

DATED

8 MAY

2025

WAVIN LIMITED

(1)

To

THE COUNCIL OF THE BOROUGH OF KIRKLEES

(2)

**PLANNING OBLIGATION BY WAY OF
UNILATERAL UNDERTAKING UNDER SECTION
106 OF THE TOWN AND COUNTRY PLANNING
ACT 1990 RELATING TO LAND AT BROMLEY
FARM, UPPER CUMBERWORTH**

Squire Patton Boggs (UK) LLP
6 Wellington Place
Leeds
LS1 4AP
United Kingdom
DX 321801 Leeds

Reference B40898.00002

CONTENTS

1	INTERPRETATION	2
2	STATUTORY PROVISIONS.....	4
3	COVENANTS TO THE COUNCIL	4
4	RELEASE.....	5
5	DETERMINATION OF DEED	5
6	LOCAL LAND CHARGE	5
7	COUNCIL'S COSTS	5
8	OWNERSHIP	5
9	NOTICES	6
10	GENERAL	7
11	THIRD PARTY RIGHTS	7
12	GOVERNING LAW.....	7

THIS DEED is dated the 8TH day of MAY 2025

PARTIES

- (1) **WAVIN LIMITED** (Company No: 00405836) whose registered office is situated at Wavin Edlington Lane, Edlington, Doncaster, South Yorkshire, DN12 1BY (the "Owner").

TO

- (2) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Civic Centre 3, Market Street, Huddersfield, HD1 1WG (the "Council").

BACKGROUND

- (A) The Council is the local planning authority for the Kirklees District within which the Property is situated and by whom the planning obligations within this Deed are enforceable.
- (B) The Owner is the registered freehold proprietor of the Property registered with HM Land Registry under title number WYK717870 and WYK753104 and is also the registered freehold proprietor of the freehold Cumberworth fireclay under part of the Property registered with HM Land Registry under title number WYK755031.
- (C) The Owner has made the Planning Application to the Council and the Council has resolved that subject to the completion of this deed the Planning Permission should be granted.
- (D) The Owner has agreed to enter into this deed in order to allow for the grant of the Planning Permission.

AGREED TERMS

1 INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

"Coal" means coal extracted from the area of the Property pursuant to the Planning Permission as an ancillary result of the quarrying operations permitted by the Planning Permission

"Commencement of Development" means the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed, and for no other purpose, the following operations:

- (a) demolition works;

- (b) site clearance;
- (c) ground investigations;
- (d) site survey works;
- (e) temporary access construction works;
- (f) archaeological investigation; and
- (g) erection of any fences and hoardings around the Property.

"Commencement Date"	means the date of Commencement of Development.
"Development"	means quarrying operations for the extraction of clay, shale and incidental coal and subsequent restoration by means of importation of inert wastes as described in the Planning Application.
"Plan A"	means the plan appended to this Deed within Annex 1.
"Property"	means land situated at Bromley Farm Quarry, Barnsley Road, Upper Cumberworth, Huddersfield, HD8 8PD shown for illustrative purposes edged red on Plan A.
"Planning Application"	means the application for Planning Permission received by the Council on 28 April 2023 for the Development and given reference number 2023/62/91280/EO.
"Planning Permission"	means the planning permission to be granted by the Council in respect of the Planning Application.
"TCPA 1990"	means the Town and Country Planning Act 1990 (as amended).
"Working Day"	means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to the Council shall include the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to this deed or to any other deed or document referred to in this deed is a reference to this deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed).
- 1.11 References to clauses are to the clauses of this deed.
- 1.12 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2 STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990.
- 2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by that person in the Property and any person deriving title to the Property from the Owner.
- 2.3 With the exception of clauses 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 which shall take effect on the date of this deed, this deed shall come into effect on the date of grant of the Planning Permission and the Commencement Date.
- 2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

3 COVENANTS TO THE COUNCIL

- 3.1 The Owner covenants to the Council:
- (a) not to export nor permit the exportation of Coal outside of the Property; and
 - (b) to give at least 10 Working Days written notice to the Council of the Commencement Date.

