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To: The Chair and Members  
of the Development  
Management Committee

County Hall  
Topsham Road  
Exeter  
Devon  
EX2 4QD

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Date: 23 November 2021

Contact: Gerry Rufolo  
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**DEVELOPMENT MANAGEMENT COMMITTEE**

Wednesday, 1st December, 2021

A meeting of the Development Management Committee is to be held on the above date at 2.15 pm at Council Chamber - County Hall, Exeter to consider the following matters.

Phil Norrey  
Chief Executive

**A G E N D A**

**PART 1 - OPEN COMMITTEE**

1 Apologies for Absence

2 Minutes

Minutes of the Meeting held on 21 July 2021 (previously circulated)

3 Items Requiring Urgent Attention

Items which in the opinion of the Chairman should be considered at the meeting as matters of urgency.

**MATTERS FOR DECISION**

- 4 County Matter: East Devon District: Extraction of up to 1.5 million tonnes of as raised sand and gravel, restoration to agricultural land together with temporary change of use of a residential dwelling to a quarry office/welfare facility, Straitgate Farm, Exeter Road, Ottery St Mary (Pages 1 - 106)

Report of the Chief Planner (PTE/21/44), attached

*Electoral Divisions(s): Whimble &  
Blackdown*

- 5 County Matter: Minerals: Mid Devon District: Importation of up to 1.5 million tonnes of as-raised sand and gravel from Straitgate Farm into Hillhead Quarry for processing, Hillhead Quarry, Uffculme, Cullompton (Pages 107 - 118)

Report of the Chief Planner (PTE/21/45), attached

*Electoral Divisions(s): Willand &  
Uffculme*

- 6 County Council Development: Teignbridge District: Creation of a new 5km stretch of shared use path (Teign Estuary Trail) from the Passage House Inn, east of Newton Abbot Racecourse, along the Teign Estuary to Teignmouth via Bishopsteignton, primarily over existing farmland. The scheme involves the creation of a minimum 3m wide pathway with sections of boardwalk, viewing platforms, and a bridge, Bishopsteignton, Teignmouth (Pages 119 - 150)

Report of the Chief Planner (PTE/21/46), attached

*Electoral Divisions(s): Kingsteignton &  
Teign Estuary*

### **OTHER MATTERS**

- 7 Delegated Action - Schedules (to include ROMPS Actions) and Summary Schedule (Pages 151 - 154)

Report of the Chief Planner (PTE/21/47), attached

### **PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC**

Nil

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PTE/21/44

Development Management Committee

1 December 2021

**County Matter: Minerals**

**East Devon District: Extraction of up to 1.5 million tonnes of as raised sand and gravel, restoration to agricultural land together with temporary change of use of a residential dwelling to a quarry office/welfare facility, Straitgate Farm, Exeter Road, Ottery St Mary**

**Applicant: Aggregate Industries UK Ltd**

**Application No: 17/0545/CM**

**Date application received by Devon County Council: 3 March 2017**

Report of the Chief Planner

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

**Recommendation: It is recommended that, subject to the applicant entering into a legal agreement providing for the measures set out in Appendix I of this report, planning permission is granted subject to the conditions set out in Appendix II of this report (with any subsequent minor material changes to the conditions being agreed in consultation with the Chair and Local Member).**

**1. Summary**

- 1.1 The application is for the development of a new sand and gravel quarry, a new site access and ancillary storage and quarry facilities on 42.5ha of land at Stairgate Farm, Ottery St Mary. The application, as well as a tandem application for importing and processing the materials at Hillhead Quarry, Uffculme, is supported by an Environmental Statement.
- 1.2 It is considered that the main material considerations in the determination of this application are: planning policy considerations; transportation, access and highway safety; the water environment including hydrogeology, water supplies, surface water management and flood risk; health and amenity; the historic environment; landscape and visual impact; biodiversity impacts; restoration proposals, including agricultural and soil considerations; aircraft safety and airport safeguarding; economic considerations; sustainability and climate change; availability of alternatives; and scope and enforceability of the proposed S106 agreement.
- 1.3 The planning application, representations received, and consultation responses are available to view on the Council website under reference DCC/3944/2017 or by clicking on the following link:  
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3944/2017>.
- 1.4 At the Development Management Committee meeting held on 26 September 2017 it was resolved to hold a site visit to this site and the associated

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processing site at Hillhead Quarry Cullompton to enable proper consideration of the issues involved. This visit was due to be held on 24 November 2021, with Members of the Committee to be shown the site location, the access and relationship to the East Devon AONB as well as the haulage route to Hillhead Quarry at Uffculme.

## **2. The Proposal/Background**

- 2.1 Straitgate Farm is a mixed arable/pasture holding located some 2km to the west of the edge of Ottery St Mary and lying between the B3174 (from which it is currently accessed) on the southern boundary and the A30 to the north. The site is bounded to the east and south west by unclassified lanes which act as local walking, cycling and horse-riding routes as well as for vehicular access to rural properties.
- 2.2 The land generally slopes gently from west to east from a high point of 165m at the western boundary to approximately 125m at the eastern edge of the proposed quarry and comprises a number of fields separated by mature hedgerows. The land is generally higher quality Grade 3a and 3b agricultural land classification with areas of Grade 2.
- 2.3 The farmhouse at Straitgate Farm is a Grade II Listed Building lying to the south of the proposed quarry, and it has a range of farm buildings, together with a small cottage (Little Straitgate) to the east which the applicant proposes to use for offices and welfare purposes.
- 2.4 The development site covers 42.5ha of the farm and proposes the construction of a new quarry to provide sand and gravel from the East Devon Pebblebeds, which is a recognised source of high specification aggregate. The most recent documentation envisages a 10 year working period and the most recent resource assessment indicates a reduced reserve of just over 1million tonnes. This is a consequence of the requirement to work the quarry “dry” and to protect the water table.
- 2.5 The proposal includes a new site access from Birdcage Lane, which is an unclassified road bounding the site to the east, and then via the B3174 for 1.1k to the existing grade separated junction between the A30 and the B3174/B3180 at Daisymount, which is the main junction for Ottery St Mary and West Hill. Birdcage Lane would be widened on the western side for a 45m length between the proposed site access and the junction with the B3714 Exeter Road.
- 2.6 The site access road would link the mineral stockpiling area and wheel wash to the access point on Birdcage Lane and would be asphalt surfaced to reduce the deposition of mud and dust on the highway. Surface water would be collected in a small lagoon and the water recycled for the wheel wash. The existing light vehicle access to Exeter Road from Little Straitgate would be closed and access to this part of the site and the five visitor parking spaces would be via the new access and haul road.

- 2.7 The application proposes the movement of 'as-dug' material from the new quarry by HGV to an existing processing plant owned by the applicant and located at Hillhead Quarry at Uffculme, which is 37km (23 miles) to the north east just off Junction 27 of the M5. The proposed haulage route would therefore be via the B3174, A30, M5 and A38.
- 2.8 Processing of excavated materials cannot take place at Straitgate Farm as settlement ponds are not considered to be acceptable for safety reasons beneath the flight path for Exeter Airport. A previous iteration of the application suggested processing at Blackhill Quarry, near Woodbury, but that site is now closed, with the plant having been removed and the site undergoing restoration. Furthermore, Blackhill Quarry is located within the East Devon Area of Outstanding Natural Beauty and the extension of the life of that site was not considered to be acceptable in policy terms.
- 2.9 The 25.61ha quarry would be developed in three main phases which the applicant states will enable the existing hedgerows to be retained for the maximum period of time. The remaining land would be used for the storage of overburden and soils. Extraction would be undertaken on a "campaign" basis with periods of extraction between five to seven weeks with each working period providing about 60k tonnes (120-180k per year) of "as dug" material to be moved to Hillhead Quarry for processing.
- Phase 1 contains approximately 238,000 tonnes of sand and gravel which is predicted to take approximately 2 years to work based on an annual extraction rate of up to 180,000 tonnes (three campaigns).
- Phase 2 contains approximately 406,000 tonnes which would take about 2.5 years to complete at maximum extraction rates.
- Phase 3 contains approximately 686,000 tonnes of material which would take around 4 years to work. Earlier working Phases will be restored with overburden and soils from the later working phases.
- 2.10 It is predicted that, subject to market conditions, and water levels, there would be two to three working campaigns per year which would equate to a working period of between 10 and 21 weeks.
- 2.11 During these campaigns, and during the proposed working hours of 0700 to 1730, the worst-case scenario for trip generation (based on a five weeks campaign and an assumption of moving 60k tonnes in that period using 28 tonne loads) is that there would be predicted HGV movements of 172 per day (86 trips), which would equate to around 20 movements (10 trips) per hour based on a nine-hour day [in term time avoiding school drop off and pick up times].
- 2.12 Due to the need to protect the water table and avoid dewatering (see Section 6.3 on The Water Environment), this quarry would be worked dry, with the maximum depth being based on the recorded maximum winter groundwater levels. The three main phases would be worked in smaller sub phases to

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enable water management and the rapid restoration of early working compartments.

- 2.13 The proposed restoration is to agricultural use with a replacement of the existing hedgerow pattern and enhanced management, both to protect airport users from the establishment of bird-attracting water features and over-high trees, and to increase the ecological value of the site. The final land levels will be lower as it is not intended to bring in any material to restore the site to existing levels.
- 2.14 The applicant was asked to provide additional environmental information following the first period of consultation and this was submitted on 24 July 2017 and re-advertised. Further information was produced in October 2017 and January 2019, and this was re-advertised together as a single batch of additional environmental information. The final set of information was submitted in March 2021 and re-advertised following delays due to the Covid pandemic, the need to provide additional documentation requested as the result of the further consultation responses and the declaration of a climate emergency by DCC in 2019.
- 2.15 Given the longevity of the application, some elements have altered since the original application was made in 2017. There have been concerns about this and criticism that the local population have had a long period of uncertainty while the application progressed. The advertisement of additional information has ensured that the scope of the proposal is in the public domain and the National Planning Policy Framework requires that planning authorities take a proactive approach to approving development proposals that accord with an up-to-date development plan. There has been engagement with both the developer and objectors to seek to resolve issues and concerns that have arisen through the public consultation process.

## **3. Consultation Responses**

- 3.1 There have been a number of formal consultations on this application. The responses set out in the report relate to the latest consultation in 2021 unless otherwise referred to or where an earlier response stands according to the consultee.
- 3.2 East Devon District Council (Planning): An objection has been received to the most recent consultation following its granting of planning permission for a cattle crossing across the B3174. EDDC notes that consultation on that application highlighted concerns that if the quarry is approved and grazing land is lost on the north side of the road then there will be a requirement to move livestock across the road on a more frequent basis.

EDDC considers that the applicant's statement that loss of grazing land to the north of the B3174 would not increase the crossing movements is an "unrealistic assumption" and it also fails to explain how the applicant could prevent additional crossings should their proposed mitigation measures prove unsatisfactory. In the seemingly likely event that a need arises for

increased crossings of the B3174, neither the existing crossing arrangements nor the approved arrangements are considered suitable given the speed of traffic, the advance visibility, and the fact that delays to traffic on this road would adversely affect a number of businesses, schools, and people in Ottery St Mary, as well as the emergency services. A more suitable, perhaps necessary, solution in that scenario would be an underpass, which would appear to be a viable proposition given the level terrain. Because of the failure to convincingly offset the impacts of the development, the proposal would be contrary to Policy NP14 of the Neighbourhood Plan and Strategy 50 and Policy TC7 of the Local Plan.

Should the highway objection raised in our comments be adequately addressed or mitigated, we request that Devon County Council give very careful consideration to the timing and phasing of the development, ensuring that suitable remediation is provided after each phase of development and ensuring that such remediation is provided in a very timely manner to ensure that the land is worked for the least amount of time possible.

Whilst there is likely to be harm to the setting of Straitgate Farm, albeit that this is during operations, the proposed restoration scheme will assist in minimising any long-term impact.

- 3.3 East Devon District Council (Environmental Health): Initial response: no objection, and any consent should include conditions requiring that both the noise and dust mitigation and control measures outlined in the Environmental Statement are adopted and maintained throughout the life of the site. No response was received to the second or subsequent consultations.

A further response was received from the EDDC Private Sector Housing Team following the third consultation:

“The Environment Agency are the competent authority for protection of controlled waters. It is our understanding that both the Environment Agency and Aggregate Industries UK Ltd conclude that the likelihood of any impact on private water supplies in the vicinity of the application site to be low, in contrast to the considerations of Prof. Rick Brassington. However unlikely, it’s clear that a residual risk remains to the private water supplies from the application, in terms of maintaining sufficiency and quality of the water. As such, there is a potential risk to health for consumers. Furthermore, in the event that private supplies were impacted, this may result in the persons responsible for the supplies to be unable to fulfil their legal duties under the Water Industries Act 1991 and Private Water Supplies Regulations 2016 (England) (as amended). We note the monitoring and mitigation obligations proposed in the draft Section 106 Head of Terms. Should approval be granted, then a comprehensive monitoring management and mitigation strategy should be agreed by the Environment Agency and planning authority prior to any works commencing, to include but not limited to the private supplies at Cadhay. This should include baseline quality and flow monitoring. We consider the Head of Terms to be currently insufficient to

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mitigate any temporary risks to health which could arise from contamination or derogation of private supplies, as substantial delays in provision of temporary arrangements are likely to manifest while the attributable cause is agreed or contested. Improvement to the 106 Agreement should be obtained prior to any permission being granted, whereby temporary wholesome supplies should be provided in lieu of the likely cause of any water deficiency being investigated and determined.”

- 3.4 Ottery St Mary Town Council: Objection based on traffic impacts on B3714 in combination with other planned developments in Ottery St Mary; safety of HGVs accessing the site and lack of forward visibility on the B3174, impacts on pedestrians and cyclists; sustainability of haulage proposals; flooding in Ottery St Mary; concerns about inaccuracies in Flood Risk Assessment; impact on private water supplies Cadhay Fishponds and Cadhay Bog; impacts on wildlife and landscape; danger to the airport from bird-strike; no established need and alternatives at Uffculme; noise; loss of tranquillity; impact on views from AONB and East Hill; potential light pollution; negative impact on tourism and no increase in jobs. No response received to second or subsequent consultation. The Town Council also copied the County Council into a letter to the Lead Local Flood Authority (LLFA) in October 2021 querying the reason for the withdrawal of their objection. This has been dealt with separately direct by the LLFA but the issue of flood risk is covered in this report from paragraph 6.3.43 (Surface Water Management and Flood Risk).
- 3.5 West Hill Parish Council: Recommends refusal due to loss of old trees and hedgerows with high species diversity and “catastrophic” impact on diversity of wildlife and remedial planting would take tens of years to repair the damage; visual impact on A30 and Barrack Road affecting first impressions of the area; highway safety concerns due to HGVs and turning movements, damage to lanes, hedges and verges and wildlife will be under threat from constant heavy vehicles, the topography of Barrack Road means that cars and bicycles may be invisible to turning lorries which will be slow moving in an area with no speed limit; industrialisation of rural area; lack of sustainability of transporting minerals 23 miles to process plant and concern that vehicles might use minor roads.

The Transport Assessment does not reflect traffic associated with recent housing development including Kings Reach and was completed in 2018. Also, accident statistics do not reflect the period post 2016. The Transport Assessment states that there is “no need to intensify cattle crossings”, which is incorrect if the farmer wishes to maintain his dairy herd. They will need to be kept on fields south of the B3174 and move across the road 4 times a day to access the milking parlour. The Public Health England concerns about dust management have not been adequately addressed.

- 3.6 Whimble Parish Council: Recommends refusal as concerned about damage to lanes from heavy transport and erosion and downstream flooding in Ottery St Mary. If approved the land must be restored to agriculture (this is the proposal)

- 3.7 National Highways: Matters raised in the first and second consultations relating to the stability of the A30, and topsoil storage have been resolved by the submission of further information by the applicant relating to standoffs and cross sections. The most recent consultation has raised issues with relation to the cattle crossing permitted by East Devon District Council. NH reminds DCC that:

“As set out in our response to application 20/2542/FUL, any increase in the frequency and/or duration of closures of the B3174 during the network peak periods when traffic is at its heaviest is likely to result in queues extending back to the A30 which may result in an unacceptable safety impact contrary to paragraph 109 of National Planning Policy Framework (2019) and paragraph 10 of DfT Circular 02/2013 “The Strategic Road Network and the Delivery of Sustainable Development”. Therefore, should there be any proposed increase in the frequency and/or duration of closures of the B3174 to facilitate the crossing of livestock, an assessment of the impact of such closures on the safe operation of the A30 trunk road must be undertaken”.

- 3.8 Natural England: A number of responses have been received regarding protected sites and species and the need to protect the best and most versatile soils.

Following the applicant’s response to previous queries about Great Crested Newts, Natural England commented that the applicant’s response was rational and appropriate, and they have no further comment.

In its most recent response, (17 May 2021) Natural England welcomes the Straitgate updated biodiversity impact assessment calculations (21 January 2021) providing an update to the Biodiversity Impact Assessment calculation undertaken in 2018, with the enhancement of key retained habitats and the restoration of new habitats on the site, providing an overall net gain in biodiversity units of 15%.

At the time of this response, the remaining issue of soils management and protection of the “Best and Most Versatile” (BMV) agricultural land was unresolved. Previously Natural England stated that it was generally satisfied that the best and most versatile land should be capable of being reclaimed without loss of quality dependent upon appropriate soil handling. However, their most recent response has asked for additional information to be provided on the maintenance of soil quality set against the need for flood attenuation in the area to the east of the site to be used for soils storage. The LLFA is no longer requesting that the soils in this area remain in situ and so the soils can be managed in accordance with MAFF guidance.

- 3.9 Environment Agency: A number of responses to this proposal have been provided during the course of its consideration and in response to submitted documentation in support of the Straitgate Action Group and the owner of Cadhay.

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Their final response (13 August 2021) states that the proposal will be acceptable only subject to robust conditions regarding the protection of groundwater resources and quality. (These were presented as a part of an earlier response and have been adopted in full). There will need to be appropriate monitoring and a legal agreement regarding protection and remediation of water supplies (for which the EA recommend that legal advice is received).

They have also commented that the MPA may wish to consider whether it wishes to see an updated plan of the extent of the extraction area (taking into account the near-surface MWWT contours in the north-east part of the proposed excavation area) prior to determination.

**In recognition of the complexity of this issue and the long history of correspondence leading to the submission of several technical reports, the Environment Agency has issued a technical note to this Committee which is attached at Appendix III.**

- 3.10 Historic England: No comment but suggest that the Council takes the advice of specialist conservation and archaeological officers where relevant.
- 3.11 Wales and West Utilities: No comment.
- 3.12 Public Health England<sup>1</sup>: The application does not present any obvious cause for concern, but the proposed dust mitigation strategy should be conditioned to minimise offsite impacts, and the proposed monitoring system set out in the application should be agreed prior to the commencement of extraction. In response to comments raised by the SAG, PHE was approached for further comment on the issue of public health and mining, but no further response was received.

In respect of the most recent consultation PHE is of the view that there are no new issues relating to air quality, dust, or public nuisance. PHE expect the planning conditions to ensure that there is an appropriate level of monitoring to demonstrate that site activities are not having an adverse off-site impact.

The provision of a Dust Management Plan (DMP), detailing appropriate dust mitigation measures, to be adopted as part of any planning consent. PHE recommends that the regulatory authority ensures that any site activities regulated through the pollution prevention and control regime will operate to Best Available Techniques (BAT) to ensure that emissions are kept to a minimum beyond the site boundary.

- 3.13 Health and Safety Executive: No comment.

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<sup>1</sup> Public Health England was replaced by UK Health Security Agency and Office for Health Improvement and Disparities during the course of this application but, as consultation responses were received prior to this reorganisation, reference will be made to Public Health England in this report.

- 3.14 Devon Gardens Trust (Formerly the Garden History Society): Cadhay is an historic landscape of national interest included on the Register of parks and gardens as Grade II Listed within which sits the Grade I Listed Cadhay House. The landscape setting of Cadhay House contains two medieval fishponds which are supplied by a spring just below the extraction site. The ponds have been supplied by this spring for 500 years and are an essential and important feature of the setting of the house and an important element of the designed landscape.

On the basis of the submitted documentation, the Trust concludes that, if implemented, the proposed scheme would cause more than substantial harm to the Grade II Listed designed landscape at Cadhay, which forms the designed setting of the Grade I house. This level of harm to two, inter-related, nationally designated heritage assets clearly conflicts with Government Planning guidance contained in the National Planning Policy Framework (especially Paragraphs 193-195) and with local and County planning policy.

- 3.15 Devon Wildlife Trust: Concerned about the extent of hedgerow removal (1.59km) which is identified as important under the Hedgerow regulations, the loss would have a significant impact on the ecological network unless sufficient mitigation. Insufficient detail regarding net ecological gain and they would like to see more information about the phasing; mitigation and additional planting which does not appear on the drawings; the proposed hedgerow replacement will take many years to provide an ecological contribution and they express concern about soil compaction leading to surface water runoff from stockpiles. No response received to second or subsequent consultation.

- 3.16 Exeter Airport: No objection subject to the applicant implementing the proposals in the Wildlife Habitat Management Plan (WHMP) and affording the airport bird control specialist access to the site and ongoing management during periods when the site is dormant. The airport also required the removal of some of the areas of advance planting and the management of others to heights deemed by the airport to be safe during the restoration and aftercare period. Amended plans were received removing this vegetation but providing additional planting to mitigate it elsewhere on the site.

Second and subsequent consultation: no objection subject to the conditions previously requested being imposed on any consent.

- 3.17 Forestry Commission: Refers to standing advice and NPPF guidance on the loss of veteran trees and ancient woodland [there are none on the application site].
- 3.18 DCC Highways: The quarry would have an operational life of approximately 10 to 12 years during in which time the extraction would be undertaken on a campaign basis. On an average day this would result in circa 122 HGV trips on the public highway network. During intensive periods of working this would have the potential to increase to 216 HGV trips per day for example if

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extraction/transportation is restricted due to weather/staff sickness/vehicle availability or obstruction of the highway network.

The model analysis shows that the proposed improved junction operates within capacity for all scenarios in the AM and PM peaks.

The proposed new section of footway will be provided along Birdcage Lane to the point where the new section of Permissive footpath is proposed, and a hard standing area located off carriageway will be constructed for students waiting for school coaches. Also, an embargo on HGV movements during term time at school coach pick and drop off times will be implemented.

The LHA recommends that the application is granted conditional planning permission and recommends the following conditions:

The development hereby permitted shall be carried out in accordance with the approved access and junction improvement scheme as shown on Drawing 0308.101 Rev. F.

- 3.19 DCC Ecology: Provided that the proposed mitigation is secured through appropriately worded conditions, the proposal meets policy and legislative ecological requirements. It is essential that all details relating to the protection, creation, management, enhancement, and monitoring of habitats are set out in the Construction Environment Management Plan (CEMP) and Landscape Environment Management Plan (LEMP) which will need to be agreed by the Council.

The applicant undertook a walkover survey in October 2020 which showed no significant changes other than a few fields had been converted to arable. Given this it is considered that the ecological impact assessment provided is sufficient to determine this application. A number of surveys will need to be updated (badgers, tree bat roosts etc) and details will be agreed with the Council through production of the CEMP/LEMP.

- 3.20 DCC Landscape: The natural topography and historic landscape features including hedgebanks and mature trees contribute positively to the landscape quality and rural character of the area. The proposals would inevitably result in unavoidable direct loss of these attributes although the landscape restoration proposals have been designed to respect the rural character and distinctive field pattern, and restore grass swards, species-rich grassland, trees, and hedges. The landscape proposals also include the restoration of the traditional orchard at Straitgate Farm.

The greatest impacts on the rural character of the area would arise during quarrying operations although this is of a limited 10-year duration.

The proposed progressive working into three phases would minimise the extent of operations visible in the earlier phases, in particular in distant views from the East Devon AONB and from Ottery. The extent of quarry operations takes advantage of existing mature hedges and tree belts for

screening and integration. The Landscape Officer agrees with the LVIA that no significant adverse effects are likely on the quality of views enjoyed from the AONB.

The greatest visual impacts during operations would arise from the surrounding country lanes where quarrying activity and soil storage mounds would result in moderate - adverse visual impacts for up to 10 years duration.

There is very little scope for new planting to further screen views of quarrying in the short term (first 5 years), therefore conditions should require existing visually important vegetation to be protected and enhanced, and full use made of 'greened' temporary soil storage mounds for screening, provided that far reaching views are maintained from some locations.

The avoidance of quarry working within the fields immediately adjacent to Birdcage Lane would further minimise visual intrusion.

The Landscape and Visual Impact Assessment (LVIA) has been carried out by a suitably qualified landscape professional according to best practice guidance and issues previously raised regarding soil storage and the visual impacts of the access road have been adequately addressed in the most recent information.

There is insufficient detail in the access drawing and therefore detailed design of proposed new access should seek to reflect the rural character of Birdcage Lane e.g. no prominent pre-cast concrete kerbs or excessive signage and use of agricultural details for fencing and gates where possible. Proposals to restore tree and hedge planting along Birdcage Lane sufficient to compensate for losses should be secured prior to determination given current uncertainties.

Should permission be granted, it is recommended that suitably worded conditions are in place to ensure the protection of the remaining trees and hedgerows in advance of commencement and for the duration of the operations; seeding of temporary storage mounds with grass to reduce visual impacts; certification of the provenance of seed mixes and native trees and shrubs; LEMP to be implemented during operations and for five years aftercare period and reports submitted annually on progress and actions taken in previous year together with planned actions in forthcoming year.

- 3.21 DCC Historic Environment: The Historic Environment Team at Devon County Council had already engaged with the developer and agreed a programme of archaeological investigation which was included in the application documentation. As such they had no further comment to make on the application subject to the appropriate condition being applied to any planning permission.
- 3.22 Lead Local Flood Authority: No objections in principle subject to a pre commencement condition requiring soakaway testing within each of the

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proposed extraction phases and the submission and approval of a detailed drainage design based on the infiltration testing and the results of the groundwater monitoring supported by the latest information, and a detailed surface water management strategy for the working and restoration phase. To clarify concerns raised by objectors, the LLFA has provided a briefing note to explain the reason for their removal of their initial objection to the proposal. This is attached to this report at Appendix V.

- 3.23 DCC Public Rights of Way: No objection provided that the applicant enters into a public path creation agreement under S25 of the Highways Act 1980 to effect the dedication of the public right of way; detailed specification and design to be submitted; installation and maintenance of an interpretation board and maintenance.
- 3.24 DCC Public Health: No response.
- 3.25 East Devon AONB Unit: No comment.
- 3.26 County Councillor: Over the course of this application there have been two local County Councillors either side of the May 2021 election, Councillor Wright and Councillor Bailey, who have both objected to the proposal.

Councillor Wright (to May 2021) wrote several letters of objection based on concerns about flooding and water; interference with the water table leading to potential detrimental impacts on Cadhay Bog designated as ancient woodland and likely to dry out as a result of quarrying; increased flood risk from a site already known as the cause of flooding in 2008; potential impacts on the drinking water supplies of approximately 100 people as well as commercial users; road safety concerns due to slow moving HGVs turning right across the traffic flow; cattle crossing would become heavily used due to loss of grazing land to the quarry; unsustainable to send the material to Uffculme (Hillhead) for processing as a 46 mile round trip counter to Climate Change Policy; sufficient reserves at Hillhead and Penslade means that there is no need for this quarry as there is a 20 year supply.

Councillor Bailey (from May 2021) reiterated the previous objections from Councillor Wright and recommends refusal on the basis of environmental and ecological impact, unsustainable development due to the remote processing and consequent road mileage, alternative supply at Hillhead (not included in greenhouse gas report); Straitgate was included in the Minerals Plan on the basis that materials would be processed nearby at Rockbeare Quarry and the proposal is therefore contrary to Policy M2 of the Minerals Plan; impact on water supplies from irreversible alteration to the water chemistry to danger to private supplies; s.106 agreement is inadequate; height of water table is uncertain and the Mineral Plan requires working only above the maximum water table; flood risk; highway safety and the cattle crossing which remains unresolved with potential impacts on the A30 and the emergency services; no identified need and alternatives exist especially at Penslade. The seven-year landbank can be provided by alternative supplies including Houndaller and Penslade Cross.

The delay in determination has been to the detriment of residents facing years of uncertainty and some of the supporting information is now out of date. There is a relatively small amount of potential quarrying material at Straitgate and a disproportionate detriment and risk.

## 4. Advertisement/Representations

- 4.1 The application has been advertised in accordance with the statutory publicity arrangements by means of site notices, notices in the press and the notification of neighbours and previous correspondents by letter. As a result of these procedures at the time this report was published, and following three separate periods of public consultation, 252 letters of representation have been received of which 251 are objections or expressions of concern and one letter of support. All representations are available to view through the link in paragraph 1.3 of this report.
- 4.2 The objections raised a wide range of issues, and the following is a summary of the main material matters raised:
- impact on the highways, road safety and the amenity of the area from increased HGV movements;
  - concern about the impact of the cattle crossing;
  - the potential effects on water supplies and hydrogeology;
  - surface water management and flood risk;
  - soil and overburden storage stability;
  - impact on wildlife;
  - landscape and visual impact;
  - impact on the historic environment and listed buildings and their settings;
  - environmental concerns e.g. noise and dust;
  - airport safeguarding;
  - adverse impacts on the tourist economy (especially of Ottery St Mary);
  - loss of the best and most versatile agricultural land the lack of restoration at other AI sites;
  - need and the lack of consideration of alternatives and the sustainability of the haulage proposals following the declaration of a climate emergency; and
  - time taken to determine the application.
- 4.3 A number of organisations have made representations, and these are outlined below.
- 4.4 Straitgate Action Group [(SAG): A number of very lengthy and comprehensive representations have been received from this group, including detailed comments from two hydrological consultants, and a specific planning policy response submitted on their behalf by a planning and environmental consultant.

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- 4.5 The SAG objects to the proposal on the grounds of:
- non-compliance with DMP policies;
  - unsustainable development;
  - inadequate consideration of alternatives;
  - CO<sub>2</sub> emissions from haulage;
  - methodology of the Transport Assessment;
  - access scheme using third party land;
  - highway safety;
  - hydrogeological concerns;
  - loss and/or pollution of water supply;
  - flooding; and Flood Risk Assessment contains insufficient allowance for climate change;
  - date of wildlife surveys;
  - loss of hedgerows (underestimated);
  - impact on wildlife (dormice and bats);
  - insufficient survey for Great Crested Newts;
  - insufficient storage area for topsoil;
  - concerns about restoration to best and most versatile agricultural land;
  - insufficient storage for soils and overburden and insufficient consideration given to managing specific subsoil types;
  - stability of soils and overburden storage;
  - insufficient material to buttress the A30;
  - site management;
  - noise and dust concerns;
  - visual impact from East Hill within the AONB;
  - impact on the setting of Grade II Listed Farmhouse;
  - airport safeguarding not protected while surface water management is unresolved.

A number of these concerns raise matters on which the Council has received comment from statutory technical consultees.

- 4.6 A further lengthy objection was received from SAG in respect of the additional environmental information pointing out the reduced resource figure to set against the harm from the proposal, concerns about the groundwater model, flood risk, working methodology, protection of soils and restoration and the impact of the proposed cattle crossing.
- 4.7 The SAG has commissioned independent reports from two hydrogeologists, the first responding to the original consultation in 2017. Concern was expressed that groundwater levels may fluctuate by less than a metre across the intended deepening area, raising questions as to the practicality of the proposal in terms of maintaining a one metre separation between excavation and the water table; and the assumption that the winter of 2013/14 represents highest groundwater levels for shallow groundwater at this site should be established. The steep hydraulic gradient combined with limited monitoring, is likely to result in errors in the actual depth to maximum groundwater across the site and the proposal to have ongoing monitoring

(Section 4.1 of the Hydrogeological Assessment) does not mean that the 1m unsaturated freeboard will be maintained, but simply that the operators will know that groundwater levels are rising towards the surface.

- 4.8 The second hydrogeologist commissioned by the SAG has also been commissioned by the owner of Cadhay. Several representations have been received from Professor R Brassington who has presented a number of reports to the Environment Agency and the Council stating that the proposal is likely to alter the water chemistry leading to acidification of (already marginal) potable water supplies and could lead to a derogation of both private water supplies which rely on groundwater as well as stream flows in the Cadhay Brook which supply the fishponds at the Grade I Listed Cadhay House in its Grade II Listed Garden setting.
- 4.9 The Council asked the applicant's hydrogeology consultants as well as the Environment Agency to comment on these concerns. Additionally, in June 2021 a meeting was held between Professor Brassington, his clients, the Environment Agency, the applicants and their own consultants and the Council to try to resolve these issues and to see if it was possible to find common ground.
- 4.10 A further report from Professor Brassington was received in November 2021 reiterating his concerns that the excavations would reduce the amount of unsaturated zone leading waters to pass through it more quickly and to become acidic. He also states that the EA is wrong in stating that there are no pH standards for drinking water.
- 4.11 These very technical reports from both Wood (the Applicant's hydrogeologists) and Professor Brassington are on the DCC website through the link in paragraph 1.3 of this report, and the comments by Professor Brassington have been taken on board in the detailed response from the Environment Agency and their important technical note to this Committee which is set out in full in Appendix III of this report. A further representation was received from Professor Brassington in November 2021 based on water quality and potential acidification of drinking supplies.
- 4.12 Additionally, the SAG has commissioned an independent planning consultant (Mr C Hopkins) who has commented on the policy issues pertaining to the application. The following conclusions are made:
- the proposal conflicts with a number of policies in the Devon Minerals Plan and the NPPF and that there are insufficient material considerations in favour of the development whose adverse impacts would significantly and demonstrably outweigh the benefits;
  - alternatives have not been adequately considered (especially Penslade Cross) in terms of both the Environmental Statement and the derogation tests for European Protected Species;
  - no degree of certainty that the landbank for aggregates will be below 7 years by 2021;
  - transport assessment is inadequate to meet the requirements of Policy M22 and no sustainability assessment [since provided];

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- loss of “Best and Most Versatile” agricultural land contrary to Policy M21;
- there is a high risk of groundwater contamination (as set out in the first hydrology report commissioned by the SAG) which could affect water supplies and this and the potential loss of BMV soils would not comply with DMP Policy M21;
- the proposal does not contribute to Green Infrastructure and does not demonstrate that protected species will not be affected;
- the ecology surveys are inadequate, and the conclusions of the Environmental Statement do not indicate that the tests for a European Protected Species licence have been met contrary to Policy MP17;
- the proposal will affect the setting of the East Devon AONB and insufficient assessment has been carried out contrary to DMP Policy M18;
- the proposal does not accord with DMP Policy M20 (Sustainable Design) as no consideration has been given to minimising energy demand, sustainable construction, offsetting carbon emissions [subsequent submissions by the applicant have sought to address this point]; and
- the proposal does not constitute sustainable development which is a core principle of the NPPF and the application does not directly address these requirements especially the need to make contributions towards carbon reduction or to conserve and enhance the natural environment.

#### 4.13 West Hill Residents Association: Object on the following grounds:

- unproven need;
- haulage contrary to Policy M22 of DMP;
- loss of agricultural land and soils;
- landscape impact significant and adverse;
- loss trees and hedgerow;
- impact on dormice, bats, listed buildings (Cadhay House and its setting and Straitgate Farm);
- impacts on local hydrology, concern over protection of water supplies and aquifer storage;
- increased flood risk;
- transport concerns and impacts on Birdcage Lane, query figures in the submitted Transport Assessment set against figures produced by Highways England; and
- increase in air pollution from traffic movements.

#### 4.14 Council for the Protection of Rural England (East Devon Group): Initial response objected on the following grounds:

- the processing site is not identified in the Devon Minerals Plan;
- processing at Hillhead would not minimise transportation by road contrary to a number of Local Plan Policies and the NPPF and would cause environmental harm;
- loss of the best and most versatile agricultural land;
- adverse landscape and visual impacts;
- harm to local ecology and biodiversity;
- adverse impact on airport safeguarding;
- harm to heritage assets and their settings;

- impact on local water supplies; and
- potential flooding of Ottery St Mary.

A second response stated that their previous objections were not dealt with adequately in the additional environmental information, in particular:

- road safety and predicted traffic levels;
- need for cattle crossing;
- access requires third party land and loss of additional trees and hedge-bank;
- landscape impacts not properly assessed;
- concerns about hedgerows;
- remaining concerns over soils and impacts of storage;
- working proposals are confusing and untested;
- loss of ancient hedgerows not mitigated; and
- impacts not outweighed by the amount of material available.

## 5. Planning Policy Considerations

5.1 In considering this application the County Council, as Mineral Planning Authority, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations indicate otherwise.

### 5.2 Devon Minerals Plan (adopted February 2017)

Policies M1 (Spatial Strategy); M10 (Secondary and Recycled Aggregates); M11 (Steady and Adequate Supply of Land-won Aggregates); M12 (Land-won Sand and Gravel Supply); M13 (High-specification Aggregates); M16 (Green Infrastructure); M17 (Biodiversity and Geodiversity); M18 (Landscape and Visual Impact); M19 (The Historic Environment); M20 (Sustainable Design); M21 (Natural Resources); M22 (Transportation and Access); M23 (Quality of Life); M24 (Flooding); M25 (Land Stability); M26 (Cumulative Effects) and M27 Restoration and Aftercare).

Table C.4 of the Minerals Plan applies these policies to the Preferred Area allocation of Straitgate Farm and is reproduced as Appendix IV to this report.

### 5.3 East Devon Local Plan (adopted January 2016)

Strategies 3 (Sustainable Development); 5 (Environment); 5B (Sustainable Transport); 7 (Development in the Countryside); 28 (Sustaining and Diversifying Rural Enterprises); 38 (Sustainable Design and Construction); 46 (Landscape Conservation and Enhancement and AONBs); 47 (Nature Conservation and Geology) and 49 (The Historic Environment).

