

**Mineral Development**

**Teignbridge District: Cross boundary planning application for the extension to the existing Linhay Hill Quarry for the winning and working of minerals, with the development within Devon being the closure and removal of the junction of Alston Lane onto the A38, Land at and adjacent to Linhay Hill Quarry, Ashburton**

**Applicant: E&JW Glendinning Ltd**

**Application No: 322/16**

**Date application received by Devon County Council: 11 January 2017**

Report of the Head of Planning, Transportation and Environment

***Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.***

**Recommendation:** It is recommended that, in accordance with Article 11.4 of the Council's Constitution and s101 of the Local Government Act 1972 and to give effect to the proposals outlined in this Report, the County Council be asked to approve arrangements for the discharge by the Dartmoor National Park Authority of the Development Management Committee's powers in relation to the determination of a cross boundary planning application (and any subsequent discharge of conditions applications) for the extension to Linhay Quarry.

**1. Summary**

1.1 This Report relates to the proposed method for the determination of a cross boundary application relating to the extension to Linhay Quarry, Ashburton.

**2. The Proposal/Background**

2.1 An application for the extension to the existing Linhay Quarry at Ashburton was validated by Dartmoor National Park on 17 June 2016. The quarry extension area is around 21 hectares and provides for landscaping bunds (formed from overburden) to the southern and eastern boundaries of the extension area amounting to about 11 hectares. The quarry wins and works Devonian age limestone and without the proposed extension current stone reserves would last for in the region of ten years.

2.2 The existing quarry is bounded to the south by the A38 trunk road and to the east by Alston Lane. The A38 forms the boundary of Dartmoor National Park and the proposed extension to the quarry and the provision of the landscape bunds falls entirely within the National Park. The proposal involves an extension eastwards which would require the removal of Alston Lane and the stopping up of the junction of Alston Lane onto the A38.

2.3 The small area where Alston Lane links onto the A38 is within the administrative area of Devon County Council. This amounts to about 0.7ha and the details of location and details of this area are shown on the plan attached to this Report.

2.4 In circumstances where an application site crosses the administrative boundary between two Planning Authorities two identical applications may be submitted, one to each Planning Authority, seeking planning permission for the development of land

falling within each Planning Authority's administrative area and identifying the relevant area on the site plan. When this application was submitted to Dartmoor National Park it was not identified that a part of the site was in Devon County Council's administrative area and the identical application was not submitted to Devon until January of this year.

- 2.5 As part of the planning application process Devon County Council was consulted by Dartmoor National Park as neighbouring Mineral Planning Authority. A response on the application was provided in July 2016 with the response being made using officer delegated powers. In its response Devon County Council made a number of observations aimed at assisting the National Park in its determination of the application. For information the consultation response is attached as Appendix I to this Report.
- 2.6 The proposal would result in a number of impacts on the highway network including the closure of the eastern part of Alston Lane and its junction with the A38; construction of a replacement road and diversion of public footpath; widening of Balland Lane; and a signage strategy for Caton Lane. Devon County Council has been consulted on the application as highway authority and subject to the provision of an alternative adopted route from Alston Lane to Balland Lane and improvements to Balland Lane there is no objection to the proposal. Impacts on the Caton Lane junction onto the A38 Trunk Road are being considered by Highways England and currently it has served a holding direction pending the submission and approval of further details.
- 2.7 Devon County Council has also provided advice on Flood Risk (no in principle objection subject to approval of further information on potential flooding and drainage impacts) and from economy (support).
- 2.8 The current situation regarding the application is that Dartmoor National Park has formally requested additional information and the application will not be determined until the information has been submitted and considered.

