares and an overall site area of 104 hectares. The quarry would be worked on a phased basis, extracting about 200,000 tonnes of limestone per annum over a 30 year period and would be backfilled with inert waste, generally to pre-extraction contours, at an annual rate of about 65,000 to 70,000 cubic metres.
3. Most of the proposed working area also formed part of a much larger area of land that is covered by a historic mineral permission that allows for the winning and working of ironstone and the overlying limestone. The permission was granted in 1955 by the then Minister of Housing and Local Government and extended in 1958 and covers an area of approximately 900

hectares lying within the parishes of Denton, Harlaxton, Wyville, Stroxton and Great Ponton. Mineral extraction authorised by this permission ceased around 1974 however, under the provisions of the Environment Act 1995, the permission and site were registered as being dormant meaning that whilst there is an extant planning permission in place no minerals development may lawfully be carried out until an application for a new scheme of modern planning conditions (an 'Initial Review') has been submitted to and approved by the Minerals Planning Authority (MPA). Rather than seek to carry out such an Initial Review and reactivate this historic permission, the applicant offered to give up their rights to work that part of the historic permission for which they held an interest if permission were to be granted for the Gorse Lane proposal. The applicant argued that the 'swapping' of this one consent for another would offer an environmental benefit by removing an extant planning permission which, if reactivated, could potentially allow mineral development to take place over a much wider area.

4. Having carried out consultation on the application and after carefully considering the information and assessments that were undertaken as part of the application (including the applicants offer to rescind part of the historic permission) a report was brought to the Planning & Regulation Committee on 3 October 2016 where, in line with the Officer's recommendation, the application was unanimously refused.
5. The applicant subsequently made an appeal against the decision to refuse permission and a Public Inquiry was held on 16 to 27 January and 5 February 2018. At the Public Inquiry a Planning Inspector, appointed by the Secretary of State, heard evidence and representations by the applicant, an Officer from the County Council and a local action group known as Gorse Lane Action Group (GOLAG). Having considered the arguments and representations made by all parties during the course of the Public Inquiry the Inspector decided to find in favour of the Council and consequently dismissed the appeal.
6. A copy of the Inspector's decision is attached to this report as Appendix A.

RECOMMENDATIONS

That the contents of the report are noted.

Appendix

These are listed below and attached at the back of the report	
Appendix A	Planning Inspectorate's Appeal Decision dated 26 March 2018

Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application File S26/1611/15	Lincolnshire County Council, Planning, Witham Park House, Waterside South, Lincoln

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Appeal Decision

Inquiry Held on 16-27 January and 5 February 2018

Site visit made on 25 January 2018

by Melvyn Middleton BA(Econ) DipTP Dip Mgmt MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2018

Appeal Ref: APP/Q2500/W/17/3172131

Land at Gorse Lane, Denton, Lincolnshire, NG32 1AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mick George Ltd against the decision of Lincolnshire County Council.
- The application Ref S15/1611, dated 6 May 2015, was refused by notice dated 3 October 2015.
- The development proposed is the extraction of limestone and importation of sustainable inert fill to achieve a beneficial restoration of the site.

Decision

1. The appeal is dismissed

Background

2. The proposal would extract 5.65 million tonnes (mt) of limestone from a quarry extraction area covering 77 hectares (h) and an overall site area of 104 h. The quarry would be worked on a phased basis, extracting about 200,000 tonnes of limestone per annum over a 30 year period. It would be backfilled with inert waste, generally to pre-extraction contours, at an annual rate of about 65,000 to 70,000 metres (m)³.
3. Most of the proposed working area forms a part of an area of historic ironstone workings. Planning permissions were granted in 1955 by the then Minister of Housing and Local Government and extended in 1958 to win and work, by opencast methods, ironstone and any minerals overlying such ironstone. Lincolnshire limestone overlies the ironstone in this area. Mineral extraction, which never directly affected the appeal site, ceased around 1974. However, in the Review of Old Mining Permissions (ROMPs) undertaken under the provisions of the Environment Act 1995, such historic minerals consents were considered to be dormant. Nevertheless, the winning and working of the minerals, whilst subject to an extant planning permission, is not possible until activated by an 'initial review' through which modern conditions would be imposed, in accordance with the provisions of Schedule 13 of the 1995 Act.
4. The landowner began the 'initial review' process in 2012, by requesting a Scoping Direction under the Town and Country Planning (Environmental) Impact Assessment (England and Wales) Regulations 2011. A direction in 2012, issued by the Department for Communities and Local Government, detailed the information required to be dealt with in an Environmental

Statement, to accompany a proposed set of modern conditions, to be submitted by the landowner.

5. Subsequently the landowner agreed to grant an option to the Appellant, a minerals and waste operator based in Cambridgeshire, to work the minerals. The historic consents do not permit the importation of waste to the areas that they cover. The Appellant's business involves the movement of waste from construction sites, as well as the delivery of aggregate. A proposal that involves the importation and backfilling of inert waste, following the extraction of limestone, better suits the Appellant's business model than the mere extraction and transportation of limestone. Additionally, at the present time the historic permissions are only valid until 2042.
6. Consequently, the owner and the Appellant decided not to submit a set of modern conditions, to enable the historic permissions to be reactivated. Instead an application for planning permission to extract limestone, followed by the importation of suitable inert fill material, was submitted. The application relates to a minor part of the area subject to the Old Mining Permissions (OMPs), together with a small adjacent area. At the same time the landowner and other parties, who had a legal interest in parts of the area covered by the OMPs, offered to rescind those parts of the historic permissions over which they had control. This area amounts to 708 hectares. The entire OMPs area extends to more than 900 hectares.
7. Less than a quarter of the application site is not within an OMP area. However, an amendment to the proposal in 2016 provided a larger standoff area between the quarry and the Hill Top Farm complex, which are grade II Listed Buildings. Very little of the area now proposed to be excavated is not within the OMPs area.

Procedural Matters

8. It was agreed at the Inquiry that the site was in the parish of Denton, Lincolnshire and not Croxton Kerrial, Leicestershire and the majority of its area was closer to Denton than to Croxton Kerrial. Consequently, its address in the decision letter should be Gorse Lane, Denton, Lincolnshire.
9. As well as on an accompanied site visit on 25 January 2018, I visited the appeal site and its locality, as well as some of the surrounding area, unaccompanied, on 15 January and 5 February 2018.
10. Subsequent to the decision, the Council withdrew reason for refusal No.3, which concerned the impact of proposed woodland planting, between the quarry workings and Hill Top Farm, on the setting of the Listed Buildings. It does not oppose the proposal on any environmental ground and with the exception of South Kesteven District Council, neither do any of the statutory consultees.
11. Gorse Lane Quarry Action Group (GOLAG) was granted Rule 6 status and participated in the Inquiry on that basis. It represents sections of the local community and supports the County Council's case, which is based on the lack of need for the mineral extraction and capacity for further inert waste disposal, as well as its opposition to allowing the appeal as a substitution for the reactivation of the OMPs. In addition, GOLAG opposed the proposal because of potential hydrological and ecological risks, harm to the character of the