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Policies D1 (Design and Local Distinctiveness); D2 (Landscape Requirements); D3 (Trees and Development Sites); D8 (Re-use of Rural Buildings Outside of Settlements); EN5 (Wildlife Habitats and Features); EN6 (Nationally and Locally Important Archaeological Sites); EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance); EN8 (Significance of Heritage Assets and their Setting); EN13 (development on High Quality Agricultural Land); EN14 (Control of Pollution); EN18 (Maintenance of Water Quality and Quantity); EN21 (River and Coastal Flooding); EN22 (Surface Run-off Implications of New Development); TC2 (Accessibility of New Development); TC4 (Footpaths, Bridleways and Cycleways); TC7 (Adequacy of Road Network and Site Access); TC9 (Parking Provision in New Development) and TC12 (Aerodrome Safeguarded Areas and Public Safety Zones).

## 5.4 Ottery St Mary and West Hill Neighbourhood Plan (made July 2018)

Policies NP1 (Development in the Countryside); NP2 (Sensitive, High Quality Design); NP7 (Flood Defences); NP8 (Protection of Wildlife Sites and Features of Ecological Value); and NP9 (Accessible Developments).

Paragraph 6.52 of the Neighbourhood Plan notes the allocation of Straitgate Farm as a preferred mineral extraction area in the Devon Minerals Plan and identifies the need for the site to be restored into the landscape for agricultural use.

## 5.5 Other materials considerations include:

- Devon Local Aggregates Assessments;
- National Planning Policy Framework; and
- Planning Practice Guidance.

## 6. **Comments/Issues**

6.0 It is considered that the main material considerations in the determination of this application are: planning policy considerations; transportation, access and highway safety; the water environment including hydrogeology, water supplies, surface water management and flood risk; health and amenity; the historic environment; landscape and visual impact; biodiversity impacts; restoration proposals, including agricultural and soil considerations; aircraft safety and airport safeguarding; economic considerations; sustainability and climate change; availability of alternatives; and legal considerations.

### 6.1 **Planning Policy Considerations and the Principle of the Development**

6.1.1 The National Planning Policy Framework [NPPF] requires that planning decisions should apply a presumption in favour of sustainable development including “approving development proposals that accord with an up-to-date development plan without delay” [paragraph 11]. Addressing minerals, the NPPF states that “it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country

needs” [paragraph 209] and requires that “great weight should be given to the benefits of mineral extraction, including to the economy” [paragraph 211].

- 6.1.2 Paragraph 213 of the NPPF requires that mineral planning authorities “should plan for a steady and adequate supply of aggregate minerals” through preparation of Local Aggregate Assessments, making provision for aggregates in their mineral plans, using landbanks of aggregate minerals as indicators of the security of supply and the need for additional provision in minerals plans, by: “...maintaining landbanks of at least 7 years for sand and gravel...whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised” [emphasis added].
- 6.1.3 In addition to its guidance on minerals, the NPPF addresses a wide range of other social, economic, and environmental matters, which are addressed where appropriate in subsequent sections of this report. Further guidance is provided in the Government’s Planning Practice Guidance for minerals, which indicates that mineral supply can be planned for through designating specific sites, preferred areas, or areas of search.
- 6.1.4 The Devon Minerals Plan [DMP] was adopted in February 2017 and provides the local mineral planning policy context for the determination of this application and includes a range of relevant policies that have been tested through examination and found to be “sound”. The policy considerations for extraction at Straitgate Farm can be separated into strategic policies (Policies M1, M11 and M12), which are addressed in this section, and development management policies concerned with specific impacts that are considered in subsequent parts of this report.
- 6.1.5 Policy M1 provides the spatial strategy for the future extraction of mineral resources in Devon and indicates that extraction of sand and gravel aggregates will be permissible “from within the Budleigh Salterton Pebblebeds and from quarries and prior extraction close to the Main Settlements”. Straitgate Farm is located within the Budleigh Salterton Pebblebeds and, therefore, the proposal is in accordance with this policy.
- 6.1.6 Policy M11 provides the DMP’s approach to the supply of land-won aggregates, and this reflects the requirement for “a steady and adequate supply of aggregates” set out in paragraph 213 of the NPPF. Part 1 of Policy M11 refers to the requirement maintenance of a landbank of at least seven years for sand and gravel, calculated using the rolling average of 10 years’ sales data provided in the annual Local Aggregate Assessment (LAA). All of Devon’s LAAs are available here: [Local Aggregate Assessment – Planning \(devon.gov.uk\)](https://www.devon.gov.uk)
- 6.1.7 The second part of Policy M11 states that “where a landbank is close to or below the minimum duration, proposals will be permitted for new or extended sites that would contribute to the maintenance of the landbank subject to compliance with the Minerals Plan’s Spatial Strategy”. Part 3 of the Policy provides criteria for considering proposals where an adequate landbank exists, which is not currently the case (see paragraph 6.11 below).

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6.1.8 Policy M11 also includes the following paragraph as its fourth part:

“Where new resources are justified under this Policy, the extension of an existing quarry will be preferred to the establishment of a new quarry, subject to consistency with the Spatial Strategy and consideration of the cumulative impacts of the proposed site(s) taking account of other past and present mineral and non-mineral development in the area.”

6.1.9 Finally, Policy M12 provides for the supply of sand and gravel through extraction of remaining reserves at existing quarries, the development of further resources at two Preferred Areas within the Budleigh Salterton Pebble Beds – Straitgate Farm and West of Penslade Cross, near Uffculme – and through small-scale working in the Exeter and/or Newton Abbot areas.

6.1.10 Monitoring of aggregates landbanks is undertaken through annual preparation of a Local Aggregate Assessment [LAA]. The 10<sup>th</sup> LAA for Devon covers the 10 years period of 2011 to 2020 and provides the most recently published data. This shows that, at the end of 2020, the landbank for sand and gravel was 5.7 years and it has therefore fallen below the seven years minimum required by paragraph 213 of the NPPF and Policy M11 of the DMP.

6.1.11 The ability of Devon to maintain land-won aggregate supply has been tested by modelling the ten years sales average alongside two housing trajectory scenarios. This test indicates that the sand and gravel landbank, which is already below the seven years minimum, would expire completely between 2023 and 2026 under these scenarios. However, the Devon Minerals Plan provides for up to 9.2Mt of sand and gravel at two sites one of which is Straitgate Farm and this provision for sand and gravel, if delivered, would sufficiently extend the life of the landbank.

6.1.12 In this context, Part 2 of Policy M11 presumes in favour of permitting proposals for a new or extended sand and gravel site as the relevant landbank is below the minimum duration and, as identified above, the application site accords with the Minerals Plan’s spatial strategy.

6.1.13 As indicated above, Part 4 of Policy M11 expresses a general preference for the extension of an existing quarry to the establishment of a new quarry, but there are currently no proposals pending for the extension of any existing sand and gravel quarries in Devon. Extraction has been undertaken in the southern area of the BSPB over many years at Blackhill Quarry, now closed and in restoration; Venn Ottery Quarry, also in restoration; and Rockbeare Quarry, where winning and working has ceased and inert waste material is being imported from Cranbrook to make up restoration levels. Straitgate Farm is, however, a preferred site in the DMP as part of the identified spatial strategy for the delivery of minerals in Devon and there are no operational quarries in this part of the BSPB that are suitable for expansion.

- 6.1.14 A proposal for a quarry west of Penslade Cross near the existing Hillhead site is anticipated in due course, but this will be a new quarry and not an extension to the existing Hillhead Quarry. Finally, the gravel content at Straitgate is higher than sites in the north of the Pebblebeds, yielding higher quality road surfacing materials and therefore enhancing the range of products available. The proposal is therefore considered to be in accordance with Part 4 of Policy M11.
- 6.1.15 As Policy M11 supports permitting proposals for further resources to enable the minimum landbank to be maintained, it is necessary to consider Policy M12 which specifically provides for sand and gravel supply. In recognition that there were insufficient sand and gravel reserves at the time of adoption of the MLP to maintain a seven years landbank to the end of the Plan period (2033) as required by Policy M11, part (b) of Policy M12 identifies two 'Preferred Areas' for the future supply of land won sand and gravel in Devon, one of which is Straitgate Farm. Sand and gravel extraction at the application site is therefore supported in principle subject to specific caveats in the Policy M12 which include "working only above the maximum water table" and meeting the mitigation measures set out in Table C.4 of Appendix C of the DMP which deal with specific environmental constraints. These constraints and mitigation measures are dealt with in topic-specific sections below.
- 6.1.16 Some objectors have referred to the applicant not having demonstrated a need for the development; however, in the plan-led system provided for by the NPPF, the requirement is not to demonstrate need, but to consider whether a development accords with the development plan. Effectively, the development plan (in this case, the Devon Minerals Plan) considers the issue of need and makes appropriate provision for it in the form of preferred areas and other policy provisions. It follows that, where a proposed quarry accords with an allocation in the up-to-date Minerals Plan, it is not necessary for a need to be demonstrated through a planning application.
- 6.1.17 Objections include that there are existing sand and gravel resources at the Houndaller area of Hillhead Quarry and a further preferred area at West of Penslade Cross but, in terms of need, Paragraph 084 of the Minerals Planning Practice Guidance states that "there is no maximum land-bank level and each application for minerals extraction must be considered on its own merits regardless of the length of the land bank". Furthermore, the Minerals Planning Practice Guidance makes it clear that high quality aggregates (to include high PSV materials) need to be assessed separately and that the resource should be appropriately used. It is acknowledged that the precautionary working to a standoff above the maximum water table will leave a considerable amount of the gravels in the ground, but the concerns about protection of the water table have led to this approach. The restoration of the site to farmland would not sterilise the remaining resource should an acceptable approach to dewatering be found in the future.

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## 6.2 Transportation, Access, and Highway Safety

6.2.1 Policy M22 of the DMP addresses the transportation impacts of mineral development and seeks to minimise the distance that minerals are transported. The Policy requires proposals to demonstrate that they would not have a significant effect on road safety or the capacity and functionality of the road network, and to include appropriate mitigation for any negative impacts. Table C.4 in Appendix C of the DMP applies Policy M22 to the context of Straitgate Farm:

“Site access should be provided in an appropriate location that ensures safety for other road users while minimising adverse effects on residential amenity, landscape and visual impacts, biodiversity and heritage assets.

Transport impacts in the vicinity of the site and on the route to a processing location should be addressed in a Transport Assessment to support any planning application. Proposals should demonstrate that excavation will have no adverse impact on the adjoining A30 trunk road. The transportation of extracted materials for processing elsewhere should meet the requirements of Objective 1 and Policy M22 for minimal transportation by road.”

6.2.2 Also of relevance to this application are Strategy 5B and Policies TC4 and TC7 of the East Devon Local Plan [EDLP].

6.2.3 The majority of objections submitted have been based on various highways and transportation concerns. This section concentrates on the issues raised in relation to the proposed access into Birdcage Lane and the transportation arrangements, using figures set out in the most recent Transportation Assessment and not previous iterations.

6.2.4 The application is accompanied by a Transport Assessment and the Highway Authority considers that the proposed site access is in a location that meets the criteria set out in Table C.4 expressed in paragraph 6.2.1. It is acknowledged that objectors have commissioned other traffic consultants to put forward alternatives (such as the use of the Little Straitgate entrance) and to question the content and baseline put forward in the TA; however, DCC Highways (as well as National Highways) have considered the information before them and have concluded that the details within the Transport Assessment are adequate and the proposed access is acceptable.

### Impacts on the A30

6.2.5 National Highways is satisfied that the required stand-off from the A30 will protect the integrity of the adjacent Trunk Road and proposed planting along that boundary will help to screen operations on the site that might otherwise distract road users. The impact on the A30 junctions is considered in the general National Highways response and, apart from caveats regarding no

increase in the permitted number of cattle crossings (see below), they do not object to the application.

## Sustainable Transportation/Alternatives

- 6.2.6 The transportation of materials to processing is acknowledged to be an issue in considering the planning balance.
- 6.2.7 The issue of transport alternatives is considered in more detail in Sections 6.11 and 6.12 on Sustainability and Alternatives.

## Volume and Routeing of Traffic

- 6.2.8 The B3174 is an existing classified road already carrying a mix of cars and commercial traffic and is the main route into Ottery St Mary from the A30 at the Daisymount Junction.
- 6.2.9 A number of representations have referenced incidents with vehicles being pushed into verges and ditches whilst trying to pass but the Highway Authority considers that the number and nature of the vehicle movements can be accommodated by the existing route network.
- 6.2.10 The original Transport Assessment has been updated to clarify the average daily movements on the B3174, the predicted movements from consented developments around Ottery St Mary and the existing and predicted numbers of cattle crossing the B3174 to establish a credible baseline.
- 6.2.11 The most up to date TA indicates that at worst case scenario over a 5 weeks campaign moving approximately 60,000 tonnes of material, the average trips per day generated by the proposal would be in the region of 86 (172 movements in and out of the site).
- 6.2.12 The scenario spreads vehicle movements over a nine hours day although the hours of operation would be 9.5 hours. The operational day would be 10.5 working hours but a restriction of two half hour periods on HGVs entering and leaving the site has been agreed with the applicant to avoid conflict with school drop off and pick up times at the end of Birdcage Lane.
- 6.2.13 It is predicted that (subject to market conditions and water levels), there would be two to three working campaigns per year which would equate to a working period of between 10 and 21 weeks.
- 6.2.14 During these campaigns, and during the proposed working hours of 0700 to 1730, the worst-case scenario for trip generation (based on a five week campaign and an assumption of moving 60k tonnes in that period using 28 tonne loads) there would be predicted HGV movements of 172 per day (86 trips) which would equate to around 20 movements (10 trips) per hour based on a nine hour day in term time.

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## New Access Point

- 6.2.15 The access point is to be located 50m along the unclassified road known as Birdcage Lane which runs north from the B3174. The lane would need to be widened to enable two HGVs to pass without needing to queue on the main road. This original proposal has been amended (within the original red line boundary) to widen the highway within land in the control of the applicant and the Highway Authority.
- 6.2.16 The original proposal incorporated the DCC grass verge to the east but works within the verge to construct a carriageway suitable for HGV traffic would have potentially affected the roots of a hedgerow tree in the ownership of a third party who objected. The widening is now proposed to take in the western roadside verge and some additional hedgerow. The owner of the tree on the other side of the road also provided a report from a highway consultant pointing out other concerns with the scheme which have been considered by DCC Highways in making their overall response.
- 6.2.17 It is now suggested by the applicant that the verge adjacent to this third-party tree and on the east side of Birdcage Lane should be surfaced with gravel to provide a safe path for pedestrians and school children who are picked up and set down at the end of Birdcage Lane. This will avoid them walking along the carriageway if it is wet underfoot. The owner of the tree remains concerned about the impact on the roots, and this concern is also shared by the East Devon tree officer.
- 6.2.18 However, as the tree roots are already likely to be beneath the carriageway it is understood that any works in the verge must retain the permeability of the surface. As the verge is in the control of the Highway Authority who will need to agree the nature of the works, it should be possible to control the means by which a safe path will be provided without further damage to the tree roots.
- 6.2.19 There have been concerns about conflict with other road users in Birdcage Lane, including cyclists, horse riders and pedestrians. The Chair of Governors of The King's School in Ottery St Mary states that the proposed access would present a danger to children being picked up and set down by the school bus which stops at the crossroads. The applicant has agreed to a condition restricting HGV movements for a suitable period on either side of the school dropping off or pick up times and the Transport Co-Ordination Service (TCS) has confirmed that a Kings School coach pick-up point is at the junction of Exeter Road and Toadpit Lane, picking up at 0825 and returning there at approximately 1543. TCS advise students to be waiting at their pick-up point 5 minutes before the scheduled time and the students have to make their way to and from their homes. They welcome consideration being given to this arrangement in any conditions on restricting HGV movements. It is therefore proposed that periods of a quarter of an hour either side of the scheduled pick up and drop off time should be free of HGV movements which would be two half hour periods across the course of a working day during school terms. This and the provision of the gravel path

should improve pedestrian safety and ensure no conflict between students and HGVs.

- 6.2.20 To account for the use of HGVs with a lower load capacity an additional number of vehicle movements has been incorporated into the junction model; equating to 216 daily HGV movements for example if extraction or transportation is restricted due to weather, staff sickness, vehicle availability or obstruction of the highway network. This larger number of HGV trips has been used in the modelling of the B3174/Birdcage Lane junction.
- 6.2.21 Any vulnerable users who currently use the B3174 would already have to be prepared to deal with fast traffic, including HGVs and, for many, there would be alternative, safer, and more attractive routes available. Provision of the footway along Birdcage Lane would be an improvement over the existing situation for pedestrians and the undertaking by the applicants not to run HGVs during school pick up and drop off times would mean that any increased risk to school children is mitigated. This commitment will be enforced by a condition and the Highway Authority has required a Stage 2 safety audit to be a part of the Construction Environment Management Plan condition

### The Cattle Crossing

- 6.2.22 Considerable concern has been raised about the proposal to provide a livestock crossing to enable safer access across the B3174.
- 6.2.23 Circumstances have moved on since the proposal was first suggested as a solution to the potential impact of additional crossings due to the temporary loss of grazing land to the quarry. East Devon District Council has now granted conditional permission (20/2542/FUL) for the crossing subject to the important condition requested by National Highways that the crossing movements set out in the application supporting documentation are not exceeded. Their comment on the application was:

“Given the proximity of the crossing point to the A30 westbound off slip, any increase in the frequency of livestock crossing movements and therefore the period of time the B3174 will be closed may result in queuing vehicles extending further back towards the A30, and potentially onto the A30 mainline which will be considered as having an unacceptable impact on highway safety, in line with DfT Circular 02/2013 "The Strategic Road Network and the Delivery of Sustainable Development" and the MHCLG National Planning Policy Framework (NPPF).

- 6.2.24 DCC Highways also recommend an advisory note:

“Should any increase in the frequency and/or duration of closures of the B3174 Exeter Road be proposed in the future (to facilitate the crossing of livestock), an assessment of the impact on the safe operation of the B3174 Exeter Road must be undertaken.”

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- 6.2.25 As a consequence, the existing planning permission is accompanied by conditions clearly stating that access is only permitted for the number of crossings set out in the application documentation and that there shall be no increase. Furthermore, National Highways have clarified that they will not accept any intensification of the frequency or duration of cattle crossings over those 'existing', or at least set out in the East Devon application, without further transport impact assessment. This is due to the potential for the stacking back of traffic to the A30, which may result in an unacceptable risk to the safety of road users.
- 6.2.26 The District Council has objected on the grounds that the applicant's statement that loss of grazing land to the north of the B3174 would not increase the crossing movements is an "unrealistic assumption" and also fails to explain how the applicant could prevent additional crossings should their proposed mitigation measures prove unsatisfactory.
- 6.2.27 The applicant has been asked to clarify in writing that this proposal would not increase the number of crossings from the "worst case" scenario on which the existing permission is based. They have commented that the number of projected crossings had been based on information supplied to them by the tenant farmer.
- 6.2.28 As the quarry proposal is a phased operation with cattle tracks and access built into the design, the applicant has also stated that:
- "The application site covers an area extending to some 42.5ha, with mineral extraction proposed to take place within 22.6ha and the remainder occupied by temporary soil storage bunds, mitigation planting and site management and access areas. The holding will also be supplemented by an area of contiguous farmland formerly comprising part of Lowlands Farm which was recently acquired back by the applicant from the former tenant in its capacity as Landlord."
- 6.2.29 The control over crossings is through the consent issued to the farmer by East Devon District Council as it is specifically conditioned to limit the numbers which have, according to the applicant been agreed with the farmer as a part of the farm management plan. National Highways contacted the County Council in November 2021 stating that they had been contacted requesting reassurance that additional cattle crossings would not be required and a response has been sent explaining that circumstances have not changed since their previous comments – the crossing is controlled by the East Devon permission and the conditions are clear. There is no proposal to increase the numbers before the Committee.
- 6.2.30 Objections have also included that there is no stage 2 safety audit considering the impact of the cattle crossing; however, the DCC Road Safety team has stated that a stage 2 audit is not necessary as the fundamental question of safety relates to the location of the crossing (now permitted) rather than the number of crossings.

## Amenity Impacts from Transportation

- 6.2.31 Residents in Toadpit Lane (the lane to the south of the crossroads with Birdcage Lane which leads into West Hill) have objected on the grounds that the noise assessments do not include properties to the south of the B3174 and they are concerned that turning movements and laden HGVs pulling away uphill will increase the noise from the main road.
- 6.2.32 The air quality and noise assessments submitted with the Environmental Statement consider the impact of the increased HGV movements and this is considered below in section 6.4 on health and amenity considerations. The B3174 is already a busy classified road and it is unlikely that the proposed movements associated with the quarry would have any significant impact on properties close to that road. There are no residential properties on Birdcage Lane between the proposed site entrance and the junction with the B3174 Exeter Road and no reason from HGVs to take any other route than that direct to Daisymount junction despite to concerns raised by residents of Toadpit Lane which is the short cut to West Hill village across the B3174 from the site entrance.

## Public Rights of Way

- 6.2.33 The proposed development does not affect any existing Public Rights of Way.
- 6.2.34 In allocating Straitgate Farm as a preferred area in Policy M12, Table C.4 requires that “Proposals for the restoration of the site should include provision of new paths to connect to the existing rights of way network”.
- 6.2.35 Part of the restoration scheme includes the provision of a new public footpath through the farm to link Footpaths 13 (Whimple) and 87 (Ottery St Mary) to provide a new safe pedestrian route along the farm frontage with the B3174. This would enhance the local public rights of way network and provide additional green infrastructure linkages in accordance with the aims of Minerals Plan Policies M12 (Table C.4) and M16 of the DMP which seeks to deliver enhanced green infrastructure linkages between the mineral site and the wider green infrastructure network.
- 6.2.36 This would be secured by a legal agreement should permission be granted. The applicants also propose a stretch of permissive footpath along the west side of Birdcage Lane during the proposed development to enable pedestrians to walk inside the hedgerow off the public highway, although this is not a stretch of highway that would be used by HGVs in connection with the quarry.

## Other Impacts

- 6.2.37 The proposed new entrance will lead to a loss of hedgerow and potentially the loss of two mature oak trees (although the applicant has undertaken to construct the access to minimise damage to the roots of these trees, the

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East Devon tree officer and the County Council's landscape officer are both concerned that in the medium to long term they would die back). The potential loss of this biodiversity has been included in the mitigation calculations and additional tree planting is proposed to replace it in the long term.

## Alternatives to the Access Point

- 6.2.38 The consultants appointed by the neighbouring landowner are of the view that an access through Little Straitgate onto the B3174 would be preferable; however, this was assessed by the highways authority and would have led to the loss of more hedgerow. In any case this is not the proposal to be determined.
- 6.2.39 DCC Highways have considered all of the documentation submitted, including those additional transportation reports submitted by objectors. It is considered that the proposal accords generally with the requirements of Table C.4 of the DMP in that the access is in an appropriate location that ensures safety for other road users while minimising adverse effects on residential amenity, landscape and visual impacts, biodiversity, and heritage assets. National Highways has confirmed that the proposal is unlikely to have an impact on the Trunk Road in terms of junction capacity or stability.
- 6.2.40 It is clear that opportunities for anything but road transport to this site are not practical as there are no rail services in the area.
- 6.2.41 With certain requirements on operating hours to accommodate the school pick up and set down, the proposal accords with the DMP objectives in terms of overall safety, impact on the A30 and proximity of processing. Impacts on landscape and wildlife are considered below in Sections 6.6 and 6.7. It is therefore considered that the proposal is in general accordance with DMP Policy M22.
- 6.2.42 The Highway Authority has requested conditions requiring the submission of a Stage 2 Safety Audit in addition to compliance with the submitted junction improvement scheme. These conditions would be applied if permission is granted.

## **6.3 The Water Environment**

- 6.3.1 This part of the report considers the potential impacts from the proposed development on the water environment, which comprises surface water, groundwater and the ecosystems and users that depend on water and its management and may be sensitive to changes that may occur due to the quarrying operations.
- 6.3.2 Policy M21 of the Devon Minerals Plan requires that proposals should not harm the integrity of surface or groundwater systems and that, if there are negative impacts, they must be mitigated. This Policy is applied to Straitgate Farm through Table C.4 of the Devon Minerals Plan, which requires that:

“The development of this site will only involve dry working, above the maximum winter (wet) level of groundwater. The depth of working above this level will be determined through monitoring and analysis of historic data, in agreement with the Environment Agency.

While the risk of increased runoff from the site during mineral working causing downstream flooding is low, proposals should include sustainable drainage systems to ensure that any potential runoff from extreme weather events is appropriately managed. The water environment of the site and its surrounds requires continuous monitoring during working and into restoration and aftercare to ensure negligible impact on groundwater and surface water receptors down gradient of the site. Any proposal should include provision for alternative supply in the event of derogation of private water supplies resulting from mineral development.

Proposals should include provision for the ‘daylighting’ of existing culverted sections of stream and ‘naturalisation’ of other heavily modified sections within the site or otherwise within the applicant’s control.

The restoration proposal will need to consider retention of infiltration features in the working phases and final restoration profile to ensure flows are maintained and reduce the minor risk of local flooding during extreme events.”

- 6.3.3 Also of relevance to this proposal are Policies EN18 (Maintenance of Water Quality and Control), EN14 (Control of Pollution) and EN21 (River and Coastal Flooding) of the East Devon Local Plan.
- 6.3.4 The Environment Agency [EA] has considered the objections received and the proposed working methodology and has come to a position where they do not raise an objection, subject to the imposition of robust conditions relating to monitoring and surface water management. They have engaged in a long and very detailed conversation with a professional hydrogeologist retained by the Straitgate Action Group and the owner of Cadhay House, and they have provided a written statement setting out in detail the steps they have taken and the conclusions reached in respect of the issues raised by these parties. This is attached at Appendix III of this report, and the EA has requested that their response be read in the context of this statement, which demonstrates the way they have reached their conclusions on all of the issues raised by the objectors.

### Proposed Working Method

- 6.3.5 It is clear that there are considerable remaining reserves at lower levels, but the application is clear that there will be no working at any time lower than the level of the maximum recorded winter water table. The methodology identifies that level as a ‘grid’ across the site which may alter as it will be based on continually updated piezometer readings. The grid can only move

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upwards, not downwards as it will only be updated by groundwater level readings which exceed previously recorded maximums.

- 6.3.6 The working methodology has been proposed as a 'winter' and 'summer' working practice, with winter working taking place no lower than 1m above the maximum recorded winter water table.
- 6.3.7 In the summer working mode, the operator will work no lower than the Maximum Winter Water Table grid and no closer than 1m to the current (or contemporaneous) water table as measured by the piezometer readings and the updated working grid.
- 6.3.8 It is proposed that, once these areas are worked out (and the detail will need to be submitted and agreed as part of the condition requiring detailed phasing plans), non-saleable material and overburden will be placed back in situ to a level 1m above the maximum winter water table.
- 6.3.9 This method will ensure that the 1m depth above the water table is maintained at all times. The piezometers in each working phase will constantly monitor the water table, and the operator would use modern GPS systems in their on-site plant to know the depth of working relative to the water table at all times.
- 6.3.10 It is common practice to request the establishment of a maximum depth of working within quarries and so this is not an untested working method, although it is acknowledged that this methodology is more complicated than a simple level where it is possible to allow the pit to flood and for dewatering to occur.
- 6.3.11 The Environment Agency has concluded that this methodology is acceptable subject to it being carried out using the most up-to-date information available and on the basis that the working levels will reflect that up-to-date grid. To this end the base level of the quarry would only be determined by a grid to be submitted as close to the commencement of working as possible to ensure that it is based on the most up-to-date data. The recording of levels will continue through the life of the site, and annual reporting and continuous monitoring and review will ensure that the grid is always as up to date as the data allows.
- 6.3.12 The installation of an additional piezometer and constant reporting of the levels of groundwater across each working phase is likely to be required as a part of the detailed working methodology to be required by planning condition.
- 6.3.13 It is understood that this working method may affect the extent of the mineral reserve and the working area, particularly in the northeast part of the site where the water table is close to the surface. Objectors have pointed out that this would mean that the submitted application drawings are wrong; however, as is the case with most new quarry operations, the accompanying drawings are an indication of the maximum extent of the quarry and, within

this, detailed phasing, working and restoration plans will be required by conditions. If the updated water grid indicates that small areas within the original phasing drawings cannot be worked, or if there are adjustments to be made to ensure that there is sufficient infiltration for flood risk, then this will be a condition of any consent and reflected in the permitted working areas which have to be submitted and approved by the Council and which will be the subject of further consultation with the Environment Agency before the schemes could be approved and any condition discharged.

- 6.3.14 The calculation of any mineral resource is not a precise science as the quality and depth of mineral can vary, and this is common to most mineral operations. The applicants were asked to provide a recalculated resource assessment on this basis and the most recent information indicates a resource in the region of 1 million tonnes using this working method.

### Private Water Supplies

- 6.3.15 Several objections have been received from property owners with private water supplies. There are a variety of water supplies in the vicinity ranging from non-potable sources that are nevertheless important for supplying livestock, to private springs and wells used for drinking water.
- 6.3.16 Affected properties include a boarding cattery, working farms and Cadhay, whose owners have concerns about the supply to the medieval fishponds, cottages, and tearooms as they have no public source.
- 6.3.17 There is a fear that the quarrying may lead to a diminution of supply or a loss of quality due to a reduction in the height of the water table, the loss of flow to local springs and streams or the changing nature of the groundwater due to the loss of the unsaturated zone. Additionally, there is concern that a fault lying across the eastern boundary of the site makes the behaviour of groundwater unknown and that, therefore, the downstream impacts cannot be modelled.
- 6.3.18 Objectors also state out that the proposal is going beyond standard industry practice which would be to leave 1m of material above the water table where hydrogeological issues dictate that the water table should be left undisturbed. There is understandable concern that there may be human error if the protection of the water table is based on the digger drivers and that the tolerances involved are too small.
- 6.3.19 Cadhay House, which is 2km to the east of the site, takes a private supply from Cadhay stream into a cistern which then pipes the water downhill to supply 12 further houses, including the three cottages on the Cadhay estate that are let to visitors and the tearooms where the water is used in part for drinking by the general public that visit the Cadhay estate. The springs also supply the mediaeval fishponds which are a critical part of the setting of the Grade I Listed Building (see Section 6.5 on the historic environment for further detail on this issue).

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- 6.3.20 Professor Brassington, the hydrogeologist commissioned by the owner of Cadhay and the Straitgate Action Group, has also raised concerns about the impact on groundwater due to the loss of part of the unsaturated zone in the Pebblebeds. His view is that the movement of groundwater through this zone affects the pH value and that its loss will lead to acidification of springs and groundwater which might have a specific impact on the potable supplies and medieval fishponds at Cadhay. This is not accepted by the applicant's hydrogeologists or the Environment Agency, who note that groundwater and surface water in the area of the site is already relatively acidic and that most of Cadhay Wood Stream's flow comes from a catchment that is much larger than the area of Straitgate Farm which contributes its headwaters.
- 6.3.21 It should be noted that Cadhay was not originally included in the list of properties to be included in the legal agreement due to the applicant's consultants and the EA both agreeing that the likelihood of any derogation of quantity or quality would be extremely low. However, due to the historic importance of Cadhay and its setting, the Council and EA both asked for its inclusion. This was not a reflection of any doubt about the assessment, but more an acknowledgement of the genuine concern of the landowner and a reflection of the magnitude of the impact if there were to be any loss of supply.
- 6.3.22 Monitoring already undertaken across the site has led the applicant's hydrogeology consultants to conclude that the proposal is unlikely to lead to a diminution or loss of quality in the private supplies.
- 6.3.33 The water sources around the site vary widely in quantity and quality and a number are already being monitored by the applicants. The figures and reports submitted by the applicant's hydrogeologists have led the Environment Agency to conclude that there is a low risk to surrounding supplies, and they have not objected to the proposal subject to suitable monitoring and the application of detailed conditions relating to the height and management of working in each phase.
- 6.3.34 The importance of water supplies is such that a legal agreement is a common requirement for the establishment of any new quarry. They already exist in respect of other quarries operated by Aggregate Industries and quarries in Devon operated by other companies.
- 6.3.35 The applicant has offered a legal agreement undertaking to replace private water supplies should they be adversely affected in terms of quantity or quality
- 6.3.36 The Heads of Terms of the proposed legal agreement are provided in Appendix I. The applicant was asked to improve and clarify the means and timing by which supplies would be replaced, and the originally submitted agreement has been amended following the submission of concerns from adjoining landowners about the trigger mechanisms and the timing.

- 6.3.37 The Environment Agency advised that the Council takes legal advice on the enforceability and scope of the legal agreement, which has been done, and the requirements are considered to be reasonable, clear, and enforceable.

## Watercourses and Monitoring

- 6.3.38 The applicant has produced a considerable amount of information on groundwater and groundwater modelling within the Pebblebeds and across the site, along with consideration of how this might affect the headwaters of adjacent watercourses and private water supplies. This information has been submitted as a part of the Environmental Statement and follow-up explanatory notes.
- 6.3.39 The EA has stated that it has reviewed the application documents and that their conclusion is that the works would occupy only a small part of the catchments of Cadhay Bog stream, Cadhay Wood stream and Cadhay Spring and that, therefore, any impacts on the recharge of these watercourses are likely to be small. Notwithstanding this they are of the view that the proposals are likely to occupy a larger proportion of the catchments of some of the more easterly private water supply wells and springs and they therefore recommend that a legal agreement be required of the applicant to provide for the “making good” of any derogation to an agreed list of water supplies by the provision of alternative supplies. This will also require the monitoring of these private supplies to be carried out before, during and for a period of time after quarrying. They note that the applicant has already undertaken to carry this out and replace supplies with pumped groundwater if required.
- 6.3.40 The applicant also states that they would incorporate appropriate recharge or infiltration features and the EA requests that these be made a condition of any future permission along with monitoring levels in these supplies, groundwater and in the watercourses emanating from the site for the life of the permission and for a period following restoration. The County Ecologist has also supported the suggested monitoring of the watercourses which support the County Wildlife Sites at Cadhay Bog and Cadhay Wood.
- 6.3.41 These sites are not in the ownership of the applicant and so access would be by agreement with the landowners. If it is not possible for the applicant to gain access, then monitoring would have to take place in the relevant watercourses as they leave the application site.
- 6.3.42 In terms of ensuring that the headwaters of the streams are protected, the proposed working methodology would use bunds to divert water into the appropriate catchments from the working areas. These will be designed into the detailed surface water management plans for each phase of working and approved by the Council (in consultation with the EA and LLFA) before the commencement of any working phase.

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## Surface Water Management and Flood Risk

- 6.3.43 A number of objections have been received on the basis of historic flooding in Ottery St Mary and on roads around the application site, including a further objection from the Town Council to the LLFA. The application was accompanied by a Flood Risk Assessment [FRA] following extensive pre-application consultation with the Environment Agency which included substantial groundwater and watercourse modelling at their request.
- 6.3.44 The applicant's supporting information notes that flooding at Birdcage Lane is caused by flows in Cadhay Bog stream, and the EA recommends that consideration should be given to mitigation measures that remedy the situation including creating a more naturalised hydrograph for this watercourse by changes to the under-road structures (improving the culverting).
- 6.3.45 The EA has advised that the development should be designed so that drainage from the site mimics, as closely as possible, the natural hydrograph in perpetuity, which will ensure that the hydrographs of springs and water courses in the area are not adversely impacted. It should be confirmed how the water will be collected in the catchment for these headwaters to supply the stream heads.
- 6.3.46 The EA has reviewed the submitted FRA and the flood risk mitigation recommendations and conclusions are supported by them. They confirm that this is "water compatible" development appropriate for Flood Zone 1 and downstream flood risks can be managed by an appropriately designed sustainable drainage scheme (SuDS) which should be a condition of any permission.
- 6.3.47 They suggest that a comprehensive design for the management of surface water drainage should be approved by the Lead Local Flood Authority (Devon County Council). The LLFA has also commented on the proposal to the effect that although the general proposals for surface water management and flood prevention are reasonable, there should be detailed schemes submitted for each phase of the working and restoration, including for soil stripping in advance of the soil storage, to ensure that the potential for surface water flooding is taken into consideration in detail at all stages of the operation.
- 6.3.48 The SAG has criticised this approach stating that, in terms of EIA development, unknown impacts cannot be left to be assessed by condition. The assessment of flood risk and issues relating to surface water management are, however dealt with in the ES and technical consultees have agreed that the principles are properly assessed. It is normal practice for the specific detail of surface water management to be submitted as a conditioned scheme where the LLFA consider that the drainage calculations submitted are appropriate.

- 6.3.49 Other objections to the methodology were based on the applied 10% uplift value for climate change in the application documentation, which SAG consider should be 40%. However, the LLFA has clarified that the allowance of 10% for climate change is deemed robust in this instance based on the design life of the quarry being 12 years. The allowance of 10% for climate change corresponds with the 'upper end' allowance for the period 2015 – 2039 per Table 1 of EA's Flood Risk Assessment Climate Change document (July 2021) which is the most conservative level of allowance for this time period. A value of 40% is applicable for residential/commercial developments which have a much longer design life. This is also considered by the EA to be acceptable due to the limited life of the project.
- 6.3.50 A solicitor's letter has been received from the adjacent landowner to the east who expresses concern that the 'infiltration basins' will no longer be included to mitigate flooding from the site but that the quarry voids will be used for this purpose. The landowner is concerned that no calculations have been included to include the revised base of the extraction area and that, in the absence of these, the proposed 'flow control mechanism' to prevent flooding of the culvert leading to this land has not been demonstrated to work and should not be controlled by condition as suggested by the applicant.
- 6.3.51 The solicitor reminds the Council that they previously asked for a detailed surface water management scheme in advance of determination due to the linkages between flood risk, hydrogeology, surface water management and airport safeguarding. In the absence of this the adequacy of the flood risk assessment is being questioned as is the mitigation in the Environmental Statement.
- 6.3.52 This approach has, however, been accepted by the LLFA and the EA, and calculations will be required to support a detailed surface water management scheme for all parts and detailed working phases of the site, including attenuation basins which are to be provided as a part of the restoration scheme. This scheme can be developed on the basis of the most up to date information within the context of the EA and LLFA being content with the overall approach suggested by the applicant, and this will enable the linked issues of surface water management, flood prevention soils management and phasing to be considered together.
- 6.3.53 Objectors have contacted the officers of the LLFA directly with their concerns and, as a result, the LLFA has produced a detailed briefing note for Members of this Committee setting out the reasons why they have reached their conclusions on this application and have decided not to raise an objection subject to conditions. This is attached to this report as Appendix V.
- 6.3.54 Local concerns about flooding are understandable, and the National Planning Policy Framework (paragraph 167) states that "When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere". The Environment Agency investigation into the reasons for past flooding in Ottery St Mary concluded that a partial reason was compaction of soils within this catchment. Both NE and the EA

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have required that the replacement of soils should include measures (such as ripping the base of the quarry and subsoiling) to increase the carriage of rainwater through the soils and so decrease the overall rate of surface water runoff.

