

## **Regulatory Committee – 07 July 2020**

### **Kingsbury Quarry, Dosthill Extension to Quarry to provide brick making material**

#### **NWB/19CM020**

Application No.: NWB/19CM020

Advertised date: 17 October 2019

Applicant Wienerberger Ltd  
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Registered by: The Strategic Director for Communities on 09 October 2019

Proposal: Extension to Kingsbury Quarry to provide brick making material and to extend the end date for extraction and restoration.

Site & location: Kingsbury Quarry , Rush Lane, Dosthill, Warwickshire, B77 1LT.  
[Grid ref: 422133.298943].

**See plan in Appendix A**

## **Recommendation**

That the Regulatory Committee authorises the grant of planning permission to extend Kingsbury Quarry to provide brick making material and to extend the end date for extraction and restoration on land at Kingsbury Quarry, Rush Lane, Dosthill subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

### **1. Application Details**

- 1.1 This application proposes the extension of the mineral workings at Kingsbury Quarry along with an extension to the overall working life of the quarry from that currently permitted.
- 1.2 Kingsbury Quarry is a source of a high quality clay (Etruria Marl) and sandstone located to the north of Kingsbury used in the adjoining Kingsbury Brickworks to produce blue engineering brick products. Products produced include facing bricks, engineering bricks, pavers and hand cut special shaped bricks. However, remaining reserves of minerals suitable for making blue bricks amount to 200,000 tonnes only, which is sufficient to supply the Brickworks for less than two years.
- 1.3 The purpose of the extension area development is to provide a source of brick making material to supply the adjacent Kingsbury Brickworks into the future. Kingsbury is the only brickworks remaining in Warwickshire.
- 1.4 The proposal seeks to extend the quarry workings into an area of agricultural land to the immediate east of the Brickworks, and to the north-east of existing Kingsbury Quarry workings from where raw materials are currently sourced. The quarry extension area is formed of a rectangular arable field which rises gently eastwards towards the hamlet of Whateley.
- 1.5 The total area of the application is 52.4ha, which encompasses much of the existing quarry as well as the proposed extension area. Around 27ha would form the proposed extraction and materials storage area, the remainder relating to the existing quarry area which would be used for overburden and soils storage prior to use in site restoration.
- 1.6 The extension area contains 5.6 million tonnes of Etruria Marl, and 1.0 million tonnes of sandstone that would be used in the brick making process.
- 1.7 This would be sufficient to supply the brickworks for approximately 33 years and also allow for the export of some Etruria Marl to other brickworks operated by the applicant.

- 1.8 Restoration would be completed within two years of the cessation of mineral extraction and would involve backfilling mineral workings with overburden and any other on-site materials. No materials (waste) would be imported to the quarry in order to secure infill and restoration of the site.
- 1.9 The extension area would be restored to agricultural land and woodland with nature conservation habitats and biodiversity benefits.
- 1.10 The current planning permission end date for extraction and restoration at Kingsbury Quarry would need to be extended by 13 years from the current end date of 2042 to 2055.
- 1.11 The application site contains an existing geological Site of Special Scientific Interest (SSSI). This designation relates to a steep quarry face, located on the western edge of the extension area, which adjoins the Brickworks. The SSSI is designated for the exposure of the Halesowen Sandstones and the underlying Etruria Marls. Development of the quarry extension would require the removal of this existing geological exposure. The application proposes the creation of a replacement geological exposure elsewhere within the site.
- 1.12 The application site would be worked in a series of phases. Following initial removal of soils and overburden, extraction would commence in the north-west sector of the extension area and continue eastwards before progressing southwards. Pre-commencement works would include gap planting and management of the hedgerows around the north, east and south sides of the extraction area. The existing mature hedges would be allowed to grow untrimmed.
- 1.13 Development Stage A (approximately year 8)  
Topsoils and subsoils from the extraction and storage areas would be stripped and placed in storage mounds around the north and eastern perimeter. Topsoil mounds would be between 2 and 4 metres high and subsoil mounds up to 6 metres high. An overburden sandstone stockpile up to 6 metres high would be covered with a layer of topsoil and subsoil on the outer slopes visible from eastern and southern directions. All topsoil and subsoil surfaces would be seeded to low-maintenance grassland and regularly cut to prevent perennial weeds from establishing. Excavations would be contained within the north-west and west sector of the extension area, with the southern half of the excavation area used for material storage. The two areas to be excavated in this phase would be linked by a new haul road passing through the geological SSSI, which would be relocated to the northern boundary of the site where the same geological feature that is the subject of the existing SSSI would be exposed.
- 1.14 Development Stage B (approximately year 17)  
Excavations would continue mostly eastwards during this phase of development. Restoration backfilling would enable approximately 2

hectares to be returned to agricultural use in the northwest corner of the extraction area. This area would abut the reformed geological SSSI on the northern boundary. The soils storage mounds would remain unchanged during this phase. Sandstone overburden storage mounds would extend up to approximately 13 metres in height and would be grassed on the outer side-slopes.

1.15 Development Stage C (approximately year 25)

Excavations would continue in a southerly direction during this phase with backfilling continuing eastwards to complete restoration of the northern half of the extension void back to agricultural land. Most of the perimeter soil storage mounds would remain in place. Sandstone storage mounds would be reduced in area and height by this stage with areas restored to agricultural use.

1.16 Final Restoration (Approximately year 35)

The backfilling and restoration of the existing Kingsbury Quarry is due to be completed before excavations are completed in the extension area. The restored landform of the extension area would predominantly slope downwards from east to west at varying gradients. The restoration profile of the extension site would taper into the restored landform of the existing quarry creating a valley feature between the existing and proposed quarries. This valley would form a stream course, picking up surface water that currently follows a ditch along the southern edge of the extension area. The gentler gradients, which would account for the majority of the restored site (25 hectares), would be returning to agricultural use. A more steeply sloping wedge of land crossing through the middle of the restored site would be used to create 3 hectares of woodland. A further 5.5 hectares of the restored site would be set aside for species-rich and wet marginal grassland (including several catchment and satellite ponds for the surface water management system), water courses and ditch banks, hedgerows and retained/new woodland plantations. 0.3 hectares of the site would be given over to the retained faces and benches of the recreated Geological SSSI. A further 18.5 hectares of restored grassland and woodland would be created within the restoration scheme for the existing Kingsbury Quarry.

1.17 Mineral extraction at the quarry would remain at the existing level of up to 200,000 tonnes per year. Kingsbury Brickworks has the capacity to process around 100,000 cubic metres of mineral per annum. There are no proposed changes to the capacity or output of the factory at this stage. Therefore, up to 100,000 tonnes per annum would continue to be fed directly in the adjoining brickworks, with the remainder continuing to be transported off site to supply other brickworks. The existing planning permission allowing mineral extraction at Kingsbury Quarry allows up to 100,000 tonnes of 'as-dug' clay to be exported from the site per annum. It is proposed that this situation would continue going forward with the exported clays transported to other

brickworks operated by the applicant. The current application therefore seeks to continue this situation going forward.

- 1.18 Mineral extraction is undertaken at Kingsbury Quarry on a campaign basis, generally twice a year for a period of eight weeks. This method of operation would continue within the extension site following initial site set up. Extracted materials are stockpiled on land between the Quarry and Brickworks from where it is fed into the brick manufacturing process.
- 1.19 Overburden stripping, mineral extraction and materials handling is undertaken at Kingsbury Quarry using mobile equipment usually associated with quarrying, including hydraulic excavators, dump trucks and bulldozers. No blasting is carried out on site. There are no alterations proposed to the method of extraction, other than operations moving to land to the east of the existing extraction area.
- 1.20 Kingsbury Quarry and Brickworks is accessed from the A51 via Rush Lane to the west of the site. This situation would remain unchanged whilst working the extension site. The access road into the site itself from Rush Lane crosses the Birmingham to Derby railway line by an overbridge.
- 1.21 Production and output from the Quarry and Brickworks would remain at existing levels thus there would be no change to the vehicle numbers and movements at the site.
- 1.22 It is proposed that the extension site in accordance with the existing permitted hours of operation at Kingsbury Quarry. The existing planning permission restricts soil stripping and overburden removal to between 0700 hours and 1800 hours Monday to Friday and 0700 hours and 1300 hours on Saturdays. Minerals extraction operations are currently permitted to be undertaken over longer periods of time of 0600 hours to 2000 hours Monday to Sunday. A condition is recommended for the hours of mineral extraction operations to be restricted to 0630 hours to 1830 hours Monday to Saturday with no extraction on Sundays or Public holidays.
- 1.23 In support of the application the applicant makes the following statement of need for the proposed quarry extension:
  - Kingsbury Brickworks is one of the major brick producers for the applicant (Wienerberger) in the UK and is one of the most efficient brickworks. It is the only Wienerberger factory that produces blue brick products and is of great importance to the business. The clay present on site (Etruria Marl), is of particularly high quality and is of very limited occurrence nationally.
  - Kingsbury produces a range of high-quality bricks, pavers and special brick products which are distributed throughout the UK. Brick production is currently just over 40 million bricks per year

including 1 million special products. The majority of products are blue bricks, include facing bricks, engineering bricks, pavers and hand cut special shaped bricks.