### **3. Comments/Issues**

- 3.1 With cross boundary proposals it is possible for an applicant to submit two distinct planning applications to each Planning Authority where each application only describes and seeks consent for the development proposed within each Authority's administrative area. However, such an approach would be artificial since the Planning Authority would need to know details of the development proposed in the other Planning Authority's administrative area in order to make an appropriate determination of the application.
- 3.2 In practice, it is less time consuming and easier to administer if the applicant submits two identical planning applications, one to each Planning Authority, with each application describing the whole of the proposed development and making it clear that permission is only being sought from the Planning Authority for the development which will take place within that Planning Authority's administrative area. This is the approach taken with this application, with Devon County Council being asked to determine the proposed closure of Alston Road onto the A38, with Dartmoor National Park being responsible for the determination of the major part of the application.
- 3.3 In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the Local Planning Authority in whose administrative area the development is proposed to be carried out. In the case of

cross boundary applications, this can lead to two Planning Authorities making individual determinations, imposing different conditions on the permissions and entering into separate Section 106 Agreements. However, this is not recommended as it does not promote a coordinated approach to development management and the permissions granted by each Authority may be inconsistent in terms of the conditions attached to them and the obligations entered into the related Section 106 Agreements. This is undesirable in terms of achieving a coordinated approach to delivering development.

- 3.4 Section 101(5) of the Local Government Act 1972 authorises two or more Local Planning Authorities to discharge any of their functions jointly. This arrangement can be achieved through the establishment of a joint committee. In practice, this type of arrangement is usually established for larger applications or if it is likely that there will be a number of cross boundary applications and would not be appropriate in this case.
- 3.5 Alternatively, Section 101(1) of the Local Government Act 1972 authorises a local authority to arrange for the discharge of functions by any other local authority. This provision could be relied on by a Local Planning Authority to delegate its development management functions to another Local Planning Authority in respect of a specific cross boundary planning application.
- 3.6 In this case Devon County Council could delegate its decision making powers to Dartmoor National Park in respect of this cross boundary planning application. Dartmoor National Park, which has been paid the full application fee, would then determine both the application submitted directly to it and the application recently submitted to Devon County Council. If Dartmoor National Park was minded to grant consent for the cross boundary development, it could grant planning permission authorising the development applied for in both of the administrative areas under the two original planning applications.
- 3.7 In this case, given that the proposed development within Devon County Council's administrative boundary is only the Alston Lane junction with the A38 (a small fraction of the application site area) and that the interests of this authority in consideration of the application have been appropriately addressed in its role as a consultee in the planning process, it is appropriate to delegate its development control functions to Dartmoor National Park. Dartmoor National Park has confirmed that it is content that this Council delegate its development control function in respect of this application.
- 3.8 A secondary consideration is that the County Council has not received a planning fee for the application and so would assume all of the costs associated with the processing of the application, including publicity (neighbour notification letters, site and press notices), administration and Officer's time.

#### **4. Reasons for Recommendation/Alternatives Options Considered**

- 4.1 The alternative methods of dealing with this are set out in Section 3 above and in this case it is considered that it is appropriate that the Council delegates its development management powers to Dartmoor National Park in accordance with the recommendation to this Report.

Dave Black  
Head of Planning, Transportation and Environment

## **Electoral Division: Ashburton & Buckfastleigh**

Local Government Act 1972: List of Background Papers

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<b>Background Paper</b>	<b>Date</b>	<b>File Ref.</b>
Casework File	Current	322/16

md030217dma  
sc/cr/cross boundary application extension Linhay Quarry Ashburton  
04 170217



**Mineral Planning Authority Response to Dartmoor National Park – July 2016**

**Proposed Extension of Linhay Hill Quarry, Ashburton (0322/16)**

**Consultation Response of Devon County Council**

**1. Introduction**

- 1.1 This consultation response provides the views of Devon County Council [DCC] as an adjoining mineral planning authority [MPA], and should not be taken to imply comment from the Council in any other role.
- 1.2 The main areas of interest to DCC are the policy context, need and alternatives, addressed in Chapters 5-7 of the applicant's Planning Statement and Chapters 4-6 of the Environmental Statement, and the comments below are largely limited to the matters raised in those parts of the planning application.
- 1.3 In addition, a number of matters of factual accuracy in the applicant's Statements have been identified, and these are attached as Appendix A.