## Soils Storage and Surface Water Management

6.3.55 The SAG pointed out in summer 2021 that there was a spring line across one of the main soil and overburden storage areas to the east of the site and to the east of the fault line. This has led to some concern and representations about soil stripping, its impact on the water table and the stability of the overburden and soil stockpiles. Additional advice was sought from the Environment Agency, the LLFA and Natural England on the way to manage the water table, the impact on the Grade 2 and 3a soils in this field and surface water management. Natural England was concerned that Grade 2 soils in this area should be stripped to ensure their protection as “Best and Most Versatile” in accordance with DEFRA guidelines and, whilst the EA initially expressed concern about runoff from stripped areas, it was agreed that the soils could still be stripped but within the confines of a detailed soils and surface water management scheme, to be required by condition. This would essentially mean that the soils would be only be stripped during dry periods and in small “cells” to avoid excess runoff. Soils and overburden from the working phases of the quarry would be stored and placed immediately on the stripped areas in bunds to reduce downhill runoff rather than leaving the land “open”.

6.3.56 The applicant had already stated in the application that:

“following each stripping operation, a composite site map indicating revised topography and areas of stripped, restored, working and soil and overburden storage will be prepared. This plan will also identify contrasting soil or overburden resources”.

Such a requirement would ensure that those areas that are ‘open’ and those being restored are clear and that there will always be the most up to date information about the status of the site and the soils. It is therefore considered that this matter can be controlled by the same condition requiring a detailed and comprehensive surface water management scheme. The issue of stability is determined by the Quarry Regulations 1999 which require that all designs are subject to geotechnical appraisal by a competent person.

## Conclusions on Water Environment Impacts

6.3.57 It is considered that the proposal is unlikely to adversely affect the integrity of surface or groundwater systems and, therefore, the proposal is in general accordance with Policy M21 of the Devon Minerals Plan. The S106 agreement will need to ensure that if there are negative impacts (which are not expected), they can be mitigated. The proposal is in general accordance with the requirements of Table C.4 of the Devon Minerals Plan as the development will only involve dry working, (in winter, 1m above the

maximum winter water table determined through comprehensive monitoring as required by the Environment Agency, and in summer, to the MWWT, but never closer than the contemporaneous groundwater level.

- 6.3.58 The proposals to manage potential runoff from extreme weather events will be developed by the submission of detailed surface water management schemes for each phase of the development, including initial soil stripping and water levels will be the subject of continuous monitoring by piezometers during working and into restoration and aftercare. The S106 agreement will include details ensuring provision for alternative supply in the event of derogation of private water supplies resulting from the mineral development.
- 6.3.59 The working and restoration proposals include the retention of infiltration features to ensure flows are maintained and reduce the risk of local flooding during extreme weather events, in accordance with Policy M25 of the Devon Minerals Plan.

## **6.4 Health and Amenity Considerations**

- 6.4.1 The policy context for considering the specific impacts of this proposal on human health and amenity is set out in Table C.4 of the DMP which requires that:

“Development proposals should provide sufficient stand-offs from sensitive properties and demonstrate that impacts from lighting, noise, dust and vibration can be controlled and, if necessary, adequately mitigated. Visual impacts should be minimised by sufficient screening.”

- 6.4.2 In addition, Policy M23 of the DMP seeks to protect peoples’ quality of life, health and amenity from the adverse effects of mineral development and transportation, including noise, vibration, dust and air quality, loss of privacy or natural light, and light pollution and visual intrusion. Policy EN14 of the East Devon Local Plan has similar requirements to protect residents’ amenity and wellbeing.

### Proximity to Residential Property

- 6.4.3 The nearest residences/receptors to the proposed extraction area are those located to the southwest of the site along the unclassified road known locally as Rhubarb Lane, the nearest dwellings being approximately 80m from the proposed pit edge in Phases 1 and 3. These are separated from the pit edge by a tree screen at least 30m deep, and it is considered that the extraction would not be visible from this location as it will be additionally screened by overburden and soil storage bunds.
- 6.4.4 The dwelling and farm buildings of Straitgate Farm are owned by the applicant and leased to a farm tenant and are further from the pit edge at 140m to the south east, but the farmyard is immediately adjacent to areas of overburden and soils storage.

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- 6.4.5 The property of Little Straitgate is located close to the proposed haul road from the site access and included within the application area. It is also owned by the applicant and currently vacant, but the application states that it would be used as a staff welfare/office facility. This would avoid the need for other buildings or portable toilet facilities elsewhere.
- 6.4.6 A further dwelling is approximately 220m to the north of the proposed site entrance on Birdcage Lane and that property's site frontage is approximately 70m from the nearest soil and overburden storage bund, being screened from views by trees on both sides of Birdcage Lane. There is a scattering of dwellings in the Daisymount area to the west and southwest including a hotel. The Willow View retirement park, which is an area of park homes, and another hotel are both just over 100m away to the north west but separated from the site by the A30 trunk road. The nearest settlement of any size is West Hill approximately 1km to the south.

## Noise

- 6.4.7 A noise impact assessment was provided as part of the original Environmental Statement including a baseline assessment of existing noise and an assessment of the likely impacts of the development during both construction and operation stage, along with suggested conditions and mitigation. The existing noise environment is influenced by the A30 trunk road with together with road traffic on the surrounding roads and agricultural and aircraft noise on occasion. The assessment's calculations include the additional traffic based on a two-way flow of 20 HGV movements (or 10 trips) per hour and an increase in road traffic noise on the B3174 between Birdcage Lane and the junction at Daisymount.
- 6.4.8 The proposal is limited to daytime activities and the proposed hours of operation are 0700 to 1730 (Mon to Fri) and 0700 to 1300 on Saturdays during the working campaigns.
- 6.4.9 A condition can be applied to require that the noise limit at any noise sensitive property does not exceed the background noise level by more than the suggested levels in the NPPF and Minerals Planning Practice Guidance and would not breach the maximum levels set out in that guidance which would be 55dB LAeq 1 hour (freefield). The achievement of these levels will require attenuation barriers for some properties, and these would be achieved by the location of soil and overburden mounds.
- 6.4.10 For short term operations such as soil stripping and the construction of the attenuation bunds, the noise levels may be higher. The applicant has stated that these operations would not exceed the maximum permitted by the NPPF of 70dB LAeq 1 hour (freefield), and they are willing to abide by conditions specifying these maximum noise levels for a maximum period of eight weeks.
- 6.4.11 The Environmental Health Officer has assessed this documentation and has agreed with the conclusions and the proposed conditions, noting that, with

the campaign working, weekends, Bank Holidays and 32 weeks of the year will largely be unaffected by noise from the quarry. The EHO has proposed the addition of a further condition requiring “white noise” or broadband reversing alarms to be used.

## Air Quality (Dust and Emissions)

- 6.4.12 Respondents have raised general concerns about increased levels of dust from the mineral working, including from residents who have existing breathing problems and who are concerned about the wider impacts of dust on wildlife and livestock as well as respiratory problems caused by particulates associated with sand quarries. There is no evidence to suggest that there would be a wildlife impact and many other operational quarries have high levels of fauna.
- 6.4.13 The applicant proposes various mitigation methods for dust suppression which would normally be dealt with by the submission of a scheme, and the Environmental Health Officer has commented that the proposals fully meet the control measures that would normally be recommended and that they have no concerns subject to appropriate conditions. The dust management scheme will also need to accommodate the concerns raised by National Highways to ensure that dust does not impact on the A30 trunk road.
- 6.4.14 Public Health England [PHE] was also consulted due to the health concerns raised by neighbours. They, and the Environmental Health Officer, were also contacted direct by the Straitgate Action Group in March 2017 when they were advised of concerns about dust, noise and the methodology of the dust and noise reports accompanying the application.
- 6.4.15 In its response to Straitgate Action Group, PHE has made it clear that it does not wish to raise any objection on the grounds of the potential effects on human health, subject to the proposed safeguards regarding dust suppression.
- 6.4.16 Many representations have also raised the impact of haulage from the site to a remote processing location and the consequent increase in emissions of carbon dioxide and nitrous oxide from the haulage movements. The haulage route passes through one Air Quality Management Area at Cullompton, but this is a part of the M5 motorway and the amount of traffic associated with this proposal, set against the overall numbers on the motorway, would be negligible. In terms of local impacts, the numbers of lorries would be an increase over the numbers using the B3174, but the submitted proposal for campaign working would mean that there were also long periods of no HGV traffic associated with the operation.
- 6.4.17 There are no proposals for processing, blasting or permanent lighting on the application site, and amenity impacts from lighting or vibration are not considered likely.

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## Conclusions on Health and Amenity Considerations

- 6.4.18 Given the responses from the EHO and Public Health England, it is considered that impacts on human health and amenity can be managed with appropriate mitigation and management to the appropriate standards which have been developed to prevent impacts on human health. According to the Health and Safety Executive, no cases of silicosis have been documented among members of the general public in Great Britain, indicating that environmental exposures to silica dust are not sufficiently high to cause this occupational disease<sup>2</sup>. It is therefore considered that the proposal is in general accordance with the provisions of Policy M23 of the Devon Minerals Plan and Policy EN14 of the East Devon Local Plan.

## **6.5 Historic Environment**

- 6.5.1 Table C.4 of the DMP requires any proposed development at Straitgate Farm to comply with the following considerations:

“Significant remains have been identified through archaeological assessment and evaluation of the site, including evidence for Iron Age and Roman-British settlements. Any planning permission for this site will be conditioned to ensure a programme of archaeological recording is carried out as development proceeds.

- 6.5.2 The Grade II Listed Building Straitgate Farmhouse is within close proximity to the site boundary. Whilst the setting of the building will be impacted by the working phase of the site, it is acknowledged this is temporary. Any restoration scheme for the site should consider the historic landscape character with ‘Barton Fields’ and be sympathetic to the setting of the listed building.”

## Archaeology

- 6.5.3 The applicant has carried out a programme of archaeological work in support of this planning application to assess the likely impacts on heritage assets with archaeological interest. The results demonstrated that the site contains evidence of prehistoric and Romano-British settlement as well as more diffuse archaeological activity across the proposed development site. The deposits all showed evidence of damage from agricultural activity and, therefore, were not regarded as being of such significance that it would be reasonable to require their preservation in situ; however, the unmitigated significance of the impacts of quarrying would be that of “substantial harm” and, therefore, extensive mitigation is required to balance this.
- 6.5.4 A programme of archaeological mitigation including excavation, recording and additional evaluation has been agreed with the Historic Environment service by the applicant and submitted as an accompanying document with a scheme. This scheme does not include the area to deliver the access to the

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<sup>2</sup> <http://www.hse.gov.uk/quarries/silica.htm>

east of Straitgate Farm as this area was only brought within the proposals when the previous application was withdrawn due to the inability of the applicant to secure the northern access point. Given the known impact of the proposed development upon the archaeological resource, and in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, Policy M19 (The Historic Environment) of the Devon Minerals Plan and with paragraph 205 of the National Planning Policy Framework (2021) it is proposed that this matter be dealt with by a condition requiring a programme of archaeological work to be carried out in accordance with a written scheme of investigation.

## Listed Buildings

- 6.5.5 Straitgate Farmhouse dates from the late 17<sup>th</sup> or early 18<sup>th</sup> Century and is Listed Grade II, and it is therefore considered to be of high heritage significance. The inter-relationship of the farmhouse to its outbuildings and the surrounding orchard and farmland contributes to its significance. The farmhouse will be partially screened from the development by its own farm buildings and by existing vegetation, but there will be a temporary impact on its setting due to the proximity of the development and the temporary storage of soil and overburden stockpiles assessed to be Low to Medium Adverse in the application documentation.
- 6.5.6 The building itself is not physically affected and neither Historic England nor the East Devon Conservation Officer have raised objections to the proposal.
- 6.5.7 Objections have been received that the setting of the farmhouse will be compromised, which is supported by the conclusions in the ES which identify that the setting will be affected. However, the storage areas are located beyond the modern farm buildings and the currently unmanaged orchard, which is the primary outlook from the property, will not be adversely affected and will be managed and enhanced as a part of the proposals. Additionally, the impact on the setting would be temporary. The currently unmanaged orchard, which is the primary outlook from the property, will not be adversely affected and will be managed and enhanced as a part of the proposals.
- 6.5.8 The owner of Cadhay House (Listed Grade I and approximately 2km to the east) has written in objection to the proposals expressing serious concerns about the listed medieval fishponds which are fed from the springs below Straitgate Farm and are important to its setting.
- 6.5.9 Those concerns are supported by the independent hydrogeologist commissioned by the owner of Cadhay and the Straitgate Action Group who points out that the ponds are clay lined and, therefore, reliant on ground water input from upstream which may suffer from acidification as a result of the loss of part of the unsaturated layer in the quarry area.
- 6.5.10 Following the submission of the independent hydrogeology report, this concern is also expressed by the Devon Gardens Trust who comment that they find the impact of the development on the springs which supply the

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mediaeval ponds at Cadhay a significant and essential element of the nationally designated designed landscape “gravely worrying”. They also cite Para 189 [now 194] of the NPPF which 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”.

- 6.5.11 Historic England were contacted directly by the SAG but have not raised any objection or further comment in respect of this communication. However, the architectural consultant responsible for the quinquennial survey of the Listed Buildings and grounds at Cadhay has written expressing concern about the likely substantial harm to core features of the Cadhay heritage should the water supply be affected stating that:

“The condition of these distinctive shallow ponds, with high water quality and aquatic planting is a key consideration of my quinquennial inspections. I am already concerned about the impact of climate change on such features, and the precedence inevitably given to private water supplies, and am also aware of other sites where over-abstraction has led to the loss of water features at other nationally important landscapes. The proposed development, on the basis of the specialist report, would substantially increase this risk, and should therefore, in my view, be refused.”

- 6.5.12 The Environment Agency has considered in detail all of these hydrogeological issues and has met with the objectors, their hydrogeological consultant and the hydrogeologists acting for the applicant to discuss their specific concerns. They have observed that the watercourses leading to the fishponds receive much of their flow from catchments below the application site and, although there is a source protection zone within the quarry footprint, it is unlikely that the quarrying would lead to significant loss of supplies from the wider catchments and the risk is low.

- 6.5.13 Given the historical significance of Cadhay House and its setting it is, however, considered that any S106 agreement relating to derogation of water supplies should also apply to this property even if the risk of derogation is low. In its response on the S106, the EA has stated that the S106 should contain the undertaking that: "In the very unlikely event that there is a significant change in the flows due to quarrying activities then the nature of working and phasing would be reviewed with advice from AIUK's hydrogeology/hydrology consultants. In an extreme case, quarry working may cease whilst the cause is being investigated." This has been accepted by the applicant and the streams are designated water supplies covered in the S106 agreement.

## Conclusions on Historic Environment Impacts

- 6.5.14 The Council has a statutory duty under S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This duty means that if a proposed development would harm the setting of a listed building, it must give that harm considerable importance and weight and that this would normally lead to a presumption against planning permission being granted.
- 6.5.15 Additionally, Paragraph 199 of the NPPF also requires that “great weight” should be given to the impact of a proposal on the conservation of designated heritage assets.
- 6.5.16 The proposal is unlikely to have a significant impact on the setting or features of a Listed Building, or any substantial long-term harm to the setting of Straitgate Farm.
- 6.5.17 The only demonstrated impact on heritage assets would therefore be on the setting of Straitgate Farmhouse which would be temporary. The retention and enhancement of the orchard will help to mitigate this impact and enhance the setting in the longer term.
- 6.5.18 Any impact on the setting of the Grade I Listed Cadhay Manor and its medieval fishponds would certainly be a significant issue and a “substantial Harm” to the heritage asset but, given the views of the EA, it is not concluded that this impact has been demonstrated as likely. The genuine concern of the owner is, however, noted and the operator has been asked to include such eventuality in the legal agreement to ensure that, if there were to be any loss of water supply, then the applicant would take immediate steps to remedy it.
- 6.5.19 In terms of the requirements of Policy M19 and Table C.4 of the DMP, the proposal adequately deals with the requirement for a written scheme of investigation for archaeology (to include the new access) and the landscape restoration seeks to replicate the existing field boundaries as required and the management of the orchard and the retention of the pastoral landscape would be considered to be sympathetic to the setting of Straitgate Farm. On balance it is considered that the desirability of providing the mineral which is allocated in an up-to-date Minerals Plan would outweigh the temporary impacts on the setting of the Listed Building during the period of operation.

## **6.6 Landscape and Visual Impact**

- 6.6.1 The application is submitted with a Landscape and Visual Impact Assessment as required by Policy M18 of the Devon Minerals Plan. Additionally, the objectives for the proper development of the Straitgate site are set out in Table C.4 of the Devon Minerals Plan:

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“Mineral development may be discernible in elevated views across countryside from the western-facing scarp slope of the East Devon Area of Outstanding Natural Beauty (AONB). Working and restoration phasing of this site should limit the extent of workings in both views from the AONB and views to the AONB from the A30. The existing trees, orchard, hedgerows, and woodland belt should be strengthened and where possible retained to help conceal the site in external views and contribute to landscape character. New structures/site buildings would benefit from screening. Proposals for the offsite processing of extracted materials should be located outside of the AONB unless exceptional circumstances can be demonstrated.”

- 6.6.2 The site, which is a mix of arable and pasture land interspersed with mature hedgerows, generally falls gently to the east and the Otter Valley, losing approximately 35m in height from west to east. The site has no landscape designations but there are distant views of it from the East Devon AONB to the east of Ottery St Mary which is approximately 4.6km distant. Parts of the site are visible from the westbound A30 which forms the northern boundary, although there is immature planting along this boundary which should grow during the life of the proposal and, given the proposed removal of a soil storage bund as requested by National Highways there is the potential to carry out additional planting along this boundary which could be achieved by condition.
- 6.6.3 The fields which form the application area are separated by hedgerows and the proposal would mean the unavoidable loss of these and three mature trees within the footprint of the quarry which currently form a positive contribution to the landscape character. A further two mature oak trees would in all likelihood be lost to the new access, as well as some less mature hedgerow vegetation. The County Council’s Landscape Officer has requested that, if the road widening has to take place to avoid a third-party tree, then a proposal to avoid or reduce impacts on the two mature trees adjacent to the site entrance should be sought. This has been discussed with the applicant and a condition is proposed requiring a detailed design, including the maximum possible mitigation for any impacts on the tree roots as well as the restoration of the access as soon as possible after the conclusion of quarrying.
- 6.6.4 There is likely to be a short-term adverse landscape impact on some rural views as set out in the LVIA due to the movement of vehicles working to extract minerals and the adverse visual impact of some visually prominent soil storage bunds.

## East Devon AONB

- 6.6.5 Concerns expressed by objectors about the impact on views from and to the East Devon Area of Outstanding Natural Beauty are not reflected in the response from the AONB Management Team who have declined to comment. It is acknowledged that there may be long views into the site during its operational life, especially through the new site access but, once

restored to agriculture, it should not be apparent that it had been quarried. Amendments have been made to the location and height of the screening bunds to protect views of the AONB from areas around the site, and the advanced landscaping will eventually provide a mature tree screen (within the parameters of airport safeguarding). There are no proposals for permanent lighting, and this can be dealt with by condition.

- 6.6.6 The County Council's Landscape Officer is also of the view that there would be no significant effect on the quality of views from the East Devon AONB. Where adverse effects are predicted during the operational phase of working for up to 10 years duration, these can be mitigated to a substantial degree, principally through retention of important vegetation and careful location and design of temporary soil storage mounds for screening, phasing of working to limit the perceived scale of operations at any one time, and avoiding working within the fields immediately adjacent to Birdcage Lane.

### Impact of the New Junction

- 6.6.7 Additional information was requested of the applicant in respect of the uncertainty of impacts of the proposed new junction and a "worst case scenario" photomontage was received showing much of the boundary hedge removed on the western side of the access along Birdcage Lane.
- 6.6.8 The County Council's Landscape Officer is of the view that a better arrangement could be reached with the original proposal which removed a single Class U oak in the hedgerow opposite the proposed access (Tree E), but this is in the ownership of a third party who has made it very clear that it is his tree and that he is not willing to accommodate the proposal, being also unhappy about proposals to carry out works in the highway verge adjacent to it.
- 6.6.9 This report is written on the assumption that the access would be constructed as proposed and discussed with the highway authority and that, therefore, the worst-case scenario might occur in respect of the health of two mature oaks (Trees F&G).
- 6.6.10 The applicant has stated that they will attempt to retain as much of the screening as possible within the requirements of construction of the site access as well as to try to protect the root spread of two mature oaks (trees F&G) although the East Devon tree officer is of the view that these would be adversely affected and could die back within the medium to long term.
- 6.6.11 The County Council's Landscape Officer has requested that, if the access cannot be altered, then proposals should be provided that would show how the likely losses of vegetation along the western edge of Birdcage Lane would be compensated for whilst enhancing the rural character of this area. Since this comment was made the applicant has indicated an area of additional tree planting adjacent to the access road to compensate for the loss of this vegetation.

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- 6.6.12 The Landscape Officer has requested that if permission is granted then there should be conditions to cover the protection of retained trees and hedgerows from development; seeding of temporary storage mounds; certification of species and provenance for proposed restoration planting and a Landscape and Environmental Management Plan (LEMP) with annual reporting on restoration progress. The arboricultural survey report contains proposals for the protection of trees during construction and implementation of this will be required by planning condition as will the other matters raised by the Landscape Officer.
- 6.6.13 Although it is assessed that the proposals would result in unavoidable permanent loss of the natural topography and historic landscape features within six fields, including hedge banks and mature trees that contribute positively to the character of the area, such harm should be weighed against the benefits of the scheme. Overall, the proposed landscape restoration design could be achieved whilst conserving the distinctive characteristics, qualities, and features of the wider landscape. Commitments to enhance the landscape by improving the quality of the traditional orchard at Straitgate Farm are welcome.
- 6.6.14 The restrictions of airport safeguarding are likely to mean that the type of mature trees already present could not be provided as a part of the landscape restoration, and such harm should be weighed against the benefits of the scheme.

## **6.7 Biodiversity Impacts**

- 6.7.1 No part of the application site is designated as a protected habitat; however, the application documentation contains information with relation to the protected species found on or near to the site which include Great Crested Newts, dormice, and bats.
- 6.7.2 Policy M17 of the Minerals Plan deals with impacts on protected species and requires appropriate avoidance, mitigation, compensation, and enhancement measures proportionate to the importance of the species and the likely impact, and it indicates that development will be permitted where there is a net gain for wildlife.
- 6.7.3 Table C.4 of the DMP with specific reference to the Straitgate Farm application requires in respect of biodiversity that:

“The East Devon Heaths Special Protection Area and East Devon Pebblebed Heaths Special Area of Conservation are located 2.9km south of the site, and proposals should demonstrate that there will be no significant effects on the integrity of these sites, either from development at the site or the transportation and off-site processing of materials. To the east of the site are County Wildlife Sites with water-sensitive habitats, and harm to these should be avoided or satisfactorily mitigated.

Any planning application will need to be supported by appropriate protected species surveys to ascertain the presence of legally protected species on and around the site. Sensitive vegetation clearance methods should be adopted and new planting provided to compensate for any woodland/hedgerows lost or fragmented. Affected protected species should be translocated with the creation of compensatory habitat.

Dust suppression will need to be achieved to ensure wildlife sites are protected from quarrying activities.”

- 6.7.4 There have been objections based on the date of the survey material; however, the applicant undertook a walkover survey in October 2020 to update the surveys submitted with the planning application which showed no significant changes other than a few fields had been converted to arable. It is therefore considered that the ecological impact assessment provided is sufficient to determine this application.
- 6.7.5 A number of surveys will need to be updated (including badgers, tree bat roosts) before development could commence to ensure that mitigation is appropriate; however, these details can be submitted to the Council and any updated details or required mitigation can be agreed through production of the Construction Environment Management Plan/Landscape Ecological Management Plan.

#### The East Devon Pebblebed Heaths SAC

- 6.7.6 The Minerals Plan requires that the application demonstrates that there would be no adverse impact on the East Devon Heaths Special Protection Area [SPA] and Special Area of Conservation [SAC], both legally protected designations.
- 6.7.7 Policy M17 of the Devon Minerals Plan requires that international sites will be protected, and all proposed development should seek to avoid adverse impacts.
- 6.7.8 The application site is not located within the designated areas; however, it is included in the area within which impacts on the site should be assessed given its importance. The County Ecologist has noted that all applications are screened for HRA and there are no likely impacts on the SAC from this proposal. This has been supported by
- 6.7.9 Natural England who have clarified that they do not require formal Habitats Regulations Assessment for this proposal since the processing will no longer take place at Blackhill Quarry.

#### National Sites

- 6.7.10 There are no nationally designated sites or habitats affected by this proposal. However, Policy M17 of the DMP states that “Mineral development which impacts on irreplaceable priority habitats such as ancient woodland and

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aged or veteran trees should only be permitted where the need for, and benefits of, the development at that location clearly outweigh the loss.” There is no ancient woodland on the application site and, although there are mature trees, none are classified as “veteran” in the tree survey.

## County Wildlife Sites

6.7.11 Policy M17 states that:

“Mineral development that will impact on local sites (including County Wildlife Sites and County Geological Sites) and other priority habitats will be permitted where it can be demonstrated that: (a) the proposal will not significantly harm the site; or (b) the benefits of the development outweigh any adverse effects and such effects can be satisfactorily mitigated or, as a last resort, compensated for through offsetting.”

6.7.12 There are no County level sites on the application land but there are two County Wildlife Sites downstream from the proposed quarry at Cadhay Wood, which is partly ancient woodland and Cadhay Bog is designated for ancient wet and dry woodland. Both are fed by streams which originate on the application site. Objectors have raised concerns that the development of the site might lead to an impact on these habitats from either loss of water supply, alterations in water chemistry, or polluted runoff. The NPPF strengthens the protection for ancient woodland and states in paragraph 180(c) that development should be refused if it would result in the loss or deterioration of irreplaceable habitats unless there are wholly exceptional reasons and a suitable compensation strategy exists.

6.7.13 This issue has been considered by the EA who have requested that there is monitoring of all of the watercourses emanating from the site; however, they also advise that, as the contribution of surface water from the site to the headwaters of the Cadhay Bog Stream is not considered to be significant, they do not consider that there is a great likelihood of such impact occurring. It is proposed that the recommended condition from the EA for the required monitoring is also set out in the legal agreement as the land is not in the ownership of the applicant. If access is not permitted by landowners, then monitoring will take place at the edge of the site. Runoff from the site in terms of surface water management will be controlled by condition and there is a proposal for detailed schemes for each working phase which would ensure pollution control as well as the management of surface water runoff.

## Protected Species

### *Dormice*

6.7.14 One of the tests for the granting of a European Protected Species [EPS] licence is that no satisfactory alternatives exist and objectors have queried this given the allocation of another site in the Devon Minerals Plan at West of Penslade Cross. The issue of alternatives is discussed in Section 6.12 below but the response from Natural England would indicate that sufficient

information and compensation has been provided for a licence to be granted. The County Ecologist has advised that it is likely that the tests will be met and that Natural England will issue a licence. Mitigation will need to be detailed in the Construction Environment Management Plan [CEMP] and the Landscape Ecological Management Plan [LEMP] which will be conditioned.

## *Bats*

- 6.7.15 The affected trees have been surveyed for bats and it is not considered that they are currently being used as bat roosts. Mitigation will mean that felling will have to take place supervised by an ecologist, but the ecology reports indicate that the site is used for foraging rather than roosting, and the creation of new areas of planting and strengthening the surrounding vegetation including along the A30 would support bat flight-lines around the site and there are no outstanding issues.
- 6.7.16 No bat roosts have been found on site and there are no trees with high potential for bats. There is one tree with moderate potential which will be surveyed again before works start and any protection/mitigation measures included in the CEMP/LEMP. Given that there are no trees with high roost potential, it is considered that, if a tree roost is found, it is very unlikely to be a significant roost and that, if needed, Natural England would issue a licence as the three Habitats Regulations tests would be met. In the very unlikely scenario that a significant roost is found and that NE will not issue a licence the applicant would need to protect the roost. Surveys confirmed that there are no bat roosts in any buildings although further inspections will be needed prior to any potential impacts. Bat flight lines around the site will be protected and enhanced and details set out in the CEMP and LEMP. There are no other EPS issues.
- 6.7.17 There will be a further loss of trees due to forming the site access onto Birdcage Lane. The applicant has been requested to provide mitigation for this additional loss by planting up some of the fields behind the access point and this will provide a part of the overall compensation metric.

## *Other Protected/Priority Species*

- 6.7.18 A small population of slow worms was found on site and detailed mitigation will be set out in the CEMP/LEMP. Mitigation required to protect nesting birds will also be set out in the CEMP/LEMP. No badger setts were found on site.

## Biodiversity Offsetting and the new DEFRA Metric

- 6.7.19 The applicant was asked to clarify potential losses as a consequence of the proposal and to set these against mitigation/compensation as a “balance sheet” to establish whether the proposed compensation offered is at a level adequate for the likely losses.

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- 6.7.20 The site is largely improved grassland/arable surrounded by hedges (a priority habitat). Mitigation to ensure a minimum of 10% net gain has been provided and details will be required through the CEMP/LEMP – including updates to the metric.
- 6.7.21 Mitigation includes species rich grassland, woodland planting, new Devon hedges with trees and orchard restoration. Government guidance currently states that developers should aim to achieve 10% net gain for both hedges and habitats. This is not, however, a statutory requirement and it is considered acceptable that the developer is achieving 18% net gain for habitats and 8.2% for hedges. All details regarding habitat mitigation (protection, creation, enhancement, management) will be set out in the CEMP/LEMP and the metric updated and agreed with the Council to ensure that a minimum of 15% net gain is achieved overall.
- 6.7.22 Some advance planting which was carried out by the applicant to contribute new dormouse habitat and offsetting for tree and habitat loss has subsequently had to be removed due to airport safeguarding concerns, but additional planting has been proposed elsewhere on the site to replace it.
- 6.7.23 In terms of protected species, the application documentation is considered to be adequate to demonstrate the likely impacts and that the mitigation proposed is acceptable in terms of licensing. The Straitgate Action Group has pointed out that there are insufficient benefits to the proposal to enable the tests for protected species licensing to be met, but the provision of a steady supply of aggregates from locations constrained by geology would meet the derogation tests set out in the regulations, and this appears to be the view of NE who have not raised an objection.
- 6.7.24 The main biodiversity loss will be the hedgerows within the site which is unavoidable. These will, however, be retained for as long as possible within the phasing to ensure that early phases of the lost hedgerows may be replaced before it is all lost to the later phases of the development.
- 6.7.25 Creating new wildlife habitats is a core ambition of the England Biodiversity Strategy and a key principle of the National Planning Policy Framework, with Paragraphs 174, 179 and 180 expressing the government's intent for land-use planning to deliver net gains in biodiversity, create coherent and resilient ecological networks and plan for biodiversity at a landscape scale.
- 6.7.26 There is a slight tension between the need to deliver biodiversity net gain and the need to protect and replace best and most versatile agricultural land. The flower rich margins will not require the better-quality soils or a great depth, but the detailed soils management plan will ensure that the better-quality soils can be directed to those areas of the farm where arable farming is most likely to take place and retain the poorer soils in the margins.

## Conclusions on Biodiversity Impacts

6.7.27 Paragraph 180 of the NPPF states that:

“When determining planning applications, local planning authorities should apply 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”.

6.7.28 Straitgate Farm was allocated, and the Examination of the Minerals Plan conducted, in the context of this advice. It is considered that the comments from Natural England and the conclusion that the proposal is unlikely to have significant impacts on the European designated sites would indicate that there are no reasons for refusal on the grounds that the proposal would cause “significant” harm to biodiversity. It is clear that there will be some harm, in particular the loss of hedgerows; however, in allocating any mineral site, the principle is that the mineral must be worked where it is found, and the allocation of this site was in the clear knowledge that the hedgerows would be lost.

6.7.29 The proposed biodiversity net gain of 15% overall will go some way to mitigate for the loss of hedgerows and in the long term they will be replaced in the same location albeit that they will, it is acknowledged, take some time to re-establish. There will, however, be an improvement in other elements of the biodiversity of the farm by the enhanced farm management plan and the incorporation of new areas of tree planting (within the constraints of the airport safeguarding) and the provision of flower margins and ephemeral wetlands which will widen the biodiversity of the restored farmland.

6.7.30 The principal impact from the proposal would be the unavoidable loss of 1.59k of mature hedgerow which, due to its age and diversity, would qualify as “Important’ under the Hedgerow Regulations 1997. A number of objectors including the Devon Wildlife Trust, the Peoples’ Trust for Endangered Species and CPRE have queried whether the replacement of these hedgerows on the same lines post restoration could mitigate for this loss and comment that it would have a direct adverse impact on dormice which were surveyed on the site.

6.7.31 The allocation of this site in the Minerals Plan would indicate that the loss of trees and hedgerows within the working area was considered to be inevitable and given appropriate compensation it is accepted that this is an unavoidable impact of any proposal to quarry on this site. The applicant has designed the working phases to maintain separation by the existing hedgerows as long as possible and the phased restoration will enable linkages across the site to be reinstated as quickly as possible.

6.7.32 The weight given to the loss of important hedgerow has to be set against the “great weight” given to the delivery of the mineral in a location which cannot be altered.

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## 6.8 Restoration Proposals (Agricultural Land and Soil)

6.8.1 Table C.4 of the DMP requires in respect of the restoration of Straitgate Farm that:

“The site should be restored to enable resumption of agricultural use. To ensure the site is restored to an appropriate grade of agricultural land quality, proposals should assess the Agricultural Land Classification and detail proposed soil management techniques should be used throughout the site working and restoration stages. The working and restoration phasing should minimise the area of land not in cultivation, as soil is best conserved by being farmed rather than stored where some deterioration may occur.”

### Restoration Landscape Character

6.8.2 Policy M27 of the Devon Minerals Plan requires phased restoration to a beneficial after use responding to the topography and character of the surrounding area.

6.8.3 The proposed restoration of the site would be to agriculture, with steps taken to manage and protecting the soils to enable them to be reinstated as the best and most versatile [BMV] agricultural land as required by Natural England, and the County Council’s Landscape Officer considers that the proposed landscape restoration design can be achieved whilst conserving the distinctive characteristics, qualities, and features of the wider landscape.

6.8.4 The hedgerows removed as part of the proposal would be replaced by new hedgerows on the same pattern at a lower level, and it is not proposed to have any open water features to protect airport safeguarding requirements. There will be an ‘infiltration’ area to the eastern boundary of the pit where the natural drainage will create an ephemeral ‘damp’ area which could be managed as flower rich meadow or species-rich wet grassland. There will be additional tree planting in order to mitigate the vegetation lost to the proposal. Due to the amount of natural vegetation existing around the site, it is the need for ecological mitigation that has informed the proposed planting and restoration and this is considered in more detail in Section 6.7 above.

6.8.5 In respect of the proposed restoration, the EA considers that there is the potential to restore to a semi natural habitat to enhance biodiversity which should be considered along with opportunities to link, buffer, and enhance existing wildlife rich habitats and sites in the area. This presents a tension between the requirement to preserve the best and most versatile agricultural land and the duty on the MPA to secure biodiversity enhancement; however, there is no in principle objection from Natural England so long as BMV soils are stripped and conserved in accordance with best practice guidelines, and they have suggested a number of conditions to achieve this.

## Agricultural Restoration

- 6.8.6 A number of objections have been made to the proposal on the grounds that it will result in the loss of a working dairy farm. It is envisaged that the farm will continue to operate for the duration of quarrying and the phased working and restoration should bring worked out phases more quickly back into use.
- 6.8.7 The farmland at Straitgate Farm is a mixture of soils graded 2 and 3(a) which are classed as the 'Best and Most Versatile' agricultural land (BMV). The NPPF states in Para 174 that decisions should recognise the intrinsic value of BMV agricultural land.
- 6.8.8 In the case of minerals development, however, it is not possible to alter the location of the underlying mineral and so it is necessary to make sure that the methodology for soils storage and replacement means that the land is capable of being restored to the same quality, maintaining the "natural capital" of the land.
- 6.8.9 The proposed after-use is not entirely for arable or pasture but contains flower rich margins and infiltration areas, and this accords with Policy M21 of the Devon Minerals Plan which seeks to ensure that any negative impacts on soil resources should be mitigated. It is understood that there have been previous issues with surface water management on parts of the holding due to soil compaction in the past, and so this restoration seems to present a reasonable balance between agricultural improvement and nature conservation using field margins, replacement hedgerows, woodland planting, and a damp 'infiltration zone' to provide species rich grassland with a return to pasture and arable use for the rest of the land.
- 6.8.10 It is clear from the application that the soils would not be exported and, if stripped and stored in accordance with good practice, they should be available for re-use following cessation of working even if the restoration is at a lower level. The ability to 'rip' the soils on replacement would ensure their aeration and ensure that the previous compaction that led to uncontrolled runoff is managed. The applicant has submitted very detailed information on the nature of this soil storage including the amount and location of topsoil and subsoil types. There was some concern expressed by the SAG that there was insufficient space on site for the storage; however, the applicant has clarified that there is sufficient storage space due to the phased nature of working and because some material stripped from Phase 2 will go directly into the restoration of Phase 1.
- 6.8.11 Some objectors have also expressed concerns at the health of the soil after long periods of storage, but Natural England and the Environment Agency have provided some very specific advice in respect of soils storage and the methodology for replacement and NE has now advised that, subject to specific conditions and schemes setting out the proper treatment and storage of soils, this matter can be resolved. Furthermore, the creation of flower rich margins means that those specific areas do not require rich

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topsoils and so the BMV soils can be applied to those areas that are to be restored to arable farmland and pasture.

