The Planning Inspectorate

# Appeal Decisions

Site visit made on 20 October 2023

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

**an Inspector appointed by the Secretary of State**

**Decision date: 12th January 2024**

## Appeal A
## Appeal Ref: APP/Z1585/W/22/3312874
## Colchester Quarry, Warren Lane, Stanway, Essex CO3 0NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr J Mead, Five Ways Fruit Farm Ltd against the decision of Essex County Council.
- The application Ref ESS/82/22/COL, dated 25 August 2022, was refused by notice dated 28 November 2022.
- The original application sought planning permission for the extension of Stanway Quarry on land at Five Ways Fruit Farm (FWFF) via the extraction of 2.95m tonnes of sand and gravel; extraction of remaining 0.5m tonnes of sand and gravel from Stanway Quarry; processing of remaining 1.5m tonnes of sand and gravel from Bellhouse Quarry to be imported via the existing conveyor link to Stanway Quarry by 31 October 2026; retention of the existing sand and gravel processing plant, Dry Silo Mortar Plant, concrete plant, access roads, weighbridge and related infrastructure until 31 October 2026; retention of the existing inert recycling operation and associated mobile plant parking area until 31 December 2037; restoration of FWFF area using existing indigenous soils, clay and soil forming material from within the application site within 7 years of commencement of operations at FWFF; importation of approximately 2.35m cubic metres of inert waste material for the restoration of the central / eastern Stanway Quarry void by 31 December 2037; and implementation of a comprehensive restoration scheme for the application site comprising agricultural land, orchard, woodland, grassland, lakes, habitat creation and informal public access via permissive routes. (Ref: ESS/23/14/COL).
- The appeal relates to a subsequent planning permission (Ref: ESS/52/17/COL), dated 4 January 2019, for the continuation of use of land for mineral extraction and ancillary use without compliance with Condition 6 (Dry Silo Mortar Plant Operating hours) of planning permission ESS/23/14/COL granted for "Extension of Stanway Quarry on land at Five Ways Fruit Farm (FWFF) via the extraction of 2.95m tonnes of sand and gravel etc" to extend the weekday DSM plant operational hours from 20:00 hours to 22:00 hours.
- The application sought the continuation of use of land for mineral extraction and ancillary use without compliance with Condition 3 (Approved Details) of planning permission ESS/52/17/COL, that itself was a Variation of Condition Permission, that enabled changes to the DSM plant operational hours, of planning permission ESS/23/14/COL granted for "Extension of Stanway Quarry on land at Five Ways Fruit Farm (FWFF) via the extraction of 2.95m tonnes of sand and gravel etc" to now seek changes to the afteruse provisions on the land parcels comprising the Five Ways Fruit Farm Extension and Wallace Lagoon areas.
- In particular, the application sought the replacement of all references to Drawing B030/00639 (Approved Restoration Plan) in planning permission ESS/52/17/COL with Drawing Nos. M19.163.D.003F, M19.163.D.005A and M19.163.D.004B.

- The condition in dispute is No 3 which sets out an extensive list of the approved plans and documents that the development is required to be undertaken in accordance with. The relevant part of the condition in relation to the appeal states that: Except as may be modified or required by the other conditions of 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: Planning Application ESS/23/14/COL from SLR dated 9th May 2014 Comprising: Concept Restoration Scheme B030/00639 dated February 2014.
- The reason given for the condition is: For the avoidance of doubt as to the nature of the development hereby permitted, to ensure development is carried out in accordance with the approved application details, to ensure that the development is carried out with minimum harm to the environment and having regard to Policies DM1, S1 and S10 of the Essex Minerals Local Plan Adopted July 2014.

**Appeal B**
**Appeal Ref: APP/A1530/W/22/3310281**
**Dyers Road, Stanway, Colchester**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Mead against the decision of Colchester City Council.
- The application Ref 220954, dated 12 April 2022, was refused by notice dated 19 August 2022.
- The development proposed is the erection of horticultural storage building to be used in association with Fiveways Fruit Farm (relocation of existing building currently situated adjacent to the Fiveways junction). Provision of water collection tanks for irrigation purposes.

## Decisions

### Appeal A Ref: APP/Z1585/W/22/3312874

1. The appeal is dismissed insofar as it relates to the Five Ways Fruit Farm land parcel (shown on Drawing No. M19.163.D.005 Rev B – Northern Extension Proposals). The appeal is allowed only in so far as it relates to the Wallace Lagoon land parcel (shown on Drawing No. M19.D.163.004 Rev D – Wallace Lagoon Proposals) for the continuation of use of land for mineral extraction and ancillary use without compliance with Condition 3 (Approved Details) of planning permission ESS/52/17/COL, that itself was a Variation of Condition Permission, that enabled changes to the DSM plant operational hours of planning permission ESS/23/14/COL granted for "Extension of Stanway Quarry on land at Five Ways Fruit Farm (FWFF) via the extraction of 2.95m tonnes of sand and gravel etc" to now seek changes to the afteruse provisions on the land parcels comprising the Wallace Lagoon area at Colchester Quarry, Warren Lane, Stanway, Essex CO3 0NN, in accordance with the terms of the application, Ref ESS/82/22/COL, dated 25 August 2022 subject to the conditions set out in the attached schedule.

### Appeal B Ref: APP/A1530/W/22/3310281

2. The appeal is dismissed.

### Procedural matters

3. These appeals relate to the future restoration and use of land at Colchester Quarry on completion of mineral extraction operations. Appeal A relates to a variation of a condition to seek changes to the approved concept restoration

scheme to enable part of the site comprising land parcels within the quarry known as Five Ways Fruit Farm (FWFF) and the Wallace Lagoon to be used for agriculture/horticulture and provision of solar panels. Appeal B proposes the erection of a horticultural storage building on part of the land comprising the FWFF land parcel. Consequently, I have dealt with both appeals in this one decision letter.

4. In the determination of Appeal A, I have considered proposed changes to the approved Concept Restoration Scheme only to facilitate the subsequent use of the restored land for agriculture/horticulture and provision of solar panels. Future details of such uses which may involve the provision of polytunnels, solar panels and any other built development that may, or may not, comprise permitted development pursuant to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) are not matters before me. Consequently, in partly allowing Appeal A in relation to the Wallace Lagoon land parcel, I have determined the appeal on the basis that it relates to land use and landform changes to facilitate subsequent agricultural/horticultural use only and excludes any other subsequent built development on such land.

5. The County Council have drawn my attention to a number of other recently determined planning applications for variations to conditions of planning permissions relating to the Colchester Quarry. The Council has resolved to approve these applications (Refs: ESS/03/22/COL, ESS/04/22/COL, and ESS/05/22/COL) subject to the completion of Deeds of Variation to an existing Section 106 Legal Agreement (linked to ESS/23/14/COL). I have no evidence to indicate when these Deeds of Variation may be completed or when the corresponding applications may therefore be formally granted. Furthermore, I have no evidence to indicate the effect, if any, of these applications on the appeal proposals before me. Consequently, I am unable to attach any weight to these applications in the determination of Appeal A.

6. The Borough of Colchester was awarded official city status in November 2022 and after the determination of the planning application relevant to Appeal B. The decision notice, appeal correspondence and relevant planning policy refer to Colchester Borough Council. However, the Council is now known as Colchester City Council which I have referred to in the banner heading above.

7. Prior to my determination of this appeal, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 which replaced the previous version. I have taken into account the relevant provisions of the revised version in the determination of these appeals.

## Background

8. The Colchester Quarry complex straddles an unclassified road known as Warren Lane and is situated to the south of Stanway, Colchester. Within the complex the land parcels are known as Stanway Hall Farm (Stanway) and Bellhouse/Abbotstone. These parcels lie east and west of Warren Lane respectively.

9. The appeal proposals relate to two separate parcels of land, FWFF (shown on Drawing No. M19.163.D.005 Rev B – Northern Extension Proposals) and Wallace Lagoon (shown on Drawing No. M19.D.163.004 Rev D – Wallace Lagoon Proposals), located within the Stanway part of the quarry. Quarrying

activity at Stanway has progressed in recent years under planning permission ESS/23/14/COL which was essentially granted for "Extension of Stanway Quarry on land at Five Ways Fruit Farm".

10. The FWFF land parcel comprises the northern element of the Stanway Quarry complex and lies to the south-east of Dyers Road. Relatively recently constructed residential development lies immediately to the north of Dyers Road. Outline planning permission (Ref: 182220) for residential development has been granted for up to 420 dwellings to the east of the appeal site and would be located immediately to the south of Dyers Road. The Wallace Lagoon land parcel is located in the south-western corner of the Stanway Quarry and is bounded to the west by Warren Land and to the south by the relatively highly trafficked Maldon Road.

11. The most recent planning permission for the site (Ref: ESS/52/17/COL) was issued in January 2019 and was a Variation of Condition permission allowing extended operating hours of the dry silo mortar plant situated within the centre of the quarry complex. The extant quarry permission is time limited to 31st December 2037 with the final quarry restoration accommodating a combination of water bodies, nature conservation interests; planting and grazing land with public access rights of way. The planning permission was accompanied by a legal agreement which carried forward, through an accompanying Deed of Variation, an existing Section 106 Legal Agreement (linked to ESS/23/14/COL). This agreement includes provision for an extended long term management and maintenance of the restored land beyond the 2037 date.

12. The approved restoration, landscaping and aftercare provisions for the land use aspects of the quarry were set out on Drawing No: B030/00639 entitled "Concept Restoration Scheme" dated February 2014. In simplistic terms, the plan shows that restoration of the FWFF area would comprise a mix of open water in two water bodies with a fruit orchard around the norther perimeter of the western water body and acid grassland/agricultural land between the two water bodies. The Wallace Lagoon land parcel area would be restored to accommodate a mix of open water, acid grassland and broadleaf woodland.

## Main Issues

13. The main issues are:

- Appeal A - the effect of the variation of condition 3, pursuant to planning permission ESS/52/17/COL, on the character and appearance of the area following the restoration of the mineral extraction operations.

- Appeal B - the effect of the proposed development on the provision of open space within the local area.

