



ADDITIONAL INFORMATION AND REBUTTAL

**AN APPLICATION FOR PLANNING PERMISSION FOR
A CLAY QUARRY AND CONSTRUCTION MATERIALS RECYCLING
FACILITY (CMRF) FOR CD&E WASTES INCLUDING THE USE OF AN
EXISTING ACCESS FROM LOXWOOD ROAD, THE EXTRACTION AND
EXPORTATION OF CLAY AND RESTORATION USING SUITABLE
RECOVERED MATERIALS FROM THE CMRF TO NATURE
CONSERVATION INTEREST INCLUDING WOODLAND,
WATERBODIES AND WETLAND HABITATS**

AT

**LAND WITHIN PALLINGHURST WOODS TO THE
EAST OF LOXWOOD IN WEST SUSSEX**



**Planning Application Reference: WSCC/030/21
December 2021**

6 Abbey Court, High Street, Newport, Shropshire, TF10 7BW

PREAMBLE

THIS DOCUMENT CONTAINS SECTION A AND SECTION B.

'**SECTION A**' IS A FORMAL SUBMISSION OF VOLUNTARY ADDITIONAL INFORMATION THAT WAS PREVIOUSLY SUBMITTED IN DRAFT TO WEST SUSSEX COUNTY COUNCIL PLANNING DEPARTMENT ON THE 16th & 30th NOVEMBER AND 8th DECEMBER 2021. THIS ADDITIONAL INFORMATION WAS ISSUED TO ADDRESS THE STATUTORY CONSULTEE RESPONSES TO THE PLANNING APPLICATION DURING THE PERIOD FROM AUGUST TO NOVEMBER 2021.

'**SECTION B**' IS A FORMAL RESPONSE TO WSCC'S REGULATION 25 NOTICE ISSUED ON THE 10th DECEMBER 2021.

SECTION A CONSISTS OF **257** PAGES

SECTION B CONSISTS OF **18** PAGES

NOTE: WSCC'S Regulation 25 Notice requires the submission of one document. Therefore, this one document is an amalgamation of size A4 portrait & landscape pages with size A3 and A1 landscape pages. This consolidated document has been created with Nitro pdf software. If viewed with some other pdf software e.g. Adobe Acrobat, there may be screen size distortion when switching from one page size to another, which will need to be corrected using the zoom function in the software.

ADDITIONAL INFORMATION

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SECTION B

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SECTION A

SECTION A 1

PERTINENT EMAILS SENT TO WSCC DURING THE APPLICATION PROCESS

Chris Williamson

From: Chris Williamson
Sent: 22 July 2021 09:46
To: Chris Bartlett
Cc: PL Planning Applications; [REDACTED]
Subject: RE: Loxwood Clay Pits Ltd - Full Planning Application
Attachments: Redacted website enquiry 22 July 2021.pdf

Good morning Chris,

Further to my last email on Tuesday this week, reproduced below. I called you yesterday and left a voicemail for you to call me back.

As you have confirmed that the validation checks have been carried out, our client would now like their planning application to be registered so that the formal consultation process can commence.

On Friday night last week, our client reported to me that Chichester District Cllr [REDACTED] also the official spokesperson for StoptheClayPit.org, had posted the following message on social media:

“GET READY TO OBJECT!!

Some of you may have already heard this (sad) news, but we just wanted to put you on warning that we understand that Loxwood Claypits / Protreat have now submitted their application to West Sussex County Council (WSCC).

We don't know what the application will be for yet, but the public consultation last year was for a commercial development of claypits with waste recycling in the woods.

The application is “pending validation” by WSCC to ensure it is complete, and it will then be formally ratified and published on their web site (expected early next week). As of this morning there is nothing on the website.

Once it is published, Stop Loxwood Clay Pit Campaign group will review the application. Then we will circulate a summary of the key policy objection points and some guidance notes on ‘how to object’ – please look out for this on email & social media channels.

We then need as many people as possible to submit their own formal objection to WSCC – please note that you have just 21 days from the date of publication to submit an objection.

Anyone over the age of 18 can object, and this can be done by hard copy letter, by email or via the WSCC web site. Please encourage all family, friends, neighbours etc etc to do so, as the highest possible number of objections is critical

Such sad news that it appears this is happening, but let's hope we can collectively bring any development plans for these tranquil woodlands to a halt.

Thanks, in anticipation of your support.”

We are obviously not aware of the internal, perhaps informal, communication process that takes place before a planning application is publicised to everyone but the fact that [REDACTED] is wearing two hats, has been known to us since he set up the Change.org petition in July last year.

Nevertheless, as a result of his social media post, our client is now receiving enquiries via their website and a typical redacted example is attached.

This does not portray very well and creates a perception that there is some cloak and dagger process that our client is using to avoid public consultation.

In light of the fact that [REDACTED] information to the public, could I please ask you to take the appropriate steps to register the planning application this week.

Best wishes

Chris

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088



E: cwilliamson@protreat.co.uk

W: www.protreat.co.uk and www.environmentalconsultant.uk.com

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From: Chris Williamson <cwilliamson@protreat.co.uk>

Sent: 20 July 2021 07:39

To: Chris Bartlett [REDACTED]

Cc: PL Planning Applications <planning.applications@westsussex.gov.uk>; [REDACTED]

Subject: Re: Loxwood Clay Pits Ltd - Full Planning Application

Good morning Chris,

Any further progress with this? It would be good to get the ball over the line, more than 2 weeks has elapsed since the planning application fee was paid.

If you require anything else please let me know.

Best wishes

Chris

Sent from Chris Williamson's iPhone

Chris Williamson

From: Chris Williamson
Sent: 11 August 2021 19:06
To: Chris Bartlett
Subject: Pallinghurst Woods - for your information
Attachments: Songhurst Woods Notice.pdf; linkedinbutton.jpg; cidimage002.png@01D77EE2.2FAC03F0; cidimage003.png@01D77EE2.2FAC03F0

Good evening Chris,

As you know, Loxwood Clay Pits proposed development only occupies c. 5% of Pallinghurst Woods. The owners of this 'working woods' have had Forestry Commission felling and replantation licences for the last 30 years, such that, apart from last year, forestry work has been carried out each year.

This year's work will obviously take place well outside of and away from LCP's planning redline area but on the basis that the work may attract some attention this year and some may get the wrong perception, I thought I should make you aware of the following notice that has been posted throughout the woods.

If you have any queries please let me know.

Best wishes

Chris

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088
E: cwilliamson@protreat.co.uk
W: www.protreat.co.uk and www.environmentalconsultant.uk.com

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Sent from Chris Williamson's iPhone

Chris Williamson

From: Chris Williamson
Sent: 17 August 2021 13:21
To: Chris Bartlett
Subject: FW: Songhurst and Bulhams Woodland Improvements works - Tilhill - HD - 17/08/21
Attachments: Approved_Felling_Licence_01922322021.pdf; Songhurst and Bulhams - Proposed 21 Harvesting Map.pdf; Songhurst and Bulhams Wood WMP .pdf; Pallinghurst Woods - for your information

Good afternoon Chris,

As per my email to you last week, copy attached, please now see the following email below and attached.

If you have any queries please let me know.

Best wishes

Chris

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088



E: cwilliamson@protreat.co.uk
W: www.protreat.co.uk and www.environmentalconsultant.uk.com

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From: [REDACTED]

Sent: 17 August 2021 13:11

To: [REDACTED]

Cc: [REDACTED]

Subject: Songhurst and Bulhams Woodland Improvements works - Tilhill - HD - 17/08/21

Dear [REDACTED]

My name is Hugh Davies and I am the Forestry Manager for Songhurst and Bulhams Wood, Loxwood.

We are proposing to start woodland improvement operations in Songhurst and Bulhams Wood in late August/early September following the newly approved Forestry Commission Woodland Management Plan and felling licence (both attached).

Felling will keep a 15m felling buffer around the planning area, 10m felling buffer from all PRowS, and 5m buffer from all watercourses. However, we will be traversing forestry machinery and stacking timber along the hard-surfaced track.

Ancient semi-natural woodland (ASNW) within SONGHURST woods will not be worked, although a small area of Plantation on Ancient Semi-Natural Woodland (PAWS) will. Both ASNW and PAWS woodland will be worked within BULHAMS wood. I have attached an operations map that demonstrates the proposed works.

Woodland improvement works are not related to the clay pit in any way and form part of the ongoing woodland management that Tilhill has been providing the woodland owners for the last 40-50 year period.

Please do feel free to contact me if you have any queries or concerns.

Kind regards,

[Redacted signature]

[Redacted name]

[Redacted contact information] • www.tilhill.com

Tilhill, The Gatehouse, Ruck Lane, Horsmonden, Tonbridge, Kent, TN12 8EA. UK.



Tilhill Forestry Ltd • Registered in England: number 3242286

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<https://www.endlessllp.com/privacy-statement>

Chris Williamson

From: Chris Williamson
Sent: 01 September 2021 12:02
To: Chris Bartlett
Cc: PL Planning Applications; [REDACTED]
Subject: Planning Application WSCC/030/21 - WSCC Highways Consultation Response
Attachments: Existing public car parking provision on Loxwood Road layby.pdf; GG119 Loxwood Revised RSA-20-158-3.docx; Loxwood TS Addendum to Appendix ES E.pdf; 2342 Final - Sheet 2.pdf; 2342 Final - Sheet 3.pdf; WSCC Highways comments on planning application.pdf

Tracking:

Recipient

Read

Chris Bartlett

PL Planning Applications

[REDACTED]
Chris Williamson

'bthomas@protreat.co.uk'

[REDACTED]
[REDACTED]
Barrie Thomas

Dear Chris,

Please see the attached documents submitted in response to the points made by WSCC Highways Authority in relation to the above application.

The documents titled "2342 Final – Sheets 2 & 3" shows the survey of the layby on Loxwood Road, which was carried out last year. The full survey is available in .dwg format if required. This survey formed the baseline for the drawings included in Appendix ES E to the Environmental Statement.

Sheet 3 shows the eastern side of the layby, where no changes are proposed. Sheet 2 and the document titled "existing public car parking provision on Loxwood Road layby" shows the western side of the layby. As stated in the planning application, the proposed changes to the layby will have no impact on the number of parking spaces available to the public. However, the proposed surfacing of the existing stony track, would improve parking access and the efficient use of the parking space.

The following attachments address the points raised by WSCC Highways:

- Loxwood TS Addendum to Appendix ES E
- GG119 Loxwood Revised RSA-20-158-3

Subject to WSCC Highways consideration of these documents, in accordance with page 1 of their report ("*It would be beneficial to provide a drawing of the improvements including widths and surfacing including areas for parking*"), it would then be possible to provide a drawing, which could form the basis for a Section 106 Agreement.

Regards

Chris

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088

Chris Williamson

From: Chris Williamson
Sent: 01 September 2021 13:26
To: Chris Bartlett
Cc: PL Planning Applications; [REDACTED]
Subject: Planning Application WSCC/030/21 - WSCC Public Rights of Way Response
Attachments: WSCC Public Right of Way.pdf; FW: RE: Footpath 795 Loxwood - Definitive Line Enquiry Ref Ladders Solicitors:MA:DAN00056/00005; September 1998 letter re footpath 795.pdf; Songhurst & Bulhams CA16 Map.pdf; Songhurst & Bulhams CA16 Form 2020_Redacted.pdf; Official Copy (Register) - WSX185600.pdf; Official Copy (Title Plan) - WSX185600.pdf

Dear Chris,

Further to the above.

For completeness, we have now attached the prior correspondence exchanged between Ladders solicitors and [REDACTED]. At no stage did Ladders accept the point made on page 2 of the attached report re footpath 795. The right hand photo of the 12 March email clearly shows the area that has been allowed to overgrow behind what were purported to be temporary barriers. We are not aware of the outcome of the investigations carried out after the 12th March or the explanation for why the track narrows by at least 1 to 2 metres where the barriers were installed, but the attached letter from 1998 explains some of the background.

Page 9 of the PROW officer's report refers to the applicant proving the existence of the private right of way across their neighbours land. The attached registered title confirms this at paragraph 8 as follows:

"a right of way over the track shown between the points marked G and H on the plan numbered 6 bound up within in common with others with or without vehicles at all times and for all purposes in connection with the use and enjoyment of the land hereby transferred subject to the Transferees contributing a fair and reasonable proportion according to user of the renewal and maintenance costs of such track incurred by the said Anne Henderson and/or her successors in title to the said track."

G to H is marked on pdf page 9 of 10 of the attached title plan.

The PROW Officers report refers to DMMOs but does not appear to acknowledge the CA16, which was duly made on the 9th July 2020, copy attached.

Moreover, as stated in the planning application, in addition to the Orders sought if permission is granted, Loxwood Clay Pits also intends to make a separate application for an order or orders diverting or stopping up public rights of way temporarily in order to enable the mineral extraction to take place. Prior to making this application, it would be sensible to have full discussions with WSCC's rights of way officers about how the rights of way should be rearranged during the clay extraction, and for how many years the temporary diversions and stopping up need to be in place, before making the formal request to the County Council to make the orders.

In this regard, I have arranged to meet our PROW expert on site on the 23rd September and he will then make arrangements to meet with [REDACTED].

Regards

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088

Chris Williamson

From: Victoria Longmore [REDACTED]
Sent: 12 March 2021 16:21
To: Chris Williamson
Cc: Michael Orlik
Subject: FW: RE: Footpath 795 Loxwood - Definitive Line Enquiry Ref Ladders
Solicitors:MA:DAN00056/00005

Chris

Please see the email below from the PROW Officer.

Perhaps we could discuss next week?

Kind regards
Victoria

Victoria Longmore
Partner
Real Estate (Planning and Highways)
For and on behalf of Ladders Solicitors LLP

[REDACTED]
[REDACTED]
[REDACTED]
[LinkedIn](#)

From: [REDACTED]
Sent: 12 March 2021 14:42
To: Victoria Longmore [REDACTED]
Subject: RE: RE: Footpath 795 Loxwood - Definitive Line Enquiry Ref Ladders Solicitors:MA:DAN00056/00005

Dear Victoria,

Thank you for your email.

I took the opportunity to carry out a site visit this week to assess the situation regarding the gate and fencing. As you will see below your clients photograph did not accurately represent the set-up here, as the pedestrian gate does in fact form access to the main track, not the section south of the barriers as suggested.



With regards to the fencing erected near to the junction with the Bridleway, it appears this may be a temporary measure to facilitate cattle movements between fields and pedestrian access has been maintained, however I will raise this with the landowner.

Kind regards,

Darryl

Darryl Hobden
Access Ranger – Area 4
Rights of Way - Highways and Transport
West Sussex County Council

Location: WSCC Public Rights of Way, 1st floor Northleigh, Tower Street, Chichester, West Sussex, PO19 1RH

[REDACTED]
[REDACTED]

If your enquiry is urgent outside of this time please email prow@westsussex.gov.uk

To ensure any PROW enquiries are dealt with efficiently please report them via our on- line form:
[Report a problem with a Public Right of Way](#)

Landowners please be aware that you are responsible for trees on your land and have a legal duty of care and must maintain your trees in a reasonably safe condition. View ash dieback here;
<https://www.westsussex.gov.uk/land-waste-and-housing/public-paths-and-the-countryside/ash-dieback/>

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From: Victoria Longmore [REDACTED]
Sent: 08 March 2021 09:46
To: [REDACTED]
Subject: RE: RE: Footpath 795 Loxwood - Definitive Line Enquiry Ref Ladders Solicitors:MA:DAN00056/00005

Dear Darryl

Thank you for your email below and summary of your investigation of the matter.

My client has now sent to me the attached photograph "Gate – 795". The position of the side gate does suggest that the correct alignment of the footpath is to other side of the steel girders and that walkers are now being forced onto a different route. Please could you comment on this?

In addition, the landowner has recently erected barbed wire fences across footpath 795 at the end closest to bridleway 3240 as shown by the attached photographs. You will no doubt be aware of the case of Durham CC v Scott which held that unless a way has been dedicated subject to the existence of a gate, or the highway authority has authorised the erection of a gate, gates tied or looped together by string, even though the string can be untied by users of the way, constitutes an obstruction for which the person responsible can be convicted under s.137 of the 1980 Act.

I would be grateful if the Council could please investigate and take the necessary action as a matter of urgency and also reconsider the correct alignment of footpath 795.

My client's agent has reiterated that he would be happy to meet you on site so you can see the interference first hand.

Kind regards
Victoria

Victoria Longmore
Partner
Real Estate (Planning and Highways)
For and on behalf of Ladders Solicitors LLP

[Redacted]
[Redacted]
[Redacted]
[LinkedIn](#)

From: [Redacted]
Sent: 24 February 2021 14:12
To: Victoria Longmore [Redacted]
Subject: RE: Footpath 795 Loxwood - Definitive Line Enquiry Ref Ladders Solicitors:MA:DAN00056/00005

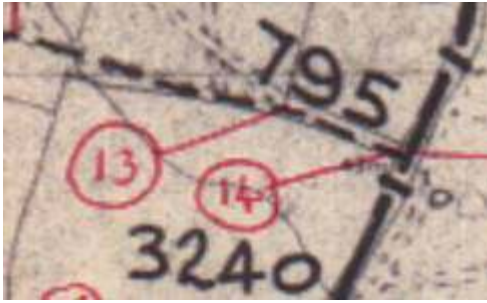
Dear Victoria,

Thank you for your patience I have now received the information I requested from our legal services.

Having researched a report dated 19.06.84, below, you will observe the section in question is described to the junction with Bridleway 3240;

"Continues E (East) on gravel. B/w (Barbed Wire) to N (North), pasture beyond. Hedge S (South), arable beyond."

The width is recorded as 10ft + and all of which would echo the current arrangement.



Ref point	O.S. Grid ref	Description	Width	Surface
13-14		Continues E on gravel. W/A.N. pasture beyond. Hedge S, arable beyond.	10'+ 2x10' verges 10'	Gravel
14	055319	J arm S/S, jct with TP 3246. Open access.		

Legal services have also consulted the draft and provisional mapping which helps in situations such as this as they show the paths as claimed during the definitive map production process. Below is an enlarged snip from the provisional Petworth Definitive Map which ordinarily requires a specific enquiry and payment of fee however to expedite matters I have included below for your convenience;



Legal Services do not consider this extract to support the assertion that the definitive line runs south of the access drive.

In summary I find no evidence that this section of Footpath 795 in the Parish of Loxwood is not as per its legal definitive line and this concludes my investigation into the matter. I should add that it is not uncommon for us to receive consultations on applications in which a Public Rights of Way also form access to a development site and therefore we would respond to the relevant Planning Authority with appropriate advice should this be required.

Kind regards,

Darryl Hobden

Darryl Hobden
Access Ranger – Area 4
Rights of Way - Highways and Transport
West Sussex County Council

Location: WSCC Public Rights of Way, 1st floor Northleigh, Tower Street, Chichester, West Sussex, PO19 1RH

[REDACTED]
[REDACTED]

If your enquiry is urgent outside of this time please email prow@westsussex.gov.uk

To ensure any PROW enquiries are dealt with efficiently please report them via our on- line form:
[Report a problem with a Public Right of Way](#)

Landowners please be aware that you are responsible for trees on your land and have a legal duty of care and must maintain your trees in a reasonably safe condition. View ash dieback here;
<https://www.westsussex.gov.uk/land-waste-and-housing/public-paths-and-the-countryside/ash-dieback/>

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From: Victoria Longmore <[REDACTED]>
Sent: 05 February 2021 13:39
To: [REDACTED]
Subject: RE: Footpath 795 Loxwood - Definitive Line Enquiry Ref Loddors Solicitors:MA:DAN00056/00005

Dear Darryl

Thank you for your email and helpful update.

I will wait to hear from you further.

Kind regards
Victoria

Victoria Longmore
Partner
Real Estate (Planning and Highways)
For and on behalf of Loddors Solicitors LLP

[REDACTED]
[REDACTED]
[REDACTED]
[LinkedIn](#)

From: [REDACTED]
Sent: 05 February 2021 12:37
To: Victoria Longmore <[REDACTED]>
Subject: Footpath 795 Loxwood - Definitive Line Enquiry Ref Loddors Solicitors:MA:DAN00056/00005

Dear Victoria,

Thank you for your email and for obtaining responses to my questions. At present we are greatly restricted with regards to site visits, however I am confident I can obtain the information required and

have already looked into our historic records with regards to Footpath 795. My next action is to enquire with WSCC legal services who hold both the definitive map and statement, to enquire if they have any additional information before I respond further.

One point I should note is the map you provided in the initial enquiry is not definitive. The definitive map is scaled at 1:10,000 and held by legal services at Chichester so any other mapping / scale should be avoided to prevent confusion.

Due to the present situation and disruption to their working I anticipate a delay in legal services carrying out the required research but will get back to you as soon as they update me further.

Kind regards,

Darryl

Darryl Hobden
Access Ranger – Area 4
Rights of Way - Highways and Transport
West Sussex County Council

Location: WSCC Public Rights of Way, 1st floor Northleigh, Tower Street, Chichester, West Sussex, PO19 1RH

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From: Victoria Longmore [REDACTED]

Sent: 02 February 2021 16:12

To: [REDACTED]

Subject: RE: The form Public Rights of Way feedback was submitted [Loxwood 795 Path off line affecting development] Ref Loddors Solicitors:MA:DAN00056/00005

Dear Darryl

Thank you for your email.

I am now in receipt of my client/his agent's instructions and have included the responses received in the body of your email below.

Would you be amenable to meeting my client's agent on site at a social distance so you can see the interference first hand?

Kind regards
Victoria

Victoria Longmore
Partner
Real Estate (Planning and Highways)
For and on behalf of Ladders Solicitors LLP

[REDACTED]
[REDACTED]
[REDACTED]
[LinkedIn](#)

From: [REDACTED]
Sent: 13 January 2021 09:03
To: Victoria Longmore <[REDACTED]>
Subject: RE: The form Public Rights of Way feedback was submitted [Loxwood 795 Path off line affecting development] Ref Ladders Solicitors:MA:DAN00056/00005

Dear Mrs Longmore,

Thank you for your email regarding Footpath 795 in the Parish of Loxwood.

I have checked our mapping system and files but can find no indication that this Footpath is not on its legal definitive line. Can I ask if the landowner has any additional information to substantiate this claim or are you relying purely on the map snip provided? The reason I ask is that whilst there are occasions that the route of a Public Right of Way can alter on the ground compared to the definitive recorded line, we are generally aware and have these noted;

- In particular could you advise if your client has historic knowledge or records that the Footpath once ran to the South of the private access track?
[The footpath did indeed run to the south of the private right of way. This is within our client's knowledge but there appear to be no records. The owner of the neighbouring land, Harrison, acquired his land at around the same time that Mr Danhash's family acquired their land - early 1990s. Harrison is a dairy farmer. Harrison erected the girders sometime this century.](#)
- Is there an indication on the ground that the Footpath once existed to the South of the hedgerow/girders as shown in the photograph? (I.e. an overgrown track / old waymarking for the Footpath).
[The area has been surveyed by a landscape architect as part of a landscape and visual impact assessment of the entire 300 acres of Nigel's land and its surroundings. The architect is convinced that Harrison has allowed the western section of the footpath to become overgrown with brambles to prevent walkers from entering his field where the cows are kept. I will send you the draft LVIA report by separate cover, highlighting the sections of the report that refer to this footpath.](#)
- Does the Footpath revert to a line South of the private track East of the section highlighted or does it continue to follow the access track?
[The eastern part of the footpath is indeed south of the private right of way. No girders have been installed along the eastern section, which is clear from the attached photograph.](#)

- If the Footpath does currently follow the access track heading East, does your client feel the whole section should sit to the South of the current position (I.e. as far as the distant gate pictured) or purely the section photographed by the girders?
The solution to the problem would be best discussed on site but extending the girders to the east may be helpful provided that the section to the west is opened up by removing the brambles.

Kind regards,

Darryl Hobden

Darryl Hobden
Access Ranger – Area 4
Rights of Way - Highways and Transport
West Sussex County Council

Location: WSCC Public Rights of Way, 1st floor Northleigh, Tower Street, Chichester, West Sussex, PO19 1RH

[Redacted address details]

If your enquiry is urgent outside of this time please email prow@westsussex.gov.uk

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[Report a problem with a Public Right of Way](#)

Landowners please be aware that you are responsible for trees on your land and have a legal duty of care and must maintain your trees in a reasonably safe condition. View ash dieback here;
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From: donotreply@westsussex.gov.uk <donotreply@westsussex.gov.uk>
Sent: 07 January 2021 16:38
To: PROW Planning <prow@westsussex.gov.uk>
Subject: The form Public Rights of Way feedback was submitted [Loxwood 795 Path off line affecting development]

If replying directly to this email please remember to double check the email address you are replying to.

Field	Entry
Title	Mrs
First name	Victoria

Last name	Longmore
House name or number	Number Ten
Address line 1	Elm Court
Address line 2	Arden Street
Town or city	Straford upon Avon
Postcode	CV37 6PA
Email address	████████████████████@████████████████████.uk
Phone number	██████████
Parish	Loxwood
Path number	795
Route from	Loxwood
Other location information	The path is located on Brickkiln Farm, Loxwood (title number WSX186373)
Date encountered	01/12/20
Type of problem	Path not on correct/legal line
Description of problem	As annotated on the attached plan (labelled 'Footpath 795'), the red line shows the correct line of Footpath 795 according to the Definitive Map. The green line depicts the location of metal girders which have been erected on the north side of the PROW (see attached photograph). The girders follow the route of a private right of way and force the public to walk along the private right of way, rather than the route of Footpath 795 as illustrated by the pink line. My client's development proposals will necessitate the use of the private right of way by HGVs and therefore, it is essential that the correct line of Footpath 795 be reinstated to ensure the safety of members of the public. If considered helpful, my client's agent would be pleased to meet with you on site. If a site visit is not deemed necessary, I look forward to hearing from you as soon as possible with a proposal for reinstating the legal line of Footpath 795

<p>Photos or files</p>	<p>https://www-admin.westsussex.gov.uk/media/forms/upload/form_99839c54-d149-412e-b9b0-2f6251c82892/7167fcd0-8a89-4d57-bd00-9376dbd09492/11412249_footpath_795.pdf</p> <p>Important: This link will only work for 100 days before this file is automatically deleted. If you need to keep the file for longer than this you will need to download and save it to your team's central file storage location.</p>
<p>Upload another photo or file</p>	<p>Yes</p>
<p>Photos or files</p>	<p>https://www-admin.westsussex.gov.uk/media/forms/upload/form_99839c54-d149-412e-b9b0-2f6251c82892/123a33e7-868b-4705-a5bf-9c8214b9ff4a/11412267_img_5139.jpg</p> <p>Important: This link will only work for 100 days before this file is automatically deleted. If you need to keep the file for longer than this you will need to download and save it to your team's central file storage location.</p>

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Lodders Solicitors LLP

Registered Office: Number Ten Elm Court Arden Street Stratford upon Avon CV37 6PA T: 01789 293259 F: 01789 268093

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FRAUD PREVENTION

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Chris Williamson

From: Chris Williamson
Sent: 01 September 2021 13:53
To: Chris Bartlett
Cc: PL Planning Applications
Subject: Planning Application WSCC/030/21 - Community Consultation
Attachments: Objection guidance booklet.pdf; Loxwood Clay Pits public notice.pdf

Tracking:	Recipient	Delivery
	Chris Bartlett	
	PL Planning Applications	
	Chris Williamson	████████████████████
	'bthomas@protreat.co.uk'	████████████████████
	████████████████████	
	██████████	

Dear Chris,

We are obviously aware of the large number of public objections uploaded to the portal before the consultation deadline expired earlier this week. Having reviewed many of those objections, we note their similarity to the document that was issued by the StopTheClayPit.org protestors at the beginning of August.

The protestors document is attached – Objection guidance booklet.

The applicant believes that the guidance booklet was disingenuous and so in accordance with the promises made in Appendix ES D to the Environmental Statement – statement of community consultation, on the 13th August, the attached “Loxwood Clay Pits public notice” was circulated to the c. 300 people who attended one of last years’ pre-application webinars.

We wanted you to be aware of both documents. Could you please confirm your receipt of this email?

Regards

Chris

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088



E: cwilliamson@protreat.co.uk
W: www.protreat.co.uk and www.environmentalconsultant.uk.com

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LOXWOOD CLAY PITS LIMITED PLANNING APPLICATION

THIS NOTICE HAS BEEN ISSUED IN ACCORDANCE WITH PARAGRAPH 3.2 OF THE STATEMENT OF COMMUNITY CONSULTATION WHICH IS APPENDIX ES D OF THE ABOVE APPLICATION REFERENCE WSCC/030/21.

The planning application can be viewed online at

<https://westsussex.planning-register.co.uk/Planning/Display/WSCC/030/21>

Comments can be made via:

<https://westsussex.planning-register.co.uk/Planning/Comment/WSCC/030/21>

Or by email: planning.applications@westsussex.gov.uk

Or by Post: County Planning, West Sussex County Council, County Hall, Chichester, PO19 1RH

The Planning Application Index is shown at the end of this notice.

IT HAS BEEN BROUGHT TO OUR ATTENTION that the StoptheClayPit protestors have issued a 4-page flyer which purportedly explains what our application is about. Our planning application consists of c. 70 documents and is 2,127 pages long. We **DO NOT** accept that the protestor's 4-page flyer accurately reflects our application and we would like you to be aware of their stated inaccuracies.

We accept that you may wish to object to our planning application but should you wish to do so, we believe you should first be aware of all of the facts.

The protestors claim:	LCP's Response:
"Loxwood Clay Pits who owns 300 acres of Pallinghurst Woods"	The owners of Loxwood Clay Pits Limited are not the same as the owners of Pallinghurst Woods. One of the 3 owners of the 300+ acres of Pallinghurst Woods owns part of Loxwood Clay Pits Ltd, which will operate in 20 acres of Pallinghurst Woods.
"42 HGV movements a day will impact residents of Loxwood, Tismans Common, Rudgwick, Alfold, Wisborough Green, Ilfold and Plaistow"	There will be a lorry routing agreement for HGVs to travel to/from the site at the layby on Loxwood Road to/from the east via the A281 junction at Bucks Green.
"The actual driving distance from layby site access point to the Lorry Route Network (on A281), is 3.25km. This exceeds the recommended distance. There is a further 1.3km to reach the site from the layby access..."	The Lorry Route Network (LRN) map is provided as Figure PS19 submitted with our Planning Statement. The relevant driving distance is the distance to the A281 LRN from the layby entrance to the public highway, i.e., 2 miles. The LRN forms part of the local minerals plan and the Waste Local Plan. These state that the use of road transport will be minimised and new sites will be located as <u>close as possible</u> to the LRN. To help to determine what this means, WSCC's spatial strategy states that, <i>as the crow flies</i> , new sites should be located "within the 1.86-mile corridor either side of the

The protestors claim:	LCP's Response:
	roads that form the LRN". On that basis, the proposed development site is less than 1 mile from the A281 and the layby access is less than 1.6 miles from the A281, i.e., well within the 1.86 mile corridor either side of the A281.
"The public parking in the layby will be affected"	Access to the layby will be widened, the layby will be surfaced and there will be no reduction in the number of public parking spaces. The final safe design will be to WSCC Highways satisfaction.
"HGVs will travel 1.3km into the woodland along a track which has a Public Right of Way application to WSCC"	There is no Public Right of Way along the access track in Pallinghurst Woods and the protestor's application will be defended.
"The HGVs will bring in skip waste from construction and demolition sites"	The HGVs will bring in construction, demolition and excavation wastes. The latter are already being received by local competitors, e.g., for the restoration of the clay pit at Rudgwick
"There is no demand for additional brick making clay"	The protestors do not mention that West Hoathley brick works recently closed, after operating for 100 years, because their clay reserve was only c. 6 years. They do not mention that Rudgwick brick works closed prematurely with 30 years clay reserve still left and the loss of more than 50 jobs. They do not mention that blended clays are commonly used for bricks (which is more environmentally friendly than importing bricks), they do not mention the national planning policy to also use brick clay for cement for producing concrete blocks or for flood defence purposes, and they do not mention LCP's owners' stated desire to produce handmade bricks at another location in West Sussex.
"There is currently sufficient capacity for construction and demolition waste in West Sussex"	The protestors do not mention that sites earmarked for development in the waste local plan have not been developed, that WSCC's 2019 review of their 2014 plan did not consider the long-term Brexit impact on waste exports / the waste market and that review did not consider the Government's Circular Economy policies and objectives to recycle and reuse more waste.
"The applicants plan is to recycle only 50% of the waste....well below industry standard"	All clay pits are traditionally restored to their original ground levels using suitable wastes, e.g. Rudgwick. This is a recovery not a disposal operation. In addition to recovering suitable wastes for restoration, the proposed facility will also recycle other waste materials, e.g. bricks and aggregates, therefore, reducing the use of virgin materials and benefiting the environment. The overall recovery and recycle rate will be in excess of 80%.
"An increase in the recycling rate would result in a further increase in HGV movements"	This is incorrect. There is sufficient headroom in the outbound movement of empty vehicles to operate all scenarios within the stated max. of 21 vehicles per day. See Planning Statement Figure PS14

The protestors claim:	LCP's Response:
"The application includes a 15,000 sq ft building.....would have a significant visual impact in the landscape"	A Landscape & Visual Impact Assessment was carried out by a landscape architect BA(Hons), MSc, CMLI, MIEEM from a firm that is an accredited Member of The Landscape Institute and Member of the Chartered Institute of Ecology and Environmental Management. Their environmental impact assessment does not concur with the protestor's statement.
"The proposed development would result in unacceptable conflicts/impacts with adjacent and established farming activity"	It is correct that a neighbouring farming activity also has a commercial involvement in the restoration of the former claypit at Rudgwick. Other than that, their 'conflicts' have not been explained.
"HGVs will run across established PROWs giving rise to severe safety and health concerns"	The application sets out how HGVs will be safely managed. For example, the reinstatement of Footpath 795 so that members of the public do not need to walk along the private right of way.
"closure of footpath 792_1 with a significant diversion"	In accordance with WSCC policy, the path will not be extinguished, only part of the footpath will be affected by the diversion. The protestors do not mention the new footpath through the woods and the provision of a fishing pond.
"Prevailing South Westerly Winds will carry noise, dust and pollutants towards Rikkyo School – 1km distant".	This is pure conjecture with no scientific basis to back that up. The dust management plan explains how the woodland screens the development to the south and west thereby acting as a wind break to the prevailing wind. The impact assessment, backed up by generic studies carried out by the Institute of Air Quality Management, and the use of best available technology – MistAir, explains how dust impacts will be prevented beyond the site boundary. Unlike our local competitors, dusty activities, such as crushing and screening, will be carried out inside a building. The noise impact assessment confirmed that the noise levels at all local receptors will be compliant.
The proposed operation does not conform with either the Loxwood Neighbourhood Plan, or the Chichester District Local Plan for development in a rural area.	A detailed analysis of compliance with all planning policies is set out on pages 21 to 78 of the Planning Statement. Whilst the Loxwood Local Plan seeks mainly to control the development of housing, within the economy and business section, there is a statement which broadly supports the development, in that it notes that there is " <i>clear broad support for a stronger local economy which will provide greater positivity, flexibility and responsiveness thus encouraging new business start-ups or expansion of those few local businesses within the parish. Consequently, their needs should be accommodated wherever possible and practicable and they should be encouraged to remain within the community and to grow. The Parish also needs to attract new enterprises to boost and diversify the local economy</i> ". The WSCC Joint Minerals Local Plan (JMLP) states (in para 4.2.5.) that "providing minerals to support

The protestors claim:	LCP's Response:
	<p>economic growth in West Sussex is an important priority".</p> <p>Further, (in para 4.2.6) it is recognised that "mineral extraction is a temporary activity and, once sites are restored, they can enhance the local environment and landscape"</p> <p>The WSCC JMLP also identifies (in para 3.3.5) that the recycled and secondary aggregates which will be produced by the construction waste recycling plant has an important role to play in West Sussex as they can reduce the demand for primary aggregates.</p>
<p>"The proposed operation does not bring any demonstrable benefits to the local community".</p>	<p>The "Socio Economic Impact" section of the Environmental Statement refers as follows:</p> <p>"The construction and set up costs during the first 2-3 years of the project will be more than £1 million".</p> <p>"During the first 1 to 3 years the proposed development will create 12 full time jobs based at the site, with a further 4 to 6 full time driving jobs based offsite. The site based jobs will be a mixture of management, admin, excavator operator, maintenance fitter and CMRF machinery operators. The travel to work employer support initiatives should favour those who live within 5 miles of the site. Favourable consideration will be given to employing unskilled workers for some of the roles and to providing training where required. During the lifetime of the project, on a net present value basis, this could provide c. £10 million of income to the local economy".</p>
<p>"Light pollution will be created in an area where there is currently none".</p>	<p>"There will not be an unacceptable impact on amenity as a result of the lighting proposed for the development. The lighting will only be used when the site is operational and will be directed downwards to minimise the visibility of the light. Dusk / dark site operations will be completed by 1800hrs Monday to Friday, hence the hours during which lighting will be necessary during the winter months is limited".</p>
<p>"This is a highly stressed area for water, and the development would further exacerbate this"</p>	<p>There is no scientific basis for this spurious claim. "The assessment has been undertaken in compliance with Groundwater Protection: Principles and practice GP3 (April 2013). The Proposed Development is not expected to pose a risk to groundwater or surface water at the Site. No significant adverse effects are predicted which could pose a constraint to development. The Site is not located in a hydrologically sensitive area and local watercourses or controlled waters are unlikely to be significantly adversely affected by proposals in relation to quality or flows. It is not considered that there are any hydrological constraints to development".</p>
<p>"Mature trees on the development site have been identified as having potential roost features"</p>	<p>"Prior to the felling of any trees the trees will be reassessed and where necessary bat surveys will</p>

The protestors claim:	LCP's Response:
for bats. Some of these will be amongst the first to be felled".	be undertaken to check for any new roosts. If bats are identified mitigation under licence from Natural England will be carried out". It should also be noted that the owners of Pallinghurst Woods have been professionally felling and replanting trees for the last 30 years under license from the Forestry Commission. The tree felling proposed for this development is no different to what has always taken place and will continue to take place if the development does not go ahead.
Threat to priority habitats	"The Ecological Impact Assessment (EcIA) concludes that the proposed development will result in short-term negative effects to a range of Important Ecological Features, particularly during the construction and operational phases of development. However, the mitigation hierarchy has been applied in full by: avoiding impacts to significant features at the Site's boundaries including Ancient Woodland and historic boundaries with mature trees and diverse ground flora; mitigating the loss of deciduous woodland Habitat of Principal Importance through translocation of ground flora and replacement woodland planting; mitigating negative effects on protected fauna through translocation and creation of suitable replacement habitats; and compensating for residual negative effects by creating new areas of biodiverse habitat through conversion of conifer woodland outside of the Site to deciduous woodland. Furthermore, an extensive range of management interventions outside of the Site is proposed for the benefit of protected species which will enhance the extent, structure and condition of habitats which support notable species including in particular nightingale, wood white butterfly and foraging and commuting bats. Following decommissioning and site restoration, the EcIA has shown that positive effects are expected overall".
"The lay-by parking area where the wheel wash is proposed to be sited (Pephurst Wood) is in irreplaceable designated Ancient Woodland".	This is in the area of an existing concrete pad where the former brickworks was located. It is in a clearing outside of the tree root protection zone.
"There is the potential for damage to Listed Buildings which will be affected by increased HGV traffic along the proposed route".	As concluded by an independent expert, the impact on all the Listed buildings is considered to be less than significant.

Notes:

1. The details provided in the right-hand column of the table above, have been taken from our planning application.
2. Appendix ES C to our Environmental Statement, is an 11-page Statement of Competence about all the consultants involved with our planning application. The protestors flyer refers to their consultants but does not reveal who they are and their expertise and which of their flyer statements came from their consultants.

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	ES5	1
	ES6	1
	ES7	2
Environmental Tables	ES1	13
	ES2	20
	ES3	20
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Chris Williamson

From: Chris Williamson
Sent: 09 September 2021 09:11
To: Chris Bartlett
Cc: PL Planning Applications; [REDACTED]
Subject: RE: Loxwood Clay Pits Ltd - Full Planning Application
Attachments: Protreatlr_Loxwood Clay Pits_planning application covering letter 030721.pdf;
ACKNOWLEDGEMENT LETTER_WSCC-030-21.doc

Good morning Chris,

Further to your 22 July email, reproduced below.

The attached letter was attached to my 14 July email.

WSCC's 22 July acknowledgement letter did not appear to answer the penultimate paragraph of my 14 July letter.

Could you please provide the list of consultees highlighting those who are yet to respond?

Regards

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088



E: cwilliamson@protreat.co.uk
W: www.protreat.co.uk and www.environmentalconsultant.uk.com

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From: Chris Bartlett <[REDACTED]>
Sent: 22 July 2021 09:57
To: Chris Williamson <cwilliamson@protreat.co.uk>
Cc: PL Planning Applications <planning.applications@westsussex.gov.uk>; [REDACTED]
Subject: RE: Loxwood Clay Pits Ltd - Full Planning Application

Good morning Chris,

Chris Williamson

From: Chris Williamson
Sent: 13 September 2021 09:04
To: Chris Bartlett
Cc: [REDACTED]
Subject: RE: Loxwood Clay Pits Ltd - Full Planning Application

Tracking:

Recipient	Read
Chris Bartlett	
[REDACTED]	
[REDACTED]	
Chris Williamson	
'bthomas@protreat.co.uk'	
[REDACTED]	
[REDACTED]	

Good morning Chris,

Thank you for your 3 x 10 September emails. As per your 17:05hrs email, I look forward to receiving your Reg 25 request. In the meantime, I would like to confirm that the Applicant believes their planning application included all of the information specified by Regs 18(3), (4) and (5) and as this is not a subsequent application, 18(2) does not apply. When submitting your Reg 25 request, could you please clarify WSCC's position in accordance with Reg 25(1)?

With regard to your 16:54hrs emails, reproduced below, I note that Southern Water were consulted about the Scoping Report and their comments formed part of WSCC's April 2020 Scoping Opinion. However, they have not been consulted for the planning application?

As you know, WSCC waived the need to receive a hard copy planning application with the relevant number of hard copies. Therefore, I would like to clarify the position with regard to Reg 19(3)(a). **Could you please confirm that WSCC sent a copy of the environmental statement with all of the planning application documents to the Secretary of State, within 14 days of receipt?**

NB: WSCC confirmed that a copy had been sent to SoS but did not confirm this was done within 14 days

Best wishes

Chris

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088



E: cwilliamson@protreat.co.uk
W: www.protreat.co.uk and www.environmentalconsultant.uk.com

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From: Chris Bartlett <[REDACTED]>
Sent: 10 September 2021 16:54
To: Chris Williamson <cwilliamson@protreat.co.uk>
Cc: [REDACTED]
Subject: RE: Loxwood Clay Pits Ltd - Full Planning Application

Good afternoon Chris,

We have consulted with Chichester District Council, Loxwood Parish Council, Environment Agency, Forestry Commission, Natural England, Dunsfold Aerodrome, Surrey County Council, Waverley Borough Council and Alfold Parish Council. The internal consultees are Archaeology, Ecology, Highways, public Rights of Way, Arboriculturist, and Flooding/Drainage.

Chichester District Council, Loxwood Parish Council, Alfold Parish Council, Archaeology and Ecology responses have been received and should be online in the next few days.

Having checked, we are still awaiting responses from the Forestry Commission and Dunsfold Aerodrome. I will chased them and will let you know when they come in.

Kind regards,

Chris Bartlett

Principal Planner, Planning Services, Highways, Transport and Planning Directorate

West Sussex County Council, Ground Floor, Northleigh, County Hall, Chichester, West Sussex, PO19 1RQ

[REDACTED]
[REDACTED] | Web: www.westsussex.gov.uk

From: Chris Williamson <cwilliamson@protreat.co.uk>
Sent: 09 September 2021 09:11
To: Chris Bartlett <[REDACTED]>
Cc: PL Planning Applications <planning.applications@westsussex.gov.uk>; [REDACTED]
Subject: RE: Loxwood Clay Pits Ltd - Full Planning Application

Good morning Chris,

Further to your 22 July email, reproduced below.

The attached letter was attached to my 14 July email.

WSCC's 22 July acknowledgement letter did not appear to answer the penultimate paragraph of my 14 July letter.

Could you please provide the list of consultees highlighting those who are yet to respond?

Regards

Chris Williamson

From: Chris Williamson
Sent: 07 October 2021 09:16
To: Chris Bartlett
Cc: [REDACTED] PL Planning Applications; [REDACTED]
Subject: FW: Planning Application WSCC/030/21 - Community Consultation
Attachments: Objection guidance booklet.pdf; Loxwood Clay Pits public notice.pdf; Appendix ES D Statement of Community Consultation.pdf

Follow Up Flag: Follow up
Due By: 14 October 2021 16:00
Flag Status: Flagged

Tracking:	Recipient	Delivery	Read
	Chris Bartlett [REDACTED]		
	PL Planning Applications [REDACTED]		
	Chris Williamson 'bthomas@protreat.co.uk' [REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED]

Dear Chris,

Further to my 1st September email, reproduced below and attached, which you have previously acknowledged.

Prior to the application being submitted, you and I discussed the funded Stop the Claypit campaign set up by [REDACTED] and supported by [REDACTED] with the initial campaign launched on Change.org in July 2020.

Perhaps it will be necessary for our client to write directly to the head of WSCC's planning department, but we first wish to register our concern with you. I note that the public consultation process did not close at the end of August. I downloaded all of the 803 letters of comment / objections from WSCC's website on the 6th September but since then many more have been added, i.e. throughout September and as late as the 6th October. Could you please explain this?

I would also like to draw your attention to pdf pages 59 to 66 of 153 of the attached Appendix ES D – Statement of Community Consultation, which was submitted as part of the planning application. It may be necessary to make a Freedom of Information request to reveal whether the geographical locations of the objectors, matches the position set out on pages 59 to 66. However, in the meantime, could you please advise whether WSCC intends to carry out a similar analysis to that carried out for the 2nd consultation webinar and publicise the findings?

I look forward to hearing from you within the next 7 days.

Best wishes

Chris

NB: WSCC did not provide location details of redacted letters of objection and WSCC have not carried out an analysis of the objectors' locations

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088

Chris Williamson

From: Chris Williamson
Sent: 03 November 2021 12:18
To: Chris Bartlett
Cc: [REDACTED] PL Planning Applications;
[REDACTED]
Subject: FW: Loxwood Clay Pits Ltd - Full Planning Application
Attachments: RE: Planning Application WSCC/030/21 - WSCC Highways Consultation Response; RE: Planning Application WSCC/030/21 - Community Consultation

Follow Up Flag: Follow up
Due By: 05 November 2021 16:00
Flag Status: Flagged

Tracking:

Recipient	Read
Chris Bartlett	
[REDACTED]	
[REDACTED]	
PL Planning Applications	
[REDACTED]	
Chris Williamson	
'bthomas@protreat.co.uk'	
[REDACTED]	
[REDACTED]	

Dear Chris,

I telephoned you at approx. 11am on Thursday 28 October and left you a voicemail asking you to return my call to discuss the following matters. I have not received a call from you.

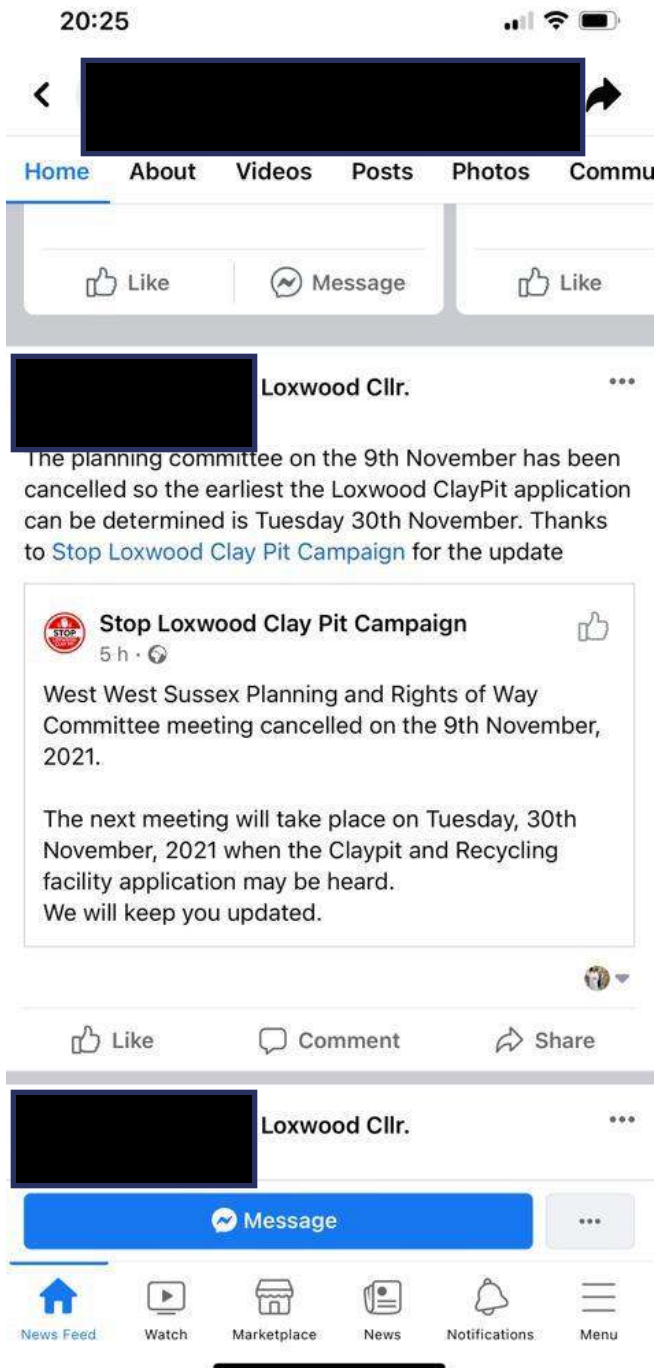
This email refers to several issues that we would like to clear up. Please refer to the email trail below this email and the two emails attached.

My 13 September email, reproduced immediately beneath this email, was a reply to your 10 September email, which is one of the two attachments to this email. I have not received a reply to my 13 September email. We are surprised at the lack of response during the last 2 months, given that your 10 September email suggested that you had cleared your backlog, therefore, implying that you would have time to focus on this application.

As per your 22 July letter, if we *"have not received a decision by 5 November 2021 (or an extension to the determination period which may be agreed in writing with us as the County Planning Authority) then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990."*

In order to avoid the need for an appeal for the non-determination of the planning application, since the 1st September, we have tried to provide WSCC with additional information to address the objections raised by WSCC Highways, Ecologist and Arboriculturist. These attempts have largely been thwarted by your resistance to the submission of information "on a piecemeal basis" and also by [REDACTED] refusal to meet on site with our appointed PROW expert, [REDACTED].

We are also disappointed that as per the social media post shown below, Cllr [REDACTED] appears to know more about the progress of this application than we do.



Finally, in response to your 15 October email, copy attached, we are unable to carry out the analysis that you have suggested. Many of the objectors have submitted a letter rather than complete the online form. WSCC have redacted the letters to blank out their address details.

This email has also been copied to [REDACTED] According to the Law Society's website, this is the contact email address for all 5 solicitors who practice in WSCC's Planning Law team, which consists of [REDACTED]

If you wish to agree to an extension of time could you please advise before close of business on the 5th November 2021. If a date can be agreed, we will submit the additional information that we attempted to submit to you in several emails on the 1st September and thereafter.

Regards

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088



E: cwilliamson@protreat.co.uk
W: www.protreat.co.uk and www.environmentalconsultant.uk.com

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From: Chris Williamson
Sent: 13 September 2021 09:04
To: Chris Bartlett [REDACTED]
Cc: [REDACTED]
Subject: RE: Loxwood Clay Pits Ltd - Full Planning Application

Good morning Chris,

Thank you for your 3 x 10 September emails. As per your 17:05hrs email, I look forward to receiving your Reg 25 request. In the meantime, I would like to confirm that the Applicant believes their planning application included all of the information specified by Regs 18(3), (4) and (5) and as this is not a subsequent application, 18(2) does not apply. When submitting your Reg 25 request, could you please clarify WSCC's position in accordance with Reg 25(1)?

