

# Wivenhoe Quarry

## Waste Recovery Plan

Tarmac Trading Limited

Report No. K6008-ENV-R001

December 2021

Revision 01



**BYRNELOOBY**

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## Document Control

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			Prepared By	Checked By	Approved By
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**Disclaimer: Please note that this report is based on specific information, instructions and information from our Client and should not be relied upon by third parties.**

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### Drawings

- W328-00062-01-D Site Location
- W328-00062-02-D Existing Situation
- W328-00062-03-D Working Scheme
- W328-00062-12-D Outline Restoration
- W328-00062-13-D Cross Sections

# 1 Introduction

## 1.1 Report Objectives

This Waste Recovery Plan (WRP) has been produced to support a bespoke permit application for a recovery activity which will be operated by Tarmac Trading Limited (the Operator) to restore the “land to the south of Colchester Main Road (known as Sunnymead, Elmstead and Heath Farms), Arlesford, Essex, CO7 8DB” as required by Planning Permission ESS/17/18TEN. Planning Permission ref ESS/17/18/TEN has been granted by Essex County Council on 18<sup>th</sup> December 2020 for the extraction of sand and gravel as an eastern extension to the existing Wivenhoe Quarry, followed by restoration to agriculture and low-level water-based nature conservation habitats, lowland meadow, woodland planting and hedgerow enhancement.

Returning part of the land to agriculture and the biodiversity enhancements formed by the landscaped topography are key outcome requirements of the permission and a Section 106 Legal Agreement (S106) has been entered into to ensure that the required restoration and long-term maintenance in accordance with the Planning Permission are implemented.

This WRP has been written with due regard to the following relevant guidance:

- Environment Agency (April 2021) Waste recovery plans and deposit for recovery permits
- Environment Agency (April 2021) Check if your waste is suitable for deposit for recovery
- Environment Agency (April 2021) Waste acceptance procedures for deposit for recovery
- Environment Agency (May 2013) RGN 9: Surrender. Guidance on how land and groundwater should be protected at permitted facilities.
- Environment Agency (March 2013) Environmental permitting guidance: Core guidance. Revised March 2020.

## 1.2 Legislative Background

The Waste Framework Directive<sup>1</sup> (WFD) (as amended by Directive 2018/851) defines recovery vs disposal and provides the following definitions:

*‘recovery’ means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy; and*

*‘disposal’ means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy.*

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<sup>1</sup> Directive 2008/98/EC of the European Parliament and of the Council, 19 November 2008



The Environment Agency's electronic guidance on *Waste recovery plans and deposit for recovery permits*<sup>2</sup> notes:

*“Depositing waste is only a recovery activity if you have shown that you could and would have carried out the works using non-waste material.”*

The Guidance goes on to suggest three main ways that it can be shown that non-waste would be used for the proposed works. Evidence to support the recovery of waste includes:

1. Financial gain or other worthwhile benefit by using non-waste materials;
2. Funding to use non-waste materials; and
3. Obligations to complete the scheme.

The ‘obligation to complete the scheme’ is clarified in the guidance as;

*“This could be because a regulator has imposed a requirement on you so you would have to do the work whether you use waste or non-waste. For example, if you operate a quarry and are required by planning conditions of an already implemented planning permission to restore it according to an approved plan.”*

The quarry site is obliged by the Planning Permission (ref ESS/17/18/TEN) to restore the site in accordance with an approved scheme on a phased basis during the operational life of the quarry. A copy of the Planning Permission can be found in Appendix B, and a clarification note as Appendix A

## **2 Site Setting**

### **2.1 Site Location and Description**

The site is located between Wivenhoe and Alresford at Elmstead Heath, some 3.5km to the south-east of Colchester, Essex and is centred at National Grid Reference (NGR) TM 05855 22582. The site is surrounded predominantly by agricultural land, isolated dwellings, woodland and water bodies. The dominant land use in the area is agricultural, specifically arable cropping, with a number of Sand and Gravel quarries in the wider area.

The B1027 bounds the northern perimeter of the site and will provide the main access route to the site. Several residential properties are situated along this road to the north and east of the site. Isolated dwellings are also located to the south and west of the site. The Sixpenny Brook flows north to south adjacent to the western boundary of the site. The site location is illustrated on Drawing W328-00062-01-D.

The site covers an area of ~60.9ha and currently exists as agricultural field parcels delineated by hedgerows. The site is bisected by a Public Right of Way (footpath), which is an important

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<sup>2</sup> <https://www.gov.uk/government/publications/deposit-for-recovery-operators-environmental-permits/waste-recovery-plans-and-deposit-for-recovery-permits>

recreational asset to the area around the site and a series of overhead power lines. The topography of the site rises from ~27mAOD along the western edge of the site to ~30mAOD within the central part of the site. Towards the north-east the ground elevation remains relatively flat. There is a fall in topography towards the south-east of the Site near Cockaynes Wood with elevations at Willow Lodge at ~27.5mAOD . The site topography is illustrated on Drawing W328-00062-02-D.

## 2.2 Site Development

The site is being developed as an extension to the existing Wivenhoe Quarry for the extraction of approximately 3.8 million tonnes of sand and gravel. The historical quarry and proposed extension are physically separated by the Sixpenny Brook, which hydrogeologically separates the two schemes. The site is set out within the Essex Minerals Local Plan as a “Preferred and Reserve Site” which provides “particular opportunities for new habitat areas”. The proposed mineral extraction zone covers an area of ~43.4ha and it is this area which will concern recovery activity. The quarry will be developed in a phased manner in accordance with the requirements of the Planning Permission as illustrated on Drawing W328-00062-03-D.

Condition 23 of the Planning Permission requires the Operator to *“restore phases in a sequential manner such that there are no more than three phases to be open at any one time and that full restoration of the previous phase must take place prior to commencement of the next phase.”*

This is to ensure compliance with the Essex Minerals Local Plan Policy S12 which states that *“proposals for minerals development will be permitted provided that it can be demonstrated that the land is capable of being restored at the earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and/ or local communities”*.

The restoration scheme for the site is illustrated on Drawing W328-00062-12-D. The site is to be restored to a mixture of agriculture and low-level water-based nature conservation habitats, lowland meadow, woodland planting and hedgerow enhancement using approximately 1.2 million cubic metres of imported inert materials. The imported material quantity is expected to be approximately a third of the intended extractable mineral, which will be used to supplement on-site excavated materials *i.e.* quarry overburden and interburden. Therefore, the quantity of imported material required will be dependent on the proportion of recovered mineral. Materials will be imported throughout the operational period of the quarry at a rate proportional to the mineral output.

Mineral raised from the quarry area will be transported to a Plant Site located within Phase 1 for processing. Minerals will be transported to the plant site in dump trucks via internal haul roads to be processed and then sold.

## 2.3 Impact of Development on Agricultural Classification of Land

The site has been characterised as a mixture of Sub-grade 3a, Sub-grade 3b and Grade 4 Agricultural Land. The Best and Most Versatile (BMV) land is defined as Grades 1, 2 and 3a. This is the land which

is most productive and therefore national and local planning policies aim to protect the BMV agricultural land from irreversible development.

The planning application for the site included a Soil and Agriculture Impact Assessment. Condition 67 of the Planning Permission requires the Operator to produce an aftercare scheme outlining steps that are necessary to bring the land to the required standard for agricultural, amenity and habitat use. This will ensure the satisfactory restoration of the site for agricultural, amenity and habitat use and in accordance with Minerals Local Plan Policies.

## 2.4 Geology

The geology at the site comprises of the Kesgrave Catchment Subgroup (superficial sediments) underlain by a marine clay bedrock of the Thames Group (formerly and more widely known as the London Clay). Towards the north-eastern edge of the site, the Kesgrave Catchment Subgroup is overlain by cover sand. A detailed description of the site geology is provided in the supporting report Hydrogeological Appraisal.

## 2.5 Hydrogeology

The Kesgrave Catchment Subgroup is classified by the Environment Agency as a Secondary A Aquifer (minor aquifer). A Secondary A aquifer is defined by the Environment Agency as “*permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers*”. The cover sand is classified as a Secondary B aquifer which is defined by the Environment Agency as “*predominantly lower permeability layers which may store and yield limited amounts of groundwater due to localised features such as fissures, thin permeable horizons and weathering.*”

The underlying Thames Group is classified as unproductive strata (non-aquifer) and acts as a natural geological barrier. Its presence isolates the overlying deposits from the underlying Woolwich and Reading Beds and Upper Chalk.

The site is positioned within Source Protection Zone (SPZ) 3 defined as the area around a source within which all groundwater recharge is presumed to be discharged at the source.

Groundwater flow within the superficial deposits is dominated by a combination of the high conductivity of the Sand and Gravel deposits, in combination with the topography of the Thames Group and the spring line where the Thames Group outcrops above the Sixpenny Brook. Groundwater flow is therefore expected to be towards the Sixpenny Brook which is the nearest watercourse to the site. Groundwater within the superficial deposits is in hydraulic continuity with the Sixpenny Brook and the water bodies on and near the site and provides baseflow to the brook. A detailed description of the site hydrogeology is provided in the supporting report Hydrogeological Appraisal.

## 2.6 Hydrology

The Sixpenny Brook flows north to south past the western boundary of the site. The Sixpenny Brook flows into the Alresford Creek, a tributary of the River Colne, approximately 3.8km south of the site. There are a number of nearby lakes which are expected to be in continuity with the underlying groundwater and river network. The closest lakes are a short distance (~90m) to the south of the site and above the Sixpenny Brook.

There is a second surface water course, Tenpenny Brook, some 1.2km to the east of the site, which also flows in a north to south direction to form the headwaters of Alresford Creek.

The site is located within Flood Risk Zone 1 which means it is land assessed as having a less than 1 in 1,000 annual probability of river or sea flooding. The site is therefore considered to be at low risk from flooding. A detailed description of the site hydrology is provided in the supporting report Hydrogeological Appraisal.

## 2.7 Abstractions

There are numerous abstraction licences held within 500m of the site. These are predominantly used for agriculture (spray irrigation) and mineral washing.

## 2.8 Habitats Sites

A search of the Magic website (<http://www.magic.gov.uk/>) has identified the following habitats/Natura 2000/European sites within a 2km radius of the site:

- Wivenhoe Gravel Pit – Site of Special Scientific Interest (620m north-west)
- Essex Estuaries – Special Area of Conservation (770m south-west)
- Colne Estuary – Ramsar Site, Site of Special Scientific Interest and Special Protection Area (1km south)
- Upper Colne Marshes - Site of Special Scientific Interest (1.5km south-west and south of the Colne Estuary)
- Colne Local Nature Reserve - Local Nature Reserve (1.7km west and west of the town of Wivenhoe)

There are no habitats/Natura 2000/European sites within 500m of the site. It is considered unlikely that there will be any significant impact on nearby designated sites from the proposed development due to their proximity to the site.

## 2.9 Air Quality

The site is not located within an Air Quality Management Area (AQMA) for PM<sub>10</sub>, NO<sub>x</sub> or SO<sub>2</sub>.

### 3 Waste Recovery Plan

#### 3.1 Purpose of the proposed development

The purpose of the proposed recovery operation is to import suitable materials to contribute to the restoration of the “land to the south of Colchester Main Road (known as Sunnymead, Elmstead and Heath Farms), Arlesford, Essex, CO7 8DB” as illustrated on Drawing W328-00062-12-D. Mineral extraction and the recovery activity will take place alongside one another in accordance with the Planning Permission which obliges the Operator to progress the site in a phased manner. The imported material will be used to supplement on-site excavated materials *i.e.* quarry overburden and interburden in order to comply with the Planning Permission.

The site has been allocated within the Essex Minerals Local Plan as a “Preferred and Reserve Site” which provides “particular opportunities for new habitat areas”. The aim of the restoration is to return the site to a combination of agricultural use and low-level water-based nature conservation habitats, lowland meadow, woodland planting and hedgerow enhancement. A scheme to produce the required standard of restoration and 5 year aftercare programme has been set out by Essex County Council via Condition 67 within the Site’s Planning Permission. A Section 106 Legal Agreement (S106) has been entered into requiring the restoration and long-term maintenance in accordance with the Planning Permission (Appendix C).

In accordance with Policy 12 of the Essex Minerals Local Plan, Planning Permission for the site has been granted on the assurance that the site will be restored at the “earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and/ or local communities”. The Operator is required to restore working areas of the site before progressing to the next phase of mineral extraction. Essex County Council have clarified the nature of the imported materials to be imported are not specified in the Planning Permission in their email of 19 November 2021 (appended) that the site is expected to be operated as a Recovery Operation under a suitable Environment Agency permit.

The Site lies entirely within Flood Zone 1. In accordance with the National Planning Policy Framework (NPPF), the proposed development is a water compatible development and will not significantly impact on site drainage or divert water into a surface water course, exacerbating flood risk elsewhere. This has been demonstrated through the Flood Risk Assessment (FRA) which was submitted and approved with the issue of the Planning Permission.

#### 3.2 Quantity of waste to be used

The proposed Permitted Boundary will be the same as that illustrated on Drawing W328-00062-12-D and labelled “Boundary: Application Site”. The cross-sections on Drawing W328-00062-13-D illustrate the maximum depth of mineral extraction to take place at the site and level of fill required to restore the site in accordance with the approved restoration profile. The final restoration contours are controlled by the Planning Permission for the site and are illustrated on Drawing W328-00062-12-D.

It has been estimated that approximately 1.2million m<sup>3</sup> of infill materials will be required to restore the site back to the approved Planning Permission levels. This equates to 1.9 – 2.3 million tonnes of material at a density of 1.6 – 1.9T/m<sup>3</sup>. The final quantity of imported material will depend on how much quarry overburden and site derived non-commercially viable material is present. It is proposed that inert restoration materials will be imported at a maximum rate of 60,000m<sup>3</sup> per annum.

The minimum amount of waste is being used to achieve the benefit as it is restoring the mineral working back to a combination of water habitat and low level landform in accordance with the site's Planning Permission. There is no increase in contour heights over the existing contours and therefore no additional void has been created by for example, constructing a domed profile above predevelopment contours.

The importation of wastes is to offset/replace the removal of the minerals. All overburden, subsoils and topsoils will be stripped and stockpiled for reuse in the restoration when mineral extraction ceases in each phase. The reuse of the *in-situ* overburden and soil materials also ensures that the use of waste materials is kept to a minimum by not creating additional waste void through export of overburden and soil materials off site. Any mineral processing residues, out of specification materials and non-saleable materials are returned to the site to minimise the need for imports.

### 3.3 Source and types of Waste Materials

The Planning Permission for the site restricts the types of infilling materials to inert materials only. All wastes will be handled in accordance with the site's Environmental Management System (EMS), which has been compiled for the proposed activity, along with site specific risk assessments that will accompany the Environmental Permit application. This will ensure that the materials to be used are suitable for their intended use.

The site's EMS sets out waste acceptance procedures which have been produced in accordance with the Environment Agency's guidance on *Waste acceptance procedures for deposit for recovery*<sup>3</sup>. All wastes used in the recovery activity will be accepted in accordance with the requirements of Duty of Care. In addition to this, pre-acceptance checks will be carried out to assess the available information and this may include:

- EWC according to the European Waste Catalogue;
- Source and origin of the waste;
- Information on the waste production process;
- Results of any testing e.g. chemical composition, appearance (smell, colour, physical form);

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<sup>3</sup> <https://www.gov.uk/government/publications/deposit-for-recovery-operators-environmental-permits/waste-acceptance-procedures-for-deposit-for-recovery>

All wastes will be inspected visually on arrival (where possible) and again at the point of deposit. If the waste does not conform to the accompanying documentation, then the load will be rejected in accordance with the rejection procedure set out within the site's EMS.

The waste materials to be used for restoration of the site will be predominantly sourced from local development projects. It is anticipated that a significant proportion of the material accepted will originate from greenfield excavations. Wastes accepted at the site are expected to comprise largely of soils characterised as

- 17 04 05 "*Soils and stone other than 17 05 03*" and
- 20 02 02 "*Soil and stones*".

The full list of waste to be accepted has been taken from Standard Rules Permit SR2015 No. 39 and these are represented below as Table 1. Following placement of the materials, the site will continue to be monitored through the provision of an aftercare scheme supervised by the planning authority.

These materials have an inherently low pollution potential. They do not contain substances at concentrations that may present a risk to surface water or groundwater. After its deposit and subsequent profiling, the already low permeability of this material is further reduced. This further restricts the leachability of any potential soluble components and mobilisation of solids from its compacted surface.

The materials will be tested as per the requirements of European Council Decision 2003/33/EC of 19th December 2002 including those where after a robust source characterisation can be accepted without prior testing providing they:

- come from a single source;
- are well characterised and described;
- carry no risk of contamination, for example from a site that has not previously been developed.



**Table 1 – Proposed Waste Types**

EWC	Description	
<b>01</b>	<b>Wastes resulting from exploration, mining, quarrying, and physical and chemical treatment of minerals</b>	
<b>01 01</b>	<b>wastes from mineral excavation</b>	
01 01 02	Wastes from mineral nonmetalliferous excavation. <i>Limitation: - Restricted to waste overburden and interburden only.</i>	AN
<b>01 04</b>	<b>wastes from physical and chemical processing of non-metalliferous mineral</b>	
01 04 08	Waste gravel and crushed rock.	MN
01 04 09	Waste sands and clays.	AN
<b>10</b>	<b>Waste from thermal processes</b>	
<b>10 12</b>	<b>Wastes from manufacture of ceramic goods, bricks, tiles and construction products</b>	
10 12 08	Waste ceramics, bricks, tiles and construction products (after thermal processing)	AN
<b>17</b>	<b>Construction and Demolition Waste</b>	
<b>17 01</b>	<b>Concrete, bricks, tiles and ceramics</b>	
17 01 01	Concrete	MN
17 01 02	Bricks	MN
17 01 03	Tiles and ceramics	MN
17 01 07	Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 17 01 06. <i>Limitation: - Metal from reinforced concrete must have been removed.</i>	MN
<b>17 05</b>	<b>soil (including excavated soil from contaminated sites), stones and dredging spoil</b>	
17 05 04	Soils and stone other than 17 05 03. <i>Limitation: - Restricted to topsoil, peat, subsoil and stones only.</i>	MN
<b>19</b>	<b>Waste from mechanical treatment of waste (sorting, crushing, compacting palletising not otherwise specified)</b>	
<b>19 12</b>	<b>wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified</b>	
19 12 09	Minerals (for example sand, stones) only. <i>Limitation:- Restricted to wastes from treatment of waste aggregates that are otherwise naturally occurring minerals. Does not include fines from treatment of any non-hazardous waste or gypsum from recovered plasterboard.</i>	MN
19 12 12	Other wastes (including mixtures of materials) from mechanical treatment of wastes other than those mentioned in 19 12 11. <i>Limitations: - Restricted to crushed bricks, tiles, concrete and ceramics only. Metal from reinforced concrete must be removed. Does not include fines from treatment of any non-hazardous waste or gypsum from recovered plasterboard.</i>	MN
<b>20</b>	<b>Municipal wastes (household waste and similar commercial, industrial and institutional wastes) including separately collected fractions</b>	
<b>20 02</b>	<b>Garden and park wastes (including cemetery waste)</b>	
20 02 02	Soil and stones. <i>Limitations: - Restricted to topsoil, peat, subsoil and stones only.</i>	AN

AN – Absolute Non-hazardous entry      MH – Mirror non-hazardous entry

Green shaded cells identified under Paragraph 2.1.1 of European Council Decision 2003/33/EC of 19th December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 and Annex II of Directive 1999/31/EC (of 26 April 1999 on the landfill of waste) as being acceptable to be received at inert landfills without testing, provided source characterisation is suitable

### 3.4 Waste Recovery Activities

The core function of the recovery activity is to allow for the import of materials for the restoration of the site. Where possible, existing on site materials are to be used as part of the whole site restoration scheme, and imported, suitable waste materials are to be used to support the works.



### 3.4.1 Substitution for Non-Waste Material

It is considered that in this case using waste is consistent with European case law (Abfall Service AG v Bundesminister für Umwelt, Jugend und Familie: C-6/00 ECJ) where it was established that a recovery operation is one where its principal objective is that the waste serves a useful purpose in replacing other materials which would have to be used for that purpose, thereby conserving natural resources.

