Town and Country Planning Act 1990

PLANNING PERMISSION

Name and address of applicant  Name and address of agent (if any)

RJD Limited  D K Symes Associates
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Harlow Common  Middleton Cheney
Essex  Banbury
CM17 9HY  Oxon

OX17 2ND

Part I - Particulars of application

Date of Application  Application No.

11 June 2014  NCC Ref: 13/00073/MINVOC

ENC Ref: 14/01140/NCC

Particulars and location of development

Variation of condition 28 to retrospectively extend the end date to 2018 for planning permission EN/02/0846C for the construction of an agricultural reservoir together with removal of surplus material arising in the course of construction and the importation of a limited quantity of engineering clay at
Land North Of Eaglethorpe, Warmington, Northamptonshire.

Part II - Particulars of decision:

The Northamptonshire County Council

Hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that permission has been granted for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:-

Commencement

1. The development hereby permitted has commenced and the conditions of this planning permission shall take effect from the date of this permission.

Reason: For the avoidance of doubt and because previous permission ref. no. EN/02/846C has expired.

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Scope of Planning Permission

2. Except as may otherwise agreed in writing by the Minerals Planning Authority and except where modified by this schedule of conditions, the development shall be carried out in accordance with the submitted application 13/00073/MINVOC, Environmental Statement and associated drawings, and drawing nos. 95010/R/A, 95010/R/2a and 95010/R/2b, 95010/R/3 and 95010/R/4 approved under permission ref. no. EN/02/846C.

*Reason: To define the scope of the permission and in the interest of clarity.*

3. Clay extraction and importation shall be restricted solely to the constructional requirements of the irrigation reservoir and the depth of clay extraction shall not exceed eight metres, unless otherwise agreed in writing by the MPA.

*Reason: To define the scope of the permission and in the interest clarity.*

Dust

4. Measures to reduce dust emissions to a minimum during mineral processing, on site vehicular movement and restoration operations shall be undertaken in accordance with the Dust Management Scheme (Report No.R913-R01 dated May 2006 prepared by Smith Grant Environmental Consultancy approved under permission ref. no. EN/02/846C) including the use of water spray facilities and water bowsers in periods of dry weather. The scheme shall be implemented in full throughout the life of the operations.

*Reason: To safeguard the local environment and protect the amenity of local residents from unreasonable dust levels (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

Noise

5. Monitoring of noise at nearby noise sensitive residential properties of the Water Mill House and Lady Margaret Cottages shall be undertaken in accordance with the Protocol for Periodic Noise Monitoring dated March 2006 prepared by ANV Acoustic Consultants approved by the Mineral Planning Authority. The agreed scheme shall be implemented throughout the operations.

*Reason: To minimise the noise disturbance to local residents and to enable the effects of the development to be adequately monitored and controlled (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

6. In the event that monitored noise levels exceed those in the submitted noise report, proposals for mitigation and further monitoring shall be submitted in writing and implemented forthwith and not later than two weeks from the

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occurrence of the breach. In the event that the mitigation does not reduce noise below the levels required in the scheme, further mitigation proposals shall be submitted in writing and implemented forthwith and not later than two weeks from the occurrence of the breach and further noise monitoring shall take place.

*Reason: To minimise the noise disturbance to local residents and to enable the effects of the development to be adequately monitored and controlled (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

**Hours of working**

7. Except as may otherwise be previously agreed in writing by the Mineral Planning Authority, the development hereby permitted and all operations relating thereto shall only operate between the hours of 7.00am to 5.00pm Mondays to Fridays and 8.00am to 1.00pm on Saturdays, with no such operations being carried out on the site on Sundays or Public Holidays.

*Reason: To minimise the noise disturbance to local residents and to enable the effects of the development to be adequately monitored and controlled (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

**Access and Protection of the Public Highway**

8. The sole vehicular access for the development hereby permitted shall be by way of the access located as shown on Plan No 95010/R/A. This access shall be maintained to the satisfaction of the Mineral Planning Authority.