## Reasons

*Character and appearance – Appeal A*

14. With regard to Appeal A, the proposals seek the replacement of the approved "Concept Restoration Scheme" Plan (Drawing No: B030/00639) pursuant to planning permission ESS/52/17/COL with Drawing No: M19.163.D.003 Rev H "Landscape Masterplan". This would have the effect of Drawing No:

M19.163.D.003 Rev H becoming the new overall restoration scheme for the Stanway Quarry.

15. The Council indicates that the appeal site falls within the B3 South Colchester Farmland Plateau Landscape Character Area (Colchester Borough Landscape Character Assessment 2005). This identifies the landscape character as being an area of sloping farmland plateau which is seen as being fragmented in its structure and use. The landscape strategy for this area is to conserve and enhance landscape features. This includes opportunities and guidelines such as the restoration of sand and gravel pits in ways which enhance local landscape character, as well as the strengthening and restoration of hedgerows where depleted.

16. Although not referred to by the County Council, the Appellant has drawn my attention to the "Landscape Capacity of Settlement Fringes in Colchester – August 2005" Report (Landscape Capacity Report). The report assesses the potential capacity of the landscapes around the main settlements to accommodate future strategic development needs, taking into account the value of these landscapes and their sensitivity to change. This identifies that the appeal site falls within "The Colchester Southern Fringes – Fringe 1 Eight Ash to Gosbecks – Landscape Setting Area 3". The Report assesses the area as having moderate landscape sensitivity and being of low landscape value with potential capacity to accommodate development.

*Appeal A - FWFF land parcel*

17. The approved Concept Restoration Scheme in respect of the FWFF land accommodates various habitat types with Orchard planting to the south facing slopes of the western lagoon. This would create an open and tranquil environment, particularly for users of the restored public rights of way and proposed permissive footpath that would be provided through the centre of the restored site.

18. The approved restoration scheme for this part of the site is entirely consistent with the overall landscape restoration objective of the Colchester Quarry as a whole and the objectives of the Colchester Borough Landscape Character Assessment 2005. In my view, the approved restoration scheme would provide an important degree of open character in the vicinity of Dyers Road and where significant residential development has occurred and is proposed to occur in the future.

19. With regard to the FWFF area, the appeal proposals would provide for the repositioning of a proposed hedge to run along the northern edge of a proposed permissive footpath that would extend roughly west to east across the centre of the restored site. Part of the previous approved orchard would be used for horticultural production under polytunnels, the placement of solar panels and Christmas Tree plantation with a small part of the approved fruit orchard retained. The 'Jersey Cudweed Protection Area' and the 'Mosaic Wildlife/Reptile Area' on the eastern part of the FWFF area would be replaced by asparagus cultivation and horticultural production. Additional hedgerow planting would delineate the different uses identified above and to augment proposed planting along the northern boundary of the site. The proposed Landscape Masterplan also shows that three water tanks, approximately 5m in diameter, would be place towards the eastern boundary of the FWFF area.

20. Whilst I recognise that horticultural/agricultural uses may have occurred on the FWFF land parcel in the past, the surrounding area has since undergone significant landscape and landuse change as a consequence of the mineral and residential development. The approved Concept Restoration Scheme would provide for a landform and landuse that would provide long term landscape enhancement that would be particularly widely visible to future footpath users.

21. In contrast, the appeal proposals would create small parcels of intensive horticultural and agricultural uses in the vicinity of Dyers Road. The visual element of these uses would be further detracted by the provision of polytunnels and solar panels which are identified as the Appellant's future intentions on the Landscape Masterplan. The proposals would have an unacceptable urbanising effect on the FWFF land parcel that would not be in keeping with the overall landscape strategy and character that is set out in the Concept Restoration Scheme.

22. The urbanising effect of the proposals would be particularly visible to users of the future footpath network. In such views, I consider that the proposed introduction of small intensive areas of horticultural production and built structures would unacceptably interrupt the open character that would otherwise be achieved in the Concept Restoration Scheme.

23. The Landscape Character Assessment recognises that the landscape within which the appeal site lies is considerably fragmented and therefore a cohesive approach to enhancement and restoration of the landscape should be undertaken where possible. The appeal proposals in respect of the FWFF land parcel would have the effect of fragmenting the more continuous open elements around the south facing slope of the western lagoon that would be achieved by the implementation of the approved Concept Restoration Scheme. An over-intensification of the landscape would occur that would degrade the landscape pattern and structure that is proposed as part of the approved scheme. Consequently, this would not comply with the landscape strategy set out in the Landscape Character Assessment.

*Wallace Lagoon land parcel - Appeal A*

24. I turn now to the Wallace Lagoon land parcel. The proposed Landscape Masterplan shows that in this area the existing landform would be retained and the western portion of the approved lagoon base would be used for the growing of Christmas Trees with the central area being used to accommodate approximately 12 moveable polytunnels that would occupy an area of approximately 100m x 105m. The eastern portion of the Wallace Lagoon area would be retained as a wetland with additional screen planting of broadleaf woodland placed along the boundary with Warren Lane and Maldon Road.

25. I observed at my site visit that the character of the area surrounding the Wallace Lagoon is heavily influenced by the proximity of existing horticultural production, the Colchester Zoo to the south and the surrounding road network. Owing to existing ground levels within this part of the site, the proposed polytunnels and Christmas Tree planting area would not be readily visible in any surrounding views, particularly following the maturity of the proposed additional screen planting. Any tranquillity that this part of the site may enjoy is significantly disrupted by traffic noise arising from Maldon Road.

26. In my view, taking into account the character of surrounding land uses and topography, the use of this small part of the appeal site for horticultural use and Christmas Tree Plantation would not have a material detrimental impact on the character and appearance of the appeal site or surrounding area following restoration work. It would not result in the same degree of landscape fragmentation that would occur as a consequence of the FWFF proposals. Furthermore, it would assimilate with the surrounding character of horticultural uses and would have no material effect on the overall landscape objectives of the current approved "Concept Restoration Scheme". As such, I do not consider that there are any sustainable reasons that warrant the dismissal of Appeal A insofar as it relates to the Wallace Lagoon land parcel only.

*Character and appearance conclusions*

27. Taking the above factors into account, I consider that the proposed change to the approved Concept Restoration Scheme on the FWFF land parcel would introduce more dominant horticultural/agricultural uses. This would result in the land having the appearance of fragmented and intensive commercial uses that would unacceptably erode the objectives of a more open character as shown on the approved restoration scheme as a whole. As such, the proposal in respect of the FWFF land parcel would be detrimental to the character and appearance of the area following the restoration of the mineral extraction operations.

28. I have also taken into account the Landscape Capacity Report. The primary objective of this report was to assess potential capacity to accommodate new development. In my view, its findings were for such specific purposes and its was not intended to replace or undermine the objectives of the Colchester Borough Landscape Character Assessment 2005, particularly the objective to seek opportunities to enhance local landscape character partly through the restoration of sand and gravel pits. As such, I have attached little weight to the Landscape Capacity Report.

29. The proposal in respect of the FWFF land parcel would therefore be contrary to Policies S1, S10, S12 and DM1 of the Essex Minerals Local Plan (2014), Policy SP1 of the North Essex Authorities' Shared Strategic Section 1 Plan (2021) and Policy DM15 of the Colchester Borough Local Plan 2017–2033 (the Local Plan). These policies, amongst other things, require that development should provide opportunity to improve/enhance the environment and that minerals development should not have an unacceptable impact on the appearance, quality and character of the landscape and countryside.

30. For the reasons set out above, I have found that the proposed change to the approved Concept Restoration Scheme in respect of the Wallace Lagoon land parcel would not be detrimental to the character and appearance of the area following the restoration of the mineral extraction operations. Consequently, there would be no conflict with the policies set out above.

31. The County Council has also identified that the proposed development would be contrary to Policies S3 and DM2 of the Essex Minerals Local Plan (2014). Policy S3 relates to Climate Change and requires minerals development to demonstrate measures to minimise greenhouse gas emissions. However, I have no evidence to indicate how the appeal proposals would conflict with the provisions of this policy. Consequently, I have attached no weight to any potential conflict with this policy.

32. Policy DM2 identifies that legal agreements will be required to mitigate and control the effect of minerals development and to enhance the environment. I deal with this potential policy conflict in my consideration of the need for a planning obligation below.

*Open space - Appeal B*

33. With regard to Appeal B, the proposed development would involve the relocation of a horticultural storage building from land that this subject to the outline planning permission for residential development. This would be re-constructed in a proposed small compound area that would be located to the south of Dyers Road and close to the western boundary of the appeal site. The proposed building would measure approximately 18.4m x 12.24m with a height of 4.8m to the roof apex. The proposal also includes the installation of external water tanks to be used for irrigation purposes.

34. Given my findings above regarding the proposed changes to the restoration scheme in respect of the FWFF land parcel, it follows that the proposed horticultural storage building and water tanks would contribute further to an unacceptable urbanisation effect on the intended character of the area following restoration of the site in accordance with the Concept Restoration Scheme.

35. Moreover, the approved Concept Restoration Scheme makes no provision this part of the site being used for the erection of a building and water tanks. Therefore, the proposed development is somewhat interdependent on me finding that the change to the restoration scheme in respect of the FWFF land parcel being acceptable. As I have found that the relevant proposed changes to the restoration scheme to be unacceptable, then it also follows that there would be no provision to enable the construction of the proposed development, particularly as it would further exacerbate the detrimental impact on the character and appearance of the area, as identified above.

36. Whilst I note that the City Council's Landscape Officer raised no objections to the proposed development, the appeal site is partly allocated as Public Open Space in the Local Plan. Although I recognise the Appellant's concerns regarding the future public use of the site, the fact remains that it is clearly partly allocated in the adopted development plan as Public Open Space.

37. Policy DM17 of the Local Plan sets out that the Council will protect and enhance the existing open spaces and provides a criteria-based approach for the consideration of development proposals on such land. Amongst other things, this identifies that development, including change of use, of any existing or proposed public or private open space will not be supported unless it can be demonstrated that alternative and improved provision will be created in a suitable location elsewhere. In addition, the proposal should not result in the loss of an area important for its amenity or contribution to the green infrastructure network or to the character of the area in general. Proposals resulting in a loss of open space must additionally demonstrate that there is an identified excess provision within the catchment of the facility and that no likely shortfall is expected within the plan period.