- landscape and impacts on agricultural production. Seven local residents also spoke against the proposal, introducing air and traffic pollution, lighting and effects upon the local economy as additional matters of concern.
12. The site's access proposals are shown on drawing ref: 10184/001 Rev.C and involve the construction of a road junction that directs traffic exiting the site to the right, onto Gorse Lane, close to the western boundary of the site and towards the A607 in Leicestershire. A condition would require drivers to turn right when exiting the site, reinforced by a directional sign to this effect at the site's exit. Highway improvement/widening works are also proposed between the site access and the A607. Lincolnshire and Leicestershire Highway Authorities support these aspects of the proposal and have raised no matters concerning the proposal's impact on the wider highway network. In the absence of substantive evidence to the contrary, I do not discuss these matters any further.
 13. The Appeal is accompanied by a signed Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 between the Appellant, persons with a legal interest in the land and Lincolnshire County Council. In this document the Appellant and the persons with a legal interest in the land agree, if planning permission is granted, not at any time to work or permit the working of land within their control, in accordance with the OMPs. They also agree not to concur in any application for determination of conditions to activate the OMPs pursuant to the Environment Act 1995.
 14. The Undertaking also requires the owner and developer to take all reasonable steps to ensure that heavy commercial vehicles (HCVs) enter and leave the site from or to the A607 to the west, to implement a nature conservation plan over an area of 29 hectares at Wealdmore Brook and Willowbed Plantation, to provide a permissive footpath within the parish of Harlaxton to enable public access to the Wealdmore Brook area and to establish a local liaison group.
 15. During the course of the Inquiry, the Appellant also offered to create a permissive footpath across land in its control, within the parish of Denton, between the north-eastern boundary of the Quarry at Stony Track and a point on the public footpath to the west of Denton Village and adjacent to the A607 and via Willowbed plantation. A signed Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 and on behalf of the Appellant and persons with an interest in the land affected, commits them to providing the permissive path within twelve months of the commencement of development.
 16. The restrictions on the movement of HCV's ensures that such vehicles using the site do not use the numerous minor roads in the area but access the primary highway network (A607) at the nearest point, to the benefit of pedestrians and other users thereon. The improvements to nature conservation would compensate for losses on site as a result of excavation and the new footpaths would help to mitigate any disturbance caused to pedestrians along the lanes and the bridleway adjacent to the site as a result of the quarry operations. The local liaison group would be a good-will gesture that nevertheless could have substantial communicative benefits for the quarry operator and the local community. I return to the matter of the OMPs land later.
 17. I am satisfied that the relevant measures comply with the provisions of Paragraph 204 of the *National Planning Policy Framework* (Framework). They

are necessary to make the development acceptable in planning terms and meet Regulation 122 of the *Community Infrastructure Levy Regulations* (CIL) 2010.

18. On the last morning of the Inquiry Mr Burford, an occupier of Hungerton Hall, submitted a letter on behalf of The Executors of the deceased owner of the Hungerton Estate. The letter criticises the Environmental Statement on the grounds that the Appellant failed to provide baseline data and an assessment that considered groundwater at the appeal site and groundwater from Hungerton Springs and suggesting that the assessment should not be postponed until after the grant of planning permission, if the appeal were to be allowed. It refers to decisions in the High Court and Court of Appeal¹ in support of its contention that proposed remediation measures could not be dealt with by way of a planning condition because this would eradicate the requirement to ensure that the environmental effects of the development should be considered as a part of the Environmental Impact Assessment (EIA). I return to this later.

Main Issues

19. From all that I have read seen and heard I consider the main issues to be:

Whether the proposal is in accordance with the Development Plan, in particular Policies M5, W1 and W6 of the Lincolnshire Minerals and Waste Plan (LMWP) 2016.

and if not

Whether there are any material considerations that when taken together and weighed against any disadvantages of the proposal, are sufficient to outweigh the presumption in favour of determining planning applications in accordance with the Development Plan.

Reasons

20. Paragraph 144 of the Framework says that when determining planning applications, decision makers should give great weight to the benefits of mineral extraction, including to the economy.
21. However, at paragraph 11 the Framework also reminds its readers that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise².

Planning Policy

22. The DP for the area now consists of the Lincolnshire Minerals and Waste Local Plan (LMWLP) and the South Kesteven Local Plan Core Strategy (SKLPCS) 2010. The LMWLP comes in two parts, a Core Strategy (CS) and Development Management Policies (DMP) document adopted in June 2016 and a Site Locations (SL) document adopted in December 2017. The Council referred me to a raft of policies in the CS document but in particular to Policies M5, W1 and W6. I have not been referred to any policies in the SL document. The MWLP covers a plan period until 2031. The Council also referred me to SKLPCS Policies EN1 and EN2. It was agreed that the South Kesteven Local Plan

¹ John Gillespie v First Secretary of State and Bellway Urban Renewal Southern, High Court ref: CO/3188/2002
Bellway Urban Renewal Southern v John Gillespie, Court of Appeal ref: C1/2003/0213.

² Section 38(6) of the Planning and Compulsory Purchase Act 2004.

Consultative Draft 2017 had not progressed sufficiently upon its road to adoption to be afforded any but minimal weight.

23. At paragraph 215 the Framework says that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Given the recent adoption of the MWLP, following two rigorous examinations at which the Appellant participated, I have no reason to doubt that this plan was prepared in accordance with the requirements of the Framework and the National Planning Policy for Waste (NPPW).
24. The SKLPCS pre dates the Framework. SKLPCS Policy EN1 concerns the protection and enhancement of the character of the district and lists fourteen criteria against which all development proposals will be assessed. The Policy does not refer to the need to weigh the harm to such criteria against the benefits of the development and in this context should be given reduced weight. SKLPCS Policy EN2 seeks to reduce the risk of flooding. Planning permission will not normally be granted in areas identified as at risk from flooding from any source. The Policy refers extensively to Planning Policy Statement 25: *Development and Flood Risk*, which was subsequently superseded by Section 10 of the Framework. I consider this policy to be fully consistent with the Framework.

Need for the mineral

25. LMWLP Policy M5: *Limestone*, supports proposals for new limestone extraction sites provided that they meet a proven need that cannot be met by existing sites/sources and accord with other relevant policies in the plan. The supporting text suggests that there is an annual requirement for 0.62 mt of limestone and 11.62 mt over the lifetime of the plan. This, following the advice in paragraph 145 of the Framework, is based upon the extrapolation of a rolling average of 10 years sales data (2004-13) and other relevant local information.
26. 40.25mt of limestone reserves were identified, split between 13 quarries located over a wide area between Lincoln and Stamford. This represented a supply of nearly 65 years at the projected rate of sales. Following a Periodic Review of a quarry, the subject of an OMP, the overall reserves were subsequently reduced to 25.60 mt, which represented over 41 years. The Framework says that Minerals Planning Authorities should make provision for the maintenance of a crushed rock landbank of at least 10 years. It also says that they should participate in the operation of an Aggregate Working Party and take its advice into account when preparing their Aggregate Assessment. Lincolnshire County Council is a participating member of the East Midlands Aggregate Working Party.
27. The Appellant alleges that the forecast is too conservative, being biased by low annual sales during the recession and failing to give adequate weight to proposed future development projects. However, the East Midlands Aggregate Working Party's Annual Monitoring Report 2016 records that the rolling ten year average in Lincolnshire declined between 2013 and 2016 to 0.53 mt, providing 48 years supply. The Council argued that its continued reliance on 0.62 mt (17% higher than the rolling 10 year average contained in the East Midlands Aggregate Working Party's Annual Monitoring Report 2016) allowed flexibility for the anticipated increase in annual sales as a result of forecasted increases in construction work in the County.

