

**DR/01/22****Report to:** DEVELOPMENT & REGULATION 28<sup>th</sup> January 2022**Proposal:** MINERALS AND WASTE DEVELOPMENT

- (i) Continuation of Construction of an irrigation reservoir without compliance with Condition 2 (Duration) of Planning Permission ESS/24/15/TEN that was for "Construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings" to extend the time period for completion of site operations including restoration on land at Elmstead Hall, Elmstead, Colchester".  
Ref No: ESS/97/21/TEN
- (ii) Continuation of construction of an irrigation reservoir without compliance with Condition 3 (Approved Details) of Planning Permission ESS/24/15/TEN that was for "Construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings" to now provide for retrospective revisions to the location and design of the peripheral environmental bund, aggregate processing plant, mineral stockpile and storage areas, the site entrance, the internal access road and site water management and the addition of a mobile soil screening plant.  
Ref No: ESS/105/21/TEN

**Ref:** ESS/97/21/TEN & ESS/105/21/TEN**Applicant:** R W Mitchell & Sons**Location:** Elmstead Hall, Elmstead, Colchester**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 development site began its planning history when the extant permission was granted in October 2016 to enable the “Construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings” at the above site.

The permission was time limited to 48 months from the date of the permission i.e. until November 2021.

Adjacent the development land are two former extraction sites that created two irrigation reservoirs approved under permissions, TEN/258/90 and ESS/41/96/TEN constructed between 1994-99.

These two reservoirs now form one single entity. A District approved Anaerobic Digester (AD) plant together with digestate lagoons is situated to the west of the development land and to the north of the existing two reservoirs. The AD plant is fed from on farm maize crop to supply electricity for both the farm activities and export to the national grid. The Waste Planning Authority approved in 2014 an application, ESS/12/14/TEN, for the importation of 10,000 tonnes of inert waste to infill a void (to the east of the digestate lagoons) left from the extraction of clay utilised in the construction of the AD plant.

### Site location general

The general area is one comprising a low lying agricultural landscape (general height of 30 m Above Ordnance Datum (AOD)) within a wider gently undulating topography east of Colchester. The application footprint is located some 1.25 kilometres north of Elmstead Market and situated between the A120 Harwich road to the north (about 400 metres) and A133 Colchester road to the south (at some 400 metres distance).

The A133 is accessed from the application land via the internal access track and Tye Road. The farm track is concreted for its first 30 metres from Tye Road, where it is some 6.5 metres wide, and thereafter with a hard bound surface continues northwards, at about 3 metres wide, for some 560 metres to the existing reservoirs known as Allen’s Farm reservoir. Towards the southern half of the access track, Footpath No. 7 approaches the track from the east and then runs parallel to the eastern side of the track for a short distance before branching off east again. The farm access track continues northwards between agricultural fields and passing to the east of Allen’s Farm reservoir before reaching a “T” junction. At this point the track would form the western boundary of the proposed reservoir. Going east from the junction the track continues towards and then past Hall Cottage and Elmstead Hall whilst westwards from the junction the track skirts to the north of Allen’s Farm reservoir and leads into and past Allen’s Farm itself (some 550 metres west). This east-west track is also shared by Footpath No. 2 and both track/footpath from the junction eastwards would represent the proposed reservoirs northern boundary. South east of the proposed reservoir lies Parsonage Farm at some 150 metres. Remaining land to the south and north beyond the track comprises agricultural fields.

## Application area

The existing development footprint comprises some 13 hectares of land made up of the footprint of the reservoir (measuring some 9 hectares of which 5 hectares/180 metres x 440 metres would be the reservoir proper and 4 hectares an adjoining wetland/nature conservation interest), together with that part of the existing access track leading from Tye Road northwards to the south west corner of the proposed reservoir.

## **2. PROPOSALS**

The applicant has stated, for application ESS/97/21/TEN, that “..... site preparation works in the form of soil stripping for the archaeological investigations commenced on 6 November 2017, the result being that operations are required to cease by close of business on 5 November 2021.

*Reservoir construction works were delayed for approximately 2 years to November 2019 and since then reservoir construction has progressed at a slower rate than envisaged in the Planning Application. Four months later, in March 2020, the site was closed due to the Covid-19 pandemic. Throughout the following year certain site development works were undertaken but creation of the void dramatically slowed, and it is considered that this alone has effectively delayed construction by a further (a third) year. During the spring of 2021 the aggregate processing plant was closed for a total of three months following an unexpected increase in the clay content of the deposit. This closure was required to upgrade the plant that is now able to clean the aggregate more thoroughly. Until recently the prevailing market conditions for aggregate sales have suppressed the rate of development of the reservoir and now that sales are increasing the planning condition restricting lorry movements further than envisaged by the planning application has the potential to restrict the potential rate of construction. This range of contributing factors will precipitate a delay to the completion of reservoir construction well in excess of three and probably up to four years.*

### *Justification*

*It is recognised that planning condition 2 anticipates that all site operations would be concluded within 48 months of commencement, including soil stripping as a part of the archaeological investigation. We consider that this is not what the planning application anticipated when it stated .....*

*'The construction period is estimated to last four years during which time lorries will be removing minerals from the site.'*

*We believe this sentence to mean that construction operations would last 48 months excluding all site preparatory works (that include archaeological investigations) and any subsequent delays; in hindsight the planning condition could more appropriately have required the 48-month period to commence once the void started to be created through the removal of aggregates.*

*As a consequence, and in consideration of the delays to construction being, in summary;*

1. A two-year deferral of commencement of construction following the commencement of site preparation works
2. An effective one-year delay as a result of the Covid-19 pandemic
3. An upgrade to the aggregate processing plant necessitated by changing geological conditions
4. Prevailing variable market conditions and
5. A restriction on HGV movements compared with those sought by the planning application (resulting in a potential constraint on the rate of construction) the operator seeks planning permission to extend the date of completion of operations as defined by Condition 2 from 6 November 2021 to 6 November 2025.

Accordingly, it is proposed that an amended planning condition 2 should read as follows;

*'All operations authorised or required by this permission shall cease, and all plant, machinery equipment, structures, buildings, stockpiles and other above ground infrastructure associated with the development, approved as part of this permission, less the access track and site bellmouth, subject to the other condition requirement below, shall be removed and the site restored in accordance with the conditions of this permission not later than 6 November 2025.'*

#### *Planning Considerations and Approved Schemes*

*It is considered that there may be potential for the operation of the site for six years (2019 - 2025) as opposed to four (2017 - 2021) to impact upon the ability to comply with obligations set out in schemes that have been approved pursuant to planning conditions. In our opinion these impacts may extend only to those schemes that consider ecology, being conditions 23 (Construction Environmental Management Plan) and 58 (Biodiversity Management Plan). The applicant's retained ecologist has considered these schemes ..... “*

A statement considering ecological aspects accompanied the application.

For application ESS/105/21/TEN the proposals seek to regularise internal site layout aspects and provision of amendments to bund design and include “

- “a. Revised layout of the bund in the vicinity of Elmstead Hall and Cottages*
- b. Altered stockpile and storage areas*
- c. Revised location and design of aggregate processing plant*
- d. Additional storage container and staff welfare facility*
- e. Repositioned bund and site entry location*
- f. Reduced length internal site access road*
- g. Recharge pond*
- h. Mobile soil screening plant to operate throughout the year within a defined area”.*

The applicant in support of the application states that “No fundamental changes are proposed to the manner of site operations to affect receptors outside the planning permission boundary. There has been one change to peripheral bunds that may have short-term noise-related impacts on Elmstead Hall and Cottages to the



*immediate northeast of the development.*

*Instead of the development progressing as [previously approved] ....., aggregate removal is moving clockwise from the northwest corner of the site. This continues to be managed on a 'rolling' basis. .... Overburden is temporarily stored at ground level before being placed at the locations and in the manner specified by the Planning Permission.*

*.....there have been some changes to site infrastructure. The revised aggregate processing plant .... is located to the southwest of the originally proposed location and a container unit and a staff welfare unit lie just inside the peripheral bund and adjacent to the site access. The absence of the originally proposed security compound and polishing pond have meant that it has been possible to almost completely close the resultant gap in the peripheral bunds other than where vehicular access is required, this being slightly to the north of where it was proposed. This access now merely extends to the plant area rather than to the as-dug storage area.*

*At the eastern end of the development the recharge ditch currently runs along the inside of the peripheral bund and terminates in the north in a small recharge pond. The recharge ditch will be repositioned along the outside of the ditch ..... but divert through the bund at the northern end and terminate in a larger recharge pond positioned within the reshaped bund .....*

