

THIS AGREEMENT is made the
BETWEEN

24

day of

July

2019

1. **THE DERBY AND SANDIACRE CANAL TRUST LIMITED** (Company Number 02986417) of 62 Broadway, Duffield, BELPER, Derbyshire DE56 4BU ("the Owner") and
2. **DERBYSHIRE COUNTY COUNCIL** of County Hall, Matlock, Derbyshire DE4 3AG ("the Council") of the other part

Interpretation

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

- Independent Expert:** a jointly appointed member of either RIBA or RICS or any other relevant professional body with experience in the design and construction of bridge and road infrastructure
- Permissive Path:** the two metre wide paths to be constructed within the land shown edged red on the Plan
- Plan:** the plan attached to this agreement ref C43056-05.
- Permitted Use:** to pass and repass on foot and on bicycle.
- RIBA:** Royal Institute of British Architects
- RICS:** Royal Institution of Chartered Surveyors
- The Blue Land:** the land shown edged blue on the Plan.
- The Cockayne Bridge:** the bridge under which the Infill Works shall take place
- The Gate:** the new gate to be constructed at point A on the Plan as detailed in Drawing C43056_04
- The Red Land:** the land shown edged red on the Plan.

The Infill - Works:	the works described in Schedule 1 and shown on Drawing C43056-02 annexed to this Agreement
The Permissive Path Works:	the works as shown on Drawing C43056_04
The Replacement Bridge:	a road or bridge to be constructed pursuant to clause 3.5 of this Agreement.

BACKGROUND

A. The Owner owns the freehold interest in the land edged blue on the attached plan registered at the Land Registry under Title Number DY18228 passing under Cockayne Bridge ("the Blue Land") over which the Council wishes to construct the Infill Works.

B. The Owner owns the freehold interest in the land edged red on the attached plan registered at the Land Registry under Title Number DY18228 ("the Red Land") over which the Council wishes to construct the Permissive Path.

C. The Owner does not intend to dedicate any new public rights of way over the Red Land.

D. The Owner has agreed to grant permissive rights to use the Permissive Path across the Red Land on the terms contained in this Agreement.

E. The Council has agreed to install the Gate at Point A on the Plan and as detailed on Drawing C4356_04 attached to this Agreement.

F. The works described above and in Schedule 1 are temporary until such time as the Owner is willing and able to reopen the canal located under Cockayne Bridge.

1. Agreed terms

Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.

References to clauses and Schedules are references to clauses of and the Schedules to of this Agreement and references to paragraphs are to paragraphs of the Schedule.

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives and successors.

The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

A reference to **writing** or **written** includes fax but not e-mail.

Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

Unless otherwise expressly provided, the obligations and liabilities of the parties to this Agreement are joint and several.

2. GRANT OF LICENCE

The Owner grants to the Council, :-

- 2.1 permission to construct the Infill Works the Permissive Path and the Gate in accordance with the details in Schedule 1 Drawing C43056-02 and Drawing C43056_04 attached hereto;

- 2.2 permission for the Council and all others authorised by the Council to use the Permissive Path for the Permitted Use in common with the Owner and all others authorised by the Owner;
- 2.3 permission at any time to go onto any adjoining land owned by the Owner to enable the Council to construct and maintain the Infill Works the Permissive Path and the Gate and comply with the obligations contained in this Agreement;
- 2.4 permission to erect waymarks or notices on the Permissive Path the wording of such notices or waymarks to be first agreed between the parties to indicate the permissive status of the path;
- 2.5 This Agreement is personal to the Owner and the Council and neither party may assign or otherwise transfer the benefit of it.

3. COUNCIL'S OBLIGATIONS

The Council agrees with the Owner:-

- 3.1. to maintain the Infill Works, the Permissive Path and the Gate in good condition for such period as the Infill Works shall remain in place in accordance with this Agreement;
- 3.2. to obtain all necessary planning and other consents and approvals for the intended construction and use of the Infill Works, the Permissive Path and the Gate;
- 3.3. to notify the Owner in writing of the completion of the above works;
- 3.4. to indemnify the Owner against all actions claims damages costs and expenses whatsoever ("the liabilities") arising from the construction maintenance and/or use of the works described in clause 3.1

PROVIDED THAT:-

- 3.3.1 on receipt of any claim the Owner shall give the Council particulars of any claim and of the circumstances out

of which it arose and shall not settle such claim or enter into any negotiations with regard thereto or otherwise compromise such claim without the consent of the Council (such consent not to be unreasonably withheld or delayed)

3.3.2 the Council shall not be required to indemnify the Owner if any claim has arisen as a result of any negligence by the Owner or any person expressly authorised by the Owner (otherwise than by this Agreement) to use the Permissive Path.

