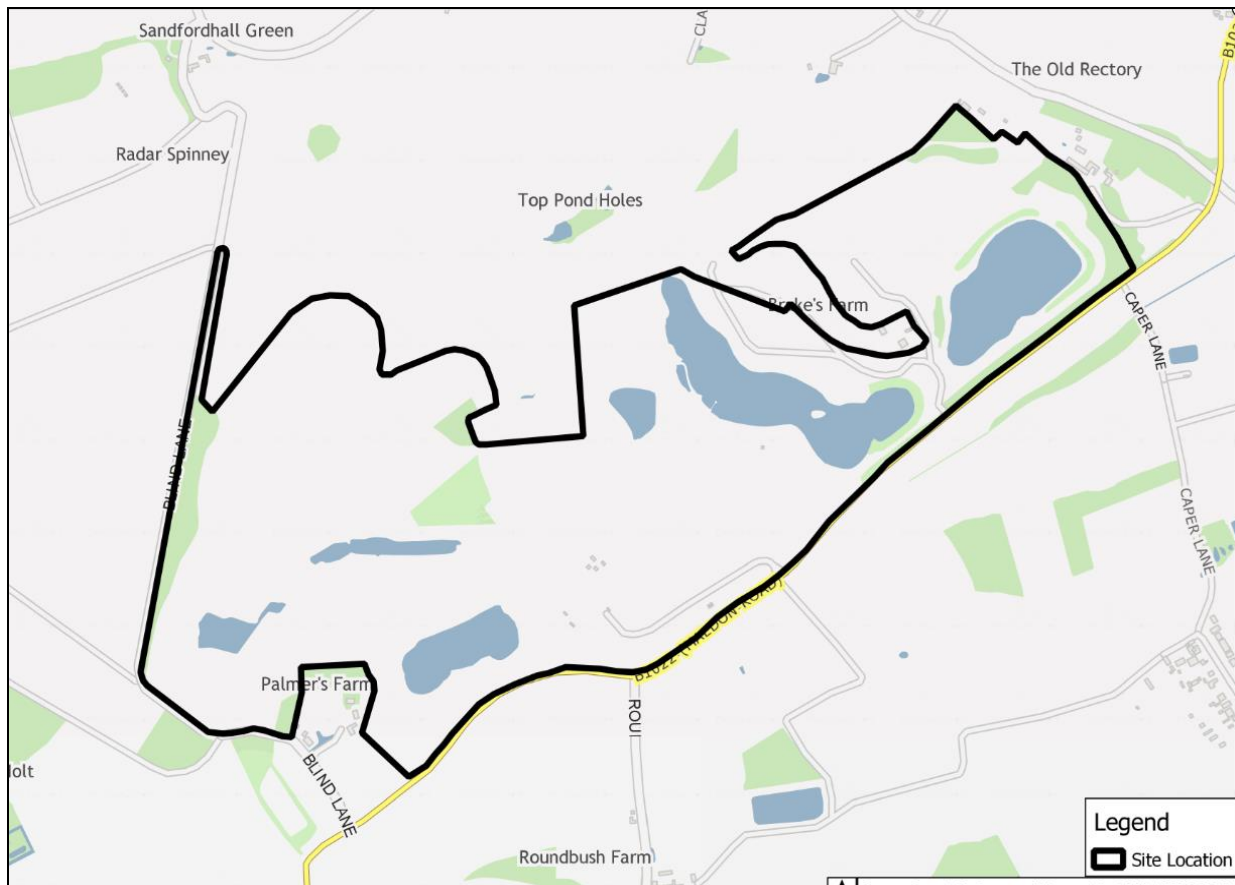
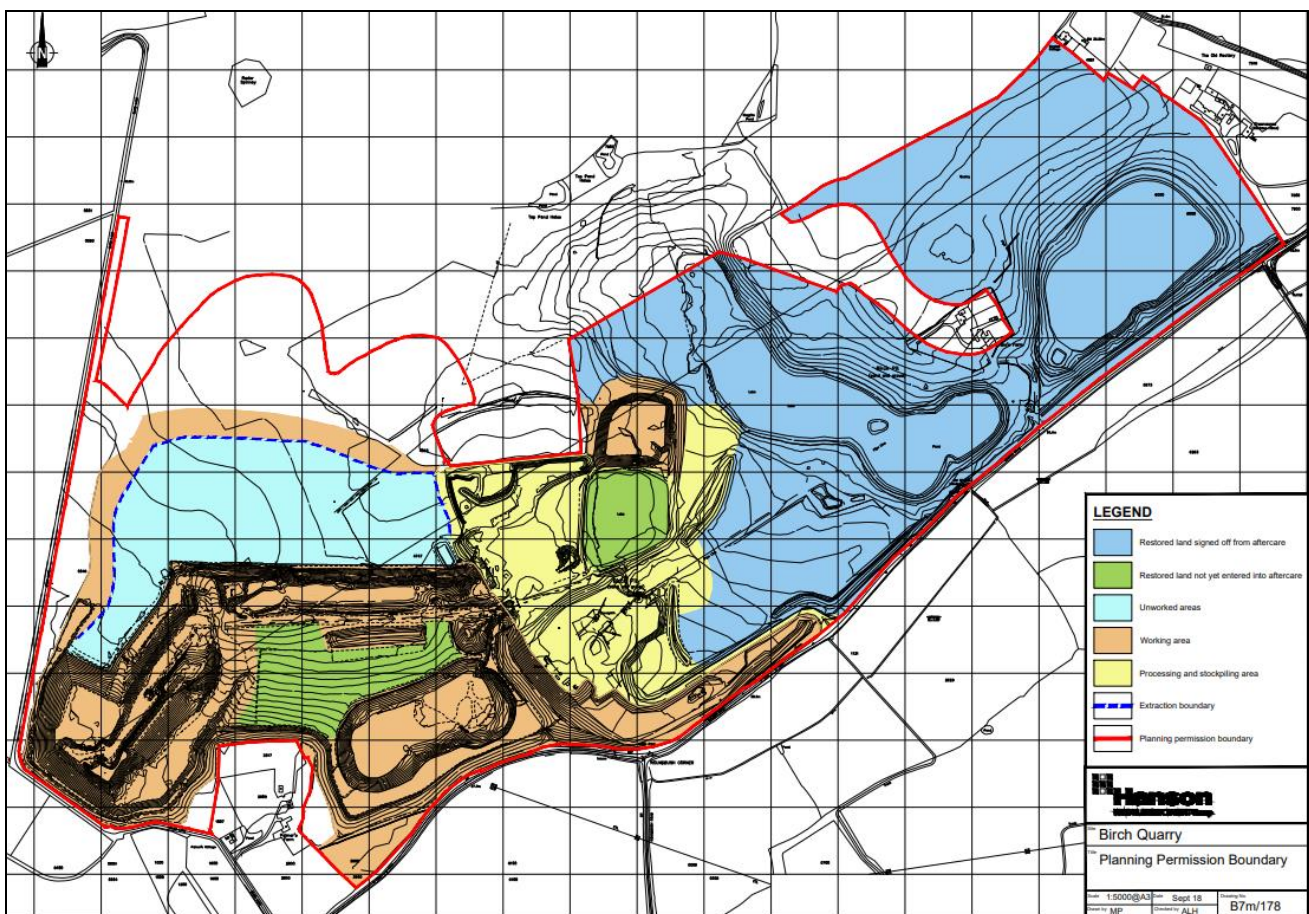
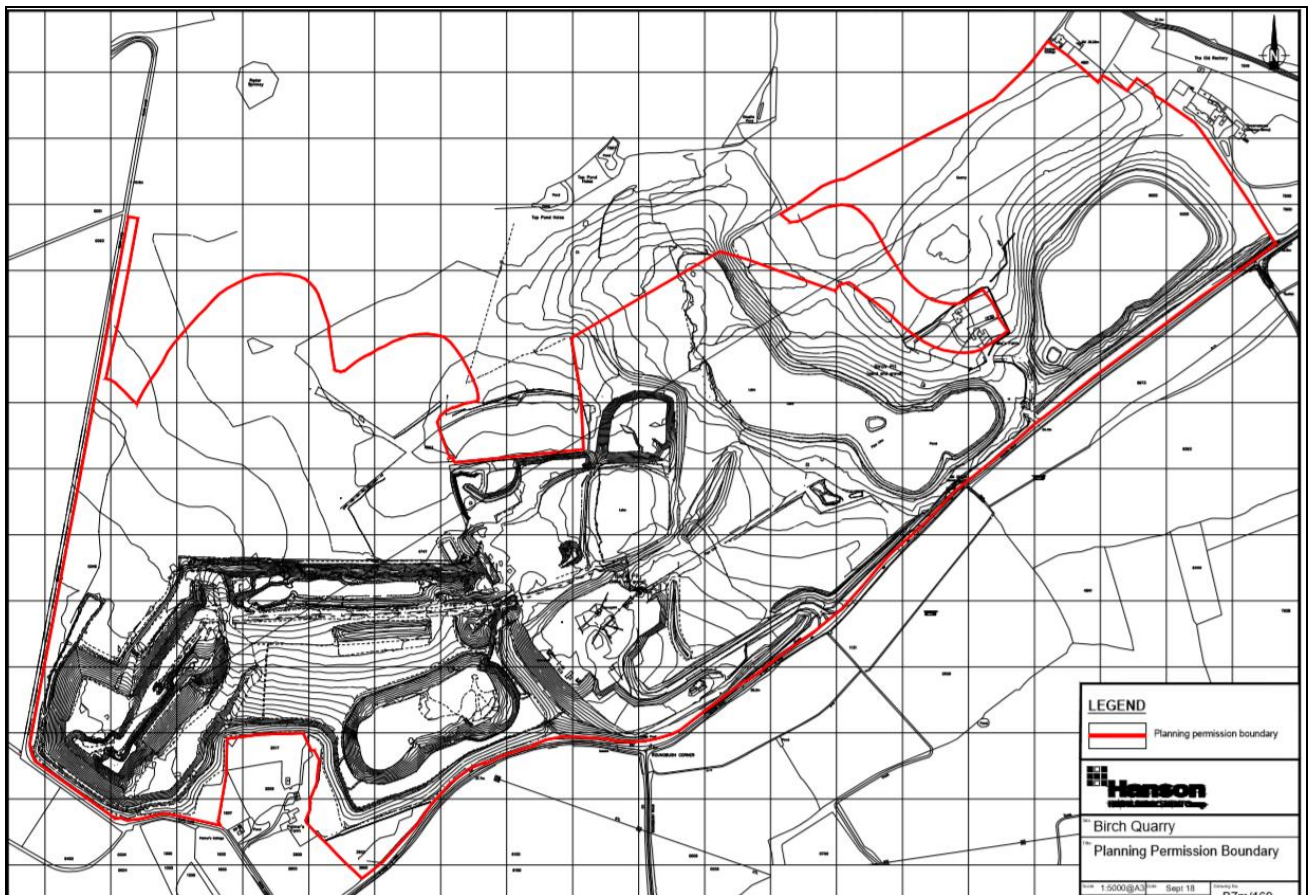


**DR/22/22****Report to:** DEVELOPMENT & REGULATION 27 MAY 2022

**Proposal:** MINERALS AND WASTE DEVELOPMENT - Continuation of use of land for mineral extraction and ancillary use without compliance with Conditions 1 (Approved Details) and 3 (Duration) of planning permission ESX/27/92/COL originally granted for "Winning and working of sand and gravel, erection of a concrete batching plant and associated facilities, construction of a new site entrance and restoration to agriculture and amenity" to enable a revised working and restoration scheme together with an extended time period to achieve site restoration. Land at Birch Pit, Maldon Road, Birch

**Ref:** ESS/45/18/COL**Applicant:** Hanson Quarry Products Europe Limited**Location:** Birch Pit, Maldon Road, Birch, CO5 9XE**Report author:** Chief Planning Officer (County Planning and Major Development)**Enquiries to:** Terry Burns Tel: 03330 136440The full application can be viewed at <https://planning.essex.gov.uk>



## 1. BACKGROUND AND SITE

The history for the Birch sand and gravel pit extends back to the late 1940's. The present application, subject of this report, relates to the land permitted under planning permission Ref: ESX/27/92/COL granted approval in 1995 and accompanied by a legal agreement (covering highway improvements and lorry routing). This earlier application, with accompanying Environmental Statement, saw a quarry footprint extended over some 103 hectares with the then submission documents confirming that within this boundary some 39 hectares had already been worked with a further 12 hectares benefitting from a previous approval (COL/633/75) whilst 32 hectares would be new areas. The balance of the land being made up of peripheral landscaping and other mitigation measures.

Post approval of ESX/27/92/COL the quarry has had two additional Variation of Condition permissions of the principal permission providing for site accommodation and weighbridge (ESS/46/98/COL) and a revised restoration plan (ESS/44/99/COL).

The scheme under the 1995 permission envisaged extraction of some 11 million tonnes (5.95 million m<sup>3</sup>), at a production rate of 450,000 tonnes per annum of sand and gravel, over a 25-year period. The proposed quarry depth was stated as a maximum 20 metres below existing mean surface level.

Mineral extraction has continued over the years with land reinstatement within the eastern half of the complex beginning in the late 1990's with a restoration comprising part grassland and amenity/open water. From records, it appears that restoration of parts of the eastern land areas were being achieved in about summer 2000. All the restored land is now out of its statutory aftercare period.

During the 1990's, the operator re-aligned the northern extraction boundary and withdrew from what they referred to as the "bunny's ears" to a straighter line as depicted on Drwg No: B7M/178 (Appendix A). This revision arose to take account of a geology resulting in deeper overburden such as to make it uneconomical to remove and win the deeper underlying mineral deposit.

Drwg No: B7M/178 shows what is effectively today's active quarry boundary as it relates to the red line previously accommodating ESX/27/92/COL. This active element is the land to the west of that edged blue and depicted as "Restored land signed off from aftercare".

Within the land now out of statutory aftercare further planning approvals have since been granted by the District Council for accommodating a solar farm arrangement. The open water areas within the same land, previously identified for amenity with shallow areas for nature conservation interest, are now primarily used by anglers.

With the eastern land area now restored, such "active" land as remains of the original quarry footprint is restricted to the central and western areas of that original footprint. The current mineral extraction and active lagoon systems are now restricted to the western half of the quarry complex, whilst in the central portion the



land accommodates the processing plant; concrete batching, stockpiling facilities; former lagoons the site offices/weighbridge and the main site haul road linking to the public highway. The supporting Planning Statement accompanying this present application refers to the “active” quarry area comprising some 43 hectares with some 22 hectares being the quarry and 21 hectares remaining agricultural land. This active land area is shown (Appendix A) on Drwg No: B7m/178 entitled “Planning permission Boundary” as the land coloured green; light blue; brown and yellow.

Land to the north of the quarry boundary comprises low lying agricultural land interspersed with copse and hedgerow. Maldon Road forms the southern site boundary whilst a smaller road, Blind Lane, sets the western boundary.

Land south of Maldon Road which is in agricultural use and has a water course running through its centre, is identified within the Essex Minerals Local Plan Adopted July 2014 as one of the Preferred and Reserve Sites identified as suitable for potential future mineral extraction. In the Plan it is known as Site A31 Maldon Road Birch. The site allocation details are set out in Appendix B to this report.

Condition 3 of ESX/27/92/COL required mineral extraction to have ceased no later than 31<sup>st</sup> December 2018 with restoration being achieved by 31<sup>st</sup> December 2019.

It was envisaged in the preparation of the Essex Minerals Local Plan (MLP) that the Allocation site would act as a follow-on site, subject to it having been acceptable in planning terms. Site A31 represented one of several Allocation sites within the MLP as well as being identified as one of the flagship sites to achieve delivery of Priority Habitat creation within the County.

As a consequence of the approaching cessation deadline, the applicant submitted in December 2018 the present application, ESS/45/18/COL together with accompanying Environmental Statement seeking to extend the relevant deadlines.

As part of the emergence of this application the applicant undertook pre-application discussions (the formal opinion, ESS/13/17/COL/PRE, was issued 20<sup>th</sup> March 2018); Environmental Impact Assessment Screening (ESS/15/18/COL/SO was issued 2<sup>nd</sup> July 2018) and a scoping request (ESS/30/18/COL/SPO with the Scoping Opinion issued 31<sup>st</sup> October 2018). This present application, subject of this report was validated 21<sup>st</sup> December 2018.

Whilst technically, under the then extant permission, mineral extraction should have ceased in December 2018 and the land restored in December 2019, site operations have been continuing pending the determination of this present application.

The application has been subject to considerable discussion together with two meetings between the Mineral Planning Authority (MPA) and the agent/applicant. These discussions have centred around the time period being proposed as well as retention of landscape features and which has led to the applicant drafting alternative restoration scenarios to address certain existing landscape/ecology features which are present on part of the site. The involvement through these discussions of the restoration proposals are set out in a fuller format than normal in

this report to enable Members to appreciate the background to the situation and why it has taken some considerable time to bring the application towards determination.