*Of more significance is the layout of the bund in the vicinity of Elmstead Hall and Cottages and the potential effect the altered location and profile have on noise mitigation. Planning condition 33 stipulates that (other than temporary operations) the free field Equivalent Continuous Noise Level shall not exceed 48dB LAeq,, 1hr at this location due to operations at the site. A noise monitoring scheme has been approved in accord with planning condition 31 of the Planning Permission and monitoring has been undertaken in November 2019, March 2020, October 2020, March 2021 and October 2021.*

*It is, however, acknowledged that aggregate removal operations will continue to progress eastwards towards Elmstead Hall and Cottages before diverting south and then west in accord with the Second Drawing. It is anticipated that, as a consequence, noise levels at this location attributable to the approved site operations will initially increase before decreasing as operations move firstly south and then west later in the construction programme.*

*In addition, there is an increasing need for surplus soils removed from the development to be screened in order to meet the demands of the general market rather than being sold 'as removed'. Planning permission is therefore also sought to use appropriate mobile plant and equipment within the peripheral bunds subject always to compliance with approved noise limits. Any screening would be undertaken throughout the year (subject to compliance with the existing planning conditions).*

*Noise monitoring would continue to be carried out on a regular basis. In accordance with the noise monitoring scheme, should the results of the noise monitoring indicate noise levels attributable to site operations above the planning*

*condition limits at the properties, appropriate measures would be identified, agreed with the MPA and implemented to reduce noise levels”.*

### **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) Tendring District Council Local Plan 2007
- iii) Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)

Other material considerations include:

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

The following policies of the Essex Minerals Local Plan Adopted July 2014 and the Tendring District Council Local Plan 2007. The Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) has been published. Although at an early stage in the development plan process the policies within this plan, whilst of limited weight, are being referenced in the District Council planning committee reports (selected policies revised July 2014) (paraphrased or in quotation marks if set out in full) are of relevance to this application:

Essex Minerals Local Plan Adopted July 2014 and Tendring District Local Plan Adopted December 2007 provide the development plan framework for this application. The following policies (paraphrased or in quotation marks if set out in full) are of relevance to this application:

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

- a) Policy S1 “Presumption in favour of sustainable development”

States that the Mineral Planning Authority (MPA) will take a positive approach to minerals development (which includes processing, storage and transportation of minerals) that reflects the presumption in favour of sustainable development as required by the National Planning Policy Framework. The policy supports mineral development that improves the economic, social and environmental conditions in the area.

- b) Policy S3 – “Climate change”

This policy seeks to ensure mineral development demonstrates effective measures; adaption and resilience to future climate change. This would be through having regard to (where appropriate to these applications):

- 1. Siting, design and transport arrangements;

2. On site renewable and low carbon energy generation where feasible.
3. Sustainable Drainage Systems.
4. On site resilience to unexpected climatic effects.
5. Potential benefits through afteruses for biodiversity and habitat creation....living carbon sinks.

d) Policy S10 – “Protecting and enhancing the environment and local amenity”.

That applications demonstrate:

- a) Addressing health and safety; amenity; quality of life of communities and environment.
- b) Inclusion of mitigation measures
- c) No unacceptable adverse impacts
- d) Improvement/enhancement of the environment.

j) Policy S11 – “Access and Transportation”

Seeks to ensure the efficiency and effectiveness of the public highway being maintained including safety, capacity, amenity and environment.

k) Policy S12 – “Mineral Site Restoration and After-Use”.

The policy seeks to ensure the early restoration to acceptable environmental and beneficial afteruse with positive benefits to the environment; biodiversity and/or local communities.

n) 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; Quality and quantity of water within watercourses and surface water; Drainage systems; Soil resource; safety and capacity of the road network; appearance and character of the landscape, countryside and the visual environment; natural and historic environment.

o) Policy DM2 – “Planning Conditions and Legal Agreements”.

The policy provides for the provision of conditions to be imposed and /or legal agreements to address the mitigation and control of such development effects and to enhance the environment.

p) Policy DM3 – “Primary Processing Plant”.

Seeks to ensure the siting of such plant within the confines of the site boundary and the plant not impacting unacceptably on the local amenity or surrounding environment.

The policy requires such plant to be temporary.



#### Q) Policy DM4 – “Secondary Processing Plant”.

Proposals for secondary processing plants would only be supported at mineral sites where it is demonstrated there would be no unacceptable impacts arising on the local amenity/environment and/or safety, efficiency or capacity of the road network.

The policy requires that the minerals to be processed/treated be sourced from the mineral site unless demonstrated there are exceptional circumstances or overriding benefits to sourcing materials from elsewhere to supplement indigenous supply subject to no adverse environmental impacts.

The policy requires such plant to be temporary.

Relevant policies within the Tendring District Local Plan Adopted 2007 are:

a) Policy QL11 – “Environmental Impacts and Compatibility of Uses”.

Seeks to ensure new development is compatible with surrounding land uses and minimises adverse impacts.

c) Policy COM 23 – “General Pollution”.

The policy seeks to resist development which would have significant adverse impact on health; natural, built or historic environment or amenity by reason of release of pollutants.

In the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)

- a) Policy SP1 “Presumption in favour of sustainable development” whereby the council would support development which contributes to the economic, social and environmental conditions of the area.
- b) Policy PPL1 “Development and Flood Risk” which requires that all development proposals include appropriate flood risk measures.
- c) Policy PPL3 “The Rural landscape” which seeks to protect the landscape from overriding harm to character or appearance. New development should be minimising light pollution.

#### National Planning Policy Framework

The Revised National Planning Policy Framework (NPPF) was revised in July 2021 and sets out the Government’s planning policies for England and how these should 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 achieving sustainable development means the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways: economic, social and environmental. The NPPF places a presumption in favour of sustainable development. However, paragraph 47 states that planning law requires that applications for planning permission 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 an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or 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.

Planning policy with respect to waste is set out in the National Planning Policy for Waste (NPPW published on 16 October 2014). Additionally, the National Waste Management Plan for England 2013 (NWMPE) is also a material consideration in planning decisions.

Paragraphs 218 and 219 of the NPPF, in summary, detail that the policies in the Framework are material considerations which should be considered 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).

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 Governments "broad" interpretation has the NPPF setting the scene for placing sustainable development at the heart of the planning system with three principally 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. Supporting the transition to a low carbon future in a changing climate and encouraging the use of renewable resources.
- iii. 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 recognises that transport issues, through their movement and mode contribute to facilitating sustainable development and that encouragement should be given to reductions in greenhouses gases to help towards achieving a low carbon future. Furthermore, promoting and exploiting such opportunities for

sustainable transport development can be assisted through appropriately located and designed development that accommodates the efficient delivery of supplies.

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 the Tendring Local Plan, the District Council are reporting the following text in their planning reports: *“The ‘development plan’ for Tendring is the 2007 ‘adopted’ Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. In this latter regard, as of 26th January 2021, ‘Section 1’ of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the ‘development plan’ for Tendring. Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended ‘main modifications’ on 10th December 2020. The Inspector’s report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three ‘Garden Communities’ proposed along the A120 i.e., those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.*

*The Council has now formally adopted Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.*

*The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.*

*Where emerging policies are particularly relevant to a planning application and can*

*be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices”.*

It is now understood as of December 2021 that Section 2 Local Plan (Tendring specific) that the Inspectors have issued their report and stated the plan can be adopted subject to the Minor Modifications.

The Revised National Planning Policy Framework (NPPF) was published on 20 July 2021 and sets out the Government’s planning policies for England and how these should 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 achieving sustainable development means the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways: economic, social and environmental. The NPPF places a presumption in favour of sustainable development. However, paragraph 47 states that planning law requires that applications for planning permission 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 an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or 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.

#### **4. CONSULTATIONS**

Summarised as follows:

TENDRING DISTRICT COUNCIL- For both applications: Any comments received will be reported.

TENDRING DISTRICT COUNCIL-ENVIRONMENTAL HEALTH DEPARTMENT – For ESS/97/21/TEN: Any comments received will be reported.

ELMSTEAD PARISH COUNCIL- For both applications: Object to the applications for the following reasons:

- *“For repeated failure to comply with the travel plan and for repeated failure to comply with the site monitoring reports. This includes failure to comply with route direction, with lorries being sheeted and with the provision/use of a wheel wash.*
- *There is nothing in the application regarding what plans are in place to coordinate transport movement with the construction of the link road, which will happen during the extended period being requested.*
- *The council asks what redress is there if the application is approved and there is further failure to comply with the travel plan?”*

HIGHWAYS - STRATEGIC DEVELOPMENT- For ESS/97/21/TEN: Any comments received will be reported.-

ENVIRONMENT AGENCY- For ESS/97/21/TEN: No Objection and advise that the applicant may require an abstraction license.

