



## Committee Report

Planning Committee South - 27 April 2021

Application no DC/21/1010/VOC

**Location**

Kesgrave Quarry  
Main Road  
Kesgrave  
Suffolk

**Expiry date** 26 April 2021

**Application type** Variation of Conditions

**Applicant** Nicholls Ltd T/A Tippers R Us

**Parish** Little Bealings

**Proposal** Variation of Condition No(s) 3 on application DC/15/5055/FUL - Change of use in Kesgrave Quarry from mineral use to associated parking and access routes for adjacent Trucks R Us Headquarters.

**Case Officer** Katherine Scott  
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### 1. Summary

- 1.1. This application is the first of three variation of condition applications relating to Sinks Pit (also known as Kesgrave Quarry) on this Planning Committee Agenda for determination.
- 1.2. This application relates to the area of land to the west and north-east of the large building used for large scale vehicle and plant hire. which located towards the centre of the former Kesgrave Quarry, also known as Sinks Pit.
- 1.3. The land which is the subject of this /application was granted planning permission to be used for additional parking and turning associated with the existing Headquarters Building under reference DC/15/5055/FUL. A copy of the planning permission is included as Appendix A.

- 1.4. This application seeks to vary condition 3 on Planning Permission, which currently limits activities and HGV movements to the hours of 7am and 7:30pm Monday to Friday and between 7am and 1pm on Saturdays.
- 1.5. The application seeks to vary the hours of operation, to increase the main operating hours to 6am - 7:30pm Monday to Saturday and add restrictions on HGV movements between the hours of 5:30am and 6:00am Monday to Friday or between 5:30am to 6:00 am on Saturdays.
- 1.6. The proposed variations outlined above would align with the hours sought through the other current variation of condition applications for the other areas of the wider site.
- 1.7. The site itself is within the parish of Little Bealings and the access is via an access driveway from Main Road, Kesgrave. Little Bealings Parish Council has Objected to the application. Kesgrave Town Council are in Support.
- 1.8. The Local Ward member (Cllr Hedgely) has commented on this application raising concerns regarding the impacts upon the health and wellbeing of his constituents and advising he intends to speak at the meeting. His comments are included in full within the report below.
- 1.9. The consultation process on this application ran from 15 March 2021 and expired on 31 March 2021.

#### Reason for Planning Committee

- 1.10. The application has been referred to Planning Committee by the Head of Planning Services and Coastal Management due to the consideration of previous applications relating to this site at Planning Committee, and due to the level of public interest in this application and the associated variation of condition applications DC/21/1079/VOC and DC/21/1407/VOC.

#### Recommendation

- 1.11. The application is recommended for approval subject to appropriate conditions as listed in the report.

## **2. Site description**

- 2.1. This application relates to the area of land to the west and north-east of the large building used for large scale vehicle and plant hire located towards the centre of the former Kesgrave Quarry, also known as Sinks Pit.
- 2.2. This site was formerly a minerals extraction quarry, which appears to have commenced following the granting of Planning Permission for "Use of land for the extraction and working of sand and ballast (South of Laundry Cottage)" in 1951 (case reference E1660).
- 2.3. Over the following decades various applications were submitted and planning permissions were granted for various mineral extraction, waste deposits, concrete and tarmac production, and associated activities including:

- Asphalt plants/production in 1958, 1963, 1968, 1970, 1974, 1977, 1982, 1987, 1992 and 1997 (references E1660/7, E1660/7a, , E1660/7c, E1660/7d, C141, C141/1, C141/2, C141, C/92/0996 and C/97/1501),
- concrete plants/production in 1966, 1986 , 1986, 1992 and 1997 (E1660/10, C1400/11, C/89/1949, C/92/1237 and C/97/1501),
- a vehicular workshop in 1966 (E1660/11) with an extension in 1972 (E1660/17),
- tipping of domestic and trade refuse, and associated works in 1969, 1970, 1975, 1978, 1985, 1986, 1988, 1991 (E1660/12, E1660/15, C1400, C1400/3, C1400/7, C1400/13, C88/0015 and C/91/1578),

and

- extensions to the mineral workings in 1955, 1960, 1961, 1963, 1970, 1971, 1975, 1976, 1978, 1979, 1981, 1986, 1987, 1988, and 1997 ( references E1660/2, E1660/3, E1660/8A, E1660/8B, E1660/9, E1660/13, E1660/13A, C1400/1, C1400/2, C1400/4, C1400/5, C1400/6, C1400/8, C1400/10, C1400/12, C1400/13, C/88/1549 and C/97/1501.

2.4. In addition to the above there are various applications to Suffolk County Council (SCC) as the Local Minerals and Waste Planning Authority from 1992 onwards for a variety of proposals relating to minerals extraction, the manufacture of ready mixed concrete and asphalt, and the deposition of waste material. Unfortunately, SCC as determining authority, hold the decision notices and copies of the decisions and associated documents are not all currently available to East Suffolk Council (ESC), as they are not accessible via the SCC website. Therefore, ESC is currently unable to confirm if planning permission was granted or refused for many of those application proposals, so they are not included in the list above. However, these consents do not have a direct bearing on the current variation of condition application, this application relates to a Planning Permission granted by ESC, not SCC, and the consents granted by SCC predominantly relate to areas of land beyond the current application site boundary.