As a consequence of the meetings; three scenarios were drafted by the applicant to reflect full; partial and no retention for a line of mature trees/hedgerow features located within the north east corner of the active site.

Confirmation was received in an email from the agent dated 5<sup>th</sup> January 2022 that “..... Hanson will accept to reduce the extension of time requested for mineral working from 10 years to 5 years, from the date of the permission certificate being issued.

*An additional year would be required for the completion of restoration. As was made clear in our call in April, the rate of extraction is dependent on the market for the mineral, therefore it may be necessary to seek a further extension of time at the end of 5 years.*

*On the matter of the revised restoration scheme, as you are aware, Hanson and the Trustees of the Birch Estate are unhappy with the sterilisation of the mineral which will result from maintaining the hedge and oak trees in situ. However in the interests of progressing the application to determination, Hanson have agreed to retain the hedgerow which includes the mature oaks.*

*This decision has required time for the preparation of a phasing drawing to ensure that double handling of material can be avoided where possible...”*

## **2. PROPOSAL**

The application, supported by an Environmental Statement, proposes (as it stood at submission without the amendment in time referred to above and which is addressed later in the report) seeks:

- The phased extraction of the remaining reserve (c. 2,365,000 tonnes) over 10 years from the defined reduced extraction area; such that extraction operations finish in 2028, rather than the currently permitted 2018;
- The continued use of the existing processing plant, concrete batching plant, ancillary plant, stockpiling area, conveyors and silt lagoon, haul road, site access and offices etc;
- The progressive restoration of the site behind the extraction area, using in-situ material; and
- The implementation of a restoration strategy designed to deliver biodiversity benefits advocated by the Supplementary Planning Guidance (SPG), and arable farmland.
- Revised restoration scheme would use less materials than originally envisaged, but would not require import of materials; however, the ability to import materials is requested to be retained;
- No increase in traffic from that currently permitted; and
- No change to permitted working hours i.e. 07.00-18.00 Monday to Friday, 07.00-13.00 Saturday and not working on Sundays and Public Holidays unless agreed in writing with the Mineral Planning Authority (MPA).

The Planning Statement (PS) confirms that *“Due to a slowdown in the aggregates market, the actual annual rate of extraction of sand and gravel from Birch Pit has been lower than originally anticipated, therefore, the permitted, remaining reserve cannot be worked out by the 31st December 2018. Therefore, Hanson Quarry Products Europe Limited (the applicant) is seeking to vary Condition 3 [ Cessation dates] to extend the end date for the winning and working of sand and gravel to the 31st December 2028 and to extend the end date for restoration to the 31st December 2029.*

*Despite the slowdown in demand for higher grade aggregate, Hanson have found a steady market for low quality material, known as ‘middle sand’ from Birch Pit, which would normally be used for restoration. The consequence of selling the middle sand is a shortfall in restoration materials, which will require a revised restoration scheme based on reduced amounts of material. As the revised restoration scheme will differ to the approved restoration scheme, Hanson are also seeking to revise Condition 1 [Approved Details Condition] of the planning permission”.*

In respect of the Variation to Condition 3 the PS states *“Due to a slowdown in the market for sand and gravel during the recession, the mineral extraction at Birch Pit has not progressed at the pace envisaged in the original application i.e. 450,000 tonnes over 25 years and a significant mineral reserve remains in the ground. To avoid sterilising the remaining reserve, an extension of time is sought to allow mineral working for a further 10 years, until the 31st December 2028.*

*The ten-year extension is based on the fact that Birch Pit has approximately 2,365,000 tonnes of saleable mineral remaining. Current average production is in the region of 215,000 – 315,000 tonnes per annum, which will take up to 10 years to work out at the lower rate.*

*The proposed end date of December 2028 for mineral working and December 2029 for restoration means that Birch Pit will be worked and restored within the adopted Essex Minerals Plan Period which ends in 2029”.*

In respect of the Variation to Condition 1 the PS states *“The approved restoration of the western part of Birch Pit (Drawing B7r/34C) was based on the use of naturally arising waste material from silting and mineral working and lower quality ‘middle’ sand. However, the sale of a quantity of middle sand means that there is insufficient material in situ to enable the approved restoration scheme to be achieved. Rather than import restoration materials to achieve the approved restoration scheme, a revised restoration scheme, which includes a larger area of open water and reedbed, is proposed..... To enable delivery of this revised scheme using site-derived materials, additional areas of re-grading back the excavation slopes are proposed along the western boundary, where previously it was proposed to buttress the slopes with overburden (and interburden). The northern boundary would still be cut back, as established by the approved scheme, but along a slightly different alignment and with land beyond left undisturbed...*

*The revised restoration scheme, when compared to the approved scheme prepared in 1993, would see a reduction in the permitted area worked for sand and gravel along the northern boundary (a reduction of 6.7ha where the ratio of*

overburden to mineral becomes uneconomical). This area will remain as arable land. Within the area to be restored, less land will be restored back to arable land and this would lead to more land being available for open water, reedbed and woodland planting when compared to the approved scheme. An additional 400m of new hedgerows would be planted along the northern limit of working to create a new field boundary, whereas the currently approved scheme shows no boundary and an open field adjacent to the limit of grading. These hedgerows would include hedgerow trees which would be allowed to grow into standard trees as part of the aftercare scheme. The lake would benefit from islands, shallows, reed beds and associated ponds and scrapes, which will comprise a wetland system. There is no intention to remove any roadside or perimeter vegetation, such as the previously planted advance planting or the copse of trees to the north-east. Restoration of the site would therefore contribute towards the attainment of habitat creation targets as listed in ECC's Supplementary Planning Guidance in respect of lowland meadow, reed bed and open mosaic habitats.

Based on the above changes, the predicted landscape and visual impacts are considered to be limited and the predicted impacts on biodiversity are considered to be beneficial when compared to the baseline (mineral working and arable land) and to the approved restoration scheme.

In terms of the after use of this part of the site, Hanson are aiming for a mixed use so there is a need to balance the need for a biodiversity end use and also the aims of the landowner which may include recreation so features for both are being incorporated e.g. reedbeds and open shoreline (as is currently set out in the approved scheme)".

As part of the "decommissioning phase" the PS states "It is assumed that the processing plant, concrete batching plant, stockpile area and site access would stay in place to process sand and gravel from the future extension area to the south of Maldon Road.

However, as that future working will be part of a separate application, this application provides details of decommissioning as if Birch Pit were to close following its restoration and aftercare period and the processing plant was to be removed.

During the decommissioning phase, the main processing plant would be removed, and sand and gravel present beneath the plant site would be extracted and processed using a small temporary mobile plant. All stock would then be sold from the site and related infrastructure would be dismantled and removed.

All remaining land within the site would be restored during this phase. This would primarily comprise the capping off of the remaining silt lagoons and the profiling of the land in the central area of the site to create the profiles for the final restoration landform and land use. The silt lagoons would be capped and restored to arable land".

The PS confirms for operating hours as "

- "07.00 to 18.00 hours Mondays to Fridays and 07.00 to 13.00 hours on Saturdays; and
- No site operations shall be carried out on Sundays or Public or Bank

*Holidays unless otherwise agreed in writing by the MPA.  
There may be occasional maintenance outside these hours, but this can be regulated by planning conditions and can, if necessary be notified to the Planning Authority in advance”.*

*In terms of traffic the PS confirms “lorry movements will remain as previously agreed i.e.*

- Not more than 131 lorries shall enter and no more than 131 lorries shall leave the site per full working day and only 65 shall enter and 65 shall leave on Saturdays.*

*In accordance with Condition 9 of the existing planning permission, lorries carrying sand and gravel shall not exceed 27 tonnes carrying capacity.*

*The Traffic Assessment ..... confirmed that the site has been operating significantly below the restricted HGV levels ..... with an average of 215,000 – 315,000tpa exported annually in recent history.*

*An extraction rate of 215,000tpa (current extraction rate) equates to an average of 31 HGV trips (31 in and 31 out) based on 278-day year and 25t (average) payloads. Additionally, the site’s concrete batching plant generates traffic associated with cement/additive inputs and concrete outputs. Typically, this generates 1 export per day and 1 import every two days. On this basis the typical HGV traffic generation for the site is likely to be 33 HGV trips (33 in and 33 out). This is well within the 262 HGVs (131 in and 131 out) currently permitted at the site. Even if the site were to operate at the higher anticipated output of 315,000tpa, the HGV traffic generation would be 46 in and 46 out and therefore well within the currently approved restricted HGV level”.*

*The PS addresses the need for the development stating “The landbank of sand and gravel reserves in Essex (and Thurrock) is made up of permitted reserves at 21 operational sand and gravel quarries (as at December 2016), with combined reserves of some 35.37 million tonnes as at 31st December 2016, which equates to a landbank of 7.95 years (ref ECC Minerals and Waste Annual Monitoring Report 2016/17). This represents a substantial and continued decline from a landbank of 11.02 years since 2006.*

*The agreed contribution which Essex will make to regional supplies in the period to 2020, referred to as the sub regional apportionment, is 4.31 million tonnes per annum for the Essex administrative area, and 0.14 million tonnes per annum for Thurrock (combined 4.45m tonnes per annum). Sales in 2016 were some 3.4m tonnes, which are lower than the apportionment figure.*

*As the landbank remains close to the minimum level of 7, it is considered vital that the extension of time at Birch Pit is allowed, to avoid sterilisation of the remaining mineral and to ensure that the landbank does not drop below this minimum level as the remaining reserves are currently included within the landbank.*

*The Essex Minerals Local Plan confirms that one of its key functions is to plan for a steady and adequate supply of aggregates to serve construction needs and*



*facilitate growth. The emerging Colchester Local Plan identifies significant amounts of land for residential and industrial/employment land. Therefore, it is considered that there is a need for a steady and local supply of sand and gravel for these projects”.*

*In terms of Archaeological/Cultural Heritage – “There are no designated heritage assets within the application site. There is one designated asset, Palmer’s Farmhouse a Grade II Listed Building, of local importance, within 500m of the site. It is located approximately 300m to 400m south of the application site. Areas of woodland exist between the farmhouse and the proposed quarry extension, and it is considered that the screening provided by these trees would prevent indirect impacts upon the setting of the asset.*

*In terms of non-designated assets, Birch Pit has been the subject of archaeological surveys and excavations since the 1990’s, associated with pre-commencement works of the quarry.”*

*In terms of Ecological – Nearest designated site is Local Wildlife Site is Blind Lane Road Verge at just over 50 metres from the site boundary.*

*In terms of restoration the Planning Statement notes “The currently consented restoration scheme will restore the sand and gravel workings to a mixed arable and woodland habitat set around a lake within the restored quarry void. Ground levels would range from c.40mAOD around the quarry edge (to tie in with natural ground elevation) to c.18mAOD in the base of the quarry. The lake would be at an elevation of between 27.3mAOD to 28.3mAOD”.*

*Also, that “The restoration of landform and associated topographical levels in the western extension area is to be achieved utilising only on-site “in situ” soils and overburden material combined with silt generated through the processing of sand and gravel. There is no requirement for the importation of materials to the site. However, the original permission allows for the importation of a limited amount of material for the restoration of the processing plant area. Hanson would like to maintain this aspect of the permission to import material if required, to bring the land up to the approved levels”.*

*In terms of Community and Stakeholder engagement the applicant has stated “The Scoping Report submitted by SLR to ECC in September 2018 was sent to a number of statutory consultees including the Environment Agency, Colchester Borough Council and Natural England. Birch Parish Council were also a consultee. The Scoping Report is a public document, available to all on the ECC website”.*

*In support of the application, an Environmental Statement was undertaken and considered various aspects including:*

- Traffic and Transport – noting “Birch Pit has been operating significantly below the levels stated within Condition 8 of the extant planning permission, which restricts HGVs to 131 in and 131 out Monday to Friday and 65 in and 65 out on Saturdays. On average, the 215,000tpa exported annually in recent history equates to an average of 31 HGV loads (31 in and 31 out) based on 278-day year and 25t payloads. Even if the annual extraction*

*figure increased to 315,000tpa, this would equate to an average of 46 in and 46 out based on 278-day year and 25t payloads.*

*.....In terms of noise impacts from traffic, given that traffic will not increase from existing levels, the extension of time is considered to have no additional impact on noise and vibration.*

*The existing dust control measures i.e. facilities for wheel washing, dampening, and sweeping the haul road and access and sheeting lorries will remain in place, therefore, no additional dust and dirt impacts on the highway are anticipated”*

Overall concluding no adverse traffic impacts being identified.

- Air Quality – Noting that the working methods proposed would be a continuation of the existing practices.  
The Air Quality report did recommend additional dust control measures during the period of soil bund removal and reinstatement periods of the silt lagoons within 250 metres of both Palmers Farm and Palmers Farm Cottage.

Overall findings being that that there would be no significant air quality effects.

- Noise – That a Noise Assessment had been undertaken in November 2018 to assess ambient noise levels and to identify sensitive receptor locations. The assessment found that the predicted cumulative noise generation levels at receptors would be below PPG (Planning Practice Guidelines) levels other than at Palmers Farm during soil bund removal. The assessment considered a 3 metre high bank or acoustic fence be in place during this temporary period.
- Ecology – An Ecological Impact Assessment was undertaken on the remaining unworked areas of the quarry using both desktop and a field Phase 1 Habitat Survey.

*The ecological report noted “The proposed extraction of sand and gravel would involve the removal of nearly all of the land currently in intensive arable cultivation and the cover crop together with the scrub and grassland mosaic and an area of tall ruderals on a spoil mound to the south-west. To offset the loss of habitat a major habitat creation plan through restoration is proposed that would include the planting of new hedgerows and woodland, creation of open water and the establishment of lowland meadow and reedbed. ....*

*In summary, no adverse residual effects are considered to be required in respect of any statutory or nonstatutory designated sites, un-designated habitats or notable / protected species provided that the aforementioned mitigation measures are undertaken.*

*The proposed restoration scheme seeks to deliver significant gains for biodiversity through habitat creation which when compared to the existing situation would represent net gains for biodiversity”.*

- Cultural Heritage/Archaeology – in its conclusion: “*subject to all works being*

*undertaken in accordance with a WSI [Written Statement of Investigation] and a programme of archaeological strip, map and sample, no significant adverse impacts upon the site's archaeology and cultural heritage are anticipated".*

- *Water Environment – Concluded that "No adverse water environment or flooding impacts have been identified subject to continued working of the site in accordance with its Environmental Permit, surface water management plan and revised restoration plan".*
- *Landscape and Visual – Found under Potential Environmental Effects that "The main landscape and visual components of the proposed development include:*
  - *disturbance and clearance of existing vegetation and soils/overburden from remaining undisturbed mineral extraction areas;*
  - *formation of new landforms (heaps and voids) from sand/gravel extraction areas;*
  - *continued use of the processing plant and access roads; and*
  - *restoration of the final landform and establishment of landcover, habitats and access.*

*These components would result in direct effects upon landscape elements and features within the application site itself. The above changes would also influence the application site's appearance and therefore may also have potential effects on landscape character and also the visual amenity of offsite receptors in the immediate surrounding area. The spatial extent of landscape and visual effects of this proposal are considered to be principally local".*

*Under "Findings of the Landscape and Visual Assessment- Overall, there were no significant landscape and visual effects predicted as a result of the proposed development".*

*And under "Proposed Landscape and Visual Mitigation Measures - A landscape strategy and a number of mitigation measures have been proposed to reduce landscape and visual effects. The northern extent of the permitted mineral workings has been reduced and positioning of the advance hedge planting along the northern margin at the outset of the development would provide screening and enclosure. The proposed afteruses and character of the restored landscape also seek to reflect the existing permissions, previously restored areas and wider setting .....*

*The visibility of the site from local receptors and changes to views and visual amenity would be limited to views of plant moving around the upper parts of the site (stripping soil and overburden), from individual properties and farmsteads such as Shemmings Farm and Sandfordhall Green and road users along the unnamed road to the north.*

*Users of the local road network connecting villages and settlements such as Maldon Road to the south and users of the Public Right of Ways to the south east would experience very limited effects, being generally limited to continued HGV movements along Maldon Road and glimpsed views of the site entrance and processing plant".*

Under the mitigation measures six conclusions the report notes two of these being

*“The advance landscaping which has taken place around the periphery of the site which has created a strong sense of enclosure and excellent screening, particularly from the B1022 Maldon Road;  
.... and*

*The restoration scheme itself, which seeks to deliver a range of land uses consistent with the aspirations of Essex County Council to increase biodiversity, but also aligned with the requirements of the landowner who wishes to return a proportion of the site to productive arable farmland”.*

The ES confirms that under the consideration of alternatives that these comprise the following:

- (i) “Do Nothing - Do not proceed with the application for the extension of time. This alternative would not be consistent with the forward mineral planning strategy of the Essex MLP where the reserves at the Birch Pit are included within the landbank which makes a substantial contribution towards aggregate requirements over the Plan period.*
- (ii) Reduce the Site Area - Working a smaller area would reduce the number of years that the quarry was operational, however, this would lead to part of the remaining mineral reserve being sterilised. The applicant has already significantly reduced the zone of extraction as shown by the ‘Extraction Boundary’ on Drawing B7m/178. The area of permitted extraction is shown by the red line boundary, however, the dashed blue line demonstrates that the actual working area will be significantly smaller (some 6.7 hectares) than the permitted area. If the remaining land within the red line boundary were to be worked, the applicant would be seeking an extension of time in excess of 10 years.*
- (iii) Increase the rate of output - In theory, it could be possible to increase the rate of output which would in turn serve to shorten the duration of the operation. However, this would not be consistent with forecast market demand and would lead to significant stockpiling of material, which could have a negative visual impact. The EIA studies do not identify any compelling reasons to shorten the development period or increase the rate of output.*
- (ii) Alternative Restoration Proposals - Prior to the publication by Essex County Council of Supplementary Planning Guidance (SPG) on ‘Mineral Site Restoration for Biodiversity’ (June 2016), the concept and requirements for restoration were fairly generalised.*

*The applicant and landowner have expressed a firm preference for a nature conservation /biodiversity focus to the restoration scheme, particularly as a reasonable amount of the restoration scheme is to arable land. The restoration scheme has therefore been designed to provide nature conservation and*

*biodiversity habitat, as well as arable land for the landowner to continue farming. The final phased working and restoration scheme has gone through a number of iterations, to reflect recommendations from ECC and statutory consultees and the findings of the environmental studies regarding mitigation measures which should be designed in to the scheme, notably ecology, landscape, hydrology, agriculture and soil resources, and noise / stand-off distances to residential properties. The scheme which has emerged is considered to represent the most appropriate design solution, which is consistent with the design objectives which have been set, and which seeks to reconcile competing interests. Therefore, no alternative restoration schemes are proposed.*

In policy considerations the applicant notes that under the economic role dimension of the NPPF *“Birch Pit is considered to be “the right type” in terms of the quality of the mineral resource which it contains, and it is in “the right place” as it is an allocated site in the ECC Minerals Plan 2014. It is also in the “right place” in the context of being able to maintain local supplies of aggregate to construction projects in Essex in a way which minimises the carbon footprint associated with the delivery of aggregate to construction sites, as a result of its location close to Colchester and Chelmsford. Both these settlements have significant allocations for residential and employment developments, including the Garden Community identified in the emerging Colchester Borough Local Plan, for 2,500 houses”.*

Following submission of the application additional information has been forthcoming including:

- (i) Noise: The agent submitted a revised Noise chapter to address concerns expressed by the County Noise consultant whose subsequent appraisal is reported later in this report.
- (ii) Alternative Restoration Scenarios – Restoration scenarios were submitted 4<sup>th</sup> June 2020. These matters are addressed within the Landscape appraisal section of the report.

### **3. POLICIES**

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that consideration be had to the development plan unless other material considerations indicate otherwise.

The development plan comprises:

- i) Essex Minerals Local Plan Adopted July 2014.
- ii) Colchester Borough Council Local Development Framework Core Strategy Adopted 2008 (selected policies amended 2014) and Development Policies Adopted 2010 (selected policies amended 2014).

Other material considerations include:

- iii) The National Planning Policy Framework (NPPF) July 2021.
- iv) Planning Practice Guidance



v) Biodiversity Supplementary Planning Guidance (June 2016)

The following policies of the Essex Minerals Local Plan Adopted July 2014 and the Colchester Borough Council Local Development Framework Core Development Policies Adopted 2010 (selected policies revised July 2014) (paraphrased or in quotation marks if set out in full) are of relevance to this Application are set out below.

Relevant policies within the Essex Minerals Local Plan Adopted July 2014 are:

- Policy S1 “Presumption in favour of sustainable development”
- Policy S2 “Strategic Priorities for Mineral Development”
- Policy S6 “Provision for sand and gravel extraction”
- Policy S8 “Safeguarding Mineral Resources and Mineral reserves”.
- Policy S10 “Protecting and enhancing the environment and local amenity”
- Policy S11 “Access and Transportation”
- Policy S12 “Mineral Site Restoration and Afteruse”
- Policy P1 Preferred and Reserve Sites for Sand and Gravel Extraction”
- Policy DM1 “Development Management Criteria”
- Policy DM2 “Planning Conditions and Legal Agreements”
- Policy DM3 “Primary Processing Plant”
- Policy DM4 “Secondary Processing Plant”

Policy S1 “Presumption in favour of sustainable development”.

Provides for working with an applicant to seek solutions with improvements to the environmental conditions of the area. The policy sees a presumption in favour of development unless material considerations indicate otherwise.

Policy S2 “Strategic Priorities for Mineral Development”.

Under point 6 of how the strategy would go forward is the provision of identifying future preferred or Reserve Sites for delivering the steady and adequate supply of mineral during the Plan period and maintaining the landbank at appropriate levels.

Policy S6 “Provision for sand and gravel extraction”

The policy seeks to ensure sufficient reserves through the Plan period for at least 7 years extraction.

Policy S8 “Safeguarding Mineral Resources and Mineral reserves”.

Applies Mineral Safeguarding Areas (MSA's) to ensure mineral resources are safeguarded from surface development which could sterilise an economic resource or prejudice the permitted minerals effective working.

Policy S10 “Protecting and enhancing the environment and local amenity”

Requires that minerals development demonstrate (and where relevant to this application):

- “Appropriate consideration has been given to public health and safety, amenity, quality of life of nearby communities, and the natural, built, and

- historic environment,
- Appropriate mitigation measures shall be included in the proposed scheme of development, and
- No unacceptable adverse impacts would arise
- Opportunities have been taken to improve the environment and amenity”

#### Policy S11 “Access and Transportation”

Supports development where it is demonstrated that impacts on the efficiency and effective operation of the road network including local amenity and the environment are not unacceptable.

#### Policy S12 “Mineral Site Restoration and Afteruse”

Supports mineral development where it can be demonstrated that the land is capable of achieving restoration at the earliest opportunity with positive benefits arising on amongst others the environment and biodiversity.

#### Policy P1 Preferred and Reserve Sites for Sand and Gravel Extraction”

Identifies sites where the “principle of extraction has been accepted and the need for the release of the mineral proven”. Appendix A identifies Site 31 Maldon Road, Birch.

#### ii) Policy DM1 “Development Management Criteria”

Provides support for minerals development subject to the development not having an unacceptable impact, including cumulative impact with other development, upon (with relevance to this application) local amenity; health of local residents; safety and capacity of the road network and “the appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to its local distinctiveness”.

#### Policy DM2 “Planning Conditions and Legal Agreements”

Which provides for the imposition of conditions/legal agreements to mitigate and control development effects and environmental enhancement.

#### Policy DM3 “Primary Processing Plant”

Seeks to ensure that primary processing plant is located within the confines of the mineral site and that local amenity is not unacceptably impacted.

#### Policy DM4 “Secondary Processing Plant”

Seeks to ensure that secondary processing where it would not unacceptably impact amenity and /or local environment.

Within the Colchester Borough Council Local Development Framework Core Development Policies Adopted 2010 (selected policies revised July 2014) the following policy is considered relevant:

## Policy ENV1: "Environment"

This policy seeks to conserve and enhance the Boroughs, amongst others, natural and historic environment and countryside.

The National Planning Policy Framework (NPPF) was published on 27 March 2012 (updated July 2021) and sets out the Government's planning policies for England and how these are expected to be applied. The NPPF highlights that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to state that there are three dimensions to sustainable development: economic, social and environmental. The NPPF places a presumption in favour of sustainable development. However, paragraph 11 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

For decision-taking the NPPF states that this means; approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF taken as a whole; or specific policies in this NPPF indicate development should be restricted.

Sustainable development is at the heart of the NPPF which sets as its beacon the Brundtland definition (United Nations General Assembly quote prior to Paragraph 6). The Government's "broad" interpretation has the NPPF setting the scene for placing sustainable development at the heart of the planning system with three principal dimensions; that of economic, social, and environmental. The Government sets a series of core planning principles to be applied at both plan making, as well as at decision making and that these include in relation to this application:

- i. Seek to secure high quality design and a good standard of amenity in relation to existing occupants of land and buildings.
- ii. Contribute to conserving and enhancing the natural environment and reducing pollution.

The NPPF seeks the delivery of sustainable development through the planning system encouraging and supporting economic growth and that this is achieved through proactively meeting the needs of business.

The NPPF seeks to mitigate, through appropriate planning decisions, the potential for noise and other adverse impacts including air quality, arising from a development on health and quality of life.

Para 14 of the NPPF sets for decision takers the presumption in favour of sustainable development to mean approving development that accords with the development plan. Where the development plan is absent, silent/out of date that permission be granted unless adverse impacts would significantly outweigh the

benefits or that specific policies in the NPPF indicate such development be restricted.

In respect of Local Plans, paragraphs 212 and 213 of the NPPF, in summary, detail that the policies in the Framework are material considerations which should be taken into account in dealing with applications and plans adopted in accordance with previous policy and guidance may need to be revised to reflect this and changes made. Policies should not however be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

For clarity Colchester Borough Council has an emerging local plan: Submission Colchester Borough Local Plan 2017-2033. The status of this emerging plan was being reported within Colchester Borough Council Planning committee meeting reports of February 2022; as “*Submission Colchester Borough Local Plan 2017-2033:*

*The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole”.*

Given the plans emerging status, reference to the existing local plan policies remain relevant to this present report. And within the Local Plan 2017-2033 Section 1 the following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development –

*This policy provides “When considering development proposals the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area”.*

#### **4. CONSULTATIONS**

Summarised as follows and includes the revision submissions:

COLCHESTER BOROUGH COUNCIL (PLANNING) – Comment “*It is imperative that the environmental impacts (including but not limited to: landscaping, ecology, groundwater, surface water, noise, air quality, traffic, archaeology, heritage, pollution, amenity) of the proposal are carefully considered in order to ensure there is no further risk or harm created by the proposal.*

*The proposal could potentially cause additional amenity disturbance for nearby residents. Any comments received by third parties and the Parish Council should be carefully considered."*

ENVIRONMENT AGENCY-SUSTAINABLE PLACES TEAM -No objections and provide advice on Permitting matters.

NATURAL ENGLAND - No comment to make.

PLANNING CASEWORK UNIT- Any comments received will be reported.

COUNTY NOISE CONSULTANT – Comments: "Since the activities identified by the original ES as likely to cause some of the highest noise levels have already now been undertaken, and I am not aware of any complaints associated with these activities, I do not propose to object to this application. However, from the information submitted, I consider that there is a risk that the noise limits for normal operations may be exceeded at Palmers Farm during restoration activities. I therefore recommend that monitoring be undertaken on a fortnightly basis at this location during restoration activities.

Conditions should also be included on the following topics:

- Operational hours – weekday daytime and Saturday morning periods only
- HGV movements – 131 movements each way per weekday and 65 each way on Saturday mornings
- Temporary operations noise limit of 70dB LAeq 1hr for up to 8 weeks per year
- Normal operations noise limits:
  - Palmer's Farm - 54 dB LAeq 1hr
  - Stemming's Farm 47 dB LAeq 1hr
  - Brakes Farm 54 dB LAeq 1hr
  - Roundbush Bungalow 54 dB LAeq 1hr
  - Birch House Care Home - 54 dB LAeq 1hr
- Compliance monitoring to be undertaken on a quarterly basis at the above locations, with fortnightly monitoring also undertaken at Palmers Farm during restoration activities. The MPA will consider requests for the relaxation in frequency and/or number of locations monitored if it can be demonstrated that worst case activities have not caused a breach of noise limits.
- Fitting and use of effective silencers
- White noise reversing alarms".

COUNTY AIR QUALITY CONSULTANT – No objection and recommends that the Dust Management Plan be updated to reflect the revised restoration plan and proposed mitigation measures for approval before operations commence.

HIGHWAY AUTHORITY- No objection subject to mitigation measures being secured as per the applicants submitted Transport Assessment recommendations and for an update of Condition 8 of planning permission ESX/27/92/COL with an up to date and similar restriction of HGV daily vehicle movements.

Highways also recommend an informative that the applicant have prior contact and agreement from the Highways Authority for any works impacting the highway



before works commence.

PLACE SERVICES (ARBORICULTURE): The County Arboricultural Officers (CAO) comments are set out within the Places Services response letters attached as Appendix C - G to this report.

PLACE SERVICES (ECOLOGY) - The County Ecologists (CE) comments are set out in the Places Services three response letters attached as Appendix C - G to this report.

PLACE SERVICES (HISTORIC BUILDINGS) - No objection.

PLACE SERVICES (HISTORIC ENVIRONMENT) – No objection and recommends conditions to address a Phased programme of archaeological works.

PLACE SERVICES (LANDSCAPE):

The County Landscape Officers (CLO) comments are set out in the Places Services three response letters attached as Appendix C - G to this report.

PLACE SERVICES (URBAN DESIGN): No comment to make.

BIRCH PARISH COUNCIL - - Any comments received will be reported at the meeting.

LOCAL MEMBER – COLCHESTER - STANWAY AND PYEFLEET – No comments received.

ADJACENT MEMBER - COLCHESTER - MERSEA AND TIPTREE - No comments received.

## **5. REPRESENTATIONS**

As a result of site; press (Colchester Evening Gazette) and neighbour notification (14 properties were directly notified of the application), one email was received from a neighbouring property in support of the proposed lake being created.

## **6. APPRAISAL**

This application has highlighted particular aspects of the proposal which are considered to be the material considerations against which the application should be considered. These elements are the:

- A. Appropriateness of the proposed extension period;
- B. The ecological/biodiversity implications and
- C. Value of existing landscape features and their retention implications.
- D. Potential implication of sterilising mineral.

### **A APPROPRIATENESS OF THE PROPOSED TIME EXTENSION PERIOD**

The MPA has expressed from the time of the Pre-Application approach that it had concerns relating to the time duration being proposed. This 10-year extension request appeared unnecessarily long and driven more by the applicant company's commercial objectives rather than any planning justification to work to the previously approved extraction rates and timescales.

*In the Pre-Application submission the agent had reported "In terms of the delay, Hanson's intention is to overlap the working of Birch Pit and the working of the southern extension, so the southern extension would come forward before the end of the Plan period. Daniel [Hanson Land and Planning Manager] has said this was simply down to the recession and a reduction in demand for sand and gravel. In terms of why Hanson is seeking until 2032 to complete the working, with regard to the planned mineral there was 2,193,000t saleable as at end March 2017.*

*The budget for 2017 is 256,000t suggesting Hanson will need 8.6 years from March 2017 but the MAT (Moving Annual Total) is 215,000t suggesting they will need 10.2 years.*

*I realise this doesn't bring us up to 2032 but there is some flexibility built in, in case there is another slowdown in demand after 2018".*

The Pre-Application advice provided stated that "An Environmental Impact Statement accompanied the application under which the extant permission ESX/27/92/COL was determined. The permission was dated 1995 and it appears to have missed being subject to the Statutory Review of Old Mineral Permissions in 2010.

