

PTE/16/25

Development Management Committee
27 April 2016

County Matter: Minerals

Teignbridge District: Variation of Condition 10 attached to Planning Permission 2013/3520/COU Change of use to allow existing buildings on site for general office and workshop use and part of site for storage Whitecleave Quarry, Plymouth Road, Buckfastleigh, Devon, TQ11 0DQ

Applicant: Sam Gilpin Demolition Ltd

Application No: 15/01695/DCC

Date application received by Devon County Council: 12 June 2015

Report of the Head of Planning, Transportation and Environment

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

Recommendation: It is recommended that planning permission be granted subject to conditions attached at Appendix II of this report.

1. Summary

- 1.1 This report relates to a planning application to vary a condition of an existing temporary planning permission at Whitecleave Quarry, Buckfastleigh relating to the limits of heights in approved storage areas.
- 1.2 It is considered that the main material considerations in the determination of this application are the potential impacts on landscape character, visual amenity and any additional impacts on nature conservation interests.

2. The Proposal/Background

- 2.1 At the 15 July 2014 Development Management Committee meeting Members considered report PTE/14/52 and resolved to grant planning permission for the use of land within Whitecleaves Quarry for the storage of plant, vehicles and machinery associated with the applicant Company's demolition business; the additional use of the quarry office building for activities associated with the Company's demolition business; and, the additional use of the quarry workshop for the maintenance of vehicles and machinery associated with the Company's demolition business, minute *63 refers.
- 2.2 Report PTE/14/52 is attached as Appendix III to this report and sets out the details of the original proposal, the background to the development and the planning issues considered in the determination of that application.
- 2.3 A conditional temporary planning permission was granted subsequent to the committee resolution. The application subject of this report seeks to vary part of condition 10 of the planning permission relating to the restriction in the permitted height of equipment stored in storage area SA1. In full, the condition says:

In designated area SA1 and SA2, no plant and equipment shall be stored which exceeds 3m in height. The slope behind SA2 shall be planted in accordance with a scheme to be submitted within three months of the date of this permission. The

approved scheme shall be maintained for a minimum period of five years. Any trees, plants or grassed areas, or replacement of them, that are removed, uprooted, destroyed or dies within five years of the date of planting shall be replaced with the same or similar species in the same location.

REASON: To protect the visual amenity of the site in the interests of local amenity.

- 2.4 The application seeks to vary the first sentence of condition 10 relating to the limit of heights in the storage areas SA1 and SA2. The applicant seeks to vary the condition on the basis that they consider that the condition contradicts the accepted ecological mitigation strategy and the accepted drawings for storage in storage area SA1. The applicant wishes the condition to be varied so that in storage area SA1 all stored materials be kept 1m away from the base of the embankment and for a distance of 10m away from the embankment the height be restricted to 4 metres. After the 10m distance the applicant requests that there would be no height restriction on storage of equipment. The application does not seek to remove the 3m height restriction in storage area SA2.
- 2.5 The application is supported by a Landscape and Visual Assessment (LVA) which examines the visual impact of the increasing the heights of both storage areas SA1 and SA2 (although as noted above the application does not seek to vary the storage height limit in SA2) and suggests mitigation to reduce any impacts.

3. Consultation Responses

3.1 Teignbridge District Council (Planning) – No objection.

The Council considers that the mitigation proposed as a part of the LVA should be secured and implemented.

3.2 Teignbridge District Council (Environmental Health) – no response received.

3.3 Buckfastleigh Town Council – object to the application on the grounds that:

- It is not appropriate to consider a planning application to vary a condition on an existing temporary consent which has just over a year to run, particularly in the context of the upcoming mineral review.
- The Council comments on the NPPF guidance on imposing planning conditions and consider that condition 10 meets these tests.
- It considers that the LVIA is inadequate and any increase in height would have an unacceptable impact on landscape character.
- The nature of the plant and machinery, being bright coloured, makes it highly visible and create a negative perception of the town.
- It is particularly concerned about storage area SA2 as it is elevated and visible from a number of locations in the town.

3.4 Totnes Town Council – object to the application on the ground that the council has submitted a formal complaint to the European Commission following the grant of planning permission for the use of parts of the site as a storage area, and that no changes or variation of the conditions should be allowed until the complaint has been investigated and a decision made.

3.5 Dartmoor National Park – No objection.

3.6 Natural England – No objection.

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, 26 representations have been received. Of these 3 supported the application and the remainder objected to the proposal on the following planning grounds:

- Unacceptable impact on the landscape character
- Damage to visual amenity
- Need for the variation given that there are other permitted areas for storage which do not have a height restriction
- Impact on protected bat species
- The use of the site for storage is contrary to the long term proposals for the restoration of the site

4.2 Copies of representations are available to view on the Council website under reference DCC/3784/2015 or by clicking on the following link: <https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3784/2015>

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. In this case, the Development Plan policies are summarised in Appendix I to this report and the most relevant are referred to in more detail in Section 6 below.

6. Comments/Issues

6.1 It is considered that the main material considerations in the determination of this application are the potential impacts on landscape character, visual amenity and any additional impacts on nature conservation interests.

Impact on the landscape character and visual amenity

6.2 In relation to storage area SA2 it is noted that whilst the LVA assesses the impact on the increase of the height restriction to 4 metres, the application does not seek to change the height restriction for this area. In the event that planning permission is granted it would be appropriate to impose a condition on a new consent restricting the height to the existing 3 metre limit. This being the case there would be no additional landscape or visual amenity impacts over and above those which were considered in the determination of the previous application.

6.3 With regard to storage area SA1, the current situation is that the height of material stored in the area is in excess of the currently permitted 3 metre height limit. The highest elements are the shipping containers (stacked 2 high) located at the north-western boundary of SA1 which are about 5.5m above ground level. This was

identified as a breach of condition and in order to address the issue the operator submitted the application to vary condition 10.

- 6.4 Following the submission of the application the Council required that the operator produce a LVA and the submitted document takes into account the presence of the containers and assesses a worst case scenario, i.e. in the winter months when there are no leaves on the trees which provide screening into the site. The LVA considered the visual impact of the proposal, including consideration of the effects from six publicly accessible viewpoints; four of which are within the Town.
- 6.5 The landscape character is influenced by past and current consented uses and it is considered that the existing visual impact of storage area SA1 is limited due to the screening effect of existing vegetation and the site topography. It is considered that the proposal to increase the height of storage area SA1 can be accommodated without harming the distinctive character, qualities and features of the landscape and without adversely affecting the visual amenity of sensitive receptors.
- 6.6 In order to ensure any residual adverse visual impact resulting from the current operations on nearby sensitive receptors is kept to a minimum during the remaining term of the current consent it is considered that the mitigation measures suggested in the LVA are implemented. In particular the storage containers located at the boundary of storage area SA1 are visible and it would be appropriate to paint the northern faces of the containers a natural dark recessive colour with a matt and non-reflective finish. These containers are stacked two high at about a height of 5.5 metres and to ensure this height is not exceeded to one higher than that assessed in the LVA a condition would be imposed limiting the maximum height at the boundary of SA1 to be restricted to a maximum of 5.5 metres.
- 6.7 Other mitigation measures, such as additional planting and maintenance of planting are pre-agreed matters which have been secured as part of the approved Environmental Monitoring and Mitigation Plan (EMMP).

Impact on Nature Conservation Interests

- 6.8 Storage area SA1 is located adjacent to the Greater Horseshoe bat flight pathway and the potential impact on this bat species was a key consideration in the determination of the application for the storage of equipment at this site. Report PTE/14/52 (attached as Appendix III to this report) considered this aspect and the Council carried out the required Habitats Regulation Assessment (HRA) which concluded that the proposal would not impact (directly or indirectly) on the bat flight lines, or any Greater Horseshoe bat foraging habitat and concluded no likely significant effect on the South Devon or Dartmoor Special Areas of Conservation.
- 6.9 This conclusion was on the basis of the information supplied in the EMMP. In particular the EMMP noted that the storage areas were outside of the bat flight lines, but as a precautionary measure storage area SA1 would be kept 1 metre away from the base of the embankment and equipment and materials would not be stored above a height of 4 metres for a distance of 10 metres following the 1 metre standoff.
- 6.10 Planning condition 7 of the temporary planning permission requires that the development be carried out in accordance with the EMMP which allows for storage up to 4 metres and the operator points out the inconsistency between this requirement and the requirement of condition 10 which presently limits the height to 3 metres. This is the case but the reason for condition 10 related to a visual amenity, rather than nature conservation reason. Since the development commenced the

operator's ecological consultant has carried out further monitoring work and the indication is that the use of storage area SA1 has not had an impact on commuting Greater Horseshoe bats, and it is confirmed that the HRA remains valid and there are no nature conservation concerns regarding the continued use of SA1 as set out in the EMMP.

Other Matters

- 6.11 Buckfastleigh Town Council's contention that it is not appropriate to consider a variation of a planning condition on a temporary consent is noted, but this is not a material planning consideration as the application was properly made. The permission for the use of parts of the quarry as storage areas will expire in 2017 and this was timed to coincide with the mineral review application for the quarry. Neither the site operator nor the site owner has confirmed its long term aspirations for the site, but should either wish the storage use and/or the mineral use to continue further applications will be required in 2017. This will give the planning authority the opportunity to consider landscape and nature conservation mitigation measures looking at the site as a whole.
- 6.12 Totnes Town Council's objection to the application is noted, but to date DCC has not received any correspondence from the European Commission concerning the complaint made the Town Council and in any event this is not a reason to defer the determination of the application. A request has been made to the Town Council to provide an update on its complaint (which it is understood was made in 2014) and any further update will be verbally reported to this committee at the meeting.

7. Reasons for Recommendation/Alternatives Options Considered

- 7.1 The Committee has the option of approving, deferring or refusing this planning application.
- 7.2 It is considered that the variation of condition 10 will not result in additional impacts on the landscape or character or on the visual amenity of the area, nor will it impact on Greater Horseshoe bat flight lines and planning permission therefore be granted in accordance with the recommendation to this report.
- 7.3 The alternative option would be to refuse this application, but this would not result in the cessation of the storage activities but would result in the need to consider enforcement action in respect of the current contravention regarding the heights of storage of material in SA1. Taking into account the planning considerations set out in this report it is considered that an appeal by the operator against enforcement action, or against refusal of this application, is likely to be successful.

