

APP/U3100/V/23/3326625

Technical Note on behalf of OCC as Applicant – Didcot HIF 1

Response to Alan James' Supplementary Proof of Evidence

28 March 2024

Project name Didcot HIF 1	Client Oxfordshire County Council	Subject NPC-JC Rebuttal	Date 28 March 2024
Prepared by OCC	Verified by		

Purpose of this Technical Note

1. This Technical Note provides a response to the Supplementary Proof of Evidence submitted by Alan James on the 21st March 2024. This Supplementary Proof of Evidence contains commentary in respect of Bridge Farm Quarry (also known as the Finger Lakes). The HIF1 River Thames crossing would extend north from the B4106 across Bridge Farm Quarry, which is undergoing restoration. The matters raised by Alan James are dealt with below.
2. In summary, however, the relationship between the HIF1 Scheme and the restoration of Bridge Farm Quarry has been carefully considered by OCC as Applicant and OCC as LPA, and is the subject of an agreed approach, as recorded in the LPA committee report of the 17-18 July 2023 meeting, and in draft condition no.28. Further, all the environmental impacts to which Mr James refers have been properly assessed.

Approach to the HIF1 Scheme and Bridge Farm Quarry

3. The relationship between the HIF1 Scheme and Bridge Farm Quarry is dealt with in detail in paragraphs 290-294 and 299 of the officer report for the 17-18 July 2023 committee meeting [CD F.1]. The report explained:

"294. The proposed development would however prevent delivery of the approved restoration scheme for Bridge Farm Quarry, which would have implications for compliance with Policy M10 of the OMWCS, which requires mineral workings to be restored to a high standard and in a timely and phased manner. The effects of the development on biodiversity and recreation set out elsewhere in this report include consideration of the impacts on the Finger Lakes and wider approved restoration scheme at Bridge Farm Quarry. However, if planning permission is granted for the proposed development, it would be necessary for the planning permissions and associated S106 legal agreements for Bridge Farm Quarry to be formally amended with revised restoration and aftercare schemes, which could be achieved through the submission of planning applications under Section 73 of the Town and Country Planning Act 1990 as amended. ...

299. Taking all of the above into account, and subject to the conditions requiring that no development can commence on the Didcot to Culham River Crossing part of the development unless and until revised restoration and aftercare schemes have been secured for both the Sutton Courtenay Landfill

Site and Bridge Farm Quarry, the development would not prejudice the operations at safeguarded mineral and waste sites, nor would it sterilise mineral resource without justification. The proposal would therefore be in accordance with national minerals and waste policies, and policies M8, M9 and W11 of the OMWCS.'

4. In accordance with the approach set out in the officer report, highlighted above, a condition has been agreed between the Applicant and OCC as LPA, which provides (no. 28 in paragraph 22 of the Statement of Common Ground dated 2 November 2023 [CD Q.01]):

"28) No development shall take place within the Didcot to Culham River Crossing section of the development until revised restoration and aftercare schemes have been submitted to and approved in writing by the County Planning Authority for Bridge Farm Quarry."

5. This approach provides the necessary mechanism to address the relationship with restoration and aftercare schemes at Bridge Farm Quarry. There is no suggestion that any appropriate revisions cannot be achieved, and the officer report records the close working between the Applicant and Heidelberg Materials (who are the landowner and were previously known as Hanson Aggregates), the quarry operator (paragraph 294). Producing and submitting a Section 73 application was discussed at length between the Applicant and Heidelberg Materials (and their consultants). All parties agreed this was feasible and an appropriate approach. The Applicant will continue to work with Heidelberg Materials to produce and submit a Section 73 application. The LPA agreed with this approach and any application would be sent to them as the minerals and waste authority. In respect of paragraph 8 of Mr James's supplementary Proof, there is no requirement for any Section 73 application to be made or approved at this stage, in advance of the HIF1 Scheme receiving planning permission. All planning applications are determined on their individual merits, and it would not therefore be prejudicial to the outcome of any Section 73 application if permission had already been granted for the HIF1 Scheme.
6. In so far as Mr James suggested in oral evidence that there might be adverse impact on public access due to the HIF1 Scheme, this is incorrect. There is no reason to consider that the HIF1 Scheme would be incompatible with public access and, indeed, the existing restoration plan only anticipates limited public access in any event. In fact the enhanced cycling and walking provision provided by the HIF1 Scheme in the vicinity of the gravel lakes (notably between Appleford and Sutton Courtenay) would potentially help to facilitate any proposed public access to them. For further details on public access, see paragraph 12 below. In respect of paragraphs 6 and 7 of Mr James's supplementary Proof, it is not correct that such a Section 73 application proposal (i.e. an application to vary the site restoration condition) would fall under Schedule 1 of the EIA Regulations 2017. Instead, it would fall under part 13(a) of Schedule 2 of the Regulations, which states:
'Any change to or extension of development of description listed in Schedule 1 (other than a change or extension falling within paragraph 24 of that Schedule) where that development is already authorised, executed or in the process of being executed.'
7. If permission is granted for the HIF1 scheme, any Section 73 application would therefore need to be screened against the thresholds and criteria set out in Schedule 2, 13(a), and where these are met or exceeded, any Section 73 application would then need to be considered against the criteria set out in Schedule 3 to determine whether an EIA was needed. Accordingly, at this time, it has not been determined whether EIA would be needed or not in respect of any Section 73 application proposal. Oxfordshire County Council as Local Planning Authority would, upon receiving any screening opinion request, consult with statutory stakeholders to ascertain their view on whether EIA is appropriate, and in considering these views, OCC would provide a screening opinion determining if EIA should be undertaken or not.