**2. Background**

- 2.1 DCC is the MPA for the county of Devon excluding the unitary authorities of Plymouth and Torbay and the National Parks of Dartmoor and Exmoor, each of which is governed, for mineral planning purposes, by a separate MPA.
- 2.2 Each MPA within the county has developed separate minerals planning policies within a Minerals or Local Plan. DCC adopted the Devon County Minerals Local Plan in 2004, and is nearing completion of the replacement Devon Minerals Plan following examination hearings in May 2016. To meet the Duty to Cooperate, DCC has prepared a suite of Mineral Topic Papers in discussion with Dartmoor National Park Authority [DNPA], Plymouth City Council and Torbay Council to provide suitable evidence and ensure that cross-boundary matters are addressed.
- 2.3 The Devon Minerals Plan includes a spatial strategy (Policy M1) developed in discussion with the other MPAs that seeks to maintain aggregates supply from within the M5/A38 corridor, recognising the contribution from quarries in Dartmoor and Plymouth.
- 2.4 The National Planning Policy Framework [NPPF] introduced a requirement for MPAs, either individually or jointly, to prepare an annual Local Aggregate Assessment to facilitate planning for the supply of aggregates. Within Devon, DCC prepares the LAA in discussion with the other MPAs within the county for consideration by the South West Aggregates Working Party.
- 2.5 DCC has submitted a draft LAA based on ten years' data to 2015 to the South West Aggregates Working Party for its consideration, and its response is expected in mid-July. Key points from the draft LAA of relevance to the planning application at Linhay Hill are:
  - Devon had crushed rock reserves of 115 million tonnes at the end of 2015, of which 77 million tonnes was limestone, providing a crushed rock landbank of 49 years (and a landbank of 41 years for limestone);

- sales of crushed rock aggregates show a strong upward trend from the post-recession low of 2009 to 2015, which had the highest level of sales since 2005;
- almost 90% of crushed rock aggregates produced in Devon are sold for use in the county;
- the proportion of crushed rock sales accounted for by limestone has increased from 72% in 2006 to 88% in 2015; and
- in addition to Linhay Hill Quarry, limestone supply in Devon is provided by three quarries operated by another operator at Westleigh, Kingskerswell (Stoneycombe) and Plymstock (Moorcroft).

2.6 Recent years have seen the mothballing, permanent closure and/or lapsing of planning permissions for a number of crushed rock quarries, which has the effect of placing greater reliance on Devon's four operational limestone quarries. Table 5.1 in the applicant's Environmental Statement illustrates this effect with reductions in the crushed rock landbank of 35 million tonnes from 2009 to 2010, and 20 million tonnes from 2013 to 2014, both far in excess of the sales of crushed rock of around 2.5 million tonnes in those years. Of the reserves that contribute to the crushed rock landbank, 20% are located at inactive quarries with no likelihood of extraction in the foreseeable future.

### **3. Policy Context**

3.1 The Planning and Environmental Statements provide a detailed account of the planning policy context for the proposals, and it is not intended to repeat that analysis. For information, the emerging Devon Minerals Plan that covers the area adjoining the National Park boundary is due to undergo consultation on modifications in August and September 2016, with the inspector's report anticipated in October 2016. This emerging Plan is therefore considered to be a material consideration that should be accorded significant weight in line with paragraph 216 of the NPPF. Particular attention is drawn to modified Policy M1 of the emerging Plan that provides the spatial strategy, including the expectation that crushed rock aggregates will be obtained "from existing quarries in the M5/A38 Corridor and through working for local markets in north west Devon".

### **4. Need**

4.1 As highlighted in paragraph 142 of the NPPF, "minerals are essential to support sustainable economic growth and our quality of life", and crushed rock such as limestone is used for a range of construction activity, notably concrete products and road construction.

4.2 The increasing proportion of sales of crushed rock in Devon accounted for by limestone reflects its ease of extraction and processing in comparison with other resources and the location of its quarries in relation to the county's main settlements and strategic roads. In contrast, the proportion accounted for by igneous rock has declined from 12% to less than 1% with the mothballing of quarries at Meldon and Trusham.

4.3 Within Devon, crushed rock in general, and limestone specifically, benefit from landbanks exceeding 40 years. While the length of these landbanks could be construed as implying that there is no need for further limestone resources to be permitted at the present time, Planning Practice Guidance [paragraph 27-084] advises that "there is no maximum landbank level and each application for minerals

extraction must be considered on its own merits regardless of the length of the landbank...[and] there are a number of reasons why an application for aggregate minerals development is brought forward in an area where there exists an adequate landbank”.