Dave Black
Head of Planning, Transportation and Environment

Electoral Division: Ashburton & Buckfastleigh

Local Government Act 1972: List of Background Papers

Contact for enquiries: Andy Bowman

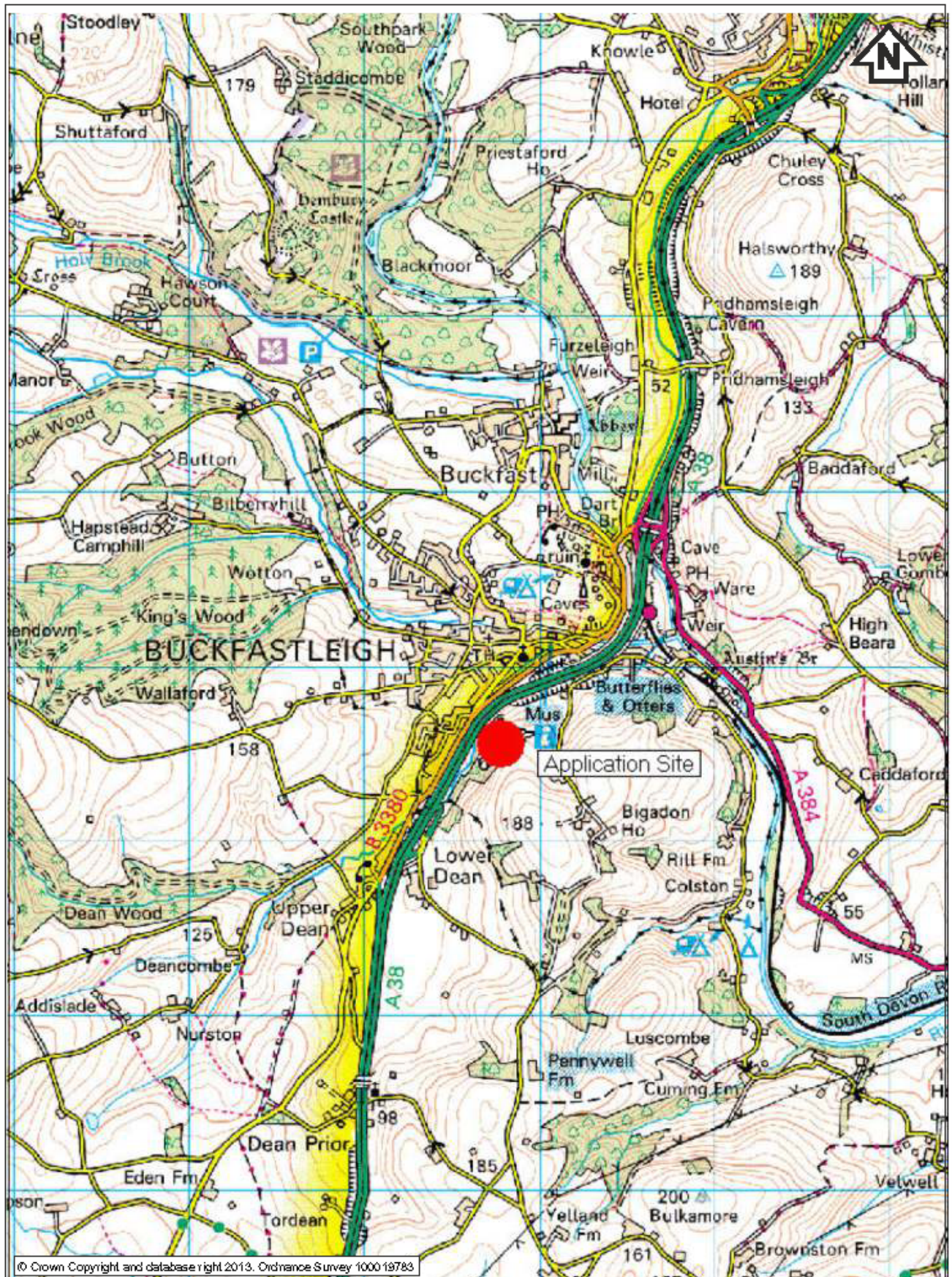
Room No: AB2, Lucombe House, County Hall

Tel No: 01392 383000


| Background Paper | Date | File Ref. |
|-------------------------|-------------|------------------|
| Casework File | | DCC/3784./2016 |
| Casework File | 11/03/2014 | DCC/3643/2014 |

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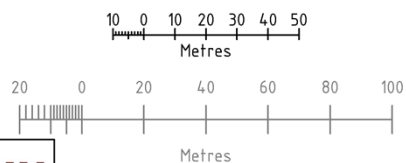
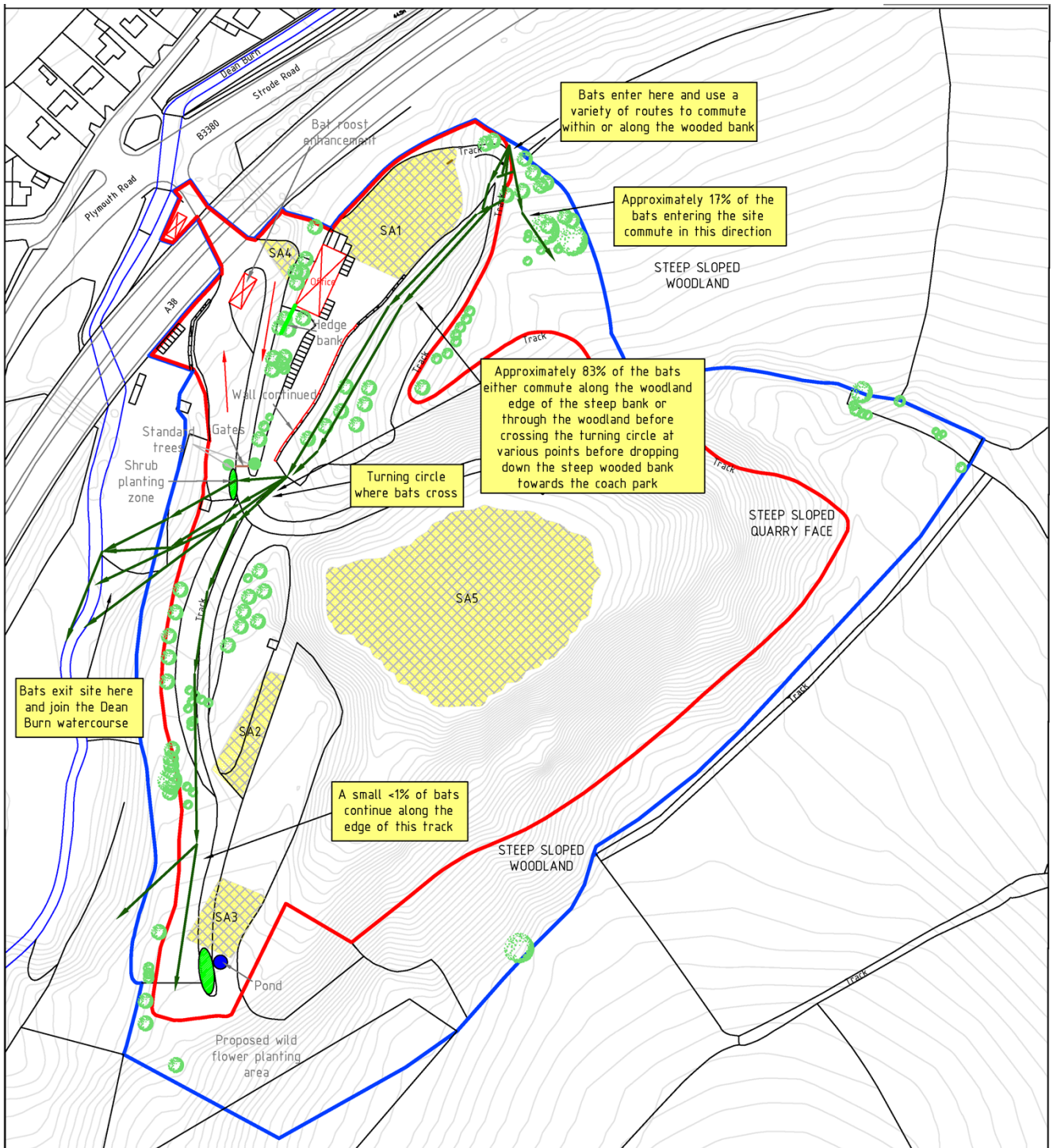
Location Plan



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|  | Head of Planning, Transportation and Environment | Development Management Committee | date July 2014 | scale NTS |
| | | County Matter: Minerals Teignbridge District Council: Change of use to allow existing buildings on site for general office and workshop use and part of site for storage at Whitecleaves Quarry, Plymouth Road, Buckfastleigh | Application No: 2013/03520/COU | |

Site Plan



| LEGEND | |
|--------|--|
| | PLANNING APPLICATION BOUNDARY |
| | LAND UNDER CONTROL OF APPLICANT |
| | EXISTING/PROPOSED STORAGE |
| | GREATER HORSESHOE BAT COMMUTING ROUTE IDENTIFIED BY THE 2012 & 2013 SURVEY |



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JOB
WHITECLEAVE QUARRY

DRAWING TITLE
GREATER HORSESHOE BAT COMMUTING ROUTES

| No. | Date | Revisions |
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| Author | GG | Date | MAY 2014 |
| Drawn | JV | Checked | GG |
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| Dwg. No. | GG-WQ-004 | | |

Planning Policy Considerations

Devon County Minerals Local Plan (Adopted June 2004): Policies MP16 (Non-mineral Development in Buffer Zones); MP28 (Recycling, Storage, and Processing Facilities); MP41 (Development Control Considerations); MP55 (Non-operational Land and Features); MP56 (Restoration); and MP57 (Securing Effective Restoration).

Teignbridge Local Plan 2013 - 2033 (Adopted May 2014): Policy EN02A Landscape Protection and Enhancement.

To protect and enhance the area's landscape and seascape, development will be sympathetic to and help to conserve and enhance the natural and cultural landscape and seascape character of Teignbridge, in particular in Areas of Great Landscape Value and within the setting of Dartmoor National Park.

Development proposals should:

- (a) conserve and enhance the qualities, character and distinctiveness of the locality;*
- (b) where appropriate restore positive landscape and seascape character and quality;*
- (c) protect specific landscape and seascape, wildlife and historic features which contribute to local character and quality; and*
- (d) maintain landscape and seascape quality and minimise adverse visual impacts through high quality building and landscape and seascape design.*

Planning Conditions

1. The use hereby permitted shall be discontinued on or before 8 June 2017.

REASON: To enable a review of the permission as part of the 1st Periodic Review of ROMP 98/3304/32/9DCC in order to safeguard the requirements for restoration of the quarry.

2. The development shall be carried out in strict accordance with the details shown on the drawings and documents approved pursuant to condition 2 of consent 2013/3520/COU numbered GG-WQ-002; GG-WQ-003 and, CG-WQ-004; and the document entitled Ecological Mitigation and Monitoring Plan, except as may be varied by the conditions below.

