

County Matter: Minerals: South Hams District: Variation of Condition 19 of planning permission 9/42/49/0542/85/3 (DCC/3823/2015) (dated 16 February 2017) to remove weekly and annual tonnage caps on the export of secondary aggregates and to amend the condition to introduce restrictions on hours of export and prohibit exports at the weekend and on bank holidays, Hemerdon Mine, Plympton

Applicant: Tungsten West

Application No: DCC/4365/2023 (3193/23/DCC)

Date application received by Devon County Council: 13 September 2023

## Report of the Chief Planner

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

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### 1) Recommendation

It is recommended that, subject to the applicant entering into a S106 obligation for the provision of offsite highway improvements and to bind the new planning permission to any obligations within the existing S106 agreements, together with the imposition of additional planning conditions relating to traffic control, Condition 19 of planning permission 9/42/49/0542/85/3 be varied as set out in Appendix 1 to this report (with any subsequent minor material changes being agreed in consultation with the Chair and Local Member).

### 2) Summary

- 2.1 This report relates to an application to vary the wording of Condition 19 of the existing planning permission for the Hemerdon tungsten and tin mine to remove the tonnage caps which restrict the export numbers of waste or secondary aggregates and to introduce restrictions on hours and days of operation as lorry movements at the site are currently permitted at any time of the day or week.
- 2.2 It is considered that the main material considerations in the determination of the proposed development are: planning policy; need and market considerations; sustainability considerations; impact on the highway network; highway safety; noise and proximity to residential properties; air quality and health; flooding; nature conservation; landscape; and climate change.
- 2.3 The planning application, representations received and consultation responses are available to view on the Council website under reference DCC/4365/2023 or by clicking on the following link:  
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/4365/2023>

### 3) The Proposal/Background

#### Background

- 3.1 Tungsten mining in some form has taken place in this location from the start of the 20<sup>th</sup> century. In 1986 Devon County Council as the mineral planning authority [MPA] granted planning permission [9/42/49/0542/85/3] for a significant extension to the operations which would result in a deep open cast pit with a new processing plant and a mine waste facility capable of accommodating in the region of 100 million tonnes of overburden, crushed stone and tailings from the mine processing.
- 3.2 Due to the variations in the world price of tungsten, the operation was essentially mothballed until 2014 when the site was re-opened by Wolf Minerals and renamed Drakelands Mine. In 2017 the 1986 planning permission was varied [DCC/3823/2015] to alter a number of conditions and to extend the life of the original permission in recognition that it had not been worked as expected and that there was a limited period of operation left. The 1986 permission would have expired in 2021 but was extended until 2036.
- 3.3 Wolf Minerals entered into receivership in late 2018 and the mine has again been mothballed until its purchase by Tungsten West in 2021, following which time the new owners have been working to reinstate the Environmental Permits which were disclaimed by the Official Receiver when he held the site and remaining assets. In particular, they are working with the Environment Agency to resolve issues of Low Frequency Noise which were attributed to the large screens in the main process plant.
- 3.4 The 1986 permission gave the following reason for what is now Condition 19: "To ensure that the highway network and access are adequate to cater for the traffic likely to be generated, and to protect the amenities of residents in the area". This condition, which was reiterated as Condition 19 in the 2017 consent, states that the restriction on vehicle movements is "In the interests of highway safety and (additionally) to ensure that "the overall restoration profiles are considered in any movements of materials in accordance with Policies MP41 and MP56 of the Devon County Minerals Plan and Policies M18, M23 and M27 of the Devon Minerals Plan".
- 3.5 In August 2020 under the condition wording "unless otherwise agreed in writing by the MPA" and following consultation with National Highways and the Highways Authorities for Devon and Plymouth, the operator was temporarily permitted to uplift the export of aggregates to a maximum of 150 movements per day (75 trips) for a period of six months.
- 3.6 This temporary uplift was agreed partially to understand whether an increase in HGV movements would have any adverse impact on the existing road network or the A38 junctions. The agreement was based on the condition that the MPA reserved the right to terminate the agreement if there was a justified complaint that the operation was causing an adverse environmental or amenity impact along the haul route, and subject to additional conditions that there would be no more than four HGVs passing across the Deep Lane Junction during peak hours

and that there would be movements only between 0700 and 1900 Mondays to Fridays and 0800 to 1400 on Saturdays.