38. I have no evidence to indicate that there is an excess provision of Public Open Space in the locality or that alternative and improved provision can be made. The construction of the building and water tanks would clearly prejudice the

use of part of the site as Public Open Space, contrary to the provisions of the policy. Furthermore, the proposal would contribute to the harm that I have identified above to the character and appearance of the FWFF land parcel area on restoration of the mineral extraction operations.

39. I have taken into account the Appellant's view that the appeal site is currently in private ownership and is not currently, or likely to be, accessible to the public. However, this is not a factor which outweighs the harm that would be caused to the future provision of open space within the local area. The existing allocation is consistent with the emphasis at paragraph 15 of the National Planning Policy Framework (the Framework) on a plan-led system. This objective would be fundamentally undermined by the proposed development.

40. Policy DM17 is clear in that its provisions relate to public and private open space. In this case, I consider that the proposed development would unacceptably erode the cohesive nature of the proposed green infrastructure network that would be achieved on the restoration of the quarry site.

41. Notwithstanding the Appellant's concerns, the fact that access to the public has not historically been granted does not mean that this will not be forthcoming in the future. Furthermore, there is no substantive evidence before me to indicate why the site could not be made accessible in the future. I also have no evidence to indicate the rationale behind the Local Plan allocation at the time and the considerations that were taken into account during the examination process.

42. Consequently, the fact remains that part of the site is allocated as Public Open Space in the Local Plan and the proposed building and tanks would conflict with this allocation. Therefore, the fact that access to the relevant part of the site may not be granted is not a consideration which outweighs my findings that the appeal proposal would be contrary to the Public Open Space allocation in the Local Plan.

43. In conclusion, I have no compelling evidence to demonstrate that the requirements of the relevant criteria of the policy have been met sufficient to allow loss of this allocated public open space. Consequently, I find that the proposed development would have a harmful impact on the future provision of open space within the local area, with no certainty that suitable alternative and improved provision can be provided locally. As such, it would be contrary to Policy DM17 of the Local Plan.

*Other matters*

*Heritage Assets*

44. I have taken into account the concerns of Historic England relating to Appeal A regarding the potential impact of the change to the restoration scheme on the significance of the scheduled ancient monument to the east of the appeal site known as 'Gosbecks Iron Age and Romano-British site' and, in particular, that part of the monument known as 'Gryme's Dyke' which is located along the eastern side of the appeal site boundary. Although the County Council did not identify such concerns as reason to refuse planning permission, it is nonetheless necessary for me to consider the impact of the proposals on such heritage assets.

45. The proposals would not result in any material changes to the proposed final topography in the vicinity of Gryme's Dyke and would not result in the loss of any trees or hedgerows. The main change would be as a consequence of the replacement of an area proposed to be restored as a Jersey Cudweed Protection Area to asparagus production and the provision of an access track and additional hedgerow planting.

46. I do not consider that the proposals in respect of the Wallace Lagoon land parcel would have any impact on the setting of the scheduled ancient monument due to the intervening distance and lack of any direct intervisibility.

47. I am mindful of the advice provided in paragraph 205 of the Framework which sets out that great weight should be given to the monument's conservation irrespective of whether any potential harm amounts to substantial harm or less than substantial harm to its significance. In this case, I have no evidence in the form of a Heritage Impact Assessment that would provide a technical assessment of the impact of the proposals on the setting of the scheduled ancient monument. Such assessment would satisfy the requirements of paragraph 200 of the Framework.

48. It is clear that the advice of Historic England is entirely consistent with paragraph 200 of the Framework in that such assessment should have been prepared to assess the impact of the proposals on the historic environment. Whilst there are no changes to the restoration contours, there are changes to the future use of land and the provision of access tracks.

49. I accept that the proposed changes to the approved Concept Restoration Scheme would be unlikely to affect the significance of the scheduled ancient monument. Nonetheless, in this particular instance no such assessment was undertaken and insufficient information has therefore been provided to determine any potential harm or otherwise. Consequently, the proposals in respect of the FWFF land parcel would be contrary to the provisions of paragraph 200 of the Framework. However, my finding in this regard does not alter the main issues which have been identified as the basis for the determination of Appeal A, particularly in circumstances where the County Council has not objected to the appeal scheme with regard to heritage impact.

*Ecology*

50. I have taken into account the concerns of the County Ecologist that insufficient information has been provided to determine the effect of the proposals on ecological interests. I am also aware of matters in relation to protected species. A Biodiversity Net Gain (BNG) calculation, undertaken using DEFRA Metric 3.1, was included with the application (using the state of the site at the date of application as the baseline) and the new proposed afteruses as the end state. This established that the change is positive with regard to habitat creation (3.5%) and hedgerow planting/creation (523%) and 24% loss of 'rivers' which includes the existing drainage ditches in the active quarry area.

51. The County Council's Officer Report identified that the County Ecologist was of the view that the application should have been supported by adequate up-to-date ecological assessments, but I have no evidence to indicate to the extent to which the additional information provided by the Appellant satisfied the Council's concerns. Furthermore, other than concerns that the proposals would 'squeeze' habitats and would result in a redistribution of habitats and a loss of

areal coverage, I have no detailed technical evidence provided by the County Council in this appeal to substantiate it's concerns.

52. Although the BNG calculation does not compare the approved restoration scheme with the new proposals, it nonetheless demonstrates overall gain. In this case, some of the ecological benefits that would be achieved by either the approved or proposed scheme cannot be attained until restoration works are complete. As such the proposed scheme would result in changes to future potential as opposed to direct habitat loss. Although I recognise the benefits of comparisons between the two schemes, I accept the Appellant's view that the baseline 'pre-development' biodiversity value is the application date.

53. I have taken into account the Appellant's suggestion that the proposed woodland planting area in the FWFF area could be replaced with a mosaic wildlife/reptile habitat and I agree that such change would not be contrary to the Wheatcroft Principles. In addition, I observed at my site visit that the proposed protection area for Jersey Cudweed, shown on the approved Concept Restoration Scheme, is currently used for asparagus production.

54. I have considered that impact of the proposals on the approved restoration scheme for the Wallace Lagoon land parcel. At my site visit it was apparent that this future wetland area was not holding any significant volume of water. I agree with the Appellant that, in the absence of a waterbody, a natural succession of scrub to woodland would occur over a period of decades.

55. The proposals in respect of the Wallace Lagoon land parcel would reduce the extent of the approved habitat and its margins. The existing landform would be retained so that no significant engineering operations would be undertaken other than grading of the base to provide a level platform. The base of the lagoon area appears to have dried out and the pond is naturally receding to the eastern area. The proposals would reduce, but concentrate, the area of wetland to the east where it appears to be naturally migrating in any event and, to some extent, eliminate the likelihood of the longer term succession to woodland. Consequently, I consider that the appeal proposals would likely have some benefit in securing the longer-term potential of the use of part of this area as a wetland.

56. I have considered the proposed loss of the Jersey Cudweed Protection Area in the north eastern corner of the FWFF land parcel and its replacement with Asparagus growing. The Appellant's photographic evidence demonstrates that Jersey Cudweed is relatively prolific in parts of the appeal site. Whilst there would be loss of a dedicated area for Jersey Cudweed, given its proliferation in other parts of the site, I do not consider that such loss would contribute to any sustainable reason to dismiss this appeal on the relevant grounds of ecological impact.

57. The proposals would result in some degree of future loss in some habitat creation potential when considered against the approved Concept Restoration Plan. However, taking into account the overall BNG over the baseline, I do not consider that there would be any material conflict with the provisions of paragraph 186 (d) of the Framework. Consequently, I consider that the County Council's concern regarding the effect of the proposals on ecological interests does not alter the main issues which have been identified as the basis for the determination of Appeal A.

*Requirement for a Deed of Variation*

58. The existing Section 106 Legal Agreement (S106 Agreement) dated 23 March 2015 (linked to ESS/23/14/COL) provides a requirement for a scheme to address a further 5 years management of the restored land beyond the statutory 5 year aftercare period through the requirement for a Long Term Management Plan. There is considerable disagreement between the County Council and the Appellant regarding the need for a Deed of Variation to the S106 Agreement in respect of Appeal A.

59. The County Council maintains that a Deed of Variation to the existing S106 Agreement should be submitted to support Appeal A. Such approach is considered to be consistent to that taken in other recent decisions by the County Council in the determination of planning applications for variations to conditions of planning permissions relating to the Colchester Quarry, as identified earlier in this decision.

60. The Appellant maintains that the submission of a Deed of Variation is not necessary. In particular, the Appellant considers that the definition of "the Planning Application", as set out in the S106 agreement, enables the County Council to provide for written confirmation of a variation of a condition on the planning permission ( ESS/23/14/COL) without the need for a formal Deed of Variation. Despite protracted discussion during the determination of Appeal A, there remains no common ground on this matter between the main parties.

61. In an effort to resolve this matter the County Council has suggested that it would not object to a planning condition being imposed, were I minded to allow Appeal A, to extend the aftercare period to 10 years following restoration of the quarry. The Appellant and the quarry operator have confirmed their agreement to such condition.

62. However, paragraph 2, Schedule 5 of the Town and Country Planning Act 1990 (the 1990 Act) sets out that "the aftercare period" means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed". Section 336 of the 1990 Act sets out that "prescribed" (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act. Consequently, I take "prescribed " to mean as set out in regulations made by the Secretary of State. I have no evidence to suggest that the Secretary of State may have made such regulations nor is this matter covered by Section 315 of the 1990 Act or the Town and Country Planning (Minerals) Regulations 1995.

63. Having regard to the above, paragraph 2, Schedule 5 of the 1990 Act does not expressly identify that the aftercare time period can be prescribed in some other way. Consequently, I am of the view that an aftercare period of five years is the maximum period that can be secured by a planning condition.