Bridge Farm Quarry - Landscape Effects

8. Mr James states in his supplementary Proof that *"landscape EIA was deeply flawed, as it failed to recognise the distinctive landscape character of the recovering gravel lakes in the otherwise low-grade landscape of LLCA 9"* (paragraph 7). This is incorrect.
9. The presence of landscapes under varying degrees of restoration is recognised as a part of Local Landscape Character Area (LLCA) 9: Didcot Mineral Workings in Appendix 8.4: Landscape and Visual Receptors and Sensitivity to the Environmental Statement (ES) [CD A.17.16] paragraphs 1.2.26 to

1.2.28. This LLCA includes the Bridge Farm Quarry site (see ES Figure 8.14¹ [CD A.16.19]). In particular, paragraph 1.2.27 states *“The LLCA comprises a landscape influenced by intensive human intervention, with large-scale current and former mineral sites, and working and former landfill sites. Many of the former minerals and waste sites are in varying degrees of restoration, including lakes, wetlands, restored areas of grassland, scrub, replacement hedges and woodland planting”*. Table 1.1: Sensitivity of Landscape Receptors, at document page 13 and 14, defines the sensitivity of LLCA 9 as low, as a result of its very low value and low susceptibility to change.

10. The assessment of effects on this LLCA also took into account the partially restored Bridge Farm Quarry. ES Appendix 8.5: Landscape Impact Assessment [CD A.17.17], Table 1.1: Landscape Impact Assessment, document page 10, LLCA 9 Didcot Mineral Workings discusses the impact of the Scheme on LLCA 9 during construction, operation year 1 and year 15. In relation to operational year 1, it is stated that *“The viaduct crossing and part of the River Thames bridge will be across an area of engineered landform in the north of the LLCA which was a former a mineral extraction site that is undergoing restoration, but currently comprises areas of bunding and water bodies. The viaduct will sit above these water bodies such that it will not sever the landscape east and west. ... The LLCA has a modified and engineered landscape pattern, with vegetation patterns created through landscape restoration schemes. ... The Scheme will partially reduce the tranquillity in the LLCA, particularly in the north of the LLCA close to the River Thames where the Scheme is on viaduct and bridge and the landscape is undergoing restoration”*.
11. It has been noted in the Rebuttal Proof of Evidence authored by Jane Ash, at paragraph 2.11, that *“I acknowledge that the current sensitivity of this area (LLCA 9) would be higher due to the presence of the lakes and the now maturing wetlands than that stated in the LVIA, and the landscape effect would therefore be significant”*.

Visual Effects at Bridge Farm Quarry

12. Mr James (paragraph 7) states that an assessment of visual impacts on receptors at Bridge Farm Quarry should be undertaken. Currently, there is no public access to the wetland area that would be crossed by the Scheme; future access arrangements would lead to significant adverse visual effects for recreational users which is acknowledged in the Rebuttal Proof of Evidence of Jane Ash at paragraph 2.11: *“Whilst it was understood that access paths may be created in future following completion of the Scheme, there was no public access to this area at the time of the assessment and, therefore, no visual receptors identified or requested in this location. It is acknowledged that there would be significant adverse visual effects for recreational users”*. However, the currently approved restoration plan dated February 2024 (planning application reference MW.0067/22 – see Appendix A) shows only limited public access in the form of a car park, footpath and bird hide, which are all located immediately adjacent to the alignment of the B4016. Further, a Section 106 agreement relating to Bridge Farm Quarry from July 2008 (submitted as part of planning application MW.020/0) states that the path would be 1.5m wide and the car park would accommodate 3 to 4 cars, see paragraphs 3.1 to 3.6 of the extract at Appendix B of this note. During discussions held with Heidelberg Materials, it was agreed that the access from the car park to the bird hide would potentially be gained via the footway provided by the Scheme, access across the carriageway would be via the Toucan Crossing. No other public access would be provided to the Bridge Farm Quarry area.