- 3.7 Due to the COVID pandemic, the uplift over the existing permitted numbers did not commence until June 2021 after an agreement from the County Council that the start had been deferred but that the uplift to 75 trips (150 movements) would still continue over the same agreed period of six months (to December 2021). The agreement was again extended in January 2022 as the weighbridge records showed that the original condition limits had only been exceeded on 10 days during the six months trial. The agreement was extended to June 2022 with the operator being informed that another informal period would not be acceptable and that a planning permission would need to be submitted.
- 3.8 Between February 2021 and September 2022 the operator sold 102,000 tonnes of aggregate products from the site with peak sales and movements in November 2021 (16.1k tonnes) and December 2021 (13.9k tonnes). During the period overall the operator did not exceed the current planning condition requiring the cumulative tonnage to be under 150k tonnes per annum.
- 3.9 The tonnage and hours of operation currently being suggested are more restrictive than those set out in the temporary agreement which included running on a Saturday morning.
- 3.10 It is apparent from some of the objections received that there is a misapprehension that this temporary agreement had been a separate planning permission rather than an informal agreement under the wording of the existing condition.
- 3.11 No formal complaints about traffic numbers or routeing were received by the County Council during the period of this temporary arrangement, although there is commentary from some objectors that they did complain to Parish Councillors and Ward Members in Plymouth.
- 3.12 It is understood from the operator that there is very little remaining material on the mine site, and any future exports could not happen until such time as mining for tungsten and tin recommences and creates aggregate as a by-product of the primary mining operation.
- 3.13 In late June 2022 and following public engagement by Tungsten West at meetings in Sparkwell and Plympton, a further planning application [DCC/4312/2022] was made to vary Condition 19 to increase the amount of secondary aggregate exported from the site to a maximum of 200 outward movements (400 movements total) per day. This was considerably higher than the existing permitted numbers or the temporary arrangement, and it generated considerable local opposition and was withdrawn in November 2022.
- 3.14 The mining operation as permitted is projected to create in the region of 100 million tonnes of waste, much of which is waste rock required to support the tailings lagoon in the Mine Waste Facility which has consent to rise to a height of 215m AOD (currently 172m).

- 3.15 The proposed new method for working this material and the use of ore sorters is likely to result in less material passing through the secondary process plant. This is likely to increase the volume of non-mineral bearing crushed rock would go straight to the tip without further processing after that first phase. This would mean that there is a potential to produce a number of different grades of crushed rock which is a genuine by-product of the mining operation and is therefore a “secondary aggregate” using the Government definition: “a by-product of other quarrying and mining operations, such as china clay waste, slate waste and colliery spoil, or material arising as unavoidable consequence of construction works, as well as manufactured aggregates obtained as a by-product of other industrial processes”.

#### Proposal

- 3.16 The application proposes that the Condition should be amended to read (with additions in bold and removed text in strikethrough):

“No waste other than that required to be transported to a suitably licensed facility and otherwise unable to be disposed within the site shall be transported from the site. The number of heavy goods vehicles transporting waste (that is not permitted to be disposed within the Mine Waste Facility) or secondary aggregate leaving the site shall not exceed 50 in any one day [~~and the total tonnage of secondary aggregate transported shall not exceed 4,000 tonnes in any week or 150,000 tonnes in any calendar year without the prior consent in writing of the Mineral Planning Authority~~]. **HGV movements will only occur during the following specified periods: Monday-Friday 07:00 – 17:00. No HGV movements shall be permitted on Saturdays, Sundays or Bank Holidays.** There shall be no importation of waste materials to the site unless they are specifically required for restoration purposes as identified in the annual restoration proposals and the amount previously agreed by the Mineral Planning Authority. The operator shall provide to the Mineral Planning Authority details of the number of HGVs leaving the site carrying secondary aggregates or mineral waste over a 12 month period.”

