

North Devon District: Article 4 Direction to remove permitted development rights for mineral working for agricultural purposes
Location: Codden Hill, Bishop's Tawton, Barnstaple

Report of the Chief Planner

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

Recommendation: It is recommended that:

- (a) The committee agree that a non-immediate Article 4¹ direction be made, subject to any intervention from the Secretary of State for Levelling Up, Housing and Communities, covering the area shown in red in Appendix I to remove the following permitted development rights within Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended):**
 - (i) Class C - mineral working for agricultural purposes, of Part 6 Agricultural and forestry**
- (b) The Chief Planner be authorised to make any minor amendments necessary to the direction that do not alter the main purpose, in consultation with the Chair and Local Member.**

1. Summary

- 1.1. This report recommends making a non-immediate Article 4 direction to remove the permitted development rights associated with mineral extraction for agricultural purposes in the area shown in Appendix I, known as Codden Hill, southeast of the village of Bishop's Tawton.
- 1.2. Permitted development rights are a national grant of deemed planning permission which allows certain works to take place without having to make a planning application. Such rights are subject to conditions and limitations to control impacts and to protect local amenity.
- 1.3. Permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [GPDO] and a planning authority has the power to make a direction to remove specified permitted development rights within a defined area. This is known as an Article 4 direction.

¹ Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

2. Background/Context

Codden Hill

- 2.1. Codden Hill is located southeast of the village of Bishop's Tawton, approximately 3km south of Barnstaple, and is accessed primarily via the A377. It forms a prominent and distinctive ridge and an important landscape backdrop to the surrounding area, and offers recreational routes with Bishop's Tawton Footpaths 19 and 17 running across the ridge of the hill, with long views to the north and south. The northwest flank of Codden Hill is defined as 'Access Land' under the Countryside and Rights of Way Act 2000. A Scheduled Monument², Codden Beacon, is located at the peak of the hill. The Codden Hill County Wildlife Site covers a large proportion of the north area of Codden Hill.
- 2.2. The majority of Codden Hill is used for agriculture, with the main habitats being lowland heathland, deciduous woodland and grassland. There are two residential properties within the area shown in Appendix II.
- 2.3. The Mineral Planning Authority is aware of eight mineral extraction areas on Codden Hill:
 - one of these sites, Codden Hill Quarry, has a Dormant³ mineral permission, although it cannot be worked under this permission until a new scheme of working conditions has been submitted to and approved by the County Council;
 - six sites are within the control of one landowner, of which two sites, Horswell Quarry and Overton Quarry, are subject to Enforcement Notices with the landowner being subject to injunctive action by Devon County Council; and
 - one site is used by a separate landowner.
- 2.4. These sites, except for Codden Hill Quarry, have all been claimed to have been worked under permitted development rights for mineral extraction for agricultural purposes in the past. These sites are shown in Appendix II.

Permitted Development Rights

- 2.5. Various forms of development benefit from permitted development rights set out in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [GPDO]. The Class relevant to this report is Class C - mineral working for agricultural purposes of Part 6 Agricultural and forestry, which states that the following development is permitted:

² A monument protected by the Ancient Monuments and Archaeological Areas Act 1979

³ A mineral permission that was inactive from February 1982 to June 1995, as defined by the Environment Act 1995

C. The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.

Class C continues stating that:

C.1 Development is not permitted by Class C if any excavation would be made within 25 metres of a metalled part of a trunk road or classified road.

And:

C.2 Development is permitted by Class C subject to the condition that no mineral extracted during the course of the operation is moved to any place outside the land from which it was extracted, except to land which is held or occupied with that land and is used for the purposes of agriculture.

- 2.6. There are no other conditions limiting Class C development. Proposals for mineral development that come forward and are considered by this Committee are usually a result of multiple assessments to inform the development and minimise impacts upon the local landscape, biodiversity, neighbouring residents, the highway network, flood risk and the historic environment, and would also include conditions to secure the restoration of a site. The GPDO does not include these provisions.

Article 4 Directions

- 2.7. An Article 4 direction would result in the withdrawal of permitted development rights, meaning that deemed planning permission is no longer granted automatically by the GPDO and that a planning application would need to be made to the mineral planning authority. An Article 4 direction does not prohibit development but enables the planning authority to have control over the proposed development.
- 2.8. An Article 4 direction can be made only where it is expedient, and it therefore requires justification. The justification is set out in the Section 4 below.
- 2.9. There are two types of Article 4 direction: those with immediate effect and those without immediate effect (non-immediate).
- 2.10. An immediate Article 4 direction, once served on an area, removes the specified permitted development rights with immediate effect. Schedule 3(2) of the GPDO 2015 states that Article 4 directions with immediate effect do not apply to the removal of Part 6 and, therefore, a non-immediate Article 4 direction, where the direction comes into force at least 12 months and 28 days, which run concurrently, after it was initially made, is the only option.
- 2.11. The process for making a non-immediate Article 4 direction would be broadly as follows:
- Decision to introduce an Article 4 direction, setting a date for when the Direction will come into force which must be at least 28 days and 1 year,

which run concurrently, after representations can first be made (after agreement by this committee).

- Public/consultation stage - the direction must be publicised by way of:
 - a notice within the local newspaper;
 - at least two site notices; and
 - notifying the owners and occupiers of the affected land (unless impracticable, e.g. the numbers of owners and occupiers to be notified, or problems identifying one or more owner/occupier).

It is also good practice to publish a notice on the Council's website.

The notice will include the details of the direction; the date the direction would come into force; a consultation period for a minimum of 21 days.

On the same day that notice is given as above, the Council refers its decision to the Secretary of State who has wide powers to modify or cancel a Direction.

- At least 1 year after the last notice was served, the Article 4 direction may be confirmed by the Council, taking account of representations. Notice of confirmation would be publicised in the same way as the initial notice listed above and a copy of the confirmed direction would be sent to the Secretary of State.

2.12. The Secretary of State must be notified about any Article 4 direction, and has powers to modify and cancel directions at any time.

2.13. Once an Article 4 direction is confirmed it remains in force indefinitely, unless the direction is cancelled by a further direction.

3. Proposal

3.1 It is proposed that permission granted by Class C - mineral working for agricultural purposes of Part 6 Agricultural and forestry of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) does not apply to development on land set out in Appendix I (Codden Hill).

4. Expediency and Justification

4.1 The Council must be satisfied that "it is expedient that the development described in any Part, Class or paragraph of Schedule 2...should not be carried out unless permission is granted for it on an application".

4.2 In applying the test of expediency, regard should be had to paragraph 53 of the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG). The NPPF advises that use of an Article 4 direction should be limited to situations where it is necessary to protect local amenity or the well-being of the area and should apply to the smallest geographical area

possible. In addition, the PPG is clear that Article 4 directions related to agriculture and forestry will need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty.

- 4.3 The potential harm that the direction is intending to address is set out below, with clear evidence included or appended to show the harm that is currently resulting from the permitted development rights being exercised, and which will continue should permitted development rights remain.

Mineral Development

- 4.4 As with all mineral development, once the stone is removed, the land cannot be reinstated (unless material is imported, which has associated impacts in itself). If not adequately controlled, mineral extraction can cause irremediable harm.
- 4.5 On Codden Hill, five of the known excavation sites are cut into the hillside, making any remedial or restoration works difficult, resulting in what are likely to be permanent impacts on the landscape, historic environment and nature conservation. Whilst the impacts on neighbouring residents may be temporary during any operations, mineral working with no control can be intrusive and cause harm to living conditions of neighbouring residents.
- 4.6 These impacts and how there are relevant to Codden Hill are discussed below. At present, there are no controls to mitigate these impacts should mineral extraction take place for agricultural purposes, and this would continue should permitted development rights be maintained in the area.

Landscape

- 4.7 The County Landscape Officer has prepared a report (Appendix III) to consider the landscape and visual characteristics of Codden Hill, and the impacts that minerals working for agricultural purposes may have on Codden Hill.
- 4.8 This report concludes that Codden Hill is a distinct feature of the North Devon landscape that is highly visible for miles around due to its elevated 'whale-back' hillform, distinctive smooth skyline profile, and extensive open grassland and heathland that contrasts with the surrounding patchwork fields. The extensive area of open access land, rights of way, and small car park enable people to enjoy the landscape attributes and qualities, supporting their health and wellbeing.
- 4.9 Mineral working for agricultural purposes, which has limited control, and associated stockpiles, machinery and noise generated present a risk to the exceptional landscape quality and characteristics of Codden Hill. Uncontrolled removal of the landcover and quarrying of rock beneath would potentially remove valued wildlife habitats, disrupt public access, erode rural tranquillity, and leave large scars on the hill that would be widely visible. In particular, quarrying could potentially create unsightly interruptions to the

smooth whale-back skyline profile which would not be possible to mitigate, particularly in the open grassland areas where establishment of screening woodland or bunds would themselves be unsympathetic to the landscape character. Towards the east of the site the landscape is more wooded, and may offer some capacity to accommodate quarrying, but if uncontrolled there is a risk that woodland which provides important environmental functions, such as helping to screen and integrate development and provide wildlife habitats and linkages, could be removed or damaged. All these factors combine to make Codden Hill highly sensitive to change arising from mineral working.

- 4.10 The removal of permitted development rights would ensure that any future proposals for quarrying require planning consent, enabling full application of the relevant landscape policy context and, in particular, ensuring that the valued attributes, distinctive characteristics and qualities of Codden Hill's landscape are conserved and enhanced; that a suitable landscape restoration scheme can be delivered; and that mitigation measures to avoid or minimise adverse effects to acceptable levels can be secured.
- 4.11 Whilst it is accepted that mineral workings are long established features of the landscape on Codden Hill, Overton Quarry and Horswell Quarry in particular have expanded in scale and footprint in recent years, with four new extraction areas appearing in 2021. A survey carried out by DCC showed that, when comparing the sites between 2006 and 2017, an annual average of 1,507 cubic meters (2,562 tonnes) of material was extracted in total from Overton Quarry and Horswell Quarry. However, between 2017 and 2021, that annual average increased roughly eight-fold to 12,129 cubic metres (20,619 tonnes). These two quarries are in highly visually prominent locations and constitute visual scars that should not be allowed to grow in a way such that their scale and visual impact is noticeably increased. Should the permitted development rights remain, uncontrolled expansion could take place and new sites could appear.
- 4.12 In conclusion, it has been demonstrated that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty as there is potential for mineral working to erode or harm the following key characteristics and special qualities of the area in the following ways:
- Effects of continued quarrying and stockpiles and machinery on the high scenic quality and valued landscape features of the area, noting that Codden Hill forms a prominent and distinctive ridge and an important landscape backdrop to the surrounding area, and also offers opportunities to enjoy long, panoramic views. Hedges and hedgerow trees remaining around the quarry form distinct features that contribute positively to the landscape character. There is a Landscape Character Assessment guideline to protect important views to and from the hills.
 - Visual and noise impacts of quarrying on the high levels of peace and tranquillity offered by Codden Hill and surrounding countryside. It is

important to protect such tranquil places for recreation and associated health and well-being benefits, as reflected in paragraph 185 of the NPPF.

- Cumulative landscape and visual effects as above in combination with existing or potential future quarries which could appear in the same view from some locations.

- 4.13 Therefore, the report demonstrates there is a case for protecting the whole of Codden Hill against further mineral working for agricultural purposes and the removal of permitted development rights under Class C. Without this, it is considered that there is the potential for significant landscape and visual effects, contrary to Policy M18 (Landscape and Visual Impact) of the Devon Minerals Plan 2011-2033, to occur.

Historic Environment

- 4.14 The bowl barrow at Codden Beacon Scheduled Monument is located centrally on Codden Hill as shown on the map in Appendix II.
- 4.15 Bowl barrows are funerary monuments dating from the Late Neolithic period to the Late Bronze Age, with most examples belonging to the period 2400-1500 BC. They were constructed as earthen or rubble mounds, sometimes ditched, which covered single or multiple burials. Often occupying prominent locations, they are a major historic element in the modern landscape and their considerable variation of form and longevity as a monument type provide important information on the diversity of beliefs and social organisations amongst early prehistoric communities.
- 4.16 Historic England has confirmed (in Appendix IV) that the Codden Beacon bowl barrow survives comparatively well and contains archaeological and environmental information relating to the monument and the surrounding landscape. They continue that this barrow is a prominent feature in the landscape, which is reflected in its use as a memorial. The Landscape Assessment provided in Appendix III demonstrates this prominence.
- 4.17 One existing extraction area, Horswell Quarry, is approximately 100m south-east of the Monument. Historic England is concerned that continued unregulated mineral extraction at Horswell Quarry in particular may impact upon the setting and significance of the Scheduled Monument. The visual prominence of the Monument also means that harm to the significance and setting to the designated heritage asset may arise from mineral extraction in other areas.
- 4.18 It is also considered unlikely that the surviving pre-historic monument is the only archaeological site of this period on Codden Hill. There is the potential for further prehistoric funerary monuments and associated activity in this area given the prominence of the hill in the landscape. This could be damaged should mineral extraction take place without appropriate archaeological investigations.

- 4.19 When considering a planning application, paragraph 199 of the NPPF requires that great weight should be given to the asset's conservation and that, the more important the asset, the greater the weight should be. Paragraph 200 continues that any substantial harm to a Monument should be wholly exceptional, and the benefits of the development would need to be considered. Policy M19 (The Historic Environment) of the Devon Minerals Plan 2011-2033 also looks for mineral development to not have an adverse impact upon designated heritage assets. There is no opportunity to apply this policy at present.
- 4.20 In the absence of any control over mineral operations in the area, there is no opportunity to assess and consider this potential harm to heritage assets in the planning balance. Due to the proximity of existing extraction areas, there is considered to be a real risk that any extraction will impact upon the setting and significance of the Scheduled Monument. Historic England confirms that they would support the removal of permitted development rights to allow a degree of informed control for any future quarrying in the area.