As noted in the Environment Agency's electronic guidance on *Waste recovery plans and deposit for recovery permits*<sup>4</sup> there are three main ways that it can be shown that non-waste would be used for the proposed works. Evidence to support the recovery of waste includes:

1. Financial gain or other worthwhile benefit by using non-waste materials;
2. Funding to use non-waste materials; and
3. Obligations to complete the scheme.

### 3.4.2 Specific Obligation

The Planning Permission has been granted on the basis that the site will be restored and landscaped to a new habitat area in order to meet the County Council's biodiversity objectives. In accordance with policy 12 of the Essex Minerals Local Plan, Planning Permission for the site has been granted on the assurance that the site will be restored at the "earliest opportunity to an acceptable environmental condition and beneficial after-uses, with positive benefits to the environment, biodiversity and/ or local communities".

Working and restoration of the site is therefore on a phased basis and this is controlled by the Planning Permission. Consequently, it is necessary to have an available supply of materials to enable restoration to progress closely behind the extraction face on a phased basis. Some of the materials necessary for restoration are site won and are therefore immediately available. However these need to be supplemented by the importation of additional materials (waste or non-waste) to achieve the final restoration contours. In the event of waste materials becoming unavailable, the operator would source non-waste fill materials to ensure the supply of bulk fill to achieve the restoration profiles and to allow mineral extraction to continue.

Furthermore, the Planning Permission requires the site to be restored to the approved contours and this cannot be achieved solely through replacement of the stripped overburden, soil materials and mineral processing residues alone. Additional materials are therefore required to restore the level of the land to the contoured profile required by the Planning Permission. The importation of waste materials to achieve this is a sustainable substitution for additional virgin materials or bought-in inert non-wastes which would otherwise need to be quarried and imported to achieve the final restoration scheme.

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<sup>4</sup> <https://www.gov.uk/government/publications/deposit-for-recovery-operators-environmental-permits/waste-recovery-plans-and-deposit-for-recovery-permits>

The requirements of the Planning Permission to progress extraction and restoration works at the site in a phased manner confirm that the proposals are a recovery activity. In addition, a S106 agreement has been entered into that requires the restoration work to be completed in accordance with an aftercare scheme, demonstrating an obligation to complete the works. This further demonstrates that the proposals represent a recovery activity.

Appendix A – Emailed Clarification from Essex Council dated 19<sup>th</sup> November 2021

**From:** Shelley Bailey - Principal Planning Officer <[Shelley.bailey@essex.gov.uk](mailto:Shelley.bailey@essex.gov.uk)>

**Sent:** 19 November 2021 14:26

**To:** Sumner, Lisa <[lisa.sumner@tarmac.com](mailto:lisa.sumner@tarmac.com)>

**Cc:** Pendock, Mike <[mike.pendock@tarmac.com](mailto:mike.pendock@tarmac.com)>

**Subject:** Land South of Colchester Main Road, Alresford, Essex: ESS/17/18/TEN: Permit for recovery

Dear Ms Sumner

Thank you for your letter dated 11<sup>th</sup> November 2021 regarding the development approved at the above site under ref ESS/17/18/TEN for:

*'Extraction of 3.8 million tonnes of sand and gravel as an easterly extension to the existing Wivenhoe Quarry, erection of sand and gravel processing plant and ancillary facilities, new vehicular access onto the B1027 Brightlingsea Road, and restoration to agriculture and low-level water-based nature conservation habitats, lowland meadow, woodland planting and hedgerow enhancement using approximately 1.2 million cubic metres of imported inert waste material.'*

In your letter, you explained the intention of Tarmac to submit an application to the Environment Agency for an Environmental Permit for the permanent deposit of waste on land as a recovery operation, rather than a disposal operation.

There are several references to 'waste' and 'landfill' in planning permission ref ESS/17/18/TEN. However, the primary concern of the Minerals Planning Authority is that the site is worked and restored in accordance with the approved details.

There are no conditions specifying the type of material/waste to be used, since this is appropriately dealt with by the Environment Agency. Some of the conditions attached to permission ref ESS/17/18/TEN refer to 'waste or restoration material', e.g. Condition 27 states: *'Details of the amount of waste or restoration material deposited and remaining void space at the site shall be submitted to the Minerals and Waste Planning Authority for the period 1 January to 31 December each year...'*

As such, the site can be restored using suitable waste or non-waste inert restoration materials as appropriate.

I hope this assists

**Shelley Bailey** BSc (Hons), MSc, MRTPI  
Principal Planning Officer

Planning Service  
Place & Public Health  
Essex County Council

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Appendix B – Planning Permission

**ESSEX COUNTY COUNCIL**

**Town and Country Planning Act 1990 (as amended)  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)  
ORDER 2015  
TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)  
REGULATIONS 2011**

In pursuance of the powers exercised by it as County Planning Authority, Essex County Council has considered an application to carry out the following development:

**Extraction of 3.8 million tonnes of sand and gravel as an easterly extension to the existing Wivenhoe Quarry, erection of sand and gravel processing plant and ancillary facilities, new vehicular access onto the B1027 Brightlingsea Road, and restoration to agriculture and low-level water-based nature conservation habitats, lowland meadow, woodland planting and hedgerow enhancement using approximately 1.2 million cubic metres of imported inert waste material. at Land to the South of Colchester Main Road (known as Sunnymeade, Elmstead and Heath Farms), Alresford, Essex, C07 8DB**

and in accordance with the said application and the plan(s) accompanying it, hereby gives notice of its decision to GRANT PERMISSION FOR the said development subject to compliance with the following conditions and reasons:

1. The development hereby permitted shall be begun before the expiry of 3 years from the date of this permission. Written notification of the date of commencement shall be sent to the Minerals Planning Authority within 7 days of such commencement.

*Reason: To comply with section 91 of the Town and Country Planning Act 1990 (as amended).*

2. The development hereby permitted shall be carried out in accordance with the details of the application dated 13 June 2018, together with drawing numbers
  - UTC-0027-P02-TCP-3 of 4 Rev A dated 19/08/16 – Tree Constraints Plan 1 of 6
  - UTC-0027-P02-TCP-3 of 4 Rev A dated 19/08/16 – Tree Constraints Plan 2 of 6
  - UTC-0027-P02-TCP-3 of 4 Rev A dated 19/08/16 – Tree Constraints Plan 3 of 6
  - UTC-0027-P02-TCP-3 of 4 Rev A dated 19/08/16 – Tree Constraints Plan 4 of 6
  - UTC-0027-P02-TCP-3 of 4 Rev A dated 19/08/16 – Tree Constraints Plan 5 of 6
  - UTC-0027-P02-TCP-3 of 4 Rev A dated 19/08/16 – Tree Constraints Plan 6 of 6
  
  - W328-00062-13-D dated 21/10/19 – Cross Sections
  - W328-00062-12-D dated 21/10/19 – Proposed Restoration Scheme
  - W328-00062-08-D dated 21/10/19 – Working Plan – Progress at Year 5
  - W328-00062-09-D dated 21/10/19 – Working Plan – Progress at Year 10

- W328-00062-10-D dated 21/10/19 – Working Plan – Progress at Year 15
- W328-00062-11D dated 22/10/19 – Working Plan – Progress at Year 20
- W328-00062-07-D dated 21/10/19 – Plant Site Elevations
- W328-00062-06-D dated 22/08/19 - Plant Site Layout Plan
- W328-00062-05-D dated 22/08/19 – Area North of Plant Site – Landscape Strategy
- W328-00062-04-D dated 21/10/19 – Proposed Site Access – Landscape Strategy
- W328-00062-03-D dated 21/08/19 – Proposed Working Plan
- W328-00062-02-D dated 21/10/19 – Existing Situation
- W328-00062-01-D dated 21/10/19 – Location Plan
- 15010-03 Rev B dated Aug19 – Proposed Right Turn Lane

cover letters by David L Walker Limited dated 13 June 2018 and 16 April 2019,

e-mails from David L Walker Ltd dated 11 March 2019 14:25; 01 July 2019 15:20; 13 August 2019 17:04; 14 August 2019 15:35; 28 August 2019 09:56; 11 September 2019 14:46; 28 August 2019 09:42, 28 August 2019 16:42

- Economic Statement by David L Walker Limited dated June 2018;
- Supporting Statement (Including Planning Statement) by David L Walker Limited dated June 2018;
- Health Impact Assessment Screening Record Sheet by Stantec UK Ltd dated 4th December 2018;
- Habitats Regulations Assessment (HRA) Screening Information ref CE-WQ-0992-RP13 – Final by Crestwood Environmental Ltd dated 18 December 2018;
- Supplementary Statement by David L Walker Ltd dated April 2019 and Appendices:

2 – Ecological Impact Assessment by Crestwood Environmental Ltd ref CE-WQ-0992-RP09a-Final dated 29 March 2019

3 – Addendum to Landscape and Visual Impact Assessment ref 2463-4-4-4-T-0002-S0-P1 by David Jarvis Associates dated 12 March 2019 as updated by Additional Information/Clarification note by David Jarvis Associates dated 23/10/19.

4 – Noise Assessment by WBM Acoustic Consultants dated 03 December 2018, as amended by Email Note: Tarmac Wivenhoe Extension (ESS/17/18/TEN) Calculated Site Noise Level at Furzedown by WBM Acoustic Noise Consultants dated 09 September 2019;6 – Biodiversity Enhancement Plan ref CE-WQ-0992-RP10a-Final by Crestwood Environmental Ltd dated 20 December 2018;

- Wivenhoe Quarry Revised Design Review ref 382187/TPN/ITD//072/A by Mott MacDonald dated 21 August 2019

and the contents of the Environmental Statement by David L Walker Limited dated June 2018 and Appendices:

2 – Soil Resources and Agricultural Quality Report 706/1 by Land Research Associates dated 24 August 2015

4 – Landscape and Visual Impact Assessment ref 2463-4-4-4-T1001-S4-P2 by David Jarvis Associates dated 30/04/18

5 – Archaeology and Cultural Heritage Assessment by Phoenix Consulting Archaeology Ltd dated March 2018

6 – Geoarchaeological Assessment of Borehole Records by Martin R Bates dated January 2018

7i – Hydrogeological Impact Assessment ref 61272R1 by ESI Consulting dated 21 May 2018

7ii – Flood Risk and Drainage Assessment ref 61272R2 by ESI Consulting dated 25 May 2018 – Transport Assessment ref SJT/RD 15010-01d by David Tucker Associates dated 08 March 2018 as amended by drawing ref 15010-03 Rev B dated Aug19 – Proposed Right Turn Lane

10 – Air Quality Assessment ref R18.9705/2/RS by Vibrock Ltd dated 23 May 2018

11 – Construction Environment Management Plan: Biodiversity ref CE-WQ-0992-RP11-Final by Crestwood Environmental Ltd dated 23 May 2018

and Non-Technical Summary Revision A by David L Walker Limited dated April 2019

and in accordance with any non-material amendment(s) as may be subsequently approved in writing by the Minerals Planning Authority,

except as varied by the following conditions:

*Reason: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with the minimum harm to the local environment and in accordance with Minerals Local Plan 2014 Policies S1, S2, S3, S10, S11, S12, P1, DM1 and DM3; Waste Local Plan 2017 Policies Policy 3, Policy 10, Policy 11 and Policy 12; and Tendring District Local Plan 2007 Policies QL3, QL11, COM20, COM21, COM22, COM23, COM31a, EN1, EN4, EN6, EN6a, EN6b, EN29, TR1a, TR1, TR4 and TR9.*

3. The development hereby permitted shall be completed within a period of 19 years from the date of commencement of the development as notified under Condition 1, by which time all extraction operations shall have ceased and the site shall have been restored within a further 2 years in accordance with the scheme approved under Conditions 19 and 66 and shall be the subject of aftercare for a period of 5 years (in accordance with a scheme approved under Condition 67 of this planning permission).



*Reason: To provide for the completion and progressive restoration of the site within the approved timescale, in the interest of local amenity and the environment and to comply with Minerals Local Plan Policies S2, S10, S12, P1, DM1 and DM3, Waste Local Plan Policies Policy 3 and Policy 10; and Tendring District Local Plan Policies QL11 and EN1.*

4. Any building, plant, machinery, foundation, hard standing, roadway, structure or erection in the nature of plant or machinery used in connection with the development hereby permitted shall be removed from the site when no longer required for the purpose for which built, erected or installed and in any case not later than the time limit imposed by Condition 3, following which the land shall be restored in accordance with the restoration scheme approved under conditions 19 and 66 of this permission.

*Reason: To enable the Minerals Planning Authority to adequately control the development, to ensure that the land is restored to a condition capable of beneficial use and to comply with Minerals Local Plan Policies S2, S10, S12, P1, DM1 and DM3, Waste Local Plan Policies Policy 3 and Policy 10; and Tendring District Local Plan Policies QL11 and EN1.*

5. In the event of a cessation of winning and working of mineral, or the deposit of waste, for a period in excess of 6 months, prior to the achievement of the completion of the approved scheme, as referred to in Conditions 19 and 66, which in the opinion of the Minerals Planning Authority constitutes a permanent cessation within the terms of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990 (as amended), a revised scheme of restoration and aftercare shall, within 3 months of a written request from the Minerals Planning Authority, be submitted to the Minerals Planning Authority for its approval in writing. The development shall thereafter be implemented in accordance with the approved revised scheme of restoration and aftercare.

*Reason: To secure the proper restoration of the site within a reasonable and acceptable timescale and to comply with Minerals Local Plan Policies S2, S10, S12, P1, DM1 and DM3, Waste Local Plan Policies Policy 3 and Policy 10; and Tendring District Local Plan Policies QL11 and EN1.*

6. Except in emergencies to maintain safe quarry working (which shall be notified to the Mineral Planning Authority as soon as practicable):

(a) Other than water pumping and environmental monitoring, no operations, including vehicles entering or leaving the site and including temporary operations as described in condition 39, shall be carried out outside of the following times:

0700 hours to 1800 hours Monday to Friday; and;  
0700 hours to 1300 hours Saturdays

or on Sundays or Bank or Public Holidays.

(b) no mineral extraction, materials importation and deposition or mineral processing activities shall take place outside of the following times:

0700 hours to 1800 hours Monday to Friday

or on Saturdays, Sundays or Bank or Public Holidays

For the avoidance of doubt, mineral distribution operations shall not take place outside of the following times:

0700 hours to 1800 hours Monday to Friday; and;  
0700 hours to 1300 hours Saturdays

or on Sundays or Bank or Public Holidays.

(c) No operations for the formation and subsequent removal of material from any environmental banks and soil storage areas shall be carried out at the site except between the following times:

0800 hours to 1600 hours Monday to Friday,

and at no other times or on Bank or Public Holidays.

(d) No operations other than environmental monitoring and water pumping at the site shall take place on Sundays, Bank or Public Holidays.

*Reason: In the interests of limiting the effects on local amenity, to control the impacts of the development and to comply with Minerals Local Plan Policies S2, S10, DM1 and DM3, Waste Local Plan Policies Policy 10 and Tendring District Local Plan Policies QL11, COM21 and COM22.*

7. Prior to the commencement of construction of the 'tunnel under FP24' as indicated on drawing ref W328-00062-03-D dated 21/08/19, a detailed scheme for such construction shall be submitted to and approved in writing by the Minerals Planning Authority.

The scheme shall include details and drawings of the exact location and dimensions of the tunnel to provide for single vehicle at a time access only, the method of and timescales for excavating the tunnel, together with details of the design of the structure carrying pedestrians over the tunnel which shall include handrails with mid-rails to ensure pedestrian safety.

The scheme shall include temporary provisions to divert FP24 to enable the safety of all users during the construction works.

The scheme shall include details of the method and design of restoration of the tunnel.

The development shall take place in accordance with the approved scheme.

*Reason: In the interest of the safety of all users of both Footpath 24 and the haul route, to secure the proper restoration of the site in the interests of local amenity and the environment, and to comply with Minerals Local Plan Policies S2, S10, S12, P1, DM1 and DM3, Waste Local Plan Policies Policy 3 and Policy 10 and Tendring District Local Plan Policies QL11, EN1 and TR4.*

8. The public's rights and ease of passage over Public Footpath 24 shall be maintained free and unobstructed at all times with a minimum width of 3m, except as approved under Condition 9 of this permission, unless otherwise approved in writing by the Minerals Planning Authority.

*Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Minerals Local Plan Policies P1 and DM1, Waste Local Plan Policies Policy 10 and Tendring District Local Plan Policy TR4.*

9. Prior to the commencement of construction of the 'tunnel under FP24' as indicated on drawing ref W328-00062-03-D dated 21/08/19, the temporary diversion of the existing definitive right of way of Footpath 24 to a route to be agreed with the Minerals Planning Authority shall have been confirmed and the new route shall have been constructed to the satisfaction of the Minerals Planning Authority.

*Reason: To ensure the continued safe passage of pedestrians on the public right of way and accessibility in accordance with Minerals Local Plan Policies P1 and DM1, Waste Local Plan Policies Policy 10 and Tendring District Local Plan Policy TR4.*

10. No mineral extraction or importation of restoration materials shall take place until precise details of the arrangements for the monitoring of ground water levels, including the location and installation of boreholes, frequency of monitoring and reporting for the duration of the development hereby permitted, have been submitted to and approved in writing by the Minerals Planning Authority. The development shall be implemented in accordance with the approved details.

*Reason: To protect groundwater from pollution and to assess the risks of effects arising from changes in groundwater levels and comply with Minerals Local Plan Policies DM1 and S12, Waste Local Plan Policies Policy 10 and Policy 11 and Tendring District Local Plan Policy COM23.*

11. Prior to commencement of development, a Dust Management Plan (DMP) shall be submitted to the Minerals Planning Authority for its approval in writing.

The DMP shall incorporate all relevant measures from the latest guidance published by the Institute of Air Quality Management (IAQM), including the following:

- The suppression of dust caused by the moving, processing and storage of soil, overburden, and other materials within the site;
- Dust suppression on haul roads, including speed limits;
- Provision for monitoring and review of the DMP;
- Document control procedures;
- Confirmation of agreed activity timescales and hours of operation;
- Emergency procedures, including emergency contact details and instructions to stop work whenever relevant;
- Procedures to ensure adequate top-up and frost protection of water suppression systems;
- Details of incident & complaints logging procedures;
- Staff training procedures;
- Minimum emission standards for construction vehicles, to be agreed with the Mineral Planning Authority;
- Preventative maintenance schedule for all plant, vehicles, buildings and the equipment concerned with the control of emissions to air. It is good practice to ensure that spares and consumables are available at short notice in order to rectify breakdowns rapidly. This is important with respect to arrestment plant and other necessary environmental controls. It is useful to have an audited list of essential items;
- Resident Communication Plan. The operators should keep residents and others informed about unavoidable disturbance such as from unavoidable noise, dust, or disruption of traffic. Clear information shall be given well in advance and in writing. The use of a site contact board could be considered together with provision of a staffed telephone enquiry line when site works are in progress to deal with enquiries and complaints from the local community;
- Methodology for proportionate dust monitoring and reporting to check the ongoing effectiveness of dust controls and mitigation, check compliance with appropriate environmental standards, and to enable an effective response to complaints.

The development shall thereafter be implemented in accordance with the approved DMP.

*Reason: To reduce the impacts of dust disturbance from the site on the local environment and to comply with Minerals Local Plan Policies DM1, DM3 and S10, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, COM20 and COM23.*

12. No development shall take place, including ground works and vegetation clearance, until a long term continuous bat monitoring strategy for Hedgerow numbers H2, H4, H6, H8 and H10 (as shown on the Phase 1 Habitat Plan (Drawing

No: Figure E1 CAD ref: CE-WQ-0992-DW03-Final) has been submitted to, and approved in writing by, the minerals planning authority. The purpose of the strategy shall be to monitor the use of hedgerows by bats as a result of the changes to them and the use of bat bridges. The content of the Strategy shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of development.
- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods for data gathering and analysis.
- e) Location of monitoring.
- f) Timing and duration of monitoring.
- g) Responsible persons and lines of communication.
- h) Review, and where appropriate, publication of results and outcomes.
- i) Set out requirements for each relevant phase (1,2,3 and 4 on Drawing Number W328-00062-03-D (21/08/19).