PLACE SERVICES (ARBORICULTURE): For ESS/97/21/TEN: No Objection

PLACE SERVICES (ARCHAEOLOGY) – For ESS/97/21/TEN: No Objection

PLACE SERVICES (ECOLOGY) - For ESS/97/21/TEN: No objection subject to securing biodiversity mitigation and enhancement measures.

PLACE SERVICES (HISTORIC ENVIRONMENT) – For ESS/97/21/TEN: *“The proposed development is considered to have an adverse impact on the setting of a number of designated and undesignated heritage assets, including Elmstead Hall, Elmstead Church and Hall Cottages. The impact, in my opinion, would lead to ‘less than substantial’ particularly during the period of mineral extractions. As such, under Paragraph 202 of the NPPF, the local planning authority should weigh this harm against any public benefits arising from the scheme. Nevertheless, considering the application is based on the principle of a previous approval and that justifications for the extension of the operational period have been provided to satisfy the provision of Paragraph 200 of the NPPF, a further extension may be acceptable”.*

PLACE SERVICES (LANDSCAPE): For ESS/97/21/TEN: No Objection

PLACE SERVICES (URBAN DESIGN): - For ESS/97/21/TEN: No Objection

COUNTY COUNCIL’S NOISE CONSULTANT (CNC) – For ESS/97/21/TEN: Seeks clarification on for example, plant locations or topographic assumptions differ to those in the original Noise Assessment and for clarity being provided with provision of a plan identifying where the new development adjacent the site is located.

LOCAL MEMBER - TENDRING RURAL WEST- Any comments received will be reported.

## **5. REPRESENTATIONS**

As a result of site; press (Essex County Standard) and neighbour notification (11 properties notified) 1 letter of objection has been received.

### Observation

The current operation to construct a reservoir has had regular site visits at which several matters have been raised as issues regarding the compliance of the operation with the planning approval. Prior to the 2021 reports there were also matters raised in relation to non-adherence to the approved routeing

### Comment

See appraisal

plan using Tye and then Wivenhoe Road and damage to verges.

Evidence of non washing of wheels.

Noted although no evidence to support has been provided. There is an appropriate planning condition to restrict carry out of debris onto the public highway.

HGV's not been sheeted.

See appraisal

Along with other monitoring report notes on non compliance (see below) it is concluded that the operator appears to act in a manner that makes any further applications unwise. The operator behaves in a manner that could be regarded as disrespectful of the local community and the planning authorities.

See appraisal

Monitoring reports highlighting non compliance with site layout/scheme of working etc

See appraisal

## **6. APPRAISAL**

The key issues for consideration are considered to be;

- A. Appropriateness of the time extension.
- B. Traffic
- C. Implications for the amended details

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

The original application was made on the basis of seeking to provide an irrigation reservoir arising from the needs of the agricultural community in this very dry part of the country. At the time of that original determination the planning report was supportive of the development, in this particular case, after considerable justification had been sought from interested parties including agricultural consultants. The drafting of the proposed conditions were agreed with the agent/operator at the time and the subsequent decision notice ensured a suitable timescale from implementation to the land gaining the benefit of the proffered supply installation.

It is considered slightly insincere that the applicant has now requested, at the eleventh hour, an additional 4-year extension stating that the extant conditions were not suitable to the development timescale. The applicant has, since the granting of the permission, had sufficient time to address any necessary time considerations in that respect and chosen not to do so. Notwithstanding the applicant's claims of the delays that have impacted the site, on-going site operations have been slow and do not appear to reflect any urgent need for



providing the completion of the reservoir but more resemble the site being operated principally as a general quarry activity. No desperate agricultural urgency appears to dictate the site progress and mineral extraction progresses to meet market demand; supply of mineral to the applicants adjacent quarry interests to provide blending material to that quarries product range; the chasing of the mineral in the application footprint to where better mineral, less contaminated by silt can be found, to provide a marketable product; the stockpiling of the silty material to await later screening campaigns and for ancillary activities such as being present through the second of the applications presented in this report that of the soil screening element which whilst not in itself seeking to delay quarrying would be a further secondary quarry activity taking advantage of the overall processing facilities available on site. Whilst the above aspects are not contrary to the original permission they all add weight to a view that the principal reason for the development in the first place was to secure a quarry, with provision of a reservoir as a secondary consideration and not the other way around as the application was initially sold.

The quarry has become established and operates mostly un-contentiously within its immediate footprint notwithstanding the traffic aspect which is addressed separately, below. This in itself is not justification, in planning terms, that a further time extension is acceptable.

Policy guidance that was used to support the original application remains relevant and this seeks to ensure early restoration of sites and to minimise their impacts within the local area. Having an application originally time limited to 4 years to achieve what was considered an overriding need for delivery of an agricultural water supply and to now be seeking a further 4 years clearly conflicts with the whole premise for the application in the first place as well as policy.

Whilst being sympathetic to a degree with the applicants contention about delays having been experienced it is felt that 4 years on top is too long a period to construct the reservoir. The site is currently around just under halfway through extraction of the footprint. A halving of the request is likely to only delay a later time extension to complete the project given the slowness to date. Three years would appear to be a reasonable extension period from the applicant's application date taking completion of the mineral extraction and formation of the reservoir with landscaping to 30<sup>th</sup> November 2024. Were planning approval to be forthcoming this date would be recommended for the cessation date. A shorter timescale would also comply with Policy S12 of the MLP which requires, inter-alia, that proposals should demonstrate that the land is capable of being restored at the earliest opportunity.

The application based on this shortened timescale would not then be in conflict with policy that seeks to ensure a reasonable timescale for completion of projects and minimising impacts as addressed through Policies: S1; S10; S12; DM1 and QL11.

In respect of comments related to the new road programme; this is not a confirmed development at this stage with any approved start dates. What impacts/potential linkages that could arise between the road programme and the Elmstead site is not a matter for this application. Such implications would be open to

discussion/road programme consultation/planning requirements at that particular stage.

## B TRAFFIC

As raised by various parties including the Parish Council and the representee, have raised concern over the non-compliance with the approved traffic routing agreement for the site. Quarry traffic is required to turn left at the site entrance along Tye Road to the A133 Colchester Road.

Occurrences have been recorded on numerous occasions, and being reported by a local resident on Wivenhoe Road of quarry traffic passing both ways along this road. Although this resident has not themselves made representations to this particular application they have copied the Mineral Planning Authority into the correspondence between themselves and variously both the site operator and transport manager for the SRC group. The latter company are in effect the operators of the Elmstead Quarry as well as the nearby Martells quarry complex.

Members will be aware at the time of the applications for the Martells Western Extension that the routing requirements pertaining to this complex was explained as was the linkage between both sites with the company vehicles who had also been using Wivenhoe Road to move between both quarry sites with this traffic also being contrary to the Martells traffic routing agreement.

As with the Martells quarry complex trafficking issues, so it is with the Elmstead quarry; that without physically being stationed outside a particular site during site operating times and checking each vehicle it is difficult to police traffic routing agreements. It is essentially down to individual operators abiding by such agreements; ensuring appropriate advice is issued to all drivers, including third party operators, before they leave the complex and for these drivers to read and adhere to routing signs/plans. Local residents are usually better at policing in such events although for them to be continuously reporting such instances can be a onerous task.

Whilst there have been breaches of the routing agreement, it is also noted that passing HGV traffic along Wivenhoe Road, by third party operators, unconnected with the local quarry sites, is likely to be occurring. Likewise, the operator of the Elmstead complex also has a large business adjacent the development site with separate access onto Tye Road with an agricultural interest; new building construction as well as an Anaerobic Digester operation. There can be instances of HGV's associated with these separate interests also passing legitimately along Wivenhoe Road.

Notwithstanding the above comments, non compliance with the routing agreement has been occurring and such instances regularly forwarded to the SRC transport manager and site operator when reported by the local resident and or received by the Mineral Planning Authority.

Whilst the trafficking issue is not in itself a reason to refuse the application, the apparent persistency in HGV's utilising Wivenhoe Road as a short cut to and from

the two quarry sites does still take place albeit not on such a regular basis as before as far as can be ascertained.

The reported damage to verges was a topic of concern previously and whilst again this could have involved quarry related traffic from both quarry sites, it could equally apply to other third party HGV's using the highway and meeting oncoming traffic. The issue of road verge damage has not been a significant issue in the more recent period and the operators now being made aware of the trafficking aspects.

Accordingly, as with any routeing agreement, these are not totally watertight and require continuous policing and tracking of vehicles. Without it there would no doubt be more local concern as vehicles quite legitimately used the highway. That it is in place does offer alleviation of the trafficking but as said it is not watertight and relies on an operator being engaged and vigilant. Were planning approval to be forthcoming then the traffic routeing obligation would be carried over with an expectation that the operator observe the agreement.