With regard to your 16:54hrs emails, reproduced below, I note that Southern Water were consulted about the Scoping Report and their comments formed part of WSCC's April 2020 Scoping Opinion. However, they have not been consulted for the planning application?

As you know, WSCC waived the need to receive a hard copy planning application with the relevant number of hard copies. Therefore, I would like to clarify the position with regard to Reg 19(3)(a). Could you please confirm that WSCC sent a copy of the environmental statement with all of the planning application documents to the Secretary of State, within 14 days of receipt?

Best wishes

Chris

Chris Williamson
Director
ProTreat Limited
T: 01952 306352
M: 07576 958088



E: cwilliamson@protreat.co.uk
W: www.protreat.co.uk and www.environmentalconsultant.uk.com

Chris Williamson

From: Chris Williamson
Sent: 16 November 2021 15:36
To: Chris Bartlett
Cc: [REDACTED]; PL Planning Applications;
[REDACTED]
Subject: Our telecon Friday 12 November re Policy M5 etc
Attachments: PLANNING STATEMENT_yellow highlighted.pdf

Dear Chris,

Confirming our telecon last Friday re the issues that you wish to consider prior to the 12 January 2022.

It was interesting to hear that you believe the recent closure of West Hoathly brickworks, after more than 100 years of operation, with the loss of 40 jobs, weakens the arguments presented in LCP's Planning Statement. On the contrary, we believe that it strengthens our arguments. The sad closure of West Hoathly is just another example of failing policies? Prior to the issue of the most recent JMLP, the previous plans identified thriving safeguarded clay shale / brickworks at the former Wealden Brickworks Langhurst Wood (Horsham), Ashpark (Plaistow) and Rudgwick, all now consigned to history with the inevitable result that more bricks have to be imported.

During our conversation, you placed great importance on Policy M5, and it transpired that we also have a different interpretation of certain parts of that policy. I referred you to the May 2018 PINS report on the examination of the West Sussex JMLP, which made it clear that in light of the temporary short extension to West Hoathly, the policies are not a bar to any new developments that may be put forward. I also referred you to the 2019 NPPF, which was issued after the JMLP and takes a much broader approach to the uses for clay. The policy hierarchy obviously needs to be respected especially when there is an emphasis on sustainability. For your convenience, I have now attached a yellow highlighted version of our Planning Statement with appropriate emphasis from section 7.6 onwards through to section 8.8. This also includes comments in the margin.

Therefore, we do not accept that Policy M5 or any other policies are a bar to this development but if you have a different opinion, we would like to refer as follows:

1. To the extent that development plan policies [plural] are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise – Section 70(2) TCPA 1990.
2. The NPPF represents up to date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application. This includes the presumption in favour of development as set out at paragraph 14 of the NPPF. If decision takers choose not to follow the NPPF, where it is a material consideration, clear and convincing reasons for doing so are needed.
3. Conflicts between development plan policies must be considered in the light of all material considerations, as guided by the NPPF.
4. WSCC may depart from development plan policy where material considerations indicate that the plan should not be followed – articles 15(3) and 32 TCP Development Management Procedure Order 2015.

As discussed, before the end of this month, our client will be formalising the additional information previously submitted to you by email on the 1st September, along with the landowners Woodland Management Plan as recently approved by the Forestry Commission for the next 10 years, including a report in rebuttal of the County Ecologist & Arboriculturist consultee responses. Likewise, our appointed PROW expert will be sending his report to [REDACTED] requesting a site meeting to discuss. [REDACTED] has previously refused to meet [REDACTED] and so we would be grateful if you could facilitate this meeting. I will ensure that you receive a copy of [REDACTED] report. Finally, in response to Natural England's 'U' turn letter dated 11th November, we will be providing our RHA etc., before the Xmas break.

If you wish to discuss then please do not hesitate to contact me.

Best wishes

Chris Williamson

From: Chris Williamson
Sent: 30 November 2021 11:15
To: Chris Bartlett
Cc: [REDACTED] PL Planning Applications; [REDACTED]
Subject: ADDITIONAL INFORMATION - Loxwood Clay Pits Ltd - Planning Application Ref: WSCC/030/21
Attachments: GG119 Loxwood Revised RSA-20-158-3.docx

Tracking:

Recipient	Read
-----------	------

Chris Bartlett	
----------------	--

[REDACTED]	
PL Planning Applications	

Read: 30/11/2021 11:16

Dear Chris,

As promised in the penultimate paragraph of my 16 November email, Loxwood Clay Pits additional information consolidated in a 133 page pdf document, is now available for you to download from the following link:

https://protreatltd-my.sharepoint.com/:b:/g/personal/cwilliamson_protreat_co_uk/EUsQuM36NfhHlKBC9TKjnyIBcv4aXnZjSoGGc0QU-LdOaA?e=Nv5YdC

In addition please see the attached Word document that was previously requested by WSCC Highways and emailed to you and Stephen Gee on the 1 September.

Finally, the following link will enable you to download a very helpful brochure that explains the success of Ibstock's small scale brick works in Swanage, on the Isle of Purbeck in Dorset, which is supplied by the island's **Wealden** Clay beds. Unlike Ibstock's brick works at West Hoathley, West Sussex, which has recently closed due to a severe shortage of clay, their brick works at Swanage has ample clay reserves. More importantly, however, the annual amount of **Weald** clay to be extracted from Loxwood Clay Pits proposed development, is sufficient to support a hand made brick works of this size. Given the statements made in the planning statement about LCP's intention to set up its own hand made brick works in West Sussex in due course (chicken and egg), this information is extremely relevant to the planning application. It is also contrary to the point that you recently made about the economic viability of small scale clay pits and brick works that are able to provide bricks that are of the type that fits in with the local build character in that geographical area.

https://protreatltd-my.sharepoint.com/:b:/g/personal/cwilliamson_protreat_co_uk/EdV9IUzi-nNHvteoJ47Z8MUB2j0yQpv3i5L2iQAbsPHckA?e=2Rf8Va

Could you please confirm receipt of this email by close of business on Friday 3 December 2021 and confirm that you have been able to download both documents?

Best wishes

Chris

Chris Williamson

IBSTOCK | BRICK

an IBSTOCK plc company

THE
SWANAGE
STORY



**SWANAGE
HANDMADE
BRICKS** SINCE
1865





**SWANAGE
HANDMADE
BRICKS** SINCE
1865

THE SWANAGE STORY

CONTINUING A
PROUD HERITAGE

One of the few true hand made brickworks, Swanage has over 150 years of experience handed down throughout the generations, producing bricks with personality and integrity.



Our traditional and bespoke stock bricks have created award winning traditional and contemporary buildings.

It's genuinely an inspiring factory with a skilled and proud workforce who would like nothing more than for you to take a factory tour to see how our bricks are made. Whilst you're here, why not throw your own brick and we'll fire it for you.

IBSTOCK|BRICK

an IBSTOCK plc company

AT THE HEART
OF EACH BRICK

QUARRY & CLAY



04

UNIQUE
CHARACTERISTICS

CRAFT, PEOPLE
& PROCESS



06



IMPERIAL SIZES

50mm, 63mm, 65mm, 68mm, 73mm, 75mm

FIRED EARTH

PERFECT COLOUR & FINISH

BESPOKE BLENDS

IMPRESS YOUR OWN IDENTITY

EXTRA SPECIAL SHAPES

CUT & BOND, BESPOKE & STANDARD

GLAZED HEADERS

CREATE TRADITIONAL BONDING PATTERNS

HANDMADE PRODUCTS

A RICH HISTORY OF HANDMADE BRICKS



AT THE HEART OF EACH BRICK

QUARRY & CLAY

Close to the Jurassic Coast, Swanage shares a rich, varied geology and has had extensive quarrying from before Victorian times.

Today, our clay is still dug from our own Wealden Clay beds on the Isle of Purbeck at our brickworks. The quarry seams provide many varied colours and are mixed, stacked and left to weather for several months. The clay is then moved slowly into our pan mill, reducing it to a malleable mixture, plastercized and delivered to the brick making tables perfect for throwing.



40 YEARS OF CLAY RESERVES

We have invested in more than 40 years of clay reserves, with royalties of one pence per brick being paid to the National Trust for future reserves.





UNIQUE CHARACTERISTICS

CRAFT, PEOPLE & PROCESS

All of our brickmakers learn their craft from skills handed down from previous generations. Once the craft is perfected, it's our people who give each brick a sense of difference.

Hand thrown into traditional sanded moulds, each brick takes on the characteristics of its maker. This signature can be seen in the fine crease marks on the face of each brick, a feature that cannot be replicated by any machine.

This process not only defines the personality of each brick, but the personality of each building it adorns.



UP TO 16,000 BRICKS PRODUCED EVERYDAY

Everyday, between 1,400 & 1,800 bricks are made by each brickmaster. With all our brickmakers and our berry machine combined we produce between 15,000 and 16,000 bricks per day.





BRICKS WITH INDIVIDUAL PERSONALITY

Clay is rolled in sand, a wedge shape is formed and then thrown into various moulds already sanded.

Excess clay is removed using a traditional bow and the 'green' bricks are stacked and moved to the drying ovens, fuelled by surplus heat from the kilns where they remain until ready for firing.

BRICK SIZES

METRIC, IMPERIAL AND BESPOKE

Imperial sized bricks, often required to match up with existing Victorian brickwork, are ideal for refurbishments and restoration.

At Swanage, imperial bricks are available as standard. We produce options available in 50mm, 65mm and Imperial size formats with fine stock textures in our range of Swanage colours.

75MM

73MM SEVENTY THREE

68MM SIXTY EIGHT

65MM SIXTY FIVE

63MM SIXTY THREE

50MM FIFTY



392 MOULDS DATING BACK 25 YEARS

If we haven't already got a mould in our archives to suit your project, our skilled craftsmen can create a bespoke mould to your specific requirements.



FIRED EARTH

FIRING FOR THE PERFECT COLOUR AND FINISH

The firing and cooling process takes approximately 3 days. Prior to firing, up to one pint of water is taken through evaporation from each brick during the drying process.

Our distinctive colours are obtained from the kiln settings and firing process, controlling the heat, time fired and reduction for the desired results. Modern kilns have superseded the traditional tunnel kilns, providing us with the control required for consistency in colour and quality, complementing the handmaking process.

When cooled each brick is palletised by hand from the kiln car, ensuring only the best bricks are selected for your use.



20,000
BRICK BATCHES

From closing the kiln doors, firing and cooling takes 79 hours in 20,000 brick batches.





BESPOKE BLENDS

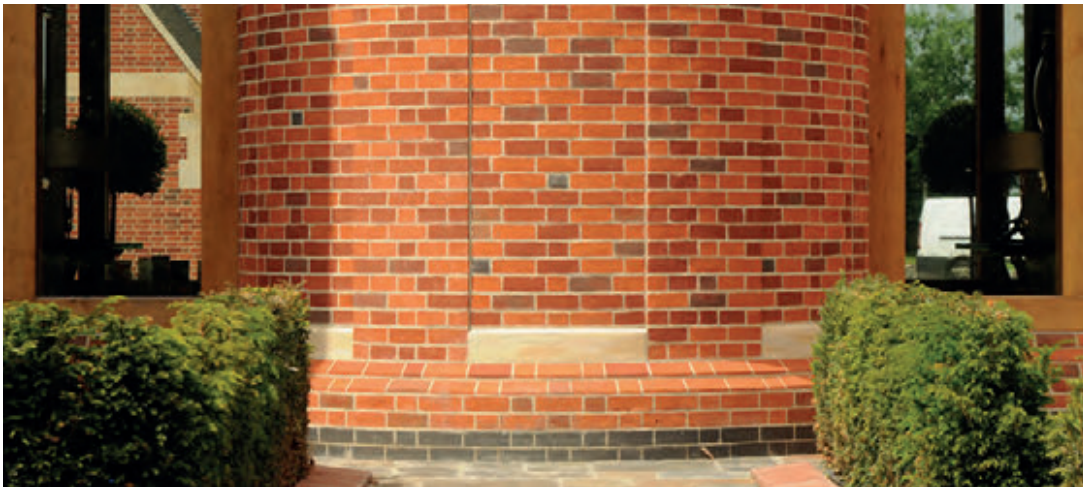
BLENDS THAT SUIT EACH INDIVIDUAL PROJECT

Swanage's true expertise lies in its ability to create purpose-made blends of bricks.

There are sometimes occasions where a standard brick just does not do the job and this is where the ability to mix colours, textures and sizes really comes into its own.

Whether it is to allow you to match to brickwork on an existing building, or the need to develop a unique blend for a particularly special project, Swanage can provide the solution.

For more information on Swanage bespoke or purpose-made blends contact Mark Woolston on 01929 422257.





24 HOUR HEAT RECOVERY

After each firing, we recover the kiln heat for 24 hours for the 'green' brick drying process. The supply of warm air through heat recovery lowers our carbon emissions.

BESPOKE BLENDS

BLENDS THAT SUIT EACH INDIVIDUAL PROJECT



SWANAGE BESPOKE BLEND
ORANGERY, READING, BERKSHIRE



SWANAGE BESPOKE BLEND
ORANGERY, READING, BERKSHIRE



SWANAGE BESPOKE BLEND
KIMCOTE HALL, KIMCOTE, LEICESTERSHIRE

SWANAGE BESPOKE BLEND

FULTON BUILDING, UNIVERSITY OF SUSSEX, BRIGHTON





22% MOISTURE IN ALL OUR CLAY

With 22% moisture in our clay, all moulds have to be made oversized to allow for 10% shrinkage in length and 5% in height.

EXTRA SPECIAL SHAPES

CUT & BOND, BESPOKE & STANDARD

A full range of both manufactured and cut and bonded special shaped bricks is available in British Standard and non-standard formats for all Swanage products including bespoke blends. This ensures a seamless match with the main feature brick.

Matching up with existing special shapes forms part of the service provided by Swanage, particularly on refurbishment projects where often there is a requirement for intricate ornamental designs typical of Victorian masonry architecture.

We have an extensive library of existing moulds and can make new moulds to your specifications.







GLAZED HEADERS

CREATING UNIQUE BONDING PATTERNS THROUGHOUT THE YEARS

Grey glazed headers are a feature typically found on many traditional houses in the Wealden counties of Kent and East & West Sussex. Used as a feature, normally with plain red stock or handmade bricks, the glazed headers are either used in a variety of bonding patterns such as English & Flemish bonds or as a feature to create a particular pattern often in a diamond formation, such as on the dormitory buildings at Shiplake College, Henley-on-Thames.

Grey glazed headers are now normally used to recreate these effects on new buildings or to match adjacent brickwork often where planning requirements dictate.

For more information on Glazed Headers contact Mark Woolston on 01929 422257.







HANDMADE PRODUCTS

OUR BRICKS ARE MADE IN THE SAME TRADITIONAL WAYS USING CLAY FROM THE SAME QUARRY FOR THE LAST 150 YEARS

KINGSTON HANDMADE HEATHER RED

4355



KINGSTON HANDMADE RESTORATION RED

4354



KINGSTON HANDMADE LIGHT RED MULTI

4356



KINGSTON HANDMADE LIGHT RED

4357





SWANAGE HANDMADE LIGHT RED

4302



SWANAGE HANDMADE HEATHER RED

4301



SWANAGE HANDMADE LIGHT RED MULTI

4303





SWANAGE HANDMADE LIGHT RED MULTI
DOUAI ABBEY, READING



SWANAGE HANDMADE LIGHT RED MULTI
HOTEL, BINLEY, COVENTRY

SWANAGE HANDMADE RESTORATION RED

4312



SWANAGE IMPERIAL LIGHT STOCK 68MM
PRIVATE APARTMENTS, HAMPSTEAD, LONDON

SWANAGE IMPERIAL RED STOCK
WATCH TOWER, RAF MUSEUM, HENDON



SWANAGE IMPERIAL RED STOCK 68MM

4316



SWANAGE IMPERIAL LIGHT STOCK 68MM

4317



BESPOKE BLENDS

A RICH HISTORY OF BEAUTIFUL HANDMADE BRICKS

Swanage specialises in creating bespoke or purpose-made blends. These are blends of bricks created for a specific project or customer to meet a particular colour, texture or size requirement. This enables the designer to fully exploit their creative flair or to match existing brickwork where a standard brick, 'off the shelf', doesn't do the job.

These panels are just a few of the unlimited options available from Swanage showing blends in:

- 50mm, 65mm and Imperial size formats
- Handmade and fine stock textures in all or a range of Swanage colours
- Non-standard products such as grey glazed headers and brown bricks e.g Purbeck Brown
- Standard blends such as the Ulwell Multi and Wimborne Mixture

Bespoke blend projects are showcased throughout the brochure.

For more information on Swanage bespoke blends contact Mark Woolston on 01929 422257.



SWANAGE BESPOKE BLEND A

(50MM FORMAT)





SWANAGE BESPOKE BLEND B
(IMPERIAL FORMAT)



SWANAGE BESPOKE BLEND C
(WITH GLAZED HEADERS)





SWANAGE BESPOKE BLEND D



SWANAGE BESPOKE BLEND E



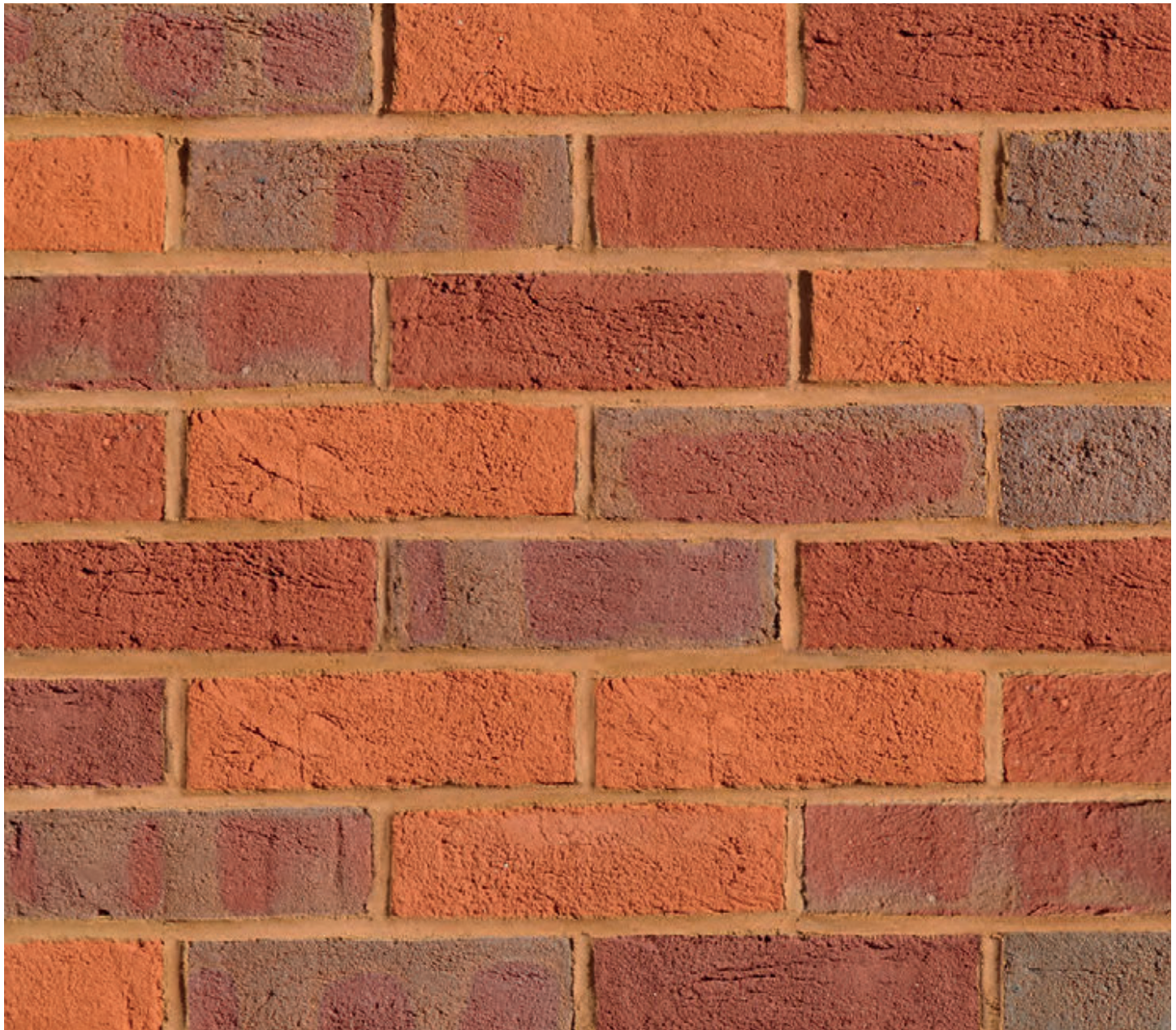
ULWELL MULTI



PURBECK BROWN



WIMBORNE MIXTURE





**SWANAGE
HANDMADE
BRICKS** SINCE
1865

SWANAGE FACTORY,
GODLINGSTON,
SWANAGE BH19 3DH

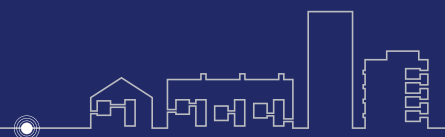
SALES ENQUIRIES: **0844 800 4575**

SAMPLES & LITERATURE: **0844 800 4578**

WWW.IBSTOCK.COM

IBSTOCK PLC

A building family of exceptional brands



Chris Williamson

From: Chris Williamson
Sent: 08 December 2021 17:13
To: Chris Bartlett (chris.bartlett@westsussex.gov.uk)
Cc: [REDACTED] PL Planning Applications; [REDACTED]
Subject: RE: ADDITIONAL INFORMATION - Loxwood Clay Pits Ltd - Planning Application Ref: WSCC/030/21
Attachments: RESPONSE TO NATURAL ENGLAND's 11 November 2021 letter.pdf; APPENDIX ES Y.pdf; APPENDIX ES X.pdf; Automatic reply: ADDITIONAL INFORMATION - Loxwood Clay Pits Ltd - Planning Application Ref: WSCC/030/21

Follow Up Flag: Follow up
Due By: 10 December 2021 16:00
Flag Status: Flagged

Tracking:

Recipient	Read
Chris Bartlett (chris.bartlett@westsussex.gov.uk)	
[REDACTED]	
PL Planning Applications	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	

Dear Chris,

Further to my 30 November email, reproduced below this email.

For good orders sake, I politely asked if you would acknowledge receipt of that email, by close of business last Friday 3 December. As I did not receive a reply I called you at 1.15pm today and left you a voicemail asking you to confirm. For completeness, I have now attached the auto reply from planning.applications@westsussex.gov.uk which confirms that you did receive that email.

This email has been tagged to provide me with delivery receipts for all named recipients.

As promised in the final sentence of the penultimate paragraph of my 16 November email, which stated "*Finally, in response to Natural England's 'U' turn letter dated 11th November, we will be providing our RHA etc., before the Xmas break*", please now see attached to this email, additional appendices to the Environmental Statement, referred to as Appendix ES X and Appendix ES Y, along with a rebuttal letter addressed to Natural England.

Could you please confirm receipt of this email by close of business on Friday 10th December 2021.

Best wishes

Chris

Chris Williamson
Director
ProTreat Limited

SECTION A 2

YELLOW HIGHLIGHTED EXTRACT FROM THE PLANNING STATEMENT



YELLOW HIGHLIGHTED EXTRACT REFERRED TO IN 16/11/21 EMAIL ABOVE

PLANNING STATEMENT

**AN APPLICATION FOR PLANNING PERMISSION FOR
A CLAY QUARRY AND CONSTRUCTION MATERIALS RECYCLING
FACILITY (CMRF) FOR CD&E WASTES INCLUDING THE USE OF AN
EXISTING ACCESS FROM LOXWOOD ROAD, THE EXTRACTION AND
EXPORTATION OF CLAY AND RESTORATION USING SUITABLE
RECOVERED MATERIALS FROM THE CMRF TO NATURE
CONSERVATION INTEREST INCLUDING WOODLAND,
WATERBODIES AND WETLAND HABITATS**

AT

**LAND WITHIN PALLINGHURST WOODS TO THE
EAST OF LOXWOOD IN WEST SUSSEX**



Report Reference: LCP/LOX/LX_20A/PS

June 2021

6 Abbey Court, High Street, Newport, Shropshire, TF10 7BW

7. Planning policy context

Introduction

- 7.1 The objective of the planning system is to facilitate development having regard to relevant planning policies, government guidance and other material planning considerations. Appropriate development is that which is suitable for the location in which it is proposed, does not overly conflict with surrounding land uses and which does not result in lasting detriment to the environment or amenity. The contribution which a particular development will make towards the achievement of strategic national and local planning policy objectives - such as economic development, employment and sustainable use of resources - are significant material considerations that should be taken into account in determining applications.
- 7.2 Planning law in the UK is the subject of the Town and Country Planning Act 1990 as amended, the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008 as amended by the Localism Act 2011 and associated regulations. Land use planning in the UK is a plan led system.
- 7.3 The planning system is hierarchical in nature and encompasses policies at national, regional and local levels. Despite *today's* minerals developments potentially being *tomorrows'* restoration project, waste planning policies used to be viewed separately from minerals, with more control exercised over the latter by central government. Much of this changed after the introduction of the Localism Act, 10 years ago, which has resulted in a greater degree of joined up thinking between the two policy areas, but it is still far too early to tell whether this new system is delivering the benefits originally forecast by central government. West Sussex County Council's 2019 review of the local waste plan missed a number of key issues and they were not picked up by the minerals and waste monitoring reports either.
- 7.4 A further issue is that the more common bedfellows are large sand & gravel quarries restored with waste, rather than smaller clay pits. This is just a function of how the different minerals markets work and who the operators are. However, the more modern approach to progressive restoration rather than restoration at the end of the quarry life has become more commonplace and this modern approach applies to sand, gravel and clay. In many respects, the underlying geology of a former clay pit is a better overall environmental option than a sand & gravel quarry that may have to be clay lined prior to restoration with suitably inert wastes.
- 7.5 Today, Government requires that the local planning policies for waste and minerals should focus on sustainability, the roles for each different level of administration – national, regional and local, development plan procedures and development control. For clay there is the need to address the continuing change to the economics and geography of the industry, such as the shifting emphasis from a restricted number of clay resources and the need for a diverse supply. Simply put, even though more and more different clays are now being blended together to produce a wider variety of brick colours and textures, continuity of local building styles and materials will ensure that individual character of settlements and 'sense of place' is maintained in local communities, but this requires continuity of local clay supplies.
- 7.6 Comparing the Department for Communities and Local Government's (DCLG) 2006 'Minerals Policy Statement 1' with the local mineral planning policies today, provides some indication of how this situation changed from the approach taken by

a Labour government to that taken by a Conservative led coalition government from 2010, emanating in the 2018 West Sussex Joint Mineral Local Plan (JMLP) and the subsequent 2019 National Planning Policy Framework (Ministry of Housing, Communities and Local Government). Likewise, the West Sussex Waste Local Plan was issued in April 2014 and the National Planning Policy for Waste was issued after that, in October 2014.

7.7 Back in 2006, the DCLG were careful to explain that “brick clay” is defined as “clay, shale and mudstone used in the manufacture of structural clay ware, including bricks and associated products (such as clay roof tiles and pipes), and including minerals known and recorded in official statistics as ‘common clay’, ‘shale’ and ‘fireclay’. It also applies to brickearth and to clays used for environmental and engineering purposes such as lining, daily cover and capping at landfill sites, and the lining of canals, lakes and ponds”. Prior to July 2018, the DCLG’s 2006 guidance applied to local minerals planning authorities, via DCLG’s 2012 National Planning Policy Framework. The more recent 2019 government guidance and the JMLP do not provide a definition for ‘brick clay’.

7.8 This should be understood in context with the need to maintain at least 25 years supply of brick clay. This is a minimum requirement not a target. More than 25 years supply is required to ensure long term planning and to provide the right conditions to support new investment decisions in plant and equipment that rely on the supply of brick clay, which is a mineral resource of local and national importance.

7.9 The National Planning Policy Framework 2019

At a national level, the objectives of the planning acts together with government policy in respect of planning, are delivered through guidance published in the National Planning Policy Framework 2019 (NPPF) and the accompanying Planning Practice Guidance Notes (PPGNs).

The NPPF recognises that minerals are essential for supporting sustainable economic growth and our quality of life. As a result, it is important that there is a sufficient supply of minerals to provide the infrastructure, building, energy and goods that the country needs, whilst ensuring that permitted mineral operations do not have unacceptable adverse impacts on the natural and historic environment or human health.

Specifically, in **Section 2 of the NPPF titled ‘Achieving Sustainable Development’**, paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development :

“Plans and decisions should apply a presumption in favour of sustainable development... For decision taking this means approving development proposals that accord with an up-to-date development plan without delay...”

The NPPF also recognises that (paragraph 203), “since minerals are a finite natural resource, and can only be worked where they are found¹, it is important to make best use of them and to secure their long-term conservation through the mechanism of mineral safeguarding”.

1 In this context “worked” is taken to mean ‘extracted’.

Under the heading **'Building a Strong Competitive Economy' in section 6**, paragraph 80 of the NPPF guidance states that *"planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."*

The need for economic growth has taken on more importance recently with the major downturn in the local (and UK) economies due to the Covid-19 virus, so the policy to 'support economic growth' has seldom had greater need. The proposed development aims to create approximately 12 new jobs² and not just create jobs displaced from elsewhere, so its economic benefit is significant, both directly and indirectly to the local and wider economy.

The proposed development is further supported in **'Supporting a prosperous rural economy'** where in paragraph 83 the NPPF states *'Planning policies and decisions should enable:*

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*

The existing site is currently utilised by the developer solely for commercial and recreational forestry purposes, the proposed development usefully diversifies the forestry business into another sector, and helps therefore to ensure that the commercial forestry business is kept viable, in addition to providing new sustainable growth through a new business in the rural area.

The NPPF also has the aim of **'Promoting Healthy and Safe Communities' in Section 6**, where it states that decisions should aim to *"enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling."* (Paragraph 91c) .

Further, it goes on to say in paragraph 92 that *"to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community"

And further, *"Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities."* (Paragraph 96)

² An additional 6 HGV driving jobs will be created offsite

The development project will – following restoration – create a new open space, new public rights of way pathways (PROWs), and new wetland habitats to attract more diverse wildlife which, in turn, become more interesting areas for the public to visit – helping to promote exercise through walking, and thereby improving the health and wellbeing of the community. The addition of a habitats pond and a small fishing lake would provide further recreational opportunities in the locality.

The operation inevitably involves the consideration of transport, both through the incoming of waste materials and outgoing of products, in addition to the transport associated with people working on the site. In **Section 9 – ‘Promoting Sustainable Transport’** paragraph 108 states that *“in assessing specific applications for development, it should be ensured that:*

‘a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

It goes on to state in Paragraph 109 that: *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’*

There is no other economic means other than road transport in which to bring in CD&E wastes, and dispatch the resultant restoration materials, to and from the site. The long-distance transport of such materials is prohibitively expensive, so the aim will be to collect waste materials predominately sourced from construction and demolition and excavation projects in the local area under the ‘proximity principle’.

Staff who live locally will be actively encouraged to walk or cycle to work, and car pooling will also be encouraged. A site vehicle is planned to shuttle staff between the entrance and the development site at the beginning and end of each working day, to prevent cars from traveling along the woodland access route.

In relation to highway safety, a detailed transport / traffic assessment has been undertaken showing that the development will not have an unacceptable impact on highway safety, and that the additional traffic on the Loxwood road is deemed to be not significant. The conclusions of the report are summarised below:

- The amount of traffic generated by the proposal represents around a 3% increase of traffic on the immediate highway network.
- The site access junction with Loxwood Road has the ability to cater for the turning requirements of the likely vehicles that will be operating.
- Adequate visibility can be provided in accordance with the requirements of Manual for Streets 2.
- The surrounding highway network both east and west of the site is suitable in width to accommodate the traffic likely to be generated, whilst the

junctions at the A281 Guildford Road and B2133 The High Street both have adequate junction geometry.

- The highway implications of the proposal are therefore considered not to cause any demonstrable harm to highway safety.

There is a section of the NPPF – **Section 11**- dedicated to the subject of '**Making Effective Use of Land**', where in paragraph 118b it is stated that "*Planning policies and decisions should encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside*".

During the operational phase of the development, a biodiversity plan will be put in place to ensure the development leads to net environmental gains. This is possible because the surrounding 300 acres of woodland are owned by the Danhash family in common control with LCP. Plans to create more woodland and open space habitats are documented in the BNG which can be found in the environmental statement.

The restoration plans for the site following the operational phase are well suited to this aim. The restored site will provide new habitat creation through the development of a new fishing lake, with an associated habitats pond and wetland areas, further enhancing biodiversity; and through improving public access to the woodland and the new wetland areas to be created via a new PROW footpath to access the new facilities at the end of the project.

In all planning applications it is important to address how the development will '**Meet the Challenge of Climate Change, Flooding and Coastal Change**' – as outlined in **Section 14** of the NPPF. Planning authorities are urged in paragraph 148 to

"encourage the reuse of existing resources" in order to support the transition to a lower carbon future.

The CMRF development helps greatly in this regard by taking in waste construction materials and recycling them back into 'new' construction materials, re-using these existing resources in a 'circular economy' approach, thereby reducing the need for virgin materials. Resources such as aggregates, bricks and metals will all be returned back into the chain of utility.

As part of climate change preparations, it is also important to address how the development will meet the challenge of potential flooding – Paragraph 163 in Section 14 of the NPPF states: "*When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*

- c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) *any residual risk can be safely managed; and*
- e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan."*

An assessment of flood risk has been undertaken by Caulmert on the application site, and it concludes that the development site is not in an area at risk of flooding due to its location in the landscape, being classified as 'Less Vulnerable' according to NPPF (Table 2: Flood risk vulnerability classification). The full report assesses the flood risk to the application site and the surrounding area and, further, any potential change that using inert materials to restore the site might have on this assessment overall. The report considered existing drainage, groundwater, overland flow and surface runoff. None of these were considered to pose a significant flood risk to the proposed development, or to increase the risk of flooding elsewhere.

The site plan incorporates a settlement pond to capture and store site rainwater before discharging it under Sustainable Drainage System (SuDS) principles into the local waterway network. This discharge will be under the control of a water discharge permit issued by the Environment Agency.

The report also states that the proposed development remains low risk against future flooding when taking account of climate change. The Flood Risk Assessment is contained within the Hydro-Geological Assessment in the environmental statement.

In Section 15 – 'Conserving and enhancing the natural environment' , Paragraph 175 of the NPPF gives guidance in relation to nature conservation and biodiversity "When determining planning applications, local planning authorities should apply the following principles:

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

The application is supported by an Ecological Impact Assessment which is detailed elsewhere in the Environmental Statement. The ecological report shows that there will be no significant harm to biodiversity, whilst proposing several mitigation measures that will be put in place to ensure that this is the case. The project has also developed a biodiversity gain plan which will run concurrently with the development operation, delivering overall improvements to biodiversity in the area owned by the landowner. The site itself is not covered by any international, national or local designations, and the nearest SSSIs are some way distant.

Although parts of the site are flanked by ancient woodland, as designated by Natural England, no designated ancient woodland exists on the development site itself, and measures will be in place (such as root buffering zones) to ensure that these woodland assets around the site are not damaged. In addition, although the roadway runs through one section of ancient woodland at Pephurst Wood before then running through Hursts Wood and Caddicks Copse – it is important to note that the project is utilising an existing wide gravelled roadway currently used for timber removal through these sections of woodland. This roadway has been in use for many years (IRO 100 years) and served as the road through the entire Pallinghurst Estate, so no further ancient woodland is set to be removed, and direct impacts to these areas are therefore limited.

The restoration project will – as required in paragraph 175c – provide an opportunity to further incorporate biodiversity improvement and will result in further net gains for biodiversity through the creation of the wetland habitat.

The Ecological Impact Assessment concludes that by implementing appropriate ecological mitigation, enhancement and safeguarding strategies, the development of the application site will not result in any significant change to the integrity of any habitat. See the Environmental Statement for more details.

Paragraph 178 of the NPPF sets out guidance on the ground conditions and pollution of a development site and the surrounding area. It states that: "*Planning policies and decisions should ensure that:*

- a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.'*

The site itself has no previous development and no previous planning history, so poses no risk to development. A desk study site investigation was carried out by Geotechnical Engineering Ltd in 2017 in order to give the developer (and other third party organisations carrying out more detailed work) background information on site conditions and the likely issues to be found. Their report noted that there were no historical underground workings recorded within 1km of the site. The report went on to say that '*the site is located in an area that is not considered to be affected by coal mining, assessed on a 1km buffer zone from the site boundary. A "rare" possibility of non-coal mining activities is recorded on-site in relation to*

iron ore, although there is no data pertaining to the presence of non-coal mining cavities beneath the site; the local geology is not particularly favourable for such mining and the risk of this being present on site is therefore considered to be remote. Brine or gypsum extraction is not recorded within 1km of the site. With regards to natural subsidence on site, a negligible hazard risk relates to ground dissolution of soluble rocks, a very low hazard risk relates to landslides and collapsible deposits, a low risk relates to shrink-swell clays and running sands, and a moderate risk relates to compressible deposits. The hazard risks for running sands and compressible deposits both correspond to the tract of Alluvium in the western plot and are not characteristic of the site as a whole, otherwise being of a negligible hazard risk in both cases'. It is considered therefore that the site is not at risk from inherent land instability issues due to these causes.

A more recent Hydro-Geological Assessment has been prepared by Caulmert as part of the EIA and its findings are included within that report and summarised in the Environmental Statement. The assessment considered all water related impacts of the proposed scheme including:

- water quality impacts associated with importation of inert restoration materials to enable the proposed restoration, as well as any additional quality impacts due to site operation;
- additional flood risk and drainage impacts following restoration to the proposed restoration plan.

The assessment concludes that no significant effects on groundwater and surface water are expected. Potential water quality impacts will be addressed by standard conditions applied to the development site through the environmental water discharge permit. Water quality effects due to inert filling are expected to be insignificant and this will also be controlled as part of the site environmental permit.

The restoration of the claypit voids utilising suitably inert materials from the CMRF will be under the control of a permit from the Environment Agency. No potentially polluting infill materials will be allowed to be utilised for restoration purposes, as materials destined for this purpose will be laboratory tested and cleared as suitable before use under the terms of the permit.

In terms of slope stability during both extraction and restoration the Operator will follow all best practice and adhere to the relevant standards in the Health & Safety Quarries Regulations 1999.

Paragraphs 180 and 181 of the NPPF give guidance on planning application decisions in relation to noise, air quality and light. The document states that: *"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a. mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b. identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*

- c. *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*" (Paragraph 180)

And that:

"Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas." in paragraph 181.

In relation to noise, as part of the ES a full noise study has been carried out, the summarised conclusions of which are:

- *Based on assumptions outlined in this assessment, which have been informed by details provided by Protreat and err on the side of worst case, the predicted levels at the noise sensitive receptors are equal to or below the lowest applicable criteria.*
- *For the CMRF operation the predicted noise rating levels at the sensitive receptors are equal to or below the lowest applicable criteria at all but one property. At Longhurst, the predicted rating level exceeds the target criteria by 1 dB but is still below the limit at which any significant impact might occur.*
- ***Accordingly, the noise emissions from the operation of the site are considered to be national and local policy compliant.*** [Emphasis added].

In relation to air quality, the development site is not near any existing Air Quality Management (AQM) Zone.

There is the potential for dust generation inside the CMRF building, but the dust generated by these indoor recycling activities will be mitigated appropriately using a mist air system to ensure dust does not pose a threat to the environment or the workers within the building. The mist air system will also be used during the restoration of the clay pit void. Further details are set out in the Dust Management Plan in the environmental statement.

The proposals will introduce artificial lighting to the site in winter months for the purposes of site safety. All lighting will be designed to be inward and downward facing, and operated only within the hours of operation, early mornings and evenings. The lighting in the clay-pit (if used) will be set as low in the excavation as is safely possible in order to further minimise the potential of light pollution, however the claypit operation is planned to operate normally during daylight hours, so lighting should not be required the vast majority of the time. Similarly the lighting on the exterior of the building will be placed on the east and south facing sides so as to minimise light pollution off site – away from the direction of the potentially sensitive receptors. The roadway to the development site will itself remain unlit as is the current situation.

The NPPF (in paragraph 183) provides advice as to the jurisdiction of the regulatory regimes and what should – and should not – be considered as part of planning proposals. This is relevant to this planning application since a permit is also required from the Environment Agency for the CMRF operation and the restoration stages of the project when the permit is surrendered. The guidance states that : *"The focus of planning policies and decisions should be on whether proposed*

development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities".

It is expected therefore that this guidance will be followed rigorously by WSCC, and that the focus of the authority in evaluating the planning proposal will be on the acceptable use of the land, rather than on factors that will be controlled through the environmental permit, such as noise and air quality impacts.

In **Section 16 'Conserving and Enhancing the Historic Environment'** , there is guidance on conserving and protecting the natural environment, where – in paragraph 189 – it states *"in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance"*

And in paragraph 192 :

"in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness."*

The Archaeological Report and the Landscape and Visual Assessment (LVIA) reports appended in the environmental statement identify that there are no significant heritage assets on site, either in terms of listed building, Scheduled Ancient Monuments, registered parks and gardens or conservation areas, but that there are a number of heritage assets – mainly listed buildings which are within 2km of the site, mainly on the west side in the parish of Loxwood, the nearest (Yew Tree and Elm Cottages) being some 1.1Km distant, but additionally to the south where Pephurst Farm (Grade 2 listed) lies approximately 162m from the proposed site entrance at Pephurst Wood. None of these properties has a direct view of the site and all are shielded from the operations due to the topography. Pephurst Farm may have partial glimpses of the site exit road where it joins the main Loxwood Road.

The LVIA assessed the landscape character and visual impact of the proposed operation and restoration scheme in relation to these properties. The noise assessment also considers the impacts on these heritage assets and whether they will be adversely affected by noise. The site is well protected with existing dense surroundings of mature trees which serve to visually screen the activity within the site, and which will shield these listed buildings from the mineral workings and fill operations, and any associated impacts of noise, dust and light which may impact on their setting. This mature woodland will be retained throughout operations and will be enhanced as part of the mitigation and restoration schemes. Therefore, whilst there are a number of listed buildings within a few km of the site, it can be concluded that this proposed development will cause negligible harm to these

buildings and their settings, and any features of special architectural or historic interest which they possess. Similarly, in relation to the two conservation areas in the vicinity at Erbanhoe Common and the Mens, the site will not present any change.

The application site is located within an area that is not subject to any national landscape designation, and no Sites of Special Scientific Interest (SSSIs) are located within a 2 km radius of the survey area. The desk study exercise for the ecological survey identified no European statutory sites within 5 km of the survey area, no UK statutory sites within 2 km and no non-statutory sites within 1 km.

The closest Ancient Scheduled Monuments are also recorded in the LVIA to be quite distant from the site, as are the South Downs National Park and the Surrey Hills AONB. The nature of the proposed development and the topography and vegetative buffer, means that there will be no adverse impacts on any of these assets.

Perhaps the most relevant section of the NPPF in relation to this project is **Section 17 – ‘Facilitating the Sustainable Use of Minerals’**, where paragraph 205 of the NPPF regarding the determination of minerals planning applications states that:

“great weight should be given to the benefits of mineral extraction including to the economy”.

7.10 Benefits to the Local Economy:

The ‘Loxwood Neighbourhood Plan for 2013-2029’ identifies that the parish of Loxwood is predominantly rural and has no large or medium scale industry other than farming. According to the Office of National Statistics (ONS) Census 2011 figures, 1,308 people are between the ages of 16 and 74 (72%) and 917 (70%) of these are economically active. Those noted as being in employment at that time numbered 885 (68%). The remainder were not necessarily “out of work” as this group also includes those who are retired, or people who are home based.

Although classified by the CDC Local Plan as a “Service Village”, the vast majority of economically active adults work away from the village. “Service Villages” are defined as villages that either provide a reasonable range of basic facilities (e.g. primary school, convenience store and post office) to meet the everyday needs of local residents, or villages that provide fewer of these facilities but that have reasonable access to them in nearby settlements. The few businesses that exist within the Parish are retail outlets or service based businesses e.g.- Village convenience store; post office; butchers; public houses and so on. Many smaller businesses are home based such as:- Physiotherapists; landscaping; general building/ handyman trades; painting/decorating and cleaning.

There are two businesses within the manufacturing sector and these are:- Skandia Hus Timber Structure manufacturer and Indigo Cabinet Design. These two manufacturing businesses are however also described as relatively small. The result of this level of economic activity is that the majority of working people in the parish must travel outside the area to work. The Community Led Plan survey conducted in September 2012 indicated of those surveyed and in employment, only 14 % worked in Loxwood.

The reason this is important, is that the new development will provide much needed local employment, with c. 12 jobs being created, bringing money into the local economy and removing the requirement for those who work at the site to have to drive outside the parish to find work. It is a well recognised fact that the creation

of jobs in the local economy inevitably leads to further economic advantage, due to the requirement for local supplies and services for the new development, further enhancing the economic benefits to the parish.

The development therefore serves the purpose of being a much needed economic boost to the parish, in addition to helping with the fight against climate change by helping to reduce the need for road transport and commuting. This point on reduction in transport miles also applies to the collection of local construction wastes, as any building wastes currently generated have to be transported outside the area for recycling.

Further guidance on facilitating the sustainable use of minerals is included in this section where it is stated in 203 that:

"It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation"

Weald Clay is a well known brick making resource which underlies the proposed clay extraction. Whilst it is not planned to establish a large excavation, the planned 6 hectare site will nonetheless provide a significant volume of much needed clay for brickworks (and other engineering uses) off site over the period of the next 30 years. This is seen as helping WSCC to demonstrate that it is complying with its duties in relation to supplying mineral resources both for the county and wider uses.

7.11 National Planning Policy for Waste

The National Planning Policy for Waste (NPPW) document was adopted in October 2014 and replaces Planning Policy Statement 10: Planning for Sustainable Waste Management. The document follows the Waste Management Plan for England and sets out detailed waste planning policies and how these should be rolled out into local waste plans. All local planning authorities should therefore have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management. In West Sussex, this will be reflected in the West Sussex Local Waste Plan, which is considered later in this section.

The proposed development accords with many of the requirements of the NPPW policy document, some of which are outlined below.

In section 3 it is stated that authorities should look to *"drive waste management up the waste hierarchy, recognising the need for a mix of types and scale of facilities"*. It is also stated in section 4 that authorities should *"consider a broad range of locations..... looking for opportunities to co-locate waste management facilities **together and with complementary activities**"*. [Emphasis added]

Whilst the CMRF facility is not looking to source wastes from a wide area, its small scale will still provide a much needed and beneficial local resource for waste treatment. As the proposed development seeks to recover reusable materials from construction wastes, whilst utilising the un-recyclable materials directly on site for restoration through the co-located CMRF, it would manifestly seem to satisfy both the aim of driving waste up the hierarchy and the requirement for co-location with a complementary activity.

Appendix A of the Policy for Waste document identifies the Waste Hierarchy. This lists in priority order, the treatments for waste as: Prevention; Preparing for re-use; Recycling; Other Recovery; and finally Disposal. 'Recycling' is defined as materials which can be reprocessed back into products, materials or substances. 'Other Recovery' is defined as 'waste which serves a useful purpose by replacing other materials that would otherwise have been used'. 'Prevention and Re-use' are above the line in the inverted waste hierarchy pyramid, i.e. they apply to materials that have not yet been discarded and have therefore not become waste. Therefore, recycling / recovery is the highest point achievable once materials have become waste.

The development seeks to satisfy both the 'recycling' and 'other recovery' objectives through the recycling of waste construction materials and the utilisation of the unrecyclable product as fill for the clay pit void space - which would otherwise have to be back filled with other imported materials.

7.12 National Planning Practice Guidance

The National Planning Practice Guidance was launched in March 2014 and replaced an array of guidance documents, including the Technical Guidance to the National Planning Policy Framework.

The Practice Guidance notes that planning for the supply of minerals has a number of special characteristics that are not present in other development, including that:

- minerals can only be worked (i.e. extracted) where they naturally occur, so location options for the economically viable and environmentally acceptable extraction of minerals may be limited;
- working is a temporary use of land, although it often takes place over a long period of time;
- working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated.

The guidance states that the suitability of each proposed site, whether an extension to an existing site or a new site, must be considered on its individual merits, taking into account issues such as:

- Need for the specific mineral;
- Economic considerations (such as being able to continue to extract the resource, retaining jobs, being able to utilise existing plant and other infrastructure);
- Positive and negative environmental impacts; and
- The cumulative impact of proposals in an area.

The issues of the economic viability of the project, its location, and the physical need for the clay to be extracted as a result of this development are of course of vital importance. Other minerals such as sand & gravel travel quite some distance from their places of origin to the sites where they are to be used, so in this respect clay should be considered no differently. Whilst there are no plans to have a brickworks next to the clay-pit, if the clay is required elsewhere in the county then this should be no barrier to development, as it would similarly be no barrier to a sand-pit development. Furthermore, subject to this development being permitted,

LCP intends to build a small brickworks to produce handmade bricks elsewhere in the county.

As an example of the potential need for the clay, the Ibstock brick works at West Hoathly will run out of clay in 7 years time, and will either have to apply for a further extension in an AONB, transport the clay from their Bexhill quarry some 36 miles distant, or perhaps even close the brickworks. WSCC has a duty to protect the AONB, but they also have a duty to maintain a minimum of a 25 year 'stock' of minerals. The Planning Inspector's comments on this issue are in the section in relation to Policy M5 of the JMLP below.

This potential need is of course just an example, there are several brickworks in the county and the developer is actively engaged with several potential users of the Loxwood clay in order to secure a market for the material prior to commencement of mineral extraction. In addition, clay provides an excellent resource to be used in flood defence schemes.

7.13 Regional Plans

National policies are dutifully reflected in the associated regional policies of West Sussex, and these are commented upon in more detail below. There are several applicable local plans, both county and district, which cover the proposed activities of this development. These are:

- The West Sussex Joint Minerals Local Plan (JMLP – July 2018)
- The West Sussex Waste Local Plan (WLP – April 2014)
- Chichester Local Plan (2014-2029)
- Loxwood Parish Neighbourhood Plan (2017)

Each of these is considered in more detail in the next sections.

7.14 The West Sussex Joint Minerals Local Plan (JMLP)

West Sussex County Council and the South Downs National Park Authority (SDNPA) worked in partnership on the preparation of the West Sussex Joint Minerals Local Plan. The Plan covers the period to 2033 and is the most up-to-date statement of the Authorities' land-use planning policy for minerals. In broad terms, with regard to provision of minerals, the strategy is to "achieve a steady and adequate supply by safeguarding existing minerals reserves and minerals resources, and allocating additional areas where minerals can be worked to meet a specific demand". Further, over the plan period, the Authorities must ensure that a steady and adequate supply of minerals is achieved in order to meet market demand.

There are several different sections of the JMLP which apply to the development proposal, with policy M5 being the most relevant policy;

Policy M5: Clay

(a) Proposals will be permitted for the extraction of brick clay provided that:

- (i) they would help maintain a stock of permitted reserves of at least 25 years of permitted clay reserves for individual brickworks; and*

- (ii) *the clay required for appropriate blending for manufacture of bricks is no longer available adjacent to the brick making factory.*

This is a matter of 'Interpretation'. In light of the closure of West Hoathley after the application had been submitted, this does not alter the overall position e.g. Pitsham. LCP intend to produce hand made bricks elsewhere, until then, b(ii) applies

(b) Proposals for the extraction of clay, for uses other than brick making, will be permitted provided that:

- (i) there is a need for the clay for engineering purposes; and*
- (ii) the clay cannot be used for brick-making; or*
- (iii) the resource is within an existing sand and gravel quarry and the extraction of clay would be ancillary to the extraction of sand and gravel.*

(c) Proposals that accord with Part (a) or (b) will be permitted provided that:

- (i) They are located outside the High Weald AONB/South Downs National Park unless there are exceptional circumstances and that it is in the public interest, in accordance with Policy M13, to locate within those areas;*
- (ii) they are extensions of time and and/or physical extensions to existing clay pits or, where this is not possible, they should be sited as close as possible to the site where the clay will be used;*
- (iii) where transportation by rail or water is not practicable or viable, the proposal is well related to the Lorry Route Network*

*** partly nebulous

Assessment

Policy M5 forms part of Section 6.5 of the JMLP, which acknowledges that National Policy requires Mineral Planning Authorities to provide for a 25-year stock of 'permitted reserves for the maintenance, and improvement of existing plant, as well as for new plant, and in the case of bricks, new kilns'. WSCC are required to take account of the need for provision of brick clay from a number of different sources, to enable appropriate blends to be made. The JMLP identifies three active brickworks which have in excess of 25 years of clay reserves. In the case of the remaining two brickworks, one has 24 years and the brickworks at West Hoathly has less than 10 years reserves (2016 data). There is further acknowledgment that West Hoathly is supplied by clay from an adjacent quarry that has a consent until 2028.