For the avoidance of the doubt, and unless otherwise agreed in writing by the County Planning Authority, the outside storage areas identified on the application plans shall be used only for the storage of plant, machinery and equipment associated with the applicant's demolition business as detailed below:

- 40 yd metal containers
- Plant, equipment and machinery such as diggers, excavators, forklifts etc
- Associated attachments for the above equipment such as buckets and hammers
- Baskets and cages used for men and equipment accessing heights
- Trailers
- Stability platforms metal and polystyrene
- Wooden beams
- Other such similar and associated items

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

3. With the exception of bona fide emergency out of hours access as specified in condition 4 or relevant ecological surveys that need to be carried out, out of hours the site shall be open to site personnel only during the hours 07.30 to 18.30 Monday to Friday and 07.30 to 13.00 Saturday. All operational activity on the site shall be confined to the hours 08.00 to 18.00 (Monday to Friday) and 08.00 to 13.00 on Saturdays. There shall be no operational activity on Sundays or Bank Holidays except for the emergency out of hour's operations aforementioned.

REASON: To reduce noise and disturbance from the site during quiet periods in the interests of residential amenity.

4. Notwithstanding the provisions of Condition 3 above, the site shall be open to site personnel for access outside of the permitted hours to collect equipment for bona fide unplanned emergency demolition contracts. This shall not include out of hours deliveries or return of equipment and a log shall be kept recording each instance of such emergency access including the hours the site was open, the number of

vehicles attending and any subsequent complaints about such access. This log shall be made available to the Mineral Planning Authority on request. If the emergency access outside the above permitted hours in Condition 3 leads to substantive complaint, the operator shall within one month of receiving a written request from the Mineral Planning Authority submit a scheme containing details of proposed measures to reduce noise and disturbance during times of emergency access. Such Scheme shall be implemented in full upon approval by the Mineral Planning Authority.

REASON: To enable the operator to access the site for equipment needed to carry out emergency works without causing disturbance to neighbours or protected species

5. Pursuant to condition 5 of consent 2013/3520/COU the approved pollution control measures shall be operated at all times unless an alternative scheme is agreed in writing by the Mineral Planning Authority.

REASON: In the interests of the amenity of the area and in order to prevent pollution to the local water environment.

6. No additional lighting other than that approved under ROMP 98/3304/32/9DCC shall be erected without the written consent of the Mineral Planning Authority.

REASON: To prevent adverse effects on the bat flight corridor through the site.

7. The development shall be carried out in accordance with the Ecological Mitigation and Monitoring Plan (EMMP) (Final Report) dated May 2014. The EMMP shall be updated annually to include the results of the revised monitoring programme, and a revised timetable for ecological works. Any updated EMMP shall be submitted to the Mineral Planning Authority for approval in writing and shall be implemented as approved thereafter.

REASON: To make appropriate provision for natural habitat within the approved development in the interests of biodiversity and to ensure that this condition relates to one up to date document with a clear timeline for required works and actions for the avoidance of doubt.

8. The landscaping provided pursuant to condition 8 of consent 2013/3520/COU shall be maintained for a period of five years following the date of planting. Any trees, shrubs or planting carried out that is removed, uprooted, destroyed or dies within five years of the date of planting shall be replaced with the same or similar species in the same location.

REASON: To make appropriate provision for natural habitat within the approved development in the interests of biodiversity and to enhance the visual amenity of the site.

9. The detailed monitoring programme approved pursuant to condition 9 of consent 2013/3520/COU shall be implemented and adhered to throughout the duration of the development.

REASON: To ensure that the ecological monitoring and mitigation identifies and responds to emerging issues in the interests of protecting species and habitats, and to monitor success of the mitigation measures and identify amendments to the monitoring requirements or additional mitigation to protect species and habitats.

10. In designated storage area SA2 no plant and equipment shall be stored which exceeds 3m in height.

REASON: To reduce the visual impact of the site in the interests of local amenity.

11. There shall be no storage of plant, equipment or machinery within 1 metre of the foot of the embankment to the east of storage area SA1. There shall be no storage of plant, equipment or machinery above a height of 4 metres for a distance of 11 metres measured from the foot of the bank. Outside of these restricted areas no plant, equipment shall be stored at a height above 5.5 metres.

REASON: In the interests on nature conservation and visual amenity.

12. Within 3 months of the date of this consent the northern (outward) faces of the visible containers shall be painted dark olive green (or similar) and be of a matt non-reflective finish. Any other plant, equipment of machinery stored at the northern boundary of storage area SA above a height of 4 metres shall be of a similar dark olive green colour and matt finish.

REASON: To reduce the visual impact of the site in the interests of local amenity.

13. No maintenance of plant or machinery shall occur outside of the immediate confines of the existing workshop.

REASON: To control noise in the interests of the local amenity.

PTE/14/52

Development Management Committee
15 July 2014

County Matter: Minerals

Teignbridge District: Change of use to allow existing buildings on site for general office and workshop use and part of site for storage at Whitecleaves Quarry, Plymouth Road, Buckfastleigh

Applicant: Gilpin Demolition Group Ltd

Application No: 2013/03520/COU

Date application received by Devon County Council: 11 March 2014

Report of the Head of Planning, Transportation and Environment

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

Recommendation: It is recommended that temporary planning permission be granted for a period of three years subject to the Conditions attached at Appendix II of this report.

1. Summary

1.1 This report relates to a planning application for the use of land within Whitecleaves Quarry for; the storage of plant, vehicles and machinery associated with the applicant company's demolition business; the additional use of the quarry office building for activities associated with the Company's demolition business; and, the additional use of the quarry workshop for the maintenance of vehicles and machinery associated with the Company's demolition business.

1.2 It is considered that the main material considerations in the determination of this application are; the validity of the application; impact on nature conservation interests; impacts on the amenity of local residents; landscape and visual impacts; impacts on the long term restoration of the site; and, impacts on water environment.

2. The Proposal/Background

2.1 Whitecleaves Quarry has site area of about 9ha and lies to the immediate south east of the elevated section of the A38 Trunk Road, to the south of Buckfastleigh. The site access runs beneath the trunk road and exits northwards onto the B3380 at the junction between Strode Road and Plymouth Road. This road is the boundary of the Dartmoor National Park and was the old A38 before the town was bypassed in the early 1970s. This access is shared with an adjoining site used by a coach hire company. Plymouth Road/Strode Road is accessed from the A38 at the Dart Bridge junction to the north and from the Lower Dean junction to the south. The nearest residential dwellings are located on the northern side of Strode Road and the western side of Plymouth Road. Dwellings are 42 m from the site entrance with a road, grass verge and stream separating them from the site access.

- 2.2 The quarry works a dolerite intrusion and has the benefit of a number of planning permissions granted between 1950 and 1984. The conditions attached to the planning permissions were reviewed (as required by the Environment Act 1995) and new conditions were imposed on the quarry permissions in 2002. Following this Initial Review the Environment Act allows for a 15 year periodic review planning conditions and this review is due in 2017. The Environment Act also required that all mineral applications subject of the required review have an end date of 2042.
- 2.3 In terms of landscape designations, the quarry adjoins the southern boundary of Dartmoor National Park and is about 275m west of an Area of Great Landscape Value (AGLV).
- 2.4 The planning application is for:
- The use of five areas within the quarry to store the company's demolition business equipment, including containers, plant, equipment and machinery, trailers, stability platforms and beams. The storage areas are land adjacent to the office building, adjacent to the workshop building, the bottom of the quarry void, and two areas of hard standing on internal roadways.
 - Additional use of existing office building (erected under quarry permitted development rights) in connection with the company's demolition business.
 - Additional use of workshop to repair plant, equipment and machinery associated with the company's demolition business.
- 2.5 The quarry was a major roadstone aggregate production unit until 2003 and sales on a large scale from the site continued until 2007. The current operator acquired the lease for the quarry in 2008 and since that time has prepared the quarry for the resumption of mineral working. Currently the quarry produces aggregate at a relatively low production level.
- 2.6 In August 2011 a planning application for an Incinerator Bottom Ash and Materials Recycling Facility (including the part infilling of the quarry void) was submitted to the County Council. At the Development Management Committee on 25 April 2012 Members considered report PTE/12/29 and resolved to refuse planning permission. The applicant lodged an appeal against the refusal and the appeal was dismissed on the grounds of it being unsustainable in respect of the waste management/landfill aspect which precluded the proper restoration of the site.
- 2.7 The site lies within the consultation zone for the South Devon SAC for Greater Horseshoe bats. The Dean Burn stream adjoins the application site and flows into the River Mardle, which subsequently joins the River Dart. The River Dart is a migratory route for salmon, which are an interest feature of the Dartmoor SAC. In order to take into account the potential impact on these protected sites a Habitats Regulations Assessment (HRA) has been prepared to demonstrate that the requirements of Regulation 61 of the Habitats Regulations have been considered by this authority.

3. Consultation Responses

- 3.1 Teignbridge District Council (Planning) – comment that if the proposed use is considered acceptable it is considered that permission should only be granted on a temporary basis so as to ensure that the remedial measures set out in the ROMP (First Review) are not delayed or impacted upon.

It notes that the applicant has submitted the Phase 1 Ecological Report and in light of the sensitivities of the site, in particular regarding protected bats, any approved scheme should ensure there is no detrimental impact on the biodiversity of the site.

The Landscape Officer comments that the area of vegetation on the spur has been removed and that this appears to have opened up the site in views from the houses to the west and it is not clear if this is going to make the storage areas visible from the town.

3.2 Teignbridge District Council (Environmental Health) - no objection.

3.3 Buckfastleigh Town Council - the observations of Buckfastleigh Town Council applicable to the application are as follows:

"We respectfully ask that you are mindful of the recent Planning Inspector's report which upheld the DCC decision to refuse planning permission for the indefinite industrialisation of Whitecleaves Quarry.

The Planning Inspector also stated that, 'I find that likely harm to biodiversity is a consideration in this case to be weighed against the developments of this proposal. The NPPF aims for sustainable development which moves from a net loss of biodiversity to archiving net gains for nature which in this case is an asset of national importance.

This application for change of use of the buildings [and storage] should not be granted in view of the ROMP conditions. The ROMP impacts on this application and we would wish to see enforcement of any breaches".

3.4 Dartmoor National Park - does not believe that this development will affect 'Dartmoor' species, including greater horseshoe bats or barbastelle bats. Providing the proposed storage facilities are restricted to those areas shown, the Dartmoor National Park Authority has no objection to the proposed change of use of the existing buildings or to part of the site being used for storage.