From a policy position, is not considered that the traffic adherence aspect is in conflict with the purpose of the application itself and so would not from that aspect be in conflict with the application to extend the timescale and policies S10 and S11 of the MLP.

## **C IMPLICATIONS OF THE AMENDED DETAILS**

The revisions/regularisations made under ESS/105/21/TEN are considered appropriate and not to impact outside sensitive receptors.

Items highlighted by the representee are being picked up through this application.

Interested consultees such as the CNC has not objected to the noise implications of the proposals.

It is not considered that the proposals conflict with Policies S3; S10; DM1; DM3; DM4; QL11 and COM23.

Without prejudice to the determination of both applications, the implications for any approval of both planning applications would be for planning application ESS/105/21/TEN effectively superceding ESS/97/21/TEN to become the principal planning permission for the development.

## **7. CONCLUSION**

In considering the time request sought by the first of the two applications being presented, it has been recalled that the original application was approved on the basis of there being an acknowledged agricultural justification for securing irrigation capacity within this area of the county. That the original planning report was supportive of the proposal and subsequent conditioning of the development sought to ensure that early delivery of the water supply capacity.

The report has considered the reasoning behind the present extension period and,

whilst sympathetic to some of the delay, reasoning a further doubling of the overall timescale to secure the reservoir is considered unacceptable and contrary to policy guidance that seeks early restoration of land.

The report recommends a reduced timescale of three years to 31<sup>st</sup> November 2024 to secure completion of the reservoir and its landscaping which is considered appropriate and achievable particularly when the original intention and subsequent emphasis was to create a reservoir as opposed to establishing and maintaining a quarrying presence in the locality.

In respect of local concerns over traffic issues; the report notes that any traffic routing agreement is ultimately down to individual operators to administer and whilst not water tight in ensuring adherence to stated routes they do provide a generally acceptable approach to controlling development traffic. The report finds that the present routing agreement remains acceptable in this particular case.

In terms of the second application to address regularising and amending aspects of site layout and design the report does not raise objection on that issue.

## 8. RECOMMENDED

- A. That for **ESS/97/21/TEN** planning permission be granted subject to the following conditions:

### Duration

1. All operations authorised or required by this permission shall cease, and all plant, machinery equipment, structures, buildings, stockpiles and other above ground infrastructure associated with the development, approved as part of this permission, less the access track and site bellmouth, subject to the other condition requirement below, shall be removed and the site restored in accordance with the conditions of this permission not later than 30<sup>th</sup> November 2024.

### Approved Details

2. Except as may be modified or required by the other conditions to this permission by the Mineral Planning Authority, none of the uses, operations and activities associated with the development hereby approved shall be carried out other than in accordance with the details as set out in the application letter from D. K. Symes Associates dated 19<sup>th</sup> March 2015 and accompanying:
    - a) Planning Application form dated 19<sup>th</sup> March 2015
    - b) Planning Statement and Environmental Statement Volumes 1 and 2 dated March 2015.
    - c) Drwg Nos: 1003/A/1 entitled "Application Plan" dated 12-03-2015
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- d) Drwg Nos: 1003/AD/1 entitled "Proposed Access Detail" dated 13-03-2015
- e) Drwg Nos: 1003/PP/1 entitled "Proposed Processing Plant" dated 27-02-2015
- f) Drwg Nos: 1003/SB/1 entitled "Illustrative Details of Typical Site Buildings" dated 27-02-2015

as amended by:

- g) The e-mail from Douglas Symes dated 2<sup>nd</sup> June 2015 and accompanying:
  - I. Drwg no: 1003/0/1v7 entitled "Illustrative Operations Plan", dated 28/04/2015. For clarity this plan only in respect of depicting the extraction depth in the depicted cross section. Drwg no: 1003/0/1v10 below supercedes this plan in all other respects.
  - II. Drwg no: 1003/CS/1 entitled "Illustrative Cross Sections – During Operations" dated 12-05-2015.
  - III. Drwg No: 1003/CS/2 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12-05-2015.
  - IV Drwg No: 1003/R/1 entitled "Illustrative Reservoir Plan" dated 29-04-2015.
- h) The e-mail from Douglas Symes dated 27<sup>th</sup> January 2016 and accompanying Archaeological Solutions Ltd Historic Buildings Impact Assessment entitled "Proposed agricultural Reservoir, Elmstead Hall, Elmstead, Essex Historic Building Impact Assessment" dated 21<sup>st</sup> December 2015.
- i) BLacoustics Environmental Noise Survey dated February 2016 ref no: BDL3519tr2 as amended by letter from LFAcoustics dated 23<sup>rd</sup> May 2016.
- j) The e-mail from Douglas Symes dated 12<sup>th</sup> September 2016 and accompanying Drwg no: 1003/0/1v10 entitled "Illustrative Operations Plan", dated 01/09/2016.

For Condition 1 (Commencement) the start date for the development is the 06/11/17 as set out in the email from Terry Burns to Simon Chaffe dated 17/05/21.

For Condition 6 (Tree Protection) those details as set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 6.

For Condition 9 (Ecological Interest) those details as set out in:

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- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

For Condition 11 (Archaeology) those details in so far as they relate to the Written Scheme of Investigation as set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 11.
- Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

For Condition 15 (Vehicle Routeing) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 15.

For Condition 17 (Vehicle Monitoring) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 17.

For Condition 23 (Construction Environmental Management Plan (Biodiversity) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning Statement entitled “Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58’ Response to Consultees” dated November 2019 as it relates to
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Condition 23.

- c) Appendix 2 entitled "Construction Equipment Management Plan" REV .1 October 2019 dated October 2019.

For Condition 24 (Scheme of Working) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 24.
- c) Appendix 4 entitled "Processing Plant/Screening Details and Lighting" as depicted on Drwg No: SP1044-Layout-01 entitled "Washing Plant Layout" dated 19/12/18.
- d) Appendix 5 entitled "Water Pump details"
- e) Appendix 6 entitled "Illustrative Cross -Sections" and Drwg No; 1003/CS/1 entitled "Illustrative Cross Sections – During Operations" dated 05/03/2019.

For Condition 30 (Lighting) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 30.
- c) Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/19 version 11.

For Condition 31 (Noise Monitoring) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 31.

Subject, in relation to the reduced list of approved monitoring locations that should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

For Condition 36 (Dust Monitoring) those details set out in:

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- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 36.

c) E-mail from Douglas Symes to Terry Burns dated 16<sup>th</sup> October 2017 at 13:29.

For Condition 37 (Groundwater Monitoring) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 37.

c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;

d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and

e) Figure 1897/HIA/08 entitled “Mineral borehole and piezometer locations” dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due”.

For Condition 49 (Soil Handling and Storage) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 49.
- c) Appendix 7 entitled “Operations Plan showing soil storage bunds” and Drwg No: 1003/0/1 entitled “Illustrative Operations Plan” dated 05/03/2019.

For Condition 51 (Soil Movement and Storage Scheme) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
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- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 51.

For Condition 55 (Revised Restoration Scheme) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 07/03/19.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 55.
- c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying
- d) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated November 2019 as it relates to Condition 55.
- e) Plan No: 1003/CS/2 V1 entitled “Illustrative Cross Sections – Completed Reservoir” dated 12/05/15.
- f) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled “Proposed Access” dated 27/03/21.

For Condition 56 (Landscaping) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 56.
- c) E mail from Douglas Symes to Terry Burns dated 9<sup>th</sup> April 2018 at 12:41 and accompanying “Elmstead Hall Reservoir Landscape Management Plan” Version: Doc\_601\_005 dated 29<sup>th</sup> March 2018.
- d) E mail from Susan Deakin to Terry Burns dated 21<sup>st</sup> April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.

For Condition 57 (Biodiversity Management Plan) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
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- b) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester,
- c) Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 58.
- d) Appendix 3 entitled "Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019".

As amended by Planning permission ESS/97/21/TEN and accompanying:

- a) Planning application form from R. W. Mitchell and Sons dated 05/11/21.
- b) Letter from Matthews and Son LLP dated 05/11/21.
- c) Susan Deakin Ecology report entitled "Appendix 1, Elmstead Hall Irrigation Reservoir, Elmstead, Planning Permission Ess/24/715/Ten 1.11.2016; Application For Variation Of Planning Condition, Planning Considerations And Approved Schemes, Statement Concerning Ecological Considerations" dated 03/11/21.
- d) Drwg No: 1003/L entitled "Location Plan" dated 05/11/14.

#### Availability of Plans

- 3. A copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with any conditions of this permission shall be kept available for inspection at the site during the prescribed working hours.