*The extant planning approval provides for the cessation of mineral extraction by 31st December 2018 and site restoration by 31st December 2019.*

*The applicant's reasoning for the extension request has been related to the economic downturn and the generally low annual tonnage that the quarry effectively sells. The information provided seeks to incorporate an additional "buffer" time period beyond a 10.2-year period and for the buffer to run until 2032 to provide flexibility and so accommodate removal of all mineral.*

*The proposed time extension, if forthcoming, would effectively take the working life of the quarry beyond the envisaged lifespan of the adopted Minerals Local Plan (coverage period 2012 – 2029).*

*The additional "buffer" period appears excessive and the quoted company production rates, referred to earlier, are significantly lower than those made at the time of the 1992 application. The 1992 planning statement referred to the existing site activities having already experienced suspension at the expense of working one of their other nearby quarries. The history of suspended working; the lower than predicted production rates and the proposal to rely on a further "buffer" period raises questions as to the achievability of the proposed extension period now being sought. This "buffer" is therefore considered an overly excessive and unnecessary extension promoted solely to addressing the applicant company's internal production and marketing programme.*

*This excessive time extension is considered to represent a significant change in*

*the nature and time scale of the development as previously envisaged and to which the original planning application ESS/27/97/COL was based upon and subsequently determined and conditioned.*

*Whilst there may be valid reasons for operators seeking extension of time periods, the operator in this case is not offering valid planning reasons to justify its 10-year extension request. Whilst some three and a half years has elapsed since the submission of this application the extraction programme appears to be continuing at its existing slower rate of half the production than previously envisaged. It would be considered that a reduced timescale, taking account of the period already passed post submission of the application, that extraction of the remaining mineral could be achieved within a much shorter time period.*

*The company have referred to the likely “overlap” of working with both the existing site together with the future southern extension area. Within the Minerals Local Plan, the southern land area is identified as an Allocated Site known as Site A31 Maldon Road, Birch. Under its listing, reference is made to the fact that the preferred removal of mineral from the southern land parcel would be via an under-road conveyor for processing [assumed to be via the existing plant site] and then export through the existing site access. Within the Mineral Local Plan Site A31 reference, under Point 2 headed “specific issues to be addressed” in any future planning application reference is made to the mineral at the existing quarry having been extracted and restoration phases complete before any extraction within the southern area”.*

*In respect of the restoration aspects the comments made by the planning officer in the Pre-Application advice was “This Pre-Application request has highlighted another area of concern that of site restoration. It has become apparent as part of this exercise that restoration of the entire site area of ESS[ESX]/27/92/COL as envisaged at the time of its determination is unlikely now to be achieved within the timescales approved. That areas of the land, such as the processing plant; stockpiling locations; site offices and weighbridge together with access roads, would require retention should any southern site extension be pursued and this would further set back restoration of the land area for some considerable future timescale.*

*Not achieving restoration as previously envisaged within the timescales of the extant site permission and to the expected after-uses would be a major departure from that previously approved. That restoration would be piecemeal; the exact extent given the necessity of retention of certain existing features unclear at this stage would result in a significant change in both the nature; scale and character of what was intended under the extant permission”.*

*At the Screening Opinion request stage it was noted “The Screening request refers to the revisions required to the restoration proposals as a result of quarry utilising and marketing what was material of a lower quality and previously intended for assisting with the quarry restoration landform”.*

*Birch quarry is located within a known mineral resource area and winning and working of mineral by other operators in the vicinity has not from experience being found a problem or one hampered for example by recessionary periods/potential*

unknowns resulting in that operator coming forward to the MPA seeking time extensions.

It is noted that the applicant, as part of this application, are now proposing within the time extension being sought to include the restoration of all of the quarry land.

In terms of the MLP implications, that of landbank considerations are addressed further below in this report. It is still not fully clear as to the likelihood of site A31 coming forward within the MLP timelines. It is also important to note that delays to the delivery of A31 were not apparently being voiced at the time of the applicants engagement when the MLP was being prepared and the putting forward of Site A31.

Considerations around the question of appropriateness of the time extension has been complicated by the delays in bringing this application to the stage of determination.

The applicants preparation and engagement with the Mineral Planning Authority in terms of the evolving application began in 2018 and the Pre Application advice issues, as stated earlier in this report, was that any time extension request should be short. Against that basis it was assumed that an applicant putting forward an application would take such advice on board.

That such advice has not been taken on board is disappointing. As a consequence of the applicants recent, January 2022, confirmation of the restoration scenario for the land, addressed further below, they have also confirmed acceptance of a five year, plus one year for restoration, working period post any determination date. This extension date, coming as it does after the delays in reporting this application has raised further concerns over the envisaged time extension appropriateness.

Taking the dates envisaged by the VOC application as submitted; the MPA Pre Application concerns; the more recent January 2022 confirmation of a 5 years (plus one year restoration) working period and where we are today following the delay in determination of this application we have a number of varying final completion dates:

1. Original application, ESX/27/92/COL Cessation 31<sup>st</sup> December 2018 with restoration by 31<sup>st</sup> December 2019.
2. VOC application ESS/45/18/COL – 10 year extension with Cessation of working 31<sup>st</sup> December 2028 and restoration by 31<sup>st</sup> December 2029.
3. MPA Pre Application seeking a 5 year extension period post – December 2023.
4. Applicants January 2022 confirmation for cessation in 5 years and 1 further year for restoration. Assuming favourable determination in April 2022 – dates would reflect cessation April 2027 and restoration April 2028.
5. Looking at it from the point of view of the lapsed permission ESX/27/92/COL we have the site having been working for (to May 2022 date) of 3yrs 6 months and with the applicant wishing now for up to 6 years to achieve restoration May 2028. The applicant still caveating that end date with the state of market conditions and they may wish to seek further extensions at the end of the proposed extension time.

What we now have is a situation where by even with the applicants January 2022 confirmed reduced time extension period we have a cessation date reflecting nearly the same (10 year extension) ie what they had originally intended when this present application was made in December 2018.

It is still considered that it has been and continues to be the applicants commercial decision to maintain this slow site progress; the acknowledgement that there is no exceptional quality attributable to the Birch mineral identified either at the time of the 1992 application nor since but is just a mineral more suitable for general use; that sales are effectively low and that the operator has sought to rely on the justification for buffers for additional time on the basis of recessionary periods as well as to accommodate unknowns. Furthermore, the site exhibits little investment with an old processing plant and machinery and minimal staff on site. As such, these aspects are all more related to a commercially orientated programme and not one that the planning system requires to be weighing as a truly planning justification.

Since the VOC application submission it is clear that the Covid Pandemic reduced market demands nationally. Whilst this unforeseen factor has undoubtedly has some impact, overall still trying to achieve a nearly 10-year time extension (3 yrs plus post lapse plus the 6 years now being referred) is considered inappropriate.

That the applicant is still inferring further extensions of time after their five years only confirms the applicant's commercial emphasis as being paramount and not planning considerations. Indeed, in the applicant's explanation for seeking the original 10-year time period they had also included using additional buffering periods to accommodate unknowns that may or may not arise in the future which may arise to delay extraction rates.

Members will recall previous recent instances of mineral sites seeking time extensions of years rather than months. Birch Quarry is another example of pushing the time restriction boundary more due to commercial as opposed to planning justification.

The delays in achieving site restoration at Birch have been in conflict with the then extant permission requirements. It is also in conflict with the fundamentals of the planning system that mineral working be temporary and not one dragging on indefinitely and that minerals are worked in a timely and efficient manner with land being restored to beneficial afteruse as soon as possible – in accordance with policy guidance.

Delayed restoration is contrary to the National Planning Policy Framework which seeks to ensure that worked land is reclaimed at the earliest opportunity; the guidance within the Minerals Planning and Policy DM1; DM2 and DM3 whereby the acceptance of the original application and its infrastructure was suitably controlled through conditions to reflect the proposed and consulted upon envisaged timescales and impacts arising. It was also a timescale to which the local community; consultees and Mineral Planning Authority had a reasonable expectation would be met and the land reinstated to its approved afteruse.



Were planning approval to be recommended for approval on the basis of a further time extension, then such an extension should be tighter and reflecting nearer the tonnages to be extracted on a yearly basis as originally forecast to ensure the land disturbance time period is reduced as much as possible.

The original application sought a yearly extraction rate of 450,000 tonnes and the applicant has already confirmed they are only doing between 215.000 – 315.000 tonnes per annum and with the lower rate seeking on that basis, plus the unknowns, for a further 10.2 years extension. A point to note is that the present application states 2.365,000 tonnes of reserves exists, although the quote earlier referenced in the Pre Application refers to 2.139.000 million tonnes of saleable reserves remaining in 2017.

On the basis of the 2.365.000 reserve the reserves could at the time of the submission have ranged between 1.94 and 1.85 million tonnes at the two extraction rates of 215,000 and 256,000 tonnes per annum. This would equate to between 9 and 6.9 years remaining life. These figures would now be reduced given that there has been some three years plus post submission having now elapsed.

Again, on the basis of this present applications submission date, if one were to factor in an extraction rate at the applicants higher end of 315,000 tonnes per annum then the range period between the remaining 1.94 and 1.85 million tonnes would extend to between 6.1 to 5.8 years life. The range at the rate previously envisaged of 450,000 tonnes would give a range of between 4.3 and 4.1 years life.

Discussions with the site personnel during monitoring visits has indicated that with a bit of emphasis on behalf of the company and investment in plant/infrastructure that the remaining mineral reserve could be won in 4 years with a further 1 year restoration incorporated such that a 5 year extension could be achievable.

Mineral could be stockpiled in the approved stockpiling area whilst any remaining mineral were being sold off site.

Emphasis on achieving the landform and landscaping in the extraction area is paramount whilst reinstatement works in the processing plant area, which from the previously approved restoration plan, need significant ground contouring to achieve its final landform feature. The majority of the reinstatement works in this area would be the dismantling of the processing and ready mix concrete plants.

Any programme of linking the processing infrastructure towards any future southern site extension would need to be considered at the time of any southern extension application being submitted. Likewise, it is not considered an acceptable approach that seeking such a long extension period to allow time to prepare and seek approval of a southern extension. Such a later application is at present aspirational and cannot be considered in any balancing decision related to this present application.

It has already been expressed that having lower mineral extraction rates than was previously approved is more one of a commercial not a planning argument. It would not therefore be unreasonable for the MPA to be seeking a cessation date

for mineral extraction including restoration of 5 years being seen as a reasonable and achievable expectation for securing the completion of the Birch quarry

Such a timescale could be supported through Policies 6 ensuring supply of mineral continues and within the safeguards of policies S10 and S12 minimising its impact to an achievable timescale and through DM1 imposition of appropriate conditioning to secure that timescale and timely restoration of the land.

## B ECOLOGICAL AND BIODIVERSITY IMPLICATIONS

ECC's consultants (Place Services) have sent five responses to the application since it was submitted. The first response was dated 20th March 2019, a second response 25th April 2019 provided updated comments; 7th October 2020 addressed some suggested amendments to the scheme with the fourth on 2nd February 2021, responding to further suggestions relating to landscape/arboriculture and ecological matters. The latest in February 2022 notes the revisions to the hedgerow and tree retention. These response are appended as Appendix C to G of this report.

The importance of providing up to date ecological surveys and assessments has been highlighted by the CE from the early days of this emerging planning application with such requests starting in the Pre-Application response in March 2018. As with the Landscape comments below there has been continuing CE comments relating to the adequacy of the submitted information together with concerns over the delays this present application would have in achieving the creation of Priority Habitat delivered through the MLP.

The CE raised this issue in March 2019 *"In order to achieve its focus on biodiversity restoration the Essex Minerals Local Plan aims to create 200 hectares of Priority habitat within the life of the Plan. The SPG (Supplementary Planning Guidance: Mineral Site Restoration for Biodiversity (June 2016), (hereafter referred to as 'the SPG'), provides the backdrop to all minerals planning applications in Essex, particularly for the Flagship sites. The role of the SPG is to: Implement Policy S12 'Mineral Site Restoration and After-Use'. Establish a masterplan framework for 'Flagship Schemes'. Identify the detailed policy approach to habitat creation at mineral sites generally.*

*To secure the habitat objective a new area of land to form part of Birch Quarry was identified as being one of five Flagship schemes. It has a target to create a minimum of 23 hectares of Priority habitat comprising open mosaic habitat and reedbed during the life of the Minerals Plan.*

*The area of the current proposals is a separate area of the Quarry from the proposed Flagship scheme. However, the lengthy delays caused by this part of the site will mean that the extension to the site identified for one of the MLP's Flagship schemes may not now come to fruition within the life of the Plan. We have therefore been encouraging any proposals to implement the MLP targets within the existing parameters of Birch Quarry instead. The restoration proposals for this current area of the Quarry should be considering incorporating the Priority habitats to reflect the details agreed in relation to policy S12 of the Minerals Local Plan and its accompanying SPG.*

*The 23-hectare Priority Habitat target should be in addition to any mitigation or compensation which needs to be provided as a result of the development of the site so it is important that we measure and distinguish between these. It is not currently clear what is provided as compensation or mitigation for the loss of existing habitats. The level of enhancement can only be calculated once compensation and mitigation has been calculated. Use of the Defra Metric would help to demonstrate this, which takes into account the condition of the habitat as well as temporal factors rather than just size.*

*To create any additional benefits to support the S12 priority habitat target, the additional Priority habitats need to supplement the Priority habitats which are already committed by the existing planning permission. Other potential appropriate non-target Priority habitats can be also still be created on the site, such as native woodland, hedgerows, ponds and arable field margins.*

*There are two Priority habitats proposed in the revised Landscape Restoration Scheme (BP 10/5, November 2018) for the current application which are listed within the SPG, ie Reedbeds and Lowland Meadows (wildflower meadow). Long-term habitat management is proposed which would be an increased benefit. However, this is partly offset by the time lag caused by the long delay in restoration. The priority for this part of the site should be these habitats, but it is not clear whether this would be the case, for example, there could be potential conflicts with some forms of recreational usage.*

*Creation of a wetland system with irregular edges islands, shallows, reed beds and associated ponds and scrapes is welcomed, although the shape of the large water body appears to be more uniform than before in many respects. Open water has increased from 7.8ha to 8.7ha. The area of reedbed has been increased by 0.2ha and the wildflower meadow is the same size as before. Therefore, while these habitats are compatible with the MLP, it would not constitute much of an addition from the current planning permission”.*

*The CE also references the woodland aspects in April 2019 “The woodland to the north-east of the RLB (Red Line Boundary) - It appears that the corner of the South West corner of this woodland would need to be removed, including several mature trees, at least some of which have potential bat features. These are shown as scrub on the Phase 1 survey. The loss thus appears to be greater than described in the EclA and the woodland remaining will be situated very close to the steep drop into the restored lake”.*

*The concerns of the CE have revolved around two aspects; firstly, insufficient adequate assessment and demonstration of provision for the direct and indirect impacts upon existing biodiversity including Protected Species and Priority Habitats/ Habitats of Principal Importance, based upon the ‘Mitigation Hierarchy’. This involved lack of coverage of up to date ecological surveys being forthcoming for the active quarry area and adequate consideration within the wider quarry areas, particularly those which had not been fully restored. Use of supporting Defra/ Biodiversity Metric Data was proposed to help demonstrate mitigation required for the loss of existing habitats of the restoration of western quarry complex. The second point related to the delays arising in securing Priority Habitat*

(ie Reedbeds and Open Mosaic Habitat on Previously Developed Land), as envisaged through the delivery of the allocated land in the Minerals Local Plan.

It has not been until recently that the applicant supplied Biodiversity Metric (the earlier version of the Metric was referred to as the 'Defra Metric') calculations in response to the CE requests concerning the hedgerow interests. The CE noting in respect of this latest information (reference to the Scenarios are appended as Appendix H-J) that ".....

- *All three scenarios provided an adequate hedgerow replacement (irrespective of mature tree loss) in terms of Biodiversity Net Gain calculations in the Metric.*
- *All three Biodiversity Metric calculations provided for this scheme appear to produce a similar outcome for habitats*
- *The overall area being restored to wildflower grassland varied for each scenario, but all three scenarios now contained less than the areas proposed previously in 2018 and under the 1995 permission.*
- *The value of existing habitats had not been properly taken into account.*

It should be noted that updated surveys for the rest of the quarry area, principally outside of the western survey area has still not been provided.

In respect of the second point, concerns the applicant has sought to bring forward some Priority habitat benefit through changes to the proposed waterbody restoration initiative. However, the degree of proposed habitat provision would be impacted by the landscape retention aspects addressed further below in this report.

Despite requests the applicant has not provided extending the surveys to provide a comprehensive assessment of the extant habitats both within the red line area and its context within the wider complex. There has through this determination process been a reluctance by the applicant of the wider survey requests and relying only on those surveys within the western half of the quarry complex. Consequently, the CE remains concerned appropriate coverage has not been undertaken in supporting the compiling of the Environmental Statement.

Notwithstanding concerns relating to the lack of information and adequate assessment, the CE has not objected to the principle of the application. However, the CE has supported the value of the landscape features within the north eastern corner of the extraction area, together with the opportunities for achieving additional biodiversity interest within the restoration options for the land. These two aspects and how they overlap with the landscape considerations are addressed within the landscape appraisal section below.

As stated above, the area of wildflower meadow has been reduced in all three scenarios, from that proposed in 2018 and that permitted in 1995.

Whilst it is recognised that additional ecological survey support has not been forthcoming; overall the ecological implications raised by this application could be assessed as neutral when viewed against policy advice.

## C VALUE OF EXISTING LANDSCAPE FEATURES AND RETENTION IMPLICATIONS.

This application has highlighted the value and significance of certain local landscape features which appear not to have been fully appreciated during the earlier history of this site. As a consequence of the VOC application this has allowed an opportunity for the re-examination of the value of the remaining vegetation within the site footprint.

As discussed further below these landscape features relate primarily to a number of mature trees along/adjacent an associated hedgerow located within the north eastern corner of the previously approved extraction boundary.

The original application in 1992, whilst accompanied by an Environmental Statement that addressed landscape aspects, appears not to have fully surveyed/assessed elements of the extant vegetation features within and around the application land. Of note here is the presence of a woodland straddling an internal track on the north eastern edge of the extraction boundary which has associated with it the landscape features comprising the hedgerow and mature trees referred to earlier in the report. Neither does it appear that these features of interest were picked up on during the consultation process at the time. As a consequence, the approved extraction programme for the quarry provided for part of this hedgerow and tree feature to be lost during the subsequent working programme.