- 3.17 The proposed condition therefore seeks to remove the annual and weekly tonnage caps, but it would introduce operational hours where none currently exist. It would also remove the “unless otherwise agreed” caveat that is no longer NPPF compliant and would mean that any future changes would also need to be considered through this process of a formal application for a variation of the condition.

#### Unilateral Undertaking

- 3.18 Following preapplication discussions with the Highway Authority and as a result of feedback on issues of local concern, the applicant has offered a Unilateral Undertaking. This will include provision for a road widening south of the site and a financial contribution to a package of safety measures closer to the site entrance including road lining, a contribution to cabling for and provision of a speed camera and the introduction of a speed limit (due to specific concerns raised about speeding motorcycles). As all of these measures are outside the red line of the original site they cannot be dealt with as a variation of a condition of

the original planning consent. The highway improvements which will be funded by the applicant will also be secured by a 'Grampian' condition that the tonnage caps shall not be exceeded until such time as the works are in place and a S278 agreement with the Highway Authority to ensure that the road is improved to an adoptable standard. The details are included as ancillary information and the legal agreement will also have to include biodiversity offsetting measures which will be finalised once the road layout is approved.

- 3.19 The applicant has also offered to abide by a limitation on the numbers of larger articulated (44 tonnes) HGVs, this matter is dealt with further below in section 7 on highways.

#### Environmental Impact Assessment

- 3.20 The applicants requested the County Council to provide a screening opinion regarding whether this application required Environmental Impact Assessment [EIA] under the 2017 Regulations. This is a variation of a condition of an existing planning permission and the proposed changes to that permission which would occur were subject to consideration. The Regulations do not include impacts of the scale proposed and therefore the applicant was advised that, although a Transport Statement would be required, EIA would not be.

### **4) Consultation Responses**

- 4.1 South Hams District Council (Planning): Express concerns that the removal of the tonnage caps does not place a limit on the potential for regular use on the size/weight of HGVs including 44t articulated lorries and the potential impact on local residents and the environment with relation to noise. The District Council also asks the MPA to consider whether the proposal helps climate change mindful of the declaration of a climate change emergency and the need to reduce carbon emissions.
- 4.2 South Hams District Council Environmental Health: no response received.
- 4.3 Plymouth City Council: objects to the application and recommends refusal on the basis of the increased impacts.

On transport, the application makes no case for the need to use the larger 44T articulated lorries and there is no detail setting out how their "occasional use" might be controlled. The applicants should have investigated providing another route to take HGVs more directly to the A38 avoiding Plympton's urban road network.

Should the tonnage caps be removed, the type and weight of tipper lorries being used at the mine be conditionally restricted to the use of rigid lorries of no more than 32T in weight only, which would apparently allow the Mine to meet its current business targets for the export of secondary aggregates. The lorry weight restriction would also help limit the adverse impacts from the additional lorry movements including impacts on residential amenity, highway safety (including in respect of the two schools along the haul route where conditionally no associated lorry movements should occur during the school starting and finishing times), and the associated damage to highway infrastructure. Moreover, the City Council

would request the Mine provides a contribution toward improving the safety and condition of the road carriageway along parts of the haul route within the PCC boundary.

The impact on air quality of using larger 44T articulated lorries has not been fully tested and the increased loads will decrease vehicle efficiency and increase emissions and cause emissions from tyre wear.

Following its initial response Plymouth City Council was approached for further observations on the nature of their request for contributions to road damage and on the restriction of hours of operation and the weight of vehicles. A further comment was received on 15 November 2023 confirming that, after seeking legal advice, they would not be requesting any financial contribution for general highways maintenance, but they request that HGV movements be suspended to avoid school start and finish times (in term time) and welcome the commitment to control 44t HGV movements to a maximum of 10% of the annual movements (to be controlled by planning condition and submission of annual data).