28. The Appellant disagreed and suggested that 0.62 Mt would be inadequate to meet the projected construction needs of the County. It demonstrated a correlation, between aggregate sales and house building, based on regression analysis. Whilst the analysis shows a relationship between aggregate sales and housebuilding, it is perhaps too simplistic to assume that this relationship is direct, particularly as aggregate is used in a wide range of construction projects apart from housing.
29. Nevertheless, even if the Appellant's forecasts are correct, I am not persuaded that they justify a need for the release of additional reserves to meet future demand during the plan period, particularly as the plan is likely to have been reviewed before it ends. The Appellant's analysis forecasts average annual sales over the rest of the plan period to be 0.98 mt pa. Its analysis then suggests that on the assumption that outputs from existing quarries remain constant there will be an output deficit to meet potential sales demand by 2021.
30. However, this premise is unrealistic. Current output from Lincolnshire quarries is governed by demand, which is low by historic comparisons. As demand increases there is no evidence to suggest that output and sales from existing quarries would not correspondingly increase. Additionally there is no evidence to confirm that the three quarries that are not currently producing stone, one of which has recently undergone a ROMP and with a combined reserve of 3.63 mt, would remain closed until after that date. This tonnage is significantly more than would be quarried at Gorse Lane by 2031. Furthermore the current reserves could theoretically meet annual sales of 0.98mt for 26 years. The MWLP will no doubt have been reviewed a number of times by then.
31. The Appellant claims that there is an ongoing shortage of local rock aggregate production in the Cambridge/Peterborough/ Northampton areas and that the anticipated development related growth in these areas is likely to compound this. However, the evidence supporting this argument is somewhat anecdotal rather than empirical and far from comprehensive.
32. When consulting on its MWLP the Council contacted all of its neighbours under the Duty to Cooperate. None of them responded to the effect that because of the level of their reserves of crushed rock, they would be unable to meet future demand in the same way as in the past and requesting Lincolnshire to meet any anticipated shortfall.
33. The Cambridgeshire and Peterborough Minerals and Waste Core Strategy (CPMWCS) was adopted in 2011 and planned for production until 2026. It is currently being reviewed with a 2020 anticipated adoption date. The 2017 Local Aggregate Assessment suggests that based on both the CS provision and the rolling average 2007-16, there is just under a ten year supply but based upon the average over the three years 2014-16 (0.41MT pa) only about 7 years. That document also suggests that due to the limited extent of the limestone outcrop within the County, no recently proposed new locations for limestone extraction have proved acceptable and that it may not be possible to make new allocations for limestone in the MWLP.
34. However, if that is the case, then the proper course of action is for the Mineral Planning Authorities to consult with their neighbours under the Duty to Cooperate to establish the most appropriate way to remedy the shortfall. Given the proximity of similar limestone within Northamptonshire and Rutland,

it is by no means certain that Lincolnshire in general and the appeal site (which is about 35 miles from Peterborough and nearly 70 miles from Cambridge) would be the most appropriate location where production should be increased to compensate for the anticipated shortfall in Cambridgeshire and Peterborough.

35. Despite the Appellant's arguments in the Examination forums, the LMWLP's CS and DMP have both been found sound by independent Inspectors within the last two years. The Northamptonshire MWLP was also found sound and adopted in May 2017. It requires 7.8 mt of crushed rock to be delivered between 2011 and 2031 at a rate of 0.39mt pa. The 2016 East Midlands Aggregate Working Party's Annual Monitoring report showed the 10 year sales average to be 0.33Mt, but the average over the last three years of that period was 0.39mt. However, even this output represents a landbank of over 40 years. In finding the plan sound, the Inspector referred to increased production from a site at Wakerley that had recently been granted planning permission and which is owned by the Appellant. Even if the Appellant's predictions of higher sales from Northamptonshire were to prevail, in response to shortages in Cambridgeshire and Peterborough or further increased demand locally, there would still be a generous land bank available within Northamptonshire from which to supply any increased demand.
36. There is little information before the Inquiry about the situation in Rutland, which is clearly a part of the aggregate jigsaw in the sub-region to the south of most of Lincolnshire.

Type 1 stone

37. Type 1 stone is aggregate that is resistant to frost shattering and is used in concrete production and road construction. Because of Lincolnshire limestone's comparatively poor resistance to frost shattering, at the present time, no quarry in Lincolnshire produces type 1 stone. Most likely this is why 25% of the aggregate used in Lincolnshire is imported into the County. The Appellant asserts that a quarry at Gorse Lane could produce marketable quantities of type 1 stone. In consequence the quarry would meet a proven need that cannot be met by an existing site/source.
38. However, the evidence to support this contention is far from scientific. A quantity of stone was dug from a former building stone quarry at the south-eastern corner of the site, taken to an Appellant's quarry near Peterborough, crushed and then transported to Lincoln for testing. There appears to have been no independent monitoring of the process prior to the laboratory testing. Furthermore the sample is from one corner of a 77 h site, a corner that had been historically selected as a source of building stone, presumably because of the localised hardness of the stone, despite its distance from the nearby villages. I agree with GOLAG that the subsequent testing of the samples from boreholes that was undertaken, is also not a scientific basis upon which reliable assumptions about the percentage of type 1 stone that could be extracted, from a quarry at Gorse Lane, can be based.
39. Whilst the potential was examined by the British Geological Association, its conclusion falls short of an endorsement of the Appellant's claims. Although in written evidence type 1 stone was estimated to represent between 30% and 35% of the total that would be quarried, only 25% of that in the tested sample from Jimmy Green's Quarry was found to be type 1. Whilst the Council's

assertion that at least 70% of the stone should be of type 1, for it to comply with the policy, is perhaps on the high side, I certainly agree that 25% would not justify an exception to the policy, particularly when there is no conclusive scientific proof that even this amount would be likely to be achieved throughout the life of the quarry.

40. In addition, whilst this quarry could be a sustainable way of supplying type 1 stone to Grantham and its surrounding area, the North Midlands magnesium limestone quarries, that have a proven record of supplying large quantities of type 1 stone, are nearly as close to the main Lincolnshire markets for the product, in the Greater Lincoln area, as would be a quarry at Gorse Lane. Consequently the transportation advantages of a supply from Denton would not be great. Supplying such stone from Gorse Lane to Greater Nottingham similarly has little sustainability advantage over the current supplies from Derbyshire and Leicestershire. Similarly although transported further, given the road distance, type 1 stone transported from Denton to Cambridgeshire and Peterborough is unlikely to have a lower carbon footprint than stone transported by rail from these areas.

Swap to reduce environmental damage

41. The benefits of allowing a swap under paragraph 5.43 of the CS, whereby an existing permission for a site, which is causing environmental damage, would be revoked in exchange for a new site with minimal environmental damage, do not apply to the appeal site. The OMPs have not caused environmental damage, for over 40 years and in any event there has been no meaningful assessment of the likely environmental damage that their reactivation under modern planning conditions would cause.
42. I conclude that the proposal does not accord with Policy M5: *Limestone* of the LMWLP.

Need for additional waste capacity

43. LMWLP Policy W1: *Future requirements for new waste facilities*, refers to the provision for new waste management facilities, through the SL document. They are to meet predicted capacity gaps for waste arisings in the County up to 2031, as presented in Table 9 of the document and subject to any new forecasts published in the Council's Annual Monitoring Reports.
44. Table 9 suggests a capacity gap for inert landfill before 2020, which by 2031 would have risen to nearly 150,000 tonnes per annum (tpa). However, there is a forecasted growth in non-hazardous capacity surplus, as a result of the diversion of substantial amounts of municipal and commercial and industrial waste to an energy from waste plant near Lincoln. By 2031 the plan expects the capacity surplus to be over 115,000 tpa. The Council argued at the CS Examination that since much of this surplus void would never be used for its originally intended purpose, then the capacity should be used to accommodate inert landfill.
45. Whilst I agree that the use of non-hazardous capacity that has been specifically prepared for inert fill disposal, would not be a good use of the facility, it is unlikely that all of the capacity in the larger voids would have been so prepared. It is also unlikely that all of these voids will now be filled with non-hazardous landfill in a reasonable period of time. In these circumstances, the

use of some of this capacity for inert landfill seems to me to be a logical and appropriate use of the resource. However, whether all of the inert landfill, not capable of being accommodated on specifically allocated sites, could be accommodated here is open to question and among other things depends on the overall amount requiring disposal, which was in dispute at the Examinations and still is.