#### Protection of Existing Trees and Perimeter Vegetation

- 4. Existing hedgerows and trees within, and on the perimeter of, the site and identified for retention shall be retained and shall not be felled, lopped, topped or removed without the prior written consent of the Mineral Planning Authority. 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.
  - 5. The protection of trees on the site shall be carried out in accordance with the details of the Tree Protection scheme approved on 23<sup>rd</sup> April 2018 under Condition 6 of planning permission reference ESS/23/14/TEN. The
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approved details of the Tree Protection scheme comprise:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 6.

#### Boundaries and Site Security

6. The operator shall maintain and make stock proof the perimeter hedges and fences and protect the same from damage. Where the site boundary does not coincide with an existing hedge or fence line, the operator shall provide and maintain fencing for the duration of the development and aftercare period.
7. No soil stripping shall take place until the footprint of the excavation area and those areas to be disturbed in the course of the reservoir construction have been physically pegged out. Those markers that can be retained during the course of the development to maintain demarcation boundaries shall be retained for that period.

#### Ecological Interest

8. The protection of Ecological Interest on the site shall be carried out in accordance with the details of the Ecological Interest scheme approved on 23<sup>rd</sup> April 2018 under Condition 9 of planning permission reference ESS/23/14/TEN. The approved details of the Ecological Interest scheme comprise:
  - a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

#### Bird Nesting

9. No vegetation shall be physically disturbed during the bird nesting season (March to August inclusive) unless the vegetation identified for removal has been surveyed to confirm the absence of active bird nesting.
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### Archaeology

10. The protection of Archaeological Interests on the site shall be carried out in accordance with the details of the Archaeological scheme approved on 23<sup>rd</sup> April 2018 under Condition 11 of planning permission reference ESS/23/14/TEN. The approved details of the Archaeological scheme comprise:
  - a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 11.

Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

### Processing Plant

11. No processing plant shall be brought onto the application land until the "Plant Area" as shown on Drwg no: 1003/0/1v10 entitled "Illustrative Operations Plan", dated 01/09/2016, has been prepared and is available to accommodate the processing plant.

### Limits of Extraction

12. No excavation shall be carried out deeper than 8 metres below existing ground level as provided for in paragraph 3.11.6 of the Environmental Statement and as shown on Drwg no: 1003/0/1v7 entitled "Illustrative Operations Plan", dated 28/04/2015.

### Topographical surveys

13. A survey of site levels shall be carried out at intervals of not less than every 12 months, starting from the date on which soil stripping commences. A copy of the survey shall be submitted to the Mineral Planning Authority within 14 days of being undertaken.

### Vehicle Routeing

14. The Vehicle Routeing scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23<sup>rd</sup> April 2018 under Condition 15 of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Routeing comprise:
    - a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
    - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester,
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Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 15.

15. A written record shall be maintained at the site office of all movements in/out of the site by HGVs. Such records shall contain the vehicle's registration and operating company's identity and time/date of movement. The records shall be made available for inspection by the Mineral Planning Authority if requested and retained for the duration of the life of the development permitted.
16. The Vehicle Monitoring scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23<sup>rd</sup> April 2018 under Condition 17 of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Monitoring comprise:
  - a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 17.

i)

#### Highway Cleanliness

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

#### Haul Road maintenance

18. The internal haul road shall be maintained with a compacted bound surface/or tarmaced and maintained in good condition throughout the reservoir construction period as provided for in para 3.6.3 of section 3.6 on Access of Volume 1 of the Environmental Statement.

#### HGV Movements

19. 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 Saturdays: 80 movements (40 in/40 out)

Sundays and Bank/Public Holidays: none

#### Sheeting Vehicles

20. All HGVs shall be sheeted before leaving the site.
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### Vehicle Maintenance

21. No servicing, maintenance or testing of vehicles or plant shall take place other than within the excavation void area. (For the purposes of this condition the restriction shall not apply to unforeseen vehicle breakdowns).

### Construction Environmental Management Plan (CEMP): Biodiversity

22. The Construction Environmental Management Plan (CEMP): Biodiversity scheme for the site shall be carried out in accordance with the details of the CEMP approved on 12<sup>TH</sup> May 2020 under Condition 23 of planning permission reference ESS/23/14/TEN. The approved details of the CEMP comprise:
  - a. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 23.
  - c. Appendix 2 entitled "Construction Equipment Management Plan" REV .1 October 2019 dated October 2019.
23. No site preparation work, as defined in Condition 1 of this permission, shall take place until a scheme of working has been submitted to, and received the written approval of, the Mineral Planning Authority. The scheme shall 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) Risk assessment of potentially damaging construction activities;
  - b) Identification of biodiversity protection zones;
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and the
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period of the development hereby approved.

### Scheme of Working

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24. The Scheme of Working for the site shall be carried out in accordance with the details of the scheme of working approved on 26<sup>th</sup> September 2019 under Condition 24 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- d. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - e. Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 24.
  - f. Appendix 4 entitled "Processing Plant/Screening Details and Lighting" as depicted on Drwg No: SP1044-Layout-01 entitled "Washing Plant Layout" dated 19/12/18.
  - g. Appendix 5 entitled "Water Pump details"
  - h. Appendix 6 entitled "Illustrative Cross -Sections" and Drwg No; 1003/CS/1 entitled "Illustrative Cross Sections – During Operations" dated 05/03/2019.

#### Sale of Aggregate

25. There shall be no retailing or direct sales of soils or bagged aggregates to the public from the quarry.

#### ENVIRONMENTAL PROTECTION

##### Hours of Operation

26. 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.

##### Importation

27. No materials for infilling or excavated materials, including minerals, shall be imported to the site other than clays for site lining purposes.
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### Rubbish

28. 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.

### Burning

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

### Lighting

30. The Lighting scheme for the site shall be carried out in accordance with the details of the lighting scheme approved on 12<sup>th</sup> May 2020 under Condition 30 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- i. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - j. Planning Statement entitled “Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58’ Response to Consultees” dated November 2019 as it relates to Condition 30.
  - k. Drwg No: 1003/0/1 entitled “Illustrative Operations Plan” dated 05/03/19 version 11.

### Noise – Monitoring

31. The Noise Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23<sup>rd</sup> April 2018 under Condition 31 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 31.

Subject, in relation to the reduced list of approved monitoring locations that should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

### Noise – Temporary Operations

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32. For temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive properties as listed in Condition 33 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.

#### Noise – Normal Operating Levels

33. 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/24/15/TEN/A entitled “Noise Monitoring Locations”:

Receptor Location	Criterion / dB LAeq,1hr
Holly way	49 dB
Parsonage Farm	48 dB
Elmstead Hall & Cottages	48 dB
Mount Pleasant Cottages	47 dB
Allen's Farm	47 dB
Balls Farm	48 dB
Fen Farm	55 dB
Fern Villa	54 dB
Edwinstone	48 dB
Friars Hall	48 dB

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.

#### Loudspeakers

34. No sound reproduction or amplification equipment (including public address systems, loudspeakers etc) which is audible at the nearest noise sensitive location shall be installed or operated on the site without the prior written approval of the Mineral Planning Authority.

#### Reversing alarms

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

#### Dust

36. The Dust Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23<sup>rd</sup> April 2018 under Condition 36 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 36.
  - c) E-mail from Douglas Symes to Terry Burns dated 16<sup>th</sup> October 2017 at 13:29.

#### Groundwater monitoring

37. The Groundwater Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23<sup>rd</sup> April 2018 under Condition 37 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 37.
  - c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;
  - d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and
  - e) Figure 1897/HIA/08 entitled "Mineral borehole and piezometer locations" dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due".

#### Surface Water Drainage and Pollution Protection

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

39.
  - 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
    - I. 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.)
40. All foul drainage shall be contained within a sealed and watertight cesspit fitted with a level warning device constructed to BS 6297 "Design and Installation of Small Sewage Treatment Works and Cesspools" (1983).
41. No drainage from the site, or from areas immediately adjoining the site, shall be interrupted either partially or fully by the operations hereby approved.
42. No foul 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.

#### Fixed Plant and Buildings

43. 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.

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

44. Prior to the stripping of any soils from the site, excess vegetation shall be removed from the areas to be stripped (The term 'excess vegetation' in this condition means all vegetation above a height of 154mm (6") above ground level).
  45. 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
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on that part), or used for the stacking of subsoil or soil-making material, all available topsoil shall be stripped from that part.

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

47. 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 soils 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.)

48. All suitable soils and soil-making material shall be recovered where practicable during the stripping or excavation operations and separately stored.

49. The Soil Handling and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26<sup>th</sup> September 2019 under Condition 49 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

- m. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- n. Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 49.
- o. Appendix 7 entitled "Operations Plan showing soil storage bunds" and Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/2019.