To safeguard brick making, the strategy accepts the principle of 'new sites, if existing supplies are exhausted or if a particular source of clay is required to enable appropriate blends to be made'.

Moreover, the establishment of a clay pit with 30 years of clay reserves, would replace the loss of the 30-year clay reserve (from 2012 until 2042) at the former Rudgwick clay pit and brickworks close to LCPs site. This former clay pit and brickworks was designated as a safeguarded site in the 2003 West Sussex Minerals Local Plan and in minerals planning policy terms, should not have been granted planning permission for restoration of that clay pit 30 years earlier than originally intended.

R Harrison & Sons Limited acquired the freehold of the former Rudgwick Brickworks from Wienerberger Brick in 2012. Wienerberger had acquired Rudgwick in 2006 following the acquisition of Baggeridge Brick plc and the closure of the site resulted in the loss of some 51 jobs.

Wealden Clay had been previously extracted from the Quarry and formed into stockpiles for use in the adjacent brickworks premises. In addition, materials were imported to the site to assist in the clay products manufacture including coke breeze and sand. The Harrison family decided to acquire the former Brickworks consisting of buildings and land to continue the expansion of their dairy farming business. West Sussex County Council granted planning permission to R Harrison & Sons Ltd in 2015, which enabled them to restore the 8.8 hectare former clay pit site with 590,000 tonnes of imported inert wastes over a very short 4 to 5 year period (80 HGV movements a day 6 days a week).

LCP's proposed development would replace the clay reserve that was lost to the county when the safeguarded Rudgwick site closed 30 years earlier than it should.

WSSCC also recognises that *'the extraction of clay for other uses such as engineering purposes (e.g. flood defence or landfill engineering), will be permitted provided it does not reduce the level of brick making clay reserves at individual brickworks which are safeguarded under policy M9'*.

The Planning Inspectorate produced a report on his examination of the JMLP and paragraphs 66 to 70 of that report are relevant. The Inspector weighed up the pros and cons of agreeing to the principle to extend West Hoathly planning permission for approximately 3 years. There is a presumption against permission because of the brickworks location in an AONB, but this had to be balanced against the loss of 40 jobs if the brickworks closed or the only other alternative to transport clay from Ibstock's nearest other claypit in Bexhill, East Sussex. The Inspector was persuaded by the fact that there were no other 'claypit proposals' on the table. He concluded that 'out of county' clay from Bexhill was by no means certain and even if it was a possibility, the road transportation over 60 miles through the AONB was less palatable than extending West Hoathly's permission by 3 years.

As noted in the various relevant sections of this report, the subject of this proposed development is not in an AONB, a fact which may have been potentially material to that original decision. Permitting the development at Loxwood could help to extend the lifespan of the two brick works that have less than 25 years life remaining.

In addition to the specific policy on clay, there are several other – more general – policies which apply to this development.

Policy M8

M8 states *' Proposals for primary and/or secondary mineral processing will be permitted provided that:*

(a) the proposed operations:

(i) are linked to the operations on the site;

(ii) will remain ancillary to the principal development at the site;

(iii) are of a duration that is tied to that of any primary extraction operation

Subject to this development going ahead, LCP would then pursue a further project elsewhere in West Sussex, for the establishment of a small-scale hand produced brick works to supply bricks to the local market, that are of a type and style that is appropriate to the local character and built environment. This brickworks would be similar in size or smaller than the brickworks at West Hoathly and similar in size to the hand made brickworks in Swanage, Hampshire.

8.1 Brick Clay and the Clay Brick Market

Brick clay is the term used to describe 'clay and shale' used in the manufacture of structural clay products, such as facing and engineering bricks, pavers, clay tiles for roofing and cladding and vitrified clay pipes. In the manufacture of bricks, the term 'clay' is used relatively loosely, as the clay mineral content of the raw materials may vary from 20% to 80%.

Fireclay is also used from opencast coal mining. Some clay and shale is used for engineering purposes, such as lining and capping landfill sites, lining ponds and general construction purposes. Some of these latter uses may place a commercial value on the clay and shale, that is up to 10 x higher than the extraction cost, which forms the cost base for brick manufacture. Large tonnages of clay and shale are also used in the manufacture of cement. Smaller amounts are used in a process to make lightweight aggregate for block making. Up until 20 years ago, it was estimated that around 90% of the clay and shale was used for facing bricks, albeit the outputs from clay pits that are tied to a particular brickwork, are commercially confidential.

As a general rule of thumb, approx. 3 tonnes of clay and shale is used to manufacture 1,000 bricks. The decline in demand for 'brick clay' from over 16 million tonnes in 1974 to less than 8 million tonnes by 2005, is broadly in line with the demise of common clay bricks which have been replaced in the inner leaves of cavity walls in houses, by concrete blocks, and in internal walls by blocks and plasterboard. Therefore, the correlation between brick production and house building has become less well defined.

Cement is used to produce the concrete blocks that have replaced clay bricks used for the inner walls in houses and so some clay and shale is now used for the concrete blocks instead of the bricks. Cement is essentially a mixture of calcium silicates and calcium aluminates. Cement is produced by taking the calcium from limestone or chalk and the silica / alumina from clay mudstone. The resultant cement clinker that accounts for 95% of the cement, is then ground and mixed with the 5% gypsum - calcium sulphate. As of 2018/19, 1.4 million tonnes per annum of clay mudstone was used to produce cement. This compares with the 6.15 million tonnes of clay that was used to produce bricks. When ignoring all of the other non-brick uses for brick clay, it is clear that during the last 20 to 30 years, brick clay use for bricks has reduced from 90% to c. 80%.

After the financial crisis in 2008, brick output further declined from 8 million tonnes, in 2005, to less than 4 million tonnes and the recovery in recent years up to the end of 2019, was still 15% down on 2005 levels. Before the decline in 2005, all of the counties in the south east of England accounted for 12% of Great Britain's clay brick output.

The introduction of new and more demanding standards for bricks in terms of durability is placing greater constraints on the types of clays that can be used. Developers, architects and planners are demanding that new housing and other buildings have a 'traditional' appearance sympathetic to local vernacular styles.

With the relative low unit value of brick clay on an ex works basis, the demand for new and lighter brick colours, means there is an increasing trend towards clay blending, which results in the transportation of clay from one clay pit to a brickworks located elsewhere. This is contrary to how things worked in the past, where brickworks relied on raw material from a captive, on-site clay pit. This trend is driven by the need to improve locally sourced clays to allow manufacture of bricks which both meet the highest technical specifications and give the consumer maximum choice of colours and textures.

Although virtually all clay movements tend to be by road, compared to the movement of aggregates, the volumes are small, and the haulage distances are relatively short. In any case, the manufactured products are almost always transported to the market, i.e., building sites, by road.

Brick Clay Reserves

In mineral planning, the terms 'reserves', 'mineral reserves' or 'permitted reserves' refer to the tonnage of a mineral that has a valid planning permission for mineral extraction. There has been no definitive survey of the size (tonnage) of permitted reserves of brick clay in Great Britain. However, in the course of preparing their development plans, Mineral Planning Authorities (MPA), such as West Sussex, are required to undertake assessments of the reserves in their area. However, it is not possible to publish such data due to commercial confidentiality concerns.

In 2000, the former government department for Transport, Local Government and the Regions (DTLR), commissioned a survey which concluded that the area of surface planning permission for clay shale was 8,430 hectares. However, gross figures for total reserves that derive in part from old permissions will include land that is non-mineral bearing or deposits that are no longer commercially viable. The reserve figure will also mask significant imbalances by clay quality leading to shortfalls of specific clay types.

The British Geological Survey assessed this using their spatial data and concluded the area was more like 7,300 hectares and the Wadhurst and Weald clay accounted for just 6% of the total brick clay resource in Great Britain.

This has to be borne in mind when any MPA reports that a particular brickworks with an on-site claypit has more than 50 years of reserves. In reality, the true level of reserves may be 10 to 20 years less than that, which is not much more than the minimum requirement to maintain 25 years of reserves.

Byproducts

Brick clay sites also often produce saleable aggregate from overburden and interburden, thus optimising the use of all mineral resources at a site, albeit this is more common for sites located in carboniferous mudstones in the Midlands. Sand and gravel is also occasionally produced from the superficial deposits overlying brick clays. Clay and shale are exempt from the Aggregates Levy and these materials may be used as a source of bulk fill where they are unsuitable for brick manufacture.

8.2 National Planning Policy Framework – February 2019 (NPPF)

This document replaces the first National Planning Policy Framework published in March 2012 and includes clarifications to the revised version published in July 2018.

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise, and the National Planning Policy Framework (NPPF) is now a material consideration in planning decisions.

The JMLP was issued before the latest NPPF and the 2019 Waste Local Plan Review was based on monitoring reports up to March 2018, i.e., nearly 12 months before the issue of the NPPF. One further monitoring report for the 12-month period ending March 2019, has been issued since the NPPF was published. WSCC have confirmed (June 2020) that the March 2020 monitoring report will probably be issued in June 2021.

Paragraph 204 of the NPPF states that when developing noise limits, it must be recognised that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction. However, the predicted noise levels from LCP's operation will be within the acceptable standards.

LCP's proposal will continue to inject money into the local economy over a 30-year period of operation, both in terms of money spent on goods and services supplied, employment created and in terms of income generated by the sales of mineral clay and from the recycling of construction and demolition waste.

Paragraph 205 of the NPPF states - when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. This paragraph also states that as far as is practical, the planning authority should provide for the maintenance of landbanks of non-energy minerals from outside National Parks, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas. LCP's site is not within, or near to, a designated site.

Paragraph 208 on page 60 states that minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:

- a) co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes;
- b) encouraging safeguarding or stockpiling so that important minerals remain available for use;
- c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment³; and
- d) taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made. **[NB: WSCC's convoluted M5 Policy does not really support this objective].**

At the heart of the NPPF is a presumption in favour of sustainable development, which is summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs⁴.

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in

³ At least 25 years for brick clay

⁴ Resolution 42/187 of the United Nations General Assembly

mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- An economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- A social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- An environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development. For decision-taking this means approving development proposals without delay.

Greenfield development

The planning application for LCP's proposed development demonstrates that this is a small-scale development that will have no significant visual impact and the land will be returned to its original state with a bio diversity net gain during the lifetime of the development. LCP's site is **greenfield** but not green belt. The following extracts from the NPPF demonstrate that if development could be permitted in green belt then a lower bar must exist for green field.

Paragraph 146 of the NPPF states that mineral extraction developments are NOT inappropriate in the Green Belt if they preserve its openness and do not conflict with the purposes of including land within it. The Government's revised 'Green Belt Guidance' was published on the 22 July 2019 - Paragraph: 001 Reference ID: 64-001-20190722:

Assessing the impact of a proposal on the openness of the Green Belt (as defined in the NPPF), where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.*

Paragraph: 002 Reference ID: 64-002-20190722:

Where it has been demonstrated that it is necessary to release Green Belt land for development, strategic policy-making authorities should set out policies for compensatory improvements to the environmental quality and accessibility of the remaining Green Belt land. These may be informed by supporting evidence of landscape, biodiversity or recreational needs and opportunities including those set out in local strategies, and could for instance include:

- *new or enhanced green infrastructure;*
- *woodland planting;*
- *landscape and visual enhancements (beyond those needed to mitigate the immediate impacts of the proposal);*
- *improvements to biodiversity, habitat connectivity and natural capital;*
- *new or enhanced walking and cycle routes; and*
- *improved access to new, enhanced or existing recreational and playing field provision.*

Paragraph: 003 Reference ID: 64-003-20190722:

Identifying the scope for compensatory improvements is likely to require early engagement with landowners and other interest groups, once the areas of land necessary for release have been identified. Consideration will need to be given to:

- *land ownership, in relation to both land that is proposed to be released for development and that which may be most suitable for compensatory improvements for which contributions may be sought;*
- *the scope of works that would be needed to implement the identified improvements, such as new public rights of way, land remediation, natural capital enhancement or habitat creation and enhancement, and their implications for deliverability;*
- *the appropriate use of conditions, section 106 obligations and the Community Infrastructure Levy, to secure the improvements where possible. Section 106 agreements could be used to secure long-term maintenance of sites.*

8.3 West Sussex Joint Minerals Local Plan – Duty to Cooperate Statement – issued May 2017

This 301-page document sets out the process that is reinforced in the NPPF that was issued 2 years later. This document seeks to demonstrate that WSCC and the South Downs National Park Authority met the statutory requirements imposed by the Localism Act 2011 in relation to the Duty to Cooperate during the preparation of the Joint Minerals Local Plan. This required the joint authorities to consult with other Minerals Planning Authorities in south east and further afield, to determine whether minerals could be imported into West Sussex from the neighbouring counties, e.g. East Sussex and Hampshire. Enquiries were also made with other county authorities who are a considerable distance from West Sussex, e.g. Staffordshire, Cheshire, Derbyshire, Nottinghamshire and North Yorkshire.

The supply of clay to the brickworks in West Hoathly was identified as a Strategic Priority:

A site at West Hoathly is allocated for clay extraction to provide additional supplies of brick clay to the brickworks. The Authorities investigated the availability of alternative supplies of brick clay as part of the exceptional circumstances test as the site would be major development in the AONB. In particular further information was sought from East Sussex County Council to ascertain whether brick clay could be imported from its plan area.

The relevant strategic objectives are - "to promote the prudent and efficient production and use of minerals, having regard to the market demand and constraints in the Plan area".

In relation to supply from Little Standard Hill Farm [East Sussex], there is a condition attached to the planning permission that states that the clay should only be used in connection with the production of bricks at Ashdown Brickworks. If permission was sought to remove the conditions, the operator would need to demonstrate that the reserves were no longer needed in the long-term at Ashdown brickworks and that the proposals were acceptable in terms of other policies. With regard to Ashdown Brickworks, it is estimated that there are sufficient reserves for the next 48 years (information provided with 2003 planning application). Although there isn't anything specific relating to extracted clay not being permitted to be exported from Ashdown brickworks, the East Sussex, South Downs and Brighton and Hove Waste and Minerals Plan (2013) seeks to sustain the manufacture of brick, tile and clay products in the Plan Area. The export of clay to a site outside the Plan area is not likely to be supported if it were to significantly prejudice the future of any of the existing sites in East Sussex by the substantial reduction of clay reserves.

On the 15 January 2016, a senior planner at WSCC emailed their counterpart at ESCC to ask the following question:

To help WSCC/SDNPA progress the preparation of their Joint Minerals Local Plan I would be very grateful if you would respond to the questions below which relate to the possibility of clay being imported into West Sussex from East Sussex, to supply an existing Ibstock brickworks at West Hoathly. Currently the brickworks is supplied by clay from an adjacent excavation and WSCC/SDNPA are considering whether to allocate an extension to the brickworks in the Plan. An important factor in the authorities' assessment of the site's suitability is its location within the High Weald Area of Outstanding Natural Beauty and therefore its consistency with paragraph 116 of the NPPF.

Responses to the following questions are needed to inform this assessment.

- 1. Are you aware of any sites within East Sussex County Council that could, theoretically, supply Wadhurst Clay to the brickworks at West Hoathly?*
- 2. Ibstock have suggested that, at some point in the future, it may be possible for the brickworks to be supplied from their Ashdown and Little Standard Hill sites. With regard to this, are there any constraints (in East Sussex) which would hinder such activity and, if so would it be possible for these constraints to be overcome? (Please consider development management and supply constraints).*
- 3. Please provide any other comments on the deliverability of West Hoathly brickworks being supplied by Imports of clay.*

The planner at ESCC sent the following reply on the 25 January 2016:

Q1. *Ibstock currently has four sites in East Sussex: Chailey Brickworks (active); Ashdown Brickworks (active); Little Standard Hill (implemented but no current extraction); and Horam Brickworks (implemented but no current extraction – the brick manufacturing development has not been commenced). The ability to supply the specific type of Wadhurst Clay required would have to be verified with the operator. There are two other active clay extraction sites within East Sussex, but these are for handmade tiles/bricks and, therefore, the reserves available are limited.*

Q2. *In relation to clay being supplied from Ashdown Brickworks and Little Standard Hill, please note the following:*

- *In relation to Little Standard Hill Farm, condition 2 of MR/11 states: "The clay extracted from the site shall be used **only** for or in connection with the production of bricks or other clay products at the Ashdown Brickworks, except with the prior written approval of the Director of Transport and Environment." Therefore, in the event that Ibstock were to seek to remove this restriction, they would need to demonstrate that:*
 1. *The reserves were no longer needed in the long term at Ashdown brickworks; and*
 2. *That the proposals are acceptable in terms of WMP 18 (transport) and DM policies, particularly WMP25 (general amenity) and WMP 26 (traffic impacts).*
- *Ashdown Brickworks has a long history of brick making with records dating back to 1900. Various permissions have been granted, the latest relevant permission being MR/10 granted in 2003. The applicant estimated that there was sufficient reserves for the next 48 years. This permission allows the winning and working of minerals to 2052. Whilst there isn't anything specific relating to extracted clay not being permitted to be exported from Ashdown Brickworks, Condition 11 of MR/10 states: "No topsoil or subsoil shall be sold or removed from the site for any other purpose." However, the reason for this is to ensure there is sufficient material for restoration purposes, rather than relating to clay that is extracted. There are also other conditions controlling the use of this site. It should be noted that the Highway Authority considered that the application proposed extraction and production rates at a constant level, so the traffic situation would not significantly change from existing levels. Accordingly, the Highway Authority did not object to the application*

Q3. In relation to supplying minerals to adjoining areas, the NPPF contains the following references on the sourcing of clay:

"MPAs should plan for a steady and adequate supply of industrial minerals by co-operating with neighbouring and more distant authorities to co-ordinate the planning of industrial minerals (includes clay) to ensure adequate provision is made to support their likely use in industrial and manufacturing processes; provide a stock of permitted reserves to support existing plant for at least 25 years for brick clay, ...and taking account of the need for provision of brick clay from a number of different sources to

enable appropriate blends to be made.” Previous national policy indicated that clay should be extracted as close as practicable to the brickworks that it supplies.

In terms of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 (WMP), Policy WMP 13 seeks to sustain the manufacture of brick, tile and clay products in the Plan Area. Resources at Ashdown Brickworks and Little Standard Hill are also safeguarded in the WMP. The Policies do not address the potential export of clay from existing sites, except in the case of use for flood defences. However, by implication and in terms of Policy WMP4 (sustainable minerals provision), the export of clay to a site outside the Plan area is likely not to be supported if it were to significantly prejudice the future of any of the existing sites in East Sussex by the substantial reduction of clay reserves available to that site and/or compromising restoration plans (Policy WMP17). Sustainable transport and traffic issues are also key considerations at the Ashdown Brickworks site.

Similarly, the response from Surrey County Council stated:

Depending on which sites are allocated, this option may prevent a 25-year landbank at those existing sites having less than 25 years of clay reserves remaining. We have lost a lot of brickworks in Surrey over the past 10 to 15 years. We now have only two remaining sites in the south west of the county where clay extraction and the associated brickworks are situated together. After having been mothballed for many years, many brickworks across the country are re-opening following a massive shortage of bricks although we remain heavily reliant on imports. The surge in demand may justify investment in plant and machinery at sites where the existing plant is outdated and in need of modernisation but such investment is very expensive.

In terms of clay, you seem to imply that the landbank is below 25 years at two of your sites, given that you say that it is beyond 25 years at 3 of your 5 sites. On this basis, is there merit in having a more definitive option to maintain a 25-year landbank at existing sites throughout the plan period. In Surrey, we identified areas of search around our existing brickworks for possible clay extraction in the longer term although my understanding is that we do not have much information on the quality of the clay reserve identified - hence us going down the 'area of search' route.

Comment: LCP's site is on the Surrey / Sussex border, the NPPF imposes a Duty to Cooperate and Surrey also has a clay shortfall.

8.4 Draft Joint Minerals Local Plan, Planning Inspectorate's (PINS) Report – issued 30 May 2018, i.e. before the NPPF was published.

The draft Joint Minerals Local Plan was subject to a 6-week public consultation period followed by a public hearing that lasted from the 19 to 28 September 2017.

The non-technical summary in PINS report highlighted the changes to the draft local plan:

- Amendments to remove reference to landbanks in relation to silica sand and clay and to reference a stock of permitted reserves.
- A change to ensure that the strategy for clay includes the safeguarding of brick-making clay.

- Amendments to the supporting text of Policy M10 to refer to brickworks as part of safeguarded minerals infrastructure and buffers of 250 metres to sensitive receptors rather than 150 metres.
- Changes to the development principles for the Extension to West Hoathly Brickworks site allocation.
- Changes to Policy M23 to ensure that the policy relates to the operation of mineral workings, as well as their design and to provide clarity on what evidence will be required in support of future proposals in terms of a working programme.

The detail that lies behind this summary is relevant to LCP's planning proposal. It is also worth noting that although PINS report was produced just 9 months before the NPPF, there are some considerable differences between the two.

Paragraph 15 states:

I have amended the wording of MM1 to include Areas of Outstanding Natural Beauty (AONB) following representations on the MM consultation, as there are some mineral resources, particularly clay, in such areas.

Paragraph 52 states:

Pitsham also relevant

It has been suggested that the proposed extension to West Hoathly Brickworks will not result in a stock of permitted reserves of at least 25 years to the Brickworks. However, the allocation was the only one put forward and it would, nonetheless, make an important contribution to the stock of permitted reserves. Policy M5 also includes criteria that would allow for other sites to come forward in the future, if needed. I consider this to be an appropriate and sound approach. [Emphasis added]

Comment: this 9 hectare clay pit extension in an AONB with a large number of ecological and archaeological issues to overcome, compares to LCP's 6 hectare clay pit on a site that is **NOT** in an AONB and is not a designated site.

Paragraph 53 states:

Policy M5 does, however, refer to maintaining a landbank, whereas national policy requires the maintenance of a stock of permitted reserves. To ensure consistency with national policy, changes to Policy M5 (MM37), the supporting text (MM35) and to the monitoring framework (MM38) are required for soundness. A change (MM36) is also required to the supporting text to make clear that part of the strategy for clay is to safeguard the brick-making clay resource, this will ensure compliance with national policy.

Comment: It is not at all clear that the final wording in the JMLP, subsequently issued, did in fact address the points raised in Paragraph 53.

The following paragraphs related to "Issue 3" - *Whether the site selection process, including its methodology and criteria is justified, effective and consistent with national policy and whether the Extension to West Hoathly Brickworks site allocation is acceptable in environmental terms and in all other regards.*

Paragraph 65 states:

The proposed extension to West Hoathly Brickworks would provide the brickworks with up to 3 years of supply and is approximately 9 hectares in size. The site is

located within the High Weald AONB. Paragraph 116 of the NPPF sets out that major development within AONBs should not be allowed unless there are exceptional circumstances and where it can be demonstrated it is in the public interest. The same paragraph also sets out a number of considerations that are of relevance to the consideration of whether exceptional circumstances exist. These are: the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. These criteria are also reflected in Policy M13 of the Plan.

Paragraph 66 states:

The 'NPPF' [**this is the earlier version of the NPPF**] at Paragraph 146, sets out that minerals planning authorities should plan for a steady and adequate supply of industrial minerals by providing a stock of permitted reserves of at least 25 years for brick clay and for cement primary and secondary materials to support a new kiln. The need to secure a stock of suitable reserves of some 25 years demonstrates the importance of the resource, which is at the least of regional importance. It is clear that the site allocation is needed to contribute to securing a stock of permitted reserves for the West Hoathly brickworks. Turning to the local economy, the Authorities MSSR identifies that some 40 people are employed by the brickworks. Should the brickworks have to close because of a lack of a clay source, this would result in a notable impact on employment. In addition, the output from the brickworks is a major contributor to the local and regional economy.

Paragraph 67 states:

The Authorities' evidence on potential alternatives within the MSSR is contradictory. The report in Appendix 8 identifies that there may be potential to import clay from sites in East Sussex, namely Little Standard Hill, Ninfield and Ashdown Brickworks, Bexhill and therefore exceptional circumstances do not exist. However, the main body of the report at Paragraph 3.52, states that there is uncertainty that any permission to export clay from East Sussex would be allowed and therefore, to guarantee the continued operation of the brickworks, and to safeguard the associated employment at the site, it is in the public interest to allocate the site [i.e. West Hoathly].

Paragraph 68 states:

At the hearing sessions, the Authorities accepted that Paragraph 116 of the NPPF [**earlier version**] states that to justify major development in an AONB, exceptional circumstances must exist and it must be demonstrated that it is in the public interest. The Authorities did, however, at the hearing session set out that there is significant uncertainty with regard to the potential to export clay from East Sussex to the West Hoathly Brickworks and on that basis, and having regard to all other matters associated with Paragraph 116 of the NPPF, they argued exceptional circumstances, which is in the public interest do exist.

Paragraph 69 states:

The importation of clay from the existing sites at Little Standard Hill, Ninfield and Ashdown Brickworks, Bexhill to West Hoathly brickworks would result in a significant increase in vehicle movements to the site over a long distance.

Additionally, it appears that the likely route from the two sites in East Sussex to West Hoathly would be via the A22, which runs through the Ashdown Forest Special Area of Conservation (SAC). It is unclear whether alternative routes would be possible or viable.

Paragraph 70 states:

*The Authorities have set out that the importation of clay to the brickworks could result in additional costs which **might** affect the viability of the brickworks. I consider that this is an important factor, bearing in mind the distance that the clay would need to be transported. Given this, I am of the view that there is a significant level of uncertainty that the importation of clay to the brickworks from East Sussex is a likely or viable option.*

Comment: this was never quantified. No market assessment was carried out to support this assumption or if it was carried out it does not appear to be in the public domain.

Paragraph 72 states:

The development principles for the site [i.e. West Hoathly] would require that any extraction is undertaken in small areas in sequence to minimise any visual intrusion along with perimeter mounding and additional planting. I consider that this would help to ensure that any potential landscape and visual impacts were minimised. There will inevitably be some impact on the special qualities of the AONB and the potential for some cumulative impacts with the existing brickworks during the operation of the site. However, given the above, I am not of the view that there would be a significant level of harm. Further, the site would only see clay extraction for approximately 3 years and I consider that the site can be restored in such a way, in accordance with the development principles of the site, which would conserve and possibly even enhance the purpose and special qualities of the High Weald AONB in the longer term. This view is also shared by the High Weald AONB Unit in their consultation response.

Paragraph 76 states:

I consider that the site selection process [for the West Hoathly site in an AONB], including its methodology and criteria is justified, effective and consistent with national policy and the Extension to West Hoathly Brickworks site allocation is acceptable in environmental terms and in all other regards.

Finally, PINS concluded the Habitats Regulation Assessment as follows:

No significant effects in an AONB which appears contrary to the County Ecologist's opinion about LCP's site, which is not in ab AONB

The Habitats Regulations AA Screening Report (Revision 4) December 2016 sets out that the Plan may have some negative impact, and an appropriate assessment for the Extension to West Hoathly Brickworks should be undertaken. The appropriate assessment undertaken by the Authorities found that the site would not have any significant effects. I agree with this view. Overall, the Plan, as proposed to be modified, would not have any significant effects on European protected sites and Natural England supports this conclusion.

8.5 West Sussex Joint Minerals Local Plan until 2033 (JMLP) – issued July 2018, 6 months before the NPPF

The JMLP was issued within 2 months of PINS Report. LCP's proposed development site is only 7 miles / 11km outside of the broad geological zone that forms part of the High Weald triangle between Horsham, East Grinstead and Burgess Hill that is

referred to in Chapter 4.3.1 of the JMLP, but more importantly, LCP's site is outside of the High Weald AONB.

Surrey CC do not object to LCP's development on the Surrey/Sussex border but no apparent co-operation from WSCC

Chapter 5 of the JMLP Executive Summary – Strategy and Policy Context, states:

In keeping with the 'duty to cooperate', the Authorities are continuing to engage with adjoining Minerals Planning Authorities (MPA) and those elsewhere to ensure that a consistent approach is taken to minerals planning and that planned provision of minerals is co-ordinated, as far as is possible, whilst recognising that provision by the minerals industry is based to a significant extent on commercial considerations.

Chapter 6 of the JMLP Executive Summary – Strategic Minerals Supply, states:

In broad terms, with regard to provision of minerals, the strategy is to achieve a steady and adequate supply by safeguarding existing minerals reserves and minerals resources, and allocating additional areas where minerals can be worked to meet a specific demand...[Emphasis added].

Chapter 1.2 of the main report "The Challenge", recognises that "Minerals are essential to our way of life. They have been used to create the towns and villages in which we live and are present in the products we consume. Minerals found in West Sussex are needed to ensure that we continue to enjoy a good standard of living and are key to our future prosperity".

Chapter 2.3.12 of the main report "Transport", states that "the use of road transport will be minimised and there will be a preference for new sites or facilities to be located **as close as possible** to the Lorry Route Network (LRN) to minimise the impact of road transport on local communities and rural areas". [Emphasis added]

Comment: LCP's proposed development is only 2 miles from the LRN – the A281.

Chapter 3.3.6 states "Clay extraction in West Sussex, for the purposes of brickmaking, has a long-established history in the central and north eastern parts of the county. Wealden stock bricks continue to be produced and have a distinctive character. Clay is also used for the production of tiles and pipes, and clay can also be used in the production of cement manufacture, and lining canals and lakes. There are five active clay sites in West Sussex, some of which are small operators, which account for 20-25% of the total in the Country".

Comment: this claim is wildly inaccurate. The actual figure (based on WSCC's own monitoring data) is c. 5%.

Chapter 3.4 "Imports and Exports" acknowledges that the Information and data on imports/exports is collated every four years when Department of Communities and Local Government (DCLG) and the British Geological Survey (BGS) conduct a national survey. At the time that the JMLP was issued, the last national survey, for which results are available, took place in 2009 (AM2009). A Survey was not conducted in 2013, and instead was undertaken for 2014, but the results were not published until November 2016 (AM2014). *Although this most up to date information was available 18 months before the JMLP was issued, it was not available when the draft report was published for the public consultation that lasted from April to June 2016. Therefore, when PINS issued their report and the adopted JMLP was issued, in July 2018, the aggregate and minerals imports and exports data was 9 years old.* When AM2014 was published it excluded data about the clay market and only focused on the traditional sand & gravel minerals etc.

Paragraph 4.4.9 of Chapter 4 – “Landscape and Townscape Character” recognises that:

Minerals can only be worked where they occur and their extraction can potentially cause conflict through loss or changes to valued landscapes. The extraction of minerals and subsequent restoration of sites can impact on historic landscape patterns and lead to the creation of new landscapes. The South Downs National Park covers almost the whole of the chalk outcrop, almost half the Folkestone Beds, and part of the gravel resource north of Chichester. The High Weald AONB designation includes the entire Wadhurst Clay outcrop. The Chichester Harbour designation includes a partial amount of unconsolidated gravel. AONBs and National Parks are afforded the highest level of protection by National Policy, which states that exceptional circumstances and the public interest should be demonstrated prior to development being permitted within such areas.

Section 4.8.2 of the chapter on “Transport” states:

The West Sussex Transport Plan seeks to maintain and promote the Lorry Route Network (LRN) which was developed to reduce the use of unsuitable roads by hauliers and is shown on the Key Diagram. The Lorry Route Network is divided into the ‘Strategic Lorry Routes’, which are the preferred routes, and the ‘Local Lorry Routes’, which should only be used for the start or final leg of a journey or between built-up areas in West Sussex. [Figure PS19].

The access to LCP’s proposed development site is just 2 miles from the Local Lorry Route that connects to the Strategic Lorry Route. In contrast, West Hoathly brickworks is 3.5 miles south-west of East Grinstead on the West Sussex / Mid Sussex borderline and 3 miles from the Strategic Lorry Route. LCP’s site is not in a designated area, whereas the site at West Hoathly is in an AONB.

Nevertheless, section 4.8.7 states:

Mineral resources have to be worked where they occur and therefore they will not always be close to the Lorry Route Network (LRN), although access to the LRN is desirable. HGVs will be encouraged to use the LRN while maintaining access to areas which businesses need to access.

Chapter 6.5 of the JMLP, “Clay” addresses a number of specific issues and sets out Policy M5. Sections 6.5.1 to 6.5.8 state as follows:

- *Brickmaking has long been established in the central and north eastern parts of the County and clay is extracted from a number of locations. The Weald and Wadhurst clays are the principal resources which have been identified as regionally and nationally important (BGS 2007). Minerals Safeguarding Areas and Mineral Consultation Areas for West Sussex). Historically brickworks have been located close (often adjacent) to the source of clay used at the brickworks and their ongoing operation is linked to the availability of clay at those sources. The market for manufactured bricks extends beyond the Plan Area.*
- *Brick clay in West Sussex is used in the manufacture of structural products such as bricks, pavers, clay tiles and clay pipes. Historical information suggests that clay was also imported to Shoreham Cement Works from Horton (former clay pit and landfill site).*

- *There are five active brickworks within West Sussex, with their own supplies of clay, which have a total permitted reserve of 18.7mt (2016 data⁵). West Hoathly brickworks is supplied by clay from an adjacent quarry that has a consent until 2028.*
- *The relevant strategic objective is to promote the prudent and efficient production and use of minerals and to ensure a steady and adequate supply, having regard to the market demand and constraints on supply in the Plan area.*
- *National policy requires Minerals Planning Authorities to provide for a 25 year stock of permitted reserves for the maintenance, and improvement of existing plant, as well as for new plant, in the case of bricks, new kilns. The Authorities are also required to take account of the need for provision of brick clay from a number of different sources, to enable appropriate blends to be made. Three active brickworks have in excess of 25 years of clay reserves, one has 24 years and the brickworks at West Hoathly have less than ten years reserves (2016 data)⁶.*
- *The strategy for clay is to safeguard brick-making clay; to allocate an extension to the claypit at West Hoathly brickworks to maintain supplies of clay to the brickworks (see Policy M11) and allow extensions, or new sites, if existing supplies are exhausted or if a particular source of clay is required to enable appropriate blends to be made. Proposals for non-allocated sites will be assessed against Policy M5.*
- *The extraction of clay for other uses such as engineering purposes (e.g. flood defences or landfill engineering), will be permitted provided it does not reduce the levels of brick-making clay reserves at individual brickworks which are safeguarded under Policy M9. Such clay might be obtained from overburden from sand and gravel sites or be extracted from an existing site that is unsuitable for brick-making purposes⁷.*
- *Apart from sites which pass the 'exceptional circumstances' and 'public interest' tests, all new sites should be outside the High Weald AONB/SDNP and extensions to existing clay pits or as close as possible to the site where the clay will be used. Sites should also be well-related to the Lorry Route Network which means that they are located as close as possible to the LRN so that the use of local roads is minimised.*

Policy M5

(a) Proposals will be permitted for the extraction of brick clay provided that:

(i) they would help maintain a stock of permitted reserves of at least 25 years of permitted clay reserves for individual brickworks; and

(ii) the clay required for appropriate blending for manufacture of bricks is no longer available adjacent to the brick making factory.

⁵ This is not explained in the JMLP. On the one hand, the Plan relies on the 2009 data but somehow relies on the 2016 data to support this point.

⁶ Now respectively 19 years and 5-6 years.

⁷ WSCC have no control over the sale of clay that is purportedly 'unsuitable for brick making purposes'

(b) Proposals for the extraction of clay, for uses other than brick making, will be permitted provided that:

(i) there is a need for the clay for engineering purposes; and

(ii) the clay cannot be used for brick-making; or

(iii) the resource is within an existing sand and gravel quarry and the extraction of clay would be ancillary to the extraction of sand and gravel.

(c) Proposals that accord with Part (a) or (b) will be permitted provided that:

(i) They are located outside the High Weald AONB/South Downs National Park unless there are exceptional circumstances and that it is in the public interest, in accordance with Policy M13, to locate within those areas;

(ii) they are extensions of time and and/or physical extensions to existing clay pits or, where this is not possible, they should be sited as close as possible to the site where the clay will be used;

(iii) where transportation by rail or water is not practicable or viable, the proposal is well-related to the Lorry Route Network.

This policy is arguably 10 or more years out of date with the way in which the market currently works. It is also not supported by the NPPF that was published after the JMLP. The inclusion of "and" in several sub-sections of the policy, is perceived to be a protectionist measure that reflects the lack of co-operation between neighbouring counties as set out in the 'Duty to Co-operate Statement'. This could be construed to mean that if West Sussex is unable to have any of the brick clay from East Sussex, Hampshire and Kent etc., then West Sussex will ensure that its clay stays in West Sussex.

For example, despite recognising that there are particular problems with a shortage of brick clay at the West Hoathly brickworks, scheduled to run out by 2027 (with the permitted 2 to 3 year extension), it was necessary to allow for an extension in an AONB, rather than commercial pressures resulting in clay being transported over great distances from a sister site in East Sussex, travelling through the AONB.

In effect, M5(a)(i) & (ii) means further extensions should be considered rather than to grant permission for clay pits at alternative locations.

M5(b) may be helpful if the clay is not suitable for manufacturing bricks.

M5(a) and (c)(ii) arguably, only favour new applications, if extensions to existing sites are refused or the existing clay pit is exhausted and provided that the new site is as close as possible to an existing brickworks.

This one clay pit for one brick works policy bias appears to be overly restrictive, contrary to the policy set out in the NPPF and counterproductive. It also appears to be contrary to the policies applied in neighbouring East Sussex, where the 6 clay pits far outnumber the 2 brickworks.

8.6 West Sussex Joint Minerals & Waste Local Plan Monitoring Report (April 2017 to March 2018) – issued May 2019

Section 4.2 of the report claims as follows:

- The total brick clay reserve was 18.02 million tonnes
- Annual brick clay sales (usage) was 325,500 tonnes (110 million bricks or 5.4% of the UK clay brick market). **[Note: not 20%-25% as claimed in the JMLP]**
- Five active brickworks
- Three brickworks with more than a 25-year landbank
- **Two brickworks with less than 25 years – West Hoathly 7 years and Pitsham 22 years**

The current annual brick clay sales figure for the whole of West Sussex is approx. 50,000 tonnes less than the forecast output from LCP's clay pit during its entire 30 year operational life.

West Hoathly has been operational for more than 120 years on an 11 hectare site, with the brickworks occupying less than 2 hectares. Their 9 hectare claypit equates to a clay reserve of approx. 550,000 to 600,000 tonnes. When averaged over say 100 years this is 6,000 tonnes per year or 50% of the annual forecast capacity of LCP's claypit.

Comment: although the JMLP set out a policy approving the 9 hectare extension of the West Hoathly clay pit in 2018, **as of June 2020, Ibstock Bricks had not applied for planning permission for this extension.** It may well be that an application will be submitted before the current permitted reserves run out in 2024-25 or Ibstock are currently importing clay from their other clay pits in East Sussex to mix with the clay at West Hoathly and this clay will be used to extend the life of the brickworks.

8.7 West Sussex Joint Minerals & Waste Local Plan Monitoring Report (April 2018 to March 2019) – issued April 2020

Sections 4.1 & 4.2 report that:

- In the last 12 months, clay reserves have reduced from 18.02 to 17.8 million tonnes
- Clay sales remain at c. 300,000 tonnes per annum
- All other details as per the report to March 2018, except all brickworks with one year less of clay supply.

8.8 Clay for Flood Defence

In July 2020, Defra published HM Government's "Flood and coastal erosion risk management Policy Statement". This policy document is supported by a range of actions to double the number of government funded flood defence projects, which will drive down flood risk by 11% and better protect 336,000 properties by 2027. This also requires every region in England to develop a more comprehensive local plan to drive long-term action and investment to protect against the impacts of erosion and rising sea levels.

This policy document calls upon government, individuals, local and national public bodies, private sectors, local communities and those responsible for key infrastructure, to pull together to implement these policies. Government has pledged £5.2 billion over the next 6 years, on top of the £2.6 billion already spent, to build 2,000 new flood defences. This policy statement has been informed by the

Environment Agency's consultation exercise on the updated National Flood and Coastal Erosion Risk Management Strategy. These policies claim to avoid £32 billion in future economic damages and include a review of Shoreline Management Plans. The "Flood and Coastal Resilience Innovation Programme" commenced in November 2020, with expressions of interest required by 29 January 2021 with projects being implemented from June 2021.

The Environment Agency & National Resources Wales currently maintains over 21,800 miles of coastal and flood defence embankments in England & Wales. Threats of coastal erosion in West Sussex are particularly severe in Selsey, which could be completely submerged, and also in the areas surrounding Chichester harbour such as Bosham, Dell Quay and Shipton Green. Coastal flooding issues affect river estuaries, which impacts on inland flooding.

Clay is not the solution to every flood defence problem, but it does have a part to play. The Weald Clay beneath LCP's site is essentially aluminium silicate (70-80%) with significant levels of calcium in parts of the site. Similar to Fullers Earth, which consists primarily of hydrous aluminium silicates (kaolinite) aka calcium bentonite, Weald Clay can be used to form part of flood defence embankments, or to repair breached flood defences. Bentonite type clays may also be modified by the addition of soluble sodium carbonate to produce sodium activated bentonite. This increases the swelling ability of the clay to create a higher liquid limit, which is ideal for civil engineering projects such as flood defence. A good example being the use of Weald Clay to prevent the collapse of the flood defence on the River Rother in Sussex near to Rye, which was suffering from high seepage during high tide due to a large badger sett in the embankment. This was successfully backfilled with Weald Clay.

SECTION A 3

RESPONSE TO WSCC'S PROW OFFICER

THE OFFICER ERRED IN NOT REFERRING TO THE CA16 WHICH WAS DULY MADE IN 2020

THE OFFICER ERRED IN NOT CONSIDERING THE REVISIONS TO THE LAYBY AS SET OUT IN THE HIGHWAYS SECTION OF THE ENVIRONMENTAL STATEMENT AND IN FIGURE PS13 TO THE PLANNING STATEMENT

THE OFFICER ERRED IN NOT REFERRING TO THE PRIOR CORRESPONDENCE WITH LCP'S SOLICITOR

THE OFFICER'S POSITION WOULD APPEAR TO BE INCONSISTENT WITH HIS POSITION REFERRED TO IN HIS EMAIL CORRESPONDENCE WITH LODDERS SOLICITORS AS DETAILED IN SECTION A 1. ON THE ONE HAND, HE CLAIMS THAT THE ENTIRE WIDTH OF THE 100m SECTION OF FOOTPATH 795 IS A PROW AND IT COULD NOT BE PARTLY FENCED ON HEALTH & SAFETY GROUNDS BUT ON THE OTHER HAND CLAIMS IT IS ACCEPTABLE FOR THE LANDOWNER TO REDUCE THE WIDTH WITH ARMCO BARRIERS AND TO INSTALL BARBED WIRE FENCE GATES RESTRICTING PUBLIC ACCESS TO ONE SIDE. THIS POSITION IS ALSO CONTRARY TO THE LAW.

THE OFFICER HAS NOT CONSIDERED PARA. 5.1 OF THE ENVIRONMENTAL STATEMENT WHICH MAKES IT CLEAR THAT HGV'S HAVE USED THE PRIVATE RIGHT OF WAY WHICH IS ALSO THE 100m SECTION OF FOOTPATH 795, FOR AT LEAST 30 YEARS. THE OFFICER HAS NOT CONSIDERED PARA. 5.4 RE BARRIERS ON PRIVATE LAND ADJACENT TO BRIDLEWAY 3240.

THE REMAINDER OF THIS SECTION PROVIDES:

- A) THE CA16 FORM AND MAP AS DULY MADE BY WSCC IN 2020
- B) THE REDACTED LETTER DATED SEPTEMBER 1998
- C) THE REPORT PRODUCED BY LCP'S PROW EXPERT MIKE WALKER AS PREVIOUSLY ISSUED TO WSCC'S PROW OFFICER
- D) REDACTED CORRESPONDENCE BETWEEN LODDERS SOLICITORS AND THE OWNERS OF THE LAND WITH THE 100m SECTION OF FOOTPATH 795

SCHEDULE 1

Regulation 2(2)(a)

Application Form

Form CA16

Application Form for deposits under section 31(6) of the Highways Act 1980 and section 15A(1) of the Commons Act 2006**Please read the following guidance carefully before completing this form**

1. *Guidance relating to completion of this form is available from <http://www.defra.gov.uk/rural/protected/greens/>. Please refer to these separate notes when completing this form.*
2. *Parts A and F must be completed in all cases.*
3. *The form must be signed and dated by, or by a duly authorised representative of, every owner of land to which the application relates who is an individual, and by the secretary or some other duly authorised officer of every owner of land to which the application relates which is a body corporate or an unincorporated association.*
4. *In the case of land in joint ownership all the joint owners must complete paragraphs 2 and 3 of Part A and complete and sign the application in Part F, unless a duly authorised representative completes and signs the form on behalf of all of the owners of the land. Paragraph 3 should be completed in full to clearly explain the capacity of each applicant e.g. trustee, landowner's managing agent, executor.*
5. *'Owner' is defined in section 61(3) of the Commons Act 2006 and section 31(7) of the Highways Act 1980 and means, broadly, a legal owner of the freehold interest in the land.*
6. *Where the application relates to more than one parcel of land, a description of each parcel should be included in Paragraph 4 of Part A and the remainder of the form should be completed to clearly identify which statement and/or declaration relates to which parcel of land. This may require the insertion of additional wording. See separate notes for further guidance. Multiple parcels of land should be clearly identified by coloured edging on any accompanying map.*
7. *Where a statement or declaration requires reference to colouring shown on an accompanying map or previously lodged map, the colouring must be clearly specified and must match that shown on the relevant map. For example, if a footpath is specified in a Part C declaration as shown coloured brown, the accompanying map or previously deposited map referred to must reflect that colouring.*
8. *An application must be accompanied by an ordnance map, or (in respect of declarations under Part C or statements under Part D of this form) refer to a map previously deposited in accordance with the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declaration) (England) Regulations 2013 or (if deposited before 1st October 2013) in accordance with section 31(6) of the Highways Act 1980. Any accompanying map must be an ordnance map at a scale of not less than 1:10,560 showing the boundary of the land to which the application relates in coloured edging.*
9. *An application must be accompanied by the requisite fee – please ask the appropriate authority for details.*

10. 'Appropriate authority' means (a) in relation to a map or statement deposited or declaration lodged under section 31(6) of that Act, an appropriate council (as defined in section 31(7) of the Highways Act 1980); and (b) in relation to a statement and map deposited under section 15A(1) of the 2006 Act, a commons registration authority (defined in section 4 of the Commons Act 2006 and section 2 of the Commons Registration Act 1965). In practice, the appropriate council and commons registration authority will usually be the same body.

**PART A: Information relating to the applicant and land to which the application relates
(all applicants must complete this Part)**

1. Name of appropriate authority to which the application is addressed:

West Sussex County Council

2. Name and full address (including postcode) of applicant:

██

3. Status of applicant (tick relevant box or boxes):

I am

(a) the owner of the land(s) described in paragraph 4.

(b) making this application and the statements/declarations it contains on behalf of ██████████
██████████ who is the owner of the land(s) described in paragraph 4 and in my capacity as Agent.

4. Insert description of the land(s) to which the application relates (including full address and postcode):
Land constituting of woodland known as Songhurst and Bulhams situated within the county of Surrey, amounting to approximately 121.5 hectares. Positioned to the north of Loxwood Road, Loxwood, West Sussex RH14 0RW. This land is registered with the Rural Land Registry against SBI: 117736768

5. Ordnance Survey six-figure grid reference(s) of a point within the area of land(s) to which the application relates (if known):

Songhurst Central Point: TQ050423

Bulhams Central Point: TQ058318

6. This deposit comprises the following statement(s) and/or declarations (*delete Parts B, C, or D where not applicable*):

Parts B, & D.

PART B: Statement under section 31(6) of the Highways Act 1980

██████████ is the owner of the land described in paragraph 4 of Part A of this form and shown in **RED** on the map accompanying this statement.

Ways shown in **GREEN** on the accompanying map are Footpaths.

Ways shown in **BROWN** on the accompanying map are Bridleways.

No other ways over the land shown in **RED** on the accompanying map have been dedicated as highways.

PART C: Declaration under section 31(6) of the Highways Act 1980

No submission.

PART D: Statement under section 15A(1) of the Commons Act 2006

Mr Nigel Danish is the owner of the land described in paragraph 4 of Part A of this form and shown in **RED** on the map accompanying this statement with West Sussex County Council on **08/06/2020**.

██████████ wishes to bring to an end any period during which persons may have indulged as of right in lawful sports and pastimes on the whole or any part of the land shown in **RED** on the accompanying map.

PART E: Additional information relevant to the application
(insert any additional information relevant to the application)

Acknowledged public rights of way already in existence:

#WS:708; Council: West Sussex; Name: LOXWOOD 793-2; Type: Bridleway;
Distance: 0.307M or 0.494K; First GridRef: TQ048331; Last GridRef: TQ043331;
First Lat,Lon: 51.08836,-0.50413; Last Lat,Lon: 51.08836,-0.51109

#WS:818; Council: West Sussex; Name: LOXWOOD 797-1; Type: Footpath;
Distance: 0.65M or 1.046K; First GridRef: TQ042324; Last GridRef: TQ049329;
First Lat,Lon: 51.08176,-0.51260; Last Lat,Lon: 51.08664,-0.50297

#WS:841; Council: West Sussex; Name: LOXWOOD 792-1; Type: Footpath;
Distance: 0.396M or 0.637K; First GridRef: TQ054326; Last GridRef: TQ049322;
First Lat,Lon: 51.08329,-0.49654; Last Lat,Lon: 51.07985,-0.50304

#WS:876; Council: West Sussex; Name: LOXWOOD 3260-1; Type: Footpath;
Distance: 0.409M or 0.658K; First GridRef: TQ043321; Last GridRef: TQ049322;
First Lat,Lon: 51.07926,-0.51163; Last Lat,Lon: 51.07985,-0.50304

#WS:890; Council: West Sussex; Name: LOXWOOD 792-2; Type: Footpath;
Distance: 0.1M or 0.161K; First GridRef: TQ048320; Last GridRef: TQ049322;
First Lat,Lon: 51.07861,-0.50423; Last Lat,Lon: 51.07985,-0.50304

#WS:899; Council: West Sussex; Name: LOXWOOD 792-3; Type: Footpath;
Distance: 0.025M or 0.040K; First GridRef: TQ048320; Last GridRef: TQ048320;
First Lat,Lon: 51.07829,-0.50450; Last Lat,Lon: 51.07861,-0.50423

#WS:954; Council: West Sussex; Name: LOXWOOD 795-2; Type: Footpath;
Distance: 0.384M or 0.618K; First GridRef: TQ043318; Last GridRef: TQ048320;
First Lat,Lon: 51.07692,-0.51171; Last Lat,Lon: 51.07829,-0.50450

#WS:960; Council: West Sussex; Name: LOXWOOD 792-4; Type: Footpath;
Distance: 0.307M or 0.494K; First GridRef: TQ051317; Last GridRef: TQ048320;
First Lat,Lon: 51.07556,-0.50088; Last Lat,Lon: 51.07829,-0.50450;

#WS:897; Council: West Sussex; Name: LOXWOOD 795-3; Type: Footpath;
Distance: 0.488M or 0.785K; First GridRef: TQ048320; Last GridRef: TQ056319;
First Lat,Lon: 51.07861,-0.50423; Last Lat,Lon: 51.07704,-0.49392

PART F: Statement of Truth
(all applicants must complete this Part)

WARNING: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS FORM ARE TRUE

Signature (of the person making the statement of truth): _____

Print full name: _____

Date: 08/06/2020

You should keep a copy of the completed form

Data Protection Act 1998 - Fair Processing Notice

The purpose of this Fair Processing Notice is to inform you of the use that will be made of your personal data, as required by the Data Protection Act 1998.

