

PLANNING APPLICATION NUMBER:P13/1596

Type of approval sought	Full Planning Permission
Ward	Kingswinford South
Applicant	Mr K. Preston, Hinton, Perry & Davenhill Limited
Location:	KETLEY QUARRY, DUDLEY ROAD, KINGSWINFORD, WEST MIDLANDS
Proposal	VARIATION OF CONDITION 1 OF PLANNING APPROVAL 97/50322/C2 TO REVISE PHASING OF BUND 4 CONSTRUCTION FROM 2015 TO 2014
Recommendation Summary:	APPROVE

SITE AND SURROUNDINGS

1. Ketley Quarry is situated immediately behind The Kingswinford Hotel and the adjoining BP petrol station fronting the A4101 between Pensnett and Kingswinford. It extends over 19.4 hectares and has been worked for Etruria marl and sandstone since the 1800's with the first planning permission being granted by Staffordshire County Council in 1952. The quarry consists of worked out areas that have been filled and are used for storage of overburden, clay reserves and clay cake to the west. To the east is the existing quarry working area and void, with future phases for mineral extraction that have grass or raised tree cover. An area of land adjacent to the The Kingswinford Hotel and the adjoining BP petrol station is designated as a Site of Special Scientific Interest (SSSI) due to the geological outcrop with adjacent vegetated areas and the wider quarry area being designated as a Site of Local Interest to Nature Conservation (SLINC).
2. The quarry is adjoined by inter-war residential development in Ketley Road to the west and south and 1960s residential development on the Crestwood Park estate to the south-east. The Dawley Brook runs alongside the western boundary in a wooded dingle, beyond which is the residential Sandpipers estate dating from the 1990's.

3. Across the A4101 is the Pensnett (Industrial) Estate and to the west of the Sandpipers estate is the Gibbons Industrial Park. Accordingly, the surrounding area is mixed in character. The brick and tile works of the quarry owners Hinton Perry and Davenhill Limited, is situated some 500m away in Dreadnought Road. All of the company's products are manufactured at the Dreadnought Works which takes raw material from the site which has been mixed with other imported clays to provide an appropriate material for the manufacture of its distinctive brick and tile products.
4. Access to the quarry is gained from two main points, one in Ketley Road and one from the A4101 Dudley Road, just to the east of the petrol filling station. A third point of access leads solely from the end of Ketley Road across a field to the south-west of the site where the tile storage area is located.
5. The main Ketley Road access is used for the importation of clays to be stored and mixed with quarried clay. In order to form an appropriate clay mix for the manufacture of bricks and tiles, the imported clays are mixed with quarried clay and stored in a 'cake' adjacent to the Ketley Road access where they can weather, before being taken to the Dreadnought Works for product manufacture. The importation of clay is undertaken on a bulk basis when an appropriate amount of mineral becomes available each two to three years.
6. The Dudley Road access is used for the importation of inert wastes for the formation of screen bunds and those to be used for the infilling and restoration of the quarry. The access will also be used as an exit for loaded vehicles taking recycled secondary aggregates off the site for construction purposes. The Dudley Road access leads directly to a fenced, gated and concrete surfaced compound which accommodates the site offices, weighbridge, car parking and plant maintenance areas. Beyond the rear compound gates is an extended concrete apron leading to the working quarry internal haul route. The extended concrete apron accommodates a fixed drive-through, high pressure wheel washing facility sited for use by all road vehicles leaving the working quarry.
7. The quarry operates under a 2012 planning approval issued as a result of a requirement of the Environment Act 1995, to review the operational conditions of

older minerals planning consents on a fifteen year cycle, the previous consent having been granted in 1997. The definition and scope of the 2012 consent provides for mineral extraction and removal, stocking of extracted and imported minerals, internal haulage of minerals, the importation, processing, treatment, tipping and storage of waste, landscaping, planting and restoration of mineral workings. The duration of the consent for the winning and working of minerals or depositing of waste is to cease not later than 21 February 2042.