Proximity to Residential Properties

- 4.21 There are a number of residential properties located on or in close proximity to Codden Hill. Codden Hill Quarry, Overton Quarry and two other extraction areas all have residential properties within approximately 50m of the sites. Other properties could be affected should working take place in other locations, and residential properties are highlighted in Appendix II. The Mineral Planning Authority has received a number of reports from residents in close proximity to Overton Quarry regarding the traffic, noise and dust emissions created by the operations. Reports have often included working taking place early in the morning, late at night and at weekends.
- 4.22 The North Devon Council Environmental Protection Team has also received two complaints regarding noise and dust. It is noted that North Devon Council served an Abatement Notice (under the Environmental Protection Act 1990) on one landowner as that Council was satisfied quarrying activities at Overton Quarry were creating a statutory dust nuisance (Appendix V).
- 4.23 Given the proximity to residential properties, the number of complaints received by the Mineral Planning Authority and North Devon Council, and the nature of mineral working, it is considered there is the potential for adverse impacts upon people's quality of life, health and amenity. This would be contrary to Policy M23 (Quality of Life) of the Devon Minerals Plan 2011-2033. At present, there are no controls to mitigate any impacts, and this situation would continue should permitted development rights be maintained in the area and, therefore, an Article 4 direction is necessary to protect local amenity and the wellbeing of the area. The Environmental Protection Team note that the risk of causing an adverse environmental impact upon local residents would be minimised should development be controlled through the planning process where proportionate and reasonable controls can be implemented.

Nature Conservation

- 4.24 A report has been prepared by the DCC Ecology Team (Appendix VI), which indicates that Codden Hill contains open grassland, heathland and broadleaved woodland habitats of County value. The northern section of Codden Hill is covered by a County Wildlife Site (CWS), a locally designated site, as well as hosting priority habitats and protected species. Whilst there are no known extraction areas within the CWS, there are currently no restrictions to prevent mineral working entering this area. Horswell Quarry is approximately 60m south of this designation, with other excavation areas also in close proximity.
- 4.25 Mineral working for agricultural purposes presents a risk to these valued wildlife and priority habitats by way of dust generation and habitat removal, including changes to the water or air quality. Airborne pollutants and dust pose a threat to the vegetation of heathlands. As heathlands are naturally low in nutrients, they are extra susceptible to harm caused by excessive atmospheric pollution, such as that caused by quarry vehicles.
- 4.26 Without a planning application, the appropriate ecological surveys would not be undertaken, the impacts of continued working on surrounding habitats or species cannot be properly assessed and there would be no mechanism to secure a restoration scheme or mitigation measures that would avoid or minimise adverse effects to acceptable levels, including compensation for habitat loss. Impacts to priority habitats such as lowland heathland would require a bespoke range of mitigation measures in order to be acceptable under 'Biodiversity Net Gain' trading rules.
- 4.27 Normally, mineral development that would have an adverse effect on County Wildlife Sites which cannot be adequately mitigated, is not granted planning permission unless the benefits of the development outweigh any adverse effects, in accordance with Policy M17 (Biodiversity and Geodiversity) of the Devon Minerals Plan 2011-2033.
- 4.28 All of these factors combine to make Codden Hill sensitive ecologically to impacts arising from uncontrolled mineral working. Therefore, it is considered there is a case for protecting Codden Hill and the County Wildlife Site against further uncontrolled mineral extraction. This would ensure that any future proposals for quarrying requires planning consent, enabling full application of the relevant biodiversity policy context.

Equality

- 4.29 In making its decision the Council must also have regard to its public sector equality duty (PSED) under s.149 of the Equalities Act. The duty is to have due regard to the need (in discharging its functions) to:
- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

- (b) advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - (c) foster good relations between people who share a protected characteristic and those who do not.
- 4.30 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 4.31 The PSED must be considered as a relevant factor when considering its decision but does not impose a duty to achieve the outcomes in s.149. The level of consideration required (i.e. due regard) will vary with the decision including such factors as the importance of the decision and the severity of the impact on the Council's ability to meet its PSED, and the likelihood of discriminatory effect or that it could eliminate existing discrimination.
- 4.32 The Council should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic and this impact may be unintentional. In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.
- 4.33 Further, the PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Council is also entitled to take into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.
- 4.34 It is not considered the removal of permitted development rights will have any implications relating to equality issues or groups with protected characteristics. If it comes to the attention of the Council that a person with protected characteristics is affected, the appropriate adjustments can be made.

Legal Implications

- 4.35 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) grants planning permission to a number of specified forms of development. The forms of development for which permission is granted are set out in Schedule 2 of the GPDO. Article 4 of the GPDO allows the local planning authority to make a direction that removes specified permitted development rights within a defined area if those rights would be prejudicial to proper planning of their area or constitute a threat to the amenities of the area. Schedule 3 of the GPDO describes the process by which these Article 4 directions are made. Paragraph 1 of Schedule 3 deals with non-immediate directions.

- 4.36 The Council must provide sufficient evidence and justification to support the Article 4 Direction. A failure to do so, or incorrect procedure, may lead to a judicial review of the decision or intervention by the Secretary of State. The Article 4 direction may be quashed as a result.
- 4.37 It is considered sufficient evidence has been provided to make an informed decision, and that the Council will follow the process outlined in Schedule 3 of the GPDO.

Financial Implications

- 4.38 In certain circumstances, compensation may be payable by the Council. Section 108 of The Town and Country Planning Act 1990 contains compensation arrangements and is applicable to a situation where permitted development rights are removed. Section 108(3C)(c) states that at least 12 months' notice of the withdrawal is required to avoid the ability for compensation claims to be made. Therefore, a non-immediate Article 4 direction removes this risk.
- 4.39 Making an Article 4 direction would result in the need for landowners to apply for planning permission after the date on which the Article 4 takes effect (i.e. 12 months after the notice is first published of the intended direction). This would require the landowner to prepare the documentation considered necessary to accompany planning applications, and the relevant fee to be paid to the Mineral Planning Authority on submission of the application.
- 4.40 It is considered that the financial implications of the proposed recommendation are proportionate to the potential harm that may be caused under the permitted development rights.

5. Alternative Options Considered

- 5.1 There are a number of other options that have been considered:
- 5.2 **Not make an Article 4 direction** - If the Council were to not make an Article 4 direction, extraction can take place in accordance with Class C (notwithstanding the injunctive action for one major landowner) at existing or new quarries on Codden Hill. This will allow the harm to continue due to the limited conditions attached to Class C. The scale of growth at the sites and the number of sites that have appeared on Codden Hill imply that there is a risk for further quarrying to take place in the area.
- 5.3 **Amend the geographical area** – The geographical area of the Article 4 direction could be expanded. At present, the Council is unaware of any other area where harm is being caused, or could be caused, by operations taking place under Class C. Given this, it is considered, in line with the NPPF, the Article 4 currently only covers the smallest geographical area possible, excluding clearly defined alternative uses.

- 5.4 **Amend the scope of the article 4 direction** – Excavation can also take place under Class A, Part 6. However, this is subject to a prior approval process and therefore extraction is somewhat controlled.

6. Conclusion

- 6.1 At present, there are no controls to mitigate any of the impacts detailed above and it is likely that mineral working for agricultural purposes will continue given the history of mineral development in the area. It is considered that the impacts upon the landscape, living conditions, biodiversity and the historic environment would be unacceptable, without being subject to the planning application process, should permitted development rights be maintained and mineral working for agricultural purposes continue on Codden Hill. In particular, it is considered this report demonstrates that an Article 4 direction is necessary to protect local amenity, and that permitted development rights pose a serious threat to a landscape of exceptional beauty, Codden Hill.
- 6.2 In conclusion, it is considered that, on balance, it is expedient, and there is sufficient evidence and justification, to make a non-immediate Article 4 direction as indicated in the recommendation of this report and thereby ensure that development described in Class C should not be carried out unless permission is granted for it following a planning application.

Mike Deaton
Chief Planner

Electoral Division: Chulmleigh & Landkey

Local Government Act 1972: List of Background Papers

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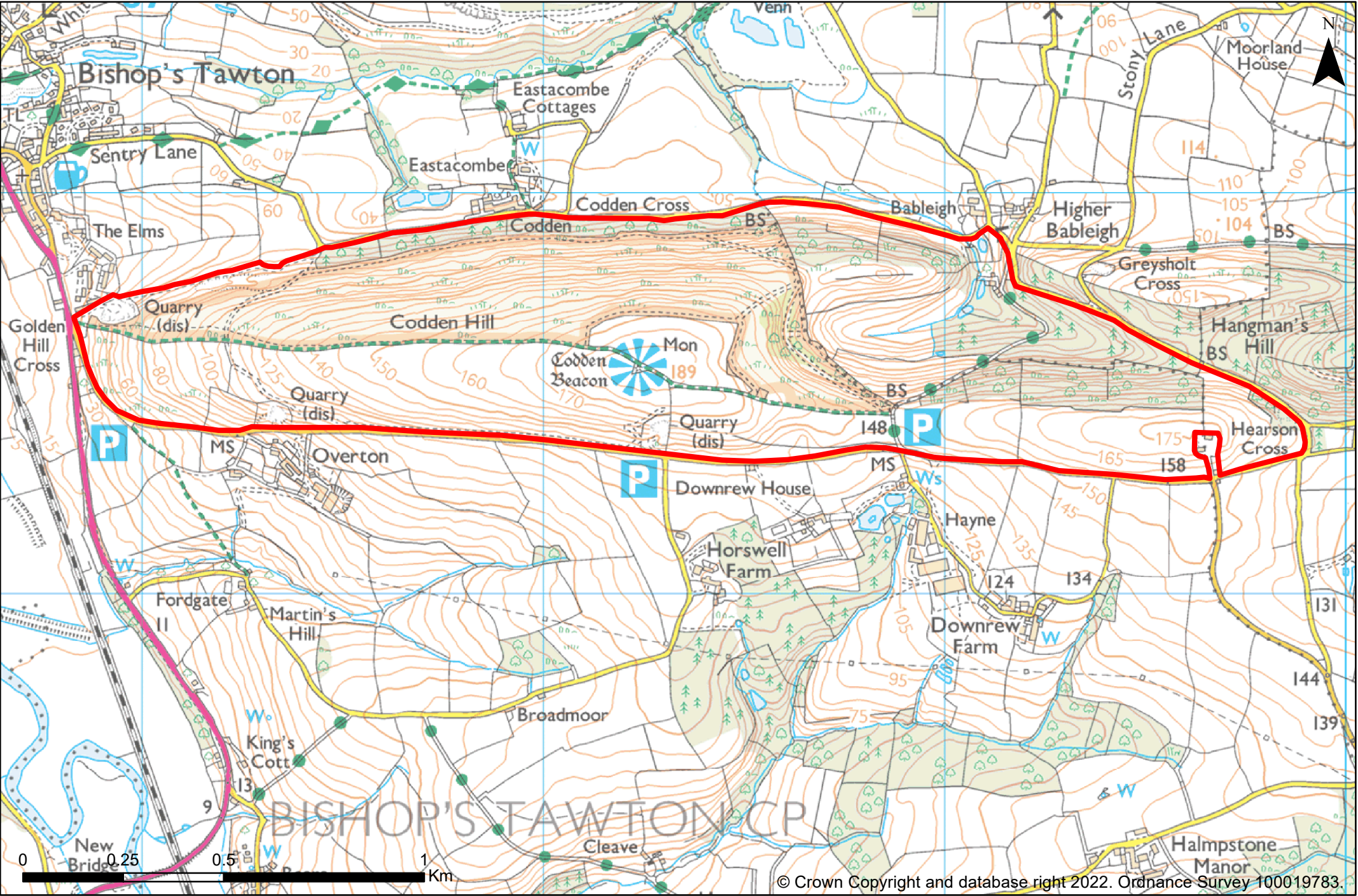
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Tel No: 01392 383000

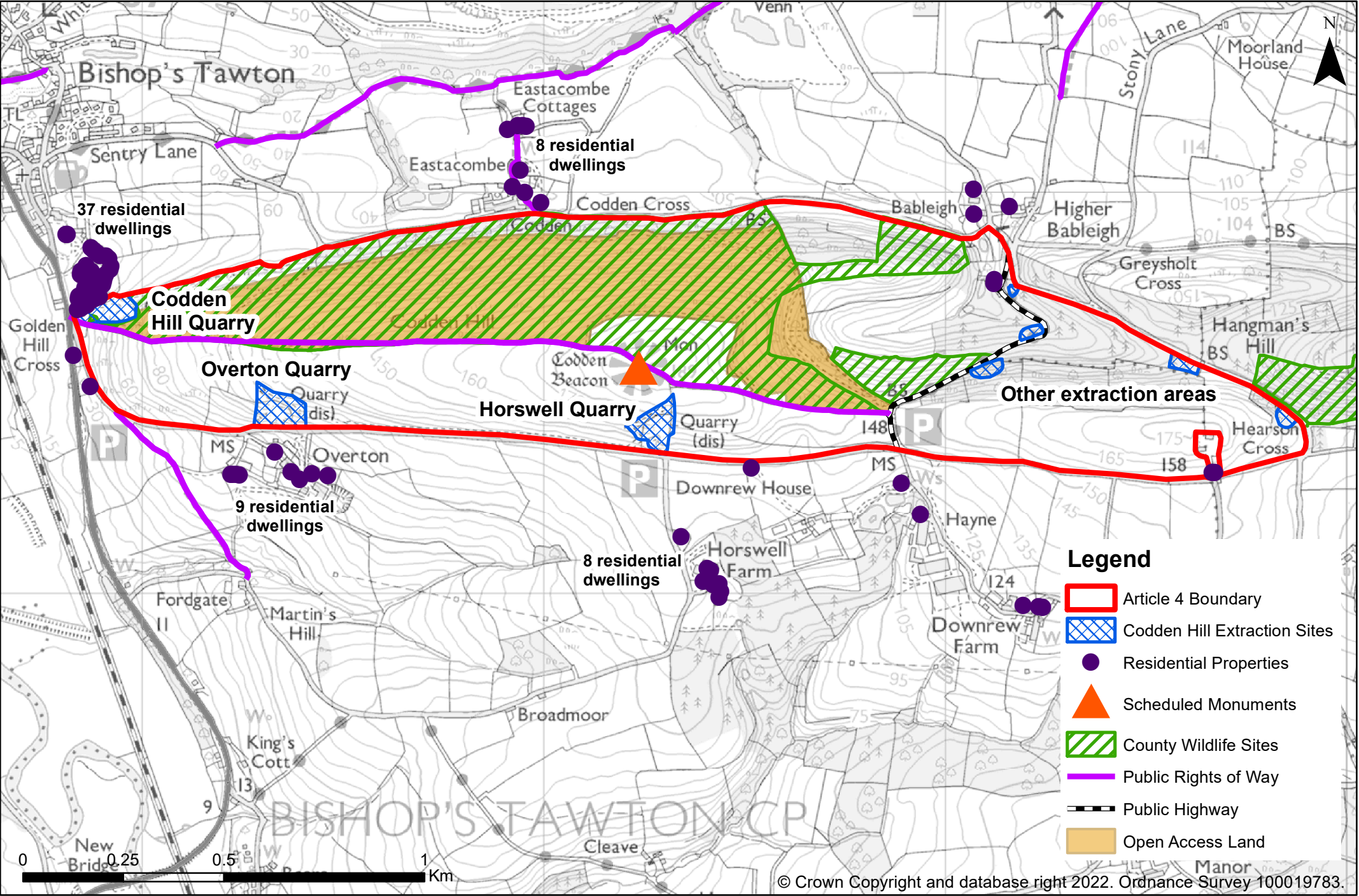
Background Paper	Date	File Ref.
Nil		

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sc/cr/Article 4 Direction Codden Hill Bishops Tawton Barnstaple
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Appendix I - Proposed Article 4 Direction Boundary



Appendix II - Codden Hill extractions sites and constraints



Landscape and visual case for protecting Codden Hill from mineral working for agricultural purposes

November 2022

**Melanie Croll CMLI
County Landscape Officer
Devon County Council**

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Appendix B: Codden Hill County Wildlife Site habitat survey and assessment

1. Introduction

- 1.1. This report has been prepared by Melanie Croll CMLI, County Landscape Officer, in response to a request by the Devon County Council Planning Team to consider:
- The landscape and visual characteristics of Codden Hill [“the Site”]; and
 - Whether there is a landscape and visual case to protect Codden Hill from mineral working for agricultural purposes activity by way of an Article 4 direction.
- 1.2. It is understood that Codden Hill has a number of mineral extraction areas, some of which have been established under Class C – mineral working for agricultural purposes, Part 6 Agricultural and forestry of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015¹.
- 1.3. It is understood that the following development is permitted under Class C:

C. The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.

Class C continues stating that:

C.1 Development is not permitted by Class C if any excavation would be made within 25 metres of a metalled part of a trunk road or classified road.

