District: Eden

Applicant: Tarmac Ltd
Parish: Lazonby

Received: 28 July 2011

PROPOSAL
Variation of Planning Permissions 3/91/0571 and 3/04/9015 to extend the period of operation and the soil storage bund, at Low Plains Quarry for 22 years

Low Plains Quarry, Armathwaite, Penrith, CA4 9TR
1. RECOMMENDATION

1.1 That planning permission for both applications is refused for the reasons stated in Appendix 1.

2. THE PROPOSAL

2.1. Planning application (3/11/9009) seeks to amend the planning consent extant at the time of the application (3/91/0571 as amended by 3/95/9013 and 3/96/9015) to extend the period of operation of the development for a maximum period of 22 years. The project description also requests some modifications to the working scheme and final restoration which are defined in new plans to replace the previously approved drawings. The planning application is a request for a change of condition under Section 73 of the Town and Country Planning Act 1990, specifically for a change to condition 2 of the consent that requires the operations to have ceased and restoration to be completed by 30 September 2011, and also by implication a request to change condition 54 which defines the drawings and documents within the approved scheme.

2.2. Planning application (3/11/9010) seeks to amend planning consent 3/04/9015 to extend the period of time for a soil storage bund for 22 years, and thus a request for a change of condition 2 of the previous consent under Section 73 of the Town and Country Planning Act 1990, which requires the bund to be removed and restoration to be completed by 30 September 2011.

Amended Proposals

2.3. The proposal submitted for the quarry operation (3/11/9009) is not the same as the one presented for EIA scoping in November 2010, which requested a 30 year time extension and recovery of all 2.2 million tonnes of reserves. The key elements of the submitted working scheme and restoration plan, and the differences from the scheme that was considered at EIA scoping (and therefore also the approved and currently operational scheme), are highlighted in the following paragraphs, and the details of the time extension and phasing in paragraphs 2.9 and following.

2.4. The previously consented (1991) application site covers 86.5 hectares with 25 ha currently in use for quarrying. The site consists of three distinct areas: a western operational area currently in Phase 1 and 2, an eastern operational area currently containing silt settlement ponds, and a processing area which lies between the two extraction areas immediately adjacent to the entrance, site office and weighbridge area. The application states that there were 2.2 million tonnes of reserves remaining in the consented area, but that it is now proposed to extract only 1.7 million tonnes of mineral.

2.5. The previously approved scheme would have remained essentially unchanged under the 2010 (scoped) proposals but the submitted scheme would leave 2 phases consisting of 49 ha of agricultural land within the eastern area undisturbed. It also proposes that only two phases in the western area would be worked below the water table and these would be used as silt settlement ponds following extraction. As a result of the change there would be no water body in the western valley and phases 3A and 4A would be restored to agriculture once the silt ponds had dried and been capped.
2.6. The revised plan also means that Blackrack Beck which runs through the site would not be diverted, but left in place with suitable offset between the beck and the extraction areas, and a new bridge over the beck to enable plant and machinery to cross. The revised plan would also enable the retention of existing trees associated with Blackrack Beck.

2.7. There would be no changes to the basic method of working and processing mineral, in which sand and gravel is extracted by front end loader which feeds the material into a hopper and then conveyed to the mobile washing and processing plant in the southern processing area via a conveyor. This runs under bridges over a lane and public footpath that is the sole access to a number of residential properties including Low Plains Farm and Low Plains Court. Mineral extraction below the water table in the western area would be worked wet using a back-actor machine as already approved, without active dewatering of the lagoon. The field conveyor, currently 500m long, would be extended further into the site as extraction progressed along the valley.

2.8. No changes are proposed to the processing plant, which consists of the generator, two screens, a screen conveyor, and a washer which washes the sand and gravel to remove any finer particles including clay. A crusher was included in the original plant but is listed in the ES as used occasionally. The washed material is separated into sand and gravel and material is passed through a dewatering wheel to remove wash water. The dirty water from the washing plant containing silt is piped to silt settlement ponds, currently in the eastern area. Water is recovered from the ponds to use in the washing process following settlement of the fine silt, and the quarries own borehole used to supplement this when required.

**Time Extension and Phasing of Extraction**

2.9. The time extension requested is based on the following table in the application submissions which gives the tonnages in each phase, the duration of that phase, and the year in which the phase would end.

<table>
<thead>
<tr>
<th>Phases</th>
<th>TOTAL (tonnes)</th>
<th>Phase life (years)</th>
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<td>11.7</td>
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<tr>
<td>Phase 4 B</td>
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<td>13.1</td>
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<td>4.7</td>
<td>22.6</td>
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<td>1,692,000</td>
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</table>

2.10. The previously consented proposal allowed for an annual production rate of 275,000 tonnes and the application states that production levels have reduced for various commercial and economic reasons to 50,000 to 100,000 tonnes per year (tpa). The time extension requested is on the basis that production will continue within this range in the future, and in fact the table above, and the 22 year time extension requested, is based on an average annual extraction of just under 75,000 tpa. Actual sales figures have not been presented in the submission but further information offered by the applicant is considered in the planning assessment sections below.
2.11. A Major Hazard Pipeline (as defined by the National Grid) high pressure gas pipeline and the Shell Ethylene Pipeline run through the western operational area, whilst a High Voltage Overhead line (as defined by the National Grid) runs along the boundary of the eastern operational area and bisects the plant processing area. The previously consented approval included the land below the pipelines and the reserves included the mineral to be extracted from underneath. This implied the diversion of the pipelines and the application to extend the life of the site for 22 years maintains that position. Tarmac however includes a phasing plan that would work around the infrastructure if it were to be left in place. They estimate that operations could then finish within 19 years.

Restoration Phasing

2.12. The submitted proposals are contained in Figures 2.3 -2.9, and consist of plans for Phase 2, Phase 4 and Phase 6, for the end of Phase 6, and final restoration. The drawings are annotated with descriptions of actions within, and by the end of the phases. Alternative plans and site sections have been submitted for the phases and final restoration dependent on whether the pipelines and other infrastructure were to be retained or removed. The plans include positions of soil storage bunds in the period represented. The submitted scheme incorporates previously approved tree and hedgerow planting, including the advance planting that has already been implemented, and some hedge planting to the north of the access lane to Low Plains Court mentioned above. This was planted, but not as part of any condition or previously approved scheme. Additional mitigation planting is also proposed at this point.

2.13. These documents would supercede the detailed restoration plans and “Method of Working” chapters in the Written Statement for 3/91/0571 previously approved, and as referred to above, the most significant changes are: the reduced area worked in the eastern area; the reduced area worked (Phases 3A and 4A only) under the water table in the western area; the use of these as silt settlement ponds following extraction below the water table; and their subsequent restoration to agriculture in the final restoration scheme.

2.14. The site access would remain the same. It is proposed to retain the current operating hours which are limited to 0700 to 1900 hours on Monday to Fridays (excluding Bank Holidays) and 0700 to 1300 hours on Saturdays.

2.15. The applicant states that the operation of Low Plains Quarry over the extended period would allow continued supply of sand and gravel to local markets in East and South Cumbria for concrete production and other construction uses, which cannot be supplied easily by other suppliers. In their view continuation is more sustainable than proposing to open a new quarry.

2.16. Several residential properties are located in the immediate vicinity of the site including Castlerigg View (6 dwellings), Low Plains Court (10 dwellings), Thiefside Cottages, Lodge Cottages, the Milk Marketing Board Cottages, Tarnflat Plantation, Castlerigg Farm, Low Plains Farm, Riverside Cottage and Westington Lodge. The Eden Valley Mineral Water Company bottling plant is located to the immediate east of the site on the C3016 minor road.
3. CONSULTATIONS AND REPRESENTATIONS

3.1. Eden District Council has been consulted and they state that they believe CCC is the most appropriate authority to take a view on this long standing matter.

3.2. Eden District Council Environmental Health consider that there will be no significant deterioration in air quality providing that a Dust Management Plan is submitted and reviewed every three years or more frequently if complaints are received. The initial response recommended a number of noise conditions, with specific noise levels set at identified receptors related to the background noise. These levels were amended in the light of the NPPF to include a 5dB penalty to account of the potential for tonal noise. Noise levels during soil stripping could be at a higher level but the period of time for these operations should be restricted to up to 8 weeks per year. A Noise Management Plan Monitoring should be submitted to include noise monitoring and suitable mitigation measures. A further response was received on 9 November 2012 and referred to the Low Plains Court private borehole, and requested further information from the Environment Agency on this issue.

3.3. Lazonby Parish Council submitted responses to the original application, a paper at the Members site visit, and a further response to a consultation on subsequent submissions with respect to hydrogeology and groundwater management. The first response expressed concerns about water runoff, contamination of the local water supply, excessive noise and dust nuisance to local residents, problems with the settlement tanks, failure to control noise pollution and visual intrusion, extensions of time will continue damage ecology and cultural setting, impact on productive agricultural land, minimal economic benefits, unnecessary road mileage and carbon emissions. They also wrote to complain about the quarry not stopping when requested by the County Council. A second response was received from the Parish Council on the 9 October 2012 related to potential risks to the water supply of Low Plains Court which is provided by a private borehole.

3.4. Hesket Parish Council do not wish to make any comments on this application.

3.5. The Highway Authority have no objection as the proposal will not lead to an increase in traffic providing that current conditions continue to apply.

3.6. The Highways Agency have no objection as it does not affect the strategic highway network.

3.7. The Environment Agency has made a number of responses to the proposals but has no objection subject to conditions and detailed comments on groundwater protection. They state that the majority of the site is in Flood Zone 1 (low risk) and parts are in Flood Zone 2/3 (medium/high risk) and flood risk has been assessed in Chapter 11 of the ES. Consent is required for the works within 8m of Blackrack Beck and a Flood Defence Consent is also required. The EA recommends that conditions be applied to monitor flows in the Beck, prevent dewatering of the quarry void and pollution of water courses and ensure implementation of mitigation proposals submitted by the applicant. These are covered in more detail in the separate Part 2 report.
3.8. **Natural England** has no objections to the development. They agree that the development would not be likely to have a significant affect on the River Eden SAC and should not affect the Eden Gorge, Lazonby Fells and River Eden SSSI's subject to implementing the mitigation proposals as set out in the Ecology and Hydrology sections of the ES. They broadly agree that their recommendations for the Scoping report under the topics of Soils and Land Use have been addressed in sufficient detail by the ES. However, while the application is for an extension of time till 2033 Natural England would recommend that the conditioned deadline for completion of restoration, should be no later than 30th September of the year in question in order to ensure that all works were carried out under favourable conditions (including the establishment of vegetation cover prior to the onset of winter).

3.9. **Electricity NW** states that the proposal could affect their infrastructure and advise that the applicant would need to take great care to protect electrical apparatus in line with their guidance. These ENW assets comprise of 11kV overhead circuits shown as Orange lines, and 11kV cable circuits shown as red lines on a map accompanying their submission of 3/12/2012.

3.10. **National Grid** has issued a holding objection on the basis that the proposal would affect the High Pressure Gas Pipeline Feeder 15 Longtown to Plumpton Head and the High Voltage Transmission overhead lines ZX Route (Harker to Hutton). National Grid has an easement across the site for each pipeline which prevents changes to existing ground levels and storage of materials.