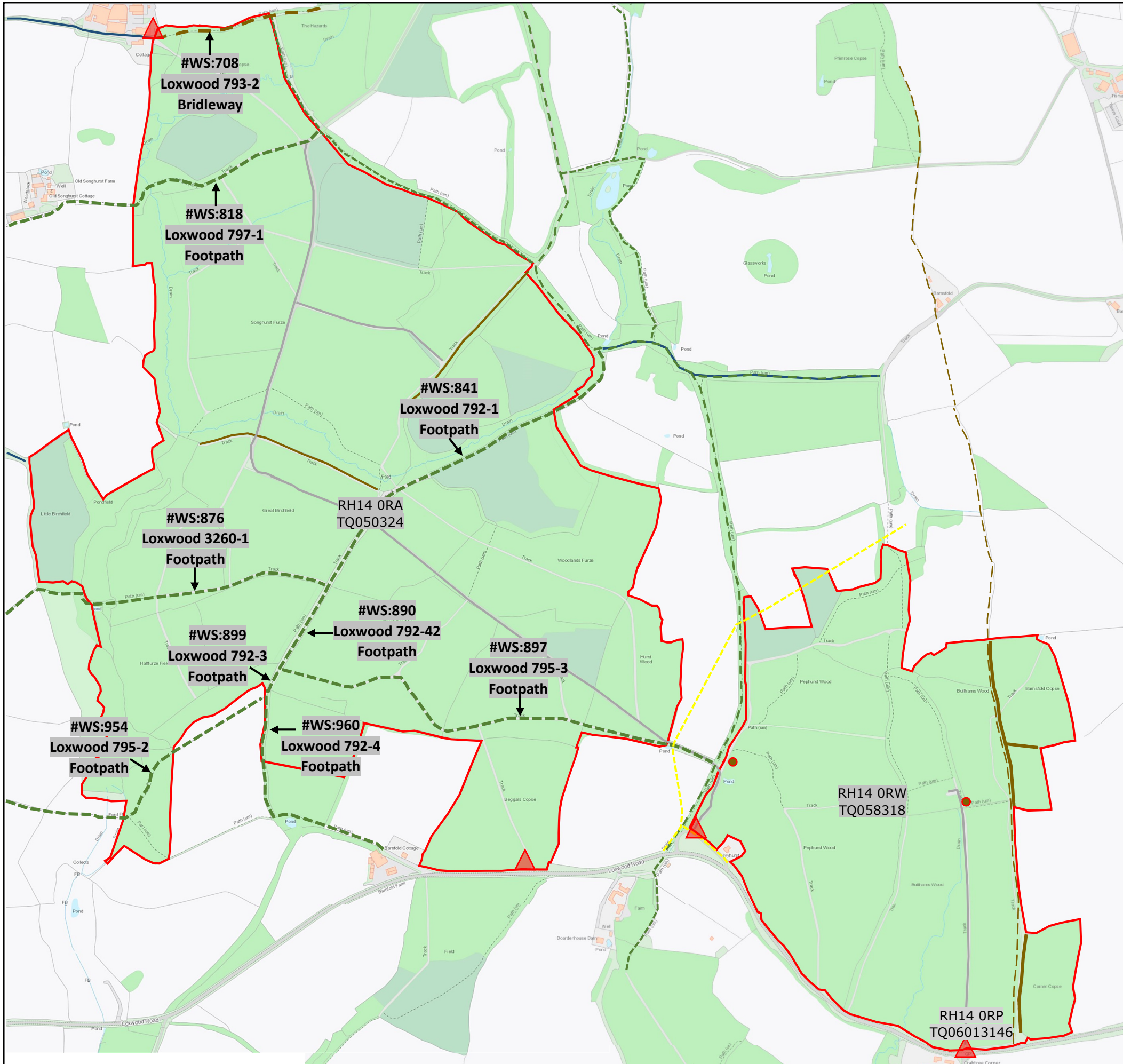
The appropriate authority (see explanation of definition in above guidance notes) in England is the data controller in respect of any personal data that you provide when you complete this form.

The information that you provide will be used by the appropriate authority in its duties to process applications to deposit statements, maps and declarations under section 31(6) the Highways Act 1980 and statements under section 15A(1) of the Commons Act 2006. The information you provide will also be used by the appropriate authority in its duty to update the registers in which details of such deposits are recorded under the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007 and the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013.

The appropriate authority is required by the legislation above to maintain a register which holds information provided in this form, which can be inspected online or in person by members of the public on request. It may also be required to release information, including personal data and commercial information, on request under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000. However, the appropriate authority will not permit any unwarranted breach of confidentiality nor will they act in contravention of their obligations under the Data Protection Act 1998.

Songhurst & Bulhams CA16 Map

-  Boundary
-  Access Point
-  Public footpath
-  Bridleway
-  Badger Sett
-  Overhead powerline
-  Watercourse
-  Surfaced track
-  Woodbank
-  Historic Track Line
-  Right of Access



A 3 B)

[REDACTED]

LETTER ISSUED BY THE OWNER OF PALLINGHURST WOODS AND OWNER OF LCP

Letter ref. Home248.doc
29th September 1998

Tilhill Economic Forestry Limited
Grange Road
Tilford
Farnham
Surrey
GU10 2DY

Dear Mr Townson/ Mr Taylor,

SONGHURST AND BULHAMS WOODS

Thank you for your letters of 23rd June 1998 in which you presented the Work Proposals to 31st March 1999 and your letter of the 24th September 1998 in which you advised of the success of the application for funding of the coppice restoration work at Songhurst Wood.

[REDACTED]

In your letter you also mentioned damage to the main wooden gate to Songhurst Wood and you state that this could have been caused sometime during the 2nd week of May 1998. While the final break may have occurred in May, the initial damage was caused much earlier by the farmer using this gate as a barrier when loading his cattle on to trucks. Additionally his extending of the side barriers right up to the gate, has meant that most people will now climb over the gate rather than walk down the narrow overgrown track. Had the farmer left a gap which would allow access down the main track, the final damage may not have occurred.

[REDACTED]

Yours sincerely

[REDACTED]

Response to Objection and Request for Further Information from West Sussex County Council Rights of Way Officer

1. Objection

The Council states that Public Footpath No 795 extends to the full width of the track. The developer does not challenge this point. The developer does not own the land crossed by the path / access track in any event. Notwithstanding some obstruction within the highway, the developer intends to segregate pedestrians from vehicles by clearing the area alongside the track.

2. Request for Further Information

Closure of Public Footpath No 792_1

It is no longer intended to seek the temporary closure of this path.

Crossing of Public Bridleway No 3240

Vehicle access from the layby will need to cross this bridleway directly. The aim is to mitigate any risk to public users of the path. Vehicles will be required to negotiate a barrier adjacent to the bridleway which will rise automatically by recognising a tracker in the vehicle.

Signage will be erected on the bridleway on both approaches to the crossing cautioning users of vehicles crossing. The wording of these can be agreed with the Council's officer.

All drivers must undertake a high-level training and induction process to include the understanding of the site and the extent and an understanding of the public's access. Cameras will be installed so that this can be monitored / enforced.

Crossing of Public Footpath No 792

A barrier like the one referred to above will be placed across the track at this point.

Access from Loxwood Road

The application includes for the complete resurfacing of the layby adjacent to Loxwood Road. Vehicle access to the site will not be via either of the existing layby entrances. A new vehicle access will be constructed from Loxwood Road, crossing the layby to enter the woodland track directly. This removes any vehicle interaction with public vehicles, walkers, horse riders, cyclists and walkers at that entrance point. Site vehicles will then cross the layby directly,

Local PRow Network and Reliance on Loxwood Road for Connectivity

These are highways matters.

Effects of Recent Applications to add Paths by Definitive Map Modification Order

The Council is in receipt of two applications to add public footpaths to the Definitive Map supported by evidence of their use by the public. It is unlikely that the Council will be able to investigate these in the short term and neither do we know how the landowner will respond to them or the extent to which the claims can be refuted. In terms of the development, the potential effects of these need to be considered.

One of these routes follows an existing timber haulage track that is also intended for use as access as part of this development. Without prejudice to the eventual outcome of the (Definitive Map) application, the developer will make provision to segregate pedestrians from vehicles by providing a suitable margin alongside the track.

The second route crosses the application site and directly impacts on the proposed works. Application will be made to close this path for the duration of the works in accordance with the Town and Country Planning Act 1990 sections 257/261 with walkers having the alternative of Footpath No 792, Bridleway No 801 and Footpaths Nos 792_1 and 797. Without prejudice to the outcome, provision could be made for the path to be reinstated on completion of the works should it transpire that the Definitive Map claim is upheld.

NB: THE BARRIERS REFERRED TO ARE BARRIERS TO BE POSITIONED ON THE LAND OWNED BY THE OWNERS OF LCP, THEY WOULD NOT BE INSTALLED ON PROW. FOR EXAMPLE THE BARRIER TO STOP VEHICLES FROM PROCEEDING IN A WESTERLY DIRECTION ACROSS BRIDLEWAY 3240 AND ALONGSIDE THE 100m SECTION OF FOOTPATH 795, WOULD BE LOCATED ON THE DEVELOPER'S EASTERN PLOT OF LAND THAT IS ADJACENT TO BRIDLEWAY 3240. THIS WOULD HAVE BEEN EXPLAINED TO THE PROW OFFICER DURING A SITE MEETING BUT HE HAS REFUSED TO ATTEND.

PARA. 5.4 OF THE ENVIRONMENTAL STATEMENT ALSO REFERS.

Our Ref: EC2/DAN00058/00003

Your Ref:

25 August 2021



[REDACTED]

BY EMAIL ONLY

Dear Sirs

Land lying to north of Loxwood Road (“the Property”)

Thank you for your email of 21 August 2021.

We note you state that the obstructions on the Track are wire gates which are “easy to use”.

The fact that these “wire gates” are capable of being moved is irrelevant given the difficulty of doing so. We are instructed that in order to open the wire gates, any driver must exit his vehicle, lift each post individually and roll up the wire gate to one side. The driver must then re-enter his vehicle, drive through the gate posts, stop the vehicle and unroll the wire to re-secure the fence. The driver can then re-enter his vehicle again.

Not only is the method of moving the wire gates very cumbersome, they also pose a health and safety hazard to every person who must open them due to the barbed wire used in their construction.

You will be aware that it is not permitted to substantially interfere with a legal right of way. Whilst it is accepted law (*Petty v Parsons (1914)*) that a gate may be erected over a right of way, that gate is not permitted to interfere with the convenient use of the right of way.

If the erection of a gate means that it is not possible for the beneficiary of the right of way to exercise their right as substantially and practically as before the interference, then the obstacle is substantially interfering with the right of way and must be removed (*B&Q Plc v Liverpool and Lancashire Properties Ltd (2001) 81 P. & C.R. 20*).

As a result of the wire gates, our clients are not able to use their vehicular right of way as conveniently as before, and therefore the wire gates and the cumbersome means of

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opening them constitute a substantial interference with our clients' right of way. We refer to the case of *Kingsgate Developments Projects Limited v Jordan* [2017] EWHC 343 (TCC), which found that multiple gates over a short length of track were a substantial interference to a right of way. In the current case, there are two wire gates approximately five metres apart, which is excessive. This fact, coupled with the awkward nature of opening the wire gates means we are confident that the court will determine the wire gates are a substantial interference.

Therefore, once again, we require you to remove the fences within seven days of the date of this letter, or we will be instructed to take further action, including but not limited to self-help or injunctive relief from the Court. If the latter is required, we shall also seek payment of our clients' costs of seeking the injunction, which are likely to be substantial.

We trust this will not be necessary and we look forward to hearing from you with confirmation that the fences will be removed within the deadline specified.

Yours faithfully



Ladders Solicitors LLP



Enc.

SECTION A 4

RESPONSE TO WSCC HIGHWAYS

THE OFFICER'S REPORT APPEARED NOT TO ACKNOWLEDGE PARA 5.13 IN SECTION 5 OF THE ENVIRONMENTAL STATEMENT - "PROPOSED SITE INFRASTRUCTURE" AND FIGURE PS13 TO THE PLANNING STATEMENT.

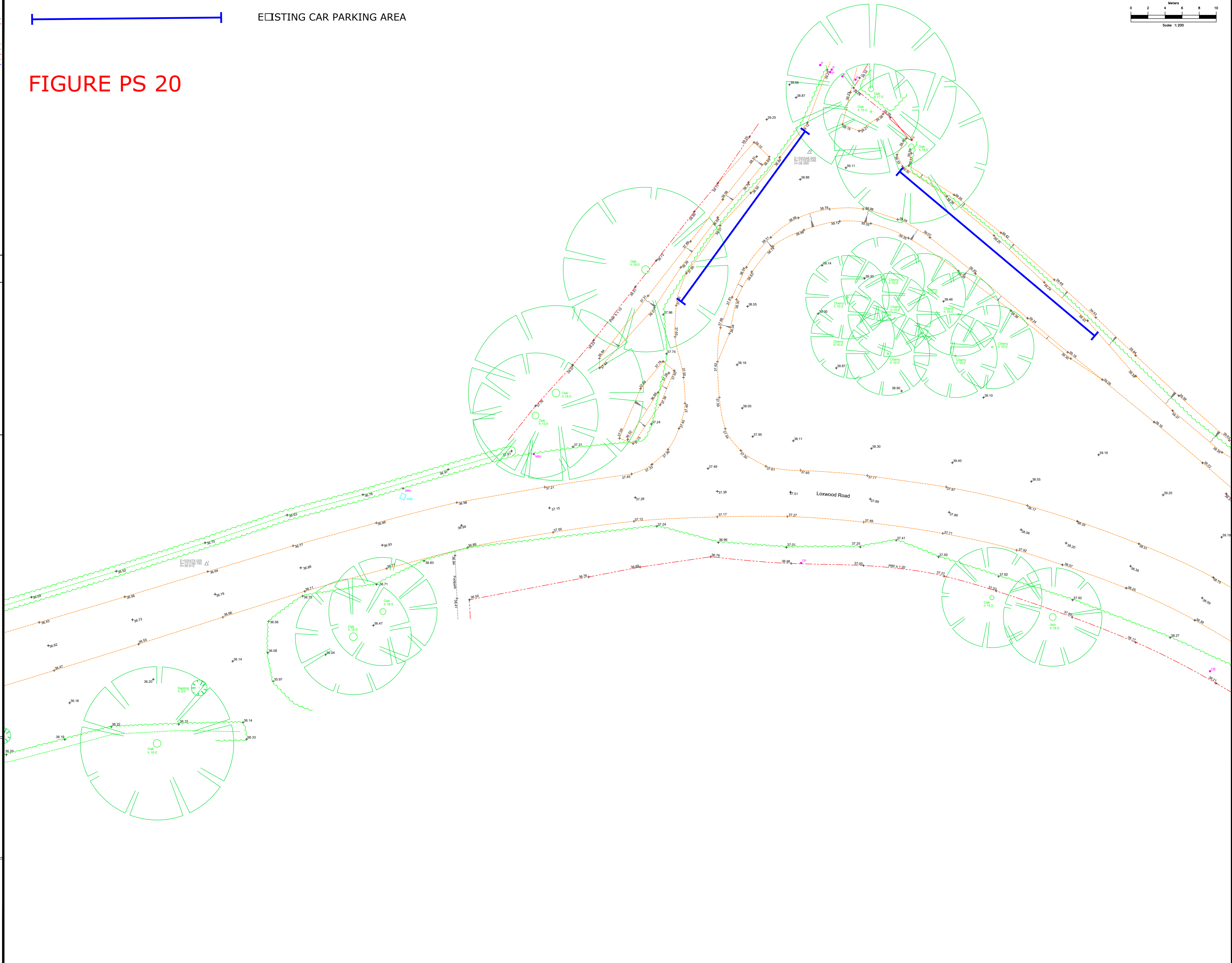
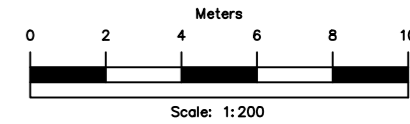
LEGEND	
Survey Station	Top
Slopes	bottom
Cote	
Tree	Species are indicative only o mean spread and bole drawn to scale
Building	Contour
Fence	Vegetation
Hedge, with to scale	Kerb/Upstands
Overhead Feature	Safety Barrier
Verge/Edge of Surface	Water

ABBREVIATIONS			
AV	As View	R	Ridge Level
AB	Advertisement Board	RE	Roofing Eye
BB	Beltline Beacon	RFL	Roof Level
BL	Basement Light	RS	Road Sign
BS	Bus Stop	R/W	Retaining Wall
BT	British Telecom	RWP	Rainwater Pipe
CATV	Cable Television	SC	Slip Coat
CH	Coal Hole	SFL	Soft Level
CL	Cover Level	SV	Sluice Valve
CO	Cover Level	SW	Surface Water
CT	Cabinet	TB	Telephone Box
DC	Drainage Channel	TCSU	Traffic Signal Cover
E	Eaves Level	TH	Threshold Level
EL	Electricity Cable Pit	TW	Top of Wall
EP	Electricity Pole	TL	Traffic Light
ER	Earth Road	TM	Ticket Machine
F/B	Flower Bed	TP	Telephone Pole
FI	Fire Hydrant	UC	Unknown Cover
FL	Floor Level	UL	Upstand to LHT
FLT	Flood Light	VP	Vent Pipe
FP	Fog Pole	WCP	Water Control Pillar
FM	Fuel Meter	WL	Water Level
G	Gully	WM	Water Meter
H	Height	WO	Wash Out
HP	Height	SWP	Soil & Vent Pipe
IB	Inspection Board		
IC	Inspection Cover		
IL	Inset Level		
IO	Kerb Outlet		
LS	Litter Bin		
LP	Lamp Post		
LP	Lamp Post		
MP	Manhole		
MR	Marker		
OW	Overhead Wire		
NB	Notice Board		
NP	None Plots		
P	Post		
PB	Post Box		
PSU	Push Button Unit		
PM	Parking Meter		

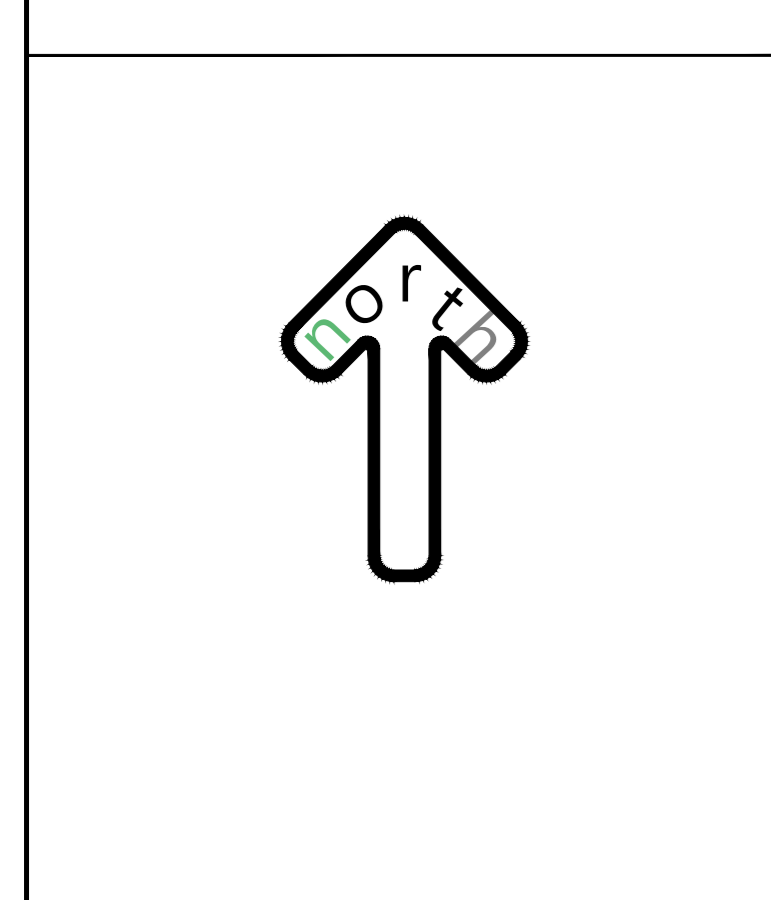
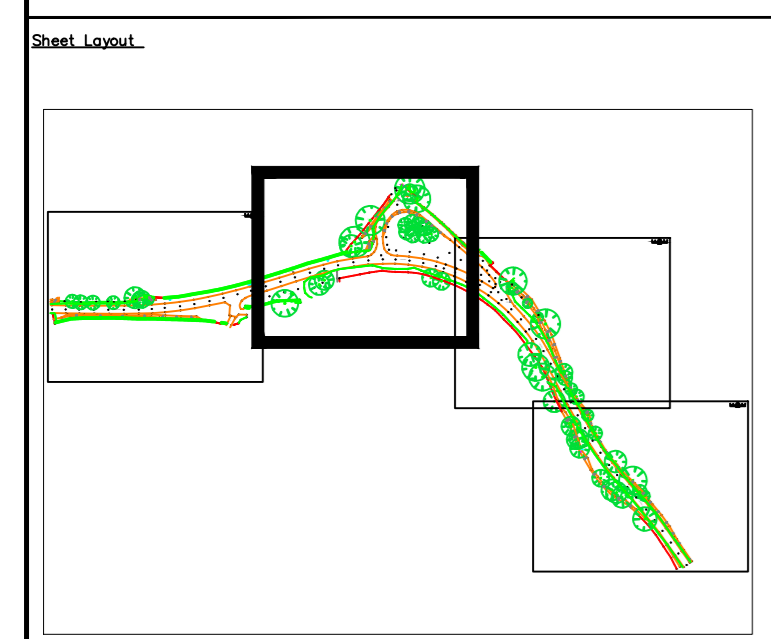
FENCE DESCRIPTIONS	
BWF	Barbed Wire Fence
CBF	Close Boarded Fence
CF	Corrugated Iron Fence
CLF	Chain Link Fence
CPF	Chainmail Poling Fence
CSF	Concrete Side Fence
GSF	Guardian Fence
MSF	Metal Rollings
INF	Interwoven Fence
LLF	Larch Lath Fence
OSF	Open Board Fence
RAF	Railway Fence
RF	Post & Rail Fence
RFW	Post & Wire Fence
WMF	Wire Mesh Fence

FIGURE PS 20

EXISTING CAR PARKING AREA



NOTES
All levels and Coordinates are based on OS level derived from GPS.



Survey Date: April 2020
Client: Protreat Ltd
6 Abbey Court
High Street
Newport
Shropshire
TF10 7BW

enka
surveys

e: enquiries@enkasurveys.co.uk
w: www.enkasurveys.co.uk

WOODVIEW, WESTERN ROAD, CROWBOROUGH, EAST SUSSEX, TN6 3EW
t: 01892 660459
m: 07768 980285

Job No: 2342
Job Name: Loxwood Road
Title: Topographical Survey
Scale: 1:200@A1
Sheet: 2



Nick Culhane
Highway Consultant

Idlewild
Fairclose Drive
Winchester
Hampshire SO22 6QW

07787530717
nick@nickculhane.co.uk

Planning Application WSCC/030/21
Clay Quarry and Construction Materials Recycling Facility
Pallinghurst Woods, Loxwood Road, Loxwood, West Sussex RH14 0RW

Highway Report Addendum

This highway report addendum has been produced following comments made by the West Sussex County Council Highway Officer dated 3rd August 2021. The addendum will look at three issues which include Revised Visibility Splays, the Safety Audit and HGV Tracking.

Revised Visibility Splays

Two Automatic Traffic Counters (ATC's) were installed west and south-east of the existing access and 85th percentile speeds of 48.1mph (77kph) were recorded for traffic from the west and 42.5mph (68kph) for traffic from the south-east. A visibility Y distance of 150m is achievable to the west, which is more than is required based on the recorded 85th percentile splays.

Guidance is given on the provision of visibility Y distances in Table 10.1 of Manual for Streets 2, where desirable minimums and absolute minimums for deceleration rates on roads where traffic speeds are greater than 60 kph. The desirable minimum splay, the absolute minimum splay and the available visibility splay requirements are shown below.

Visibility Y Distance		
Desirable Minimum (0.250g)	Absolute Minimum (0.375g)	Actual Achievable
113.0m	89m	108.9m

Drawing numbered NJC-003 is attached as [Appendix 1](#) to this note which shows the available visibility splay to the west and south-east. It can be seen that the Y distance available is slightly short of the desirable minimum, but far greater than the absolute minimum requirement.

Given the above, it is considered that the available visibility for vehicles emerging from the site access is acceptable.

Safety Audit

An independent Safety Audit was produced and this included a Designers Response. The Highway Officer has requested a GG119 compliant designers response be submitted in word format to allow WSCC commentary and actions to be agreed. This is included as [Appendix 2](#) to this note

HGV Tracking

Although swept path tracking was originally provided which showed that an HGV would be able to enter the access road should a car be waiting within the access, the Highway Officer was concerned that such an HGV would require the whole width of the access to exit onto Loxwood Road without the need to cross the centreline of the carriageway. Drawing numbered NJC-002 is included as [Appendix 3](#) to this note, which now shows the swept path tracking of a large HGV entering and leaving the site with a car also standing in the access waiting to leave, or entering from Loxwood Road.

The HGV does not need to cross the centreline of the carriageway, therefore forward visibility for approaching vehicles is now not critical.

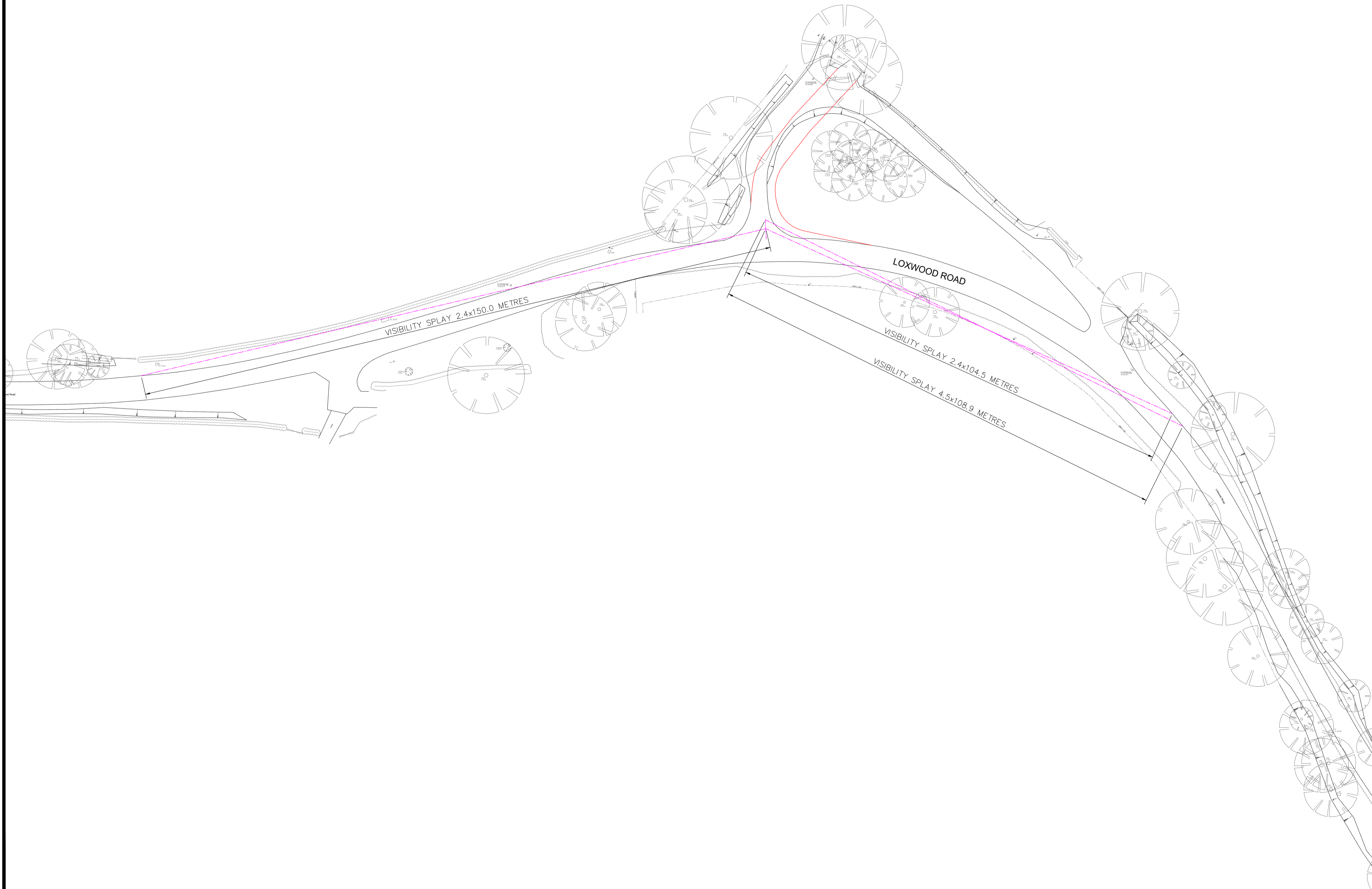
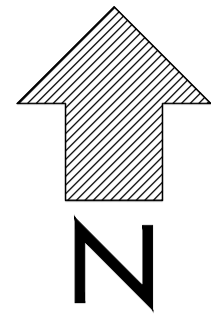
Additional Comment

Section 4.3 of the original Transport Statement suggested that access to the site will be primarily along Loxwood Road to the nearest part of the Lorry Route Network. It can be confirmed that all HGV's will be routed to and from the south-east to the junction of Loxwood Road with the A281 at Bucks Green.

Nick Culhane August 2021

Appendix 1

Access and Visibility



Client



Project

LOXWOOD ROAD

Drawing Title

PROPOSED VISIBILITY SPLAYS

Drawing Status

FOR PLANNING

Drawn	Designed NC	Date MAR 2021	Scale 1:500	Size A1
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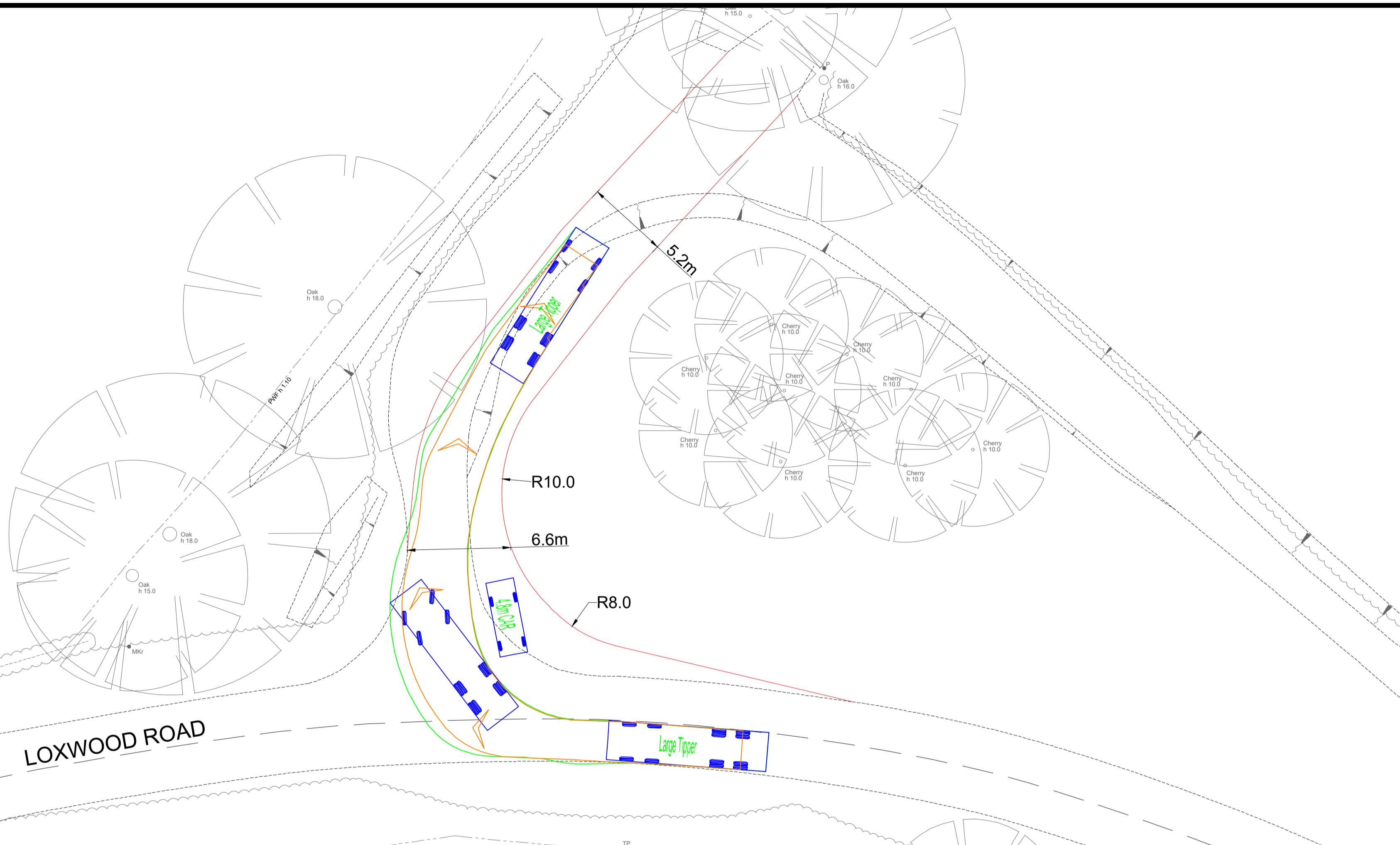
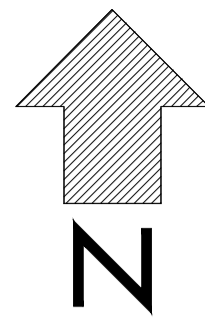
Drawing No. NJC-003	Rev -
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Appendix 2

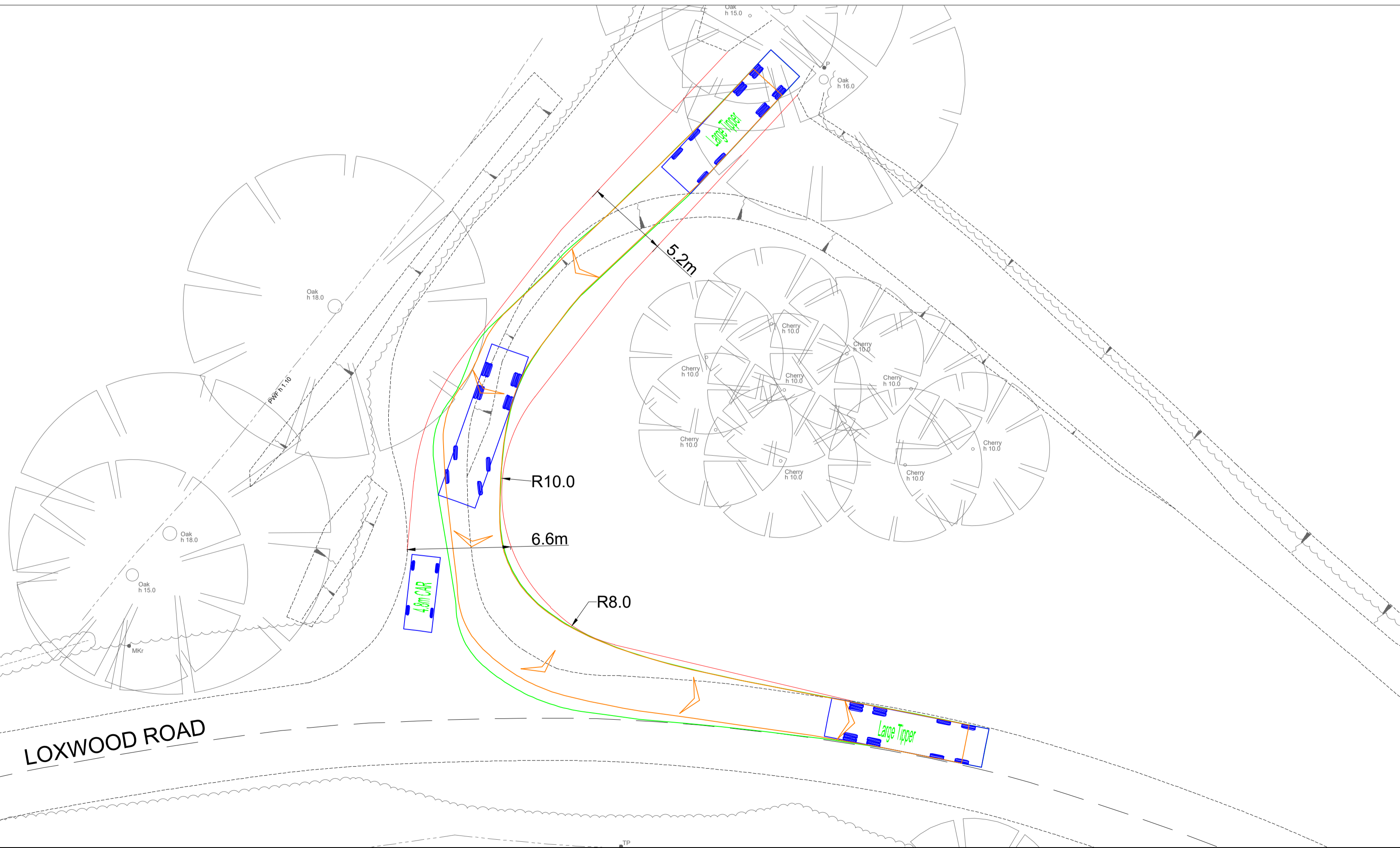
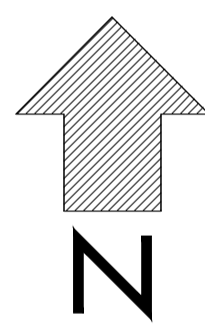
GG119 Appendix F Compliant Designers Response

Appendix 3

HGV Swept Path Tracking

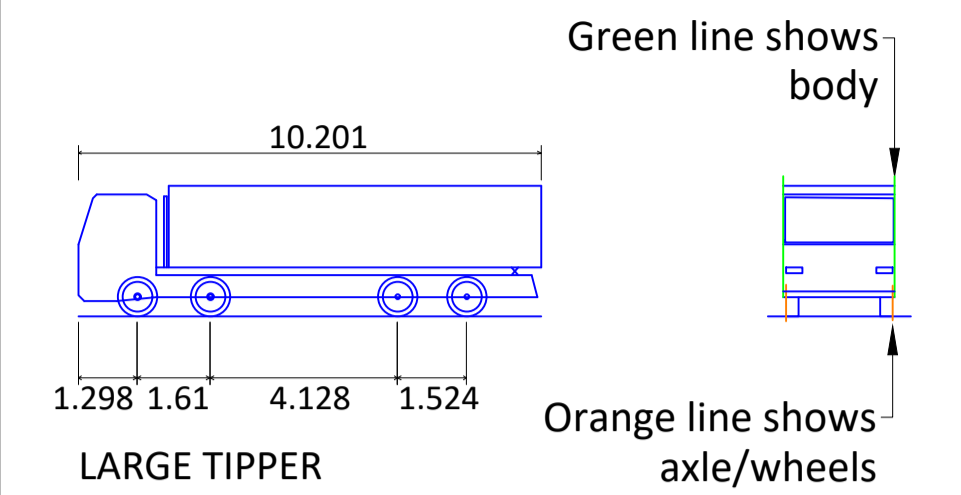


BAY 1 - ACCESS



BAY 1 - EGRESS

VEHICLE DETAILS:



LARGE TIPPER

Overall Length	10.201m
Overall Width	2.495m
Overall Body Height	2.890m
Min Body Ground Clearance	0.341m
Track Width	2.471m
Lock-to-lock time	6.00s
Curb to Curb Turning Radius	11.550m

Design speed 5kph for all Forward movements
 Design speed 2.5kph for all Reverse movements

Client



Project

LOXWOOD ROAD

Drawing Title

SWEPT PATH ANALYSIS USING A
4 AXLES RIGID TIPPER

Drawing Status

FOR PLANNING

Drawn AT	Designed NC	Date AUG 2021	Scale 1:200	Size A1
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Drawing No. NJC-002	Rev -
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SECTION A 5

RESPONSE TO WSCC's ARBORICULTURIST

THE OFFICER ERRED IN NOT CONSIDERING SECTION 4.6 OF THE ENVIRONMENTAL STATEMENT

THE OFFICER ERRED IN NOT CONSIDERING SECTION 8 OF THE ENVIRONMENTAL STATEMENT, ESPECIALLY PARA. 8.9 AND FIGURE PS4.2.

THE OFFICER MAY HAVE ERRED NOT DISCLOSING THE SCOPING REPORT PRODUCED 19 FEBRUARY 2020 TO ENQUIRIES MADE BY CHICHESTER DISTRICT COUNCIL IN CONNECTION WITH THE TREE PRESERVATION ORDER

THE OFFICER ERRED IN NOT UNDERSTANDING SECTION 8.3 AND 8.6 OF THE ENVIRONMENTAL STATEMENT.

THE OFFICER ERRED IN NOT UNDERSTANDING THE BIODIVERSITY NET GAIN OPPORTUNITIES FROM THE INCLUSION OF SECTION 106 AGREEMENTS BINDING THE LANDOWNER TO MITIGATIONS ON 300 ACRES OF WOODLAND TO OFFSET A DEVELOPMENT ON 15 ACRES, BENEFITS WHICH ARE NOT ACCOUNTED FOR BY THE DEFRA MODEL THAT ONLY CONSIDERS THE MITIGATIONS WITHIN THE PLANNING RED LINE BOUNDARY.

THE OFFICER ERRED BY NOT REFERRING TO THE FRONT PAGE OF APPENDIX ES W OR SECTION 22.49 OF THE ENVIRONMENTAL STATEMENT

THE OFFICER'S CONCLUSIONS ABOUT THE ENVIRONMENTAL IMPACT FROM THE FELLING OF CIRCA. 3 HECTARES OF TREES (THE MAJORITY 15 YEARS AFTER THE DEVELOPMENT HAS COMMENCED) ARE INCONSISTENT WITH THE CONSIDERATIONS TAKEN BY THE FORESTRY COMMISSION DURING THE RECENT ISSUE OF A 10 YEAR WOODLAND MANAGEMENT PLAN AND THE ISSUE OF A FELLING LICENCE FOR THE FELLING OF TREES IN MORE THAN 20 HECTARES OF WOODLAND DURING THE NEXT TEN YEARS. A PRACTICE THAT HAS BEEN FOLLOWED WITH CONSECUTIVE WOODLAND MANAGEMENT PLANS FOR THE LAST 6 DECADES.

IF THE OFFICER IS CORRECT ABOUT THE IMPACTS OF THIS DEVELOPMENT SHE SHOULD ALSO EXPLAIN WHY THE FORESTRY COMMISSION WERE WRONG TO ISSUE THE FELLING LICENCES FOR AN AREA OF WOODLAND THAT IS SEVERAL TIMES LARGER THAN LCP'S PROPOSED DEVELOPMENT AND CARRIED OUT OVER A MUCH SHORTER PERIOD.

THE FOLLOWING EXTRACT HAS BEEN TAKEN FROM CHICHESTER DISTRICT COUNCIL'S DECISION NOT TO CONFIRM THE PROVISIONAL TPO AND IT EXPLAINS THE LEGAL ISSUES THAT HAVE TO BE CONSIDERED. IT WOULD APPEAR THAT WSCC'S ARBORICULTURIST HAS NOT CONSIDERED THIS.

THE EXISTING WOODLAND MANAGEMENT PLAN AND THE FELLING LICENCE ISSUED BY THE FORESTRY COMMISSION IS SHOWN IN SECTION A 6



DEVELOPMENT MANAGEMENT SERVICE

REPRESENTATION TO TREE PRESERVATION ORDER

TPO: LX-20-00275-TPO

Trees concerned: All trees of whatever species within Woodland, W1

Address: Woodland North of Barnsfold Cottage, Station Road, Loxwood

Objectors: [REDACTED]

Address: [REDACTED]
[REDACTED]

Date received: 4 and 25 November 2020

Third Party: Mr M Woodcock, Forestry Commission, Partnerships and Expertise Manager SE

Address: South East & London, Bucks Horn Oak, Farnham, Surrey, GU10 4LS

Date received: 30 November 2020

Date Order will expire if not confirmed: **22.03.2021**

Reasons for objection: [REDACTED]

Letter received on 4 November 2020

Your Order has not been served on Loxwood Clay Pits Limited, therefore, it has not been correctly served.

Regulation 6 (1) (C) of the TPR - I confirm that I am part owner of the land shown in the TPO and schedule designated as W1 and I am also part owner of the Loxwood Clay Pits Limited.

In accordance with Regulation 6 (1) (C) of the TPR the reasons for my objecting to this Order are set out in the submission on my behalf by [REDACTED] information below)

Put CDC on notice in accordance with section 288 of the TCPA, my application for statutory right of appeal will be submitted to the High Court within six weeks of the Notice coming into force and without further recourse to you if the Order is not revoked. My statutory appeal will cite the reasons set out in [REDACTED] email and in addition, it will allege bad faith.

On 28/01/2020 in accordance with the Town and Country Planning (Environment Impact Assessment) Regs 2017, the consultants appointed by Loxwood Clay Pits Ltd, sent their Scoping report to WSCC with respect to land contained within Woodland, W1. On 29/04/2020, WSCC issued their Scoping Opinion. WSCC's Scoping Opinion incorporates CDC's consultation response letter 6/03/2020. This letter makes no reference whatsoever to "detriment/impact on the woodland ecology, the tree loss would impact on the sylvan character of the area".



Moreover, this scoping consultation process put CDC on notice that a planning application would be submitted. It is disingenuous for the Order to assert as its key ground that there “is a possible threat/risk of being felled/pruned to enable extraction”. This wording proves beyond reasonable doubt that CDC had knowledge of the proposed development, which is subject to planning permission, and this was uppermost in its mind when drafting the W1 map Schedule to the Order, some 4 weeks before the Notice was issued.

My statutory appeal will reply on at least the following grounds

1. The TPO is not within the powers of the Regulations
2. The relevant requirements in the regulations have not been complied with
3. So perverse that no reasonable authority could possibly make it.

Letter received on 25 November)

For the avoidance of doubt I object to the TPO in respect of all the woodland and trees to which it is intended to relate.

The reasons for my objection to the TPO are:

- (a) that it is not justified by amenity or other lawful considerations relating to the value of the woodland and trees
- (b) that it has been made in bad faith, irrationally, inconsistently with the Council’s previously adopted position and for improper motives and
- (c) that it is pointless as it relates to an area subject to a Forestry England scheme to which it cannot apply

Whilst we have no objection to the TPO, we do have several reservations regarding its implementation.

In terms of the TPO, I believe that the TPO placement is in breach of Section 200 of the TCPA 1990 and Section 12 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 due to the FC approved management plan and EWGS schemes in place (Please see attached) Please see below:

Email from [REDACTED] (3 November 2020)

Town and Country Planning Act 1990 Section 200

Tree preservation orders: Forestry Commissioners [F1 and Natural Resources Body for Wales]

(1)[F3A tree preservation order does not] [F3Tree preservation regulations do not] have effect in respect of anything done—



(a) by or on behalf of the Forestry Commissioners [F4or the Natural Resources Body for Wales] on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;

(b) by or on behalf of any other person in accordance with a relevant plan which is for the time being in force.

(2) A relevant plan is a plan of operations or other working plan approved by the Forestry Commissioners [F5or the Natural Resources Body for Wales] under—

(a) a forestry dedication covenant within the meaning of section 5 of the Forestry Act 1967, or

(b) conditions of a grant or loan made [F6by the Forestry Commissioners] under section 1 of the Forestry Act 1979 [F7or made by the Natural Resources Body for Wales under article 10B of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I.2012/1903) for or in connection with the use or management of land for forestry purposes].

And The Town and Country Planning (Tree Preservation) (England) Regulations 2012

Prohibited activities

13. Without prejudice to subsection (7) of section 198 (1) (power to make tree preservation orders) or subsection (1) of section 200 (2) (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down; (b) top; (c) lop; (d) uproot; (e) wilfully damage; or (f) wilfully destroy,

any tree to which an order relates, or shall cause or permit the carrying out of any of the activities in sub-paragraphs (a) to (f) to such a tree, except with the written consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

If prior engagement had been undertaken, the council would have been informed of the presence of 2 in number EWGS schemes with a Forestry Commission approved management plan on the entire property. Our client has responsibly managed the woodlands for over 20 years and has aided in the conservation and management during this time.

Even though early negotiations are underway in terms of clay extraction, this does not remove him from his obligations under EWGS schemes or the requirements of harvesting under the Forestry Act 1967. As such I believe the planned placement of the TPO on the woodland is not inline with the TCPA and as such should be rescinded.

Our client at present has instructed the thinning of the woodland as part of ongoing management activity, alongside compartment cleaning, formative pruning of oaks and removal of ash as part of our obligations to manage the safe decline of ash within the woodlands. We have currently stopped operations awaiting your return from leave but expect a quick resolution on Tuesday 3rd

November to the above, so that legal, planned and sustainable forestry operations can continue on the site.

Forestry Commissions view;

We understand the local authority has recently served a Tree Preservation Order (TPO) on Songhurst Wood (TCP-19-005271).

Forestry Commission Operations Note 52 sets out the interplay between the felling Licence regime and TPO legislation, and Tree Felling Getting Permission describes the Felling licence regime more generally. While not wishing to replicate this guidance documents here, I would like to take this opportunity to draw the Council's attention to certain important aspects:

1. All trees in England are protected under the Forestry Act 1967. The Act requires that a licence is obtained from the Forestry Commission before any growing tree can be felled, unless an exemption applies. Typically, exemptions do not apply to large scale forestry works such as those proposed by Tilhill Forestry Ltd on this site.
2. Felling licences granted by the Forestry Commission for clear-felling operations (the removal of all trees from a site) are typically conditional, in line with government policy, upon the land being replanted with new trees – thus maintaining woodland cover. The restocking conditions attached to felling licence also contain a 10 year maintenance period for the replanted trees.
3. Planning permission, of any sort, does not override the conditions of a felling licence once they have been activated (felling has occurred). An enacted felling licence therefore renders a piece of land incapable of being developed if the development would prevent the land from being restocked and the trees maintained – which in practice precludes development of any kind during the 10 year maintenance period.
4. Failure to comply with the restocking conditions of a felling licence would result in the Forestry Commission serving the licence holder or land owner with an Enforcement Notice under s.24 of the Forestry Act 1967, demanding the licence conditions are met upon penalty of summary conviction and an unlimited fine. Indeed, measures within the Environment Bill passing through Parliament currently will strengthen these penalties further in future.
5. The placing of a TPO on trees already subject to a felling licence requires the applicant to apply for a second felling licence, as this is the only lawful route to negate the need for TPO consent (as set out in section 15 of the Forestry Act 1967), as the LPA's ability to grant TPO consent in these scenarios is removed by the same section of the Act.

While the Forestry Commission recognises that matters relating to TPOs and planning permission are the preserve of the local planning authority, I should point out that the impact of the above is that in instances such as this one, legitimate and reputable forestry businesses such as Tilhill can be caused an increased administrative and financial burden in return for potentially little additional protection being afforded to a woodland via the TPO.

In addition to the above, this woodland is covered by a Forestry Commission approved



Woodland Management Plan (WMP) (copy attached) and associated felling licences granted under the Forestry Act 1967. Key work over recent years has involved silvicultural thinning to provide more space for the retained trees to grow and felling compartments of conifers planted in the 1960's and restoring them to native woodland. As such the woodlands have been well managed in line with the principles of the UK Forestry Standard.

We are also aware that proposals for quarrying of clay within the woodland (compartments 4 & 6 in the WMP) are in preparation. We advised the County Council earlier this year in respect of:

Town and Country Planning (Environmental Impact Assessment) Regulations 2017: Request for Scoping Opinion under Regulation 15

For: Proposed new clay-pit (mineral extraction) and the development of a construction materials recycling facility to provide recycling facility and for use during restoration of the clay-pit.