2.5. In 2014, Planning Permission was granted towards the western end of the quarry/pit for:

*"Erection of new headquarters building for vehicle and plant hire operator, comprising workshop, offices, associated vehicle parking, drainage infrastructure and landscaping to allow for the hire, storage and sale of vehicle, plant and machinery." (reference DC/13/3408/FUL).*

2.6. That consent was never implemented and has since expired, but included conditions permitting hours akin to those currently proposed on weekdays (limited HGV movements 5:30am and 7:30pm Monday to Friday, and between 6:00am and 1:00pm on Saturdays, with outside working hours and hours of use of ventilation equipment between 7:00am and 7:30pm Monday to Friday, and between the hours of 7:00am and 1:00pm on Saturdays. The Head of Environmental Services and Port Health did not object to that application. Accordingly, ESC considered that those hours of operation were acceptable in this location.

- 2.7. The current plant hire building and associated land, which lies to the east of the land referred to in the paragraph above was granted planning permission under reference DC/15/4908/FUL as a revised scheme to DC/15/2107/FUL and DC/14/4251/FUL. The land which is the subject of this /application was granted planning permission to be used for parking under reference DC/15/5055/FUL.
- 2.8. Vehicular access to the site is via an access road, which provides vehicular access on to the A1214 at a roundabout. The application site is located predominately within the Parish of Little Bealings, but is accessed via an existing access road, which runs northwards from the eastern roundabout on the A1214, in Kesgrave. There is no direct vehicular access to the site from the parishes of Playford or Little Bealings.
- 2.9. The Parish boundary between Little Bealings and Kesgrave runs east-west across the access road, close to the southern boundary of the gravel pit. There is also a Parish boundary with Playford to the west of the former gravel extraction pit. The site lies outside the defined physical limits of any settlement and is therefore within the countryside. Therefore, all three Parish Councils have been consulted on this application.
- 2.10. A Public Right of Way (public footpath, No 2) runs in a northerly direction up the western side of the access road. Close to the entrance to the pit, the Right of Way turns in a north-easterly direction, changes Right of Way number to no 13 and runs along the northern edge of the woodland area, away from the application site.
- 2.11. To the east of the access road there is an area of woodland. This area of woodland, to the south-east of the pit and to the east of the access road, is covered by Tree Preservation Order (SCDC/50/00020).
- 2.12. The northern section of the wooded area and the area containing the lakes either side of the northern end of the access road is designated as Sinks Pit Site of Special Scientific Interest (SSSI).
- 2.13. The nearest residential dwelling to the access road is 230 Main Road, Kesgrave, which lies to the west of the access road. At the closest point, the dwelling is approximately 40m from the access road. Directly to the west of this dwelling lies Kesgrave High School.
- 2.14. At the closest point the red line of the main part of the application site (the area in the pit) is approximately 170m from the outside wall of the nearest dwelling to the north (Bealings Hoo, Hall Road, granted Planning Permission E339/3 in 1975). The application site would also be approximately 258m from the outside wall of the nearest dwelling to the north-west (Pine Hills, Playford Road, granted Planning Permission C/97/1394, in 1998).
- 2.15. There is a 10m high (above pit floor) bund and vegetated area to the north and North West, along the edge of the former quarry. This area was created as part of the restoration works approved by Suffolk County Council in 1997 (reference C97/1501).
- 2.16. Other uses/activities are taking place in the former quarry, outside the extent of the sites currently under consideration through applications DC/21/1010/VOC, DC/21/1079/VOC and DC/21/1471/VOC.