4.4 There are several benefits that can be identified from enabling the continued quarrying of limestone at Linhay Hill beyond the currently-available supply:

- (a) Devon relies on four limestone quarries, including Linhay Hill, to supply the limestone required for its construction activity, with each broadly providing around a quarter of the county’s supply. While each of the other three quarries has adequate reserves to maintain supply at their current rates of extraction, increased demand that would arise from the downsizing and subsequent closure of Linhay Hill would result in depletion of their reserves at an accelerated rate, bringing forward the timescale within which the Devon MPAs would need to consider development of new limestone resources.
- (b) A reduction in the number of limestone quarries from four to three, as a result of Linhay Hill’s predicted closure if the proposed extension is not permitted, would constrain Devon’s ability to react to unforeseen constraints on working at the remaining quarries. In contrast, retention of four limestone quarries with long-term reserves would enhance flexibility to address any such constraints, while maintaining their ability to respond to increased demand arising from the higher levels of development being provided for through adopted and emerging Local Plans in Devon.
- (c) Linhay Hill benefits from an integrated range of facilities that utilise the limestone quarried at the site, including an asphalt plant, ready-mix concrete plant, agricultural lime plant and concrete blockworks. Cessation of the quarrying operations would either necessitate the transportation of limestone from elsewhere to maintain a feedstock, or result in the closure of these operations.
- (d) Closure of Linhay Hill would result in Devon relying on three quarries owned by a single mineral operator for its supply of limestone. Such a situation would be contrary to the requirement of paragraph 145 of the NPPF that MPAs “should plan for a steady and adequate supply of aggregates by...ensuring that large landbanks bound up in very few sites do not stifle competition”. The cessation of limestone extraction at Linhay Quarry, together with the associated concrete, asphalt and contracting operations, would significantly constrain competition within the aggregates sector in Devon.
- (e) In terms of its relationship with the main markets for its products, Linhay Hill is located in an optimum position with good access to the A38 and mid-way between Plymouth and Exeter, where the applicant maintains processing facilities that make use of its limestone. While outside of the area covered by the emerging Devon Minerals Plan, the quarry’s location accords with the Plan’s spatial strategy (Policy M1) that was developed in discussion with the county’s other MPAs.
- (f) Although small in comparison with its sales of aggregates, Linhay Quarry produces building stone that assists in the maintenance of the local built environment. The quarry is the only operational source of limestone from the Chercombe Bridge Formation, which is distinct in colour from East Ogwell Formation stone, which is the other limestone quarried in the Teignbridge area.