Had the quarry been presumably working to its original timetable and intent then the landscape features would have been removed and the land on which the landscape features stood would now be part of the lake formation envisaged in the restoration plan.

Working at the quarry has been slow, the background to the delays having been outlined earlier in this report, and the landscape features remain insitu as a consequence and further gained valuable landscape significance.

The submission of this application has highlighted the presence of the landscape features within the quarry complex and led to an opportunity to enable re-evaluation of their significance. The landscape aspects highlighted here has, as with the earlier Ecological issues referenced earlier in this report, been an area that the applicant has ignored during both the emergence and subsequent submission of this application.

The implications for the group of mature trees was highlighted, by the Landscape Officer (CLO) at the time of the Pre Application request in January 2018 where it was stated "*The amended restoration plan submitted informally, B7r/162, needs to relate to the surrounding proposals for restoration to give a better overview and context.*"

*I am concerned about the apparent loss of woodland, an area with mature oaks was shown to be retained on the previous restoration plan B7r/34 and is now not indicated. This may need to be resurveyed, plotted on the plans, retained and managed. In addition there appear to be other hedgerows/copses which may be lost to the quarrying operations. This may include the hedgerow and oaks which*

*you noted recently were being engulfed by spoil heaps. Clarification is needed, fresh survey work may be required."*

Landscape aspects were reiterated in the Scoping Opinion with under the Landscape and Visual Impact Assessment section reported *"The comments of the County Landscape officer are set out in the Place Services response dated 11th October 2018. These continue to identify issues particularly in respect of mature/veteran trees the long term status needing to be confirmed. The options for their retention and design aspects of the northern site boundary profile should be considered.*

*.....The ES should include an assessment with plans and cross sections of how the proposed project through its presence might impact on visual amenity and the landscape.*

*The submitted restoration design needs to review the larger restoration scheme for the active quarry; its timetabling and implications of any delays in areas being restored as a result of other development implications".*

Post submission correspondence with the agent (June 2019) and the four further Place Services responses have continued to raise the importance of the landscape features which it had been felt, as with the concerns over the adequacy of the submitted ecological/biodiversity aspects, not been fully appraised by the applicant.

The concerns over the tree issues were picked up by the Arboricultural Officer in the March 2019 Place Services response stating *"No specific tree report e.g. BS5837 has been provided in support of this application. Tree and hedge removals have been noted within the Ecological Impact Assessment however, although the hedgerows have not been identified as 'important' under the Hedgerows Regulations (11.70) but are still priority habitat. The proposals would see a loss of 330 metres of hedgerow (H1 and H2).*

*Although the revised area of extraction is smaller than the previous application, it is still proposed that six mature trees (T1-T6), aged between 250-300 years will be lost, five of which are situated within the hedgerows to be removed, despite all of them being noted as being of good quality. These cannot be replaced in the medium term; It is not indicated how their loss could be mitigated. The EclA states in 11.117 that "The mature trees within Hedgerow 1 are good specimens and their loss could not be meaningfully compensated for in the short to medium term".*

*In addition to no proper tree report being provided, no arboricultural method statement has been provided, so it is not clear how trees to be retained are to be protected, this needs to be resolved".*

*The CLO also noting in March 2019 "I think that the landscape impacts of excavation in this area have been somewhat under estimated. Whilst I accept that the woodland copse is now proposed to be retained I remain to be convinced that it is appropriate to remove sections of mature hedgerow and oak trees to facilitate the extended area".*

As the tree issues were being highlighted by the Landscape and Arboricultural Officers; the County Ecologist (CE) (March 2019) also raised issues concerning the lack of tree reports supporting the CLO and CAO concerns. The CE comments are appraised earlier in this report.

Both the landscape and ecological concerns were addressed with the agent/applicant at the May 2019 and January 2020 meetings. Whilst the relevant surveys were still outstanding, the importance of the mature trees/hedgerow feature in the north east corner were again highlighted as being an issue and one considered appropriate to raise within this present application.

In June 2020 the applicant submitted three restoration scenarios depicting restoration based on no hedgerow retained (Scenario 1); half hedgerow retained (Scenario 2); and full hedgerow retained (Scenario 3) (Appendix H - J) attached for full letter).

- “1)      *Scenario 1 : No Hedgerow Retained –*  
*This scenario is based on the removal of the hedgerow at the north-eastern corner of the proposed lake, as shown in the approved restoration plan (Ref: Ref B7r/34c).*

*As requested by ECC, the drawing shows blocks of proposed planting relocated from south-facing slopes of the lake to other locations around the lake and to the corners of the agricultural land to the south (Round Bush Corner), and to the south east and west of Palmers Farm and Palmer’s Cottage.*

*This scenario would not sterilise any mineral and would only require 15,000m<sup>3</sup> of backfill, which would be sourced from within the site. This scenario also has no impact on the proposed 1.8ha of reedbed/reedshelf and wetland margin as there will be no need to use the reedbed creation material to batter the slope, which would be required if the hedgerow was retained.*

*Although 125m of hedgerow and the oak trees within then would be lost, the ‘no hedgerow retained’ drawing shows that 2,550m of new hedgerow would be planted. This includes the hedgerow to the north west of the application boundary, which would be planted to provide additional wildlife habitat connectivity. Hanson will only offer this hedgerow in the ‘no hedgerow retained’ or ‘half hedgerow retained’ scenarios.*

*In addition, the ‘no hedgerow retained’ scheme offers an additional hedgerow associated with the ditch across the plant site, to provide additional wildlife habitat connectivity. This can be seen on ‘no hedgerow retained’ drawing BP10/5.*

#### *Advantages of No Hedgerow Retained Scenario*

- *No mineral sterilised;*
- *No need to import backfill material to complete the restoration scheme;*
- *No reduction in the area of proposed reedbed/reedshelf and wetland; and*
- *Hanson commitment to additional hedgerow planting to north of application site boundary and alongside ditch within the centre of the*

*site to provide additional wildlife connectivity.*

*Disadvantages of No Hedgerow Retained Option*

- *Loss of 125m of hedgerow and oak trees within the hedge, to the north east of proposed lake.*

*2) Scenario 2: Half Hedgerow Retained*

*This scenario is based on the removal of approximately half the hedgerow at the north-eastern corner of the proposed lake. Drawing BP 10/5 'Half Hedge' presents this scenario and also shows that, as requested by ECC, blocks of proposed planting would be relocated from south-facing lake slopes to other locations around the lake and to the corners of the agricultural land to the south. New hedgerow planting is proposed to the north of the application boundary, to provide additional wildlife habitat connectivity. The backfill imported to be placed against the faces of the slope leading up the retained section of hedge would be planted with a wildflower grassland mix.*

*Advantages of Half Hedgerow Retained Option*

- *Increase of 0.7ha of wildflower grassland;*
- *Hanson commitment to additional hedge planting to north of application site boundary to provide additional wildlife connectivity.*

*Disadvantages of No Hedgerow Retained Option*

- *46,250 tonnes of mineral sterilised;*
- *93,000 m3 of overburden backfill required;*
- *Loss of 48m of hedgerow and oak trees within the hedge to the north east of proposed lake; and*
- *Loss of 0.6 ha of reed bed/reedshelf/wetland margin.*

*3) Scenario 3: Full Hedgerow Retained – Drawing BP 10/5 Full Hedge*

*This scenario is based on the retention of the full hedgerow and trees within the hedgerow to the north-eastern corner of the proposed lake. Proposed planting blocks would be relocated from south facing slopes to other areas around the proposed lake and to the corners of the agricultural land to the south.*

*Advantages of Full Hedgerow Retained Option*

- *Retention of 125m of existing hedgerow and oak trees; and*
- *Increase of 1.0ha of wildflower grassland.*

*Disadvantages of Full Hedgerow Retained Option*

- *109,000 tonnes of mineral sterilised;*
- *109,000 m3 of overburden backfill required;*
- *Loss of 48m of hedgerow and oak trees within the hedge, to the north east of proposed lake;*
- *Loss of 0.2ha of open water;*
- *Loss of 0.8ha of reed bed/reedshelf/wetland margin;*
- *No Hanson commitment to additional hedge planting to north of red line boundary to provide additional wildlife connectivity.*



Table 1-1 below shows the difference each scenario makes in relation to the amount of land available for each proposed land use.

	No Hedge Retained Scheme	"Full Hedge" Retained Scheme	"Half Hedge" Retained Scheme
Existing Hedgerow Retained	0 m	125 m	77 m
Existing Hedgerow Removed	125 m	0 m	48 m
Hedgerow Planting	2,550 m	1,600 m	2,100 m
Agricultural land	16 ha	16 ha	16 ha
Open water	8.7 ha	8.5 ha	8.6 ha
Reedbed / Reedshelf / Wetland Margin	1.8 ha	1 ha	1.2 ha
Wildflower grassland	5.2 ha	6.2 ha	5.9 ha
	No Hedge Retained Scheme	"Full Hedge" Retained Scheme	"Half Hedge" Retained Scheme
Tree and Shrub Block Planting	3.9 ha	3.9 ha	3.9 ha
Overburden undisturbed	0	38,000 m <sup>3</sup>	23,000 m <sup>3</sup>
Mineral undisturbed (sterilised)	0	59,000 m <sup>3</sup> (109,150 tonnes)	25,000 m <sup>3</sup> (46,250 tonnes)
Overburden backfill required	15,000 m <sup>3</sup>	109,000 m <sup>3</sup>	93,000 m <sup>3</sup>

In summary, the loss of habitat as a result of the retention of the hedgerows (and due to the backfill necessary) is approximately 5,500m<sup>2</sup> of reedbed in the west and 1900m<sup>2</sup> in the east in the case of the full hedgerow being retained. For the half hedgerow retention option 5,500m<sup>2</sup> of reedbed is still lost in the west, but only 650m<sup>2</sup> in the east, in comparison to the previous 2018 restoration scheme. The hedgerow and tree planting figures referred to above also need to be considered in the context of the wider planting which has already been undertaken at the site. This includes advance planting along Maldon Road and Blind Lane, with additional proposed hedgerow enhancements along Maldon Road and Blind Lane already agreed. Overall, over a period of 25 years, some 19,348 trees and shrubs have been planted and 2,675 metres of hedgerow established under the approved schemes at and in the immediate vicinity of the site. This provides a framework for the future restored site to sit within a considerably enhanced landscape and visual setting

The Applicant has further stated:

*“Operational Considerations*

*Aside from the sterilisation of mineral, which amounts to a lost resource and a loss of income, the full hedge and half hedge scenarios would require the double handling of the overburden, to batter up the slopes to the hedgerow, which would cost £1.50 per m<sup>3</sup>. The double handling of overburden to achieve the full hedge scheme could cost in the region of an additional £220k and for the half hedge £186k. This would be an unnecessary waste of resources in the absence of clear and tangible benefits arising from the alternative restoration schemes”.*

The applicant concludes that *“Having fully considered the advantages and disadvantages of the 3 scenarios, the preferred scenario for Hanson and their landlord is Scenario 1 ‘No Hedgerow Retained’ as this avoids the sterilisation of any mineral and the need for and cost of double handling the overburden. This scenario also avoids the need to import any backfill material to achieve the proposed restoration and offers the greatest area of open water and reedbed/reedshelf and wetland margin, which is a priority habitat.*

*In addition, as part of the ‘No Hedgerow Retained’ scenario, Hanson commit to 2,550m of new hedge planting to the north of the application site boundary and along the line of the ditch across the current plant site area.*

*In summary, we feel that that the proposed restoration scheme offers a wealth of landscape and biodiversity benefits which will be of significant value in the wider area, which is dominated by intensive arable farming.*

*Whilst the loss of the hedgerow and oaks is regrettable, the proposed scheme provides significant biodiversity gain, in line with current National and local planning policy”.*

The status of the scenarios has been referenced earlier in this report as having been prepared in response to requests from the MPA to enable consideration of what the actual implications would be in respect of retaining the landscape features. That the applicant has supplied this information is welcome.

Aside from the landscape element aspects, each of the scenarios would also have implications towards the amount of land available for achieving different biodiversity habitats. In particular this would relate to reedbed/reedshelf and wetland habitat provision within the lake area as well as changes in achieving different grassland types.

The application as submitted whilst seeking a time extension has also proposed a variation of the approved restoration plan to take account of less on site material than was originally proposed and to the fact that suitable “middle sands” previously earmarked for restoration usage are now being marketed. The redesign has also had to take account of the applicant not now having chosen to exploit permitted reserves that were located within the northern extremity of the approved extraction area (known as the bunny’s ears). This area of land was also to have been earmarked for inclusion within the previously approved lake design. Whilst the previously approved lake design could be said to have exhibited some character in its design the submitted revision that forms part of this present application exhibits an oval shaped water body set within a larger depression and exhibiting very little

features of biodiversity/habitat creation along its margins.

From a landscape perspective it has been referenced earlier that the submission of this new application has enabled a re-evaluation of the landscape features present within the application boundary to be undertaken. The hedgerow and trees within the north eastern corner are recognised as having significant value both in terms of intrinsic landscape value but also their specimen value.

This Variation of Conditions application would in effect, subject to planning approval, result in the granting of a new permission. As a consequence, it is considered appropriate that the contribution those landscape features, which have further matured over the decades since the planning consent was issued, are properly assessed and weighed in the balance of what this present application is now seeking. These features are considered significant and National policy seeks to protect and enhance valuable landscape features. This present application now presents an opportunity to re-evaluate that landscape.

The value of the landscape features has been expressed to the applicant at numerous times and for appropriate surveying of the trees to be undertaken to confirm their value.

The CAO; CLO and CE have considered the scenarios and the Matrix which the applicant submitted in October 2020. The CLO in commenting upon the no hedgerow retained scenario *"The removal of the mature oaks along with the hedgerow in which they grow will result in the loss of a significant landscape feature. Whilst it is recognised that the feature has become fragmented by the previous removal of hedgerows, trees and copses this remaining feature presents an important landscape feature linking and providing connectivity with the small woodland and further hedges/large trees extending east across the landscape. The feature could form a key role in future landscape restoration post excavation. Any further fragmentation of landscape features should be resisted."*

*The large mature oaks are visible in the wider landscape extending out from the woodland. Photographs taken in both winter and summer months indicate their presence within the wider landscape. Whilst there are no 'more' sensitive receptor viewpoints from footpaths or bridleways in the vicinity there are views of this landscape from the road and from residential properties.*

*The historic hedge/oak trees form an important element of the baseline landscape character and helps to assist with some screening of the current mineral extraction operations. The loss and fragmentation of any element of this will represent a major/moderate adverse landscape impact. I have previously stated that the hedgerow is 'important' under the criteria in the 1997 Hedgerows Regulations".*

Of the three scenarios and their proposed mitigation; for the no hedge retention, the CLO states *"Any additional planting of hedgerows such as those indicated will be beneficial. The proposed hedge crossing the restored agricultural land may have some habitat connectivity benefits but is unlikely to have the wider landscape or visual benefits afford by the oak trees."*

*If on balance this option (as per the planning application) is accepted then I would*

*wish to see a further hedgerow offer in addition to the roadside, northern extent, and cross field hedge. This being the enhancement of the field boundary with hedgerow to create connectivity between the woodland and Top Pond Holes woodland to the north"*

*In respect of the full hedge retention; the CLO notes "..... I would support this option subject to appropriate conditions. I note that in respect of Scenario 3 mitigation Hanson will offer the northern perimeter hedge to the edge of excavated zone only. Whilst any wider offer of any additional off-site hedge/tree creation/restoration would always be beneficial I do not consider that off-site hedging would be needed to form part of the restoration scheme".*

*The CAO reiterates earlier comments that no specific tree report nor Arboricultural assessment has been undertaken and "my previous comments still stand with regard to the potential removal of six mature trees (T1-T6), aged between 250-300 years old, five of which are situated within the hedgerows (Priority Habitat) to be removed, despite all of them being noted as being of good quality.*

*The EO stated "In summary, I consider that some of the habitats have been incorrectly categorised within the metric. This affects the calculations, and therefore the outcomes, of the Metric.*

*I would consider that the habitat category used within the metric for the old hedgerows proposed for removal is not correct and it underestimates their value. The native hedgerows to be removed have a ditch associated with them, as well as the mature oak trees. Inclusion of a ditch or bank increases the metric baseline score for the hedgerow.*

*The existing baseline habitat -which will be lost- has all been entered into the Defra Metric as 'sandpit'. However, the actual situation is more complex. The area of semi-improved grassland/scrub, an area of relatively high biodiversity, will be lost, as well as some arable and some other areas of former quarry that have become vegetated. Some of these habitats might now fall under the category of Open Mosaic On Previously Developed Land (a priority habitat) and should not have just been categorised as 'sandpit'. In addition, I don't believe that the loss of mature tree (T1) standing alone has been included. Please note that colleagues saw a buzzard's nest in one of the oak trees.*