- 2.17. Many of these uses such as those on the CEMEX site have existed for a number of years, some since the wider site was operational as a mineral extraction site, and therefore at the time they commenced are likely to have fallen under the consideration of Suffolk County Council as the Local Minerals and Waste Planning Authority. The enforcement of conditions on the planning permissions for those uses/activities therefore rests with Suffolk County Council as the Planning Authority who granted the planning permission.
- 2.18. Similarly, if the uses/activities do not have consent and are related to minerals, they also potentially fall within the scope of enforcement by SCC as the Local Minerals and Waste Planning Authority, rather than East Suffolk Council.
- 2.19. As part of an ongoing planning enforcement investigation, copies of the Planning Permissions issued by Suffolk County Council and details of the activities, structures etc granted have been requested from SCC as the Local Minerals and Waste Planning Authority. These are still awaited.
- 2.20. The northern section of the wooded area and the area containing the lakes either side of the northern end of the access road is designated as Sinks Pit Site of Special Scientific Interest (SSSI).
- 2.21. The nearest residential dwelling is 230 Main Road, Kesgrave, which lies to the west of the access road. At the closest point, the dwelling is approximately 40m from the access road. Directly to the west of this dwelling lies Kesgrave High School. At the closest point the red line of the main part of the application site (the area in the pit) is approximately 184m from the outside wall of the nearest dwelling to the north-east (Bealings Hoo, Hall Road). The application site would also be approximately 258m from the outside wall of the nearest dwelling to the north-west (Pine Hills, Playford Road).
- 2.22. There is a 10m high (above pit floor) bund and vegetated area to the north and North West, along the edge of the former quarry. This area was created as part of the restoration works approved by Suffolk County Council in 1997 (reference C97/1501).
- 2.23. Other uses/activities are taking place in the former quarry, outside the extent of the sites currently under consideration through applications DC/21/1010/VOC, DC/21/1079/VOC and DC/21/1471/VOC.
- 2.24. Many of these uses such as those on the CEMEX site have existed for a number of years, some since the wider site was operational as a mineral extraction site, and therefore at the time they commenced are likely to have fallen under the consideration of Suffolk County Council as the Local Minerals and Waste Planning Authority. The enforcement of conditions on the planning permissions for those uses/activities therefore rests with Suffolk County Council as the Planning Authority who granted the planning permission.
- 2.25. Similarly, if the uses/activities do not have consent and are related to minerals, they also potentially fall within the scope of enforcement by Suffolk County Council as the Local Minerals and Waste Planning Authority, rather than East Suffolk Council.
- 2.26. As part of an ongoing planning enforcement investigation, copies of the Planning Permissions issued by Suffolk County Council and details of the activities, structures etc

granted have been requested from Suffolk County Council as the Local Minerals and Waste Planning Authority. These are still awaited.

- 2.27. However, the enforcement investigation process in relation to the other uses/structures on the wider site and the determine of the current variation of condition applications are not dependent upon on another. Therefore, the three current applications are bought before Planning Committee for determination.

### **3. Proposal**

- 3.1. The Planning Permission to which this Variation of Condition application relates to is DC/15/5055/FUL which relates to the area of land to the west and east of existing the Headquarters building. It was determined at officer level and was granted on 8 February 2016, for "*Change of use in Kesgrave Quarry from mineral use to associated parking and access routes for adjacent Trucks R Us Headquarters.*"

- 3.2. The condition proposed to be varied (no 3 on DC/15/5055/FUL) states:

*"No activities or HGV movements shall be carried out on the site other than between the hours of 7am and 7:30pm Monday to Friday and between 7am and 1pm on Saturdays; and no work shall be carried out on Sundays, or Bank Holidays, or outside the specified hours, unless otherwise agreed in writing by the local planning authority.*

*Reason: In the interests of amenity and the protection of the local environment."*

- 3.3. The application seeks to vary the hours of operation, to increase the main operating hours to 6am - 7:30pm Monday to Saturday and add the following into the condition:

*"No more than 12 Heavy Good Vehicle (HGV) movements shall take place on Monday to Friday during the hours of 5:30am and 6:00am or between 5:30am to 6:00 am on Saturdays (a maximum of 12 movements each day), unless otherwise agreed by the Local Planning Authority. Between 6am and the close of the HGV working hours, there is no restriction on the maximum number of HGV movements that can take place."*

- 3.4. There are also two other Variation of Condition application currently under consideration and on this Planning Committee Agenda. They seek to vary the permitted hours on the wider site to align with those sought through the application which is the subject of this report.
- 3.5. Application DC/21/1079/VOC seeks to increase the hours set in conditions 6, 7, 8 & 10 of DC/19/2666/FUL, so that they line up with those currently proposed on this variation of condition application (6am - 7:30pm Monday to Saturday) with restrictions on the number of HGVs between (5:30am and 6:00am or between 5:30am to 6:00 am on Saturdays).
- 3.6. The third variation of condition application DC/21/1471/VOC relates to the existing Headquarters building and associated land which are used for large scale vehicle and plant hire, and associate activities towards the centre of the former Kesgrave Quarry. That variation of condition application seeks:

*"Variation of Conditions 4 and 22 of DC/15/4908/FUL- Erection of new headquarters building for vehicle hire operator comprising workshop, offices, associated parking, drainage infrastructure and landscaping to allow for the hire, storage, workshop and sales of vehicles and machinery (revised scheme to DC/15/2107/FUL and DC/14/4251/FUL) - Variation to operating hours."*

- 3.7. Condition 4 relates to the permitted working hours, which are limited to 7am and 7:30pm Monday to Friday and between 7am and 1pm on Saturdays. It is proposed to be varied to extend the permitted working hours to 6am and 7:30pm Monday to Saturday.
- 3.8. Condition 10 relates to the hours during which ventilation, air conditioning and similar plant can be operated. The condition currently limits the hours to 7am to 7:30pm Monday to Friday, or between 7am and 1pm on Saturdays. The hours are proposed to be extended to be 6am to 7:30pm Monday to Saturday.
- 3.9. The proposed variations outlined above align with one another so the hours sought through all three of the current variation of condition applications, if permitted would result in the same working hours and hours relating to ventilation and similar plant, across the wider site.