*Reason: In the interest of highway safety and to safeguard the interests of users of the public highway (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

9. The detailed scheme of highway works and specifications for the improvements at the ‘Lady Margaret’ access constructed in accordance with plans/drawings IT434/HD/05 Rev. D and IT434/HD/08 Rev. D, shall be retained to the satisfaction of the Highway Authority until the date the development hereby permitted is complete and site restored or the end date in condition 26 of this permission (whichever is sooner), after which the site access shall reinstated to the satisfaction of the Highway Authority.

*Reason: In the interest of highway safety and to safeguard the interests of users of the public highway (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

**Wheel cleaning**

10. All operational vehicles leaving the site shall be cleansed of mud and other

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debris to ensure that there is no nuisance dust and no mud or debris is deposited on the public highway.

Reason: In the interest of highway safety and to safeguard the interests of users of the public highway (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).

Flood Protection

11. The development proposals and the subsequent restoration of the site shall be fully undertaken in accordance with the findings and recommendations of the Flood Risk Assessment (dated June 2003) received by the MPA on 4 June 2003 accompanying planning application ref. no. EN/02/846C.

Reason: To prevent an increased risk of flooding due to impedance of flood flows and reduction of flood storage capacity (Policy CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

Ecological Management Plan

12. Within 3 months of the date of this permission an Ecological Mitigation and Management Plan that is in general accordance with sections 5.1 and 5.5 of the RPS Ecological Management Plan (dated 15/08/2006 approved pursuant to permission ref. no. EN/02/846C) and section 5.0 of the ECOSA Ecological Assessment Report submitted with this application, shall be submitted for approval in writing by the Mineral Planning Authority. The plan shall include, amongst other things:

a) Plans for the treatment of Crassula infestation and monitoring its success;
b) Design of the conservation area to maximise potential for breeding and wintering bird species of interest;
c) Proposals for the long-term management of the conservation area for the benefit of the wildlife interest;
d) A programme to monitor the development of vegetation and the bird populations on the site;
e) Measures and monitoring to ensure that reptiles (particularly Grass Snake) are not harmed during construction;
f) Details of the attendance of a Clerk of Works for the remaining construction and restoration works;

The Ecological Management Plan shall be fully implemented as approved.

Reason: To ensure the long term proper implementation, management and monitoring of an appropriate scheme to protect an enhance the wildlife value of the site (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

Soil stripping

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13. Except as may otherwise be agreed in writing bunds for the storage of soils shall conform to the following criteria:

a) Topsoil bunds shall not exceed 3 metres in height.
b) Subsoil and overburden bunds shall not exceed 5 metres in height.

All bunds which remain for more than six months shall be sown with a grass seed mixture and maintained so as to prevent weed growth.

Reason: To ensure satisfactory storage and movement of soils on site in order to aid final restoration of the site (Policy CS13 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010) and Policy CMD13 of the Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

Buildings, plant and machinery

14. With the exception of a weighbridge and office, and pump house, and notwithstanding the provisions of Part 19 of Schedule 2 of the Town and Country Planning General Development Order 1988, no fixed plant or machinery, or any buildings in connection with the development other than those hereby permitted shall be erected, extended, installed, rearranged, repaired or altered in any way under the provisions of Class A or B of Part 19 of Schedule 2.

Reason: To ensure that the Mineral Planning Authority retains control over the erection of fixed buildings, plant and machinery in the interests of amenity (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).

15. Except as may otherwise be agreed in writing by the Mineral Planning Authority, all mobile plant on site shall be fitted with and shall utilise a radar warning system which complies with the Health and Safety Executive's requirements relating to when all mobile plant is reversing. Accordingly no audible system of reversing warning shall be utilised unless it is an environmentally acceptable method which has been agreed in writing with the authority. All heavy goods vehicles entering the site shall be routed to minimise reversing manoeuvres.

Reason: To minimise the noise disturbance to local residents (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).

16. All building and fixed or mobile plant as associated with mineral extraction shall be removed as part of the restoration of the site as soon as there are no longer required, and not later than the date referred to in condition 26 of this permission.

Reason: To ensure that all plant, machinery and hardstanding is removed

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from the site upon the completion of operations (Policy CS13 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010) and Policy CMD13 of the Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

**Fuel Storage**

17. Any fuel storage above ground and refuelling facilities shall be bunded to at least 110% of the tank capacity and constructed of an impermeable base with an independent sealed drainage system with no direct discharge to any watercourse, land, or underground strata.