A report describing the results of monitoring shall be submitted to the Minerals Planning Authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the minerals planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

*Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity, to allow the MPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), and in accordance with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN6, EN6a and EN6b.*

13. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the submitted revised Ecological Impact Assessment (EclA) (Crestwood Environmental Ltd, 29th of March 2019), as amended by the details to be agreed under Condition 16 of this permission.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

*Reason: To conserve and enhance Protected and Priority species and allow the MPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), and in accordance with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN6, EN6a and EN6b.*

14. Prior to commencement of the development hereby permitted, an updated Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Minerals Planning Authority.

The CEMP shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The CEMP should take into account of the following:

- The site will be worked in a phased approach over a long period of time. Additional surveys will be required prior to each phase;
- Any trees/ hedgerows requiring removal should be done as late as possible in the process before work starts on a phase;
- Incorporation of a scheme to enhance the ecological connectivity in the vicinity of Footpath 19 between Cockaynes Wood and the west of the application site prior to removal of hedgerows in Phase 2;
- Incorporation of the information from surveys as required by condition 15 as it becomes available;
- Arrangements for accessing 'Bund B' as shown on drawing ref W328-00062-06-D dated 22/08/19.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Minerals Planning Authority.

*Reason: To conserve Protected and Priority species and allow the MPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), and for compliance with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN6, EN6a and EN6b.*

15. Further supplementary ecological surveys for bats and dormice shall be undertaken prior to the commencement of each phase as shown on drawing ref W328-00062-03-D dated 21/08/19 to inform the preparation and implementation of corresponding phases of ecological measures required through Conditions 14 and 17. The supplementary surveys shall be of an appropriate type for the above species and survey methods shall follow national good practice guidelines.

*Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity, to allow the MPA to discharge its duties under the UK Habitats Regulations 2017, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species), and in accordance with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN6, EN6a and EN6b.*

16. Prior to commencement of any removal of hedgerows or mineral extraction, an updated Biodiversity Enhancement Plan (BEP) for Protected and Priority species and habitats shall be submitted to and approved in writing by the Minerals Planning Authority. The BEP shall update the submitted Biodiversity Enhancement Plan by Crestwood Environmental Ltd dated 20th December 2018 to include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance.
- g) Any changes in light of amendments to the areas of restored habitats.
- h) Updated list of tree and understorey/hedge species to be planted to reflect the local tree species present in the locality and the landscape officer's advice.
- i) Regular updates to the provision of bat crossings across hedgerow gaps to reflect the outcomes of the Bat Monitoring Strategy.

The development shall be implemented in accordance with the approved BEP and shall be retained in that manner thereafter.

*Reason: To enhance Protected and Priority Species/habitats and allow the MPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) and for compliance with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN6, EN6a and EN6b.*

17. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the Mineral Planning Authority prior to the commencement of Phase 2 as shown on drawing ref W328-00062-03-D Proposed Working Plan dated 21/08/19, for the management, care and afteruse of the development for a period of 25 years, commencing the day after completion of each phase.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed as updated by Condition 16.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.
- i) Management of Mature and Veteran trees including retention of dead wood where appropriate;
- j) A grazing management plan.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

*Reason: To make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity and in accordance with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN6, EN6a and EN6b.*

18. No development shall take place until an Arboricultural Method Statement including details of tree and hedgerow retention and protection has been submitted to and approved by the Minerals Planning Authority. The statement shall include indications of all existing trees, shrubs and hedgerows on the site and on the immediate adjoining land, including the west boundary thicket of Holly and mature veteran Oak (T110) within the proposed access off the B1027 Brightlingsea Road/Colchester Main Road, together with measures for their protection, including a minimum 10m stand of between the centre of any existing hedge and the bund surrounding the extraction area in any phase. The statement shall include



construction details and levels for the new access off the B1027 Brightlingsea Road/Colchester Main Road. The statement shall include proposals for the long term management of retained trees and hedgerows, including retention of dead wood. The approved details shall be implemented and maintained during the life of the development permitted.

*Reason: In the interest of visual amenity, to ensure protection for the existing natural environment and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN6, EN6a and EN6b.*

19. No development shall take place until a landscape scheme has been submitted to and approved in writing by the Minerals Planning Authority. The scheme shall include details of areas to be planted, including a hedgerow along the eastern boundary prior to commencement of phase 3 and a scheme to enhance the ecological connectivity in the vicinity of Footpath 19 between Cockaynes Wood and the west of the application site prior to the removal of hedgerows in Phase 2, with revised species, sizes, spacing, protection (avoiding use of plastic accessories where possible), methods for encouraging natural regeneration and programme of implementation, including timing of advanced planting. The scheme shall also include details of any existing trees and hedgerows on site with details of any trees and/or hedgerows to be retained and measures for their protection during the period of (operations/construction of the development). The scheme shall also include precise details of the locations and extent of hedgerow removal for access between phases. The scheme shall be implemented within the first available planting season (October to March inclusive) following commencement of the development hereby permitted in accordance with the approved details and maintained thereafter in accordance with condition 20 of this permission.

*Reason: To comply with section 197 of the Town and Country Planning Act 1990 (as amended), to improve the appearance of the site in the interest of visual amenity and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN6, EN6a and EN6b.*

20. Any tree or shrub forming part of a landscaping scheme approved in connection with the development under Condition 19 of this permission that dies, is damaged, diseased or removed within the duration of 5 years during and after the completion of the development shall be replaced during the next available planting season (October to March inclusive) with a tree or shrub to be agreed in advance in writing by the Minerals Planning Authority.

*Reason: In the interest of the amenity of the local area, to ensure development is adequately screened and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN6, EN6a and EN6b.*

21. No development of the Plant Site, as indicated on drawing W328-00062-06-B dated 29/07/19, shall take place until full details, elevations and cross sections of the design, layout, and heights of the plant, weighbridge, office and welfare facilities have been submitted to and approved in writing by the Minerals Planning Authority. The development shall take place in accordance with the approved details.

*Reason: In the interests of local amenity and for compliance with Minerals Local Plan Policies S10, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and EN1.*

22. No site offices or welfare facilities, as approved under Condition 21, shall be erected until full details of the method of discharge and treatment of foul sewage have been submitted to and approved in writing by the Mineral Planning Authority. The development shall take place thereafter in accordance with the approved details.

*Reason: To minimise the risk of pollution to water courses and aquifers and to comply with Minerals Local Plan Policy DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, COM23 and COM31a.*

23. No soil stripping or mineral extraction shall take place unless a Restoration Phasing Plan, based on the drawing ref W328-00062-03-D dated 21/08/19, has been submitted to and approved in writing by the Minerals Planning Authority. The Plan shall include precise sequencing of each phase of site preparation (including timing of removal of hedgerows between phases), soil stripping, mineral extraction, waste deposition and restoration. The Plan shall provide for no more than 3 phases to be open at any one time and for full restoration of the previous phase to take place prior to commencement of the next phase. The development shall thereafter take place in accordance with the approved details.

*Reason: To ensure progressive restoration of the site in the interests of amenity and the environment and for compliance with Minerals Local Plan Policies S10, S12 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policy QL11.*

24. The output/throughput of mineral from the site shall not exceed 200,000 tonnes per annum.

*Reason: To minimise the harm to the environment and to comply with Minerals Local Plan Policies S10 and DM1 and Tendring District Local Plan Policy QL11.*

25. From the date of this permission the operators shall maintain records of their monthly throughput and shall make them available to the Minerals Planning Authority within 14 days, upon request.

*Reason: To allow the Minerals Planning Authority to adequately monitor activity at the site, to minimise the harm to amenity and to and to comply with Minerals Local Plan Policies S10, S11 and DM1 and Tendring District Local Plan Policy QL11.*

26. A written record shall be maintained at the site office of all movements out of the site by heavy goods vehicles, as defined in this permission; such records shall contain the vehicles' weight, registration number and the time and date of the movement and shall be made available for inspection by the Mineral Planning Authority on demand at any time.

*Reason: To allow the Minerals and Waste Planning Authority to adequately monitor activity at the site, to minimise the harm to amenity and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11 and TR1a.*

27. Details of the amount of waste or restoration material deposited and remaining void space at the site shall be submitted to the Minerals and Waste Planning Authority for the period 1 January to 31 December each year. Such details shall specify:

1. The type of waste or restoration material deposited at the site during the year;
2. The quantity and type of waste or restoration material deposited at the site during the year in tonnes;
3. The volume in cubic metres (m<sup>3</sup>) of the remaining void space at 31 December.

The details shall be submitted to the Minerals and Waste Planning Authority by 31 March for the preceding year with thereafter annual submission for the life of the development hereby permitted.

*Reason: To allow the Minerals and Waste Planning Authority to adequately monitor activity at the site, to minimise the harm to amenity and to comply with Minerals Local Plan Policies S10, S11, S12 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11, EN1 and TR1a.*

28. No development (except the construction of the access road itself) shall take place until construction of the highway improvements and the proposed site access road, as shown on drawing ref. 15010-03 Rev B: Proposed Right Turn Lane dated Aug19 have been completed.

*Reason: In the interest of highway safety, safeguarding local amenity and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11, TR1a and TR9.*

29. The first 30m of the access road from the junction with the B1027 Brightlingsea Road/Colchester Main Road shall be kept free of mud, dust and detritus to ensure that such material is not carried onto the public highway.

*Reason: In the interest of highway safety, to prevent material being taken onto the public highway and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11 and TR1a.*

30. No development shall take place until the details of wheel and underside chassis cleaning facilities, as shown in principle on drawing ref W328-00062-06-D dated 22/08/19, have been submitted to and approved in writing by the Minerals Planning Authority. The approved facilities shall be installed in accordance with the approved details and implemented and maintained for the duration of the development hereby permitted. Without prejudice to the foregoing, no commercial vehicle shall leave the site unless the wheels and the underside chassis are clean to prevent materials, including mud and debris, being deposited on the public highway.

*Reason: In the interests of highway safety, safeguarding local amenity and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11 and TR1a.*

31. No loaded vehicles (HGVs) shall leave the site unsheeted.

*Reason: In the interests of highway safety, safeguarding local amenity and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11 and TR1a.*

32. No vehicle shall cross Footpath 24 until signs have been erected on both sides of the haul route/site access road at the point where Footpath 24 crosses, to warn pedestrians and vehicles of the intersection. The signs shall read: 'CAUTION: PEDESTRIANS CROSSING' and 'CAUTION: VEHICLES CROSSING' and shall be maintained for the duration of the development hereby permitted.

*Reason: In the interest of the safety of all users of both the Right of Way and the haul road and to comply with Minerals Local Plan Policies P1 and DM1, Waste Local Plan Policies Policy 10 and Tendring District Local Plan Policy TR4.*

33. Prior to completion of Phase 6 (as shown on drawing W328-00062-10-D dated 21/10/19), a scheme for the provision of the permissive footpath link between Footpaths 20 and 24, as shown on drawing ref W328-00062-12-D dated 21/10/19, shall be submitted to the Minerals Planning Authority for its approval in writing. The scheme shall include details of the layout and construction of the permissive footpath link to a standard agreed by Essex County Council. The development shall be implemented in accordance with the approved details.

*Reason: In the interests of public amenity and to comply with Minerals Local Plan Policies P1 and DM1, Waste Local Plan Policies Policy 10 and Tendring District Local Plan Policy TR4.*

34. No winning or working of mineral or importation of waste shall take place until details of a sign(s), advising drivers of vehicle routes to be taken upon exiting the site, have been submitted to and approved in writing by the Minerals Planning Authority. The development shall be implemented in accordance with the approved details with the sign(s) being erected and thereafter maintained at the site exit for the duration of the development hereby permitted.

*Reason: In the interests of highway safety, safeguarding local amenity and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11, TR1a and TR9.*

35. No winning or working of minerals or importation of waste or other restoration material shall take place until the road junction with the B1027 Brightlingsea Road/Colchester Main Road has been provided with a clear to ground visibility splay with dimensions of 4.5 metres x 160 metres as measured from and along the nearside edge of the carriageway. Such sight splays shall be provided before the junction is first used by vehicular traffic and retained free of any obstruction at all times for the duration of the development hereby permitted.

*Reason: In the interests of highway safety and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11, TR1a and TR9.*

36. No unbound material shall be used in the surface finish of the site access road within 30 metres of its junction with the public highway.

*Reason: In the interests of highway safety and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11 and TR1a.*

37. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 or any Order amending, replacing or re-enacting that Order), no gates shall be erected at the vehicular access unless they open inwards from the public highway towards the site and be set back a minimum distance of 18 metres from the nearside edge of the carriageway.

*Reason: In the interests of highway safety and to comply with Minerals Local Plan Policies S10, S11 and DM1, Waste Local Plan Policies Policy 10 and Policy 12 and Tendring District Local Plan Policies QL11 and TR1a.*

38. Except for temporary operations, the free field Equivalent Continuous Noise Level (LAeq, 1 hr) at noise sensitive properties adjoining the site shall not exceed the following:

- Keelars Farm – 55dB LAeq 1hr
- Sunnymead Farm - 45dB LAeq 1hr
- Furzedown Farm – 45dB LAeq 1hr
- Englishes Farm/Rosedene – 54dB LAeq 1hr
- Alresford (B1027) – 54dB LAeq 1hr
- White Lodge, Cockaynes Lane 45 dB LAeq 1hr

For the avoidance of doubt, these noise limits are applicable to the cumulative noise levels from operations permitted by ref ESS/43/19/TEN together with the development hereby permitted.

Measurements shall be made no closer than 3.5 metres from the façade of properties or other reflective surface and shall be corrected for extraneous noise.

*Reason: In the interests of amenity and to comply with Minerals Local Plan Policies S10, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.*

39. For temporary operations, the free field Equivalent Continuous Noise Level (LAeq, 1 hr) at noise sensitive properties, listed in Condition 38, adjoining the site shall not exceed 70 dB LAeq 1hr.

Measurements shall be made no closer than 3.5 metres from the façade of properties or other reflective surface and shall be corrected for extraneous noise.

Temporary operations shall not exceed a total of eight weeks in any continuous duration 12 month duration.

Five days written notice shall be given to the Minerals Planning Authority in advance of the commencement of a temporary operation, together with confirmation of the duration of the proposed temporary operation.

Temporary operations shall include site preparation, bund formation and removal, site stripping and restoration and any other temporary activity that has been approved in writing by the Minerals Planning Authority in advance of such a temporary activity taking place.

*Reason: In the interests of amenity and to comply with Minerals Local Plan Policies S10, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.*

40. No development shall take place until a scheme, for monitoring noise levels arising from the site, has been submitted to and approved in writing by the Minerals Planning Authority. The scheme shall provide for:

- a) Attended measurements by a competent person of LAeq 5-minute noise levels over 1 hour at each of the monitoring locations identified in Condition 38. Measurements to be taken at three monthly intervals or such other frequency as may be agreed in writing with the Mineral Planning Authority, except at Furzedown, which shall be monitored at monthly intervals during excavation and infill operations of Phase 2 and at three monthly intervals during all other Phases, unless otherwise agreed in writing by the Minerals Planning Authority, for the duration of the operation of the development hereby permitted;
- b) Provision for noise monitoring during temporary operations, described in Condition 39, at least once in every temporary operations period;
- c) Details of equipment and calibration proposed to be used for monitoring;
- d) Details of noise monitoring staff qualifications and experience;
- e) Monitoring during typical working hours with the main items of plant and machinery in operation;
- f) The logging of all-weather conditions, approximate wind speed and direction and both on site and off site events occurring during measurements including 'paused out' extraneous noise events;
- g) Complaints procedures;
- h) Actions/measures to be taken in the event of an exceedance of the noise limits set out in Condition 38;
- i) Procedures for characterising extraneous versus site attributable noise if required;
- j) Monitoring results to be forwarded to the Mineral Planning Authority within 14 days of measurement

*Reason: In the interests of amenity, to enable the effects of the development to be adequately monitored during the course of the operations and to comply with Minerals Local Plan Policies S10, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.*

41. No vehicles and/or mobile plant used exclusively on site shall be operated unless they have been fitted with broadband noise alarms to ensure that, when reversing, they do not emit a warning noise that would have an adverse impact on residential or rural amenity.

*Reason: In the interests of local amenity and to comply with Minerals Local Plan Policies S10, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.*

42. All plant, equipment and machinery shall only operate during the hours permitted under Condition 6. No vehicle, plant, equipment and/or machinery shall be operated at the site unless it has been fitted with and uses an effective silencer. All vehicles, plant and/or machinery shall be maintained in accordance with the manufacturer's specification at all times.

*Reason: In the interests of local amenity and to comply with Minerals Local Plan Policies S10, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.*

43. Prior to commencement of soil stripping in Phase 2, an on-site noise survey shall be undertaken to determine the sound power levels of all the plant and machinery to be used in that phase, including the excavator and dozer, using a methodology based on BS EN ISO 3740:2019 and agreed in advance in writing with the Minerals Planning Authority. The results of the noise survey shall be submitted to the Minerals Planning Authority within 1 week of the date of monitoring for its approval in writing prior to the commencement of soil stripping in Phase 2.

Further on-site noise surveys shall be undertaken to determine the sound power levels of all the plant and machinery to be used in all later phases and the results shall be submitted to the Minerals Planning Authority for its approval in writing prior to the commencement of soil stripping in each phase.

The development shall take place in accordance with the approved details.

*Reason: In the interests of local amenity and to comply with Minerals Local Plan Policies S10, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.*

44. No materials shall be stockpiled or stored at a height greater than 8.5 metres when measured from adjacent ground level and shall then only be in the locations identified on drawing reference plan W328-00062-05-D: Area North of Plant Site dated 22/08/19.

*Reason: To minimise the visual impact of the development, in the interests of visual amenity and to comply with Minerals Local Plan Policies S10, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and EN1.*

45. No fixed lighting shall be erected or installed on-site until details of the location, height, design, luminance and operation have been submitted to and approved in writing by the Minerals Planning Authority. That submitted shall include an overview of the lighting design including the maintenance factor and lighting standard applied together with a justification as why these are considered appropriate. The details to be submitted shall include a lighting drawing showing the lux levels on the ground, angles of tilt and the average lux (minimum and uniformity) for all external lighting proposed.

Furthermore a contour plan shall be submitted for the site detailing the likely spill light, from the proposed lighting, in context of the adjacent site levels. The details shall ensure the lighting is designed to minimise the potential nuisance of light spillage on adjoining properties and highways. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

*Reason: To minimise the nuisance and disturbances to neighbours and the surrounding area and ecology and to comply with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, COM21, EN6 and EN6a.*



46. No excavation shall take place any closer to the boundary of the planning permission area than that shown on drawing reference W328-00062-03-D: Proposed Working Plan dated 21/08/19.

*Reason:* To ensure that the development is contained within its permitted boundaries, in the interests of residential amenity, to ensure the stability of the land and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.

47. No stripping or handling of topsoil or subsoil shall take place unless a scheme of soil movement has been submitted to and approved in writing by the Minerals Planning Authority. The scheme shall:

- a) Be submitted at least 3 months prior to the expected commencement of soil stripping;
- b) Clearly identify the origin, intermediate and final locations of soils for use in agricultural restoration together with details of quantities, depths and areas involved.

The development shall be implemented in accordance with the approved scheme.

*Reason:* To ensure the retention of existing soils on the site for restoration purposes, to minimise the impact of the development on the locality and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.

48. No development shall take place until a scheme of machine movements for the stripping and replacement of soils has been submitted to and approved in writing by the Minerals Planning Authority. The scheme shall define the type of machinery to be used and all the machine movements shall be restricted to those approved.

*Reason:* To minimise structural damage and compaction of the soil, to aid in the final restoration works and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.

49. No excavation shall take place nor shall any area of the site be traversed by heavy vehicles or machinery for any purpose or operation (except for the purpose of stripping that part or stacking of topsoil in that part) unless all available topsoil and/or subsoil has been stripped from that part and stored in accordance with the details agreed under condition 47 of this planning permission.