#### **4. Consultations/comments**

- 4.1. The consultation process on this application ran from 15 March 2021 and expired on 31 March 2021.
- 4.2. There have been 16 letters of Objection (from 10 different properties) to this application from residents to the north of the site, raising the following material planning considerations:
  - Noise and Disturbance:
    - Increased hours will add to the existing problems of noise pollution and disturbance to local residents, which has already increased over the past 11 months due to increased activity/development and is audible within 'Longacre', a double glazed house.
    - The noise and rumblings of the lorries during increased hours will create increased nuisance, to residents using their gardens.
    - The increased hours in the mornings to 6am will be detrimental to the sleep quality, health and quality of live of those who live nearby.
    - Saturday afternoons and evenings are currently a release from the annoyance. This would be lost with the proposed increase in hours of 18 hours per week would result in ix 14 hour days per week. The Saturday working should be prevented completely.
    - Policy SCLP11.2 states that the Council shall have regard to the impact of noise pollution on residential amenity.
    - NPPF paragraph 180a states that development should "mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life."

- The Noise Policy Statement for England requires that development mitigate and minimise the adverse effect of noise.
- Dust Pollution:
  - Increased hours will add to the existing problems of dust pollution to local residents.
- Light pollution:
  - The lights from the quarry are on from 5:30am until 6:15pm shining into neighbouring properties. Concerned the increased hours will lead to more light pollution in the winter.
- Other/general:
  - Believe the use is inappropriate for this residential environment, and rural area. Such activities should be undertaken away from residential areas.
  - The extension of hours by 20% should not be permitted whilst there are ongoing enforcement investigations by Environment Agency, Suffolk County Council and East Suffolk Council into noise, pollution and out of hours working at Sinks Pit.
  - The additional traffic on the A1214 at very early hours should be of concern to those using, living or working along that road.
  - Concerned that the new conditions will not be enforceable due to activities taking place beyond the currently permitted house.
  - Noise, dust and light pollution reports are under investigation and no extension should be considered until effective action has been taken to eradicate these.
  - This scheme should be subject of an EIA.

4.3. A number of the objections received also raised matters which are not material planning considerations, and therefore can not be considered in the determination of this application. The matters which are not material planning considerations include:

- Personal comments regarding their relationship with the applicant.
- The number of complaints against the activities of the applicant across the Sinks Pit site over the past five years.
- Believe the applicant has made the applications to be awkward because they have complained about the crushing, which should not have been allowed to operate so close to a residential area.
- Comments about maintenance of a lane /track to the north of the site which is under the applicants ownership, but lies outside the application site and is not used in association with it.
- Concerns that the proposed conditions will be breached in the future i.e. other machinery and equipment will be used as well as lorry movements during the earlier hours.

4.4. The full text of the representations can be viewed online via the public access system.

4.5. Some of the representations suggested other residents should have been consulted via letter. The consultation process on this application exceeded the requirements of our



Statement of Community Involvement, which itself goes beyond the requirements of the Town and Country Planning General Development Procedure Order. A site notice was posted. Letters were sent to local residents who are close to the site and/or who commented on the previous application relating to this part of the site, rather than just those who physically share a boundary with the site. Officers are therefore confident that the level of public consultation is appropriate in this instance.

## Consultees

### Parish/Town Council

Consultee	Date consulted	Date reply received
Little Bealings Parish Council	5 March 2021	26 March 2021
<p><i>"After discussion at its meeting on 23 March 2021 the Council resolved:</i></p> <p><i>o that the Council objected to the application on the grounds that it breached Local Plan Policy SCLP 4.3 by proposing the intensification of an employment site, as productivity enhancement of the site would result in an unacceptable adverse effect on the living conditions of local residents in relation to noise, vibration and dust and, as proven by the existence of over 6,000 residents' complaints to the existing operations in the preceding five years, these adverse impacts have yet to be successfully mitigated.</i></p> <p><i>o that an EIA should be required by ESC before the application was determined"</i></p>		

Consultee	Date consulted	Date reply received
Kesgrave Town Council	9 March 2021	19 March 2021
<p><i>"Support"</i></p>		

Consultee	Date consulted	Date reply received
Playford Parish Council (neighbouring Parish)	5 March 2021	No response
<p>Summary of comments: No response received</p>		

### Non statutory consultees

Consultee	Date consulted	Date reply received
Head of Environmental Services and Port Health	5 March 2021	24 March 2021
<p>Summary of comments: Advise that they have received a number of complaints about noise, dust and light nuisance from the operations at Sinks Pit.</p>		

Investigations are ongoing with SCC and the EA into the various sources of noise across the wider site, to determine whether these allegations constitute a statutory nuisance.

Due to COVID-19, they have not been entering properties to assess noise nuisance, so they cannot say with certainty if the noise is audible inside properties/to what level, but they would expect it to be.

Much of the noise is associated with operations at the east of the site and therefore outside the scope of these applications, but there is noise from the middle and west of the site including reversing alarms, loud bangs, metal on metal noise from loading machinery on to vehicles, other alarm noise, tracked vehicle noise etc, which are audible outside the yard and at residential properties in the vicinity.