- Recently over £9.5 million was invested in improvements to the Kingsbury Brickworks to improve energy efficiency and lower emissions. A further £1 million is to be spent in 2019 to improve the production process.
- The Kingsbury site currently employs over 75 people in manufacture, distribution and associated roles. In addition a further 10 people are contracted externally to carry out quarry extraction at the site. The running costs of the Kingsbury site contributes over £8.5 million annually to the economy in terms of expenditure on fuel, purchases, wages, business rates, etc some of which benefits the local economy.
- The Kingsbury Brickworks relies on the adjacent quarry for the supply of raw materials and would not be able to remain open without the readily available resources of Etruria Marl and sandstone from the quarry.

1.24 The applicant has undertaken an Environmental Impact Assessment (EIA) of the proposed development. The planning application is accompanied by an environmental statement (ES) and a Non - Technical Summary which have been prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and report the findings of the EIA. The ES contains a number of sections and is accompanied by a series of technical reports covering areas including:

- Geology and Stability;
- Highways and Traffic;
- Landscape and Visual Impact;
- Ecology;
- Noise;
- Blast Vibration;
- Air Quality and Dust;
- Flood Risk and Hydrology;
- Archaeology and Cultural Heritage;
- Soils and Agricultural Land Quality.

## **2. Consultation**

2.1 **North Warwickshire Borough Council (Plg)** – no objection in principle to the proposal, but requests that you review the planning conditions that may be attached to any planning permission such that they reflect the location rather than replicate existing conditions. This is in respect of working hours and excavation periods in view of the proximity to the established residential properties in Whateley.

2.2 **North Warwickshire Borough Council (EHO)** – no comments received.

- 2.3 **Kingsbury Parish Council** – no comments to make other than wishing to ensure that no public rights of way are blocked off or obstructed.
- 2.4 **Councillor Andy Jenns** – no comments received as of 11/05/2020.
- 2.5 **Staffordshire County Council** – Kingsbury Quarry lies entirely within Warwickshire, immediately adjacent to the Staffordshire / Warwickshire border south of Tamworth. The quarry supplies Etruria Marl and sandstone for the Kingsbury Brickworks on the same site. However, remaining reserves of minerals suitable for making blue bricks amount to 200,000 tonnes, which is sufficient to supply the Brickworks for less than two years.

The proposal seeks to extend workings into an area to the east of the brickworks, and the north-east of existing workings. The total area of the application is 52.4ha of which 27ha would form the proposed extraction and materials storage area. This would permit the extraction of 5.6 million tonnes of marl, and 1.0 million tonnes of sandstone over a period of 35 years.

Restoration would be completed within two years of the cessation of working and would involve backfilling mineral workings with overburden and any other on-site materials, but not imported wastes.

The northern boundary of Kingsbury Quarry follows Rush Lane. This highway forms the county boundary at that point, and also marks the southern limit of Wilnecote Quarry in Staffordshire. Given the location of the proposed extension, with phases of extraction taking the workings eastwards then southwards, it is reasonable to conclude that there would not be any significant adverse impact on sensitive receptors within Staffordshire or on mineral resources at Wilnecote Quarry.

It was advised that the assessment of visual and landscape impacts should also take into account how the proposed extension can be worked alongside permitted workings within Staffordshire. In this matter, you should consider restoration proposals for Wilnecote Quarry and opportunities for landscape enhancement and ecological networks.

Having regard to the observations above, it is reasonable to conclude that the proposed development would not significantly adversely affect sensitive receptors or significant mineral resources within Staffordshire.

Therefore, Staffordshire County Council, acting as the Mineral and Waste Planning Authority for that county, has no objection to the planning application for an extension to Kingsbury Quarry to provide brick making material and to extend the end date for extraction and restoration, for the reasons described above.

- 2.6 **Tamworth Borough Council** – with the exception of the need for the company to ensure dust suppression during dry periods of extraction, the noise elements seem to be sufficient as not to cause any undue effect on our area. No further comments to make with regards to this application.
- 2.7 **WCC Highways** – no objection, as it has not been shown that the existing uses on site have a severe detrimental impact on the public highway network.
- 2.8 **WCC Flood Risk Management** – No Objection subject to the following comments and conditions.  
The applicant's agent has provided clarification on the previously submitted 'Kingsbury Extension EIA – Hydrology and Hydrogeology'. We are now satisfied that this document suitably addresses surface water drainage and flood risk. We would support a compliance-type condition requiring the applicant to follow the information and drawings in the above document so that flood risk and surface water drainage is adequately managed throughout the lifetime of the development. In addition to the above, we also recommend a condition relating to a 6 m easement from the ordinary watercourse south-east of the site located along the red line boundary in the vicinity of Holt Hall Farm and the proposed blue sandstone stockpiling area. This is to ensure adequate space is provided for maintenance access and flood flows along the river corridor.
- 2.9 **WCC Ecology** – seek the imposition of conditions to secure a Construction and Environmental Management Plan (CEMP), Landscape and Ecological Management Plan (LEMP) and measures to secure Biodiversity Net Gain.

There is a geological SSSI on site which is proposed to be removed in phases 1a and 1b, and replaced in another area of the site. Natural England have been consulted and have no objection to re-locating the SSSI and therefore we have no objection to this. NE have asked for a management plan for long term maintenance of the relocated SSSI which should be submitted and agreed prior to the commencement of any works on site. They have asked that this be conditioned and therefore will be part of the LEMP Condition.

Reptile surveys were carried out in 2019 which identified no Grass Snakes on site. Surveys for Great Crested Newts identified no GCNs, with no suitable habitat in the existing quarry and limited suitable habitat within the extension area. However, GCNs being present on site cannot be discounted. A Method Statement for GCNs is therefore required as part of the CEMP.

There is nesting bird habitat on site and therefore pre-checks for nesting birds should be part of the CEMP. Surveys found no evidence of badgers, otter or water vole on site. However, pre-checks would be



appropriate and should be part of the CEMP. Surveys identify that the area is used by bats for foraging and therefore the proposals could result in the loss of foraging habitat. Installation of bat boxes is suggested and this could be secured as part of the LEMP. An invertebrate survey carried out found no scarce invertebrates on site, therefore no further surveys are required. It is recommended that the roots of trees and hedgerow to be retained are protected through the CEMP.

The Defra and WCC Biodiversity Impact Assessment (BIA) tool is not well suited to multi-phased developments over a long time period (such as the development now proposed). The BIAs carried out by the applicant and WCC Ecology (which differ in their conclusions) show that this application has the potential to make a biodiversity net gain or biodiversity net loss. The reality is likely to be somewhere between the two and depends on how the site is brought forward, when any nature conservation activities are implemented and how soon they reach their target condition. The County Ecologist therefore suggests the inclusion of a condition which would ensure that the biodiversity gains predicted are secured. A suitably worded condition is suggested.

- 2.10 **WCC Archaeology** – the proposed development will result in the destruction of or have a significant impact on the archaeological features which previous archaeological fieldwork has established survive across this site.

As set out in the Andrew Josephs Associate's Heritage Statement submitted with this application, aerial photography of this site shows an extensive cropmark complex within the site boundary. The Heritage Statement concluded that they probably represented different phases of field systems, former tracks and geological features.

An archaeological geophysical survey was subsequently undertaken across the site. A summary of the results of the survey is included in the Heritage Statement submitted in support of this application. This survey identified features interpreted as being related to several phases of landscape organisation and a number of ditches forming enclosures. A number of other anomalies of probable archaeological origin were also recorded, including some with characteristics suggestive of industrial activity which could represent kilns or brick clamps.

Subsequently archaeological trial trenching was undertaken across the site by Archaeology Warwickshire to further characterise the archaeological features across the site. The results of the fieldwork was detailed in a report which has been provided to this office.