*Reason:* To minimise soil compaction and structural damage, and to help the final restoration in accordance with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.

50. No stripping of soils shall take place until details for the forming, planting, height and maintenance of soil bunds to the site, as well as maintenance of the land to the rear of the bunds including proposals for litter picking in those areas, have been submitted to and approved in writing by the Minerals Planning Authority. The development shall be implemented in accordance with the approved details.

*Reason: To protect the amenities of the local residents, to screen the development, to reduce the effects of noise disturbance and to comply with Minerals Local Plan Policies S10, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM22.*

51. All topsoil, subsoil and soil making material shall be retained on the site and used in the restoration scheme as indicated on drawing ref W328-00062-12-D: Proposed Restoration Scheme dated 21/10/19.

*Reason: To prevent the loss of soil and aid the final restoration of the site and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

52. No soil stripping shall take place unless a plan, showing the location, contours and volumes of the bunds and identifying the soil types and units contained therein, has been submitted to and approved in writing by the Minerals Planning Authority. The development shall be implemented in accordance with the approved plan.

*Reason: To minimise structural damage and compaction of soils, aid the final restoration of the site and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

53. No topsoil, subsoil and/or soil making material shall be stripped or handled unless it is a dry and friable condition and no movement of soils shall take place:

- a) During the months November to March (inclusive) unless otherwise approved in writing by the Minerals Planning Authority.
- b) When the upper [300] mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS 1377:1975 – 'British Standards Methods Test for Soils for Civil Engineering Purposes'; or
- c) When there are pools of water on the soil surface.

*Note: The criteria for determining whether soils are dry and friable involves an assessment based on the soil's wetness and lower plastic limit. This assessment shall be made by attempting to roll a ball of soil into a thread on the surface of a clean glazed tile using light pressure from the flat of the hand. If a thread of 15cm in length and less than 3mm in diameter can be formed, soil moving should not take place until the soil has dried out. If the soil crumbles before a thread of the aforementioned dimensions can be made, then the soil is dry enough to be moved.*

*Reason: To minimise the structural damage and compaction of the soil, to aid the final restoration of the site in compliance with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

54. The applicant shall notify the Minerals Planning Authority at least 5 working days in advance of the intention to start stripping soils from any part of the site or new phase of working.

*Reason: To allow the Minerals Planning Authority to monitor progress at the site, to minimise structural damage and compaction of the soil, to aid the final restoration of the site, to ensure the retention of identified soils in the approved positioning and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

55. The applicant shall notify the Minerals Planning Authority at least 5 working days in advance of the commencement of the final subsoil placement on each phase, or part phase, to allow a site inspection to take place.

*Reason: To allow the Minerals Planning Authority to monitor progress at the site, to minimise structural damage and compaction of the soil, to aid the final restoration of the site, to ensure the retention of identified soils in the approved positioning and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

56. Topsoil, subsoil and soil making materials shall be stored in separate mounds which shall:

- a) Not exceed 3 metres in height in the case of topsoil, or exceed 5 metres in height in the case of subsoils and overburden;
- b) Be constructed with only the minimum amount of soil compaction to ensure stability and shaped so as to avoid collection of water in surface undulations;
- c) Not be subsequently moved or added to until required for restoration;
- d) Have a minimum 3.0 metre standoff, undisturbed around each storage mound;
- e) Comprise topsoil's on like-texture topsoil's and like-texture subsoil's;
- f) In the case of continuous mounds, ensure that dissimilar soils are separated by a third material, which shall have previously been agreed in writing by the Minerals Planning Authority.

*Reason: To minimise structural damage and compaction of the soil, to aid the final restoration of the site, to ensure the retention of identified soils in the approved positioning and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

57. Upon restoration of any part or phase of the development hereby permitted, subsoils shall be tipped in windrows, in no less than 5 metre wide strips, in such a manner as to avoid the compaction of placed soils. Topsoil shall then be tipped and spread evenly onto the levelled subsoil also in such a manner to avoid the compaction of the placed soils.

*Reason: To minimise structural damage and compaction of soil, to aid the final restoration of the site and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

58. The uppermost 1 metre of imported restoration materials shall be free from any large solid objects and shall be both graded with the final tipping levels hereby approved and ripped using appropriate machinery to a minimum depth of 600mm. The waste shall be in turn covered with a minimum of 700mm even depth of subsoil and 300mm even depth of topsoil in the correct sequence. The finished surface shall be left free from rubble and stones greater than 100mm in diameter which would otherwise hinder cultivation.

*Reason: To ensure the site is properly restored and in compliance with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

59. Within 3 months of the completion of soils handling operations in any calendar year, an Annual Soils Management Audit shall be submitted to the Minerals Planning Authority for its approval in writing. The Annual Soils Management Audit shall include:

- a) the area stripped of topsoil and subsoil;
- b) the location of each soil storage mound;
- c) the quantity and nature of material within the mounds together with details of the type of plant used to strip/store those materials;
- d) those areas from which it is proposed to strip soils in the following year; and
- e) details of the forthcoming year's soil replacement programme including proposed restored soil profiles.

The development shall thereafter be implemented in accordance with the approved Audit.

*Reason: To minimise structural damage and compaction of soil, to aid the final restoration of the site and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

60. No development or preliminary groundworks shall take place until a written scheme and programme of archaeological investigation and recording has been submitted to and approved in writing by the Minerals Planning Authority. The scheme and programme of archaeological investigation and recording shall be implemented prior to the commencement of the development hereby permitted or any preliminary groundworks.

*Reason: To ensure that any archaeological interest has been adequately investigated and recorded prior to the development taking place and to comply with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and EN29.*

61. A mitigation strategy detailing the excavation/preservation strategy shall be submitted to the Minerals Planning Authority following the completion of the archaeological investigation work approved under Condition 60. The fieldwork shall be undertaken in accordance with the approved strategy prior to the commencement of development.

*Reason: To agree a suitable and adequate level of mitigation to ensure the archaeological interest has been adequately investigated and recorded prior to the development taking place and to comply with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and EN29.*

62. No development or preliminary groundworks shall take place on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy approved under Condition 61.

*Reason: To enable the preservation (by record) of any archaeological remains and to comply with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and EN29.*

63. Unless otherwise agreed in advance in writing by the Minerals Planning Authority, within 12 months of the completion of archaeological fieldwork, the applicant shall submit to the Minerals Planning Authority a post-excavation assessment. The assessment shall include the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

*Reason: To disseminate the information from the archaeological investigation and to comply with Minerals Local Plan Policies S10, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and EN29.*

64. Any fuel, lubricant or/and chemical storage vessel (whether temporary or not) shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity. All fill, draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the life of the development hereby permitted.

*Reason: To minimise the risk of pollution to water courses and aquifers and to comply with Minerals Local Plan Policies S10 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11 and COM23.*

65. All stones and other materials in excess of 100mm in any dimension shall be picked and removed from the final restored surface of the site, prior to the commencement of the aftercare period.

*Reason: To ensure the restored land is agriculturally versatile and that amenity use is not impeded and to comply with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN4, EN6, EN6a and EN6b.*

66. Final landform and surface restoration levels shall accord with the landform and final contour levels shown on drawing reference W328-00062-12-D: Proposed Restoration Scheme dated 21/10/19.

*Reason: To ensure proper restoration of the site and compliance with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN4, EN6, EN6a and EN6b.*

67. An aftercare scheme detailing the steps that are necessary to bring the land to the required standard for agricultural, amenity and habitat use shall be submitted to and approved in writing by the Minerals Planning Authority prior to commencement of restoration works/infilling/the placement of soils on site. The submitted Scheme shall:

- a) Provide an outline strategy in accordance with Paragraph 57 the Planning Practice Guidance for the five year aftercare period. This shall broadly outline the steps to be carried out in the aftercare period and their timing within the overall programme.
- b) Provide for a detailed annual programme, in accordance with Paragraph 58 to the Planning Practice Guidance to be submitted to the Minerals Planning Authority not later than two months prior to the annual Aftercare meeting.
- c) Unless the Minerals Planning Authority approved in writing with the person or persons responsible for undertaking the Aftercare steps that there shall be lesser steps or a different timing between steps, the Aftercare shall be carried out in accordance with the submitted Scheme.

The development shall be implemented in accordance with the approved aftercare scheme.

*Reason: To ensure the satisfactory restoration of the site for agricultural, amenity and habitat use and in accordance with Minerals Local Plan Policies S10, S12, P1 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, EN1, EN6, EN6a and EN6b.*

68. No minerals or aggregates shall be imported to the site and only aggregate from the application site shall be processed.

*Reason: To ensure that there are no adverse impacts on the local amenity from the development, not assessed in the application details, and to comply with Minerals Local Plan Policies S10, S11, P1, DM1 and DM3, Waste Local Plan Policies 10 and 12 and Tendring District Local Plan Policies QL11, COM22, COM23 and TR1a.*

69. No extraction shall take place below the limits shown on drawing ref W328-00062-13-D Cross Sections dated 21/10/19.

*Reason: To protect amenity and the environment and to comply with Minerals Local Plan Policies S1, S10, S12 and DM1, Waste Local Plan Policy 10 and Tendring District Local Plan Policy QL11.*

70. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no building, structure, fixed plant or machinery (other than hydraulic excavator, dragline or plant for movement of materials), except as detailed in the scheme approved under Condition 21, shall be erected, extended, installed or replaced on the site without the prior approval of the Minerals Planning Authority.

*Reason: To enable the Minerals Planning Authority to adequately control the development, to minimise its impact on the amenity of the local area, to minimise the impact upon the landscape and to comply with Minerals Local Plan Policies S10, S12, P1, DM1 and DM3, Waste Local Plan Policy 10 and Tendring District Local Plan Policies QL11, COM22 and EN1.*

## **Informatives**

1. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over all public footpaths in the vicinity including numbers 20 (Alresford) and 24 (Elmstead) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

3. Any work affecting Footpath 24 will be subject to a s278 Agreement.
4. The carriageway, verges and any other aspects within the highway shall be reinstated fully to a satisfactory standard and at no cost to the Highway Authority following the end of the extraction, processing and exportation period and closure of the site.
5. The developer will need to liaise with the network operator with regard to the treatment of the overhead power lines crossing the site.
6. This Planning Permission is subject to a s106 Legal Agreement.

### **Reason for Approval**

**Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighting against the following policies of the development plan:**

#### MINERALS LOCAL PLAN (MLP) 2014

- S1 - Presumption in favour of sustainable development
- S2 - Strategic priorities for minerals development
- S3 - Climate change
- S10 - Protecting and enhancing the environment and local amenity
- S11 - Access and Transportation
- S12 - Mineral Site Restoration and After-Use
- P1 - Preferred Sites for Sand and Gravel Extraction
- DM1 - Development Management Criteria
- DM3 - Primary Processing Plant

#### WASTE LOCAL PLAN (WLP) 2017

- Policy 3 - Strategic Site Allocations
- Policy 10 - Development Management Criteria
- Policy 11 - Mitigating and Adapting to Climate Change
- Policy 12 - Transport and Access

#### TENDRING DISTRICT PLAN (TDLP) 2007

- Policy QL3 – Minimising and Managing Flood Risk
- Policy QL11 – Environmental Impacts and Compatibility of Uses
- Policy COM20 – Air Pollution/Air Quality
- Policy COM21 – Light Pollution
- Policy COM22 – Noise Pollution
- Policy COM23 – General Pollution
- Policy COM31a – Sewerage and Sewage Disposal
- Policy EN1 – Landscape Character
- Policy EN4 – Protection of the Best and Most Versatile Agricultural Land
- Policy EN6 – Biodiversity
- Policy EN6a – Protected Species



Policy EN6b – Habitat Creation  
Policy EN29 – Archaeology  
Policy TR1a – Development Affecting Highways  
Policy TR1 – Transport Assessment  
Policy TR4 – Safeguarding and Improving Public Rights of Way  
Policy TR9 – Access of Freight to Transport Networks

**Statement of Reasons**

It is therefore acknowledged that the proposal site does not completely comply with the development principles of the site allocation at MLP Policy P1 as the existing vehicular access at Wivenhoe Quarry would not be used.

The proposal site is considered to be compliant with the WLP Policy 3 site L(i)5 allocation for inert landfill, aside from the proposed access.

However, the use of the proposed access off the B1027 Brightlingsea Road is considered to be a minor departure from the development principles. The traffic and highway impact of the use of the access by vehicles associated with the development has been assessed as having no material impact on safety or operation of the network. The applicant has agreed to incorporate a right-turn lane into the site, which is proposed to be secured through the use of planning conditions and legal obligations. Amenity and environmental impacts are not considered to be significant, providing that conditions are imposed as set out in the report, and including a legal obligation for a lorry routeing scheme. The Highway Authority has raised no objection and the development is considered to comply with MLP Policies S11 and DM1, WLP Policies 12 and 10, and TDLP Policies TR1, TR1a and TR9.

In addition to this, the impact on the Public Rights of Way network is considered to be minimal providing that it is controlled. Footpath 24 would be impacted through the construction of a tunnel to allow access for vehicles and would require a temporary diversion. This is proposed to be controlled through conditions and legal obligations, together with provision of an additional permissive route once the site is restored, in compliance with MLP Policy DM1, WLP Policy 10 and TDLP Policy TR4.

In terms of ecology impact, the development has been fully screened for Habitats Regulations Assessment and it has been concluded that an Appropriate Assessment is not required.

There have been several changes to the scheme since the original submission of the application, in order to clarify and accommodate ecological factors. The application site proposes over 50 hectares of priority habitat, including Lowland Acid Grassland and Lowland Meadow. It is considered that the scheme would have minimal impact with the imposition of conditions. The development would therefore comply with MLP Policy S12 and TDLP Policies QL11, EN4, EN6, EN6a, EN6b.

It is considered that the proposals present a suitable option in terms of restoration, which would bring long term benefits for landscape and visual impact. In the short to medium term during operations, there would be some adverse impact on the nearest residential receptors. However, this has been minimised as much as possible by appropriate stand-off distances and screening bunds. The proposed advanced planting would be of significant benefit in mitigation of visual impact, particularly in the vicinity of residential receptors and of the site access. The proposals would therefore be considered to comply with MLP Policy S10, S12, DM1, DM3 and S2 and WLP Policy 10.

There have also been amendments to the scheme in relation to amenity impact, particularly in relation to noise limits, which have been lowered, and a significant reduction in the original extraction area in order to avoid significant impact on surrounding properties and existing hedgerows. The impact on amenity and health has been very carefully considered, and it is concluded that, with the imposition of conditions, the impacts would not be significant. The development is considered to comply with MLP Policies S10 and S2, TDLP Policies QL11, COM20, COM21, COM22 and COM23 and WLP Policy 10.

It is considered that, subject to the imposition of conditions and a legal obligation for groundwater monitoring, the development would not present unacceptable impact on quality or quantity of water and would appropriately mitigate for flood risk, in compliance with MLP Policies DM1, S2 and S3 and WLP Policy 10 and Policy 11. A condition is proposed to control sewage disposal, for compliance with TDLP Policies COM23 and COM31a.

There is considered to be no harm to historic buildings. In terms of historic remains, the Historic Environment Advisor has raised no objection, subject to conditions, and the development is therefore considered to have no unacceptable impact on the historic environment, compliant with MLP Policies S10 and DM1 and WLP Policy 10.

The provision of the primary processing plant has been considered under MLP Policy DM3, as well as the relevant criteria for inert waste recycling plants under WLP Policy 3. The plant has been carefully considered as a new site and the amenity and environmental impacts have required particular attention. It is considered that, with the imposition of conditions, it would be appropriate to locate the processing plant in the vicinity of the mineral extraction area itself, and that the proposals would not have any significant amenity or environmental impacts, compliant with MLP Policies S10 and S2, TDLP Policies QL11, COM20, COM21, COM22 and COM23 and WLP Policy 10.

Finally, it is considered that the proposed development would meet the environmental aims of the NPPF in its requirement to achieve sustainable development. This would therefore comply with MLP Policies S1 and S2 and, on balance, there is a presumption in favour of granting planning permission for the proposals.

**There are no other policies or other material considerations which are overriding or warrant the withholding of permissions.**

**THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (AS AMENDED)**

The proposed development would be located 'adjacent' to a European site, namely:

- Essex Estuaries SAC
- Colne Estuaries (Mid-Essex Coast Phase 2) SPA and Ramsar site
- Stour and Orwell Estuaries SPA and Ramsar site
- Abberton Reservoir SPA and Ramsar site

The proposed development would not be directly connected with or necessary for the management of those sites for nature conservation.

Essex County Council, as the competent authority, has carried out a full Habitats Regulations Assessment screening report (Dated 1<sup>st</sup> May 2019) and, following consultation with Natural England and the County Council's Ecologist no issues have been raised to indicate that this development would adversely affect the integrity of the European sites, either individually or in combination with other plans or projects.

Therefore, it is considered that an Appropriate Assessment under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) is not required.

**STATEMENT OF HOW THE LOCAL AUTHORITY HAS WORKED WITH THE APPLICANT IN A POSITIVE AND PROACTIVE MANNER**

In determining this planning application, the Minerals Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement in the NPPF, as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Dated: 18 December 2020

COUNTY HALL  
CHELMSFORD

Signed

*Graham Thomas.*

Graham Thomas - Head of Planning Service

**IMPORTANT - ATTENTION IS DRAWN TO THE NOTES ON THE NEXT PAGE**

## NOTES

### TOWN AND COUNTRY PLANNING ACT 1990

#### NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS

##### Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990 (as amended).
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- If this is a decision that relates to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- Alternatively, if an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate> .If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Appendix C- Section 106 Agreement

AGREEMENT

Under Section 106 of the Town and Country Planning Act 1990 as amended

BETWEEN

TARMAC AGGREGATES LIMITED (1)

and

MATTHEW JAMES DUTTON and

DAVID HAROLD DUTTON (2)

and

MATTHEW JAMES DUTTON

DAVID HAROLD DUTTON

RICHARD JOHN DUTTON and

LUCY JANE DUTTON (3)

and

ESSEX COUNTY COUNCIL (4)

RE

Land to the South of Colchester Main Road, Alresford, Essex, C07 8DB - Wivenhoe  
Extension (Sunnymead)

Paul Turner  
Director, Legal and Assurance  
ELS  
Seax House  
Victoria Road South  
Chelmsford  
CM1 1QH  
DEV/3704

DATE *Seventeenth December* 2020  
PARTIES

(1) TARMAC AGGREGATES LIMITED (company registration number 00297905) whose registered office is situated at Portland House Bickenhall Lane Solihull B37 7BQ (hereinafter called "the Developer") and

(2) MATTHEW JAMES DUTTON of Cold Hall, Harwich Road, Great Bromley Colchester Essex CO7 7JH and DAVID HAROLD DUTTON of Furzedown, Sunnymead Farm, Alresford Road, Colchester Essex CO7 9JZ as the personal representatives for the late Gwyneth (also known as) Gwynneth Stafford Dutton of Sunnymead Farm, Alresford Road, Wivenhoe, CO7 9JZ (hereinafter called "the Personal Representatives")

and

(3) MATTHEW JAMES DUTTON of Cold Hall, Harwich Road, Great Bromley Colchester Essex CO7 7JH DAVID HAROLD DUTTON of Furzedown, Sunnymead Farm, Alresford Road, Colchester Essex CO7 9JZ RICHARD JOHN DUTTON of The Cave, 16 Belle Vue Road, Colchester Essex C01 1XA and LUCY JANE DUTTON of The Corner House, 80 Coach Road, Great Horkesley, Colchester Essex C06 4DY ("the Owner") and

(4) ESSEX COUNTY COUNCIL of County Hall Market Road Chelmsford CM1 1QH in the County of Essex (hereinafter called "the County Council")

#### WHEREAS

(1) The County Council is mineral planning authority for the purposes of the Town and Country Planning Act 1990 for the area within which the Application Site is situated

(2) The County Council is the local highway authority for the area within which the Application Site is situated