3.11. **Essar Oil (UK) Ltd** has explained their position that if planning permission were granted for the 22 year time extension Shell UK would have to consider a diversion of their Major Hazard Pipeline. A new route through Cumbria would require planning consent, would be considered to be significant, would have an environmental impact and involve significant safety considerations. Essar Oil therefore considers that the preferred development option should avoid the need to divert or re-route the pipelines.

3.12. **Cumbria Wildlife Trust** consider that there should be no adverse impact on badgers should the mitigation be implemented as proposed on p 3 of the Marshall Ecology Report (Confidential Document status).

3.13. The local Member Ms HF Carrick has been notified.

3.14. **Representations**: Thirteen objections have been received to the proposal, and a number of follow up representations from the same sources.

3.15. One objection was received from the owners of Low Plains Farm Armathwaite in the eastern area) on grounds that extending the period of operation by a further 22 years would delay their plans for farm development and to continue the use of very valuable agricultural land. They say that when the County Council granted consent for the original proposal a spokesman said that the sand under Armathwaite Farm was different from that under the Calthwaite Farm and thus both farms were needed so that the mineral could be mixed, and this was not the case as only the latter was used.
3.16. Eleven of the objections are from the residents of Low Plains Court, with one group submission dated August 2011, and additional individual representations. A further submission was made listing the elements within the current conditions which the residents consider have not been adhered to.

3.17. The residents of Low Plains in their joint objection and in their individual and follow up responses make the following points:

- Their key point is that there is no need for the quarry as shown by the MWDF landbank; the office of National Statistics shows a decline in the need for sand and gravel; and there is not a local need. They dispute Tarmac’s claim to serve the south and east of Cumbria and to be distinct from other supply areas in the north of the county, and say that it is not sustainable to take a further 22 years of protracted working of a quarry that is not needed. The presence of Tarmac’s quarry at Cardewmires, which has consent until 2026 is more than adequate for their needs. The proposed scheme was originally proposed at the Scoping Stage to be extended for a further 30 years and as a consequence of discussion this was reduced to the current proposal of 22 years. This raises the question what does Tarmac consider to be a reasonable and realistic amount of time for the life of the quarry and is there a genuine need. Tarmac had 20 years to excavate the sand and has not completed, is it really necessary to have a further 22 years. The length of time taken to excavate shows lack of consideration of local residents and disrespect for planning process.

- They further question information concerning employee numbers, saying 40 people may be employed at Tarmac sites in Cumbria but only 2 full time employees work at Low Plains and therefore economic benefits are low due to low demand and low numbers of employees. It should not be considered a major local employer, whereas the extension at the adjoining Prince’s water bottling plant will create 18-21 additional full time jobs.

- Residents say that the quarrying operations have causes a significant noise nuisance since initial works began, and that noise from the “large unscreened” plant machinery, during operating hours, varied from annoying to extreme. The record of complaints and discussions about noise is not complete as not all the 15 annual Liaison Committee Meetings have been minuted. Although 36 complaints have been lodged with Tarmac about non compliance with conditions prior to the application residents did not realise that they could go to the Enforcement Officer for the County or the Environmental Health Officer for Eden District Council. Also the complaints would have been greater if the residents had thought the quarry would go on beyond 2011.

- Residents say that noise is clearly audible in the bedrooms of the most affected residents, and because operating hours start at 07.00, often wakes them. The objection confirms issues with frequency and duration of noise, referring both to a low frequency rumbling noises which travels long distances and is very intrusive, intermittent squeaking from the conveyor belt system and that stones dropping onto piles from screening conveyor belts is very noisy. Most of the complaints have been about noise coming from the screening and washing equipment in the processing area and the use of
loading vehicles, some with beeping reverse signals. Some of the individual representations from Low Plains residents refer to a low frequency rumbling subterranean noise/vibration in their lower rooms and believe this is related to the crusher. The Low Plains residents agree with Tarmac that the noise levels from the machinery have increased dramatically over the last 2 years, and consider that Tarmac's claim "to be doing nothing different" is not supported by the evident change in noise levels. They also say that the modifications made to the plant machinery have failed to make any noticeable improvement. The residents also say that Tarmac employees visiting the site have agreed how bad the noise levels can get. Residents state that the equipment is old and not as efficient as it should be in order to be sustainable, and that the processing area containing the washing and screening equipment is incorrectly positioned and the movable plant should be contained in a building, visually screened and should not generate noise.

- Dust is also a concern of the residents, who say that as well as dust from the processing area they get considerable dust from the extraction on the western area. They say there is never a bowser there, contrary to existing conditions. They accept the ES findings that there do not appear to be health risks from dust, they do suffer dust nuisance both inside the homes and on the access road.

- The residents disagree with Tarmac's view that visual impacts are acceptable, pointing particularly to the views of the western area and conveyors from the access road/public footpath to their properties, saying that it has not been acknowledged that this is their sole access and therefore affects their enjoyment of their properties. Screen planting along the lane has failed and does not provide any screening.

- The residents have grave concerns about the proximity of the two proposed silt lagoons to the public right of way, in addition to the existing conveyor belt, and say that gates onto the access lane are often left open. As this is the only route to the 11 homes at Low Plains Court and Low Plains House this has Health and Safety implications. They also are concerns about flooding of the road from the lagoons which would cut off road access for residents of Low Plains Court.

- The objection also say that the ES does not refer to the borehole supplying Low Plains Court which is close to the current and projected quarrying operations, and they are concerned about the integrity of their water supply. A further representation on the 22 November 2012 revisits this issue in the light of ongoing work on the processing of the application, and comments received from the Eden District Council EHO. The residents confirm that the private borehole is their only water supply and they wish to be reassured that the Environment Agency is aware of this borehole and that the potential impacts of quarrying below the water table, and potential contamination of the borehole.

- Residents also refer to adverse impacts on ecology, biodiversity and archaeology, loss of best and most versatile agricultural land, the operational threat to public health and cumulative environmental impact due to unnecessary road miles and carbon emissions. The large lagoon that was to be retained as part of the original restoration scheme has been replaced with land restored to agricultural use, only a few smaller ponds are now
3.18. An objection has been received from Eden Valley Mineral Water Company which is located across the road from the main entrance to the quarry. This matter is dealt with in a Part 2 report.

4. PLANNING ASSESSMENT

Planning History

4.1. Planning permission for the sand and gravel quarry at Low Plains was granted (3/91/0571) on 2 October 1991 with an expiry date of 30 September 2006; however, the site did not become operational until August 1998. During this time, planning consents under Section 73 were granted to extend the expiry date of the permission to 30 September 2011 (planning ref. 3/95/9013), and to defer the commencement of sand and gravel extraction by two years (planning ref. 3/96/9015). There was also a consent to amend the plant and processing area in September 1998 (a proposal to add a dry-screen process for the processing of the material from this area was withdrawn) and to work a section of the eastern area in a different order than proposed in June 1999. In January 2000 consent was given to use bulk haulage of material from the eastern area to the processing area in order to avoid the need for a conveyor.

4.2. In 2002 Tarmac asked to amend the working scheme to work the concreting sand separately, without the soft sand being worked concurrently, due to the reduced demand for asphalt. Monitoring in June 2003 confirmed that soft sand was not being worked. A separate planning application to create a new soil storage bund (3/04/9015) on land outside the application boundary for 3/91/0571 was approved on the 17 June 2005. At that time amendments to the approved scheme in eastern area to permit additional silt ponds (3, 4, 5 and 6) in the eastern area were proposed as a minor amendment to the scheme. This was an alternative to removing silt periodically from the four silt ponds included in the approved scheme. Three of the original silt ponds have since been completed and capped, one of the new silt ponds is currently drying, and the others were active at the time of this application.

4.3. A proposal to amend the phasing to progress to the western area, with a later return to the eastern area was requested in 2006. Tarmac’s letter of 25 September 2006 said this was required partly for tenure reasons; and partly because the quality and depth of material was known there to a greater extent. This was approved under condition on 31 January 2007.

4.4. A time extension application was discussed initially in 2006, with more detailed consideration in 2010, and a scoping report issued for a 30 year time extension in November 2010. Cumbria County Council’s response to that included a letter stating that it would be necessary to demonstrate the need for the extraction of the remaining reserves to be released, and that a 30 year time extension was excessive and a time of 15 years would be more appropriate.
4.5. The County Council gave notice on the 11 February 2010 that the planning permissions on the site were subject to periodic review in accordance with the Environment Act (1995) and that an application for the determination of new planning conditions must be submitted by 7 March 2011. On the 15 December 2010 Tarmac requested an extension of time for the submission of new conditions to 30 September 2011, and this was agreed in writing by the County Council on the 14 January 2011.

4.6. The current planning permission expired on 30 September 2011 but work has continued pending the determination of this application. Whilst the operator has been asked to cease working no formal stop or enforcement notices have been issued by the County Council.

The submitted proposals

4.7. The original consent was for 15 years, expiring in 2006 and sales were predicted at 275,000 tpa. The current proposal would expire 27 years later than that, and, taking into account the later commencement date, result in a 37 year, and potentially significantly longer, operation (see the section dealing with need below). The changes to the scheme described in paragraph 2.12 above also have implications for phasing, the restoration timetable and landscape impacts, and the relevant sections below consider whether the proposals can be considered substantially the same development, or whether the differences have significant additional adverse impacts which are either contrary to the development plan or material considerations for the determination of this application.

4.8. I also consider that a number of material considerations are not the same as those pertaining at the time of the original consent. Outline consent (89/0437) for the conversion of barns at Low Plains Farm to create 6 more residential properties was approved by Eden District Council (EDC) on 21 September 1989, and detailed consent (with increase to 11 dwellings) submitted to EDC on the 28 January 1992 and approved on 23 April 1992. Impacts on the residents were therefore not considered at the time of the original consent for the quarry. In addition the reduction in need for sand and gravel discussed below, changes to the development plan, the National Planning Policy Framework, and issues discussed in the Part 2 report are all capable of being new material considerations. As a result the County Council is required to consider all the adverse impacts of the proposal, even where these were considered to be acceptable at the time of the original consent.

Need for the development

4.9. The policy context for consideration of the need for this proposal is set out in the Development Plan as enshrined in the NW Regional Spatial Strategy (NWRSS), and the Cumbria Minerals and Waste Development Framework (CMWDF). The National Planning Policy Framework March 2012 (NPPF) and its Technical Guidance are material considerations, both in the specific policy guidance on minerals and the guidance on how to assess the weight of development plan policies.
4.10. The revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the NW RSS is formally revoked by Order, limited weight can be attributed to the proposed revocation. Full weight should be given to relevant policies within the CMWDF for 12 months even where there is a limited degree of conflict with the National Planning Policy Framework (NPPF) (March 2012) and each policy considered in the sections below will be examined in the light of the NPPF.

4.11. On the issue of need there is a degree of conflict with the NPPF, as CMWDF Core Strategy Policy CS13, which relates to the maintenance of landbanks for mineral and thus to the assessment of need for the mineral extraction to take place, refers back to the NWRSS and the sub-regional apportionment rather than to the process outlined in the NPPF and in the Guidance on the Managed Aggregate Supply System (October 2012).