46. Nevertheless, in his report at paragraph 44, the CS Inspector gives four reasons why he concluded that the provision of new capacity was not needed at that time. In addition to the surplus of non-hazardous landfill capacity, throughout the plan period and beyond, he also pointed to further increases in the rates for recycling construction and demolition waste and the related reduction in the inert landfill requirement to meet those waste streams. Additionally, the existence of inert landfill sites that were predicted to have capacity beyond the plan period, some of which could be brought forward to be used during the plan period, could create further capacity. He also referred to the ability to provide new waste capacity under Policy W6. He concluded that there was no need to make express provision for new landfill capacity in the plan. That conclusion was reaffirmed by the Inspector examining the SL plan only a few months ago.
47. As some of the data upon which the Waste Needs Assessment prepared in preparation for the CS dates from 2012, the Council updated the report using 2015 Waste Interrogator data, in preparation for the SL Examination in 2017. The revision shows a decline in the inert landfill capacity gap and a growth in non-hazardous landfill capacity surplus such that there would be a combined surplus of about 70,000 tpa in 2031. The evidence base that the CS waste analysis and examination debate was centred around is clearly still fit for purpose.
48. Nevertheless, the forecasting of future waste arisings is far from an exact science, that concerning inert waste being largely dependent upon the fluctuations of the economy and the construction industry, among other things. The amount requiring disposal is further complicated by changes in recycling rates, which the waste hierarchy seeks to increase. Whilst the Appellant has submitted evidence to support its case that there is an urgent need for new inert landfill capacity, as it did to the LP Examinations, I have seen nothing that convinces me that that I should dispute the conclusions of the DP Inspectors. Indeed, the evidence suggests that the availability of surplus non-hazardous waste capacity to accommodate future inert fill has increased rather than decreased. There is a possibility that additional capacity could be required before 2031 but such a requirement is unlikely in the short term. Any requirement would be picked up by the Council's Annual Monitoring Reports and could be accommodated by a review of the plan or as the CS Inspector suggested under the provisions of Policy W6.
49. Policy W6: *Landfill* says that planning permission will only be granted for new landfills provided that four criteria are met. It has not been demonstrated that the current capacity is insufficient to manage that waste arising in Lincolnshire or its equivalent, which requires disposal to landfill in the County, at the present time or in the immediate future. Nevertheless I accept that such additional capacity may possibly be required during the latter years of the plan period or in the years thereafter.

50. On balance the proposal would bring about long term improvements in the local landscape through the planting of additional native woodland, species rich native hedgerows (see below) and through the establishment of nature conservation management areas at Wealdmore Brook and Willowbed Plantation. There would also be new permissive footpaths created in both the parishes of Denton and Harlaxton, providing public access to the improved ecological resources and to facilitate increased enjoyment of the local countryside landscape.
51. However, the existence of a quarry for over thirty years, with its inevitable impact on the local landscape, regardless of the mitigation, needs to be weighed against this. Additionally, there is not comprehensive evidence, in the context of alternative sites that could accommodate inert waste, to be able to justify the excavation of a quarry, particularly when a need for the aggregate that it would produce has not been justified. Such a justification, if there is to be one, would come far more easily and be demonstrated more appropriately through the review of the MWLP.
52. The proposal nevertheless accords with all relevant Development Management and Restoration Policies set out in the plan. However, the existence of additional inert waste capacity, without a corresponding increase in inert waste, particularly in the short term, would impact on the amount of inert waste received at other sites and delay their restoration. Whether or not this would be significant is difficult to assess from the evidence before me.
53. I conclude that the proposal does not fully meet the criteria in Policy W6: *Landfill*, such that it should be given planning permission to meet a capacity shortage to manage inert landfill within Lincolnshire.
54. The Appellant referred to the landfill capacity of the Cambridgeshire/ Peterborough area and to Northamptonshire, claiming that there is insufficient capacity there and that this need should support a new quarry at the appeal site. However, the NMWLP was adopted less than a year ago. The examining Inspector found the assessed existing capacity for waste treatment to be inadequate and specifically asked the Council to provide an up-to-date assessment of permitted capacity for each waste stream. Modifications were subsequently made to the plan to incorporate this. They identified an inert waste disposal gap but also stated a preference for this to be used to support the restoration of committed or allocated mineral extraction sites, as opposed to alternative locations that would prejudice such restoration. Among others, the Appellant's quarry at Wakerley does not have planning permission for infilling and would benefit from this. The Inspector concluded that with the recommended changes, the Plan makes proper provision for waste to be managed.
55. The CPMWCS (2011) similarly requires inert waste that cannot be recycled to be used in a positive manner to restore sites. Its subsequent companion, Site Specific Proposals Development Plan Document, lists allocated mineral extraction sites, requiring restoration with inert landfill, to accommodate some of this need. Proposal 8.1.28 W1AB allocates Thornhaugh II Quarry for this purpose and indicates that it could accommodate 1.1 mt³ from 2014³. Parts of this quarry are leased to the Appellant, and whilst that part granted consent for inert fill,

³ See para 9 of Appeal ref:APP/J0540/A/12/2179541, Thornhaugh II Quarry, Leicester Road, Thornhaugh, Peterborough

following the 2013 appeal, is now nearing completion, most of the quarry is still awaiting restoration and could be available to accommodate some inert fill. Furthermore, the nearby Cooks Hole Quarry, also being worked (in part) by the Appellant, has substantial void capacity that may be able to accommodate inert waste as a part of a restoration proposal.

56. In such circumstances I do not accept that the inert waste needs of Cambridgeshire and Peterborough are so critical that capacity should be provided 35 miles or more from the waste sources and in advance of a thorough review through the DP process. In coming to this conclusion I note that the Council said at the Thornhaugh II Inquiry (para10) that there was unlikely to be over provision. I am also aware that there are environmental considerations that require mitigation at Thornhaugh II quarry and that these will increase costs. Nevertheless, as the Appellant points out, higher costs and gate charges are also likely at the Lincolnshire non-hazardous waste quarries. Despite likely higher costs/charges, in my judgement the restoration of these quarries is a far more sustainable option than the establishment of new quarries in an area where there is not a proven need for mineral extraction, simply to provide an alternative and less expensive location to dispose of inert waste.
57. I conclude that the proposal does not meet the requirement of Policy W1: *Future requirements for new waste facilities* of the LMWLP.

Environmental considerations

Hydrogeology

58. As part of the Environmental Impact Assessment, the Appellant constructed a hydrological conceptual model to determine the flow of groundwater from the site, to the north and south, to the Foston Beck and the Wyville Brook catchments respectively. It concluded that the Lincolnshire limestone was largely dry and underlayed by a relatively impermeable layer of mudstone (the Grantham formation); and that water percolating through the limestone flows off latterly through the limestone or at the level of the Grantham formation.
59. Additional work subsequently undertaken at the request of the Environment Agency suggested that parts of the Lincolnshire limestone may at times be saturated. The direction of flow is determined by the slope of the Grantham formation which has a ridge of high points below the site, towards its northern boundaries, so that water disperses in both directions. The analysis suggested that about 74% of the groundwater flows to the south-east, whilst some 26% flows in a north-westerly direction.
60. The removal of the limestone and its replacement with impermeable fill could upset this balance. Mitigation is proposed to replicate the flows during quarrying and after restoration, by installing surface drainage on the restored land and reintroducing the water into the limestone through a series of recharge trenches (for the southerly flows) and through storage ponds and drains (for the northerly flows). The Appellant pointed out that if excavation identified geological anomalies, which altered this balance, then the modelled proportions flowing north and south could be adjusted.
61. On consultation, the Environment Agency accepted this assessment and the proposed mitigation, with no overall formal criticism or objection. Despite