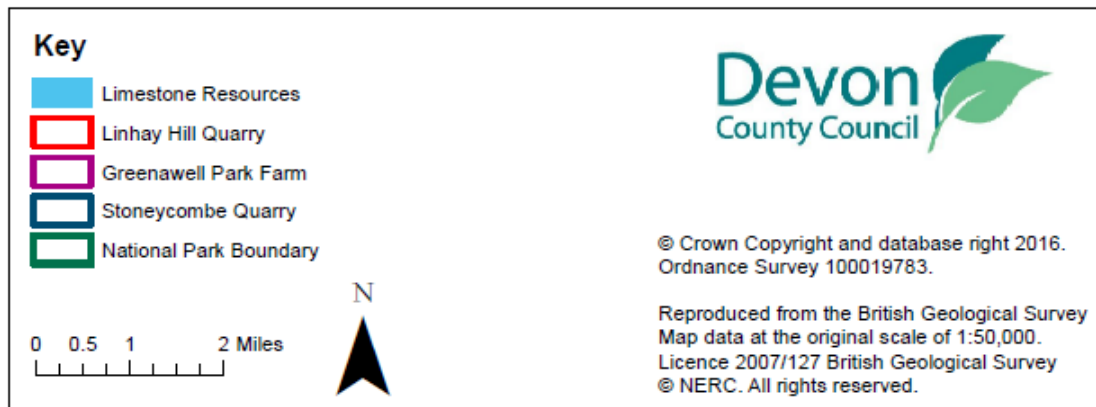
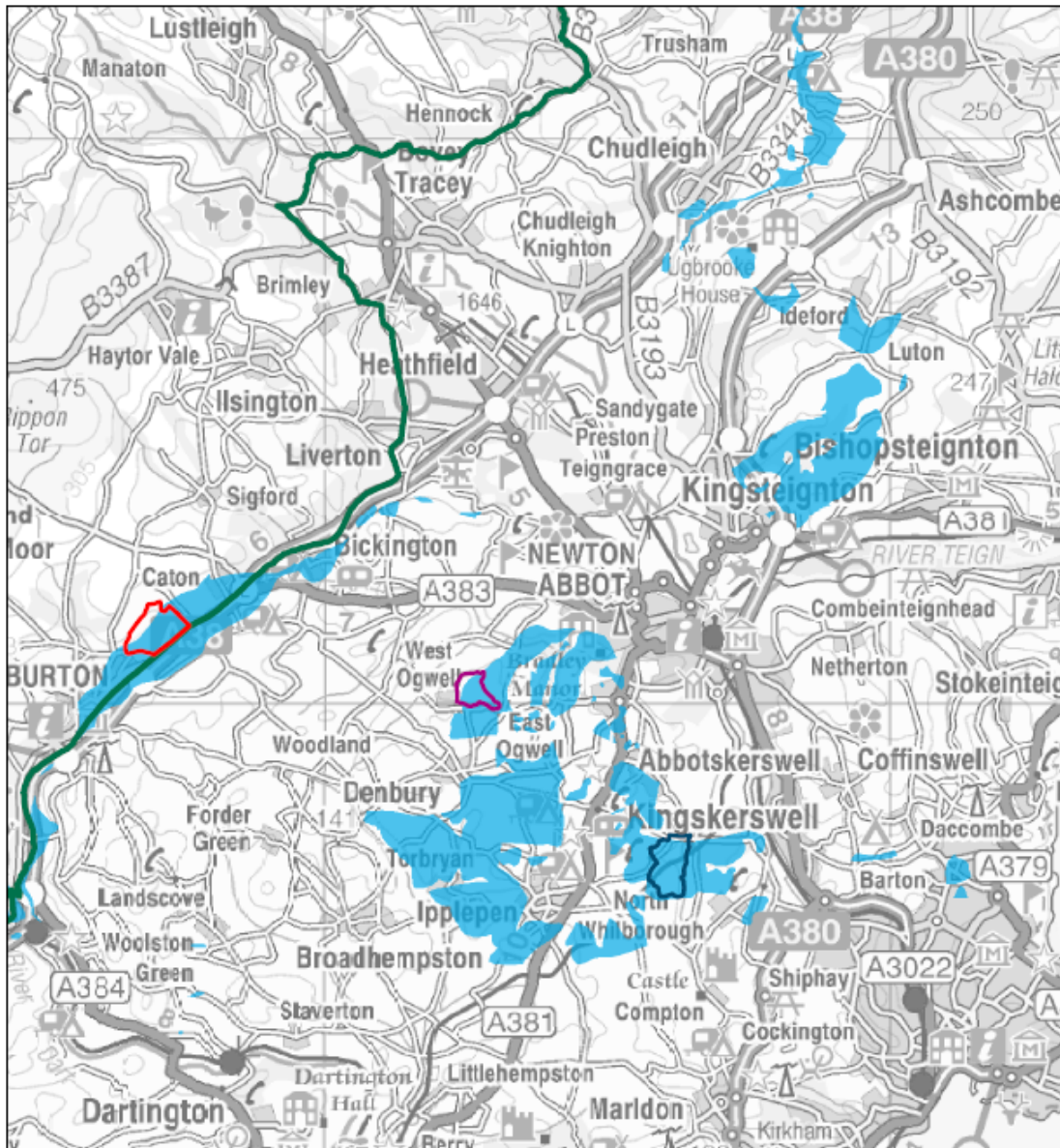


Chercombe Bridge Limestone is identified in English Heritage's Strategic Stone Study for Devon, and is listed as a 'key building stone' in the emerging Devon Minerals Plan.