4.12. NPPF paragraphs 142 and 144 highlight the economic benefit of minerals extraction to the economy, and NPPF paragraph 145 requires that Local Planning Authorities plan for a steady and adequate supply of minerals. However the NPPF has replaced the top-down approach of regional and sub-regional apportionments with a bottom-up one based on Local Aggregate Assessments. These are required to be based on 10 year annual average sales, but the NPPF also requires that relevant local information be taken into account. The information that the major aggregate companies, including Tarmac, have provided to the Competition Commission’s 2012 investigation of the aggregates, cement and ready mix concrete market is also relevant to the Local Aggregate Assessment and will be referred to below.

4.13. The landbank for sand and gravel in Cumbria at the end of 2010 was 11.48 million tonnes. At 760,000 tpa, which is the 10 year rolling annual sales to 2010, 11.48 million tonnes would give a land bank of 15.1 years. These landbank figures will include Low Plains but, because of the confidentiality required by the industry for the annual mineral survey returns, we do not know what figure was used. If it was assumed that the remaining reserves quoted at this quarry, of 2.2 million tonnes, was accurately reflected in the 11.48 million tonne figure can be assumed to reduce the permitted reserves to 9.28 million tonnes, and the landbank to 12.1 years.

4.14. Part of the relevant local information, for the Local Aggregates Assessment, is that at 2010 sales figures, and current ones are likely to be similar, the Cumbria sand and gravel landbank would last about 22 years. This is because sand and gravel sales from Cumbrian quarries for 2010 itself were only 530,000 tonnes, and sales of aggregates nationally have fallen again in 2012.

4.15. I consider that the landbank derived from the most recent information conforms better to national guidance than the landbank referred to in the CMWDF, and therefore at the 2010 Cumbria sales total the landbank without Low Plains would be approximately 17.5 years. This is far in excess of the 7 year landbank required by the NPPF.

4.16. However, as stated in paragraph 26 of the Guidance on the Managed Aggregate Supply System (October 2012), an adequate or excess landbank is not a reason for withholding planning permission unless there are other planning objections which are not outweighed by planning benefits. Such objections are addressed
elsewhere in this report. The Guidance goes on to list valid reasons why an application for minerals development may be brought forward in an area where there exists an adequate landbank, as listed in Appendix 2, and these are considered in turn below.

1. No future increases in demand have been identified. Paragraphs 4.19 following consider the likelihood of even the predicted rate of sales being achieved, and conclude that this is not supported by the available evidence;

2. The ES does present an argument that the location of other consented reserve is inappropriately located relative to the main market areas, and this is considered in paragraph 4.24 and following;

3. The ES also argues that the nature of the mineral extracted at Low Plains, 0-4mm washed concrete sand and 10-20 mm concrete gravel, are not currently produced in sufficient quantities in other quarries in the south and east of the county to meet established demand. Paragraph 4.27 below considers whether the nature, type and qualities of the aggregate are such as its suitability for a particular use within a distinct and separate market;

4. The ES does not present any argument with respect to the fourth bullet point to paragraph 26, i.e. known constraints on the availability of consented reserves that might limit output over the plan period.

4.17. Sales figures for the Low Plains operation were not submitted with the application, but have been provided by the applicant on request. These show that in the 10 years to the end of 2010 a total of 657,000 tonnes of mineral has been produced.

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4.18. This represents an average of 65,700 tpa, whereas the 22 year time extension is based on an extraction rate of 75,000 tonnes/annum.

4.19. If the 2011 sales figures (not submitted) were in line with the trends both for this quarry and national and sub-regional sales, the 10 year rolling average at end 2011 is likely to be closer to 60,000 tpa.

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</tr>
<tr>
<td>50,000</td>
<td>Sales continuing just above 2010 level</td>
<td>33.8</td>
</tr>
</tbody>
</table>

4.20. The above table demonstrates the potential impact if the actual need and sales of material are lower than the 75,000 tpa predicted for the development. This would significantly affect the operational timetable, and as a result affect the duration of adverse impacts on amenity discussed in the sections below.
4.21. The submitted proposals are also based on extraction ceasing after 22 years, and yet a 22 year time extension for the operations including restoration has been requested. No timescale has been proposed for the completion of restoration and the unknown delay involved adds to the probability of the mineral extraction and restoration taking considerably more than the 22 year time period applied for.

4.22. CMWDF Generic Development Control Policy DC6 states that development inside identified Preferred Areas will be permitted if they do not conflict with other policies in this plan. Low Plains is not a Preferred Area because the CMWDF only included proposed lateral extensions to quarries, not time extensions. Strictly speaking therefore the second statement in DC6 applies, where proposals outside of Preferred Areas might be permitted if there is a need for the proposal to meet the levels of supply, and the proposal does not conflict with other policies in the plan. The fact that the landbank is adequate means that the proposal is not supported by CMWDF Policy DC 6.

4.23. However applications outside Preferred Areas might be permitted under CMWDF DC6 in spite of the landbank of reserves being below the required level under the last exception listed which would enable planning consents to be granted even where not required under the landbank in “Areas already subject to mineral exploitation where additional working will enable comprehensive exploitation of the reserves, or where the proposal achieves a more sustainable afteruse or a better restoration of the area”. In this case permitting the application would enable most of the reserves to be exploited, but refusing the application would not sterilise the reserves, as no evidence has been offered that the western area could not be exploited at some time in the future should a need for the mineral develop. If the need did increase in the future such that working the remaining reserves became viable, it is feasible that access could be taken directly from the A6. Although this would be more costly to the applicant than accessing from the existing vehicular access, it would address a number of the adverse impacts highlighted at this time.

4.24. The ES argues that the location of other consented reserve elsewhere in Cumbria is inappropriately located relative to the main market areas; and that Low Plains Quarry is the sole remaining sand and gravel site in Eden District providing markets in south and east Cumbria and also in north Lancashire. The argument goes on to define market areas for west Cumbria and to the west of Carlisle; the far north east of the county east of Carlisle; Cardewmires, south west of Carlisle; and south Cumbria and north Lancashire, with issues of uncertain deliverability in the Barrow area. However defining Low Plains as serving a south and east area is a reference back to the supply areas used in the 1996 Cumbria Minerals and Waste Local Plan which no longer has any weight.

4.25. The direct distance from Low Plains to Low Gelt quarry defined as in the “far north east” is 9.8 miles (as crow flies), and to Kirkhouse quarry is 12.4 miles. Cardewmires is 10.9 miles away. The Faugh quarries are approximately 8 miles away, and Faugh no 1 is currently mothballed due to lack of demand. The distance to Kendal in the south of the county is 31 miles, which is approximately the distance usually taken as a supply area for a local market. However I do not consider that the additional mileage from the quarries further to the north
4.26. The part of the county south of Penrith, including Kendal, has always been regarded as a problem in terms of sand and gravel supplies because there is only Roosecote quarry, near Barrow, plus marine dredged sand landed at Barrow. However, further information that the major aggregate companies have provided to the Competition Commission about substitutability of different types of aggregates is relevant both to the supply in south Cumbria, but also to the argument with respect to the nature of the material available at Low Plains Quarry.

4.27. The largest use of aggregates (50%) is in general construction (this includes fill, capping layers and sub-base) for which alternative aggregates can be substituted for primary aggregates. For ready mix concrete and the manufacture of concrete products, including blocks (30% of total aggregate use), there is very limited potential to use alternative aggregates but crushed rock and sand and gravel are regarded as substitutable. This information means that there could be less concern about supplying sand and gravel in the south because of the crushed rock quarries. I therefore do not consider that it has been demonstrated that Low Plains serves a distinct and separate market for concreting sand and gravel in the south and east of the county; that there is any reason to consider that these markets are potentially growing; or that there are no alternatives to serve the needs of these markets.

4.28. In summary: I consider that there is no need for the output of this quarry as there is an adequate land bank for sand and gravel in Cumbria; and there are no special types of aggregate produced at the quarry or locational factors that would require the extraction to continue to meet local supply needs.

4.29. The applicant has at other times presented a case that finer concreting sands from Low Plains are used to supplement the output from Cardewmires Quarry, and asphalting sands are used in its own asphalt coating plants. Whilst it must be accepted that there are benefits to the applicant of continuing production at the quarry, the low output from the quarry over the last 9-10 years indicates that there is insufficient need to complete this proposal within the timescale proposed.

**Other constraints**

4.30. The areas where major infrastructure in the form of pipelines and cables cross the site were not excluded from the 1991 planning consent and neither were any conditions imposed limiting development in these areas. National Grid has now issued a holding objection. Essar UK Ltd consider that avoiding any need to divert or re-route pipelines would be preferable, and states that any work taking place in proximity to the pipeline would have to be carefully risk assessed and controlled. I consider it is unlikely that the pipelines would be re-routed, but Tarmac considers this a matter between themselves and the relevant operators/owners of the pipeline. I would recommend that this matter should be reassessed in the event of a planning consent being granted for this proposal.
4.31. In considering the impacts of the proposals for a time extension and changes to the working method and restoration plan the options with pipelines retained and not retained must be considered. As details of the working methods, easements, and slopes have not been submitted as part of the application, the proposed extraction area boundaries might have to be revised, but restrictions and easements may also affect other issues. These and mitigation of any adverse landscape impacts from either options are considered in the relevant sections of the report.

4.32. There are also 11KV overhead lines and cables belonging to Electricity NW running across the site. These have not been shown in the application submissions but working methods to avoid harm are in place already where necessary and it is likely that mitigation can be provided to avoid harm to these features in future.

**Land Use and Restoration**

**Land Use**

4.33. The ES reports that approximately 80% of the land subject to extraction was originally classified as "best and most versatile" on the MAFF Agricultural Land Classification system, (grade 2 and sub-grade 3a) and minimising the loss of high value agricultural land has always been an objective for the development. The ES provides two figures (10.1 and 10.2) which show the likely quality of the restored land under each option of this proposal and estimates a loss of agricultural land following extraction of only 4ha and the loss of "best and most versatile" agricultural land from quarrying as less than 5ha. The latter is because the slopes in the current proposal would be steeper than those pre-development. The 4ha lost to agriculture would be restored to woodland or small ponds, and some of the steeper areas of land planted to woodland. The ES goes on to state that the 4ha loss of agricultural land is less than 2% of the agricultural land of Low Plains Farm Calthwaite and would only have a slight adverse impact on the viability of the farm, which would be partially offset by royalties from the mineral extraction.

4.34. I consider that the key issue with respect to land use is whether more "best and most versatile" agricultural land would be lost than in the 1991 scheme, and if so is this significant. This needs to be assessed for both the full scheme with pipelines removed, and also for the scheme with pipelines retained. The achievement of grade 2 and 3a agricultural land classification in the restoration also depends not only on the slopes but also on the availability of sufficient soils and sub soils to achieve the required restoration.