And:

C.2 Development is permitted by Class C subject to the condition that no mineral extracted during the course of the operation is moved to any place outside the land from which it was extracted, except to land which is held or occupied with that land and is used for the purposes of agriculture

- 1.4. The long established quarries, particularly Overton Quarry and Horswell Quarry have expanded in scale and footprint in recent years, with four new extraction areas appearing in 2021. A survey carried out by DCC showed that when comparing the sites between 2006 and 2017 show an annual average of 1,507 cubic meters (2,562 tonnes) of material extracted in total from Overton Quarry and Horswell Quarry. However, between 2017 and 2021, that annual average increased roughly eight-fold to 12,129 cubic metres (20,619 tonnes). Therefore, the Planning Team is considering the potential harm from this working and whether an Article 4 direction is necessary to control any further mineral working for agricultural purposes on Codden Hill to ensure the impacts of any future extraction is properly considered and assessed.
- 1.5. This report first highlights the policies and supporting evidence relevant to Codden Hill. It then describes the landscape context with reference to relevant landscape character assessment, highlighting the valued landscape qualities, distinctive characteristics and views to and from the hill that have been informed by site appraisals undertaken in Winter 2021 and Summer 2022. The overall landscape value of the site is considered, along with its landscape and visual susceptibility to changes that could arise from mineral working for agricultural purposes. This informs an assessment of overall landscape and visual sensitivity, which helps show how resilient the site is to further change arising from quarrying.
- 1.6. In particular, the report seeks to address the following questions, prompted by National Planning Practice Guidance on Article 4 directions:

¹ Notwithstanding the ongoing enforcement action and disputes as to whether extraction can be considered under Class C.

1. *"The Article 4 direction should apply to the smallest geographical area possible"*

The report justifies why the whole area of Codden Hill that is the subject of consideration for an Article 4 Direction is an appropriate landscape area to withdraw mineral working for agricultural purposes rights

2. *"Article 4 directions should be limited to situations where it is necessary to protect local amenity or the well-being of the area"*. The report highlights how Codden Hill supports the health and wellbeing of local people, having regard to its beauty, tranquillity and recreational value.

3. *"The potential harm that the article 4 direction is intended to address will need to be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights relating to: agriculture and forestry development. Article 4 directions related to agriculture and forestry will need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty"*.

- 1.7. The report justifies why Codden Hill can be regarded as a valued local landscape of exceptional beauty. It clearly identifies the potential harm that could arise to the landscape resource and to visual amenity as a result of mineral working for agricultural purposes.

2. Policy context

- 2.1. This section outlines the national and local designations and policy relevant to Codden Hill and highlights how these are considered in the landscape assessment.

National and international landscape designations

- 2.2. The Site is not protected by any national or local landscape designation. The nearest nationally protected landscapes are the North Devon Coast Area of Outstanding Natural Beauty to the northwest, and Exmoor National Park to the northeast, both of which lie over 12km away, as shown on Figure 1.
- 2.3. Given these distances and intervening topography, the effects of mineral working for agricultural purposes at the Site are highly unlikely to be discernible in any distant views from these national landscapes and is not considered further.
- 2.4. The site falls within the Transition Zone of the North Devon Biosphere Reserve (UNESCO designation), as shown in Figure 1. The following policies and supporting text from the Biosphere Strategy for Sustainable Development² are considered relevant:
- i) **SOC2:** *Develop and promote enjoyment of the environment as a tool for public health improvement.* The use of the environment as a public health tool is increasing acknowledged as being of good value to the public purse. Evidence is growing that it improves physical as well as mental wellbeing in most cases.
 - ii) **ECON3:** *Develop a strong sustainable tourism policy and programme that improves the year round tourism activity, disperses the tourism pressure and improves inland tourism offer.* This policy recognises that tourism relies heavily on the natural environment and in some places the pressures are at a critical level, especially within the coastal areas.
- 2.5. The North Devon Coast Area of Outstanding Natural Beauty Management Plan 2019-2024 also recognises that this living and working coastal landscape suffers from development and recreation pressures. In particular it recognizes that “*The South West Coast Path is one of the most popular National Trails in England, and this can lead to direct and indirect impacts on the local environment arising from transport, visitor and tourism business pressures*”³.
- 2.6. This report considers how mineral working for agricultural purposes at the Site could harm or erode the enjoyment of Codden Hill's natural beauty and tranquillity, which support people's health and wellbeing. It also considers the current and future role of Codden Hill in attracting North Devon visitors away from the coast, and how mineral working for agricultural purposes could erode its attractiveness.

² See [the biosphere reserve strategy 2014 to 2024 final version 3.pdf](https://northdevonbiosphere.org.uk) (northdevonbiosphere.org.uk)

³ [North Devon Coast AONB Management Plan 2019 - 2024 | North Devon Coast](https://northdevon-aonb.org.uk) (northdevon-aonb.org.uk)

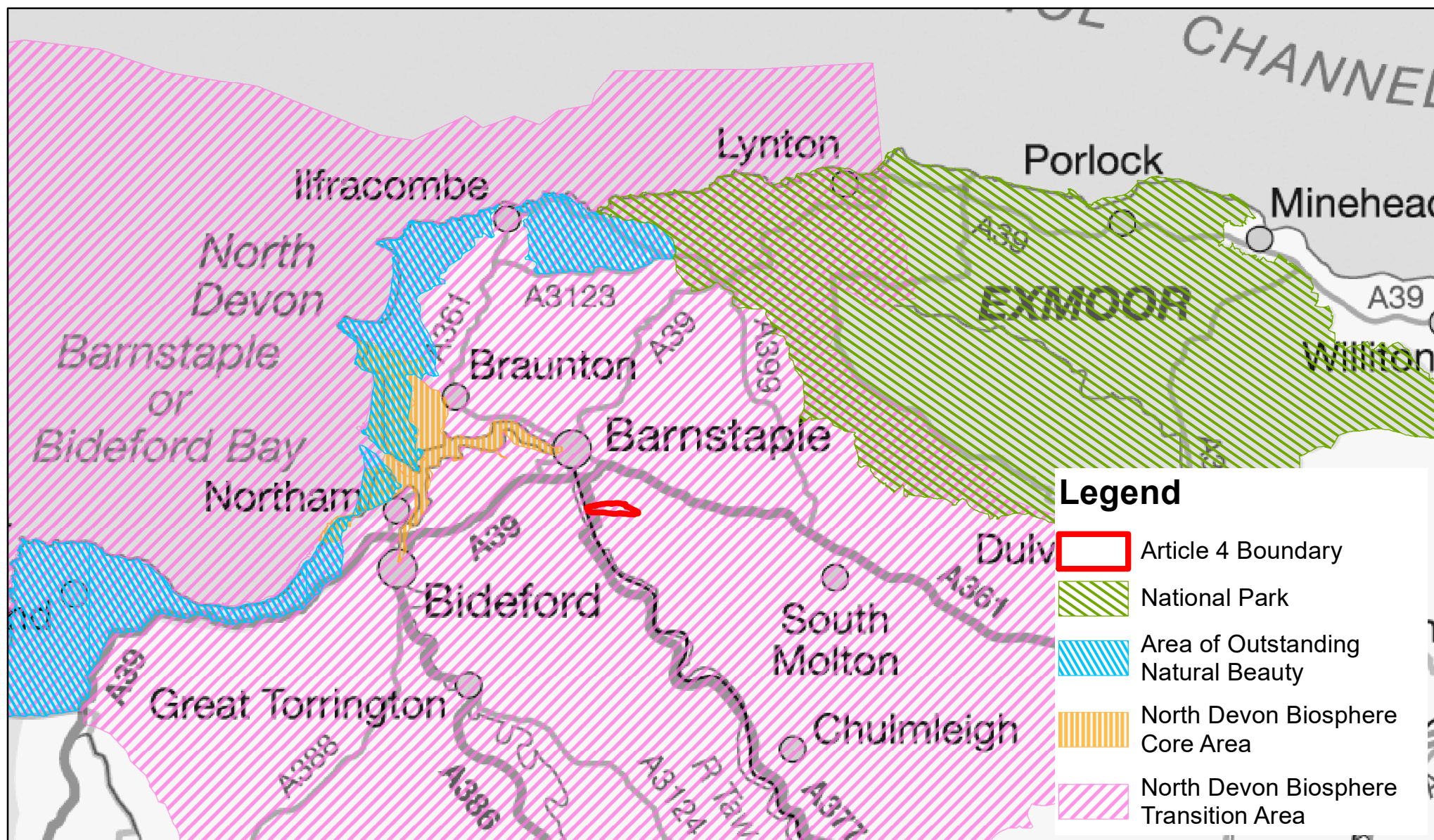
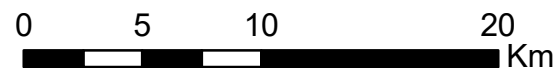


Figure 1: Landscape Designations

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National Planning Policy Framework (July 2021)

2.7. Key policies relevant to landscape outside nationally protected landscapes are:

92: *Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: ...c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, ... and layouts that encourage walking...*

174: *“Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- d) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate”.*

175: *“Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework (58); take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries”*

185: *“Planning policies and decisions should... ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.*

2.8. This report examines a case for considering the Site as a valued local landscape worthy of protection and enhancement as a landscape resource providing appreciation of natural beauty, contact with nature and tranquillity in support of people’s health and wellbeing. This includes a consideration of its intrinsic character and beauty, the benefits of its trees and woodland, the potential sensitivity of Codden

Hill to the likely landscape and visual impacts arising from mineral working for agricultural purposes, and scope to mitigate these to maintain environmental quality.

North Devon and Torridge Local Plan 2011-2031 (adopted October 2019)

- 2.9. Strategic Policy **ST14**: ‘Enhancing Environmental Assets’ applies, relevant extracts of which state:

“The quality of northern Devon’s natural environment will be protected and enhanced by ensuring that development contributes to:

- (a) providing a net gain in northern Devon’s biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital;*
- (b) protecting the hierarchy of designated sites in accordance with their status;*
- (c) conserving European protected species and the habitats on which they depend;*
- (d) conserving northern Devon’s geodiversity and its best and most versatile agricultural land;...*
- (f) ensuring development conserves and enhances northern Devon’s local distinctiveness including its tranquillity....*
- (g) protecting and enhancing local landscape and seascape character, taking into account the key characteristics, the historical dimension of the landscape and their sensitivity to change;...*
- (i) conserving and enhancing the robustness of northern Devon’s ecosystems and the range of ecosystem services they provide;*
- (j) increasing opportunities for access, education and appreciation of all aspects of northern Devon’s environment, for all sections of the community;*
- (k) meeting the Nature Improvement Area’s strategic objectives;*

- 2.10. Development Management Policy **DM08A** (Landscape and seascape character) also applies, which states:

“ Development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets wherever possible. Development must take into account and respect the sensitivity and capacity of the landscape/seascape asset, considering cumulative impact and the objective to maintain dark skies and tranquillity in areas that are relatively undisturbed, using guidance from the Joint Landscape and Seascape Character Assessments for North Devon and Torridge.”

- 2.11. This report considers the risks posed by mineral working for agricultural purposes on the distinctive characteristics, valued attributes and features of the Site’s landscape, taking into account the historical dimension of the landscape and its sensitivity to change.

Devon Minerals Plan 2011-2033 (adopted February 2017)

- 2.12. The following key policies are relevant to landscape protection:

M18: Landscape and visual impact:

1. The scale, design layout and operational practices of all mineral development will take into consideration the valued or special qualities, distinctive character and features of the landscape. Development proposals must be supported by Landscape and Visual Impact Assessment that reflects the nature, scale and location of development, in order to convey likely significant effects and demonstrate:

(a) how the siting, scale, design and operation of proposals respond to the landscape context and can be integrated into the landscape without harming its distinctive character, features or valued qualities; and

(b) how any potential adverse landscape and visual impacts on sensitive receptors will be avoided, minimised to acceptable levels within a reasonable period, or compensated for; and

(c) the opportunities that are being taken to improve the character and quality of the area and the way it functions.

2. In taking landscape into account, regard must be had, and evidenced, to the relevant landscape character assessments, and weight must be given to relevant local landscape designations.

- 2.13. The report considers the landscape and visual impacts of mineral working for agricultural purposes, why it is important to manage risks of harm to the landscape and views, and how mitigation measures imposed through development management could help mitigate adverse effects to acceptable levels.

M23: Quality of life:

Peoples' quality of life, health and amenity will be protected from the adverse effects of mineral development and transportation. Development proposals must demonstrate that the following adverse impacts will be strictly controlled or mitigated to avoid any significant nuisance being caused to occupiers of dwellings and other sensitive properties close to the site or its transportation routes and other users of these routes:

(a) noise and vibration, including effects on areas of tranquillity;

(b) dust and other reduction in air quality;

(c) loss of privacy or natural light; and

(d) light pollution and visual intrusion.

- 2.14. The report considers the how mineral working for agricultural purposes at the Site could harm or erode the enjoyment of Coddan Hill's natural beauty and tranquillity, which support people's health, amenity and quality of life.