- 6.8.12 It is acknowledged that the restoration needs management to ensure the proposed balance of agricultural, ecological and landscape characteristics and to this end the applicant has offered a 10 years period of aftercare which will be required through condition and through the s.106 agreement, which will write in certain elements of the land management into the new farm tenancy.
- 6.8.13 Objectors have pointed out that the proposed method of working is 'unproven' and therefore the company should post a restoration bond in the event of the site being abandoned or where there are unexpected environmental consequences as set out in Paragraph 048 of the Minerals Planning Practice Guidance.
- 6.8.14 The applicant is a member of the Mineral Products Association and is therefore enrolled in its Restoration Guarantee Fund. Advice in the same paragraph of the Minerals Planning Practice Guidance is that operators who are members of this organisation should not be required to post a restoration bond in these circumstances.
- 6.8.15 The restoration has been designed to bring net ecological benefit to the land over time and it is considered that the monitoring, reporting, and review mechanisms written into the planning conditions will enable the proper assessment of the success of the restoration and enable a review of the approach if any issues arise.

## **6.9 Aircraft Safety and Airport Safeguarding**

6.9.1 The application lies within the safeguarding and consultation zone for Exeter Airport where all applications need to be the subject of consultation with Airport operator. Policy M20 of the Devon Minerals Plan requires that minerals development should "avoid significant adverse effects on the operation or safety of...civil aerodromes".

6.9.2 Additionally, Table C.4 states:

"The site should be worked and restored in a manner acceptable to Exeter International Airport to ensure that their operations are not adversely affected. It is advised that any planning application is prepared in discussion with Exeter International Airport. Potential impacts may be caused by surface water management measures and landscaping/planting that risk increased bird activity."

6.9.3 At the pre-application stage and during the Minerals Plan allocation process, the airport operator had raised issues and concerns regarding the impact of water bodies and land management on the safety of flights with regard to potential bird strike. They requested that any subsequent application should be accompanied by a Wildlife Habitat Management Plan (WHMP), and this

has been provided by the applicant in consultation with Civil Aviation Authority (CAA) ecological advisers and has been the subject of consultation with the airport safeguarding team.

- 6.9.4 The applicant's supporting statement makes it clear that the proposal is for a 'dry working' option and states that the 'highly permeable' geology would mean that standing surface water would infiltrate very quickly. Restoration would be to agriculture, hedgerows and trees and the applicant states that habitat management would have regard to the safety requirements of the Civil Aviation Authority (CAA) and the safety requirements of Exeter Airport.
- 6.9.5 The land agent for the adjoining farmer has stated that the management of the infiltration zone is too large a responsibility to place on the future landowner or tenant farmer; however, the applicant is also the landowner, and they are of the view that this can be managed through the terms of the farm tenancy. The requirements of the management plan in respect of physical management of the site and 'in perpetuity' issues (especially with relation to water and tree management) will be written into the S106 agreement as the applicant has stated that the farm tenancy will be reviewed should planning permission be granted. This commitment is now contained within the Heads of Terms for the S106 agreement set out in Appendix I.
- 6.9.6 The SAG has questioned why the surface water management scheme has not been finalised in advance of determination of this application; however, the issues relating to this are dealt with in section 6.3 above.
- 6.9.7 Exeter Airport has confirmed that, subject to the removal of some of the advance tree planting, the resolution of some detail regarding the location of tree planting and the management of the final sustainable drainage scheme, along with access to the site to check that the WHMP is being implemented, they have no objection to this proposal on airport safeguarding issues.

## **6.10 Economic Considerations**

- 6.10.1 Objectors have cited a detrimental impact on local businesses relying on tourism and environmental credentials as well as a potential impact on tourism due to views into the site from the A30; while these concerns are noted, they have not been supported by any submitted evidence. The applicant has been asked to provide additional planting along the boundary with the A30 where there is already a young hedgerow that can be thickened to provide screening from the A30, but it is unlikely that the presence of a quarry alongside a trunk road where traffic is passing at speed would have any significant impact on tourism in this part of Devon.
- 6.10.2 The consultation responses contained concerns from some other rural businesses close to the B3180 and from Ottery St Mary about congestion and blockages on the B3174. A local pet boarding facility is concerned about noise and dust and loss of private water supplies, but this property would be protected in the same way as residences by noise and dust conditions and schemes. Private water supplies would be assessed and

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protected by the proposed S106 agreement, however, the owner of Cadhay House in particular is extremely concerned about the potential impact on that business and this has been considered further in Sections 6.3 (Water Environment) and 6.5 (Historic Environment) due to the specific nature of the hydrogeological implications and the status of the property in terms of its historic importance.

- 6.10.3 The most recent documentation (revised Transport Assessment) indicates that the quarry would support four site operatives and one site manager, although it is not clear whether these are already in existence at the Hillhead/Houndaller complex given the proposed nature of the campaign working. It is, however, clear that the quarry would support employment at this site and support the operations of the roadstone coating plant at Westleigh, the concrete plant at Hillhead and provide other associated employment for drivers etc.

## Impact on Straitgate Farm

- 6.10.4 The farm is owned by the applicant and tenanted. The applicant intends to manage the development whilst ensuring that there is sufficient land available to keep the farm viable during the operations.
- 6.10.5 An objection was received from an agricultural agent on behalf of the family of the tenant expressing concerns about highways, hedgerows, water, livestock, footpaths and pollution, but they have not engaged further to queries raised by the County Council.
- 6.10.6 The applicant has received planning permission from East Devon District Council for a cattle-crossing across Exeter Road (B3174) based on movements given to them by their tenant. Cattle already cross this road, and the applicant has stated that numbers should not have to increase above those which were given to support the application to East Devon. If numbers were to increase, the applicant would need to apply to vary the conditions of that permission, which are tied to the submitted numbers as required by National Highways.
- 6.10.7 The applicant has also proposed a number of new gateways and trackways to enable cattle to move more easily around the remaining area of the farm to the north of the main road.
- 6.10.8 The viability of the farm tenancy is not a planning matter, but the operation is a phased proposal and not all of the land would be occupied by the quarry.
- 6.10.9 Mineral operations are a relatively short-term use of land and the restoration proposals have been designed to ensure that the land properly restored to agriculture and that the soils can be re-used for this purpose.

## 6.11 Sustainability and Greenhouse Gas Considerations

6.11.1 NPPF Paragraph 105 (Promoting sustainable transport) states that:

“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion, emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.”

6.11.2 It is a logical and established planning consideration that the mineral can only be won where it is found, and processing on the site is not possible due to airport safeguarding and space requirements. It has been suggested by objectors that the inability to process on the site means that it is inappropriate in planning terms; however, it was made clear at the Minerals Plan inquiry that Straitgate Farm could not accommodate processing and the allocation was found to be sound by the Inspector before the plan was adopted.

6.11.3 Devon County Council declared a climate emergency in May 2019, making a climate declaration that would apply to all actions across the County, and is committed to facilitating the reduction of Devon’s carbon emissions to net-zero by 2050. The scope for individual planning applications to contribute to these initiatives will be dependent on the nature and scale of the development being proposed, and relevant considerations are outlined below.

6.11.4 The United Nations General Assembly has defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

6.11.5 The National Planning Policy Framework (NPPF) (paragraph 7) amplifies this further by identifying three dimensions of sustainable development, and three key roles for local plans in delivering sustainable development:

- an economic role – contributing to building a strong, responsive, and competitive economy;
- a social role – supporting strong, vibrant, and healthy communities; and
- an environmental role – contributing to protecting and enhancing our natural, built, and historic environment, including moving to a low carbon economy.

6.11.6 Although this application was submitted before the County Council’s climate declaration, the concerns raised by objectors regarding the haulage of materials for processing at Hillhead in Uffculme were considered to be significant in the context of the planning balance, especially as those circumstances had changed since the Minerals Plan was adopted.

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- 6.11.7 The applicant was requested to address this issue in some detail, and they appointed the Centre for Energy and Environment (CEE) at Exeter University to assess the potential impact of this proposal with relation to greenhouse gas emissions. A report was received in March 2021 and re-advertised with the additional environmental information.
- 6.11.8 This report was scoped and produced using the guidance and methodology set out by the European Investment Bank and it considered three scenarios:  
**Do nothing** (assume that the current application does not go ahead and assess that impact with relation to real world likely scenarios);  
**Do something** (which assesses the impact of the current proposal including the haulage of materials to Hillhead) and,  
**Do Maximum** (which assesses the current application and refines it to include additional actions to reduce the impact of the proposal on the generation of greenhouse gases such as the purchase of low carbon electricity, use of hydrogenated vegetable oil fuel and backhauling).
- 6.11.9 Absolute emissions were calculated for each scenario as was the difference between the scenarios.
- 6.11.10 The conclusion of the report was that the proposal for extraction at Straitgate Farm with onward processing at Hillhead Quarry would result in 11% lower greenhouse gas emissions than meeting the demand and gravel in the proposed markets from other existing quarries (Cornwall and Wales).

## Hydrogenated Vegetable Oil Fuels

- 6.11.11 The original document identified further actions that could be undertaken which included the use of hydrogenated vegetable oil [HVO] fuel for 25% of journeys to Hillhead which was predicted to save some 1,000 tonnes of CO<sub>2</sub>. Further discussions with the applicant have resulted in a commitment (to be secured through the S106 agreement) to use 100% HVO fuel at Straitgate to carry materials to and from Hillhead. This would be the first time such a commitment has been secured through a planning agreement related to a mineral operation in Devon.

## Backhauling Materials

- 6.11.12 Backhauling could further reduce emissions by using the same vehicles to supply market demands in Exeter and East Devon; however, this is unlikely to be enforceable by the Council through planning conditions as it would depend on contracts, and backhauling is likely to take place in any case if it is possible as it would make the operations cheaper.

## Renewable Energy

- 6.11.13 The document mentions securing low carbon or renewable electricity at Hillhead from the proposed 5MW solar array to be located adjacent to the site. This has not, however, been constructed and so could not reasonably be taken into account as a potential carbon saving at the present time. The

electricity use at Straitgate Farm is likely to be low, being confined to the building at Little Straitgate and possibly the weighbridge.

- 6.11.14 A requirement of Table C.4 of the Minerals Plan is that “the transportation of extracted materials for processing elsewhere should meet the requirements of Objective 1 and Policy M22 for minimal transportation by road”. In proposing to process materials from Straitgate Farm at Hillhead Quarry, the applicant has ruled out the closer alternative sites (in its control) of Straitgate Farm, Rockbeare Hill Quarry and Blackhill Quarry as being unavailable and/or unsuitable in terms of planning policy, capacity for silt disposal, availability of clean water and space for stockpiling of materials.
- 6.11.15 Chapter 8 of the Regulation 22 Response explains the anticipated destinations of processed materials originating from Straitgate Farm, including Westleigh and Uffculme, and identified Greystone Quarry in Cornwall as the main alternative source of higher-specification materials with other sources being elsewhere in Cornwall or from Wales.
- 6.11.16 The transportation of excavated materials from Straitgate Farm for processing at Hillhead Quarry will clearly result in longer transportation distances, and consequently greater greenhouse gas emissions, than would be the case with a processing location closer to the point of extraction. However, in the absence of a closer deliverable processing option, Hillhead Quarry would be the nearest realistic option, and preferable to transporting equivalent aggregate products from more distant quarries outside Devon.
- 6.11.17 The processing facility at Hillhead Quarry will be supplying a significant proportion of aggregates derived from the Straitgate Farm materials to locations in Mid Devon (for example, the concrete products factory and aggregates bagging plant at Uffculme and the asphalt plant which is currently at Westleigh Quarry close by in Burlescombe, but which has recently also been granted permission to be moved to Hillhead Quarry). The recent provision for proposed development around Junction 27 of the M5 might also indicate that this could well be the end destination for this product as well as the Exeter markets and it could be therefore be argued that Hillhead Quarry is extremely well located in these circumstances, being within 2 miles of that location.
- 6.11.18 If these are agreed as end destinations for the product, then the road mileages involved with hauling the material to Hillhead for processing would not be much different than processing nearby to Straitgate Farm and taking the processed material to that area for use. Subject to the processing at Hillhead being able to maximise the diminishing resource of this gravel rich deposit, it would appear that the issue of transportation, although undoubtedly further than is normal, would make some logistical and commercial sense.
- 6.11.19 The reality of the local distribution and processing activities has been taken into account in the conclusions of the greenhouse gas report.

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- 6.11.20 The processing facility at Hillhead Quarry will be supplying a significant proportion of aggregates derived from the Straitgate Farm materials to locations in Mid Devon (i.e. the concrete products factory and aggregates bagging plant at Uffculme and the asphalt plant which is currently at Westleigh Quarry in Burlescombe, but which has recently also been granted permission to be relocated to Hillhead Quarry). The reality of the local distribution and processing activities has been taken into account in the conclusions of the greenhouse gas report.
- 6.11.21 The use of West of Penslade Cross (close to the existing processing plant at Hillhead Quarry) to provide an alternative source of material was not included in the assessment and this has led to some criticism from objectors. The applicant was asked to justify this, and they have explained that the resource at Penslade is too sand rich and would not entirely replace the higher quality (higher polished stone value) gravels to be obtained from Straitgate Farm. There is further consideration of this site in the section 6.12 on Alternatives.
- 6.11.22 Clearly the applicant has invested considerable time in the application to deliver the materials at Straitgate Farm, and the delivery of West of Penslade Cross is unlikely in the foreseeable future as no planning application has yet been submitted. Devon has already dropped below the minimum landbank for sand and gravel aggregates and is not producing sufficient gravel to meet the delivery requirements. If permission is not granted for Straitgate Farm in preference for a longer-term proposal at West of Penslade Cross, it is likely that the opportunity to extract the higher quality material in Straitgate Farm would be lost and Devon would fall further behind its landbank requirement.
- 6.11.23 There are as yet no known precedents for turning down a mineral operation due to the unsustainability of road haulage as that is a normal characteristic of mineral production and distribution where no rail facilities exist close to known mineral reserves.
- 6.11.24 It could be argued that the delivery of any primary mineral is inherently not sustainable, as it is not a replaceable resource within a human timespan; however, the NPPF accepts that it is appropriate to enable winning and working where the mineral is located and give “great weight” to the sustainable delivery of aggregates to meet the needs of society for these materials which are themselves essential to the delivery of sustainable development as set out in Paragraph 209 of the NPPF.
- 6.11.25 In terms of sustainability, it is normally preferable to have processing at the same location; however, it is not always the case that minerals are processed where they are dug and there are a number of sites within Devon where processing is, or has in the past been, remote from the extraction location, for example Town Farm and Venn Ottery.
- 6.11.26 If sustainability is a global consideration then the overall miles travelled need to be taken into consideration, but this would also need to include the

alternatives such as the potential need to import this material from outside Devon if permission was not granted.

- 6.11.27 The applicant has stated that Hillhead Quarry is the nearest available location and the likely developments in Mid Devon around Junction 27, as well as the lack of sand and gravel reserves in Somerset, might indicate that the future markets would not necessarily be tied to Exeter. and Mid Devon and Somerset markets may well have been the destination for material processed from Straitgate Farm in any case.
- 6.11.28 The sustainability appraisal report for the Devon Minerals Plan identifies the aim to reduce the mileage of minerals transported by road, but in the case of this particular site it would appear that there is no alternative to the transportation of materials by road to their end use whether or not the processing is located on the site or nearby.
- 6.11.29 A recent objection has been received on the basis that Devon County Council has made an announcement that it is putting carbon reduction at the heart of road design along with performance and cost, taking into account the carbon used in the production of materials to be used in construction and highway maintenance.
- 6.11.30 As discussed above, the Carbon Assessment indicates that the processing at Hillhead is the lowest carbon option currently available. Devon County Council as a purchaser of materials will continue to be able to assess this source alongside others with relation to its own schemes, but this application should be determined in accordance with published land use planning policy.
- 6.11.31 Given the uncertainties of the destination markets, it is not considered that the end use of the product could be used as a definitive reason for maintaining an objection based on sustainable transport; the planning balance is more likely to be informed by the on-site issues.

## **6.12 Consideration of Alternatives**

### Location

- 6.12.1 It is known that minerals may only be worked where they are found, and the Straitgate Farm resource is the last gravel rich site allocated within the Budleigh Salterton Pebble Beds.
- 6.12.2 West of Penslade Cross, which is located at Uffculme close to the processing plant at Hillhead Quarry, is also a preferred area in the adopted Minerals Plan but, in comparison with Straitgate Farm, the Penslade site has a lower proportion of gravel (though higher than Houndaller, which is their existing working site at Hillhead Quarry and which is also sand rich). If the applicant were instead to continue extraction at Houndaller and supplement it by commencing extraction at Penslade, it may be that this would not yield sufficiently high proportions of gravel (i.e. they may end up over-producing sand and stockpiling it, with questions over viability).

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- 6.12.3 The applicant, who is the owner of both mineral sites, advises that the loss of the Straitgate resource is likely to result in high specification gravels being imported to Devon from further afield in order to produce their range of materials, and the relocation of the Blackhill process plant to Hillhead was intended to support this long-term strategy.

## Processing

- 6.12.4 Blackhill Quarry: the applicant had originally hoped to process the Straitgate Farm material in this location but there was a fundamental objection from Natural England to the importation of remotely sourced materials to the silt lagoons there. As a result, a revised restoration scheme was approved and the applicant has removed the Blackhill process plant to Hillhead Quarry, and Blackhill Quarry is in various stages of restoration and aftercare.
- 6.12.5 Rockbeare Hill Quarry is in close proximity to Straitgate Farm, but the applicant states that the calculations of requirements for storage and lagoon space mean that there is insufficient space at that site. Furthermore, a considerable amount of the site has been sold for other uses over the years. The applicant also cites the discovery of Great Crested Newts at Rockbeare which could mean that there would be difficulty in keeping silt lagoons and water bodies in operational use.
- 6.12.6 Straitgate Farm was allocated as a preferred area in the Devon Minerals Plan in the knowledge that it could not be used for processing due to airport safeguarding issues restricting the potential for silt lagoons. Many objections have been raised on the basis of the remote processing and the HGV mileages involved; however, the applicant has explained that the sites in its ownership in closest proximity are no longer available and that the closest site in its control with sufficient space and facilities is at Hillhead Quarry.
- 6.12.7 The submitted sustainability report (see Section 6.11 above) has provided commentary to state that alternatives would otherwise be further away, and material would be imported by the applicant from outside Devon to supplement the sand supplies and produce the required range of products for local markets.

## Access

- 6.12.8 A previous application (submitted in 2015) proposed an access to the north of the site which would have led to the loss of fewer trees and hedgerows; however, the land required for this access was not in the ownership of the applicant and the landowner refused to countenance the proposal, leading to the withdrawal of the application.
- 6.12.9 Consideration has been given to access points to this proposed quarry using the existing accesses to Straitgate Farm and to Little Straitgate Cottage (which was also proposed by the highways consultant (Vectos) acting for the neighbour). However, DCC Highways were of the view that the visibility was

not sufficient at either point to accommodate the required visibility without the loss of considerable lengths of hedgerow.

- 6.12.10 In conclusion, it is considered that alternatives have been assessed and found to be less sustainable or not possible to deliver.

## **6.13 Other Matters**

### Clay Lane Widening at Hillhead/Broadpath

- 6.13.1 In the original Environmental Statement, a stated benefit of this proposal was that the proposal to transport materials from Straitgate Farm to Hillhead Quarry would bring forward delivery of the widening of Clay Lane at Hillhead/Broadpath which would have resulted in avoidance by quarry traffic of Broad Path, to the benefit of road safety and the amenity of residents. The road widening is also a requirement of the Preferred Area allocation of West of Penslade Cross through Table C.6 of the Devon Minerals Plan.
- 6.13.2 Recent developments at Hillhead Quarry which have been considered by this Committee. Application DCC/4189/2020 (construction of asphalt plant), which requires the widening before the development commences, and DCC/4067/2018 (widening of 400m of Clay Lane)) have dealt with this matter, so it would not be accurate to count this as a part of the benefits of granting permission for the current application.
- 6.13.3 The applicant has implemented the Clay Lane widening and, although it is not reasonable to consider it to be a benefit resulting in the grant of permission at Straitgate, it would still be necessary to make the importation of additional material into the Hillhead process plant acceptable. That application is also before this Committee for determination.
- 6.13.4 Given that the widening has lawfully commenced and is now in the control of the applicant and the County Council as Highway Authority, this matter can be dealt with by a 'Grampian' condition requiring the widening to be complete before any material from Straitgate Farm is imported to Hillhead for processing.

### Existing Services

- 6.13.5 The proposal will require the diversion of electricity lines bisecting the site. This is a matter for resolution between the landowner and the power network operator and is not an uncommon situation on a large mineral site.

### Other Sites in the Ownership of the Operator

- 6.13.6 A number of objections have cited a lack of restoration at other sites operated by the applicant and concern that a desire for long term future working might delay restoration, and some objectors have called for binding agreements to ensure that Aggregate Industries cannot apply for an

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extension. This is not legally possible as each application must be considered on its own merits.

- 6.13.7 The applicant has proceeded with a considerable amount of restoration in recent years at Blackhill and Venn Ottery, both of which are similar sites and have won restoration awards from the Mineral Products Association and which are likely to be managed by local wildlife organisations on completion of aftercare.
- 6.13.8 As Rockbeare Hill Quarry cannot be used for processing of materials from Straitgate Farm, the Council is pushing for the completion of restoration in the areas still owned by Aggregate Industries, although the Marshbroadmoor part of that site is currently being used to accommodate fill materials from the Cranbrook development.
- 6.13.9 The imposition of a fairly short timetable to work and restore Straitgate Farm should avoid any likelihood of the restoration process being prolonged.

## **6.14 Legal Considerations**

### Agricultural Tenancy

- 6.14.1 In terms of the impact on the farm holding, the issues between tenant and landlord are not a material planning consideration but the applicant was asked to demonstrate that any results of a grant of planning permission would not have a consequent impact on highway safety due to the resultant impact on the remaining farm operations. Clearly agricultural operations in themselves are not normally a planning consideration in the determination of a mineral permission but in this case, the potential highway impacts had been pointed out and the longer-term protection and management of the Best and Most Versatile agricultural land would be material considerations. The applicant has stated that they will accept terms within the S106 agreement that require the inclusion of specific measures for management of aftercare and water management in the revised farm tenancy agreement.

### Flood Risk

- 6.14.2 The adjacent landowner has had flooding issues from this land in the past and has instructed his solicitor to challenge any grant of consent given what he considers to be a potential increase in the flood risk to this land.
- 6.14.3 It is acknowledged that there have been past flooding issues, however the combination of a flood risk assessment and detailed proposals for surface water management based on sustainable drainage and attenuation basins, with overall improvements to site drainage from the final topography of the site and “ripping” and subsoiling to improve infiltration are, in the view of the County Council and the EA, likely to result in a net benefit over the existing situation where compaction of arable fields has led to fast runoff following summer storms.

## The Section 106 Agreement

6.14.4 The legal adviser for Cadhay has stressed the importance of ensuring that any S106 agreement includes a comprehensive framework for ensuring ongoing water supplies for his client and other properties reliant on the existing water supply. It is his view that the draft heads of terms proposed by the applicant failed to provide such a framework. A new draft has been received and the County Council has taken legal advice that the proposed offer by the applicant is reasonable and enforceable.

## **7. Planning Balance and Reasons for Recommendation/Alternative Options Considered**

7.1 The Committee has the option of approving, deferring, or refusing this planning application.

7.2 The balance of the potential impacts and proposed mitigation is set out below.

7.3 The Council in its role as Mineral Planning Authority is required to determine applications in accordance with the Development Plan unless material considerations dictate otherwise.

7.4 The planning balance in this case is a matter of weighing the environmental impacts of the proposal set against the “great weight” given to the extraction of minerals in Paragraph 211 of the NPPF bearing in mind that minerals may only be worked where they are found and that this is essentially a temporary use of land.

7.5 A number of objectors have pointed out that the reduced amount of aggregate to be derived from the site must now mean that the harm caused by the proposal would outweigh the benefit of working the site; however, the current aggregate landbank has also fallen below the required seven years supply and this would weigh significantly in favour of this proposal in the absence of any other site coming onstream in the near future. The resource has been questioned by objectors given uncertainties about the amount of overburden that may be useable and the exact height of the water table, but the applicant is clear that the resource (including an element of the overburden) will equate to approximately 1 million tonnes which would be worked over a 10 years period. This is a third less than envisaged when the planning application was originally submitted, and objectors have queried whether the amount of material is worth the environmental impacts

7.6 The applicant states that this is the only remaining gravel rich resource remaining to them in Devon and that, although there are quartzite pebbles at their existing site at Houndaller and, longer term, at Penslade, the proportion of gravel is much lower than the 54% at Straitgate Farm which is capable of producing a 57 PSV (Polished Stone Value) aggregate suitable for high specification asphalt wearing courses and surface dressing for roads.

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- 7.7 The allocation of the Straitgate Farm site was considered as a part of the Minerals Plan examination where objections to its allocation on sustainability grounds were considered by the Inspector as a specific part of the examination. As the plan was found to be 'sound' this would imply that the site is considered to be capable of being developed in a sustainable manner subject to detailed development management considerations.
- 7.8 It is accepted that with any mineral operation there will be temporary adverse impacts, but the planning balance should consider whether these would outweigh the NPPF advice giving "great weight" to minerals development, the adopted Mineral Plan allocation of Straitgate Farm and the mitigation and compensation offered in respect of the assessed impacts of the proposed development.
- 7.9 In terms of the duration of impacts, although the applicant has indicated a 10-12 years life, and the ability to work the quarry will be dependent upon the height of the water table, in terms of certainty for the local population, and in acknowledgement of the reduced resource assessment, it is proposed that the working life of the site is restricted to the original envisaged 10 years with a 10 year aftercare period following two final years of restoration. In general, it is not reasonable to require exact precision about the amount of material available as the economics of its development are a matter for the operator. In terms of planning balance, even at worst case this presents a supply of high-quality aggregate that could not be delivered from alternative sources in the vicinity during the proposed timescale of the application.
- 7.10 The main negative impact is that the proposal would result in the unavoidable permanent loss of the natural topography and historic landscape features within the application site, including the loss of 1.59km of hedgerows and a number of mature trees that contribute positively to the character of the area, and which will take many years to replace. Proposed mitigation is, however, based on the Defra Biodiversity metric and proposes an overall 15% net gain in biodiversity which accords with and exceeds the most recent Defra guidance which seeks a 10% increase. It is therefore considered that the proposed mitigation is acceptable.
- 7.11 There will be a short-term adverse impact on the local landscape and the tranquillity of the area during the life of the quarry and an unavoidable temporary loss of Best and Most Versatile agricultural land for the duration of the operations and until the aftercare period is concluded.
- 7.12 There will be increased disturbance from associated vehicle movements and activities within the previously agricultural landscape as identified in the LVIA and the loss of trees and hedgerows also means the loss of the habitats that they provide.
- 7.13 There is genuine concern from a number of local residents and organisations that the complicated nature of the groundwater and interconnected issues of hydrogeology, flood risk and potential impacts on protected sites from

disturbing the equilibrium of the existing land and drainage cannot be precisely known.

- 7.14 However, it is known that this site has led to local flooding issues before this application was made, and the applicant has put together a comprehensive scheme of working and management to address these issues which can be further detailed by applying conditions to any permission. The issues of flood risk, water supply and hydrogeology have been the subject of extensive reporting and the Environment Agency and the LLFA have concluded that, subject to detailed schemes being required to build on the submitted information using the most up to date data, the risks can be managed.
- 7.15 Furthermore, it is generally acknowledged that, whilst it is not possible to have complete precision within natural systems as there are too many variable factors, the Environment Agency, which is the Government's advisor on matters of hydrogeology and water supply, has concluded that the risks are low, and the proposed conditions and legal agreement have been designed to enable the applicant and the Council to respond to current "unknowns" and to carry out ongoing review of the impacts and monitoring of the site across its life.
- 7.16 There will be a temporary impact on the setting of the Grade II Listed Straitgate Farmhouse, but the public interest in delivering a steady and secure supply of high-quality aggregate would outweigh the temporary harm to the setting of this heritage asset. This has been assessed in accordance with the Planning (Listed Building and Conservation Areas) Act 1990 and paragraph 195 of the NPPF.
- 7.17 The most significant concern in terms of heritage assets is that raised by the owner of Cadhay House and their legal advisers who are of the view that Professor Brassington's report concludes that there could be a significant detrimental impact on Cadhay Manor and its setting should there be any derogation of the water supply in terms of either quality or quantity. Paragraph 195 of the NPPF states that:
- "Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal." [emphasis added]
- 7.18 The expertise in this area is found with the Environment Agency in their comments on the hydrogeology rather than in those of the Devon Gardens Trust who have accepted the conclusions of the objectors. The Environment Agency has made it clear that they consider the likelihood of impacts on groundwater or water supplies are slight and measures can be put in place to manage impacts that might possibly occur.

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- 7.19 Therefore, although the protection of heritage assets carries equal weight in the planning system, an unproven impact and general concern would not outweigh the delivery of a steady and adequate supply of minerals, especially when the landbank has dropped below the required seven years period.
- 7.20 It is not considered that airport safeguarding is an outstanding concern given the response from Exeter Airport.
- 7.21 The proposal is a relatively short-term operation, planning the development of the quarry over a 10 years period with early restoration of the working phases rather than leaving the final restoration to the end of operations. The applicant has carried out a detailed assessment of biodiversity loss and gain and has proposed mitigation that would meet the requirement for 10 % net gain leading to an enhancement over time. Furthermore, the applicant has undertaken to contribute £2,500 per year for 10 years to the Devon Ash Dieback Resilience Forum to fund tree planting schemes in Devon (to be secured through the S106 Agreement) as part of the biodiversity net gain.
- 7.22 Although this site is allocated in the current Devon Minerals Plan, the length of time it has taken to bring it to determination has reflected the complicated issues that needed to be addressed, and it is acknowledged that the benefits of delivering the Minerals Plan proposal and maintaining the required aggregates supply, set against the impacts of the proposed development, has been a fine balance
- 7.23 It has been pointed out in a number of representations that the applicant has altered the proposals and the justification and mitigation for certain elements of the proposed scheme over time.
- 7.24 This is a complex application that has been before the Council for some time and it was inevitable that over the course of that period there would be clarifications and alterations due to requests made by the Council or statutory consultees.
- 7.25 While this may have led to some confusion, the technical and consultee responses received are on the basis of the current planning application as submitted and revised, and this recommendation is based on the facts and information contained in this current application rather than on statements that may have been made by the applicant in the past.
- 7.26 It is generally understood that there will always be some short-term and potentially longer-term impacts from minerals extraction, and it is not possible to have complete precision within natural systems as there are too many variable factors. However, the mitigation offered by the applicant is likely to offset and manage the predicted impacts of the proposed development in accordance with the requirements of Policy M21 of the DMP, and this mitigation is reflected in the final comments of the statutory consultees and the proposed planning conditions.

- 7.27 It is concluded that, having assessed the likely impacts of the proposal in Section 6 above, the proposed development, subject to appropriate conditions and a robust legal agreement, complies overall with the requirements of Policy M12 and Table C.4 of the Devon Minerals Plan.
- 7.28 Therefore, subject to a legal agreement which properly delivers the requirements set out in Appendix I and the conditions set out in Appendix II, it is recommended that conditional planning permission should be **granted**.

Mike Deaton  
Chief Planner

## **Electoral Divisions: Otter Valley and Whimble & Blackdown**

### Human Rights Act

The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol and Article 6 may be affected. The proposals have the potential to introduce impacts of noise, dust, visual impact and a continuation of haulage within the local area where the magnitude of impacts are generally assessed as minor. These potential impacts need to be balanced against the wider benefits the proposals would provide in terms of providing a continuity of mineral resources. Members will need to consider whether these benefits would outweigh the potential impacts.

### Local Government Act 1972: List of Background Papers

Contact for enquiries: Sue Penaluna

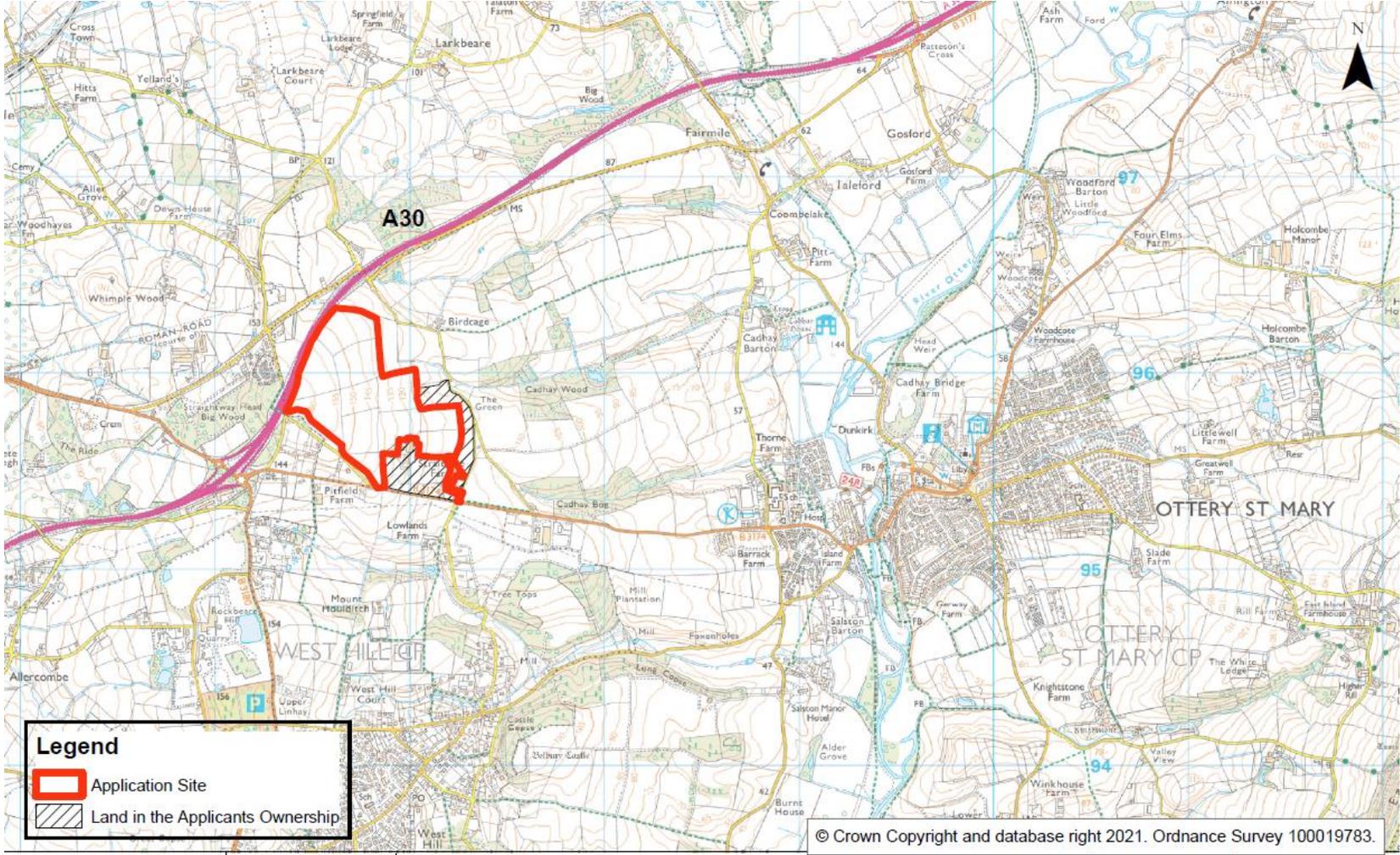
Room No 120 County Hall

Tel No: 01392 383000

<b>Background Paper</b>	<b>Date</b>	<b>File Ref.</b>
Casework File	3 March 2017	DCC/3944/2017

sp240921dma  
sc/cr/EDD Extraction of sand and gravel restoration to agricultural land Straitgate Farm Exeter  
02 2201121

Location Plan to PTE/21/44



	Head of Planning, Transportation and Environment	Development Management Committee	date December 2021	scale 1:20,000
		Location Plan County Matter: Minerals East Devon District Council: Extraction of up to 1.5 million tonnes of as raised sand and gravel, restoration to agricultural land together with temporary change of use of a residential dwelling to a quarry office/ welfare facility Straitgate Farm, Exeter Road, Ottery St Mary	Application No: DCC/3944/2017 17/0545/CM	



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**Appendix I  
To PTE/21/44**

## **Heads of Terms for Section 106 Agreement**

### **Private Water Supplies**

The draft S106 Agreement requires the developer to engage with the owners and those being supplied by Private Water Supplies that may be affected by the development.

As soon as reasonably practicable following the signing of the S106 Agreement the developer will be required to contact all parties with a known interest in a Private Water Supply to enable agreement to be reached to facilitate access to land for the monitoring of those interests.

The developer will be required to set out where and how the Private Water Supply will be monitored as well as providing information to the interested party about the measures that will be undertaken in the event of a contamination or an interruption event.

In all cases, the developer will be required (as a minimum) to provide drinking quality water within 24 hours of a report of contamination or an interruption of supply and shall be required to maintain that supply until the interruption/contamination has been resolved or that it has been established that the interruption/contamination has not been caused by the developer.

Prior to the commencement of any soil stripping on any Phase of the Development the developer will be required to carry out a Maximum Winter Water Table Review (MWWT Review). The MWWT Grid (meaning the hydrogeologically modelled surface of the maximum winter water table based on the highest recorded winter groundwater levels) to be amended if changes have occurred. The developer will be prohibited from operating the site until the MWWT Grid has been amended (if required to do so). Additional requirements are set out in the conditions below which require continuous monitoring of all site piezometers (and interpolation between them) used to ensure, during working, that the base level to which the quarry is worked is no closer to the measured groundwater level than 1m).