3.5 Natural England (Summary) - no objection.

It notes that DCC, as 'competent authority' under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects (June Final Whitecleaves HRA 2014.doc). It notes that DCC's assessment (June Final Whitecleaves HRA 2014.doc) concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of information provided and subject to the implementation of advice provided below, Natural England concurs with this view.

It notes that the DCC assessment makes implicit reference to the mitigation and enhancement measures put forward by the applicant. Natural England suggests that the DCC assessment is updated to provide a more explicit reference to the documents that contain both mitigation measures and enhancement measures (Ecological Mitigation and Monitoring Plan, Final Report, Simon Geary Ecology Services Ltd, May 2014). Further, Natural England's advice is on the understanding that all of the mitigation measures, enhancement measures, and monitoring will be secured via appropriate planning condition and/or planning obligation. It also observes that the date of the assessment should be updated from March 2014 to June 2014.

In addition, Natural England advise that the proposals to plant standard specimen copper beech trees (Ecological Mitigation and Monitoring Plan, Final Report, Simon Geary Ecology Services Ltd, May 2014) should be replaced with native trees that will not be as shade bearing (e.g. Oak, Ash, etc.) – this will be better for greater horseshoe bats by facilitating shrub development below the trees and provide better opportunities for biodiversity. Accordingly, we advise that this amendment should be secured via appropriate planning condition and/or planning obligation.

Further to the site meeting Natural England had with the applicant on 30 April 2014, it understands that proposals to install security gates at the entrance will be carried out in a fashion to ensure that the gap at the base of the gates will be kept to a minimum to reduce scope for draughts that could interrupt low flying GHBs in the turning circle. In addition, a speed ramp along the line of the gates will also help to minimise this risk, and ensure that vehicles approach the turning circle at an appropriate speed. Accordingly, we advise that this amendment should be secured via appropriate planning condition and/or planning obligation.

As confirmed in the DCC assessment, Natural England observe that the proposals will not undermine requirements to restore the site as part of the ROMP conditions for the site.

- 3.6 Highways Agency – no objection as it considers the proposal is unlikely to have any material effect on the A38.
- 3.7 Environment Agency - no objection.
- 3.8 Totnes Town Council - the Town Council objects strongly to the proposed change of use based on the potential impact of any undefined materials leaking into the Dean Burn and thence into the River Dart and the detrimental impact this would have on all users of the river and the South Hams Special Area of Conservation.

It comments that the Town Council does not intervene in planning applications affecting other Parishes, however the ill-defined nature of the materials that could be stored under this application could allow Incinerator Bottom Ash (IBA) - as per the appeal that was lost last year – to be landfilled, which is not only a potential pollutant that could affect adversely Totnes, but also part of a waste hierarchy that is not sustainable.

- 3.9 Devon Wildlife Trust – comments that the principal ecological concern relates to the need to maintain the favourable conservation status of the Greater Horseshoe Bat (GHB) population which emanates from the internationally important maternity roost at Rock Farm, Buckfastleigh, and commutes through the Whitecleaves Quarry site.

Devon Wildlife Trust comment that the mitigation measures presented are well considered, however due to the international importance of this site the risk of unacceptable disturbance remains significant. The mitigation proposals will therefore only be effective if they are adopted in full and comprehensively monitored. This will require constant vigilance and attention to detail from the operators and ecological contractors.

It recommends that the monitoring results and details of any proposed corrective measures be forwarded to Natural England and the Devon County Council Ecologist for information and action where appropriate.

Devon Wildlife Trust comments that it is aware that DCC will be carrying out a review of the previous minerals permission conditions in 2017 and would recommend that any permission for the current change of use application is only given up to this date. This would maintain the requirement to restore the site to an enhanced future ecological state.

It recommends that any planning permission must be subject to a planning condition which requires the implementation of the conclusions detailed in the revised Habitat Regulations Screening Report (March 2014) and monitoring recommendations described in the Ecological Mitigation and Monitoring Plan (May 2014) as augmented by its suggestions set out above.

3.10 Buckfastleigh Community Forum (Summary of Concerns) - object to the proposal for the following reasons:

This planning application appears to be largely a retrospective application for activities that have been ongoing on the site in breach of the extant planning permission. The application proposes a change of use of the quarry and is therefore in conflict with the 2013 Appeal Decision. It is contended that the majority of the landscaping and the development at the site has been done so with dubious legitimacy under the auspices of “preparing for quarrying” and in some cases with no planning permission at all.

It is apparent that the linear features intended to be used for storage are bat flyways which obviously should not be obstructed by activity such as storage or large vehicles or 40yd containers. This is particular true for Great Horseshoe Bats, the key protected species of the South Hams SAC, which fly within two metres of the ground as they commute to their foraging grounds. There is concern that the historic parking of HGV and placement of storage containers has already changed flight paths. Attempts to police this specific activity would appear to be impossible. Appropriate planning conditions to strictly limit types of storage. Placement of storage; times of working would be legitimately requires, proportionate and necessary in the circumstances. Unfortunately it would appear that no planning conditions could realistically be expected to serve any practical purpose in limiting activity.

One of the main concerns of the community is that this application is seeking to turn a temporary planning permission for quarrying – and one that legally requires restoration of the site after use – into permission for permanent industrial use. This would – without any reasonable doubt – lead to a loss of biodiversity in the longer term.

It appears that there is currently no formally approved Habitat Regulation Assessment (HRA) operative and no comprehensive Environmental Management Plan for the existing activity on site under the temporary permission. The Habitat survey is outdated and does not take into account the removal of woodland in 2012 and the possible consequences to wildlife. It is therefore not fit for purpose and further survey work is necessary. Some of the woodland appears to have been removed illegally.

Notwithstanding the lack of necessary detail in the application, it would appear, not least with respect to the Planning Inspectors decision, the NPPF and the development plan that the proposed development has an extremely high hurdle to get over if it is to be permitted.

There are clear alternative solutions for Gilpin Demolition to find office space and a storage yard to continue their successful business at a more appropriate location. These are uses which are commonly facilitated in various industrial sites and business parks around the region, as such uses are incredibly footloose.

Facilitating the permanent change of use at such a valuable ecological asset is clearly inappropriate. There are no overriding reasons of public interest for this development. There is a stated obligation by TDC to protect the buffer zone and sustenance zone of the South Hams SAC and the Framework's aims for sustainable development including moving from a net loss of biodiversity to achieving net gains for nature.

- 3.11 Buckfastleigh Neighbourhood Plan consultative committee - all public and Sub-Committee responses to the proposed industrial development of the Whitecleaves Quarry site find that it conflicts with the ambitions for the Parish and the numerous recommendations that are likely to be included in the Neighbourhood Plan which are for the site to be restored for ecological and conservation.

The Neighbourhood Planning Steering Group agrees with the recent Public Inquiry Inspector's conclusion that the quarry should be restored for nature conservation and that it has huge potential to be a biodiversity asset of considerable importance to the parish, particularly as an area valued for its wildness.

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 357 representations have been received. Of these 72 supported the application and the remainder objected to the proposal on the following planning grounds.

Nature of application

- Confusion as to what is to be stored at the site.
- Retrospective nature of application.
- Validation of application.
- EIA required as development is Schedule 2.

Effect on Bats and Biodiversity

- Lack of mitigation to protect Bats and their flight lines.
- Effect upon SAC and woodland.
- Effect on Devon Wildlife Trust plan for major Bat project.

Amenity of local residents

- Increased Noise and dust pollution.
- increased traffic.
- Effect on the amenity of local residents.

Landscape implications

- Storage visible to local residents.

Long term restoration of the site

- The effect of the proposal on the long term restoration of the site taking the comments of the Planning Inspector in relation to the dismissal of the previous proposal at the site.

Unauthorised activity

- The nature of the activities which have occurred at the site.

Flooding

- Potential for Increased Flooding and river pollution.

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. In this case the Development Plan policies are summarised in Appendix I to this report and the most relevant are referred to in more detail in Section II below.

6. Comments/Issues

- 6.1 The main material planning considerations in the determination of this application are analysed in this section.

Nature of the application

Validation of application.

- 6.2 Concerns have been raised by objectors that the application is not valid. In this case the application was submitted to Teignbridge District Council in December 2013 and was validated by them on the basis that it was a change of use application relating to non-mineral activities. However, as the application is for non-mineral related activities within an active quarry, the development falls within the definition of a 'county matter' as the use could conflict with the restoration conditions of the site. On this basis the application was transferred to the Mineral Planning Authority for determination in March 2014. It is considered that the application contained sufficient information for it to be valid, but it will be noted that it is open to the planning authority to ask for additional information, which has occurred in the case, if it is considered necessary to determine the application.

Retrospective nature of application.

- 6.3 Concerns have been received that the application is in part retrospective in respect of some of the proposed storage areas and the use of the office building and workshop. Prior to the submission of this application the Council had investigated complaints into these unauthorised uses but following the submission of the application it concluded that it would not be expedient to take enforcement action pending determination of the application.

Confusion as to what is to be stored at the site.

- 6.4 Concerns have been raised as to the nature of materials that would be stored at the quarry. Indeed some representations have indicated that in their opinion that this is a backdoor attempt to store waste materials arising from other waste processes and the tipping of waste.
- 6.5 The submitted application relates only to the storage of plant, machinery and equipment used in company's demolition business and is not an application to store or process waste material and the determination of the application should be made on the basis of what is being applied for. Any use other than that applied for would require a further planning permission.

Requirement for Environmental Impact Assessment (EIA)

- 6.6 All county matter planning applications are screened to establish whether or not the proposal is EIA development. This was undertaken and the judgement was that although the proposal was included in Schedule 2 of the Regulations, given the nature of the proposed development EIA was not required as it would have no direct or indirect impact on the already identified Greater Horseshoe Bat flight line which passes through the site. However ecological surveys were requested in order to ensure that all wildlife impacts were identified and addressed. Sufficient information was provided by the application for the LPA to produce a Habitats Regulations Assessment of impacts on the South Devon and Dartmoor SACs.

Habitats Regulations Assessment (HRA)

- 6.7 One of the key considerations in the determination of this application is the potential for impact on protected species, particularly Greater Horseshoe bat. Greater Horseshoe bat survey carried out for this application confirmed the location of the flight route through the site (as identified through previous survey). The HRA (Copy attached at Appendix III) was discussed at length with the applicant and Natural England. It states that the proposal will not impact (directly or indirectly) on the flight line, or on any Greater Horseshoe Bat foraging habitat, and concludes no likely significant effect on the South Devon or Dartmoor SACs. Natural England agreed to this conclusion in their response dated 12 June 2014. Also note that Devon Wildlife Trust has no objection to this proposal subject to the imposition of suitable conditions.
- 6.8 It is considered that the proposal does not have a negative impact on any other wildlife habitat or species and planting will enhance the site's value.