Under noise control British Standards, the current hours are 'daytime', those proposed i.e. 6-7am would be 'night time'. Background levels are likely to be lower 6-7am than from 7am onwards which may adversely affect the judgement of statutory nuisance. To be a nuisance in law, a noise has to unreasonably and significantly interfere with the use and enjoyment of property.

The current hours give residents respite from the noise during closed times. Consider the noise at Sinks Pit to be similar to construction so recommend the same hours (7.30-18.00 Monday to Friday; and 8.00-13.00 on Saturdays). In their view activities have taken place outside permitted hours and therefore consider extended hours would be difficult to enforce.

Consider that the use of the office block for the extended hours is unlikely to cause nuisance. Quote policy SCLP4.3.

Recommend refusal until their investigations into potential statutory nuisance have been completed.

Consultee	Date consulted	Date reply received
Ward Councillor (Cllr Hedgeley)	N/A	8 April 2021

*"I am aware that the Sinks Pit Applications will come before the full committee in due course and I shall have the opportunity to speak then.  
However in the mean time I would like it recorded that my overriding concern is for the health and wellbeing of my constituents in Playford Road and Laundry Lane, plus others, though fewer, further afield.  
The noise and dust pollution has been recorded and well established and it is beholden on the person or persons causing any pollution to justify any non-compliance and it is not their right to increase such activities although it is their right to ask if they can. It is for the responsible agencies to enforce the law and I will be calling for them to do so at the full Planning Committee meeting when it takes place. It is not my argument to prevent anyone from carrying out their lawful business. The chance of continuing and indeed increasing employment does not give anyone the right to bypass the basic laws of health and care towards others. Surely the lessons of the past in other parts of the world, albeit of a greater magnitude, have taught us something."*

## **Publicity**

None

## **Site notices**

General Site Notice

Reason for site notice: General Site Notice

Date posted: 10 March 2021

Expiry date: 31 March 2021

## **5. Planning policy**

5.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that “where in making any determination under the planning Acts, if regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

5.2. The East Suffolk Council – Suffolk Coastal Local Plan was adopted on 23 September 2020 and the following policies are considered relevant:

SCLP4.3 - Expansion and Intensification of Employment Sites

SCLP11.2 - Residential Amenity

## **6. Planning considerations**

6.1. The principle of the use of these areas of land for parking, turning and associated activities connected with the adjacent large vehicle/plant hire business has already been established through the granting of Planning Permission DC/15/5055/FUL, which has been implemented and is operational on site.

6.2. Therefore, the determination of this application cannot reconsider the principle of the use and activities permitted on this part of the Sinks Pit/ Kesgrave Quarry site. The only matters which can be considered are the material planning considerations arising from the proposed restriction on early morning HGV movements and the proposed additional operating hours.

6.3. The application proposes to add an additional restriction to the existing planning permission in the form of a restriction on the number of early morning HGV movements to be no more than 12 between the hours of 5:30am and 6am Monday to Saturday.

6.4. The application also proposes to extend the overall operational hours from

- 7am and 7:30pm Monday to Friday and between 7am and 1pm on Saturdays,
- to
- 6am - 7:30pm Monday to Saturday.

6.5. Both the existing and proposed conditions require no activities to take place outside these hours and/or on Sundays and Bank Holidays.

## Residential Amenity and relationship with Environmental Protection Legislation

- 6.6. This application does not relate to any other part of the wider Sinks Pit site or any other activities taking place in those areas. Therefore, if permitted the extended hours on this application would only relate to the parking and turning areas granted planning permission under DC/15/5055/FUL. This variation of condition application would not alter the permitted use or hours of any of the other activities taking place on the wider site.
- 6.7. This is one of three current variation of condition applications scheduled for determination at this planning committee meeting (DC/21/1010/VOC, DC/21/1079/VOC and DC/21/1407/VOC). The three applications seek to vary the hours of activity in relation to the existing plant hire business, its extended parking/turning area and the yet to be constructed additional buildings for plant hire towards the western end of the pit.
- 6.8. The hours are proposed to be varied across the three applications, to align the existing planning permissions with one another, so all of the areas within the pit used for/in association with the plant hire business would be permitted for the same activities during the same hours.
- 6.9. The buildings permitted at the western end of the pit, have been granted planning permission to operate HGV movements from 5:30am Monday to Friday, and from 6am on Saturdays, where as the areas of land permitted for parking and turning, which are the subject of this current application are currently only permitted to operate HGVs from 7am Monday - Saturday. The Head of Environmental Services and Port Health did not object to that application.
- 6.10. If a revised application came forward, it would be unreasonable for the Local Planning Authority to restrict the hours to less than those already granted, as they have been deemed appropriate, and the adoption of the Local Plan in September 2020, did not materially alter the policy approach or local circumstances affecting such proposals on this site. This application seeks to tie up the hours across the areas of the site controlled by East Suffolk Council as the Local Planning Authority.
- 6.11. Given that the nature of the use of the land as parking/turning areas associated with a plant hire business, which is the subject of this variation of condition application is the same as the parking and turning activities permitted at the western end of the site with the earlier start time for limited HGV movements of 5:30am Monday to Friday, and that the current application areas are no closer to residential properties than the area already permitted with these hours. The principle of these additional hours for limited HGV movements Monday to Friday could not be reasonably resisted.
- 6.12. There are a number of other potentially noisy activities taking place across the wider sinks pit site including the concrete batching plant, or the storage and sorting of aggregates and similar materials. As acknowledged in the comments from the Head of Environmental Services and Port Health "*Much of the noise audible at the complainants' dwellings is associated with operations at the east of the site and therefore outside the scope of these applications.*"