Historic policy context

- 1.1. Prior to 2018, the Site was located in an 'Area of Great Landscape Value' (AGLV) - see Figure 2. This local landscape designation was originally defined in the early 1950's in the County Development Plan, and taken forward in the Devon County Structure Plan and Local Plans before being phased out across Devon in favour of landscape policies underpinned by landscape character assessments.

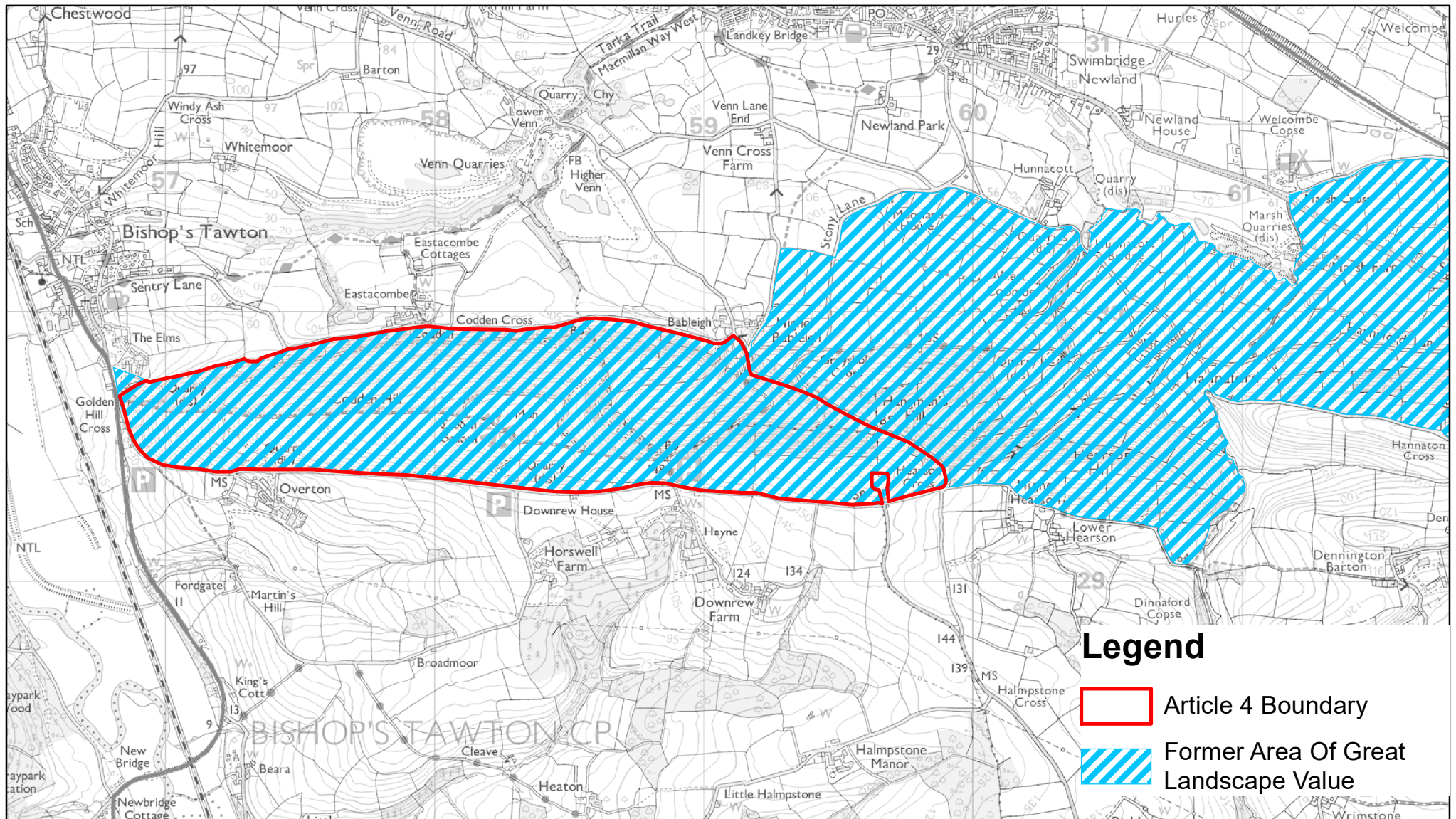


Figure 2: Former Area of Great Landscape Value

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- 1.2. Codden Hill formed part of a larger AGLV within North Devon, which included a number of valleys radiating out from Taw-Torridge estuary, and high land to the east of the Barnstaple Yeo and north of Landkey Brook. The adjacent high land of Codden Hill was identified in a Supplementary Paper⁴ by Devon County Council as a separate character area and described as follows:

“Character: *Codden Hill forms a very noteworthy landscape feature of some significance over a wider area. It comprises a prominent and distinctive ridge forming an important backdrop to a significant area of North Devon.*

Beauty: *The reaction to Codden Hill is that this is both a visual landmark over a wide area which should be kept as unspoilt as possible, and that the experience of being on its summit, or even its sides, is such that the location should not be affected by inappropriate developments. Views from the top are very wide complementing the feeling of airy spaceousness encountered here on the open ‘Hog’s back’ pasture ridge. It is, in short, a very special place in the North Devon Environment.*

Quality: *Codden Hill has retained its character generally unblemished. There is some settlement along its foot, but this does not detract from its landscape integrity”.*

- 1.3. This report shows that, whilst now over 20 years old, the above description still largely holds true today and demonstrates that this landscape has been valued for a long time.

⁴ Devon County Structure Plan- First Review Landscape Policies- Area of Great Landscape Value Supplementary Paper November 2000.

2. Landscape and visual context

Site landscape

- 2.1. The Site comprises a distinct narrow hill ridge formed from Chert limestone and aligned east-west, known locally as Codden Hill.
- 2.2. The southern flanks of Codden Hill comprise predominantly large open fields with very few hedge boundaries and with a few farm access tracks and visible open quarries, including Overton Quarry and Horswell Quarry. Trees and hedge boundaries are notably sparse, those that do occur being found along the surrounding rural lanes that form the Site boundary.
- 2.3. The northern and eastern flanks of Codden Hill comprises a very species-rich heathland/grassland mosaic together with more limited areas of broadleaved woodland, mixed woodland, bracken and scrub on the northern and eastern edges. This part of Codden Hill is a designated County Wildlife Site⁵ due to its extensive area of lowland heath – a priority habitat which is quite rare in the North Devon district away from the coast. See Figure 3.
- 2.4. The crest and northern side of the hill are publicly accessible: Bishop's Tawton Footpath 17 runs along the hill crest from Golden Hill Cross in the west, to a publicly accessible car park on the south-eastern edge of the Site. A substantial area of the hillside to the north of the footpath is open access land.
- 2.5. The footpath passes Codden Beacon, a Scheduled Monument⁶ and local landmark on the highest part of the hill comprising a large triangulation pillar surmounted on a prehistoric bowl barrow. From the crest of the ridge, extensive open panoramic views of the Devon countryside can be enjoyed. On a clear day, both Exmoor and Dartmoor are visible.

Wider landscape context

- 2.6. With reference to relevant landscape character assessments, Codden Hill lies within the Landscape Character Type of 'Estate Wooded Ridges and Hilltops' (LCT 1D) of the Codden Hill Wooded Estates (Devon Character Area). See Figure 4
- 2.7. The summary description of this geographically unique Character Area states that this is "*a landscape distinguished by its landform of high, whale-backed hills, and the presence of large estates of woodland and parkland*".
- 2.8. Distinctive characteristics of the Codden Hill Wooded Estates DCA include "*Ridges of chert forming prominent hills rising above the Culm Measures mudstones with bands of sandstone; exposures of limestone, chert and sandstone visible in local quarries*" and "*Dramatic, distinctive east-west whale-backed ridges, surrounded by strongly undulating land*". Noted Special qualities and features of this landscape include "*Hill summits of up to 190m affording spectacular panoramic views to the uplands of Exmoor (to the north), Dartmoor (to the south) and Lundy (to the north-west)*", "*High scenic quality, with the prominent and distinctive ridge – including Codden Hill – forming an important landscape backdrop to the surrounding area*", and "*Strong sense of peacefulness, with locally high levels of tranquillity...*".

⁵ County Wildlife Sites (CWS) are designated by Devon Biodiversity Record Centre (DBRC) within the guidelines/criteria of the Local Sites Framework. Local Plans then recognise CWS within their policies.

⁶ That is, a monument protected by the Ancient Monuments and Archaeological Areas Act 1979

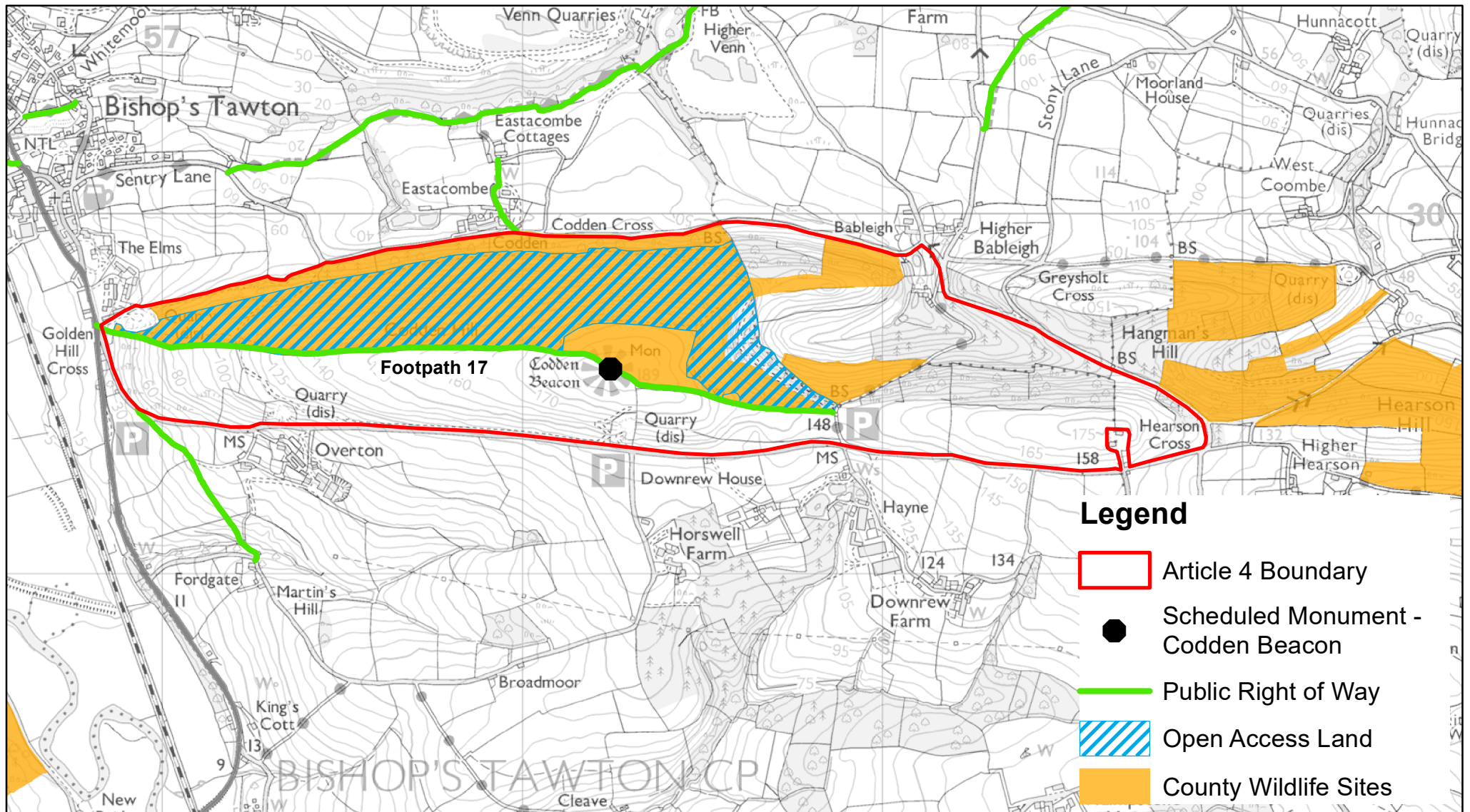
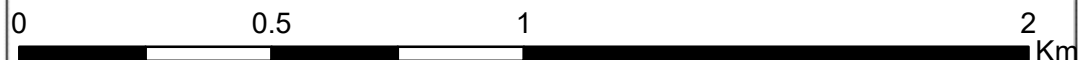


Figure 3: Landscape Features & Designations

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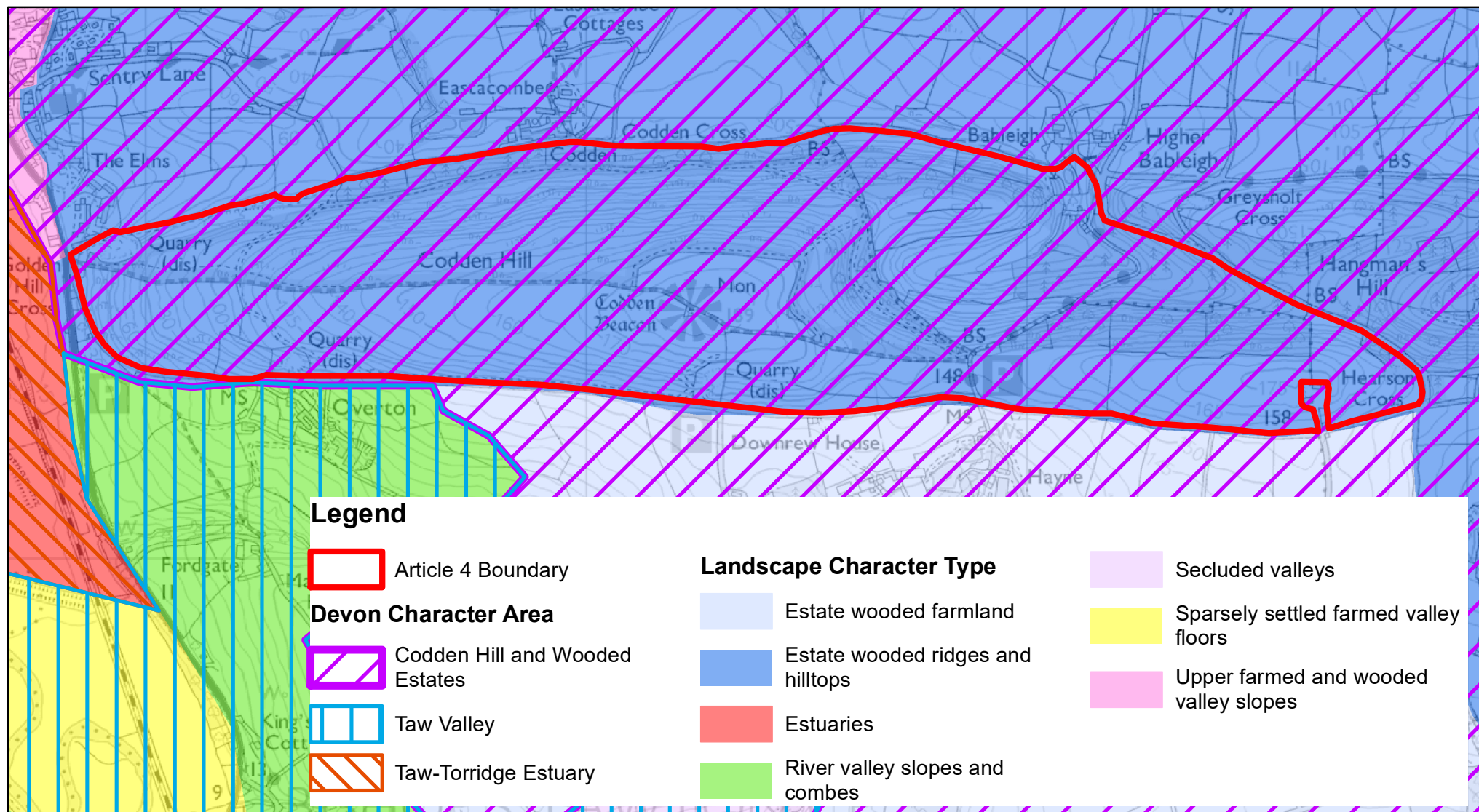