3.4 On the date of this Agreement, to insure with a reputable insurance company against public liability risks with a limit of indemnity of not less than £5,000,000 for any one event and to produce on request a copy of the policy and receipt for premiums due and paid.

3.5 At such time as the Owner wishes to reopen the Derby Canal passing under Cockayne Bridge on Longmoor Lane/ Road, the Owner will:

3.5.1 terminate this Agreement by serving written notice to the Council in accordance with the provisions of Clause 4.2;

3.5.2 Upon service of the notice and having been provided with copies of all necessary planning approvals and other consents and approvals for the intended construction of the length of canal passing under the Cockayne Bridge, the Council shall, at its own costs, remove the Infill Works and install the Replacement Bridge:

3.5.3 The design and specifications of the Replacement Bridge shall be agreed with the Council prior to the exercise of the notice in Clause 4.2 however, it is agreed that the design will make every effort to incorporate a water and tow path level so as to allow a

reasonable passage at this same level under Springfield Avenue and Bostocks Lane. This may mean that the level is below that currently in place

3.5.4 If agreement cannot be reached between the Owner and the Council on the design and specification of the Replacement Bridge within a period of six months then the matter is to be determined by an Independent Expert, acting as an expert not an arbitrator, whose final decision is to be final and binding on the parties and whose fees and expenses, including the cost of his appointment, must be borne equally by the Owner and the Council —if either party pays the whole of those fees and expenses, he may recover one half from the other party.

3.6 Should either party terminate this Agreement under the provisions of Clause 4.2 for any other reason than that detailed in Clause 3.5 above the Council shall remove the Infill Works and replace the Cockayne Bridge with a bridge of the same or improved specification as the current Cockayne Bridge.

4. **DECLARATIONS**

The parties declare: -

4.1 that nothing in this Agreement shall be construed as granting to any person or body of persons any rights other than those expressly granted by this Agreement or as granting any estate or interest in land

4.2 that this Agreement may be terminated at any time by either party giving to the other three years' written notice or earlier by agreement of both parties:-

4.2.1 to the Owner at their address as set out in this Agreement or as notified in writing to the Council

4.2.2 to the Council at its then current registered office

but without prejudice to the rights of either party in respect of any antecedent claims or breach of obligation.

5. THIRD PARTY RIGHTS

A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

6. GOVERNING LAW

This agreement 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.

7. JURISDICTION

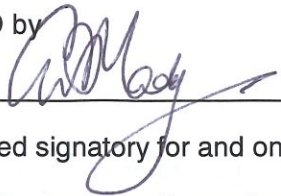
Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

9. OWNERS COSTS

It is agreed the Council will bear the reasonable legal costs of the Owner in respect of the preparation, negotiation and completion of this Agreement.

AS WITNESS the hands of the duly authorised agents of the parties on the date first above written:

SIGNED by



authorised signatory for and on behalf of

The Derby and Sandiacre Canal Trust

in the presence of

Name of Witness

SC Capstone

Signature of Witness



Witness Address

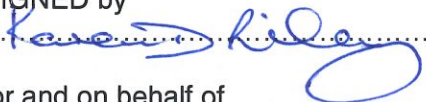
5-7 St Mary's Grd

Derby

Occupation

Self-emp

SIGNED by



for and on behalf of

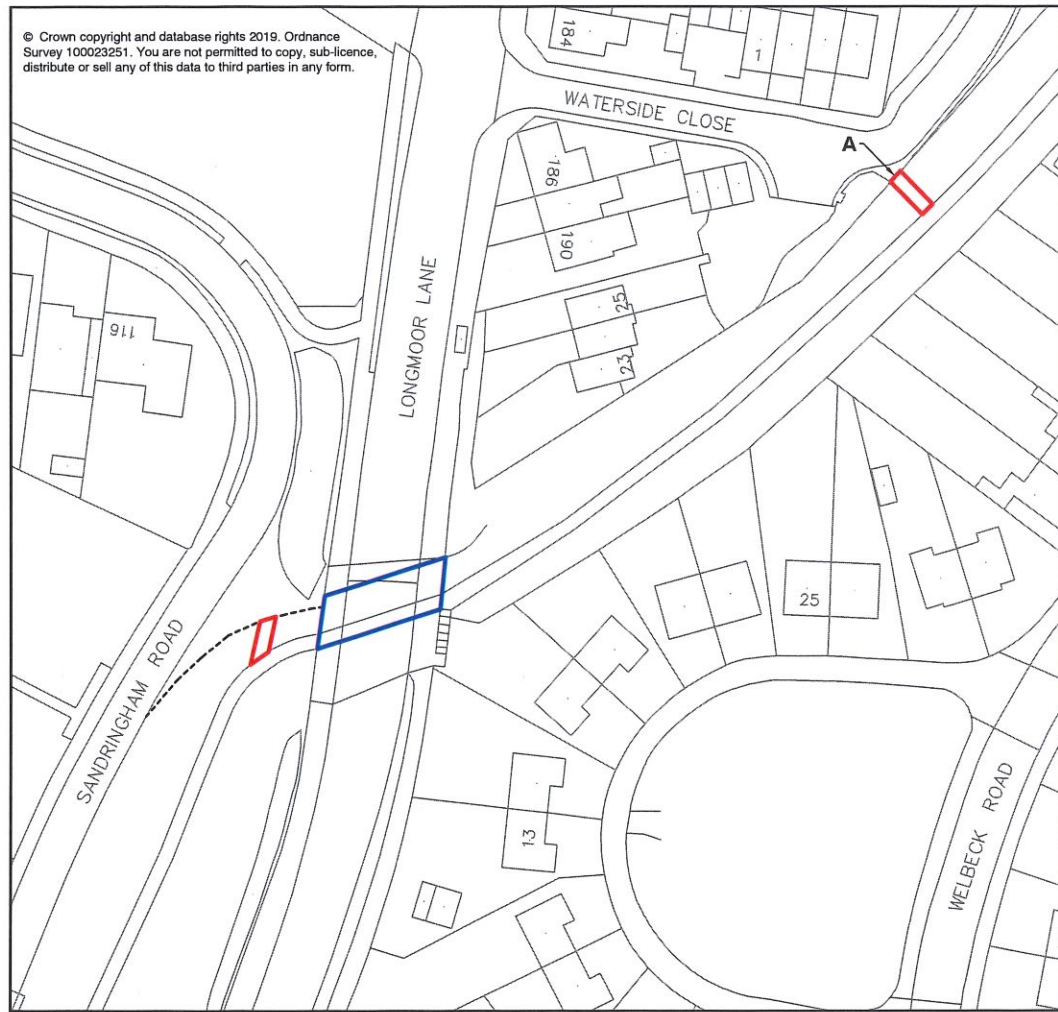
DERBYSHIRE COUNTY COUNCIL

SCHEDULE 1

THE WORKS

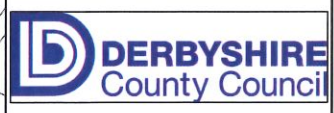
1. The construction of masking concrete blockwork walls at either side of the Cockayne Bridge on Longmoor Road/Lane.
2. Foamed concrete or similar to completely fill the void under the Cockayne Bridge on Longmoor Road/Lane.
3. Construction of the Permissive Path to replace the pedestrian lane under Cockayne Bridge.
4. Erection of replacement Gate as shown in drawing C43056-02.

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- LOCATION OF INFILL WORKS
- LOCATION OF PERMISSIVE PATHS
- HIGHWAY BOUNDARY
- A** POINT A

AMENDMENT DETAILS			BY	CHKD	APPD	DATE	NO.
DRAWN	MJP	CHECKED	RMS	APPROVED	JRG		
Date	02/07/19	Date	02/07/19	Date	02/07/19		



MIKE ASHWORTH
Strategic Director - Economy, Transport and Environment

ECONOMY, TRANSPORT & ENVIRONMENT
NETWORK PLANNING
STRUCTURES MANAGEMENT



PROJECT TITLE
C43056 OLD DERBY CANAL

DRAWING TITLE
LEGAL AGREEMENT PLAN

DCE Project Reference No. **C43056** SCALE **1:500**
Drawing Number **C43056-05**