(3) The Developer is the owner of that part of the Application Site which forms the land registered at HM Land Registry with Freehold Title Absolute under Title Number EX791823 following a formal change of name from Lafarge Aggregates Limited on 03 Aug 2015 subject to the interest of the Owner by virtue of a deed of pre-emption and a call option agreement both dated 6 October 2008 and has an interest in the Application Site within the meaning of Section 106 (9) (b) of the 1990 Act



(4) The Personal Representatives have executed a transfer of the freehold interest in favour of the Owner of that part of the Application Site registration of which is pending at HM Land Registry with Freehold Title Absolute under Title Number AA14775 and has an interest in the Application Site within the meaning of Section 106 (9) (b) of the 1990 Act

(5) A Planning Application Reference No. ESS/17/18/TEN has been made by the Developer to the Council for planning permission for the Development on the Application Site

(6) The County Council consider it expedient that provision should be made for regulating or facilitating the Development or use of the Application Site in the manner hereinafter appearing and the County Council consider that entering into this Agreement will be of benefit to the public

(7) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the County Council against the Developer the Personal Representatives and the Owner and their successors in title

(8) The County Council and all of the other parties are satisfied that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms, are directly related to the Development and fairly and reasonably relate in scale and kind to the Development

(9) The Personal Representatives and the Owner consent to the giving by the Developer of the covenants in this Agreement and agree that their interest in the Application Site shall be bound by them

(10) The Personal Representatives the Owner and the Developer confirm that there are no charges on the land comprising the Application Site in their respective ownership

#### 1. OPERATIVE POWERS

1.1 THIS AGREEMENT is made pursuant to Section 106 of the 1990 Act as amended by the 1991 Act and 2004 Act and 2008 Act and 2011 Act to the intent that it shall bind the Developer and its successors in title and assigns and the persons claiming under or through it subject to clause 6.18 of this Agreement

1.2 The covenants, restrictions and requirements imposed upon the Personal Representatives and the Owner under this Deed create planning obligations

pursuant to Section 106 of the Act and are enforceable by the County Council as local planning authority against the Developer and/or the Personal Representatives and/or the Owner

1.3 This Agreement is conditional on the grant of the Planning Permission

1.4 Nothing in this Agreement is intended to confer any benefit on any party other than the parties executing this Agreement

1.5 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act they are entered into pursuant to the powers contained in Section 111 of the 1972 Act and Section 1 of the Localism Act 2011 all other enabling powers

## 2. INTERPRETATION

2.1 In this Agreement the following expressions shall have the following meanings:-

**"the 1972 Act"** shall mean the Local Government Act 1972

**"the 1980 Act"** shall mean the Highways Act 1980

**"the 1990 Act"** shall mean the Town and Country Planning Act 1990

**"the 1991 Act"** shall mean the Planning and Compensation Act 1991

**"the 2004 Act"** shall mean the Planning and Compulsory Purchase Act 2004

**"the 2008 Act"** shall mean the Planning Act 2008

**"the 2011 Act"** shall mean the Localism Act 2011

**"the Application Site"** shall mean the land to the South of Colchester Main Road, Alresford, Essex, C07 8DB and identified on Drawing No. W328-00062-01-D annexed hereto and thereon edged red [

**"Commencement Date"** shall mean subject to clause 7.2 the date on which the Development commences by the carrying out on the Application Site pursuant to the Planning Permission of a material operation as specified in section 56(4) (a-d) of the 1990 Act PROVIDED ALWAYS for the purposes of this Agreement demolition of existing structures trial holes site investigations and surveys, preparation and remediation the removal of services or the erection of fences or hoardings shall not be a material operation

**"Commencement of Development"** subject to clause 7.2 the carrying out on the Application Site pursuant to the Planning Permission of a material operation as

specified in section 56(4) of the 1990 Act and **"Commence the Development"** and **"Commence"** and **"Commenced"** shall be construed accordingly

**"the Development"** shall mean the extraction of 3.8 million tonnes of sand and gravel as an easterly extension to the existing Wivenhoe Quarry, erection of sand and gravel processing plant and ancillary facilities, new vehicular access onto the B1027 Brightlingsea Road, and restoration to agriculture and low-level water-based nature conservation habitats, lowland meadow, woodland planting and hedgerow enhancement using approximately 1.2 million cubic metres of imported inert waste material

**"the Highway Works"** shall mean such works as are set out in the First Schedule to this Agreement to include any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment to the provision of or alteration to street lighting road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of the County Council's Inspections which include the requirements in the Planning Permission to maintain the public footpath routes affected by the Development

**"the Highway Works Agreement"** means an agreement entered into pursuant to all powers enabling the parties and in particular to Sections 38 and 72 and 278 of the Highways Act 1980 Act Section 33 of the Local Government (Miscellaneous Provisions) 1982 Act to regulate the carrying out of the Highway Works and the agreement shall include but not be limited to:

- (a) the securing of a bond to ensure that third party funds are available to complete the Highway Works to the satisfaction of the County Council
- (b) the payment of the County Council's works inspection fees, maintenance fees, special orders fees, supervision fees and any other such fees as the County Council shall require
- (c) payment of the County Council's legal administrative and other fees and disbursements associated with the drafting negotiating and completion of the Highway Works Agreement
- (d) the preparation and advance approval of works drawings and traffic management measures

- (e) the certification and maintenance of the Highway Works
- (f) the regulating of the issue of the Works Licence to enable the Highway Works to be carried out
- (g) the securing of a bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity and bonds for liability issues as the County Council shall require
- (h) clauses dealing with dedication of land as public highway
- (i) the standards and procedures for carrying out the Highway Works

**"Local Authority Seven Day Deposit Rate"** shall mean an assessment of the rate of interest the County Council can expect to earn on investments through the money market the rate used being the one for the Friday of each week applied for the preceding week and which is published on the Financial Times web site the following Monday

**"Notice of Commencement"** shall mean the written notice advising of the proposed Commencement Date

**"Occupation"** shall mean permanent occupation of the Development for the purposes permitted by the Planning Permission other than the construction of the Development and **"Occupy"** and **"Occupied"** shall mutatis mutandis be construed accordingly

**"the Planning Application"** shall mean the application for planning permission for the carrying out of the Development carrying the reference ESS/17/18/TEN and for the avoidance of doubt for the purposes of this Agreement the term **"Planning Application"** shall subject to the written confirmation of the Council to be given prior to the determination of any planning applications that may follow include any application(s) to vary a condition on the Planning Permission or any application(s) for reserved matters approval,

**"the Planning Permission"** shall mean the planning permission granted for the Development subject to conditions pursuant to the Planning Application

**"Working Days"** shall mean any day(s) upon which banks in the City of London are open to the general public

2.2 Where in this Agreement reference is made to a Clause Paragraph Schedule Plan or Recital such reference (unless the context otherwise requires) is a reference

to a clause paragraph schedule plan or recital of or (in the case of a plan) attached to this Agreement

2.3 Where in any Schedule or Part of a Schedule reference is made to a Paragraph such reference shall (unless the context otherwise requires) be to a paragraph of that Schedule or (if relevant) Part of a Schedule

2.4 References in this Agreement to the Developer and the County Council and the Personal Representatives and the Owner or any one or more of them shall include reference to their respective successors in title and to persons claiming through or under them

2.5 Words importing the singular meaning where the context so admits include the plural meaning and vice versa

2.6 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies corporations and firms and all such words shall be construed interchangeably in that manner

2.7 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of the restriction

2.8 Any reference to a statute a provision thereof a statutory instrument or such Specification Code of Practice or General Direction as is issued under statutory authority or by a Secretary of State shall include any modification extension consolidation or re-enactment thereof for the time being in force and shall include all instruments orders plans regulations permissions and directions for the time being made issued or given thereunder or deriving validity therefrom

2.9 Clause headings and table of contents contained in this Agreement are for reference purposes only and should not be incorporated into this Agreement and shall not be deemed to be any indication of the meaning of the parts of this Agreement to which they relate

2.10 The word "including" shall mean "including without limitation or prejudice to the generality of any description defining term or phrase preceding that word" and the word "include" and its derivatives shall be construed accordingly

### 3. OBLIGATIONS OF THE PARTIES



3.1 The Developer the Personal Representatives and the Owner so as to bind the Application Site covenants with the County Council to comply with the obligations set out in the Schedules to this Agreement and in this clause 3 hereof

3.2 The County Council covenant with the Developer the Personal Representatives and the Owner to comply with the obligations set out in the Schedules to this Agreement

3.3 The County Council covenants with the Developer the Personal Representatives and the Owner to act reasonably, properly and diligently in exercising their discretion and discharging their functions under this Agreement and FURTHERMORE where any notice or consent or approval or authorisation or agreement or other similar affirmation is required under the terms of the Agreement then under those circumstances the County Council will not unreasonably withhold or delay such notice or consent or approval or authorisation or agreement or other similar affirmation

3.4 Representatives of the County Council may enter upon the Application Site at any reasonable time (and in the case of an emergency immediately) to ascertain whether the terms of this Agreement and of the Planning Permission are or have been complied with subject to complying with all health and safety requirements required by the Developer

3.5.1 The Developer shall enter into a Highway Works Agreement with the County Council in relation to the Highway Works prior to the Commencement of the Development

3.5.2 The Developer shall complete the part of the Highway Works described in Schedule 6 item 1 and 3 in accordance with the Highway Works Agreement prior to the Commencement of the Development and the part of the Highway Works described in Schedule 6 item 2 within six (6) months of cessation of operations under the Planning Permission

3.6 The Developer shall notify the County Council in writing not later than FIVE (5) Working Days prior to the Commencement of Development of the date on which the Personal Representatives and/or the Owner and/or the Developer intends to Commence Development and FURTHERMORE the date on which Development was Commenced shall be taken as the date in the Developer's notification or if earlier the actual date of Commencement of Development

3.7 The Developer the Personal Representatives and the Owner covenant not to commence mineral extraction on the Application Site until such time as the restoration of the Wivenhoe Quarry (extracted under planning permission reference ESS/43/19/TEN has been fully completed in accordance with the approved details under planning permission reference ESS/43/19/TEN or any amendment approved pursuant to that permission'

3.8 The Developer the Personal Representatives and the Owner covenant not to carry out any operations which would undermine the public right of way identified as Footpath 24 Elmstead without temporarily diverting it to a line agreed with the County Council and formalising the same in accordance with the relevant legal processes applicable and ensuring that the temporary diversion route is available to the public free of vegetation and other impediments until such time as the temporary closure period is ended as specified in Schedule 6

#### 4. TRANSFER OF INTERESTS

4.1 The Developer the Personal Representatives and the Owner shall upon parting with its respective interest in the Application Site be released from all obligations rights and duties (save for liability in respect of any antecedent breach) under the terms of this Agreement Provided That if the Developer or the Owner shall retain an interest in any part of the Application Site the Developer or the Owner as appropriate shall remain liable insofar as such liability relates to such retained interest

4.2 the provisions of Clause 4.1 shall apply in relation to any successor in title of the Developer and the Owner as the owners of their respective parts of the Application Site or any part thereof mutatis mutandis

#### 5. NOTICES

5.1 The address for any notice or other written communication is as specified above in the case of each party hereto or (at the option of the recipient) such address as may be specified for service from time to time provided that the same is within the United Kingdom or (at the option of the party giving notice or other communication) the last-known place of abode or business in the United Kingdom of the recipient

5.2 Any notice or other written communication to be served or given by one party upon or to any other under the terms of this Agreement shall be deemed to have been validly served or given if received by electronic mail by facsimile delivered by hand or sent by first class post or by pre-paid or recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is marked as follows for each recipient:

5.2.1 for the Developer it shall be marked for the attention of the General Counsel at the registered office of Tarmac Aggregates Limited

5.2.2 except as stated at subclause 5.2 for the County Council relating to a highway or transportation matter it shall be marked for the attention of the s106 Officer, Strategic Development (EGD), County Hall Chelmsford CM1 1QH

5.2.3 for the Personal Representatives it shall be marked for the attention of the Personal Representatives at the addresses detailed at the beginning of this Agreement

5.2.4 for the Owner it shall be marked for the attention of the Owners at the addresses detailed at the beginning of this Agreement

5.3 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:

5.3.1 if delivered by hand, at the time of delivery;

5.3.2 if sent by post, on the second working day after posting; or

5.3.3 if sent by recorded delivery, at the time delivery was signed for

5.4 If a notice, demand or any other communication is served after 4.00 pm on a working day, or on a day that is not a working day, it is to be treated as having been served on the next Working Day

5.5 Any bond to be deposited or payment to be made direct to the County Council by the Developer under the terms of this Agreement shall be addressed to the Head of Financial Services of the County Council at the aforementioned address

## 6. GENERAL

6.1 Unless otherwise specified where any agreement certificate consent permission expression of satisfaction or other approval is to be given by any party or any person on behalf of any party hereto under this Agreement the same shall not be unreasonably withheld or delayed or imposed (as the case may be) but may only be



given in writing and may be validly obtained only prior to the act or event to which it applies and the party giving such agreement certificate consent permission expression of satisfaction or other approval shall at all times act reasonably and the agreement or requirement shall be given or imposed by the Executive Director for Economic Growth and Development or by the Head of Planning depending on which service department is responsible for the matter and where any payment of costs or other payments are to be made by the Developer to the County Council such costs and other payments shall be deemed to be reasonable and proper

6.2 Any covenant by the Developer the Personal Representatives or the Owner not to do an act or thing shall be deemed to include an obligation to use reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred

6.3 No compensation shall be payable by the County Council to any party to this Agreement or their successors in title arising from the terms of this Agreement and assigns arising from the terms of this Agreement and unless specified otherwise in this Agreement all works and activities to be executed hereunder (including such as are of a preparatory ancillary or maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Personal Representatives or the Owner or the Developer and at no cost to the County Council

6.4 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax ("**VAT**") properly payable PROVIDED ALWAYS THAT if at any time VAT is or becomes chargeable in respect of any supply made in accordance with the provisions of this Agreement then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

6.5 Nothing in this Agreement shall prejudice or affect the rights powers duties and obligations of the County Council in the exercise of its functions in any capacity and the rights powers duties and obligations of the County Council under private public or subordinate legislation may be effectively exercised as if neither were a party to this Agreement (and in particular neither shall be precluded from entering into any agreement under the 1980 Act and/or the 1990 Act with any other party and shall not be deemed to be in breach of this Agreement by so doing)

6.6 Any agreement obligation covenant or undertaking contained herein by any of the parties which comprise more than one person or entity shall be joint and several and where any agreement obligation covenant or undertaking is made with or undertaken towards more than one person it shall be construed as having been made with or undertaken towards each such person separately and where the Developer the Personal Representatives and the Owner are different persons agreements obligations covenants and undertakings given by either shall be deemed to be given jointly and severally by both

6.7 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of the parties

6.8 No variation to this Agreement shall be effective unless made by Deed or pursuant to the determination of an application made under Section 106A of the 1990 Act or an appeal under section 106B of the 1990 Act

6.9 The failure by any party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement

6.10 Any payment which is due to the County Council under the terms of this Agreement that is made later than the date such payment is due shall attract interest at the Local Authority Seven Day Deposit Rate from the date payment was due until the date payment is received by the County Council as appropriate

6.11 The Developer hereby agrees to pay forthwith the County Council's reasonable legal costs of and incidental to the preparation negotiation and entering into of this Agreement

6.12 The Developer hereby agrees to pay forthwith the County Council's Strategic Development Fee

6.12 This Agreement shall be enforceable as a local land charge and shall be registered as such

6.13 This Agreement is governed by the laws of England and Wales and is subject to the exclusive jurisdiction of the English and Welsh Courts

6.14 It is hereby agreed and declared that a person who is not a party to this Agreement shall not be entitled in his own right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999

6.15 This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts and each of those counterparts when executed and delivered shall constitute an original but all the counterparts together shall constitute one and the same instrument

6.16 The provisions of this Agreement (other than those of this Clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated

6.17.1 This Agreement will come to an end if:

6.17.1.1 the Planning Permission is quashed, revoked or otherwise withdrawn or otherwise modified without the consent of the Developer before the Commencement Date so as to render this Agreement or any part of it irrelevant, impractical or unviable; or

6.17.1.2 the Planning Permission expires without any Development taking place;

6.17.2 where the Agreement comes to an end under clause 6.17.1

the County Council is (on the written request of the Developer) to request the vacation or cancellation of the entry made in the Local Land Charges register in relation to this Agreement or otherwise to record the fact that it has come to an end and no longer affects the Application Site

6.18 This Agreement shall not be enforceable against any statutory undertaker or other person who acquires any part of the Application Site or any interest in it for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services

6.19 Nothing in this Deed shall prohibit or limit the right to develop any part of the Application Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed

## 7. COMMENCEMENT

7.1 Save in respect of those clauses which will become operative on the date of this Agreement and in respect of obligations expressly in this Agreement requiring compliance prior to Commencement Date and which will become operative on the issue of the Planning Permission this Agreement will come into effect on the Commencement Date

7.2 The Commencement Date and Commencement of Development will not be triggered by any of the following operations:

7.2.1 site investigations or surveys;

7.2.2 site decontamination;

7.2.3 the clearance of the Application Site;

7.2.4 works for the provision of drainage or mains services to prepare the Application Site for development.

7.2.5 erection of fencing or boarding;

7.2.6 erection of boards advertising the development; and

7.2.7 the construction of a site compound.

## 8. DETERMINATION OF DISPUTES

8.1 Subject to clause 8.7 if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other written notice requiring the dispute to be determined under this clause 8. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute

8.2 For the purposes of this clause 8 a "**Specialist**" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Application Site

8.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute) who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under clause 8.4

8.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute)

8.5 The Specialist is to act as an independent expert and:

8.5.1 each party may make written representations within ten (10) Working Days of his appointment and will copy the written representations to the other party;

8.5.2 each party is to have a further ten (10) Working Days to make written comments on the other's representations and will copy the written comments to the other party;

8.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;

8.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;

8.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and

8.5.6 the Specialist is to use all reasonable endeavours to publish his decision within thirty (30) Working Days of his appointment.

8.6. Responsibility for the costs of referring a dispute to a Specialist under this clause 8, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

8.7 This clause 8 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts of England.

#### 9. PERSONAL REPRESENTATIVE'S CONSENT

9.1. The Personal Representatives consent to the giving by the Developer of the covenants in this Agreement and agree that their interest in the Application Site shall be bound by them

#### 10 OWNER'S CONSENT

10.1. The Owner consents to the giving by the Developer of the covenants in this Agreement and agrees that its interest in the Application Site shall be bound by them

I N W I T N E S S whereof this document has been executed as a Deed and delivered the day and year first before written



## SCHEDULE 1

### (Site Liaison Group)

In this Schedule unless the context requires otherwise the following words and expressions shall have the following meaning:-

"the Site Liaison Group" shall mean a group set up in accordance with the provisions of this First Schedule

1. The Developer hereby covenants with the County Council:

1.1 To constitute a Site Liaison Group comprising representatives of the local County Council ward member a County Council Mineral Planning Officer a Tendring District Council ~~office~~ member of Elmstead Parish Council and Alresford Parish Council *office, a* *SM*

1.2 In addition to those representatives stated in 1.1 representatives of Wivenhoe Parish Council shall be given an invitation to form part of the Site Liaison Group

1.3 In addition to those representatives stated in 1.1 the Site Liaison Group shall if needed from time to time decide to invite other interested parties to the meetings

1.4 That the first meeting of the Site Liaison Group shall be held no later than one month after the date of Commencement

1.5 All costs associated with the administration and running of the Site Liaison Group shall be met by the Developer

2. The Purpose of the Site Liaison Group shall be to:

2.1 (a) appraise people in the locality of Application Site progress; (b) to give local residents an opportunity to discuss any matters arising from Application Site operations; and (c) to enable any questions that any representatives might have to be answered.