The City Council reiterate the commentary with Policy PLY5 of the Joint Local Plan where decisions should be “seeking ‘appropriate planning conditions and agreements in relation to minerals extraction outside of the city boundary which impacts on the city’s environment and local communities’ and that this should include ‘where appropriate the development of a comprehensive access strategy which takes construction and other heavy goods traffic more directly to the A38, avoiding Plympton’s urban road network’”.

#### 4.4 Sparkwell Parish Council: Objects to the proposal on the following grounds:

- the removal of the tonnage cap will result in greater impacts on the quality of life and the applicant has not provided any evidence of the need to use 44t articulated lorries nor how this would be controlled monitored or enforced, in breach of Mineral Plan Policy M23;
- the impact on air quality from the use of larger 44t HGVs has not been justified, and increased loads would decrease vehicle efficiency and increase impact on air quality and human health through increased emissions from diesel trucks and tyre wear which are related to the vehicle weight;
- demand for aggregates is already being met by a network of local suppliers and the volumes applied for would be in excess of local market need inevitably generating long haulage runs and additional pollution causing disease and fatalities, contrary to the NPPF and Mineral Plan policies M10, M16, M17, M18, M22 & M2;
- unacceptable impact on highway safety and cumulative impact from HGVs arising from other residential and commercial developments including Lee Moor quarrying and Langage, severely impacting the capacity of the local road network and particularly Deep Lane Junction; no comprehensive access strategy is contrary to the South West Devon Joint Local Plan; and

- the proposal is not sustainable development and the proposed quantity of material is likely to affect other local producers and will cause harm to Sparkwell Parish.

4.5 Shaugh Prior Parish Council: Subject to the following comments, the Parish Council support the application:

- although it is agreed that the suggested wording of 10% per annum restriction upon the use of 44t HGV's addresses the issues previously raised over a longer 12-month period, additional wording should be added which includes reference to a maximum of '10% per annum and no more than 10% per day' because, on the basis of the current suggested wording, there would be nothing to stop the applicant running 44t HGVs for several weeks at a times before then reverting back to smaller vehicles;
- the larger HGVs should be restricted to five 44t movements per day or one 44t movement every 2 hours in order to support the application;
- clarification is required on the location of the power supply for the speed camera and the area to be covered by a prospective 40mph speed limit [these are not matters proposed to be covered by condition and would require the input of other external bodies such as the Highway Safety Team and the Camera Safety Partnership, hence the requirement for a contribution rather than the works to be carried out by the applicant];
- clarification is required on the calculation of figures for the funding to be secured through the Unilateral Undertaking to ensure a sufficient contribution is secured; and
- a condition should be included preventing right turning out of the site to avoid unsuitable routes through Shaugh Prior Parish (backed up by a CCTV camera to be provided by the operator).

4.6 Cornwood Parish Council: no response received.

4.7 National Highways: no objection as the proposal is unlikely to result in an unacceptable impact on the safe operation of the A38 trunk road.

4.8 Environment Agency: no objection.

4.9 Natural England: no comment.

4.10 Historic England: suggest that DCC seek the views of internal specialist conservation and archaeological advisers.

4.11 Cornish Chamber of Mines and Minerals: no response received.

4.12 Devon Wildlife Trust: objection as insufficient evidence provided regarding Biodiversity Net Gain.

- 4.13 Devon RIGS Group: no response received.
- 4.14 National Grid: no response received.
- 4.15 Mineral Valuer: no response received.
- 4.16 DCC Highways: No objection subject to suitable conditions and securing a package of highway safety measures.

The mine will still have the same maximum daily HGV trip restrictions in terms of numbers (restricted to 50 per day max). Aggregate export vehicles typically consist of 20 tonne tippers. Concerns have been raised that this approach may mean larger 44 tonne vehicles could be utilised and therefore have a greater burden on the road network both in terms of integrity and safety. The applicant has agreed to a condition to cap the overall numbers of 44 tonne vehicles being utilised to a maximum of 10% per annum (so five per day or one trip per two hours roughly). This is accepted by Devon County Council as a Highway Authority.