The trial trenching recorded a series of ditched enclosures across part of the site, however their use has not been established. Whilst some Late Iron Age pottery was recovered from some of the ditches, there

was limited evidence for occupation, however, the report does highlight that only a small proportion of the interiors of these were examined, therefore it is possible that the activity was more intensive than initially suggested by this phase of fieldwork. It was concluded that the geophysical anomalies that were suggestive of industrial activity probably represent post-medieval brick clamps. A number of the anomalies identified by the geophysical survey were of geological origin.

The archaeological assessment work to date has established that archaeological features survive across this site. The proposed development will have a significant impact on these and any other, as yet unidentified, features which survive across the site.

Although I do not wish to object to the principle of development, I do consider that some archaeological work should be required if consent is forthcoming in order to mitigate the impact that the proposal will have on the archaeology which survives across the site. I therefore recommend that a condition is imposed to secure this. I would envisage the archaeological work secured by this condition including archaeological excavation and the archaeological monitoring and recording during the removal of topsoil and subsoil across the remainder of the site.

- 2.11 **WCC Public Health** – no comments received.
- 2.12 **WCC Public Rights of Way** – no objection, but seek an advisory note is placed on any planning permission granted to ensure that public rights of way T67 and T69, which run adjacent to the application site must remain open and unobstructed at all times.
- 2.13 **Environment Agency** – no objection.
- 2.14 **Natural England** – is satisfied that the proposed creation of a new geological exposure in the specified location, with improved access and secured long term management, would be considered to be appropriate compensation for the loss of the existing SSSI exposure, which should be submitted prior to the commencement of any works on site. They also note and accept the fact that creation of the access road (into the quarry extension) will be required prior to the proposed operations being able to take place. In principle we have no objection to the proposed time frame of twelve months for the creation of the new SSSI, provided suitable mechanisms are available through the planning process such as a section 106 agreement or suitable planning condition to ensure that the SSSI will be adequately protected in an acceptable timescale.

The agricultural land area of the application site comprises about 26 hectares of which 15 ha (58%) is Grade 1 (excellent quality), 10 ha (38%) Grade 2 (very good quality) and 1 ha (4%) subgrade 3b

(moderate quality). Clearly there is a substantial amount of best and most versatile (ALC grades 1,2 or 3a) agricultural land involved, including land of the highest quality nationally (Grade 1). The proposals aim to restore about 23 ha (of 26 ha agricultural field) back to best and most versatile quality (BMV), with net loss of about 3ha of BMV due to the creation of a steep face at the edge of the restored area which would be re-contoured at a lower level compared to the current landform. Natural England confirms that it would be appropriate to specify agriculture as an afteruse, and for the land to be reclaimed such that the physical characteristics of the land be, so far as practicable, restored to what they were when last used for agriculture. Although we are generally satisfied that the BMV land should be capable of being reclaimed without loss of quality, the submitted soil handling, restoration and aftercare proposals do not meet the requirements for sustainable minerals development. Natural England therefore advise that any grant of planning permission should be made subject to conditions to address these points, safeguard soil resources and promote a satisfactory standard of reclamation appropriate to the proposed afteruses.

- 2.15 **Highways England** – no objection.
- 2.16 **Network Rail** – seek funding to resurface the carriageway on the bridge over the railway line which forms part of the access road into the quarry/brickworks. Initially raised a holding objection on the basis of concerns they had regarding stability of existing quarry faces and slopes along the boundary with the railway line. Following the submission of further supporting information and technical data which confirmed that any slope failures were unlikely to impact upon the railway line, Network Rail have withdrawn this objection.
- 2.17 **HS2 Limited** – no objection under the Safeguarding Directions. The applicant is advised that the application site is in close proximity to land that may be required to construct and/or operate Phase 2b of a high speed rail line from Crewe to Manchester and the West Midlands to Leeds, known as High Speed Two. Powers to construct and operate High Speed Two are to be sought by promoting a hybrid Bill in Parliament.
- 2.18 **National Grid/Western Power Distribution** – no comments received.
- 2.19 **The Coal Authority** – no objections to the planning application on the basis that the area of the proposed quarry extension is outside of the Defined High Risk Area.

### **3. Representations**

- 3.1 The application was publicised by way of a press notice in the Tamworth Herald, 13 Site Notices displayed around the site and in

nearby residential areas and the nearest residential and business properties were notified directly.

- 3.2 Three emails and letters of representation have been received from local residents raising concerns and objection to the application.
- 3.3 Two residents of Whateley (hamlet located around 300 metres to the east of the application site) raise the following concerns:
  - The quarry extension is in a Green Belt area.
  - It will be detrimental to properties fronting Whateley Lane, directly overlooking the site.
  - It will introduce noise and dust into a residential area.
  - The lanes of Whateley must not be used for access.
  - HGVs driving down Whateley Lane to get to the quarry often get stuck and take out hedgerows and trees.
  - Constant rubbish from the landfill.
  - Noise and light pollution horrendous.
  - Residents of Whateley suffer enough with the threat of HS2 ruining rural villages.
- 3.4 A resident of the High Street, Dosthill, Staffordshire (located a little over half a kilometre to the north of the site entrance) makes a number of observations and raises concern regarding the traffic impact of the proposed development on the A51 through Dosthill. Points raised include:
  - Questions the validity of some of the existing/permitted vehicle numbers and movements quoted in the Transport Statement.
  - The Transport Statement states that 'there would be no changes associated with vehicular movements to/from either the Quarry or Brickworks when compared with the current planning permissions'. It also states that the existing permitted working hours will remain unchanged and the proposed development represents a continuation of existing, established activities, which have been permitted and satisfactorily accommodated on the local road network for many years – this represents no concern as it stands.
  - However, seeks to ensure that Staffordshire County Council have been consulted.
  - Though much of the application states that there will be no change in vehicle movements as presently permitted as a result of the application, considers that some of the documentation is ambiguous in terms of output from the quarry.
  - Whilst the Transport Statement gives likely direction of vehicles, this could potentially change over time. If waste imports, which are stated as presently all coming from the south through Kingsbury, were to change and to increase in movements from the north through Dosthill, then it may be that this could happen with no recourse being available, and which may be to the detriment of road safety in Dosthill.

## **4. Assessment and Observations**

### **Background and Planning History**

- 4.1 Kingsbury Quarry has been operational for many years. Mineral extraction has taken place at the site under the provisions of a number of planning permissions over the years. In 1998 these were consolidated into one consent incorporating an extension of mineral extraction and restoration of land by importation of controlled wastes (Ref: NW378/97CM014). This planning permission has a linked Section 106 Agreement covering various matters (financial contribution to traffic calming in Kingsbury, long term site management post restoration, footpath reinstatement, transport review, creation of a liaison group and giving up working rights within some previously approved areas) some of which have subsequently been deleted or amended. Planning permission NW378/97CM014 is now the primary consent under which mineral extraction and landfilling is undertaken. A number of amendments to operations and infrastructure (primarily relating to landfilling operations) have been approved by subsequent planning permissions. Planning permission NW378/97CM014 contains 65 conditions which relate to general operations, including the control of hours of operation, noise and dust emissions, landscaping and the restoration of the site. The current quarry planning permission (NW378/97CM014) has an end date of 21 February 2042 for mineral extraction.
- 4.2 Landfilling of the site with household, commercial and industrial waste commenced in June 2008 (operated by Biffa Waste Management). To date these operations have focused around the northern part of the existing quarry void and initially progressed at some pace creating a domed landform which steps down into the quarry void. Landfilling operations were suspended in 2014 (with landfill operations currently remaining suspended). This is probably as a result of changes to the waste management market and increased recycling rates, etc. When the landfill is operational the planning permission limits HGV movements per week to 1800 (900 loads). Whilst landfilling operations are currently suspended they could recommence at any time and continue up until 2042.
- 4.3 Kingsbury is the only brickworks remaining in Warwickshire. The Kingsbury Brickworks is the only site within the Wienerberger group that produces blue brick products. The clay present on site (Etruria Marl), is of particularly high quality and is of very limited occurrence nationally. Kingsbury products are supplied locally, nationally and internationally. The range of products includes facing bricks, engineering bricks, pavers and hand cut special shaped bricks. The majority of clay products are fired through modern and efficient tunnel kilns.