2.2 The specific aims of the Site Liaison Group are to:

- a. maintain liaison and rapport between the Developer the County Council, the local parishes (being comprised of Elmstead Parish Council and Alresford Parish Council) and the local community;
- b. develop lines of communication between the Developer the County Council and the local community in order that majority of issues and items of concern can be resolved directly;
- c. provide a forum for discussions and, where possible, a resolution of problems not achieved by paragraph 2.1(b) above;
- d. provide a means of communicating significant problems to senior management within Tarmac Aggregates Limited organisation and/or formally to the mineral planning authority;
- e. provide a means of communicating progress on the Application Site through Application Site visits and discussion of mineral planning authority monitoring reports.
- f. provide a forum to discuss compliance with planning control;
- g. provide a forum to inform of any proposed amendment or variations to the approved schemes; and
- h. provide a forum to discuss particular aspects of the operation and where appropriate invite specialist comment for discussion at later progress meetings.

2.3 The Site Liaison Group shall operate so that:

- i. only matters relating directly to the Application Site shall be discussed;



j. minutes shall be kept by a Secretary appointed by the Site Liaison Group and subsequently approved by the said committee. Minutes shall be circulated within 1 month of the previous meeting and an Agenda shall be circulated at least one (1) week before the next meeting;

k. the Site Liaison Group shall not take executive decisions or vote on any items;

l. The Developer shall be responsible for notification of meetings, obtaining agenda items from the representatives, and supplying copies of the agendas and minutes, including notifications of resulting actions;

m. The Developer may invite to the meetings any other person or persons that may be able to assist the Site Liaison Group with its discussions;

n. The Developer shall provide and fund the venue and provide for a tour for members of the Site Liaison Group as requested by the Site Liaison Group;

o. a minimum of two meetings per year shall be held by the Site Liaison Group; and

p. the meeting shall be Chaired by the Local County Council Member and if not present by the representative from the County Council.

## SCHEDULE 2

### (Aftercare)

#### **The Developer the Personal Representatives and the Owner covenant with the County Council in relation to their respective land ownership:**

1. To manage and fund for the care maintenance after-use and features of the Application Site as depicted on the approved Proposed Restoration Scheme W328-00036-12-D dated 21 October 2019 referred to in condition

66 of the Planning Permission and in accordance with the provisions below for a continuous period of twenty five (25) years being

1.1 the statutory five-years aftercare period such period commencing after each phase has been restored to the satisfaction of the planning authority as shown in principle on the Proposed Working Plan ref W328-00062-03-D dated 21/08/19 and as approved under Condition 23, and

1.2 followed immediately thereafter by an additional twenty (20) years) in accordance with the requirements and conditions of the Planning Permission

SCHEDULE 3  
(Permissive Footpath)

In this Schedule the following expressions shall have the following meanings

**Scheme for Improved Permissive Public Access** means the provision of a permissive footpath link and signage between public footpaths 20 and 24 as shown <sup>62</sup>indicatively on the Drawing numbered W328-00038-12-D dated 21 October 2019 and appended to this Agreement which scheme shall include a timetable and construction standard compliant with road safety audit requirements

The Developer hereby covenants to provide the Scheme for Improved Permissive Public Access within the Application Site so as to enhance the existing public rights of way network and to:

- 1.1 submit the Scheme for Improved Permissive Public Access details to the County Council following the date of this Agreement and within 6 months of the submission of the scheme for approval in accordance with Condition 33 of the Planning Permission
- 1.2 provide the Scheme for Improved Permissive Public Access in accordance with a timetable and construction standard to be agreed with the County Council

- 1.3 maintain any route provided in accordance with the Scheme for Improved Permissive Public Access in a safe condition for the use of the public for the duration of the Development
- 1.4 carry out appropriate maintenance works to ensure that any route provided in accordance with the Scheme for Improved Permissive Public Access is not obstructed by vegetation or other materials that impede passage and that its construction remains compacted and consolidated commensurate with providing sound and convenient passage on foot
- 1.5 to comply with the timescale for construction and diversion of any route to be provided in accordance with the Scheme for Improved Permissive Public Access as agreed with the County Council in writing prior to Commencement of Development and
- 1.6 make any route provided in accordance with the Scheme for Improved Permissive Public Access available for the public to use as a permissive path for the lifetime of the Development

SCHEDULE 4  
(Vehicle Routeing Scheme)

In this Schedule unless the context requires otherwise the following words and expressions shall have the following meaning:

**"HGV"** any vehicle with a gross combination mass in excess of 3.5 tonnes

**"Vehicle Routeing Scheme"** shall mean a scheme produced in accordance with the provisions of this Schedule 4 and consistent with Drawing number W321-00062-14 dated 12 August 2019 which avoids School Road

## 1. DEVELOPER'S COVENANTS

1.1 Prior to Commencement of Development to submit to the County Council for prior approval the Vehicle Routeing Scheme

1.2 To implement the Vehicle Routeing Scheme in the form as agreed with the County Council

## 2. VEHICLE ROUTEING SCHEME MEASURES

2.1 The Developer hereby covenants that:

2.1.1 All HGVs taking access to/from the Application Site shall do so via the Application Site access on the B1027 Brightlingsea Road/Colchester Main Road

2.1.2 No HGVs shall use School Road and Birds Hall Lane

2.1.3 Leaflets are given to all HGV drivers when they first visit the Application Site setting out the requirements of 2.1.1 and 2.1.2 of this Schedule 3

2.1.3 Leaflets are given to all HGV drivers employed by the Developer when they first visit the Application Site setting out the requirements of 2.1.1 and 2.1.2 of this Schedule 3 and disciplinary action that will be taken if they fail to comply

2.1.5 Notices are displayed at prominent locations on the Application Site (a) advising all drivers of the requirements of the provisions 2.1.1 and 2.1.2 above and (b) advising all drivers employed by the Developer that disciplinary action will be taken if they fail to comply

2.1.6 When entering into any contract in connection with the Development or ancillary uses the Developer shall where relevant to such contract include such

obligations as necessary to ensure (a) that the contracting party shall require the HGV drivers that they use to service the Application Site to comply with the requirements of Paragraphs 2.1.1 and 2.1.2 above and (b) that the contracting party takes disciplinary action for failure to comply with such provisions

2.1.7 For the avoidance of doubt the disciplinary action referred to in this Schedule 3 shall involve preliminary warnings and ultimately result in drivers being banned from the Application Site

3.1 The County Council hereby covenants:

3.1.1 To agree the terms of the Vehicle Routeing Scheme as submitted from the Developer and agree the terms as soon as practicable acting reasonably upon receipt acting reasonably and in any event to provide recommendations on the said plan within fifteen (15) Working Days of submission of the Vehicle Routeing Scheme by the Developer

SCHEDULE 5  
(Groundwater Protection)

1. Prior to Commencement of Development to submit a scheme for a water monitoring and action plan and a water management and reporting schedule for the protection of groundwater
  
2. The scheme shall include provision for:
  - Recording of monthly water level at groundwater monitoring boreholes around the site (at designate points BH02, BH04, BH05, BH06, BH07, BH08, BH09, BH12, PZ1 and PZ3 as defined on Figure 2.9: Monitoring Locations at and around the Application Site, at page 23 of the submitted

Hydrogeological Impact Assessment by ESI Consulting dated 21<sup>st</sup> May 2018):

- Monitoring of water levels in neighbouring private and/or licenced water supply abstraction boreholes
- Monthly monitoring of surface water levels in Cox Lake and Worcester Lake and
- Monthly monitoring of water levels in the closest pond at Cockaynes Wildlife site

as outlined in the submitted Hydrogeological Impact Assessment by ESI Consulting dated 21<sup>st</sup> May 2018

3. To use its best endeavours to obtain permission from the relevant landowners or occupiers in order to monitor water levels in neighbouring private and/or licenced water supply abstraction boreholes
4. To comply with the approved water monitoring and action plan and water management and reporting schedule for the protection of groundwater for the lifetime of the Development

*SL* The County Council hereby covenants to agree the terms of the scheme for water monitoring and action plan and water management and reporting schedule for the protection of groundwater as submitted by the Developer and agree the terms as soon as practicable acting reasonably upon receipt acting reasonably and in any event to provide recommendations on the said scheme/action plan and/or reporting schedule within eight (8) weeks of submission of the scheme for water monitoring action plan and water management and reporting schedule for the protection of groundwater by the Developer

## SCHEDULE 6

### (Description of Highway Works)

The works shall comprise

1. the construction of a right turn lane in the B1027 as shown in principle on drawing ref 15010-03 Rev B Proposed Right Turn Lane dated August 2019
2. the subsequent removal of the right turn lane in the B1027 and the reinstatement of the carriageway and verge of the B1027 to the satisfaction of the local highway authority upon completion of the Development in accordance with the Planning Permission
3. construction of a temporary diversion route for Footpath 24, Elmstead for a maximum of six months during the under cutting works comprised in item 1 of this Schedule and reinstatement of Footpath 24, Elmstead at the end of that period both to the satisfaction of the local highway authority
4. maintenance and clearance of obstructions of Footpath 24, Elmstead and any permanent or temporary diversion route which runs across the Application Site to a minimum of 3 (three) metres for the duration of the Development including twice yearly cutting back of hedges and grass alongside the public footpath and grass cutting along surface of the public footpath from April to October each year

such works to include any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment the provision of or alteration to street

lighting road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of the Engineer's Inspections and any associated traffic orders (temporary or permanent) associated therewith



Executed as DEED by )  
TARMAC AGGREGATES LIMITED )  
acting by a director:- )  
JEREMY GREENWOOD

Data Protection Act

In the presence of:

Data Protection Act

Witness....

Witness Name: SANDRA WOODHEAD

Address:

Portland House, Bickenhill Lane  
Solihull, Birmingham B37 7BQ

Executed as a Deed by affixing )  
the common seal of )  
ESSEX COUNTY COUNCIL )  
in the presence of: )



4138

**Data Protection Act**



Attesting Officer

SIGNED as a DEED by )  
MATTHEW JAMES DUTTON )  
acting as Personal Representative for the late )  
Gwyneth Stafford Dutton )  
in the presence of: )

**Data Protection Act**



**Data Protection Act**  
**Data Protection Act**

Witness: X

Witness name: MARK HANSON

Address  
TENPENNY BARN  
ALRESFORD  
ESSEX  
CO7 8DJ

SIGNED as a DEED by )  
DAVID HAROLD DUTTON )  
acting as Personal Representative for the late )  
Gwyneth Stafford Dutton )  
in the presence of:- )

Data Protection Act  
[Redacted]

Data Protection Act  
[Redacted]

Witness: X  
Witness name: MARK HANSON  
Address: TENPENNY BARN, ALRESFORD, ESSEX, CO7 8DJ

SIGNED as DEED by )  
MATTHEW JAMES DUTTON )  
in the presence of:- )

Data Protection Act  
[Redacted]

Data Protection Act  
[Redacted]

Witness: X  
Witness name: MARK HANSON  
Address: TENPENNY BARN  
ALRESFORD  
ESSEX  
CO7 8DJ

SIGNED as a DEED by )  
DAVID HAROLD DUTTON )  
in the presence of:- )

Data Protection Act  
[Redacted]

Data Protection Act  
[Redacted]

Witness:  
Witness name: MARK HANSON  
Address: TENPENNY BARN  
ALRESFORD  
ESSEX  
CO7 8DJ

SIGNED as a DEED by  
RICHARD JOHN DUTTON  
in the presence of:-

Data Protection Act

Data Protection Act

Witness:

Witness name: MARK HANSON  
Address: TENPENNY BARN  
ALRESFORD  
ESSEX  
CO7 8DJ.

SIGNED as a DEED by  
LUCY JANE DUTTON  
in the presence of:-

Data Protection Act

Data Protection Act

Witness: X

Witness name: MARK HANSON  
Witness address: TENPENNY BARN  
ALRESFORD  
ESSEX  
CO7 8DJ

ANNEXURE A

<u>DESCRIPTION</u>	<u>COEFFICIENT</u>
Labour	0.300
Plant	0.290
Aggregates	0.050
Bricks and clay	0.001
Cement	0.030
Cast iron	0.003
Coated roadstone	0.220
Fuel derv	0.080
Gas oil	0.020
Timber	0.001
Reinforced steel	0.001
Metal sections	0.002
Structural steel	0.001
Erect steel	<u>0.001</u>
	1.000

FORM B

Commencement of Development

1. Date :-
2. Date Agreement Signed :-
3. Planning Application Number :- ESS/17/18/TEN
4. Parties to Agreement :-

(1)

THE DUTTONS, SUNNYMEAD FARM, ALRESFORD ROAD, WIVENHOE, C07 9JZ

(2)

(3)

(4)

ESSEX COUNTY COUNCIL (5)

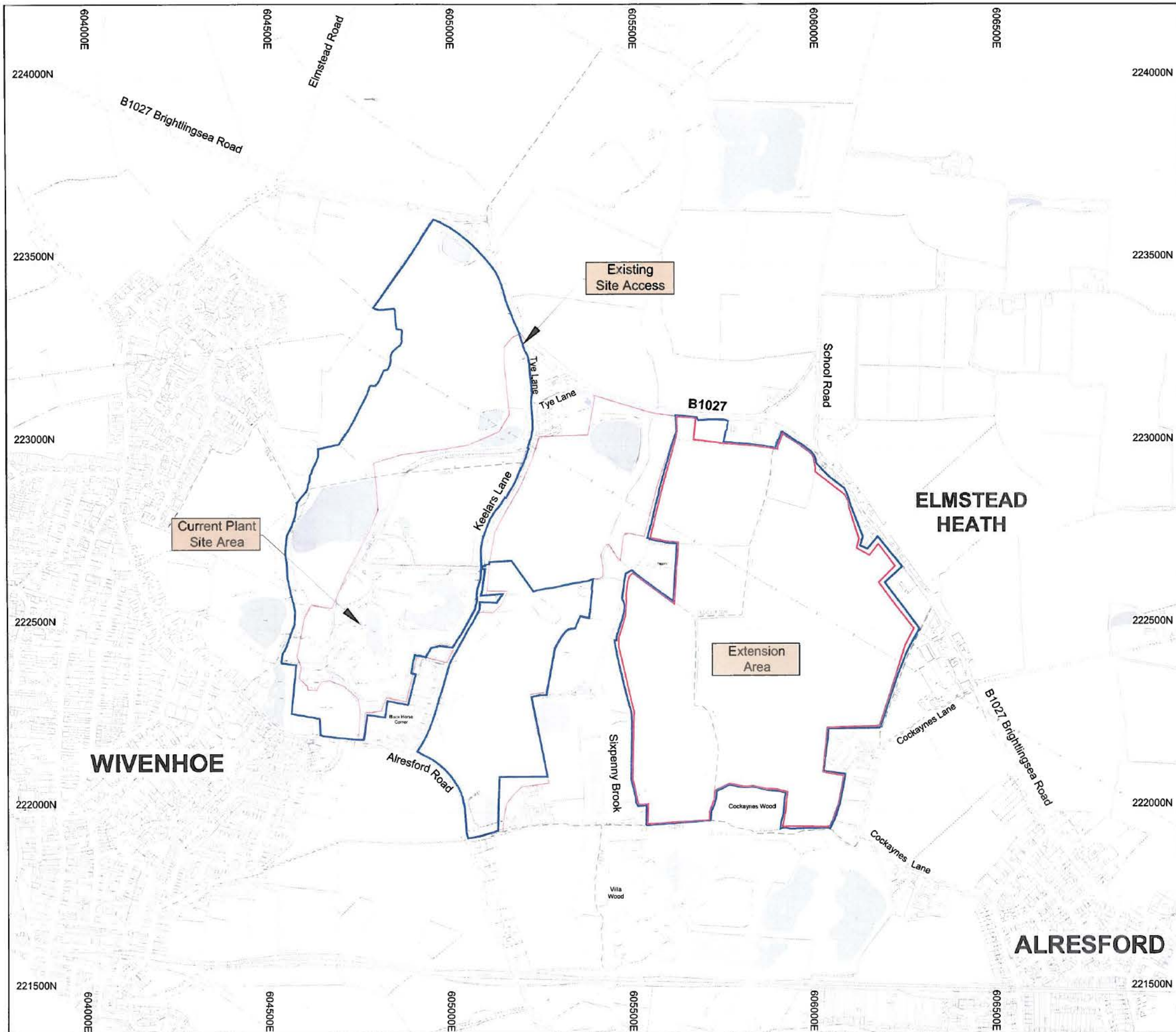
5. Description of Location and Land:-

6. Description of Development:-


7. The Development is to be Commenced on the (            ).

Signature of  
Developer's Representative





**Legend**

-  Boundary: Application Site
-  Boundary: Other Land Under Applicants control
-  Extent of Planning Consent ESS/41/12/TEN
-  Existing Public Right of Way and reference



**Attesting Officer**

**DAVID JARVIS ASSOCIATES**



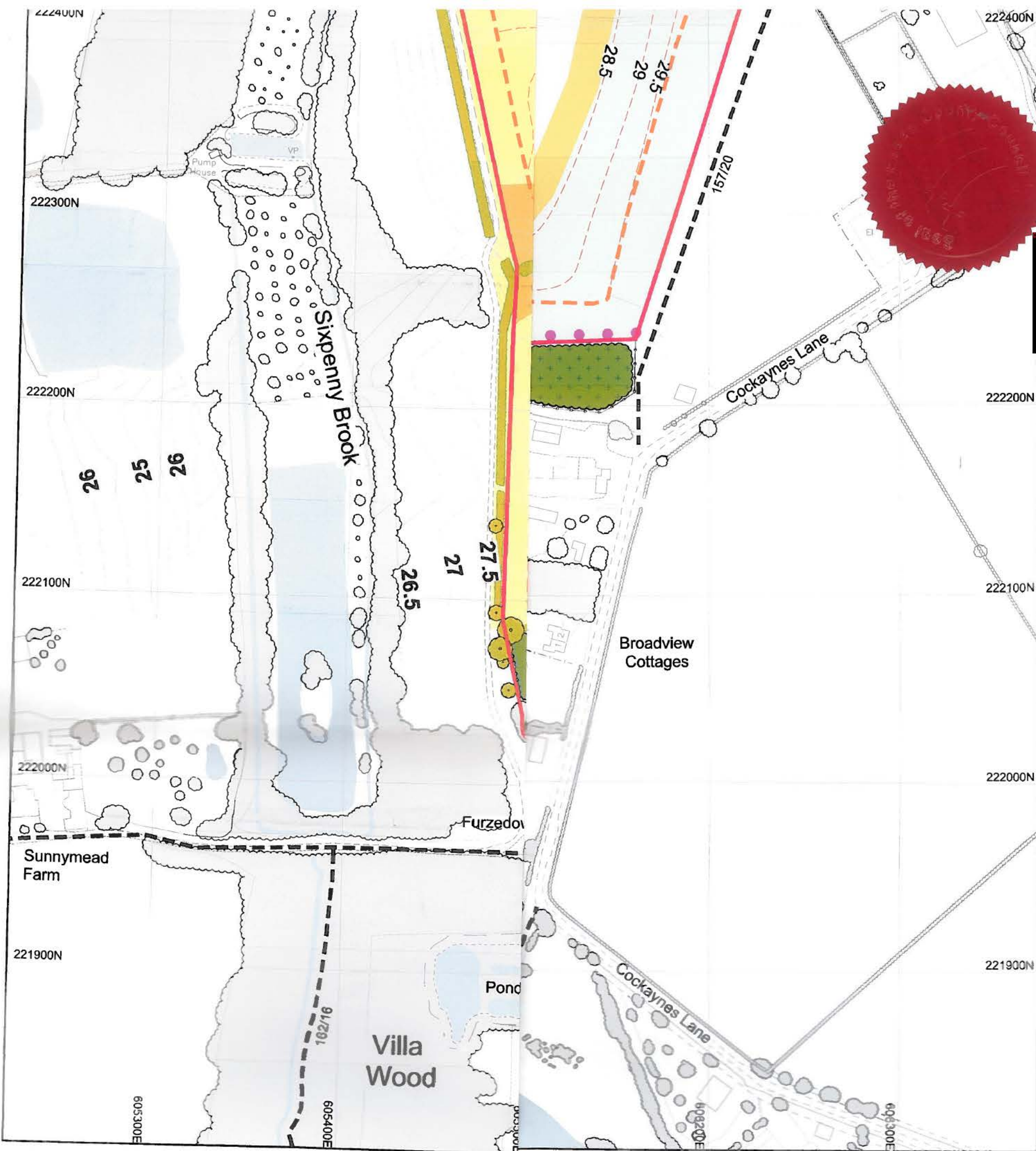
Site Name:  
W328 - Wivenhoe

Drawing Name:  
Location Plan



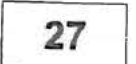
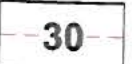