Figure 4: Landscape Character Context

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0 0.3 0.6 1.2 Km



Site Visibility

- 2.9. Codden Hill forms a distinct landscape feature that is discernible in many views from roads, rights of way and scattered rural farmsteads and villages within a wide area up to a distance of around 7km, as indicated by the viewpoint locations indicated on Figure 5 and 6 where representative views towards the site have been recorded and are shown in Figures 7 to 16 (see separate A3 Appendix). This includes views from the town of Barnstaple to the northeast. Hedges that line lanes, undulating topography and woodland cover and buildings can serve to limit views of the Site within this broad area, but a selection of views that have been recorded are described in more detail below:

Views from the south-west, south and south-east

- 2.10. The distinct whale-back profile of Codden Hill can be clearly identified on the skyline in views across the countryside. The relatively smooth extensive vegetation cover of grassland/heathland contrasts with foreground of patchwork fields typical of rural Devon. Overton Quarry and Horswell Quarry are clearly visible as exposed scars on the hillside, demonstrating the visual impact that quarrying can have on this landscape. This includes elevated distant views from Atherington village 6.5km away (e.g. Viewpoint A, Figure 7) rural lanes (e.g. Viewpoint B, Figure 8). Closer views at lower elevations see similar views of the southern hillside either as a whole, (e.g. Viewpoint C, Figure 9 and Viewpoint D, Figure 10, or in part e.g. Viewpoint E, Figure 11. The existing quarries have been extended in an uncontrolled way close to the skyline, although currently the distinctive smooth 'whale-back' profile of Codden Hill remains intact. As the quarries face south, the light colour of exposed rock faces can catch the light and accentuate their visibility in certain light conditions. See for example Viewpoint C from the A377 where Horswell Quarry is illuminated by sunlight whereas Overton Quarry remains less distinct in the shade of a cloud.

Views from the west, northeast and north-west including Barnstaple

- 2.11. From the west, publicly accessible views of Codden Hill are largely limited by elevated topography and woodland around Tawstock, although views are obtained of Codden Hill's north-western slopes from rural lane between Tawstock and Barnstaple e.g. Viewpoint F, Figure 12. The smooth skyline and extensive grassland/heathland vegetation cover of Codden Hill make it stand out, forming a scenic backdrop to the village of Bishops Tawton. No quarries have scarred this view. Regenerating scrub and woodland along lower slopes of the hill add contrast and texture. In views from Barnstaple, Codden Hill's whale-back profile is discernible on the skyline in rural views, for example from the riverside (Viewpoint G, Figure 13). The hill remains a landmark on the skyline in rural views east of Barnstaple (e.g. Viewpoint H, Figure 14) although at more distant elevated locations appears below the skyline and starting to blend with the surrounding countryside beyond a distance of around 7km (e.g. Viewpoint J Figure 15 from Shirwell Bridleway 21). In views from the northeast, Codden Hill is discernible as a distinct hill on the skyline at a distance of around 5km (e.g. Viewpoint K, Figure 16), although at more elevated locations beyond about 6km Codden Hill is seen below the skyline and is much less distinct. No quarries are apparent in these views of the north side of Codden Hill.
- 2.12. In summary, what makes Codden Hill visually distinct from the surrounding landscape in many of these views is:
- its smooth convex profile and skyline punctuated by Codden Beacon, a local landmark and Scheduled Monument at the highest point; and
 - the extensive unenclosed vegetation cover of lowland heath (mosaic of low grassland and heathland) across the hill crest and slopes, which contrasts with the pattern of fields enclosed by hedges with hedgerow trees and small copses that characterises the surrounding rural landscape.

3. Landscape sensitivity assessment

3.1. A simple landscape sensitivity assessment has been carried out to understand the likely effects of further mineral working for agricultural purposes on the landscape resource and on views/visual amenity. The approach used considers the landscape sensitivity of the site as a combination of two factors:

- a) The value of the landscape as a resource in its own right; and
- b) The susceptibility of landscape qualities to change arising from uncontrolled mineral working.

3.2. This approach is informed by latest Natural England guidance⁷. Professional judgement has been used to assess landscape sensitivity overall.

Landscape value

3.3. Landscape value is defined⁸ as '*the relative value or importance attached to different landscapes by society on account of their landscape qualities*'. Landscape qualities are defined as the '*characteristics and features of a landscape that are valued*'.

3.4. The Site's landscape value is graded below in Table 1 using a 5-point scale from low to high with reference to the factors in the Landscape Institute guidance⁹:

Table 1: Assessment of Codden Hill's landscape value		
Factor/definition	Grading	
Natural heritage: Landscape with clear evidence of ecological, geological, geomorphological or physiographic interest which contribute positively to the landscape	Med-high	<p>Codden Hill is the most prominent of a series of 'whale-backed' hills stretching further eastwards. They are the dramatic result of earth movements of tremendous force resulting from the collision of tectonic plates 300 million years ago.</p> <p>Part of Codden Hill is a County Wildlife Site comprising an extensive area of lowland heath – a rare and declining habitat supporting a range of specialised wildlife. Other valued wildlife habitats include areas of dense scrub, bracken and secondary woodland. See Appendix B for full description.</p>
Cultural heritage: Landscape with clear evidence of archaeological, historical or cultural interest which contribute positively to the landscape	Med-high	<p>The Codden Hill monument was designed by Portmeirion architect Clough Williams Ellis and erected in 1971 (see also 'associations' below). On the summit, below the monument, there is a Bronze Age bowl barrow with a surrounding ditch. For more information see Heritage Gateway - Results</p>
Landscape condition: Landscape which is in a good physical state both with regard to individual elements and overall landscape structure	Med-high	<p>Codden Hill County Wildlife Site was last surveyed by the Devon Biodiversity Record Centre (DBRC) in 2016 – see Appendix B. This indicates that at that time the habitats were stable since the previous survey.</p> <p>It is understood that land on Codden Hill is under a Defra farm conservation scheme,</p>

⁷ See [An approach to landscape sensitivity \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁸ See the Landscape Institute's Technical Guidance Note 02/21: 'Assessing landscape value outside national designations' (May 2021)

⁹ See 5 above

		<p>which helps farmers and land managers to protect and improve the countryside they care for, as well as its wildlife and history. Grazing livestock have been reintroduced on Codden Hill to restore the fragmented heathland habitats.</p> <p>Based on visual survey in 2022 there is degradation of some woodland located close to the rim of the quarry near Hearson Cross (site 5).</p> <p>No further evidence of landscape condition is available.</p>
Associations: Landscape which is connected with notable people, events and the arts	Med-high	<p>The Codden Hill monument was erected in 1971 by the Rt Hon Jeremy Thorpe, North Devon MP and leader of the Liberal Party, in memory of his wife, Caroline, who died in a car crash in 1970. It was dedicated by the Archbishop of Canterbury and the Bishop of Crediton. People gathered near the monument in 2022 to light a Beacon in celebration of the Queen's Platinum Jubilee. See northdevongazette.co.uk</p>
Distinctiveness: Landscape that has a strong sense of identity	High	<p>Codden Hill has a distinctive whale-back landform and smooth profile that contrasts with adjacent patchwork of fields and hedges. The monument at its summit provides a distinctive landmark feature on the otherwise smooth skyline.</p>
Recreational: Landscape offering recreational opportunities where experience of landscape is important	High	<p>The open access land and rights of way across Codden Hill allow people to experience and enjoy the wild and tranquil open spaces and far reaching views in all directions that are offered from its summit. The route around the permissive paths on Codden Hill has been designated a Natural England conservation walk. Codden Hill forms part of numerous walks promoted in the area, for example visit Codden Hill from Barnstaple Station - Walk - South West Coast Path</p>
Perceptual (scenic): Landscape that appeals to the senses, primarily the visual sense	High	<p>Codden Hill is valued as a summit offering far-reaching views in all directions. Its whaleback form and smooth profile also forms a distinct feature in panoramic views from surrounding areas, contributing to the outstanding scenic quality of the wider area- see Viewpoints in Appendix A.</p>
Perceptual (wildness and tranquillity): Landscape with a strong perceptual value notably wildness, tranquillity and/or dark skies	High	<p>Codden Hill's open exposed grassland and heathland summit offers a sense of space and wildness relative to the surrounding countryside with its enclosing hedgerows. Its semi-natural habitats and associated wildlife provide contact with nature and add to its tranquillity. A lack of artificial light offers a tranquil location relatively</p>

		close to Barnstaple for stargazing, See Figure 17 below.
Functional: Landscape which performs a clearly identifiable and valuable function, particularly in the healthy functioning of the landscape	High	As well as the recreational and amenity value of Codden Hill, its woodland, unimproved grassland and heathland vegetation cover provide a mosaic of valued wildlife habitats, help to stabilise steep slopes and reduce runoff onto surrounding roads. They also capture and store carbon.

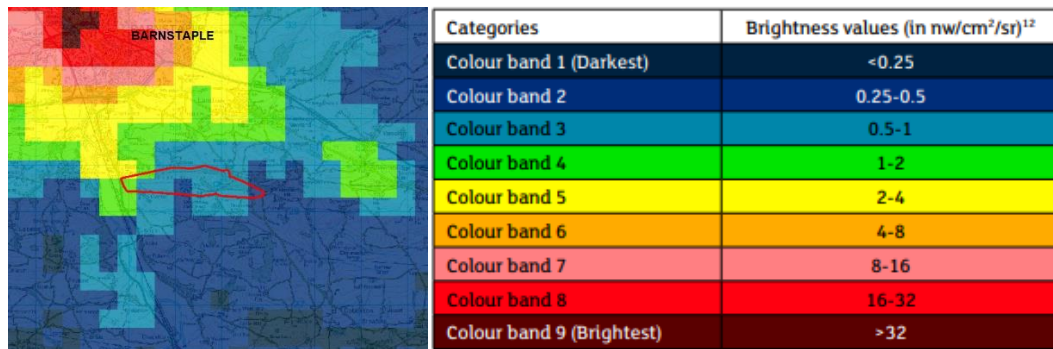


Figure 17: Light pollution map centred on Codden Hill (Source: CPRE Nightblight map)

4. Landscape and visual susceptibility to change arising from mineral working for agricultural purposes

- 4.1. The distinct 'whale-back' landform together with the open character of the vegetation cover, public accessibility and ability to experience countryside beauty, tranquillity and far-reaching views makes a substantial part of Codden Hill highly susceptible to the landscape and visual effects of quarrying activity.
- 4.2. The eastern and northern lower slopes of Codden Hill contain areas of broadleaved semi-natural woodland and mixed woodland, as indicated on the Habitat Map of the County Wildlife Site Report (see Appendix B, Figure 4.2). In contrast with the more open exposed areas of heathland and grassland, these wooded parts of Codden Hill could potentially offer more capacity to accommodate quarrying without resulting in adverse visual impacts. However, trees within mixed woodland under productive forestry management are likely to require felling in future, potentially reducing their screening function. Furthermore, the potential loss of native broadleaved woodland arising from uncontrolled quarrying would result in adverse landscape, ecological and climate change effects (given trees store and sequester carbon) and could result in a permanent net loss of woodland given no requirement for restoration. Woodland expansion in the eastern part and lower northern slopes would offer an alternative use of the land that would provide multiple benefits for people.

Overall landscape sensitivity

- 4.3. The overall sensitivity of Codden Hill to mineral working for agricultural purposes is considered to be high, given the high to medium high landscape value and the high susceptibility of landscape features and qualities to change arising from this type of activity.

5. Potential landscape and visual effects of further mineral working for agricultural purposes

- 5.1. Further potential expansion of existing quarries or the opening up of new quarries on the visually prominent slopes of Codden Hill could substantially increase the magnitude of their visual impact, making these open scars more visually intrusive. In particular, expansion to the north towards the crest of the hill could harm its smooth skyline and distinctive 'whale-back' profile. Mineral working for agricultural purposes that is not subject to planning control could result in the permanent loss of vegetation that not only contributes to Codden Hill's open downland character but also its wildlife value. There would be no mechanism to secure a restoration scheme or mitigation measures that would avoid or minimise adverse effects to acceptable levels, including compensation for habitat loss and a 'Biodiversity Net Gain'.
- 5.2. Such expansion could substantially detract from Codden Hill's distinctive character and natural beauty. Quarry operations, including noise and movement of operating machinery, could erode the tranquillity and quiet enjoyment of the Hill by the public, where accessible. Codden Hill is well used by locals as a place for walking and enjoying panoramic views as an alternative to the busy coastal areas, especially during school holidays. The value of such inland areas for recreation and enjoyment is increasing, and the use and enhancement of such inland site accords with policies ECON3 and SOC2 of the North Devon Biosphere Strategy that aims to draw visitors away from the much-visited coast and provide places to support health by providing accessible green spaces allowing contact with nature and beauty.