At: Land in forestry area near Loxwood, off Loxwood Road, Loxwood, West Sussex, RH14 0RA

I attach a copy of our advice to the County for your information.

While we appreciate these quarrying proposals may have drawn attention to the woodland we would point out that:

- the woodland has been actively well managed for many years;
- this woodland management has included the restoration of plantations on ancient woodland sites to native woodland;
- the woodland is the subject of a Forestry Commission approved Woodland Management Plan; and
- Government Policy is that ancient woodland is irreplaceable as highlighted in the recently updated National Planning Policy Framework (NPPF) Para 175 (c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons 58 and a suitable compensation strategy exists.

While we appreciate the Tree Preservation Order does not prevent ongoing management of the woodland, subject to the owners obtaining a new Felling Licence (where needed), this does represent an added layer of bureaucracy.

Consultation responses:

Tree Officer Comments:

The wooded area is a mixture of deciduous and evergreen trees within ancient woodland and plantation parcels.

I was made aware of potential loss/detriment due to a possible clay extraction site being placed/worked within the wood by Loxwood Parish Council.

I was not aware that a Forestry Commission licence was already in operation.



I was not aware that a review via a scoping consultation from WSCC we reviewed (20/00330/ADJ) by our Major's team had already reviewed the matter with some ecology issues/reservations. I had not been asked to make any comments on any tree matters (loss/impact or that the site was in and surrounded by ancient woodlands) but we advised that the WSCC's Arboriculturalist should be consulted.

The order has been served to the best of mine/our knowledge on the correct owners and I also served the order on the woodland itself on 13/11/2020.

The woodlands at Songhurst have been managed according to a Woodland Management Plan (WMP) since 2012; this plan was approved by the Forestry Commission who verified that the proposals meet the principles of the UK Forestry Standard prior to approval of the plan and the associated felling licences. For reference this is Forestry Commission scheme number 27153 which began in July 2012 and expires in 2022.

Forestry Commission Operations Note 52 sets out the interplay between the felling Licence regime and TPO legislation.

I understand by the serving of the TPO this has raised the validity of it and whether greater controls above the Forestry Commission Licences are appropriate or necessary and would mean the owner would need to reapply for new licences.

Recommendations:

I considered that the order would be a normal approach to manage a wood under threat or risk of loss and detriment to the sylvan character of the locality. There is a precautionary concern of a perceived threat due to the possible approval of the extraction of clay within/surroundings of the woodland but it has been appropriately managed with FC felling/thinning licenses for at least 10 years.

The FC seems to have control of how the wood will be managed/sustained and the WSCC would have to review the pros and cons if extraction of clay is appropriate/acceptable or not.

CDC became involved as the local Parish Council (Loxwood) was concerned that an extraction site would be detrimental to the wood and impact on the village.

There are glades of plantation trees with pockets of ancient woodland and the changes could impact greatly on the locality but it seems to add another layer of bureaucracy in the bigger scheme of things not necessarily nor appropriate.

Signed...Henry Whitby.....Date:...17/03/21

Recommendation:

Order to be Revoked/lapsed



Planning Officer comments:

It is considered that the measures in place to manage the woodland are adequate and the TPO is not justified in this instance.

A handwritten signature in black ink, appearing to be 'S. S. S.' or similar.

Signed:...

Date: 18/03/2021

Recommendation: That the provisional order be allowed to lapse and the TPO is not confirmed.

Conclusion: Provisional Order to Lapse

Signed:.......... Date:.....18 March 2021.....
(Tony Whitty, Divisional Manager for Development Management Service)

SECTION A 6

RESPONSE TO WSCC's ECOLOGIST

THE ECOLOGY SECTION OF LCP'S PROPOSED DEVELOPMENT CONSISTED OF:

- A) SECTION 19 OF THE ENVIRONMENTAL STATEMENT - 30 PAGES INCLUDING CONCLUSIONS
- B) TABLE ES2 - 20 PAGES
- C) TABLE ES3 - 20 PAGES
- D) FIGURE PS16 - 1 PAGE
- E) FIGURE ES 6 - 1 PAGE
- F) APPENDIX ES U - 234 PAGES
- G) APPENDIX ES V - 112 PAGES
- H) APPENDIX ES W - 40 PAGES

IN CONTRAST TO THIS DETAILED 458 PAGE SUBMISSION, THE OFFICER'S RESPONSE CONTAINS TEXT BENEATH THE BLOCK HEADING THAT IS JUST 1 PAGE LONG.

THE OFFICER ERRED IN NOT CONSIDERING SECTION 8 OF THE ENVIRONMENTAL STATEMENT INCLUDING PARA 8.9.

THE OFFICER ERRED IN NOT UNDERSTANDING SECTIONS 8.3 AND 8.6 OF THE ENVIRONMENTAL STATEMENT

THE OFFICER ERRED IN NOT UNDERSTANDING THE BIODIVERSITY NET GAIN OPPORTUNITIES FROM THE INCLUSION OF SECTION 106 AGREEMENTS BINDING THE LANDOWNER TO MITIGATIONS ON 300 ACRES OF WOODLAND TO OFFSET A DEVELOPMENT OF 15 ACRES, BENEFITS WHICH ARE NOT ACCOUNTED FOR BY THE DEFRA MODEL THAT ONLY CONSIDERS THE MITIGATIONS WITHIN THE PLANNING RED LINE BOUNDARY

THE OFFICER ERRED BY NOT REFERRING TO THE FRONT PAGE OF APPENDIX ES W, WHICH STATED IN BLOCK CAPITAL RED LETTERS - "DRAFT BASED ON DEFRA METRIC VERSION 2.0 SHORTLY TO BE WITHDRAWN".

THE OFFICER ERRED BY NOT REFERRING TO SECTION 22.49 OF THE ENVIRONMENTAL STATEMENT, WHICH REFERRED AS FOLLOWS:

"The % change calculation in Biodiversity Units (BU) only allows full consideration of the area within the planning redline, whereas in this case, the enhancements in the wider area of woodland within the planning blue line reduces the % change shown in the draft assessment, from minus 36.6% to just minus 2.1%. With the inclusion of more enhancements in the blue line area, it is estimated that a positive biodiversity net gain can be achieved"

THE OFFICER ERRED IN REFERRING TO PROVISIONS IN THE ENVIRONMENT BILL THAT WILL NOT APPLY FOR 2 YEARS.

THE OFFICER ERRED IN COMMENTING ON THE JMLP WITHOUT CONSIDERING SECTION 7.6 ONWARDS AND SECTION 8 OF THE PLANNING STATEMENT.

THE OFFICER'S CONCLUSIONS ARE INCONSISTENT WITH TABLE 19.10 AT SECTION 22.48 OF THE ENVIRONMENTAL STATEMENT.

THE OFFICER'S CONCLUSIONS ABOUT THE ENVIRONMENTAL IMPACT ARE INCONSISTENT WITH THE CONSIDERATIONS TAKEN BY THE FORESTRY COMMISSION DURING THE RECENT ISSUE OF A 10 YEAR WOODLAND MANAGEMENT PLAN AND THE ISSUE OF A FELLING LICENCE FOR CHANGES TO MORE THAN 20 HECTARES OF WOODLAND DURING THE NEXT 10 YEARS.

THE CURRENT WOODLAND MANAGEMENT PLAN AND FELLING LICENCE ISSUED BY THE FORESTRY COMMISSION IS SHOWN BELOW.

Songhurst and Bulhams Management plan



To be completed by the plan author:	
Woodland or Property name	Songhurst and Bulhams Wood
Woodland Management Plan case reference	1283
The landowner agrees this plan as a statement of intent for the woodland	Yes
Plan author name	[REDACTED]

For FC Use only:				
Plan Period <i>(dd/mm/yyyy - Ten years)</i>	Approval Date:	02/08/2021	Approved until:	02/08/2031
Five Year Review Date	2026			

Revision No.	Date	Status (draft/final)	Reason for Revision
1	01/02/21	First draft	WMP update from 2012 version
2	08/03/21	Second Draft	CG Review
3	11/03/21	Third Draft	JA Review
4	07/04/21	Fourth Draft	TPO changes
5	26/05/21	Fifth draft	FC Julian Williams Update per field vist

UK Forestry Standard management planning criteria

Approval of this plan will be considered against the following UKFS criteria.
Prior to submission review your plan against the criteria using the check list below.

UKFS management plan criteria		Minimum approval requirements	Author check <input checked="" type="checkbox"/>
1	<p>Plan Objectives: Forest management plans should state the objectives of management and set out how an appropriate balance between social, economic, and environmental objectives will be achieved.</p>	<ul style="list-style-type: none"> • Management plan objectives are stated. • Consideration is given to environmental, economic and social objectives relevant to the vision for the woodland. 	
2	<p>Forest context and important features in management strategy: Forest management plans should address the forest context and the forest potential and demonstrate how the relevant interests and issues have been considered and addressed.</p>	<p>Management intentions communicated in Sect. 6 of the management plan are in line with stated objective(s) Sect. 2.</p> <p>Management intentions should take account of:</p> <ul style="list-style-type: none"> • Relevant features and issues identified within the woodland survey (Sect. 4) • Any potential threats to and opportunities for the woodland, as identified under woodland protection (Sect. 5). • Relevant comments received from stakeholder engagement and documented in Sect. 7. 	
3	<p>Identification of designations within and surrounding the site: For designated areas, e.g. National Parks or SSSI, particular account should be taken of landscape and other sensitivities in the design of forests and forest infrastructure.</p>	<ul style="list-style-type: none"> • Survey information (Sect. 4) identifies any designations that impact on woodland management. • Management intentions (Sect. 6) have taken account of any designations. 	
4	<p>Felling and restocking to improve forest structure and diversity: When planning felling and restocking, the design of existing forests should be re-assessed and any necessary changes made so that they meet UKFS requirements.</p> <p>Forests should be designed to achieve a diverse structure of habitat, species and ages of trees, appropriate to the scale and context. Forests characterised by a lack of diversity, due to extensive areas of even-aged trees, should be progressively restructured to achieve age class range.</p>	<ul style="list-style-type: none"> • Felling and restocking proposals are consistent with UKFS design principles (for example scale and adjacency). • Current diversity (structure, species, age structure) of the woodland has been identified through the survey (Sect. 4). • Management intentions aim to improve / maintain current diversity (structure, species, and ages of trees). 	
5	<p>Consultation: Consultation on forest management plans and proposals should be carried out according to forestry authority procedures and, where required, the Environmental Impact Assessment Regulations.</p>	<ul style="list-style-type: none"> • Stakeholder engagement is in line with current FC guidance and recorded in Sect. 7. The minimum requirement is for statutory consultation to take place, and this will be carried out by the Forestry Commission. • Plan authors undertake stakeholder engagement (ref FC Ops Note 35) relevant to the context and setting of the woodland. 	
6	<p>Plan Update and Review:</p>	<ul style="list-style-type: none"> • A 5 year review period is stated on the 1st page of the plan. 	

Management of the forest should conform to the plan, and the plan should be updated to ensure it is current and relevant.	<ul style="list-style-type: none"> • Sect. 8 is completed with 1 indicator of success per management objective. 	
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Section 1: Property Details

<u>Woodland Property Name</u>		Songhurst and Bulhams Wood	
Name	[REDACTED]	Owner	
Email	Available upon specific request	Contact Number	Available upon specific request
Agent Name		[REDACTED]	
Email	[REDACTED]	Contact Number	[REDACTED]
County	West Sussex	<u>Local Authority</u>	Chichester District Council
Grid Reference	TQ052325	Single Business Identifier	117736768
What is the total area of this woodland management plan? (In hectares)		122.71ha	
You have included an Inventory and Plan of Operations with this woodland management plan?		Yes	
You have listed the maps associated with this woodland management plan?		Yes Map 1: Compartments Map 2: Designations Map 3: Hazards and sensitivities Map 4: Plan of operations	
Do you intend to use the information within this woodland management plan and associated Inventory and Plan of Operations to apply for the following?		Felling Licence	Yes
		Thinning Licence	Yes
		Woodland Regeneration Grant	No
You declare that there is management control of the woodland detailed within the woodland management plan?		Yes	

You agree to make the woodland management plan publicly available?	Yes
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Section 2: Vision and Objectives

2.1 Vision

The long-term vision for Songhurst and Bulhams Wood is to progress the management of the woodland to enhance it a model of a sustainably managed, resilient and diverse structure. The focus of management will be to provide multi-aged, oak-dominated woodland which complements the ASNW status of its core. The transformation of Planted Ancient Woodland through the careful removal of the remaining conifer elements and the subsequent development of mixed strata broadleaves so that by 2040 the woodland compartments consist of 100% broadleaves.

Songhurst and Bulhams Wood will be managed to protecting the visual amenity, sylvan character and ecological integrity. A suitably agreed felling licence is required to allow for ongoing sustainable forest management within the woodland which will guide for the enhancement of the woodland portfolio for both flora and fauna.

Silvicultural interventions will be small-scale, focusing on releasing ground flora to promote natural regeneration, with a greater diversity of species and age-class structure. Harvesting operations will, where possible, generate income and help to make the property economically viable.

Public access is an important part of the woodland's function so existing rights of way will be protected and promoted with a movement away from the free-roaming of the woodland that currently exists.

2.2 Management Objectives

No.	Objectives
1	Sustainably manage biodiversity in the woodlands to create a sustainable, balanced and dynamic forest ecosystem in line with UKWAS standard.
2	Provide steady economic return from harvesting operations and grant funding
3	Ensure a suitable felling licence is in place to allow for broadleaf plantation maintenance, PAWS restoration and ASNW management
4	Manage dangerous trees to ensure public safety
5	PRoW & public access management

Section 3: Plan Review – Achievements

Objectives	Achievement
Sustainably manage biodiversity in the woodlands to create a sustainable, balanced and dynamic forest ecosystem in line with UKWAS standard.	TO BE COMPLETED IN YEAR 5
Provide steady economic return from harvesting operations and grant funding	TO BE COMPLETED IN YEAR 5
Ensure a suitable felling licence is in place to allow for broadleaf plantation maintenance, PAWS restoration and ASNW management	TO BE COMPLETED IN YEAR 5
Manage dangerous trees to ensure public safety	TO BE COMPLETED IN YEAR 5
PRoW & public access management	TO BE COMPLETED IN YEAR 5

Section 4: Woodland Survey

4.1 Description

Brief description of the woodland property:

Location and Description

The site is composed of two separate woodlands, Songhurst Wood (77.53ha) and Bulhams Wood (34.87ha); both roughly situated 1 mile to the east of Loxwood in East Sussex. The central grid reference for the two woodlands is TQ 053 321.

Agricultural fields are present to the east and west of both woodlands. Songhurst has adjoining woodland ownership at its most northerly tip. Loxwood Road abuts the southern boundary of both woods. The woodlands are mainly flat with some minor areas of undulation. A small stream runs from the northeast and north of Songhurst and exits the woodland to the southwest. A single agricultural field splits Songhurst (west) from Bulhams Wood (east).

11.20ha of Bulhams is PAWS woodland and the remaining 23.67ha is ASNW. 22.43ha of Songhurst is ASNW, 2.25ha is PAWS and the remaining 52.85ha is undesignated.

The mature woodland cover comprises mainly of oak with hazel understorey in both woodlands (circa 50% of woodland cover). Hazel development is limited by poor light levels and is likely to have lost some stocking density since the woodland was originally managed for coppice. Oak is in reasonably good form and of average-good timber quality.

Heavy conifer clear fells have taken place over the last ten-year period which has been restocked with native broadleaves (circa 30% of woodland cover). A few small mature Western hemlock and Norway Spruce plantation are still present (circa 10% of

woodland cover) but wind blow is starting to occur in some of these blocks. Small sporadic patches of ash trees are present but do not form a major component of the woodlands.

Open ground accounts for around 10% of the woodland, comprised mainly of rides, but also gaps in conifer stands created by windblow. These open areas are quickly dominated with bracken and bramble and have birch and willow regeneration present.

Historic Management

The property was originally part of Pallinghurst Estate owned by the MacAndrews; the estate was split up and sold off in the late 1950's.

The larger woodland area including Pallinghurst wood to the north has been managed by Tilhill since the early 1960's. There was extensive planting of conifers, mainly Norway spruce, from 1961 up to 1984, replacing up to a third of the original oak woodland. Since 1984, broadleaves have been the restock species of choice, reflecting the changing objectives from commercial timber production to conservation. There was a change of ownership in 1993 when the current owners, [REDACTED] purchased Songhurst & Bulhams. Pallinghurst wood was sold to a local property developer and subsequently sold off in smaller lots on his demise.

Within the last 10-20 years, clear felling of conifer plantations over 36% of the woodland has occurred which has been restocked with native broadleaves, mainly oak.

Soils, geology and Topography

Elevation of 25-40 meters ASL with gentle slopes. Some steep inclines at river banks, creating some inaccessible areas.

Soil type is part of the Wickham 5 Association (711i). Clay/loam, moderately acidic, impeded drainage leading to seasonal water retention and waterlogging.

Climate

Temperatures range from an average minimum of 1°C in January/ February to an average maximum of 21°C in July/August. Annual rainfall averages 750mm.

Archaeology

There are no scheduled ancient monuments on the site; although several wood banks are present in the woodland (please see hazards and sensitivities – map 3) and an unscheduled old roman road.

Significant Hazards, Constraints and Threats

Public access and liabilities

Footpaths are used extensively by walkers throughout the day. Several PRowS run through the woodland and include a wooden bridge in compartment 11. Pedestrians are not currently sticking to PRow routes and are roaming across the woodland along non-official routes such as the gated central hard-surfaced vehicular track and along the forest rides. A CA16 was submitted in June 2020 which is on the public register for 12 months which will stop any new PRowS from being designated for 20 years. However, a notice of application for a definitive map modification was submitted in February 2021 to try and designate the central hard-surfaced ride through the center of Songhurst Woods to a PRow which is currently under review.

Proposed claypit

A claypit is proposed in compartments 4a, 4b, 6a, 6b and part of 5a and is in the planning permission stage at present. It will cover around 7% of the woodland with a rolling programme of restoration where voids are infilled and replanted during the lifetime of the project. Objections from the public have been vocal running alongside a large social media presence. If planning permissions are granted, the central hard-surfaced ride running through the center of Songhurst will facilitate site traffic and act as the access and egress route to the pit. These operations are outside of the scope of this document and will be subject to UK planning law when an application is submitted.

Rejected TPO

A TPO order was preliminarily issued in October 2020 which covered the whole of Songhurst but none of Bulhams. The local council decided not to confirm the order as of 24th of March 2021 due to the Forestry Commissions involvement with the overarching management of the woodland and its separation from the proposed clay pit development.

Utilities

An overhead power line crosses the main access to Songhurst at 2 points close to the entrance. Permanent height markers (goalposts) are required to prevent over-height vehicles from passing under the lines. The height of the conductors was checked by Scottish and Southern in February 2012 at 8.3 meters above the ground; with a recommended safe working clearance of 6 meters.

4.2 Information

Feature	Within Wood	Cpts	Adjacent to Woodland(s)	Map No
Biodiversity- Designations				
Site of Special Scientific Interest	No		No	
Special Area of Conservation	No		No	
Tree Preservation Order	Yes	1-18	No	
Conservation Area	No		No	
Special Protection Area	No		No	
Ramsar Site	No		No	
National Nature Reserve	No		No	
Local Nature Reserve	No		No	
Other (please Specify): ASNW & PAWS	Yes	Multiple – See Map 2	Yes	2
Notes	TPO LX/20/00275/TPO rejected as of 24/03/21			

Feature	Within Wood	Cpts	Map No	Notes
Biodiversity - European Protected Species				
Bat	Species (if known)	Yes	ALL	Presumed within all cavity trees
Dormouse	No			NBN checked on the 11/02/21. No evidence found within woodland but suitable hazel habitat available throughout woodland
Great Crested Newt	No			NBN checked on the 11/02/21. No evidence found within woodland
Otter	No			NBN checked on the 11/02/21. No evidence found within woodland
Sand Lizard	No			NBN checked on the 11/02/21. No evidence found within woodland
Smooth Snake	No			NBN checked on the 11/02/21. No evidence found within woodland

Natterjack Toad		No			NBN checked on the 11/02/21. No evidence found within woodland
Biodiversity – Priority Species					
Schedule 1 Birds	Species:	No			NBN checked on the 11/02/21. No evidence found within woodland but occasional visitors likely
Mammals		Yes			Badgers (two known setts in Bulhams), grey squirrel, muntjac, fallow and roe deer, voles
Reptiles (grass snake, adder, common lizard etc)		Unlikely			No notable species found during survey or on NBN (11/02/21)
Plants		Yes			<i>Hyacinthoides non-scripta</i> Bluebell
Fungi/Lichens		Yes			No notable species found during survey or on NBN (11/02/21)
Invertebrates (butterflies, moths, beetles etc)		Yes			No notable species found during survey or on NBN (20/10/20)
Amphibians (pool frog, common toad)		Yes			No notable species found during survey or on NBN (20/10/20)
Other (please Specify):		N/A			
Historic Environment					
Scheduled Monuments		No			
Unscheduled Monuments		Yes	5a, 6a, 6b, 7a,7d, 8, 21a, 23a, 24	3	Wood Banks and old roman road
Registered Parks and Gardens		No			
Boundaries and Veteran Trees		Yes			Throughout woodland
Listed Buildings		No			
Other (please Specify):		No			

Landscape				
<u>National Character Area</u> (please Specify): NCA Profile:121 Low Weald				
National Park	No			
Area of Outstanding Natural Beauty	No			
Other (please Specify):	No			
People				
CROW Access	No			
Public Rights of Way (any)	Yes	Multiple – see map 3	3	Designated PRowS
Other Access Provision	Yes	Multiple – see map 3	3	Hard surfaced track running through the centre of Songhurst and along the western border of Bulhams
Public Involvement	Yes			Since the announcement of the proposed clay pit, the public have played a heightened roll in the politics of the wood
Visitor Information	No			
Public Recreation Facilities	No			
Provision of Learning Opportunities	No			
Anti-social Behaviour	Yes			Members of the public interfering with access to the wood and general anti-clay pit propaganda
Other (please Specify):				
Water				
Watercourses	Yes	Multiple – see map 3	3	Streams running through Songhurst
Lakes	No			
Ponds	Yes	20a	3	
Other (please Specify):				

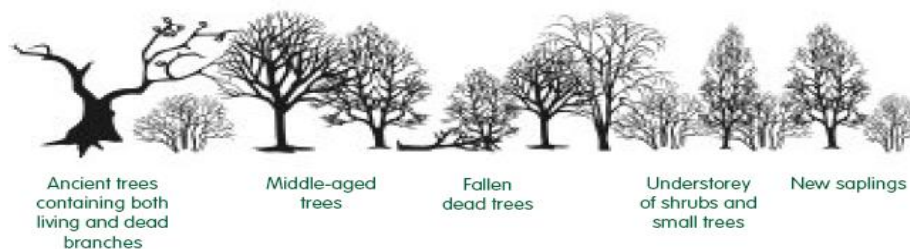
4.3 Habitat Types

Feature	Within Woodland(s)	Cpts	Map No	Notes
Woodland Habitat Types				
Ancient Semi-Natural Woodland	Yes	Multiple – See map 2	2	
Planted Ancient Woodland Site (PAWS)	Yes	17b, 19a/b, 20b, 23a	2	
Semi-natural features in PAWS	No			
Lowland beech and yew woodland	No			
Lowland mixed deciduous woodland	Yes	All		
Upland mixed ash woods	No			
Upland Oakwood	No			
Wet woodland	No			
Wood-pasture and parkland	No			
Other (please Specify):	No			
Non Woodland Habitat Types				
Blanket bog	No			
Fenland	No			
Lowland calcareous grassland	No			
Lowland dry acid grassland	No			
Lowland heath land	No			
Lowland meadows	No			
Lowland raised bog	No			
Rush pasture	No			
Reed bed	No			
Wood pasture	No			
Upland hay meadows	No			
Upland heath land	No			
Unimproved grassland	No			
Peat lands	No			
Wetland habitats	No			
Other (please Specify):	No			

4.4 Structure

Woodland Type	Percentage of Mgt Plan Area	Age Structure	Notes (i.e. understory or natural regeneration present)
Mature oak high forest	57%	even	Mature oak woodland with hazel understory. Minimal regeneration present. Heavily shaded
Mature conifer plantation	8%	even	Norway Spruce and Western Hemlock plantation from 1960s. Areas of dense hemlock regeneration in places.
Young broadleaf plantation	32%	even	Oak and mixed broadleaf plantation from conifer clear fells. Heavy birch regeneration throughout.
alluvial woodland	3%	uneven	Natural un-planted alluvial woodland species such as alder and willow.

Uneven-aged woodland – many wildlife habitats because of high diversity



Even-aged woodland – tidy but of low diversity



Section 5: Woodland Protection

5.1 Risk Matrix

The matrix below provides a system for scoring risk. The matrix also indicates the advised level of action to take to help manage the threat.

Impact	High	Plan for Action	Action	Action
	Medium	Monitor	Plan for Action	Action
	Low	Monitor	Monitor	Plan for Action
		Low	Medium	High
Likelihood of Presence				

5.2 [Plant Health](#)

Threat	Accute Oak Decline (AOD)
Likelihood of presence	medium
Impact	High
Response	<p>A bacterial infection that can affect both young and old oak species vigor and growth. Early tell-tale signs of infection are bleeding fissures on the stem.</p> <p>Although no AOD was record during the management plan survey, the woodland will be monitored and if any is picked up, selective felling will take place on infected trees and a buffer zone to try and halt the spread of infection. Felling must occur when dry to stop pathogens and bark should be stripped off and burnt.</p>

Threat	Oak Processionary Moth (OPM)
Likelihood of presence	Low
Impact	High
Response	<p>OPM larvae can strip whole trees of their foliage, causing extreme stress on the infected oak tree. The caterpillars can also be a hazard to human health as their hairs, which they shed as a defense mechanism, can cause rashes and breathing problems. Although OPM are focused in London and the M25 circuit, the</p>

	<p>pest is spreading to the surrounding counties and countryside.</p> <p>No OPM was recorded during the management plan survey but the woodland will be monitored for its presence. If found, specialist pest control teams will be contacted to eradicate it.</p>
--	--

Threat	European Spruce Bark Beetle
Likelihood of presence	Low
Impact	Low
Response	<p>European spruce bark beetle (<i>Ips typographus</i>) is spreading across southern England and the Norway Spruce within the woodland will need to be monitored. Tell-tale signs of infection are discolored needles and crown decline.</p> <p>With the Norway Spruce due for clear-fell, however, this pest shouldn't be treated as a major concern, especially as spruce forms a low percentage of the whole woodland cover (Circa 5%).</p>

Threat	Hymenoscyphus fraxineus (ash dieback)
Likelihood of presence	High
Impact	Low
Response	<p>Ash forms a small percentage of the woodland cover. Dieback was recorded during the management plan survey. All ash is to be felled as part of the new felling program under either a thinning or selective fell licence.</p>

5.3 [Deer](#)

Species - Likelihood of presence	Muntjac, Fallow and Roe
Impact	Low
Response	<p>Natural regeneration is occurring within open areas of the woodland at an observable rate. The new broadleaf plantations are all guarded with 1.2m shelters so deter browsing. With deer not affecting the woodland dynamics to a</p>

	high degree, stalking is not proposed in the woodlands.
--	---

5.4 Grey Squirrels

Likelihood of presence	High
Impact	High
Response	<p>The main species susceptible to squirrel damage are oak and beech aging from 20-40 years of age. With a high proportion of the new broadleaf plantations being of these species and in or coming up to this age bracket, squirrel damage could be a major issue for the healthy development of these species into trees of good form and vigor.</p> <p>Squirrel trapping using Good Nature traps will be undertaken where safe and possible to do so. Controlling grey squirrels however in a woodland of this size will be difficult. In many cases, trees with damage may just need to be selectively thinned out, leaving behind better quality specimens.</p>

5.5 Livestock and Other Mammals

Threat	Badgers
Likelihood of presence	High
Impact	Low
Response	<p>Two badger setts can be found in Bulhams Wood. During woodland operations, a 20m buffer exclusion zone for machinery will be marked and enforced. A class license will be applied for it works cannot be undertaken this manner.. This will apply to any other badger setts found in the woodlands.</p>

5.6 Water & Soil

Threat	Diffuse pollution and soil erosion
--------	------------------------------------

Likelihood of presence	Low
Impact	High
Response	Although several streams flow through Songhurst, the terrain is flat meaning that the flow of sediment into watercourses is unlikely. However, 20m buffer zones will be implemented when forestry operations take place and operations will aim to be carried out in periods of dry weather.

Threat	Contaminant spills
Likelihood of presence	Medium
Impact	High
Response	All fuel to be stored in a bunded area and spill kits on-site during forestry operations.

5.7 Environmental

Threat	Fire
Likelihood of presence	Low
Impact	High
Response	The Tilhill Fire Procedures Handbook is retained in the office with the fire plan. The local fire brigade will be notified before any potential burning operations take place in the wood. The fire risk is considered low within the wood. It is advised that the crop is insured against fire and storm damage.

Threat	Rhododendron and other invasive species
Likelihood of presence	Low
Impact	Medium
Response	A small area of rhododendron was recorded in compartment 14. No other invasive species were recorded during the initial field surveys. The rhododendron will be mechanically and chemically treated. If any other rhododendron is recorded at a later date within the woodland, this will be also be treated.

5.8 Social

Threat	Local residents & Stop The Clay Pit Movement
Likelihood of presence	High
Impact	High
Response	<p>With the proposed clay pit, local residents have been vocal in their concerns. However, it must be kept in mind that forestry management is run as a completely different entity to the clay pit but the proposals have had unforeseen adverse effects.</p> <p>Although several official PRoWs run through the woodlands, members of the public also roam through many other un-official routes through the woodland.</p>

5.9 Economic

Threat	Operational Costs
Likelihood of presence	High
Impact	Medium
Response	<p>To maintain the new broadleaf plantations, carry out necessary health and safety tree works alongside other non-economic operations, timber income is required. Without the proposed timber income, the woodland will fall into a declining habitat from lack of management. The Management Plan must allow for sustainable felling operations to take place to protect the woodland's biodiversity and rich habitat.</p> <p>Alongside timber income, Countryside Stewardship is to be applied for. This will allow for WD2 funding at £100/ha/year over five years to help aid sustainable non-economic forestry management operations. A rhododendron clearance capital item grant is</p>

	also to be applied for to cover removal in compartment 14.
--	--

5.10 [Climate Change Resilience](#)

Threat	Uniform Structure
Likelihood of presence	High
Impact	Medium
Response	Currently, the uniform structure is apparent throughout most of the woodland compartments although the woodland as a whole holds mixed-age structures on a landscape scale. It is proposed the multiple clear-fell coupes are created within the mature oak stands to further diversify age structure.

Threat	Lack of diversity
Likelihood of presence	High
Impact	Low
Response	Although the main crop in Songhurst and Bulhams is oak, a healthy mix of other broadleaf species such as cherry, hazel, hornbeam, ash, and birch is present. Any new plantations will allow for a diverse mix of broadleaf species.

Section 6: Management Strategy

Management Objective / Feature	Management Intention
<p>Sustainably manage biodiversity in the woodlands to create a sustainable, balanced and dynamic forest ecosystem in line with UKWAS standard.</p>	<p>Age structure will be diversified through the thinning and felling program detailed in the Inventory and Plan of Operations. It is intended that this will enhance biodiversity through increased light levels reaching the forest floor, which will in turn enhance the ground flora and allow the development of a more diverse shrub layer.</p> <p>Although no EPS species were recorded during the initial site surveys or on the NBN atlas, bats are presumed to be in the wood. An EPS checklist will be completed before any works being undertaken. All contractors working within the wood will be briefed on the location of sensitive habitats and provided with appropriate toolbox talks and guidance notes. Any trees with potential bat roost habitats such as cavities will be left standing.</p> <p>Badger setts within the woodland will be given a 20m buffer zone for machinery. Hand felling may occur within this 20m buffer zone but with felled timber winched off from outside the perimeter of the buffer.</p> <p>Where safe to do so standing dead trees, snags, and veteran trees will be kept. Naturally fallen trees and branches will be left to decay in situ where safe to do so. Halo thinning of veterans will occur during thinning operation on current and potential future veteran trees.</p> <p>Wood banks are marked on map 3. These will be protected from damage by machinery when harvesting operations are taking place on-site by planning dedicated extraction routes crossing</p>



banks only when necessary with suitable brash mats laid.

Semi-natural features in PAWS will be encouraged by retaining native trees during harvesting and haloing around native species during thinning where practicable. Faster growing broadleaf species, such as birch, ash, and hazel, maybe coppiced during harvesting and left to regenerate.

All operations will conform to best practices and the Forestry Commission's Forest and Water Guidelines.

Both Songhurst and Bulhams hold a large number of veteran trees. A veteran tree survey may be carried out to locate these veterans and during thinning works, these trees will be halo thinned to allow them to develop with adjacent competition removed.

The ride network over both woodlands are to be advanced and widened where possible, focussing on west to east stretches. Two-zone and potentially three-zone ride networks will be implements to allow a cyclical vegetation management regime which will increase the ride networks biodiversity and allow for increased light on the ride network. Scollops will also be cut into the network and intervals, creating small glades.

Songhurst wood holds a network of gills/streams that hold high habitat value surrounding them. These water courses are to hold a minimum 5m buffer on either side of them where forestry work will be minimized. Where possible, they will not be crossed but if deemed necessary, a suitable culvert will be constructed or a log bridge.

	<p>All management operations carried out in the areas of ASNW and PAWs will be following the UK Forestry Standard and FC Guidelines for the Management of Semi-Natural Woodlands.</p>
<p>Provide steady economic return from harvesting operations and grant funding</p>	<p>As part of the ASNW, PAWS, and general woodland management, timber income from proposed thinning and coup felling will aid the non-economic plantation maintenance, invasive species control, public safety works, and the general aesthetics of the woodland. Due to the scale of broadleaf plantation restock sites within the woodland, maintenance costs are high and timber income from sustainably felling timber aids significantly in the maintenance of the wood as a byproduct of ecosystem management.</p> <p>The proposed thinning and coup felling is proposed to be staggered to allow for a constant steady timber income to be put back into woodland maintenance over the next ten years.</p> <p>Alongside timber income, the woodland is to be entered into the Countryside Stewardship scheme, grant-funded at £100/ha/year for five years. This grant funding will help in unison with timber income to fund un-economic management activities in Songhurst and Bulhams.</p> <p>A standalone capital item grant is also intended to be applied for to help fund rhododendron removal in compartment 14 under Countryside Stewardship due to its invasive characteristics.</p>
<p>Ensure a suitable felling license is in place to allow for broadleaf plantation maintenance, PAWS restoration and ASNW management</p>	<p>A suitable felling license is required to allow for thinning, coup felling, and plantation maintenance (i.e. pruning, clearing and respacing) to cover all material over 0.00mm+ which is line with current UKWAS standards. The proposed thinning, coup felling and maintenance are detailed in the plan of operations. It is a necessity that all forestry and silvicultural operations can take place to stop the woodland from falling into a declining</p>

	<p>habitat. The licence needs to cover secondary cutting operations such as tree health and safety, ash felling, ride edge cutting/scalloping/lifting and understorey coppicing/cutting.</p> <p>PAWS restoration Compartment 17b and 19b are PAWS designated and comprise of mature Western Hemlock and Norway Spruce. It is proposed that these crops are clear-felled and restocked with broadleaves to transform them back into native woodland.</p> <p>Although not officially designated PAWS, compartments 7a, 7b, 9b and 14 comprise of Norway Spruce, Western Hemlock, and mixed conifer and hold the characteristics of PAWS. The conifer elements of these compartments are proposed to be felled and also restocked with native broadleaves.</p> <p>Compartment 10a holds a previously un-thinned Western Hemlock plantation. If this compartment is accessible with machinery, this is to be rack thinned to allow the crop to develop with the long-term vision of clear felling in circa 20 years after a secondary and third thinning to restock with native broadleaves.</p> <p>Edge conifers in compartment 13 are to be felled too under the PAWS restoration program.</p> <p>ASNW management Compartments 3a (ASNW), 5a, 9a, 12 (ASNW), 15 (ASNW), and 18a (ASNW) are all mature high canopy oak woodland in Songhurst. The oak in these compartments is in many cases of poor vigor and form due to the lack of light as an effect of previously un-timely thinning regimes. To allow for a mixed age structure and increased biodiversity, it is proposed that multiple 0.25ha oak clear-fell coupes are created in these compartments with no more than two per hectare and with at least 100m between coupes. These clear-fell coupes will be restocked with a native broadleaf mix and will</p>
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	<p>create new light rich plots within the currently dark and biodiversity-poor compartments. A light 20% canopy thin is proposed outside of the clear fell coup plots within these compartments including halo thinning of future and current veteran trees. Where necessary coppice undertsory will be coppiced at the same time as the creation of the clearfell coupes to add to the structural diversity of the woodland.</p> <p>Similar clear-fell coupes and a 20% canopy thin is proposed in Bullhams in compartments 20a, 21a, 22, and 24 (All ASNW) to achieve increased biodiversity, increased mixed age structure, and heightened light levels.</p> <p>Plantation maintenance</p> <p>Compartments 1a, 1b, 1c, 3b, 4a, 5b, 6a, 6b, 7c, 7d, 7e, 8, 13, 16b, 17a, and 18b are all broadleaf plantations of under 20 years of age in Songhurst. These new plantations must be maintained to ensure that the restocked trees develop into maturity with good form and vigor. This will require respacing, pruning, clearance of unwanted regeneration such as birch, brush cutting, and potential mulching. If the plantations are left to their own accord, the compartments will become overgrown with bramble, bracken, and invasive pioneer species which will adversely affect the health of the newly planted broadleaf plantation. A number of the plantations a restocking of PAWS and ASNW designated areas and need to be managed on an annual basis until they reach maturity.</p> <p>Supplementary conifer nurse crops may also be planted within the current and new broadleaf plantation to act as a nurse crop. This will encourage the oak to grow more straight, producing a higher value oak crop. The conifer will be thinned out after circa 20-30 years.</p> <p>19a, 20b, 21a, 23a, and 23b are all broadleaf plantations of varying ages under 20 years in Bulhams. These plantations will be managed</p>
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	<p>via a variety of techniques as mentioned above and are all under ASNW or PAWS designation.</p> <p>Potential access upgrades There is gated access into the woodland at TQ 05306 31771. Currently, this is unsuitable for timber wagons to use and this access point may be upgraded to allow for the improved haulage of timber from Songhurst Wood. Stone will be imported to make a hard surface, a new metal gate installed, and an upgraded bellmouth with a turning circle.</p>
<p>Manage dangerous trees to ensure public safety</p>	<p>With multiple PRowS running through the woodland and Loxwood Road running along both Songhurst and Bulhams southern boundary, annual tree safety surveys will need to be carried out and any arising remedial works detailed in the report. The owner of the woodland has a duty of care to ensure that trees are in a safe condition.</p> <p>Ash within the woodland is due to be felled during proposed felling operations, focussed on any found adjacent to PRowS or the public highway. With ash dieback prevalent in Surrey, this work is essential due to the brittle characteristics of infected ash.</p> <p>With the high public usage of the woodland, it will be necessary, as far as is reasonably practicable, to keep members of the public to the PRowS so as tree health and safety can be managed effectively and efficiently. If any trees collapse over the PRowS, these will be cleared.</p>
<p>PRow & public access management</p>	<p>Whilst there is an extensive PRow network that runs through the woodland currently, members of the public are roaming along undesignated routes through the woodland. It is proposed that the PRowS are more heavily defined by the installation of a two-strand fence line and/or coppice management and native broadleaf supplementary shrub planting of hazel, rowan, hawthorn, and blackthorn.</p> <p>The main central hard-surfaced track is used by walkers and is not a PRow. This track has recently been gated at multiple sections where the PRowS cross the hard-surfaced track.</p>

	<p>These gates will need to be monitored for vandalism and maintained when appropriate.</p> <p>It is also intended that PRow maps are erected across the woodland illustrating official routes.</p>
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Section 7: Stakeholder Engagement

Work Proposal	Individual/ Organisation	Date Contacted	Date feedback received	Response	Action
All forestry operations	Forestry Commission	Ongoing	Ongoing		
Roadside tree safety works	Chichester District Council	For any proposed TM			
Planning permission sensitive works regarding the proposed clay pit	Chichester District Council And local parish council	TBC			

Section 8: Monitoring

Management Objective/Activities	Indicator of Progress/Success	Method of Assessment	Frequency of Assessment	Responsibility	Assessment Results
Sustainably manage biodiversity in the woodlands to create a sustainable, balanced and dynamic forest ecosystem in line with UKWAS standard.	Reduced conifer cover and increased biodiversity	Visual assessment	Biannually	Forest Manager	
Provide steady economic return from harvesting operations and grant funding	Timber and grant income	Budget reviews	Annually	Forest Manager	
Ensure a suitable felling licence in place to allow for broadleaf plantation maintenance, PAWS restoration and ASNW management	Active felling licence and forestry operations.	Approved felling licence	Annually	Forest Manager	
Manage dangerous trees to ensure public safety	Deer population	Tree safety survey	Annually	Forest Manager	
PRoW & public access management	Members of the public sticking to PRoW routes	Visual assessment	Annually	Forest Manager	

UK Forestry Standard woodland plan assessment

For FC office use and approval only:

UKFS management plan criteria	Minimum approval requirements	Achieved	Review notes
<p>Plan Objectives: Forest management plans should state the objectives of management and set out how an appropriate balance between social, economic, environmental objectives will be achieved.</p>	<ul style="list-style-type: none"> Management plan objectives are stated. Consideration is given to environmental, economic and social objectives relevant to the vision for the woodland. 	Yes/No	
<p>Forest context and important features in management strategy: Forest management plans should address the forest context and the forest potential and demonstrate how the relevant interests and issues have been considered and addressed.</p>	<p>Management intentions communicated in Sect. 6 of the management plan are in line with stated objective(s) in Sect. 2.</p> <p>Management intentions should take account of:</p> <ul style="list-style-type: none"> Relevant features and issues identified in the woodland survey (Sect. 4). Any potential threats to and opportunities for the woodland, as identified under woodland protection (Sect. 5). Relevant comments received from stakeholder engagement are documented in Sect. 7. 	Yes/No	
<p>Identification of designations within and surrounding the woodland site: For designated areas, e.g. National Parks or SSSI, particular account is taken of landscape and other sensitivities in the design of forests and forest infrastructure.</p>	<ul style="list-style-type: none"> Survey information (Sect. 4) identifies any designations that impact on woodland management. Management intentions (Sect. 6) have taken account of any designations. 	Yes/No	
<p>Felling and restocking to improve forest structure and diversity:</p>	<ul style="list-style-type: none"> Felling and restocking proposals are consistent with UKFS design principles (for example scale and adjacency). 	Yes/No	

<p>When planning felling and restocking, the design of existing forests should be re-assessed and any necessary changes made to meet UKFS requirements.</p> <p>Forests should be designed to achieve a diverse structure of habitat, species and age range of trees, appropriate to the scale and context.</p> <p>Forests characterised by a lack of diversity, due to extensive areas of even-aged trees, should be progressively restructured to achieve age class range.</p>	<ul style="list-style-type: none"> • Current diversity (structure, species, age structure) of the woodland has been identified through the survey (Sect. 4). • Management intentions aim to improve / maintain current diversity (structure, species, and ages of trees). 		
<p>Consultation:</p> <p>Consultation on forest management plans and proposals should be carried out according to forestry authority procedures and, where required, the Environmental Impact Assessment (Forestry) Regulations.</p>	<ul style="list-style-type: none"> • Stakeholder consultation is in line with current FC guidance, and recorded in Sect. 7. The minimum requirement is for statutory consultation to take place, and this will be carried out by the Forestry Commission. • Plan authors undertake stakeholder engagement (ref FC Ops Note 35) relevant to the context and setting of the woodland. 	Yes/No	
<p>Plan update and review:</p> <p>Management of the forest should conform to the plan, and the plan should be updated to ensure it is current and relevant.</p>	<ul style="list-style-type: none"> • A 5 year review period is stated on the 1st page of the plan • Sect. 8 is completed with 1 indicator of success identified per management objective 	Yes/No	

<p>Approved in Principle</p> <p><i>This means the FC is happy with your plan; it meets UKFS requirements.</i></p> <p>a) You can use it to support a CS-HT or other grant application.</p> <p>b) You do not yet have a licence to undertake any tree felling in the plan.</p>	<p>Name (WO or FM):</p> <p>██████████</p>	<p>Date: 27/5/2021</p>
<p>Approved</p>	<p>Name (AO, WO or FM):</p>	<p>Date:</p>

This means FC is happy with your plan; it meets UKFS requirements, and we have also approved a felling licence for any tree felling in the plan (where required).

02/08/2021

Felling Licence to fell growing trees

02/08/2021

Application ref: 019/2232/2021

Management Plan Ref: 1283

Felling Licence (Forestry Act 1967)

Woodland Name: Songhurst and Bulhams Wood

Please find your approved Felling Licence and associated work area map(s) enclosed. If you are a managing agent receiving this Licence on behalf of the owner / tenant, you must forward a copy of the Licence to the owner / tenant for their attention.

Please note the expiry date for completion of the work.

If this Licence contains conditions for restocking, it is the responsibility of the owner / leaseholder / tenant of the land to ensure that the conditions are met by the required date(s) specified in this Licence. The Forestry Commission may visit the site at any time to inspect compliance of this Licence and its conditions.

Non-compliance with Conditions of the Licence

Failure to comply with the conditions of this Licence may result in an Enforcement Notice being served upon you or any successive owner of the land. Subsequently, failure to comply with an Enforcement Notice may constitute an offence under section 24(4) of the Forestry Act 1967, involving a summary conviction and an unlimited fine.

Timber Regulations

The Plant Health Regulation (EU) 2016/2031 (PHR) requires the use of Protected Zone plant passports for the movement of all conifers and *Castanea* species (including sweet chestnut) with bark, and standard plant passports for *Juglans*, *Platanus* and *Pterocarya* species (e.g. walnut, plane, wingnut) with or without bark. For these species, a plant passport will be required at each stage of the transport chain where whole or chipped roundwood (including brash) is moved from the harvesting site or site of aggregation, to the processor and the movement of isolated bark whether or not mixed with other materials.

Professional operators must join a register managed by the competent authority, where the professional operator is authorised to issue plant passports. Forest owners will not normally issue passports unless they are responsible for commissioning the movement of timber.

Guidance on how to **Register as a Professional Operator to issue Plant Passports** is available on GOV.UK.

UK legislation governing timber legality prohibits trade of illegally harvested timber and timber products. It requires those responsible for placing UK grown timber onto the market for the first time, the 'Operator', whether they are an owner, contractor or timber merchant, to maintain documentation to prove that the timber is harvested from a legally authorised resource.

A timber regulations Due Diligence checklist is required when placing the timber authorised by this felling licence on the market for the first time. The parties involved will need to complete, and each retain a copy of, the Due Diligence checklist (along with any other documents that demonstrate the timber has been felled in conjunction with all other relevant legislation e.g. Health and Safety). More information on timber regulation is available on GOV.UK by searching '[Regulations: timber and FLEGT licenses](#)'.

For those in receipt of Rural Payments

If you claim rural payments, you must follow a set of rules called Cross Compliance, which include Good Agricultural and Environmental Condition of land (GAEC) rules. These rules may impact what times of the year you can cut down trees on land receiving rural payments. Failure to comply with these rules may result in a reduction of payments made by the Rural Payments Agency.

Protected sites - Sites of Special Scientific Interest or Scheduled Monuments

This Licence only gives you permission to fell the trees specified in the Licence. It does not give you the additional consents that you require in order to conduct works (including felling) within Sites of Special Scientific Interest or Scheduled Monuments (protected sites). These consents may be enclosed with this felling licence, but if they are not, you should not fell trees on protected sites without the formal consent from Natural England or Historic England respectively.

Planning permission

If, after felling trees authorised to be cut down in this Licence, you seek planning permission for any form of development on the felled area, you should be aware that the granting of planning permission will not override the conditions of this Licence or any subsequent Enforcement Notice issued under section 24 of the Forestry Act 1967.

Environmental Information Regulations

Felling Licences are disclosed on request and may be published under the Environmental Information Regulations. Disclosure and publication will take into account the requirements of the Data Protection Act 2018 in respect to any personal information included in the licence.

Yours sincerely

For the Forestry Commission

Licence to Fell Growing Trees

To: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

This Licence gives you permission under section 10 of the Forestry Act 1967 as amended to fell the trees described in Part 1 of this licence and in the areas shown on the appended map(s).

Tree felling under this Licence has been approved by the Forestry Commission as being in accordance with government policy for the sound management of a renewable resource, based on the application made. The Licence issued is intended for use by the person with an interest in the land that enabled them to apply for the licence in the first instance.

The felling permissions in this Licence expire on: 02 Aug 2031

Prior to felling, all parties (agents, contractors, stakeholders) who are involved or affected by the felling must be made aware of this licence and provided with a copy of the Licence and map(s) on request. After enacting any part of this licence, if you sell the land you should also tell the new owner about this Licence.

If a Tree Preservation Order (TPO) is placed on these trees after this Licence was applied for or issued, you must contact the Forestry Commission as you will need a new Licence if you wish to fell the protected trees. Without a new felling Licence, you may potentially be committing an offence under the Town and Country Planning Act 1990 in relation to the TPO. The local planning authority is not empowered to grant you permission to fell protected trees if that felling would ordinarily require a felling Licence.

Tree felling operations must be carried out in a manner that reflects good forestry practice, as set out in the current UK Forestry Standard (UKFS). When preparing tree felling operations, appropriate consideration should always be given for possible impacts on habitats and species, these will include but not limited to:

- Ensuring operations are in compliance with the Conservation of Habitats and Species Regulations 2017 relating to European Protected Species (EPS); and
- Ensuring timing of operations (such as in the bird nesting season) are in compliance with the protection of birds under the Wildlife and Countryside Act 1981.


Any felling operations for 'thinning' approved by this Licence must be implemented evenly across the felling site(s) for thinning identified under Part 1 of this licence. The felling operation for thinning will not exceed 30% of the total number of trees or remove more than 30% of the original canopy cover per operation, unless otherwise agreed by the FC and confirmed in this licence. Note: tree felling operations for 'thinning' that occur at a greater intensity than 30% of the number of trees or area of canopy (in all or part of an operational area) may constitute a breach of the Licence.

Where conditions of the Licence state that restocking is by natural regeneration or by using coppice regrowth, ground conditions must be maintained to facilitate and secure natural regeneration, and coppiced stumps must be retained in situ and be adequately protected to allow site native natural regeneration to occur.

Tree Health

If you have any reason to suspect the presence of tree pests or disease, e.g. *Phytophthora ramorum*, you are obliged to inform the Forestry Commission at the earliest possible opportunity, as per your obligation under article 14 of The Plant Health Regulation (EU) 2016/2031 (PHR).

If larch or other tree species susceptible to *Phytophthora ramorum* included in this licence display symptoms of this disease you must not fell those trees until the FC have had the opportunity to assess their health. If *Phytophthora ramorum* presence is suspected or confirmed, the area will become subject to a Statutory Plant Health Notice (SPHN), the conditions of which will override those contained within this licence.