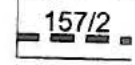
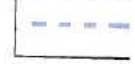

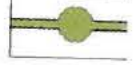
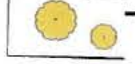

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Date: 21/10/2019	Drawing Number: W328-00062-01-1D







### Legend

-  Boundary: Application Site
-  Boundary: Proposed Extraction Area
-  Existing Ground Surface Contour at 0.5m interval
-  Proposed Restoration Ground Surface Contour at 0.5m interval
-  Existing Vegetation
-  Existing Vegetation (to be retained)
-  157/2
- 
- 
- 
- 
-  CIATES



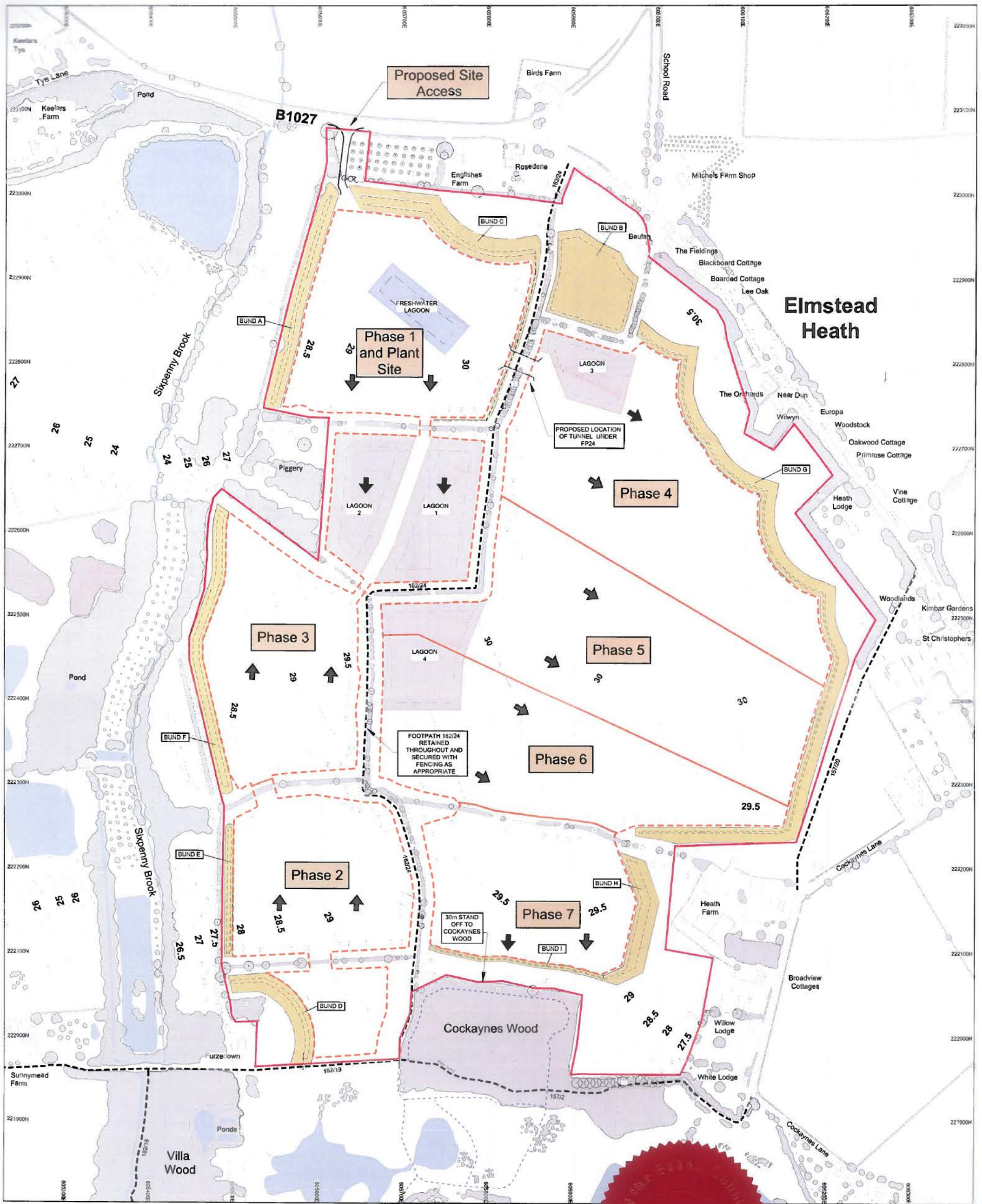
Site Name:  
W328 - Wivenhoe

Drawing Name:  
Proposed Restoration Scheme

Drawn By: DJA	Scale @ A1: 1:2,000
Date: 21/10/2019	Drawing Number: W328-00062-12-D







# Elmstead Heath

### Legend

- Boundary: Application Site
- Boundary: Proposed Extraction Area
- Proposed Phasing
- Proposed Direction of Working
- Existing Ground Surface Contour at 0.5m Interval
- Existing Vegetation
- Existing Public Right of Way and Reference
- Permissive Footpath

- Proposed Silt Stores
- Proposed Silt Lagoons
- Root Protection Area and Tree Reference



Data Protection Act

Attesting Officer

DAVID JARVIS ASSOCIATES

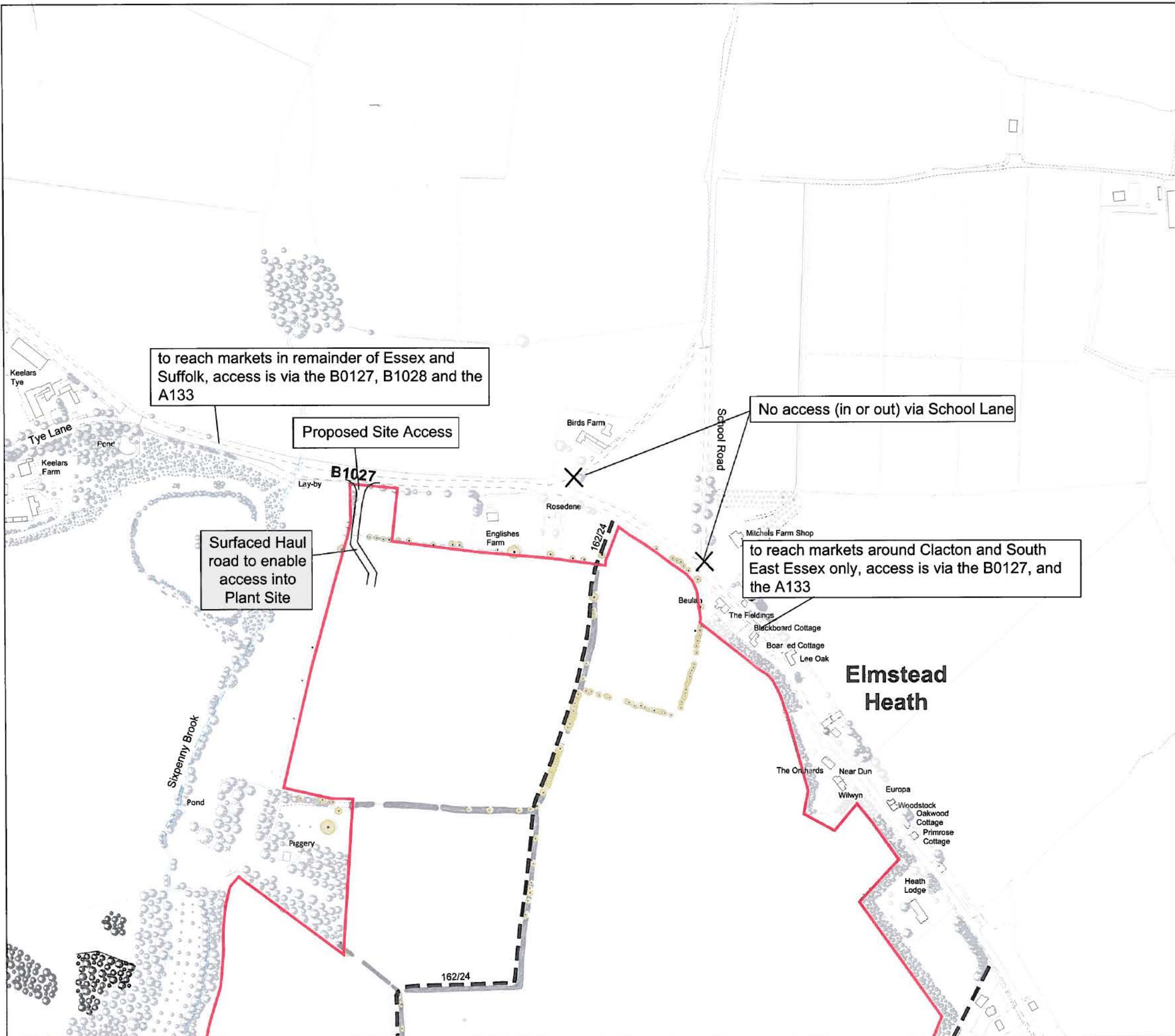


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Drawing Name: Proposed Working Plan	
Drawn By: DJA	Scale @ A1: 1:2000
Date: 21/08/2019	Drawing Number: W328-0002-03-D



This drawing is a copyright - Call 01334 240000 Email sales@jarvis.co.uk





**Legend**

 Application Site



*David L Walker*  
Attesting Officer



Site Name:  
W321 - Wivenhoe

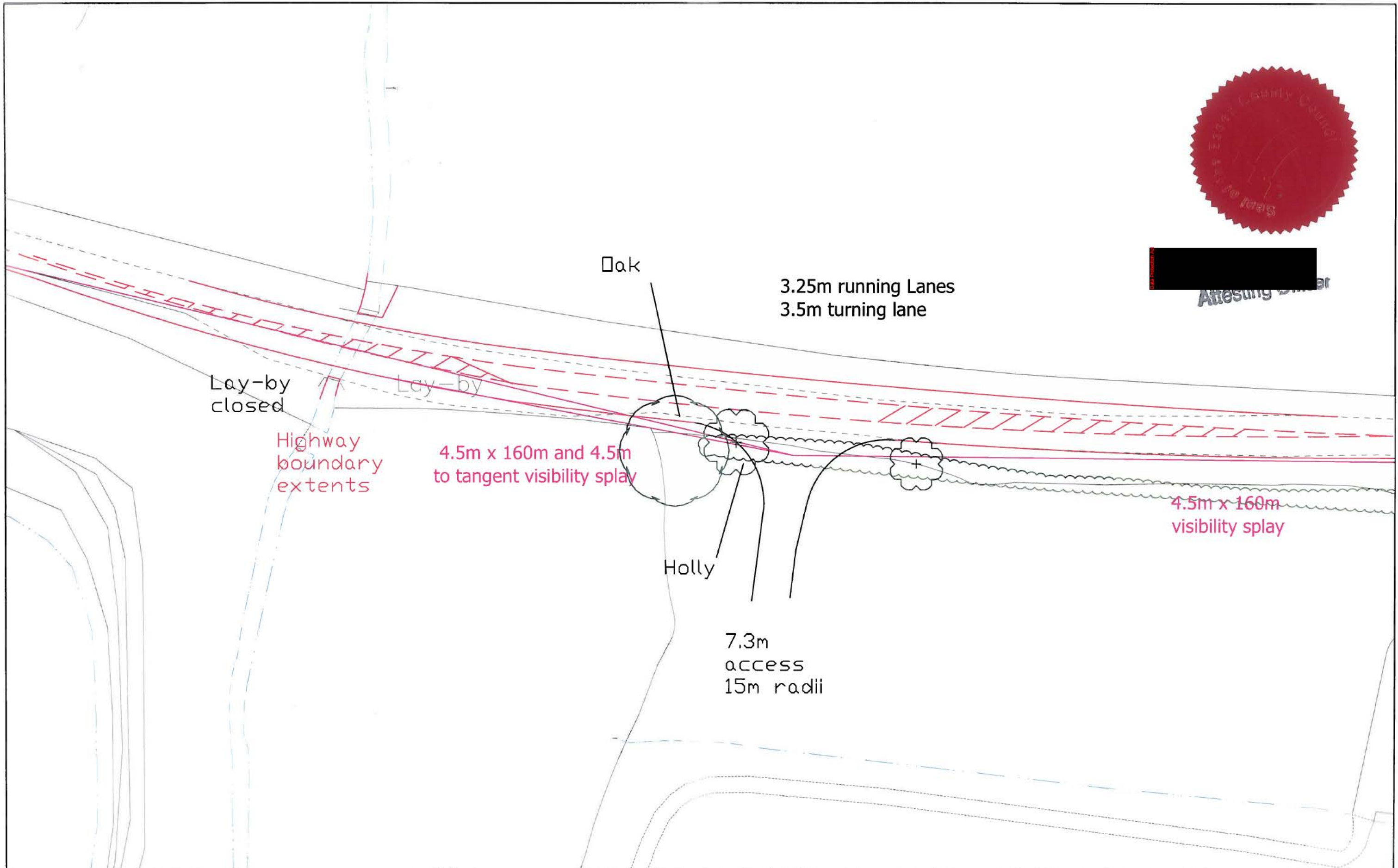
Drawing Name:  
HGV Routing

Drawn By: DW	Scale @ A3: 1:4,000
Date: 12/08/2019	Drawing Number: W321-00082-14





Attesting Officer



Based upon the ORDNANCE SURVEY MAPS with the permission of THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE  
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 © David Tucker Associates

REV	DESCRIPTION	DRAWN	INITIALS	DATE	DRAWING STATUS	CHECKED BY	DATE

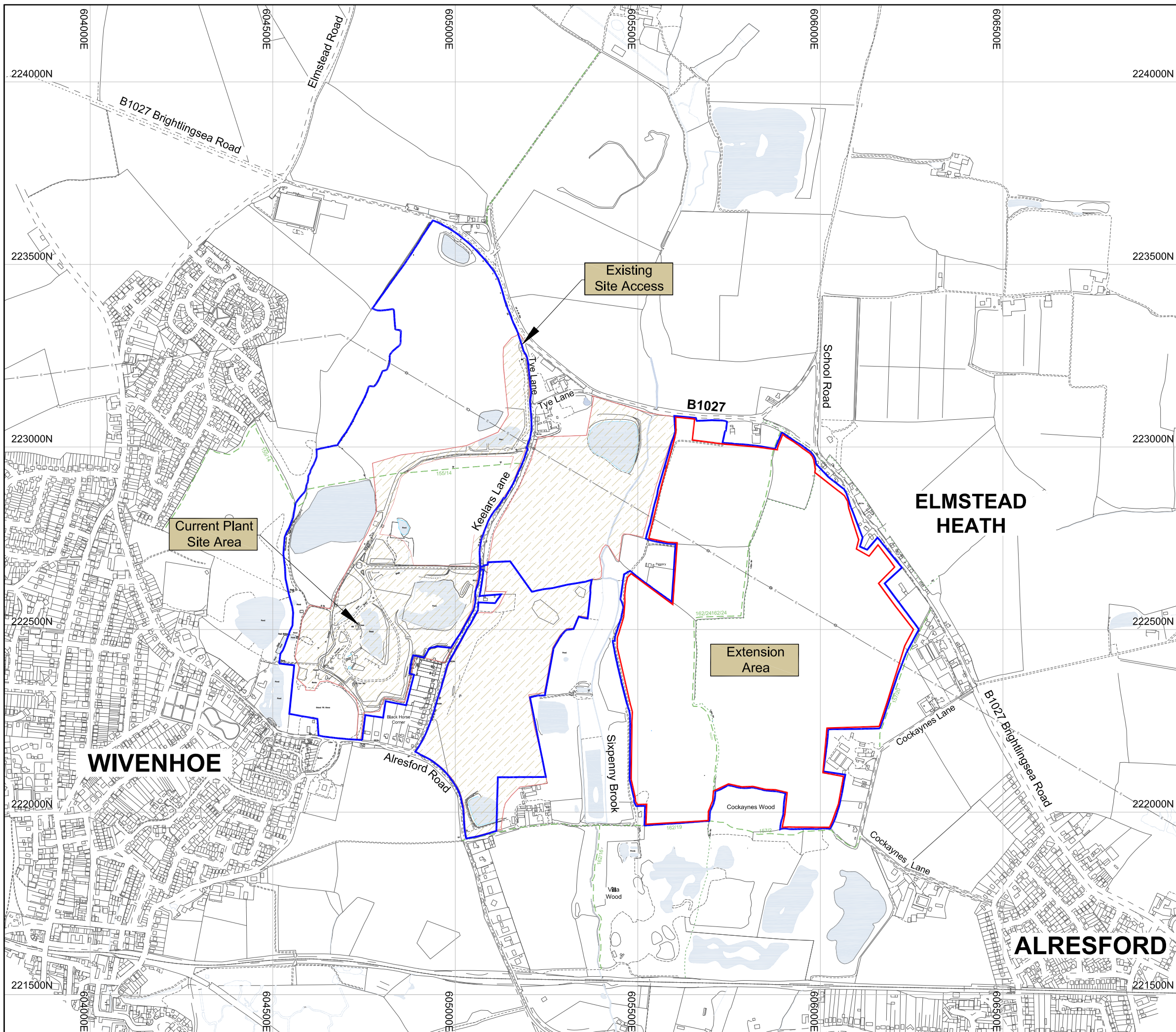


**david tucker associates**  
 transport planning consultants  
 Forester House, Doctors Lane,  
 Herley in Arden,  
 Warwickshire B95 5AW  
 Tel: +44(0)1564 793598  
 Fax: +44(0)1564 793983  
 www.dtatransportation.co.uk





JOB TITLE	Wivenhoe	CLIENT	Tarmac
DRAWING TITLE	Proposed Right Turn Lane		
SCALE	1/1000@a3	DRAWN BY	BP
DATE	Aug19	DRAWING NO.	15010-03
REVISION	B		



Drawings



### Legend

-  **Boundary: Application Site**
-  **Boundary: Other Land Under Applicants control**
-  **Extent of Planning Consent ESS/41/12/TEN**
-  **Existing Public Right of Way and reference**