6. Summary and conclusion

- 6.1. Codden Hill is a valued landscape in a Devon context that should be protected from mineral working for agricultural purposes and enhanced where possible. Its elevated 'whale-back' hillform, distinctive smooth skyline profile, and extensive open grassland and heathland contrasting with surrounding patchwork fields makes it a distinct feature of the North Devon landscape that is highly visible for miles around. People are attracted to its elevated summit and slopes offering panoramic far-reaching views, open grassland and heathland habitats of County value, natural beauty and tranquillity. The extensive area of open access land, rights of way, and small car park enable people to enjoy these landscape attributes and qualities, and provides an inland destination attracting people away from the North Devon coast, in line with Policy ECON3 of the North Devon Biosphere Strategy (see 2.4 above). In the context of future planned major urban growth around the edge of Barnstaple¹⁰, Codden Hill is likely to increase in its importance for passive recreation reasonably close to where people live, supporting their health and wellbeing.
- 6.2. Mineral working for agricultural purposes, which has limited control, and associated stockpiles, machinery and noise generated presents a risk to the exceptional landscape quality and characteristics of Codden Hill. Uncontrolled removal of the landcover and quarrying of rock beneath would potentially remove valued wildlife habitats, disrupt public access, erode rural tranquillity, and leave large scars on the hill that would be widely visible. In particular, quarrying could potentially create unsightly interruptions to the smooth whale-back skyline profile which would not be possible to mitigate, particularly in the open grassland areas where establishment of screening woodland or bunds would themselves be unsympathetic to the landscape character. Towards the east of the site the landscape is more wooded, and may offer some capacity to accommodate quarrying, but if uncontrolled there is a risk that woodland which provides important environmental functions such as helping to screen and integrate development and provide wildlife habitats and linkages, could be removed or damaged. All these factors combine to make Codden Hill highly sensitive to change arising from mineral working for agricultural purposes.
- 6.3. It is considered that there is the potential for significant landscape and visual effects, contrary to Policy M18 (Landscape and Visual Impact) of the Devon Minerals Plan 2011-2033, to occur should further continued mineral working for agricultural purposes take place.
- 6.4. It is accepted that mineral workings are long established features of the landscape on Codden Hill. However, the long established quarries, particularly Overton Quarry and Horswell Quarry have expanded in scale and footprint in recent years. These two quarries are in highly visually prominent locations and constitute visual scars that should not be allowed to grow in a way such that their scale and visual impact is noticeably increased. Four new extraction areas have appeared in 2021. Should the permitted development rights remain, uncontrolled expansion could take place and new sites could appear.
- 6.5. There is potential for such operations to erode or harm the following key characteristics and special qualities of the area in the following ways:
 - Effects of continued quarrying and stockpiles and machinery on the high scenic quality and valued landscape features of the area, noting that Codden Hill forms a prominent and distinctive ridge and an important landscape backdrop to the surrounding area, and also offers opportunities to enjoy long, panoramic views. Hedges and hedgerow trees remaining around the quarry form distinct features that contribute positively to the landscape character.

¹⁰ The North Devon and Torridge Local Plan 2011-2031 allocates a minimum of 4,139 dwellings

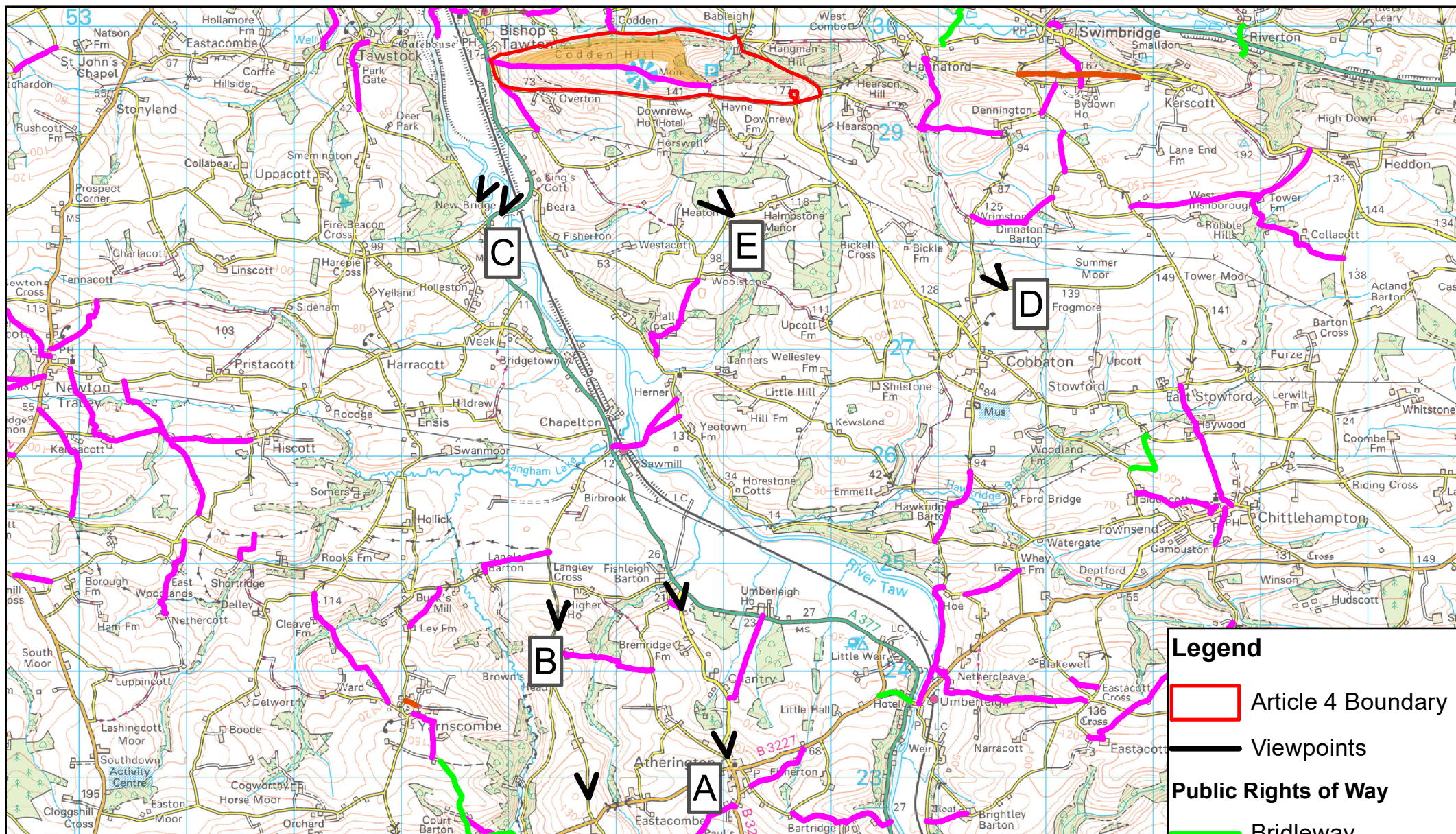
There is a Landscape Character Assessment guideline to protect important views to and from the hills.

- Visual and noise impacts of quarrying on the high levels of peace and tranquillity offered by Codden Hill and surrounding countryside. It is important to protect such tranquil places for recreation and associated health and well-being benefits – as reflected in paragraph 185 of the NPPF.
- Cumulative landscape and visual effects as above in combination with existing or potential future quarries which could appear in the same view from some locations.

6.6. Therefore, there is a case for protecting the whole of Codden Hill against further mineral working for agricultural purposes. This would ensure that any future proposals for quarrying requires planning consent, enabling full application of the relevant landscape policy context referred to above, and in particular to ensure that the valued attributes, distinctive characteristics and qualities of the Site's landscape are conserved and enhanced, that a suitable landscape restoration scheme can be delivered, and that mitigation measures to avoid or minimise adverse effects to acceptable levels can be secured.

Appendix A

Figure 5	Site Visibility and viewpoint location plan from south
Figure 6	Site Visibility and viewpoint location plan from north
Figure 7	Viewpoint A
Figure 8	Viewpoint B
Figure 9	Viewpoint C
Figure 10	Viewpoint D
Figure 11	Viewpoint E
Figure 12	Viewpoint F
Figure 13	Viewpoint G
Figure 14	Viewpoint H
Figure 15	Viewpoint J
Figure 16	Viewpoint K



Legend

Article 4 Boundary

Viewpoints

Public Rights of Way

Bridleway

Byway

Footpath

Restricted Byway

Open Access Land

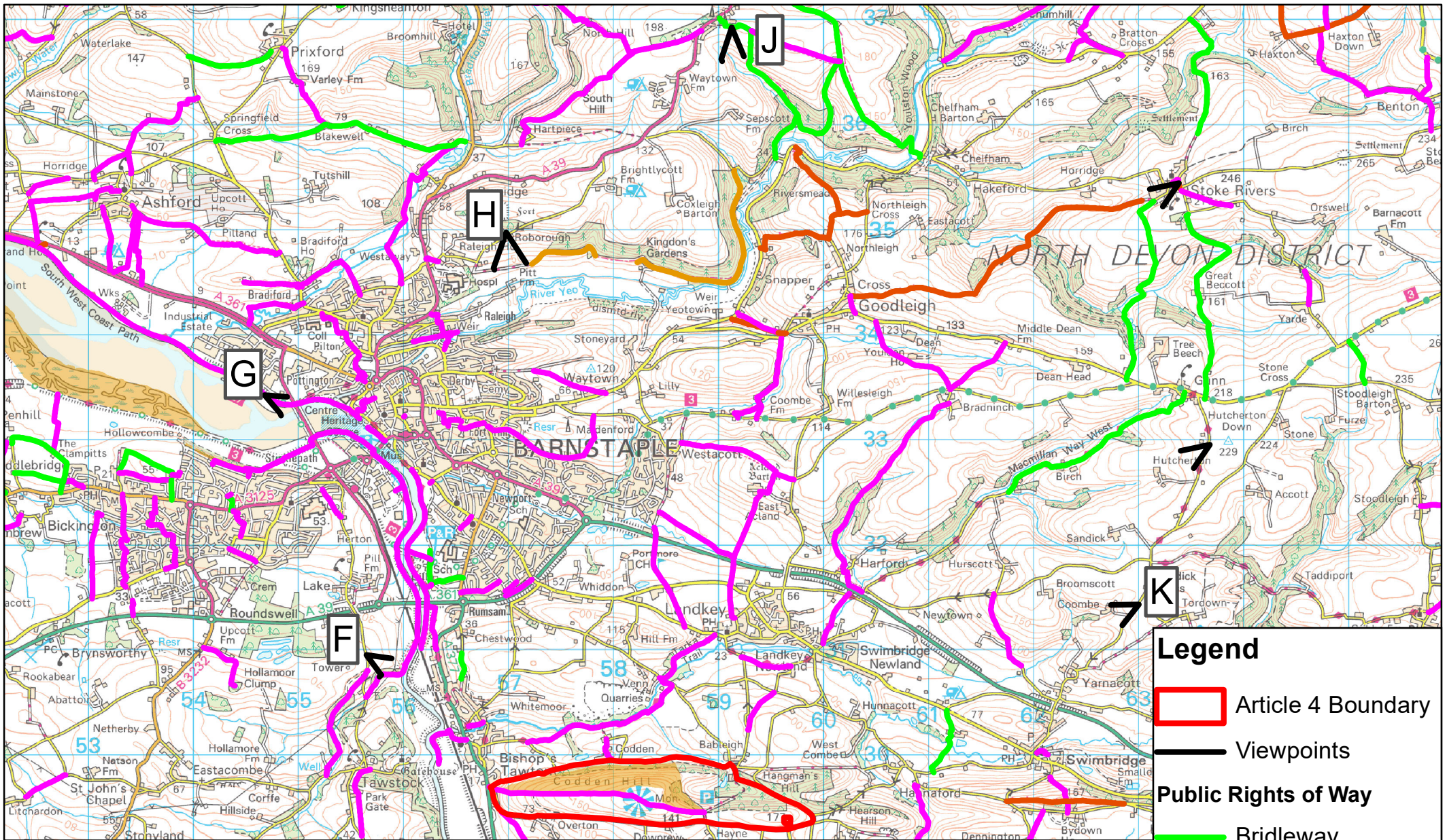
Figure 5: Site Visibility and viewpoint location plan from south

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0 1.25 2.5 5 Km

N





Legend

- Article 4 Boundary
- Viewpoints
- Public Rights of Way**
- Bridleway
- Byway
- Footpath
- Restricted Byway
- Open Access Land

Figure 6: Site Visibility and viewpoint location plan from north

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0 1.25 2.5 5 Km





Figure 7 Viewpoint A looking north from rural lane on edge of Atherington

Distance from Codden Beacon: 6.4km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).