Amenity of local residents

Increased Noise and dust pollution

- 6.9 The proposed storage use will not result in increased noise and dust as the storage will be static except when it is required by the company for its use offsite. This should not increase the noise levels coming from the site. The site has permission for mineral extraction and the generation of noise from that operation is controlled by existing conditions.
- 6.10 The only operation which may produce increased noise is that from the workshop. This can be controlled by imposing a restriction on hours of working to ensure that operations do not take place outside of normal working hours. The Environmental Health Officer has not objected to this proposal.

Increased traffic from the site

- 6.11 The increase in traffic as a result of this proposal (increased office use and placement and removal of stored plant and machinery) would be a maximum of 20 traffic movements a day. It is considered that the B3380 and junctions onto the A38 are adequate to deal with this small increase in traffic. In coming to this view it is also noted that this is significantly lower than that traffic which would have been generated if planning permission had been granted for the IBA/MRF Facility. Members attention is drawn to the appeal decision on that application where the planning inspector concluded (Para 36) that there is no weight limit on the B3380 and this indicated to him that there was no technical reason why HGV's should be prevented from using this route. He further considered that there was no evidence that supported a convincing case that the southern link to the A38 could not be used by HGV's on highway safety grounds. He further concluded that there was no convincing evidence that HGVs using the northern link to the A38 would significantly impair the safety of those using the Orchard Millennium Green.

Effect on the amenity of local residents

- 6.12 Local residents may notice the marginal increase in traffic coming from the site but as this will be within normal working hours the effect on local residents will be minimal. As the A38 lies between the site and the town this is thought to be more of a significant impact on the amenity of local residents than the storage of plant and machinery and a small increase in overall vehicle numbers. The Inspector in relation to the previous appeal for a larger scale development on the site concluded that given the extant quarrying permission that the proposed development (MRF and IBA reprocessing plant) would not have an unacceptable adverse effect on the living conditions of neighbouring residents by reason of noise and vibration. The current application is on a much smaller scale and therefore it is concluded that this will also not have an adverse effect.

Long term restoration of the site

Conflict with proposed final restoration of the site to nature conservation and underpinning long-term restoration and Prematurity of application given the need for a ROMP submission in 2017.

- 6.13 The underlying planning permissions for the site are for mineral extraction and following the Environment Act Initial Review of conditions the end date, by which the site has to be restored, is 2042.
- 6.14 The required final restoration of the quarry is for nature conservation and one of the key considerations in the determination of the application is whether this final restoration would be affected by the proposed additional uses. The quarry has limited reserves and currently a low level of production and the quarry operations are being undertaken in accordance with the conditions attached to the mineral permission. Given the requirement to restore the quarry following the cessation of quarrying it is considered that the granting of permanent planning permission for the current proposal would not be appropriate.
- 6.15 The 1st Periodic Review of the conditions is due to take place in July 2017 and this gives the Council the opportunity to examine the current working and restoration conditions attached to the mineral planning permission. Given this review date it is considered that this would be appropriate that any grant of planning permission for the current application be temporary and tied into the Periodic Review.

Conflict with Teignbridge Local Plan and emerging Buckfastleigh Neighbourhood Plan.

- 6.16 Whilst Whitecleaves Quarry is not identified for future development in the Teignbridge Local Plan 2013-2033 (adopted 6 May 2014), policy S3 seeks to provide for additional employment provision in rural locations. In such rural locations the Plan does not set a target for provision, relying on proposals to be considered on their own merits. It is considered that this proposal accords with Policy S3 and Members will note that Teignbridge District Council has raised no objection to the proposal.
- 6.17 It is understood that a Neighbourhood Plan is being prepared and there is an aspiration that Whitecleaves Quarry would be included and this would look to the restoration of the site to nature conservation. On this basis the Buckfastleigh Neighbourhood Plan consultative committee has objected to the planning application. The neighbourhood plan is at an early stage and can only be given very limited weight in the determination of this application and in preparing such plans the government has made it clear that neighbourhood plans cannot be used to resist development nor can they remove existing consented development. In any event, the approved restoration scheme at the quarry is for restoration to nature conservation and the granting of a temporary permission for this development would not conflict with the approved restoration.

Objection to use of the site for industrial development.

- 6.18 Policy MP 13 of the Devon County Minerals Local Plan prohibits development within Mineral Consultation Areas where it would sterilise mineral resources. It is considered that the permanent industrialisation of the site would not be compatible with the safeguarding of the mineral reserve or the final restoration objective. Any permission for storage can be conditioned both in respect of time and area so that it would not conflict with the underlying permission.

Inspectors comment on effect of short term industrialisation of the site on the long-term restoration of the mineral site and Para 56 of the Planning Inspectors Decision.

- 6.19 Para 56 of the Planning Inspectors Decision letter indicates that the Inspector found that *“the likely harm to biodiversity is a consideration in this case to be weighed against the benefits of the proposal”*. This was in respect of the refusal of planning refusal for the processing of IBA (Incinerator Bottom Ash) where he concluded that the use of the site for permanent Waste Management uses would necessarily harm the potential for restoration of the site to a nature conservation use. This application is not for waste management but for a use of part of the site for storage purposes. It is considered that a temporary permission would not impact on the final restoration of the site which is a requirement of the mineral permission.

Flooding and Pollution of watercourses

- 6.20 None of the proposed development is within the Flood Zone which only affects the entrance to the site. The Environment Agency was consulted on this application and raised no objection on the ground of flooding or potential pollution of the neighbouring watercourse. Conditions attached to the mineral permissions provide protection for the local water environment.

Landscape

- 6.21 The portacabin, office buildings, and existing and proposed stockpiles utilise existing woodland cover to screen and filter views from Buckfastleigh with their upper sections were just discernible through trees beyond the busy A38 in views from the residential area to the west. They are not considered visually intrusive, given the immediate context of the A38 Bridge and associated traffic.
- 6.22 In relation to the office building there is scope to slightly improve the screening of the building through establishment of shade-tolerant native shrubs in the woodland understorey immediately adjacent.
- 6.23 The site operator has taken opportunities to enhance the character and appearance of the quarry site through planting of new native vegetation (including new planting to enhance bat flight corridors agreed with Natural England) and the use of stone cladding of visible wall faces rather than bare concrete.
- 6.24 It is considered that the proposals can be accommodated at the site whilst conserving and enhancing the qualities, character and distinctiveness of the local landscape. The change of uses proposed would not result in any perceivable change to the landscape character or quality of the site. The visual impact of the proposals is not significant and can be controlled by conditions relating to height of storage in Area SA1 and SA2 and additional planting. There is scope to further screen and integrate the two buildings into the landscape through additional planting which would be provided as part of the Ecological Mitigation and Monitoring Plan. Such mitigation measures are considered reasonable and appropriate given the high sensitivity of nearby visual receptors in Buckfastleigh, the location of the site within the setting of Dartmoor National Park.

Overall Sustainability Considerations

- 6.25 In terms of the site location, it has good access and is reasonably well located to the areas covered by the demolition business activities and it is considered that the proposal will bring some economic benefit to the area. However, weight has to be given to the potential for environmental impact and in this case it is considered that there would be no impact on protected species as a result of the proposal and the long term restoration of the quarry would not be prejudiced by the granting of a

temporary permission. In the event of planning permission being granted conditions would be imposed that both protect and enhance the environment.

7. Reasons for Recommendation/Alternatives Options Considered

- 7.1 The Committee has the option of approving, deferring or refusing this planning application.
- 7.2 It is considered that the proposed development is relatively small scale in nature and the additional use of the existing quarry offices and workshop will not have any additional impacts. The use areas within the quarry for storage of equipment will not be visually intrusive nor will they impact on nature conservation interests. The required long term restoration of the quarry will be secured by permitting only a temporary consent. The additional use of the site for providing office space for the demolition business, the use of the existing workshop for plant and vehicle maintenance and storage of plant and equipment associated with the demolition business will provide economic benefit for the area. Taking these material considerations into account it is considered appropriate to grant temporary planning permission in accordance with the recommendation to this report.

Dave Black
Head of Planning, Transportation and Environment

Electoral Division: Ashburton & Buckfastleigh

Local Government Act 1972: List of Background Papers

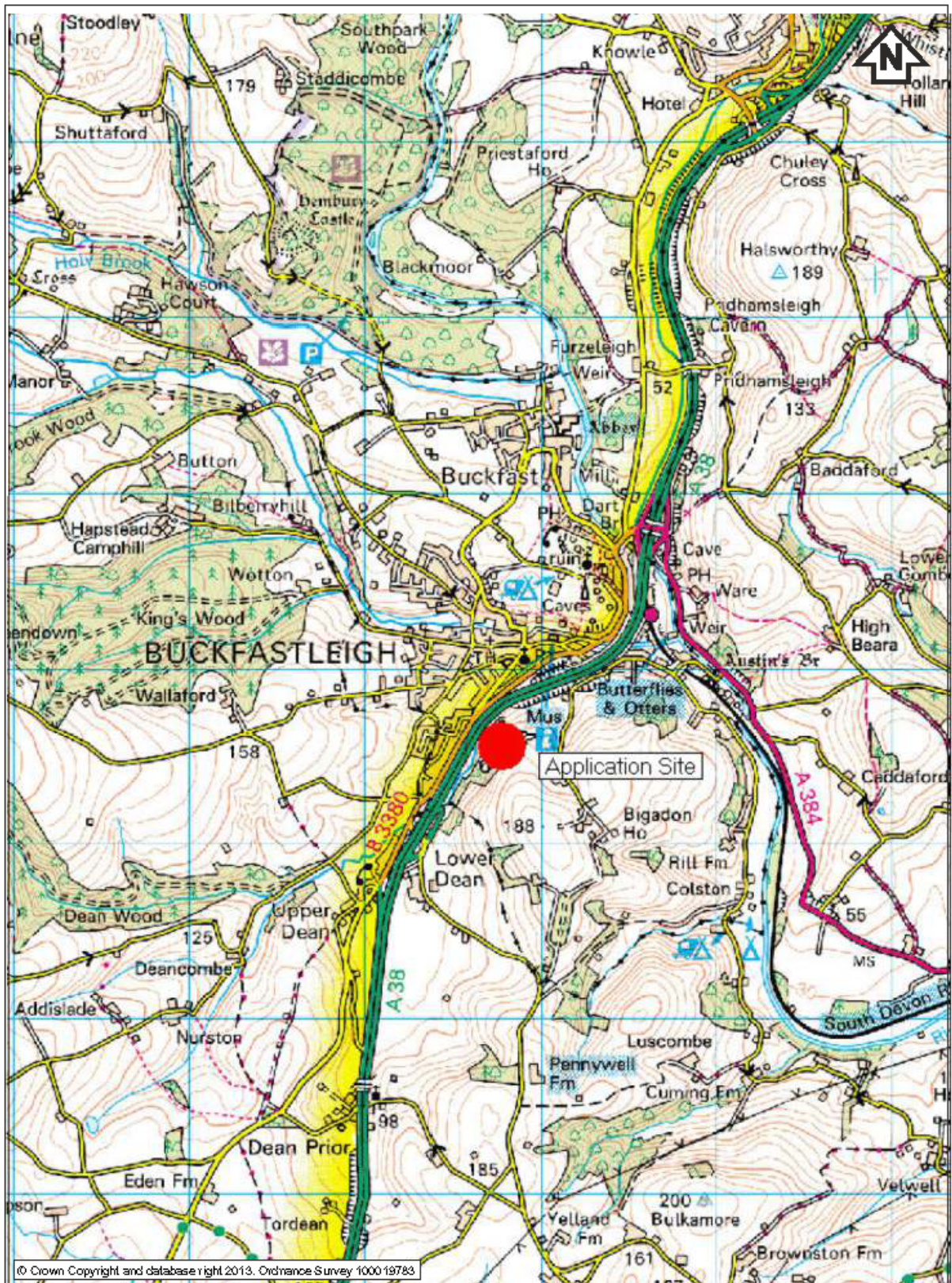
Contact for enquiries: Andy Bowman

Room No: AB2, County Hall

Tel No: 01392 382967

| Background Paper | Date | File Ref. |
|-------------------------|-------------|------------------|
| Casework File | 11/03/2104 | DCC/3643/2014 |