4.35. The Land Use section of the ES relies upon the 1991 land capability survey and the ADAS 1998 Aftercare scheme proposals, and appears to assess the proposed scheme as compared against the original landuse of the area pre-development. Although Natural England are broadly satisfied that their recommendations at scoping stage have been incorporated I do not consider that the assessment has provided an adequate update of the ADAS report to reflect any modifications to the soils handling, storage and replacement proposals.
4.36. I consider that the modifications proposed are significant and have not been assessed. Drawing L39/7 in the approved scheme shows 10,200 cu m of soils from the current Phase 3A moved to a storage mound, and only 4,900 used (from 4A) to restore the edges of the water body created. No soil is transferred back into 4A after extraction. Soil from other phases in the western areas would also have been transferred to the storage stockpile would have eventually supplied 63,000 cu m to restore Phase 6 the end of extraction. There is clearly a significant difference in the requirements for the restoration of the below water table extraction to agriculture which has probably led to the steeper slopes in the revised restoration plan. However no reassessment of the volume of soils stored, available and required in the modified restoration proposals has been reported in the ES. The implications of this are discussed further in the sections below.

4.37. The ES reports that the conditions for soil handling and the aftercare scheme approved in 1999 are still appropriate however the site history indicates that some problems have arisen, for example in parts of the eastern area the necessary sub-soils were not available for restoration according to the approved conditions and a variation was agreed.

4.38. With the caveat above I consider that the loss of agricultural land and of the best and most versatile agricultural land as reported is not significantly adverse. The scheme retaining the pipelines results in approximately 2ha less land restored to grade 2 and 3a, and more restored to 3b because of the steep spur left to accommodate and disguise the course of the pipelines. It should also be noted that if further tree planting were required to reduce the additional adverse impact of such contouring (see below) the loss of the highest quality of agricultural land could be higher.

4.39. Although the tenant farmer of Low Plains Farm Armthwaite has objected to the current proposal, this was on grounds of the uncertainty caused by the time extension rather than the final land use and the amended scheme reduces the land take in that area.

4.40. If consent were to be granted I consider that detailed assessments of soil availability and movements, and revised, consolidated soil handling and aftercare should be required under condition. This should also review and replace the existing series of separate conditions in order to ensure that it was consistent with current practice and any detailed phasing and restoration plan that might be developed.

4.41. Natural England has also recommended that in order for final restoration to be carried out at the appropriate time of the year the date for the expiry of the consent and completion of restoration should be the 30th September.

The Final Restoration Plan

4.42. Although the revised final restoration plan (and its variant with the pipelines retained) is significantly different from the scheme approved in 1991 I do not consider that the differences have significant adverse impacts. The ES has included a landscape and visual impact assessment (LVIA) as requested in the Scoping Opinion and required under CMWDF Policy DC12 which is the key development plan policy and I broadly support the conclusions of that assessment.
4.43. The main physical differences between the proposed final restoration and that of the consented scheme have been described in paragraph 2.12. In addition to these the proposed scheme would create a wider flat area in the valley bottom, with a steeper slope at the northern end of the valley than in the original proposal. The previous scheme was more compatible with the original landform at the site boundary; however the advanced planting already established provides some screening of the area. The restoration water body would have added interest to the landscape but I do not consider that the final landscape form would be incompatible with the landscape character of the area. This consists mainly of relatively open and rolling landscape interspersed by low hills and ridges and both deeply incised and open river valleys.

4.44. The site lies almost 9km from the North Pennines AONB and within 1.4km of an area of Landscape of County Importance. There is no longer a County Council policy framework for this policy; however it is a saved policy of the Eden Local Development Framework and I consider that the final restoration plan broadly conforms to that policy.

4.45. One caveat is that if planning consent were to be granted it is highly likely that the pipelines in the western area would not be removed, and the final restoration plan for the 19 year extraction scheme is not specifically addressed in the ES. It is important that no linear features, incompatible with the local landscape, are created, and the proposed restoration scheme creates a spur of rising ground with a small valley to the west of the spur. The proposed contours on both sides of this spur are steeper than previously consented for this scenario, do not entirely disguise the linear feature, and are not as compatible with the landscape character as the original scheme.

4.46. However it is possible that this could be integrated into the landscape by amending the final slope profiles and including additional woodland planting in the north eastern section of phase 6. This planting would need to be far enough away from the infrastructure to meet the way-leave restrictions and ongoing access and safety requirements for the operation of the underground infrastructure. If consent were to be granted the revised restoration could be established under a condition, however the amendments might have consequences for the areas that could be restored to grade 2 agricultural land as discussed elsewhere in this report.

4.47. NW RSS Policy requires sensitive environmental restoration and aftercare of sites including improved public access where they are of amenity value; while CMWDF Core Strategy Policy CS5 requires that restoration and aftercare proposals should use best practicable measures to deliver sustainability objectives relating to the environment and economy of the county. CMWDF Policy DC 16 - Afteruse and Restoration contains a number of detailed requirements for restoration, with regard to landscape character, wildlife interest, protection and enhancement of biodiversity and geodiversity conservation features. I consider that the final restoration scheme proposed does conform to these policies.
Restoration Phasing

4.48. CMWDF Policy DC 16 - Afteruse and Restoration also requires that restoration will be completed within a reasonable timescale and is progressive as far as practicable, and that provision for the likely financial and material budgets for the agreed restoration, aftercare and afteruse will be made during the operational life of the site. NPPF paragraph 144 requires local planning authorities to provide for restoration and aftercare at the earliest possible opportunity, and paragraph 41 of the Technical Guidance on minerals highlights the need for progressive restoration and for conditions to limit the area taken for mineral working and relate it to restoration of earlier phases of the operation.

4.49. The applicant contends that the restoration scheme is progressive, and explains in 5.2.91 that progressive restoration means that soils will be placed directly to restoration. However closer examination of the modifications proposed (see paragraph 2.12) demonstrates that restoration will not be as progressive as the original 1991 restoration, and that there would be significant and prolonged temporary impacts on landscape and visual amenity due to the slower mineral extraction rate and the changes to the final restoration plan and the working scheme required to achieve it.

4.50. These changes and their adverse impacts are considered in the two sections below on the eastern and western area. Where a year is shown in brackets beside a specific restoration event that is derived from the extraction phasing table from the ES. If extraction were less than the 75,000 tpa predicated for the 22 year time extension these dates would be later.

Temporary effects in the Eastern Area

4.51. As a result of the working scheme amendment to use “abandonment” silt ponds in 2005 (see paragraph 4.2) a larger proportion of the eastern extraction area is currently under silt ponds than the original approved scheme had anticipated. Only one field in the south east corner of the eastern area is now in the aftercare period, with topsoils having been replaced in spring 2007 and the first aftercare meeting conducted on 29 October 2007. This does support the complaint from residents that the restoration has not proved to be progressive, as 14 years from the first mineral extraction very little has been restored. (The area previously known as 1a in the western area, closest to the current Low Plains Farm has also been restored to grassland).

4.52. It appears that silt ponds take a considerable length of time to dry, possibly affected by the level of rainfall, and if a 22 year time extension were to be permitted a larger area would remain as silt ponds in various stages of drying and restoration for much longer than was originally intended. The main settling ponds (5 and 6) in the eastern extraction area would still be required until the end of Phase 3A (2017) after which time silt would be pumped instead to the new silt ponds in the western area. Ponds 5 and 6 are programmed to be restored by the end of Phase 4 (2024). Silt pond 1, one of the original silt ponds, would remain as a source for washing water until the end of the operations, and would be restored to a wildlife pond after the end of Phase 6 (2033).
4.53. However the current proposals do significantly reduce the total area of extraction in the eastern area, and in spite of the changes above, and the longer timescale for the development and therefore before final restoration is completed, I do not consider that the overall impacts of the modifications to the working scheme and the requested time extension are significantly adverse.

Temporary effects in the Western Area

4.54. At the time of the 1991 application there was, as now, far greater concern about adverse landscape impacts from extraction of the western area than of the eastern area. The most significant and harmful effects arise if two phases of the proposal are either operational at the same time, or one is operational and the previous phase is left as exposed worked sand faces. As a result for example, Area 5 (the same as the proposed Phase 5) was split into two phases under a late amendment (letter dated 16 September 1991) to the scheme to ensure (it was said) that no more than 150m of the hillside in the western area was under extraction at any one time, however the current proposal does not split Phase 5 into 2, and in fact the previous scheme did allow for phases 1 and 2 to be under extraction at the same time as they now are.

4.55. Proposals for progressive restoration within the original Written Statement, as amended also secured a detailed scheme in which soil volumes to be stripped from, and required for restoration of each phase, were calculated, and soil movements, or if necessary storage, were defined. This demonstrated in detail that direct placement of soils for restoration would happen in all the most sensitive cases, whereas the ES states only that this will be achieved where possible. It also specified how the silt derived from the washing process would be recovered in silt ponds, and where it would then be used in the restoration. These were also shown in detailed drawings.

4.56. The amended proposals are not defined in such detail as the previous scheme, as only three separate stages are described, with the order and timing of steps within those not defined. Volumetric analysis of soil stripped from, or required for restoration of, each phase, and a schedule for movements have also not been provided to compare with the original. The phase completion schedule however does indicate the order of completion of the phases, and their duration at the predicted production/sales rate. Also the drawings of Phase 2, 4 and 6 show soil storage bunds, and the description in the ES gives some information about the origin; and in some cases the destination of, those soil resources.

4.57. The potential impact on the restoration of slopes within the western area is more difficult to assess from the information provided. The submitted information provides completion dates for each of these phases but it is not clear whether 3A and 3B (and 4A and 4B) would happen concurrently as in the previous scheme, and all 4 phases are considered together. It is simply confirmed that all of the steep slopes up to the southern boundary of Phase 4 would be restored, including woodland planting, by the end of Phase 4 (2024). No start date for 4A is given, although the extraction phasing says it would finish in 2024; nor for 3B, which would probably be the source of soils for Phase 1 and 2.
4.58. There is also a discrepancy between Figure 2.6/2.6A and Figure 2.7/2.7A with respect to the last phase of operations. Figure 2.7/2.7A indicate that at the end of Phase 6 (during 2033 if the 75,000 tpa production continued) all proposed mineral extraction would be complete and the progressive restoration and grading of the area disturbed by Phase 6 would be complete. Silt pond 8 (phase 4A) would have been infilled and capped awaiting final restoration, and silt pond 7 would be fully restored. The stockpiling and processing area would remain to be restored. Figure 2.6/2.6A however state that by the end of Phase 6 silt pond 8 would still be active. No alternative method for recovering the silt for phase 6 has been identified therefore it has to be assumed that silt pond 8 would be active until the end of mineral extraction. The duration of the drying out of a silt pond from its active phase to being ready to cap has not been estimated in the ES, but evidence from the eastern area where this method is employed is that this can be several years. It is therefore not plausible to suggest that in the same year phase 6 extraction ceases, silt pond 8 will have been dried and capped ready for restoration.

4.59. The Landscape and Visual Impact Assessment (LVIA) in the ES addresses the resultant impacts of the proposed development with some further assessment of residual effects of the modifications. However the assessment of the restoration phasing is affected by the lack of clarity above. The LVIA quotes Figure 2.7 and 2.7/A rather than Figure 2.6 and goes on to say in paragraph 5.5.18:

“From phase 6 to the end of phase 6 site operations would be in a transitional period between the restoration of the final extraction area and full site restoration. Active parts of the site would include capped remnant silt pond 8, the field conveyor, processing area and silt pond 1”.

4.60. The ES goes on to considers the “substantial” effect of extraction together with the duration of the effect, and concludes that the temporary landscape effects are “moderate” because the duration for each phase is limited to an average period of 3-4 years, with the exception of the minerals processing area which would remain operational until final restoration.