Biodiversity

Summary

13. In summary response to Mr James’s comments on biodiversity in his Supplementary Proof of Evidence, Chapter 9: Biodiversity of Volume 1 of the ES [CD B.01, Annex 5] recognises and describes the biodiversity value of the Bridge Farm site, which is called Culham finger lakes (WB16). It was concluded that, with respect to biodiversity, there will be a minor temporary adverse level of impact, resulting in a slight adverse effect, which is not significant. For fish, there will be a minor temporary adverse level of impact, resulting in a neutral adverse effect, which is not significant. Mr James (paragraph 7) refers to a potential increase in species diversity, but an increase in species diversity since the surveys of Culham

¹ Note that ES Figure 8.14 is erroneously titled “North Wessex Downs Landscape Assessment”. In fact it identifies the LLCAs, as the legend on the figure makes clear.

lakes has been taken into account, in that the future baseline for the ES has been assumed to include the Bridge Farm quarry restoration area, as according to the Heidelberg Materials Quarry Sutton Courtenay - Bridge Farm Revised Restoration Scheme (see paragraph 9.7.13 of Chapter 9: Biodiversity [CD B.01, Annex 5]), such that these conclusions remain sound.

Detailed response

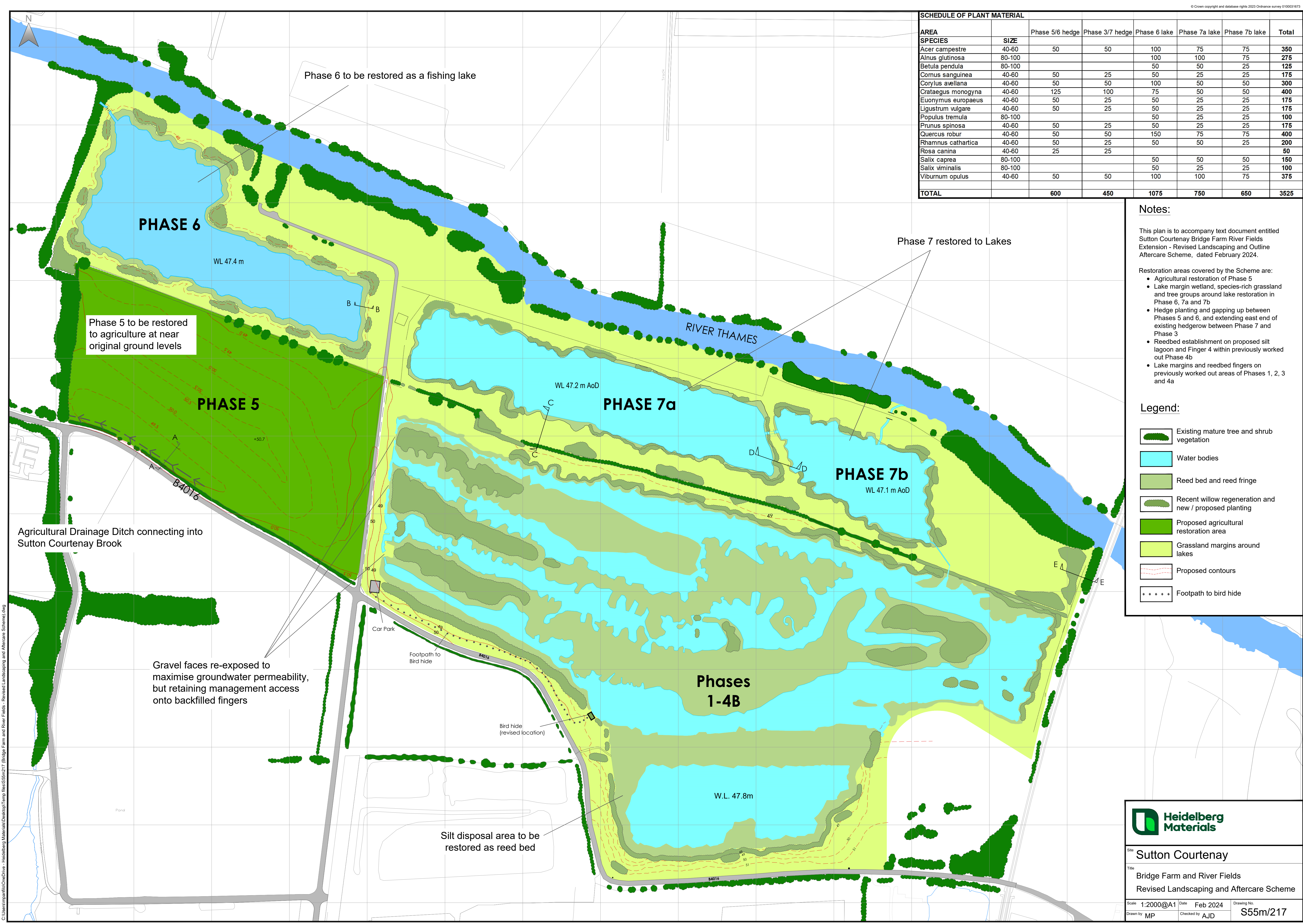
14. Chapter 9: Biodiversity [CD B.01, Annex 5] recognises and describes the biodiversity value of the Bridge Farm site, which is referred to as the Culham finger lakes (WB16). Whilst the Culham finger lakes is classified as Eutrophic Standing Water (lake), a Local Biodiversity Action Plan habitat which may qualify as a UK Habitat of Principal Importance, it is not designated for its biodiversity value, i.e. it is not a Local Wildlife Site. Chapter 9: Biodiversity [CD B.01, Annex 5] assesses Culham finger lakes as being of District importance. This is based on the presence of wetland habitats including:
 - Hairlike Pondweed (*Potamogeton trichoides*), a Nationally Scarce species;
 - a stonewort plant, a species of *Nitella*;
 - European Eel (*Anguilla anguilla*), Bullhead (*Cottus gobio*), both protected species, and Roach (*Rutilus rutilus*);
 - waterfowl and other birds; and
 - uncommon aquatic insects and other invertebrates.
15. The assessment also takes into account that the future baseline for the ES has been assumed to include the Bridge Farm quarry restoration area, including the Culham finger lakes (WB16), according to the Heidelberg Materials Sutton Courtenay - Bridge Farm Revised Restoration Scheme (see paragraph 9.7.13 of Chapter 9: Biodiversity [CD B.01, Annex 5]). While the restoration scheme may not be fully implemented or matured by 2023, the proposed habitats are assumed to form part of the construction year baseline for the Scheme. The areas of restored habitat to be affected by the Scheme form a wetland vegetation mosaic, including:
 - reedbed and wet woodland planting;
 - wet woodland;
 - dry lake margins intended to be managed as wet flower-rich grassland; and
 - areas of standing water to be lost by embankment and viaduct placement, and areas to be shaded by the viaduct.
16. This future baseline takes into account the observation made in Alan James in his Supplementary Proof of Evidence that “A considerable increase in species diversity is to be expected as the transition for raw mineral workings to mature aquatic landscape progresses” (paragraph 7).
17. On the negative side, Culham lakes has been invaded by two scheduled aquatic plant species, Nuttall's Waterweed (*Elodea nuttallii*) and New Zealand Pigmyweed (*Crassula helmsii*), both listed on the Wildlife and Countryside Act (as amended) 1981, and the former also on the Invasive Alien Species (Enforcement and Permitting) Order 2019.
18. On the basis of the above and Table 1 below, it was concluded in Chapter 9: Biodiversity [CD B.01, Annex 5] that, with respect to biodiversity, there will be a minor temporary adverse level of impact, resulting in a slight adverse effect, which is not significant. For fish, there will be a minor temporary adverse level of impact, resulting in a neutral adverse effect, which is not significant. Given that an increase in species diversity since the surveys of Culham lakes has been taken into account, these conclusions remain sound.