*Reason: To safeguard against pollution of the local environment (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

**Public Right of Way**

18. Within 3 months of the date of this permission a scheme of enhanced measures for the safeguarding of Public Right of Way PD1 shall be submitted for the prior written approval of the Mineral Planning Authority, which shall include:

a) provision an maintenance of signage; and,
b) provision where necessary, and maintenance of hard surfacing along the right of way within the application site;

The scheme shall be implemented as approved forthwith for the life of the development hereby permitted.

*Reason: To protect the interests and safety of the users of the public rights of way (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).*

**Tree Screen Retention**

19. The existing established trees which are located between the site and Eaglenthorne Water Mill House identified on the plan EN/02/866CA attached to planning permission ref. no. EN/02/846C, shall be retained in situ throughout the period of mineral extraction, reservoir construction, and restoration operations at the site.

*Reason: To protect the existing tree screen in the interests of the visual amenity of the locality and nearby residential properties (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).*

**Landscaping**

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20. Except as may otherwise be agreed in writing by the Mineral Planning Authority within 6 months of the date of this permission, a landscaping scheme shall be submitted to the Mineral Planning Authority for approval. The scheme shall take into account any approved provisions of the revised Ecological Management Plan submitted pursuant to condition 12 of this planning permission. The scheme shall include proposals for the planting of trees, shrubs and plants, around the wet lips of the reservoir and the wetland area, with details of their numbers, size and species.

Reason: To ensure the long term proper implementation, management and monitoring of an appropriate scheme to protect an enhance the wildlife value of the site (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

21. The implementation of the landscaping scheme as approved by Mineral Planning Authority under condition 20 of this planning permission shall be undertaken and completed to the satisfaction of the Authority by the end of the first planting season following the restoration of the site.

Reason: To ensure the long term proper implementation, management and monitoring of an appropriate scheme to protect an enhance the wildlife value of the site (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

22. Any trees, shrubs or plants which die, become diseased, damaged or are removed within 5 year period shall be replaced in the next planting seasons with others of the same size and species, unless otherwise agreed in writing with the Mineral Planning Authority.

Reason: To ensure the long term proper implementation, management and monitoring of an appropriate scheme to protect an enhance the wildlife value of the site (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

23. A bird hide with public access linked to the existing public bridleway shall be provided as part of the restoration works. Further details of the hide and public access link including design, materials, colour and location shall be submitted and agreed with the Mineral Planning Authority and implemented within the six month restoration period referred to in condition 26 of this permission.

Reason: To ensure the long term proper implementation, management and monitoring of an appropriate scheme to protect an enhance the wildlife value of the site (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

24. Except as may otherwise be agreed in writing by the Mineral Planning Authority the amended restoration scheme, reference Plan 950101/R1/3b/L

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received by this Authority on 22 August 2003 shall be implemented upon cessation of the mineral extraction operations hereby permitted and shall be completed before the end of this permission as stated in Condition 26, except where it is modified by the landscape scheme submitted under condition 20 of this planning permission.

Reason: To ensure the long term proper implementation, management and monitoring of an appropriate scheme to protect an enhance the wildlife value of the site (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

25. Not later than the completion of the mineral extraction operations or the date referred to in Condition 26 of this permission, whichever is the sooner, a 5 year ecological aftercare programme incorporating the provisions of the scheme agreed under Condition 12 of this permission shall be submitted to the Mineral Planning Authority for approval in writing. The five year aftercare programme, as may be approved by the Authority, shall be implemented throughout the aftercare period.

Reason: To ensure the long term proper implementation, management and monitoring of an appropriate scheme to protect an enhance the wildlife value of the site (Policy CMD7 and CMD13 of the Adopted Northamptonshire Minerals & Waste Development Framework Control & Management of Development DPD (adopted June 2011)).

End Date

26. The development hereby permitted shall cease and the site be fully restored, not later than 31 July 2018 or when the associated mineral extraction has ceased for a period in excess of 6 months, whichever date is the earlier.

Reason: To specify the date when the conditions of this permission shall have been fully implemented and to enable the County Planning Authority to reconsider the development position in the light of the circumstances prevailing at the end of the consent period (Policy CS14 of the Adopted Northamptonshire Minerals & Waste Development Framework Core Strategy (adopted May 2010)).