A Water Supply Monitoring Scheme shall be submitted to the Council for approval prior to the commencement of the Development. The Water Supply Monitoring Scheme shall be reviewed on an annual basis following the submission of an Annual Monitoring Report. The Council (in consultation with the Environment Agency) may make amendments to the Water Supply Monitoring Scheme to include any additional requirements following receipt of the Annual Monitoring Report. The Annual Monitoring Report shall be undertaken each year for the lifetime of the permission.

## **Permissive Path and Public Right of Way**

Creation and management of Permissive Path – not to commence the development until the permissive path has been created and made available for use by members of the public.

Creation and dedication of Public Footpath with financial contribution for maintenance – not to operate the development until the developer has entered into a Public Path Creation Agreement with the Council for the creation and dedication of the Public Footpath along the southern boundary of the Site. The Public Footpath will be delivered as part of the restoration of the Site.

## **Airport Safeguarding Measures Scheme**

Submission of and compliance with Airport Safeguarding Measures Scheme – not to commence the development until the Airport Safeguarding Measures Scheme has been submitted to and approved by the Council. Thereafter, not to Operate the site otherwise than in accordance with the approved Airport Safeguarding Measures Scheme.

## **HVO [Hydrotreated Vegetable Oil] Diesel Fuel**

Submission of and compliance with HVO Diesel Fuel Scheme – such scheme to require that all plant equipment and HGVs used for transporting minerals extracted from the site shall be operated using HVO Diesel Fuels only.

## **Farm Management Plan and Extended Aftercare Period**

Implementation of Aftercare Scheme for 10 years from expiry of the planning permission

Submission and compliance with Farm Management Plan - to be prepared with the objective of managing the soils at the Site so as to avoid farming practices that encourage soil compaction and the management of tree planting over a period of 30 years from the date of the S106 Agreement.

## **Financial Contributions Towards Tree Planting in Devon County Council**

Payment of annual Tree Planting Contributions, to be used by the Devon Ash Dieback Resilience Forum for tree planting in Devon

## **Establishment of Quarry Liaison Group**

The applicant has agreed to set up and to administer a Quarry Liaison Group. The Committee will be set up prior to commencement of operations on the site. [There are standard Heads of Terms for existing DCC Quarry Liaison Groups and this would be subject to those].

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Appendix II  
To PTE/21/44

## Recommended Planning Conditions:

### Standard Commencement

#### Condition 1

The development shall commence within three years of the date of this permission. Written notification of the date of commencement of any works on the site deemed to implement the consent shall be sent to the Mineral Planning Authority within seven days of commencement.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 and to enable the Mineral Planning Authority to adequately monitor the development.

### Approved Documents

#### Condition 2

The development hereby permitted shall be undertaken in accordance with the following approved plans:

- Overview Plan R22/L/3-3-001 rev B
- Detail Area Plan R22/L/3-3-002
- Detail Area Plan R22/L/3-3-003 rev A
- Detail Area Plan R22/L/3-3-004
- Detail Area Plan R22/L/3-3-005
- Detail Area Plan R22/L/3-3-006 rev A
- Detail Area Plan R22/L/3-3-007 rev A
- Detail Area Plan R22/L/3-3-008 rev A
- Extraction and Ancillary Development SF/2 rev B
- Advance Tree Planting SF/3 rev C
- Development Phase 1 SF/5-1 rev C
- Development Phase 2 SF/5-2 rev B
- Development Phase 3 SF/5-3 rev B
- Cross Sections SF/5-4 rev B
- Restoration Scheme SF/6 rev E
- Cross sections R22/L/3-3-009 rev A
- Cross sections R22/L/3-3-010 rev A
- 0308.104 Junction improvement long section
- SF/RS/XX Road Section AB
- SF/RS/XX Road Section CD

The development shall comprise the winning and working of sand and gravel, the deposit of associated mineral waste and operations ancillary to mining (the mining operations), and as otherwise specified in the application documents.

REASON: For the avoidance of doubt and to define the planning permission.

## **Life of the Permission**

### **Condition 3**

The winning and working of sand and gravel and all operations and uses of land authorised by this permission shall cease not later than 10 years from the date of the implementation of this permission, after which the site shall be restored and the aftercare period concluded in its entirety in accordance with the approved detailed restoration and aftercare schemes as required by Conditions 44 and 46.

REASON: To ensure the development is completed in the appropriate timescale in accordance with the application details in the interests of the amenity of the area and to comply with Policy M27 of the Devon Minerals Plan.

## **Restriction of Permitted Development Rights**

### **Condition 4**

Notwithstanding the provisions of Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, replacing or re-enacting that Order with or without modifications), the written approval of the Mineral Planning Authority shall be required under Part III of the Town and Country Planning Act 1990, for the erection or re-siting of any building, permanently sited plant or machinery or structure other than such development permitted by this decision.

REASON: In the interests of local amenity and to enable the Mineral Planning Authority to consider the implications of any proposal to expand the activities which take place within the site in accordance with Policies M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact) and M21 (Natural Resources) of the Devon Minerals Plan.

## **Pre-Commencement Conditions**

### **Construction Environmental Management Plan**

#### **Condition 5**

No development hereby permitted shall commence until a Construction and Environmental Management Plan, which shall identify and propose mitigation for off-site impacts for all stages of the construction of the quarry, has been submitted to and approved in writing by the Mineral Planning Authority. The Plan shall include:

- (a) details of the construction of the site access including the submission of a plan indicating the construction of the site access in relation to the location of the surveyed root spread of Trees F and G and including proposals to mitigate impacts of the road construction on the tree roots;
- (b) details of the materials to be used in the junction including kerbs, fencing, surfacing, drainage and signage (including the provision of a sign directing HGVs to turn right only on reaching the B3174 Exeter Road);
- (c) details of the gravel surfacing of the roadside verge on the eastern side of Birdcage Lane and proposals to protect the roots of the hedgerow tree (Tree E);

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- (d) details of the management of surface water during the construction and soil stripping phases;
- (e) details of any works proposed to Little Straitgate Cottage;
- (f) details of any external lighting including security lighting and lighting installed for the safety of site personnel;
- (g) details of dust suppression during the construction stage;
- (h) a programme and methodology for any pre-construction surveys required for protected species including badgers, tree bat roosts, dormice and reptiles;
- (i) full details relating to the protection of ecological features on site with clear plans;
- (j) ecological supervision of works to include a phased timetable with clear responsibilities to be carried out by a suitably qualified person; and
- (k) details of the route, specification and design of new and temporary public rights of way

All work associated with the construction of the quarry shall be undertaken in accordance with the approved Plan.

REASON: To minimise the impacts of the construction of the quarry in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact) and M20 (Sustainable Design) of the Devon Minerals Plan.

## **Landscape and Environmental Management Plan**

### **Condition 6**

Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Mineral Planning Authority.

The LEMP shall include all ecological and landscaping recommendations set out in the submitted Environmental Statement and Regulation 22 submissions, providing a detailed phased programme of work and detailed specifications. It should include:

- (a) any survey updates not set out in the Construction Environmental Management Plan required by Condition 5;
- (b) full details of ecological and landscape mitigation measures (advance, operational, phased restoration, final restoration and after care) including method statements as required for protected and priority species and details of all habitat protection, creation, enhancement and management (including any hedge translocation) and soil management;
- (c) proposals for monitoring of the Cadhay Bog and Cadhay Wood County Wildlife Sites;
- (d) summary information (including annotated plans and schedules) should be provided to give an overview of requirements as well as detailed timetables and method statements and specifications to be adhered to by the contractors;
- (e) a programme and methodology for any pre-construction surveys required for protected species;
- (f) details of compliance and ecological monitoring, including submission of an annual report to the Mineral Planning Authority setting out the measures

undertaken in the past year and proposals for the following 5 years which shall take into account the results of monitoring and include any required measures to improve ecological outcomes based on an agreed set of indicators for measuring net gain;

- (g) ecological supervision of works by a suitably qualified ecologist;
- (h) review and update of the biodiversity metric to ensure that the existing proposed 15% net gain is achieved and maintained across the working and restoration of the site and to review the metric to accommodate any changes that might impact on the delivery of the predicted net gain; and
- (i) provision of full details of monitoring and reporting on the success of the restoration proposals and an agreed set of indicators for measuring net gain.

**REASON:** To ensure the proposed development complies with the principles set out in the Environmental Statement in terms of the protection and enhancement of sites and species and the delivery of net gain as set out in Policy M17 (Biodiversity and Geodiversity) of the Devon Minerals Plan.

## **Working Methodology of Phase 1**

### **Condition 7**

No stripping of soils in Phase 1 or in any of the soil storage or overburden areas shall commence until full details of the working methodology for Phase 1 of the development have been submitted to and approved in writing by the Mineral Planning Authority. The methodology shall include the following details:

- (a) the proposed timing of commencement;
- (b) the details of the methodology for soil stripping and the volume and storage destination of the topsoils, subsoils and overburden;
- (c) full details of the methodology for surface water management within the working phase including cross sections of the attenuation basins and the capacity figures and the methods to manage runoff into the most appropriate stream catchments at greenfield runoff rates;
- (d) the location of the haul routes within the working phase and proposals to avoid compaction of the quarry base; and
- (e) the direction of working and the proposals for phased restoration to ensure that restoration takes place at the earliest opportunity.

**REASON:** To ensure the protection of soils and the management of surface water runoff in accordance with Policies M21 (Natural Resources) and M24 (Flooding) of the Devon Minerals Plan.

## **Construction and Use of Site Access**

### **Condition 8**

There shall be no soil stripping in the working or soil/overburden storage areas until the new site access, haul road, parking area and wheel wash have been constructed and completed in accordance with drawing 0308.104 and, in the case of the wheel wash and lagoon, detailed drawings which shall have been previously have been submitted to and approved in writing by the Mineral Planning Authority.

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REASON: To avoid the deposition of mud and dust on the public highway in the interests of highway safety in accordance with Policy M22 (Transportation and Access) and M23 (Quality of Life) of the Devon Minerals Plan.

## **Condition 9**

The site access point for all traffic visiting the quarry shall be the new site entrance on Birdcage Lane as shown on Drawing 0308.104 in the transport statement. Except for emergency purposes, there shall be no HGV, plant or other vehicular access to the site from entrances onto Exeter Road.

REASON: In the interests of highway safety and residential amenity in accordance with Policies M22 (Transportation and Access) and M23 (Quality of Life) of the Devon Minerals Plan.

## **Condition 10**

No mud, water or debris from this site shall be deposited on the public highway network, and all heavy commercial vehicles leaving the site shall be sheeted or have their loads otherwise totally enclosed before entering the public highway.

REASON: In the interests of highway safety and residential amenity in accordance with Policies M22 (Transportation and Access) and M23 (Quality of Life) of the Devon Minerals Plan.

## **Management of Surface Water Runoff**

### **Condition 11**

No stripping of any soils, other than that required for the construction of the site access, shall take place until a detailed drainage scheme for the site has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:

- (a) the measures set out in Chapter 2 of the approved Hydrogeology/Drainage Regulation 22 Response dated July 2017;
- (b) updated infiltration tests, undertaken in strict accordance with BRE Digest 365 Soakaway Design (2016), must be undertaken within the Budleigh Salterton Pebble Beds. A representative number of tests must be conducted in order to provide adequate coverage of the site, with particular focus placed on the locations and depths of potential infiltration devices; and
- (c) the provision of an annual review mechanism to enable any updates to the scheme to be approved by the MPA as a result of the ongoing monitoring of the groundwater levels over the life of the permission.

REASON: To reduce flood risk and manage site runoff in accordance with Policies M21 (Natural Resources) and M24 (Flooding) of the Devon Minerals Plan.

### **Condition 12**

No stripping of any soils in the extraction phases shall take place until a detailed scheme for the management of exceedance flows has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:

- (a) the routes that overland flow runoff from extreme rainfall (above soil infiltration capacity/drainage design) would take;
- (b) the proposed bunds to be constructed on the eastern boundary of each phase of mineral extraction to contain such exceedance flows, as shown on approved Drawings A2.1, A2.2 and A2.3 all dated July 2017; and
- (c) proposals to re-work (or rip) the base of the mineral voids to a depth of 1m before restoration to maximise infiltration.

REASON: To reduce flood risk and manage site runoff in accordance with Policy M21 (Natural Resources) and M24 (Flooding) of the Devon Minerals Plan.

### **Condition 13**

During the stripping of soils from any part of the application site the applicant will record the presence of any existing land drainage features and will submit these details to the Mineral Planning Authority prior to any extraction of mineral in that phase. Information on the existing land drainage features shall then be used to inform the design of a new land drainage scheme which shall be submitted to and approved in writing by the Mineral Planning Authority as a part of the detailed working and phasing required by Condition 41 prior to the replacement of any soils.

REASON: To reduce flood risk and manage site runoff in accordance with Policies M21 (Natural Resources) and M24 (Flooding) of the Devon Minerals Plan.

### **Hours of Operation**

#### **Condition 14**

Except in emergencies to maintain safe quarry working (the reasons for which shall be notified in writing to the Mineral Planning Authority within five days of the event occurring):

- (a) no operations, other than water pumping, environmental monitoring, servicing and maintenance of plant shall be carried out at the site except between the following times: 0700 to 1730 on Mondays to Friday and 0800 to 1300 on Saturdays;
- (b) servicing and maintenance of plant shall not be carried out at the site other than between the hours of 0700 to 1830 on Mondays to Fridays and 0730 to 1400 Saturdays, and at no time on Sundays or Public Holidays; and
- (c) haulage movements in or out of the site shall be restricted to the following hours:  
0700 to 1730 on weekdays (subject to the limitation during school terms below);  
0800 to 1300 on Saturdays;  
There shall be no HGV movements on Sundays or Bank Holidays or during the periods 0815 to 0845 and 1530 to 1600 during school terms.

REASON: In the interests of the amenity of neighbouring residential properties in accordance with Policy M23 (Quality of Life) of the Devon Minerals Plan.

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## Highways

### Condition 15

There shall be no export of materials from this site for processing until the road improvement at Clay Lane, Uffculme as approved by Permission 18/01/0174/DCC (DCC/4067/2018) has been completed and is open to all traffic.

REASON: To ensure that the impacts of increased HGV traffic are mitigated at the processing destination in the interests of the amenity of local residents and the safety of the local highway network in accordance with Policies M22 (Transportation) and M23 (Quality of Life) of the Devon Minerals Plan.

### Condition 16

The maximum extent of quarry workings adjacent to the A30 trunk road boundary shall not exceed that shown on drawing SF HWYS/1 and a minimum buffer zone of 10m shall be maintained at all times between the application boundary and the quarry workings. The buttressing of extraction slopes to the northern boundary of Phase 2 shall be undertaken in accordance with the submitted plans with an agreed final slope profile as shown on drawing SF HWYS/1.

REASON: To maintain a suitable buffer zone between the quarry and the highway boundary in order to protect highway structural integrity in the interests of the safe and efficient operation of the trunk road in accordance with Policy M20 (Sustainable Design) of the Devon Minerals Plan.

## Archaeology

### Condition 17

No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Mineral Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Mineral Planning Authority.

REASON: To ensure that an appropriate record is made of archaeological evidence that may be affected by the development in accordance with Policy EN8 (Proposals Affecting Sites Which May Potentially be of Archaeological and Historic Interest) of the East Devon Local Plan, Policy M19 (Historic Environment) of the Devon Minerals Plan and paragraph 205 of the National Planning Policy Framework (2021).

## Airport Safeguarding

### Condition 18

The management steps to safeguard Exeter Airport from the possibility of bird strike set out in the Wildlife and Habitat Management Plan shall be implemented throughout the life of the quarrying operation and the restoration and aftercare periods.

REASON: To prevent the site becoming attractive to flocks of birds that may lead to an aviation hazard in the interests of public safety and in accordance with Policy M20 (Sustainable Design) of the Devon Minerals Plan.

## **Condition 19**

With the exception of the weighbridge lagoon, no permanent water bodies shall be created on this site during the period of quarry working, restoration and aftercare.

REASON: To prevent the site becoming attractive to flocks of birds that may lead to an aviation hazard in the interests of public safety and in accordance with Policy M20 (Sustainable Design) of the Devon Minerals Plan.

## **Water Protection**

### **Condition 20**

Before the development hereby permitted commences, the applicant shall submit a detailed groundwater management and monitoring scheme to the Mineral Planning Authority to include details of the differences between 'summer' and 'winter' working methodology and groundwater levels that would trigger each working method. This scheme shall be approved in writing before any soil stripping in Phase 1.

REASON: To ensure the protection of groundwater in accordance with Policy M21 (Natural Resources) of the Devon Minerals Plan.

### **Condition 21**

The Maximum Winter Water Table (MMWT) grid shall be reviewed annually, using data from all site piezometers. If the maximum water level in any of the piezometers exceeds the height of the MWWT grid then the MWWT grid shall be updated using that data. This analysis shall be provided in the annual monitoring reports to be submitted to the Mineral Planning Authority.

REASON: To ensure the protection of groundwater in accordance with Policy M21 (Natural Resources) of the Devon Minerals Plan.

### **Condition 22**

Piezometer coverage across the site shall be, at any time, no less than the proposed one piezometer at each corner of each working sub-phase. Piezometers which are lost through quarry working shall be replaced within seven days. Continuous monitoring of all site piezometers (and interpolation between them) shall be used to ensure, during working, that the base level to which the quarry is worked is no closer to the measured groundwater level than 1m.

REASON: To ensure the protection of groundwater in accordance with Policy M21 (Natural Resources) of the Devon Minerals Plan.

### **Condition 23**

Stream flow, groundwater level and water quality monitoring shall be undertaken throughout the life of the quarry, as described in section 2.4 of the July 2017 Regulation 22 responses report. Annual monitoring reports shall be produced, presenting the collected data to date and assessing any changes to stream flow and

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groundwater levels (including groundwater levels in private water supplies) and the possible causes of these, and submitted to the Mineral Planning Authority. In the case where quarry working is assessed to be the cause of the impacts, the report shall propose mitigation measures. The annual monitoring specified in conditions 20-22 shall be submitted to the Mineral Planning Authority between 1<sup>st</sup> and 31<sup>st</sup> March for each year of operation.

REASON: To ensure the protection of groundwater and surface water flows in accordance with Policy M21 (Natural Resources) of the Devon Minerals Plan.

## **Condition 24**

The working and restoration infiltration design shall ensure that drainage mimics the pre-excavation drainage. This shall be achieved following the principles described in the July 2017 Hydrogeology/Drainage Regulation 22 responses report. The design shall be submitted to and approved in writing by the Mineral Planning Authority before the commencement of soil stripping in any phase.

REASON: To prevent flooding from surface water in accordance with Policy M24 (Flooding) of the Devon Minerals Plan.

## **Groundwater Protection and Pollution Control**

### **Condition 25**

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system.

REASON: To prevent any adverse effects on groundwater or on local watercourses passing through or adjacent to the site in accordance with Policies M17 (Biodiversity and Geodiversity) and M21 (Natural Resources) of the Devon Minerals Plan.

## **Dust and Particulates**

### **Condition 26**

Prior to the commencement of the development hereby approved a detailed dust management and monitoring plan shall be submitted to and approved in writing by the Mineral Planning Authority (in consultation with National Highways on behalf of the Secretary of State for Transport). Dust management and monitoring shall be undertaken in accordance with the submitted plan throughout the period of quarrying works and site reinstatement.

REASON: In the interest of the safe and efficient operation of the trunk road and to protect the amenity of nearby properties in accordance with Policies M22 (Transportation and Access) and M23 (Quality of Life) of the Devon Minerals Plan.

## Noise

### Condition 27

Except for short term operations as described in Condition 28 the free-field Equivalent Continuous Noise Level shall not exceed 55 dB LAeq, 1 hour at any dwelling. Measurements taken to verify compliance shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

REASON: To protect the amenity of the nearest noise sensitive properties in accordance with Policy M23 (Quality of Life) of the Devon Minerals Plan.

### Condition 28

For short term operations such as site preparation, soil and overburden stripping, bund formation and final restoration, the free-field Equivalent Continuous Noise Level shall not exceed 70 dB LAeq, 1 hour. These operations shall not exceed a total of eight weeks in any calendar year for work close to any individual noise sensitive property where the suggested noise limit for routine operations is likely to be exceeded. The operator shall notify the Mineral Planning Authority in writing of any likely period shall have agreement in writing for the hours of such operations likely to exceed the normal permitted levels set out in Condition 27.

REASON: To protect the amenity of the nearest noise sensitive properties in accordance with Policy M23 (Quality of Life) of the Devon Minerals Plan.

### Condition 29

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

Noise limits shall not apply to audible safety devices required by Health and Safety regulations, but the devices should, wherever practicable, be set at the minimum statutory level consistent with providing a safe system of working. The best practicable means to minimising noise emitted by audible safety devices shall be employed.

REASON: To protect the amenity of the nearest noise sensitive properties in accordance with Policy M23 (Quality of Life) of the Devon Minerals Plan.

## Ecology

### Protection of Ground Nesting Birds

#### Condition 30

There shall be no soil stripping or clearance of hedgerow, trees, ruderal or shrub vegetation within the Mineral Site during the bird nesting season (1 March to 31 August inclusive) unless the developer has been advised by a suitably qualified ecologist that clearance will not disturb nesting birds and a record of this is kept,

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such checks shall be carried out in the 14 days prior to clearance work commencing and records made available to the Mineral Planning Authority on request.

REASON: To ensure the protection of breeding birds. All British birds, their nest and eggs (within certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended, and in accordance with Policy M17 (Biodiversity and Geodiversity) of the Devon Minerals Plan.

## **Site Lighting**

### **Condition 31**

There shall be no fixed lighting installed at this site without the prior written approval of the Mineral Planning Authority. Before soil stripping operations commence, a scheme for the mobile lighting of the access track, weighbridge and operational areas of the quarry shall be submitted to and approved in writing by the Mineral Planning Authority.

REASON: To ensure that there is minimal disturbance of wildlife on the periphery of the site in accordance with Policies M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact) and M20 (Sustainable Design) of the Devon Minerals Plan.

## **Management of Trees, Hedgerows and Boundaries**

### **Condition 32**

All existing trees, shrubs and hedgerows within the Mineral Site and on its boundaries shall be retained and protected from damage during the process of extraction and subsequent restoration unless they are designated to be removed as a part of the current or succeeding phase of mineral working or restoration as set out in the approved plans.

REASON: To protect the existing vegetation and new landscaping which screens the site and provides wildlife habitat in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact), M21 (Natural Resources) and M23 (Quality of Life) of the Devon Minerals Plan.

### **Condition 33**

Before the commencement of the site access, soil stripping in Phase 1, deposition of stripped soils in the approved soil storage bunds or the commencement of any new phase of working or soil/overburden storage, the applicant shall identify all the trees, shrubs and hedgerows to be protected and shall submit to the Mineral Planning Authority and have approved in writing a detailed scheme to identify the nature of fencing, root protection zones and management of the operations to ensure that the vegetation remains protected from damage or root compaction for the duration of any adjacent operations.

REASON: To protect the existing vegetation and new landscaping which screens the site and provides wildlife habitat in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual

Impact), M21 (Natural Resources) and M23 (Quality of Life) of the Devon Minerals Plan.

## **Condition 34**

Outside the designated mineral working areas, trees shall not be felled, lopped or topped or have their roots damaged and hedgerows shall not be removed, thinned or cut back without the previous written consent of the Mineral Planning Authority.

Any such vegetation which is removed without consent or which dies, becomes severely damaged or seriously diseased during permitted operation or during the aftercare period as set out below and specified in Condition 46 shall be replaced with trees and bushes of a similar species during the first planting season following the death or removal unless otherwise agreed in writing with the Mineral Planning Authority.

All tree and shrub planting and other landscape works implemented pursuant to this permission shall be maintained and be protected from damage for the duration of the extraction and restoration works, and for ten years from the completion of restoration in any part of the site.

Throughout the life of the operation the operator shall maintain fences, hedges and other boundaries between any development area used for development authorised by this permission and any adjoining land.

REASON: To protect the existing vegetation and new landscaping which screens the site and provides wildlife habitat in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact), M21 (Natural Resources) and M23 (Quality of Life) of the Devon Minerals Plan.

## **Provision of Hedgerow Along the A30**

### **Condition 35**

In the first planting season following the date of this planning permission the operator shall plant a hedgerow along the boundary with the A30 Trunk Road. This hedgerow shall comprise a mix of native species for which details of the species, size, planting density and provenance shall first have been submitted to and approved in writing by the Mineral Planning Authority.

REASON: To screen views of the operation from traffic using the A30 Trunk Road in the interests of highway safety and the enhancement of the landscape in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact) and M22 (Transportation and Access) of the Devon Minerals Plan.

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## **Soils Management and Protection**

### **Condition 36**

Soils shall only be stripped and moved when dry and friable and no soil handling shall proceed during and shortly after significant rainfall, and/or when there are any puddles on the soil surface.

REASON: To ensure that the best and most versatile agricultural soils are retained in a manner capable of re-use in accordance with Policies M17 (Biodiversity and Geodiversity) and M21 (Natural Resources) of the Devon Minerals Plan.

### **Condition 37**

Plant or vehicle movement shall be confined to clearly defined haul routes which shall first have been identified on a drawing and approved in writing by the Mineral Planning Authority. No heavy plant or machinery shall traverse soils except for the express purpose of stripping or stacking soils or replacing soils in restored areas.

REASON: To prevent compaction of soils in the interests of retaining the best and most versatile agricultural soils and to ensure appropriate surface water management in accordance with Policies M21 (Natural Resources) and M24 (Flooding) of the Devon Minerals Plan.

### **Condition 38**

All topsoil, subsoil, and soil forming material shall be retained on the site and pockets of suitable soil forming material shall be recovered wherever practicable, during the stripping or excavation operations, for use during the restoration phase in accordance with the schemes required by Conditions 39 and 40.

REASON: To ensure that the best and most versatile agricultural soils are retained in a manner capable of re-use in accordance with Policy M21 (Natural Resources) of the Devon Minerals Plan.

## **Soil Handling: Methodology**

### **Condition 39**

All soil handling operations shall be carried out in accordance with a detailed soils management scheme that shall be submitted to and approved in writing by the Mineral Planning Authority before any stripping or replacement of soils commences. The scheme shall be in accordance with the Defra "Good Practice Guide for Handling Soils – Sheets 1-4" and the Defra "Guidance for successful restoration of Mineral and Waste Sites. The schemes shall also contain the following:

- (a) the methodology detailed within the Regulation 22 Additional Information – Landscape Soils and Arboriculture report (June 2017), notably Sections 3.3 and 3.4;
- (b) the appropriate tests to determine if the moisture content is drier than the lower plastic limit and therefore, less prone to damage if handled;
- (c) where subsoils are not to be retained, the applicant shall identify those soils and soil substitutes intended to be used in their place. Soils identified for use as a subsoil substitute shall be stripped separately and either re-spread over

- the replaced overburden or stored separately for subsequent replacement;  
and
- (d) the detailed criteria for the management of soil storage bunds to include seeding for protection of runoff and deleterious weed growth.

REASON: To ensure that the best and most versatile agricultural soils are retained in a manner capable of re-use in accordance with Policy M21 (Natural Resources) of the Devon Minerals Plan.

## **Soil Movement; Destination and Notification**

### **Condition 40**

No longer than three months before the commencement of stripping or replacement of soils on each working or phase or sub-phase, a Scheme of Soil Movement and Restoration shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include a plan which shall clearly identify the origin, intermediate and final locations of soils as defined by soil units, together with details balancing the quantities, depths and areas involved, the location, contours and volumes of the receiving/donating soil storage bunds and identifying the soil types and volumes contained therein.

No soils shall be stripped in any new phase or part phase until the scheme for that phase has been approved in writing by the Mineral Planning Authority and no soils shall be replaced until details have been submitted including the depth, soil types and aftercare proposals for each phase and sub phase. Once the scheme has been approved the Mineral Planning Authority shall be given five clear working days' notice of the intention to start stripping or replacement of soils in any phase or part phase of the permitted operation.

REASON: To ensure that the best and most versatile agricultural soils are protected and retained in a manner to enable their re-use in accordance with Policy M21 (Natural Resources) of the Devon Minerals Plan.

## **Phased Working and Restoration**

### **Condition 41**

The working and restoration of the site shall be carried out in stages, progressively as the extraction proceeds, strictly in accordance with detailed phased restoration plans which shall be submitted to and approved in writing by the Mineral Planning Authority.

Detailed schemes for progressive phased working and restoration shall be submitted for approval to the Mineral Planning Authority on or before the following dates:

- (a) Phase 1 within 12 months of the date of this Decision Notice or before commencement of soil stripping; there shall be no commencement of soil stripping in Phase 2 until such time approval has been secured for the detailed restoration of Phase 1;
- (b) Phase 2 within 1 year prior to the completion of working in Phase 1; there shall be no commencement of soil stripping in Phase 3 until such time approval has been secured for the detailed restoration of Phase 2;

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- (c) Phase 3 within 1 year prior to the completion of working in Phase 2; and
- (d) the physical groundworks to complete the final Restoration of the site shall be completed within 2 years of the completion of mineral working in Phase 3.

The detailed working and restoration shall be based on the principles of restoration and aftercare approved in the LEMP required by Condition 6, and shall specify the following matters:

- (aa) details of the extent, depth and direction of working and phasing, slope profiles or working phases;
- (bb) details of the surface features to be retained or created to provide a mixture of ecological types;
- (cc) details of the preparation of the land surface before soiling;
- (dd) details of the design and management of surface water management features including surface water infiltration basins and bunds to retain and direct surface water into the appropriate overland flow routes to receiving watercourses;
- (ee) depth and method of preparation and spreading of soils;
- (ff) details of final land drainage, to include management of infiltration basins and wet grassland areas
- (gg) details of proposed planting, seeding and management of the restored areas to include details of size, species provenance of trees and shrubs and seeds and the maintenance of and staking/screening of planting;
- (hh) details of translocation of species where appropriate;
- (ii) details of maintenance arrangement to include procedures for the replacement of failed planting or restored areas; and
- (jj) a programme for their implementation and monitoring.

Once approved, the schemes shall be implemented and complied with at all times.

REASON: To ensure that the development is carried out in accordance with the general phasing proposals and the enable the MPA to review the detail of the proposals against the environmental requirements of the LEMP in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact), M20 (Sustainable Design), M21 (Natural Resources) and M23 (Quality of Life) M24 (Flooding), M25 (Land Stability) and M27 (Restoration and aftercare) of the Devon Minerals Plan.

## **Condition 42**

All plant, machinery and buildings associated with the winning and working of minerals and ancillary operations and the access road shall be removed from the site within two years of completion of mineral extraction. A scheme for the restoration of the haul route and the reinstatement of the hedgerow and the lane verges shall be submitted to and approved in writing by the Mineral Planning Authority within one year of the completion of the physical restoration works to the site. The scheme shall be implemented within two years of its approval.

REASON: To ensure the proper restoration of the site to a farming landscape and use in accordance with Policies M18 (Landscape and Visual Impact) and M27 (Restoration and Aftercare) of the Devon Minerals Plan.

## **Prior Cessation**

### **Condition 43**

In the event of the cessation of winning and working of minerals for a period in excess of two years prior to the completion of the approved scheme, the operator shall notify the Mineral Planning Authority in writing of such cessation.

Within six months of such notification, or if, in the opinion of the Mineral Planning Authority, a permanent cessation has occurred and the Authority has served written notice on the operator of this opinion, the operator shall submit to the Mineral Planning Authority a revised restoration scheme for the approval of the Authority.

The revised restoration scheme shall include details of the phasing of the revised scheme and the removal of fixed and mobile plant, machinery and structures, and shall be fully implemented within two years of the written approval. The restored areas shall then pass into aftercare as set out in Condition 46.

Reason: In the interests of ensuring appropriate restoration and to comply with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact), M23 (Quality of Life) and M27 (Restoration and Aftercare) of the Devon Minerals Plan.

## **Restoration**

### **Condition 44**

The restoration of the site shall be completed within two years of the cessation of winning and working minerals in the final phase and in accordance with the approved plans set out in Condition 2 and any schemes approved as required by Condition 6. Before works to restore any working compartment, a detailed scheme of restoration shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include:

- (a) depth of subsoils and topsoils;
- (b) removal of stones and other materials in excess of 100 mm in any dimension which are likely to obstruct cultivation in the agricultural after-use and shall be picked and removed from the site;
- (c) proposals to manage areas of differential settlement occurring during the restoration and aftercare period;
- (d) proposals for planting, maintenance and aftercare for the surface of each restoration phase;
- (e) proposals to rip or otherwise manage the subsoils to avoid compaction and aid free drainage of the site;
- (f) proposals for water management in respect of recharging specific watercourses; and

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- (g) detailed proposals for the removal and restoration of the site access.

Reason: To ensure the proper restoration of the site in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact), M23 (Quality of Life), M24 (Flooding and M27 (Restoration and Aftercare) of the Devon Minerals Plan.

## Annual Reporting

### Condition 45

An annual report shall be submitted to the Mineral Planning Authority to include the following information:

- (a) an assessment of the progress of the operation over the previous 12 months with relation to the phasing of working and restoration;
- (b) a report on the progress with the restoration and land management steps set out in the LEMP; and
- (c) a statement setting out the proposed working and restoration for the following 12 months along with any significant steps identified in the LEMP.

This report shall be submitted by 31 March each year unless an alternative date has been approved in writing by the Mineral Planning Authority.

REASON: To ensure that the development is carried out in accordance with the general phasing proposals and the enable the Mineral Planning Authority to review the detail of the proposals against the environmental requirements of the LEMP in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact), M20 (Sustainable Design), M21 (Natural Resources), M23 (Quality of Life) M24 (Flooding), M25 (Land Stability) and M27 (Restoration and Aftercare) of the Devon Minerals Plan.

## Aftercare

### Condition 46

An Aftercare Scheme requiring that such steps as may be necessary to bring the land to the required standard for the use of agriculture shall be submitted for the approval of the Mineral Planning Authority not later than three months prior to the date on which it is first expected that the replacement of topsoil shall take place.

The submitted Scheme shall provide:

- (a) an outline strategy for the 10 years Aftercare Period in accordance with Paragraph: 057 of Minerals Planning Practice Guidance. This shall specify the steps to be taken and phasing in the management of the land to promote its rehabilitation to the target after uses including where appropriate:
  - a map clearly identifying all areas with phasing, subject to aftercare management;
  - timing and pattern of vegetation establishment, with cultivation practices and secondary treatments;
  - management of livestock, soil, fertility, weeds and pests etc;
  - establishment of hedgerows, trees and other surface features;

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- remedial surface and piped drainage systems, irrigation and watering, and
  - a pre-release report to demonstrate that the land has been reclaimed to the required standard.
- (b) a detailed annual programme, in accordance with Paragraph: 058 of Minerals Planning Practice Guidance, to be submitted to the Mineral Planning Authority not later than two months prior to the annual Aftercare meeting.

Unless the Mineral Planning Authority, after consultation with other interested parties, agrees in writing with the person or persons responsible for undertaking the Aftercare steps that there shall be lesser steps or a different timing between steps, the Aftercare shall be carried out in accordance with the submitted Scheme.

Reason: To ensure that the proper aftercare of the site delivers the restoration benefits and enhanced mitigation set out in the Environmental Statement in accordance with Policies M16 (Green Infrastructure), M17 (Biodiversity and Geodiversity), M18 (Landscape and Visual Impact), M20 (Sustainable Design), M21 (Natural Resources), M23 (Quality of Life), M24 (Flooding), M25 (Land Stability) and M27 (Restoration and aftercare) of the Devon Minerals Plan.

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Appendix III  
To PTE/21/44

**Straitgate proposed quarry  
Environment Agency Groundwater and Contaminated Land team response to  
planning application of 05/03/2021 – statement for planning committee  
August 2021**

## **Introduction**

We have viewed the list of documents on Devon County Council's planning website. The updated Section 106 planning obligation heads of terms and the updated Maximum Winter Water table contours are the only information relating to groundwater and surface water protection which we have not already reviewed. We had not requested any further information.

We maintain our position of 'no objection subject to conditions'.

This response is intended to describe how we reached this position. It is more detailed than our usual responses in order to provide clarity to the Planning Committee (as requested by Devon County Council). We recommend that, for background on our involvement in this planning consultation, the Planning Committee read our two page 'position statement', which we wrote in 2019 to provide information to enquirers. We provide this with our response.

## **Process by which we reached our position**

The planning application is to extract sand and gravel of the Budleigh Salterton Pebble Beds Formation 'dry' (i.e. above the maximum groundwater level).

Our main concern from the outset was the potential for 'derogation' (harm) to the private water supplies which exist down-gradient of the proposed quarry. Our general position where such 'protected rights' exist is that we would not support any proposal that would derogate them but we would consider proposals that include mitigation measures to protect them. As stated in, 'The Environment Agency's approach to groundwater protection' (2018):

“developers proposing schemes that present a hazard to groundwater resources, quality or abstractions must provide an acceptable hydrogeological risk assessment (HRA) to the Environment Agency and the planning authority. Any activities that can adversely affect groundwater must be considered, including physical disturbance of the aquifer. If the HRA identifies unacceptable risks then the developer must provide appropriate mitigation. If this is not done or is not possible the Environment Agency will recommend that the planning permission is conditioned, or it will object to the proposal.”

The applicant initially (up to 2015) considered options of (1) extraction of mineral above the water table only and (2) extraction both above and below the water table.

The potential for impacts to the water environment is greater in the case of extraction below the water table as this would remove part of the saturated material (the aquifer) through which groundwater flows on its way to discharge into streams and rivers and also to feed water supply boreholes, wells and springs. Further, 'dewatering' (pumping groundwater out of a quarry) is sometimes undertaken in the case where mineral is extracted from below the water table. As described in the position statement, we secured the requirement that extraction should only occur above the water table. This means both that no aquifer material and no groundwater would be removed during quarrying operations.