Table 1: Summary of potential impacts and effects on Culham finger lakes (WB16)

Ecological Feature and Scheme Location	Biodiversity Importance	Potential impacts and effects	Potential for significant effects?
Freshwater: Ponds and Eutrophic	District	Construction: The majority of the habitat in the Finger lakes will not be directly impacted by the proposed construction.	Yes

Ecological Feature and Scheme Location	Biodiversity Importance	Potential impacts and effects	Potential for significant effects?
Standing Waters) – Culham finger lakes (WB16)		<p>Small areas of standing water and reed beds/ reed fringes will be lost in the Culham finger lakes (WB16) due to embankment and viaduct pier placements for the Didcot to Culham River Crossing (see paragraph 9.12.5 of Chapter 9: Biodiversity [CD B.1, Annex 5]). Habitat creation and replacement will ensure that at least like-for-like habitat is created in line with the Bridge Farm Quarry Restoration Scheme; for example, riparian planting has been incorporated along the Thames riparian zone in the corridor between the river and the Bridge Farm Quarry Restoration Area including the planting of marginal trees and vegetation, and the reconfiguration of proposed habitats in the Restoration Area (refer to the LBMP [CD B.03]).</p> <p>Aquatic habitats supporting fish have been retained as much as is practicable and measures embedded within the Scheme design to protect retained habitats during construction. Fish rescue and translocation away from the works areas will be required during construction and if all water bodies are impacted simultaneously, a suitable receptor site for fish may need to be found.</p> <p>Piling will be required close to water bodies for the construction of viaduct piers for the Didcot to Culham River Crossing (see paragraph 9.10.24 of Chapter 9: Biodiversity [CD B.01, Annex 5]). This will affect the River Thames and the Culham finger lakes. To avoid potential impacts to fish and other aquatic and riparian fauna, the following mitigation will be implemented during piling:</p> <ul style="list-style-type: none"> • ensure a soft start to piling to allow fauna to escape the immediate works area; and • use of low vibration equipment and methodologies (including no start-up or shut down of large vibratory rollers within 50 m of receptors (15 m for medium sized twin drum rollers) rather than percussive piling close to the river; and • avoidance of the main spawning period of January to June should be avoided. <p>Measures set out within a Construction and Environmental Management Plan (CEMP) for the Scheme, will be implemented to ensure that scheduled invasive non-native plant species are not spread by the construction activities.</p>	
		<p>Operation:</p> <p>The effects of increased shading on the Culham finger lakes are considered negligible due to the alignment of the viaduct (north - south) and the width and height (approximately 4 m above ground level in the centre of each span) of the viaduct in relation to the size of the water body. Nevertheless, areas of reedbed and other habitats in the Bridge Farm Quarry Restoration Area may need to be relocated away from the viaduct, piers, and embankment to maintain the equivalent total habitats within the area.</p>	No