PROPOSAL

8. The 1997 planning permission approved on 19th June 1997 under reference 97/5032, was subject to 34 controlling conditions imposed to limit noise impacts, protect the amenities of the area, to screen residential properties from future extraction activities and to ensure the appropriate restoration of the site for beneficial use.
9. Under the terms of the Environment Act 1995, the operational approval under 97/50322 was the subject of specific conditional requirements to submit detailed proposals for the screening and restoration of the working quarry before the first 15 year periodic review. To this end, screening proposals required under condition 23 of the above the above consent were submitted and approved under planning application reference 97/50322/C2 on 29th November 2012.
10. Such details provided a specification for the height, construction and location of the mounds (bunds) necessary to screen the occupiers of residential dwellings adjoining the site from noise arising from future phases of mineral extraction, infilling and the restoration of the quarry. A plan accompanying the submitted details indicated the expected construction programme of the bunds in eight phases from 2012 to 2019. The approval was also the subject of requirements for land drains to the base of the bunds and for landscaping of the bunds following completion.
11. Following recent completion of the 2013 bund construction adjacent to the Dawley Brook dingle, the applicant Hinton Perry and Davenhill have considered the indicated 2015 construction timing for bund 4 that will be located to the rear of five

properties at 106-122 Oregon Close and which is proposed to follow the 2014 construction of bund 3 at the rear eight properties at 56-106 Oregon Close.

12. The above mentioned properties are located on the outside of a right angled corner of Oregon Close, in close proximity to the quarry and overlook the proposed location of the bunds.
13. The applicant is due to install the approved drainage scheme to the rear of proposed bunds 3 and 4 in January 2014 and considers that both bunds could thereafter be constructed in 25 days, (weather permitting) to also enable landscaping to be implemented within the current planting season which ordinarily runs until the end of March. The applicant considers that due to the corner location of the properties on Oregon Close, the currently proposed bund construction programme would impact upon residents twice within a thirteen month period and not building bund 4, would expose residents to excavation disturbance generated from soil stripping and the removal of overburden needed to access deeper lying clay, in the existing phase of extraction. The applicant therefore seeks a variation to the bund construction plan to bring forward the construction of bund 4 to 2014 In order to minimise impacts upon residents.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
BH/48/138	Surface working of clay and marl in Site A (Ketley Quarry) and tipping of waste material in Site B (adjacent the brick and tile works in Dreadnought Road)	Approved	21.12.50
97/50322	Determination of conditions for a Mineral Site – Environment Act 1995	Approved	19.6.97
P11/0920	Variation of condition 6b to allow lorries to enter and leave the site from 0700 rather than 0730 (unloaded)/0800 (loaded)	Refused	12.12.11
P11/1026	Improve and upgrade site access, compound, site offices, weighbridge, ancillary facilities,	Approved	31/01/12

	security fencing and car parking.		
P11/1245	Variation of condition 13(b) of planning application 97/50322 to permit the 'The construction and removal of noise barrier mounds including the removal of topsoil, subsoil and overburden in connection with their construction and removal. This activity shall not exceed 200 days in any one calendar year.	Withdrawn	20/01/12
P12/0399	Variation of condition 6 (b) of planning application 97/50322 to be revised to 'On the Dudley Road, Loaded vehicles shall not enter the site or leave the site before 07.30. Unloaded vehicles shall not enter or leave the site before 07.30. On the Ketley Road, Loaded vehicles shall not enter the site or leave the site before 08.00. Unloaded vehicles shall not enter or leave the site before 07.30.' (Resubmission of refused application P11/0920)	Approved	29/05/12
P11/1144	Inert recycling and treatment facility with material storage to process and screen waste prior to deposition and to produce primary and secondary aggregates	Approved subject to conditions	29/11/2012
97/50322/C1	Discharge of condition 30 of planning approval 97/50322 requiring details to be submitted for approval relating to the infilling, restoration, aftercare and after use of the quarry.	Approved subject to conditions	29/11/2012
97/50322/C2	Discharge of condition 23 of planning approval 97/50322 requiring details to be submitted of further bunds and tree planting to mitigate the impact of future extraction on residential properties.	Approved subject conditions to	29/11/2012
P12/0773	Periodic review of mineral consent under Environment Act 1995	Approved subject conditions to	17/05/13

PUBLIC CONSULTATION

14. Since receipt of the application, the proposal has been publicised through direct neighbour notification letters, the posting of a site notice and the publication of a notice within a local newspaper.
15. One letter of objection has been received from a resident of Oregon Close on the grounds of potential concerns relating to the structural stability of the houses and retaining walls to rear gardens and shortened timescales to arrange for structural surveys and monitoring equipment to confirm impacts from heavy plant vibration and the proposed bund. Noise impacts from the bund construction and earlier quarry operation and emissions from exhaust and dust particles are also raised as concerns.
16. An 11 signature petition from the occupiers of 106-146 Oregon Close (to the rear of bund 4) and raised by the above objector, re-iterates the above concerns and confirms that it is considered that quality of life and health will be affected 12 months earlier than envisaged from the approved bund construction programme plan.
17. It should be noted that the matter of impacts upon the structural integrity of retaining walls was previously considered in the determination of planning application reference 97/50322 which approved the height, location and construction of screen bunds, with such bunds being located far away enough from the walls to impose no additional loading.