The removal of the weekly and annual caps could lead to a higher potential frequency of reaching the maximum 50 HGV trips per day throughout the year if market conditions dictate; however, it is considered on balance with sufficient mitigation the proposals could be made acceptable with sufficient mitigation. The applicant has been asked to widen the B3417 for approximately 120m at the southern end (before entering Plymouth's jurisdiction) under a S278 legal agreement. This would be a significant improvement in terms of scale and kind and would benefit all users of the B3417 including the existing businesses. Plans have been drawn up, safety audited and are in principle agreed subject to detailed design. It is the intention that these works will be secured via "Grampian" condition and or legal agreement.

The applicant has also agreed that a condition will be imposed restricting secondary aggregate HGV movements from turning right out of the main site access to ensure that drivers use the most appropriate part of the road network to reach the strategic road network.

The B3417 between the mine access and Lee Moor has previously been improved as part of the reopening of Hemerdon mine, which has resulted in a road that has proved safe in terms of HGV vehicle movements, but unfortunately has introduced an issue of anti-social driving and riding along its route. A package of measures to be funded by the applicant has therefore been requested.

DCC Highways request conditions covering the following:

- implementation of highway improvements before the tonnage exceeds 4,000 tonnes per week;
- installation of signage at the site entrance to prohibit right turns by laden HGVs carrying secondary aggregates;
- a restriction on numbers of HGVs in excess of 32t laden weight to 10% of overall HGV numbers; and



- tonnage not to exceed 4,000 tonnes per week until the applicant has submitted a revised traffic management plan to improve the safety of Bridleway No 39 where it crosses the mine access road.

- 4.17 DCC Landscape: the proposal would not result in any significant change to the character of the area affected or visual amenity of those along the permitted route, given it is already influenced by the movement and noise of HGV traffic from Hemerdon mine. The main impacts would be from the consequential road widening and recommend conditions on the S278 agreement regarding protection of tree roots during construction and securing appropriate compensation planting. It is also expected that such planting would include appropriate replacement of the hedge to the east to restore its integrity as a continuous hedge and enrichment with a more diverse range of species. When selecting suitable sites and species for compensatory tree planting the applicant should refer to Devon Local Nature Partnership's 'Right Place Right Tree' guidance and the 'woodland planting considerations map'
- 4.18 DCC Ecology: no objection to the variation of Condition. Some comments on the widening of the B3417 if planning permission should be granted: one tree will require root protection measures; a detailed method statement should be required prior to commencement of works for protected and notable species; a Construction and Environmental Management Plan (CEMP) is required to ensure protection during the initial site clearance and the road widening. Replacement tree planting should be carried out as included in an agreed Arboricultural Method Statement.
- 4.19 DCC Public Health: no comment.
- 4.20 DCC Flood Risk Management: no in-principle objections, and it is noted that issues of surface water management relating to the off- site highway improvements would be dealt with by Devon Highways.
- 4.21 DCC Historic Environment: no comment.
- 4.22 DCC Public Rights of Way: the Traffic Management Plan should be amended to properly consider the significance of the bridleway and equestrian use, to include setting out appropriate measures to safeguard and improve the crossing point with the access road. Examples include raising driver awareness of the crossing point through site induction and instructions, and also clear signage.
- 4.23 DCC Climate Change: no response received.

## **5) Advertisement/Representations**

- 5.1 The application was advertised in accordance with the statutory publicity arrangements by means of a site notice, notice in the press and notification of neighbours by letter (including those who had made representations on DCC/4314/2022). As a result of these procedures 345 representations have been received from members of the public, mostly from Plympton and all of which are objections.

5.2 Most raise general concerns about the increase in HGV traffic in an area where the perception is that it is a residential area, already congested and has unacceptably high usage by HGV traffic. Additional concerns are road safety for pedestrians and cyclists (in Plymouth) and horses (in Devon) due to increased speeds and volume, the impact on the fabric of the roads, residential amenity and health impacts in Plympton (noise, dust, vibration). Other representations mention concern that the tungsten mine would only produce aggregates, that there is no need for aggregates, that it would compete with existing producers or that aggregates would be exported out of the local area. A number of objectors raise the issue of an alternative road straight to the A38 avoiding Plymouth roads completely.