- 4.4 The remaining reserves of Etruria Marl at the existing quarry suitable for making blue bricks amounts to 200,000 tonnes, sufficient to supply the Brickworks for less than two years.
- 4.5 The applicant (Wienerberger) purchased the site in 2008 from Baggeridge Brick who had operated the site since 1951. Kingsbury Brickworks developed from the former Whateley Colliery and Brickworks which was well established by the mid-nineteenth century and the adjacent Cliffe Blue Brickworks which was operational in 1838. Brick manufacture is understood to have been undertaken at the site for almost 200 years.
- 4.6 The Brickworks has permanent planning permission without any end date. Once the remaining reserves of Etruria Marl have been worked out in the existing Kingsbury Quarry in the next two years raw materials would have to be imported by road on heavy goods vehicles (HGVs) in order to supply the Brickworks should the extraction of further mineral reserves at Kingsbury Quarry not be approved.
- 4.7 Kingsbury Quarry and Brickworks is situated immediately to the south of the county boundary with Staffordshire. Immediately over the county boundary, on the opposite side of Rush Lane, lies another clay quarry and adjoining brickworks (Wilnecote Quarry, operated by Forterra). Staffordshire County Council granted planning permission (Ref: T.16/02/905 MW) in April 2019 to allow the extension of this site onto land to the north of the current application site. The extension site to the north of the current application site is now operational.

### **Site and Surroundings**

- 4.8 Kingsbury Quarry and Brickworks is located to the north of Kingsbury immediately adjacent to the Staffordshire/Warwickshire border (although the site lies entirely within Warwickshire). The site lies approximately three kilometres south of the centre of Tamworth, 500 metres south-east of Dosthill and around 500 metres from the northern outskirts of Kingsbury.
- 4.9 The surroundings can very much be described as mixed in terms of landscape and landuse. This ranges from the very rural and limited sporadic development to the east where agriculture is the predominant landuse to the more intensive urban development to the north and south where industrial and residential landuses dominate. The area has been the subject of extensive mineral extraction in the past, including clay, stone, coal and sand and gravel. Many of the former mineral workings have been landfilled and restored.
- 4.10 The existing quarry lies to the south of the brickworks, which comprises of an extensive range of modern and older industrial buildings. The Brickworks has extensive areas associated with raw material storage and brick stockyards. The landholding extends to around 70 hectares.

Waste disposal has taken place within the existing quarry area, although is currently mothballed. The site is bordered to the north by Rush Lane (which forms the County boundary), the east by agricultural land, to the south by the M42 Motorway and safeguarded route of the HS2 railway line and to the west by the Birmingham to Derby railway line.

- 4.11 The area of land proposed for the quarry extension predominantly comprises of one large rectangular arable agricultural field of approximately 27 hectares located immediately to the east of the existing quarry and brickworks. The site is bounded by a mix of hedgerows and hedgerow trees. The extension site adjoins Rush Lane along its northern boundary beyond which lies Wilnecote Quarry and Brickworks, Kingsbury Brickworks and the existing Kingsbury Quarry to its western boundary and agricultural fields along the eastern and southern boundaries. Electricity power cables carried on large pylons cut across the south-eastern corner of the site. The safeguarded route of the HS2 railway line lies to the south of the extension site. A large complex of farm buildings, Holt Hall Farm, are located close to the south-eastern corner of the extension area. The topography of the extension site gently slopes from a high point along its eastern boundary down to lower levels adjoining the brickworks and existing quarry, which in themselves lie at a lower level than the extension site.
- 4.12 The hamlet of Whateley is located a little under 300 hundred metres to the east of the application site on slightly higher ground separated by agricultural fields.
- 4.13 To the west of Kingsbury Brickworks and Quarry land located off Rush Lane is in industrial uses, including a scaffolding business (Hunnebeck) and pallet business currently under development (Kingsbury Pallets). New residential developments constructed in recent years on the southern peripheries of Dosthill have extended closer to the quarry, although these are separated from the working area by the brickworks itself. The nearest of these properties is separated from the brickworks and north-western corner of the application site by approximately 150 metres. A parcel of land located between these existing residential properties and industrial developments off Rush Lane is currently the subject of a planning application proposing further residential and business development. This application remains to be determined.
- 4.14 Kingsbury Quarry and Brickworks is accessed from the A51 via Rush Lane to the west.
- 4.15 No public rights of way cross the Kingsbury site but there is a number of public footpaths, bridleways and other areas with public access in the general area.
- 4.16 Located on the western edge of the extension area is the steep slope of a geological Site of Special Scientific Interest (SSSI), designated for

the exposure of the Halesowen Sandstones and the underlying Etruria Marls.

### **Planning Policy Context**

- 4.17 Section 38(6) of the 2004 Planning and Compensation Act requires that planning applications are determined in accordance with the provisions of the Development Plan ‘unless material considerations indicate otherwise’.

Paragraph 11 of the National Planning Policy Framework (NPPF) February 2019 explains that there is a presumption in favour of sustainable development and what that means. What the presumption means in relation to a planning application is that:

(a) proposals which accord with an up-to-date development plan should be approved without delay; and

(b) where there are no relevant development plan policies or the policies most important for determining the application are out-of-date, then permission should be granted unless:

- the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Where the presumption in (b) applies, it is often referred to as the “tilted balance” in favour of the application.

- 4.18 Paragraph 12 goes on to explain that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 4.19 Paragraph 48 explains that authorities may give weight to relevant policies in emerging development plans according to: a) the stage of preparation of the emerging plan; b) the extent to which there are unresolved objections to relevant policies; and c) the degree of consistency of the relevant policies in the emerging plan to this Framework.
- 4.20 The courts have made it clear that for the purposes of section 38(6) it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every



policy in the plan. It is a matter of judgement for your Committee whether the proposal accords with the plan, considered as a whole, bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach.

- 4.21 The Development Plan relevant to the proposal consists of the “saved” policies of the North Warwickshire Local Plan 2006, the Local Plan for North Warwickshire – Core Strategy adopted October 2014 and the ‘saved’ policies of the Minerals Local Plan for Warwickshire. The “saved policies” of the Minerals Local Plan were saved over 13 years ago in September 2007 and cannot be considered to be up-to-date and as such the ‘tilted balance’ referred to in paragraph 4.17 may be applied, that is unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole, then permission should be granted.
- 4.22 The County Council is currently producing a new Minerals Local Plan which is at the Submission document stage – November 2019. The emerging Plan has now been submitted to the Planning Inspectorate for assessment and review and is due to be the subject of an Examination in Public in October 2020. Until the new Local Plan is adopted it can only be given limited weight, however given that there were no objections to the proposed Brick Clay policy MCS 6, it may be considered to have some weight. See paragraph 4.39 below.

### **National Planning Policy**

- 4.23 The NPPF states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three dimensions to sustainable development are: economic, social and environmental. The Framework states that decision-takers at every level should seek to approve applications for sustainable development where possible.
- 4.24 The NPPF makes it clear that the Government is committed to securing economic growth and productivity in order to create jobs and prosperity. It goes on to state that policies and decisions should recognise and address the specific locational requirements of different sectors as well as enabling the sustainable growth and expansion of all types of business in rural areas.
- 4.25 Kingsbury Quarry and Brickworks is located within the West Midlands Green Belt. The NPPF makes it clear that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

- 4.26 The NPPF makes it clear that within the Green Belt inappropriate development, which is by definition harmful to the Green Belt, should not be approved except in very special circumstances.
- 4.27 When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 4.28 The NPPF identifies forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes mineral extraction.
- 4.29 The NPPF makes it clear that minerals are essential to support sustainable economic growth and our quality of life. It is important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. The NPPF requires existing sites used for processing of minerals to be safeguarded. When determining planning applications for mineral extraction, local planning authorities should: give great weight to the benefits of the mineral extraction, including to the economy; and, ensure that there are no unacceptable adverse impacts on the natural and historic environment and human health including the cumulative effect of multiple impacts; and, ensure that noise and dust impacts are controlled, etc. It also seeks to provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards. In considering proposals for mineral extraction, minerals planning authorities should, as far as practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas.
- 4.30 Minerals Planning Authorities should plan for a steady and adequate supply of industrial minerals, including the provision of brick clay and maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment. The NPPF makes it clear that for brick clay these reserves should be at least 25 years.

## **Local Planning Policies**

### **Minerals Local Plan for Warwickshire 1995 (saved policies)**

- 4.31 The Minerals Local Plan for Warwickshire sets out policies specific to the extraction of minerals. The Minerals Plan identifies Preferred Areas

or Areas of Search for future mineral extraction (all of which relate to sand and gravel extraction). Policy M1 of the Plan makes it clear that permissions will normally only be given within these areas. The 1995 Plan does not allocate specific sites for the extraction of brick clay (as it does for sand and gravel). It does however recognise that minerals can only be worked where they are found and extraction need not be incompatible with Green Belt objectives. It does however make it clear that the onus will be on the operator to demonstrate that high environmental standards can be achieved during working and restoration and that it is necessary to work mineral within the Green Belt.