64. I have carefully considered the submissions of the parties regarding the need for a Deed of Variation. Given the wording of the definition of "the Planning Application" in the S106 Agreement, I agree with the Appellant that it is not strictly necessary for a Deed of Variation to be entered into. The definition of "the Planning Application" also includes any application under Section 73 of the 1990 Act. In my view, it would be possible for the S106 Agreement to be

annotated to note that any permission granted pursuant to Appeal A was subject to the provisions of the agreement.

65. In conclusion on this matter, I do not consider that a planning condition to extend the aftercare period to 10 years following restoration of the quarry could be lawfully imposed. In my view, there is sufficient flexibility within the definition of "the Planning Application" as set out in the S106 Agreement for the County Council to confirm the 'varied planning application' without the need for a formal Deed of Variation. I note that the Appellant is supportive of such approach and it is at the discretion of the County Council on how it wishes to proceed in this matter. Consequently, the County Council's view regarding the need for a Deed of Variation carries no weight in my determination of Appeal A.

**Benefits of the Proposals**

66. I have taken into account the economic benefits of the proposals that would accrue to the longer term vitality and viability of the Appellant's existing horticultural business. I also recognise the County Council's views that the Appellant was originally supportive of the original approved restoration proposals set out in the Concept Restoration Scheme and has continued to operate the business without the use of the appeal site.

67. In this case, I have no detailed evidence to demonstrate any longer term effect on the viability of the horticultural business as a consequence of the adherence to the approved restoration scheme. I recognise that an area of the Appellant's land holding, including the current position of the horticultural storage building, will likely be required for highway and infrastructure work in the near future to enable the commencement of residential development. However, I have no detailed supporting evidence to demonstrate how the proposals are economically critical to the future operation of the business, particularly in circumstances where the appeal site has not been available for horticultural use for some time and where other land in the control of the Appellant has been subsequently released for residential development.

68. Furthermore, I have no compelling evidence before me to indicate how, or the extent to which, the approved Concept Restoration Scheme may be considered to be prejudicial to the future operation of the horticultural business. Accordingly, I have attached only moderate weight to the economic benefits of the proposed development.

**Planning Balance**

69. I have found that the appeal proposals in respect of the FWFF land parcel would be detrimental to the character and appearance of the area following the restoration of the mineral extraction operations. However, with regard to the Wallace Lagoon Area, the appeal proposals would not result in landscape harm that would be significantly detrimental to the character and appearance of the area.

70. I have attached moderate positive weight to the economic benefits of the appeal proposals. However, this does not outweigh the unacceptable harm that would be caused to the character and appearance of the area as a consequence of the proposed restoration scheme in respect of the FWFF land parcel.

71. With regard to Appeal B, I have found that the proposed development would have a harmful impact on the future provision of open space within the local area, with no certainty that suitable alternative and improved provision can be provided locally. Notwithstanding the fact that the acceptability of the proposed development is to some extent dependent on me finding the changes to the restoration scheme in respect of the FWFF land parcel acceptable, the harm to the future provision of open space, particularly in an area which has, and likely will, be subject to significant residential development would not be outweighed by the economic benefits of the proposal.

72. I do not consider that the appeal proposals would have a material detrimental impact on ecology or heritage matters of an extent that would warrant the dismissal of these appeals on those grounds. Consequently, I have attached neutral weight to these matters.

73. The provisions of s79(1)(b) of the 1990 Act provides powers to issue a split decision by allowing one part of a scheme and dismissing the rest in circumstances where the two relevant parts are clearly severable, both physically and functionally. I consider that the FWFF land parcel and the Wallace Lagoon land parcel are severable physically and functionally. Therefore, for the reasons set out above, there are powers available for me to issue a split decision on Appeal A and there are no sustainable reasons the warrant the dismissal of Appeal A insofar as it relates to the Wallace Lagoon area only.

**Conditions**

74. The advice contained within the Planning Practice Guidance (PPG) makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission. In allowing this appeal and granting planning permission in respect of the Wallace Lagoon land parcel only, I have considered the conditions imposed on the 2019 (Ref: ESS/52/17/COL) planning permission and the additional conditions suggested by the County Council in Appeal A. I shall impose all those conditions that I consider remain relevant and meet the advice contained within paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG.

75. Condition No.1 relates to notification of the commencement of the Marks Tey A12 road refurbishment contract. Whilst it could now be argued that the requirements of this condition have been fully discharged, I have no evidence to confirm that this is the case. Consequently, I have reimposed the County Council's suggested condition. Condition No.2 is necessary to specify the duration of the permission and the date by which plant and equipment should be removed and the site restored.

76. A condition (No. 3) is necessary to set out the approved plans and details in the interests of certainty. Part 'F' of this condition has been amended from that proposed by the County Council to reflect the fact that Appeal A has only been allowed in relation to the Wallace Lagoon land parcel. For the same reason a condition (No. 4) is necessary regarding the availability of plans on site and the layout design and operation of the quarry workshops, inert recycling facility and concrete plant, sand processing plant and dry silo mortar plant (No. 11). Also, in the interests of clarity and to enable appropriate monitoring of the site activities to ensure compliance, conditions are necessary

to provide details of the working programme and that only those waste materials defined in the application details shall enter the site (Nos. 17 and 20).

77. In the interests of highways and pedestrian safety, conditions are necessary to define the access arrangements, maintenance of visibility splays, surfacing of sections of the haul road, vehicle wheels and haul road cleansing arrangements, sheeting of loaded vehicles and limitations on the number of lorry movements (Nos. 5, 6, 7, 8, 9 and 10).

78. A condition is necessary to ensure that any archaeological interest in the site is investigated and recorded (No. 12). Conditions are necessary in order to safeguard ecological interests and ensure appropriate biodiversity mitigation (Nos. 13, 14, 15 and 16).

79. In order to ensure the timely restoration of the Abbotstone/Bellhouse site and to protect the amenity and living conditions of nearby residents, conditions are necessary that provide a time limit on the importation of minerals to the site from Bellhouse Quarry and that only sand and gravel from Stanway Quarry, Five Ways Fruit Farm and the Bellhouse Site shall be processed at the application site (Nos. 18 and 19).

80. In order to protect the living conditions of nearby residents, conditions are necessary that stipulate the operating hours of the quarry complex, the dry silo mortar plant, the recycling yard and concrete plant (Nos. 21, 22, 23 and 24). For the same reason, conditions are necessary relating to details of external lighting (Nos. 25 and 26).

81. Conditions are also necessary to safeguard the living conditions of nearby local residents by prescribing temporary and operational noise limits, noise monitoring arrangements, noise mitigation details, and the provision of non-tonal reversing alarms and effective silencers (Nos. 27, 28, 29, 30, 31 and 32). For the same reason but also to protect the environment and in the interests of certainty, conditions are necessary requiring the implementation of dust mitigation measures; aggregate stockpiling arrangements; ensuring that no sands other than indigenous sands excavated from Colchester Quarry and Five Ways Fruit Farm shall be processed within the dry silo mortar plant; skip storage arrangements; ensuring that no waste other than dry, inert waste, road plannings and construction waste, as defined in the application details, shall be processed at the inert recycling facility site; arrangements for the removal of waste residues from the inert recycling process; prevention of handling, processing or storage of waste outside of the permitted inert recycling facility site area; restrictions on the stockpile height of stored material in the inert recycling facility; ensuring that only indigenous sand and gravel excavated from the quarry is processed in the processing plant; and, ensuring that the workshops are used solely for the repair of plant and vehicles associated with the quarry (Nos. 33, 35, 36, 37, 38, 39, 40, 41, 42, and 43). The County Council's suggested condition No. 40 appears to be a repeat of condition No 39. Consequently, I have deleted suggested condition No. 40.

82. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national Permitted Development rights unless there is clear justification to do so. However, given the locational context of the site in relation to residential and commercial properties I consider that a condition

which, amongst other things, places restrictions on the installation of buildings, fixed plant or machinery is reasonable and necessary (No. 34).

83. In order to ensure that the restored site is adequately drained and to minimise the potential for pollution of the surface water, groundwater and aquifer systems, conditions are necessary requiring the submission of details of under-soil, surface water and groundwater drainage systems and the implementation of the approved details (Nos. 44 and 45).

84. Condition No. 46 is necessary requiring groundwater monitoring in order to ensure the integrity of the land drainage regime and to minimise the potential for pollution of the surface water, groundwater and aquifer systems and to ensure that there is no significant resultant drawdown on nearby domestic wells. For the same reason, a condition is necessary requiring the implementation of water pumping details (No 48).

85. To prevent contamination of the soil resource and pollution of the drainage and groundwater regime, a condition is necessary requiring the storage of any fuel, lubricant or/and chemical storage vessel to be installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessel's capacity (No. 47).

86. In order to protect the soil resource, preserve the integrity of the soil structure, to ensure the visual integrity of the site and assist in noise mitigation, conditions are necessary regarding the height of temporary stockpiles of soil-making material; implementation of details of stripping or handling of topsoil or subsoil; ensuring that no topsoil, subsoil, overburden or soil making material is removed from the site; ensuring that only appropriate machinery handles soils; prevention of excavation and the prevention of soils being traversed by heavy vehicles unless all available topsoil and subsoil has been stripped from the relevant part of the site; placement of soil bunds in accordance with submitted details; restrictions on soil bund heights; and, measures to ensure that subsoil and/or soil making material is only stripped or handled when it is in a dry and friable condition (Nos. 49, 50, 51, 52, 53, 54, 55, 56, 57 and 58).

87. To ensure that the soil resources are replaced appropriately and to secure the eventual restoration of the site to achieve the proposed aftercare use, conditions are necessary requiring the monitoring of final subsoil placement, ensuring that imported waste materials and the finished surface are free from large solid objects and stones, and that any such material lying on the final restored surface of the areas of the site to be restored to grassland and orchard are removed (Nos. 59, 60 and 61).

88. Conditions 62 and 63 are necessary to ensure implementation of the restoration scheme and to ensure the replanting of any shrubs or trees that die, are diseased or removed within a duration of 5 years following initial planting. However, I have amended sub-section 'b' of suggested condition No. 62 from that proposed by the County Council to reflect the fact that the appeal has only been allowed in relation to the Wallace Lagoon land parcel and I have deleted part 'iv' of the condition in relation to the 'Northern Extension Proposals'.