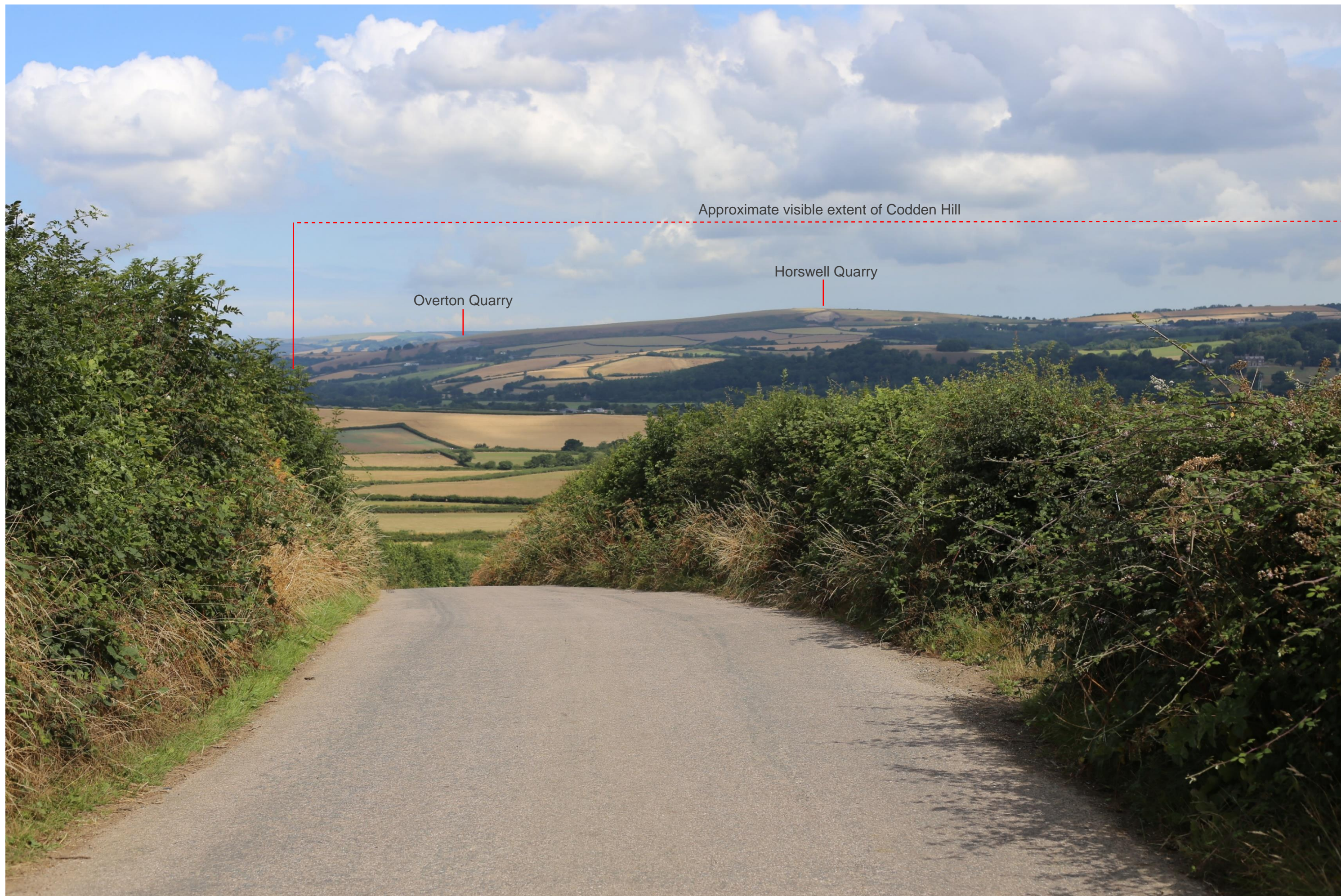


Figure 8 Viewpoint B looking north from rural lane south of Langley Cross
Distance from Codden Beacon: 5.1km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Figure 9 Viewpoint C looking northeast from A377 at New Bridge
Distance from Codden Beacon: 1.8km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Figure 10 Viewpoint D looking northwest from field gate on Summermoor Lane
Distance from Codden Beacon: 4.0km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Figure 11 Viewpoint E looking north from field gate at bend in rural lane west of Little Halmestone
Distance from Codden Beacon: 1.6km
To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Approximate visible extent of Codden Hill

Figure 12 Viewpoint F looking southeast from field gate along lane between Lake and Tawstock near Tower Park

Distance from Codden Beacon: 3.0km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Figure 13 Viewpoint G looking southeast from Barnstaple riverside
Distance from Codden Beacon: 4.3km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Approximate visible extent of Codden Hill

Figure 14 Viewpoint H looking southeast from rural lane northeast of Barnstaple hospital

Distance from Codden Beacon: 5.5km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Figure 15 Viewpoint J looking south from Shirwell Bridleway 21 east of Shirwell Cross

Distance from Codden Beacon: 7.5km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Figure 16 Viewpoint K looking southwest at entrance to Combe Farm
Distance from Codden Beacon: 5.0km

To equate to normal vision, the photograph should be viewed on an A3 sheet and held at a comfortable viewing distance from the eye (30-50cm).



Ms Emily Harper
Devon County Council
Planning, Transportation and Environment
County Hall
Topsham Road
Exeter
EX2 4QD

Direct Dial: [REDACTED]

Our ref: PA01197600

1 November 2022

Dear Ms Harper

Pre-application Advice

OVERTON AND HORSWELL QUARRIES, CODDEN HILL, NORTH DEVON

Thank you for consulting with us regarding the Article Four removal of permitted development rights with regard to quarrying at Overton and Horswell quarries, Codden Hill.

As you are aware both quarries are close to the Codden Hill bowl barrow scheduled monument (SM1016229), Horswell in particular is only 100m away and we are concerned that continued unregulated quarrying may impact upon the setting and significance of the SM.

Bowl barrows are funerary monuments dating from the Late Neolithic period to the Late Bronze Age, with most examples belonging to the period 2400-1500 BC. They were constructed as earthen or rubble mounds, sometimes ditched, which covered single or multiple burials. Often occupying prominent locations, they are a major historic element in the modern landscape and their considerable variation of form and longevity as a monument type provide important information on the diversity of beliefs and social organisations amongst early prehistoric communities.

The Codden Beacon bowl barrow survives comparatively well and contains archaeological and environmental information relating to the monument and the surrounding landscape. This barrow is a prominent feature in the landscape, which is reflected in its use as a memorial.

The Codden Beacon bowl barrow survives comparatively well and contains archaeological and environmental information relating to the monument and the surrounding landscape. This barrow is a prominent feature in the landscape, which is reflected in its use as a memorial.

A circular paved plinth lies on top of the mound and above is a stone pillar dedicated to Caroline Thorpe, late wife of the Right Honourable Jeremy Thorpe MP.



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<https://www.historicengland.org.uk/terms/privacy-cookies/>



Historic England

Because of the proximity and very real likely of impacts upon the significance of the monument Historic England support the removal of permitted development rights in order to allow a degree of informed control over any future quarrying. This will enable the LPA to require any new proposals to be accompanied by a Heritage Impact Assessment in order to allow an informed decision.

Yours sincerely

N Russell

Nick Russell

Assistant Inspector of Ancient Monuments

E-mail: [REDACTED]

**OVERTON AND HORSWELL QUARRIES, CODDEN HILL, NORTH DEVON
Pre-application Advice**

List of information on which the above advice is based



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Appendix V

Your ref:
Our ref: WK/202201862
Please ask for: Andy Cole

[REDACTED]
[REDACTED]
Date: 23 September 2022



Ms Emily Harper
Climate Change, Environment and Transport
Devon County Council
Room 120, County Hall
Exeter
EX2 4QD

Dear Ms Harper,

RE: Coddan Hill - Article 4 - Local amenity Response

Please accept my apology for the delayed response – but I have provided answers to your recent queries – replicated in bold – below :

How many complaints you have had regarding minerals working on Coddan Hill? What did these complaints concern?

The Council has received two separate complaints regarding the mineral working on Coddan Hill.

The first complaint received was described as alleged “noise and air pollution nuisance” coming from uncontrolled mineral working at Overton Quarry on Coddan Hill - alleged as being “extremely loud” heavy machinery with “large quantities of dust” being emitted and settling on the windows of the complainant’s property.

The second complaint was regarding an alleged statutory nuisance regarding emanating from the site.

Any action you have taken in response to these complaints, and the reasons why.

On 7th June 2022 an Abatement Notice (under the Environmental Protection Act 1990) was served on Taw Valley Contractors Ltd - as The Council was satisfied that quarrying activities at Overton Quarry were causing a statutory dust nuisance.

In relation to the allegations of statutory noise nuisance, the investigations have not resulted in the Council gathering evidence to substantiate this allegation.

As such no formal action has been taken in relation to the alleged statutory noise nuisance.

Impacts from mineral working – noise, dust etc. planning permissions normally in



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place with conditions to provide adequate control. Your role when planning application consultations come through.

The Council's Environmental Protection Team are a statutory consultee in the planning process.

Consultation responses from Council Officers' routinely make suggestions for planning conditions, where there is a legitimate concern of a development resulting in potentially adverse environmental impacts.

The following response was made on 22nd February 2021 - concerning an appeal consultation - by an Officer from the Council's Environmental Protection Team :

"I have reviewed this appeal consultation in relation to Environmental Protection matters on behalf of North Devon Council's Environmental Protection service and comment as follows:

Noise and Dust Impacts

I note the Enforcement Notice was issued for a number of reasons including in relation to Policy M23 (Quality of Life) and a related potential for noise and dust impacts to affect residential properties to the south.

North Devon Council's Environmental Health Department has no records of noise, dust or other nuisance complaints having been received in relation to operations or activities taking place at this quarry.

The relatively close proximity of residential properties to the south means there is a potential for significant noise and / or dust impacts to arise, depending on the nature and scale of activities and operations taking place at the quarry.

I do not have the detailed information that would be required to advise whether specific proposed future operations at the site are likely to give rise to significant impacts affecting residential neighbours."

Subsequently – on 8th March 2021, the same Officer suggested the following conditions for mineral working at Codden Hill:

"Guidance is given in the Governments PPG Minerals "Guidance on the planning for mineral extraction in plan making and the application process", paragraphs 19 to 22.

I suggest Condition 1 should make clear that a noise limit is to be proposed in the NIA for approval of the LPA. This would give an opportunity to cover the technicalities of agreeing an enforceable condition such as related to the method for obtaining representative measurements, measurement locations etc.

In relation to proposed condition 1, it may also be worth including a requirement for submission and implementation of a noise mitigation scheme where mitigation



measures are identified as necessary by the NIA. Here's an example of wording I have used previously that mentions a mitigation scheme:

Noise Impact Assessment Condition

Prior to commencement of the development, a noise impact assessment and associated noise mitigation scheme shall be agreed in writing with the local planning authority.

The assessment shall be prepared by a suitably qualified and experienced person (Member of the Institute of Acoustics or equivalent).

The assessment shall include consideration of all significant noise sources and consider the potential for tonal, impulsive or other noise characteristics to affect noise impacts.

The report shall have regard to the range of times when noise may be an issue, any external residential amenity areas and background noise levels at sensitive times as relevant.

The report shall refer to relevant standards and guidance for the assessment of noise affecting residential properties.

The report shall also include a description of any noise mitigation measures proposed.

Thereafter, the agreed noise mitigation scheme shall be implemented in full and noise mitigation measures shall be incorporated within the development to the written satisfaction of the local planning authority.

On Condition 2, it might be worth including specific mention of hours when noisy plant, operations or activities may take place. Also, a general mention of proposals to minimise, mitigate or remove noise emissions at source."

Therefore, the potential impacts on the local residents with uncontrolled mineral working at Codden Hill – and whether this is likely given the distance to properties

In light of the evidence gathered during the recent investigations, the Council considers that uncontrolled mineral working would lead to an increased risk of there being an adverse environmental impact on local residents

Whether you think removing the PD rights, allowing development to be controlled through the planning application process would be appropriate in this circumstance.

My understanding would be that allowing the development to be controlled through the planning process is more likely to ensure proportionate and reasonable controls are able to be implemented – which will minimise the risk of the activities causing an adverse environmental impact on local residents



I hope this assists with your enquiry – however please do not hesitate to contact me if you require any further information.

Yours sincerely,

Andy Cole
Service Lead - Environmental Protection
Planning, Housing & Health



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Ecology case for protecting Coddan Hill from mineral working for agricultural purposes

November 2022

**Thomas Whitlock ACIEEM
Ecologist
Devon County Council**

CONTENTS

1 Introduction

2 Policy context

3 Biodiversity context

4 Potential biodiversity effects of mineral working for agricultural purposes

5 Summary and conclusion

1. Introduction

- 1.1. This report has been prepared by Thomas Whitlock ACIEEM, Devon County Council Ecologist, in response to a request by the Devon County Council Planning Team to consider:
 - The existing biodiversity designations of Codden Hill [“the Site”]; and
 - Whether there is an ecological case to protect Codden Hill from further mineral working for agricultural purposes by way of an Article 4 direction.
- 1.2. It is understood that Codden Hill has a number of extraction areas that are worked under the Class C¹ – the winning and working on land held or occupied with land used for the purposes of agriculture or any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms. Therefore, the Planning Team are considering the potential harm from this working and whether an Article 4 direction is necessary to control further extraction and working on Codden Hill.
- 1.3. This report aims to highlight the ecological policies and supporting evidence relevant to Codden Hill. It then describes the existing ecological designations of Codden Hill and the relevant importance of these designations. Finally, the report looks to identify the risks of further uncontrolled and unmitigated mineral operations would be on ecology.

¹ Class C – mineral working for agricultural purposes, Part 6 Agricultural and forestry of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015

2. Policy Context

- 2.1. This section outlines the national and local ecological designations and policy relevant to Codden Hill.

National and local ecological designations

- 2.2. The site is not protected by any national ecological designations. However, Codden Hill is designated as a locally important County Wildlife Site, which has been designated due to the presence of priority habitats of lowland dry heathland with areas of dense bracken & scrub. County Wildlife Sites are not protected through statutory legislation but are protected through planning policy.

National Planning Policy Framework (July 2021)

- 2.3. Key policies relevant to the protection of priority habitats and locally designated wildlife sites are:

174: *“Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate”.*

180: *When determining planning applications, local planning authorities should apply the following principles:*

- a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused*

- b) *development on land within or outside a Site of Special Scientific Interest and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists; and*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

North Devon and Torridge Local Plan 2011-2031 (adopted October 2019)

- 2.4. Strategic Policy ST14: 'Enhancing Environmental Assets' applies, relevant extracts of which state:

"The quality of northern Devon's natural environment will be protected and enhanced by ensuring that development contributes to:

- a) *providing a net gain in northern Devon's biodiversity where possible, through positive management of an enhanced and expanded network of designated sites and green infrastructure, including retention and enhancement of critical environmental capital;*
- b) ***protecting the hierarchy of designated sites*** *in accordance with their status;*
- c) *conserving European protected species and the habitats on which they depend;*
- d) *conserving northern Devon's geodiversity and its best and most versatile agricultural land;...*
- e) *ensuring development conserves and enhances northern Devon's local distinctiveness including its tranquillity....*
- f) *protecting and enhancing local landscape and seascape character, taking into account the key characteristics, the historical dimension of the landscape and their sensitivity to change;...*
- g) *conserving and enhancing the robustness of northern Devon's ecosystems and the range of ecosystem services they provide;*

- h) *increasing opportunities for access, education and appreciation of all aspects of northern Devon's environment, for all sections of the community;*
- i) *meeting the Nature Improvement Area's strategic objectives; ...*

2.5. Development Management Policy DM08 (Biodiversity and Geodiversity) states:

*'Development should conserve, protect and, where possible, enhance biodiversity and geodiversity interests and soils commensurate with their status and giving appropriate weight to their importance. All development must ensure that the **importance of habitats and designated sites are taken into account** and consider opportunities for the creation of a local and district-wide biodiversity network of wildlife corridors which link County Wildlife Sites and other areas of biodiversity importance.*

Local Sites

*Development likely to affect adversely locally designated sites, their features or their function as part of the ecological network, **including County Wildlife Sites**, County Geological Sites and sites supporting Biodiversity Action Plan habitats and species, will only be permitted where the need for and benefits of the development clearly outweigh the loss, and the coherence of the local ecological network is maintained.*

Protected Species and Habitats

Adverse impacts on European and UK protected species and Biodiversity Action Plan habitats and species must be avoided wherever possible, subject to: (i) the legal tests afforded to them where applicable; or otherwise unless (ii) the need for and benefits clearly outweigh the loss.