- 4.32 Policy M6 details matters that will be taken into consideration in determining any planning application for mineral extraction. The policy states that, applications will be considered on the basis of the provisions of the development plan and their likely overall impact on, amongst other things: operational and economic needs; physical restraints, including, existing and proposed developments in the area, conservation, ecological value, sites and landscapes of historical and archaeological importance. Other considerations include; transport, agricultural land quality and the feasibility of achieving high quality restoration to an appropriate afteruse, living conditions for people and policy considerations, including Green Belt.
- 4.33 Policy M7 sets the controls that will be applied in seeking to ensure that any adverse environmental effects and the implications for residents' quality of life are mitigated at all mineral workings. The policy goes on to state that when granting planning permission the County Council may impose planning conditions or seek to enter into agreements covering operational matters and environmental controls.
- 4.34 Policy M9 seeks the restoration of workings to a high standard and a beneficial after use in accordance with the development plan. Satisfactory arrangements for aftercare will also be sought.

### **Emerging Warwickshire Minerals Plan**

- 4.35 As with the adopted Minerals Plan the emerging Warwickshire Minerals Plan does not allocate specific sites for the extraction of brick clay. Any proposals for new clay quarries or extensions to existing site will be assessed through the policies within the Plan.
- 4.36 Policy MCS1 (Supply of Minerals and Materials) however makes it clear that during the plan period the MPA will ensure that there is a sufficient supply of minerals through Warwickshire's contribution to local and national needs. In order to achieve this, the MPA will maintain landbanks of permitted reserves for aggregate minerals and for brick clay. Any planning application for mineral development will be treated on its merits and assessed against all other relevant

Development Plan policies, taking into account the guidance in the NPPF and all other material considerations.

- 4.37 Policy MCS6 (Brick Clay) states that, the MPA will maintain at least 25 years permitted reserves of brick clay to support capital investment required for new or existing plant for brick manufacturing, and the maintenance and improvement of existing plant and equipment, by permitting new or extended sites and by permitting extraction prior to, or as part of, non-mineral development.

Proposals for brick clay extraction will be supported where the proposal:

- supports capital investment required for new or existing plant for brick manufacturing and the maintenance and improvement of existing plant and equipment; and
- provides for the extraction of premium brick clays such as those from the Etruria Formation or other clay raw materials with equivalent physical characteristics;
- and in addition the proposal either :
  - enables the continuation of appropriate blends to be made: or
  - provides raw materials released from the working of other minerals: or
  - provides raw materials which can be utilised at an existing plant or for an environmental project where the raw materials are required to meet specific technical requirements and those materials cannot be supplied from any other location.

- 4.38 The emerging Minerals Plan also include general Development Management policies which seek to: protect and enhance the environment and landscapes (DM1 - protection and enhancement of the environmental assets and landscapes); protect the historic environment (DM2 - Warwickshire's Historic Environment and Heritage Assets); protect local communities and their environment and the economy from unacceptable adverse impacts (DM4 – Health, Economy and Amenity – Minimising the Impacts of Mineral Development); that the highway network is able and suitable to accommodate the traffic generated (DM5 – Sustainable Transportation); public rights of way are protected (DM6 – Public Rights of Way and Recreational Highways); water quality is protected and flood risk is not increased (DM7 – Flood Risk and Water Quality); and, secure satisfactory restoration (DM9 – Reinstatement, reclamation, restoration and aftercare).

- 4.39 The replacement Minerals Local Plan is at the Submission document stage – November 2019 and will shortly be subject to an Examination in Public. Public consultation on the replacement Minerals Plan only resulted in two representations specifically on the proposed Brick Clay policy, one from the applicant referring to the extension proposal and the other from the Association of Black Country Authorities which supports the policy. Whilst only limited weight can be given to this document at this stage it can be seen that there are no objections to

the proposed Brick Clay policy. Clarification has been sought by the Inspector as to whether the Minerals Plan adequately identifies the location and extent of permitted brick clay reserves within the County and whether the Plan should allocate sites (including existing sites) for brick clay provision. These questions have been answered by WCC Planning Policy and a set of proposed changes to the supporting text of Policy MCS 6 have been submitted to the Inspector prior to the hearings, which are due to take place in October 2020, in 4 months time. The wording of the policy is unchanged, while the changes to the supporting text of Policy MCS 6 state:

“Kingsbury Brickworks which lies in the north west corner of the county on Rush Lane, Dosthill adjacent to the county boundary with Staffordshire is supplied with clay materials from an existing quarry to the south of the brickworks which has planning permission until 2042. Immediately to the north of Rush Lane lies Wilnecote Brickworks and quarry, in Staffordshire. Kingsbury quarry also supplies materials to a brick works outside the county in Walsall. Kingsbury brick works currently does not have a 25-year landbank of permitted reserves of clay sufficient to meet its future needs. However, land has now been identified to the east of the existing quarry site with landowner support on which a planning application has been prepared and submitted to extend the quarry to provide a further 33 years of clay resources including premium clays to enable the production of blue bricks to continue and to export materials. Due to the particular planning issues involved the planning application will be determined in accordance with policies in the development Plan rather than through a specific site allocation.”

Policy MCS 6 of the emerging Minerals Plan is considered to have currently some weight.

#### **Local Plan for North Warwickshire – adopted Core Strategy 2014**

- 4.40 The Local Plan Core Strategy for North Warwickshire sets out the policies which relate specifically to this part of Warwickshire. Policy NW1 – Sustainable Development states that, planning applications that accord with the policies of this Core Strategy will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, then permission will be granted unless material considerations indicate otherwise.
- 4.41 Policy NW3 – Green Belt, identifies the extent of the West Midlands Green Belt in North Warwickshire, which washes over two thirds of the Borough, and confirms the primary aim is to maintain the open nature of the area and that there is a general presumption against development that is inappropriate, except in very special circumstances.

- 4.42 Policy NW10 – Development Considerations, sets out the development considerations to be addressed and these include the need to avoid and address unacceptable impacts on neighbouring amenities as well as not sterilising viable known mineral reserves; degrade soil quality or pose risk to human health and ecology from contamination or mining legacy and ensure that land is appropriately remediated. Policy NW12 – Quality of Development, states that, all development proposals must amongst other things, demonstrate high quality design that positively improved that appearance and environmental quality of the area and conserves and enhances the historic environment and biodiversity. Policy NW13 – Natural Environment, seeks to protect the quality, character, diversity and local distinctiveness of the natural environment. Policy NW14 says that the quality, character, diversity and local distinctiveness of the historic environment will be conserved and enhanced. Policy NW15 – Nature Conservation, seeks to protect SSSIs. Development adversely affecting a SSSI will only be permitted where the benefits of the development at these sites clearly outweigh the likely impacts on the site.

### **North Warwickshire Borough Local Plan 2006**

- 4.43 The saved policies of the North Warwickshire Borough Local Plan set out further policies that relate to this part of Warwickshire. Policy ENV4 seeks to protect trees and hedgerows. ENV6 seeks to protect land resources, including in minerals developments ensuring the early establishment of after-uses and protect the best and most versatile agricultural land. ENV9 says that the air quality of the Borough will be safeguarded and enhanced by not permitting new potentially polluting forms of development within and bordering the Borough's Air Quality Management Areas (AQMA) to minimise potential risks to health and by not permitting development that would create significant noise disturbance to nearby housing, schools and other noise-sensitive uses. TPT1 seeks to minimise the transport and highway impacts of development proposals.

### **Policy Considerations**

### **Compliance with Development Plan**

- 4.44 The application site is not allocated within the adopted Minerals Local Plan (saved policies – saved in September 2007) as either a Preferred Area or Area of Search for future mineral extraction. The allocated sites relate purely to sand and gravel deposits. Policy M1 of the Plan makes it clear that permissions will normally only be given within these allocated areas. A number of restraints of acknowledged importance were used when identifying Preferred Areas and Areas of Search. This includes Sites of Special Scientific Interest of which there is one within the application site, albeit a geological exposure created as a result of previous mineral extraction, which would be impacted upon by the proposed development. Other identified considerations, whilst not

absolute constraints, are Green Belt and Agricultural Land Quality. Accordingly the proposal has been considered as a departure from the Development Plan. In viewing the proposed development as a departure it is not to say that the application is necessarily unacceptable or should automatically be refused. Clearly it is necessary to consider whether or not there are material considerations of sufficient weight to indicate otherwise. The supporting text of Policy M1 makes it clear that, outside of Preferred Areas and Areas of Search, the onus of justification for any proposal within such an area will fall upon the applicant, who will need to demonstrate that the proposal does not, in reality, impinge on any of the constraints used in identifying the Preferred Areas in the Plan, and that it should be treated as an exception to the general presumption against granting planning permission outside those areas. In this case it is considered that there are supporting factors of sufficient weight to suggest that, although arguably contrary to policy the application should be supported. This is discussed below.