Material above the water table (the 'unsaturated zone') would be removed, however, and the unsaturated zone can have some important functions. The unsaturated zone generally slows the downwards movement of infiltrating rainwater through it, thus acting as temporary storage, releasing water into the saturated aquifer over time. This smooths the rainfall/recharge 'signal', meaning, for example, that in times of dry weather, spring flows and groundwater levels may be maintained at higher rates and levels for longer.

The unsaturated zone can also slow the downward movement of any contaminants (for example spilled oil and fuel) and allows a degree of breakdown by the oxygen and micro-organisms within it.

In our 2015 and 2017 planning consultation responses, having reviewed the provided Hydrogeological Assessments, we recommended that the applicant should assess the impact of the loss of unsaturated zone storage. The applicant's consultants produced the document, 'Straitgate Farm hydrogeology/drainage Regulation 22 responses' (Amec Foster Wheeler, July 2017). This used information from tests carried out on the Budleigh Salterton Pebble Beds at the site plus the Pebble Beds hydraulic properties in the Environment Agency's nearby Otter Valley Groundwater Model to support the view that the rapidity of groundwater flow through the Pebble Beds unsaturated zone is such that a reduction in thickness is unlikely to result in significant adverse impacts. It stated that there may be a small increase in the rate at which groundwater levels and spring flows react to rainfall/recharge but that this is likely to be very small. We were satisfied with this information and therefore removed our initial 2017 objection, which we had made on the basis of insufficient information.

A further point of discussion between the Environment Agency, Devon County Council and Aggregate Industries relating to the unsaturated zone was the depth above the groundwater table to which excavation would go. In our 2012 - 2016 responses to consultation on the minerals plan we stated that excavation must only take place above the maximum winter level of groundwater. Aggregate Industries subsequently (2017 planning application) stated that they wished to excavate to the 'Maximum Winter Water Table ('MWWT') itself and backfill with at least 1 m of overburden, which would be similar in composition to the material they had excavated but not of saleable quality. Due to the similarity in composition (infiltration trials showed this disturbed material to have a similar infiltration capacity as the in-situ pebble beds) we did not object to this.

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The production of the MWWT grid, to which it is proposed to excavate, generated a great deal of discussion between the Environment Agency, Devon County Council and Aggregate Industries, much of it prompted by the Straitgate Action Group. Aggregate Industries described the grid at a meeting with the Environment Agency and Devon County Council in November 2015 and in the Hydrogeological Assessment which formed part of their 2017 planning application. We requested diagrams of the grid and information on the depths of in-situ unsaturated zone which we understood it would preserve in some areas of the site. This was provided, to our satisfaction, in the Regulation 22 responses and in some 'post Regulation 22 clarifications' (documents available on Devon County Council planning website).

With this information we were able to recommend (in our letter of 01/09/2017) the following conditions, designed to protect groundwater in the aquifer from excavation too close to the Maximum Winter Water Table:

1. No working shall be undertaken below the 'Maximum Winter Water Table (MWWT) grid'.
2. The MWWT grid shall be reviewed annually, using data from all site piezometers. If the maximum water level in any of the piezometers exceeds the height of the MWWT grid then the MWWT grid shall be updated using that data. This analysis shall be provided in the annual monitoring reports to be submitted to the Mineral Planning Authority/Devon County Council.
3. During 'winter' working mode, excavation shall be no deeper than the MWWT grid plus 1m.
4. Piezometer coverage across the site shall be, at any time, no less than the proposed one piezometer at each corner of each working sub-phase. Piezometers which are lost through quarry working shall be replaced.
5. Continuous monitoring of all site piezometers (and interpolation between them) shall be used to ensure, during working, that the base level to which the quarry is worked is no closer to the measured groundwater level than 1m.

We have described above our main concerns on the application, which were (1) the removal of part of the unsaturated zone and (2) the depth of excavation above the maximum groundwater level. We have described how the Regulation 22 responses and subsequent clarifications answered these.

In addition to these two main concerns, we also raised a number of further points (many of them prompted by Straitgate Action Group) via the Regulation 22 request. The main ones of these were:

- We recommended increased piezometer coverage (to measure groundwater levels), as recommended in the report by Rutter (23/03/2017), supplied by Straitgate Action Group. In response, Aggregate Industries installed a piezometer at the corner of each sub-phase (currently the south-eastern corner is missing a piezometer but this is a minor point).
- We requested information on the likely effect of removing, re-working and replacing the impermeable clay layers which exist close to the surface of the pebble beds. The information provided showed that these layers are discontinuous and therefore infiltration of rainwater over the area is currently possible, as it will still be after they are re-worked and replaced.
- We asked what actions any changes shown through the monitoring of stream flow and groundwater levels would prompt. Aggregate Industries stated that the

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nature of working and phasing would be reviewed and in an extreme case quarry working would cease while the cause was investigated.

- We asked how the infiltration design would ensure drainage mimicked pre-excavation drainage. The response described surface slopes and infiltration features.
- We asked for detail on the provision of alternative water supplies in the event of derogation. Aggregate Industries provided some draft text for a 'Section 106' agreement in response.

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After completion of the discussions resulting from the Regulation 22 response we received (between 2017 and 2020) various further enquiries from Straitgate Action Group. Most of these related to the derivation and accuracy of the MWWT grid: recorded groundwater levels rising above the existing grid, tolerance levels, a high groundwater level record from 1990 and the extent of the working area. The other main issues raised were: trigger levels for the change from summer to winter working mode, the Section 106 agreement – arbitration and the length time of time to replace a supply, restoration contouring and infiltration. As stated in our position statement, we investigated these, requested further information from the applicant where necessary and made minor modifications to our recommended conditions.

Between May 2019 and May 2020, Mr Thistlethwayte, the owner of Cadhay House, sent us 4 reports by Professor Brassington, objecting to the quarry proposal. The reports and our responses and the actions we took are summarised below:

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Report date	Professor Brassington's main points and our responses and actions
22 <sup>nd</sup> May 2019	<p><b>Brassington:</b> The 'Maximum Winter Water Table' does not accurately reflect maximum groundwater levels  <b>EA:</b> Our recommended planning conditions cover this, in particular the condition recommending update of the MWWT grid with groundwater levels recorded in all site piezometers immediately before excavation begins.</p> <p><b>Brassington:</b> the 2013 and 2014 groundwater levels upon which the MWWT grid is based are not the highest historical levels.  <b>EA:</b> Our groundwater level data from sites across Devon and Cornwall, going back to the late 1960s indicates that 2013/2014 were generally the years of highest historical groundwater level. Our recommended conditions that the MWWT shall be updated immediately before excavation begins and that working shall never be closer to the contemporaneous water level than 1 m will take into account any higher levels recorded subsequent to 2013/2014 and will therefore be protective of groundwater.</p> <p><b>Brassington:</b> it will not be possible for site operatives to work within the constraints of the MWWT  <b>EA:</b> we will recommend to Devon County Council that they obtain a detailed method statement from Aggregate Industries, describing how they plan to achieve this</p> <p><b>Brassington:</b> The material to be backfilled after excavation will increase runoff and therefore cause a reduction in the volume of recharge to the aquifer and springs  <b>EA:</b> the material which will be backfilled is currently in-situ and water is currently percolating through it. On site infiltration tests showed that the replaced material is comparable if not marginally better than the in-situ material in allowing water to soak away.</p>

	<p><b>Brassington:</b> reduced unsaturated zone thickness will increase the acidity of the groundwater and spring flow as it will reduce the opportunity for mineralisation.</p> <p><b>EA:</b> groundwater in the area is already acidic. Water infiltrates rapidly through the unsaturated zone and this zone only forms a small part of groundwater flow paths – any mineralisation will also occur in the saturated flow path.</p> <p><b>Brassington:</b> reduced unsaturated zone thickness will increase the risk of hydrocarbon contamination</p> <p><b>EA:</b> Many of Professor Brassington’s recommendations on this point are already covered in the Regulation 22 responses document. There will be no permanent bulk storage tanks on site.</p> <p><b>Action</b> We recommended to DCC that Cadhay House’s private water supply should be included in the Section 106 agreement.</p>
3 <sup>rd</sup> July 2019	<p>We recommended to DCC that the applicant’s consultants (Wood) make a response to this report, particularly concentrating on the points on maximum groundwater levels inferred via streamflow records and the rate of infiltration through the unsaturated zone</p> <p>We reviewed Wood’s response and considered that the information did not change our position of ‘no objection subject to conditions’. We stated this in our letter to DCC on 30 September 2019.</p>

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<p>31st October 2019</p>	<p><b>Brassington:</b> Cadhay House fishponds are clay-lined and entirely fed by Cadhay Wood Stream, rather than being partly fed by a shallow water table in the underlying river terrace gravels.  <b>EA:</b> the fishponds are a significant distance from the quarry and the majority of the catchment to Cadhay Wood Stream and the inflows to the stream are down gradient of the quarry</p> <p><b>Brassington:</b> quarrying will make stream flows flashier.  <b>EA:</b> We previously asked this question and received a satisfactory response in the Regulation 22 responses.</p> <p>The report also repeats many of the points made in previous reports: it contends that 2013/2014 was not the time of historical maximum groundwater levels, states that groundwater levels above the MWWT grid were recorded in 2018, questions the ability of operatives to excavate no lower than the MWWT and contends that removal of part of the unsaturated zone will increase acidity.</p> <p><b>Action</b>  We recommended to DCC that the applicant updates the Maximum Winter Water Table grid with groundwater levels recorded at the site in 1990. This has been done.</p> <p>We recommended to DCC that in its water quality provisions, the S106 agreement should include pH.</p>
<p>5<sup>th</sup> May 2020</p>	<p><b>Brassington:</b> the piezometers at the site underestimate the elevation of the groundwater table.  <b>EA:</b> the large vertical groundwater gradients described by Professor Brassington are unlikely to exist at this site due to the subdued topography and the thin saturated thickness of the pebble beds, with down-dip flow along the top of the underlying mudstone.</p> <p>This report also repeated the point on acidity made in previous reports.</p>

Subsequent to the exchanges described above, at Straitgate Action Group/Professor Brassington's request, an online meeting was held (on 27/05/2021) between Devon County Council, Straitgate Action Group, Professor Brassington, Aggregate Industries, Wood (Aggregate Industries' consultants) and the Environment Agency. Two notes that Professor Brassington had prepared were discussed. In summary these argued that flow through the unsaturated zone at the site is slower than suggested by Wood and therefore removal of part of it would reduce the time available for the infiltrating rainfall recharge to dissolve the minerals which would raise the groundwater's pH. Groundwater, springs and water supplies would therefore become more acidic. Following the meeting, Wood produced a technical note (24/06/2021) responding to Professor Brassington's most recent points and Professor Brassington then provided (14/07/2021) a response to this.

Little new information was provided by either side in the exchange described

above. As agreed at the meeting, Wood did however provide an estimate (8 – 12%) of the percentage that the part of the unsaturated zone to be removed by quarrying would form of the total Budleigh Salterton Pebble Beds material in the catchment to Cadhay Springs water supply.

The meeting and technical notes described above highlighted the difficulty of measuring unsaturated zone flow rates and the paucity of information available on them. In our opinion, the fact that the groundwater in the Budleigh Salterton Pebble Beds at the site is already acidic and that the pebble beds contain little carbonate material (as described in the 2012 British Geological Survey report, 'Baseline groundwater chemistry: the Sherwood Sandstone of Devon and Cornwall') to increase its pH mean that quarry working is unlikely to noticeably alter the pH of the groundwater in the area.

As described earlier in this Statement, however, the speed of flow through the unsaturated zone can also have implications for maintenance of spring flows and groundwater levels during dry periods. In the light of the difficulty of measuring unsaturated zone flow rates and the paucity of information available on them it seems that actual unsaturated zone flow rates may lie somewhere between those suggested by Professor Brassington and those suggested by Wood.

In our view, the main risk of any increase in unsaturated zone flow rates resulting from the reduction in unsaturated zone thickness would be to the headwaters of the streams whose catchments are partly in the proposed quarry area (Pitt Copse Stream, Birdcage Stream, Straitgate Spring, Cadhay Spring, Cadhay Wood Stream, Straitgate Farm Spring, Cadhay Bog Stream). Any such effect would be likely to pertain only in the immediate area of the spring/stream emergence points though, since flow accretion measurements collected by the applicant's consultant (Hydrogeological Assessment 2016) show that the streams gain the majority of their flow from the parts of their catchments further downstream of the quarry. It should be noted also that the headwaters of some of these streams do already dry out – the Hydrogeological Assessment states that those of Cadhay Bog Stream are particularly susceptible to drying in the summer months and that Birdcage Spring and Pitfield Farm Stream have also had instances of being dry.

The implications of any flow effects during the drier part of the year would be greatest for those headwaters which form private water supplies. We have considered these. Birdcage Farm spring is a headwaters private water supply fairly close (approximately 215 m) to the proposed quarry. However, topographic and groundwater level contours indicate that the quarry site would form only a very small part of its catchment, so a noticeable impact is unlikely. Straitgate Farm Spring is immediately down-gradient of the proposed site (approximately 70 m away), but it is on land owned by Aggregate Industries. Straitgate Spring is also close to the site (approximately 100 m away) and its catchment area extends into the quarry area. It is no longer used for abstraction, however. The catchment of Cadhay Springs licensed abstraction also falls partly within the proposed quarry boundary. However, it is a significant distance (approximately 760m) from the boundary and, as described earlier, the quarry area would form a small part of its catchment. On balance, any impacts to stream headwaters seem likely to be restricted in terms of both magnitude and area of potential impact. It must also be remembered that since no dewatering will occur, no water will be lost from the catchment: the arguments on headwaters presented above relate only to the timing of recharge.

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## **Section 106 agreement**

We recommended to Devon County Council that a Section 106 agreement should be put in place to protect private water supplies and stream flows. As described in this Statement, we view the likelihood of impact to these as being low. Further, on the water quality side, there will be no permanent bulk storage oil or fuel tanks on site.

The Section 106 agreement would act as 'insurance'. The alternative to a Section 106 would be the treatment of any reported impacts as a civil matter. However, this would be a slow process compared to a Section 106 agreement.

We note the points made in the letter of 26/04/2021 from Foot Anstey Solicitors on behalf of the Straitgate Action Group. We recommend that Devon County Council obtains legal advice on the workability of Aggregate Industries' proposal.

In conclusion, our main concerns on this planning application were the effect on private water supplies and stream flows of (1) the removal of part of the unsaturated zone and (2) the depth of excavation above the maximum groundwater level. These were answered to our satisfaction in 2017. Subsequent to this we received and answered a large number of further enquiries from Straitgate Action Group. We investigated and considered these, requesting further information from the applicant where necessary and making minor modifications to our recommended conditions.

We have not, however, changed our position of 'no objection subject to conditions'. We consider that the development will be acceptable if our recommended conditions are placed upon any planning permission. Please see the full list of our recommended conditions below:

1. No working shall be undertaken below the 'Maximum Winter Water Table (MWWT) grid'.
2. The MWWT grid and the extent of the extraction phases shall be reviewed immediately before operation of the quarry begins, using all the collected data from all site piezometers plus the 1990 groundwater level readings given in SJ Parkhouse, 1990, 'Report on the reserves of pebble beds at Straitgate Farm near Rockbeare'. If any of the maximum recorded groundwater levels exceed the height of the MWWT grid then the MWWT grid shall be updated using that data. Maximum groundwater levels in the site piezometers shall then be reviewed annually and if any exceed the height of levels on the MWWT grid then the MWWT grid shall be updated using that data. This analysis shall be provided in the annual monitoring reports to be submitted to Devon County Council.
3. During 'winter' working mode, excavation shall be no deeper than the MWWT grid plus 1m. The triggers for the change between winter and summer working shall be as described in, 'Straitgate Farm Regulation 22 – response to Environment Agency letter dated 9th October 2017' – AFW, October 2017.

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4. Piezometer coverage across the site shall be, at any time, no less than the proposed one piezometer at each corner of each working sub-phase. Piezometers which are lost through quarry working shall be replaced.
5. Continuous (daily) monitoring of all site piezometers, and interpolation between them, shall be used to ensure, during working, that the base level to which the quarry is worked is no closer to the contemporaneous measured groundwater level than 1m.
6. Although impacts to private water supplies and stream flows are considered unlikely, the applicant shall submit draft text for a Section 106 agreement to Devon County Council. This shall include Cadhay House Spring, Cadhay House mediaeval fishponds, Cadhay Bog and Cadhay Wood Stream. It shall be based upon the principles described in section 2.8 of the July 2017 Regulation 22 responses report. Additionally, in the case where a period of investigation is required into adverse impact to a private water supply, the agreement shall provide for a temporary water supply during the period of investigation. The Section 106 agreement shall include a monitoring management and mitigation strategy. This strategy shall include an outline of possible mitigation measures which could be put into place in different circumstances. In its water quality provisions, the S106 agreement shall include pH.
7. The quarry operator shall carry out stream flow, groundwater level and water quality monitoring throughout the life of the quarry, as described in section 2.4 of the July 2017 Regulation 22 responses report. Annual monitoring reports shall be produced, presenting the collected data to date and assessing any changes to stream flow and groundwater levels (including groundwater levels in private water supplies) and the possible causes of these. In the case where quarry working is assessed to be the cause of the impacts, the report shall propose mitigation measures.
8. The working and restoration infiltration design shall ensure that drainage mimics the pre- excavation drainage. This shall be achieved following the principles described in the July 2017 Hydrogeology/Drainage Regulation 22 responses report.
9. Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system.

**Table C4 – Issues and Constraints to be resolved at Straitgate Farm**

<p><b>Human health and amenity</b> Objectives 1 &amp; 6 Policies M23, M26 &amp; M27</p>	<p>The closest light, dust and noise sensitive receptors include Straitgate Farm and a concentration of properties to the south/south-west of the site. Further properties are located east of the site, and west beyond the A30.</p> <p>Development proposals should provide sufficient stand-offs from sensitive properties and demonstrate that impacts from lighting, noise, dust and vibration can be controlled and, if necessary, adequately mitigated. Visual impacts should be minimised by sufficient screening.</p> <p>Proposals for the restoration of the site should include provision of new paths to connect to the existing rights of way network.</p>
<p><b>Land use constraints</b> Objective 1 Policy M20</p>	<p>The site should be worked and restored in a manner acceptable to Exeter International Airport to ensure that their operations are not adversely affected. It is advised that any planning application is prepared in discussion with Exeter International Airport. Potential impacts may be caused by surface water management measures and landscaping/ planting that risk increased bird activity.</p> <p>Bisecting electricity lines operating on the site will need to be diverted.</p>
<p><b>Transport</b> Objective 1 Policies M22 &amp; M26</p>	<p>Site access should be provided in an appropriate location that ensures safety for other road users while minimising adverse effects on residential amenity, landscape and visual impacts, biodiversity and heritage assets.</p> <p>Transport impacts in the vicinity of the site and on the route to a processing location should be addressed in a Transport Assessment to support any planning application. Proposals should demonstrate that excavation will have no adverse impact on the adjoining A30 trunk road. The transportation of extracted materials for processing elsewhere should meet the requirements of Objective 1 and Policy M22 for minimal transportation by road.</p>
<p><b>Biodiversity</b> Objectives 1 &amp; 6 Policies M17, M26 and M27</p>	<p>The East Devon Heaths Special Protection Area and East Devon Pebblebed Heaths Special Area of Conservation are located 2.9km south of the site, and proposals should demonstrate that there will be no significant effects on the integrity of these sites, either from development at the site or the transportation and off-site processing of materials. To the east of the site are County Wildlife Sites with water-sensitive habitats, and harm to these should be avoided or satisfactorily mitigated.</p> <p>Any planning application will need to be supported by appropriate protected species surveys to ascertain the presence of legally protected species on and around the site. Sensitive vegetation clearance methods should be adopted and new planting provided to compensate for any woodland/hedgerows lost or fragmented. Affected protected species should be translocated with the creation of compensatory habitat.</p> <p>Dust suppression will need to be achieved to ensure wildlife sites are protected from quarrying activities.</p>
<p><b>Land and soil</b> Objectives 1 &amp; 6 Policies M21 &amp; M27</p>	<p>The site should be restored to enable resumption of agricultural use. To ensure the site is restored to an appropriate grade of agricultural land quality, proposals should assess the Agricultural Land Classification and detail proposed soil management techniques should be used throughout the site working and restoration stages. The working and restoration phasing should minimise the area of land not in cultivation, as soil is best conserved by being farmed rather than stored where some deterioration may occur.</p>

<p><b>Landscape</b></p> <p>Objectives 1 &amp; 6</p> <p>Policies M18, M26 and M27</p>	<p>Mineral development may be discernible in elevated views across countryside from the western-facing scarp slope of the East Devon Area of Outstanding Natural Beauty (AONB). Working and restoration phasing of this site should limit the extent of workings in both views from the AONB and views to the AONB from the A30. The existing trees, orchard, hedgerows and woodland belt should be strengthened and where possible retained to help conceal the site in external views and contribute to landscape character. New structures/site buildings would benefit from screening. Proposals for the off-site processing of extracted materials should be located outside of the AONB unless exceptional circumstances can be demonstrated.</p>
<p><b>Historic Environment</b></p> <p>Objectives 1 &amp; 6</p> <p>Policies M19 and M26</p>	<p>Significant remains have been identified through archaeological assessment and evaluation of the site, including evidence for Iron Age and Roman-British settlements. Any planning permission for this site will be conditioned to ensure a programme of archaeological recording is carried out as development proceeds.</p> <p>The Grade II Listed Building Straitgate Farmhouse is within close proximity to the site boundary. Whilst the setting of the building will be impacted by the working phase of the site, it is acknowledged this is temporary. Any restoration scheme for the site should consider the historic landscape character with 'Barton Fields' and be sympathetic to the setting of the listed building.</p>
<p><b>Water</b></p> <p>Objectives 1 &amp; 6</p> <p>Policies M21, M24, M26 and M27</p>	<p>The development of this site will only involve dry working, above the maximum winter (wet) level of groundwater. The depth of working above this level will be determined through monitoring and analysis of historic data, in agreement with the Environment Agency.</p> <p>While the risk of increased runoff from the site during mineral working causing downstream flooding is low, proposals should include sustainable drainage systems to ensure that any potential runoff from extreme weather events is appropriately managed. The water environment of the site and its surrounds requires continuous monitoring during working and into restoration and aftercare to ensure negligible impact on groundwater and surface water receptors down gradient of the site. Any proposal should include provision for alternative supply in the event of derogation of private water supplies resulting from mineral development.</p> <p>Proposals should include provision for the 'daylighting' of existing culverted sections of stream and 'naturalisation' of other heavily modified sections within the site or otherwise within the applicant's control.</p> <p>The restoration proposal will need to consider retention of infiltration features in the working phases and final restoration profile to ensure flows are maintained and reduce the minor risk of local flooding during extreme events.</p>

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**Appendix V  
to PTE/21/44**

19 November 2021

## **Briefing Note To Support The Removal Of Objection By DCC As The LLFA And Statutory Consultee For The Proposed Application At Straitgate DCC/3944/2017**

### **Introduction**

We are aware of the history of flooding in the wider catchment, historic runoff issues caused by soil compaction at this site as well as the presence of sensitive receptors downstream such as Cadhay Bog and the town of Ottery St Mary. The aim of this briefing note is to explain the proposed surface water drainage strategy for the site and to reassure Members that the risk of flooding, arising from the proposed quarry, will be low due to the conservative nature of the surface water drainage strategy.

We have liaised with Aggregate Industries and the Environment Agency over 4 years to ensure a robust and integrated drainage strategy is proposed. We are aware of the complex interactions between drainage and hydrogeology and have therefore worked closely with hydrogeologists at the Environment Agency when scrutinising the proposal.

### **Infiltration Areas**

The proposed surface water drainage strategy comprises primarily the use of infiltration led techniques to manage the runoff during the excavation stages within each of the proposed phases. We are supportive of this approach since infiltration is the preferred option for the disposal of surface water in line with the surface water hierarchy within National guidance. Runoff will be directed towards discrete areas in the extraction void and will infiltrate through the base of the void into the underlying Budleigh Salterton Pebble Beds. This will help to ensure recharge of the local watercourses. The base of the extraction will be contoured with low slope parallel bunds to ensure that runoff is infiltrated into the same catchment as it would have previously. Furthermore, the applicant has confirmed that the base of the void will be re-worked periodically, and silt will also be removed in order to ensure the functionality of the void base for infiltration and that favourable infiltration rates are maintained.

We believe there may have been some confusion regarding terminology used by ourselves and the Environment Agency. The applicant has confirmed that there will be at least a 1m buffer zone of unsaturated area between the groundwater level and the base of the void which fulfills our requirement. We have calculations which show that there is sufficient space to accommodate the runoff within the voids bearing in mind the 1 m buffer zone. If at a later date, results of the monitoring indicate that groundwater levels have risen so much that the 1 m zone is no longer achievable, Aggregate Industries have confirmed they will move further upslope to ensure our requirement is accommodated.

## **Exceedance Bunds**

It is understood that north/south bunds will be used to manage runoff during extreme rainfall events. However, given the nature of the proposal and the design standard of the drainage system it is unlikely these will ever come into action.

## **Calculations**

The calculations indicate the proposed strategy has been designed to cater for the 1 in 100 year event plus 10% for climate change which is an extremely rare event and is unlikely to ever be experienced during operation of the quarry. Considering the design life of the quarry is 12 years, the proposed surface water drainage strategy is extremely conservative in its design. Infiltration testing has already been undertaken within the Budleigh Salterton Pebble Beds and has also been calculated from extensive hydrogeological assessments. The results indicate that infiltration is entirely viable at the site and as is normal practice we have recommended a condition for further infiltration testing to BRE 365 standard at representative locations across the site.

Aggregate Industries, AI, have indicated that for the design storm event and based on current data, there is adequate capacity within the void to store the runoff. If in future, the extensive ongoing monitoring indicates a rise in groundwater, there is the option for AI to move further up slope in order to achieve the required capacity to fulfill both EA and LLFA requirements.

## **Access Road and Ancillary Area Drainage Strategy**

A separate drainage strategy has been proposed for the runoff arising from the proposed access road and ancillary area. The runoff from these areas will be conveyed and attenuated within an above ground attenuation basin and a swale feature. The outflow will be restricted to greenfield rates and discharged into the Cadhay Bog Stream mimicking the existing scenario. Furthermore, it is proposed that water from the attenuation basin is likely to be re-used at the site. This drainage strategy is in full compliance with Exeter Airport safeguarding requirements.

## **Restoration Stage**

The applicant has confirmed that sub-soiling/ripping of the soils will be undertaken prior to restoration in order to reduce the risk of soil compaction which we understand led to historic flooding in the area. This presents an improvement over the existing scenario considering the historic compaction issues at the site.

Two shallow depressions are proposed in the Cadhay Wood and Birdcage Stream catchments to reduce the risk of overland flow by promoting infiltration. The use of these infiltration areas provides a betterment of the natural hydrological performance of the catchment with regards to flood risk, as it will act to increase the time taken for precipitation to enter the watercourses thereby reducing the potential impact downstream. Furthermore, the installation of a new land drainage system will improve the runoff scenario at the site and offers an additional betterment.

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## **Conclusion**

We have scrutinised the proposals and believe they are entirely in accordance with our local guidance SuDS for Devon Guidance (2017) as well as national guidance bearing in mind the nature of the proposal. We have requested more information on the management of surface water at this site than any other quarry application. We no longer have any reason to maintain our objection to the application. A workable and conservative surface water management strategy has been proposed and is backed up by onsite investigations as well as detailed calculations. Ongoing monitoring and further on site investigations will feed into the proposals to ensure compliance is achieved throughout the project which is normal practice.

Yours Faithfully,

Helen Montgomery  
Flood Risk Engineer  
DCC Flood & Coastal Risk Management Team

PTE/21/45

Development Management Committee  
1 December 2021

**County Matter: Minerals**

**Mid Devon District: Importation of up to 1.5 million tonnes of as-raised sand and gravel from Straitgate Farm into Hillhead Quarry for processing, Hillhead Quarry, Uffculme, Cullompton**

**Applicant: Aggregate Industries UK Ltd**

**Application No: 17/00398/DCC**

**Date application received by Devon County Council: 2 March 2017**

Report of the Chief Planner

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

**Recommendation: It is recommended that planning permission is granted subject to the conditions set out in Appendix I of this report (with any subsequent minor material changes to the conditions being agreed in consultation with the Chair and Local Member).**

## **1. Summary**

- 1.1 The application is for the importation of up to 1.5 million tonnes of as-raised sand and gravel from Straitgate Farm for processing at Hillhead Quarry which is located near Uffculme, 8 kilometres north east of Cullompton. The application is supported by an Environmental Statement in tandem with an application for a proposed sand and gravel quarry at Straitgate, Ottery St Mary. This report should be read in conjunction with the report associated with that application.
- 1.2 It is considered that the main material planning considerations in the determination of the proposed development are highways and traffic issues and residential amenity.
- 1.3 The planning application, representations received, and consultation responses are available to view on the Council website under reference DCC/3945/2017 or by clicking on the following link:  
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3945/2017>
- 1.4 Members of the Development Management Committee were due to undertake a visit to the application site on 24<sup>th</sup> November to view the location of the proposal and its surroundings.

## **2. The Proposal/Background**

- 2.1 The application proposes the importation of 1.5 million tonnes of sand and gravel for processing at Hillhead Quarry, an existing active extraction site

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located in Mid Devon. Hillhead Quarry is located 1.9 kilometres to the east of Junction 27 on the M5 and 1.2 kilometres from the village of Uffculme. The quarry complex itself extends to beyond 91 hectares in its entirety.

- 2.2 The Hillhead site is located adjacent to Broadpath landfill site, which has ceased receiving waste and is currently undergoing restoration, with ancillary activities including landfill gas generation continuing. To the west lies the active mineral exaction site of Houndaller, with land to the north east either having been restored following mineral extraction or awaiting restoration. To the east of Broadpath landfill site, land is allocated as a 'preferred area' for sand and gravel extraction through Policy M12 of the Devon Minerals Plan. This allocation has a future potential yield of 8 million tonnes of sand and gravel.
- 2.3 The site and surrounding area have been the subject of a number of planning permissions for mineral extraction and waste related development. Planning permission was granted by Mid Devon District Council for the installation of a ground mounted photovoltaic solar farm to generate up to 5MW of power and associated infrastructure on the adjacent land to the south and east extending to 8.5 hectares.
- 2.4 Hillhead Quarry underwent a Review of Old Mineral Permissions (ROMP) in 2019 (planning reference 16/01697/DCC) which is a requirement under the Environment Act 1995. The purpose of such reviews is to ensure that extant mineral planning permissions are subject to operating conditions that accord with up-to-date environmental standards; this review included consideration of the protection of the amenity of residents and the impact of traffic.
- 2.5 The processing plant was erected in 2018 under permitted development rights within Class A, Part 17 of The Town and Country Planning (General Permitted Development) (England) Order 2015. These permitted development rights allow for the installation of plant and machinery subject to the plant processing material from within the Hillhead site. Consequently, planning permission is required when importing material for processing from Straitgate Farm or any other sites.
- 2.6 The route to the processing plant in Hillhead Quarry is via Clay Lane, which provides access onto the A38, then crosses over Waterloo Cross roundabout, onto the M5 via Junction 27, and onward to the proposed quarry site at Straitgate Farm near Ottery St Mary in East Devon. The route is approximately 37 kilometres (23 miles) between the sites.
- 2.7 Planning permission for the widening of Clay Lane to allow for two-way vehicular movements was granted by Devon County Council (18/01074/DCC) in October 2018 and lawfully implemented earlier this year. The associated S278 highways agreement, which ensures that the scheme is suitable for Highways Authority adoption, has received technical approval and the matter is being progressed by solicitors. There is also a legal undertaking that commits the operator to complete the works associated with the widening of

Clay Lane within 24 months from the date of completion of the highway agreement.

### **3. Consultation Responses**

- 3.1 Mid Devon District Council (Planning): no objections subject to appropriate visual and ecological mitigation being conditioned and completed.
- 3.2 Mid Devon District Council (Environmental Health): support the application, consider it is desirable for the widening of Clay Lane to be carried out before importation of material to alleviate the noise and air quality impact on the residential properties on Broad Path.
- 3.3 Uffculme Parish Council: no objection, but requests a condition be applied relating to the construction of the access road. The Parish Council requests that the road be completed prior to importation of any material, and it provides additional comment that the impact of noise of processing should be assessed and that the plant associated with processing the imported material be located to mitigate potential increase in noise pollution.
- 3.4 Burlescombe Parish Council: no objection. Fully supports the comments made by Uffculme Parish Council.
- 3.5 National Highways: no objection. Recommendations have been provided with regard to junction improvements associated with the Straitgate application.
- 3.6 Historic England: no comment.
- 3.7 Natural England: comment that the proposal is unlikely to affect any designated sites and provides advice regarding soils, reclamation and proximity Blackdown Hills AONB.
- 3.8 Environment Agency: no objection. Request conditions be applied to control the environmental impact of the proposal on the local watercourses through the use settlement facilities and interceptors.
- 3.9 Health & Safety Executive: no comment.
- 3.10 Public Health England: commented that on reviewing the application documents it was noted that the Environment Agency had no objection. The local authority Environmental Health Officer also reviewed the application and has noted that the widening of Clay Lane will alleviate the noise and air quality impacts on the residential properties on Broad path. In regard to noise Public Health England chose not to comment further.

Operations at the proposed facility have the potential to create dust however there is no information in the application that details the mitigation measures that will be implemented at the site to minimise off site impacts.

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The site has been mothballed since 2007 and there is no mention of complaints in the community or monitoring that has previously been undertaken. The applicant notes that as there is no substantive changes to the permitted site operations and that existing planning consent includes conditions to control impacts on the environment from dust and air quality that it was not considered necessary to assess the impacts from the processing of the imported materials from Straitgate farm.

There does not appear to be any details in the application about background air quality monitoring that has taken place at Hillhead quarry and no assessment about the Predicted Environmental Concentrations (PECs) that are expected from the operations at the installation. If the Hillhead quarry is not operational it might be opportune for the operator to undertake background air concentration monitoring in order to achieve a baseline concentration which can be used to predict PECs and to show compliance with Air Quality Objectives (AQOs), especially if complaints are raised. Therefore, they are unable to comment on the potential fugitive emissions to air or the likelihood of any public health impact on the nearby population. The planning authority needs to be confident that all mitigation measures of particulate matter from the installation along with good practice should be adequate to prevent any emissions from the site impacting on public health. As a minimum we would recommend that the Regulator ensures that dust mitigation and control measures are included in any approval conditions to keep emissions to a minimum.

- 3.11 Devon Wildlife Trust: no comment.
- 3.12 DCC Highways: no objection. Comment that the route to the site from the M5 is acceptable. The proposed development is advocating the widening of Clay Lane and a revised one-way system to avoid the junction with A38 and Broadpath. This measure can only be welcomed. It will bring benefit in terms of amenity to the residents of Broadpath, betterment to the junction of Clay Lane in terms of alignment and subject to detail design and the securing of the works through a suitable highway legal agreement is acceptable to the Highway Authority and should be conditioned. Concern has been raised over increased traffic on Waterloo cross. Straitgate is proposing that 172 movements per day will result from the importation of materials an average of 18 additional movements per hour to that already consented. This is a 2% increase in traffic on the A38 from the counts undertaken and is in planning terms less than significant. There has been no testing of the capacity at Waterloo cross as the applicant has suggested that the less than 5% significance considers the increase to be a non-material impact. Previous transport assessments for consented development in Willand have indicated that there is spare capacity in the junction, and the Highway Authority accept this position. The Highway Authority would advocate that the works are undertaken prior to the importation of material from Straitgate as to construct the road may give rise to a road closure and require traffic to use Broad Path for a two-way operation while it is constructed and such a condition will minimise the impact of the temporary arrangement on residents.

- 3.13 DCC Historic Environment: no objection. Comment that the area subject to this planning application has previously been disturbed by quarrying activity, as such, the scale and situation of this development will not have an impact upon any known heritage assets.
- 3.14 County Councillor: Councillor Radford is the local member for the application site, and commented that a condition should be imposed requiring that Clay Lane is widened for two-way traffic should importation of material be allowed and that this was referenced during the minerals plan application. The applicant has also indicated their willingness to co-operate in making this alteration before any importing taking place at Houndaller/Hillhead Area.

## 4. Advertisement/Representations

- 4.1 The application was advertised in accordance with the statutory publicity arrangements by means of a site notice, notice in the press and notification of neighbours by letter. Further advertising through the above procedures was conducted following submission of additional environmental information request under Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011: Direction under Regulation 22 – Requirement to provide additional environmental information.
- 4.2 The applicant held a public exhibition advertising the application prior to submission to the Mineral Planning Authority and the application was communicated to the established local liaison group.
- 4.3 As result of these procedures at the time this report was printed there has been one letter of objection received. This objection raised concern that the additional deliveries at the weekends would cause disruption to the peace and enjoyment of their garden. A copy of the representation is available to view on the Council website under reference DCC/3945/2017 or by clicking on the following link:  
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3945/2017>

## 5. Planning Policy Considerations

- 5.1 In considering this application the County Council, as Mineral Planning Authority, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 Devon Minerals Plan (adopted February 2017)

Policies M1 (Spatial Strategy); M11 (Steady and Adequate Supply of Land-won Aggregates); M12 (Land-won Sand and Gravel Supply); M13 (High-specification Aggregates); M17 (Biodiversity and Geodiversity); M18 (Landscape and Visual Impact); M20 (Sustainable Design); M21 (Natural

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Resources); M22 (Transportation and Access); M23 (Quality of Life) and M26 (Cumulative Effects).

## 5.3 Mid Devon Local Plan 2013-2033 (adopted July 2020)

Policies S1 (Sustainable development priorities); DM2 (Renewable and low carbon energy); DM3 (Transport and air quality) and DM4 (Pollution)

## 5.4 Other materials considerations include:

- Devon Local Aggregates Assessments;
- National Planning Policy Framework; and
- Planning Practice Guidance.

## 6. **Comments/Issues**

6.1 It is considered that the main material planning considerations in the determination of the proposed development are highways and traffic issues and residential amenity.