- subsequent questioning and representations from GOLAG it has maintained this position.
62. GOLAG claims that the hydrogeology is much more complex than the Appellant asserts and that its site investigations were inadequate. In particular it asserts that there is not a proper understanding of the impact that the faults on the site and their throws, or the probable localised absence of the Grantham formation, could have on the downward movement of water around the Grantham formation and into the permeable Northamptonshire sandstone (ironstone) below. If the limestone and sandstone are hydraulically connected to any extent then the model's assumptions, as to the movement of water through and off this site, may be inaccurate and the risks not fully understood. Without an accurate conceptual model and particularly in the context of the nearby ancient woodland, then it is not possible to design an effective mitigation scheme.
63. The geological map shows an absence of the Grantham formation between the exposed Lincolnshire limestone and Northamptonshire sandstone in the vicinity of Hungerton Hall and close to the site's south-eastern boundary. Other absences could well occur under the appeal site. Additionally I saw on my site visit that there were a number of springs in Willowbed plantation that appeared to be fed from the sandstone or even the relatively impervious Whitby mudstone below and not from the limestone. These considerations suggest that the hydrology of the site and its immediate surroundings may not be as simplistic as the Appellant's model suggests.
64. In most instances, as the Appellant asserts, the model's results could be adjusted and the mitigation amended as the quarrying advances and the actual nature of the groundwater movements becomes more certain. Water flowing to Foston Beck and supporting St Christopher's Well and the water features close to the former Denton Manor, as well as that supplying the Wyville Brook catchment as a whole, could no doubt be satisfactorily monitored and adjusted in this way. Providing the proportion of water falling on the site and travelling north or south is accurately assessed and replicated, both during quarrying and as a part of its restoration, then there should be no overall harm.
65. However, there is recently designated ancient woodland, immediately to the north of the site at Willowbed Plantation and close to the south-eastern corner of the site at Hungerton Wood. Springs feed both of these areas (albeit not continuously in the case of Hungerton Wood) and support localised groundwater dependent wetland habitats in the case of the former. Petrified springs are common in the water courses at Willowbed Plantation and there is also the potential for hillside flushes to exist there. Although none have been identified, the existence of priority habitats and/or species is a possibility. Whilst ancient woodlands are not Special Protection Areas, the Framework at paragraph 118 does say that planning permission should be refused for development resulting in the loss of ancient woodlands.
66. Quite clearly if the water regimes in these woodlands were to be seriously changed, such that they became much wetter or dryer, then the health and survival of the trees and other vegetation would be threatened. In this context, and given the proximity, it is important that the proportions of the water leaving the site and serving the springs that support the ecosystems in Willowbed Plantation are fully understood and not unduly disturbed, both at the excavation stage and following restoration. To do otherwise would risk upsetting the

- ecosystems that they support and could result in a failure to conserve and enhance the biodiversity of the ancient woodland, which is also clearly advocated by the Framework at paragraph 118.
67. However, Framework paragraph 118 only talks about planning permission being refused if significant harm resulting from development cannot be avoided, adequately mitigated or as a last resort compensated. There is no evidence to suggest that with accurate surveys that properly measure the groundwater leaving the site at a detailed level, particularly in the context of the various springs and a mitigation regime that maintained this throughout the life of the quarry and beyond, there would be any significant harm to the ecology of either ancient woodland from the development. Willowbed Plantation is in urgent need of substantial management, having a disproportionate amount of Sycamore in its tree composition and Cherry Laurel in the understorey. The Appellant proposes to implement conservation management schemes at Wealdmore Brook and Willowbed Plantation. This of itself would, in any event, improve the area's biodiversity and help to compensate for any unlikely harm to its ecology, should there be any.
68. My concerns about the baseline for hydrogeological monitoring could be covered by an appropriate condition. However, as the National Planning Policy Guidance (NPPG) says in its section on the use of planning conditions, conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. The Environment Agency through the Environmental Permitting regime is responsible for ensuring that alterations to ground and surface water flows, as a result of minerals development, do not have adverse impacts on the off-site water or ecological environments. Consequently, much of the detailed additional baseline and monitoring work suggested by GOLAG is the responsibility of the Environment Agency. It would consult Natural England as a part of the permitting application process.
69. Nevertheless, given my comments above, on the adequacy of the hydrological baseline assessment, in the context of the area's geology and ecology, as well as the observations of the Environment Agency, I consider it appropriate for a condition to require the existing hydrogeological assessment be reviewed and if necessary updated through more detailed and comprehensive surveys. This could also lead to the need for further mitigation.
70. Furthermore, the NPPG says that conditions that unnecessarily affect an applicant's ability to bring a development into use, or otherwise impact on the proper implementation of the planning permission should not be used. It also says that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body, often fail the tests of reasonableness and enforceability.
71. Given the history of dialogue between the Appellant and Hungerton Estate and the confirmation by the executors of the Hungerton Estate⁴ that they are not in a position to confirm whether access to the Estate will be given in the future, I do not consider it appropriate to mandatory require the Appellant to undertake surveys in Hungerton Wood over which it has no control. An adequate baseline could be achieved through surveys and monitoring on the appeal site and particularly at its boundaries. The Environment Agency noted the ongoing discussions between the applicant and the Hungerton Estate, regarding flow

⁴ Document 38

- monitoring at Hungerton Springs, but pointed out that this is a private matter. Its opinion reinforces my conclusion.
72. The Environmental Statement, that the Hungerton Estate criticises, was accepted by the Council and subsequently reviewed on behalf of the Secretary of State. It was found to meet the minimum requirements of Schedule 4 of the Town and Country Planning EIA Regulations 2011. The Assessment was graded C on a scale of A-F. It was also accepted by the Environment Agency, which endorsed the Appellant's hydrogeological conceptual model and does not object in principle to that aspect of the proposal. Natural England, who has recently designated the two nearby ancient woodlands, has also not objected to the proposal.
73. Contrary to the assertions on behalf of the Hungerton Estate, the appellant did provide baseline data of the hydrology within and leaving the appeal site. A Hydrogeological Impact Assessment was undertaken and its results are contained within the Environmental Statement. It describes the existing hydrological and hydrogeological situation and considered the potential impacts of the development upon surface and groundwater resources. In response to the consultation, additional monitoring boreholes were subsequently installed in consultation with the Environment Agency and a supplementary report produced containing the results and findings of this additional work. Whilst I have reservations about certain elements of the survey and analysis undertaken as a part of that work, that does not undermine the legitimacy of the entire model. In my judgement any errors discovered, as a result of review work, could be accommodated through changes to the mitigation proposals, such that the water resources of the Estate emanating from the appeal site need not be affected.
74. Hungerton Springs themselves are not a permanent water feature and when they do flow, the stream that results disappears into a sink hole in less than 100 metres. In the context of the EIA regulations this cannot be considered to be important. The Appellant's assessments conclude that Hungerton Springs are ephemeral. Whilst the supplementary work suggests that parts of the Lincolnshire limestone is at least periodically saturated, in parts of the site close to Gorse Lane, it also finds that with appropriate mitigation, the extraction of limestone from the site is unlikely to impact on the base-flow volume or quality of ground and surface water flowing south from Gorse Lane.
75. The Environment Agency agreed with the original conclusions and following the supplementary work was still in general agreement with the overall findings and did not raise an objection. I have seen no evidence that leads me to find that the fundamental conclusion of the Environment Agency that water flows from the site could be assessed by on-site analysis, is wrong. In my judgement additional on-site surveys would be able to assess any variations to the original work, resulting from a more complex geology and any further appropriate mitigation could be advanced from the modified model.
76. Wyville Brook emerges from a spring about a kilometre from the appeal site. Providing the review of the site's hydrology is effectively undertaken and the existing flows from the appeal site to the limestone and sandstone strata south of Gorse Lane are replicated, then there would be no fundamental change to the water flowing southwards towards Wyville Brook and no impact on the Estate's overall water resources. This in my judgement is achievable and would in any event be monitored through the Environmental Permitting Regime by the Environment Agency.