- 6.13. The noise generating activities on the wider site, including those towards the eastern end of the pit cannot be controlled or prevented through the determination of this application.
- 6.14. Whether or not any of the various the activities across the wider site either in isolation or cumulatively may following the ongoing investigations be considered to be a 'statutory nuisance' is a matter for Environmental Protection through their legislation.
- 6.15. The role of the planning system is also not to duplicate matters that are controlled by other regulations, and as such the Local Planning Authority cannot seek to refuse this application on the basis of what the Environmental Services Team may or may not conclude in the future following their investigations as to whether a 'statutory nuisance' is being created.
- 6.16. In determining this variation of condition application, the Local Planning Authority simply has to consider if the extended hours to the parking and turning areas for the vehicles associated with the existing plant hire business would result in sufficient harm to residential amenity to warrant refusal of planning consent and/or if there are any material planning benefits which would outweigh any such harm.
- 6.17. Policy SCLP11.2 relates to Residential Amenity. It states:

*"When considering the impact of development on residential amenity, the Council will have regard to the following:*

*a) Privacy/overlooking;*

*b) Outlook;*

*c) Access to daylight and sunlight;*

*d) Noise and disturbance;*

*e) The resulting physical relationship with other properties;*

*f) Light spillage;*

*g) Air quality and other forms of pollution; and*

*h) Safety and security.*

*Development will provide for adequate living conditions for future occupiers and will not cause an unacceptable loss of amenity for existing or future occupiers of development in the vicinity."*

- 6.18. There are no physical changes proposed as part of this application. Therefore, there are no concerns regarding privacy/overlooking, outlook, access to daylight and sunlight, the resulting physical relationship with other properties, light spillage, air quality and other forms of pollution, or safety and security. These were all matters considered during the determination of the original planning application for the use of these areas of the Sinks pit site for parking and turning associated with the plant hire business operations.
- 6.19. The remaining residential amenity considerations within Policy SCLP11.2 relevant to the determination of the current application are noise and disturbance.
- 6.20. The nearest property to the northern parking and turning area is Bealings Hoo, which is located to the north beyond the bund, and its nearest external wall is approximately 170m from the northern edge of the parking and turning area. The northern part of the parking and turning area is also be approximately 258m from the outside wall of the nearest dwelling to the north-west (Pine Hills, Playford Road).

- 6.21. Given the distanced from the nearest residential properties, the changes in ground levels and the ability to control the hours of vehicular activity, there would not be a sufficient impact upon residential amenity to Bealings Hoo, Pine Hills and the other dwellings to the north to sustain a refusal of planning consent.
- 6.22. The nearest residential dwelling to the access road is Bracken Hall, 230 Main Road, Kesgrave, which lies approximately 40m from the access road. This property is significantly closer to the access road which would be used by HGVs during the increased hours, than the dwellings to the north. That property was notified of the application via letter, but no response has been received. If the current application were to be permitted, there would be HGV traffic past this property associated with the parking and turning areas during more hours than those currently permitted. However, background noise levels at this property are already likely to be higher than those at the properties to the north, even during early morning and on Saturday afternoons, because it is closer to the A1214, Main Road, Kesgrave which is one of the main access routes into and out of Ipswich, and as a public highway can be used by HGVs and other vehicles 24 hours a day 365 days a year. Therefore it is considered that the potential impacts of noise and disturbance upon 'Bracken Hall' would be insufficient to sustain a refusal of planning consent.
- 6.23. Whilst the impacts of noise and disturbance arising from the increased hours would be insufficient to sustain a refusal of planning consent in this case, the granting of the proposed variation of condition, would not prevent the Environmental Protection Team taking formal action under their legislation in relation to noise and disturbance they may deem to be a 'statutory nuisance' in the future.