### **Highways/Traffic Issues**

6.2 Policy M22 (Transportation and Access) of the Devon Minerals Plan requires that, within geological constraints, mineral development should minimise the distance that minerals are transported while maximising opportunities for sustainable transportation. Consideration of the strategic and local road network is necessary given the increased number of movements associated with this application. Concern was raised through the liaison group regarding the in-combination effects with other permitted developments in the area. The applicant was asked to revise the Transport Assessment to take onboard this analysis of this junction.

### Volume of Traffic

6.3 The application is accompanied by a Transport Assessment. The maximum number of vehicle movements generated as a result of this proposal is confirmed to be 86 loads per day, or 172 movements per day. This is in addition to the existing vehicle movements associated with the consented day to day working of Houndaller Quarry Complex which is provided as 82 per day, or 164 movements per day, as confirmed in the Transport Assessment submitted with the ROMP in 2018. Output from the quarry is restricted by the capacity of the processing plant, and the applicant has confirmed that working will be on periodic basis; as a result, the two sites (i.e. Houndaller and Straitgate Farm) would not be worked simultaneously.

6.4 Information was requested from the applicant to clarify that assessment has considered of the local road network, specifically the impact on the Waterloo Cross junction. It was confirmed that traffic associated with approving this application would represent an increase of 2.44% on the A38 and the Waterloo Cross junction. This increase would not represent a significant adverse impact on the capacity of the junction roundabouts or the associated

slip roads, and no improvements are required as a result of approving the application. It is noted that no objection has been raised from National Highways and the Highways Authority.

- 6.5 The widening of Clay Lane will mitigate the increase in traffic on the Broad Path junction should this application be approved. The associated Straitgate Farm application is intended to be subject to a condition that “no material for processing shall be exported from that site until such time as the road improvement at Clay Lane...has been completed and approved by the MPA and is open to all traffic”. This condition will ensure that the two-way traffic improvements on Clay Lane are delivered and will protect the Broad Path junction against an unacceptable risk in terms of safety and volume of traffic at the junction.

## Routeing

- 6.6 All inbound traffic, both mineral and waste, currently turns off the A38 onto Clay Lane. Waste traffic then turns left at the Houndaller crossing point and heads east towards Viridor’s weighbridge. From there, waste traffic previously crossed Broad Path, tipped and re-emerged onto Broad Path heading north back up to the A38, prior to the cessation of landfilling at the site.
- 6.7 Vehicles heading for the concrete products factory and bagging plant continue down Clay Lane, around the southern end of the processing plant site area and turn right down a private road. Laden vehicles leave site via the private road to Broad Path and back up to the A38.
- 6.8 The applicant acknowledges that an amendment to the routeing of vehicles leaving Hillhead Quarry will be required so as to avoid the use of the A38/Broad Path junction by HGVs. In order to facilitate the movement of vehicles into and out of the access point at Clay Lane, improvements are being implemented to the internal layout.

## **Residential Amenity**

- 6.9 Policy M23 (Quality of Life) of the Devon Minerals Plan, together with Policies DM4 (Pollution) and DM3 (Transport and Air Quality) of the Mid Devon Local Plan, seek to protect the quality of life for local residents and require that applications should demonstrate that noise and air quality impacts will be strictly controlled to prevent significant nuisance to properties close to the site or its transportation routes.
- 6.10 The nearest properties to the processing plant site are Hillhead Farm and Hillhead Cottage, both located within 100 metres to the west of the processing plant site. To the south east of the site within 600 metres is Ashley Close, a cul-de-sac of 36 properties on the edge of Uffculme village. There are a further 4 residences currently impacted by the HGV emissions from the existing traffic routing agreement located on the Broad Path junction. Once the road widening improvements place on Clay Lane these properties will have a reduced impact.

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## **Noise and Dust**

- 6.11 The processing site at Hillhead is controlled by an environmental scheme which addresses mud, dust and noise. This was approved under in the review of planning conditions in 2019 and offers modern environmental controls. The scheme outlines permissible levels in terms of noise and dust, including monitoring procedures and suppression measures, and also outlines the complaints procedure. It is also noted that the operators hold a quarterly liaison group meeting attended by the local parish councils, the Mineral Planning Authority and other relevant parties by which complaints can be raised. It is considered that the existing scheme provides acceptable protection in terms of noise and dust emissions and that the importation of material from Straitgate will not undermine these measures.

## Working Hours

- 6.12 The existing planning permission contains working hour restrictions on the operation of the processing plant, which are 0600 to 2200 hours Monday to Friday; 0600 to 1800 hours Saturday; and no working on Sundays, bank or public holidays. These restrictions would also apply for the processing of minerals imported to the site.
- 6.13 It is intended that the associated Straitgate Farm application will be subject to a condition relating to the hours for delivery of material. It is considered that this restriction on Straitgate Farm adequately protects neighbour amenity in terms of disturbance by the delivery of material to Hillhead Quarry.

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

- 7.1 The Committee has the option of approving, deferring or refusing this planning application.
- 7.2 The planning balance in this case is a matter of considering the environmental impacts of the proposal set against the “great weight” given to the extraction of minerals, and their processing, in the NPPF.
- 7.3 The mitigation offered by the applicant in terms of improving the access to the processing site by widening Clay Lane is likely to offset and manage the predicted impacts of the proposed development in accordance with the requirements of Policy M22 and this mitigation is reflected in the final comments of the statutory consultees.
- 7.4 It is therefore recommended that planning permission should be granted subject to the conditions set out in Appendix I.

Mike Deaton  
Chief Planner

## **Electoral Division: Willand & Uffculme**

### Human Rights Act

The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol and Article 6 may be affected. The proposals have the potential to introduce impacts of noise, dust, visual impact and a continuation of haulage within the local area where the magnitude of impacts are generally assessed as minor. These potential impacts need to be balanced against the wider benefits the proposals would provide in terms of providing a continuity of mineral resources. Members will need to consider whether these benefits would outweigh the potential impacts.

### Local Government Act 1972: List of Background Papers

Contact for enquiries: Charlotte Pope

Room No: 120 County Hall

Tel No: 01392 383000

**Background Paper**  
Casework File

**Date**

**File Ref.**  
DCC/3945/2017

cp280921dma  
sc/cr/Importation of as raised sand and gravel from Straitgate Farm into Hillhead  
Quarry Uffculme  
02 221121

Location Plan



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	Report of the Chief Planner	Development Management Committee	<i>date</i> October 2021	<i>scale</i> 1:25,000
		County Matter: Mineral Development: Mid Devon District Council: Importation of up to 1.5 million tonnes of as raised sand and gravel from Straitgate Farm into Hillhead Quarry for processing		Application No: 17/00398/DCC

## Planning Conditions

### STANDARD COMMENCEMENT

1. The development shall commence within three years of the date of this permission. Written notification of the date of commencement of any works on the site deemed to implement the consent shall be sent to the Mineral Planning Authority within seven days of commencement.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 and to enable the MPA to adequately monitor the development.

### HIGHWAY IMPROVEMENTS

2. There shall be no importation of material/s from Straitgate Farm for processing until such time as the road improvement at Clay Lane, Broadpath as approved by Permission 18/01/0174/DCC (DCC/4067/2018) has been completed and approved by the MPA and is open to all traffic.

REASON: To ensure that the impacts of increased HGV traffic are mitigated at the processing destination in the interests of the amenity of local residents and the safety of the local highway network in accordance with Policies M22 (Transportation) and M23 (Quality of Life) of the Devon Minerals Plan.

### ORIGIN OF MATERIALS

3. There shall be no importation of materials to the site from Straitgate Farm other than as raised sand and gravel.

REASON: To minimise the atmospheric release of greenhouse gases resulting from distance travelled by HGVs in accordance with Policy M20 (Sustainable Design) of the Devon Minerals Plan.



## County Council Development

**Teignbridge District: Creation of a new 5km stretch of shared use path (Teign Estuary Trail) from the Passage House Inn, east of Newton Abbot Racecourse, along the Teign Estuary to Teignmouth via Bishopsteignton, primarily over existing farmland. The scheme involves the creation of a minimum 3m wide pathway with sections of boardwalk, viewing platforms, and a bridge, Bishopsteignton, Teignmouth**

**Applicant: Devon County Council**

**Application No: 21/01514/DCR3**

**Date application received by Devon County Council: 10 June 2021**

## Report of the Chief Planner

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

**Recommendation: It is recommended that planning permission is granted subject to the conditions set out in Appendix I of the report and the Letter of Intent for off-site biodiversity compensation (with any subsequent minor material changes to the conditions being agreed in consultation with the Chair and Local Member).**

### 1. Summary

- 1.1 This report relates to the construction of a pedestrian/cycle way between Teignmouth and Newton Abbot along the Teign Estuary, running alongside the railway track for the most part.
- 1.2 It is considered that the main consideration in the determination of the application are planning policy considerations; health and economic impacts; impacts upon flood risk; landscape and visual impacts; ecological impacts; and impacts upon the operation of the railway and Network Rail land.
- 1.3 The planning application, representations received and consultation responses are available to view on the Council website under reference DCC/4238/2021 or by clicking on the following link:  
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/4238/2021>.

### 2. The Proposal/Background

- 2.1 The proposed pedestrian/cycle route would form a 5km extension to the Teign Estuary Trail, which currently links Kingsteignton and Newton Abbot. This scheme would extend the route toward the coast and end at the A381 as it enters Teignmouth. This is an existing strategic route that would eventually link these towns with Teignmouth and Dawlish and the National Cycle Network Route 2, 250m to the west of the Passage House Inn. The path

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would cut across existing agricultural land, sections of mixed woodland, marshland, and run alongside the Exeter to Plymouth Railway line.

- 2.2 The track would run at ground level in most areas but incorporate two sections of boardwalk over the marshland areas, three viewing platforms/areas and a small section of subway (due to the request of a landowner). The path would be 3m wide with localised sections of 3.5m where vehicular access is required for agricultural reasons. To enclose the path a number of features are proposed including:- verges; Devon hedgebanks; crib walls; boundary fences (a mix of post and rail, close boarded, and sections of weldmesh fence); as well as landscape planting and mitigation areas. The surface of the path would be a bound bituminous material. Direction signs and route maps would be located at either end of the route and five interpretation boards would be positioned along the route, providing information on the surrounding wildlife.
- 2.3 At its western end, the route would commence just off Hackney Lane, north of the Passage House Inn and adjacent to the railway line. At ground level, it would run along the edge of agricultural fields near the railway until it reaches Ware Barton Copse, an Unconfirmed County Wildlife Site, where it would follow the line of trees on their northern side, using a no dig construction to reduce severance of tree roots.
- 2.4 Beyond this Wildlife Site, the route would again run along the edge of the field near the railway track. A crib wall structure would enclose it on the northern side, as the path descends towards a proposed subway under a bridge, south west of Wear Farm Caravan Park. The subway would be 4m wide, with a reinforced concrete retaining structure extending approximately 30m on the west side and approximately 25m on the east side. The path would then head toward the Wear Pond County Wildlife Site [CWS], on the field boundary alongside the railway line.
- 2.5 At Wear Pond, the ground level path would pass through a group of trees to follow an existing track north of the Wear Pond salt marsh. The path would then weave around a pond area, and include a viewing point, to then run along the northern edge of the marshland under existing mature trees. In this area, the path extends into adjacent land in two locations, to allow access over it by the landowner. On leaving Wear Pond the route follows the southern edge of the field toward a wooded copse that marks the boundary of Luxton's Marsh CWS. A crib wall would retain the bank as the path descends into the CWS, and new woodland planting would form a new boundary to the north.
- 2.6 As the path continues alongside the railway line it changes to boardwalk, to include an inland viewing area over the marsh and pond area. Bird screen fencing is proposed along sections of this boardwalk to limit views of cyclists and pedestrians for birds using a pond to the south. The path then ramps up toward Luxton Steps where it reverts back to tarmac. Plans indicate that the existing public footpath (Bishopsteignton No. 13) that links Luxton Steps to the A381 would be resurfaced and turned into a shared use path, although it is

not identified what material or what form this would be. The path then heads inland away from the railway line to encircle McKays Pond CWS on its northern side, and then weaves around a wooded copse to run back alongside the railway line at Flow Point.

- 2.7 A new bridge would be built over Flow Lane, which runs directly alongside the railway track, with a post and rail parapet and a mesh infill 1.4m high (it is unclear what material this would be) and a timber deck. A 2m high timber boarded fence would enclose the route either side of the bridge. This bridge would pass over an existing public right of way (Bishopsteignton Footpath No. 3), although there will be no link to the path.
- 2.8 As the route enters the Flow Point CWS, it would change to a raised boardwalk, and would weave through areas of saltmarsh and around trees to a wooded area north west of Cole's Barn Pond CWS. A double-sided viewing area would be incorporated into the boardwalk south of Jack's Patch Garden centre in the centre of the CWS, after which the path would revert back to ground level but with a no-dig construction to prevent severing the roots of the adjacent trees.
- 2.9 At the Teignmouth (eastern) end of the route, a ramped stone-faced structure would rise above existing ground levels to punctuate an existing Devon hedgebank and link the route with a proposed new signalised crossing on the A381. The details of the link with this road and the crossing do not form part of this application as these would fall within 'permitted development' rights for work within a highway. There is currently no footpath on the trail side of this road.
- 2.10 In order to accommodate the development, the tree impact assessment indicates that the proposal would result in the removal of 18 individual trees, mainly associated with the construction of the bridge above Flow Lane. Three groups of trees would also be entirely removed, the most significant being the group of ash trees at the eastern end of McKay's Pond CWS. A further 12 trees will be directly impacted as a result of the trail as it would fall within their root protection area. A number of individual trees, within existing tree groups, would require partial felling, although this would not result in loss of the tree groups as a whole. Some minor pruning of trees would also be required to increase the height of low hanging tree canopies along the trail.
- 2.11 There will also be loss of arable land and sparsely vegetated land around Wear Pond as a result of the development, which will not be replaced. Losses on site are also foreseen for woodland as mentioned above, as well as grassland, and coastal saltmarsh, but the application includes a 'Letter of Intent' which proposes to compensate for these losses through off-site planting and habitat creation of these. A total length of 0.79km of hedgerow would be removed, but this would be replaced with 1.24km of hedgerow, resulting in an overall gain of 0.46km.
- 2.12 There are a number of properties and businesses close to the route, including:

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- properties and businesses on Flow Lane, the nearest being a residential property located beyond the railway track to the south, on the estuary around 20m away at its nearest point;
- fields/garden of properties to the north would back on to the track, as well as grounds around the Beresford Clinic;
- Jack's Patch Garden Centre at the eastern end of the cycleway, located around 100m away at the nearest point;
- caravans at Wear Farm are found to the north of the route, with the nearest 130m away, together with dwellings of which the closest is 290m from the proposed trail; and
- the Passage House Inn near Kingsteignton and associated holiday accommodation to the south of the railway line.

2.13 No details of the exact locations of the construction compounds have been provided in the application, other than the following statement: "mainly agricultural land will be temporarily required for construction to include site compounds and a number of access tracks". The application indicates that these areas will be returned to agricultural use on completion of the proposed route and are subject to agreement with the landowner.

2.14 A request has been made for a 10 years commencement period to allow sufficient time to secure funding for the scheme.

2.15 The application has been screened to determine if it is likely to result in significant environmental impacts. In this case it has been concluded that significant impacts are unlikely, and that the proposal does not constitute 'EIA development'.

## **3. Consultation Responses**

3.1 Teignbridge District Council (Planning): no comments received.

3.2 Teignbridge District Council (Environmental Health): no comments received.

3.3 Bishopsteignton Parish Council: fully supports this project and planning application, as a prerequisite to the completion of the project as a priority, for the considerable benefits being realised as soon as possible, such as health and wellbeing, sustainable transport reducing the impact on climate, and safe connectivity between neighbouring towns and parishes.

3.4 Kingsteignton Town Council: no objection.

3.5 Teignmouth Town Council: support the scheme.

3.6 Environment Agency: no objection subject to the inclusion of conditions to secure the implementation of flood risk mitigation measures. Whilst the Agency supports the applicant's intention to provide habitat compensation and biodiversity net gain, the details of a scheme to deliver this have not been submitted. It is recommended that your Authority considers the appropriate mechanism for securing this.

- 3.7 Natural England: no comment.
- 3.8 Marine Management Organisation: no comments received.
- 3.9 National Highways: no comment.
- 3.10 Network Rail: no objection subject to use of conditions to ensure that railway earthwork infrastructure is not impacted by the construction and operation of the cycleway and surface run off can be accommodated within the designed drainage network to maintain the safety of the railway and cycleway. It is recommended that the cycleway is located at least 2m from the boundary fence and that drainage structures should not be within 5m.
- Network Rail have also made a request for further consultation, and have provided guidance on matters relating to safety, ground levels, foundations, ground disturbance, site layout, piling, excavations/earthworks and drainage.
- 3.11 National Grid Plant Protection: identify National Gas Transmission Pipelines and associated equipment along the route but confirm that they are happy for the proposal to proceed.
- 3.12 Devon Countryside Access Forum: strong support for the trail.
- 3.13 Devon Stone Federation: no objection as the development and its users are not considered likely to be sensitive to potential working of the nearby aggregate deposit so would not represent a potential constraint under Policy M2 of the Devon Minerals Plan.
- 3.14 Devon Wildlife Trust: no comments received.
- 3.15 RSPB: no comments received.
- 3.16 Teignbridge Cycle Forum: no comments received.
- 3.17 DCC Ecology: mitigation through design and using the following proposed conditions will limit impacts upon species and designations:
- agreement/implementation of a Construction Ecological Management Plan;
  - agreement/implementation of a Landscape and Ecological Management Plan;
  - resurvey bat roosts and details of bat/bird boxes;
  - repeat survey for badgers;
  - no artificial lighting;
  - vegetation clearance timings;
  - invasive species management plan;
  - the development shall be in accordance with the Ecological Impact Assessment (JBA Consulting, May 2021);
  - a 'letter of Intent' and condition should be used to ensure a minimum 10% Biodiversity Net Gain.

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- 3.18 DCC Highways: no objection and welcomes the scheme.
- 3.19 DCC Road Safety: the scheme is going through the formal road safety audit process and any issues will be raised through that process.
- 3.20 DCC Historic Environment: no objection subject to a condition requiring the development to be carried out in accordance with the Written Scheme of Investigation.
- 3.21 DCC Flood Risk Management: no in-principle objections subject to a number of pre-commencement planning conditions requiring detailed drainage design; surface water management during construction; and adoption and maintenance of the drainage. It is also identified that, at the detailed design stage, the applicant will need to confirm where the flows from the attenuated areas (including adjacent to Hackney Lane as well as adjacent to Flow Lane) will connect into.
- 3.22 DCC Landscape: the proposed route fits reasonably well into the existing landscape pattern, however concerns are raised about the following points:
- insufficient space for mitigation planting in some areas;
  - potential for filter drains to sever existing hedgerow roots;
  - the impact on the wider landscape from large ramped structures, in particular the raised boardwalks;
  - the appearance of the 350m length crib wall, with lack of space for planting; and
  - lack of soil cover over the subway for a hedgerow to grow.

Conditions are recommended including protection of retained vegetation prior to and during construction; details of fencing, railings and boardwalks; details of proposed planting and seeding (including within crib walls); requirements for maintenance for a minimum of five years to ensure establishment; and a Landscape and Ecological Management Plan to guide the long term management of existing and new vegetation/habitats within the site that form part of essential mitigation.

- 3.23 DCC Public Health: commends the proposed Teign Estuary Trail in its promotion of healthy and safe communities, promoting sustainable transport, and moving towards meeting the challenges of environmental change.
- 3.24 DCC Public Rights of Way: Raise concerns about :- proposals for hawthorn and blackthorn alongside the route, stating thorny trees and shrubs can be a hazard to users, and recommend the use of native, non-thorny, flowering and fruiting species; the limited space available for the proposed planting to grow and the ability to carry out the required management and maintenance (leading to questions about long term viability); note that some hedgebank dimensions are very small. They recommend a condition is used to agree the type and maintenance of species along the route.

- 3.25 DCC Economy: support the proposal as the route chosen will encourage usage by a wide range of groups and be accessible to a broad range of the population, and the impacts of the trail will be very positive for the local area.

## 4. Advertisement/Representations

4.1 The application was advertised in accordance with the statutory publicity arrangements by means of a site notice, notice in the press and notification of neighbours by letter. As a result of these procedures 87 comments have been received from members of the public and the Teignmouth Town Centre Management Partnership, with one being an objection and the remainder expressing their support. The grounds of support include:

- the cycleway will help boost the tourism and local economy;
- provide a safe route to Newton Abbot and Teignmouth for cyclists and pedestrians compared to the A381 which has high volumes of traffic and considered dangerous for these users;
- reduce carbon emission and reliance on cars by promoting green transport Help improve health and wellbeing;
- help improve air quality by encouraging more environmentally friendly modes of transport;
- a safe link for the residents of Bishopsteignton;
- the scheme will benefit walkers, cyclists, runners and disabled users;
- will help local children become more independent through the use of the new trail; and
- the scheme will provide a recreational and commuting route linking villages and businesses.

4.2 The representations of support have also identified the following issues:

- a desire for the trail to go further towards Teignmouth;
- lack of benches, bins, ecology/wildlife areas, additional planting areas, SUDs, public art etc.;
- concern that there is nowhere to sit and take in the surroundings or watch the boats/trains;
- the connections at either end just lead straight onto roads without any crossings/safety provisions; and
- concern raised about the speeds cyclists and feeling unsafe, and clear demarcation on the track to control this;

4.3 The objection from a member of the public raises concerns that keen cyclists will not use the trail so it will be a waste of money.

4.4 An objection has been received from the owner of Wear Farm, who raises concerns on grounds of privacy and security for the occupiers of caravans and dwellings and severance of the working farm. He requests realignment of the trail through Wear Pond County Wildlife Site alongside the rail line using a boardwalk and the use of palisade fencing to provide security.

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## 5. Planning Policy Considerations

5.1 In considering this application the County Council, as County Planning Authority, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Development Plan policies are summarised below and the most relevant are referred to in more detail in Section 6.

### 5.2 Teignbridge Local Plan (adopted May 2014)

Policies S1A (Presumption in favour of Sustainable Development); S1 (Sustainable Development Criteria); S2 (Quality Development); S5 (Infrastructure); S6 (Resilience); S9 (Sustainable Transport); S11 (Pollution); S21A (Settlement Limits); S22 (Countryside); WE11 (Green Infrastructure); EN2 (Undeveloped Coast); EN2A (Landscape Protection and Enhancement); EN4 (Flood Risk); EN5 (Heritage Assets); EN8 (Biodiversity Protection and Enhancement); EN9 (Important Habitats and Features); EN10 (European Wildlife Sites); EN11 (Legally Protected and Priority Species); EN12 (Woodlands, Trees, and Hedgerows); HT1 (Heart of Teignbridge – Movement); HT3 (Heart of Teignbridge – Green Infrastructure) and TE4 (Regeneration Proposals).

### 5.3 Devon Waste Plan (adopted December 2014)

Policy W4 (Waste Prevention).

### 5.4 Bishopsteignton Neighbourhood Plan (made October 2017)

Policies BSA5 (Teign Trail); BSA6 (Sustainable Drainage); BSC5 (Landscape Character); BSB1/BSB2/BSB3 (Biodiversity Protection and enhancement) and BSB5 (Adapting to Climate Change).

5.5 Other policy considerations include:

- National Planning Policy Framework
- Planning Practice Guidance
- Cycling and Multi-use Network Strategy (Devon County Council, 2015)
- South Hams SAC Guidance

## 6. Comments/Issues

6.0.1 It is considered that the main material planning considerations in the determination of the proposed development are: planning policy considerations; health and economic impacts; impacts upon flood risk; landscape and visual impacts; ecological impacts; impacts upon the operation of the railway and Network Rail land.

## 6.1 Planning Policy Considerations

- 6.1.1 The route of the proposed trail is located on land classified as open countryside, as defined by Policy S21A (Settlement Limits) and Policy S22 (Countryside) of the Teignbridge Local Plan. Within open countryside, Policy S22 limits development to uses that would provide attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient economy. Uses that may be acceptable include transport infrastructure and leisure and tourist uses, and it is considered this proposal falls within these.
- 6.1.2 The cycle route is also supported by further policies within the Teignbridge Local Plan and Bishopsteignton Neighbourhood Plan:
- Policy BSA5 of the Neighbourhood Plan explicitly supports the provision of the “Teign Trail” for walkers and cyclists along the Teign Estuary between Newton Abbot and Teignmouth including a link into the village of Bishopsteignton;
  - the key diagram associated with Policy HT1 of the Local Plan shows the route indicatively, labelling it as an Aspirational Primary Cycle Route, with the spur to Bishopsteignton as an Aspirational Secondary Cycle Route, and the policy itself supports proposals for comprehensive walking and cycle routes that connect the Heart of Teignbridge to nearby towns and villages in order to improve connectivity and accessibility;
  - Policy TE4 of the Local Plan states that regeneration will be delivered through a number of schemes within Teignmouth, one of which is the National Cycle Network Route 2 at Teignmouth including a route from Teignmouth to Kingsteignton; and
  - Policy S9 of the Local Plan highlights that the transport system will offer safe and sustainable transport choices.
- 6.1.3 The proposal is also consistent with the National Planning Policy Framework in terms of the health and wellbeing benefits of opportunities for physical activity (paragraph 98) and pursuit of opportunities to promote walking and cycling (paragraph 104) and offer a choice of transport modes (paragraph 105).
- 6.1.4 It is clear that a cycle and pedestrian trail in this location is acceptable in principle and would support the policies outlined above. The alignment and design of the scheme will be considered in detail below in relation to other material planning considerations and planning policies.

## 6.2 The Local Economy and Tourism

- 6.2.1 Figures for Devon as a whole indicate that, in economic terms, Teignbridge currently performs poorly and has been impacted quite heavily by Covid. Average earnings in Teignbridge are currently some of the lowest nationally, with total resident earnings being 84.5% of the UK average.

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- 6.2.2 In terms of deprivation, using the Index of Multiple Deprivation 2019, Teignbridge has three neighbourhoods among the 20% most deprived in England, and these are all located in either Newton Abbot or Teignmouth. Teignmouth Town Centre and Seafront area is ranked 2<sup>nd</sup> most economically vulnerable of 457 neighbourhoods in Devon (October 2021), with three neighbourhoods in Newton Abbot ranked in the 10 most vulnerable.
- 6.2.3 Pre-Covid tourism figures for Teignbridge show that around 10% of all local employment is tourism related, and the market was worth nearly £265m annually in terms of spend for the District in 2019. A significant proportion of this is focused in coastal areas such as Teignmouth.
- 6.2.4 A notable estuary trail with panoramic views can have a strong economic regenerative effect, as seen in Exmouth for example, with new businesses setting up in the town and along the route. It is considered that the Teign Estuary Trail would boost potential for additional visitor trips between Newton Abbot and Teignmouth, which is likely to yield regeneration benefits and boost the viability of the retail and hospitality sectors in town centres such as Teignmouth.
- 6.2.5 The scheme would support Local Plan Policy EC12 (Tourist Attractions) in expanding and improving tourist and recreational use of the network existing and proposed cycle paths in the area.

## **6.3 Nature Conservation**

- 6.3.1 The proposed trail would pass through a number of habitats and protected areas, of which the most important are the South Hams Special Area of Conservation (SAC) landscape connectivity zone for Greater Horseshoe bats; Wear Pond, Luxton Marsh and Flow Point County Wildlife Sites (CWS); and the Weare Barton Unconfirmed County Wildlife Site (UCWS). A number of other CWSs and UCWSs are in close proximity to the route, including the Teign Estuary. These habitats support a variety of protected species, and the impacts upon these and their habitats will be considered in detail below.

### Impact upon the Special Area of Conservation

- 6.3.2 The site is within a landscape connectivity zone, and partially within and adjacent to a pinch point, of the South Hams SAC, designated for its importance for Greater Horseshoe bats. The Conservation of Habitats and Species Regulations 2017 require that the integrity of this site is not adversely affected by any plan or project.
- 6.3.3 The works will involve removal of small areas of commuting habitats such as tree lines, hedgerows and woodland (0.79km of hedgerow, 0.67ha of woodland and 19 individual trees), that are used by a relatively small number of Greater Horseshoe bats. It is considered that connectivity across the wider landscape would be maintained, as Greater Horseshoe bats are still likely to use these locations due to only small gaps being created, with very low

numbers of bats using these features for commuting on an occasional basis. The development would not have an adverse effect on the integrity of South Hams SAC, and the proposal would therefore accord with Policy EN10 of the Teignbridge Local Plan.

- 6.3.4 Following screening for Habitats Regulations Assessment, the Council has concluded that this development will not, alone or in-combination with other projects, have a likely significant effect on the South Hams Special Area of Conservation.

## Habitats

- 6.3.5 Policy EN9 of the Teignbridge Local Plan seeks to protect designated sites including County Wildlife Sites, together with other priority habitats, and requires that losses are mitigated or compensated.
- 6.3.6 The trail has been designed to avoid the loss of highly valued habitats within the three County Wildlife sites and, where this has not been possible, to minimise any loss. Specifically, the scheme avoids nationally important saltmarsh communities at Wear Pond and Flow Point, and screening in sensitive areas has been included to limit disturbance to wildlife. Despite these actions, these sites would still be directly affected, including the removal of 0.42ha of saltmarsh during the construction of the path. Nonetheless, it is not considered that these losses would impact on the overall value of these designated sites, as they would be compensated for through habitat enhancement both within and outside the application site.
- 6.3.7 In addition, there is potential for pollution impacts during construction and operational phases on these Sites which would need to be prevented as a condition of the development.
- 6.3.8 To avoid damage to saltmarsh within the temporary works areas at Wear Pond and Flow Point, it is recommended that a saltmarsh translocation and monitoring strategy is developed and delivered as part of a condition requiring a Construction Environmental Management Plan and a Landscape Ecological Management Plan.
- 6.3.9 Hedgerows, Broadleaved/Mixed Woodland and Coastal Saltmarsh are priority habitats that would suffer partial loss as a result of the scheme. Compensatory woodland and hedgerows would be created within the scheme and a small area of saltmarsh. Most of the saltmarsh is to be replaced off site, and the Applicant has, and will commit to the delivery of this through a 'Letter of Intent'. Together, these measures would ensure that the proposal accords with Policy EN9.

## Species

- 6.3.10 Policy EN11 of the Teignbridge Local Plan seeks to protect, and expand the presence of, protected and priority species, and presumes against development that would harm such species unless specified criteria are met.

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- 6.3.11 As a result of site surveys for European Protected Species, at least nine bat species were found and some Hazel Dormice. Although Otters were not seen, it is considered that they could use the site for commuting and foraging.
- 6.3.12 For bats, a number of trees were noted for their moderate roosting potential, and habitats recorded that could be used for foraging and commuting. In compensation, bat boxes are proposed to be installed as well as construction and operational mitigation measures such as the protection of trees, hedgerows and woodland, with no lighting to be installed when the trail is in use. Due to the proposed 10 years commencement condition, a requirement should be included to resurvey bat roosts, and details of bat boxes should be provided.
- 6.3.13 In compensation for potential impacts upon dormice, and to ensure their favourable conservation status is maintained, 50 dormouse nest boxes are proposed within the site and approximately 1.24km of hedgerow, 0.6ha of woodland and 0.26ha of scrub would be created. It is considered that the proposal meets the three Habitats Regulations tests as alternatives have been considered, and the cycleway will help maintain public health. To avoid impacts during construction, dormice should be displaced under a mitigation licence from Natural England.
- 6.3.14 In terms of other protected species, good habitat for badgers was noted, with fields, hedgerows and small areas of woodland providing potential foraging opportunities, and sloping mud banks providing suitable sett building locations. To avoid harm, any excavations should be capped overnight and any pits or trenches covered or means of escape provided. Due to the request for a 10 years commencement period, a repeat survey will be required for badgers.
- 6.3.15 The route of the cycleway is located within the Cirl Bunting Consultation Zone, and a minimum of three Cirl Bunting breeding territories are noted within the application site boundary. 0.4ha of suitable arable/grassland habitat for these birds will be lost within the footprint of the scheme, although this is not deemed to compromise the viability of the territories. In addition, compensatory habitat is proposed off site as indicated below.
- 6.3.16 Other nesting birds, over-wintering birds and reptiles were also noted at the site. Restricting timings for vegetation clearance will help minimise any impacts on Cirl Bunting as well as other species, and additional screening at Wear Pond and Flow Point, as well as other sensitive locations, would be installed to avoid disturbance impacts during operation.
- 6.3.17 The invasive non-native species Himalayan Balsam was found present at the site. The removal of this species should be carried out prior to construction and its ongoing management ensured through condition.
- 6.3.18 In order to protect these species, conditions should be used to ensure the recommendations in the ecology report are carried out, including the

following: repeat surveys for bats and badgers; a Construction Environmental Management Plan, to include detailed measures to reduce impacts of disturbance and degradation on important ecological features, including pollution prevention and invasive non-native species measures, and timings of works to avoid key periods of wildlife activity; long-term mitigation and management to be agreed through a Landscape Ecological Management Plan; and restricting the use of lighting.

## Biodiversity Net Gain

6.3.19 On and off-site habitat compensation is proposed which would result in a predicted increase of 10.97% for habitats and 12.38% for hedgerows in terms of biodiversity net gain. The onsite provision of habitats includes 1.24km of native species-rich hedgerow, 0.6ha of native broadleaved woodland, 0.26ha of mixed scrub, 1.17ha of modified/other neutral grassland and 0.33ha SuDS habitat. The off-site mitigation proposes the enhancement of 1.5ha of saltmarsh, 2ha of broadleaved woodland and 2ha of neutral grassland from poor condition to moderate condition. The location of this off-site mitigation is unknown at this stage, but a 'Letter of Intent' sets out a commitment by Devon County Council as developer to deliver offsite habitat compensation and mitigation in agreement with details to be approved by the County Ecologist. A condition of the permission should be used to ensure at least 10% Biodiversity Net Gain is delivered for the scheme overall.

6.3.20 The use of a condition and 'letter of intent' are deemed to be an appropriate mechanism to achieve biodiversity net gain, as a legal agreement cannot be made where the Council is applicant and planning authority, and this will address the concerns raised by the Environment Agency.

6.3.21 In conclusion, it is considered that, following the implementation of mitigation, compensation and enhancement measures specified in the application, and the conditions recommended above, no significant residual impacts would result from the scheme. The development would therefore align with the Local Plan Policies EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species) and EN12 (Woodlands, Trees and Hedgerows), and with Neighbourhood Plan Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats) and BSB2 (Cirl buntings).

## **6.4 Landscape, Design and Materials**

6.4.1 The site is located in the 'Coastal Slopes and Combes with Settlement' Landscape Character Area (LCT 4C) of the Teign Estuary Devon Character Area. The nearest nationally protected landscape is Dartmoor National Park around 7 km to the west, which is too far away for the proposed trail to have any impact on the National Park's setting and special qualities.

6.4.2 Within the Teignbridge Local Plan the trail route is located within the 'Undeveloped Coast' which is designated and protected. Policy EN2 (Undeveloped Coast) notes that the protection and enhancement of the

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distinctive landscape and seascape character and ecological qualities of undeveloped coast will be a priority alongside the ecological and biodiversity considerations, and development that would have a detrimental effect on its character will not be permitted. This policy also requires that development must have regard to the Shoreline Management Plan.

- 6..4.3 Local Plan Policy EN2A (Landscape Protection and Enhancement) requires development to be sympathetic to and help conserve and enhance the natural and cultural landscape. Specific landscape features that contribute to the local landscape character and quality in a positive way should therefore be protected.
- 6.4.4 Overall, the proposed route fits reasonably well into the existing landscape pattern. It is aligned roughly in parallel with the estuary edge and follows the 'grain' of the strong vegetation pattern of fields, hedgerows and small copses that are characteristic of the predominantly rural agricultural landscape setting. When seen in longer views, the visual impact of this new linear feature in the landscape would be softened by the adjacent retained trees and hedgerows together with the proposed planting of new trees, copses and hedgerows. Such planting would also serve to compensate for the impact upon the existing landscape though the required tree, woodland, and hedgerow removal and other vegetation losses.
- 6.4.5 In terms of impacts upon the existing landscape, it will be necessary to ensure that trees and vegetation are protected during the construction phase, and roots are not severed, through a Construction Environmental Management Plan. This Plan should set out protection measures, including details of the 'no dig' construction within Root Protection Areas and, where this is not possible, excavation by hand to allow substantial roots to be retained.
- 6.4.6 The Public Rights of Way team have highlighted their concern about the proposed use of thorny plants alongside the cycleway, and concerns regarding maintenance. In this case details will need to be submitted about all proposed planting and seeding as part of a condition of the development.
- 6.4.7 To ensure that all planting remains and functions to integrate the scheme within the wider landscape and limit visual impacts, a Landscape and Ecological Management Plan should be required through a condition to guide the long-term management of existing and new vegetation/habitats within the site.
- 6.4.8 In terms of the proposed hard landscaping, concerns are also raised about the appearance of the large, ramped structures, at Luxton Marsh in particular, as high supporting structures would be required. The current crib wall design at the Hackney Marsh end of the trail that would extend for a total of 350m, would not provide sufficient space for vegetation to grow. Standing between 0.5 to 1.7m in height, it would appear as a dominant unnatural feature within the wider rural landscape. The same can be said for the concrete retaining wall either side of the subway which would extend for a total of 55m. The detailed design for the supporting structure for the ramps will therefore need

to be addressed through a planning condition with a revised design to be submitted for the crib walling. In terms of the retaining wall, given the high scenic quality and vernacular character of historic settlements in the Teign Estuary area where stone walls are common, and to align with policy EN2A (Landscape Protection and Enhancement) so that its design is sympathetic to the local landscape, this should be stone faced to match that used for the ramped structure nearest to Teignmouth.

6.4.9 The application in its current form provides limited indication of the materials to be used as part of the scheme other than a timber deck for the bridge over Flow Lane and a tarmac type surfacing to the trail. It is felt that all post and rail fencing and parapets and close boarded fencing on structures and boardwalks should be timber to reflect the rural nature of the area. The details of all stone faced and stone structures should be required by a condition, to ensure these reflect those found in the surrounding area.