4.61. This assessment does not highlight that the 3-4 years for extraction in each phase would have been 1.5 – 2 years under the approved scheme, but also that it is the time from start of extraction to restoration that needs to be assessed. As discussed above the submitted proposals do not indicate a likely commencement date for extraction of Phase 4A, but extraction is estimated to take 4.7 years and end in 2022. Silt pond 8, following extraction in phase 4A, would however be in use until 2033, and the area would be in active use for 16 years (or longer if sales were lower than the predicted 75,000 tpa extraction rate). Phase 3A would not be restored for at least 14 years. The detailed soil movements in the 1991 scheme have not been revised and it is not clear how soon soils would be placed, or where from, on many areas of the site.

4.62. The ES has also not addressed the difference between the landscape and visual effects of extraction below the water table, which for most of the period is a large water body, with some degree of natural regeneration to much of the water edge, and the landscape and visual effects of a silt pond. The former has a positive landscape and visual effect very quickly following extraction, and this is reflected in the landscape proposals related to the 1991 consent which did not provide advance planting to screen these areas. I consider that the silt ponds would have a substantial adverse effect, as can be seen in the eastern
area, and a long duration, and there would be open views to the site from sections of the A6 which runs in parallel with the western area.

4.63. The modified proposals would create a soil storage bund around Phase 3A, instead of moving the soils to the northern soil storage area. This is reasonable because these soils would be needed in the restoration, rather than being available to restore the valley slopes on the eastern edge of the western area. However no such visual screening or advance planting is proposed for silt pond 8 possibly because the site boundary lies close to the silt pond, and the high pressure gas pipe and the ethylene pipeline occupies the space in between. These adverse impacts could be controlled by condition by additional advance planting beyond the site boundary because it is not land in the control of the applicant. It should also be noted that the landscape impacts of the temporary soil bund in this location have not been considered.

4.64. I therefore disagree with the applicant’s conclusion that the proposals are acceptable in terms of their effects on landscape and conform to CMWDF Policy DC12. The conclusions of the LVIA in the ES are not based on an assessment of proposed modifications, including the use of the areas of below water table extraction as “abandonment” silt ponds for a prolonged period between extraction and final restoration; the increased duration for extraction for each phase as a result of the reduced extraction rate; the modified locations for soil storage bunds; and thus has not adequately assessed the effect of the modifications to restoration and working scheme or to extend the time limits by 22 years. These are major material considerations for the determination of the planning consent. I consider that the combined effect of these is that the restoration is not sufficiently progressive to prevent a significant adverse impact on the landscape for an extended period.

4.65. The proposal is thus contrary to CMWDF Policy DC 16 - Afteruse and Restoration in that restoration would not be completed within a reasonable timescale and is progressive as far as practicable. No assessment has been presented by the applicant to explore alternative methods for removing silt from the washing water and thereby reducing the timescale for restoration of areas 3A and 4A.

4.66. In addition it is not clear that restoration would proceed quickly following extraction, and that a Grampian style condition could be formulated to limit the area taken for extraction and relate these to the rate of restoration of earlier phases, as required by NPPF paragraph 41. Although it might be considered that detailed restoration phasing scheme could be provided under condition including an equivalent plan to the previously approved L37/9 I do not consider that the proposals submitted offer a plausible and consistent phasing plan on which such a condition could be based.

4.67. CMWDF Policy DC 16 - Afteruse and Restoration also requires that proposals should demonstrate that provision for the likely financial and material budgets for the agreed restoration, aftercare and afteruse will be made during the operational life of the site. This is also specifically required by NPPF Technical Guidance paragraph 49. No such demonstration has been made and it is clear that granting consent for this proposal would enable the operations to move into currently untouched landscape, making the need for restoration more acute and more expensive. The availability of suitable soils for the amended proposals has also not been demonstrated. Given the low level of need for the
development, and the increasingly slow extraction rate, I consider that there is a considerable risk of restoration not being achieved.

4.68. NPPF Technical Guidance para 50 makes it clear that financial guarantees for restoration should only be required in exceptional circumstances: for very long term new projects such as a super quarry; where a novel approach or technique is to be used; or where there is reliable evidence of the likelihood of either financial or technical failure but these concerns are not such as to justify refusal of permission. In this case I consider that: the lack of considered assessment of the current proposals, as opposed to the scheme presented for EIA Scoping; the prolonged period for restoration; and the previous action of Tarmac in disposing of Faugh no2 quarry to another operator at a time when there was a considerable restoration liability; do fall into this category. In the case of Faugh no 2 Quarry, although Tarmac sold to another operator who did participate in the scheme, that operator sold it to a third party who did not. NPPF Technical Guidance para 51 continues by saying that where an operator is contributing to an established mutual funding scheme it should not be necessary to seek such guarantees however the County Council has significant concerns about disposal of quarries to operators that do not participate in such schemes and I consider this could be a risk in this situation.

4.69. The applicant has made a suggestion verbally (at a meeting on 29 November 2012) that financial guarantees might be offered to ensure completion of restoration, but this suggestion has not been pursued due to the other pressing reasons for refusal. However I consider that the proposal is contrary to Policy DC16, and also does not conform to NPPF Technical Guidance Paragraph 49.

Temporary effects on Visual Amenity

4.70. Many of the issues discussed with respect to landscape character are also relevant for visual amenity, which relates to the impacts on people rather than landscapes. The assessment in the ES under estimates residual effects of the changes between the approved and the proposed scheme given the increased duration and nature of the adverse impacts, and the material changes that have taken place since the previous consent.

4.71. The key material change is the conversion and occupation of the 11 residential properties at Low Plains Court. I agree with the assessment in the ES of the visual impacts of the quarry from the properties themselves, but the main effect to the amenity of residents would arise from views of the western area and the conveyor when travelling to/from the properties along the access road/public footpath. This route should therefore not be assessed simply as a public footpath.

4.72. Phase 3A extraction area would be highly visible from this footpath during the period of extraction (from 2015 to 2017), but would be more unattractive during the following period when it would be used as a silt pond, while it dried, and before it was finally restored. No timetable has been set for this final restoration, but the phasing proposals show it as being filled by the end of phase 4 (2024) and capped but not yet restored by the end of phase 6 (2033). I consider that effective fencing would also be needed to secure this site boundary during extraction, filling, and drying of the silt pond to ensure public safety because of its location adjacent to a public footpath. This could have a further adverse visual impact incompatible with the character of the lane.
4.73. The ES does assess the visual impact of the footpath and indeed the applicant has proposed additional screen planting along the access roads northern edge as indicated in Figure 2.4A. The drawing does not make it clear how poor the existing beech hedge planting is, but says it would be enhanced through replacement planting where necessary and maintained on an annual basis. The new hedgerow referred to as providing screening has not established itself in the 6 years since it was planted in 2006, especially where the new plants have been planted in the raised bank between existing large trees. As the canopy of these trees is high it does not provide any visual screening, and neither does the new planting, some of which has failed to grow entirely. Other sections of the route have no screening at all.

4.74. Additional mitigation has been proposed in the current scheme, with a further row of native hedgerow plants to be planted, but these would not be sufficiently mature to provide adequate screening in the 3 years before extraction would commence, or to prevent harmful or unacceptable impacts on visual amenity. However the temporary storage mound formed by soil stripping of phase 3 is shown as extending close to Blackrack Beck, and would be in place until the final restoration of silt pond 7. Temporary storage mounds G, H I and part of J would still be in place at the start of phase 6 to screen silt pond 8 from the lane.

4.75. Improved visual screening could be provided to most of the lane under condition were consent to be granted for this proposal. This could utilise the temporary soil storage mound, and the proposed planting could be increased in area, and possibly include temporary non-native varieties to reduce the time required for it to be established. I consider that such a scheme would be deliverable even with the provision of improved security fencing, however it would have to be far enough from the mature trees to ensure there was no damage to their root systems, and this could require a reduction in the extraction area. Details would need to be supplied under condition if consent were to be granted.

4.76. The screening proposals above would not however avoid all visual impact from the access lane, and therefore experienced by the residents of Low Plains Court and other residential properties served from the access lane. The bunding would not be a natural landform and screen planting would not be in place in time to secure any amenity value prior to development of phase 3A. Views to the other phases of extraction including Phase 4A would also be seen from the A6 and the lane close to the A6, and also when crossing the conveyor. These adverse impacts would endure for a very long period of time, contribute to the loss in amenity for residents, and are not justified by any over riding need for the development.

**Flood Risk**

4.77. A Flood Risk Assessment (FRA) was completed in June 2011 and included in the ES as Appendix H1; however this assessed the proposals presented for EIA Scoping, i.e. with the western area restored as water bodies. Appendices have been included in the ES with the correct restoration plan, but the FRA included does not refer to them and concludes that

“upon restoration the ground levels will be generally lower than present and therefore floodplain storage will be increased. This combined with the
additional storage provided within the lake is considered to have a positive impact on downstream flows (ie reduce peak flows).”

4.78. The hydrogeological assessment in the ES itself has been amended in places (para 11.6.30) to refer to the new scheme, and to an “additional area of flood storage” but in other paragraphs (e.g. para 11.6.37) continues to refer to restoration lakes.

4.79. I therefore do not consider that the proposal applied for has been adequately assessed with respect to Flood Risk.

Protection of Blackrack Beck and the Low Plains Court water supply

4.80. The proposals differ from the previously approved scheme in that Blackrack Beck would not be diverted, but would instead be separated from the below water table extraction areas and subsequent silt ponds (Phase 3A and 4A) by a bund, but also bridged to enable access to phases. The EA have confirmed that they have no objections to the revised proposals in this respect as long as details of the bridging and the bund are agreed with themselves. The bund would have to be high enough to ensure that even when in spate the watercourse and the lagoons would never merge.

4.81. The EA have also requested the imposition of a condition ensuring there was no active dewatering of the site, in order to prevent lowering of the water table, and also a further condition requiring a network of monitoring boreholes around the extraction areas with a scheme for regular monitoring of water levels.

4.82. The Environmental Health Officer for Eden District Council however raised concerns about potential harm to the borehole used by Low Plains Court as their sole water supply, saying that the supply could be subject to ingress of contamination due to work carried out in the area of the planning application, the EHO also said they were not sure whether the borehole was served by the main aquifer and asked whether the EA were aware of the borehole.

4.83. The Environment Agency has been asked to comment on this response but at the time this report was written this has only been via a telephone call. The EA have examined all their records from the drilling of the Low Plains Court borehole and have informed the County Council that the borehole reached the sandstone, ie the Penrith Aquifer, at 92m AOD, and continues down below that point. Drilling records show that there was no water until the sandstone was reached, so the borehole does not go into or through the secondary aquifer.

4.84. The EA advise that:

a) the fact that there would be no dewatering of the quarry and that it will work only down to 100mAOD means that the quantity of water in the Low Plains Court borehole would not be adversely affected and also that

b) the quarrying activity do not constitute an additional source of contamination to affect the water supply as only the back-actor arm would work in the quarry, no chemicals would be applied to the water, and there would be no risk of contamination even if the secondary aquifer and the primary aquifer were connected at this point.
4.85. The EA also advise that the infilling of Phase 3A and 4A with silt and subsequent restoration to agricultural use does not present an extra risk of contamination compared to the previously approved restoration lake.