### **Need**

- 4.45 Etruria Marl is a high quality clay used in the manufacture of blue engineering brick products. Blue brick products play a significant role both visually and structurally within construction and engineering projects. Etruria Marl is a vital resource to maintain the continuous production of blue brick products at Kingsbury Brickworks. Furthermore, the Etruria Marl Formation, within Warwickshire, is confined to a relatively small geographical area in the north of the County.
- 4.46 Kingsbury Quarry and adjoining Brickworks is the only such facility remaining within Warwickshire. The applicant estimates that there is now only around 200,000 tonnes of mineral reserves suitable for making blue brick products remaining within the Quarry. This is sufficient to supply the Brickworks for less than two years only.
- 4.47 The proposal is to extract in the region of 5.6 million tonnes of Etruria Marl from the extension to Kingsbury Quarry. This would be sufficient to supply the brickworks for approximately 33 years.
- 4.48 According to the NPPF the County should aim to hold a landbank for brick clay of at least 25 years raw material. The emerging replacement Warwickshire Minerals Plan similarly supports this aim stating that, the MPA will maintain at least 25 years permitted reserves of brick clay, to support the industry, by permitting new or extended sites. The existing landbank of clay reserves at Kingsbury Quarry, standing at around two years, falls very much short of government guidance. While the nearby Wilnecote Quarry in Staffordshire has recently had planning permission for an extension, it supplies its own on-site brick factory. The use by Kingsbury Brickworks of supplies from Wilnecote Quarry could impact the Staffordshire County landbank and have a detrimental impact in

terms of transport by HGV between the two sites. The proposed development, creating a landbank of 33 years within Warwickshire, therefore supports the provision of a healthy landbank of brick clay, sufficient to continue a steady supply of raw materials into the adjoining Kingsbury Brickworks. Thus securing the Brickworks long-term future and supporting specialist brick production. This therefore supports one of the key aims of the NPPF. This is a significant consideration and weighs heavily in favour of granting planning permission for the extension, when weighing the need for the development against the policy framework and potential site specific constraints.

### **Green Belt**

- 4.49 The application site is located within the West Midlands Green Belt the fundamental aim of which is to maintain openness by not allowing inappropriate forms of development, except in very special circumstances. The NPPF makes it clear that mineral extraction need not be inappropriate development within the Green Belt provided that openness is preserved and that it does not conflict with the purposes of including land within it. Mineral extraction is a temporary landuse, albeit in this case long term. The extension site would be worked and restored in a phased manner with the land predominantly restored to its pre-existing agricultural landuse. Thus in the medium to long term the proposed development would not impact upon the openness of the Green Belt and therefore does not conflict with the purposes of including land within it. The proposed development would therefore not be an inappropriate form of development within the Green Belt

### **Other Policy Considerations**

- 4.50 Kingsbury Quarry and Brickworks provides employment for over 75 people in manufacture, distribution and associated roles. In addition a further 10 people are contracted externally to carry out quarry extraction at the site. The applicant estimates that running costs of the Kingsbury site contributes over £10 million annually to the economy in terms of expenditure on fuel, purchases, wages, business rates, etc some of which benefits the local economy. The proposed development would secure these jobs and investment in the area for up to 33 years. Whilst the site is not a huge employer it is not insignificant in this area which is supported in general economic growth terms by the NPPF.
- 4.51 Providing a source of raw material adjacent to the Brickworks also presents positives in terms of securing sustainable development. While there is a source of clay at the nearby Wilnescote Quarry, use from that source would be less sustainable as there would be a need for HGV movements to and from Kingsbury via the A51 High Street in Dosthill. The proposed extension to Kingsbury Quarry would allow for the efficient movement of clay from the point of extraction to the factory. Avoiding the need for road haulage to the principal end user of the mineral reduces both financial and environmental costs. Thus



meaning that the brickworks and product remain competitive within the market and the environmental impacts associated with road haulage are reduced. This further supports the presumption within planning policy in favour of sustainable development

- 4.52 The wider policy framework seeks to manage amenity impacts upon the living environment of local occupiers and protect the natural and built environment from any adverse impacts resulting from development proposals. This includes the sustainable use of minerals. These matters are discussed in detail below. Subject to the imposition of appropriately worded planning conditions in order to adequately control the development it is considered that the proposed development could be carried out in broad accordance with the aims of the policy framework and would result in no significantly greater adverse impact than resulting from the existing quarrying activities and can therefore be supported. It is therefore concluded that the proposed development broadly accords with the other policies contained within the Development Plan.

### **Amenity Issues**

- 4.53 Kingsbury Quarry is located within a mixed use area. To the north and west the surroundings are quite urban in character with modern residential and commercial developments. To the south and east the vicinity is much more rural in character with residential properties more sporadic and limited in number. Residential properties on the southern peripheries of Dosthill are separated from the brickworks and north-western corner of the application site by approximately 150 metres. The hamlet of Whateley is located under 300 hundred metres to the east of the application site. Holt Hall Farm located at the south-eastern corner of the application site includes a number of residential properties at around 150 metres distance.

### **Visual/Landscape Impact**

- 4.54 There are two aspects to be considered in terms of the visual/landscape impact of the development. These are the, short term impact during the mineral extraction and general operation of the quarry and the long term visual/landscape impact of the proposed restoration scheme.
- 4.55 The existing Kingsbury Quarry site sits in a valley with the current workings lying at a low level within the landscape. Whilst the existing workings cover a large area of land the nature of the landscape is such that the quarry operations are discrete rather than prominent within the landscape.
- 4.56 The proposed extension to Kingsbury Quarry lies to the north-east of the existing quarry and predominantly comprises of one large open agricultural field rising gently to the east. The boundaries of the site

are delineated by hedgerows and trees. The proposed development would occupy a large expanse of land and would clearly involve significant earth works during operation of the quarry extension. This would undoubtedly result in a significant landscape and visual effect during the operational life of the quarry. These impacts would however be limited by: allowing hedgerows to increase in height and density; restricting temporary stockpile heights; seeding temporary stockpiles; and, carrying out progressive restoration of the site as quarrying is completed in each phase. The historical and present mineral workings in the vicinity of Kingsbury Quarry form part of the localised landscape. Clay extraction is reasonably slow paced at Kingsbury Quarry, thus visually once established the extraction area does not change dramatically over time.

- 4.57 Dwellings located within the hamlet of Whateley to the east sit on slightly higher ground, a number with views towards the application site. Whilst there will be some visual impact resulting from operations on site, this would largely be limited to periods of soil bund and overburden mound creation. For most of the working life of the quarry these would appear as semi-permanent grassed landforms in the landscape effectively screening operations on site. Properties located at the southern end of Dosthill to the west of the application site would have some views of the quarry extension. However, these would be very much viewed in the context of the existing Kingsbury Quarry and Brickworks development which are an established part of the local landscape.
- 4.58 Mineral extraction is a temporary land use, albeit in this case a long-term activity. The restoration scheme has been designed to link in with the approved restoration scheme for the existing quarry as well as replicate the characteristics of the local landscape and integrate the restored landform into the surroundings. The surrounding landscape is rural and agricultural in character, but also punctuated by a number of distinct artificial landforms resulting from former mineral workings which have impacted upon the localised landscape. Restoration of the quarry with hedgerows creating a new field layout would return much of the site to agricultural use. The restoration scheme would also introduce extensive areas of native woodland and tree planting as well as the creation of drainage ditches, pond wetland, reed marsh and wet grassland areas further assisting to assimilate the restored landform into the landscape and surroundings. The restoration scheme would actually break up what is currently a wide open single arable field into a more traditional pattern of fields and woodland. A landscape and visual impact assessment submitted with the application concludes that following completion of mineral working and restoration of the site, the landscape effects are not considered to be significant.
- 4.59 In time the restored Quarry would mature and effectively integrate into the surroundings. This accords with policies of the Development Plan which seek to ensure that developments are well designed to not be

incongruous within the landscape and where possible positively contribute to the character of the area. Subject to the imposition of a condition to secure detailed restoration and planting schemes the proposals are therefore acceptable in landscape terms.