 Date: 02/08/2021

Signed for and on behalf of the Forestry Commissioners

Part 1 - Description of the trees to be felled

Property: Songhurst and Bulhams Wood

Name of wood: Songhurst and Bulhams Wood

Local Authority: Chichester District Council

Approved Felling
Details:

Felling site, subcpt or coupe	Type of operation	Marking of trees	Digitised Area ha	Total number of trees	Estimated volume m ³	Species
1a	Thinning		1.27		30	oak (robur/petraea) / silver birch / mixed broadleaves / hazel
1b	Thinning		4.74		30	oak (robur/petraea) / silver birch / mixed broadleaves / hazel
1c	Thinning		0.45		30	oak (robur/petraea) / silver birch / mixed broadleaves / hazel
1d	Thinning		0.32		30	oak (robur/petraea) / ash / mixed broadleaves / hazel
1e	Thinning		0.23		30	oak (robur/petraea) / hazel / mixed broadleaves / hazel
2	Thinning		0.53		30	oak (robur/petraea) / common alder / mixed broadleaves / hazel
3a	Regeneration Felling		1.27		350	oak (robur/petraea) / silver birch / holly species / hazel / mixed broadleaves
3b	Thinning		0.64		30	oak (robur/petraea) / ash / hazel / mixed broadleaves
4a	Thinning		2.01		30	oak (robur/petraea) / silver birch / mixed

Felling site, subcpt or coupe	Type of operation	Marking of trees	Digitised Area ha	Total number of trees	Estimated volume m ³	Species
						broadleaves / hazel
4b	Clear Felling		0.29		150	oak (robur/petraea) / mixed broadleaves / hazel
5a	Regeneration Felling		1.51		500	oak (robur/petraea) / mixed broadleaves / hazel
5b	Thinning		0.16		30	oak (robur/petraea) / mixed broadleaves / hazel
6a	Thinning		0.74		30	oak (robur/petraea) / mixed broadleaves
6b	Thinning		1.61		30	oak (robur/petraea) / mixed broadleaves
7a	Thinning		1.33		310	oak (robur/petraea) / mixed broadleaves / mixed conifers / hazel
7b	Clear Felling		1.45		255	Norway spruce / mixed broadleaves / hazel
7c	Thinning		1.74		30	oak (robur/petraea) / mixed broadleaves / hazel
7d	Thinning		1.44		30	oak (robur/petraea) / ash / wild cherry/gean / mixed broadleaves
7e	Thinning		0.37		30	oak (robur/petraea) / ash / wild cherry/gean / mixed broadleaves
8	Thinning		4.55		30	oak (robur/petraea) / wild cherry/gean / mixed broadleaves

Felling site, subcpt or coupe	Type of operation	Marking of trees	Digitised Area ha	Total number of trees	Estimated volume m ³	Species
9a	Regeneration Felling		0.75		250	oak (robur/petraea) / mixed broadleaves / Corsican pine / hazel
9b	Clear Felling		1.55		230	western hemlock / western red cedar / grand fir / mixed broadleaves / hazel
10a	Clear Felling		1.68		120	western hemlock / mixed broadleaves
10b	Thinning		0.7		30	oak (robur/petraea) / common alder / hazel / mixed broadleaves
11	Thinning		2.6		30	hazel / goat willow / mixed broadleaves / hazel
12	Regeneration Felling		0.5		200	oak (robur/petraea) / hazel / silver birch / mixed broadleaves
13	Thinning		2.3		225	oak (robur/petraea) / western hemlock / silver birch / mixed broadleaves
14	Clear Felling		1.42		225	oak (robur/petraea) / western hemlock / silver birch / mixed broadleaves
15	Regeneration Felling		2.72		150	oak (robur/petraea) / ash / mixed broadleaves
16a	Thinning		2.13		170	oak (robur/petraea) / mixed broadleaves / hazel
16b	Thinning		1.49		30	oak (robur/petraea) / silver birch / mixed broadleaves

Felling site, subcpt or coupe	Type of operation	Marking of trees	Digitised Area ha	Total number of trees	Estimated volume m ³	Species
17a	Thinning		0.96		30	oak (robur/petraea) / wild cherry/gean / mixed broadleaves
17b	Clear Felling		1.3		240	western hemlock / mixed broadleaves / hazel
18a	Regeneration Felling		1.78		320	oak (robur/petraea) / ash / mixed broadleaves
18b	Thinning		1.22		30	oak (robur/petraea) / mixed broadleaves
19a	Thinning		0.74		30	oak (robur/petraea) / mixed broadleaves
19b	Clear Felling		0.36		140	Norway spruce / mixed broadleaves
20a	Regeneration Felling		1.53		200	oak (robur/petraea) / mixed broadleaves
20b	Thinning		1.18		30	oak (robur/petraea) / mixed broadleaves
21a	Regeneration Felling		1.51		200	oak (robur/petraea) / ash / hazel / mixed broadleaves
21b	Thinning		0.35		30	goat willow / silver birch / mixed broadleaves
22	Regeneration Felling		1.26		180	oak (robur/petraea) / mixed broadleaves
23a	Thinning		7.27		30	oak (robur/petraea) / mixed broadleaves
23b	Thinning		0.86		30	wild cherry/gean / ash

Felling site, subcpt or coupe	Type of operation	Marking of trees	Digitised Area ha	Total number of trees	Estimated volume m ³	Species
24	Regeneration Felling		0.75		100	oak (robur/petraea) / mixed broadleaves
3a	Thinning		7.09		400	oak (robur/petraea) / silver birch / holly species / hazel / mixed broadleaves
5a	Thinning		7.49		480	oak (robur/petraea) / mixed broadleaves / hazel
9a	Thinning		3.48		250	oak (robur/petraea) / mixed broadleaves / Corsican pine
12	Thinning		1.26		100	oak (robur/petraea) / hazel / silver birch
15	Thinning		10.2		700	oak (robur/petraea) / ash / mixed broadleaves
18a	Thinning		8.08		450	oak (robur/petraea) / ash / mixed broadleaves
20a	Thinning		7.05		400	oak (robur/petraea) / mixed broadleaves
21a	Thinning		6.34		400	oak (robur/petraea) / ash / hazel
22	Thinning		5.82		300	oak (robur/petraea) / mixed broadleaves
24	Thinning		1.58		100	oak (robur/petraea) / mixed broadleaves

Part 2 - Restocking Conditions

Condition A: Restock on felled area.

The following conditions apply to the licenced felling in 19b.

1. Before 30th June up to 2 years post felling the land on which the felling took place must be:
 - a. suitably prepare ground for planting and protect from largest deer
 - b. Planted with 50% hazel 40% mixed broadleaves and 10% open ground to achieve not less than 1500 stems per hectare evenly distributed over the site
 2. For a period of 10 years from the planting:
 - a. The plants must be protected against damage and be adequately weeded.
 - b. Any failure or losses should be replaced as necessary to provide a stocking of not less than 1500 stems per hectare evenly distributed over the site.
 - c. Any restock must be maintained in accordance with the rules and practice of good forestry.
-

Condition A: Restock on felled area.

The following conditions apply to the licenced felling in 4b, 7b, 10a, 14, 17b.

1. Before 30th June up to 2 years post felling the land on which the felling took place must be:
 - a. suitably prepare ground for planting and protect from largest deer
 - b. Planted with 50% oak (robur/petraea) 10% wild cherry/gean 10% Norway spruce 10% hornbeam 10% Douglas fir and 10% open ground to achieve not less than 1500 stems per hectare evenly distributed over the site
 2. For a period of 10 years from the planting:
 - a. The plants must be protected against damage and be adequately weeded.
 - b. Any failure or losses should be replaced as necessary to provide a stocking of not less than 1500 stems per hectare evenly distributed over the site.
 - c. Any restock must be maintained in accordance with the rules and practice of good forestry.
-

Condition A: Restock on felled area.

The following conditions apply to the licenced felling in 9b.

1. Before 30th June up to 2 years post felling the land on which the felling took place must be:
 - a. suitably prepare ground for planting and protect from largest deer
 - b. Planted with 55% western hemlock 15% western red cedar 10% grand fir 05% oak (robur/petraea) 05% hazel and 10% open ground to achieve not less than 1500 stems per hectare evenly distributed over the site
 2. For a period of 10 years from the planting:
 - a. The plants must be protected against damage and be adequately weeded.
 - b. Any failure or losses should be replaced as necessary to provide a stocking of not less than 1500 stems per hectare evenly distributed over the site.
 - c. Any restock must be maintained in accordance with the rules and practice of good forestry.
-

Condition A: Restock on felled area.

The following conditions apply to the licenced felling in 5a, 9a, 12, 15, 18a, 20a, 21a, 22, 24.

1. Before 30th June up to 2 years post felling the land on which the felling took place must be:

- a. suitably prepare ground for planting and protect from largest deer
 - b. Planted with 50% oak (robur/petraea) 10% wild cherry/gean 10% Norway spruce 10% hornbeam 10% Douglas fir and 10% open ground to achieve not less than 1500 stems per hectare evenly distributed over the site
2. For a period of 10 years from the planting:
 - a. The plants must be protected against damage and be adequately weeded.
 - b. Any failure or losses should be replaced as necessary to provide a stocking of not less than 1500 stems per hectare evenly distributed over the site.
 - c. Any restock must be maintained in accordance with the rules and practice of good forestry.
-

Condition A: Restock on felled area.

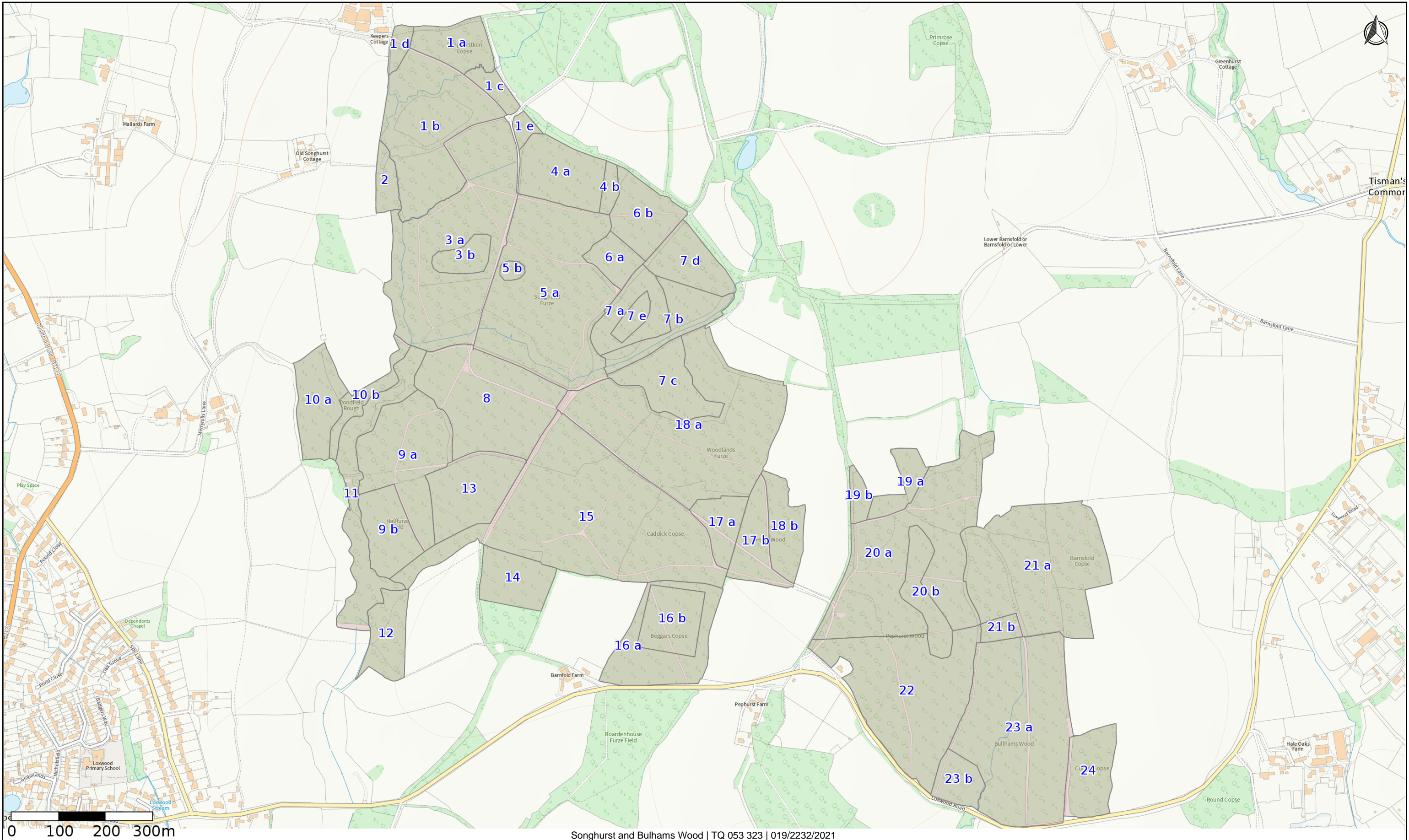
The following conditions apply to the licenced felling in 3a.

1. Before 30th June up to 2 years post felling the land on which the felling took place must be:
 - a. suitably prepare ground for planting and protect from largest deer
 - b. Planted with 55% oak (robur/petraea) 15% hornbeam 10% wild cherry/gean 05% rowan 05% hazel and 10% open ground to achieve not less than 1500 stems per hectare evenly distributed over the site
 2. For a period of 10 years from the planting:
 - a. The plants must be protected against damage and be adequately weeded.
 - b. Any failure or losses should be replaced as necessary to provide a stocking of not less than 1500 stems per hectare evenly distributed over the site.
 - c. Any restock must be maintained in accordance with the rules and practice of good forestry.
-

Part 3 - Supplementary points

This ten year felling licence is issued in summary relating to the Management Plan referenced 1283 Songhurst and Bulhams Wood and associated Plan of Ops and maps. Full details of the felling and restocking conditions agreed under this licence can be found in the above mentioned Plan of Operations which is attached to this licence.

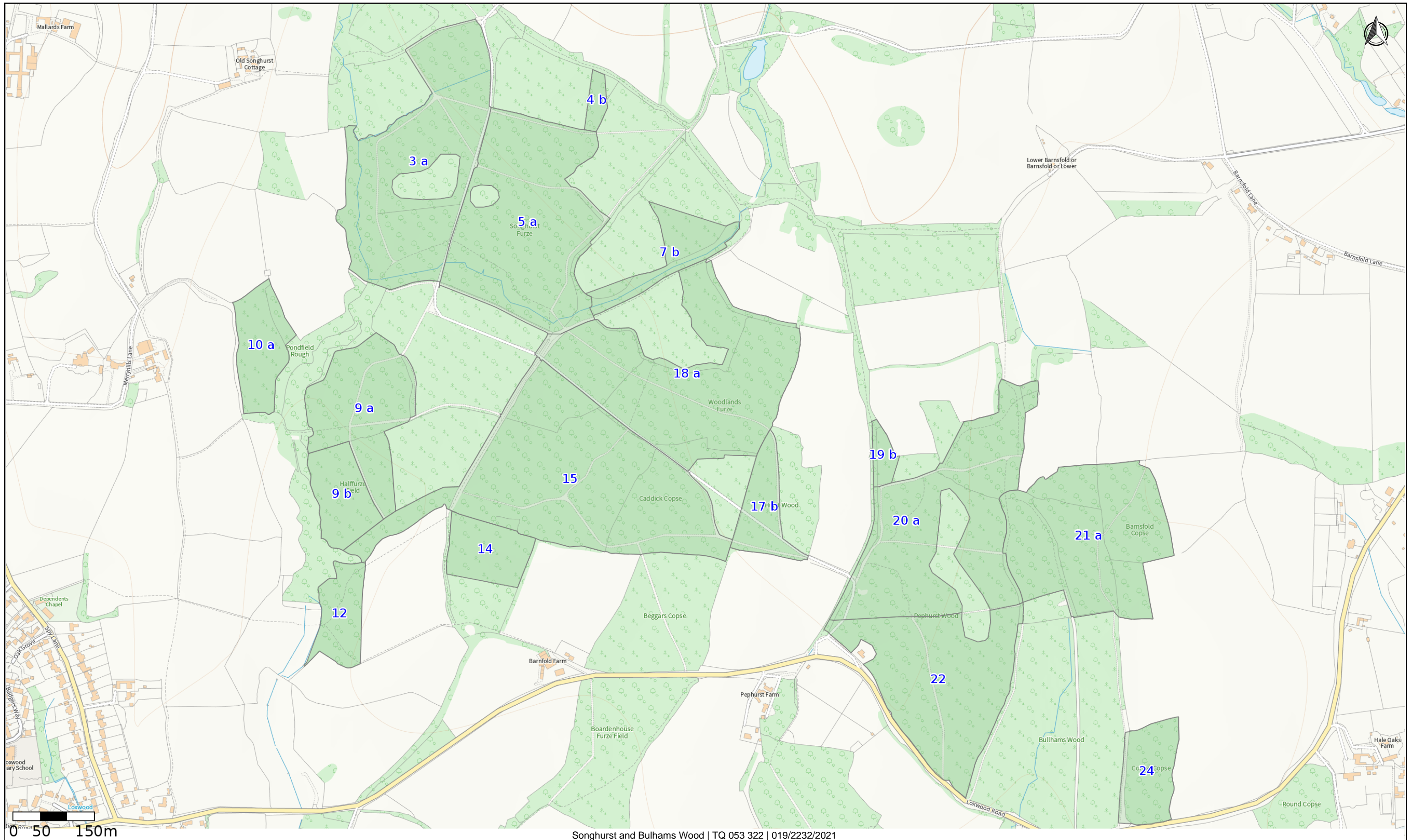
Operations Map



Songhurst and Bulhams Wood | TQ 053 323 | 019/2232/2021

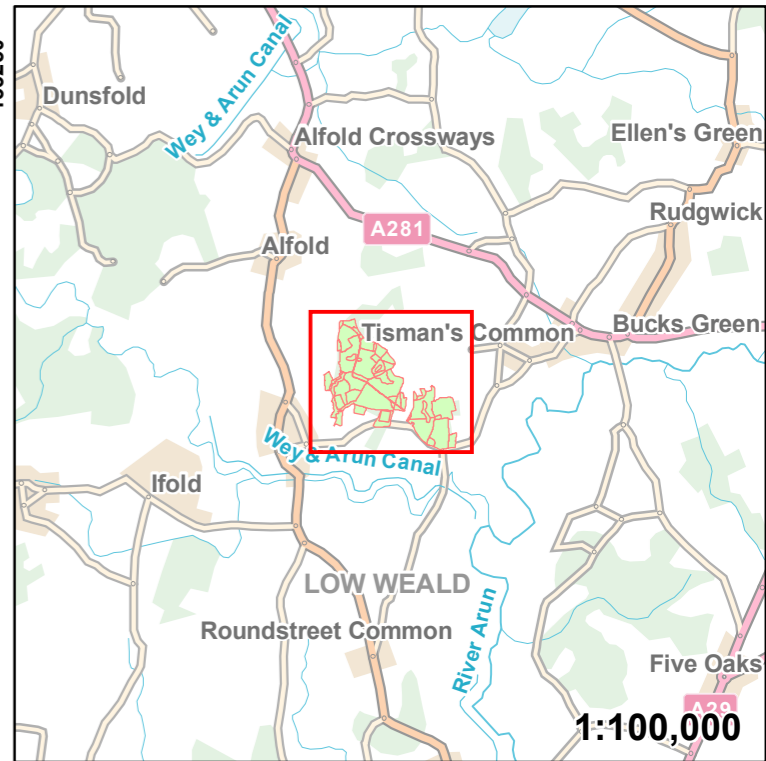
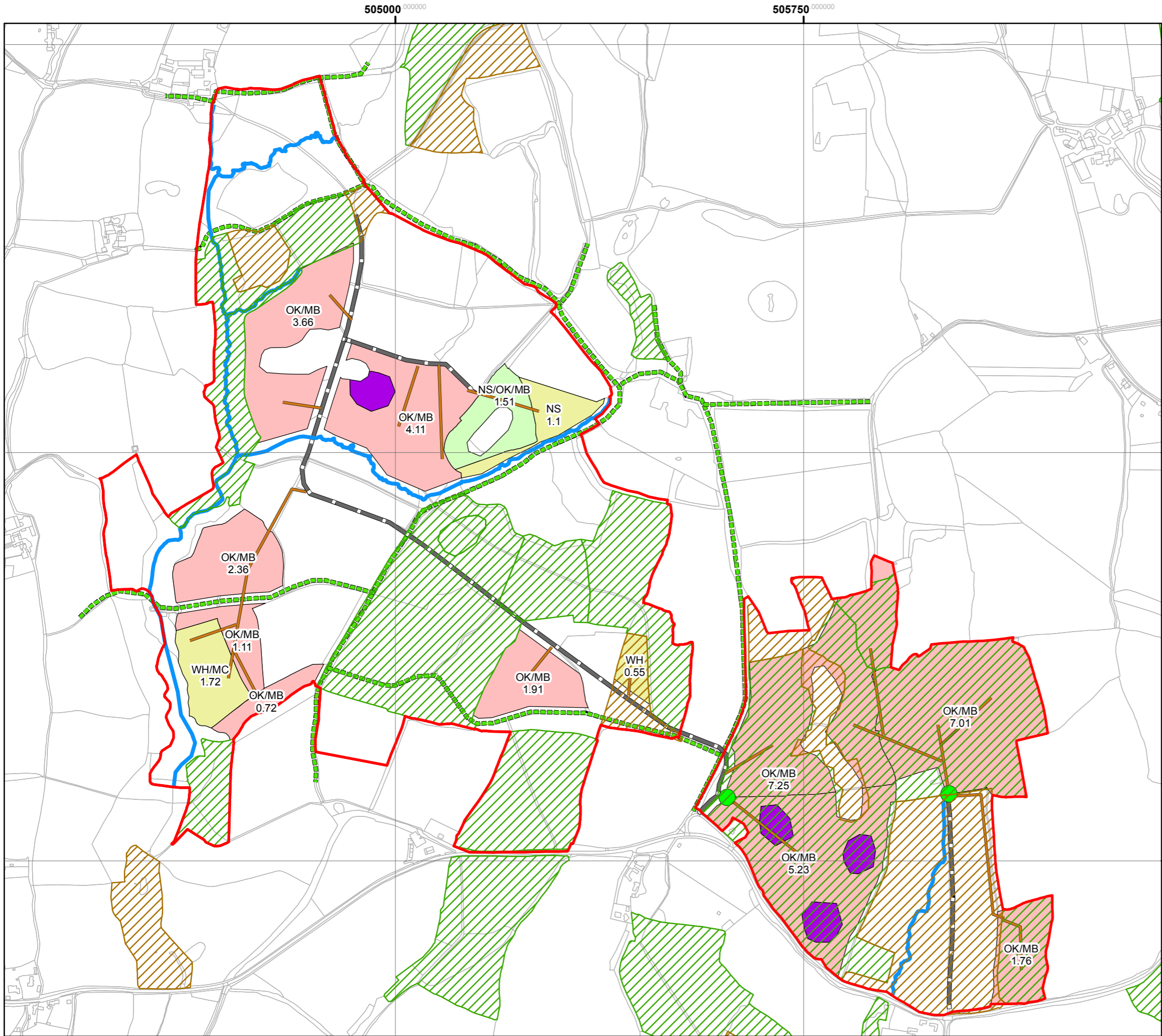
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Restocking Map



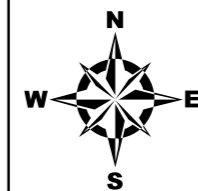
Songhurst and Bulhams Wood | TQ 053 322 | 019/2232/2021

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Songhurt & Bulhams Legend

- 0.25ha Oak Clear Fell Coupes
- Conifer Clear Fell
- Conifer and broadleaf Thin
- Oak and broadleaf Thin
- Woodland Boundary
- ASNW
- PAWS
- Loading Bay
- Provisional Extraction Routes
- Watercourse
- Hard Surfaced Track
- PRoW



1:7,000
 When Printed at A3
 13/08/21

Proposed 2021 harvesting map

SECTION A 7

RESPONSE TO NATURAL ENGLAND

THIS SECTION CONTAINS 3 DOCUMENTS:

- i) RESPONSE TO NATURAL ENGLAND'S LETTER DATED
11th NOVEMBER 2021
- ii) NEW APPENDIX ES X TO THE ENVIRONMENTAL STATEMENT
- iii) NEW APPENDIX ES Y TO THE ENVIRONMENTAL STATEMENT

Perdeep Maan

Sustainable Development, Sussex and Kent
Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

08 December 2021

Our ref: UE0363
Your ref: 361534

Dear Perdeep,

Planning consultation: Clay quarry and Construction Materials Recycling Facility with restoration to nature conservation interest (inc. woodland, waterbodies and wetland habitats)

Location: Pallinghurst Woods, Loxwood Road, Loxwood, West Sussex RH14 0RW

Further to your statutory advice issued on 11 November 2021, the below provides responses to the points raised in relation to the proposed development at the above site.

Ebernoe Common SAC, The Mens SAC Impacts to Bats

*Natural England note that the bat survey of the site found multiple trees which could provide suitable habitat and that the area's mosaic of habitats provide extensive foraging habitat. The bat surveys also recorded Barbastelle bat, *Barbastella barbastellus*, which are a notified feature of the Mens and Ebernoe Common SAC.*

We advise your authority uses the Sussex Bat Special Area of Conservation Planning and Landscape Scale Enhancement Protocol, to inform your assessments on whether impacts to bats associated with the SACs will be avoided.

A Report to inform a Habitats Regulations Assessment (HRA) has been completed which screens out likely significant effects upon the qualifying populations of bats within The Mens Special Area of Conservation (SAC) or Ebernoe Common SAC utilising the application site. See Paragraphs 5.2.1 & 5.2.9¹.

Arun Valley SPA, SAC and Ramsar Site- Sussex North Water Supply Zone

We note that the application falls within the Sussex North Water Supply Zone we therefore advise your authority confirms the source of the water to be used for this development. We refer you to our Position Statement for further information on this matter.

¹ UEEC (2021a): *Land north of Loxwood Road, Billingshurst, West Sussex – Habitats Regulations Assessment Report.*

The HRA assesses the proposed development in terms of its position within the Sussex North Water Supply Zone. The proposed development is considered water neutral and can therefore be screened out from likely significant effects upon the qualifying features of the Arun Valley Special Protection Area (SPA) / SAC / Ramsar. See Paragraphs 5.2.10 to 5.2.16.

Habitat Regulations Assessment

We advise that your Authority conducts a Habitats Regulations Assessment due to the proximity of the application to European Sites, the consultation documents need to include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

A Report to inform an HRA² has now been completed which screens out likely significant effects upon the relevant European Sites as discussed above.

Ancient Woodland

Natural England note with concern that this proposal has not quantified its direct and indirect impacts to Ancient Woodland and therefore the scale of impact is not clear. Due to the nature of this proposal these impacts may be considerable. Further information is required to demonstrate how the requirements of the mitigation hierarchy of avoiding and mitigating impacts to biodiversity has been followed.

Paragraph 19.5.3 of the Environmental Statement³ describes the avoidance measures in relation to the Ancient Replanted Woodland. These come in the form of suitable buffering to avoid impacts.

As per Table 19.8 at Paragraph 19.6.3 of the Environmental Statement, the formation of two passing places within plantation woodland along the access route is unlikely to result in any significant habitat damage. The easternmost of these falls within Ancient Replanted Woodland, but is within a section of coniferous plantation (not an important ecological feature at the site) and both passing places have been sited to avoid impacts on mature trees or habitat used by important invertebrate species. Accordingly this impact is assessed as negligible.

Priority Habitats

We note with concern that the application appears to propose significant loss of priority habitats We advise that additional information is required to quantify this impact.

The Biodiversity Net Gain Assessment for the proposed development utilises the DEFRA Biodiversity Metric 2.0 to quantify the impact on biodiversity units⁴ (because it pre-dated the release of Metric 3.0). This indicates that approximately 2.97ha of Deciduous Woodland priority habitat will be lost as a result of the proposed development. This will be partially offset by the creation of 1.2ha of Deciduous Woodland priority habitat on site. As per Table 19.8 at Paragraph 19.6.3 of the Environmental Statement, approximately 2.8ha of non-priority conifer plantation, which is outside of the proposed development site boundary but within the

² *Ibid.*

³ ProTreat (2021): *Loxwood Clay Pits Environmental Statement*. Report Reference: LCP/LOX/LX_20A/ES.

⁴ UEEC (2021b): *Land north of Loxwood Road, Billingshurst, West Sussex – Biodiversity Net Gain Assessment*.

applicant's control, will be converted to Deciduous Woodland priority habitat. Overall this equates to an uplift of approximately 1.05ha Deciduous Woodland priority habitat post development.

Additionally, 8.24ha of the existing Deciduous Woodland priority habitat, which falls outside of the proposed development site, will be enhanced. This will include the translocation or re-creation of Deciduous Woodland priority habitat features, as described in Table 19.8 at Paragraph 19.6.3 of the Environmental Statement.

We trust that this letter provides you with the detail you require with respect to the additional information requested. Should you have any queries or comments, or require any further advice for the site, please do not hesitate to contact me.

Yours sincerely,



Tim Lees BA (Hons) MSc MCIEEM
Principal Ecologist

E: tim.lees@ueec.co.uk



URBAN EDGE
ENVIRONMENTAL
CONSULTING

NATURAL PROGRESSION

Land north of Loxwood Road, Billingshurst, West Sussex

Aerial Tree Inspection for Roosting Bats

December 2021



Land north of Loxwood Road, Billingshurst, West Sussex

Aerial Tree Inspection for Roosting Bats

Client:	Loxwood Clay Pits Limited	
Report No.:	UE0363_Loxwood_ATI_0_211208	
Author: Tim Lees BA (Hons) MSc MCIEEM	Proofed: Nick Pincombe BA(Hons) MSc CEnv MIEMA MCIEEM	Approved: Nick Pincombe BA(Hons) MSc CEnv MIEMA MCIEEM
Revision No.: 0	Status/Comment: First issue to client	Date: 08 December 2021

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Abbreviations

ATI	Aerial Tree Inspection
BCT	Bat Conservation Trust
CMRF	Construction Materials Recycling Facility
GLRA	Ground-Level Roost Assessment
PEA	Preliminary Ecological Appraisal
PRF	Potential roost feature

0 Executive Summary

0.1 Introduction

0.1.1 An Aerial Tree Inspection was carried out for the site of a proposed minerals and waste development at Land north of Loxwood Road, Billingshurst, West Sussex. The study was undertaken to provide an updated assessment of the suitability of trees for, and record any evidence of use by, roosting bats.

0.2 Results

0.2.1 No roosting bats or evidence of their presence was recorded during the survey. The updated assessment of trees following the aerial inspection is as follows:

- ▶ High suitability: T12
- ▶ Moderate suitability: T9, T15, T18 & T19
- ▶ Low suitability: T6, T7, T13 & T25

0.3 Evaluation

0.3.1 A range of features that could provide suitable roosting conditions for bats were identified, but it is considered unlikely that any of the trees surveyed support a high conservation roost. However, T12, T15, T18 and T19 were identified as potentially providing suitable conditions for individual or small groups of hibernating bats.

0.3.2 Any proposed felling or arboricultural works to trees T9, T12, T15, T18 and T19 could result in the killing, injury or disturbance to bats, or damage, destruction or obstruction of a bat roost.

0.4 Recommendations

0.4.1 Additional presence / likely absence bat surveys are recommended at trees T9, T12, T15, T18 and T19 prior to formulating a suitable avoidance and mitigation strategy. Surveys should be undertaken between May and September (May to August optimal).

0.4.2 Further survey and environmental monitoring is recommended at trees T12, T15, T18 and T19 during the hibernation season (December-February).

0.4.3 It is recommended that works affecting trees T9, T12, T15, T18 and T19 should avoid the hibernation and maternity periods, and be completed in either March-April or October-November.

- 0.4.4 No further survey is required at trees T6, T7, T13 and T25, but works affecting these trees should be undertaken in accordance with a Non-licenced Method Statement to reduce the risk of killing/injury to bats.

1 Introduction

1.1 Purpose of this Report

1.1.1 This report presents the findings of an Aerial Tree Inspection (ATI) for the site of a proposed minerals and waste development at Land north of Loxwood Road, Billingshurst, West Sussex (Grid Reference: TQ 05115 32770). The study was undertaken to provide an updated assessment of the suitability of trees for, and record any evidence of use by, roosting bats.

1.2 Objectives and Approach of the Study

1.2.1 The study was commissioned to fulfil the following objectives:

- ▶ Record the presence of actual or potential bat roosts which may be affected by works on the site, their access points and position in the trees;
- ▶ Establish the baseline assemblage and relative abundance of bat species using the trees, to the extent possible from the evidence available at the time of survey;
- ▶ Identify and evaluate the types of roost present and assess the potential impacts of the proposal on bats; and
- ▶ Make recommendations for additional surveys, if required.

1.2.2 To meet these objectives, the survey approach involved an aerial tree assessment of trees previously identified as providing opportunities for roosting bats.

1.3 Survey Area

1.3.1 The application site is located on the old Pallinghurst Estate, approximately 1.5km east / north-east of the village of Loxwood, in the Chichester District of West Sussex (as shown in Figure 1.1). It includes the site of the proposed clay extraction and access from Loxwood Road. The extraction site occupies c.8.26ha of land currently dominated by woodland, including semi-natural deciduous and deciduous plantation woodland. The access route comprises an existing c.1.33km of aggregate surfaced forest track, with adjoining verges and ditches.

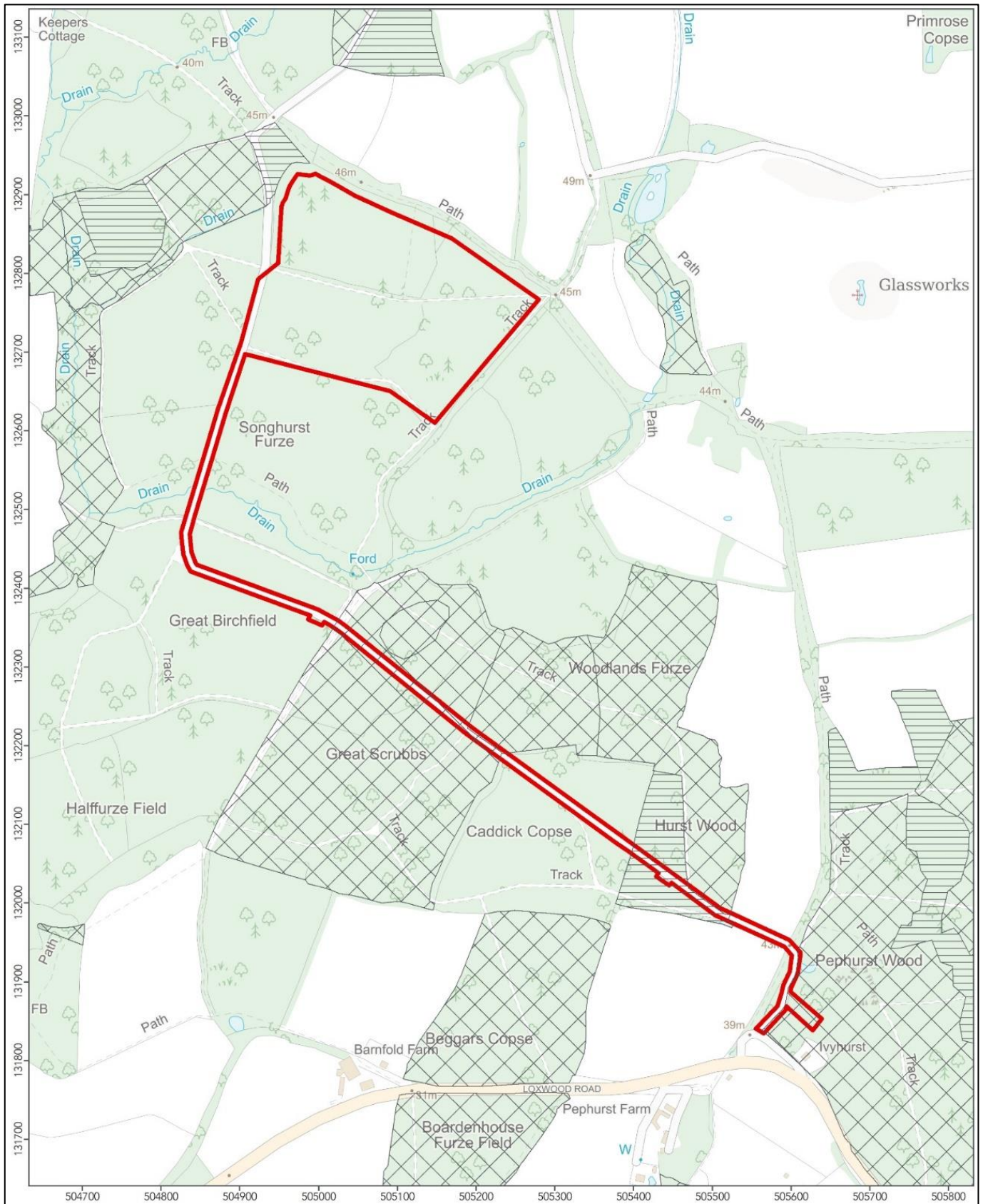
1.3.2 The application site is adjoined by areas of semi-natural and ancient deciduous woodland, relatively recently planted deciduous plantation, mature coniferous plantation, scrub, hedgerows and improved grassland. The wider landscape is characterised by a patchwork of woodland, arable and grassland fields, set within a network of hedgerows. There are scattered farms and houses, as well as small settlements.

1.4 Proposed Construction Activities




- 1.4.1 Planning consent is sought for the extraction of approximately 400k tonnes of clay to be used in brick making and other construction / industrial applications. Following clay extraction, the application site will be sequentially restored with suitably treated materials sourced from the proposed on-site construction materials recycling facility (CMRF). The restoration scheme has been designed for nature conservation with waterbodies, wetland habitats and interim species-rich seeded grassland, to be replaced with broadleaved plantation woodland.

1.5 Previous Ecological Reports

- 1.5.1 The extraction site was subject to a Preliminary Ecological Appraisal (PEA) on 15 August 2019 (Middlemarch Environmental, 2019) and the access route was subject to a PEA on 18 March 2020 (UEEC, 2020).
- 1.5.2 A Ground-Level Roost Assessment (GLRA) of both the extraction site and access route was carried out as part of the 2020 PEA. This identified 38 mature trees on or adjacent to the application site that provided suitability for roosting bats, as follows:
- ▶ High suitability: T3
 - ▶ Moderate suitability: T1, T2, T6, T7, T9, T12, T13, T15, T18, T19, T25, T26, T27, T28, T29 RT1, RT2, RT3, RT4 & RT6
 - ▶ Low suitability: T4, T5, T8, T10, T11, T14, T16, T17, T20, T21, T22, T23, T24, T30, T31, T32 & RT5
- 1.5.3 The majority of trees identified will be retained and protected, but within the extraction site the following will be affected:
- ▶ Moderate suitability: T6, T7, T9, T12, T13, T15, T18, T19 & T25
 - ▶ Low suitability: T5, T11, T14, T16, T17, T21, T22 & T23



Loxwood Clay Pits, West Sussex

-  Red line boundary
-  Ancient Semi-Natural Woodland
-  Plantation on Ancient Woodland



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Ordnance Survey 0100031673

Scale: 1:5,000 **Created by:** AD

Date: May 2021 **Reviewed by:** NP

Drawing number:

UE0363ECO-Site210521

Figure 1.1: Application site location

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2 Methodology

2.1.1 The aerial inspection was carried out in accordance with the latest Good Practice Guidelines from the Bat Conservation Trust (Collins, J. (ed.) 2016), as well as Natural England Standing Advice on bats¹. All surveys were undertaken by an ecologist holding a Natural England Level 2 Class Licence to survey for bats (WML-CL18) (see section 2.4).

2.2 Aerial Tree Inspection

2.2.1 Inspection of the trees to be affected was undertaken on 23 July 2021. Weather conditions were warm (c.21-24°C), with a gentle breeze (Beaufort Scale 3), clear skies and no precipitation. Only trees that will be affected by the proposed development were surveyed. Low suitability trees are not required to undergo further survey, as such only affected trees classified as moderate suitability were subject to aerial inspection.

2.2.2 The surveys involved examination of all trees via roped access with a high-powered torch and 9mm digital endoscope, as appropriate. Each Potential Roost Feature (PRF) was inspected and examined for bats and secondary evidence e.g. bat droppings. Interior conditions of each feature were recorded including factors such as dimensions, levels of moisture, texture and presence / absence of debris, cobwebs and competitor species within the feature (e.g. birds). Where cobwebs are mentioned, this refers to dense, visibly aged cobwebs that indicate a lack of usage by bats (as cobwebs are generally disturbed or removed by bat activity). Comments on texture are provided as smoother surfaces are easier to fully inspect, whereas gnarled wood provides several sub-crevices that may obscure bats and their field signs from view. Where features were identified as unsuitable such as filled with rainwater or in current use by another species, they were reclassified at a lower level of suitability.

2.2.3 Trees were reclassified according to the highest suitability PRF identified within the tree during the climbing survey, with reference to Table 2.1. The updated classification from the aerial inspections informed recommendations for further survey and / or mitigation where necessary.

2.3 Limitations

2.3.1 There were no difficulties in gaining access to any of the trees to carry out the aerial inspection. However, some PRFs could not be fully inspected due to obstructions, such as leaf litter.

2.3.2 Historical field evidence for roosting bats, such as droppings and feeding remains generally deteriorate more quickly within trees due to greater exposure to the weather, only being found within the most sheltered features.

¹ Available here: <https://www.gov.uk/guidance/bats-surveys-and-mitigation-for-development-projects>

- 2.3.3 Details of the aerial tree inspection are considered to remain valid for one bat survey season (until July 2022); subject to no significant changes in the development proposals (CIEEM, 2019). Beyond this period, if works have not yet been undertaken, the development proposals change or red line boundary changes, it is recommended that a review of the ecological conditions and any requirement for further surveys is undertaken.
- 2.3.4 See Appendix III for general Legal and Technical Limitations which apply to this document.

Table 2.1: Potential suitability of trees for roosting bats (after Collins, 2016)

Suitability	Roosting habitats
Negligible	Negligible habitat features likely to be used by roosting bats
Low	A tree of sufficient size and age to contain PRFs but with only very limited roosting potential
Moderate	A tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation status (for roost type only)
High	A tree with one or more potential roost sites that are obviously suitable for use by larger numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat
Confirmed roost	Bats or unequivocal evidence of bats found, i.e. bat droppings

2.4 Personnel

- 2.4.1 Site surveys were led by Jack Kellett BSc (Hons) MCIEEM, a Senior Ecologist with ten years' professional consultancy experience in ecological field survey and holder of a Natural England Level 2 Class Licence to survey for bats (WML-CL18). Jack was assisted by Jeff Turton BSc (Hons) ACIEEM, an Ecologist with six years' professional consultancy experience and holder of a Natural England Level 1 Class Licence to survey for bats (WML-CL17). Both Jack and Jeff are qualified Level 2 tree climbers.

3 Results

3.1.1 Features previously identified and those discovered during the aerial inspection were assessed for their suitability for roosting bats, as summarised in Table 3.1. Tree locations are provided within the Phase 1 Habitat plans at Appendix I.

Table 3.1: Aerial inspection of moderate suitability trees

Tree ID and species	Aerial inspection PRF	Updated suitability
T6: Oak <i>Quercus</i> sp.	One woodpecker hole, with mud around the entrance and inside the feature, suggesting previous nuthatch <i>Sitta Europaea</i> nesting. Feature did not extend upwards into the tree, but descended c.7.5cm before cavity was filled with twigs and other debris.	Low
T7: Oak	Hollow in broken limb / rot hole had evidence of grey squirrel <i>Sciurus carolinensis</i> (fur). The feature was shallow and only provided a small crevice, considered negligible for roosting bats. Five woodpecker holes found at c.15m within an old tear-out wound. Three of these did not go anywhere, while the other two formed small cavities. One had evidence of nesting birds and the lowest hole extended upwards c.15-20cm.	Low – woodpecker holes at the top should be checked by the arborist prior to felling (no endoscope required).
T9: Oak	Two woodpecker holes in the trunk on the northern aspect of the tree, both lead into the same cavity. Both holes had an aperture of c.4cm x 4cm and the internal cavity was c.20cm x 20cm. Another hole was found c.30cm upwards from the woodpecker holes, facing west. The aperture was c.4cm x 4cm, leading to a c.12.5cm x 20cm cavity. The cavity was half full of debris at the bottom and the cavity walls were dry. A woodpecker hole was located within a broken limb on the northern aspect of the tree at c.6m., but did not lead anywhere. A collar was located at the base of a dead desiccated limb, but it was shallow and considered negligible for roosting bats. Lifted bark noted during the GLRA provided crevices, but these were of low suitability for roosting bats at best.	Moderate
T12: Oak	A woodpecker hole was located at c.3m, facing south. This feature did not extend downwards, but provided a cavity c.25cm deep x c5cm wide x c15cm high. A second chamber was located behind the first chamber, c.10cm x 10cm.	High – including hibernation suitability

Tree ID and species	Aerial inspection PRF	Updated suitability
	<p>Raised bark was noted at c.7-8m facing south, but was considered negligible for roosting bats.</p> <p>A split limb, with a cavity formed at the top through rot, was located at c.10m. A long crack was located on a limb below that was c.1m in length, but this was suitable for crevice roosting species only.</p>	
T13: Oak	<p>A hole facing north on the main stem did not lead anywhere.</p> <p>A hole on the southern face of the main stem had an aperture of c.3cm x 2.5cm, leading into a cavity c.6cm x 8cm. There was evidence of nesting birds inside.</p> <p>Cracks identified within dead limbs were small and provided no more than low suitability for roosting bats.</p>	Low
T15: Oak	<p>A feature on the underside of a limb pointing east formed a cavity c.2cm wide x 4cm deep x 45cm long.</p> <p>A feature high on the main stem was associated with a desiccated limb, but this did not go anywhere.</p> <p>A branch split was found on top of a limb facing north-east, but did not go anywhere.</p> <p>A feature was found on top of the lowest limb and this formed a long crack leading into a cavity, with evidence of nesting birds.</p>	Moderate – including hibernation suitability
T18: Oak	<p>One big rot hole (mistaken for a woodpecker hole during the GLRA) was identified, with an aperture of c.5cm x 10cm. It could not be seen how far this feature extends downwards because the base was full of leaves, likely due to squirrel activity. The cavity did extend upwards c.60-70cm and is c.15cm deep. The feature tapered upwards to form an elongated ‘steeple’ shape. No other chambers were found.</p>	Moderate – including hibernation suitability
T19: Oak	<p>Snapped off limb at c.5m facing south-west had loose bark extending down to about 30cm.</p> <p>A rot hole in the main stem includes a desiccation fissure, leading to a cavity at the top of the fissure, c.15cm deep.</p> <p>A snapped limb at c.8m facing south-east formed a cavity onto the main stem at its base. There are three access points into the cavity. The cavity is c.50cm long.</p> <p>Loose bark was also noted in the upper limbs.</p>	Moderate – including hibernation suitability
T25: Oak	<p>Five woodpecker holes, but only the highest hole provided bat roost suitability. The hole faced upwards and extended downwards c.10cm. All other holes were shallow (c.6cm maximum) and did not form cavities.</p>	Low

4 Evaluation

4.1 Updated Bat Roost Suitability

4.1.1 No roosting bats or evidence of their presence was recorded during the aerial tree inspection. However, the updated assessment of moderate suitability trees identified during the GLRA, and which will be impacted by the development proposals, is as follows:

- ▶ High suitability: T12
- ▶ Moderate suitability: T9, T15, T18 & T19
- ▶ Low suitability: T6, T7, T13 & T25

4.1.2 Trees T12, T15, T18 and T19 were considered to provide suitability for hibernating bats, due to the potentially stable conditions within well insulated PRFs.

4.2 Impact Assessment

4.2.1 A range of features that could provide the preferred roosting conditions for species such as *Pipistrellus* species, *Nyctalus* species, *Myotis* species, brown long-eared *Plecotus auritus* and barbastelle *Barbastella barbastellus*, were identified during the aerial inspection. However, the surveys were completed during the maternity season for roosting bats and no evidence of individual bats, groups or maternity colonies were identified. As such, it is considered unlikely that any of the trees on site support a high conservation roost in this regard.

4.2.2 Trees T12, T15, T18 and T19 were identified as potentially providing suitable conditions for individual or small groups of hibernating bats.

4.2.3 Any proposed felling or arboricultural works to trees T9, T12, T15, T18 and T19 could result in the killing, injury or disturbance to bats, or damage, destruction or obstruction of a bat roost.

4.3 Recommendations

Presence / likely absence surveys

4.3.1 Further surveys are recommended to determine the presence or likely absence of roosting bats within trees T9, T12, T15, T18 and T19. The surveys should follow current guidelines (Collins, (ed.) 2016), comprising dusk emergence and dawn re-entry surveys, and can be carried out between May and September (May to August is the optimal period). It should be noted that in the event that a roost is confirmed in any of the trees, further survey may be required to characterise the roost and inform the licencing process. Surveys should begin at least quarter of an hour before dusk and continue for up to 2 hours after sunset, or begin 1.5 to 2 hours before dawn and continue until at least 15mins after sunrise. The level of survey effort required is dependent on each feature's suitability for roosting bats, as follows:

-
- ▶ High suitability: At least three surveys visits in total, including at least one dusk emergence and at least one separate dawn re-entry survey;
 - ▶ Moderate suitability: At least one dusk emergence and a separate dawn re-entry survey.
- 4.3.2 Due to the potential for hibernation roosts within T12, T15, T18 and T19, further survey and environmental monitoring of these trees should be undertaken before works commence. This will include as appropriate updated PRF inspections, remote bat detector deployment and monitoring of temperature / humidity during the hibernation season (December-February).
- 4.3.3 Notwithstanding the further surveys and monitoring described above, it is recommended that works affecting trees with bat roost suitability should avoid the hibernation and maternity periods for bats. Therefore, works should be completed in either March-April or October-November.
- 4.3.4 Trees T6, T7, T13 and T25 were downgraded to low suitability following the aerial inspection. Low suitability trees are not required to undergo further survey, instead tree works should be undertaken in accordance with a Non-licenced Method Statement to reduce the risk of killing/injury to bats.

5 Summary and Conclusions

5.1 Introduction

5.1.1 An Aerial Tree Inspection was carried out for the site of a proposed minerals and waste development at Land north of Loxwood Road, Billingshurst, West Sussex. The study was undertaken to provide an updated assessment of the suitability of trees for, and record any evidence of use by, roosting bats.

5.2 Results

5.2.1 No roosting bats or evidence of their presence was recorded during the survey. The updated assessment of trees following the aerial inspection is as follows:

- ▶ High suitability: T12
- ▶ Moderate suitability: T9, T15, T18 & T19
- ▶ Low suitability: T6, T7, T13 & T25

5.3 Evaluation

5.3.1 A range of features that could provide suitable roosting conditions for bats were identified, but it is considered unlikely that any of the trees surveyed support a high conservation roost. However, T12, T15, T18 and T19 were identified as potentially providing suitable conditions for individual or small groups of hibernating bats.

5.3.2 Any proposed felling or arboricultural works to trees T9, T12, T15, T18 and T19 could result in the killing, injury or disturbance to bats, or damage, destruction or obstruction of a bat roost.

5.4 Recommendations

5.4.1 Additional presence / likely absence bat surveys are recommended at trees T9, T12, T15, T18 and T19 prior to formulating a suitable avoidance and mitigation strategy. Surveys should be undertaken between May and September (May to August optimal).

5.4.2 Further survey and environmental monitoring is recommended at trees T12, T15, T18 and T19 during the hibernation season (December-February).

5.4.3 It is recommended that works affecting trees T9, T12, T15, T18 and T19 should avoid the hibernation and maternity periods, and be completed in either March-April or October-November.

- 5.4.4 No further survey is required at trees T6, T7, T13 and T25, but works affecting these trees should be undertaken in accordance with a Non-licenced Method Statement to reduce the risk of killing/injury to bats.