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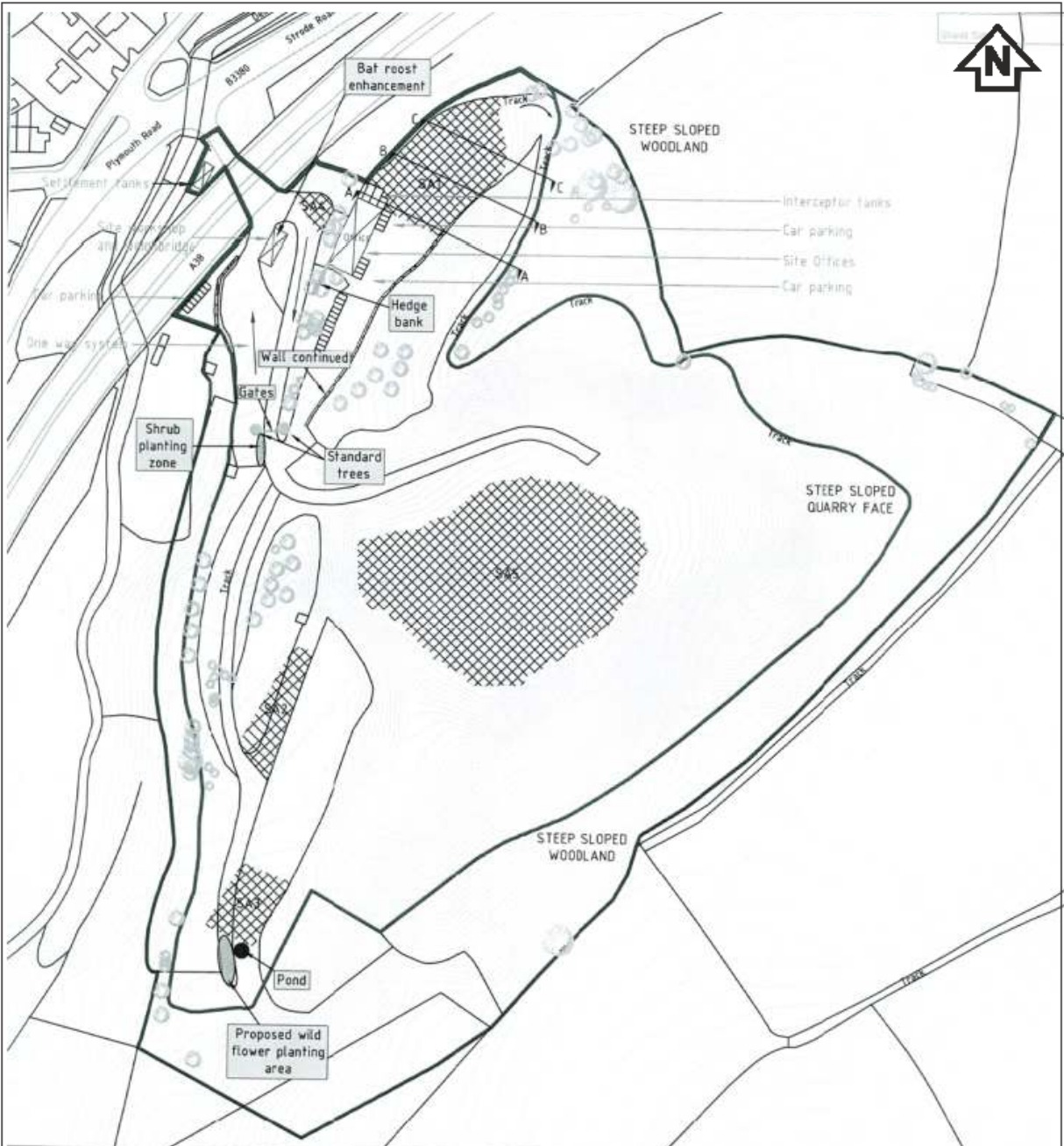
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Head of Planning,
Transportation
and Environment

Development Management Committee
County Matter: Minerals
Teignbridge District Council: Change of use to allow existing
buildings on site for general office and workshop use and part of
site for storage at Whitecleaves Quarry, Plymouth Road,
Buckfastleigh

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| date | scale |
| July 2014 | NTS |
| Application No: 2013/03520/COU | |



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GILPIN DEMOLITION

LEGEND

- PLANNING APPLICATION BOUNDARY
- LAND UNDER CONTROL OF APPLICANT
- EXISTING/PROPOSED STORAGE
- APPROXIMATE TREE LOCATIONS



Head of Planning, Transportation and Environment

Development Management Committee
 County Matter: Minerals
 Teignbridge District Council: Change of use to allow existing buildings on site for general office and workshop use and part of site for storage at Whitecleaves Quarry, Plymouth Road, Buckfastleigh

date
 July 2014

scale
 NTS

Application No:
 2013/03520/COU

Planning Policy Considerations

Devon County Minerals Local Plan (Adopted June 2004): Policies MP1 (International Designations); MP3 (Sites of Special Scientific Interest); MP10 (Maintenance of the County's Nature Conservation Resource); MP13 (Development in Mineral Consultation Areas); and, MP14 (Mineral Consultation Areas).

Teignbridge Local Plan 2013 – 2033 (Adopted May 2014): Policies S1A (Presumption in favour of Sustainable Development); S1 (Sustainable Development Criteria); S3 (Land for Business, General Industry and Storage and Distribution); EN2A (Landscape Protection and Enhancement); EN8 (Biodiversity Protection and Enhancement); EN9 (Important Habitats and Features); EN10 (European Wildlife Sites); and, EN12 (Woodlands).

Planning Conditions

TEMPORARY PERMISSION

1. The use hereby permitted shall be discontinued on or before 8 June 2017.

REASON: To enable a review of the permission as part of the 1st Periodic Review of ROMP 98/3304/32/9DCC in order to safeguard the requirements for restoration of the quarry.

2. The development shall be carried out in strict accordance with the details shown on the approved drawings and documents numbered ***** unless varied by the conditions below.

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

3. With the exception of bona fide emergency out of hours access as specified in condition 4 or relevant ecological surveys that need to be carried out, out of hours the site shall be open to site personnel only during the hours 07.30 to 18.30 Monday to Friday and 07.30 to 13.00 Saturday. All operational activity on the site shall be confined to the hours 08.00 to 18.00 (Monday to Friday) and 08.00 to 13.00 on Saturdays. There shall be no operational activity on Sundays or Bank Holidays except for the emergency out of hour's operations aforementioned.

REASON: To reduce noise and disturbance from the site during quiet periods in the interests of residential amenity

4. Notwithstanding the provisions of Condition 3 above, the site shall be open to site personnel for access outside of the permitted hours to collect equipment for bona fide unplanned emergency demolition contracts. This shall not include out of hours deliveries or return of equipment and a log shall be kept recording each instance of such emergency access including the hours the site was open, the number of vehicles attending and any subsequent complaints about such access. This log shall be made available to the Mineral Planning Authority on request. If the emergency access outside the above permitted hours in Condition 3 leads to substantive complaint, the operator shall within one month of receiving a written request from the Mineral Planning Authority submit a scheme containing details of proposed measures to reduce noise and disturbance during times of emergency access. Such Scheme shall be implemented in full upon approval by the Mineral Planning Authority.

Reason: To enable the operator to access the site for equipment needed to carry out emergency works without causing disturbance to neighbours or protected species.

5. All heavy goods vehicles carrying demolition plant entering or leaving the site shall be cleaned so as to prevent any debris or material falling onto the highway.

Reason: To minimise dust arising from the operation and to enable the occasional unsheeted vehicle to access the site if its load is not dust generating (e.g. plant and machinery or metal recycling).

6. No lighting other than that approved under Planning permission 98/3304/32/9DCC shall be erected.

Reason: To prevent adverse effects on the bat flight corridor through the site.

7. The development shall be carried out in accordance with the Ecological Mitigation and Management Plan (EMMP) (Final Report) dated May 2014. The EMMP shall be updated annually to include the results of the revised monitoring programme, and a revised timetable for ecological works. Any updated EMMP shall be submitted to the Mineral Planning Authority for approval in writing and shall be implemented as approved thereafter.

Reason: To make appropriate provision for natural habitat within the approved development in the interests of biodiversity and to ensure that this condition relates to one up to date document with a clear timeline for required works and actions for the avoidance of doubt.

8. The landscaping scheme shown on the Ecological Mitigation Management Plan (EMMP) dated May 2014 shall be carried out in the first planting and seeding seasons following issue of this permission. The planting required by the approved scheme shall be maintained for a minimum period of five years. Any trees, shrubs or planted carried out to implement this scheme areas, or replacement of it, that are removed, uprooted, destroyed or dies within five years of the date of planting shall be replaced with the same or similar species in the same location.

Reason: To make appropriate provision for natural habitat within the approved development in the interests of biodiversity.

9. A detailed monitoring programme setting out methods to be employed to shall be submitted to and approved in writing by the Mineral Planning Authority within three months of the date of this permission: This shall include the following:

- (i) Programme to monitor, assess and report on populations of protected species on the site;
- (ii) Programme monitor, assess and report on compliance with the mitigation measures specified in the EMMP; and
- (iii) Provision for the programme to be reviewed annually.