- (g) The results from the periodic national Aggregate Minerals Survey undertaken for 2014 indicate that Linhay Hill was the only limestone quarry in Devon that sold agricultural lime. A chalk quarry in East Devon produces lime on a much smaller scale for use in the local East Devon/West Dorset area, but this is not capable of substituting for the scale and market area of Linhay Hill.

## **5. Alternative Sites**

- 5.1 While limestone only occurs in limited parts of Devon, there are significant outcrops in the Teignbridge area that have the potential to act as 'alternative sites' for the purposes of Environmental Impact Assessment and consideration of the application under paragraph 116 of the NPPF. Figure 1 shows the surface extent of limestone resources in Teignbridge, including the Chercombe Bridge Formation that is worked at Linhay Hill, and the East Ogwell Formation quarried at Stoneycombe.
- 5.2 The applicant's Environmental Statement identifies an alternative site at Greenawell Park Farm, West Ogwell, which is in its ownership and overlies limestone. This site has not been the subject of any planning applications for mineral development, and any such application would fall to Devon County Council to determine.
- 5.3 While Greenawell Park Farm overlies the same Chercombe Bridge limestone that is quarried at Linhay Hill, development of a new quarry would face significant constraints that cumulatively may render it undeliverable:
  - (a) as highlighted in paragraphs 6.10 to 6.15 of the applicant's Environmental Statement, Greenawell Park Farm is located away from the A38, and access from the A383 or A381 would need to be achieved by use of a network of narrow lanes that are wholly unsuitable for the scale of traffic associated with a major aggregates quarry;
  - (b) upgrading of existing lanes to accommodate this traffic is likely to have unacceptable impacts on landscape, biodiversity and heritage assets, while it is recognised that construction of a new road between the site and an A-class road would be very expensive and likely to arise in impacts similar to those resulting from widening of existing roads;
  - (c) development of a new quarry would require substantial initial investment in processing plant and other ancillary facilities that would not be required for extension of an existing quarry;



**Figure 1: The surface extent of limestone resources in Teignbridge**

- (d) the site includes forty one heritage assets ranging from prehistoric field systems, cave deposits exposed in the extant quarry and late medieval rabbit warrens as well as remains associated with the former deer park. Any consideration for proposals for the creation of a quarry here would need to be supported by the results of desk-based, geophysical and intrusive heritage

assessment, including an assessment of any designated heritage assets in the surrounding landscape, that may result in a requirement for preservation in situ of the known heritage assets; and

- (e) while detailed assessment has not been undertaken, it is likely that development of a new quarry would have significant adverse landscape and visual impacts, particularly as processing plant would need to be located at existing ground level for at least the early phases until it could be relocated into a quarry void.

5.4 For these reasons, DCC concludes that Greenawell Park Farm should not be regarded as a deliverable alternative to the extension of Linhay Hill Quarry. It should also be noted that Policy M11 of the emerging Devon Minerals Plan, which is the main policy by which any proposal at Greenawell Park Farm would be determined, expresses a preference for the extension of an existing quarry over establishment of a new quarry.

5.5 Figure 1 indicates that there are substantial areas where limestone outcrops in Teignbridge that may offer scope for development of a new quarry. However, these areas are subject to a range of constraints that severely limit this scope:

- (a) the large area of limestone to the north east of Kingsteignton is designated as a groundwater Source Protection Zone, as is a large part of the block to the east of Denbury;
- (b) outcrops in the Chudleigh area fall within the sustenance zone associated with the South Hams SAC, while most other blocks are bisected by its strategic flyways;
- (c) proximity of some areas to settlements including Denbury, East Oggwell, Ipplepen and Abbotskerswell limit the developable area for a new quarry;
- (d) many of these areas of limestone have similar road access constraints to Greenawell Park Farm; and
- (e) there is no evidence available to DCC that (with the exception of Greenawell Park Farm) indicates that there is any interest (including mineral and/or freehold ownership) on the part of a mineral operator that would indicate that these areas of limestone can be considered as a deliverable option.