Appendix A Approved Restoration Plan for Bridge Farm Quarry February 2024



SCHEDULE OF PLANT MATERIAL							
AREA		Phase 5/6 hedge	Phase 3/7 hedge	Phase 6 lake	Phase 7a lake	Phase 7b lake	Total
SPECIES	SIZE						
Acer campestre	40-60	50	50	100	75	75	350
Alnus glutinosa	80-100			100	100	75	275
Betula pendula	80-100			50	50	25	125
Cornus sanguinea	40-60	50	25	50	25	25	175
Corylus avellana	40-60	50	50	100	50	50	300
Crataegus monogyna	40-60	125	100	75	50	50	400
Euonymus europaeus	40-60	50	25	50	25	25	175
Ligustrum vulgare	40-60	50	25	50	25	25	175
Populus tremula	80-100			50	25	25	100
Prunus spinosa	40-60	50	25	50	25	25	175
Quercus robur	40-60	50	50	150	75	75	400
Rhamnus cathartica	40-60	50	25	50	50	25	200
Rosa canina	40-60	25	25				50
Salix caprea	80-100			50	50	50	150
Salix viminalis	80-100			50	25	25	100
Viburnum opulus	40-60	50	50	100	100	75	375
TOTAL		600	450	1075	750	650	3525

Notes:

This plan is to accompany text document entitled Sutton Courtenay Bridge Farm River Fields Extension - Revised Landscaping and Outline Aftercare Scheme, dated February 2024.

Restoration areas covered by the Scheme are:

- Agricultural restoration of Phase 5
- Lake margin wetland, species-rich grassland and tree groups around lake restoration in Phase 6, 7a and 7b
- Hedge planting and gapping up between Phases 5 and 6, and extending east end of existing hedgerow between Phase 7 and Phase 3
- Reedbed establishment on proposed silt lagoon and Finger 4 within previously worked out Phase 4b
- Lake margins and reedbed fingers on previously worked out areas of Phases 1, 2, 3 and 4a

- Legend:**
- Existing mature tree and shrub vegetation
 - Water bodies
 - Reed bed and reed fringe
 - Recent willow regeneration and new / proposed planting
 - Proposed agricultural restoration area
 - Grassland margins around lakes
 - Proposed contours
 - Footpath to bird hide

Site
Sutton Courtenay

Title
Bridge Farm and River Fields
Revised Landscaping and Aftercare Scheme

Scale 1:2000@A1	Date Feb 2024	Drawing No. S55m/217
Drawn by MP	Checked by AJD	

Appendix B Extract of Section 106 Agreement Relating to Bridge Farm Quarry from July 2008

DATED 22nd July 2008

HANSON QUARRY PRODUCTS EUROPE LIMITED

-and-

CAUDWELL & SONS LTD

- and -

WASTE RECYCLING GROUP LIMITED

- and -

THE OXFORDSHIRE COUNTY COUNCIL

PLANNING OBLIGATION

relating to development at Bridge Farm
Sutton Courtenay Oxfordshire

P G Clark
County Solicitor
Oxfordshire County Council
County Hall
New Road
Oxford OX1 1ND

THIS DEED is made on the *twenty second* day of *July*

2008

BETWEEN:-

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** ("the Council")
- (2) **HANSON QUARRY PRODUCTS EUROPE LIMITED** (company number 00300002) ("the Owner")
- (3) **CAUDWELL & SONS LTD** ("Caudwell")
- (4) **WASTE RECYCLING GROUP LIMITED** (company number 2902416) ("the Adjoining Owner")