*I am concerned that, with two all the hedgerows removed, the area of newly created grassland has been reduced from 7.3ha wildflower grassland to 5.1 neutral grassland. This would be slightly better with half hedgerow retention (5.8ha) and better still 6.1ha with full retention, though still less than that proposed previously".*

*The Place Services response of February 2021 stated the following: "All three scenarios provide an adequate hedgerow replacement (irrespective of mature tree loss) in terms of BNG (Biodiversity Net Gain) calculations. However, the area of wildflower meadow has been reduced in all three scenarios.*

*The CE noting: "The Mitigation Hierarchy, which is set out within the NPPF (paragraph 175) and the Biodiversity Net Gain Good Practice Principles for Development , is clear that harm to important biodiversity resulting from development should be avoided where possible and that compensation should be the last resort.*

*The CE notes that:*

### *Scenario 1: No hedgerow retained*

*This would enable the greatest length of new hedgerow (2,550m), the most reedbed/wetland margin (1.8 ha), but the least area of wildflower grassland (5.2ha).*

### *Scenario 2: Half hedgerow retained*

*This would enable 2,100m of new hedgerow, 1.2 ha reedbed and 5.9 ha wildflower grassland.*

### *Scenario 3: Full hedgerow retained*

*This would enable the shortest length of new hedgerow (1600m) and least amount of reedbed, but the largest area of wildflower grassland (though still less than the 2018 restoration scheme).*

*In terms of the Metric, it is therefore a matter of weighing up which habitats would be preferable in this location and in the circumstances. I also note that the ecology chapter of the ES describes the scheme as 'nature conservation-led restoration' (11.150).*

*Contribution towards nature conservation priorities is referred in Principle 5 of the Good Practice Principles For Development (make a measurable Net Gain contribution). The conservation priorities for quarries in Essex have been clearly set out under policy S12 and the accompanying Supplementary Planning Guidance: Mineral Site Restoration for Biodiversity (June, 2016), (SPG) that has been referred to in previous responses.*

*The priorities in the SPG are for open habitats, including Reedbeds and Lowland Meadows. Quarries are able to provide relatively large areas of habitat, compared with many forms of development and are ideal for creating these open habitats.*

*The mitigation proposed for scenarios 1 and 2 offer some additional extended lengths of hedgerow which will also help to create connectivity with other habitats, particularly the north- south hedgerow. It needs to be ensured that appropriate management of any off-site habitat creation is secured by a legal agreement. "*

*The CAO stating "Had a BS5837:2012 Trees in Relation to Design, Demolition and Construction (recommendations) survey been carried out, it is highly likely that these trees would have been classified as 'A' grade, i.e. 'trees of high quality and value capable of making a significant contribution to the area for 40 or more years'. These cannot be replaced in the medium term; It is not indicated how their loss could be mitigated. This is confirmed by the EclA which states in 11.117 that "The mature trees within Hedgerow 1 are good specimens and their loss could not be meaningfully compensated for in the short to medium term".*

*Of the three scenarios the CAO supports the full hedge retention.*

*It has not been until December 2020 that a "Tree Constraints Plan" was finally submitted which provided assessment of the trees. The CLO; CAO and CE have considered the commented on this submission and their comments are set out in*

Appendix F. The submitted Tree Constraints Plan confirms the value of the trees and supports the CAO; CLO and CE views as to the value of these landscape features.

In consideration of the restoration aspects presented by this application the restoration scheme as formally submitted (Drawing BP 10/5 Landscape Restoration Scheme November 2018) did not provide for the retention of the landscape features referred to above. This plan would not therefore, given the discussion about the landscape retention aspects above, be considered acceptable. The plan as it stood could be considered in conflict with policy that seeks to enhance and retain where possible landscape features. The applicants submission of the revised plan with the full hedge retention is therefore welcomed. albeit with advantages and disadvantages combined.

As referred to earlier the disadvantages, as outlined by the applicant, would be

- 109,000 tonnes of mineral sterilised;
- 109,000 m3 of overburden backfill required;
- Loss of 48m of hedgerow and oak trees within the hedge, to the north east of proposed lake;
- Loss of 0.2ha of open water;
- Loss of 0.8ha of reed bed/reedshelf/wetland margin;
- No Hanson commitment to additional hedge planting to north of red line boundary to provide additional wildlife connectivity.

Mineral aspects are addressed further below. In respect of the need for infilling, the original application provided for importation for waste materials subject to approval from the MPA. In the event of planning approval being forthcoming then a suitable condition covering the ability to import appropriate suitable inert materials into the site could be supported.

In terms of the trade-offs between landscape and biodiversity elements this has been touched upon earlier. The greater benefit, in this particular case, that for securing the retention of the landscape features has been supported by the CE; CLO and CAO. Avoidance of significant harm to mature hedgerows and trees would also be beneficial as this is higher up the biodiversity 'mitigation hierarchy'. There still would be a biodiversity value to the restoration scheme and its long-term management and maintenance could be secured through a legal agreement. In light of the experience across the other two previously provided and established waterbodies within the greater Birch quarry complex these waterbodies have been used more for recreational/angling purposes. The application documents have referenced the proposed afteruse of the land and waterbody in one place as "*The applicant and landowner have expressed a firm preference for a nature conservation /biodiversity focus to the restoration scheme, particularly as a reasonable amount of the restoration scheme is to arable land*" whilst elsewhere stating "*In terms of the after use of this part of the site [waterbody], Hanson are aiming for a mixed use so there is a need to balance the need for a biodiversity end use and also the aims of the landowner which may include recreation so features for both are being incorporated e.g. reedbeds and open shoreline (as is currently set out in the approved scheme)*".

Were planning approval to be forthcoming for this application the biodiversity

benefits of the land would need to be protected against any prejudicial recreational aspects arising. Such protection could be achieved through a legal agreement addressing management and maintenance of the reedbed and wetland habitat areas over the long term.

The CLO has recognised that if Scenario 3 is progressed formally then the loss of opportunities to secure off-site hedge planting to the north of the quarry northern hedgerow would not be forthcoming. The CLO noting that *“in respect of Scenario 3 mitigation Hanson will offer the northern perimeter hedge to the edge of excavated zone only. Whilst any wider offer of any additional off-site hedge/tree creation/restoration would always be beneficial I do not consider that off-site hedging would be needed to form part of the restoration scheme”*.

In terms of considering what could be reasonably achieved in respect of restoration design for the site then that depicted in Scenario 3 would safeguard the significant landscape features.

In January 2022 the applicant submitted a scheme of revised working and for a landscaping scheme with the retention of the full hedge scenario noted earlier. The applicant has stated that whilst it is not the landowners choice for this retention the scheme could be worked to.

Were planning approval to be forthcoming then appropriate conditions to secure revised working and a full hedge restoration programme would be recommended.

The Full hedge retention would therefore be supportable through the NPPF and Policies S1; S10; S12; DM1; DM2 and ENV1.

## D POTENTIAL IMPLICATIONS FOR MINERAL STERILISATION

The applicant has stated that potential mineral sterilisation could arise under the Scenario 2 and 3 restoration options referred to earlier in this report. The applicant states that sterilisation would amount to some 46,250 tonnes of mineral sterilised and requiring some 93,000 m<sup>3</sup> of overburden backfill under Scenario 2 and 109,000 tonnes of mineral sterilised with some 109,000 m<sup>3</sup> of overburden backfill required under Scenario 3.

The applicant has considered the implications such mineral loss may have on the wider Essex landbank stage, stating in their latest December 2020 correspondence *“Birch Pit Quarry is a primary extraction facility within Greater Essex and Policy S6 of the Essex Minerals Local Plan 2014 confirms that ‘the MPA shall endeavour to ensure reserves of land won sand and gravel are available until 2020 [2029], sufficient for at least 7 years extraction’*. Since the planning application was submitted in December 2018, the Greater Essex Local Aggregates Assessment (LAA) (October 2020) has been published. The LAA confirms that permitted reserves were 33.10mt in December 2019 and when the landbank is calculated using the apportioned figure, it stood at 7.44 years at the end of 2019.

*Whilst the sand and gravel landbank was above the planned 7 year requirement at that date, it is important to note that the 7 year landbank is a minimum requirement*

*and represents a substantial and continued decline from a landbank of 11.02 years since 2006.*

*As the landbank figure includes the remaining Birch Pit reserve, refusing the application and/or requiring the land containing the hedgerow and oaks to be retained would sterilise a significant amount of mineral and have a negative effect on the Essex landbank.*

*The October 2020 LAA lists, in Table 1 a significant number of key infrastructure projects that are either planned, programmed or underway in Essex and will require sand and gravel. In addition, the LAA confirms that significant new housing delivery is planned for the county. Sterilisation of mineral would prejudice the 'steady and adequate supply' of aggregate production in the Plan Area if a large producing unit is removed from the supply chain. This will be particularly important as the country emerges from the Covid 19-induced recession, and the economic growth which will be required to counter-balance the effects of the recession".*

The Minerals Local Plan (MLP) adopted 2014 covers the period 2012 – 2029 and includes aggregate mineral. The Plans Vision is to provide a steady and adequate supply of sand and gravel. Phasing this supply so as to avoid over supply in the market. To avoid sterilisation and to recognise that mineral working is temporary, and restoration and aftercare schemes are integral to a sites development.

The MLP sets a series of Aims and supporting Strategic Objectives as to how those Aim's would be achieved. Aim 6, is the provision for providing a steady and adequate mineral supply. The supporting Strategic Objective includes that this would be delivered through identifying suitable mineral extraction sites through Allocations within the MLP. Aim 7 seeks to protect amongst other aspects the natural environment in relation to mineral and associated development. The supporting Strategic Objective being delivered through amongst other aspects maintaining and/or enhancing landscape and biodiversity.

The applicant has argued a significant sterilisation amount and a negative impact on the landbank as a consequence of a refusal of the application. Before addressing the landbank loss it is important to note that working of the Birch quarry reserve under the then extant permission was required to cease in 2018. An Allocation site, A31, had been promoted by the applicant as a follow on site with its potential reserves being factored into the MLP for ensuring appropriate mineral reserves through the Plan period.

The request to now extend the timescale for the Birch quarry and potential delays for the delivery of the Allocation site has previously been raised during the emergence of this present application. Within the submitted Planning Statement the applicant comments: *"ECC's pre application letter, dated 20th March 2018 raised concern over the impact that an extension of time at Birch Pit would have on the allocated site (A31 Maldon Road) to the south of Maldon Road. Site A31 is identified as the next extension to Birch Pit and has been designated as a Flagship Scheme for habitat creation.*

*Whilst it is Hanson's aim to submit the planning application for Site A31 prior to the completion of Birch Pit, to avoid interruption in sand and gravel production from*



*this part of Essex, at this time no planning application has been made for the Site A31, meaning that it will not be worked in the near future whether or not the extension of time is granted for Birch Pit”.*

*And “The proposed end date of December 2028 for mineral working and December 2029 for restoration means that Birch Pit will be worked and restored within the adopted Essex Minerals Plan Period which ends in 2029”.*

In considering the comments raised above by the applicant concerning landbanks and the implications for sterilisation; a number of points arise. What the consequences would be for sterilisation of all or part of the remaining mineral reserve to the Minerals Local Plan delivery of minerals and what the implications are for the Allocation site not being worked in the near future.

A County’s landbank is not static and adjusts as a reflection of new reserves coming on stream and the ongoing sales of mineral. As an update to the earlier quoted LAA December 2019 reserves and landbank the most recent estimate, as of 31<sup>st</sup> December 2020, the figures stood at 40.06 million tonnes reserves giving a landbank of 9.29 years.

The applicant has expressed concern as to the implications on the landbank any refusal of the present application, with its reported 2.3 million tonnes reserve as at 2018, would have.

The assessments so far in this report have centred around the time duration being applied for and the potential landscape implications were a Scenario 3 option followed. The assessments have concluded that a reduced working timescale and preference for a Scenario 3 restoration could be accommodated. As a consequence of following that approach then the greater part of the remaining reserves at Birch, would subject to any approval being forthcoming, ensure that sterilisation of the significant part of the sites reserve would not arise. Were the Scenario 3 option recommended then the quantity of mineral likely being sterilised would only equate to the stated 109,000 tonnes. Such a figure could be accommodated within the overall landbank calculations representing a fraction of the annual County’s production rate, without significant implications on maintaining the steady supply of mineral though the MLP period.

In terms of the limited quantity of mineral likely to be sterilised as a consequence of pursuing Scenario 3 then this is not considered to compromise the MLP nor conflict with Policy S6 in the provision of a steady supply of mineral.

## **7. CONCLUSION**

The report finds that in respect of the time extension period being proposed that the applicant has not satisfactorily put forward a justifiable planning argument for securing a 10-year extension period. The applicant’s commercial decision to slow extraction historically at this location whilst concentrating on other sites within the portfolio; the acknowledgement that there is no exceptional quality attributable to the Birch mineral identified either at the time of the 1992 application nor since but is just a mineral more suitable for general use; that sales are effectively low and that the operator has sought to rely on the justification for buffers for additional

time on the basis of recessional periods as well as to accommodate unknowns. All these aspects are more related to a commercially orientated programme and not one that the planning system requires to be weighing as a truly planning justification.

The report notes that the originally submitted application was determined on a yearly extraction rate of 450,000 tonnes whereas now the applicant is seeking the extension as a consequence of a reduced extraction rate of between 215.000 – 315.000 tonnes per annum.

The report considers that over three years has already elapsed post submission and that any support of a time extension be made on a more realistic timescale reflecting the original intended extraction rates. On that basis a 5 years' time extension including restoration, equating to an annual 368,000 tonnes would appear a reasonable balance; achievable and well within the previously approved extraction rate that the applicant originally proposed. Any applications for subsequent time extensions as a result of any approval of this application would be taken on their merits however, the justifications outlined in this report have not been found sufficient this time and unlikely to have changed any time soon.

From an ecological aspect the report has found that despite requests from the CE during the emergence of this application that the submission has still not provided up to date ecological surveys and assessments across the active quarry complex. Both the adequacy of the submitted information together with concerns over the delays this present application would have in achieving the creation of Priority Habitat delivered through the MLP remain in place.

Whilst such concerns remain, the CE has not objected to the principle of the application overall. However, the CE has supported the value of the landscape features within the north eastern corner of the extraction area, together with the opportunities for achieving additional biodiversity interest as a consequence of any restoration amendment opportunities.

In reference to restoration aspects, the report has acknowledged the applicant's preparation of three alternative Scenarios in respect of retention/part retention and no retention of a hedgerow and a line of mature trees located within the north eastern corner of the previously approved extraction area. Under the then extant scheme these features were to be removed, although the report has noted that with the reduced extraction rate these landscape features remain insitu and have further matured into significant landscape features in their own right. The opportunity given by this present application has allowed such features to be reappraised and the report has found that their retention is warranted. The retention of the full hedge and tree line as depicted within the revised restoration scheme reflecting the earlier Scenario 3 design is considered to be appropriate and achievable.

This report, in respect of the applicants revised restoration based on the Scenario 3 plan, has weighed the benefits/disbenefits including the degree of proposed habitat provision being impacted by the landscape retention aspects as being acceptable; the ability of the application to support importation of appropriate material to secure backfilling around the landscape features and to the potential

impacts on sterilising mineral reserve. The report notes in respect of sterilisation that the limited quantity of some 109,000 tonnes required to remain insitu to support the retention for the landscape elements could be accommodated within the overall landbank calculations representing a fraction of the annual County's production rate, without significant implications on maintaining the steady supply of mineral through the MLP period.

The application would therefore be found supportable with a reduced time period of 5 years from date of the permission to achieve mineral extraction and restoration to be secured. It would be considered appropriate to seek completion of a prior legal agreement to secure the long term (20 years made up of the 5 year statutory aftercare period plus 15 additional years) management and maintenance of the habitats and features associated with the restoration plan.

## **8. RECOMMENDED**

That, subject to the completion, within 6 months (or extended period as agreed with the Chairman of Development and Regulation Committee), of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to provide for the long term management and maintenance of the landscape and ecological features on the land as depicted in principle on Drwg No: BP 10/5: entitled Full hedgerow" dated April 2020 and to apply for a minimum period of 15 years beyond the statutory five year aftercare period i.e. a minimum total of 20 years<sup>1</sup>.

Planning permission be granted subject to the following conditions:

Duration

The following cessation dates shall apply:

1. All mineral extraction shall have ceased, and the land restored in accordance with Drwg No: BP 10/5 entitled "BP 10/5 Full Hedge" dated April 2020 within 5 years of the date of this permission.

For clarity:

All buildings; plant, machinery, structures, and other infrastructure shall have been removed from the land prior to the restoration date.

The land/site area to which the permission relates is identified on Drwg No: B7M/178 entitled "Planning Permission Boundary" less the land parcel (darker blue colouring) identified in the Legend to the Drawing as "Restored land signed off from aftercare".