89. A condition requiring the implementation of the approved aftercare scheme is necessary in relation to the land outside of the Wallace Lagoon land parcel (No. 64). The County Council's suggested conditions Nos. 66, 67 and 69 relate

to land inside the FWFF land parcel. Given that Appeal A is dismissed in respect of this land, these conditions are not necessary. I have therefore deleted them.

90. I have no evidence to suggest that the Appellant would likely seek "dereliction or abandonment" of the horticultural operations on the Wallace Lagoon land parcel. As such, I do not consider that a condition akin to the suggested condition No. 69, but in respect of the Wallace Lagoon land parcel, is necessary.

91. In order to ensure reclamation of the site in the event of the discontinuance of mineral extraction or depositing of wastes for six months in the period specified in Condition 2, a condition is necessary requiring the submission and implementation of a restoration scheme (No. 65 – formerly No 68 in the County Council's proposed list of conditions).

**Conclusion**

92. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that Appeal A (Ref: APP/Z1585/W/22/3312874) should be dismissed insofar as it relates to the Five Ways Fruit Farm land parcel (shown on Drawing No. M19.163.D.005 Rev B – Northern Extension Proposals). Appeal A should be allowed only in so far as it relates to the Wallace Lagoon land parcel (shown on Drawing No. M19.D.163.004 Rev D – Wallace Lagoon Proposals). Appeal B (Ref: AAP/A1530/W/22/3310281) should be dismissed.

*Stephen Normington*

INSPECTOR

## CONDITIONS SCHEDULE

### Notification Requirements

1) At least seven days written notice shall be given to the Waste Planning Authority of the commencement of the Marks Tey A12 road refurbishment Contract Colchester Quarry site preparation works (for the purposes of this requirement implementation shall be the delivery to site of the Cement Bound Granular Material Plant and/or importation of road concrete off the road contract).

(For the purposes of this condition siting of the Cement Bound Granular Material Plant and/or importation of road concrete off the road contract shall be taken as implementation of planning permission ref no: ESS/31/22/COL which will then supersede planning permission ref no: ESS/52/17/COL).

### Duration

2) The following cessation dates shall apply:

a) The sand and gravel processing plant and hardstanding, Dry Silo Mortar plant, concrete plant, access roads, weighbridge, workshop and related infrastructure shall be removed from site by October 2026, and the areas shall be restored as soon as practicable and in any case no later than 31 December 2037 in accordance with the schemes approved under Planning permission ref no: ESS/23/14/COL Conditions 19 (Landscaping) and 21 (Working programme and restoration) and shall be the subject of aftercare for a period of 5 years in accordance with the scheme approved under Condition 22 (Aftercare) of Planning permission ref no: ESS/23/14/COL.

b) The Cement Bound Granular Material plant, as detailed in Condition 3D to this permission, shall be removed from the land within 18 months of the date of notification of implementation as required by Condition 1 of this permission.

c) The development permitted shall be completed and the land restored by 31st December 2037, other than The Five Ways Fruit Farm area which shall be completed by 30th April 2026, by which time extraction and tipping operations shall have ceased, any building, plant, machinery, foundation, hard standing, roadway, structure or erection in the nature of plant or machinery used in connection with the development as permitted shall have been removed, including the inert recycling operations and associated mobile plant parking area, and the site shall have been restored in accordance with the schemes approved under Planning permission ref no: ESS/23/14/COL Conditions 19 (Landscaping) and 21 (Working programme and restoration) and shall be the subject of aftercare for a period of 5 years in accordance with the scheme approved under Condition 22 (Aftercare) of Planning permission ref no: ESS/23/14/COL.

### Approved Details

3) Except as may be modified or required by the other conditions of 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:

A. Planning Application ESS/23/14/COL from SLR dated 9th May 2014 comprising:

i. Planning application dated 09 May 2014,

ii. Emails from SLR dated:

a. 20 May 2014 (17:37) and

b. 29 August 2014,

ii. Environmental Statement Volume 1 dated 09/05/14;

iv. Environmental Statement Volume 2 Appendices, as updated by the Ward Associates Confirmatory Ecological Surveys dated July 2014,

v. the letter from SLR dated 21 July 2014

vi. Environmental Statement Volume 3 Non-technical summary dated 02/05/14,

vii. Environmental Statement Volume 4 LVIA Figures dated May 2014,

viii. Planning Statement Volume 5 dated 09/05/14 and drawing numbers:

ix. Site Location Plan M10.139)(i).D.027 dated Feb 2014;

x. Application Site Plan B030/00644A dated May 2014;

xi. Current Situation (Jan 2014) B030/00630 dated February 2014;

xii. Block Phasing B030/00631 dated February 2014;

xiii. Initial Works/Phase 1 B030/00632 dated February 2014;

xiv. Phase 2 B030/00633 dated February 2014;

xv. Phase 3 B030/00634 dated February 2014;

xvi. Phase 4 B030/00635 dated February 2014;

xvii. Phase 5 B030/00636 dated February 2014;

xviii. Phase 6 B030/00637 dated February 2014;

xix. Phase 7 B030/00638 dated February 2014;

xx. Concept Restoration Scheme B030/00639 dated February 2014;

xxi. Existing on-site Restoration Materials B030/00641 dated April 2014;

xxii. Schematic Sections B030/00643 dated May 2014;

xxiii. Recycling Area Mobile Plant Parking B30 2013-05 MPa dated 17 May 2013;

As amended by the following details reserved by those conditions of Planning permission ref no: ESS/23/14/COL; addressing:

a) For Condition 4(f) (Mobile Plant Parking Area) – The plant shall be laid out in accordance with the details of the scheme approved on 3rd July 2015 under Condition 4(f) of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

b) For Condition 11 (Skips) – The storage of skips shall be laid out in accordance with the details of the scheme approved on 3rd July 2015 under Condition 11 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

c) For Condition 19 (Landscape and Restoration) – The restoration and landscaping of the land shall be carried out in accordance with the details of the scheme approved on 5th June 2015 under Condition 19 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) E-mail from Graham Jenkins dated 26/05/15 and

iii) Lafarge Tarmac report entitled "restoration information to discharge Condition 19 Landscaping and Restoration Scheme" report ref no: PSL REF:M10.139(1)R 007

d) For Condition 22 (Aftercare) – The aftercare of the land shall be carried out in accordance with the details of the scheme approved on 5th June 2015 under Condition 22 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) E-mail from Graham Jenkins dated 26/05/15 and

iii) Lafarge Tarmac Aftercare Management Scheme entitled "Restoration Information relating to Discharge Planning Condition 22" report ref no: PSL REF: M1 139(1) R 006.

e) For Condition 24 (Archaeology) – The archaeological works shall be carried out in accordance with the details of the scheme approved on 5th June 2015 under Condition 24 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Colchester Archaeological Trust "Written Scheme of Investigation (WSI) for archaeological excavation and detailed monitoring and recording on land at Fiveways Fruit Farm, Dyers Road, Stanway, Colchester Essex" dated 24/03/15 subject to:

a) On going monitoring and recording in accordance with the Written Scheme of Archaeological Investigation.

f) For Condition 45 (Groundwater) – The provision of surface and groundwater drainage shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 45 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) MJCA report entitled "Scheme for managing surface water and foul water at Stanway Quarry" report reference: LT/ST/CJC/2846/01 dated March 2015.

The applicant's attention is drawn to the attached letter from the Flood and Water Management Service dated 12th May 2015 and accompanying Ordinary Watercourse Standing Advice and Revised SUDS standing advice documents.

g) For Condition 46 (Groundwater) – The monitoring of groundwater shall take place in accordance with the details of the scheme approved on 3rd July 2015 under Condition 46 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission SS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

h) For Condition 47 (Lighting) – The external lighting shall take place in accordance with the details of the scheme approved on 3rd July 2015 under Condition 47 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

i) For Condition 48 (Reptiles) – The reptile mitigation programme shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 48 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Accompanying Ward Associates Consulting Ecologists report entitled "Reptile Mitigation Strategy in fulfilment of Condition 48 Permission ESS/23/14/COL Stanway Quarry, Colchester 2015 Lafarge Tarmac" dated March 2015.

j) For Condition 49 (CEMP: Biodiversity) – The Biodiversity mitigation programme shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 49 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Ward Associates Consultant Ecologists report entitled "Construction Environmental Management Plan (CEMP

Biodiversity) in fulfilment of Condition 49 Permission ESS/23/14/COL Stanway Quarry, Colchester 2015 Lafarge Tarmac" dated March 2015.

k) For Condition 50 (Biodiversity Management Plan) – The Biodiversity management shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 50 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Ward Associates Consultant Ecologists report entitled "Biodiversity Management Plan in fulfilment of Condition 50 Permission ESS/23/14/COL Stanway `Quarry, Colchester 2015 Lafarge Tarmac" dated March 2015.

l) For Condition 53 (Noise) – The Noise Monitoring shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 53 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Accompanying SLR report entitled "Noise Monitoring Scheme" for Condition 53 dated March 2015.

iii) E-mail from Graham Jenkins dated 26/05/15 and

iv) Drawing No: 830/535 entitled "Current Situation" dated March 2011 annotated with the identified eight noise monitoring locations.

m) For Condition 56 (Dust) – The Dust mitigation shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 56 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Accompanying SLR report entitled "Dust Management Scheme" for Condition 56 dated April 2015.

iii) E-mail from Graham Jenkins dated 26/05/15.

n) For Condition 64 (Pumps) – The provision of pumps shall take place in accordance with the details of the scheme approved on 3rd July 2015 under Condition 64 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

B. As amended by the Non-Material Amendment for a cabin relocation comprising:

i) The Application form from Tarmac Trading Ltd dated 3rd October 2017.

ii) Letter from Tarmac Limited dated 3rd October 2017,

iii) Drwg No: B030_00664 entitled "Site Plan" dated 09/05/2017 as replacement for the previous site office layout as depicted on the existing approved Phasing plans ref nos: Drwg No: B030/00632 -00638 dated February 2014.

Subject to removal of the structures and car parking facilities in line with the requirements of Conditions 58 and 59 of the principal permission ESS/23/14/COL.