## **Noise**

- 4.60 Mineral extraction clearly has inherent noise impacts, operation of plant and machinery, movement of vehicles, etc, which could affect the nearest noise sensitive locations. In this location mineral extraction is undertaken alongside noise generators including the Brickworks itself and nearby Motorway and railway line, which will influence background noise levels. The current planning permission relating to the existing activities on site restricts operations to certain hours and sets noise limits for noise sensitive locations. Existing operations at the Quarry have not been a source of noise complaint.
- 4.61 The extension area would be worked as a continuation of the existing workings using the same method of operation and working practices. Mineral extraction is undertaken at Kingsbury Quarry on a campaign basis, generally twice a year for a period of eight weeks. Thus it is a relatively low impact operation with no activity on site for prolonged periods of each year. The extracted mineral would be stockpiled for use adjacent to the Brickworks as it is currently with no changes to operating practices or processing plant. The quarry extension would result in operations taking place in closer proximity to a number of dwellings in Whateley, which are noise sensitive locations. However, the distance separation, formation of screen bunds and general low intensity of the mineral extraction operation would mean that the development is unlikely to result in any greater noise impact on the residents of these properties.
- 4.62 A noise assessment submitted by the applicant suggests noise limits at nearby residential properties for quarry site noise associated with the extension area based on existing background noise levels and guidance. Noise levels arising from the ongoing activities and the proposed development have been calculated and compared with the suggested site noise limits at the nearest noise sensitive properties to the site. The calculated overall site noise levels for site operations during the working of the extension area are below the site noise limits at all locations assessed and below government guidelines. A suitably worded condition is suggested detailing noise limits at nearby residential properties.
- 4.63 North Warwickshire Borough Council request that the proposed hours of operation are reviewed, given the proximity of the extension site to sensitive receptors, rather than simply replicating existing conditions. The existing planning permission restricts soil stripping and overburden removal to between 0700 hours and 1800 hours Monday to Friday and 0700 hours and 1300 hours on Saturdays. Mineral extraction

operations are permitted to be undertaken over longer periods of time of 0600 hours to 2000 hours Monday to Sunday. Soil stripping and overburden removal has the potential to create the greatest impact and therefore has the shorter permitted hours of operation. Mineral extraction would be undertaken within the relatively contained quarry void environment and is therefore permitted to take place over longer periods of time. The existing hours of operation have not resulted in complaint. The proposed noise condition is designed to protect the amenity of nearby residents. It is therefore difficult to justify amending the hours of operation from those already permitted.

### **Air Quality and Dust**

- 4.64 Working of the quarry extension could potentially generate dust and other airbourne pollutants as a result of soil stripping operations, overburden handling, mineral extraction, vehicles traversing the site, and restoration works. Vehicle movements, associated with transporting clay off site, by their very nature impact upon air quality both as a result of engine emissions and the raising of dust resulting from movement.
- 4.65 Development and working of the quarry extension would be undertaken in accordance with existing operating procedures, which have not resulted in dust complaint, so should not change potential dust impacts. Development of the extension area, including stripping of soils and placement of overburden, would however take place in closer proximity to sensitive receptors. Thus there is the potential for dust nuisance. Mitigation measures, including: the use of water bowsers as required; limiting vehicle speeds; minimising material drop heights; seeding soil and overburden bunds; and, use of a road sweeper on the access road when required, are proposed to be implemented. The existing planning permission includes conditions which require such mitigation measures to be implemented on site.
- 4.66 An Air Quality Assessment submitted with the application concludes that it is unlikely that any significant decrease in local air quality would occur due to the development and operation of the proposed quarry extension. Any dust occurrence event would be limited and of short duration and would be minimised by implementation of the dust control measures proposed. Operation of the site would have negligible impact on adjacent residential properties. It would be appropriate to ensure that adequate dust control is provided across the site. A suitably worded condition is suggested.

### **Transport/Highway Issues**

- 4.67 Kingsbury Quarry and Brickworks is accessed from the A51 via Rush Lane to the west of the site. This situation would remain unchanged whilst working the extension site. Up to 200,000 tonnes of clay is extracted from Kingsbury Quarry per annum and either leaves the site

in the form of 'as-dug' mineral or as brick products from the Brickworks. The existing planning permission allows up to 100,000 tonnes of 'as-dug' clay to be exported from the site per annum. This situation, in terms of level of output and production, would also remain unchanged throughout the working of the extension site.

- 4.68 The most significant difference with the present situation is that the existing planning permission permits the importation of waste materials to infill and restore the current quarry void. The extension site would be restored without the requirement to import fill materials.
- 4.69 A Transport Statement submitted with the application establishes that the combined permitted activities at the existing Kingsbury Quarry and Brickworks (including waste importation when the landfill is operational) could potentially generate 162 HGV loads (324 movements) per average day. Of this figure 124 loads (248 movements) are associated with the importation of fill material. Thus, the Brickworks and mineral extraction operation account for 38 loads (76 movements) per day only. The Transport Statement found that ongoing activities at Kingsbury Quarry and Brickworks had been accommodated within the local highway network without leading to unacceptable safety impacts. Beyond 2042 waste importation to the site is due to cease. Thus beyond this date, and for the final 13 years of the development, vehicle movements at the site would reduce significantly. The Transport Statement therefore concludes that in highway and transport terms the proposal would not result in an unacceptable impact on highway safety or a severe residual cumulative impact on the highway network. WCC Highways agree with these conclusions and therefore raise no objection to the proposed development on highway grounds.
- 4.70 A resident of Dostill, located on the A51 to the north of the Brickworks and Quarry, raises concern about traffic impact of the proposed development. They acknowledge that traffic generation at the Quarry and Brickworks may not change. However, they raise concern that traffic flows associated to waste imports to the site, presently predominantly expected to arrive from the south through Kingsbury, may change overtime with more arriving from the north through Dosthill. This is possible if the source of waste delivered to the site for disposal were to change over time. However, this relates to an existing planning permission and therefore these waste vehicle movements are permitted. The current application proposes no import of waste materials to the site in order to infill and restore the extension area.
- 4.71 Residents of Whateley raise concerns about HGVs driving down Whateley Lane to get to the quarry often getting stuck and damaging hedgerows and trees. Whateley Lane is a narrow country lane not suitable for HGVs. HGVs do on occasion use this route as a cut through, possibly directed by satellite navigation systems. However, there is no evidence to suggest that this is traffic associated with the Brickworks and Quarry.

- 4.72 The access road into the site itself from Rush Lane crosses the Birmingham to Derby railway line by an overbridge. Network Rail have raised concerns about the structural integrity of the carriageway surface over the bridge and therefore seek funding to resurface the carriageway on the bridge. The applicant is happy to fund these works and a suitably worded condition is suggested to secure this.

### **Ecology**

- 4.73 The proposed extension to Kingsbury Quarry predominantly comprises of managed arable farmland which in habitat terms is of limited ecological value. Some limited scrub vegetation, which provides potential wildlife habitat, would also be removed as part of the development proposals. An Ecological Impact Assessment submitted with the planning application identified the presence of notable species, including bats and birds, but considered that the development would result in a minor impact within the extension area and its immediate surrounds.
- 4.74 The development proposals incorporate a progressive restoration scheme which incorporates: advance planting where feasible; retention of mature trees where possible; together with new habitat creation. New habitats have been designed to enhance biodiversity incorporating: 4 hectares of woodland planting; 3 hectares of conservation grassland, 700 metres of new hedgerows and trees; small ponds; and, shallow water habitats for reed bed and swamp vegetation. The Ecological Impact Assessment concludes that, overall the development proposals would result in no significant adverse ecological impacts. Furthermore, it considers that the proposed site restoration plans would result in an overall gain for wildlife in the medium and long term providing a net gain for biodiversity.
- 4.75 The County Ecologist is generally in broad agreement with these conclusions and suggests conditions in order to ensure that species and habitats are protected during working and restoration of the quarry extension. In terms of biodiversity and the net gains predicted this is reliant on when any nature conservation activities are implemented and how soon they reach their target condition. The County Ecologist therefore suggests the inclusion of a condition which would ensure that the biodiversity gains predicted are secured. Suitably worded conditions are suggested.

### **Archaeology/Historic Environment**

- 4.76 A Cultural Heritage Assessment submitted with this application identifies that there is a potential for the proposed development to impact upon archaeological deposits. The archaeological assessment work undertaken to date, which included geophysical survey and trial trenching, has established that archaeological features survive across

this site. The proposed development will have a significant impact on these and any other, as yet unidentified, features which survive across the site. The applicant proposes to undertake detailed archaeological excavations where appropriate and a watching brief elsewhere on the site. The County Archaeologist recommends that, a programme of archaeological fieldwork should be undertaken to mitigate the impact that the development would have upon these features. This is considered appropriate and a suitably worded condition is suggested.