**DAVID JARVIS ASSOCIATES**



**Site Name:**  
W328 - Wivenhoe

**Drawing Name:**  
Location Plan

**Drawn By:**  
DJA

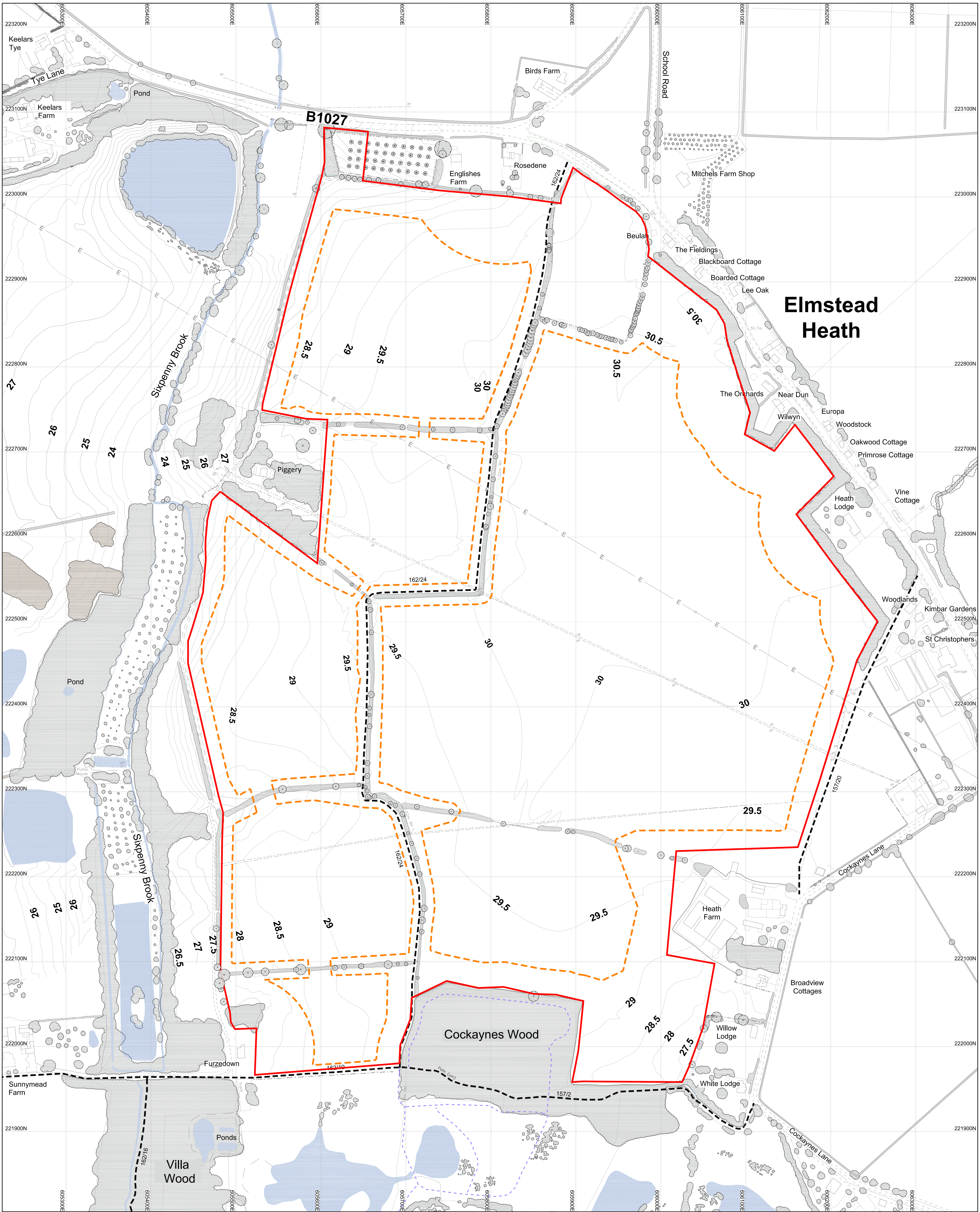
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**Date:**  
21/10/2019

**Drawing Number:**  
W328-00062-01-D







# Elmstead Heath

## Legend

- Boundary: Application Site
- Boundary: Proposed Extraction Area
- 27 Existing Ground Surface Contour at 0.5m interval
- Existing Vegetation
- Existing Public Right of Way and Reference
- Permissive Footpath

**DAVID JARVIS ASSOCIATES**



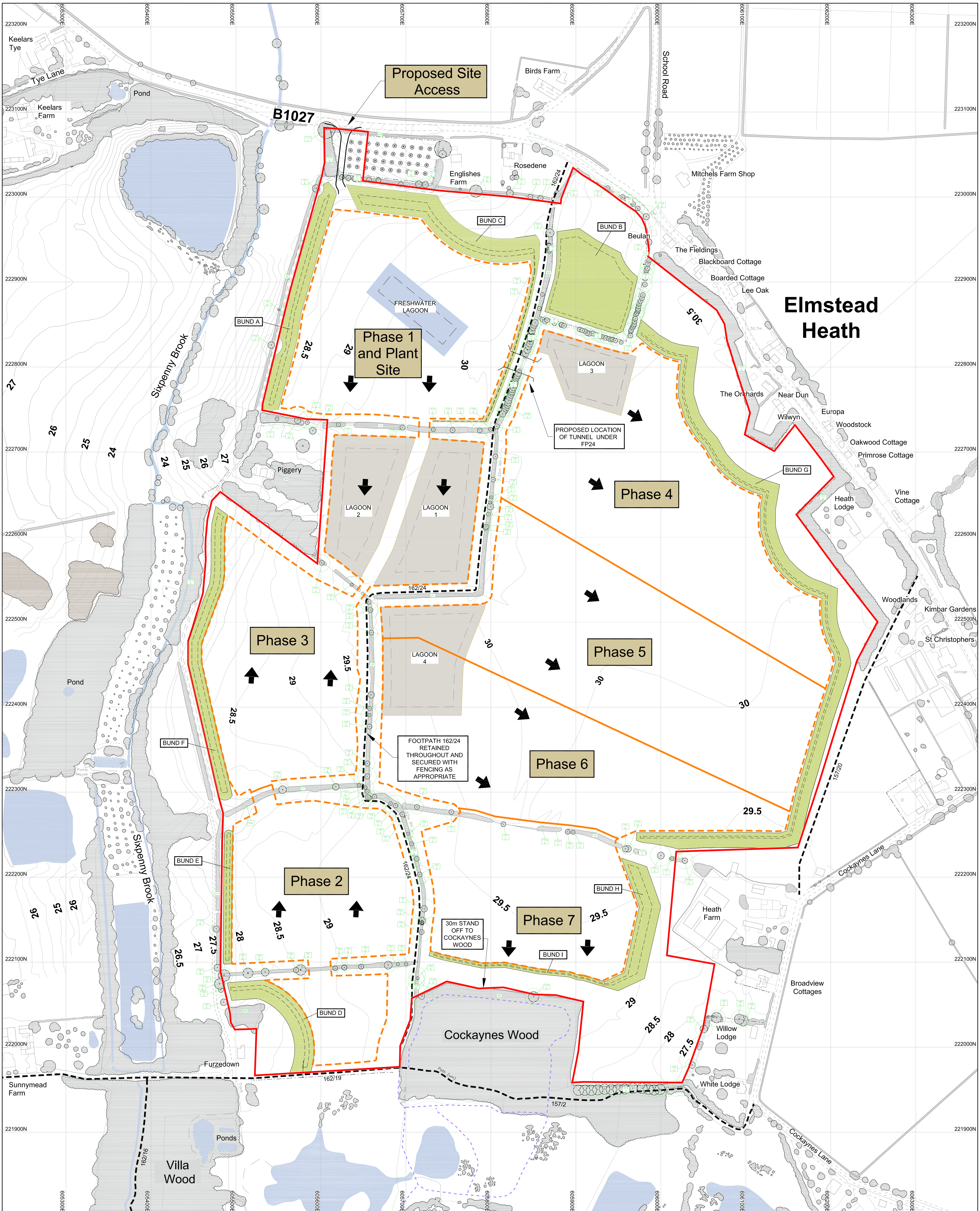
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Drawing Name: Existing Situation

Drawn By: DJA	Scale @ A1: 1:2,000
Date: 21/10/2019	Drawing Number: W328-0062-02-D







**Legend**

- Boundary: Application Site
- Boundary: Proposed Extraction Area
- Phase 1 Proposed Phasing
- Proposed Direction of Working
- 27 Existing Ground Surface Contour at 0.5m interval
- Existing Vegetation
- 157/2 Existing Public Right of Way and Reference
- Permissive Footpath
- Proposed Soil Stores
- Proposed Silt Lagoons
- Root Protection Area and Tree Reference

**DAVID JARVIS ASSOCIATES**



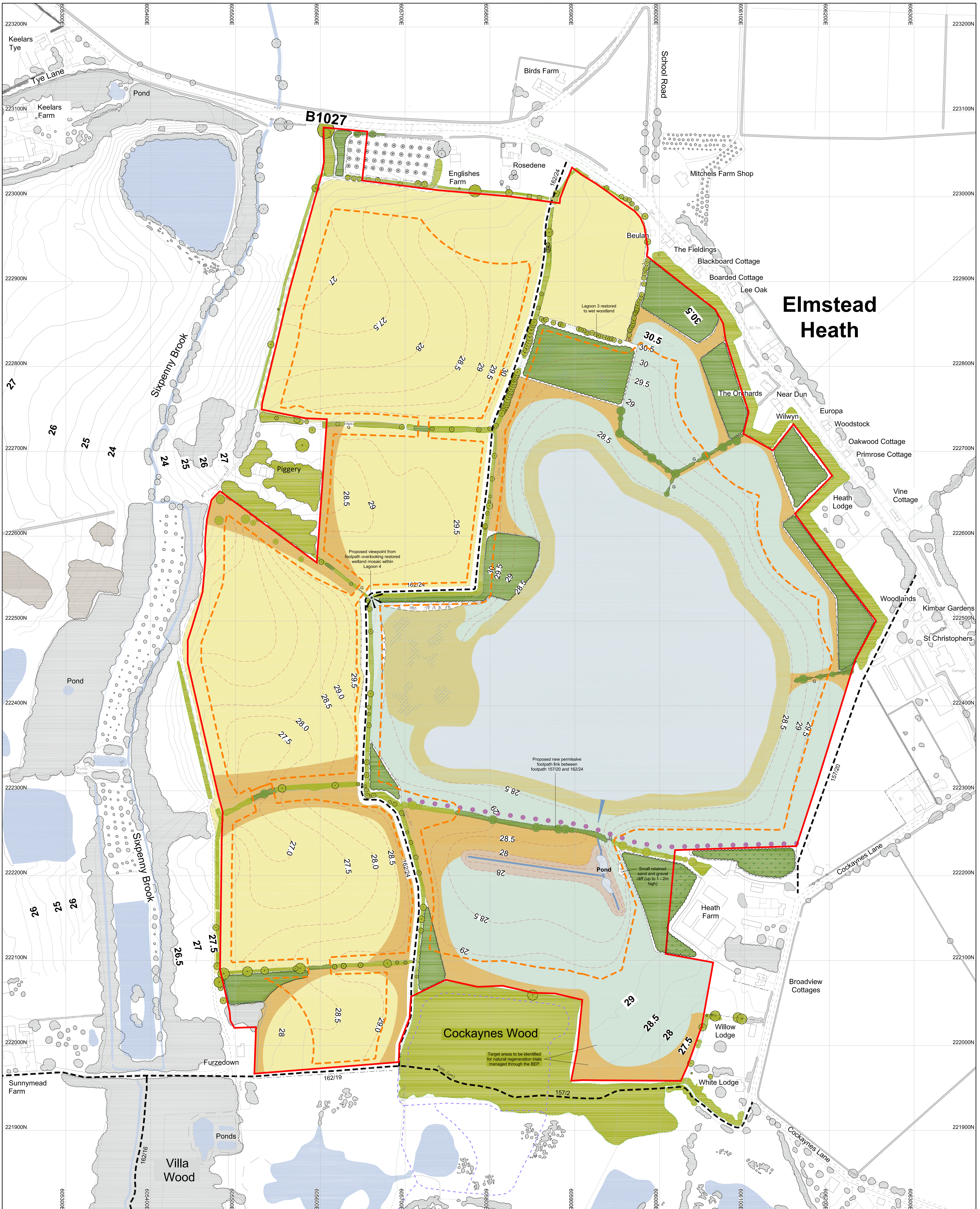
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 Drawing Name:

Proposed Working Plan

Drawn By: DJA	Scale @ A1: 1:2,000
Date: 21/08/2019	Drawing Number: W328-0062-03-D







# Elmstead Heath

## Legend

- Boundary: Application Site
- Boundary: Proposed Extraction Area
- Existing Ground Surface Contour at 0.5m Interval
- Proposed Restoration Ground Surface Contour at 0.5m Interval
- Existing Vegetation
- Existing Vegetation (to be retained)
- 157/2 Existing Public Right of Way and Reference
- Permissive Footpath
- Proposed New Permissive Footpath
- Proposed Hedgerow with Standard Trees
- Proposed Specimen Oak Tree Planting
- Land Restored to Lowland Acid Grassland
- Land Restored to Grassland Field Margins
- Land Restored to Woodland
- Land Restored to Wet Woodland
- Land Restored to Woodland in land not within Applicant's Control
- Land Restored to Open Mosaic Habitat and Reedbed
- Land Restored to Exposed Margins/ Mudflat
- Land Restored to Lowland Meadow
- Open Water
- Retained Sand and Gravel Cliffs

**DAVID JARVIS ASSOCIATES**



Site Name: W328 - Wivenhoe  
 Drawing Name:




Proposed Restoration Scheme

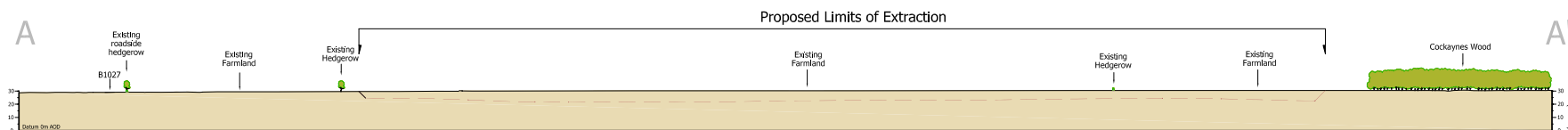
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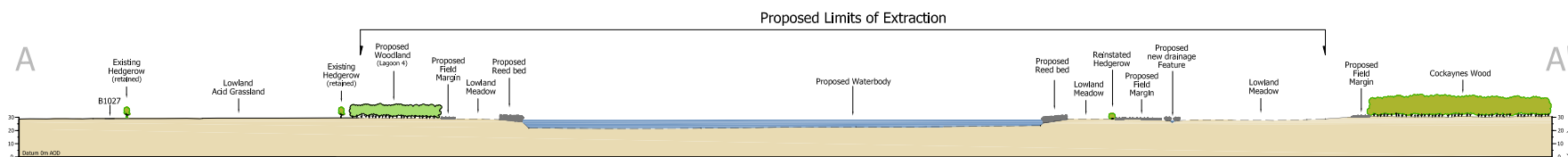


# Legend

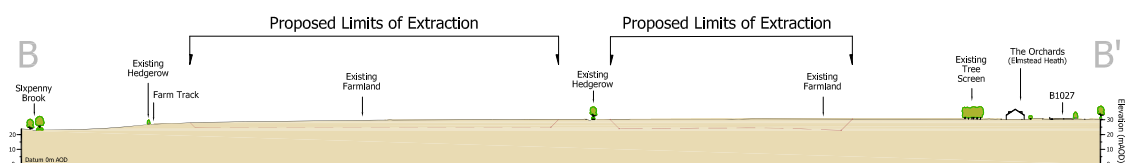
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-  Proposed Extraction Profile
-  Proposed Restoration Level



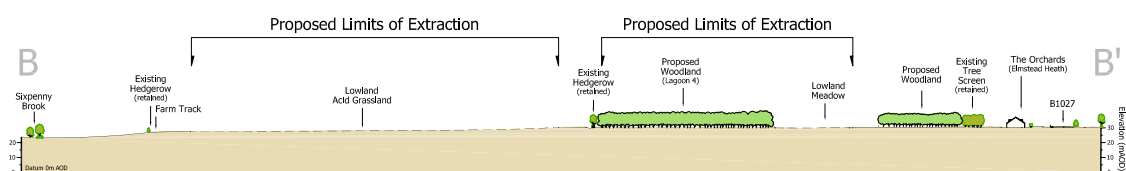
Section A-A' Existing Situation



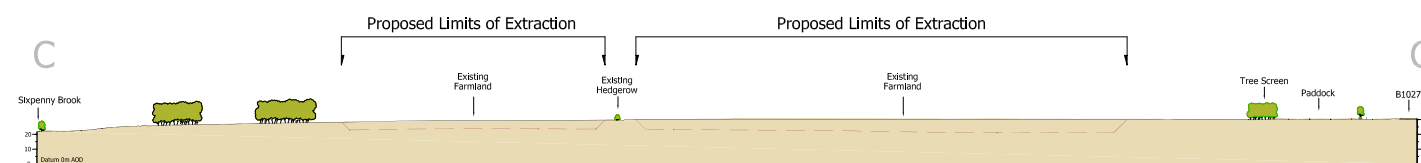
Section A-A' Proposed Restoration



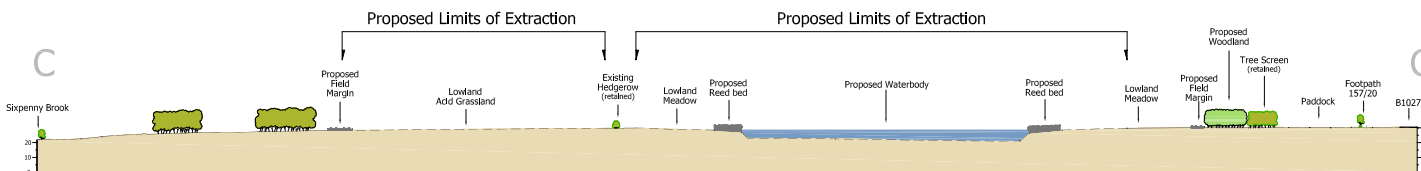
Section B-B' Existing Situation



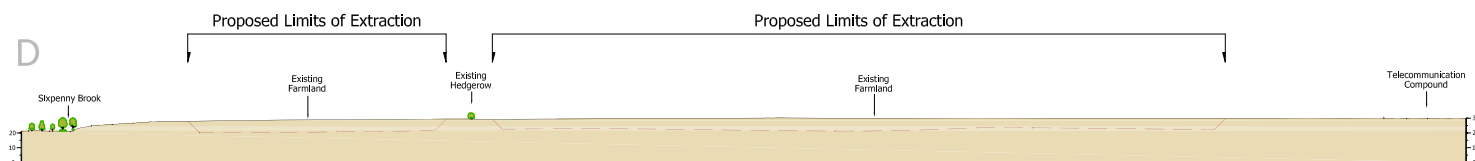
Section B-B' Proposed Restoration



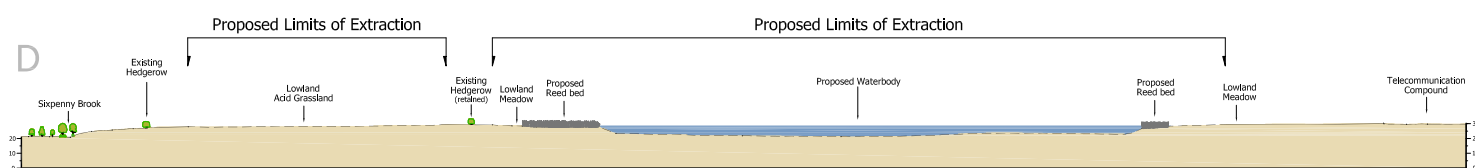
Section C-C' Existing Situation



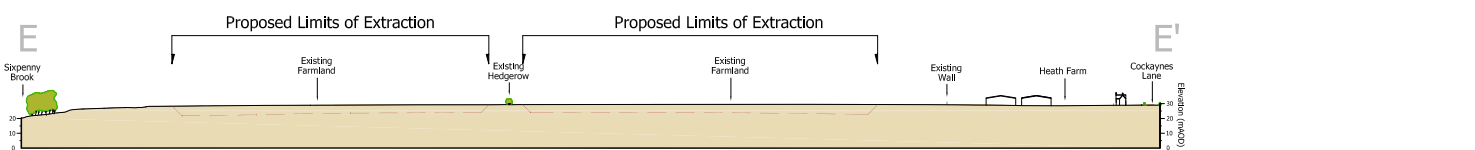
Section C-C' Proposed Restoration



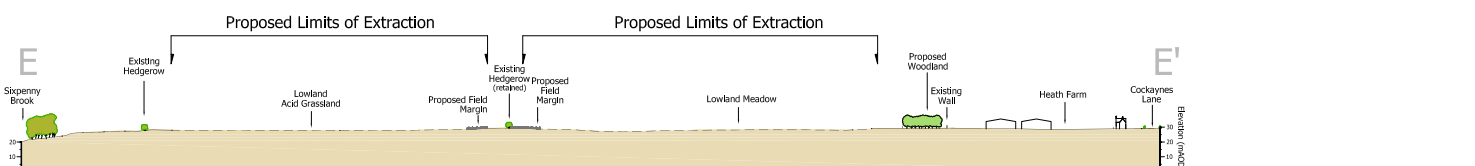
Section D-D' Existing Situation



Section D-D' Proposed Restoration



Section E-E' Existing Situation



Section E-E' Proposed Restoration



Section Location Plan Scale 1:10,000

DAVID JARVIS ASSOCIATES



Site Name:  
W328 - Wivenhoe

Drawing Name:  
Cross Sections

Drawn By:  
DJA

Scale @ A3:  
1:5,000

Date:  
21/10/2019

Drawing Number:  
W328-00062-13-D





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