C. As amended by the Planning application ESS/52/17/COL as set out in:

i) Letter from Tarmac dated 5th October 2017.

ii) Planning application form from Tarmac Building Products Ltd dated 05/10/2017.

iii) Drwg No: B030-00678-A entitled "DSM application site plan" dated 05/04/2018.

iv) WBM Acoustic Consultants noise report entitled "Tarmac Colchester Quarry DSMP Extended Working Hours – Noise Assessment" ref no: 3715/DSMP dated 30th September 2017

D. As amended by Planning application ESS/31/22/COL as set out in:

i) Matthews and Son LLP letter dated 30/03/22.

ii) Application form from Tarmac Trading Ltd dated 30/03/22

iii) Matthews and Son LLP report entitled "Planning Statement Variation of Conditions 10, 11 (b) and 23 of Planning Consent ESS/52/17/COL or the Recycling Area and Submission of Details Pursuant to Conditions 31 and 32 Colchester Quarry, Warren Lane, Stanway, Essex, CO3 0NN" dated March 2022

iv) WBM Acoustic Consultants report entitled "Noise Assessment Technical Note, March 2022" ref no: 5244 dated 17/03/22.

v) SLR report entitled "Proposed Cement Bound Granular Material Plant Air Quality Assessment" reference no: SLR Ref: 416.05731.00227 Version No: v2.0 March 2022

vi) SLR report entitled "Dust Management Plan" reference no: SLR Ref: 416.05731.00227 Version No: 2022 Update March 2022

vii) The Hurlstone Partnership report entitled "Proposed Temporary Variation of Conditions 10, 11(B) and 23 of Permission ESS/52/17/COL Recycling Centre At Colchester Quarry, Warren Lane, Stanway, Essex, CO3 0NN Transport Statement" reference no: JPH/220102/Final Dated March 2022

viii) Drwg No: B30/494 entitled "Site Plan: Relocation of existing inert recycling Facility"" dated April 2005

ix) Drwg No: BH/614 entitled "Elevations of Proposed Recycling Plant, Producing a Cement Bound Granular Material (CBGM)" Dated 25/03/22

x) Drwg No: BH/613/A – Sheet 1 entitled "Site Plan of Proposed Recycling Plant, Producing a Cement Bound Granular Material (CBGM)" dated 26/05/22

xi) Drwg No: BH/513/A – Sheet 2 entitled "Site Layout Plan of Proposed Recycling Plant, Producing a Cement Bound Granular Material (CBGM)" dated 26/05/22.

E. As amended by Planning application ESS/05/22/COL as set out in:

i) Covering Letter from Enovert dated 05/01/22.

ii) Planning application form from Tarmac Ltd c/o Enovert dated 05/01/22.

iii) Planning application from Enovert South Limited entitled "Colchester Quarry Complex, Warren Lane, Stanway, Section 73 application to vary:

Condition 2(a) of planning permission ref: ESS/27/17/COL dated 6th June 2019 to allow additional time until 31st December 2026 to complete landfilling operations, with associated variations to conditions 2(b) and 20 to allow localised amendments to the approved restoration levels to accommodate a reduced scheme of landfill in relation to the Bellhouse and Abbotstone Quarry landfill sites

Consequential variations to:

Condition 1 of Review of Minerals Permission ref: ESS/48/01/COL(R) dated 13th April 2005 to allow additional time until 31st December 2028 to complete restoration of the Colchester Quarry complex

Condition 2(b) and 18 of planning permission ref: ESS/52/17/COL dated 4th January 2019 to allow additional time until 30th April 2026 to complete the extraction and restoration of Five Ways Fruit Farm and to allow additional time until 31st December 2026 to complete the importation of mineral from Bellhouse Quarry into Stanway Quarry" dated January 2022.

iv) Drwg No: Plan 1c entitled "Bellhouse Extension of Landfill End Date Application Boundary – Stanway" dated 10/12/21.

F. As amended by Planning application ESS/82/22/COL, in relation to the Wallace Lagoon proposals only, as set out in:

i) Covering letter from Pleydell Smithyman dated 07/09/22, insofar as it relates to the Wallace Lagoon proposals only.

ii) Application form from Five Ways Fruit Farm Ltd dated 25/08/22.

iii) Drwg No: M19.163.D.003 Rev H entitled "Landscape Masterplan" dated May 2021, insofar as it relates to the Wallace Lagoon proposals only.

iv) Drwg No: M19.163.D.004 Rev D entitled "Wallace Lagoon Proposals" dated August 2022

**Availability of Plans**

4) 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.

**Access**

5) All vehicular access and egress to and from the site shall be from Warren Lane, as indicated on drawing ref. B030/00630 dated February 2014. No other access shall be used by vehicles entering or exiting the site.

6) The hedge along the eastern side of Warren Lane shall be kept cut back to ensure that a minimum visibility splay of 2.4m x 142m to the south (left) and 2.4m x 215m to the north (right), measured in metres, is provided from the centreline of the access to the site, the location of which is shown on drawing ref B030/00630 dated February 2014, and in accordance with the recommendations detailed at section 12.3.2 of the Environmental Statement Volume 1 dated May 2014.

7) The surfaced section of the access and internal haul road from the junction with Warren Lane to the waste tipping area shall be kept free of mud, dust and detritus to ensure that such material is not carried onto the public highway.

8) No commercial vehicle shall leave the site unless its wheels and underside chassis are clean to prevent materials, including mud and debris, being deposited on the public highway.

9) No loaded vehicles shall leave the site un-sheeted.

**Vehicle Movements**

10) A) Other than in B) below no more than 70 (35 in/35 out) lorry movements of up to 32 tonnes gross vehicle weight (fully laden) carrying waste associated with the recycling yard (shown on drawing ref B030/00630 dated February 2014) shall enter and leave the site over one day. The monthly number of laden vehicles arriving at the site in association with the recycling yard (shown on drawing ref B030/00630 dated February 2014) shall be provided to the Waste Planning Authority within 21 days of a written request for that information.

B) For the duration of the Marks Tey A12 Road Contract, as notified under Condition 1 of this permission, no more than 108 (54 in/54 out) lorry movements of up to 32 tonnes gross vehicle weight (fully laden) carrying crushed concrete and/or Cement Bound Granular Material associated with the plant (shown on drawing ref BH/613/A – Sheet 1 entitled "Site Plan of Proposed Recycling Plant, Producing a Cement Bound Granular Material (CBGM)" dated 26/05/22) shall enter and leave the site over one day. For clarity the operating times for such lorry movements are set out in Condition 23 below.

**Layout Design and Operation of Quarry Workshop; Inert Recycling Facility and Concrete Plant, Sand Processing Plant and Dry Silo Mortar Plant**

11) a) The layout, design and operation of the quarry workshop shall take place in accordance with the details approved under planning permission ref ESS/05/09/COL dated 30 June 1999, comprising the application form dated 22 February 1999, supporting photographs, elevation measurements and specification details submitted with the cover letter from Tarmac dated 18 March 1999, Supporting Statement ref B30/P/rp/301 dated February 1999 and drawing ref B30/246, except as varied by conditions attached to this planning permission.

b) The layout, design and operation of the inert recycling facility shall:

- For the duration of the use of the recycling area for the A12 Marks Tey Road Contract, as notified under Condition 1 of this permission, take place in accordance with the details shown on drawing ref BH/613/A – Sheet 1 entitled "Site Plan of Proposed Recycling Plant, Producing a Cement Bound Granular Material (CBGM)" dated 26/05/22); BH/513/A – Sheet 2 entitled "Site Layout Plan of Proposed Recycling Plant, Producing a Cement Bound Granular Material (CBGM)" dated 26/05/22, and BH/614 entitled "Elevations of Proposed Recycling Plant, Producing a Cement Bound Granular Material (CBGM)" Dated 25/03/22.
- After the end of use of the recycling area for the A12 Marks Tey Road Contract the site layout shall revert back to those details approved under planning permission ref ESS/17/05/COL dated 29 March 2006, comprising the application dated 20 April 2005, the attached narrative dated 20 April 2005 and drawing ref B30/494 dated April 2005.

c) The layout, design and operation of the concrete plant shall take place in accordance with the details approved under planning permission ref ESS/04/14/COL dated 27 January 2014, comprising the application dated 19/12/13, covering letter from SLR Consulting Ltd. Dated 19/12/13 and drawing numbers 3598-SK130814-01 dated 14/08/13, 3598-SK130814-02 dated 14/08/13, 3598-SK131031 dated 31/10/13 and B30/628 dated December 2013, except as varied by conditions attached to this planning permission.

d) The layout, design and operation of the sand and gravel processing plant shall take place in accordance with the details approved under planning permission ref ESS/21/02/COL dated 09 August 2002, comprising the application dated 29 March 2002, supporting statements dated 29 March 2002 and drawing refs B30/402 dated March 2002, B30/404 dated March 2002, B30/405 dated March 2002 and B30/406 dated March 2002 and the hardstanding shall take place in accordance with the details approved under planning permission ref ESS/06/05/COL dated 29 June 2005, comprising the application dated 15 February 2005, the attached narrative and drawing refs B30/302 dated October 2002, B30, BH/591 dated 11/02/05 and BH/592 dated 11/02/05, except as varied by conditions attached to this planning permission.

e) The layout, design and operation of the dry silo mortar plant shall take place in accordance with the details approved under planning permission ref ESS/07/05/COL dated 05 May 2006, comprising the application dated 15 February 2005, the attached narrative and explanatory statement, together with drawing refs B30/419 dated May 2002, BH/587 dated 11/02/05, BH/588 dated 02/02/05, B30/589 dated 01/02/05 and BH/590 dated 03/01/05, except as varied by conditions attached to this planning permission.

f) The layout and design of the mobile plant parking area shall take place in accordance with the details of the scheme approved on 3rd July 2015 under Condition 4(f) of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

**Archaeology**

12) The archaeological works shall be carried out in accordance with the details of the scheme approved on 5th June 2015 under Condition 24 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Colchester Archaeological Trust "Written Scheme of Investigation (WSI) for archaeological excavation and detailed monitoring and recording on land at Fiveways Fruit Farm, Dyers Road, Stanway, Colchester Essex" dated 24/03/15 subject to:

a) On going monitoring and recording in accordance with the Written Scheme of Archaeological Investigation.