6.4.10 Palisade fencing, as requested by the landowner of Wear Farm, would result in a feature out of character with the wider rural landscape, and only act to further reduce the quality of the outlook from those holidaying at the caravan park, which forms part of the current objection of this same landowner. This form of fencing would conflict with policy and should not form part of the proposal.

6.4.11 In conclusion, it is considered that, once the detailed design is revised through conditions forming part of the planning permission, the development would align with the Policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure) and S2 (Quality development) of the Teignbridge Local Plan, and Neighbourhood Plan Policy BSC5 (Landscape views).

## **6.5 Land Stability**

6.5.1 Network Rail (NR) have raised some concerns about the potential for the construction of the cycleway, as well as the location of site compounds, to impact upon railway earthwork infrastructure and the safe operation of the railway where ground conditions are not suitable. In this case they have requested further liaison with the Rail Authority, so that through a condition of the permission, further ground investigation work is carried out, and agreement of the design and construction of adjacent structures to the line, so that no interference with the integrity of NR property/structures and the railway can occur.

6.5.2 In this case, in meeting the requirements of this condition the scheme would align with the NPPF (Para 183), and the requests of Network Rail.

## **6.6 Flood Risk and Sustainable Drainage**

6.6.1 The site is located within Flood Zones 2 and 3, and sections along the route are subject to flooding associated with the Teign Estuary, in particular the

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areas around Wear Pond County Wildlife Site (CWS), Luxton Marsh and Flow Point CWS.

- 6.6.2 The applicant has submitted a Flood Risk Assessment (FRA) which includes a Sequential Test, the aim of which is to avoid development in medium and high flood risk areas (Flood Zones 2 and 3). The FRA sets out key factors which have determined the route alignment and, whilst it is evident that effort has been made to avoid areas at higher risk of flooding, this has not always been possible. Principally the trail has been designed to be near the estuary as much as possible; avoid protected wildlife areas and fishing areas; follow contours and mirror the existing ground profile allowing the maintenance of all the existing land access points; provide a flat path for users; and fit in within the wider landscape. At a few locations, specifically near Flow Point, the route is aligned nearer to the estuary to make it more linear and cycle friendly and, at Wear Pond, where the proposed path level is 0.5m Above Ordinance Datum (AOD) at its lowest, some 3-4m below the recommended level of 4.5m AOD, this was principally guided to avoid the protected Country Wildlife Site.
- 6.6.3 The proposed use as a cycle and pedestrian path would fall within a category classified by the Environment Agency as 'Water Compatible' and 'Essential Infrastructure', as transport infrastructure and as a recreational route. This means that it could be acceptable as an exception if it can be demonstrated that this use will be 'safe for its lifetime'; can provide 'wider sustainability benefits to the community that outweigh flood risk', without increasing flood risk elsewhere; and where possible reduce flood risk overall.
- 6.6.4 In applying the Exceptions Test to demonstrate that the development is 'safe for its lifetime', the application sets out a number of measures including information boards providing clear guidance at times of flood and signage to direct users to escape routes. At Wear Pond, it is noted that water levels would increase gradually, allowing sufficient time for users to choose an alternative route. To ensure that the site is safe for its lifetime, flood risk mitigation measures should be the subject of a condition of the planning permission.
- 6.6.5 In terms of 'wider sustainability benefits to the community', the scheme would help promote sustainable forms of transport, benefitting local and wider climate change by reducing carbon emissions, as well as improving the health of its users. Of the new trail length, 810m would fall within designated flood zones, and the scheme would result in the loss of 150m<sup>3</sup> of flood storage volume. To help water flow and reduce flood risk at areas within the flood plain, specifically Wear Pond and Luxton Marsh, porous mats and pipes would be used underneath the path. Flap valves fitted to the lagoon and pond outfalls would also enable the release of any stored water at regular intervals, helping to prevent localised flooding.
- 6.6.6 To fully assess whether the development would increase flood risk elsewhere, specifically upon Network Rail land and any surrounding property or businesses, a detailed sustainable drainage scheme is required. The application sets different types of drainage options across the scheme, with

filter drains commonly being proposed, but Network Rail have advised against infiltration and soakaway features adjacent to their boundary on grounds of earthworks stability. The Lead Local Flood Authority and Network Rail both recommend that further details are required, including catchment run-off figures. These should be required through a condition of the permission to ensure the development can satisfy the Exceptions Test as a water compatible/essential infrastructure development.

- 6.6.7 The Environment Agency has withdrawn its objection and now supports the proposed scheme and the proposed mitigation measures subject to conditions regarding flood evacuation and mitigation. It is considered that, subject to the flood risk measures indicated above and recommended conditions, the proposal would meet the requirements of the National Planning Policy Framework, Local Plan Policy EN4 (Flood Risk) and Neighbourhood Plan Policy BSA6 (Flooding).

## **6.7 Highways and Parking**

- 6.7.1 The proposed trail would help to improve highway safety by providing a safer option for cyclists and pedestrians who currently use the A381. No details have been submitted regarding the impacts of construction traffic and, in order to ensure this is managed appropriately, a Construction Environmental Management Plan should be required through a condition.

- 6.7.2 Without any changes to the existing highway, it would not currently be safe for pedestrians and cyclists to exit directly onto the road at the Teignmouth end of the trail, as this is a busy section of road with limited visibility. It is clear that there is an intention to continue the cycleway in this location but, as this would be located directly adjacent to the highway, it would fall under 'permitted development' rights for the Highway Authority to carry out these works. Nonetheless it is appropriate to require through a planning condition that these works take place in advance of opening of the trail.

## **6.8 Amenity Impacts**

- 6.8.1 As indicated above, a number of properties are located within the vicinity of the proposed trail, and possible amenity impacts from the trail when in use would be on privacy; altered outlook in some areas and the potential for overlooking; perceived impacts on security; and impacts from noise generated by users and their dogs. During the construction phase, impacts would be focused on those associated with noise from construction vehicles, plant and machinery, and piling associated with the construction of the board walks, including in areas where land instability is found.

- 6.8.2 The nearest property at the end of Flow Lane is located 20m from the trail to its south and, to the rear, has a steep sloping roof with windows at a lower level. To the north east of this property would be a new bridge just beyond the existing railway bridge. Well established, tall trees and vegetation form a current boundary to the rear of the property, as well as adjoining the railway line to the north. Views toward the property from the bridge would be partially

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obscured by vegetation and these would be at an oblique angle to the rear of the property which faces north west. Views from the trail to the north west would be obscured by vegetation when in leaf and, as the property is set at a lower level, views into windows would be limited. The property is likely to experience noise and disturbance impacts during the construction of the trail and when the bridge is put in place, and a Construction Environmental Management Plan will be required by a condition to detail how these impacts will be limited.

- 6.8.3 There are also a group of properties at Luxton Steps at the end of the existing footpath that links to Bishopsteignton. The path would be 40m away from the nearest property, although any views of users would be obscured by dense trees that surround these properties when in leaf and variations in ground level. At the western end of the trail, the Passage House Hotel is 40m away at its nearest point, but a line of coniferous trees along the boundary would prevent any views to or from the trail.
- 6.8.4 Within 150m of the site would be a number of caravans at Wear Park Farm at its southern tip; the grounds for properties adjacent to Flow Lane and the Beresford Clinic; the rear parking at Jacks Patch Garden Centre; and four properties which align the A381 to the north of the trail (at its eastern end where it links to the road). The distances from the trail, existing and/or proposed intervening vegetation and hedgebanks, would result in limited impacts upon the privacy for these properties and businesses. There may be an impact upon outlook in the short term whilst vegetation establishes, and there will be views of post and rail fencing. Although fencing is not currently typical in the area, timber fencing combined with hedgebanks or hedgerows proposed along most of the route would still reflect the countryside character of the area as a whole. To help minimise potential impacts, it is proposed that planting and construction of hedgebanks take place in advance of the opening of the route in agreement with the Council.
- 6.8.5 A condition should be used to minimise impacts upon surrounding properties and businesses during the construction phase. With the mitigation measures set out above the impacts would be acceptable and align with Local Plan Policy S1 (Sustainable Development Criteria).
- 6.8.6 A landowner has also raised concerns about security impacts upon neighbouring properties, specifically the users of Wear Park Caravan Park, as this is not currently accessible by the public. The plans indicate that the only access to the caravan park from the trail would be through the use of a keypad locking system, and the trail would be enclosed with hedges as well as a post and rail fence. In this case, the proposed path is not considered to raise security concerns with the caravan park, as it would not be accessible by the general public.
- 6.8.7 Comments sent on behalf of the same landowner also raise concerns about access to a piece of their land, with the objection referring to a route 'which severs the working farm in two'. This area is not rectangular but unusual in shape and relatively small for agricultural machinery. The fields to the north

are clearly in arable use, but the area to the south of the trail is currently a mixture of reed beds, saltmarsh and grassland and forms a relatively small part of the farm as a whole. The applicant has stated that the overriding reason to run the path around this area is to protect the County Wildlife Site. Two locked access and exit points have been incorporated into the scheme for use by the landowner to cross the path. In this case it is considered that the wider ecological reasons to protect the area, which the farmer can still access, would justify the current alignment of the path.

## **6.9 Impact upon Agricultural Land**

- 6.9.1 Agricultural land in the location of the trail falls within classification grades 2 and 3a, both of which are within the best and most versatile agricultural land.
- 6.9.2 It is understood that 2.9ha of arable land will be lost as a result of the development, although 1.88ha of this would be reinstated as this is land that is required for temporary works such as compounds or areas for plant and machinery to build the trail. In most cases the land lost would be at the edge of existing farmed fields, so the scheme will not prevent ongoing farming on these fields.
- 6.9.3 Although there will be a marginal loss in terms of the economic benefits for local farming and local food production, the scheme will result in considerable wider economic benefits through tourism and the wider local economy. It would also result in sustainable development through its wider social, economic and long-term environmental benefits, and so meet the requirements of Local Plan Policy S1 (Sustainable Development Criteria).

## **6.10 Historic Environment**

### Listed Buildings and Conservation Area

- 6.10.1 Intervisibility and possible impacts upon the setting of listed buildings are noted for Wear Farmhouse and Bishopsteignton House. The latter is a Grade II Listed Building and located around 700m to the north of the route. Due to the distance, topography and presence of intervening and proposed vegetation, the development is unlikely to result in an impact upon its setting.
- 6.10.2 Wear Farmhouse is a Grade II\* Listed Building of likely early 17<sup>th</sup> century age, located 340m to the north of the route beyond some of the caravans at Wear Farm. The principal elevation of the farmhouse is to the south, which means its outlook and views are orientated across the estuary and the broader landscape which incorporates the proposed trail. The applicant's Heritage Assessment notes that the "broad ranging views across farmland and the estuary would have made an important contribution to the historical experience of its setting". However, the static caravan of Wear Farm Holiday Park forms a dominant outlook from the house to the south east and the railway line beyond.

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6.10.3 In terms of assessing the impacts upon the setting of the Farmhouse, during the construction phase, these would be from views of the construction works (including plant and machinery), and from noise generated as a result of the construction of the subway and the retaining structure. As these impacts will be temporary, less than substantial harm would be concluded in this case. Once open, impacts upon the setting would be limited in terms of views of the path to the south west, as it would sit below a retaining crib wall structure. Although a post and rail fence would be visible along the field boundary, and a new gap in the existing hedgerow would be formed at the top of the retaining wall on the western side of the bridge. To the south east, the same fencing, and a proposed hedge would limit views of the path and of its users, once the hedgerow is established. A stepped path with a keypad access is identified on plans to the east of the railway bridge, directly south of Wear Farmhouse, but the appearance is not identified at this stage. The trail would be far enough away not to increase noise levels experienced at the property. In this case, less than substantial harm would result upon the setting, in order to limit impacts and help retain the existing rural outlook, it should be conditioned that the fencing is timber, a hedgerow is planted in the gap and the material and design for the steps are agreed.

6.10.4 While considerable importance and weight should be given to the desirability of preserving the setting of Wear Farmhouse, it is considered that the public interest in providing a strategic cycling and walking route outweighs the less than substantial harm to the setting of this asset, subject to the mitigation measures above. This is in accordance with the Planning (Listed Building and Conservation Areas) Act 1990 and paragraphs 199 and 202 of the NPPF.

6.10.5 Bishopsteignton Conservation Area lies 400m to the north of the route at its nearest point. Some limited intervisibility with the higher areas of the Conservation Area and elevated listed buildings are noted in the landscape assessment, although the intervening vegetation would result in an unperceivable impact.

## Archaeology

6.10.6 Possible Iron Age/Romano-British deposits associated with an ancient trackway and four historic field boundaries have been identified along the route, together with post-medieval and modern remains relating to the construction of the 19th century railway and a possible WWII defensive position. Nonetheless, there is low potential for encountering previously unrecorded remains, and these are not anticipated to be of such heritage significance as to prevent the proposed development. The truncation or loss of these possible features would be mitigated by the programme of archaeological mitigation set out within the application, which should be secured by a condition of any permission.

6.10.7 Given these considerations, the development is considered to accord with Local Plan Policy EN5 (Heritage Assets) and the NPPF.

## **6.11 Impacts on Infrastructure**

6.11.1 The main gas pipeline for the South West would run underneath the proposed trail in a north/south alignment to the east of Ware Barton Copse. Following consultation with the National Grid Plant Protection Team, it is concluded that there would be no impacts upon the infrastructure as a result of the trail's construction.

## **6.12 Other Environmental Considerations (Including Climate Change)**

6.12.1 Paragraph 148 of the National Planning Policy Framework requires that “the planning system should support the transition to a low carbon future in a changing climate”, while Devon County Council has declared a climate emergency and committed to facilitating the reduction of Devon's carbon emissions to net-zero by 2050. The scope for individual planning applications to contribute to these initiatives will be dependent on the nature and scale of the development being proposed, and relevant considerations are outlined below.

6.12.2 The application would support a modal shift away from private car use, encouraging cycling and walking in preference to car use for commuting and leisure nearer to communities.

6.12.3 A Waste Audit Statement sets out measures to minimise waste as a result of the scheme, and a Construction Environmental Management Plan would also require details to reduce waste during construction and details of sustainably sourced materials.

## **7. Reasons for Recommendation/Alternative Options Considered**

7.1 The Committee has the option of approving, deferring or refusing this planning application.

7.2 It is considered that the principle and noted benefits of the scheme to deliver a new footpath and cycleway linking Newton Abbot and Teignmouth warrant a recommendation for approval. This is subject to the submission of further details, in particular final drainage, ground conditions and landscaping details amongst others, and the conditions proposed in Appendix I will ensure that all details are submitted for approval, and mitigation provided to compensate for impacts.

Mike Deaton  
Chief Planner

**Electoral Division: Kingsteignton & Teign Estuary**

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## Local Government Act 1972: List of Background Papers

Contact for enquiries: Hayley Stokes

Room No: 120, County Hall

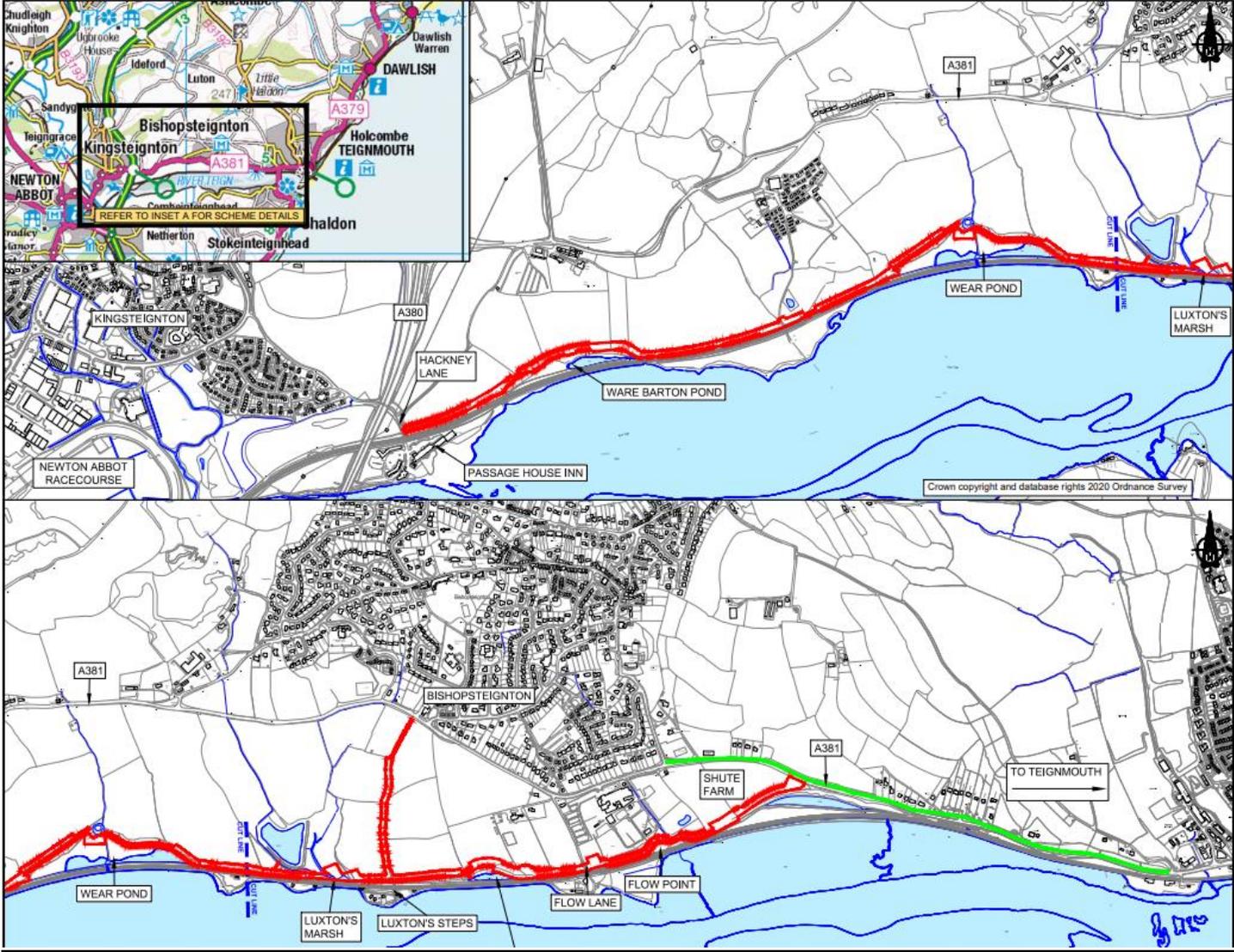
Tel No: 01392 383000

<b>Background Paper</b>	<b>Date</b>	<b>File Ref.</b>
Casework File		DCC/4238/2021

hs111121dma

sc/cr/Creation of a new shared use path Teign Estuary Trail Passage House Inn via  
Bishopsteignton Teignmouth  
02 231121

# Location Plan



## Planning Conditions

### STANDARD COMMENCEMENT

1. The development shall commence within ten years of the date of this permission.

REASON: In accordance with Section 91 of the Town and Country Planning Act 1990.

### STRICT ACCORDANCE WITH PLANS

2. The development shall be carried out in strict accordance with the details shown on the approved drawings and documents numbered and entitled: Location Plan - B09001/P001 Rev 0; Tree Survey Plan Figure 1-5 - AC2010 Rev A, Tree Survey Plan Figure 6-10 - AC2010 Rev A, Tree Removal Plan Figures 01-10 - Rev B, Hackney Lane to Ware Barton Scheme Overview (1 of 4)- B09001/P002 Rev 0, Rydon Gardens to A381 Scheme Overview (4 of 4)- B09001/P005 Rev 0, Statutory Undertakers Plan - B09001/P010, Flood Risk Assessment and Drainage Strategy Plan (1 of 4)- B09001/P011 Rev 0, Flood Risk Assessment and Drainage Strategy Plan (2 of 4) - B09001/P012 Rev 0, Flood Risk Assessment and Drainage Strategy Plan (3 of 4)- B09001/P013 Rev 0, Flood Risk Assessment and Drainage Strategy Plan (4 of 4)- B09001/P14 Rev 0, Environmental Baseline Plan Section 1 - 3213\_L\_MP\_1\_09 Rev B, Environmental Baseline Plan Section 2 - 3213\_L\_MP\_1\_10 Rev B, Environmental Baseline Plan Section 3 - 3213\_L\_MP\_1\_11 Rev B, Environmental Baseline Plan Section 4 - 3213\_L\_MP\_1\_12 Rev B, Mitigation Plan Section 1 - 3213\_L\_MP\_1\_13 Rev A, Mitigation Plan Section 3 - 3213\_L\_MP\_1\_15 Rev A, Mitigation Plan Section 4 - 3213\_L\_MP\_1\_16 Rev A, Environmental Cross Sections - B09001/P007 Rev A, Structure Elevations - B09001-P009 Rev A, View Points - B09001/P015, Wear Pond to Rydon Gardens & Path to A381 Bishopsteignton Scheme Overview (3 of 4)- B09001/P004 Rev A, Trail Cross Sections - B09001/P006 Rev C, Mitigation Plan Section 2 - 3212\_L\_MP\_1\_14 Rev B), Ware Barton to Wear Pond Scheme Overview (Sheet 2 of 4) - B09001-P003 Rev A), Structure Cross Sections - B09001/P008 Rev C; 'Flood risk assessment & drainage strategy' (dated May 2021); 'Response to the Environment Agency objection relating to flood risk' (dated July/August 2021); the Ecological Impact Assessment (JBA Consulting, May 2021); written Scheme of Investigation prepared by Cotswold Archaeology (CA Project: CR0717, dated 4th May 2021), Archaeological Mitigation Works Bishopsteignton Plan Fig 1 (west half) & Archaeological Mitigation Works Passage House Inn to Bishopsteignton Plan Fig 1 (east half).

except as varied by the conditions below.

REASON: To ensure that the development is carried out in accordance with the approved details.

### CONDITIONS (PRE-COMMENCEMENT)

## NOTIFICATION OF COMMENCEMENT AND USE

3. Written notification of the date of commencement of the development shall be sent to the County Planning Authority at least 14 days prior to commencement of the works or use. The County Planning Authority shall be notified in writing within 14 days of each part of the proposed trail being made available for public use.

REASON: To manage the ecological and landscape mitigation requirements of the development, and in the interests of highway safety in accordance with policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure), S2 (Quality development), S9 (Sustainable Transport) of the Teignbridge Local Plan; Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats), BSB2 (Cirl buntings) and BSC5 (Landscape views) of the Bishopsteignton Neighbourhood Plan.

## CONSTRUCTION MANAGEMENT

4. No development (including ground works) or vegetation clearance works shall take place until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the County Planning Authority. This Plan shall include the following:
  - (a) timetable/programme of works;
  - (b) measures for construction traffic management [including details of the number/frequency and sizes of vehicles];
  - (c) days and hours of construction operations and deliveries;
  - (d) location of loading, unloading and storage of plant and materials;
  - (e) location of contractor compound and facilities, and restoration details when the construction is complete;
  - (f) provision of boundary fencing/hoarding;
  - (g) parking of vehicles of site personnel, operatives and visitors;

### *Ecological and Landscape Impacts*

- (h) environmental protection measures during construction, including, but not limited to, the protection measures for vegetation to be retained; protection of trees and hedges with details of 'no dig' construction, and 'hand excavation' within Root Protection Areas; which shall be in accordance with the BS5837:2012;
- (i) timing of all vegetation clearance;

### *Air Quality Impacts*

- (j) measures to monitor and control the emission of dust and mud during construction, including wheel washing facilities;

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## *Noise Impacts*

- (k) measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery;
- (l) details of any piling proposed;

## *Ground Contamination and Pollution Control*

- (m) a strategy for the potential discovery and management of any unexpected contamination within made ground, alluvial material, bedrock or groundwater;
- (n) a strategy for pollution prevention;

## *Drainage*

- (o) detailed proposals for the management of surface water and silt runoff from the site during construction;

## *Waste Management*

- (p) a final Waste Management Plan (reflecting the submitted Waste Audit Statement) including committed steps for waste minimisation and recycling and updated forecast quantities, with any disposal destinations identified;

## *Sustainability*

- (q) steps to improve the sustainability of the construction period, including sources of materials and improving skills.

The development shall be implemented in accordance with the approved Plan.

REASON: To ensure adequate access and to minimise the impact of construction on the environment, the local highway network and the living and working conditions of local residents and businesses in accordance with Policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure), S2 (Quality development), S9 (Sustainable Transport) and S11 (Pollution) of the Teignbridge Local Plan; Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats), BSB2 (Cirl buntings) and BSC5 (Landscape views) of the Bishopsteignton Neighbourhood Plan; Policy W4 (Waste Prevention) of the Devon Waste Plan; Paragraph 170 of the National Planning Policy Framework and the Wildlife and Countryside Act 1981 (as amended).

## ECOLOGY & LANDSCAPE

5. Before the commencement of any site works or vegetation clearance, a ground-based bat roost assessment and repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to, and approved in writing by, the County Planning Authority.

Site works shall be carried out in accordance with the approved survey and any associated mitigation/compensation measures required.

REASON: To minimise the impacts on protected species in accordance with Policy EN9 of the Teignbridge Local Plan and paragraph 170 of the NPPF.

6. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the County Planning Authority. The LEMP shall include:
  - (a) method statements for planting methods, the maintenance and management of existing and mitigation planting, along with a timetable/schedule;
  - (b) annotated maps illustrating details of on-site habitat creation and management;
  - (c) an Invasive Species Management Plan; and
  - (d) details of the bird nesting/bat roosting boxes.

The development shall be implemented in accordance with the approved LEMP. All planting and landscaping shall be implemented in the first planting and seeding season after first use of the development, unless agreed as advance planting. Planting and landscaping shall be maintained for a minimum of 5 years and managed for a further 25 years, as detailed in the LEMP, following commencement of the use of trail.

REASON: To ensure that protected species, habitats and the local landscape are conserved and enhanced in accordance with policies EN2 (Undeveloped Coast); EN2A (Landscape Protection and Enhancement); EN8 (Biodiversity Protection and Enhancement); EN9 (Important Habitats and Features); EN10 (European Wildlife Sites); EN11 (Legally Protected and Priority Species); EN12 (Woodlands, trees and hedgerows); WE11 (Green infrastructure); and S2 (Quality development) of the Teignbridge Local Plan, and Neighbourhood Plan policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats); BSB2 (Cirl buntings) and BSC5 (Landscape views).

7. No development shall take place until a Saltmarsh Translocation and Monitoring Strategy has been submitted to and approved in writing by the County Planning Authority. The approved scheme shall be implemented in a timescale agreed with the County Planning Authority. The approved scheme shall be maintained for a period of five years and managed for a further 25 years as detailed in the approved Strategy.

REASON: To protect biodiversity and the character and appearance of the local landscape in accordance with Policies EN2A (Landscape Protection and Enhancement), EN8 (Biodiversity Protection and Enhancement) and EN9 (Important Habitats and Features) of the Teignbridge Local Plan.

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8. Prior to the commencement of development, a landscaping scheme shall be submitted to and approved in writing by the County Planning Authority. This scheme shall include, but not be limited to:
- (a) updated Environmental Mitigation plans, to include a new hedgerow at the top of the retaining wall for the subway;
  - (b) written specifications, including methods of cultivation and other operations associated with plant and grass establishment;
  - (c) schedules of plants/grass, giving species, planting sizes and proposed numbers and densities;
  - (d) all proposed surfacing including the design of the path surface and the steps to the south of Wear Farm (including the extent, material, joining/edging details, specifications, colours);
  - (e) details of all fencing, which shall be timber, railings, gates and all other boundary treatments (including type, locations, style, materials and colours proposed);
  - (f) position, design and dimensions of all permanent signage including interpretation boards and flood risk evacuation signs;
  - (g) design of bollards;
  - (h) details of the retaining walls either side of the subway indicated on plan numbered B09001/P003/Rev A, should be stone faced, with all stone wall details (including coursing, capping, source of stone, mortar details and proposed finish);
  - (i) details of the boardwalks, including uprights and viewing platforms;
  - (j) details of the final appearance of all crib walls and planting within these;
  - (k) details of any other hard landscape elements; and
  - (l) the timetable to implement the landscaping measures indicated above.

The development shall be carried out in accordance with the approved scheme, which shall be maintained for a minimum period of five years. Any tree, plant or grassed area, or any replacement of it, that is removed, uprooted, destroyed or dies within five years of the date of planting or seeding shall be replaced with the same or similar species in the same location.

**REASON:** To protect the character and appearance of the local landscape, and habitats, and flood risk, in accordance with Policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN4 (Flood Risk), EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure) and S2 (Quality development) of the Teignbridge Local Plan, and Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats), BSB2 (Cirl buntings) and BSC5 (Landscape views) of the Bishopsteignton Neighbourhood Plan.

**INFORMATIVE NOTE:** Container grown stock can be planted any time (although not best practice in July or August), provided that there is sufficient watering and maintenance. Seeding should be undertaken in suitable weather conditions in the spring, late summer or autumn. No seeding is to take place between 15 May and 15 August or between 1 November and

28 February. Seeding should be suspended during periods of persistent cold weather or heavy rainfall.

## LAND STABILITY

9. Before the development commences, ground investigations shall be carried out along the route and the results set out in a report which shall be submitted to the County Planning Authority. The report shall include full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence, including groundworks that are affected by associated structures including any retaining walls, the subway and the boardwalk. The report shall set out all actions and subsequent changes required to the scheme for approval by the County Planning Authority.

The development shall be carried out in accordance with the approved details.

REASON: To ensure the stability of Network Rail's earthwork for protection of the neighbouring railway in accordance with the National Planning Policy Framework Paragraph 183.

INFORMATIVE NOTE: all excavations/earthworks carried out in the vicinity of Network Rail's property/structures must be designed and executed such that no interference with the integrity of that property/structure can occur.

## FLOOD RISK & DRAINAGE

10. The development hereby permitted shall not commence until the following information of surface water drainage features has been submitted to and approved in writing by the County Planning Authority:
  - (a) a detailed drainage design including design calculations and construction details, catchment runoff calculations;
  - (b) information on where the flows from the attenuated areas (including adjacent to Hackney Lane as well as adjacent to Flow Lane) will connect into;
  - (c) proposals for the adoption and maintenance of the permanent surface water drainage system; and
  - (d) a timetable for implementation.

The development shall be carried out in accordance with the approved details.

REASON: To ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, Network Rail Land or other adjacent land or downstream in line with SuDS for Devon Guidance (2017) In accordance with Local Plan policy EN4 (Flood Risk) and the NPPF.

The condition is pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to

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avoid redesign/unnecessary delays during construction when site layout is fixed.

Note: No drainage structure shall be within 5m of the Network Rail boundary.

## CONDITIONS (OPERATIONAL)

### FLOOD RISK & DRAINAGE

11. Within three months of completion of each part of the proposed trail, a post-construction site survey shall be submitted to the County Planning Authority confirming the built levels of the trail.

REASON: To mitigate flood risk in accordance with Teignbridge Local Plan Policy EN4 Flood Risk, and Bishopsteignton Neighbourhood Plan Policy BSA6 (Flooding).

### ECOLOGY

12. A Biodiversity Net Gain Plan and updated Biodiversity Metric shall be submitted to and approved in writing by the County Planning Authority. A minimum 10% Biodiversity Net Gain, on and off-site, shall be delivered in accordance with the approved plan before the use of the path. Off-site measures will be carried out in accordance with measures as set out in the 'Letter of Intent' dated 21 November 2021. The habitats created shall be managed for a period of 30 years.

REASON: To ensure biodiversity net gain is achieved as a result of the development in accordance with Para 174 d NPPF. (Schedule 14 - Cl. 90 Environment Bill).

### LIGHTING

13. No artificial lighting shall be installed or used at the site at any time (during construction or operation) unless details shall first have been submitted to and approved in writing by the County Planning Authority.

REASON: To minimise the visual impact of the site on the surrounding landscape and limit impacts upon protected species, in accordance with policies EN2 (Undeveloped Coast); EN2A (Landscape Protection and Enhancement); EN8 (Biodiversity Protection and Enhancement); EN9 (Important Habitats and Features); EN10 (European Wildlife Sites); EN11 (Legally Protected and Priority Species) of the Teignbridge Local Plan, and Neighbourhood Plan policies BSB1 (Grey Long-eared bats & Greater Horseshoe Bats) and BSB2 (Cirl buntings).

## HIGHWAY SAFETY

14. No direct physical connection from the new trail onto the A381, at the eastern end, shall be made until appropriate pedestrian and cyclist safety measures have been provided in accordance with details that have been submitted to and approved in writing by the County Planning Authority.

REASON: To ensure the safety of users of the proposed trail in accordance with the NPPF paragraph 110 and Policies S1 (Sustainable Development Criteria), S2 (Quality Development) and S9 (Sustainable Transport) of the Teignbridge Local Plan.



**Delegated Schedule – 1 December 2021 - Summary**

District	Location	Application Number	Proposal	Electoral Division	Decision
South Hams District Council	Torr Quarry Transfer Station, Torr Quarry, East Allington, Totnes, Devon, TQ9 7QQ	DCC/4222/2021	Construction of waste transfer/storage building	Salcombe	Conditional Approval
Teignbridge District Council	Crablake Farm, Exminster, Exeter, EX6 8GA	DCC/4227/2021	On-farm composting of garden waste in an open windrow, with all compost used on the holding	Exminster & Haldon	Conditional Approval
East Devon District Council	Payhembury C of E School (VC), Road From Payhembury Cross To Markers Park, Payhembury, EX14 3HT	DCC/4237/2021	Replacement of single glazed timber windows and doors and one single glazed crittall with double glazed timber windows and double glazed timber door	Whimble & Blackdown	Conditional Approval
South Hams District Council	Venn Farm, A379 Chittleburn Hill to Red Lion Hill, Brixton, PL8 2AX	DCC/4240/2021	Retrospective application to vary the site boundary to include noise/visual screening bunds; an additional section of track; to enable HGVs to access the site; and to install 250m of new hedgebank for landscaping and biodiversity benefits	Bickleigh & Wembury	Conditional Approval
Exeter City Council	Ladysmith Infant School, Ladysmith Road, Exeter, Devon, EX1 2PS	DCC/4241/2021	Prior Approval application for the demolition of 4-classroom modular building comprising timber frame and timber panel walls and flat roof and restoration works.	St Sidwells & St James	Permitted Development

District	Location	Application Number	Proposal	Electoral Division	Decision
Torrige District Council	Great Torrington Bluecoat Church Of England Primary School, Borough Road, Torrington, EX38 7NU	DCC/4242/2021	Replacement roof covering including insulation to Block 01 increasing height by approximately 95mm	Torrington Rural	Conditional Approval
West Devon Borough Council	Hatherleigh Primary School, South Street, Hatherleigh, EX20 3JB	DCC/4243/2021	Replacement of roof covering, external cladding, windows, external doors, rainwater goods and small entrance canopy to a small modular classroom building (Block 2).	Hatherleigh & Chagford	Conditional Approval
Torrige District Council	West Croft School, Coronation Road, Bideford, EX39 3DE	DCC/4244/2021	Overlay existing flat roof coverings to Block 01 with new Garland Stressply built up mineral felt coverings including upgrade of insulation which will result in a change in roof height of between 100mm to 140mm	Bideford West & Hartland	Conditional Approval
East Devon District Council	St Michaels, Devon County Council Social Services & Adult Services, Orchard Way, Honiton, EX14 1HU	DCC/4245/2021	Energy improvement works comprising the installation of an external wall insulation system, the installation of air source heat pumps to existing boiler room and the installation of photovoltaic panels to the existing flat roofs	Feniton & Honiton	Conditional Approval
Mid Devon District Council	Sandford Primary School, Church Street, Sandford, EX17 4NE	DCC/4246/2021	The replacement of single glazed windows to Block 02	Creedy, Taw & Mid Exe	Conditional Approval

District	Location	Application Number	Proposal	Electoral Division	Decision
West Devon Borough Council	Social Services Offices, Abbey Rise, Tavistock, PL19 9AS	DCC/4251/2021	Energy improvement works comprising the installation of external wall insulation system, the installation of air source heat pumps to existing boiler room and the installation of photovoltaic panels to the existing pitched roof areas	Tavistock	Conditional Approval
Exeter City Council	West Exe Nursery School, Cowick Street, Exeter, EX4 1HL	DCC/4253/2021	Replacement of the existing roof covering on Block 1 with natural slate as well as replacement of two sections of flat roof with built up mineralised felt covering with mock lead rolls formed in felt	Alphington & Cowick	Conditional Approval
West Devon Borough Council	Southcott Farm, road from Kigbeare to Southcott Cross, Southcott, EX20 4NL	DCC/4267/2021	Prior Approval for demolition of outbuilding block B1	Okehampton Rural	Permitted Development
Mid Devon District Council	Ace Tiverton Special School, Orchard Way, Tiverton, EX16 5HB	DCC/4271/2021	Increase the height of the boundary fence from 1.8m to 2.4m by fixing 600mm of green weld mesh fencing to the top of the existing timber fence	Tiverton West	Conditional Approval
West Devon Borough Council	Okehampton Railway Station, Station Road, Okehampton, EX20 1EJ	DCC/4272/2021	Prior Approval application for the demolition of a single storey 'portakabin' style prefabricated building comprising timber frame structure and flat roof and restoration works	Okehampton Rural	Permitted Development

District	Location	Application Number	Proposal	Electoral Division	Decision
South Hams District Council	Steer Point Quarry, Steer Point Road, Brixton, Devon	DCC/4234/2021	Section 106A application to vary the S106 legal agreement (to increase vehicle movements) relating to planning consent DCC/3638/2014 for the importation of inert waste for the purpose of filling the void as part of the restoration of Steer Point Quarry	Bickleigh & Wembury	Withdrawn after Validation
North Devon District Council	Marwood School, road past Whiddon Farm, Milltown, EX31 4HF	DCC/4204/2020	Construction of two buttresses to support the existing retaining wall to the southern boundary of the school	Combe Martin Rural	Withdrawn after Validation