4 RELEASE

- 4.1 No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.
- 4.2 This deed shall not be enforceable against:
- (a) any statutory undertaker who acquires and/or holds a legal interest in the Property for the purpose of its statutory undertaking; and
 - (b) any future mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property (or any part thereof) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

5 DETERMINATION OF DEED

- 5.1 This deed shall be determined and have no further effect if the Planning Permission:
- (a) is not granted by the Council;
 - (b) expires before the Commencement of Development;
 - (c) is varied or revoked other than at the request of the Owner; or
 - (d) is quashed following a successful legal challenge.

6 LOCAL LAND CHARGE

This deed is a local land charge and the Owner shall request that the Council register it on the local land charge register.

7 COUNCIL'S COSTS

- 7.1 The Owner shall pay to the Council on the date of this deed the Council's reasonable and proper legal fees with all disbursements incurred in connection with the preparation, completion and registration of this deed.

8 OWNERSHIP

- 8.1 The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property.
- 8.2 Until the obligations in clause 3 have been complied with, the Owner will give to the Council within 10 Working Days the following details of any freehold or leasehold transfer of all or any part of the Property:
- (a) the name and address of the person to whom the disposition was made; and

- (b) the nature and extent of the interest disposed of,

provided that this obligation shall not apply to any disposal to a statutory undertaker acquiring any part of the Property for the purpose of its statutory undertaking.

9 NOTICES

- 9.1 A notice or other communication to be given under or in connection with this deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first-class post or other next working day delivery service.

- 9.2 Any notice or other communication to be given under this deed must be sent to the relevant party as follows:

- (a) to the Council at: Civic Centre 1, Market Street, Huddersfield, HD1 1WG (for the attention of the Council's Legal Department)
- (b) to the Owner at: Wavin Edlington Lane, Edlington, Doncaster, South Yorkshire, DN12 1BY (for the attention of Phillip Shenton)

or as otherwise specified by the relevant person by notice in writing to each other person.

- 9.3 Any notice or other communication given in accordance with clause 9.1 and clause 9.2 will be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address provided that, if delivery occurs:
 - (i) before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day; or
 - (ii) after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting.

- 9.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10 GENERAL

- 10.1 Nothing contained or implied in this deed is intended to fetter or prejudice or otherwise affect the rights powers duties and obligations of the Council in the exercise of their functions either as local planning authority or in any other capacity.
- 10.2 Nothing in this deed is intended to prohibit or limit any right to develop any part of the Property in accordance with a planning permission granted after the date of this deed.

11 THIRD PARTY RIGHTS

A person who is not a party to this deed does not (other than the Council) have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

12 GOVERNING LAW

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a DEED by.....)

WAVIN LIMITED

by the signature of a Company Director.....)

in the presence of the undersigned witness:

Director

CHRIS EARL.
MANUFACTURING DIRECTOR.

Signature of witness

Name (in BLOCK CAPITALS

Address.....