## **6. Meeting the Need in Some Other Way**

6.1 As an alternative to meeting Devon's requirements for limestone aggregates through the extension of Linhay Hill Quarry or developing a new quarry at another local location, there are two broad options: importing limestone from outside Devon, or using other aggregates instead of limestone.

6.2 The closest Devonian or Carboniferous limestone quarries to Devon that have the potential to contribute to its aggregates supply are located in the Mendip area of Somerset, including two rail-linked quarries that supply much of southern England's crushed rock requirements. The Mendip quarries are located in excess of 60 miles from Exeter, indicating that transportation by road would be uneconomic as well as not being sustainable. While transportation of limestone by rail would appear to be an option, this would be heavily constrained by the lack of infrastructure in Devon for the unloading of stone. The existing aggregate railhead at Exeter St Davids is

understood to operate near or at capacity with its current limited quantities, and there is no other available facility within the M5/A38 corridor that has scope to receive tonnages of stone equivalent to the output of Linhay Hill Quarry.

- 6.3 Some crushed rock aggregates, primarily high-specification materials that have limited availability in the South West, are imported into Devon by sea, mainly through wharves in Plymouth. However, Devon's ports are unlikely to have the capacity to handle tonnages comparable to Linhay Hill's output without substantial investment, and it would be unsound to rely on water-borne imports as an alternative.
- 6.4 In addition to limestone, crushed rock aggregates are produced from sandstone and igneous rock quarries in Devon, albeit in much lower quantities than limestone. While these other resources can be used for similar purposes as limestone, they are less economic to quarry due to the higher proportion of wastage and greater processing costs. Furthermore, the closure of a number of Devon's sandstone and igneous rock quarries in recent years, leaving only one operational sandstone quarry capable of producing in excess of 200,000 tonnes/year, means that these resources are currently incapable of being quarried on a scale sufficient to substitute for the output of Linhay Hill. It is also the case that a large proportion of Devon's sandstone and igneous rock resources are less well located in relation to the main markets than is the case with limestone resources.
- 6.5 Devon has substantial quantities of by-products from the extraction of other minerals, such as china clay, that can be utilised as secondary aggregates, and these yield around 450,000 tonnes each year. While these secondary aggregates contain a crushed granite element that is capable of meeting some of the uses to which limestone is put, much of the china clay and ball clay products comprise sand fractions, and secondary aggregates are not considered capable of substituting, either quantitatively or qualitatively, for limestone.

## **7. Conclusions**

- 7.1 It is recognised that a major extension to a quarry within a National Park requires the National Park Authority to undertake careful consideration of both the need for the development and its impacts, together with the scope for developing elsewhere outside the National Park. To assist in the Authority's consideration, Devon County Council provides the following observations as the adjoining MPA on the need for the development and scope for alternative provision:
  - (a) the national importance of maintaining a sufficient supply of minerals, including aggregates, to provide the country's development and infrastructure needs, is recognised in paragraph 142 of the NPPF;
  - (b) while the limestone resource quarried at Linhay Hill is not itself of national importance, it does make a very significant contribution to Devon's aggregate supply which ensures that the county maintains its contribution to regional and national requirements, while also supplying a key building stone and Devon's main source of agricultural lime;
  - (c) given Devon's strong reliance on limestone quarries for delivery of its crushed rock aggregate supply, the proposed extension to Linhay Hill Quarry will help to ensure that the county will maintain the necessary reserves, productive capacity and flexibility to accommodate unforeseen constraints on extraction so as to ensure the long term supply of limestone;

- (d) enabling the continued extraction of limestone at Linhay Hill Quarry, together with the applicant's associated processing and manufacturing facilities, will maintain competition within the aggregate products sector in Devon, consistent with paragraph 145 of the NPPF;
- (e) alternative means of supplying limestone from outside the National Park are likely to result in very significant adverse impacts from the development of a new quarry within Devon or, in the case of transportation of limestone from outside the county, to be uneconomic and/or impractical due to infrastructure constraints; and
- (f) the use of other aggregate resources, including secondary materials, instead of limestone is unviable due to limited productive capacity and/or technical limitations.