The approved programme must be implemented and adhered to throughout the duration of the development unless otherwise approved in writing by the Mineral Planning Authority.

Reason: To ensure that the ecological monitoring and mitigation identifies and responds to emerging issues in the interests of protecting species and habitats, and to monitor success of the mitigation measures and identify amendments to the monitoring requirements or additional mitigation to protect species and habitats.

10. In designated area SA1 and SA2, no plant and equipment shall be stored which exceeds 3m in height. The slope behind SA2 shall be planted in accordance with a scheme to be submitted within three months of the date of this permission. The approved scheme shall be maintained for a minimum period of five years. Any trees, plants or grassed areas, or replacement of them, that are removed, uprooted, destroyed or dies within five years of the date of planting shall be replaced with the same or similar species in the same location.

REASON: To protect the visual amenity of the site in the interests of local amenity.

11. No maintenance of plant or machinery shall occur outside of the confines of the existing workshop.

REASON: To control noise in the interests of the local amenity.

Habitats Regulations 2010

Devon County Council
March 2014

Section 1: Screening of likely significant effect on a European site

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|---|--|
| 1. Type of permission/activity: | Full Planning Permission |
| 2. Application reference no: | DCC/3643/2014 Whitecleave Quarry, Buckfastleigh, Devon |
| 3. National grid reference: | SX 7377 6552 |
| 4. Brief description of proposal: | <p>The application is for:</p> <p>(a) 'Additional use' of five areas within the existing working site, specifically to store materials and equipment that will be used to support the applicant's demolition business. The applicant proposes to store:</p> <ul style="list-style-type: none"> ○ 40 yd metal containers ○ Plant, equipment and machinery such as diggers, excavators, forklifts etc ○ Associated attachments for the above equipment such as buckets and hammers ○ Baskets and cages used for men and equipment accessing heights ○ Trailers ○ Stability platforms – metal and polystyrene ○ Wooden beams ○ Other such similar and associated items <p>(b) Change of use/additional use to allow existing buildings on site to be used for general office and workshop use.</p> <p>Note that there will be no removal of vegetation and no lighting (other than vehicle headlights).</p> |
| 5. Is the proposal directly connected with or necessary to management of a European site for nature conservation? | No |
| 6. European site name(s) and qualifying features + features relevant to this application: | <p><u>South Hams SAC –</u> Qualifying features: <u>Annex I Habitats</u> European dry heaths Semi-natural dry grasslands and scrubland faces: on calcareous substrates (<i>Festuco-Brometalia</i>) Vegetated sea cliffs of the Atlantic and Baltic coasts Caves not open to the public Tilio-Acerion forests of slopes, screes and ravines * Priority feature <u>Annex II Species</u> Greater horseshoe bat <i>Rhinolophus ferrumequinum</i></p> |

Relevant feature: Greater horseshoe bats (*Rhinolophus ferrumequinum*)
- South Hams is thought to hold the largest population in the UK. It contains both maternity and hibernation roosts and contains the largest known maternity roost in the UK and possibly in Europe. The quarry is within Natural England's Greater Horseshoe Bat consultation zone for the SAC, lying within the sustenance zone for Buckfastleigh Caves and a strategic flyway (NE, 2010).

This site is 700m from Buckfastleigh Caves SSSI (a Greater Horseshoe Bat maternity roost) and 2.5km from Bulkamore Iron Mine SSSI (a GHB hibernation roost). Both form part of the South Hams SAC. The site lies with a sustenance zone and flyway as identified in Natural England's 2010 South Hams SAC – Greater horseshoe bat consultation zone planning guidance.

Dartmoor SAC

Qualifying features:

Annex I Habitats

Northern Atlantic wet heaths with *Erica tetralix*

European dry heaths

Blanket bogs

Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

Annex II Species

Southern damselfly *Coenagrion mercuriale*

Atlantic salmon *Salmo salar*

Otter *Lutra lutra*

Relevant feature: Atlantic salmon (*Salmo salmar*) and Otter (*Lutra lutra*)

The Dean Burn (adjacent to this site) flows into the River Dart which is a migratory route for salmon to the Dartmoor SAC and supports otters (and therefore may impact on the otter population of the SAC).

Please note that, due to distances between this site and European sites and lack of connectivity between this site and European sites (other than the Dean Burn), there are no other qualifying features of these SACs and no other SACs / SPAs that need to be considered within this HRA screening.

Conservation Objectives

With regard to the natural habitats and/or species for which the site has been designated (the Qualifying Features" listed above);

Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.

Subject to natural change, to maintain or restore:

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
- The populations of qualifying species;
- The distribution of qualifying species within the site.

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| <p>7. Ecological characteristics associated with the relevant interest features</p> | <p>Greater horseshoe bats (South Hams SAC)</p> <p>Greater horseshoe bats use the wider countryside of South Devon for the majority of their activities, including commuting, foraging, roosting, and mating. The SAC designated roost sites were identified on the basis of their relative importance for hibernating during winter, and summer roost sites including nursery roosts where the females for a whole colony gather together to give birth and rear their young.</p> <p>The key aspects associated with maintaining the integrity of the greater horseshoe bat interest (and its favourable conservation status are) :-</p> <p>1) The area has to be large enough to provide a range of food sources capable of supporting the whole greater horseshoe bat population; the bats feed at a number of locations through the night and will select different feeding areas through the year linked to the seasonal availability of their insect prey.</p> <p>2) Greater horseshoe bats regularly travel through South Devon between feeding sites and their roosts via a network of established flyways. They also travel greater distances between the sites designated as the South Hams SAC at certain times of the year, for example: in the spring and autumn between hibernacula and maternity sites; and, in the autumn to mating sites.</p> <p>3) Greater horseshoe bats need to be able to move through the landscape between their roosts and their foraging areas to maintain favourable conservation status. They require linear features in the landscape to provide landscape permeability. The greater horseshoe bat tends to use landscape features to navigate, such as lines of vegetation (hedgerows, woodland edge, vegetated watercourses etc) and will tend to fly close to the ground up to a height of 2 meters, and mostly beneath vegetation cover.</p> <p>4) Greater horseshoe bats are sensitive to light and will avoid lit areas. The interruption of a flyway, by light disturbance or physical removal/ obstruction would force the greater horseshoe bat to find an alternative route which is likely to incur an additional energetic burden and will therefore be a threat to the viability of the bat colony. In some circumstances, an alternative route is not available and can lead to isolation and fragmentation of the bat population from key foraging areas and/or roosts.</p> <p>5) Most feeding activity is concentrated in an area within 4km of the roost (juvenile bats will forage within 3km at a stage in their life when they are most susceptible to mortality). The most important types of habitat for feeding have been shown to be permanent pasture grazed by cattle, hay meadows, and wetland features such as stream lines and wet woodland.</p> <p>Taking the above requirements into account, greater horseshoe bats are particularly susceptible to the following changes in their habitat that may arise as a result of development:-</p> <ol style="list-style-type: none"> 1. Impact on roost sites (including damage, destruction and disturbance) 2. Removal, severance or disturbance of linear features used for navigation and commuting 3. Disturbance from new illumination causing bats to change their use of an area 4. Physical injury by wind turbines 5. Change in habitat structure and composition (loss or change in quality of foraging habitat) <p>Planning development proposals need to demonstrate that there will be no detrimental impact upon the ability of the greater horseshoe bats to navigate and feed by affecting the ecological impacts identified above. Since these impacts are common to most development types, appropriate mitigation needs to be incorporated to prevent unacceptable damage.</p> <p><i>The above is predominantly taken from Natural England South Hams SAC planning guidance, 2010.</i></p> <p>Atlantic salmon (Dartmoor SAC) - require Clean water Suitable and consistent minimum flows - avoiding over-abstraction Sequences of riffle/pool providing varied depths for feeding and high quality refugia Access to spawning areas - removal of barriers to migrations Suitable spawning locations (cobbles and gravels washed clean of silt) and habitat for fry and parr Foliage cover to provide security, shading and cooling</p> <p>Otters (Dartmoor SAC) – require (source: Ecology of the European Otter, Chanin, 2003) High water quality – to ensure good invertebrate and fish populations and no direct or direct impact to otters from pollutants such as toxic chemicals Riparian vegetation – increases invertebrate prey for fish populations (otter diet is dominated by fish) Watercourses free from physical barriers (which could prevent travel) Low disturbance (although otters do occur in urban areas and so can habituate to some disturbance)</p> |
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8. Planning context:

This site is an extant quarry with associated buildings and tracks.

1950 - Original planning permission granted for winning and working minerals (dolerite). Since then there have been three extensions to the quarry area as well as a planning permission granted for tipping of spoil and for construction of various parts of the plant area.

1997 - Production of roadstone ceased at the site, quarry stone still produced. Crushing and coating plant were dismantled and most of the buildings dismantled or demolished.

1998 – Hanson Aggregates Ltd submitted a ROMP application (Ref: 98/3304/32/9DC) to work the site using mobile plant. At that time the site was controlled by a 1963 permission which had only a few relatively poor conditions governing operation. There were no formal hours of working at the site, no noise limits, no limits to the effects of blasting, and no effective restoration and aftercare conditions.

1999 – ROMP discussed with English Nature. English Nature indicated possible impacts on the South Hams SAC (note that the South Hams Site of Community Importance was proposed in 1996 and confirmed in 2004. The SAC was designated in 2005).

2002 – **Determination of a new Scheme of Conditions (ROMP) for the site** (Ref - 98/3304/32/9DC). An Appropriate Assessment was carried out (in consultation with English Nature). Information on bats was provided by Shaw (1999) and Bemment (2001). **The Appropriate Assessment concluded no significant effect on the South Hams SAC** (in relation to Greater Horseshoe bats) subject to specific mitigation measures being included in the Scheme of Conditions (see Conditions 19, 21, 22, 25 and 28). In particular these conditions required the protection of existing trees as well as submission of Management Schemes (incl for bat use) and Restoration and Aftercare Schemes.

2003-2007 – No blasting during this time. Hansons moved large quantities of quarried material to their quarry at Stoneycombe.

2007 – Hanson's lease expired (landowner = Mrs Trueman). None of the Schemes mentioned above had been discharged by the MPA at this point. Hanson required to carry out a number of obligations as outgoing tenant. These included removing scrap, concrete structures and buildings.

2008 – Planning application submitted by Sam Gilpin Demolition Ltd for the development of an integrated waste materials facility. Application withdrawn before determination by DCC.