**Ecological Interests**

13) No removal of trees or hedgerows shall be carried out on site between 1st March and 31st September inclusive in any year, unless an ecological assessment has been undertaken, submitted to and approved in writing by the Mineral Planning Authority, which confirms that no species would be adversely affected by the removal of trees or hedgerows.

14) The reptile mitigation programme shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 48 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Accompanying Ward Associates Consulting Ecologists report entitled "Reptile Mitigation Strategy in fulfilment of Condition 48 Permission ESS/23/14/COL Stanway Quarry, Colchester 2015 Lafarge Tarmac" dated March 2015.

15) The Biodiversity mitigation programme shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 49 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Ward Associates Consultant Ecologists report entitled "Construction Environmental Management Plan (CEMP Biodiversity) in fulfilment of Condition 49 Permission ESS/23/14/COL Stanway Quarry, Colchester 2015 Lafarge Tarmac" dated March 2015.

16) The Biodiversity management shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 50 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Ward Associates Consultant Ecologists report entitled "Biodiversity Management Plan in fulfilment of Condition 50 Permission ESS/23/14/COL Stanway Quarry, Colchester 2015 Lafarge Tarmac" dated March 2015.

**Working Programme**

17) a) The Stanway Quarry and Five Ways Fruit Farm areas, as shown on drawing ref B030/00630 dated February 2014, shall be progressively and concurrently worked and restored in a phased manner as shown on drawings B030/00632 dated February 2014, B030/00633 dated February 2014, B030/00634 dated February 2014, B030/00635 dated February 2014, B030/00636 dated February 2014, B030/00637 dated February 2014, B030/00638 dated February 2014, ensuring that no more than 3 phases are open at any one time in the Five Ways Fruit Farm area.

b) Within Stanway Quarry, restoration shall take place progressively and sequentially in the phased manner cited on drawings B030/00632 dated February 2014, B030/00633 dated February 2014, B030/00634 dated February 2014, B030/00635 dated February 2014, B030/00636 dated February 2014, B030/00637 dated February 2014, B030/00638 dated February 2014.

c) Details of the amount of waste deposited and remaining void space at the site shall be submitted to the Mineral Planning Authority for the period 1 January to 31 December each year. Such details shall specify:

i. The type of waste deposited at the site during the year;

ii. The quantity and type of waste deposited at the site during the year in tonnes;

iii. The volume in cubic metres (m3) of the remaining void space at 31st December.

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

**Importation from Bellhouse Quarry**

18) No mineral shall be imported to the site from Bellhouse Quarry beyond the timescale of 31 December 2026 permitted under ref ESS/03/22/COL.

19) No minerals shall be imported to the site other than via conveyor from the Bellhouse Site and only sand and gravel from Stanway Quarry, Five Ways fruit Farm and the Bellhouse Site shall be processed at the application site.

**Waste Importation**

20) No waste other than those waste materials defined in the application details shall enter the site.

**Environmental Protection**

**Hours of Operation**

21) Operating hours of the quarry complex site shall:

(i) Except in emergencies to maintain safe quarry/landfill working (which shall be notified to the Mineral Planning Authority as soon as practicable) and other than water pumping, servicing, environmental monitoring, maintenance and testing of plant, and

(ii) except for the operation of the dry silo mortar plant, recycling facility; concrete plant and Cement Bound Granular Material Plant in the Recycling Area, the operating hours for which are stated in Conditions 22; 23, and 24 of this permission;

no operations, including vehicles greater than 3.5t gvw entering or exiting the site, shall be carried out outside of the following times:-

0700 hours to 1800 hours Monday to Friday; and;

0700 hours to 1300 hours Saturdays

except stripping, movement, temporary or permanent placing of soils, which shall not be carried out outside of the following times:

0730 hours to 1800 hours Monday to Friday; and;

0730 hours to 1300 hours Saturdays

For the avoidance of doubt, no operations other than water pumping and environmental monitoring shall take place on Sundays, Bank or Public Holidays.

22) The dry silo mortar plant, as indicated on drawing ref M10.139(i).D.036 dated February 2014 and as approved under Condition 3 of this permission, shall not operate unless between the following times:

0500 hours to 2200 hours Monday to Friday;

0500 hours to 1800 hours Saturdays

and at no other times or on Sundays, Bank or Public Holidays, except for emergency maintenance (which shall be notified to the Mineral Planning Authority as soon as practicable).

No deliveries of HGV movements to and from the site shall be made other than between the following times:

0700 hours to 1800 hours Monday to Friday;

0700 hours to 1230 hours Saturdays

And at no other times or on Sundays, Bank or Public Holidays, unless otherwise approved in writing by the Mineral Planning Authority.

23) For the recycling yard, as indicated on drawing ref M10.139(i).D.036 dated February 2014 and as approved under Condition 3 of this permission:

a) During the period of the Marks Tey A12 road improvement contract, as notified under Condition 1 of this permission, the recycling area shall only be occupied and used for the road improvement program works and the operating times shall be limited to:

0700 hours to 1830 hours Monday to Friday;

0700 hours to 1830 hours Saturdays

0800 hours to 1830 hours Sundays for 20 weekends in any calendar year during the road contract period.

No deliveries/HGV movements to and from the application land shall be made other than between the above times.

For clarity the periods required for Sunday working shall be notified in advance to the Waste Planning Authority in writing.

b) Following the cessation of the road contract program as identified in a) above the recycling area operating times shall be limited to:

0700 hours to 1830 hours Monday to Friday;

0700 hours to 1230 hours Saturdays

and at no other times or on Sundays, Bank or Public Holidays, except as provided for above or for emergency maintenance and monitoring of the plant (which shall be notified to the Waste Planning Authority as soon as practicable). For the avoidance of doubt, all vehicles in excess of 7.5 tonnes gross vehicle weight (GVW) and contractor's vehicles in excess of 3.5 tonnes gvw associated with the operations shall not be allowed to enter or leave the site outside of these times.

24) The concrete plant, as approved under condition 3, including vehicles greater than 3.5t gvw entering or exiting the site, shall not operate unless between the following times:

0700 hours to 1800 hours Monday to Friday; and;

0700 hours to 1300 hours Saturdays

And at no other times or on Sundays, Bank or Public Holidays except for emergency maintenance and monitoring of the plant (which shall be notified to the Mineral Planning Authority as soon as practicable).

**External Lighting - Quarry Complex**

25) The external lighting shall take place in accordance with the details of the scheme approved on 3rd July 2015 under Condition 47 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

**External Lighting – Recycling Area and Cement Bound Granular Material Plant Project**

26) No commissioning of the Cement Bound Granular Material Plant shall take place until a scheme addressing the lighting recommendations as set out in Section 3 "Impacts/Mitigation Measures" of the Kedd Limited report entitled "Preliminary Ecological Appraisal walkover in respect of Colchester CBGM Plant" Report Ref – KD.CBGM.ER.001 dated July 2022 has been submitted to and received the written approval of the Waste Planning Authority.

**Noise - Temporary**

27) For temporary operations, the free field Equivalent Continuous Noise Level (LAeq, 1 hr) at noise sensitive properties listed under Condition 28 shall not exceed 70 dB LAeq 1hr. Measurements shall be made no closer than 3.5 metres from the façade of properties or other reflective surface and shall be corrected for extraneous noise.

Temporary operations shall not exceed a total of eight weeks in any continuous duration 12-month duration. Five days written notice shall be given to the 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 – Quarry Complex (inclusive of all site activities)**

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

| Location | dB LAeq 1hr 0700-1800 Mon to Fri and 0700-1300 Saturday | dB LAeq 1hr 13:00-18:30 Saturday, and 0800-1830 Sundays (During CBGM operating period as defined in Condition 23) | dB LAeq 1hr 0500 to 0700 and 1800-2200 hours Monday to Friday, and 0500-0700 and 1230-1800 hours Saturday (other than when the CBGM is operating as permitted by Condition 23) |
|---|---|---|---|
| Furze Hill | 51 | 44 | 42 |
| The Bungalow (presumed Dyers Road) | 52 | | |

| | | | |
|---|---|---|---|
| Dyers Road | 53 | | |
| Egremont Way | 51 | | |
| Heath Road/Grymes Dyke Way | 50 | | |
| Randoms (Maldon Road) | 53 | 46 | 42 |
| Wisemans Farm | 50 | | 42 |
| The Nook (Bridleway 17) | 50 | | |
| The Warrens (Maldon Road) | 53 | 46 | 42 |
| Bullace/Arborfields | 55 | | |
| The Bungalow Maldon Road | 55 | 53 | |
| Fountain Cottage | 55 | | |
| Bellhouse Farm | 52 | | |
| Springfields (Maldon Road) | 53 | 46 | |
| Priory Lodge (Maldon Road, near Warrens) | 53 | 46 | |
| Milneburg (adjacent to Bullace) | 55 | 51 | |
| Heckford Lodge (near Warrens) | 53 | 46 | |

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

For clarity the noise levels above shall apply to the cumulative noise from all operations across the Colchester Quarry site.

Site management measures shall be implemented in accordance with details which have been submitted to and approved in writing by the Mineral Planning Authority to ensure that the above noise levels shall not be exceeded.

**Noise – Monitoring**

29) Noise levels shall be monitored at three monthly intervals applying to both the general quarry activities and the operation of the Cement Bound Granular Material plant in the recycling area from the date of the commencement of development at noise sensitive properties to be agreed in advance in writing by the Mineral Planning Authority.

The results of the monitoring shall include LA90 and LAeq noise levels, the prevailing weather conditions, details and calibration of the equipment used for measurement and comments on other sources of noise which affect the noise climate. All noise measurements taken shall have regard to the effects of extraneous noise and shall be corrected for any such effects. The monitoring shall be carried out for at least 2 separate durations during the working day and the results shall be submitted to the Mineral Planning Authority within 1 month of the monitoring being carried out. The frequency of monitoring shall not be reduced, unless otherwise approved in writing by the Mineral Planning Authority.