OTHER CONSULTATION

Head of Environmental Health and Trading Standards:

18. No objection is raised to the application relative to noise issues.

Group Engineer Highways

19. No objection is raised in terms of traffic flow and highway safety.

RELEVANT PLANNING POLICY

20. National Planning Policy Framework (March 2012)

The National Planning Policy Framework (NPPF) sets out the Government planning policies for England and how these are expected to be applied. The NPPF is a material consideration in planning decisions, but does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and there should be a presumption in favour of sustainable development.

21. The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development. In respect of minerals, the framework requires that due regard is given to the importance of reserves to support economic growth and to safeguard supplies, especially Etruria Marl, which is considered to be a mineral of local and national importance. The Technical Guidance to the National Planning Policy Framework provides advice further advice on Minerals Policy.

Minerals Planning Guidance 14: Review of Mineral Planning Permissions

Black Country Core Strategy 2011

CSP5 Transport Strategy

TRAN3 The Efficient Movement of Freight

WM1 Sustainable Waste and Resource Management

WM2 Protecting and Enhancing Existing Waste Management Capacity

Waste

WM1 Sustainable Waste and Resource Management

WM4 Locational Considerations for New Waste Management Facilities

WM5 Resource Management and New Development

Minerals

MIN1 Managing and Safeguarding Mineral Resources

MIN2 Production of Aggregate Minerals

MIN3 Maintaining Supplies of Brick Clay

MIN5 New Proposals for Mineral Development

Nature Conservation / Geology

ENV1 Nature Conservation; the application site / wider Ketley Quarry variously having designations as:

- Site of Special Scientific Interest (SSSI)
- Site of Importance for Nature Conservation (SINC)
- Site of Local Importance for Nature Conservation (SLINC)

Saved Unitary Development Plan Policies (2005)

DD4 Development in Residential Areas

EP7 Noise Pollution

Supplementary Planning Guidance/Documents

PGN6. Highway considerations in development

ASSESSMENT

22. The main issues for consideration in this application are;

- Background, Policy and Principle
- Residential Amenity

Background, Policy and Principle

23. Operations at Ketley Quarry are governed by a Schedule of Conditions approved by the Council as Mineral Planning Authority in May 2013 under reference P12/0773, which sets the duration of the permission with the working of minerals or depositing of waste to cease not later than 21 February 2042. The detailed construction, location and height of bunds has been approved under application reference 97/50322/C2.

24. Condition 8 of approval P12/0773 relates to the control of noise and the duration of activities such bund building, at a maximum of 42 days in any calendar year, the full text of which is reproduced below;

Condition 8

Noise emitted from the site shall not exceed 55 dB(A)Leq (one hour) (freefield) between the hours of 07.30 hours and 18.00 on weekdays and 07.30 and 13.00 hours on Saturdays.

Noise emitted from the following activities shall not exceed 70dB(A) Leq (one hour) (freefield) unless agreed in writing with the Mineral Planning Authority;

- (a) *The construction of the cake stock pile adjacent to Ketley Road. This activity shall not exceed 44 working days in any one calendar year unless otherwise agreed in writing by the Mineral Planning Authority.*
- (b) *The construction and removal of noise barrier mounds including the removal of topsoil, subsoil and overburden in connection with their construction and removal. This activity shall not exceed 44 working days in any one calendar year unless otherwise agreed in writing by the Mineral Planning Authority.*
- (c) *The loading of vehicles for the removal of clay from the clay cake storage area via Ketley Road, which activity shall not be undertaken on Saturdays and shall not exceed six hours in aggregate in every working week unless otherwise agreed in writing by the Mineral Planning Authority.*
- (d) *The working, levelling and removal of tiles and bricks. These activities shall not exceed 20 working days in any one calendar year unless otherwise agreed in writing by the Mineral Planning Authority.*

All noise levels shall be measured at the nearest noise sensitive dwelling.