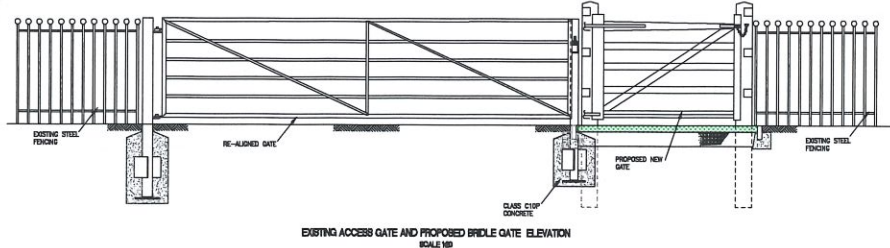
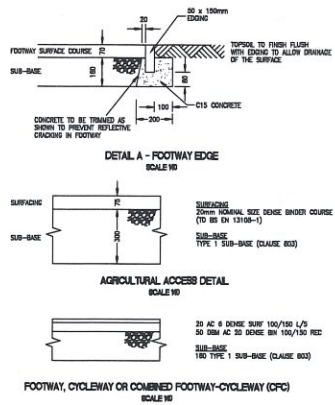
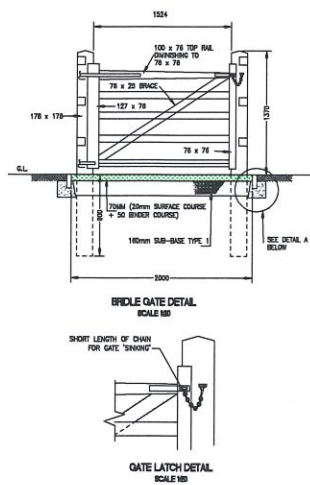
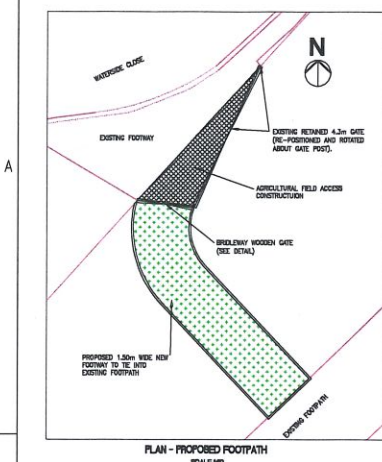
Handwritten signatures and initials

1

2

3

4



1. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS OTHERWISE STATED.
2. SURFACING TO BE 80mm NOMINAL SIZE DENSE SURFACE COURSE (TO BS EN 12178-1) 20mm THICK AND 20mm NOMINAL SIZE DENSE BRICKER COURSE (TO BS EN 12178-1) 50mm THICK.
3. CROSSFALL TO BE 1 IN 25 OR AS DIRECTED BY ENGINEER.
4. TYPE 1 SUB-BASE TO CLAUSE 803.
5. 50mm x 150mm PRECAST CONCRETE EDGING TYPE ET TO BS 7243.
6. THE FOUNDATION SHALL BE TRIMMED, ROLLED AND TREATED WITH OILY/STEARIC ACID BASED WAX/EMULSION IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS PRIOR TO LAYING SUB-BASE.
7. ON RURAL FOOTWAYS THAT ARE PHYSICALLY SEGREGATED FROM CARRIAGEWAY AND ARE NOT DESIGNED TO SUPPORT ANY TYPE OF VEHICLE INCLUDING MAINTENANCE VEHICLES THE DEPTH OF SUB-BASE MAY BE REDUCED TO 100mm, SUBJECT TO AGREEMENT WITH THE ENGINEER.

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AMENDMENT DETAILS		By	Checked	Date	No.
APPROVED BY	Y. CHALHAM	DESIGNED BY	J. SPENCER	APPROVED BY	J. GOSWAMI
DATE	04-JULY-2019	DATE	04-JULY-2019	DATE	04-JULY-2019
				SCALE	AS SHOWN