50. The topsoil, subsoil, and soil-making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during the restoration of the site. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their construction. The sward shall be managed in accordance with correct agricultural management techniques throughout the period of

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storage.

51. The Soil Movement and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26<sup>th</sup> September 2019 under Condition 51 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- p. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - q. Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 51.
52. Such precautions unless as may be necessary to prevent the mixing of the soil types with any overlap of soil types in a storage mound be kept to the minimum necessary for the effective formation of that mound and the interface shall be defined on site and on a record plan so that it can be easily located at mound removal stage.
53. All soil and soil forming material storage mounds, together with all areas that remain unworked, or have been restored, shall be kept free of weeds and all necessary steps shall be taken to destroy weed at an early stage of growth to prevent seeding.
54. An annual report, together with plans at a scale to be agreed with the Mineral Planning Authority, setting out the previous year’s soil movement and restoration shall be submitted by 31st December each year, or such other date as may be agreed in writing with the Mineral Planning Authority.

#### Restoration

55. The Revised Restoration scheme for the site shall be carried out in accordance with the details of the scheme approved on 6<sup>th</sup> April 2021 under Condition 55 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- a) The application form from R.W. Mitchell and Sons dated 07/03/19.
  - b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 55.
  - c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying
  - d) Planning statement entitled “Elmstead Hall, Elmstead, Colchester,
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Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated November 2019 as it relates to Condition 55.

e) Plan No: 1003/CS/2 V1 entitled “Illustrative Cross Sections – Completed Reservoir” dated 12/05/15.

f) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled “Proposed Access” dated 27/03/21.

### Landscaping

56. The Landscaping scheme for the site shall be carried out in accordance with the details of the landscaping scheme approved on 23<sup>rd</sup> April 2018 under Condition 56 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 56.

c) E mail from Douglas Symes to Terry Burns dated 9<sup>th</sup> April 2018 at 12:41 and accompanying “Elmstead Hall Reservoir Landscape Management Plan” Version: Doc\_601\_005 dated 29<sup>th</sup> March 2018.

d) E mail from Susan Deakin to Terry Burns dated 21<sup>st</sup> April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.

57. 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.

### Biodiversity Management Plan

58. The Biodiversity Management Plan for the site shall be carried out in accordance with the details of the Management Plan approved on 12<sup>th</sup> May 2020 under Condition 58 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

a. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.

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- b. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester,
- c. Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 58.
- d. Appendix 3 entitled "Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019".

#### Amenity Aftercare

59. Within one year of the date of the commencement of site preparation works as provided for by Condition 1 of this permission a wetland/woodland aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use as a reservoir and associated wetland/woodland habitat shall be submitted for the approval of the Mineral Planning Authority. The wetland/woodland 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:-
- (i) a management plan and strategy;
  - (ii) a programme to allow for monitoring the establishment of the wetland and aquatic vegetation which shall provide for:
    - (a) such work as is necessary to enable the establishment of (ii) above; and
    - (b) maintenance arrangements to include such amendments to drainage patterns, and replacement and/or control of plant species as required to achieve the objectives;
    - (c) For the woodland area the::
      - cultivation practices;
      - post-restoration secondary soil treatments;
      - soil analysis;
      - fertiliser applications, based on soil analysis;
      - drainage;
      - tree planting and maintenance;
      - weed control;
    - (d) annual meetings with representatives of the Mineral Planning Authority and landowners to review performance.

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

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The period of wetland 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.

#### Cessation

60. In the event of site operations being discontinued for six months in the period specified in Condition (2) then the land as disturbed within the approved extraction 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 55 - 59 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.

#### **B. For ESS/105/21/TEN Planning permission be granted subject to the following conditions:**

##### Duration

1. All operations authorised or required by this permission shall cease, and all plant, machinery equipment, structures, buildings, stockpiles and other above ground infrastructure associated with the development, approved as part of this permission, less the access track and site bellmouth, subject to the other condition requirement below, shall be removed and the site restored in accordance with the conditions of this permission not later than 30<sup>th</sup> November 2024.

##### Approved Details

2. Except as may be modified or required by the other conditions to this permission by the Mineral Planning Authority, none of the uses, operations and activities associated with the development hereby approved shall be carried out other than in accordance with the details as set out in the application letter from D. K. Symes Associates dated 19<sup>th</sup> March 2015 and accompanying:
    - a) Planning Application form dated 19<sup>th</sup> March 2015
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- b) Planning Statement and Environmental Statement Volumes 1 and 2 dated March 2015.
- c) Drwg Nos: 1003/A/1 entitled "Application Plan" dated 12-03-2015
- d) Drwg Nos: 1003/AD/1 entitled "Proposed Access Detail" dated 13-03-2015
- e) Drwg Nos: 1003/PP/1 entitled "Proposed Processing Plant" dated 27-02-2015
- f) Drwg Nos: 1003/SB/1 entitled "Illustrative Details of Typical Site Buildings" dated 27-02-2015

as amended by:

- g) The e-mail from Douglas Symes dated 2<sup>nd</sup> June 2015 and accompanying:
  - I. Drwg no: 1003/0/1v7 entitled "Illustrative Operations Plan", dated 28/04/2015. For clarity this plan only in respect of depicting the extraction depth in the depicted cross section. Drwg no: 1003/0/1v10 below supercedes this plan in all other respects.
  - II. Drwg no: 1003/CS/1 entitled "Illustrative Cross Sections – During Operations" dated 12-05-2015.
  - III. Drwg No: 1003/CS/2 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12-05-2015.
  - IV Drwg No: 1003/R/1 entitled "Illustrative Reservoir Plan" dated 29-04-2015.
- h) The e-mail from Douglas Symes dated 27<sup>th</sup> January 2016 and accompanying Archaeological Solutions Ltd Historic Buildings Impact Assessment entitled "Proposed agricultural Reservoir, Elmstead Hall, Elmstead, Essex Historic Building Impact Assessment" dated 21<sup>st</sup> December 2015.
- i) BLacoustics Environmental Noise Survey dated February 2016 ref no: BDL3519tr2 as amended by letter from LFAcoustics dated 23<sup>rd</sup> May 2016.
- j) The e-mail from Douglas Symes dated 12<sup>th</sup> September 2016 and accompanying Drwg no: 1003/0/1v10 entitled "Illustrative Operations Plan", dated 01/09/2016.

For Condition 1 (Commencement) the start date for the development is the 06/11/17 as set out in the email from Terry Burns to Simon Chaffe dated 17/05/21.

For Condition 6 (Tree Protection) those details as set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and
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soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 6.

For Condition 9 (Ecological Interest) those details as set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

For Condition 11 (Archaeology) those details in so far as they relate to the Written Scheme of Investigation as set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 11.

Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

For Condition 15 (Vehicle Routeing) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 15.

For Condition 17 (Vehicle Monitoring) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 17.

For Condition 23 (Construction Environmental Management Plan (Biodiversity) those details set out in:

- d) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July
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2017.

- e) Planning Statement entitled “Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58’ Response to Consultees” dated November 2019 as it relates to Condition 23.
- f) Appendix 2 entitled “Construction Equipment Management Plan” REV .1 October 2019 dated October 2019.

For Condition 24 (Scheme of Working) those details set out in:

- f) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- g) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 24.
- h) Appendix 4 entitled “Processing Plant/Screeners Details and Lighting” as depicted on Drwg No: SP1044-Layout-01 entitled “Washing Plant Layout” dated 19/12/18.
- i) Appendix 5 entitled “Water Pump details”
- j) Appendix 6 entitled “Illustrative Cross -Sections” and Drwg No; 1003/CS/1 entitled “Illustrative Cross Sections – During Operations” dated 05/03/2019.

For Condition 30 (Lighting) those details set out in:

- d) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- e) Planning Statement entitled “Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58’ Response to Consultees” dated November 2019 as it relates to Condition 30.
- f) Drwg No: 1003/0/1 entitled “Illustrative Operations Plan” dated 05/03/19 version 11.

For Condition 31 (Noise Monitoring) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 31.

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Subject, in relation to the reduced list of approved monitoring locations that

should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

For Condition 36 (Dust Monitoring) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 36.

- c) E-mail from Douglas Symes to Terry Burns dated 16<sup>th</sup> October 2017 at 13:29.

For Condition 37 (Groundwater Monitoring) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 37.

- c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;

- d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and

- e) Figure 1897/HIA/08 entitled “Mineral borehole and piezometer locations” dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due”.

For Condition 49 (Soil Handling and Storage) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 49.

- c) Appendix 7 entitled “Operations Plan showing soil storage bunds” and Drwg No: 1003/0/1 entitled “Illustrative Operations Plan” dated 05/03/2019.

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For Condition 51 (Soil Movement and Storage Scheme) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 51.