In all instances where a time limit is applicable to the undertaking of a particular activity, formally documented records shall be maintained and shall be made available to the Mineral Planning Authority upon request to verify the actual time worked.

- 25. The applicants have carried out an appraisal of the works required to construct both bunds, with volumes calculated as 14000 m³ and 9000 m³ for bunds 3 and 4 respectively. The applicants who operate the quarry consider that in winter months, the volume of material that can be moved for the construction of the bunds is in the region of 1200 m³ per day and are confident that the bund construction phase would last no longer than 25 days, including for the stripping of topsoil and re-spreading of the soil when construction is complete.
- 26. The principal of such works at the site is therefore set and it would appear that both bunds can be built comfortably within the 44 day period permitted duration for such works. It is also clear from reference to the location plan that should the variation of the bund construction plan not be permitted, that residents proximate to both corners of Oregon Close would be subjected to two bouts of disturbance rather than one and

that landscaping could be achieved in one phase to permit earlier maturity and a single impact upon outlook.

27. It must also be borne in mind that whilst the construction of the bunds in a single phase may also be economically advantageous to the applicant MPG14 remains national policy following the introduction of NPPF and in dealing with periodic reviews, MPG 14 points out that following the introduction of the 1995 Environment Act, new minerals permissions will have been issued that would include up to date conditions to protect amenity. Paragraph 174 of MPG14 states:

“There should not therefore be any need for further changes to working rights and the Government’s view is that conditions, other than restoration and aftercare conditions, which would restrict working rights should not be imposed except in exceptional circumstances”.

28. On the basis of the above there would be no in principle reason to restrict the variation of the construction programme which will reduce, rather than increase permitted direct impacts upon local residents.

Residential Amenity

29. The authorised activities currently undertaken on site will not be intensified by this application. The noise assessment submitted in association with application 97/50322/C2 was audited utilising three dimensional mapping of noise sources, which confirmed main impacts to be from extraction activities. Bund construction will protect local residents from both existing and future infilling and extraction phases.
30. Whilst neighbour concerns have been raised in relation to impacts occurring earlier from the quarry, it must be noted that additional impacts upon amenities which could be prevented are material to consideration.
31. Bunds will be formed from processed materials already located on the site and from sub-soils and top soils which will be stripped from the site and stored for use in final restoration of the site. No additional external vehicular activities will be required or will arise to enable the earlier construction of bund 4.

32. The matter of construction impacts arising upon retaining walls from the formation of the bunds is not material to the consideration of this application with such matters being a matter for the contractor to consider in the use of appropriate machinery and the proximity to site boundaries. As previously noted, the location of the foot of the bund at six metres away from site boundaries will not impose any additional loadings.

CONCLUSION

The revision to the proposed construction programme of bunds which are needed to protect the amenities of surrounding residents, whilst ensuring the appropriate future extraction of minerals and eventual restoration of the site can be achieved within existing operational controls and will prevent a duplication of disturbance to nearby residents the following year. No changes in the authorised operations of the site will arise and the earlier construction of the bund will also provide screening to residential properties from such operations. Comprehensive landscape treatment of the completed bunds within the current planting season will enable the earlier establishment of planting which will remain until the final restoration of the site is completed. The development is therefore considered to accord with the requirements of the National Planning Policy Framework, the Black Country Core Strategy and saved policies of the Dudley Unitary Development Plan.