JAY BROWN

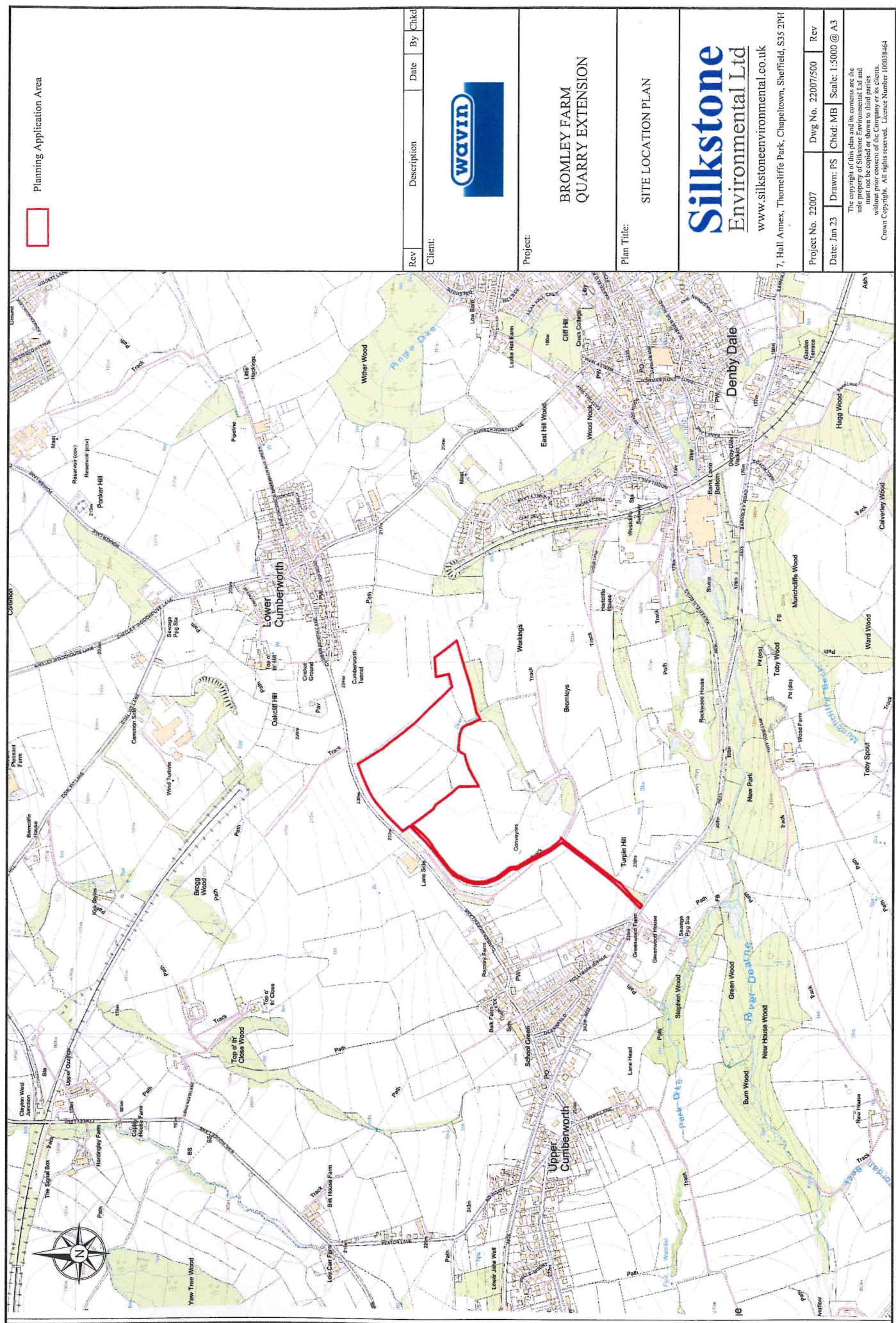
Occupation

FINANCE DIRECTOR

Annex 1

Plan A

Jim Brown



Planning Application Area

Rev	Description	Date	By	Chkd
Client:				



Project:
**BROMLEY FARM
QUARRY EXTENSION**

Plan Title:
SITE LOCATION PLAN

Silkstone
Environmental Ltd
www.silkstoneenvironmental.co.uk
7, Hall Amex, Thornecliffe Park, Chapeltown, Sheffield, S35 2PH

Project No. 22007	Drawn: PS	Chkd: MB	Dwg No. 22007/500	Rev
Date: Jan 23	Scale: 1:5000 @ A3			
The copyright of this plan and its contents are the sole property of Silkstone Environmental Ltd. It must not be copied or shown to third parties without prior consent of the Company or its clients. Crown Copyright. All rights reserved. Licence Number: 100038464				