References and Bibliography

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Appendix I: Phase 1 Habitat Plans with Tree Locations

Loxwood Clay Pits, West Sussex

- Application site
- Semi-natural broadleaved woodland
- Broadleaved plantation
- Conifer plantation
- + High suitability tree
- + Moderate suitability tree
- + Low suitability tree
- ▲ Pond numbers
- Proposed access route
- Ancient woodland
- Ancient re-planted woodland
- Retained boundary



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Ordnance Survey 0100031673

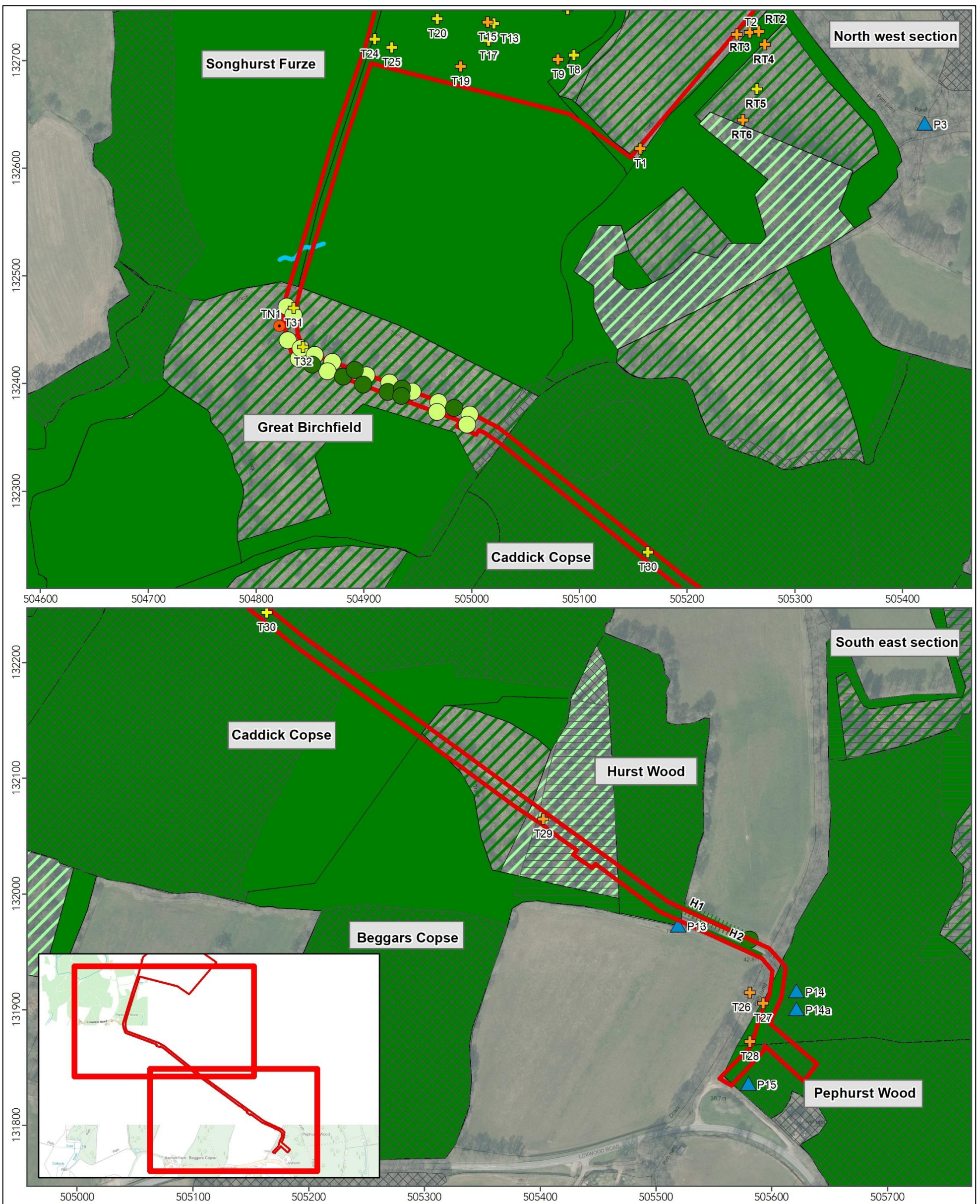
Scale: 1:1,650 Created by: AD

Date: Nov 2021 Reviewed by: NP

Drawing number:

UE0363ECO-A3DevSitePhase1_2_211123





Access route, Loxwood, West Sussex

- | | | |
|-----------------------------------|----------------------------|-----------------------------|
| Application site | High suitability tree | Ancient woodland |
| Semi-natural broadleaved woodland | Moderate suitability tree | Ancient re-planted woodland |
| Broadleaved plantation | Low suitability tree | |
| Coniferous plantation | Pond numbers | |
| Running water | Scattered broadleaved tree | |
| Species-poor hedgerow | Scattered coniferous tree | |
| Species-poor hedgerow with trees | | |



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Appendix II: Legislation and Planning Context

Legislation

General

The main legislative instruments for ecological protection in England and Wales are the Wildlife and Countryside Act 1981 (WCA; as amended), Countryside and Rights of Way Act 2000 (CRoW; as amended), Natural Environment and Rural Communities Act 2006 (NERC) and the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations; as amended). The Environment Bill (reintroduced to parliament in 2020) is expected to make significant changes to the legislative provisions when enacted.

WCA 1981 consolidated and amended pre-existing national wildlife legislation in order to implement the Bern Convention and the European Union Wild Birds Directive (Council Directive 2009/147/EC). It complements the Habitats Regulations, offering protection to a wider range of species than the latter. The Act also provided for the designation and protection of nationally important conservation sites of value for their floral, faunal or geological features, termed Sites of Special Scientific Interest (SSSI). Schedules of the act list protected species of flora and fauna, as well as invasive species, and detail the possible offences that apply to these species.

The CROW Act 2000 amended and strengthened existing wildlife legislation detailed in the WCA. It placed a duty on government departments & the National Assembly for Wales to have regard for biodiversity, provided increased powers for the protection and maintenance of SSSI, and created a right of access to parts of the countryside. The Act contained lists of habitats and species (Section 74) for which conservation measures should be promoted, in accordance with the recommendations of the Convention on Biological Diversity (Rio Earth Summit) 1992.

The NERC Act 2006 consolidated and replaced aspects of earlier legislation. Section 40 of the Act places a duty upon all local authorities and public bodies in England and Wales to have regard to the purpose of conserving biodiversity in exercising all of their functions, including by restoring or enhancing habitats and species populations. Sections 41 (England) and 42 (Wales) list habitats and species of principal importance to the conservation of biodiversity (otherwise known as priority habitats/species as listed in the now superseded UK Biodiversity Action Plan). These lists supersede Section 74 of the CRoW Act 2000. These species and habitats are a material consideration in the planning process.

Habitats Regulations 2017 are the principal means by the European Union Habitats Directive (Council Directive 92/43/EEC) was transposed into English and Welsh law, and place a duty upon the relevant authority of government to identify sites which are of importance to the habitats and species listed in Annexes I and II of the Habitats Directive. Those sites which meet the criteria in Europe are designated as Sites of Community Importance by the European Commission, and subsequently identified as Special Areas of Conservation (SAC) by the European Union member states. Since the UK's departure from the European Union the European Commission no longer has a role in designating SACs in the UK. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 establish a single stage designation process, where the appropriate authority is the decision maker. The selection and designation of SACs is based on the criteria set out in Annex III of the Habitats Directive insofar as it applies to the UK, and having regard to the advice of the appropriate nature conservation body.

The 2019 Amendment Regulations have created a new national site network on land and at sea, including both the inshore and offshore marine areas in the UK. The national site network includes existing SACs, existing Special Protection Areas (SPA) originally designated as a result of Council Directive 2009/147/EC on the Conservation of Wild Birds, and any new SACs and SPAs designated under the 2019 Regulations. SACs and SPAs in the UK therefore no longer form part of the EU's Natura 2000 ecological network.

The Habitats Regulations also provide for the protection of individual species of fauna and flora of European conservation concern listed in Schedules 2 and 5 respectively (European Protected Species (EPS)). Schedule 2 includes species such as otter and great crested newt for which the UK population represents a significant proportion of the total European population. It is an offence to deliberately kill, injure, disturb or trade in these species. Schedule 5 plant species are protected from unlawful destruction, uprooting or trade under the regulations. Under the Habitats Regulations disturbance includes any activity which is likely to: impair the ability of a EPS to survive, breed, reproduce, or rear/nurture its young; impair the ability of a EPS to migrate or hibernate; or significantly affect the local distribution or abundance of the species.

When enacted, the Environment Bill is expected, among other things, to: establish an Office for Environmental Protection; require all new development requiring planning permission to achieve a net gain for biodiversity (expected to be at least 10%); amend the NERC Act duty to conserve biodiversity by explicitly adding a duty to enhance; and require local authorities to produce local nature recovery strategies.

Bats (Chiroptera)

Bats and their roosts are fully protected by protected by the WCA and the Habitats Regulations, and seven species of bats are species of principal importance. The legislation makes it an offence, *inter alia*, to:

- ▶ Intentionally kill, injure or take a bat.
- ▶ Possess or control a live or dead bat, any part of a bat, or anything derived from a bat.
- ▶ Intentionally or recklessly damage, destroy or obstruct access to any structure or place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.
- ▶ Intentionally or recklessly disturb a bat while it is occupying a structure or place that it uses for shelter or protection.
- ▶ Make a false statement in order to obtain a licence for bat work.

Planning context

National Planning Policy Framework (Section 15: Conserving and enhancing the natural environment)

The National Planning Policy Framework (NPPF), published in February 2019, outlines the Government's commitment to the conservation of wildlife and natural features. It is concerned with:

- ▶ Protecting and enhancing valued landscapes, sites of biodiversity or geological conservation value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- ▶ Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- ▶ Maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

- ▶ Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current & future pressures;
- ▶ Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- ▶ Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

The NPPF requires that local plans should “distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value...; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries”.

To protect and enhance biodiversity and geodiversity, the NPPF states that planning policies should:

- ▶ Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and
- ▶ Promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

When determining planning applications, local planning authorities should aim to protect and enhance biodiversity by applying the following principles:

- ▶ if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- ▶ development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- ▶ development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- ▶ development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

The following wildlife sites should be given the same protection as habitats sites:

- ▶ potential Special Protection Areas and possible Special Areas of Conservation;
- ▶ listed or proposed Ramsar sites; and

- ▶ sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. The policies within the NPPF (and additional guidance contained within Circular 06/2005) are a material planning consideration.

UK/Local Biodiversity Action Plan Designations and Birds of Conservation Concern and Red Data Book Listings

Note that BAP designations and status as RSPB Birds of Conservation Concern or Red Data Book species does not offer any further legal protection, but planning authorities are required to prevent these species from being adversely affected by development in accordance with National Planning Policy and the CROW and NERC Acts. The United Kingdom Biodiversity Action Plan (UKBAP), first published in 1994 and updated in 2007, was a government initiative designed to implement the requirements of the Convention of Biological Diversity to conserve and enhance species and habitats. The UKBAP contained a list of priority habitats and species of conservation concern in the UK, and outlined biodiversity initiatives designed to enhance their conservation status.

However, as a result of devolution, and new country-level and international drivers and requirements, much of the work previously carried out by the UK BAP is now focussed at a country-level rather than a UK-level, and the UK BAP was succeeded by the 'UK Post-2010 Biodiversity Framework' in July 2012. The UK lists of priority habitats and species nonetheless remain an important reference source and were used to draw up statutory lists of priority habitats and species in England, Northern Ireland, Scotland and Wales. The priority habitats and species correlate with those listed on Section 41 and 42 of the NERC Act.

The UKBAP required that conservation of biodiversity be addressed at a County level through the production of Local BAPs. These are targeted towards species of conservation concern characteristic of each area. In addition, a number of local authorities and large organisations have produced their own BAPs. Where they exist, Local BAP targets with regard to species and habitats are a material consideration in the planning process.

Local Planning Policy

The following policies relating to wildlife and biodiversity are contained within the adopted Horsham District Planning Framework (Horsham District Council, 2015):

Green Infrastructure and Biodiversity

1. Development will be supported where it can demonstrate that it maintains or enhances the existing network of green infrastructure. Proposals that would result in the loss of existing green infrastructure will be resisted unless it can be demonstrated that new opportunities will be provided that mitigates or compensates for this loss, and ensures that the ecosystem services of the area are retained.

2. Development proposals will be required to contribute to the enhancement of existing biodiversity, and should create and manage new habitats where appropriate. The Council will support new development which retains and/or enhances significant features of nature conservation on development sites. The Council will also support development which makes a positive contribution to biodiversity through the creation of green spaces, and linkages between habitats to create local and regional ecological networks.

3. Where felling of protected trees is necessary, replacement planting with a suitable species will be required.

4. a) *Particular consideration will be given to the hierarchy of sites and habitats in the district as follows:*

i. Special Protection Area (SPA) and Special Areas of Conservation (SAC)

ii. Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNRs)

iii. Sites of Nature Conservation Importance (SNCIs), Local Nature Reserves (LNRs) and any areas of Ancient woodland, local geodiversity or other irreplaceable habitats not already identified in i & ii above.

b) Where development is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, development will be refused unless it can be demonstrated that:

i. The reason for the development clearly outweighs the need to protect the value of the site; and,

ii. That appropriate mitigation and compensation measures are provided.

5. *Any development with the potential to impact Arun Valley SPA or the Mens SAC will be subject to a HRA to determine the need for an Appropriate Assessment. In addition, development will be required to be in accordance with the necessary mitigation measures for development set out in the HRA of this plan.*

Appendix III: Legal and Technical Limitations

- This report has been prepared by Urban Edge Environmental Consulting Ltd (UEEC Ltd) with all reasonable skill, care and diligence within the terms of the contract made with the Client to undertake this work, and taking into account the information made available by the Client. No other warranty, expressed or implied, is made as to the professional advice included in this report or any other services provided by us.
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- The advice provided in this report does not constitute legal advice. As such, the services of lawyers may also be considered to be warranted.
- Unless otherwise stated in this report, the assessments made assume that the sites and facilities that have been considered in this report will continue to be used for their current planned purpose without significant change.
- All work carried out in preparing this report has utilised and is based upon UEEC Ltd's current professional knowledge and understanding of current relevant UK standards and codes, technology and legislation. Changes in this legislation and guidance may occur at any time in the future and may cause any conclusions to become inappropriate or incorrect. UEEC Ltd does not accept responsibility for advising the Client or other interested parties of the facts or implications of any such changes;
- Where this report presents or relies upon the findings of ecological field surveys (including habitat, botanical or protected/notable species surveys), its conclusions should not be relied upon for longer than a maximum period of two years from the date of the original field surveys. Ecological change (e.g. colonisation of a site by a protected species) can occur rapidly and this limitation is not intended to imply that a likely absence of, for instance, a protected species will persist for any period of time;
- This report has been prepared using factual information contained in maps and documents prepared by others. No responsibility can be accepted by UEEC Ltd for the accuracy of such information;
- Every effort has been made to accurately represent the location of mapped features, however, the precise locations of features should not be relied upon;
- Populations of animals and plants are often transient in nature and a single survey visit can only provide a general indication of species present on site. Time of year when the survey was carried out, weather conditions and other variables will influence the results of an ecological survey (e.g. it is possible that some flowering plant species which flower at other times of the year were not observed). Every effort has been made to accurately note indicators of presence of protected, rare and notable species within and adjacent to the site but the possibility nonetheless exists for other species to be present which were not recorded or otherwise indicated by the survey;
- Any works undertaken as a consequence of the recommendations provided within this report should be subjected to the necessary health & safety checks and full risk assessments.

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Land north of Loxwood Road, Billingshurst, West Sussex

Report to inform a Habitats Regulations Assessment

December 2021

Land north of Loxwood Road, Billingshurst, West Sussex

Report to inform a Habitats Regulations Assessment

Client:	Loxwood Clay Pits Limited	
Report No.:	UE0363_Loxwood_HRA_0_211207	
Author: Tim Lees BA (Hons) MSc MCIEEM	Proofed: Nick Pincombe BA (Hons) MSc CEnv MIEMA MCIEEM	Approved: Nick Pincombe BA (Hons) MSc CEnv MIEMA MCIEEM
Revision No.: 0	Status/Comment: Final	Date: 07 December 2021

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Abbreviations

CMRF	Construction Materials Recycling Facility
CJEU	Court of Justice of the European Union
FLL	Functionally Linked Land
HRA	Habitats Regulations Assessment
MCP	Minimum Convex Polygons
NPPF	National Planning and Policy Framework
PEA	Preliminary Ecological Appraisal
SAC	Special Area of Conservation
SNWSZ	Sussex North Water Supply Zone
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
UEEC	Urban Edge Environmental Consulting

0 Executive Summary

0.1 Introduction

- 0.1.1 Urban Edge Environmental Consulting has been commissioned by Loxwood Clay Pits Limited to produce a report to inform a Habitats Regulations Assessment (HRA) in support of the Proposed Development at Land north of Loxwood Road, Billingshurst, West Sussex. Full planning consent is being sought for the extraction of approximately 400k tonnes of clay and subsequent sequential restoration of the site.
- 0.1.2 HRA is a requirement of the Conservation of Habitats and Species Regulations 2017 (as amended; commonly referred to as 'the Habitats Regulations') and must be applied to any plan or project not directly connected with or necessary to the management of a European site, if it is likely to have a significant effect on a European site either alone or in combination with other plans or projects. An effect is "likely" in this context if the risk cannot be excluded on the basis of objective information (see chapter 2).
- 0.1.3 The HRA incorporates evidence on likely impact pathways and presents an Appropriate Assessment where necessary in view of European site conservation objectives. Where adverse effects are identified, either alone or in combination with other plans and projects, the report considers whether the available mitigation measures are capable of preventing adverse effects on site integrity. No reliance is placed on mitigation during the screening assessment. Chapter 2 presents information about the overall methodology used for the HRA.

0.2 Scope of the Assessment

- 0.2.1 Acknowledging that the application site is not directly connected with or necessary to management of the sites for nature conservation, the HRA considers the following internationally designated sites for likely significant or adverse effects on integrity:
- ▶ The Mens Special Area of Conservation (SAC);
 - ▶ Ebernoe Common SAC;
 - ▶ Arun Valley SAC;
 - ▶ Arun Valley Special Protection Area (SPA); and
 - ▶ Arun Valley Ramsar.
- 0.2.2 Chapter 4 presents information about the sites, including their qualifying features and conservation objectives.

0.3 Impact Pathways

0.3.1 The following impact pathways are considered for likely significant effects to internationally designated sites:

- ▶ Functionally Linked Land; and
- ▶ Water neutrality.

0.3.2 Chapter 5 describes the available evidence about these impact pathways in relation to the designated sites.

0.4 Summary of Findings

0.4.1 No likely significant effects were identified in relation to any of the designated sites, either alone or in-combination with other projects, for any of the impact pathways listed above.

0.5 Conclusions

0.5.1 The Proposed Development can be considered compliant with Regulation 63 of the Habitats Regulations with regards to: The Mens SAC; Ebernoe Common SAC; Arun Valley SAC; Arun Valley SPA; and Arun Valley Ramsar.

1 Introduction

1.1 Purpose of this Report

- 1.1.1 Urban Edge Environmental Consulting (UEEC) has been commissioned by Loxwood Clay Pits Limited to produce a report to inform a Habitats Regulations Assessment (HRA) in support of the Proposed Development at Land north of Loxwood Road, Billingshurst, West Sussex (hereafter referred to as 'the application site'). Full planning consent is being sought for the extraction of approximately 400k tonnes of clay and subsequent sequential restoration of the site.
- 1.1.2 The objective of this HRA Report is to identify any aspects of the project that are likely to have a significant effect on internationally protected sites within the national site network either alone or in combination with other plans or projects. For those aspects of the project where likely significant effects are identified, an appropriate assessment has been undertaken to determine whether there are any adverse effects to the integrity of the protected sites following mitigation.

1.2 Habitats Regulations Assessment

- 1.2.1 HRA must be applied to any plan or project likely to have a significant effect on a 'European site' either alone or in combination with other plans or projects. HRA is a requirement of the Conservation of Habitats and Species Regulations 2017 (as amended; henceforth 'the Habitats Regulations'), the UK's transposition of *European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora* ('the Habitats Directive'). Since the UK has left the EU the Habitats Directive no longer applies directly to the assessment of plans and projects in the UK. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 amend parts of the 2017 Regulations so that they continue to operate effectively¹.
- 1.2.2 European sites² provide ecological infrastructure for the protection of rare, endangered or vulnerable natural habitats and species of exceptional importance. European sites consist of Special Areas of Conservation (SAC) and Special Protection Areas (SPA) and together form part of new national site network in the UK to replace the EU Natura 2000 network. Additionally, the National Planning and Policy Framework (NPPF; MHCLG, 2021) and Circular 06/05 (ODPM, 2005) require that Ramsar sites (UNESCO, 1971) are treated as if they are fully designated sites for the purposes of considering development proposals that may affect them.

¹ Defra (2021): *Changes to the Habitats Regulations Assessment 2017*. Accessed online [19/11/2021] at: <https://www.gov.uk/government/publications/changes-to-the-habitats-regulations-2017/changes-to-the-habitats-regulations-2017>

² Although the term is not used in the Habitats Directive, a statutory definition of 'European site' is given in regulation 8 of the Habitats Regulations 2017. This document therefore refers collectively to SAC/SPA as European sites.

1.3 Scope and Structure of this Document

1.3.1 The document is structured around the following sections:

- ▶ Chapter 2: Methodology
- ▶ Chapter 3: Project Description
- ▶ Chapter 4: National Site Network
- ▶ Chapter 5: Screening
- ▶ Chapter 6: Summary

2 Methodology

2.1 Good Practice Guidance

- 2.1.1 The latest guidance on HRA has been published by MHCLG (2019) and DEFRA (2021), with more detailed guidance issued by the European Commission (2018). The *Habitats Regulations Assessment Handbook* (Tyldesley & Chapman, 2013) was developed to provide a definitive source of detailed practical guidance consistent with case law, examples of recent good practice and government guidance. The Screening Assessment and Appropriate Assessment where necessary for the Proposed Development have been undertaken with reference to the *HRA Handbook* and other guidance documents.
- 2.1.2 The requirement for HRA stems from Regulations 63 and 64 of the Habitats Regulations, which are represented by four stages within the HRA process as listed in Table 2.1. This report focusses on Stage 1: HRA screening and Stage 2: Appropriate Assessment & Integrity Test.

Table 2.1: Stages of HRA in Guidance from Tyldesley & Chapman (2013)

HRA Handbook Stage
Stage 1: Screening for Likely Significant Effects
Stage 2: Appropriate Assessment & Integrity Test
Stage 3: Alternative Solutions
Stage 4: Imperative Reasons of Overriding Public Interest and Compensatory Measures

2.2 Screening

- 2.2.1 Screening is the process which identifies whether a proposed development is likely to result in significant effects to European sites, either alone or in combination with other plans or projects. A significant effect is any effect that would undermine the conservation objectives for a European site. There must be a causal connection or link between the plan or project and the qualifying features of the site which could result in significant effects, but this may be direct or indirect (Tyldesley & Chapman, 2013).
- 2.2.2 Regulation 63 of the Habitats Regulations 2017 states that where a likely significant effect on a European site is identified, then an appropriate assessment of the implications of the plan or project must be made for that site in view of that site's conservation objectives.
- 2.2.3 Where adverse effects are anticipated changes must be made to the plan or project. The process is characterised by the precautionary principle, defined as (European Commission, 2000):

"If a preliminary scientific evaluation shows that there are reasonable grounds for concern that a particular activity might lead to damaging effects on the environment, or on human

animal or plant health, which would be inconsistent with the protection normally afforded to these within the European Community, the Precautionary Principle is triggered.

Decision-makers then have to determine what action to take. They should take account of the potential consequences of taking no action, the uncertainties inherent in scientific evaluation, and they should consult interested parties on the possible ways managing the risk. Measures should be proportionate to the level of risk, and to desired level of protection. They should be provisional in nature pending the availability more reliable scientific data.

Action is then undertaken to obtain further information enabling a more objective assessment of the risk. The measures taken to manage the risk should be maintained long as the scientific information remains inconclusive and the risk unacceptable.”

2.2.4 The precautionary approach applies at both screening and appropriate assessment stages and means that:

- ▶ At screening stage, if a risk of a significant effect on a European site cannot be ruled out on the basis of objective information, the effect is “likely” and an appropriate assessment must be carried out. The words “likely” and “unlikely” are used in this HRA applying that approach (unless otherwise indicated).
- ▶ Following an appropriate assessment, if a competent authority cannot rule out all reasonable scientific doubt of an adverse effect on a site’s integrity, the plan or project can only be authorised if the statutory derogation tests are satisfied.

2.2.5 Whilst the UK is no longer part of the EU, the UK government’s ongoing commitment to the precautionary principle is enacted in section 16(2) of the EU (Withdrawal) Act 2018 and further detail is provided within the Environment Act 2021. The precautionary principle therefore continues to be applicable to the HRA process.

2.3 Appropriate Assessment

2.3.1 The purpose of the Appropriate Assessment stage is to further analyse likely significant effects identified during the screening stage, as well as those effects which were uncertain or not well understood and taken forward for assessment in accordance with the precautionary principle. The Appropriate Assessment evaluates the implications of the project, either alone or in combination with other plans or projects, in light of the conservation objectives of affected European sites.

2.3.2 The Appropriate Assessment stage includes a test of whether the project proposals will result in adverse effects on site integrity which can be defined as (ODPM, 2005):

“The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified.”

2.3.3 In the 2018 *Holohan* judgment³, the Court of Justice of the European Union (CJEU) ruled that an Appropriate Assessment must consider the interest features of European (internationally protected) sites even where those features may be found outside the strict boundaries of those sites and must also consider other habitat types or species, which are present on the site, but for which that site has not been listed but which are necessary to the conservation of the habitat types and species listed for the protected area. The former matter is normally captured in Appropriate Assessment in England (and in this HRA) through consideration of the concept of Functionally Linked Land (FLL) (i.e. land outside The Mens SAC and Ebernoe Common SAC boundaries which support the barbastelle *Barbastella barbastellus* and Bechstein's bat *Myotis bechsteinii* populations roosting within the SAC).

2.4 Counteracting Measures

2.4.1 This section draws on Principle C.5 of the HRA Handbook (Tyldesley & Chapman, 2013) to identify different types of counteracting measure and describe how they should be considered within the HRA. There is a well-established policy and ethical approach to assessment which recognises a hierarchy of counteracting measures, which prefers avoidance of adverse effects in the first instance, then cancellation, then reduction, and finally compensatory measures where these can be adequately justified. This approach is embedded in guidance (e.g. CIEEM, 2018; DEFRA, 2021), professional standards (BS42020:2013) and the NPPF (para. 180; MHCLG, 2021).

2.4.2 A distinction must be drawn between measures intended to avoid, cancel or reduce adverse effects on European sites (collectively referred to as mitigation measures) and those which are intended to compensate for adverse effects (compensatory measures); the latter must only be considered following application of the Imperative Reasons of Overriding Public Interest test:

- ▶ Mitigation: Avoidance measures: intended to stop or prevent effects from occurring, or to eliminate the risk of them occurring. Successful avoidance measures mean there will be no adverse effect, and hence no requirement to assess effects in combination.
- ▶ Mitigation: Cancellation measures: intended to completely neutralise adverse effects. In this context a proposal will have a potential effect, but its potentially negative outcomes have been cancelled without residual effect, and there is no requirement to assess effects in combination.
- ▶ Mitigation: Reduction measures: intended to diminish an effect either by reducing the scale of the effect, or its likelihood of occurring, or both. Such measures can reduce the severity/likelihood of an effect to the point where it can no longer be regarded as a likely significant effect but may result in a risk of residual effects. Residual effects need to be considered for their potential to lead to cumulative or in combination effects.
- ▶ Compensatory measures: intended to offset the harm to the integrity of an internationally protected site that would occur as a result of a plan or project. They are considered only after having established that the harm to the site itself cannot be further reduced by mitigation or alternative solutions, and are the measures required to ensure that the overall coherence of the national site network is protected.

³ Case C 461/17 Court of Justice of the European Union (2018): *Holohan v. An Bord Pleanála*.

- 2.4.3 In the 2018 *People Over Wind* judgment⁴, the CJEU ruled that measures intended to avoid or reduce the harmful effects of a plan or project on a European site (i.e. mitigation measures) cannot be taken into account by a competent authority when considering, at the HRA screening stage, whether the plan or project is likely to have a significant effect on a European site. July 2019 updates to Planning Practice Guidance on HRA note that features that are integral to the design or physical characteristics of the project / plan that is being assessed (as opposed to factors that have been introduced to avoid or reduce harm) may be considered at the screening stage. However, this will need to be determined on a case by case basis.
- 2.4.4 Thus where mitigation measures are incorporated into the plan or project, are effective, reliable, timely, guaranteed and of sufficient duration, they should be taken into account at the integrity test stage (Stage 2). A competent authority can impose additional mitigation measures over and above incorporated mitigation, if necessary, so as to ensure that a plan or project would not adversely affect the integrity of an internationally protected site, either alone or in combination with other plans and projects. Additional mitigation measures should also be considered at the integrity test stage.

2.5 In-combination Effects

- 2.5.1 Other plans and projects being prepared or implemented in the area may have the potential to cause negative effects on European sites. These effects may act in combination with the effects of the Proposed Development, possibly leading an insignificant effect to become significant. It is therefore important to consider which other plans and projects could generate similar effects as the Proposed Development, at the same internationally protected sites, and which may act in-combination.
- 2.5.2 There are no other known projects, planned or ongoing, in the area surrounding the Proposed Development site which could lead to collectively significant impacts on the European sites within the scope of assessment in combination with the Proposed Development.

⁴ Case C 323/17 Court of Justice of the European Union (2018): *People Over Wind, Peter Sweetman v Coillte Teoranta*.

3 Project Description

3.1.1 The Proposed Development is not directly connected with or necessary for the management of any protected site within the national site network, therefore further consideration of the project within the HRA process is required.

3.2 Application Site Description

3.2.1 The application site is located on the old Pallinghurst Estate, approximately 1.5km east / north-east of the village of Loxwood, in the Chichester District of West Sussex (as shown in Figure 3.1). It includes the site of the proposed clay extraction and access from Loxwood Road. The extraction site occupies c.8.26ha of land currently dominated by woodland including semi-natural deciduous and deciduous plantation woodland. The access route comprises an existing c.1.33km of aggregate surfaced forest track with adjoining verges and ditches. Twelve ponds lie within 500m of the extraction site, with a further four lying alongside the proposed access route.

3.2.2 The application site is adjoined by areas of semi-natural and ancient deciduous woodland, relatively recently planted deciduous plantation, mature coniferous plantation, scrub, hedgerows and improved grassland. The wider landscape is characterised by a patchwork of woodland, arable and grassland fields, set within a network of hedgerows. There are scattered farms and houses, as well as small settlements.

3.3 Ecological Baseline

3.3.1 The extraction site was subject to a Preliminary Ecological Appraisal (PEA) on 15 August 2019 (Middlemarch Environmental, 2019) and the access route was subject to a PEA on 18 March 2020 (UEEC, 2020). Phase 1 Habitat plans are provided in Appendix I⁵. The key habitats on site include:

- ▶ Broadleaved semi-natural woodland
- ▶ Broadleaved plantation woodland
- ▶ Coniferous plantation woodland
- ▶ Hedgerows
- ▶ Running water
- ▶ Scattered broadleaved and coniferous trees

3.3.2 None of these habitats are strictly defined as supporting habitats for the qualifying bat species of either The Mens SAC (designated for barbastelle, c.5.87km south of the application site) or Ebernoe Common SAC (designated for barbastelle and Bechstein's bat, c.7.73km south-west).

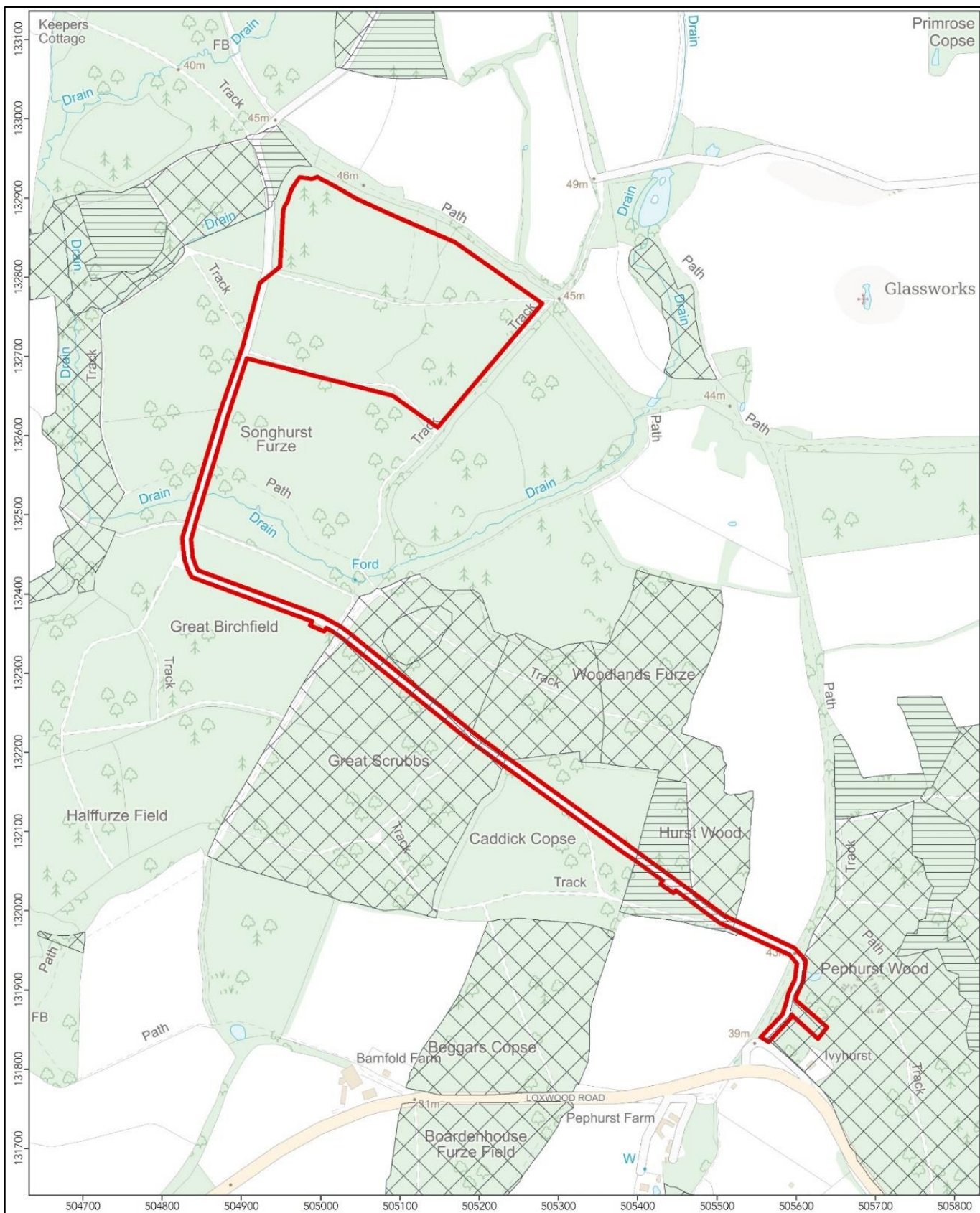
⁵ N.B. The classification of trees on the plans at Appendix I with regards to their suitability for roosting bats has been updated to incorporate the results of aerial inspections undertaken during 2021. As a result some trees will be shown as having higher or lower suitability for roosting bats when compared to the Phase 1 habitat plans presented in the Environmental Statement, Ecological Impact Assessment or Results of Surveys for Flora and Fauna reports.

However, the large area of woodland on and adjacent to the application site provides suitable foraging, commuting and roosting habitat for a variety of bats. Accordingly, it was considered that the woodland habitats had potential to provide a functional role for qualifying bat species.




- 3.3.3 In order to establish the potential of the on-site habitats to support qualifying bat species of The Mens SAC or Ebernoe Common SAC, bat activity surveys were undertaken at the application site during 2020. Monthly survey visits were undertaken between April and October 2020, comprising walked transects and remote monitoring for a period of at least five nights each month using multiple detectors. These combined methods were used to determine the bat species assemblage present within the application site, and to establish the distribution and level of bat activity across the application site. Further details of the survey methodology can be found in the Results of Surveys for Flora and Fauna report (UEEC, 2021).
- 3.3.4 A total of at least nine bat species were recorded, including the presence of barbastelle and the possible presence of Bechstein's bat, albeit in low numbers.

3.4 Proposed Development Description

- 3.4.1 Planning consent is sought for the extraction of approximately 400k tonnes of clay to be used in brick making and other construction/industrial applications. Following clay extraction, the application site will be sequentially restored with suitably treated materials sourced from the proposed on-site construction materials recycling facility (CMRF). The restoration scheme has been designed for nature conservation with water bodies, wetland habitats and interim species-rich seeded grassland, to be replaced with broadleaved plantation woodland.



Loxwood Clay Pits, West Sussex

-  Red line boundary
-  Ancient Semi-Natural Woodland
-  Plantation on Ancient Woodland



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Figure 3.1: Application site location

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4 National Site Network

4.1 Scope of the Assessment

- 4.1.1 All European sites forming part of the national site network within 10km of the application site have been considered within the scope of this assessment, together with internationally important Ramsar sites. Additionally, the application site falls within the Sussex North Water Supply Zone (SNWSZ). In line with Natural England's position statement⁶, the development must also demonstrate water neutrality in relation to the European sites located at Arun Valley (c.13.69km south of the application site).
- 4.1.2 SAC: SACs are strictly protected sites originally designated under the EC Habitats Directive, which is transposed into national law via 'The Conservation of Habitats and Species Regulations 2017', and now amended by 'The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.' SACs make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended). The listed habitat types and species are those considered to be most in need of conservation at a European level (excluding birds which are conserved by SPA – see below). Under the 2019 Regulations the selection and designation of SACs is based on the criteria set out in Annex III of the Habitats Directive so far as it applies to the UK.
- 4.1.3 Special Protection Areas (SPA): The European Community adopted the *Council Directive on the Conservation of Wild Birds* (2009/147/EC), usually referred to as the Birds Directive. The Birds Directive is transposed into national law via the 'Wildlife and Countryside Act 1981' and 'The Conservation of Habitats and Species Regulations 2017', now amended by 'The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019'. It provides for the protection, management and control of all species of naturally occurring wild birds in the European territory of Member States. In particular it requires Member States to identify areas to be given special protection for the rare or vulnerable species listed in Annex I (Article 4.1) and for regularly occurring migratory species (Article 4.2) and for the protection of wetlands, especially wetlands of international importance. These areas are known as SPAs. Following the UK's exit from the EU the EC no longer has a role in designating SPAs in the UK and they are instead designated under the Habitats Regulations 2019.
- 4.1.4 Ramsar: Ramsar sites are wetlands of international importance designated under the Ramsar Convention (UNESCO, 1971). In the UK, the first Ramsar sites were notified in 1976 and since then many more have been designated. The initial emphasis was on selecting sites of importance to waterbirds, and consequently many Ramsar sites are also SPAs.

⁶ Natural England (2021): *Natural England's Position Statement for Applications within the Sussex North Water Supply Zone*, Accessed online [19/11/2021] at: https://www.horsham.gov.uk/_data/assets/pdf_file/0019/106552/Natural-Englands-Position-Statement-for-Applications-within-the-Sussex-North-Water-Supply-Zone-September-2021.pdf

4.1.5 The HRA considers the following protected sites for likely significant or adverse effects on integrity; see Figure 4.1:

- ▶ The Mens SAC;
- ▶ Ebernoe Common SAC;
- ▶ Arun Valley SAC;
- ▶ Arun Valley SPA; and
- ▶ Arun Valley Ramsar.

4.1.6 These internationally protected sites have been designated to conserve a wide variety of habitats of European importance, along with species populations of high conservation significance. Table 4.1 and Table 4.2 set out the qualifying features for SAC and SPA designations. Ramsar sites do not have qualifying features, however the relevant Ramsar criteria applicable to the site is set out in Table 4.3.

4.2 Conservation Objectives for SAC and SPA

4.2.1 The Habitats Regulations require the appropriate authority to maintain or where appropriate restore qualifying habitats and species populations to favourable conservation status. Site conservation objectives are referred to in the Habitats Regulations. They are for use when there is a need to undertake an Appropriate Assessment under the relevant parts of the legislation. The conservation objectives are set for each feature (habitat or species) of an SAC / SPA. Where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving the aims of the Habitats Regulations. The conservation objectives defined by Natural England for the SACs and SPAs included within the scope of this HRA are given in Table 4.4. Natural England has also published supplementary advice on conserving and restoring site features for each site (Natural England, 2014, 2015a & 2015b).

4.3 Conservation Objectives for Ramsar Sites

4.3.1 Ramsar sites do not have agreed conservation objectives, but in most instances overlap with SPA site boundaries. However, it should be noted that Ramsar qualifying features can include a range of habitats and non-bird species common to SAC designations, as well as bird species and assemblages and their supporting habitats which are common to SPAs.

4.3.2 The qualifying Ramsar Convention criteria for the Arun Valley Ramsar site overlap with the avian features of Arun Valley SPA and in part with the invertebrate features of the Arun Valley SAC. No additional conservation objectives are defined to assess these features, and those relating to the equivalent SAC / SPA can be used in the assessment.

Loxwood Clay Pits, West Sussex






-  Application site
-  10km buffer
-  Special Areas of Conservation
-  Special Protection Areas
-  Ramsar Site

Figure 4.1: Internationally designated sites within 10km of the application site



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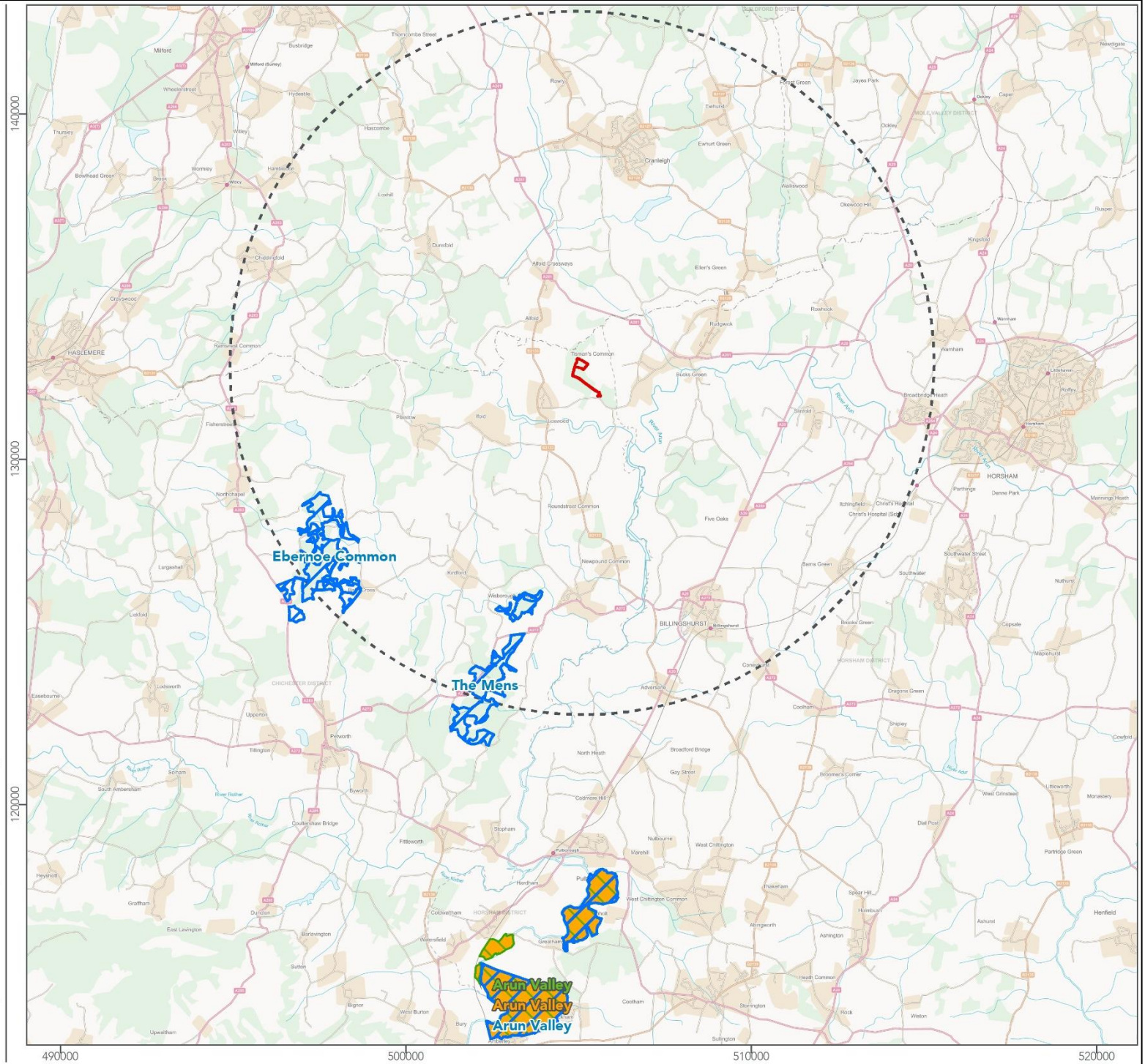


Table 4.1: SAC Qualifying Features

Site Name	Description	Qualifying Features
The Mens SAC	The Mens is an extensive area of mature beech <i>Fagus sylvatica</i> woodland rich in lichens, bryophytes, fungi and saproxylic (dead wood) invertebrates. It is developing a near-natural high forest structure, in response to only limited silvicultural intervention over the 20 th century, combined with the effects of natural events such as the 1987 great storm. The site also supports an important population of barbastelle bat.	Annex I habitats that are a primary reason for selection of this site: <ul style="list-style-type: none"> - Atlantic acidophilous beech forests with Ilex and sometimes also Taxus in the shrub layer (<i>Quercion roboretanae</i> or <i>Ilici-Fagenion</i>) Annex II species present as a qualifying feature, but not a primary reason for site selection: <ul style="list-style-type: none"> - Barbastelle
Ebernoe Common SAC	Ebernoe Common has an extensive block of beech high forest and former wood-pasture over dense holly <i>Ilex aquifolium</i> with a very rich epiphytic lichen flora, including <i>Agonimia octospora</i> and <i>Catillaria atropurpurea</i> . The beech woodland is associated with other woodland types, open glades and pools, which contribute to a high overall diversity. A maternity colony of barbastelle bat utilises a range of tree roosts in the site, usually in dead tree stumps, with individuals utilising a range of roost sites in tree holes and under bark. The site also holds a maternity colony of Bechstein's bat, mainly roosting in old woodpecker holes in the stems of live mature sessile oak <i>Quercus petraea</i> trees.	Annex I habitats that are a primary reason for selection of this site: <ul style="list-style-type: none"> - Atlantic acidophilous beech forests with Ilex and sometimes also Taxus in the shrub layer (<i>Quercion roboretanae</i> or <i>Ilici-Fagenion</i>) Annex II species that are a primary reason for site selection: <ul style="list-style-type: none"> - Barbastelle - Bechstein's bat
Arun Valley SAC	Arun Valley SAC includes two of its core sites in the wash lands of the Arun floodplain (Pulborough Brooks Site of Special Scientific Interest (SSSI) and Amberley Wild Brooks SSSI). Both sites are comprised of a series of wet meadows dissected by a network of ditches. Within the Arun Valley these two SSSIs have had the strongest and most consistent presence of little ramshorn whirlpool snail <i>Anisus vorticulus</i> .	Annex II species that are a primary reason for site selection reason for site selection: <ul style="list-style-type: none"> - Little ramshorn whirlpool snail

Table 4.2: SPA Qualifying Features

Site Name	Description	Qualifying Features
Arun Valley SPA	The Arun Valley SPA mirrors the boundary for the SAC. The three component SSSIs (Pulborough Brooks SSSI, Amberley Wild Brooks SSSI and Waltham Brooks SSSI) encompass a series of wet meadows, alluvial grazing and former raised peat bog.	<p>Article 4.1 of the Directive (79/409/EEC) as it is used regularly by 1% or more of the Great Britain population of a species listed in Annex I in any season:</p> <ul style="list-style-type: none"> - Bewick's swans <i>Cygnus columbianus bewickii</i>, 115 individuals representing 1.6% of the population in Great Britain (5-year peak mean for 1992/93-1996/97). <p>The site is used regularly by over 20,000 waterfowl (waterfowl as defined by the Ramsar Convention):</p> <ul style="list-style-type: none"> - Waterbird assemblage, 27,241 individuals (1992/93-1996/97)

Table 4.3: Ramsar Qualifying Features

Site Name	Description	Qualifying Features
Arun Valley Ramsar	The Arun Valley Ramsar overlaps with SAC/SPA boundary. The habitats described above support rich aquatic flora and invertebrate flora. It is also an area of outstanding ornithological importance for wintering wildfowl and breeding waders.	<p>Criterion 2: The site holds seven wetland invertebrate species listed in the British Red Data Book as threatened. One of these, <i>Pseudamnicola confusa</i>, is considered to be endangered. The site also supports four nationally rare and four nationally scarce plant species.</p> <p>Criterion 3: In addition to Red Data Book invertebrate and plant species, the ditches intersecting the site have a particularly diverse and rich flora. All five British <i>Lemna</i> species, all <i>Rorippa</i> species, and all three British water milfoils (<i>Myriophyllum</i> species), all but one of the seven British water dropworts (<i>Oenanthe</i> species), and two-thirds of the British pondweeds (<i>Potamogeton</i> species) can be found on site.</p> <p>Criterion 5: Internationally important waterfowl assemblage (greater than 20,000 birds)</p>

Table 4.4: Conservation objectives for SAC and SPA

Conservation objectives for The Mens SAC

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Conservation objectives for Ebernoe Common SAC

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Conservation objectives for Arun Valley SAC

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of the habitats of qualifying species
- The structure and function of the habitats of qualifying species
- The supporting processes on which the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Conservation objectives for Arun Valley SPA

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

4.4 Condition Status

- 4.4.1 The conservation status of protected sites within the national site network is not routinely reported by Natural England, but it carries out condition monitoring of SSSI at regular intervals. Although not exactly matching the boundaries of protected sites within the national site network, and being notified for different purposes, the condition status of a SSSI helps to give an impression of the overall ecological status of the SAC / SPA / Ramsar with which it coincides. The latest condition assessments of SSSIs forming part of the European sites within the scope of this assessment are illustrated on Figure 4.2.