Avoidance, Mitigation and Compensation for Biodiversity and Geodiversity Impacts

Development should avoid adverse impact on existing features as a first principle and enable net gains by designing in biodiversity features and enhancements and opportunities for geological conservation alongside new development. Where adverse impacts are unavoidable they must be adequately and proportionately mitigated, If full mitigation cannot be provided, compensation will be required as a last resort'

Devon Minerals Plan 2011-2033 (adopted February 2017)

2.6. The following key policies are relevant to ecological protection:

M17: Biodiversity and Geodiversity:

1. Mineral development should protect and enhance wildlife and geodiversity through its layout, design and operational practices.
Protection of sites and species will be commensurate with their

status and the contribution that they make to Devon's ecological networks

Local Sites and Other Priority Habitats

5. Mineral development that will impact on local sites (including County Wildlife Sites and County Geological Sites) and other priority habitats will be permitted where it can be demonstrated that:

(a) the proposal will not significantly harm the site; or

(b) the benefits of the development outweigh any adverse effects and such effects can be satisfactorily mitigated or, as a last resort, compensated for through offsetting.

Species

6. Mineral development that would impact on legally protected species, UK priority species and other key Devon species will be permitted where it can be demonstrated that:

(a) favourable conservation status of a European protected species is maintained; and

(b) appropriate avoidance, mitigation, compensation and enhancement measures proportionate to the importance of the species and the likely impact of the development are put in place.

7. Mineral development proposals will be permitted where they result in a net gain for wildlife proportionate to the nature and scale of the proposal.

8. Where appropriate to the scale and nature of development, proposals should show a positive contribution to the restoration, creation, protection, enhancement and management of ecological networks at the landscape scale (including areas identified on the Devon Rebuilding Nature Map and Nature Improvement Areas)

3. Biodiversity context

- 3.1. The southern flanks of Codden Hill comprise predominantly large open fields with very few hedge boundaries and with a few farm access tracks and visible open quarries, including Overton Quarry and Horswell Quarry. This part of Codden Hill falls outside the County Wildlife Site designation.
- 3.2. The northern and eastern flanks of Codden Hill comprises a very species-rich heathland/grassland mosaic together with more limited areas of broadleaved woodland, mixed woodland, bracken and scrub on the northern and eastern edges.
- 3.3. This part of Codden Hill is a designated County Wildlife Site - See Figure 1.
- 3.4. The County Wildlife Site is designated predominately due to the extensive area of lowland heathland present – a priority habitat which is quite rare in the district away from the coast. Details of each habitat provided below, along with the site map (Figure 2), are taken from the most recent DBRC County Wildlife Site Survey Card (dated June 2018).

Lowland Heath

- 3.5. Parts of the heath are managed heavily with grazing and, occasional cutting. This has resulted in a short exceptionally herb-rich sward which is almost verging on acid grassland, but with a profusion of dwarf shrubs. Elsewhere there is heathland managed with lower intensity where gorse species are the abundant shrub, as well as areas of dense scrub and bracken and secondary woodland. A trackway which runs below the heath has an excellent acid bank which is rich in bryophytes and likely to be excellent for invertebrates.
- 3.6. The main issues with the site arise from heavy public use with several burnt patches from bonfires and large amounts of dog waste either left or bagged up and hung from scrub or left on paths. The site has also been subject to arson in the past.

Mixed broadleaved Woodland

- 3.7. Secondary woodland is present to the north and east that grades into bracken/scrub. Young woodland is present with limited ground flora but this habitat forms an important part of the ecological network on the northern half of Codden Hill.

Bracken/Scrub Mosaic

- 3.8. Mosaic of dense bracken and scattered to dense scrub, with patches of heathland and scattered trees. In context of the site this area provides excellent cover for various bird species (for example yellow hammer, meadow pipit and skylark) and is an additional area of successional semi-natural habitat.

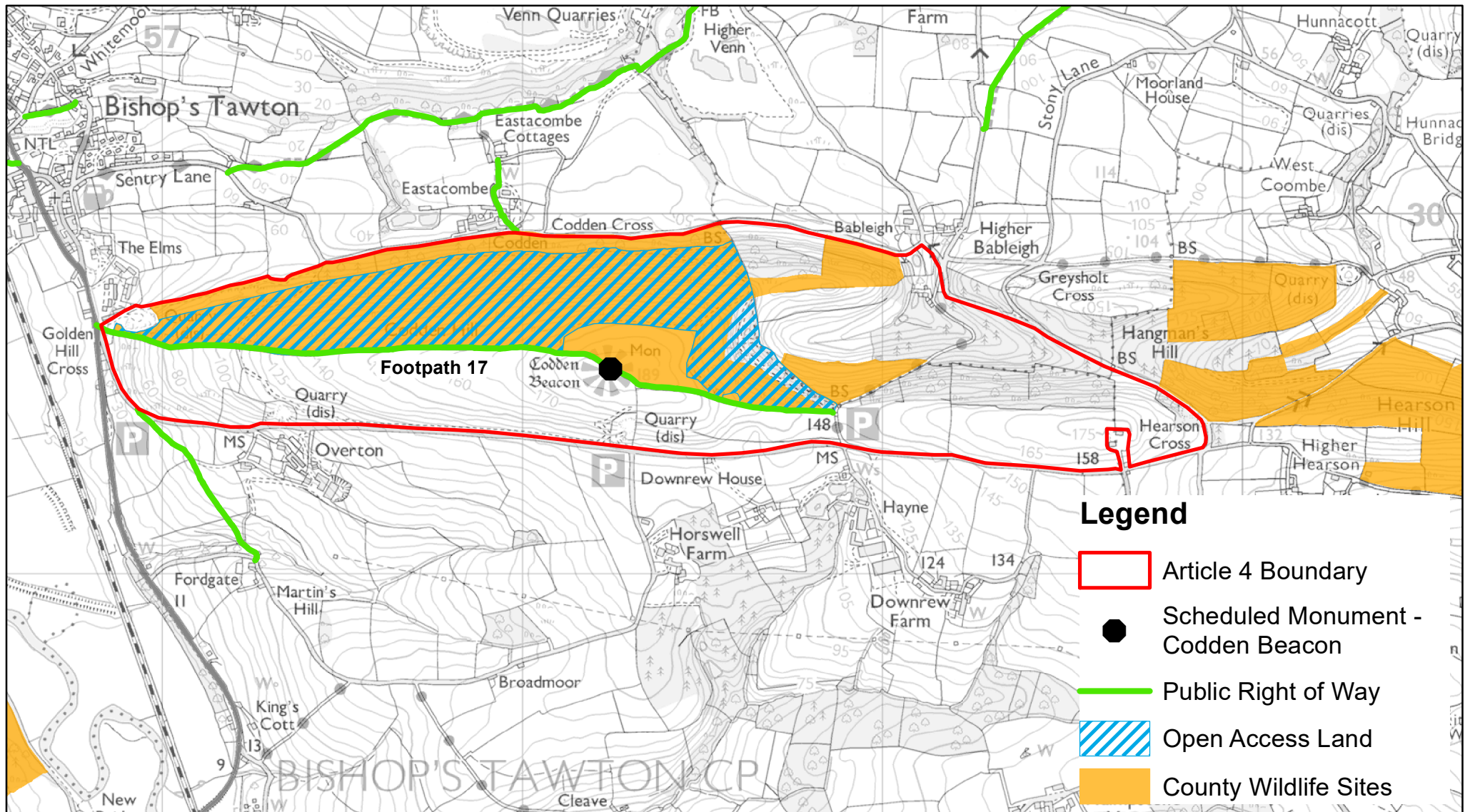
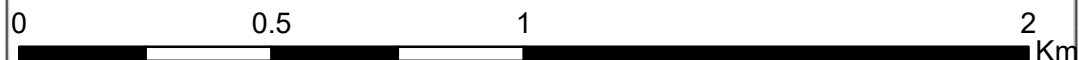


Figure 1: Ecological Features & Designations

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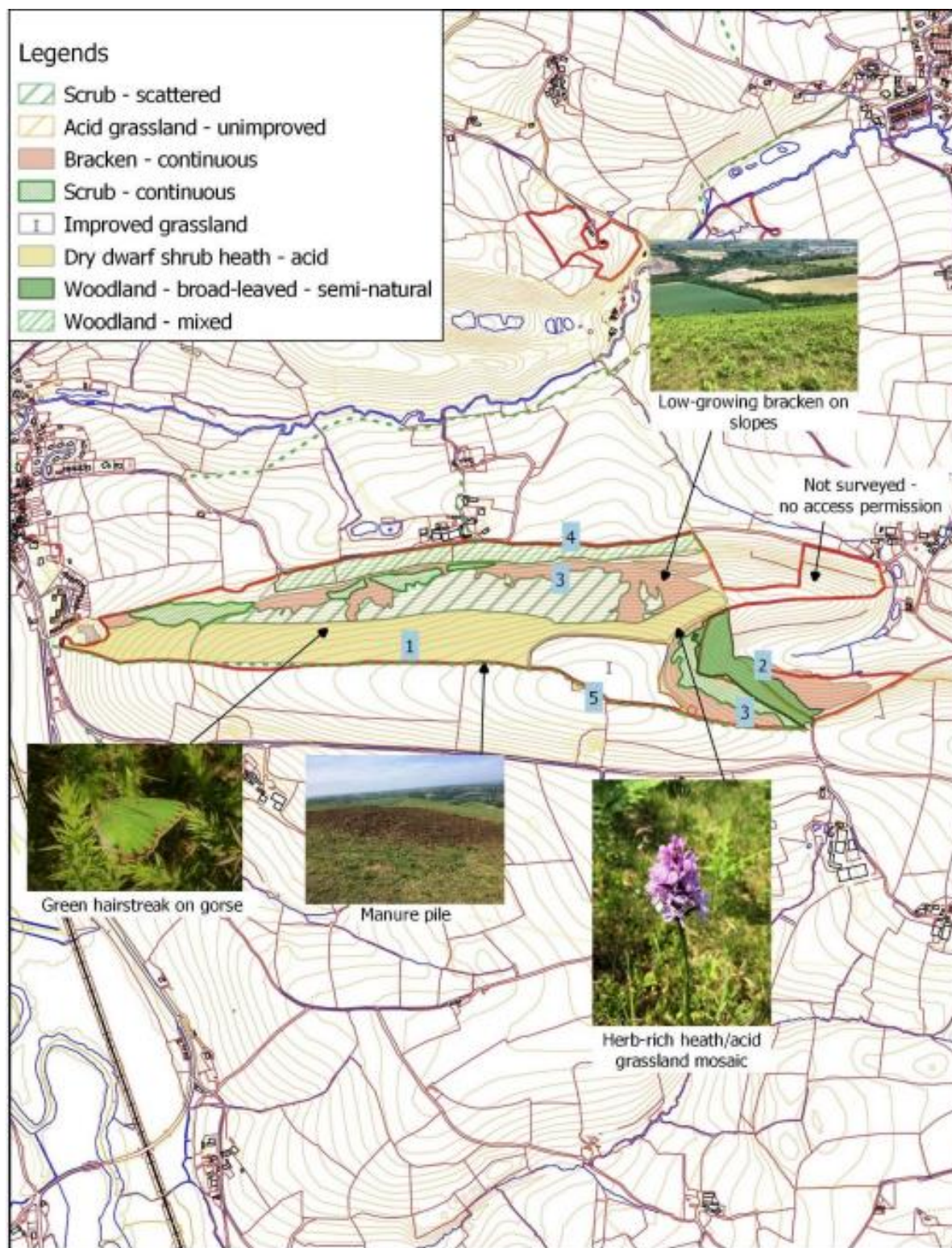


Figure 2: Site Habitat Map (DBRC, June 2018)

4. Potential effects of allowing mineral working for agricultural purposes

- 4.1. Further potential expansion of existing quarries or the opening up of new quarries on Codden Hill could lead to direct and indirect impacts upon a locally designated site, as well as priority habitats and protected species.
- 4.2. Direct impacts of mineral working and expansion could include habitat loss associated with the priority heathland and grassland habitats. This would detrimentally impact upon the locally designated wildlife site and the priority habitats (lowland heath, broadleaved woodland and acid grassland) and protected species (yellowhammer and skylark) which have been recorded onsite.
- 4.3. Quarry operations, including noise and movement of operating machinery, could cause indirect impacts onto the designated site and priority habitats including changes to water or air quality. Airborne pollutants and dust pose a threat to the vegetation of heathlands. As heathlands are naturally low in nutrients, they are extra susceptible to harm caused by excessive atmospheric pollution, such as that caused by quarry vehicles.
- 4.4. Impacts (both direct and indirect) to locally designated sites and priority habitats are contrary to national and local planning policy (See Section 2 above).
- 4.5. There would be no mechanism to secure a restoration scheme or mitigation measures that would avoid or minimise adverse effects to acceptable levels, including compensation for habitat loss. Impacts to priority habitats such as lowland heathland would require a bespoke range of mitigation measures in order to be acceptable under 'Biodiversity Net Gain' trading rules.

5. Summary and conclusion

- 5.1. Codden Hill is a site which contains open grassland, heathland and broadleaved woodland habitats of County value.
- 5.2. Uncontrolled mineral working and associated stockpiles, machinery and dust generation presents a risk to the habitats present within the County Wildlife Site. Uncontrolled removal of the landcover and quarrying of rock beneath would potentially remove these valued wildlife habitats.
- 5.3. Uncontrolled mineral working could potentially impact upon priority habitats such as lowland heathland, acid grassland and broad leaved semi-natural woodland. These habitats serve important ecological functions such as providing wildlife habitats and linkages.
- 5.4. All these factors combine to make Codden Hill sensitive ecologically to impacts arising from uncontrolled mineral working.
- 5.5. Therefore, there is a case for protecting Codden Hill and the County Wildlife Site against further mineral working for agricultural purposes. This would ensure that any future proposals for quarrying requires planning consent, enabling full application of the relevant biodiversity policy context referred to in Section 2 above. In particular, this would ensure that the designated and priority habitats on Codden Hill are conserved and enhanced, that a suitable restoration scheme can be delivered, and that mitigation measures to avoid or minimise adverse effects to acceptable levels can be secured.
- 5.6. It is considered that there is the potential for biodiversity effects, contrary to Policy M17 (Biodiversity and Geodiversity) of the Devon Minerals Plan 2011-2033 and Strategic Policy ST14 (Enhancing Environmental Assets) of the North Devon and Torridge Local Plan, should further mineral working for agricultural purposes take place.