77. The Court cases, to which I was referred¹, concern a failure to request an EIA and are not directly relevant to this appeal. An EIA was requested by the Council and a comprehensive ES was submitted by the Appellant, including a comprehensive hydrogeological assessment that was subsequently supplemented.
78. Whether or not the Appellant has made the correct assumptions about the amount of water held within the limestone as opposed to that flowing through cracks and fissures and into the sandstone or the extent to which the water table is above the base of the limestone in the southern parts of the site at certain times of the year, as suggested by the Environment Agency, is not fundamentally material; such additional water, were there to be any, is perfectly capable of being dealt with through the quarry dewatering scheme.
79. I conclude that subject to further base line hydrogeological assessment, the proposal would be in accordance with LMWLP Policy DM16 *Water Resources* and SKLPCS Policy EN2.

Ecology

80. The site is largely comprised of arable fields bounded by hedgerows, a number of them being species poor. There is no loss of woodland, indeed Wealdmore Brook and Willowbed Plantation would be improved through Conservation Management Schemes. The Woodland Trust does not object to the proposal. The poorer quality hedges would be removed and subsequently replaced by ones that are more species rich. These and the proposed field margins would provide improved habitats for the species of birds and mammals that frequent the site.
81. Calcareous grassland is to be established in a belt adjacent to the Drift, which is a Site of Special Scientific Interest that runs along the western boundary of the site. It would eventually more than double the extent of this habitat. No bat roosts were identified within the area to be worked and the badgers are not resident on the site. Natural England has not objected to the proposal. Overall there would eventually be significant ecological benefits if this proposal were to be implemented. The proposal would meet the requirements of LMWLP Policies DM8 *Nationally designated sites of Biodiversity and Geological Conservation Value* and DM9 *Local sites of Nature Conservation Value* and is in accordance with the appropriate part of SKLPCS Policy EN1.

Landscape

82. The site would be bounded by topsoil mounds along its eastern, western and southern boundaries. Woodland planting, supplemented by topsoil mounds and retained hedges, would extend along the northern part of the site, with the exception of the stretch between Willowbed Plantation and Waterworks Wood. When parts of Phase B are being quarried, machinery and the quarry face would at times be visible from locations to the north, in the Vale of Belvoir, including from its castle. However it was agreed at the Inquiry that if a temporary hedge were to be planted at the commencement of the site works, then it would be sufficiently established by the time quarrying began on the land to its east, to act as a screen for much of the activity in most of the views. Such a hedge could be made the subject of a condition.
83. The land rises to the east of the Drift towards the A607 from which there will inevitably be views of the appeal site throughout the life of the quarry. However,

these views are distant views from a busy road across fields bounded by hedgerows, which in summer would help to filter direct views of the appeal site and its activity from the road.

84. Strengthening of the boundary hedges along with the boundary screening would mitigate much but not all of the site's activity from pedestrian and equestrian users of Stony Track, Gorse Lane and the Drift. Only a relatively small part of the permitted area would be being worked or restored at any particular time. Consequently, the impact on these users and those on the A607, at any one particular point in time, would not be extensive. Two new footpaths are proposed to the north of the appeal site to help to mitigate this harm.
85. Whilst noting the observations of South Kesteven District Council, I agree with Mr Holiday's assessment that the overall effects on the landscape would be no more than temporarily moderate adverse, during the years of operation, reducing to minor adverse, in the years immediately following the final restoration, to be followed by an overall slight beneficial improvement, in succeeding years. I consider the proposal to be in accordance with the appropriate part of SKLPCS Policy EN1 and LMWLP Policy DM6 *Impact on Landscape*.

Agricultural land

86. Most of the land occupied by the proposed development is best and most versatile agricultural land. Whilst some would be taken out of production at any one period in time, a condition could limit it to no more than three sub-phases plus the processing, topsoil and water treatment areas. Most of the land would remain in agricultural use until required for quarrying and thereafter it would be restored to agricultural use. About 16 hectares would be used for woodland planting, ponds and other ecological features or separated from the main body of agricultural land by the proposed woodland, planted to screen Hill Top Farm from the development. Whether the latter area would be permanently lost from agricultural use is however speculation. Part of the thrust of the Government's 25 year Environmental Plan involves the improvement of the countryside's ecological assets and there would clearly be an eventual net overall gain in this context as a result of the appeal proposal. However, LMWLP Policy DM12 points out that development which includes significant areas of best and most versatile agricultural land will only be permitted where it can be demonstrated that no reasonable alternative exists. The proposal clearly fails this policy test and for at least the duration of the operation it would have a negative impact on the use of best and most versatile agricultural land.

Heritage

87. Following the proposed open standoff and the screening woodland to Hill Top Farm, the County Council withdrew its objections on heritage grounds. Whilst the woodland backdrop will change the setting of the listed complex on its southern side, woodland is a significant part of the landscape character of this area. The proposed new planting would not appear out of place.
88. There is no evidence to suggest that the ponds at Denton Manor would be likely to become dry as a result of this proposal. I conclude that the development would not be harmful to the setting of heritage assets and is in accordance with LMWLP Policy DM4 *Historic Environment* as well as the appropriate part of SKLPCS Policy EN1.

Dust/Air quality

89. A small number of properties could be at risk from nuisance dust. However it can be controlled by mitigation and the adopting of appropriate standards through the Environmental Permitting regime.
90. The amount of dust that would be generated, would be far below the levels that would affect crop growth on the parts of the site in agricultural production, through effects on the stigmata of plants.
91. Real concern was raised about the increase to air pollution caused by an increased number of HCV's on the A607 and the impact of this on asthma sufferers. Whilst this is unfortunate, it is a classified road and a designated lorry route. The levels of atmospheric pollution are not such as to warrant action under the air quality regime and as such would not justify refusing planning permission. During the lifetime of a quarry, improved vehicle engine technology should see an overall reduction in such pollution.
92. I conclude that the proposal would be in accordance with LMWLP Policy DM3 *Quality of Life and Amenity*.

Other environmental considerations

93. Whilst there is likely to be security lighting, conditions could regulate its luminance and through a scheme, its location within the quarry as far as is practicable. There is no reason why an appropriate lighting scheme could not be designed that minimised light pollution from the site, such that it would not be harmful to nearby residents or contrary to the appropriate part of SKLPCS Policy EN1.

Economic considerations

94. Although this site would be in use for over 30 years, the screening mitigation is such that once fully operational there should be little direct impact on the adjacent roads and bridleway. At any one time only a comparatively small area would not be in agricultural use so that the actual impact would be very localised. A condition could prevent operations on Saturday afternoons, Sundays and Bank Holidays. In such circumstances I would not envisage the proposal adversely impacting upon the leisure activities of local residents or visitors or the viability of local businesses, to a meaningful extent.
95. The proposal would create 30 full time jobs, most of which would be sourced locally. It is estimated that it could infuse £2.5 m into the economy each year.

Other matter

96. Schedules 13 and 14 of the Environment Act 1995 established a regime for the Review of OMPs. Its purpose was to enable Minerals Planning Authorities (MPAs) to update them by imposing modern operating, restoration and aftercare conditions upon the site. A dormant site, which most of the appeal site is a part of, cannot recommence working until the MPA has agreed an updated scheme of planning conditions in line with modern environmental standards.
97. It is for the intended minerals operator to make the application for the MPA to impose conditions, accompanied by an ES. The operator specifies the proposed conditions in the first instance and the MPA either agrees to impose them or suggests alternatives. There is no power for the MPA to refuse to impose