For Condition 55 (Revised Restoration Scheme) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 07/03/19.
- b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 55.
- c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying
- d) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated November 2019 as it relates to Condition 55.
- e) Plan No: 1003/CS/2 V1 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12/05/15.
- f) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled "Proposed Access" dated 27/03/21.

For Condition 56 (Landscaping) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 56.
  - c) E mail from Douglas Symes to Terry Burns dated 9<sup>th</sup> April 2018 at 12:41 and accompanying "Elmstead Hall Reservoir Landscape Management Plan" Version: Doc\_601\_005 dated 29<sup>th</sup> March 2018.
  - d) E mail from Susan Deakin to Terry Burns dated 21<sup>st</sup> April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.
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For Condition 57 (Biodiversity Management Plan) those details set out in:

- a) The application form from R.W. Mitchell and Sons dated 24th July 2017.
- b) Planning Statement entitled "Elmstead Hall, Elmstead, Colchester,
- c) Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 58.
- d) Appendix 3 entitled "Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019".

As amended by Planning permission ESS/97/21/TEN and accompanying:

- a) Planning application form from R. W. Mitchell and Sons dated 05/11/21.
- b) Letter from Matthews and Son LLP dated 05/11/21.
- c) Susan Deakin Ecology report entitled "Appendix 1, Elmstead Hall Irrigation Reservoir, Elmstead, Planning Permission Ess/24/715/Ten 1.11.2016; Application For Variation Of Planning Condition, Planning Considerations And Approved Schemes, Statement Concerning Ecological Considerations" dated 03/11/21.
- d) Drwg No: 1003/L entitled "Location Plan" dated 05/11/14.

As amended by Planning permission ESS/105/21/TEN and accompanying:

- a) Planning application form R. W. Mitchell and Sons dated 02/12/21.
- b) "Planning Application and Supporting Statement" dated 02/12/21.
- c) Drwg No: SP1174-LAYOUT-01D entitled "Elmstead Plant Upgrade Layout" dated 02/11/20.
- e) Drwg No: 1003/O/2 v1 entitled "Illustrative Operations Plan" dated 02/12/21.

#### Availability of Plans

- 3. A copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with any conditions of this permission shall be kept available for inspection at the
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site during the prescribed working hours.

#### Protection of Existing Trees and Perimeter Vegetation

4. Existing hedgerows and trees within, and on the perimeter of, the site and identified for retention shall be retained and shall not be felled, lopped, topped or removed without the prior written consent of the Mineral Planning Authority. 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.
5. The protection of trees on the site shall be carried out in accordance with the details of the Tree Protection scheme approved on 23<sup>rd</sup> April 2018 under Condition 6 of planning permission reference ESS/23/14/TEN. The approved details of the Tree Protection scheme comprise:
  - a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 6.

#### Boundaries and Site Security

6. The operator shall maintain and make stock proof the perimeter hedges and fences and protect the same from damage. Where the site boundary does not coincide with an existing hedge or fence line, the operator shall provide and maintain fencing for the duration of the development and aftercare period.
7. No soil stripping shall take place until the footprint of the excavation area and those areas to be disturbed in the course of the reservoir construction have been physically pegged out. Those markers that can be retained during the course of the development to maintain demarcation boundaries shall be retained for that period.

#### Ecological Interest

8. The protection of Ecological Interest on the site shall be carried out in accordance with the details of the Ecological Interest scheme approved on 23<sup>rd</sup> April 2018 under Condition 9 of planning permission reference ESS/23/14/TEN. The approved details of the Ecological Interest scheme
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comprise:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 9.

Subject to written confirmation being received by the Mineral Planning Authority not more than 6 days prior to the commencement of soil stripping operations.

#### Bird Nesting

- 9. No vegetation shall be physically disturbed during the bird nesting season (March to August inclusive) unless the vegetation identified for removal has been surveyed to confirm the absence of active bird nesting.

#### Archaeology

- 10. The protection of Archaeological Interests on the site shall be carried out in accordance with the details of the Archaeological scheme approved on 23<sup>rd</sup> April 2018 under Condition 11 of planning permission reference ESS/23/14/TEN. The approved details of the Archaeological scheme comprise:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 11.

Subject to the implementation of the fieldwork and outstanding requirements of Condition 11.

#### Processing Plant

- 11. No processing plant shall be brought onto the application land until the “Plant Area” as shown on Drwg no: 1003/0/1v10 entitled “Illustrative Operations Plan”, dated 01/09/2016, has been prepared and is available to accommodate the processing plant.

#### Limits of Extraction

- 12. No excavation shall be carried out deeper than 8 metres below existing ground level as provided for in paragraph 3.11.6 of the Environmental
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Statement and as shown on Drwg no: 1003/0/1v7 entitled "Illustrative Operations Plan", dated 28/04/2015.

#### Topographical surveys

13. A survey of site levels shall be carried out at intervals of not less than every 12 months, starting from the date on which soil stripping commences. A copy of the survey shall be submitted to the Mineral Planning Authority within 14 days of being undertaken.

#### Vehicle Routeing

14. The Vehicle Routeing scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23<sup>rd</sup> April 2018 under Condition 15 of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Routeing comprise:
  - a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 15.
15. A written record shall be maintained at the site office of all movements in/out of the site by HGVs. Such records shall contain the vehicle's registration and operating company's identity and time/date of movement. The records shall be made available for inspection by the Mineral Planning Authority if requested and retained for the duration of the life of the development permitted.
16. The Vehicle Monitoring scheme for the site shall be carried out in accordance with the details of the Vehicle Routeing approved on 23<sup>rd</sup> April 2018 under Condition 17 of planning permission reference ESS/23/14/TEN. The approved details of the Vehicle Monitoring comprise:
  - a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 17.
  - j)

#### Highway Cleanliness

17. No mud or dirt shall be carried out onto Tye Road by vehicles using the site.
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### Haul Road maintenance

18. The internal haul road shall be maintained with a compacted bound surface/or tarmaced and maintained in good condition throughout the reservoir construction period as provided for in para 3.6.3 of section 3.6 on Access of Volume 1 of the Environmental Statement.

### HGV Movements

19. 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 Saturdays: 80 movements (40 in/40 out)

Sundays and Bank/Public Holidays: none

### Sheeting Vehicles

20. All HGVs shall be sheeted before leaving the site.

### Vehicle Maintenance

21. No servicing, maintenance or testing of vehicles or plant shall take place other than within the excavation void area. (For the purposes of this condition the restriction shall not apply to unforeseen vehicle breakdowns).

### Construction Environmental Management Plan (CEMP): Biodiversity

22. The Construction Environmental Management Plan (CEMP): Biodiversity scheme for the site shall be carried out in accordance with the details of the CEMP approved on 12<sup>TH</sup> May 2020 under Condition 23 of planning permission reference ESS/23/14/TEN. The approved details of the CEMP comprise:
- a. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 23.
  - c. Appendix 2 entitled "Construction Equipment Management Plan" REV .1 October 2019 dated October 2019.
23. No site preparation work, as defined in Condition 1 of this permission, shall take place until a scheme of working has been submitted to, and received the written approval of, the Mineral Planning Authority. The scheme shall be implemented as approved, or as may subsequently be approved, in writing by the Mineral Planning Authority. The submitted
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scheme shall make provision for:-

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

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period of the development hereby approved.

#### Scheme of Working

24. The Scheme of Working for the site shall be carried out in accordance with the details of the scheme of working approved on 26<sup>th</sup> September 2019 under Condition 24 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- d. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - e. Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 24.
  - f. Appendix 4 entitled “Processing Plant/Screening Details and Lighting” as depicted on Drwg No: SP1044-Layout-01 entitled “Washing Plant Layout” dated 19/12/18.
  - g. Appendix 5 entitled “Water Pump details”
  - h. Appendix 6 entitled “Illustrative Cross -Sections” and Drwg No; 1003/CS/1 entitled “Illustrative Cross Sections – During Operations” dated 05/03/2019.

#### Sale of Aggregate

25. There shall be no retailing or direct sales of soils or bagged aggregates to the public from the quarry.
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## ENVIRONMENTAL PROTECTION

### Hours of Operation

26. 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.

### Importation

27. No materials for infilling or excavated materials, including minerals, shall be imported to the site other than clays for site lining purposes.

### Rubbish

28. 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.

### Burning

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

### Lighting

30. The Lighting scheme for the site shall be carried out in accordance with the details of the lighting scheme approved on 12<sup>th</sup> May 2020 under Condition 30 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- i. The application form from R.W. Mitchell and Sons dated 24th July 2017.
  - j. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester, Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 30.
  - k. Drwg No: 1003/0/1 entitled "Illustrative Operations Plan" dated 05/03/19 version 11.
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### Noise – Monitoring

31. The Noise Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23<sup>rd</sup> April 2018 under Condition 31 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
- b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 31.