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For clarity management shall provide for 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 plan 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 over the management period.

Reason: In the interests of clarity and to ensure development is carried out in accordance with the submitted application and approved details, and to minimise the duration of disturbance from the development hereby permitted and to comply Policies DM1 and S10 of the Essex Minerals Local Plan (Adopted July 2014).

#### Approved Details

- 2.. The development hereby permitted shall be carried out in accordance with the details submitted by way of the 'Planning Application' ESS/45/18/COL comprising:
- (i) Planning Application form from Hanson Quarry Products Europe Ltd dated 21<sup>st</sup> December 2018.
  - (ii) Planning Supporting Statement entitled "Planning Statement, Section 73 Application to allow for the extension of time for mineral working and restoration and amendments to the approved restoration scheme at Birch Pit, Birch, Colchester, Essex".  
SLR Ref: 402.00027.00486, Version No: Final, dated December 2018.

As amended by the email from Joanna Freyther to Terry Burns dated 5<sup>th</sup> January 2022 @ 10:15 and accompanying drawings:

- (i) Drwg No: BP 10/5 entitled "BP 10/5 Full Hedge" dated April 2020.
- (ii) Drwg No: HAN-003-L-BP-P1 entitled "Phasing Plan" dated July 2021.

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 minimum harm to the environment and having regard to Policies 7; 10; 11 and 12 of Essex Minerals Local Plan Adopted July 2014.

#### Availability of Plans

3. A copy of this permission and the approved plans shall always be available at the operator's site office during the life of the site the subject of this permission. Any subsequent amendments approved by the Mineral Planning Authority shall also be available.

Reason: In the interests of clarity and to inform both site operators and visiting persons of the site operational responsibilities towards working methods and restoration commitments having regard to Policy DM1 of the Essex Minerals Local Plan Adopted July 2014 and to the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment

## Prior Archaeology

4. No further soil stripping shall take place until a scheme for an archaeological watching brief has received the prior written approval of the Mineral Planning Authority. The scheme shall then be implemented as approved, or as may subsequently be approved, in writing by the Mineral Planning Authority. The submitted scheme shall make provision for:
- (i) The recording of archaeological features which are revealed during site operations.
  - (ii) The production of an archive and report of findings made during the watching brief and the deposit of a copy of any report with the County Sites and Monuments Records Officer.
  - (iii) The conservation of any artefacts which are recovered and deposit of such artefacts at a suitable museum.

Reason: In the interests of clarity, to enable appropriate monitoring of the soil stripping to address any archaeological features that may be uncovered having regard to the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the historic environment.

## Construction Environmental Management Plan (CEMP): Biodiversity

5. No further clearance of vegetation and/or topsoil stripping within the site shall take place until a scheme for ecological working has received the prior written approval of the Mineral Planning Authority. The scheme shall then only be implemented as approved or as may subsequently be approved, in writing, by the Mineral Planning Authority. The scheme shall make provision for:
- a) Risk assessment of potentially damaging activities;
  - b) Identification of any biodiversity protection zones;
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during site operations (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 site operations 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 or similarly competent person; and the
  - h) Use of protective fences, exclusion barriers and warning signs.
  - i) Containment, control and removal of any Invasive non-native species present on site
  - j) Management and Implementation programme

Reason: In the interests of wildlife and to ensure provision is made to

safeguard the ecological interest on the site having regard to Policies DM1, DM2 and S10 of the Essex Minerals Local Plan Adopted July 2014; and the National Planning Policy Framework in respect of ensuring that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment and to allow the Mineral Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and section 40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

#### Ecological Design Strategy

6. Within 6 months of the date of this permission an Ecological Design Strategy shall be submitted to the Mineral Planning Authority. The scheme as approved in writing by the Mineral Planning Authority shall then be implemented as approved for the life of the development. The scheme shall make provision to address, across the four coloured land parcels (as identified within the legend key; less the land parcel identified as "Restored land signed off from aftercare") on Drwg No: B7M/178 entitled "Planning Permission Boundary," 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 (where relevant).

Reason: In the interests of wildlife and to ensure provision is made to safeguard the ecological interest on the site having regard to Policies DM1, DM2 and S10 of the Essex Minerals Local Plan Adopted July 2014 and to the National Planning Policy Framework and its encouragement to conserve and enhance the natural environment and to conserve and enhance protected and Priority species and habitats and allow the Mineral Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and section 40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

#### Time Limit On Development Before Further Ecological Surveys Are Required

7. Prior to entry into any phase of working, as identified on Drwg No: HAN-003-L-BP-P1 entitled "Phasing Plan" dated July 2021, no works including removal of vegetation shall take place until an assessment by a qualified ecologist has been undertaken to determine whether further supplementary ecological surveys as appropriate are required to inform the preparation and

implementation of corresponding phases of ecological measures required through Condition 5. The supplementary surveys shall be of an appropriate type for habitats and/or species and survey methods shall follow national good practice guidelines. Where such survey work is required and identifies the need to address such ecological issues that may be identified, such further work shall have first received the written approval of the Mineral Planning Authority.

Reason: In the interests of clarity and to make appropriate provision for conserving and enhancing the natural environment within the approved development, in the interests of biodiversity having regard to Policies DM1, DM2 and S10 of the Essex Minerals Local Plan Adopted July 2014 and to the National Planning Policy Framework and its encouragement to conserve and enhance the natural environment.

#### Protection of Existing Trees and Perimeter Vegetation

8. Existing hedgerows and trees within, and on the perimeter of, the site and identified for retention as depicted on Drwg No BP 10/5 entitled "Full Hedge" dated April 2020 shall be retained and shall not be felled, lopped, topped or removed. Any vegetation removed without consent, dying, being severely damaged or becoming seriously diseased (at any time during the development or aftercare period) shall be replaced with trees or bushes of such size and species as may be specified by the Mineral Planning Authority, in the planting season immediately following any such occurrences.

Reason: To confirm those details against which the acceptability of the development was determined, and to restricting the development to the design and scale approved having regard to Policy S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework in respect of ensuring that permitted development does not give rise to unacceptable environmental impacts on the environment.

#### Arboricultural Method Statement

9. Within two months of the date of this permission an Arboricultural Method Statement shall be submitted to the Mineral Planning Authority. The scheme shall then be implemented as approved, or as may subsequently be approved, in writing by the Mineral Planning Authority. The scheme shall make provision for:
  - a) Identification, protection and retention of hedgerow/trees/woodland.
  - b) Measures to demarcate the standoff from any affected hedgerow/trees/woodland.
  - c) Maintenance of the demarcation measures during the life of the site activities.
  - d) Programme of works to achieve a) – c) above.

For clarification all trees should be protected in accordance with BS: 5837

“Trees in relation to design, demolition and construction – Recommendations”.

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

Reason: To confirm those details against which the acceptability of the development was determined, and to restricting the development to the design and scale approved having regard to Policy S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework in respect of ensuring that permitted development does not give rise to unacceptable environmental impacts on the environment.

#### Importation

10. No wastes shall be imported to the site until a detailed scheme for the reception of waste materials has been submitted to and received the written approval of the Mineral Planning Authority. The scheme shall include a quality control system for incoming wastes, which establishes criteria by which materials will be identified as uncontaminated and suitable for disposal at the site. The scheme shall then be implemented as approved.

Reason: In the interests of clarity and to ensure appropriate control is maintained by the Mineral Planning Authority to minimise adverse impacts arising from the transport arrangements associated with the proposal having regard to Policies 7 and 10 of the Essex Minerals Local Plan Adopted July 2014.

11. No minerals other than cement powder and associated additives for the production of ready-mix concrete shall be imported into the site.

Reason: In the interests of clarity and to ensure appropriate control is maintained by the Mineral Planning Authority to minimise adverse impacts arising from the transport arrangements associated with the proposal having regard to Policies 7 and 10 of the Essex Minerals Local Plan Adopted July 2014.

#### Siting of Earth Banks/Mounds

12. No soil mounds/banks shall be constructed within the spread of any tree or within 2 metres of any retained hedgerow.

Reason: To ensure the integrity of neighbouring trees and ecological interests that, without identified safeguarding could be harmed as a result of the development going ahead uncontrolled, having regard to Policies DM1, DM2 and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework that seeks to minimise impacts on biodiversity interests.

#### Depth of Extraction



13. Maximum depth of working shall not exceed 20 metres below the existing mean surface level.

Reason: To confirm those details against which the acceptability of the development was determined, and to restricting the development to the design approved having regard to Policies DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework in respect of ensuring that permitted development does not give rise to unacceptable environmental impacts on the environment.

#### Revised Working Scheme

14. Within two months of the date of this permission a scheme of working shall be submitted to the Mineral Planning Authority. The scheme shall then only be implemented as approved or as may subsequently be approved, in writing, by the Mineral Planning Authority. The scheme shall make provision for

- (i) A scheme of future phasing and soil stripping.
- (ii) Accommodation of the retained hedge and tree line as provided for on Drwg No: BP 10/5 entitled "Full Hedge" dated April 2020.

Reason: To clarify those details approved and to ensure that the site is operated in a controlled manner having regard to Policies DM1, DM3 and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework in respect of ensuring that permitted operations do not give rise to unacceptable environmental impacts on the environment.

#### Environmental Protection Hours of Operation

15. a) No operations authorised or required by this permission shall be carried out on the site except between the following times: -  
0700 – 1800 hours Mondays to Fridays.  
0700 – 1300 hours Saturdays.
- b) There shall be no working on Sundays or Bank/National Holidays.
- c) This condition shall not apply in cases of emergency when life, limb or property is in danger. The Mineral Planning Authority shall be notified, in writing, as soon as possible after the occurrence of any such emergency.

Reason: In the interest of limiting the effects on local amenity, to control the impacts of the development and to comply with Policies DM1, DM3 and S10 of the Essex Minerals Local Plan Adopted July 2014.

#### Highway Cleanliness

16. No mud or dirt shall be carried out onto Maldon Road by vehicles using the site.

Reason: To prevent site detritus contaminating the public highway in the

interests of highway safety in accordance with Policies DM1, DM2, and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework in respect of ensuring that permitted quarry operations do not give rise to unacceptable environmental impacts on the environment.

#### HGV Movements

17. The total numbers of Heavy Goods Vehicle (HGV) movements entering or leaving the site during any single day shall not exceed the following overall limits:

Mondays to Fridays:	262 movements (131 in/131 out)
Saturdays:	130 movements (65 in/65 out)

Sundays and Bank/Public Holidays: none

Reason: In the interests of clarity; limiting the effects on local amenity, to control the impacts of the development and to comply with Policies DM1, DM2, and S10 of the Essex Minerals Local Plan Adopted July 2014.

#### Monitoring Vehicle Movements

18. A written record shall be maintained at the site office of all movements in and out of the site by HGVs. Such records shall contain the vehicle's registration, weight and operating company's identity and time/date of movement. The records shall be made available for inspection by the Mineral Planning Authority within 14 days of a written request.

Reason: In the interests of clarity; limiting the effects on local amenity, to control the impacts of the development and to comply with Policies DM1, DM2, and S10 of the Essex Minerals Local Plan Adopted July 2014 and Policy 10 of The Essex and Southend Waste Local Plan (Adopted July 2017).

#### Sheeting Vehicles

19. All loaded HGVs shall be sheeted before leaving the site.

Reason: To prevent site detritus contaminating the public highway in the interests of highway safety having regard to Policies DM1, DM2, and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment.

#### Pumps

20. Any pumps used on the site shall be powered by electricity or acoustically insulated diesel-powered units. -

Reason: In the interests of clarity, to protect the amenity of neighbouring occupiers having regard to the National Planning Policy Framework and Noise Policy Statement for England (2010) for ensuring that suitable control is in place in respect of noise emissions.

#### Noise – Monitoring

21. Within 6 months of the date of this permission, a scheme providing for compliance noise monitoring at the locations identified in Condition 23 shall be submitted to the Mineral Planning Authority. The scheme shall then be implemented as approved. The scheme shall make provision for:
- a) A programme of implementation to include the noise monitoring locations identified in Condition 23 of this permission and as identified on Figure 10 -1 entitled “Monitoring Locations” of the revised chapter 10 of the Environmental Statement accompanying the email from Michelle Dawson to Gail Hitchens of 7<sup>th</sup> June 2019 @ 17:06 during the life of the development.
  - b) Unless determined by the Mineral Planning Authority noise monitoring to be at six monthly intervals.
  - c) Monitoring during typical working hours with the main items of plant and machinery in operation.
  - d) Monitoring to be carried out for at least 2 separate periods and for at least a total of 30 minutes at each monitoring location during the working day which shall include Saturday periods whilst typical site operations are occurring.
  - e) The logging of all weather conditions including wind speed and direction.
  - f) The logging of both on site and off site noise events occurring during measurements with any extraneous noise events identified and, if necessary, discounted from the measured data.
  - g) The results of the noise monitoring to be made available to the Mineral Planning Authority no later than 7 days following the date of the measurement.

The location of monitoring points /frequency may be varied with the written approval of the Mineral Planning Authority as the site develops and noise levels shall correlate with those levels in Condition 23 of this permission.

Reason: In the interests of clarity and to ensure that the applicant has in place an appropriate plan to mitigate environmental nuisance arising on both neighbouring sensitive receptors and the rural environment as a result of their activities having regard to Policies DM1, DM2 and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Noise Policy Statement for England (2010) in respect of ensuring that permitted operations do not give rise to unacceptable environmental impacts on the environment.

#### Noise – Temporary Operations

22. For temporary operations, the free field Equivalent Continuous Noise Level

(LAeq,1hr) at noise sensitive properties as listed in Condition 23 shall not exceed 70dB LAeq,1hr. Measurement shall be made no closer than 3.5m 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 12-month duration. Five days written notice shall be given to the Mineral Planning Authority in advance of the commencement of a 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 Mineral Planning Authority in advance of such a temporary activity taking place.

Reason: In the interests of clarity, to protect the amenity of neighbouring occupiers having regard to Policies DM1 and S6 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Noise Policy Statement for England (2010) for ensuring that suitable control is in place in respect of noise emissions.

#### Noise - Normal Levels

23. Except for temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive premises adjoining the site, due to operations in the site, shall not exceed 1h, the LAeq levels as set out in the following table and identified on the attached plan no: ESS/45/18/COL/A entitled "Noise Monitoring Locations":

Receptor Location	Criterion /dB LAeq,1hr
Palmer's Farm -	54 dB LAeq 1hr
Stemming's Farm	47 dB LAeq 1hr
Brakes Farm	54 dB LAeq 1hr
Roundbush Bungalow	54 dB LAeq 1hr
Birch House Care Home	54 dB LAeq 1hr

Measurements shall be made no closer than 3.5m to the façade of properties or other reflective surface and shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

Reason: In the interests of clarity, to protect the amenity of neighbouring occupiers having regard to Policies DM1 and S6 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Noise Policy Statement for England (2010) for ensuring that suitable control is in place in respect of noise emissions.

#### Silencers

24. All plant and machinery shall operate only during the permitted hours and shall be silenced at all times in accordance with the manufacturers' recommendations.

Reason: In the interests of clarity, to protect the amenity of neighbouring occupiers having regard to Policy DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Noise Policy Statement for England (2010) for ensuring that suitable control is in place in respect of noise emissions.

#### Reversing Alarms

25. Only broadband sound emitting reversing alarms shall be employed on vehicles and plant engaged in site activities and transport on and off site.

Reason: In the interests of clarity, to protect the amenity of neighbouring occupiers having regard to Policy DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Noise Policy Statement for England (2010) for ensuring that suitable control is in place in respect of noise emissions.

#### Dust Suppression

26. Within 3 months of the date of this permission a scheme to address dust suppression measures as recorded in Paragraph 9.104 of Chapter 9 of the Traffic and Highways section of the Environmental Statement shall be submitted to the Mineral Planning Authority. The scheme shall then be implemented as approved. The scheme shall make provision for accommodating those aspects identified below and shall be used and maintained in operational order for the duration of the development.

- Wheel washing facilities located 250m from the junction with Maldon Road as appropriate;
- Fixed sprinklers along the paved haulage route between the weighbridge and the concrete based plant area; and
- An on-site mobile bowser that is operated along the paved and unpaved haulage routes during dry and windy meteorological conditions.

Reason: In the interests of clarity, to ensure that the applicant has in place an appropriate plan to mitigate environmental nuisance arising on both neighbouring sensitive receptors and the rural environment as a result of their activities having regard to Policy DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its accompanying Practice Guidance for ensuring that suitable control is in place in respect of dust emissions.

Additional Dust Control measures to Accommodate Screen Bund Removal and Silt Lagoon Reinstatement Works within 250 metres of Palmer's Farm and Palmer's Farm Cottage

27. No removal of the screen bunding nor reinstatement activities of the silt lagoon shall take place until prior written approval for how the dust control measures identified within paragraph 5.2.2 of Section 5.2 of the SLR Planning Statement entitled "Potential Environmental Effects and Summary

of Mitigation measures” of the Planning Statement are to be undertaken has been received from the Mineral Planning Authority.