5.3 A number of organisations and public representatives have also commented:

Plymouth and District Civic Society object as roads in Plymouth cannot cope with the present tonnage from the site, are already struggling to cope with the size of lorries that already use the roads and the sheer volume of traffic, and disruption to businesses and residents is unacceptable. Strongly object to the tonnage cap being removed.

Plymouth Councillors Beer, Darcy, Harrison and Nicholson, who are City Councillors for Plympton St Mary ward, have raised objections on the basis that roads in Plympton are already being damaged by HGVs from the mine and other quarries in Devon; cumulative impact of increased HGV movements will cause network capacity issues, especially at Deep Lane Junction; the applicant has demonstrated no evidence of need to use 44t HGVs and no evidence of how they would be controlled; Strode Road has recently had to be resurfaced again which is paid for by Plymouth taxpayers; this proposal would increase the number and possibly the size of vehicles; there is also speeding, noise and vibration as well as air pollution from diesel and tyre wear (especially from 44t vehicles); safety concerns as the haul route passes schools; hours should be constrained to avoid school opening and closing times; measures should be implemented by both Highway Authorities to reduce speeds from Colebrook along Newnham Road; HGV movements already outside operational hours; no benefit to Plympton residents; the proposal is not sustainable as it will impact the sustainability of other producers in the area; alternatives to Plympton roads have not been pursued through a comprehensive access strategy, contrary to Policies in the Joint Local Plan; and authorities should work together to find a solution.

Plympton St Mary Neighbourhood Forum: object as the proposed route for these lorries is in an area which is already heavily congested, and it passes the entrance to a primary school, medical centre and along roads close to residential properties; the impact of these huge vehicles on local traffic and infrastructure is unacceptable to residents and businesses; there are already a significant number of lorries from existing quarries in the area, and these lorries have a detrimental effect on the environment in terms of dust, noise etc. which is unacceptable and would cause serious detriment to properties which adjoin the route; the proposal to remove the cap on the amount of tonnage which can be transported should not be implemented; and the quality of life of residents and the ease of movement for local businesses must be taken onboard.

Sir Gary Streeter MP: although supporting Tungsten West as a mining company, does not support this application or any move to increase lorry movements through Plympton. There is existing congestion and queueing made worse by the traffic generated by the Aldi supermarket. To add a significant number of lorry movements to this would be wrong and may tip the road system over the edge.

British Horse Society: objection based on the location of the Bridleway (no \*\*) along the B3417 being currently “unusable” due to high-speed motorcycles and existing heavy traffic. Proposed increase in vehicles will further exacerbate this. DCC road safety raised concerns during the previous application (DCC/4314/2022) and BHS ask that this is given serious weight in the determination of the application.

## **6) Planning Policy Considerations**

- 6.1 In considering this application the County Council, as Mineral Planning Authority, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Development Plan policies are summarised below and the most relevant are referred to in more detail in Section 7.
- 6.2 Devon Minerals Plan (adopted February 2017)  
Policies M9 (Development at Drakelands Mine); M10 (Secondary and Recycled Aggregates); M17 (Biodiversity and geodiversity); M18 (Landscape and Visual Impact); M22 (Transportation and Access); M23 (Quality of Life); M26 (Cumulative Effects) and Policy M27 (Restoration and Aftercare).
- 6.3 Plymouth and South West Devon Joint Local Plan (Adopted March 2019)  
Policies DEV1 (Protecting Health and Amenity); DEV2 (Air, Water, Soil, Noise, Land and Light); DEV29 (Transport); SPT1 (Delivering sustainable development); and SPT12 (Strategic approach to the natural environment)
- 6.4 Other material planning considerations include:
- National Planning Policy Framework
  - Planning Practice Guidance – Minerals

## **7) Comments/Issues**

- 7.1 It is considered that the main material considerations in the determination of the proposed development are: planning policy; need and market considerations; sustainability considerations; impact on the highway network; highway safety; noise and proximity to residential properties; air quality and health; flooding; nature conservation; landscape; and climate change.