Expansion and Intensification of Employment Sites and Economic Considerations

- 6.24. The NPPF recognises the importance of building and supporting a strong competitive economy. In Paragraph 80 it states:

*"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development....."*

- 6.25. The proposed increase to the hours would enable the existing business to operate for longer hours, potentially enabling it to undertake a greater amount of business, increasing its contribution to the local economy. The nature of the existing business means that it enables and supports the construction industry across the district and beyond, and other aspects of the wider economy. This is a significant factor weighing in favour of the proposals, as it will help the economy to grow post COVID-19.
- 6.26. Policy SCLP4.3 relates to the 'Expansion and Intensification of Employment Sites'. It allows for proposals to expand, alter or make productivity enhancements to existing employment premises, unless:
- "a) The scale of development would cause a severe impact on the highway network;*
  - or*
  - b) There will be an unacceptable adverse effect on the environmental sustainability of the area; or*

*c) The proposed use is not compatible with the surrounding employment uses in terms of car parking, access, noise, odour and other amenity concerns; or  
d) There is an unacceptable adverse effect on the living conditions of local residents and businesses relating to matters of noise, vibration, dust and light; and  
e) Potential adverse impacts can not be successfully mitigated..."*

- 6.27. The proposed expansion of the hours would result in additional traffic movements along Main Road, Kesgrave before 7am and on Saturday afternoons, but this would be outside normal 'rush hour' times, and the HGVs etc are already using this road and the wider road network. Therefore, there would not be a severe impact upon the highway network.
- 6.28. The increase in the working hours would not be altering the business activities taking place on site or the ground area permitted for these uses. Therefore, there are no significant concerns regarding the environmental sustainability of the area.
- 6.29. This application relates to the times at which the parking and turning areas can be used, rather than a change in the type of use of the land. The other employment uses within the pit are also related to construction, such as the aggregates storage, the cement batching and the permitted but yet to be constructed additional buildings for plant hire at the western end of the pit. There are no concerns regarding compatibility with the surrounding employment uses in terms of parking, access, noise, odour or other amenity concerns.
- 6.30. As explained in the residential amenity section of this report this proposal is deemed acceptable in terms of material planning considerations in relation to residential amenity impacts.
- 6.31. Therefore, the scheme accords with Policy SCLP4.3 and the economic objectives of the NPPF.

#### Other matters raised with Consultation responses.

- 6.32. Little Bealings Parish Council has suggested that an Environmental Impact Assessment (EIA) should be required before the application is determined. However, this application is not seeking to establish a new use or operational development, it is simply seeking to vary the hours of operation. Therefore, it falls outside the scope of the Environmental Impact Assessment Regulations.
- 6.33. The third party consultation responses have raised concerns regarding external lighting being on longer than the permitted hours. The Planning Permission for these parking/turning areas, DC/15/5055/FUL, does not contain any conditions controlling external lighting or its hours of use. Therefore, this is not a matter that can be considered or dealt with through this current application.

## **7. Conclusion**

- 7.1. The proposed variation to the hours of use of the parking/turning areas permitted under DC/15/5055/FUL would align the hours of use for limited HGV movements Monday to Friday with those permitted on the yet to be constructed buildings and parking/turning areas towards the western end of the Sinks Pit site. There are no material planning reasons to justify resisting the alignment of this element of the permitted hours.

- 7.2. It is accepted that the additional main working hours (6am start instead of 7am start Monday to Saturday, and 7:30pm finish instead of 1pm on Saturdays) would increase the hours of activity on this parking and turning areas of the site. However, given the distances from the nearest residential properties, the other industrial type uses that operate elsewhere within the wider Sinks Pit site, and that the Sinks Pit site has been permitted and operational for activities associated with aggregates since the 1950s, it would be extremely difficult for the Local Planning Authority to seek to resist the proposed variation in the permitted hours for these parking and turning areas.
- 7.3. The Local Planning Authority cannot seek to refuse planning permission on the basis of non-planning legislation and the yet unknown conclusions of an ongoing investigation by Environmental Protection, Suffolk County Council and the Environment Agency. If that investigation subsequently concludes a 'Statutory Nuisance' from any part of the whole Sinks Pit site, action would still be possible under the Environmental Protection Legislation.
- 7.4. Therefore, this application to vary condition 3 of DC/15/5055/FUL is recommended for approval subject to conditions.
- 7.5. As this is a variation of condition application, all applicable conditions from the original Planning Permission (DC/15/5055/FUL) have to be reimposed with appropriate modifications to the wording to reflect the implementation of that consent, including the removal of condition 1 which set out the timeframe for implementation, and the variations to the wording of condition 3 (Hours of Operation) sought through this current application. The proposed wording of the conditions with these modifications are set out below.

## **8. Recommendation**

- 8.1. Approve subject to the conditions detailed below.

### **Conditions:**

1. The development hereby permitted shall not be carried out other than in complete accordance with Drawing Nos TR3 JTA PR AL 050 P1 received on 17 December 2015 and Drawing TR2 JTA EX AL 001 P2 received 5 February 2016.  
Reason: For avoidance of doubt as to what has been considered and approved.
2. No more than 12 Heavy Good Vehicle (HGV) movements shall take place on Monday to Friday during the hours of 5:30am and 6:00am or between 5:30am to 6:00 am on Saturdays (a maximum of 12 movements each day), unless otherwise agreed by the Local Planning Authority. Between 6am and the close of the HGV working hours , there is no restriction on the maximum number of HGV movements that can take place.  
Reason: In the interests of amenity and the protection of the local environment
3. Prior to the hereby approved parking and turning areas, being used for vehicles for hire and/or sale through the business operating in the adjacent building (approved under DC/15/2107/FUL and revised scheme under consideration DC/15/4908/FUL), all areas within the current application site shall be connected to the surface water drainage system as per drawing 47022/C/10 A and associated drainage statement received 5 December 2015 in



connection with application DC/15/4908/FUL, or any revised drainage system approved under application/consent DC/15/4908/FUL).