4.86. If consent were to be granted for this proposal the advice received verbally would need to be confirmed in writing by the EA. I also consider that conditions should be imposed with respect to the details of any crossing of Blackrack Beck, and of bunds around Phases 3A and 4A to ensure that flood risk concerns are met, including those related to flooding of the public footpath/access road.

Other Groundwater Protection Issues

4.87. Information relating to groundwater is contained in the Part 2 report.

Air Quality

4.88. The potential impacts from dust have been analysed within the ES based on guidance in MPS2, some of which is incorporated in NPPF Technical Guidance, and The Environmental Effects of Dust from Surface Mineral Workings (HMSO 1995). The ES states that the percentage of time that a dry wind of sufficient speed to carry dust would approach various sensitive receptor properties has been predicted using meteorological data. Low Plains Court and Low Plains Farm Calthwaite are the most likely to experience a problem, with wind blowing over the western extraction area to the properties 16.7% and 18.2% of the time respectively, giving 4.2 and 4.6 working days in a totally dry month. Westington Lodge is said to be the most likely to be affected by extraction in the western area as it is only 55m away from Phase 3A, but the applicant says that analysis of other factors such as wind speed and direction, soil moisture, rainfall, and other mitigation means that the impacts would be “more analogous to the negligible criterion”. Mitigation measures have been proposed which it is said would reduce the severity of impacts to “negligible” or “insignificant”. These have been summarised in a submitted “Dust Action Plan”.

4.89. The residents at Low Plains say that they suffer considerable nuisance from dust as described in section 2 above, and dust from the working faces on the hillside is almost impossible to control. They also say that bowsers are never in use on the western area.

4.90. The Environmental Health Officer for Eden District Council concluded that “From past operations and given the nature of the operations I consider that there will be no significant deterioration of air quality arising from the continued operations providing that the best practicable means are employed to minimise dust emissions. To achieve this I would recommend that a condition is attached to any planning approval requiring the submission of a Dust Management Plan to be submitted to the Minerals Planning Authority. The plan shall be reviewed every three years or more frequently if required by the Minerals Planning Authority in the event of substantiated complaints being received.”

4.91. I consider that dust from quarrying operations would not constitute a reason for refusal for this application, as conditions could be applied to avoid adverse impacts on health. Also effects of the dust from working faces on the residential properties nearest to the quarry would be reduced in later years when faces
further to the north, and phases below the water table were being worked. However adverse impacts from dust being deposited on surfaces within properties, and from dust on the access roads, would be likely to continue.

**Noise**

4.92. Noise complaints have arisen at various points during the history of extraction of this site, and have been noted in the records of County Council monitoring visits and site liaison committee meetings. The applicant has incorporated various measures to attempt to minimise noise, including the use of the conveyor for mineral, and the piping of dirty water containing silt, rather than vehicles to transport mineral around the site.

4.93. The noise assessment report includes modelled predictions of additional noise caused by quarrying activities, built from standard noise modelling software. The data considered includes both actual data at the processing plant and sensitive receptors (2 days in March 2011) and noise output levels from the machinery in use (apart from the crusher). The Environmental Health Officer (EHO) at Eden District Council had visited the site as a result of a complaint and assessed background noise levels at Low Plains Court. He advised that noise levels at sensitive residential properties should not exceed 55 dB(A) or no more than 10 dB(A) above the background noise level which ever is the lower. A condition permitting noise levels up to 70 dB (a) on 8 weeks in any 52 week period when site restoration was occurring was also recommended. These would ensure that operations were compliant with MPS2. The EHO at that time also confirmed that the predicted noise levels are all within the MPS2 criterion on Background noise Level + 10dB as an LAeq(1hour) by a significant margin and that therefore these levels are achievable.

4.94. However there are indications from the applicant and residents of Low Plains Court that a) noise levels may on occasions be higher than predicted and b) there are tonal elements to the noise.

4.95. The Planning Statement reports that complaints about noise from residents increased in the 18 months to June 2011, and that investigations indicated that noise (at certain times) from the processing plant appears to have become louder, and on some days noticeably louder in the Low Plains Court area. Tarmac complaints log of from 31.1.11 to 28.9.11 lists complaints about 36 dates and confirms that noise was very evident when they visited the site after complaints. The most comprehensive note read “noise seemed louder than usual; all parts of the quarry processes could be heard quite clearly”. Tarmac have suggested that the higher than expected noise at Low Plains Court is due to prevailing winds refracting noise down into Low Plains Court, and also speculate that noise had previously been attenuated by a large stockpile of sand on the south side of the processing area.

4.96. The key tonal noises identified are “squeals” which usually result from stones trapped in moving machinery, and a low rumbling which has not been specifically investigated but Tarmac consider to possibly come from the drive belt for the conveyor. The ES lists issues raised by local residents at the public consultation event of 21 April 2011 which included: audible tonal bleeper; squeak from the field conveyor; low rumbling noise in specific rooms of house; and amplification of processing noise in specific wind conditions. On one CCC officer visit to Low Plains Court the noise appeared to be both annoying due to
a squeal, and at a high volume compared to background noise although this could not be empirically verified. On that occasion the noise was clearly arising from extraction activities in the western area, and consisted of squealing from a digger, combined with loud noise from stones in the sand being dropped into the conveyor hopper, and also bouncing in the digger loading shovel. The noise did not come from the conveyor on that occasion, but the mineral was variable with large stones mixed with sand.

4.97. The ES suggests additional measures to mitigate tonal noise and noise in excess of that expected, however some of those have been implemented and made little difference, and the likely effectiveness of others appears to be speculative, and not based on identification of the sources of noise, as required by NPPF Technical Guidance paragraph 29.

4.98. There are strong indications that tonal noise contributes significantly to total site noise as referred to in NPPF para 30, but none of the monitoring for the ES, or previous noise monitoring to ensure compliance with the conditions of the previous consent assessed frequency and therefore the tonal effects from operational noise. I also consider it likely that noise levels of the operation vary significantly depending on the nature of the material being transported and processed. This can vary from consistently soft or fine sand, through gravel, to a highly mixed material with large stones or cobbles within it, and variation in the material extracted over the recent years has not been investigated as a possible reason for increased noise levels. Given that the quarry has been operating for many years it would have been reasonable to implement long term monitoring at the noise sensitive properties to enable noise impacts to be thoroughly understood and appropriate mitigation designed to combat them. The crusher that one resident attributes the noise to is also not included in the noise assessment as it is said to be only used occasionally. The mitigation proposals therefore have not adequately considered the likely future noise from the development and its impact on the neighbourhood of the operations.

4.99. One year after these applications had been received the Environmental Health Officer at Eden District Council was requested to re-assess the proposal in the light of material changes within the NPPF, and the information in the ES and from the objectors about tonal noise. The EHO has advised that due to the possibility of tonal elements to the noise the earlier response has been amended to include the use of a penalty of 5dB if tonal elements are detected. He also comments that specific consideration may be given to avoidable noise (in that the NPPF makes it clear that minerals and planning authorities should ensure that any unavoidable noise is controlled, mitigated or removed at source). In addition it is suggested that consideration may be given to peak or impulsive noise, and that the 5dB penalty would also be applicable if these characteristics were detected.

4.100. I consider that the applicant has not adequately addressed known noise issues, and therefore it is possible that both existing and future noise levels and impacts on amenity might be higher than those predicted. Also it is not clear that the applicant has addressed avoidable noise by utilising best available techniques and the mitigation proposed by the applicant may not enable the lower noise levels to be achieved without further investment in plant, machinery, or other mitigation measures.
4.101. If there was an over riding need for the mineral then the guidance in the NPPF and its technical guidance would have led to conditions being imposed as advised by the EHO. These would have required a suitable Noise Management Plan, to include a monitoring scheme that would detect tonal elements, and also assessment of all plant used at the quarry including the crusher and the back-actor. The Noise Management Plan would also have to include a commitment to appropriate action if the operations were to exceed the noise limits imposed.

4.102. The EHO has also confirmed that a loss of amenity to local residents may still occur at the limits of acceptability for noise from mineral operations, and thus there would be adverse impacts on residential amenity if consent were given to extend the life of the quarry by 22 years.

Public Safety

4.103. Residents of Low Plains Court have raised a number of concerns related to the access track to their properties and lapses in security that have allowed gates to the quarry working areas being left open. Their concerns up to this point have mainly concerned the conveyor that runs under bridges and the danger to children who might get too close to the conveyor and suffer injury as a result. The previously approved scheme did incorporate water bodies that would have presented danger if unauthorised access to them was not adequately controlled, but the objectors are also now concerned about the silt ponds which represent an additional type of risk, for a prolonged period. The residents claim that the current silt ponds in the eastern area are inadequately fenced, and point out that they are effectively quicksand and thus extremely dangerous.

4.104. Tarmac have acknowledged some difficulties with the locking system for the gates on the quarry access routes across the public footpath/access lane, but consider the problems to have been solved. CCC officers have found the gate open on one occasion, but the conveyor was not operating at the time, and no activity was taking place in the extraction area. Conveyors are subject to health and safety regulations with sensors to stop them if work operatives get too close to them, however it is clearly important that the operator does have highly effective systems for ensuring gates are locked and entry by children or vulnerable adults cannot occur. Risks to the public during excavation below the water table and from active or drying silt ponds would also need to be controlled by secure fencing and adequate supervision and signage.

4.105. If an overriding need for the mineral had been established it is probable that a site security scheme, including details of secure fencing, locking systems for gates and supervision and signage of all danger points could have been supplied under conditions. The proposed scheme would need to have been designed to ensure that compliance of current and any future operators with such conditions could have been relied upon to reduce this risk to acceptable levels. I therefore do not consider that public safety would have presented a reason for refusal for this proposal, but the risks to public safety, and the perception of such risk and need for vigilance on the part of nearby residents, are adverse impacts that need to be weighed against the benefits of the proposal.
Ecology

4.106. Approximately 2 km to the east of the site lies the River Eden Special Area of Conservation (SAC), and the River Eden and Tributaries Site of Special Scientific Interest (SSSI), Lazonby Fell SSSI, Eden Gorge SSSI and Wan Fell SSSI are within similar proximity. In addition, Blaze Fell Quarries Cumbria Wildlife Site and Middleholm and Birks Mosses Cumbria Wildlife Site lie within 2km of the site.

4.107. The approved scheme incorporated various features to enhance biodiversity, particularly related to the restoration water bodies, but the ES also highlighted a number of potentially adverse impacts on protected species and also on designated areas.

4.108. Natural England confirmed that the measures incorporated into the ES would be adequate to prevent harm to biodiversity if the development were to be implemented.

Archaeology

4.109. The site is of considerable and proven archaeological significance and Bronze Age human cremations and numerous other prehistoric remains have been revealed during on site investigations to date. Written recordings of investigations undertaken in the areas already subject to extraction have not yet been submitted by the applicant.