### **Planning Policy Considerations**

- 7.2 The principal planning policy considerations relating to this proposal are Devon Minerals Plan Policies M9 and M10.

- 7.3 Policy M9 seeks to protect “The steady and adequate supply of tungsten and tin from within the Drakelands Mineral Working Area defined on the Policies Map will be maintained by permitting proposals: (a) that will enable completion of the approved development...”. The applicant has stated that the increased export of the secondary aggregates will “support the Hemerdon Mine Business Plan and funding model and support the 238 direct jobs and associated indirect jobs related to the mine operations”.
- 7.4 Policy M10 supports the continuation of processing of secondary aggregates at locations close to the source of the materials and to Devon’s main settlements, and/or at an operational mine. Paragraph 5.2.1 of the Plan recognises that “secondary aggregates may also be obtained from the mineral waste generated by the Drakelands tungsten operation”.
- 7.5 There have been objections that the material coming from the mine is not a secondary aggregate and that the site might be mined only for aggregate production. The approach to secondary aggregates in mineral planning is different to land won ‘primary’ crushed rock or sand and gravel as it recognises that the material is produced as a by-product of other operations that would have occurred in any case.
- 7.6 The production of secondary aggregates at Hemerdon could only be ancillary to the production of tungsten and tin, and the applicant has stated that all Hemerdon aggregate products will have been crushed and gone through an initial X-ray Transmission Ore Sorting (XRT) process. This process involves rejecting non tungsten bearing rock much earlier in the process, reducing the amount of material passing through the secondary process plant before it is crushed into much smaller fractions as a part of the separation process.

### **Need and Market Considerations**

- 7.7 As requested in the pre-application advice, the applicant has provided an aggregates market and sustainability analysis which concludes that “combined analysis of previous aggregate sales in conjunction with future market demand has demonstrated that the Hemerdon aggregate products have the ability to displace and reduce the increased impacts associated with primary production and longer haulage distances”. The table in Appendix 2 indicates that this proposal could increase the overall amount of aggregate exported in a year from 150,000 tonnes which is the current cap to approximately 250,000 tonnes.
- 7.8 The applicant has stated that “the production of aggregates would provide benefits to the operation through the reduction of waste volumes requiring long term storage on site, increasing the potential for mining more primary ore tonnes and/or reducing the environmental liability associated with restoration and aftercare; generating an additional source of revenue, providing a stable income to reduce the operating costs of the mining operation and limit exposure to fluctuations in commodity prices and providing a sustainable, low-carbon footprint secondary aggregate for local businesses increasing both TW [Tungsten West] and the customers ESG [Environmental Social and Governance] credentials as a result”.

- 7.9 The 12<sup>th</sup> Devon Local Aggregate Assessment [LAA] (November 2023) notes that the major source of secondary aggregates in Devon is the by-product from the extraction and processing of china clay in the Lee Moor area which in 2022 accounted for 85% of the County's production of secondary aggregates. Hemerdon Mine is identified as a potential source of secondary aggregate in the LAA.
- 7.10 The Devon Minerals Planning Monitoring Report 2021(February 2023) reports that the MPA are underdelivering on their objective to have a 20% proportion of total sales of land won and secondary aggregates within wider Devon accounted for by secondary aggregates, with the latest figure stated as 17.7%.
- 7.11 Much of the secondary aggregate produced in Devon already comes from the mineral sites to the north of Hemerdon Mine associated with the production of china clay, and the export of aggregates on the existing (and proposed) HGV haulage route has been operational for many years. These sites combined produced over 500,000 tonnes of secondary aggregates in 2022 and are identified in the LAA and the Minerals Plan as well placed to deliver secondary aggregates into the Plymouth and South West Devon markets.
- 7.12 The provision of secondary and recycled aggregates is seen as a less carbon intensive means of providing aggregates required by the construction sector. In recognition of this, the Government has determined that the product does not carry the tax liability of materials produced for their own sake (primary aggregates) and, therefore, the product is cheaper to produce and seen to be competitive in the market.