Loxwood Clay Pits, West Sussex

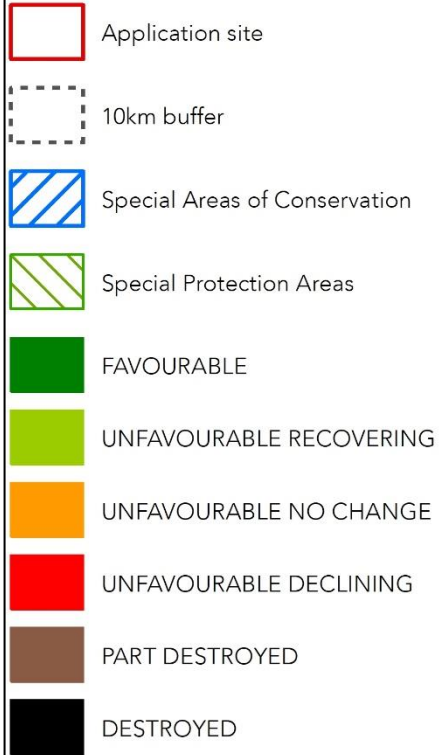
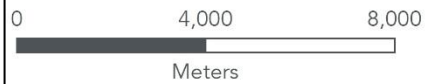
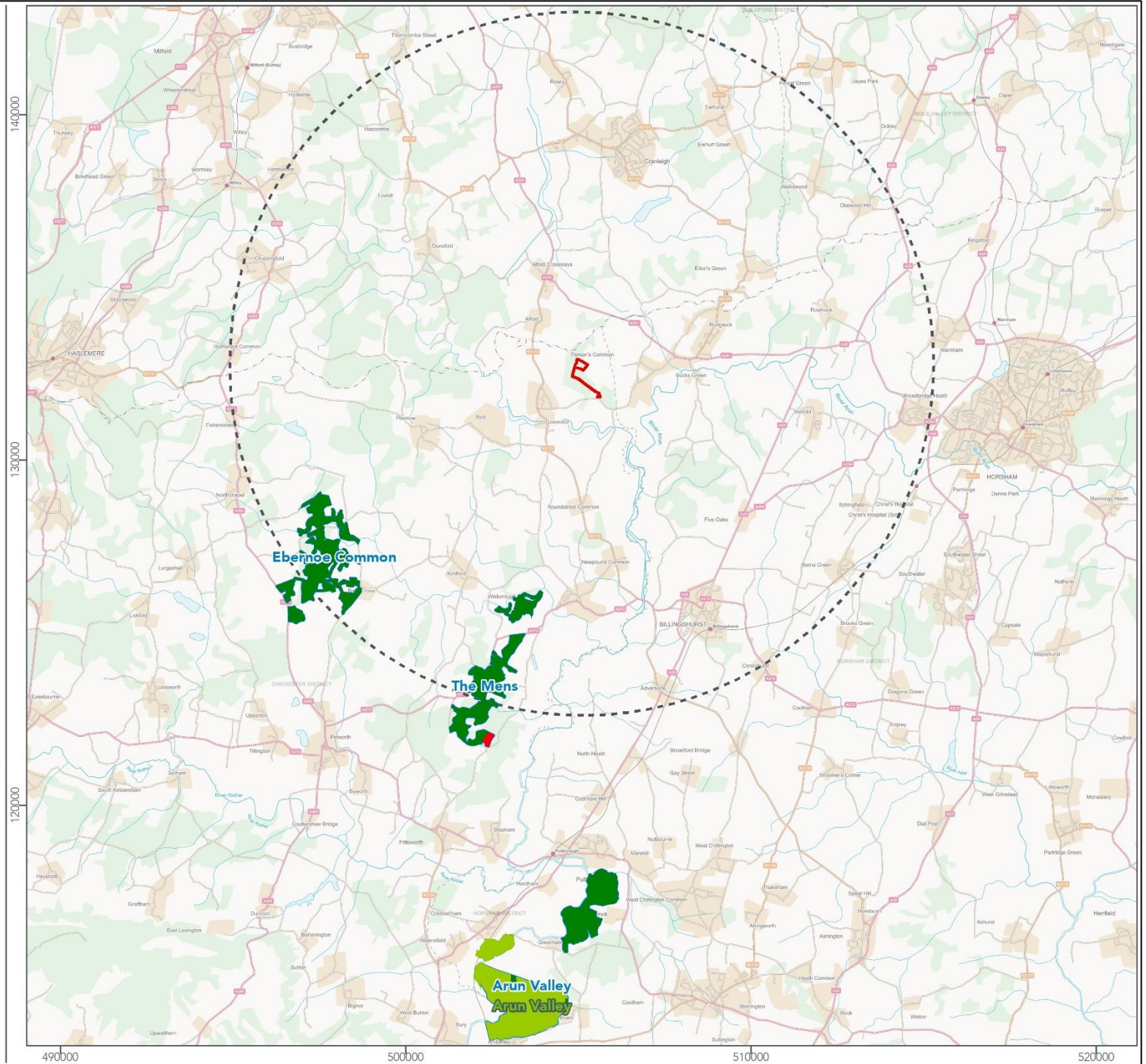


Figure 4.2: SSSI condition status



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5 Screening

5.1 Introduction

5.1.1 This chapter discusses the available evidence relating to the pathways of impact to the internationally protected sites scoped into this assessment (section 4.1.5). It then goes on to provide a screening assessment of those pathways which are considered likely to result in significant effects on the qualifying features of those sites and hence should be taken forward for appropriate assessment.

5.2 Impact Pathways

Functionally linked land

5.2.1 The qualifying species of designated sites are not confined to the sites' boundaries. Although not included within the formal spatial designation, surrounding areas of habitat may provide an important role for the ecology of qualifying species. For example, surrounding habitats may provide an important role in the commuting, foraging or roosting of qualifying bat species. FLL can extend some distance away from the designated site's boundary.

5.2.2 Impacts to FLL may affect the achievement of conservation objectives for qualifying features and thereby effect the integrity of the designated sites. Such impacts may include:

- ▶ Direct loss of FLL;
- ▶ Disturbance during construction as a result of construction noise / activity; and
- ▶ Disturbance during operation as a result of increased activity.

5.2.3 The direct loss of FLL will alter the extent of the habitats of qualifying species, thereby reducing the population or restricting the distribution of qualifying species.

5.2.4 Disturbance to FLL caused by construction noise or heightened levels of activity due to construction or operational activities could change the distribution of qualifying species, displacing the species from otherwise suitable habitats and thereby reducing individual survival rates and risking a population reduction. This could be due to the proximity of the application site to the supporting area, or the absence of existing topographic features, structures or vegetation which may serve to sufficiently attenuate the noise or screen the activity, or a combination of both.

5.2.5 The Mens SAC (c.5.87km south) and Ebernoe Common SAC (7.73km south-west) are designated in part for their populations of barbastelle and Bechstein's bat. Bat activity surveys were undertaken at the application site in 2020, as described in sections 3.3.3 and 3.3.4. Barbastelle and *Myotis* spp. bats were recorded in relatively low numbers during the bat activity surveys (approximately 0.9% and 1.4%, respectively, of bat passes per hour recorded during remote

monitoring at the application site). The *Myotis* spp. calls recorded were most closely matched to the call parameters of Bechstein's, Brandt's *M. brandtii*, Daubenton's *M. daubentonii* and whiskered *M. mystacinus* bats. The survey area falls broadly within the known distribution of all four species and it was assumed that all four could be present locally.

- 5.2.6 According to Natural England (2019) the barbastelle's foraging range extends up to 5km from a roost, and when foraging they prefer wet meadow and riparian habitats which are not present on site. For Bechstein's bat the foraging range is 1-2.5km, though they tend to forage in and around the woodland where they roost with limited outward travel (Natural England, 2019).
- 5.2.7 Within the Bat Conservation Trust Guidelines (Collins (ed.), 2016), the Core Sustenance Zone (CSZ) for barbastelle is 6km and for Bechstein's bat is 1km (although it is suggested that this be increased to 3km). As such, the access route would partially fall within the CSZ for barbastelle at the The Mens SAC. However, this currently comprises an aggregate surfaced track and is suboptimal foraging habitat for barbastelle. Furthermore, changes to the access track as part of the Proposed Development are limited to the formation of two passing places within plantation woodland along the access route, are unlikely to result in any significant habitat damage, and will avoid impacts on mature trees or habitat used by invertebrates. There are no proposals for artificial lighting along the access track. Accordingly, the main excavation site would be a more appropriate boundary to consider for effects on FLL, and this lies 6.53km from The Mens SAC.
- 5.2.8 The draft Sussex Bat SAC Planning Protocol (South Downs National Park Authority, n.d.) states that the key conservation area for the qualifying species is 6.5km (which falls short of the excavation site) but creates a wider consultation zone of 12km. However, Greenaway (2008) derived core sustenance zones for barbastelle around the two SAC using minimum convex polygons (MCP) from radio tracking studies (see Appendix III). This shows the MCP for barbastelles from The Mens SAC falling short of Bucks Green (east of the application site), but mainly following the Arun Valley to the south. The MCP for Ebernoe Common SAC does not extend further north-east than Plaistow (west of the application site). These data suggest the application site is not within the core migratory range of barbastelles forming part of the SAC populations. Furthermore, the Environmental Impact Assessment scoping opinion for the Proposed Development confirmed that "*the Site is not within or near any known flightlines for bats from Ebernoe Common SAC or The Mens SAC.*"
- 5.2.9 As such, there is no evidence of the qualifying populations of bat within The Mens SAC or Ebernoe Common SAC utilising the application site, and its use as FLL to the designated sites can be ruled out.

Water neutrality

- 5.2.10 Groundwater at the Hardham borehole supplies the Sussex North Water Supply Zone and there are significant concerns regarding the current Southern Water abstraction at this site (JBA Consulting, 2021). Natural England has advised that it cannot conclude with certainty that this process is not having an adverse effect upon the integrity of designated sites within the Arun Valley. A reduction in water levels and potential water quality impacts may be leading to a deterioration of habitat at Amberley Wild Brooks SSSI and Pulborough Brooks SSSI, which form part of the Arun Valley SAC / SPA / Ramsar.

- 5.2.11 As it cannot be concluded that the existing abstraction within SNWSZ is not having an impact on the Arun Valley SAC / SPA / Ramsar, developments within this zone must not add to this impact. To achieve this water neutrality must be demonstrated before planning permission can be given. The definition of water neutrality is that the use of water in the supply area before the development is the same or lower after the development is in place (Natural England, 2021).
- 5.2.12 An assessment of the overall water impact of the Proposed Development, including during operation and following restoration, was undertaken by Caulmert Limited (ProTreat, 2021). This concluded that the Proposed Development is not expected to pose a risk to groundwater or surface water at the application site. The potential impact from the site on groundwater levels is considered to be negligible due to the absence of a water table.
- 5.2.13 As the clay mineral is extracted from the site, any surface water ingress to the void will be controlled by a series of sumps and trenches as the extraction progresses. Pumps will dewater the working area into a segregated area in the surface water lagoon. Surface water run off from rainfall on the rest of the site will be channelled to the clean section of the surface water lagoon. Where possible, surface water from the lagoon will be treated and used in the Mist Air system to remove airborne dust from inside the CMRF. Any water discharged from the site will be subject to a water discharge permit obtained from the Environment Agency.
- 5.2.14 Annual average rainfall at this location is 600mm (min 41mm month and max 69mm month), which equates to 36,000m³ of rainwater falling on the 6ha claypit area. The Mist Air system will require 1,300m³ / annum of treated rainwater (ProTreat, 2021). Accordingly, the surface water collected in the settlement pond will far exceed the water needed for the Mist-Air dust management system. The vast majority of the water used in this system should return to the settlement lagoon. The wheel wash will comprise a wet system with recirculated surface water, and treated surface water will be used for hand washing and toilet flushing.
- 5.2.15 Only drinking water will be imported to site instead of being supplied from the existing surface water or gained through rainfall. This will comprise 50 litre containers sourced from outside the North Sussex Water Supply Zone.
- 5.2.16 As such, the Proposed Development is considered to be water neutral and no impact pathway in this regard exists between the application site and the Arun Valley SAC / SPA / Ramsar.

5.3 Screening Assessment

- 5.3.1 Table 5.1 provides a screening assessment of those impact pathways which were considered as potentially resulting in significant effects on the qualifying features of designated sites scoped in within Chapter 4.

Table 5.1: Screening Assessment, including consideration of in-combination effects

Impact pathway	Potential for LSE during construction	Potential for LSE during operation and decommissioning
Functionally linked land	<p>No Likely Significant Effects associated with the Proposed Development in isolation or in-combination.</p> <p>Despite the confirmed presence of barbastelle and possible presence of Bechstein’s bat at the application site in 2020, there is no evidence to suggest that the qualifying populations of bat within The Mens SAC or Ebernoe Common SAC utilise the application site. Therefore likely significant effects to FLL during construction are screened out.</p>	<p>No Likely Significant Effects associated with the Proposed Development in isolation or in-combination.</p> <p>Despite the confirmed presence of barbastelle and possible presence of Bechstein’s bat at the application site in 2020, there is no evidence to suggest that the qualifying populations of bat within The Mens SAC or Ebernoe Common SAC utilise the application site. Therefore likely significant effects to FLL during construction are screened out.</p>
Water neutrality	<p>No Likely Significant Effects associated with the Proposed Development in isolation or in-combination.</p> <p>The Proposed Development has demonstrated water neutrality and is therefore in compliance with Natural England’s Position Statement for applications within the Sussex North Water Supply Zone.</p>	<p>No Likely Significant Effects associated with the Proposed Development in isolation or in-combination.</p> <p>The Proposed Development has demonstrated water neutrality and is therefore in compliance with Natural England’s Position Statement for applications within the Sussex North Water Supply Zone.</p>

6 Summary

6.1 Introduction

6.1.1 This document sets out a HRA for the Proposed Development at Land north of Loxwood Road, Billingshurst, West Sussex.

6.2 Scope of the Assessment

6.2.1 Acknowledging that the application site is not directly connected with or necessary to management of the sites for nature conservation, the HRA considers the following internationally designated sites for likely significant or adverse effects on integrity:

- ▶ The Mens SAC;
- ▶ Ebernoe Common SAC;
- ▶ Arun Valley SAC;
- ▶ Arun Valley SPA; and
- ▶ Arun Valley Ramsar.

6.3 Summary of Findings

6.3.1 The impact pathways considered applicable to the Proposed Development include:

- ▶ Functionally Linked Land; and
- ▶ Water neutrality.

6.3.2 No likely significant effects were identified in relation to any of the designated sites, either alone or in-combination with other projects, for any of the impact pathways listed above.

6.4 Conclusions

6.4.1 The Proposed Development can be considered compliant with Regulation 63 of the Habitats Regulations with regards to: The Mens SAC; Ebernoe Common SAC; Arun Valley SAC; Arun Valley SPA; and Arun Valley Ramsar.

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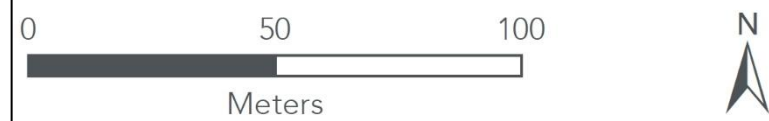
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Appendix I: Phase 1 Habitat Plans

Loxwood Clay Pits, West Sussex

- Application site
- Semi-natural broadleaved woodland
- Broadleaved plantation
- Conifer plantation
- + High suitability tree
- + Moderate suitability tree
- + Low suitability tree
- ▲ Pond numbers
- Proposed access route
- Ancient woodland
- Ancient re-planted woodland
- Retained boundary



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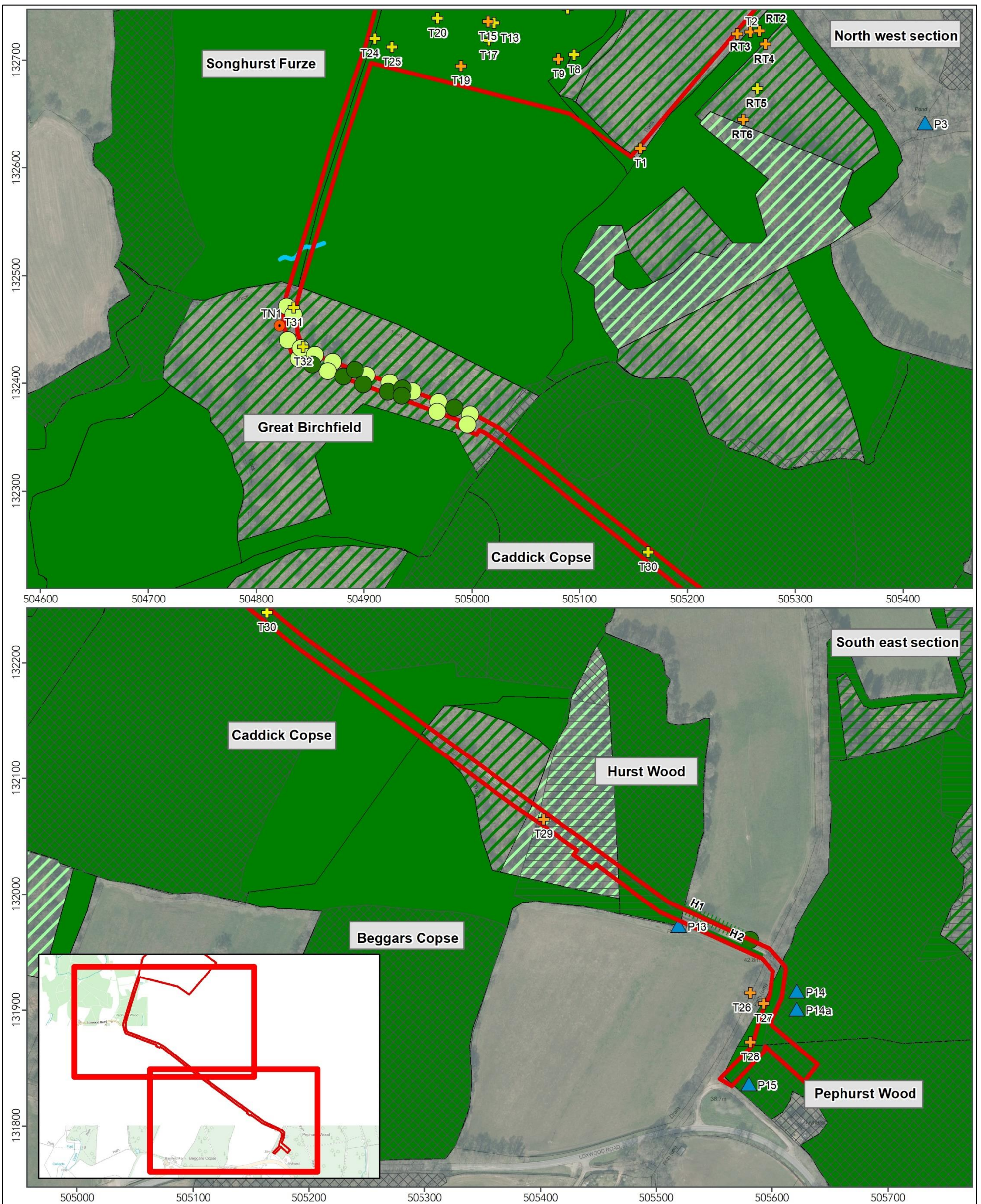
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Access route, Loxwood, West Sussex

- | | | |
|-----------------------------------|----------------------------|-----------------------------|
| Application site | High suitability tree | Ancient woodland |
| Semi-natural broadleaved woodland | Moderate suitability tree | Ancient re-planted woodland |
| Broadleaved plantation | Low suitability tree | |
| Coniferous plantation | Pond numbers | |
| Running water | Scattered broadleaved tree | |
| Species-poor hedgerow | Scattered coniferous tree | |
| Species-poor hedgerow with trees | | |



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Appendix II: Designated Sites Threats & Pressures

Threats and Pressures from the Site Improvement Plan for The Mens SAC

Priority & Issue	Pressure or Threat	Feature(s) affected
<p>1. Forestry and woodland management</p> <p><i>A small area of the site was clear felled without consent in the last ten years and needs restoring to woodland.</i></p>	<p>Pressure</p>	<p>Beech forests on acid soils, barbastelle</p>
<p>2. Forestry and woodland management</p> <p><i>Woodland management for SSSI features (lichens, invertebrates) which require higher light levels may have a significant impact on the bat species. Additionally some management of the beech woodland is necessary in places. More information about potential impacts on bat species is required.</i></p>	<p>Pressure/Threat</p>	<p>Beech forests on acid soils, barbastelle</p>
<p>3. Habitat connectivity</p> <p><i>The protected site is limited to a woodland core area where breeding colonies are known to exist. The bats, however, rely on commuting and foraging habitat outside of the site and this needs to be better understood, protected and appropriately managed. It would also be useful to understand how this site relates to other bat SACs in the southern part of the UK to ensure that they and the connecting habitats are managed appropriately to maintain favourable populations.</i></p>	<p>Pressure</p>	<p>Barbastelle</p>
<p>4. Habitat connectivity</p> <p><i>Ebernoe Common and The Mens are similar SACs which lie within 5km of each other. It is likely that the bat populations of both sites are genetically linked. Barbastelle bats are known to commute more than 5km and there is continuous woodland cover between the sites to allow Bechstein's to travel. There is a case to investigate whether the two sites should be treated within one overarching N2K site. It would also be useful to understand (through genetic analysis) how this site relates to other bat SACs in the southern part of the UK to ensure that they and the connecting habitats are managed appropriately to maintain favourable populations.</i></p>	<p>Threat</p>	<p>Barbastelle</p>
<p>5. Invasive species</p> <p><i>Rhododendron is invading the south eastern edges of the site and surrounds the edges of the site on the northern side.</i></p>	<p>Threat</p>	<p>Beech forests on acid soils</p>
<p>6. Change in land management</p> <p><i>Land management in the surrounding countryside will have an impact on foraging areas for Barbastelle bats but at present the forage requirements, ie how much habitat and of what type, are poorly understood. Ultimately, inadequate foraging will impact on breeding success within the site. Further investigation of foraging and bat</i></p>	<p>Pressure/Threat</p>	<p>Barbastelle</p>

Priority & Issue	Pressure or Threat	Feature(s) affected
<i>commuting route requirements of notified bat species is required, informing better management of mature hedgerows which need to be restored and maintained in the area around the site.</i>		
7. Air pollution: risk of atmospheric nitrogen deposition <i>Nitrogen deposition exceeds the site-relevant critical load for ecosystem protection and hence there is a risk of harmful effects, but the sensitive features are currently considered to be in favourable condition on the site. This requires further investigation.</i>	Threat	Beech forests on acid soils, barbastelle
8. Public Access/Disturbance <i>It is known that light pollution has an impact on bat species. The investigation would seek to identify what light levels are presently and deduce whether they are having an impact on bat movements/roosting availability in and around the SAC areas.</i>	Pressure/Threat	Barbastelle

Threats and Pressures from the Site Improvement Plan for Ebernoe Common SAC

Priority & Issue	Pressure or Threat	Feature(s) affected
1. Forestry and woodland management <i>Woodland management for SSSI features (lichens, invertebrates) which require higher light levels may have a significant impact on the bat species. Additionally some management of the beech woodland is necessary in places. More information about potential impacts on bat species is required.</i>	Pressure/Threat	Beech forests on acid soils, barbastelle, Bechstein's bat
2. Offsite habitat availability/management <i>The protected site is limited woodland core area where breeding colonies are known to exist. The bats, however, rely on commuting and foraging habitat outside of the site and this needs to be better understood, protected and appropriately managed. It would also be useful to understand how this site relates to other bat SACs in the southern part of the UK to ensure that they and the connecting habitats are managed appropriately to maintain favourable populations.</i>	Pressure	Barbastelle, Bechstein's bat
3. Habitat fragmentation <i>Ebernoe Common and The Mens are similar SACs which lie within 5km of each other. It is likely that the bat populations of both sites are genetically linked. Barbastelle bats are known to commute more than 5km and there is continuous woodland cover between the sites to allow Bechstein's to travel. There is a case to investigate whether the two sites should be treated within one overarching Natura 2000 site. It would also be useful to understand (through genetic analysis) how this site relates to other bat SACs in the southern part of the UK to ensure that they and the connecting</i>	Threat	Barbastelle, Bechstein's bat

Priority & Issue	Pressure or Threat	Feature(s) affected
<p><i>habitats are managed appropriately to maintain favourable populations.</i></p>		
<p>4. Change in land management</p> <p><i>Land management in the surrounding countryside will have an impact on foraging areas for Barbastelle bats but at present the forage requirements (how much habitat and of what type) are poorly understood. Ultimately, inadequate foraging will impact on breeding success within the site. Further investigation of foraging and bat commuting route requirements of notified bat species is required, informing better management of mature hedgerows which need to be restored and maintained in the area around the site.</i></p>	Pressure/Threat	Barbastelle
<p>5. Hydrological changes</p> <p><i>Recent research has shown that water availability (ponds and streams) within Bechstein's breeding sites is likely to be important. Housing development around the site and hydrological changes in the local area could impact on the availability of these habitats.</i></p>	Threat	Bechstein's bat
<p>6. Air pollution: risk of atmospheric nitrogen deposition</p> <p><i>Nitrogen deposition exceeds the site-relevant critical load for ecosystem protection and hence there is a risk of harmful effects, but the sensitive features are currently considered to be in favourable condition on the site. This requires further investigation.</i></p>	Threat	Beech forests on acid soils, barbastelle, Bechstein's bat
<p>7. Public Access/Disturbance</p> <p><i>It is known that light pollution has an impact on both myotis species, ie Bechstein's and Horseshoe bats. The investigation would seek to identify what light levels are presently and deduce whether they are having an impact on bat movements/roosting availability in and around the SAC areas.</i></p>	Pressure/Threat	Bechstein's bat



Threats and Pressures from the Site Improvement Plan for Arun Valley SAC/SPA

Priority & Issue	Pressure or Threat	Feature(s) affected
<p>1. Inappropriate water levels</p> <p><i>Environment Agency is ceasing to administer Internal Drainage Board (IDB) ditches, and water control structures, with the likelihood that management will revert to landowners/Local Authorities. This has implications for management/clearance of the ditches and maintenance of water controlling structures. There could be impacts on water levels, the marginal and in-channel flora and associated species. Anisus vorticulus is not known to tolerate occasional ditch drought (M.Willings, Pers Comm 2014). Bewick's Swan and the majority of water bird assemblage species for which the site is classified require large bodies of in field</i></p>	Threat	Bewick's Swan, Little ramshorn whirlpool snail, Waterbird assemblage

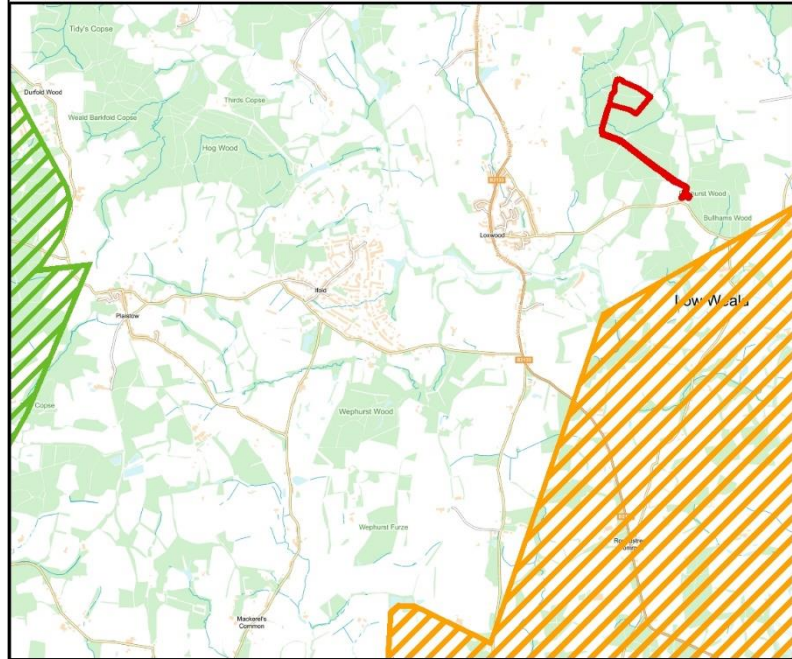
Priority & Issue	Pressure or Threat	Feature(s) affected
<p>water and water levels maintained within the ditch systems.</p>		
<p>2. Inappropriate water levels</p> <p><i>Environment Agency are reviewing management of river bank defences adjacent to the Special Protection Area/Site of Community Importance in the medium term (beyond 10 years) as part of the Lower Tidal River Arun Strategy (LTRAS) project. If the banks are not maintained, there will be a permanent increase in water levels, with added risk of changes in salinity, water levels, and increasing water pollution (rivers Stor and Arun failing for phosphorus levels). Anisus vorticulus is not known to have a tolerance for elevated salinity levels. The majority of Ramsar plant species (also key supporting habitat for A.vorticulus and Bewick's swan) are intolerant of poor water quality. Impacts of increased salinity largely unknown.</i></p>	<p>Threat</p>	<p>Bewick's Swan, Little ramshorn whirlpool snail, Waterbird assemblage</p>
<p>3. Water pollution</p> <p><i>There's a risk that undetected deterioration in the quality of water entering the ditch systems is impacting upon SPA/SCI/Ramsar species. Anisus vorticulus requires good water quality. An important food source for Bewick's swan is Potamogeton spp. (pond weeds), which also requires good water quality, as do the majority of aquatic plant species for which the Ramsar is designated, and which is the essential supporting habitat for A.vorticulus. The rivers Arun and Stor are failing on phosphate levels. Directly linked to this is point source pollution from a sewage treatment works upstream of the site. There may also be a risk of increased levels of nutrients entering the site through flooding, especially if the river banks are not maintained (see issue of changes in water levels). The classified bird species are also vulnerable to increased levels of nutrient enrichment as there is an increased likelihood of certain disease. Increase in growth of vegetation from sustained nutrient enrichment can make the habitat unsuitable for many bird species (Literature Review, Mott McDonald, 2006). Diffuse pollution from agricultural run off is likely to be contributing to the phosphate levels (this issue is managed via Catchment Sensitive Farming).</i></p>	<p>Threat</p>	<p>Bewick's Swan, Little ramshorn whirlpool snail</p>
<p>4. Inappropriate ditch management</p> <p><i>This is linked to issue 1 and possible cessation or changes in the method and frequency of ditch management/clearance. Anisus vorticulus is sensitive to changes in, and cessation of ditch management, as are the marginal and in-channel flora. The management requirements of A. vorticulus are little understood, so further research is required. Further surveys are also required- there has not been a full survey of A.vorticulus at Amberley since 1997. A full survey has been undertaken at Pulborough 2013/14, but repeat surveys will be necessary.</i></p>	<p>Pressure/Threat</p>	<p>Bewick's Swan, Little ramshorn whirlpool snail</p>

Appendix III: MCP Plan for SACs (Greenaway, 2008)

Loxwood Clay Pits, West Sussex

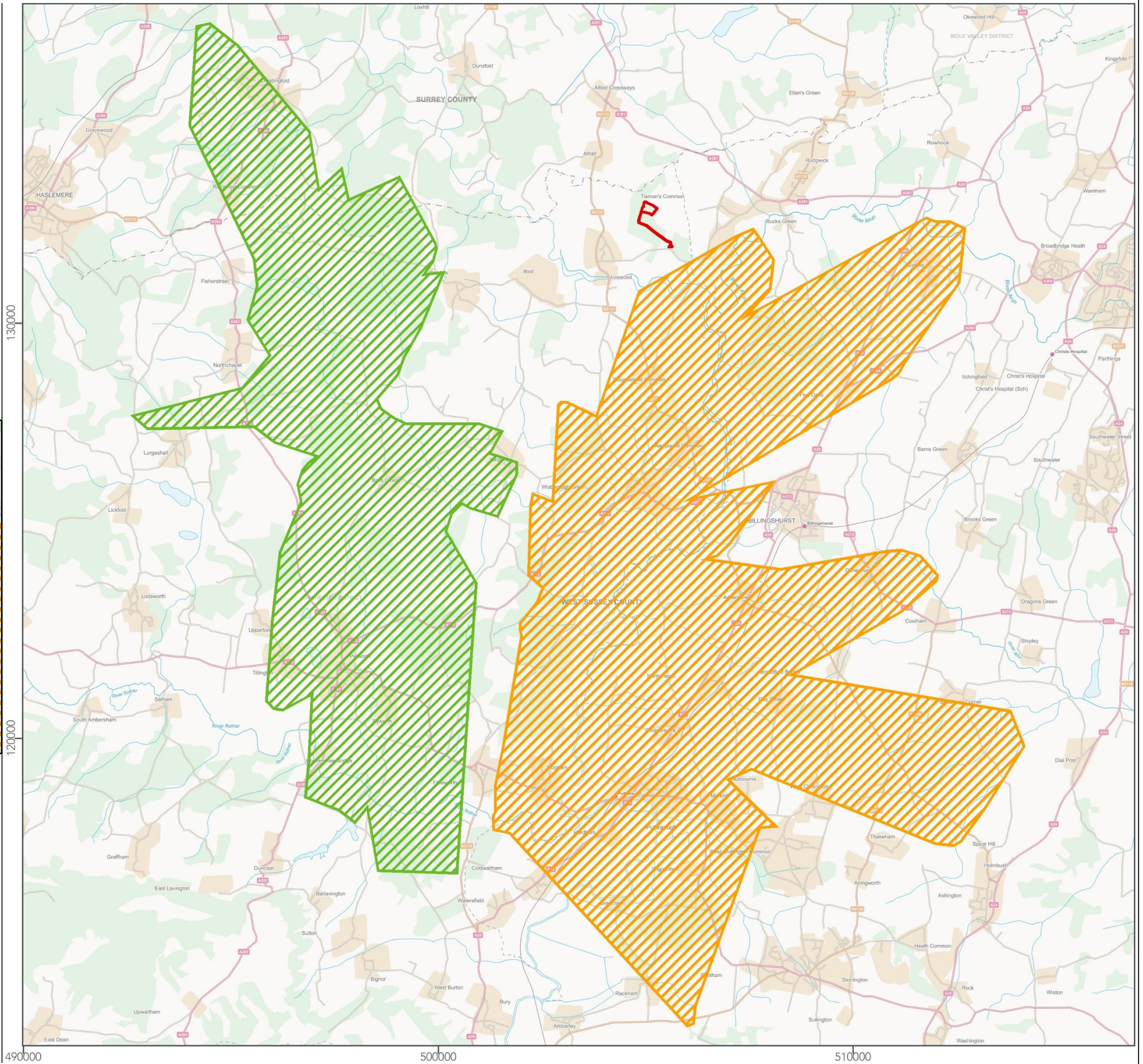
-  Application site
-  Ebernoe Common SAC MCP
-  The Mens SAC MCP

Reproduced from Greenaway F. (2008): Barbastelle Bats in the Sussex West Weald 1997 – 2008



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Date: Dec 2021 **Reviewed by:** NP
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- Any works undertaken as a consequence of the recommendations provided within this report should be subjected to the necessary health & safety checks and full risk assessments.

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NATURAL PROGRESSION



SECTION B

SECTION B

REGULATION NOTICE

Michael Elkington
Strategic Planning Manager

Please respond: Chris Bartlett



www.westsussex.gov.uk

County Planning

County Hall
Chichester
West Sussex
PO19 1RH

Tel: 01243 642118



Mr. Chris Williamson
ProTreat Ltd,
(By email only)

10th December 2021

Dear Mr. Williamson,

Application Number: WSCC/030/21
Address: Pallington Woods, Loxwood Road, Loxwood, West Sussex, RH14 0RW
Proposal: A clay quarry and construction materials recycling facility (CMRF) for CD&E wastes including the use of an existing access from Loxwood Road, the extraction and exportation of clay and restoration using suitable recovered materials from the CMRF to nature conservation interest including woodland, waterbodies and wetland habitats

Town and County Planning Act 1990 (as amended)

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

Regulation 25 Further Information and Evidence Respecting Environmental Statements

I refer to the above application and write, in accordance with Regulation 25 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, to formally request that further information be submitted to West Sussex County Council ("the Council").

The submission of the following information is seen to be essential further information in respect of the application to verify the particulars of the submitted development proposals, and to enable proper consideration of the likely environmental effects. Notwithstanding any further information that may later be deemed necessary, the following information will be required to enable the Council to determine the application.

Where possible the following request refers to the comments of selected consultees and provides a summary of the additional information requested. For full details please see the full comment from each consultee available on the County Council's website at: <https://westsussex.planning-register.co.uk/Planning/Display/WSCC/030/21>

In addition, further information that is requested in support of the planning application, but not requested under Regulation 25, is listed.

If you consider that the requested information has already been submitted, please provide details of where in the submitted information it can be found.

Plans

- A plan showing the new access surface boundaries and the width of the access track including the layby areas.

Highways

Please refer to the full comments of WSCC Highways dated 3rd August 2021. In summary clarification/further information is sought in respect of the following;

- Revised visibility splays, should these not be achievable a departure from standard, should be applied for.
- GG119 Appendix F compliant designers' response (in word format)
- Staff Trip Generation Information
- Westbound HGV tracking or clarification on planning statement para 4.3
- Details on layby parking, any restrictions proposed and HGV routing on exit.

Ecology

Please refer to the full comments of WSCC Ecology given in September 2021. In summary clarification/further information is sought in respect of:

- Whether full compensation has been offered and whether biodiversity net gain can reasonably be achieved given the extent of the habitat loss and the very long-term nature of the extraction and subsequent restoration (currently estimated at 33 years). A net habitat-loss score equivalent to -36.57% has been stated and whilst there is expected to be additional biodiversity mitigation and enhancement measures provided as part of the proposed development, it is unclear what contribution this will make to the compensation for overall habitat loss at this time.
- An ecological management plan is proposed to ensure that the habitats are maintained in target condition for the lifetime of the development and detailed method statements for implementing BNG measures are expected to be contained in a Landscape and Ecological Management Plan. With its current absence however, it isn't possible to judge whether the loss of the habitats on site particularly those of 'principal importance' could be compensated for let alone able to achieve 10% BNG.

Natural England commented on 11th November 2021 and I would also direct you to their full comments. In summary, clarification/further information is sought regarding:

- Ebernoe Common SAC and The Mens SAC Impacts to Bats
- Habitat Regulations Assessment
- Arun Valley SPA, SAC and Ramsar Site- Sussex North Water Supply Zone
- Ancient Woodland; and
- Priority Habitats

They state that "as submitted, the application could have potential significant effects on:

- *Ebernoe Common Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)*
- *The Mens SSSI and SAC*
- *Arun Valley Special Protection Area (SPA), SAC and Ramsar*

Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation."

Public Rights of Way (PROW)

Please refer to the full comments of WSCC PROW dated 11th August 2021. In summary clarification/further information is sought in respect of the following;

- Clarification of public footpath 795 with regards to it being "fenced off" and how you are seeking to implement this.
- Clarification of suspending footpath 792_1.
- Further information regarding safety and management of conflict at the proposed crossing point of bridleway 3240 and footpath 795. Such information is also sought for the crossing of footpath 792.

Landscape and Trees

Please refer to full comments of WSCC Arboriculturist consultant dated 27th August 2021. In summary clarification/further information is sought in respect of the following;

- WSCC's Arboricultural Officer highlights that "Paragraph 2.5 of the planning statement states "much of the site contains little of any arboricultural significance...", yet the tree survey has categorised all individuals (except T95 and T96) and groups as either A or B within the red line and extended survey area. Category A and B trees and tree groups would be lost as a result of the proposal." They go on to say "Paragraph 5.4 states that 'All of the trees that will be retained on site will be protected for the duration of the works according to BS5837 as far as it is practicable.' This does not provide assurance that all retained trees will be protected in accordance with BS5837. A tree retention and protection plan has not been submitted.
- Paragraph 5.3.3 of the AIA states that 'a strong evidence base does not exist regarding the potential impact of anthropogenic noise on non-marine UK protected species and their habitats' but does not provide the reference to this study.

Drainage

Please refer to full comments of WSCC as Lead Local Flood Authority (LLFA) dated 12th August 2021. In summary clarification/further information is sought in respect of the following;

- The LLFA has insufficient information upon which to assess the management of surface water to ensure compliance with local and national policy. Please therefore provide a detailed drainage strategy. This should include the approach taken with regard to tree removal and stripping of topsoil.

Noise

Please refer to full comments of Chichester District Council's Environmental Protection Officer (EPO) dated 2nd September 2021. In summary clarification/further information is sought in respect of the following;

- The EPO recommends increasing insulation to bring predicted noise levels lower. Please clarify whether this is possible and whether you could include this in the proposal.
- The EPO recommends a condition limiting hours of work Monday – Friday only. It's understood that you are seeking Saturday working from 08:00 – 13:00, however, considering the impacts highlighted, is the applicant comfortable with a limit for weekday working only?

Additional Information to be supplied (not requested under Regulation 25)

Water Neutrality

- The application site is situated in an area of serious water stress where mains water is supplied by Southern Water from its Sussex North Water Resource Zone. This supply is sourced from abstraction points in the Arun Valley, which includes locations such as Amberley Wild Brooks Site of Special Scientific Interest (SSSI), Pulborough Brooks SSSI and Arun Valley Special Protection Area/Special Area of Conservation and Ramsar site. On 14 September 2021, a [Position Statement](#) was issued by Natural England that sets out it cannot be concluded that the existing abstraction within the Sussex North Water Supply Zone is not having an impact on the Arun Valley sites. It advises that development within this zone must not add to this impact.
- The proposed development will result in an increase in water consumption, and as a result there will be a need for the County Council to carry out an Appropriate Assessment under the Habitats Regulations to demonstrate the proposal would not adversely affect the integrity of the protected sites. If an application cannot demonstrate water neutrality is reasonably achievable, the development will not meet the requirements of section 63 of the Habitats Regulations, and the application could not be determined positively.
- For an appropriate assessment to be made, you are required to provide a 'water neutrality statement' setting out the strategy for achieving water neutrality within the development. This should include full details of any proposed water usage, including consideration of any new or increased occupancy/staff which may be required to support the development. This may include consideration of measures such as building significant water efficiency measures into the development and by providing offsetting measures to reduce water consumption from existing development, to ensure neutrality is achieved. The mechanism for securing any offsetting/reduction measures should also be clearly set out (including draft legal agreements for any off site offsetting proposed).

Where the further information sought would require amended plans, they should be allocated a new 'revision' number and any plans to be superseded should be identified. It is also advised that the information should be presented in a single supplementary submission.

We would be grateful for your confirmation of the likely timescale necessary to allow the applicant to respond to the above request and comments received from third parties/consultees, in order that an extended target determination date may be agreed.

If you require any further clarification or if you wish to discuss the information requested, please feel free to contact me.

Yours sincerely

Chris Bartlett
Principal Planner
County Planning

SECTION B

RESPONSE TO REGULATION NOTICE

PLANS

Figure PS11 shows the proposed access track across the new bridge

drainage ditch. The proposed access track is shown in Figure PS11.

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PS11

Para. 4.10 states that the width of the access track across the new bridge

will be 3.5m and this is shown in Figure PS11.

The reference to "new access surface boundaries" is ambiguous but there

is no new access. Part of the existing access track was surveyed in detail

in January 2021 and this is shown in Figures PS8.2 & PS21. Para. 5.6 of

the Environmental Statement refers to the 3-D containment edge

restraints.

Figure PS5 shows the internal haul road in the clay pit development area.

During the survey to produce Figures PS8.2 & PS21 the entire length of the EXISTING access track was surveyed for width to ensure at least a 5m width throughout its length thereby allowing single track passage for HGVs with laybys used for passing places.

Figure PS21 is shown below.

HIGHWAYS - See report submitted in Section A 4

See GG119 Appendix F submitted in Word format on the 1st September 2021 by email to C Bartlett.

To clarify paras 2.9, 4.1, 4.3 and page 39 of the Planning Statement it is proposed that all HGVs will travel to/from the layby access on Loxwood Road to/from the direction of Bucks Green at the junction of Loxwood Road and the A281. No HGVs will travel through the village of Loxwood. All HGVs leaving the site at the layby on Loxwood Road will turn left.

Para. 4.13 refers and the HGV access / egress including direction of travel was detailed in Figure PS13.

If the Planning Statement is read in conjunction with Section 10 of the Environmental Statement there can be no confusion. In particular in Mitigation Para. 10.28 of the Environmental Statement refers as follows:

"All HGVs will approach the site from the east and leave the site towards the east on Loxwood Road to the junction with the A281 at Bucks Green and this will be subject to a lorry routing agreement" AND

"The entrance to the layby will be widened as detailed in Figure PS13 and maintained in accordance with a Section 106 Agreement with signs installed drawing attention to the new road layout".

An HGV routing agreement to this effect is acceptable.

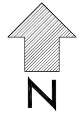
Layby parking details are shown in Figure PS20 in Section A 4.

As stated in the Planning Statement, employees will be sourced locally and paras 10.17, 10.21, 18.25 and 22.44 of the Environmental Statement provide more details. Based on the number of employees stated in the planning application form, there is no legal requirement to provide Staff Trip Generation Information.

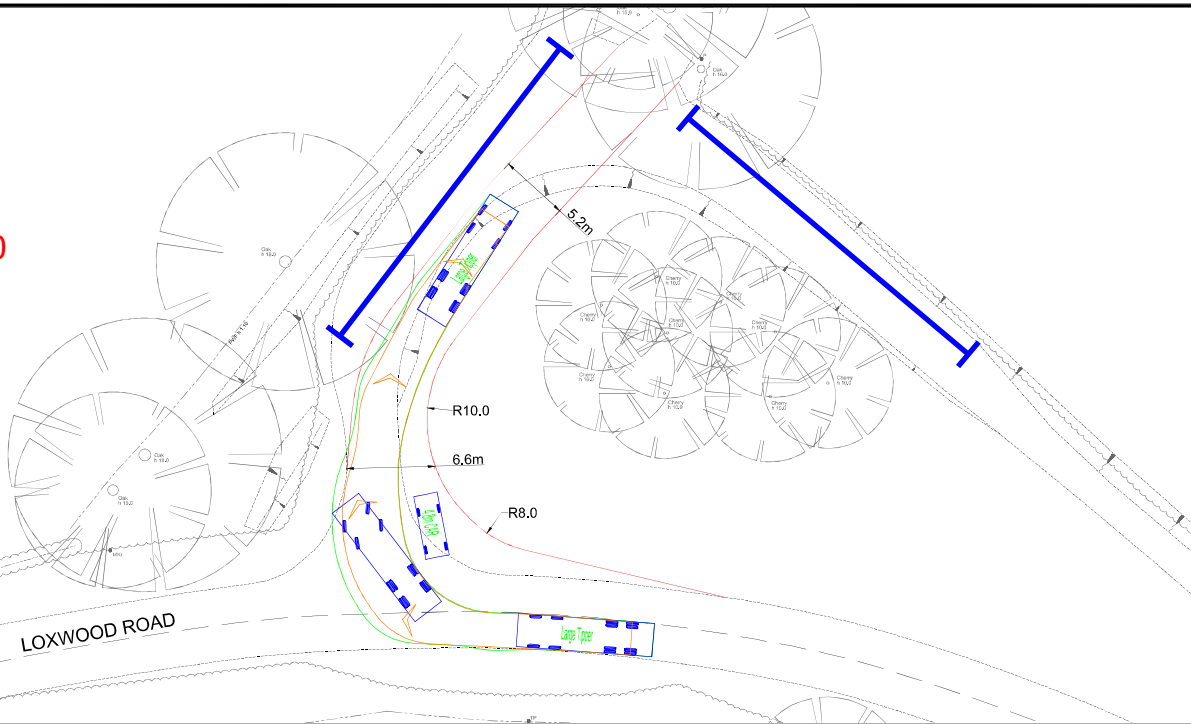
For the reasons given in para. 10.24 of the Environmental Statement, and the addendum to Appendix ES E no departure from standard for visibility splays needs to be applied for.

The revised Figure PS13 is shown below as Figure PS13 Rev 1.

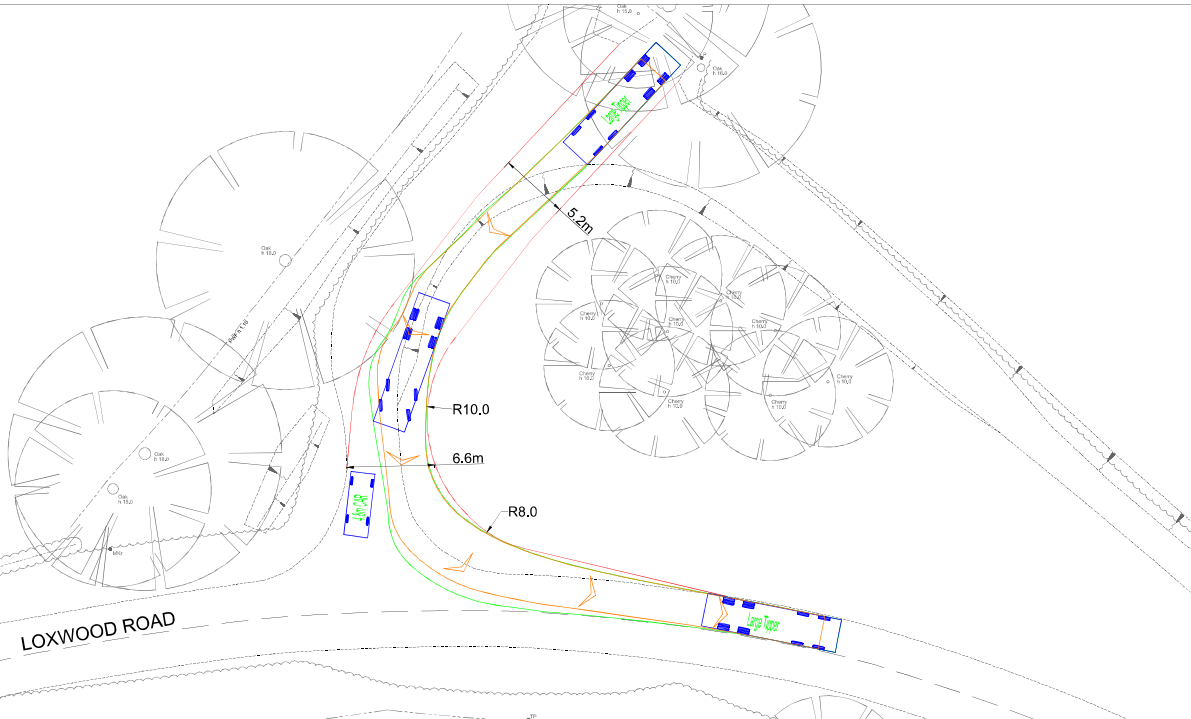
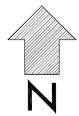
FIGURE PS13 Rev1



Existing car parking shown unaffected as detailed in PS20

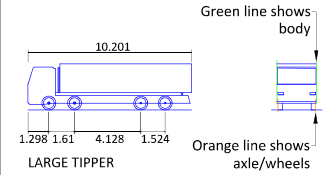


BAY 1 - ACCESS



BAY 1 - EGRESS

VEHICLE DETAILS:



LARGE TIPPER	
Overall Length	10.201m
Overall Width	2.495m
Overall Body Height	2.890m
Min Body Ground Clearance	0.341m
Track Width	2.471m
Lock-to-lock time	6.00s
Curb to Curb Turning Radius	11.550m

Design speed 5kph for all Forward movements
Design speed 2.5kph for all Reverse movements

Client



Project

LOXWOOD ROAD

Drawing Title

SWEPT PATH ANALYSIS USING A
4 AXLES RIGID TIPPER

Drawing Status

FOR PLANNING

Drawn AT	Designed NC	Date AUG 2021	Scale 1:200	Size A1
Drawing No. NJC-002				Rev -

ECOLOGY

See Section A 6 of this document.

PUBLIC RIGHTS OF WAY

Since the PROW Officer's report was issued on the 11 August 2021 a further report has been sent direct to the PROW Officer by our appointed PROW Expert Mike Walker.

Please see Section A 3 of this document.

LANDSCAPE AND TREES

The reference for para 5.3.3 of Appendix ES P of the Environmental Statement has been requested from the authors of the AIA.

See Section A 5 of this document.

DRAINAGE

The planning application was registered on the 22 July 2021. The LLFA's consultee report was issued 2 weeks later on the 12 August. The Hydrology and Hydrogeology Section 12 of the Environmental Statement must be read in conjunction with paras 4.6, 4.7, 4.8, 6.2, 8.16 and 12.30 of the Environmental Statement and considered with Figures PS5 (including lagoon cross section), PS6 and PS8.1.

It is not correct to suggest that no detailed drainage strategy has been developed by which detailed calculations of storm water storage requirements has been considered. The precise sizing / depth of the lagoon is now influenced by the requirement to achieve water neutrality and to avoid the need for a mains water supply and use treated surface water for the Mist Air system, hand washing, toilets, wheel wash etc. See Section A 7 of this document.

Any further detail than this is normally undertaken separately to the FRA and conditioned as part of the planning. We do clearly state that the discharge from the site will not exceed greenfield runoff rates throughout the development of the site. Further details as to how this will be achieved with the size of the ditches and penstock valves etc. should be conditioned.

With regard to the increase in runoff associated with the stripping of trees then the construction of a drainage ditch would manage this. Section A 6 - WMP should also be considered, this is not an issue.

NOISE

Increased insulation to the CMRF building cladding could be included to an agreed building regulations standard. Furthermore, the main mechanical equipment inside the CMRF could be located inside acoustic hoods.

Before LCP considers whether it would be prepared to limit Saturday working, a number of points need to be clarified in CDC EPO's report. It is not clear that the EPO has understood that the Noise assessment assumes the worst case from on site electricity generation. It is not clear that para. 1.14 has been considered re mains supply. The Noise assessment conclusions are also based on the worst case with a dust extraction system from the CMRF. However, Section 18 of the Environmental Statement makes it clear that Mist-Air will be used (see also paras 5.8 & 5.11) instead of an extraction system and this is not noisy. Finally, para. 6.2 of the ES makes it clear there will be no HGV movements on a Saturday, which reduces the noise levels.

LCP expects WSCC / CDC's approach to be on a level playing field to WSCC / Horsham District's approach to the recent permission granted by WSCC to a competing facility at Rudgwick, whereby permission has been granted for noisy crushing and screening machinery to operate outside of a building with no noise attenuation.

Ref: Condition 20 WSCC 13/48/RW resolved in 2015.

NATURAL ENGLAND's 11 NOVEMBER 2021 RESPONSE

This raised issues about a Regulatory Habitats Assessment and Water Neutrality etc.

ALL of these issues have been addressed in Section A 7 of this document.