Reason: In the interests of clarity, to ensure that the applicant has in place an appropriate plan to mitigate environmental nuisance arising on both neighbouring sensitive receptors and the rural environment as a result of their activities having regard to Policy DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its accompanying Practice Guidance for ensuring that suitable control is in place in respect of dust emissions.

### Lighting

28. No additional artificial external lighting to that already existing, whether free standing or affixed to infrastructure, that may be required to be provided within the application site shall be installed until a scheme of lighting at the site has been submitted to, and received the written approval of, the Mineral Planning Authority. The scheme shall be implemented in accordance with the details as approved. The submitted scheme shall make provision for:
- a) Lighting point location.
  - b) Lighting design details.
  - c) Proposed Illuminance coverage.
  - d) Assessment of sky glow and light spillage outside of site boundary.

Reason: To minimise the potential nuisance and disturbance of light spill to adjoining land occupiers and the rural environment having regard to Policies DM1 and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment.

### Fixed Plant and Buildings

29. Notwithstanding the provisions of Article 3 and Part 19 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended, no plant/structures whether fixed or static, lagoons, stocking of minerals or other materials or other structures shall be erected or placed on the site, except as provided for under other conditions of this permission.

Reason: To enable the Mineral Planning Authority to adequately control, monitor, and minimise the impact on the amenities of the local area and to comply with Policies DM1 S10 and S12 of the Essex Minerals Local Plan Adopted July 2014.

### Burning

30. No waste or other materials shall be burnt on the site.

Reason: To protect the amenity of neighbouring occupiers having regard to

Policies DM1 and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment.

#### Rubbish

31. All rubbish and scrap materials generated on the site shall be collected and stored in a screened position within the site area until such time as they may be properly disposed of to a suitably licensed waste disposal site.

Reason: To clarify those details approved, in the interests of minimising the impact on the amenities of the local area in accordance with Policies DM1 and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment.

#### Surface Water Drainage and Pollution Protection

32. Any oil, fuel, lubricant, paint, or solvent within the site shall be stored so as to prevent such materials contaminating topsoil or subsoil or reaching any watercourse.

Reason: To prevent contamination of the soil resource and pollution of the drainage and groundwater regime having regard to Policy DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment.

33. a) Any fixed or free standing oil or fuel tanks shall be surrounded by a fully sealed impermeable enclosure with a capacity not less than 110% of that of the tanks so as to fully contain their contents in the event of any spillage;  
b) If there is multiple tankage, the enclosure shall have a capacity not less than 110% of the largest tank;  
c) All filling points, vents and sight glasses shall be within the sealed impermeable enclosure; and  
d) There shall be no drain through the impermeable enclosure. (The applicant's attention is drawn to the requirement set out in BS 799 Part 5: 1987)

Reason: To minimise the risk of pollution to watercourses and to comply with Policies DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014.

34. No drainage from the site, or from areas immediately adjoining the site, shall be interrupted either partially or fully by the operations hereby approved.

Reason: To ensure the integrity of the existing land drainage regime and to prevent contamination of the soil resource and pollution of the land drainage and groundwater having regard to Policies DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework in respect of ensuring that permitted development does not give rise to unacceptable environmental impacts on the environment.

35. No foul drainage or contaminated surface water or trade effluent shall be discharged from the site into either the ground water or surface water drainage systems except as may be permitted under other legislation.

Reason: To ensure the integrity of the existing land drainage regime and to prevent contamination of the soil resource and pollution of the land drainage and groundwater regime having regard to Policies DM1, DM2, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework in respect of ensuring that permitted development does not give rise to unacceptable environmental impacts on the environment.

36. Repair, maintenance and refuelling of plant, equipment and machinery shall only take place on an impervious surface drained to an interceptor.

Reason: To minimise any nuisance and to protect the amenities of neighbouring land users and the rural environment/local area having regard to Policies DM1, DM2, and S10 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and its recognition that planning decisions ensure that development does not allow unacceptable adverse impacts on the environment.

#### Handling and Storage of Soil and Soil Forming Material

37. The applicant shall notify the Mineral Planning Authority at least 5 working days in advance of the intention to start stripping of topsoil or subsoil from any part of the site or new phase of working.

Reason: To ensure that the Mineral Planning Authority is given opportunity to check that soil operations do not occur under unsuitable conditions and to provide sufficient notice for site inspection having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

38. Before any part of the site is excavated or traversed by heavy vehicles or machinery (except for the purpose of stripping that part or stacking topsoil on that part), or used for the stacking of subsoil or soil making material, all available topsoil shall be stripped from that part unless specified by the archaeological Working Scheme of Investigation.

Reason: To prevent loss and damage of the soil resource having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan Adopted



39. No operations involving soil lifting/replacement shall take place between the months of October to March inclusive.

Reason: To prevent damage of the soil resource by avoiding movement during unsuitable conditions having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

40. No movement of soils or soil making materials shall take place except when the full depth of soil to be stripped or otherwise transported is in a 'suitably dry' soil moisture condition. Suitably dry means the soils shall be sufficiently dry for the topsoil to be separated from the subsoil without difficulty so that it is not damaged by machinery passage over it.

For clarity, the criteria for determining "suitably dry soil moisture conditions" and "dry and friable" is based on a field assessment of the soil's wetness in relation to its lower plastic limit. The assessment should be made by attempting to roll a ball of soil into a thread on the surface of a clean plain glazed tile (or plate glass square) using light pressure from the flat of the hand. If the soil crumbles before a long thread of 3mm diameter can be formed, the soil is dry enough to move. The assessment should be carried out on representative samples of each major soil type.

Reason: To prevent damage to the integrity of the soil resource when the soil condition does not meet the defined criteria material and to ensure the satisfactory restoration of the land and to ensure that soils are suitably handled for use in restoration having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

41. The topsoil shall be stripped to full depth (variable with land quality but generally 30cms-35cms on the better quality soils) and shall, wherever possible, be immediately respread over an area of reinstated subsoil. If this immediate respreading is not practicable, the topsoil shall be stored separately for subsequent replacement.

Reason: To prevent damage to the integrity of the soil resource and to ensure the satisfactory restoration of the land and to ensure that soils are suitably handled for use in restoration having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the Planning Practice Guidance on Restoration and Aftercare of mineral sites.

42. The upper and lower subsoils shall to be stripped, stored and replaced separately. Wherever possible, the lower subsoil shall be immediately respread over the overburden and the upper subsoil over the lower subsoil. If this immediate respreading is not practical these subsoils shall be stored

separately for subsequent replacement.

Reason: To prevent damage to the integrity of the soil resource and to ensure the satisfactory restoration of the land and to ensure that soils are suitably handled for use in restoration having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the Planning Practice Guidance on Restoration and Aftercare of mineral sites.

43. The storage of agricultural soils shall conform to the following criteria:
- 1) Topsoil's, upper subsoils, and lower subsoils shall be stored separately.
  - 2) Where continuous mounds/bunds are used, dissimilar soils shall be separated by a third material, previously agreed in writing with the Mineral Planning Authority.
  - 3) Topsoil mounds/bunds shall not exceed 3 metres in height and subsoil mounds/bunds shall not exceed 5 metres in height.

Reason: In order to protect the soil resource/to preserve the integrity of the soil structure and to prevent the accumulation of harmful weeds building up in the soil resource having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

- 44 All storage mounds/bunds intended to remain in situ for more than six months shall be grassed over and weed control and other necessary maintenance carried out to the satisfaction of the Mineral Planning Authority. The seed mixture and the application rates shall be agreed with the Mineral Planning Authority in writing no less than 1 month before it is expected to complete the formation of the storage mounds/bunds.

To prevent loss and damage of suitably identified soil forming material having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

- 45 The final surface of the restored overburden shall be at such a level as to follow the final pre-settlement contours.

Reason: To clarify those details approved; to ensure that the soil resources are replaced appropriately to secure the eventual restoration of the site and achieve the proposed site contours and aftercare use having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

- 46 The lower subsoils and upper subsoils shall be spread to an even depth over the restored overburden so as to follow the final pre-settlement contours.

Reason: To clarify those details approved; to ensure that the soil resources

are replaced appropriately to secure the eventual restoration of the site and achieve the proposed site contours and aftercare use having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

47. The topsoil shall be spread to a minimum depth of 30cm over the reinstated subsoil so as to form the final pre-settlement contours over the land required to be restored to agriculture.

Reason: To clarify those details approved; to ensure that the soil resources are replaced appropriately to secure the eventual restoration of the site and achieve the proposed site contours and aftercare use having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

48. The minimum settled depth of topsoil; subsoil and soil - forming material shall be 1 metre.

Reason: To clarify those details approved; to ensure that within the defined depth of the replaced soil layers these are appropriate for the approved afteruse and achieve the approved restoration contour levels having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

49. The applicant shall notify the Mineral Planning Authority at least 3 working days in advance of the commencement of the final subsoil placement on each phase, or part Phase. On completion of the subsoil placement, no further work is to be carried out for a period of 5 working days without the consent of the Mineral Planning Authority to allow an inspection of the site to take place.

Reason: To clarify those details approved; to ensure that the soil resources are replaced appropriately to secure the eventual restoration of the site and achieve the proposed aftercare use and to enable the Mineral Planning Authority the opportunity to monitor restoration activities having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan July 2014 and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

- 50 All stones and other materials in excess of 75mm in any dimension shall be picked and removed from the final restored surface of the site.

Reason: To ensure that the soil resources of the site are replaced appropriately, to avoid stones that may impede cultivation techniques and impact on the aftercare uses of the land having regard to Policy DM1 and S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

## Restoration

51. Within 6 months of the date of this permission, a revised restoration scheme based on Drwg Ref No: BP 10/5 entitled "Full Hedge" dated March 2020 shall be submitted to the Mineral Planning Authority. The scheme shall then only be implemented as approved, or as may subsequently be approved, in writing, by the Mineral Planning Authority. The submitted scheme shall make provision for: -
- a) Restored landform contour levels.
  - b) Reinstatement programme to provide for achieving the retention of the hedgerow and tree line in the north eastern corner as identified on Plan Birch 001 entitled "Tree Constraints Plan" dated November 2020 that accompanied the DB Landscape Consultancy Birch Quarry Tree Constraints Plan Accompanying Notes dated 24<sup>th</sup> November 2020 accompanying SLR letter dated 15<sup>th</sup> December 2020.
  - c) The provision of the wetland/reedshelf and small pond complex features together with cross sections, levels and engineering details.
  - d) Removal of all site structures.
  - e) Site water drainage.

Reason: To provide for a comprehensive scheme of restoration enabling the land to be returned to the specific restoration after-use and to retain control over the development so as to not prejudice the restoration and afteruse of the land having regard to Policies DM1 and S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites.

## Landscaping

52. Within six months of the date of this permission a scheme of landscaping, based on Drawing Ref No: BP 10/5 entitled "Full Hedge" dated March 2020 shall be submitted to the Mineral Planning Authority. The scheme shall be implemented in accordance with the details as approved, in writing, by the Mineral Planning Authority. The submitted scheme shall make provision for:
- a) Detail of the locations of the planting programme as set out in the planting schedule outlined on the above plan.
  - b) A landscape management programme for the planting programme detailed on the above plan together with existing retained landscape features including all hedgerows, tree belts and woodland blocks.
  - c) Husbandry management of the existing perimeter hedgerows/trees and woodland.
  - d) Written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant sizes and proposed numbers/densities for all areas
  - e) Grass seed mixes and rates.

- f) A programme of implementation to include the provision for planting of the northern hedgerow during the first available season and for remaining planting to be undertaken following restoration within each working phase parcel.
- g) A programme of maintenance.

Reason: In accordance with Section 197 of the Town and Country Planning Act 1990; to ensure a comprehensive scheme of landscaping and to provide for the integration of the site back into the landscape having regard to Policy S12 of the of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites and for landscaping strategy's to address mineral working related impacts.

53. Trees, shrubs and hedges planted in accordance with the approved scheme shall be maintained and any plants which at any time during the life of this permission including the aftercare period, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing with the Mineral Planning Authority.

Reason: In the interest of the amenity of the local area and to ensure development is adequately screened to comply with Policies DM1, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014.

#### Agricultural Aftercare

54. Within one year of the date of this permission an agricultural aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use for agriculture shall be submitted to the Mineral Planning Authority for approval. The aftercare scheme shall be implemented as approved, or as may subsequently be approved, in writing, by the Mineral Planning Authority.

The submitted scheme shall specify the steps to be taken and state the five-year period during which they are to be taken and shall make provision for: -

- (i) soil analysis;
- (ii) planting;
- (iii) cultivating;
- (iv) fertilising;
- (v) watering;
- (vi) drainage;
- (vii) weed control measures;
- (viii) grazing management;
- (ix) keeping of records; and
- (x) annual meetings with representatives of the Mineral Planning Authority, site operators, landowners and interested parties to review performance supported by written reports which set out the works carried out over the previous seasons prior to the meeting and a forward

programme of works to be carried out in the following seasons before the next meeting.

The period of agricultural aftercare for the site or any part of it shall commence on the date of written certification by the Mineral Planning Authority that the site or, as the case may be, the specified part of it, has been satisfactorily restored.

Reason: To ensure that the land is rehabilitated to a suitable condition to support an agricultural use and to comply with Policies DM1, DM3, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the Planning Practice Guidance on Restoration and Aftercare of mineral sites.

#### Amenity Aftercare

55. Within one year of the date of this permission an amenity aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use as nature conservation/wetland and grassland shall be submitted for the approval of the Mineral Planning Authority. The amenity aftercare scheme shall be implemented in accordance with the details as approved, or as may subsequently be approved, in writing, by the Mineral Planning Authority. The submitted scheme shall specify the steps to be carried out and their timing within a five-year aftercare period, or such longer period as may be proposed, and shall make provision for how the biodiversity; wetland; amenity grassland and landscaping areas are managed and maintained.

The scheme shall provide for: -

- (i) Description and evaluation of features to be managed.
- (ii) Ecological trends and constraints on site that might influence management.
- (iii) Aims and objectives of management.
- (iv) Appropriate management options for achieving aims and objectives.
- (v) Prescriptions for management actions.
- (vi) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- (vii) Details of the body or organisation responsible for implementation of the plan.
- (viii) Annual meetings with representatives of the Mineral Planning Authority and landowners to review performance and to be supported by written reports which set out the works carried out over the previous seasons prior to the meeting and a forward programme of works to be carried out in the following seasons before the next meeting.

All areas the subject of amenity aftercare shall be clearly defined on a plan together with the separate demarcation of areas as necessary according to differences in management.

Reason: To ensure that the land is rehabilitated to a suitable condition to support the return of the land to achieve its landscape and biodiversity interest having regard to Policies DM1, DM3, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 and the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites and to ensure that the Mineral Planning Authority is able to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and section 40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

#### Cessation

56. In the event of site operations being discontinued for six months in the period specified in Condition 1 then the land as disturbed within the approved application area shall be restored in accordance with a scheme submitted by the developer which has the written approval of the Mineral Planning Authority. The scheme shall be submitted not later than one month from the Mineral Planning Authority's issue of written notice that it is of the opinion that land reclamation work has not taken place in the six month period and shall include the requirements of Conditions 45- 55 inclusive of this permission. The scheme, as approved by the Mineral Planning Authority, shall be commenced within three months of notification of determination of the scheme and shall be fully implemented within a further period of 12 months or such other period as may be approved by the Mineral Planning Authority.

Reason: To ensure the reclamation of the site is achieved and to enable integration of the restored land into the landscape having regard to Policies DM1, S10 and S12 of the Essex Minerals Local Plan Adopted July 2014 the National Planning Policy Framework and Planning Practice Guidance on Restoration and Aftercare of mineral sites that seeks to minimise the adverse effect of mineral workings within the environment and that restoration and aftercare of mineral sites is achieved at the earliest opportunity, to a high standard.

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#### **BACKGROUND PAPERS**

Consultation replies  
Representations

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

The proposed development would not be located adjacent to/within distance to a European site.

Therefore, it is considered that an Appropriate Assessment under Regulation 61 of

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The Conservation of Habitats and Species Regulations 2010 is not required.

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## **EQUALITIES IMPACT ASSESSMENT**

This report only concerns the determination of an application for planning permission. It does however take into account any equality implications. The recommendation has been made after consideration of the application and supporting documents, the development plan, government policy and guidance, representations and all other material planning considerations as detailed in the body of the report.

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

In determining this planning application, the Local 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.

### **LOCAL MEMBER NOTIFICATION**

LOCAL MEMBER – COLCHESTER - STANWAY AND PYEFLEET.

ADJACENT MEMBER - COLCHESTER - MERSEA AND TIPTREE.