Reason: To prevent an increase in the risk of flooding to the proposed development and elsewhere, and ensure a suitable drainage approach is adopted for the management of surface water.

4. Vehicle loading/unloading bays and storage areas involving chemicals, refuse or other polluting matter shall not be connected directly to the surface water drainage system.  
Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the Principle Aquifer underlying the site and adjacent surface water from potential pollutants associated with current and previous land uses), in line with National Planning Policy Framework (NPPF; Paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection; Principles and practice (GP3) 2013 position statements.
5. All cleaning and washing operations should be carried out in designated areas isolated from the surface water system and draining to the foul sewer (with the approval of the sewerage undertaker). The area should be clearly marked and kerb surround is recommended. This should be as per the drainage details approved in association with the consent for the building.  
Reason: To protect and prevent the pollution of controlled waters (particularly groundwater associated with the Principle Aquifer underlying the site and adjacent surface water from potential pollutants associated with current and previous land uses), in line with National Planning Policy Framework (NPPF; Paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater protection; Principles and practice (GP3) 2013 position statements.

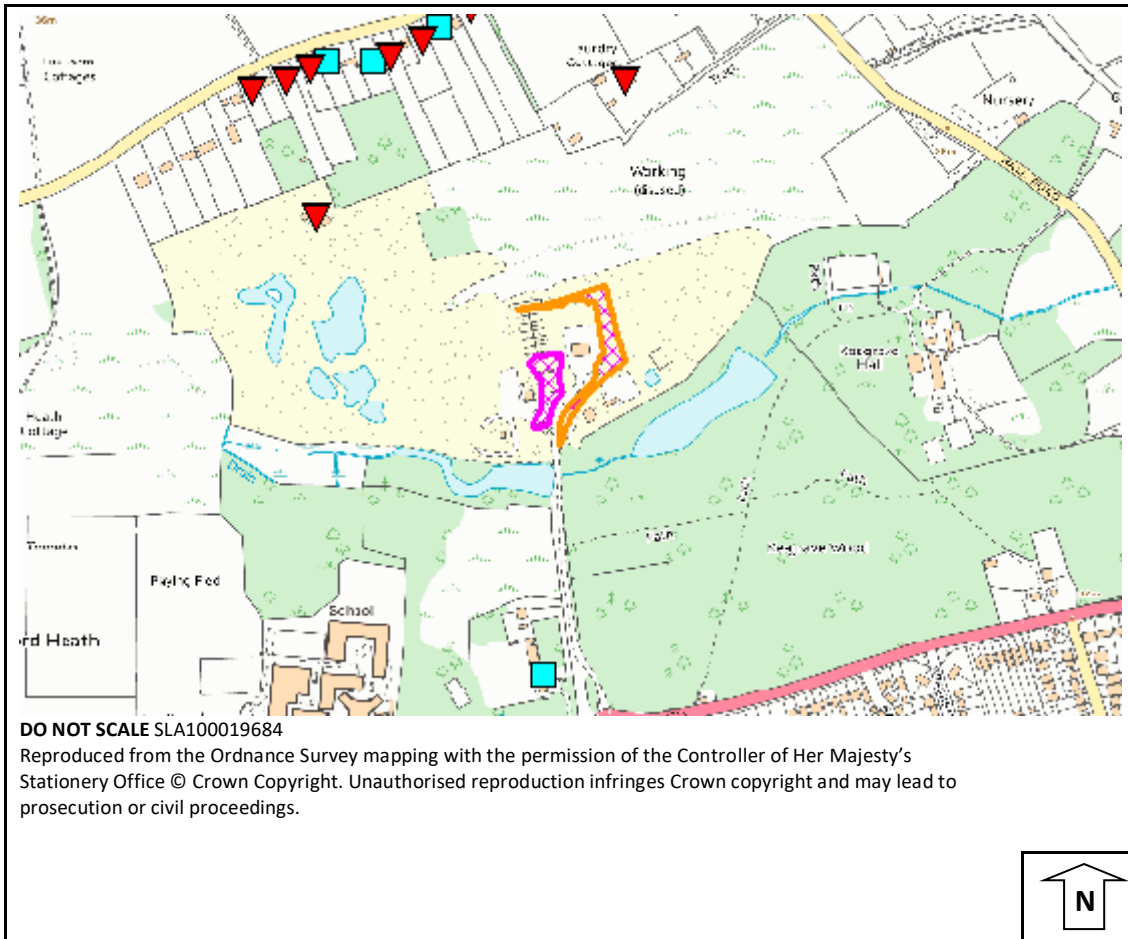
#### **Informatives:**

1. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.





#### **Background information**

See application reference DC/21/1010/VOC on [Public Access](#)

# Map



## Key

-  Notified, no comments received
-  Objection
-  Representation
-  Support