1. **Interpretation**

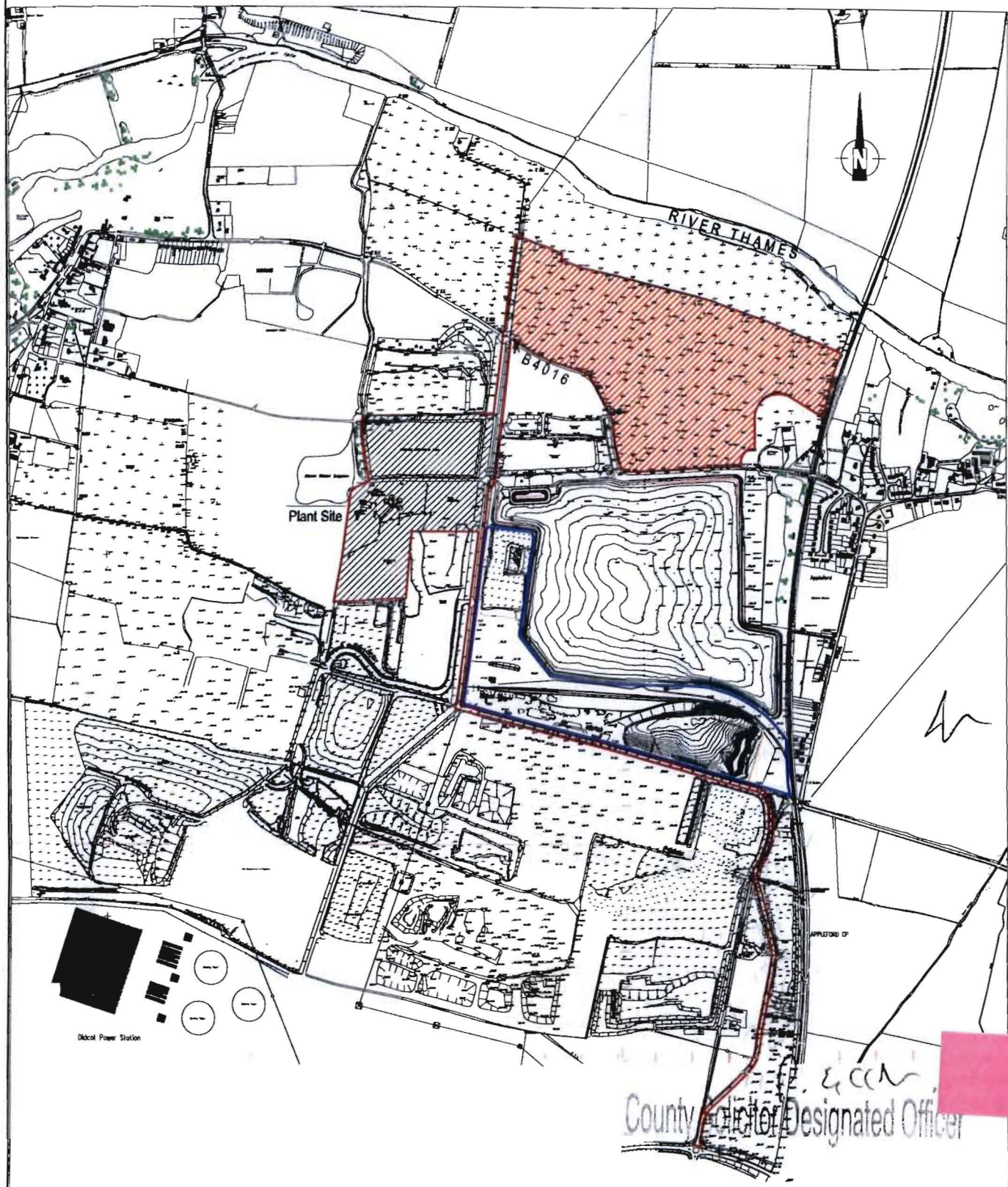
In this Deed:-

- 1.1 "the 1980 Act" means the Highways Act 1980
- 1.2 "the 1990 Act" means the Town and Country Planning Act 1990
- 1.3 "the Adjoining Owner" means the said Waste Recycling Group Limited of Ground Floor West, 900 Pavillion Drive, Northampton Business Park, Northampton, NN4 7RG and its successors in title and assigns
- 1.4 "the After Care Period" means the five years period during which after care of the site is to be undertaken following its restoration (in accordance with the restoration plan approved by the Council)
- 1.5 "Caudwell" means the said Caudwell & Sons Ltd (Company Registration Number 3403989) whose registered office is at


The Manor Drayton Abingdon Oxfordshire and its successors in title and assigns

- 1.6 "the Crossing" means the section of B4016 shown approximately at point X on the Site Plan which will accommodate traffic crossing from the part of the Site to the north of B4016 to the part of the WRG Land to the south of B4106
- 1.7 "the Council" means the said Oxfordshire County Council whose principal office is at County Hall New Road Oxford OX1 1ND and any successor to its statutory functions as highway authority or planning authority and any duly appointed employee or agent of the Council or such successor
- 1.8 "the Development" means extraction of sand and gravel from the Site and export of soil from the Site and restoration using insitu and imported clay materials to create a wet woodland habitat
- 1.9 "Implementation" means the carrying out of a material operation as defined in section 56(4) of the 1990 Act and "implement" and "implemented" shall be construed accordingly
- 1.10 "including" means including without limitation or prejudice to the generality of any description defining term phrase or word(s) preceding that word and 'include' shall be construed accordingly

- 1.11 "Lease" means the lease of 31st January 2001 of part of the WRGL land made between Waste Recycling Group PLC (now known as Waste Recycling Group Ltd) (1) and the Owner (2)
- 1.12 "the Management Plan" means the scheme submitted to the Council further to clause 3.1 of this Deed (and adjusted as provided in clauses 3.1 and 3.2)
- 1.13 "the MOD" means the Secretary of State for Defence
- 1.14 "the Owner" means the said Hanson Quarry Products Europe Limited whose registered office is at ^{Hansen House} ~~The Ridge~~ ^{16 Castle Hill Maidenhead SL6 4JJ} ~~Chipping Sodbury Bristol BS37 6AY~~ and its successors in title and assigns and includes any person who implements any planning permission obtained for the Development
- 1.15 "the Planning Application" means the application for planning permission for the Development (reference number APS/SUT/1815-CM)
- 1.16 "the Site" means the land at Bridge Farm Sutton Courtenay Oxfordshire shown edged in red and in part hatched orange on the Site Plan
- 1.17 "the Site Plan" means the plan marked "Plan A" annexed to this Deed
- 1.18 "the Survey" means a written and photographic survey of the condition of the Crossing to be carried out to the satisfaction of the Council