- conditions. The NPPG also points out that new conditions, such as those which restrict the total quantity of mineral to be extracted, must not affect the economic viability of the operation. Consequently and contrary to GOLAG's assertions, it has no power to prevent the operations for which planning permission was originally granted from recommencing.
98. However, any condition which could be reasonably imposed on a new minerals permission may be imposed through the ROMP process and so it would be expected that a full set of modern conditions would be imposed. If the operator is dissatisfied with any of the conditions put forward by the MPA, then it has the right of appeal to the Secretary of State.
99. There was much evidence and discussion about the appellant's ability to reactivate the OMPs, with arguments about what had been historically worked and restored in the various parts of the very large area that they cover. Also debates about the likelihood or not of persons with an interest in the land giving their consent to work some of the minerals.
100. It is my view that in the context of this appeal, much of that was not really relevant to the appellant's assertion that as a fall-back position it could successfully request the MPA to assess and approve a new set of planning conditions that would enable it to work minerals within (a) part(s) of the OMPs area. Such a request for the reasons discussed below is likely to be focused. Although at para 208 the Minerals PPG says that "Environmental Statements must provide an up-to-date assessment of the likely significant environmental effects of the whole of the remaining permitted development over the lifetime of the permission(s)", if the scheme included a condition preventing mineral extraction from particular areas, there would be no purpose served in it being accompanied by a detailed EIA covering those areas. The need for a comprehensive EIA is therefore unlikely to be so onerous that it would have a bearing on a decision to reactive (a) part(s) of the OMPs.
101. The OMPs extend over an area of more than 900 hectares, with the Appellant having an interest in about 720 of these. Although there are parts that have been worked out and some of these have been fully restored, there are large areas, including the OMP part of the appeal site that have not been. Although the amounts of extractable limestone and ironstone varied, both the Appellant and GOLAG estimated that more than 21 mt of stone was available. About 85% of this is located in just three of the nine areas illustrated on the plan in Appendix 13 to Mr Gough's evidence. Ignoring the underlying ironstone, it is agreed that there is at least 18 mt of extractable limestone below areas 4, 8 and 9. To complete this extraction by 2042 would require annual sales of nearly 1 mt pa when the quarry was not being established or wound down. This is similar to the total annual demand for Lincolnshire limestone advanced by Mr Ratcliff on behalf of the Appellant and more than the lower amounts put forward by the Council or that currently being achieved.
102. There are currently ten producers of limestone within the County and another three dormant quarries capable of supplying the market during the plan period, some of them much closer to the main market in Greater Lincoln than is Denton. To suggest that the Appellant, no matter how comparatively efficient his operation might be, would capture this entire market is fanciful. The most likely scenario, if the appeal was to be dismissed and the Appellant's exploitation of the OMPs was a commercial proposition, without the ability to backfill with waste,

would be that a similar or larger part of area 4, than affected by the appeal proposal, would be extracted. If sales were sufficiently buoyant and time allowed, it would probably be followed by the eastern part of area 8. That is because these areas have the largest tonnages of extractable limestone from a single quarry area. They are also among the parts of the OMPs where quarrying has the least environmental impact. However, without the ability to backfill with inert waste I doubt the Appellant would have sufficient competitive edge to extract and sell limestone other than from area 4 by 2042 and even here total extraction by that date would be far from certain.

103. The issue then is whether the reactivation of the OMPs without quarry backfilling is likely to be a commercial proposition and would it be more environmentally damaging than allowing the appeal. The Council has not opposed this appeal on environmental grounds and has agreed an acceptable regime of modern conditions. Similar conditions could be imposed on a ROMP scheme. Consequently apart from the impact of the quarry face on the local landscape the impacts need not be any more harmful.
104. The final landscape in the immediate vicinity of the site would be somewhat different to that when the appeal scheme was completed. Without importation of some fill, there would be at least one permanent hole in the ground of a far greater depth than can be observed on the restored sites of the historic ironstone workings. In landscape terms an OMP operation is likely to be more damaging than the appeal scheme. However, in my view the long term presence of battered quarry faces need not be sufficiently harmful to be unacceptable in the areas that I have described. Even they could be screened by planting such that the long term impact on the wider landscape need not be harmful.
105. The Council asserted that the main driver of the Appellant's business in the context of company profit was landfill but produced no evidence to conclusively confirm this. Given that an important element in the recent rise in profits arises from an A14 contract, to where the Appellant is primarily providing large quantities of inert low grade fill, this cannot be totally correct. Additionally Mr Gough pointed out that the company had recently set up a concrete producing business that was also contributing to overall company profits.
106. The company does operate limestone quarries where no back filling is allowed, the one at Wakerley Northamptonshire being the most recent example. However, these quarries are closer to the Cambridge and Peterborough markets than is Gorse Lane and where the long term supply of local aggregate is less certain.
107. Additionally, although there are environmental disadvantages to the reactivation of the OMPs, particularly to the landscape, there are also negative sides to allowing the appeal, particularly in the context of aggregate production and quarry restoration. Unless there is a significant increase in demand for Lincolnshire limestone and a corresponding increase in the capacity required to deposit inert waste, then existing operational quarries within the County will take much longer to be extracted and restored than otherwise if the appeal is allowed. In such circumstances, the communities in which they are located would clearly have to suffer the disbenefits of quarrying activity for longer than currently anticipated. It is also likely, without increased overall demand for the aggregate, that the appeal quarry would take longer than the estimated 30 years to be

extracted and restored, whereas a ROMP scheme would currently have to be concluded by 2042.

108. The appeal proposal would import between 3.2 and 3.4 mt of inert waste to the site. The 2017 Waste needs Assessment estimated the County's inert waste arisings to be less than 500,000 tpa. The quarry could hypothetically meet the equivalent of the whole of Lincolnshire's needs for more than six years or about 30% in each year of the predicted 30 year life. Unless the inert waste needs change abruptly, then either other quarries will take significantly longer than predicted to be restored or the appeal site will take longer or both.
109. At the same time and as a part of its Regulation 22 Notice, the Council asked the Appellant to consider and demonstrate the possibility of restoring the site to a suitable profile and after use with a lower end landform and using a significantly lower volume of waste. However, apart from reducing the waste volume to facilitate changes to the post restoration drainage regime, there were no changes in the amount of waste proposed to be imported to the site, even though the Appellant claims that a suitable restoration could be achieved under a ROMP scheme and without any importation of waste. This does not suggest that the importation of waste is anything but a major component in the Appellant's business model for this site.
110. I agree with the Council that an intermediary scheme, which had significantly less imported fill, could secure a satisfactory long term landscape, albeit one with a different profile than that of today. Additionally I can see no reason why such a scheme should not recreate best and most versatile agricultural land.

Conclusion

111. The proposal would extract limestone and import inert waste in an area where there is clearly no immediate justification for increased capacity in either. It would also use a significant area of best and most versatile agricultural land. It does not meet the relevant exception criteria and consequently it is contrary to LMWLP Policies M5, W6 and DM12. I note the Appellant's arguments about the unreliable forecasts because of the influence of the recession in the data and its predictions about future need and production in neighbouring MPAs to the south. However, in my judgement and at this point in time, that evidence is not compelling and Lincolnshire has more than adequate approved limestone reserves and potential inert waste capacity to meet an abrupt increase in demand from within the County and in neighbouring authorities, for a number of years. Certainly sufficient to await an early review of the plan should the Appellant's overall predictions be correct.
112. Whilst the Framework says that decision makers should give great weight to the benefits of mineral extraction, including to the economy, in my judgement the current circumstances of limestone extraction in Lincolnshire are such that additional approved capacity would be of little benefit to its economy and certainly of insufficient weight to overturn the presumption in favour of determining planning applications in accordance with the Development Plan.
113. I am not persuaded that without an ability to deposit large quantities of waste in a quarry it would be very likely that the Appellant would seek to extract limestone in this area under a ROMP scheme. However, even if that course of action were likely, it seems to me that the consequences of the risk in term of the likely comparative harm are preferable to permitting a scheme that is

contrary to the current context of Lincolnshire's mineral and waste needs and one that could last well beyond 2042. Additionally, that alternative has little support locally, where the clear preference appears to be a reactivation of the OMPs, assuming that is a commercial option.

114. In such a scenario the Council could, at the appropriate time, review the benefits of improved restoration, in the context of the County's need for inert waste capacity, together with any requirement to accommodate some from nearby MPAs if requested to do so. If that review suggested a requirement greater than the current forecasts, then the ability to create an improved landscape at Gorse Lane, through the tipping of quantities of waste, could be objectively compared to the need for additional inert waste elsewhere in the County and in the context of the origin of the increased waste requirement. Through that process, any additional required capacity should be provided in the most appropriate location and after having considered all of the relevant factors.
115. For the reasons discussed above and having objectively taken account of all of the other matter raised, I therefore find that the appeal should be dismissed.