For clarity in respect of the Cement Bound Granular Material plant compliance monitoring shall include demonstration against both weekday and weekend noise limits.

**Recycling Area – Cement Bound Granular Material Plant Noise Barrier Protection**

30) No commissioning of the Cement Bound Granular Material Plant shall take place until a scheme for the provision of a noise barrier has received the written approval of the Mineral Planning Authority. The scheme shall provide the following information regarding the barrier design:

a. barrier location, materials and construction

b. demonstration of compliance with the minimum specification from BS5228-1:2009+A1:2014:

- a mass per unit of surface area in excess of about 7 kg/m2;
- there are no gaps at the joints;
- the length of a barrier is typically at least five times greater than its height; and
- no part of the noise source will be visible from the receiving point.

The barrier protection as approved shall then be constructed and completed prior to the commissioning of the Cement Bound Granular Material Plant and maintained thereafter during the life of the development.

31) No vehicles and/or mobile plant used exclusively on site shall be operated unless they are fitted with and uses non-tonal (e.g., broadband) reversing alarms. Such alarms shall be maintained in working order.

32) No vehicle, plant, equipment and/or machinery shall be operated at the site unless it has been fitted with and uses an effective silencer. All vehicles, plant and/or machinery shall be maintained in accordance with the manufacturer's specification at all times.

**Dust**

33) The Dust mitigation shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 56 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) Accompanying SLR report entitled "Dust Management Scheme" for Condition 56 dated April 2015.

iii) E-mail from Graham Jenkins dated 26/05/15.

**Permitted Development Rights**

34) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no building, structure, fixed plant or machinery shall be installed, extended, erected or replaced on the site beyond the areas which benefit from Permitted Development rights as identified on drawing ref B30/489 dated February 2005 without the benefit of express planning permission.

**Stockpiling**

35) No freestanding stockpiles of aggregate shall be stored within the dry silo mortar plant operational area, as defined within the details approved under Condition 3.

**Use of sand in Dry Silo Mortar Plant**

36) No sands other than indigenous sands excavated from Colchester Quarry and Five Ways Fruit Farm shall be processed within the dry silo mortar plant as indicated on drawing ref M10.139 (i).D.036 dated February 2014 and as approved under Condition 3.

**Storage of Skips**

37) Skips shall only be stored in accordance with the details of the scheme approved on 3rd July 2015 under Condition 11 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

**Inert Waste Recycling Plant**

38) No waste other than dry, inert waste, road plannings and construction waste, as defined in the application details, shall be processed at the inert recycling facility site (as indicated on drawing ref M10.139(i).D.036 dated February 2014 and as approved under Condition 3).

39) All waste residues from the inert recycling process shall be removed from the inert recycling facility application site (as approved under condition 4b)) each week or once the skips approved under condition 11 of this permission have been filled to capacity. The waste residues shall then be placed directly into the void at Stanway Quarry if suitable for use in restoration or removed immediately from the Stanway Quarry and Five Ways Fruit Farm application site in any other case.

40) No handling, processing or storage of waste shall take place outside of the permitted inert recycling facility site area, as indicated on

drawing ref M10.139(i).D.036 dated February 2014 and as approved under Condition 3.

41) No materials in the inert recycling facility site area (as indicated on drawing ref M10.139(i).D.036 dated February 2014 and as approved under condition 4) shall be stockpiled or stored at a height greater than 6.1 metres when measured from adjacent ground level and shall then only be located within the site boundary approved under Condition 3

**Processing Plant Area**

42) No sand and gravel other than indigenous sand and gravel excavated from Colchester Quarry and Five Ways Fruit Farm shall be processed in the processing plant, shown as 'sand and gravel plant' on drawing ref M10.139(i).D.036 dated February 2014 and as approved under condition 4d.

**Workshops**

43) The quarry workshop, approved under Condition 3A, shall be used solely for the repair of plant and vehicles associated with Colchester Quarry and Five Ways Fruit Farm and no other use.

**Surface Water Drainage and Pollution Protection**

44) Within 12 months of the placement of topsoil in any phase of restoration, details of under-soil drainage and associated surface drainage for the restored land shall be submitted to the Mineral Planning Authority for its approval in writing. The development shall be implemented in accordance with the approved details.

45) The provision of surface and groundwater drainage shall take place in accordance with the details of the scheme approved on 5th June 2015 under Condition 45 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) MJCA report entitled "Scheme for managing surface water and foul water at Stanway Quarry" report reference: LT/ST/CJC/2846/01 dated March 2015.

The applicant's attention is drawn to the attached letter from the Flood and Water Management Service dated 12th May 2015 and accompanying Ordinary Watercourse Standing Advice and Revised SUDS standing advice documents.

46) The monitoring of groundwater shall take place in accordance with the details of the scheme approved on 3rd July 2015 under Condition 46 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission ESS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

47) Any fuel, lubricant or/and chemical storage vessel whether temporary or not shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the

vessel's capacity. All fill, draw and overflow pipes shall be properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the life of the development hereby permitted.

48) The provision of pumps shall take place in accordance with the details of the scheme approved on 3rd July 2015 under Condition 64 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 19th May 2015 and

ii) Lafarge Tarmac report entitled "Planning permission SS/23/14/COL Discharge of Conditions Volume 8", dated May 2015.

**Soil Handling**

49) The height of temporary stockpiles of soil-making material shall not exceed the height of boundary bunds.

50) 51. No stripping or handling of topsoil or subsoil shall take place unless in accordance with the details of topsoil and subsoil origins, intermediate and final locations for use in agricultural restoration, quantities, depths and areas involved as annotated on drawing refs B030/00632 dated February 2014, B030/00633 dated February 2014, B030/00634 dated February 2014 and B030/00635 dated February 2014.

51) No topsoil, subsoil, overburden or soil making material shall be removed from the application site.

52) No handling of soil shall take place unless it is carried out using machinery of a type that is advocated by, and that is operated in accordance with, the MAFF (2000) Good Practice Guide for Handling Soils.

53) No excavation shall take place nor shall any area of the site be traversed by heavy vehicles or machinery for any purpose or operation except for the purpose of stripping that part or stacking of topsoil in that part unless all available topsoil and subsoil has been stripped from that part and stored in accordance with the details set out under Condition 51 of this permission.

54) Prior to the commencement of any works or development within the Five Ways Fruit Farm site (except for soil stripping in Phase 1 Stage A as shown on drawing ref B030/00632 and the construction of the bund itself) 'soil bund 12' shall be fully constructed in accordance with the method, heights and timings set out on drawing ref B030/00632. All soil bunds shall be fully constructed in accordance with the method, heights and timings set out on drawings B030/00632, B030/00633, B030/00634, B030/00635 and B030/00636. The soils bunds shall be maintained in accordance with the details set out in the drawings referenced in this condition.

55) 'Soil bund 12' as shown on drawing ref B030/00632 shall be no more than 2m in height when measured from adjacent ground level.

56) 'Soil bund 13' and 'soil bund 14' as shown on drawing ref B030/00632 shall be no more than 3m in height when measured from adjacent ground level.

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

(a) During the months November and March (inclusive) or

(b) When the upper 300 mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS 1377:1977 – 'British Standards Methods Test for Soils for Civil Engineering Purposes'; or when there are pools of water on the soil surface.

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

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

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

60) The uppermost 500mm of imported waste materials shall be free from any large solid objects and shall be both graded with the final tipping levels hereby approved and ripped using appropriate machinery to a minimum depth of 500mm. The waste shall be in turn covered with a minimum of 1000mm even depth of soil forming material. The finished surface shall be left free from rubble and stones greater than 150mm in diameter which would otherwise hinder cultivation.

61) All stones and other materials in excess of 150mm in any dimension shall be picked and removed from the final restored surface of the areas of the site to be restored to grassland and orchard, prior to the commencement of the aftercare period.

**Restoration and Landscaping**

62) The restoration and landscaping of the land shall be carried out in accordance with:

a) the details of the scheme approved on 5th June 2015 under Condition 19 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) E-mail from Graham Jenkins dated 26/05/15 and

iii) Lafarge Tarmac report entitled "restoration information to discharge Condition 19 Landscaping and Restoration Scheme" report ref no: PSL REF:M10.139(1)R 007.

b) the revisions to the landscaping and restoration scheme as provided for within ESS/82/22/COL for the Five Ways Fruit Farm land parcel as set out in:

i) Covering letter from Pleydell Smithyman dated 07/09/22, insofar as it relates to the Wallace Lagoon proposals only.

ii) Drwg No: M19.163.D.003 Rev H entitled "Landscape Masterplan" dated May 2021, insofar as it relates to the Wallace Lagoon proposals only.

iii) Drwg No: M19.163.D.004 Rev D entitled "Wallace Lagoon Proposals" dated August 2022.

63) Any tree or shrub forming part of a landscaping scheme approved in connection with the development under Condition 19 of planning permission number ESS/23/14/COL that dies, is damaged, diseased or removed within a duration of 5 years following original planting shall be replaced during the next available planting season (October to March inclusive) with others of similar size and species, unless the Mineral Planning Authority gives written consent for any variation.

**Aftercare for the land outside of the Wallace Lagoon land parcel**

64) The aftercare of the land shall be carried out in accordance with the details of the scheme approved on 5th June 2015 under Condition 22 of planning permission reference ESS/23/14/COL comprising:

i) The letter from SLR dated 26th March 2015 and

ii) E-mail from Graham Jenkins dated 26/05/15 and

iii) Lafarge Tarmac Aftercare Management Scheme entitled "Restoration Information relating to Discharge Planning Condition 22·"report ref no: PSL REF: M1 139(1) R 006.

**Cessation**

65) In the event of mineral extraction or depositing of wastes being discontinued for six months in the period specified in Condition 2 of this permission and in the opinion of the Mineral Planning Authority constitutes a permanent cessation within the terms of Paragraph 3 of Schedule 9 of The Town and Country Planning Act 1990 (as amended) then the land as disturbed within the application footprint 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 three months from the Mineral Planning Authority's issue of written notice that it is of the opinion that mineral extraction and/or infilling has not taken place in the six month period and shall include the requirements of Conditions 60 -64 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.