4.110. It is possible that significant prehistoric rock art, in particular a cup and ring stone located in Phase 4B would be disturbed by further extraction. If consent were to be granted the secure long term future of this and any other remains that were uncovered would need to be secured. The applicant states they will either carefully remove the stone in question to a publicly accessible store or, if it is not affected by future extraction will erect a fence around it to protect it during mineral extraction. However preservation in situ is preferable to disturbance and therefore this must be acknowledged as an adverse impact of the proposal. If consent were to be granted conditions would need to be imposed to ensure that archaeological investigations and recording were conducted, reported, and adequate facilities provided for public display or access where appropriate.

Highways and Traffic

4.111. The site is located 9.5 km to the north of Penrith and adjacent to the north-south orientated A6 between the villages of High Heskett and Plumpton. Access to the site is from the A6 via the C3007 minor road. It is noted from the details supplied that the proposal will not lead to an increase in vehicular traffic to and from the site and therefore the Highway Authority has no objection to the proposal. It should be noted that the conditions for access and traffic as set out in the decision notice for application ref 3/91/0571 as amended by planning permission 3/95/9013 and 3/96/9015 should still apply.
Conclusion

4.112. I do not consider that there is any need for the output of this quarry as an adequate landbank for sand and gravel has been identified by the County Council without the need for the extraction of the resources remaining at this site. Furthermore it has not been demonstrated that Low Plains serves a distinct and separate market for concreting sand and gravel in the south and east of the county; nor is there any reason to consider that these markets are potentially growing; or that there are no alternatives to serve the needs of these markets.

4.113. The proposed modifications to the final restoration have not been assessed to ensure that the soil resources available on site could achieve the quality of agricultural land indicated over the whole site including the areas previously to be left as permanent water bodies. Neither has the proposed modification to the restoration scheme to exclude the permanent water bodies been adequately assessed with respect to Flood Risk.

4.114. The landscape and visual impacts of the proposed modifications to the working scheme, including the use of the areas of below water table extraction as “abandonment” silt ponds for a prolonged period between extraction and final restoration; the increased duration for extraction for each phase as a result of the reduced extraction rate; and the modified locations for soil storage bunds have not been adequately assessed.

4.115. The proposals do not offer a plausible or consistent phasing plan for restoration. No estimated timescale for silt pond 8 in Phase 4A to dry ready for capping, or alternative methods for removing silt from the washing water during phase 6 have been submitted by the applicant and thus the timescale for restoration of silt pond 8 is not known. This unknown delay and the need to restore the processing area have not been taken into account, and no timescale has been proposed for the completion of restoration following the end of extraction of phase 6. The completion of all operations including restoration within 22 years as per the requested change to condition 2 is therefore not plausible.

4.116. On careful examination of the submissions it is clear that the requested time extension of 22 years and the proposed modifications to the working scheme would have a significant adverse impact on the landscape and on visual amenity for an extended period, and the proposal is thus contrary to CMWDF Policy DC 12. The proposed modifications to the working scheme are also contrary to CMWDF Policy DC 16 - Afteruse and Restoration in that restoration would not be completed within a reasonable timescale and is not progressive as far as practicable.

4.117. Granting consent for this proposal would permit the quarrying operation to move into currently untouched landscape which is highly visible from a main transport route making the need for restoration more acute and more expensive. Given the low level of need for the development, and the increasingly slow extraction rate I consider that there is a considerable risk of restoration not being achieved. It should also be noted that availability of suitable soils for the amended proposals has not been demonstrated. The submissions do not include any provision for the likely financial and material budgets for the agreed restoration, aftercare and afteruse being made during the operational life of the site, and thus the proposal is contrary to CMWDF Policy DC 16 and does not accord with the guidance in NPPF paragraph 49.
4.118. The falling need for the mineral compared to the high estimate for ongoing sales levels significantly increases the probability of the mineral extraction and restoration taking considerably more than the 22 year time period applied for. I consider that it would not be appropriate for the County Council to grant consent for a 22 year time extension, following a 20 year period when consent was first granted, when it is unlikely that extraction and restoration would be completed within that timescale.

4.119. There are a number of other adverse impacts from the development that either cannot be mitigated by conditions, or would still remain as adverse impacts on residential amenity even after conditions were imposed. These include nuisance from dust, noise, visual impact, and risks to public safety, and pertain particularly to the residents of Low Plains Court and other residential properties which rely on the public footpath/access lane for both vehicular and pedestrian access to their properties.

4.120. There is no need for the development that overrides the adverse impacts identified in this report and in the Part 2 report already considered and therefore the adverse impacts of the development with respect to temporary landscape and visual impact, the protection of the water environment, impact on a neighbouring land use and the local economy would significantly and demonstrably outweigh the benefits of, and need for, the development.

4.121. If members agree the recommendation for 3/11/9009 I consider that the separate planning application for the time extension for the soil storage bund should also be refused as there would be no need for the storage bund once the quarrying activities had ceased.

4.122. If members agree the recommendation, there will be further consideration whether or not to take enforcement action against the continued winning and working of minerals without planning permission and what form such enforcement action would take. Securing the satisfactory restoration of the operational areas is the priority and this will be best achieved by way of dialog with Tarmac. Should enforcement action be considered necessary, this will be authorised under delegated powers and reported to committee in the usual way.

**Paul Feehily**
Assistant Director - Planning & Sustainability

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**Background Papers**
Planning Application File Reference Nos. 3/11/9009 and 3/11/9010

**Electoral Division Identification**
Penrith North - Ms HF Carrick
Reasons for Refusal of Planning Permission for 3/11/9009

1. There is no need for the sand and gravel resources from this site because provision for a steady supply of aggregates has been made in accordance with advice in the Guidance on the Managed Aggregate Supply System (October 2012) without the reserves remaining at this quarry. Furthermore, there are no special types of aggregate produced at the quarry or locational factors that would justify the continuation of extraction to meet local supply needs.

2. The proposal, including the mitigation and remediation strategy submitted, does not demonstrate that there would be no unacceptable quantitative or qualitative impacts on the water environment and is therefore contrary to CMWDF Policy 14. The resulting adverse impacts of the land use on the neighbouring business and the local rural economy cannot be satisfactorily mitigated by effective and enforceable conditions, and the proposal is also contrary to CMWDF Policy CS2 and NWRSS Policy W1.

3. The proposal is contrary to CMWDF Policy DC12 in that the submitted restoration phasing proposals would create significant and prolonged adverse landscape and visual impacts. The proposal is also contrary to CMWDF Policy DC16 in that restoration is not likely to be completed within a reasonable timescale, does not provide for progressive restoration, and has not demonstrated that provision for the likely financial and material budgets for the agreed restoration, aftercare and afteruse will be made during the operational life of the site.

Reasons for Refusal of Planning Permission for 3/11/9010

1. There is no need for the continuing use of the land identified for a separate soil storage bund.
Appendix 2
Ref Nos. 3/11/9009 & 9010
Development Control and Regulation Committee – 3 January 2013

THE TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

Summary of Policy Background to Refusal of Planning Permission

1 This application has been determined in accordance with the Town and Country Planning Acts, in the context of national and regional planning policy guidance and advice and the relevant development plan policies. The key development plan policies taken into account by the County Council before refusing permission were as follows:

**North West Regional Spatial Strategy (RSS) (2008-2021)**
(Adopted September 2008)

**Policy W 1 Strengthening the Regional Economy**

Plans and strategies should promote opportunities for economic development (including the provision of appropriate sites and premises, infrastructure, and clustering where appropriate) which will strengthen the economy of the North West by:

- giving positive support to the sustainable diversification and development of the rural economy through the growth of existing businesses and the creation of new enterprise, particularly within Cumbria where there is a need to both develop high value business activities and sustain traditional economic activities. Prospects for growth in tourism, food and energy sectors should be developed, including promoting links between regional agriculture and production and retail facilities to reduce food miles and support local businesses;

**Policy EM 7 Minerals Extraction**

Plans and strategies should make provision for a steady and adequate supply of a range of minerals to meet the region’s apportionments of land-won aggregates and requirements of national planning guidance. This will take into account:

- the national significance of the Region’s reserves of salt, silica sand, gypsum, peat and clay (including fireclay);
- the need to maintain land banks of permitted reserves of certain minerals as identified in relevant government guidance (101) including silica sand and materials for the cement industry;
- the contribution that substitute, secondary or recycled sources, or imports from outside the Region, should make;
- the potential supply of marine dredged aggregate in contributing towards overall regional aggregate needs, applying the principles of sustainable development alluded to in relevant government guidance (102) and reflect any future Marine Spatial Planning arrangements.

Minerals extraction forms an exception to the sequential approach set out in the Core Development Principles. Plans and strategies should:
include criteria-based policies to indicate the circumstances under which extraction might or might not be permitted;

- include opportunities for the transportation of minerals by pipeline, rail or water, including the maintenance of existing wharves and railhead facilities, the provision of new ones, and of facilities for on-shore processing and distribution of hydrocarbons;

- safeguard mineral resources from other forms of development and, where appropriate, reserve highest quality minerals for applications that require such grades;

- identify and protect sources of building stone for use in repairing and maintaining historic buildings and public realm improvements; and

- ensure sensitive environmental restoration and aftercare of sites including improved public access where they are of amenity value.

**Policy EM 8 Land-won Aggregates**

Mineral planning authorities should continue to work together to make provision for the agreed regional apportionment of land-won aggregate requirements to 2016 on the basis of the revision to Minerals Planning Guidance Note 6 (MPG6) (103), and the sub-regional apportionment set out in Table 9.2.

**Table 9.2 Sub-regional Apportionment of Aggregates in the North West 2001-2016 (million tonnes)**

<table>
<thead>
<tr>
<th></th>
<th>Sand &amp; Gravel</th>
<th>Crushed Rock</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cheshire</td>
<td>31.5</td>
<td>2</td>
</tr>
<tr>
<td>Cumbria</td>
<td>11.2</td>
<td>66</td>
</tr>
<tr>
<td>Lancashire</td>
<td>8.2</td>
<td>73</td>
</tr>
<tr>
<td>Merseyside / Greater Manchester / Halton/ Warrington</td>
<td>4.1</td>
<td>26</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>55</strong></td>
<td><strong>167</strong></td>
</tr>
</tbody>
</table>

**CUMBRIA MINERALS AND WASTE DEVELOPMENT FRAMEWORK (CMWDF)**

**Core Strategy (CS) 2009-2020**

(Adopted April 2009)

**Policy CS 2 - Economic Benefit**

Proposals for new minerals and waste developments should demonstrate that they would realise their potential to provide economic benefit. This will include such matters as the number of jobs directly or indirectly created or safeguarded and the support that proposals give to other industries and developments. It will also be important to ensure that minerals and waste developments would not prejudice other regeneration and development initiatives

**Policy CS5 - Afteruse and Restoration**

Restoration and aftercare schemes for mineral working and waste management sites should demonstrate that best practicable measures have been taken to secure full advantage of their potential to help deliver sustainability objectives relating to the environment and the economy of the county.
Policy CS 13 - Supply of Minerals

Provision will be made to:-

- meet the Regional Spatial Strategy's apportionment to Cumbria of primary land won crushed rock and sand and gravel production, but
- further apply that apportionment to take account of Cumbria's pattern of quarries and the areas they supply, and its dispersed settlement pattern and transport routes;
- identify areas sufficient to maintain landbanks of permitted reserves for supply areas equivalent to at least seven years sales (using the rolling three-year annual average sales figure) for sand and gravel and at least ten years for crushed rock for general aggregate use, throughout the plan period, and
- recognise that the high and very high specification roadstone quarries, gypsum resources and High Greenscoe brick making mudstone quarry are regionally or nationally important,
- identify sites for the facilities that will be required to enable at least one quarter of the aggregates used within Cumbria to be met by secondary or recycled aggregates.