Key

-  Hanson Land
-  WRG Land

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Hanson
Hanson Aggregates

SUTTON COURTENAY

Bridge Farm
Plan A WRG & Hanson Land

Scale: 1:10,000	Date: 03/07	Drawing No: S55m/102
Drawn by: msp	Checked by: jpd	

- 1.19 "the WRG Land" means the land shown cross hatched red on Plan B annexed to this Deed excluding the areas registered under title numbers ON237285, ON268935 and ON213665
- 1.20 Any reference to an enactment includes any amendments to or modification of that enactment and the version of it for the time being in force shall apply
- 1.21 Headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation
- 1.22 References to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed
- 1.23 Where the context so requires:-
- 1.23.1 the singular includes the plural and vice versa
 - 1.23.2 the masculine includes the feminine and vice ver
 - 1.23.3 persons includes bodies corporate associations and partnerships and vice versa
- 1.24 Where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons
- 1.25 Where more than one party enters into any obligation or liability those parties are jointly and severally liable
- 1.26 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it is

done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction

2. **Preliminary**


- 2.1 The Owner is the owner of the part of the Site hatched orange on the Site Plan subject to an agricultural tenancy in favour of Caudwell of part of the Site and to an option in favour of Caudwell over part Site but otherwise free from encumbrances and the Adjoining Owner is the freehold owner of the part of the Site hatched green on the Site Plan subject to the Lease and of the WRG Land subject as to part to the Lease and otherwise free from encumbrances as the Owner and the Adjoining Owner warrant respectively
- 2.2 For the purposes of the 1990 Act the Council is the county planning authority for the area which includes the Site
- 2.3 For the purposes of the 1980 Act the Council is the highway authority for certain highways in the area which includes the Site
- 2.4 The Owner has submitted the Planning Application for the Development to the Council
- 2.5 The Council is minded to grant planning permission for the Development subject inter alia to the completion of this Deed
- 2.6 This Deed is made under Section 106 of the 1990 Act and Section 111 of the Local Government Act 1972 and all other