M Middleton

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Hardy Solicitor	Instructed by Richard Wills of Lincolnshire County Council
He called	
Marc Willis BSc, MA, MRTPI	Town Planner

FOR THE APPELLANT:

Andrew Fraser-Urquhart QC	Instructed by Jake Parker-Bishop of Sloan, Plumb, Wood LLP
He called	
Mark Rayers	BSP Consulting Ltd Transport Engineer
Leslie Jephson BEng, IoA	LF Acoustics Ltd Acoustic Engineer
Dr Paul Hardwick BSc, FGS	Enzygo Ltd Hydrologist
Dr Suzanne M Mansfield BSc, CIEEM, CMLI	FPCR Environment and Design Ltd Ecologist
Dr Hugh Datsun BSc, MIAQM	DustScanAQ Chartered Scientist
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FOR GORSE LANE QUARRY ACTION GROUP

Simon Curtin	Local Resident
He called	
Anthony Morigi BSc, CGeol, FGS	Local Resident Geologist
Jamie Blackwell BSc, MSc, CGeol, FGS	Groundwater Solutions Ltd Hydrologist
Simon Curtin Bsc	Local Resident Agricultural Scientist

INTERESTED PERSONS:

Daphne Carre	Resident of Denton
Hamish MacMillain	Assistant of Denton Council
Robin Pape	Resident of Denton Council
Jon Bell	Castle Cary Town Council and Ansford Parish
Kathy Ingram	Local Resident
Bob Adams	Castle Cary Town Council and Ansford Parish
Chris Burford	Resident of Denton Care for Cary

Care for Cary

Local resident

DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Jamie Blackwell's Inquiry Speaking Notes. Submitted by GOLAG.
- 2 Estimate of anticipated time to extract mineral from each sub-phase. Submitted by the Appellant.
- 3 Lincolnshire Local Aggregate Assessment 2018. Submitted by LCC.
- 4 Aggregate Limestone forecast. Submitted by the Appellant.
- 5 LCC's response to the Appellant's Aggregate Limestone forecast. Submitted by LCC.
- 6 East of England Aggregates Working Party, Annual Monitoring Report 2016. Submitted by LCC.
- 7 Cambridgeshire and Peterborough Minerals and Waste Development Plan, Local Aggregate Assessment 2017. Submitted by LCC.
- 8 Northamptonshire Local Aggregates Assessment 2016. Submitted by LCC.
- 9 Northamptonshire Minerals and Waste Local Plan 2017. Submitted by LCC.
- 10 Northamptonshire Minerals and Waste Local Plan 2017, Schedule of Main Modifications. Submitted by LCC.
- 11 Inspector's Report on the Examination of the Northamptonshire Minerals and Waste Local Plan Update. Submitted by LCC.
- 12 Northamptonshire Minerals and Waste Local Plan 2017, Adoption Report. Submitted by LCC.
- 13 Regional Capacity (limestone) update. Submitted by the Appellant.
- 14 Waste needs Assessment Update 2017. Submitted by the Appellant.
- 15 LCC's response to the Appellant's Waste needs Assessment Update 2017. Submitted by LCC.
- 16 Justification for the inclusion of Whisby Landfill in the WNA Update 2015. Submitted by LCC.
- 17 Lincolnshire landfill site updates. Submitted by the Appellant.
- 18 Appellant's note on LCC's additional evidence on crushed rock sales and waste needs in the Cambridgeshire/Peterborough/Northamptonshire sub region. Submitted by the Appellant.
- 19 Hughes Craven report supporting the request for the Scoping Opinion in relation to the ROMP. Submitted by GOLAG.
- 20 Agreed mineral volume estimates in the area which is the subject of the OMPs. Submitted by the Appellant.
- 21 Copy of a letter from John Gough to Marc Willis (22/08/17) covering various aspects of the ROMP proposal. Submitted by the Appellant.
- 22 Copy of an Email from Marc Willis to John Gough (10/11/17) about the re-use of previously worked areas for ancillary operations within the OMPs area. Submitted by the Appellant.
- 23 Agreed legal note on the ROMP regime. Submitted by the Appellant.
- 24 Emailed letter from Farrer and Co (2/02/18) re: the Environmental Impact Assessment in the context of Hungerton Springs. Submitted by Mr Burford.
- 25 Committee Report re: application to extract limestone and import fill material at Crabtree Road, Colsterworth, Lincolnshire. Submitted by the Appellant.

- 26 Committee Report re: application to extract limestone and restoration on land at Leicester Road, Wansford, Peterborough. Submitted by the Appellant.
- 27 Appeal Decision re: Thornhaugh II Quarry, Leicester Road, Thornhaugh, Peterborough. Submitted by the Appellant.
- 28 High Court decision: Bellway Urban Renewal Southern & Secretary of State v John Gillespie, ref Submitted by Farrer and Co.
- 29 Court of Appeal Judgement: Bellway Urban Renewal Southern v John Gillespie, ref C1/2003/0213. Submitted by Farrer and Co.
- 30 Court of Appeal judgement: Loader v Secretary of State for Communities and local Government & Ors. Submitted by the Appellant.
- 31 Court of Appeal judgement: Matthew Champion v North Norfolk District Council v Crisp Malting Group Ltd, Natural England, ref C1/2013/1410. Submitted by the Appellant.
- 32 Schedule of proposed planning conditions. Submitted by LCC.
- 33 GOLAG's comments on the schedule of proposed planning conditions.
- 34 Schedule of agreed planning conditions. Submitted by LCC.
- 35 Proposed revised condition re Hydrology (condition 40). Submitted by GOLAG.
- 36 Correspondence from Jake Parker-Bishop and Simon Curtin (30/01/18) to PINS about condition 40.
- 37 Correspondence from Marc Willis (09/02/14) to PINS about revised condition 40.
- 38 Correspondance from Sloan Wood Plumb (09/02/18) to PINS about revised condition 40.
- 39 Correspondance between PINS and Marc Willis (14&15/02/18).
- 40 Section 106 Planning Obligation re OMP's and other matters. Submitted by the Appellant.
- 41 Section 106 Planning Obligation by way of Unilateral Undertaking, re the provision of a permissive footpath from Stony Track to the A607. Submitted by the Appellant.
- 42 Schedule outlining the site visit route and the places to visit. Submitted by the Council.

PLANS SUBMITTED TO THE INQUIRY

- A Plan of Gorse Lane Quarry showing borehole sites. Submitted by the Appellant.
- B Geological map of the area in and around Willowbed Plantation. Submitted by the Appellant.
- C Plan showing Ancient Woodland at Hungerton Wood, submitted by the Council.
- D Plan showing proposed permissive footpath in Harlaxton Parish. Submitted by the Appellant.
- E Plan showing proposed permissive footpath in Denton Parish. Submitted by the Appellant.
- F Plan showing proposed Nature Conservation Management areas at Wealdmore Brook and Willowbed Plantation, with proposed permissive footpaths providing public access to them. Submitted by the Appellant.
- G Plan showing estimated limestone thicknesses within parts of the area

- H covered by the OMPs. Submitted by the Appellant.
- I Plan showing areas of historically worked out ironstone. Submitted by GOLAG.
- J Plan showing disputed parts of areas 2 and 3 concerning historic ironstone working. Submitted by the Appellant.
- J Geological map showing areas of worked out ironstone. Submitted by GOLAG.

PHOTOGRAPHS SUBMITTED TO THE INQUIRY

- 1 Photographs of historic ironstone mining at Harlaxton. Submitted by GOLAG.
- 2 Photograph of an unfilled quarry restored to agriculture. Submitted by the Appellant.