- 4.77 A number of Listed Buildings are located within the vicinity of the application site, including Holt Hall Farm house 175 metres to the south-east and Whateley Hall Farm house and barn located 400 metres to the east. Both of these properties are effectively screened from the application site by intervening buildings and vegetation. The Cultural Heritage Assessment considers that impact upon these properties to be neutral. It is agreed that development of the quarry extension would not adversely affect the heritage setting of these properties. There are no scheduled monuments within 3 kilometres of the application site.

### **Geology**

- 4.78 The application site contains an existing geological Site of Special Scientific Interest (SSSI). This designation relates to a steep quarry face, located on the western edge of the extension area, which adjoins the Brickworks. The SSSI is designated for the exposure of the Halesowen Sandstones and the underlying Etruria Marls. Development of the quarry extension would require the removal of this existing geological exposure. The application proposes the creation of a replacement geological exposure elsewhere within the site.
- 4.79 It is proposed to create the replacement geological exposure early on within the development of Phase 1 of the quarry extension. In order to access Phase 1 and create the new geological exposure it would be necessary to create an access road through the existing SSSI. Thus there would be a time lag between loss of the existing geological exposure and creation of the new one, notwithstanding that all of the excavations would create exposed geological faces. The applicant indicates that a final replacement geological exposure would be created within 12 months of accessing Phase 1 of the development.
- 4.80 Natural England is satisfied that the proposed creation of a new geological exposure in the specified location, with improved access and secured long term management, would be considered to be appropriate compensation for the loss of the existing SSSI exposure, subject to the detail of this being agreed. A suitably worded condition is suggested. The existing geological SSSI exposure is actually rather overgrown with vegetation limiting access and ability to view. Creation of a new geological face with a management plan would be a long term benefit for research purposes.

## **Ground and Surface Waters**

- 4.81 Currently, all ground and surface water flows into the base of the existing quarry. The water is then periodically pumped to a permitted discharge point in the north-west corner of the brickworks. It is proposed that a water control system similar to that currently implemented within the existing quarry would be adopted within the quarry extension. Groundwater and surface water runoff would be collected within the new excavation and pumped to the discharge point. Surface waters from the restored quarry extension area would be fed towards a new silt pond in the northern part of the site from where it would be discharged at a controlled rate. A Flood Risk Assessment submitted with the application considers that with the current and proposed drainage measures in place surface water from the development site would not increase the risk of surface water flooding. The Environment Agency has raised no objection to the development proposals. The Local Lead Flood Authority (LLFA) has no objection to the development proposals subject to a condition to provide an easement of at least 6 metres between any development and the watercourse to the south-east of the site.

## **Soils and Land Classification**

- 4.82 The agricultural land area of the application site is predominantly Best and Most Versatile Land (BMV) which is described as good, very good or excellent quality. A soils and agricultural assessment submitted with the application considered the impact of the proposed development on agricultural land quality and soil resources. The proposals aim to restore about 23 hectares, of the 26 hectare agricultural field, back to best and most versatile quality (BMV), with net loss of about 3ha of BMV due to the creation of a steep face at the edge of the restored area which would be re-contoured at a lower level compared to the current landform. Impacts on soil quality would be mitigated by utilising methods of soil handling, soil handling conditions and treatment in storage which are recognised to achieve this. Natural England confirms that it would be appropriate to specify agriculture as an afteruse, and for the land to be restored where practical to its pre-existing condition. Although Natural England are generally satisfied that the BMV land should be capable of being reclaimed without loss of quality, they seek enhanced measures to secure this than those proposed by the applicant. Appropriately worded conditions are suggested to secure this.

## **Public Rights of Way**

- 4.83 No public rights of way cross the application site although there are a number of public footpaths and bridleways in the general area, with one, public bridleway T67, runs along the southern boundary of the existing quarry. Kingsbury Parish Council and WCC Public Rights of



Way Team seek to ensure that no public rights of way are blocked off or obstructed as a result of the development. The proposed quarry extension would result in no new or greater impact upon existing public rights of way.

### **Timescale**

- 4.84 The planning permission controlling operations within the existing Kingsbury Quarry requires the quarry development to be completed by 2042. The current proposals would extend the working life of the Quarry by 13 years to 2055. The timescale proposed is in part a reflection of the geology of the site and the need to provide sufficient raw materials for the Brickworks going forward. A condition is proposed in order secure completion of mineral extraction and restoration of the site within the proposed timescale

### **Residents Liaison Group**

- 4.85 A residents liaison group has operated in the past to discuss activities and operations at Kingsbury Brickworks and Quarry, although it has met less frequently in recent years. With the development of a new area of extraction it would be appropriate to reconvene the liaison group in order to engage with local residents and keep them informed of progress with developments on site. The applicant would welcome this on a 6 monthly basis. An appropriately worded condition is proposed in order to secure this.

### **Restoration**

- 4.86 The restoration scheme would link in with the approved restoration scheme for the existing quarry as well as replicate the characteristics of the local landscape and integrate the restored landform into the surroundings. Restoration of the quarry with hedgerows creating a new field layout would return much of the site to agricultural use. The restoration scheme would also introduce extensive areas of native woodland and tree planting as well as the creation of drainage ditches, pond wetland, reed marsh and wet grassland areas as well as exposed geological faces further assisting to assimilate the restored landform into the landscape and surroundings as well as enhancing the nature conservation and biodiversity value of the site . The restoration scheme would create a traditional pattern of fields and woodland. This would be beneficial in the long-term. Comprehensive details of restoration and planting schemes could be secured by condition. A suitably worded condition is suggested.

## **5. Conclusions**

- 5.1 The purpose of the extension area development is to provide a source of brick making material to supply the adjacent Kingsbury Brickworks into the future. Kingsbury Quarry is a source of a high quality clay

(Etruria Marl) and sandstone used in the adjoining Kingsbury Brickworks to produce blue engineering brick products. Kingsbury is the only brickworks remaining in Warwickshire. However, remaining reserves of minerals suitable for making blue bricks amount to 200,000 tonnes only, which is sufficient to supply the Brickworks for less than two years. The proposed quarry extension would provide a further 33 years of raw materials for the Brickworks and would secure continued brick production. The Kingsbury Brickworks relies on the adjacent quarry for the supply of raw materials. Etruria Marl is a vital resource to maintain the continuous production of blue brick products at Kingsbury Brickworks. The proposals accord with and are supported by NPPF in terms of need for the development.

- 5.2 The application site is located within the West Midlands Green Belt the fundamental aim of which is to maintain openness by not allowing inappropriate forms of development, except in very special circumstances. The NPPF makes it clear that mineral extraction need not be inappropriate development within the Green Belt provided that openness is preserved and that it does not conflict with the purposes of including land within it. The proposed development would not impact upon the openness of the Green Belt and therefore does not conflict with the purposes of including land within it. The proposed development would therefore not be an inappropriate form of development within the Green Belt
- 5.3 Kingsbury Quarry and Brickworks provides employment within the local area and contributes to the economy which is supported in general economic growth terms by the NPPF.
- 5.4 The wider policy framework seeks to manage amenity impacts upon the living environment of local occupiers and protect the natural and built environment from any adverse impacts resulting from development proposals. As an extension of the existing operation, many of the impacts, including vehicle numbers and movements and general operating practices would remain largely unchanged. Subject to the imposition of appropriately worded planning conditions in order to adequately control the development it is considered that the proposed development could be carried out in broad accordance with the aims of the policy framework and would not result in unacceptable impacts on the environment and local amenity.
- 5.5 The proposed restoration reflects and expands upon the existing approved restoration scheme for the overall site. The restoration scheme would create a traditional pattern of fields and woodland. Which once completed and planted would become an integral part of the surrounding landscape. This would be beneficial in the long-term.
- 5.6 Although not allocated within the adopted Minerals Local Plan for mineral extraction, it is considered that the proposal represents a logical extension of the site allowing the sustainable use of mineral

resources to supply raw materials to the adjacent Kingsbury Brickworks. Minerals can only be extracted from where they are found and in this case these are a high quality and a rare regionally important reserve. It is therefore considered that, whilst a departure from the Development Plan, given that the adopted Minerals Plan is not up-to-date; and when the development is assessed against the policies of the NPPF as a whole, the proposed development would not have adverse impacts that significantly outweigh the benefits, which means that the development can be supported and therefore planning permission should be granted.

## **6. Background Papers**

6.1 Submitted Planning Application – Planning reference NWB/19CM020

6.2 Appendix A – Map of site and location.

6.3 Appendix B – Planning Conditions.

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