RECOMMENDATION

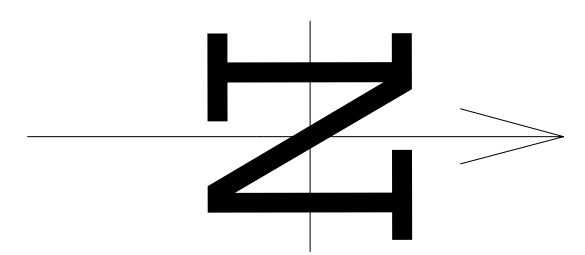
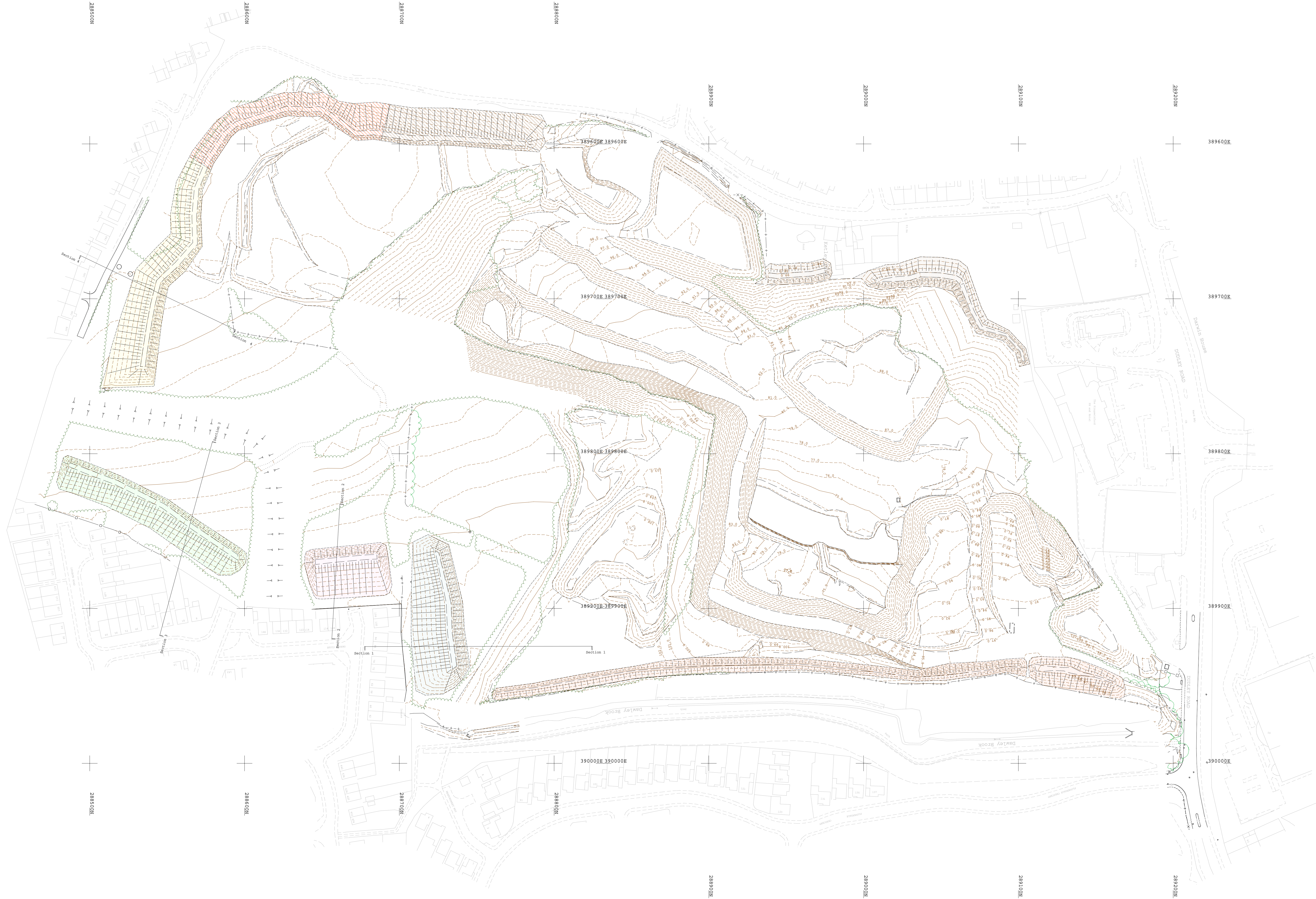
33. It is recommended that the application is APPROVED.

APPROVAL STATEMENT INFORMATIVE

In dealing with this application the local planning authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

P13/1596
Location Plan





- BUND 1 (2012)
- BUND 2 (2013)
- BUND 3 (2014)
- BUND 4 (2015)
- BUND 5 (2016)
- BUND 6 (2017)
- BUND 7 (2018)
- BUND 8 (2019)

A	BUND 2 EXTENDED.	AS	19.10.12	AY
Re	Information	By	Date	Check

REVISIONS

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CLIENT: WCL

LOCATION: KETLEY QUARRY,
DUDLEY.

DRAWING TITLE: PROPOSED BUNDS
CONSTRUCTION PROGRAMME.

SCALE: 1:1000	SHEET SIZE: A0	REV
DATE: 02.02.12	DRAWING NO: 10/068_14	A
DRAWN BY: AS	CHECKED BY: AH	
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