2009 - Gilpins pursued reopening the quarry under the 2002 ROMP permission. No further development of the site (quarrying, removal of vegetation or erection of buildings) could take place until planning conditions had been formally submitted and approved. Devon Wildlife Consultants were commissioned to carry out bat surveys (DWC, 2008) in order to inform the required wildlife management scheme (as well as the 2008 planning application) and a new Appropriate Assessment. Flight routes through the site were identified and mitigation (to protect the flight line from quarrying activities) was discussed and agreed with Natural England. Mitigation (such as the new hedge between the flight line and quarry) was set out in the *Appropriate Assessment Management Scheme* and *Whitecleaves Mitigation Strategy*. These schemes were a condition of the permission and the Appropriate Assessment concluded no adverse affect on the integrity of the SAC. The Mitigation Strategy required annual bat monitoring from the start of quarrying for a period of five years. Monitoring surveys were carried out in 2009 and 2010 by Devon Wildlife Consultants, 2011 by URS Scott Wilson and in 2012 and 2013 by Green Lane Ecology.

- **Scheme for the protection of trees and vegetation approved by MPA on 10th July 2009**
- **Management Scheme approved by MPA on 10th July 2009 – this Scheme includes the Whitecleaves Mitigation Strategy (DWC, 2009).**
- **Restoration and Aftercare Scheme - submission date extended to 10th July 2014**

2009/10 – Works carried out under permitted development (including erection of offices relating to quarrying and enhancement of the bat flight line) in order for Gilpins to re-open the quarry.

2012 – Planning application by MVV Environment Devonport Ltd for the proposed development of an Incinerator Bottom Ash (IBA) Facility and Materials Recycling Facility (MRF). Landscape and Ecological Management Plan produced by URS consultants, April 2012. (Ref - 11/02685/DCC). Bat surveys carried out by URS in 2011. Detailed Landscape and Ecological Management Plan (LEMP) drawn up and agreed with Natural England. Appropriate Assessment concluded no significant effect on the SAC provided that mitigation secured via conditions. Application refused by DCC and refused on appeal.

Nov 2012 – woodland on the western edge of Block D removed with DCC approval (under ROMP) and under a dormouse licence from NE.

2014 – Current application for additional use of areas to store materials relating to a demolition business and change of use of existing buildings.

Note that DCC's monitoring officer carries out regular monitoring visits (max three a year) and inspections (as necessary) to the site to check compliance with permissions, including the protection of the bat flight lines. Monitoring reports are available on request.

9. Greater horseshoe bat use of the application site – relevant to this application

A series of bat surveys of the site were undertaken on this site between 2008 and 2013 (see list below). These surveys related to the ROMP, previous planning applications and this application (see planning context above). All surveys have demonstrated that there is an important commuting route for greater horseshoe bats through site (see map 1). In August 2010 a peak count of 143 greater horseshoe bats was recorded commuting along this route in one night. The peak was 325 bats in August 2012 and 374 bats in August 2013. As for other surveys the 2013 survey showed numbers gradually increasing to the August peak and then tailing off towards the autumn. Numbers in early spring and autumn were low. On average bats started commuting through the site 33 minutes after sunset and all bats had flown through the site in 21 minutes. The 2013 survey observed no foraging activity within the site. It is likely that the bats commuting through the site are from the South Hams SAC roost in Buckfastleigh, the largest known greater horseshoe bat breeding roost in the UK.

Historic surveys

1999 – Shaw

2008/9/10 – Devon Wildlife Trust Consultants

2011 – URS

2012 – Green Lane Ecology. **Two surveys each month from May-October. Included three static points and two transects (with four experienced bat surveyors and one static bat detector used for the survey at any one time with five different surveyors employed).** GHBs were recorded commuting through the quarry on every survey with a peak of 325 bats on one night in August. Bats followed a similar commuting route throughout the survey to that identified in previous surveys – see map 1

Recent surveys

2013 - Green Lane Ecology. **Methodology as for 2012 but started in March 2013 (in order to try and identify when GHBs started to commute through the site) and used extra static detectors.** Survey found that 83% of bats followed the main commuting route through the site (as identified in previous surveys) – see map 1. Evidence suggests that 17% of the bats commute in a south easterly direction and do not commute through the quarry. GHB numbers were lower at the beginning of the survey in May compared to 2012, probably due to the cold spring. Numbers reached a peak of 374 on the 18th August. Overall there was a 13% increase in numbers commuting through the site in 2013. Please see bat report for details.

Screening Assessment for likely significant effect

10. Potential hazards likely to affect the interest features

| Sensitive interest feature | Possible impacts | Actual impact |
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| South Hams SAC: Greater Horseshoe bat sustenance zone (foraging habitat) | <ul style="list-style-type: none"> • Change / degradation of foraging habitat • Physical loss of foraging habitat • Disturbance to foraging habitat e.g. increased lighting | <p>None. No foraging activity was observed in the 2013 survey.</p> <p>Also note that this application will not lead to the loss of, or impacts on, any existing habitat which could be used by foraging bats in the future.</p> |

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| <p>South Hams SAC: Greater horseshoe bat strategic flyway</p> | <ul style="list-style-type: none"> • Loss/severance of linear features e.g. trees, hedges, fence lines • Creation of physical barriers along the flyway e.g. security fencing • Disturbance e.g. increased lighting >0.5 Lux | <p>Loss / severance. There will be <u>no loss of vegetation anywhere within the site as a result of this application.</u> This will be a condition of any planning permission (and is already a condition of the existing ROMP).</p> <p>Physical barriers. <u>The storage areas are outside the identified flight lines and are on disturbed bare ground already used for existing quarrying operations.</u> See map 1 which shows the flight line in the context of the storage areas. However as a precautionary measure Storage Area 1 will be kept 1m from the base of the embankment and storage in this area will be kept below 4m in height (boulders and height indicator posts will be used on site to ensure that this happens) in order to allow any bats to fly along the embankment below the woodland should they choose to do so. This will ensure that storage materials are well below and away from the flight line along the woodland on the adjacent embankment. Use of the identified storage areas (and demarcation of the height and location of Storage Area 1) will be conditioned and monitored by DCC. All parking of vehicles connected to office use will be restricted to the defined parking areas by the offices and well away from the flight line (see black hatching on Map 1). This application does not therefore result in any barriers to the bats.</p> <p>Lighting. <u>This proposal does not include external lighting.</u> The offices are already used during normal office hours (7.30 - 18.00pm) and this will not change (note that the site has permission for working hours of 7.00-19.00). Note however that the consultant ecologist has confirmed that lighting from the offices does not illuminate the bat flight line which passes through the wooded bank opposite the buildings.</p> <p>The site will be open for some or all of the bat sunset commute (all GHBs pass through the site in ~ 20 minutes) during mid March (1-18th March) and mid October (14–31 October) only. Survey has shown that numbers of GHBs commuting through the site are much lower during this period (0 in March 2013 - although note the cold 2013 spring- and 23 and 30 bats commuting through on 6th and 23rd of October 2013 respectively). Other surveys confirm that the number of GHBs flying through the site builds up to a peak in August (374 in one night in 2013) and then tails off again. This application will result in an increase in vehicles using the site during this period. Current use is approx. 4 office vehicles and an occasional HGV. This proposal will increase this to 16 staff vehicles and 4 HGVs. Possible impacts include collisions with vehicles as low flying GHBs cross the track at the turning circle, and lighting of the flight line through the woods from headlights. Note that dawn monitoring has shown that the return commute occurs no later than an hour before local sunrise and as such there is unlikely to be an overlap with working hours (although mitigation below also applies).</p> <p>Collisions – The potential impact is considered to be negligible at the turning circle. All vehicles are limited to a 10 mph speed limit on site but are likely to be travelling slower around this bend. GHBs have a high ability to detect and avoid obstacles and there is therefore negligible risk. Furthermore there is evidence that light averse species such as GHBs will roost and wait until there are no vehicles before attempting to cross roads (Lemaire and Arthur, 1999).</p> <p>Illumination of the flight line - Lights from vehicles may illuminate the flight line <u>briefly</u> as they drive from or towards the offices. In order to mitigate this potential impact all vehicles entering or leaving the site will operate mandatory dipped headlights (a sign will be erected to ensure that this is clear) and all headlights will be turned off as soon as vehicles are parked.</p> |
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| | <ul style="list-style-type: none"> • | <p>Note that the applicant operates flexible working hours (7.30- 9.30 start and 16.00- 18.00 finish) which reduces the chances of everyone leaving as any bats commute through the site in March or October.</p> <p>The enhancement and mitigation measures relating to lighting will be conditioned and the number of vehicles on site will also be conditioned as per numbers above.</p> <p>Further enhancement: The flight line will be enhanced through further planting. Please see the EMMP (2014). These enhancements will be conditioned.</p> |
| South Hams SAC: Hibernating Greater Horseshoe bats. | <ul style="list-style-type: none"> • Disturbance to roosts e.g. from blasting, lighting • Loss / degradation of roosts | <p>None. This application does not result in any activities which could impact on an existing roost (no lighting or blasting).</p> |
| Dartmoor SAC: Atlantic salmon and otters | <p>Impacts due to changes in water quality creating a barrier to salmon migration up the Dart to Dartmoor SAC and otter use of the catchment.</p> <p>Disturbance to otters.</p> | <p>Potential impacts on the Dean Burn from leaks from stored equipment and oil, fuel, lubricant storage. Note that surface water management and liquid storage facilities are already conditioned via the ROMP. However there will be an additional condition imposed on this permission relating to liquid storage facilities from the plant and machinery to be stored on site in order to ensure no impact on the Dean Burn. There will be no change to surface water management as a result of this application.</p> <p>This application is well away from the Dean Burn and will not lead to potential disturbance to otters.</p> |

Conclusion

11. Conclusion:

Is the proposal likely to have a significant effect 'alone' or 'in combination' on a European site?

Further to the screening assessment above it can be concluded that this proposal will not have a likely significant effect 'alone' on the South Hams SAC or the Dartmoor SAC. As there are no residual effects there can be no significant effect 'in-combination' with other plans or projects.

Note that any permission given would be for a temporary three year period (in order to tie in with the ROMP review) in order to ensure that this proposal does not impact on the long term restoration of this site relating to the promotion of nature conservation interests (as conditioned in the ROMP).

Also note that, as a precautionary measure, monitoring of GHB use of the site will be conditioned during the lifetime of any permission granted (see the EMMP, 2014 for further details). Any issues will be discussed with the site operator and LPA immediately and suitable measures agreed.

Lemaire M, Arthur L (1999) Bats and roads. In: *Actes des troisiemes rencontres "Routes et Faune Sauvage".* *Ministere de l'Equipeement, des Transports et du Logement et Ministere de l'Amenagement du Territoire et de l'Environnement*, 30 septembre au octobre 1998. SETRA. 3'd Meeting - Roads and wildlife in France. Museum of Natural History, Bourges, France.