REASONS FOR APPROVAL

The application sites are allocated within the adopted MWDF documents and MWDF Partial Review document, and contribute towards maintaining the County’s sand and gravel land bank. Whilst annual tonnages and landbanks vary between plans and depending upon which previous production figures are used, there is a minimum requirement for a 7 year landbank and the longest landbank figure of just 10 years referred to in the in the Partial Review is not considered excessive. Therefore in principle there is a need for the site to continue extraction until it is complete and the development complies with national and local policies in respect of the need for sand & gravel and providing an adequate landbank.

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As an existing site with an approved access onto the public highway, the continued use of the access is considered acceptable for a further temporary 4 year period subject to the reinstatement in accordance with the previous section 278 agreement. Subject to some minor enhancements to the crossing of the bridleway with the haul road, to be required by a new planning condition, there is no objection from the Highway Authority to the development continuing to operate for a further temporary period.

Dust and noise impacts have proven to be minimal as previously assessed in the original application, with no changes to the intensity of the impact anticipated to result from approval of the current applications. Therefore dust and noise impacts are considered acceptable subject to the imposition of suitable planning conditions. Although there will be an increase in the duration of the landscape impact if as a result of increasing the duration of the works, this landscape impact is considered minimal and acceptable, subject to a time limited permission, the retention of mitigation measures, and previously approved restoration and landscape works. A new and updated Ecological Management Plan should be required by planning condition to secure the implementation of measures to enhance the ecological benefit of the reservoir, which would be a benefit over the current position.

The proposed development is assessed as having an overall benefit in respect of flood risk through increasing flood plain storage during construction and completion, and would not have an adverse impact subject to specified mitigation measures for the construction of the reservoir. Notwithstanding the loss of some agricultural land, the restoration of the plant site to agricultural land, and the provision of a new agricultural reservoir are likely to result in an overall benefit to agriculture.

Taking into account all information contained within the Environmental Statement it is considered that the relevant environmental impacts have been laid out by the applicant. It is concluded that the environmental impacts as a result of the two applications are limited, generally being less intense but for a longer duration than envisaged in application ref. no. EN/02/846C. On-balance the environmental impacts are considered acceptable, and it is the most desirable to permit the two applications, to complete the reservoir development originally permitted.

In light of the above assessment and conclusions it is considered that the applications for the proposed extensions of time for the plant site and the extraction area, separately and in combination would comply with Policies CS4, CS5, CS13 and CS14 of the MWDF Core Strategy DPD (2010), Policy M1 of the MWDF Locations for Mineral Development DPD, Policies CMD4, CMD7, CMD8, CMD9, CMD10, CMD13 and CMD14 of the MWDF Control and Management of Development DPD (2011), and Policies 5 and 13 of the North Northamptonshire Core Spatial Strategy.

**POSITIVE AND PROACTIVE MANNER STATEMENT**

In determining this planning application, the Mineral Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been

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taken in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2012.

INFORMATIVE

1. Highways & Public Rights of Way

   With respect to construction works to be carried out in close proximity to and using Public Rights of Way as access, please note the following standard requirements:-

   1) The routes must be kept clear, unobstructed, safe for users, and no structures or material placed on the right of way at all times, it is an offence to obstruct the highway under s137 HA 1980.
   2) There must be no interference or damage to the surface of the right of way as a result of the construction. Any damage to the surface of the path must be made good by the applicant, specifications for any repair or surfacing work must be approved by this office, under s131 HA1980.
   3) If as a result of the development, the Right of Way needs to be closed, where a Temporary Traffic Regulation Order would become necessary. An Application form for such an order is available from Northamptonshire County Council website, a fee is payable for this service and a period of six weeks’ notice period is required. Please contact the highway authority at:- defmap@mgwsp.co.uk

Date 26th September 2014

Signed

For Assistant Director of Environment and Planning

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1. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or the grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with Sections 78 and 79 of the Town and Country Planning Act 1990 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, 3/08a Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements (a), to the provisions of the development order, and to any direction given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

2. If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted he may serve on the Council of the district in which the land is situated a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

3. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

(a) The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely sections 70 and 72(1) of the Act.


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