Generic Development Control Policies (GDCP) 2009-2020
(Adopted April 2009)

Policy DC1 – Traffic and Transport

Proposals for minerals and waste developments should be located where they:

a. are well related to the strategic route network as defined in the Local Transport Plan, and/or
b. have potential for rail or sea transport and sustainable travel to work, and
c. are located to minimise operational "minerals and waste road miles".

Mineral developments that are not located as above may be permitted if:

- they do not have unacceptable impacts on highway safety and fabric, the convenience of other road users and on community amenity,
- where an appropriate standard of access and traffic routing can be provided, and appropriate mitigation measures for unavoidable impacts are provided.

Policy DC 2 - General Criteria

Minerals and Waste proposals must, where appropriate, demonstrate that:

a. noise levels, blast vibration and air over-pressure levels would be within acceptable limits,
b. there will be no significant degradation of air quality (from dust and emissions),
c. public rights of way or concessionary paths are not adversely affected, or if this is not possible, either temporary or permanent alternative provision is made,
d. carbon emissions from buildings, plant and transport have been minimised,
e. issues of ground stability have been addressed.
Considerations will include:
- the proximity of sensitive receptors, including impacts on surrounding land uses, and protected species,
- how residual and/or mineral wastes will be managed,
- the extent to which adverse effects can be controlled through sensitive siting and design, or visual or acoustic screening,
- the use of appropriate and well maintained and managed equipment,
- phasing and duration of working,
- progressive restoration,
- hours of operations,
- appropriate routes and volumes of traffic, and
- other mitigation measures.

Policy DC 3 - Cumulative Environmental Impacts
Cumulative impacts of minerals and waste development proposals will be assessed in the light of other land-uses in the area. Considerations will include:

a. impacts on local communities,

b. all environmental aspects including habitats and species, landscape character, cultural heritage, air quality, ground and surface water resources and quality, agricultural resources and flood risk,

c. the impact of processing and other plant,

d. the type, size and numbers of vehicles generated, from site preparation to final restoration and potential impacts on the highway network, safety and the environment,

e. impacts on the wider economy and regeneration,

f. impacts on local amenity, community health and recreation facilities and opportunities.

Policy DC 6 - Criteria for Non-Energy Minerals Development
Proposals for non-energy minerals development inside the identified Preferred Areas will be permitted if they do not conflict with other policies in this plan.

Proposals for non-energy minerals development outside the Preferred Areas will only be permitted if:

a. the landbank of reserves with planning permission is below the required level, and there is a need for the proposal to meet the levels of supply identified in the Core Strategy, and

b. they do not conflict with other policies in this plan and to any relevant locational or site specific policies, and

c. where relevant, there are adequate safeguards for land stability.

Favourable consideration may also be given to proposals that can be demonstrated to be more sustainable than any available alternative, including:

- borrow pits to meet a specific demand not easily met from elsewhere,
- building stone quarries to meet the need for stone to match local vernacular building, and the conservation and repair of historic buildings.
- areas already subject to minerals extraction where the additional working will enable comprehensive exploitation of the reserves, or where the proposal achieves a more sustainable afteruse or a better restoration of the area.
**Policy DC 12 - Landscape**

Proposals for development should be compatible with the distinctive characteristics and features of Cumbria's landscapes and should:

a. avoid significant adverse impacts on the natural and historic landscape,
b. use Landscape Character Assessment to assess the capacity of landscapes to accept development, to inform the appropriate scale and character of such development, and guide restoration where development is permitted,
c. in appropriate cases use the Guidelines for Landscape and Visual Impact Assessment to assess and integrate these issues into the development process,
d. ensure that development proposals consider the effects on: locally distinctive natural or built features; scale in relation to landscape features; public access and community value of the landscape; historic patterns and attributes; and openness, remoteness and tranquillity,
e. ensure high quality design of modern waste facilities to minimise their impact on the landscape, or views from sensitive areas, and to contribute to the built environment,
f. direct minerals and waste developments to less sensitive locations, wherever this is possible, and ensure that sensitive siting and high quality design prevent significant adverse impacts on the principal local characteristics of the landscape including views from, and the setting of, Areas of Outstanding Natural Beauty, the Heritage Coast or National Parks.

**Policy DC 14 – The Water Environment**

Planning permission will only be granted for developments that would have no unacceptable quantitative or qualitative adverse effects on the water environment, including surface waters and groundwater resources. Proposals that minimise water use and include sustainable water management will be favoured.

**Policy DC 16 - Afteruse and Restoration**

Proposals for minerals extraction, or for temporary waste facilities such as landfill, should be accompanied by detailed proposals for restoration including proposals for appropriate afteruse, financial provision and long term management where necessary. Restoration and enhancement measures should maximise their contributions to national, regional and local biodiversity objectives and targets. In all cases restoration schemes must demonstrate that the land is stable and that the risk of future collapse of any mineworkings has been minimised.

After-uses that enhance biodiversity and the environment, conserve soil resources, conserve and enhance the historic environment, increase public access, minimise the impacts of global warming, and are appropriate for the landscape character of the area will be encouraged. These could include: nature conservation, agriculture, leisure and recreation, and woodland,

Where sites accord with other policies, an alternative or mixed afteruse that would support long term management, farm diversification, renewable energy schemes, tourism, or employment land may be acceptable.
All proposals must demonstrate that:

a. for agricultural, forestry and amenity afteruses there is an aftercare management programme of at least 5 years, but longer where required to ensure that the restoration scheme is established,

b. the restoration is appropriate for the landscape character and wildlife interest of the area, and measures to protect, restore and enhance biodiversity and geodiversity conservation features are practical, of a high quality appropriate to the area and secure their long term safeguarding and maintenance,

c. restoration will be completed within a reasonable timescale and is progressive as far as practicable,

d. provision for the likely financial and material budgets for the agreed restoration, aftercare and afteruse will be made during the operational life of the site.

e. restoration will be undertaken using industry best practice.

Peat workings should be restored to peat regeneration wherever possible.

**Eden Local Plan 1996** - [Saved Policies]
(Adopted December 1996)

**Policy NE3: Landscapes of County Importance**

Within Landscapes of County Importance proposals will be expected to have due regard to the distinctive character of the landscape. Those involving development outside established settlements will be permitted only if the following criteria can be satisfied:

i) the selection of the site can be adequately justified;

ii) the siting of the development will minimise impact;

iii) the design, materials and landscaping measures are appropriate to the character of the landscape;

iv) the scale of the proposal is appropriate to the location concerned; and

v) an unacceptable level of harm will not be caused to any interests of acknowledged importance

The following policy advice has also been taken into account as a material consideration.

**The National Planning Policy Framework (Published March 2012)**

*Para 142:* Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation.

*Para 144:* When determining planning applications, local planning authorities should:

- give great weight to the benefits of the mineral extraction, including to the economy;
ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;

ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties;

not grant planning permission for peat extraction from new or extended sites;

provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances;

Para 145: Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

- preparing an annual Local Aggregate Assessment, either individually or jointly by agreement with another or other mineral planning authorities, based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);

- participating in the operation of an Aggregate Working Party and taking the advice of that Party into account when preparing their Local Aggregate Assessment;

- making provision for the land-won and other elements of their Local Aggregate Assessment in their mineral plans taking account of the advice of the Aggregate Working Parties and the National Aggregate Coordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;

- taking account of published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;

- using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;

- making provision for the maintenance of landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites;

- ensuring that large landbanks bound up in very few sites do not stifle competition; and

- calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.
Technical Guidance to The National Planning Policy Framework (Published March 2012)

Para 28: The National Planning Policy Framework makes it clear that minerals planning authorities should ensure that unavoidable noise emissions are controlled, mitigated or removed at source. It further recognises that mineral planning authorities should also establish appropriate noise limits for extraction in proximity to noise sensitive properties.

Para 29: Those making development proposals should carry out a noise emissions assessment, which should identify all sources of noise and, for each source, consider the proposed operating locations, procedures, schedules and duration of work for the life of the operation. Proposals for the control or mitigation of noise emissions should consider:

- the main characteristics of the production process and its environs, including the location of noise-sensitive properties;
- proposals to minimise, mitigate or remove noise emissions at source;
- assessing the existing noise climate around the site of the proposed operations, including background noise levels at nearby noise-sensitive properties;
- estimating the likely future noise from the development and its impact on the neighbourhood of the proposed operations;
- monitoring noise emissions to ensure compliance with appropriate environmental standards.

Para 30: Subject to a maximum of 55dBA(LAeq, 1h (free field), mineral planning authorities should aim to establish a noise limit at the noise-sensitive property that does not exceed the background level by more than 10dBA. It is recognised, however, that in many circumstances it will be difficult to not exceed the background level by more than 10dBA without imposing unreasonable burdens on the mineral operator. In such cases, the limit set should be as near that level as practicable during normal working hours (0700-1900) and should not exceed 55dBA L(Aeq, 1h (free field). Evening (1900-2200) limits should not exceed background level by more than 10dBA and night-time limits should not exceed 42dBA L(Aeq,1h (free field) at noise-sensitive dwellings. Where tonal noise contributes significantly to the total site noise, it may be appropriate to set specific limits for this element. Peak or impulsive noise, which may include some reversing bleepers, may also require separate limits that are independent of background noise - e.g. Lmax in specific octave or third-octave bands - and should not be allowed to occur regularly at night.

Para 49: Responsibility for the restoration and aftercare of mineral sites lies with the operator and, in the case of default, with the landowner. Applicants should, therefore, demonstrate with their applications what the likely financial and material budgets for restoration, aftercare and after-use will be, and how they propose to make provision for such work during the operational life of the site. No payment of money or other consideration can be required when granting planning permission except where there is specific statutory authority.
Para 50: Exceptional cases where it will be reasonable for a minerals planning authority to seek a financial guarantee to cover restoration (including aftercare) costs, through a voluntary agreement/planning obligation at the time a planning permission is given include:

- for very long-term new projects where progressive reclamation is not practicable, such as a super-quarry or some types of industrial or metalliferous mineral sites, where incremental payments into a secure fund may be made as the site develops;
- where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development;
- where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission.

Para 51: However, where an operator is contributing to an established mutual funding scheme, such as the Mineral Products Association Restoration Guarantee Fund, it should not be necessary for a minerals planning authority to seek a guarantee against possible financial failure, even in such exceptional circumstances.

Guidance on the Managed Aggregate Supply System  
(Published 18 October 2012; DCLG)

Para 26: Equally an adequate or excess landbank is not a reason for withholding planning permission unless there are other planning objections which are not outweighed by planning benefits. There may be valid reasons why an application of minerals development is brought forward in an area where there exists an adequate landbank, including:

- significant future increases in demand that can be forecast with reasonable certainty;
- the location of the consented reserve is inappropriately located relative to the main market areas;
- the nature, type and qualities of the aggregate such as its suitability for a particular use within a distinct and separate market;
- known constraints on the availability of consented reserves that might limit output over the plan period.