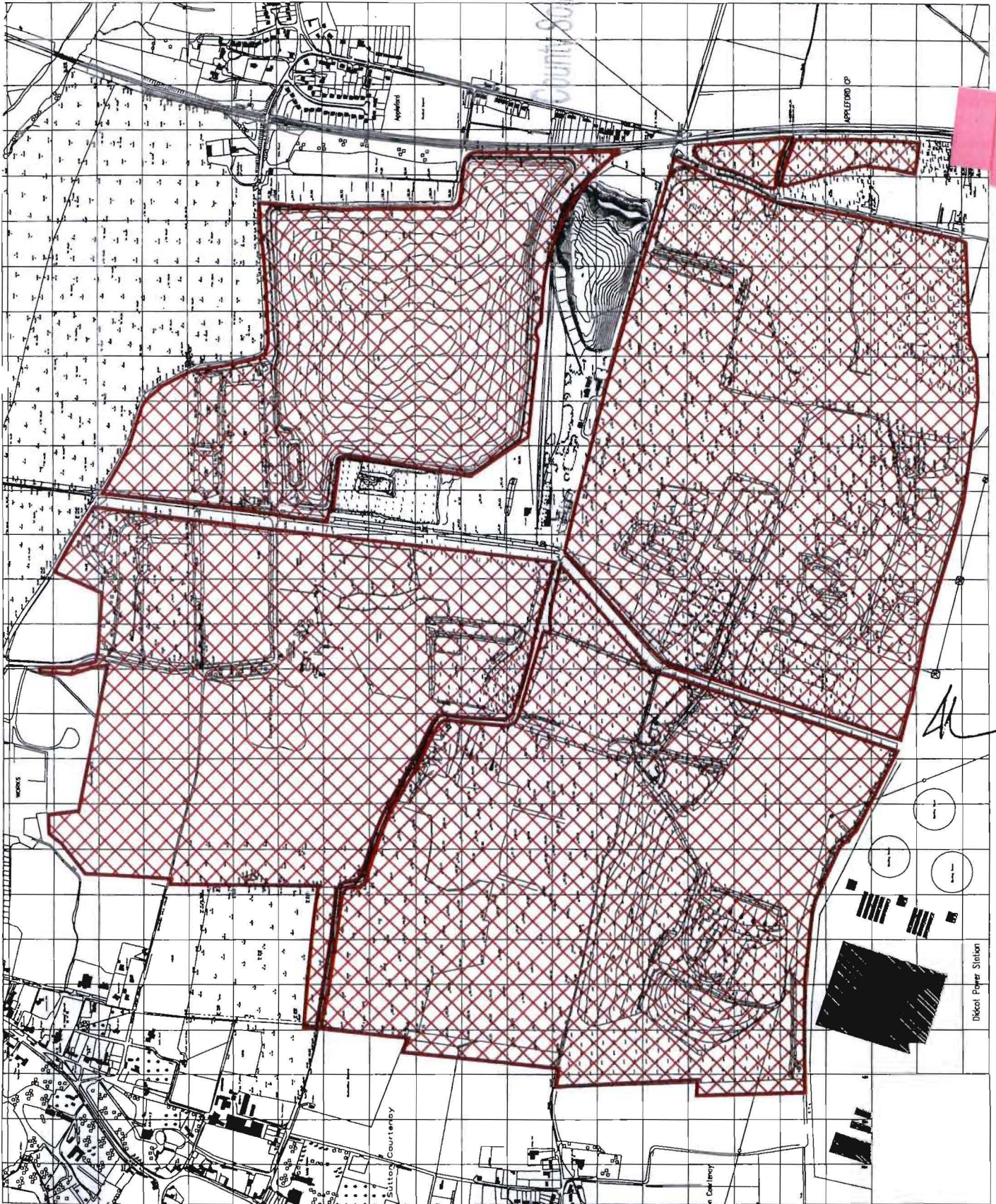


WRG Land



Prepared by the purchase of Chertsey & Woking on behalf of the WRG
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		WRG Land Ownership	
Hanson		Sutton Courtenay	
S3/Han/1		S55m/105	



Plan B

enabling powers and is a planning obligation for the purposes of Section 106 of the 1990 Act entered into by the Owner and the Adjoining Owner in respect of the Site and enforceable by the Council

- 2.7 The covenants in this Deed (except those in Clauses 5.5 and 9 which shall take immediate effect) shall be conditional upon the granting of planning permission for the Development and (except that in clause 5.3.1) upon its Implementation

3. **Long Term Management and Public Access**

The Owner covenants with the Council

- 3.1 Prior to the expiration of four years six months of the After Care Period (but no earlier than three years six months of the After Care Period) to submit to the Council for approval a scheme for the long term maintenance and management of the part of the Site hatched orange on the Site Plan to be undertaken for a period of no less than 20 years following the expiration of the After Care Period which scheme will include the matters set out in the First Schedule and which will be adjusted in accordance with the requirements of the Council

- 3.2 To procure that:-

- 3.2.1 there is implemented by a body or person which is approved by the Council and without expense to the Council the Management Plan which is to be

undertaken for a period of no less than 20 years
following the expiration of the Aftercare Period

- 3.2.2 such approved body or person reviews the
Management Plan annually with the Council and
makes such alterations to it as the Council may
consider requisite for the furtherance of the aims of
the Management Plan.

It is hereby acknowledged that Hanson Quarry Products
Europe Limited is an approved body to implement the
Management Plan

- 3.3 To permit the Council and any persons authorised by the
Council access to the part of the Site hatched orange on the
Site Plan for the purpose of monitoring the habitat and
species at the Site and/or implementation of the
Management Plan
- 3.4 For so long as the covenants further to clause 3.2 to
procure the implementation of the Management Plan
endure not to cause or permit anything to be done or carried
out at the Site which is incompatible or which may adversely
affect the implementation of the Management Plan
- 3.5 To provide at its own expense to the Council's satisfaction
in conjunction with the restoration of the Site a hide in the
approximate position shown on the Plan marked C attached
to this Agreement together with

- 3.5.1 a parking area to be approved by the Council as part of the restoration of the Site for those visiting the hide (such parking area to be capable of accommodating about 3/4 vehicles) to be located in the appropriate position shown on the Plan marked C attached to this Agreement
- 3.5.2 a foot path no less than 1.5 metres wide along the southern boundary of the Site from the parking area to the hide in the approximate position shown on the Plan marked C attached to this Agreement (and the surface of such footpath shall be subject to the approval of the Council) and to maintain the hide (subject to the Council organising local arrangements for the securing of the hide by lock and key or similar means) the access from the public highway to the associated parking area and the associated parking area and the path in good repair and condition for no less than 20 years following the expiration of the After Care Period to be undertaken as part of the Management Plan
- 3.6 To permit public access to the hide (via the access from the public highway to the parking area and the path) at all times (subject always to the aforementioned local arrangements which will cater for distribution of keys to the lock to the

hide) together with use of the parking area for not less than 20 years following the expiration of the After Care Period

4. **Bird Management Provision**

The Owner covenants with MoD

- 4.1 Prior to completion of the restoration of the Site pursuant to the planning permission for the Development to submit to the MoD for approval a scheme for bird management at the part of the Site hatched orange on the Site Plan to be undertaken during the After Care Period and for a period of no less than twenty years following the expiration of the After Care Period which scheme will accord with the Management Plan and cover the matters set out in the Second Schedule of this Deed and which will be adjusted in accordance with the reasonable requirements of the MoD
- 4.2 To observe and perform the provisions of such bird management plan during the After Care Period and for a period of no less than twenty years following the expiration of the After Care Period provided always that for the avoidance of doubt this covenant shall apply for so long only as the covenants further to clause 3.2 to procure the implementation of the Management Plan endure

5. **Further Covenants**

- 5.1 The Owner covenants with the Council:-

5.1.1 Not to cause or permit any soil to be exported from the Site other than directly to the WRG Land for