Miles Ashworth
Strategic Director - Economy, Transport and Environment

Economy, Transport
Environment
Network Planning
Structure Management

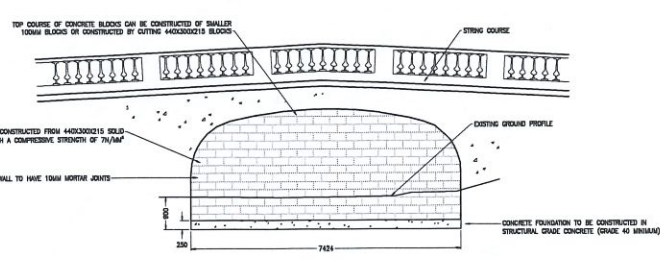
PROJECT TITLE
C43056 - OLD DERBY CANAL

DRAWING TITLE
PROPOSED NEW FOOTPATH, WATERSIDE CLOSE

DCE Project Reference Number C43056
Drawing Number C43056_04

Handwritten signatures and initials

1 2 3 4

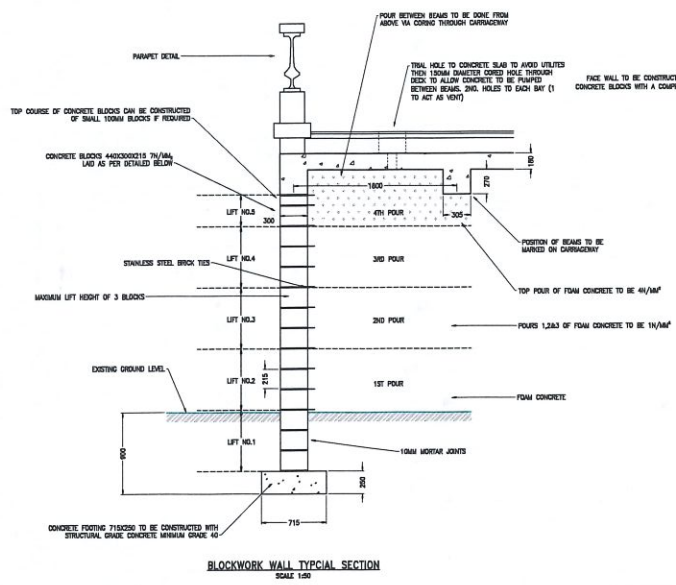


PROPOSED EAST ELEVATION
SCALE 1:50

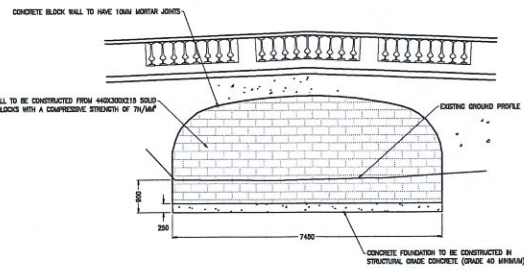
DRAFT

- LEGEND**
- STRUCTURAL CONCRETE MINIMUM GRADE 40
 - FOAM CONCRETE 14/MP STRENGTH
 - FOAM CONCRETE 44/MP STRENGTH
 - CONCRETE BLOCKS 440X200X215 74/MP
 - EXISTING GROUND
 - IN MATERIAL
 - HEAVY DUTY POLYTHENE SHEET

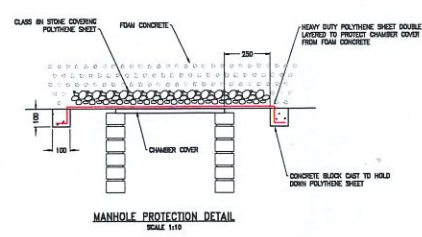
- Notes**
1. ALL DIMENSIONS ARE IN MILLIMETERS UNLESS OTHERWISE STATED
 2. NO DIMENSIONS TO BE SCALED FROM THIS DRAWING
 3. ALL DETAILS ARE APPROXIMATE ONLY AND ANY ALTERATIONS ARE TO BE AGREED WITH THE ENGINEER ON SITE
 4. ALL CONCRETE TO BE A MINIMUM OF GRADE 40
 5. CONCRETE BLOCKS TO BE A MINIMUM STRENGTH OF 74/MP
 6. FOAM CONCRETE STRENGTH TO BE 14/MP AND 44/MP AS SHOWN IN DETAILS BELOW



BLOCKWORK WALL TYPICAL SECTION
SCALE 1:50



PROPOSED WEST ELEVATION
SCALE 1:50



MANHOLE PROTECTION DETAIL
SCALE 1:10

AMENDMENT DETAILS				By	Date
DRAWN BY	CHECKED BY	APPROVED BY	SCALE		
UP	RMS		AS SHOWN		
Date 28/05/19	Date 28/05/19	Date 28/05/19			

DERBYSHIRE County Council

Mike Ashworth
Strategic Director - Economy, Transport and Environment

Economy, Transport & Environment
Network Planning
Structure Management

PROJECT TITLE
C43056 - OLD DERBY CANAL

DRAWING TITLE
FOAM CONCRETE INFILL

DCE Project Reference Number C43056
Drawing Number C43056-02

AM *EDC*