Subject, in relation to the reduced list of approved monitoring locations that should complaints be received at any of the remaining four locations, that compliance monitoring would be instigated as appropriate.

### Noise – Temporary Operations

32. For temporary operations, the free field Equivalent Continuous Noise Level (LAeq,1hr) at noise sensitive properties as listed in Condition 33 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.

### Noise – Normal Operating Levels

33. 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/24/15/TEN/A entitled “Noise Monitoring Locations”:

Receptor Location	Criterion / dB LAeq,1hr
Holly way	49 dB
Parsonage Farm	48 dB
Elmstead Hall & Cottages	48 dB
Mount Pleasant Cottages	47 dB
Allen's Farm	47 dB

Balls Farm	48 dB
Fen Farm	55 dB
Fern Villa	54 dB
Edwinstone	48 dB
Friars Hall	48 dB

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.

#### Loudspeakers

34. No sound reproduction or amplification equipment (including public address systems, loudspeakers etc) which is audible at the nearest noise sensitive location shall be installed or operated on the site without the prior written approval of the Mineral Planning Authority.

#### Reversing alarms

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

#### Dust

36. The Dust Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23<sup>rd</sup> April 2018 under Condition 36 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 36.
  - c) E-mail from Douglas Symes to Terry Burns dated 16<sup>th</sup> October 2017 at 13:29.

#### Groundwater monitoring

37. The Groundwater Monitoring scheme for the site shall be carried out in accordance with the details of the Monitoring scheme approved on 23<sup>rd</sup> April 2018 under Condition 37 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

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- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.

b) Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1” dated July 2017 as it relates to Condition 37.

c) Email from Douglas Symes to Terry Burns dated 30/08/17 at 09:33 including attachments comprising;

d) Piezometer details as previously submitted in Volume 2 at appendix ref 1897/HIA/A2 and

e) Figure 1897/HIA/08 entitled “Mineral borehole and piezometer locations” dated October 2014.

Subject to: The Environment Agency being informed of any groundwater related issues during the development and operation of the site as soon as they are detected, not only when a report is due”.

#### Surface Water Drainage and Pollution Protection

38. 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.
  39.
    - 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
      - I. 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.)
  40. All foul drainage shall be contained within a sealed and watertight cesspit fitted with a level warning device constructed to BS 6297 “Design and Installation of Small Sewage Treatment Works and Cesspools” (1983).
  41. No drainage from the site, or from areas immediately adjoining the site, shall be interrupted either partially or fully by the operations hereby approved.
  42. No foul 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.
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## Fixed Plant and Buildings

43. 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.

## Handling and Storage of Soil and Soil Forming Material

44. Prior to the stripping of any soils from the site, excess vegetation shall be removed from the areas to be stripped (The term 'excess vegetation' in this condition means all vegetation above a height of 154mm (6") above ground level).
45. 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.
46. No operations involving soil lifting/replacement shall take place between the months of October to March inclusive.
47. 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 soils 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.)
48. All suitable soils and soil-making material shall be recovered where practicable during the stripping or excavation operations and separately stored.
49. The Soil Handling and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26<sup>th</sup> September 2019 under Condition 49 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:

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m. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup>

July 2017.

- n. Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 49.
  - o. Appendix 7 entitled “Operations Plan showing soil storage bunds” and Drwg No: 1003/0/1 entitled “Illustrative Operations Plan” dated 05/03/2019.
50. The topsoil, subsoil, and soil-making material mounds shall be constructed with only the minimum amount of compaction necessary to ensure stability and shall not be traversed by heavy vehicles or machinery except during stacking and removal for re-spreading during the restoration of the site. They shall be graded and seeded with a suitable low maintenance grass seed mixture in the first available growing season following their construction. The sward shall be managed in accordance with correct agricultural management techniques throughout the period of storage.
51. The Soil Movement and Storage scheme for the site shall be carried out in accordance with the details of the scheme approved on 26<sup>th</sup> September 2019 under Condition 51 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- p. The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - q. Planning statement entitled “Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2” dated March 2019 as it relates to Condition 51.
52. Such precautions unless as may be necessary to prevent the mixing of the soil types with any overlap of soil types in a storage mound be kept to the minimum necessary for the effective formation of that mound and the interface shall be defined on site and on a record plan so that it can be easily located at mound removal stage.
53. All soil and soil forming material storage mounds, together with all areas that remain unworked, or have been restored, shall be kept free of weeds and all necessary steps shall be taken to destroy weed at an early stage of growth to prevent seeding.
54. An annual report, together with plans at a scale to be agreed with the Mineral Planning Authority, setting out the previous year’s soil movement
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and restoration shall be submitted by 31st December each year, or such other date as may be agreed in writing with the Mineral Planning Authority.

### Restoration

55. The Revised Restoration scheme for the site shall be carried out in accordance with the details of the scheme approved on 6<sup>th</sup> April 2021 under Condition 55 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- a) The application form from R.W. Mitchell and Sons dated 07/03/19.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated March 2019 as it relates to Condition 55.
  - c) Email from Douglas Symes dated 26/11/19 at 16:48 and accompanying
  - d) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 2" dated November 2019 as it relates to Condition 55.
  - e) Plan No: 1003/CS/2 V1 entitled "Illustrative Cross Sections – Completed Reservoir" dated 12/05/15.
  - f) Email from Simon Chaffe to Terry Burns dated 27/03/21 at 15:34 and accompanying Drg no:1003/AD/2/v2 entitled "Proposed Access" dated 27/03/21.

### Landscaping

56. The Landscaping scheme for the site shall be carried out in accordance with the details of the landscaping scheme approved on 23<sup>rd</sup> April 2018 under Condition 56 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- a) The application form from R.W. Mitchell and Sons dated 24<sup>th</sup> July 2017.
  - b) Planning statement entitled "Elmstead Hall, Elmstead, Colchester, Permission ESS/24/15/TEN for the construction of an irrigation reservoir involving the excavation, processing and removal of sand, gravel and soils, engineering works and ancillary buildings, Details Pursuant – 1" dated July 2017 as it relates to Condition 56.
  - c) E mail from Douglas Symes to Terry Burns dated 9<sup>th</sup> April 2018 at 12:41 and accompanying "Elmstead Hall Reservoir Landscape Management Plan" Version: Doc\_601\_005 dated 29<sup>th</sup> March 2018.
  - d) E mail from Susan Deakin to Terry Burns dated 21<sup>st</sup> April 2018 at 21:24; Subject to replacement of the proposed use of the Mylex weed control
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matting with coarse chipped mulch to be maintained as a minimum depth of 75mm during the initial establishment period or until agreed by the County Landscape Officer.

57. 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.

#### Biodiversity Management Plan

58. The Biodiversity Management Plan for the site shall be carried out in accordance with the details of the Management Plan approved on 12<sup>th</sup> May 2020 under Condition 58 of planning permission reference ESS/23/14/TEN. The approved details of the scheme comprise:
- e. The application form from R.W. Mitchell and Sons dated 24th July 2017.
  - f. Planning Statement entitled "Elmstead Hall, Elmstead, Colchester,
  - g. Details Pursuant to Conditions 23, 24, 30, 49, 51, 55 & 58' Response to Consultees" dated November 2019 as it relates to Condition 58.
  - h. Appendix 3 entitled "Biodiversity Management Plan Rev. 1 October 2019 and Appraisal of Ecological Interest and Constraints, Rev. 2 - October 2019".

#### Amenity Aftercare

59. Within one year of the date of the commencement of site preparation works as provided for by Condition 1 of this permission a wetland/woodland aftercare scheme providing for such steps as may be necessary to bring the land to the required standard for use as a reservoir and associated wetland/woodland habitat shall be submitted for the approval of the Mineral Planning Authority. The wetland/woodland 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:-

- (i) a management plan and strategy;
- (ii) a programme to allow for monitoring the establishment of the wetland and aquatic vegetation which shall provide for:

(a) such work as is necessary to enable the establishment of (ii) above;

and

- (b) maintenance arrangements to include such amendments to drainage patterns, and replacement and/or control of plant species as required to achieve the objectives;
- (c) For the woodland area the:
  - cultivation practices;
  - post-restoration secondary soil treatments;
  - soil analysis;
  - fertiliser applications, based on soil analysis;
  - drainage;
  - tree planting and maintenance;
  - weed control;
- (d) annual meetings with representatives of the Mineral Planning Authority and landowners to review performance.

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

The period of wetland 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.

### Cessation

60. In the event of site operations being discontinued for six months in the period specified in Condition (2) then the land as disturbed within the approved extraction 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 55 - 59 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.

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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 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**

Tendring Rural West ED