### **Overall Sustainability Considerations**

- 7.13 A number of objections have been raised regarding the sustainability of the proposal with many commenting on the use of diesel HGV trucks to haul the material to the destinations where it will be used.
- 7.14 There are always concerns raised regarding the use of transportation in this way, and some commentators have raised the issue of whether the product is indeed a "secondary" aggregate.
- 7.15 The applicant has stated that some of its aggregate product may require further or secondary processing (screening and crushing to make specific grades, but they have confirmed that all of their products will have been crushed and gone through X-ray Transmission Ore Sorting (XRT) as a part of process to win tungsten and tin. The product is therefore a 'secondary aggregate' as it would be produced in any case.
- 7.16 The applicant accepts that, due to this further processing, the use of the recycled emissions factor is not appropriate, but with the absence of an accepted emissions factor for this situation the applicant considers it appropriate that a qualitative assessment indicates that this secondary aggregate would have a lower emissions intensity than primary production from hard rock quarries or naturally occurring sand and gravel. It would not therefore be appropriate to

consider carbon emissions that would be emitted through the primary processing stage as these would happen in any case and the material would go to the tip.

- 7.17 With relation to concerns raised about this site flooding the local markets, and being transported long distances, the applicant has stated that the majority (75%) of aggregate products sold between 2021 and 2022 were sold within a 20 miles radius from the Hemerdon mine site, with 94% of all products being sold within a 30 miles radius of the site. They have commented that as they do not run their own fleet of haulage trucks that they do not have complete control over the destination of the products but that in terms of most definitions, 30 miles would qualify as 'local'.
- 7.18 Additionally, information has been provided about the relative costs of haulage to the value of the product which does indicate that due to transportation costs, there is little benefit in transporting it for long distances and any sales outside Devon and Cornwall would only be 'marginally' profitable due to the transport costs.
- 7.19 Policy M22 of the Devon Minerals Plan requires that "within geological constraints, mineral development should minimise the distance that minerals are transported whilst maximising opportunities for sustainable transportation and access by a variety of modes".
- 7.20 It is clear that the site is slightly closer to the Plymouth area markets than the existing secondary aggregate production sites to its north and considerably closer than Cornwall where secondary aggregates might be sourced from the China Clay quarries around St Austell. It is an existing site and operation and, whilst the means of access is limited to the existing road network, it would be hard to find other modes of transport where the material is being produced. There is a railway to the south but the scale of this application would be unlikely to justify the provision of rail access even if it were to be possible within the topography.

### **Highways and Traffic Issues**

- 7.21 Plymouth City Council highways officers and National Highways were consulted on the pre-application for this proposal as the existing signed HGV routing between the Lee Moor quarries and Hemerdon Mine and the strategic highway network (the A38) passes through commercial and residential areas of Plympton. This route follows the B3417 to Glen Road through an established industrial estate, and is then signposted to the A38 via the B3416 and Sandy Road (although until recently HGV traffic also used to pass along Hillcrest Drive and the Ridgeway) (see Plan 2).
- 7.22 Existing congestion, safety and road damage in Plympton as well as the clear view of local residents that it is a residential area unsuitable for use as a haulage road has been raised by the majority of local objectors. Strode Road, in particular, is considered to be very busy as a new Aldi store has recently opened there, and there have been issues with the road construction on the new adjacent roundabout.

## Overall Vehicle Numbers

- 7.23 The transport figures in the applicant's Transport Assessment for recorded flows of traffic both on the B3417 immediately to the south of Hemerdon Mine, and on Glen Road in Plympton indicate that the average hourly movements of traffic were 147 on the B3417 near the mine but 1,385 at Glen Road, indicating that most of the traffic arises locally.
- 7.24 The mine is already permitted to export 50 loads per day for seven days a week, which equates (over a 10 hours' day as proposed) to approximately five two-way trips (10 movements) per hour. The tonnage caps in the current Condition 19 would halt the export after 6,000 tonnes per week or 150,000 tonnes per year; therefore, unless the trucks were not leaving fully laden the existing conditions would be unlikely to lead to seven days per week running or running all year (see Table 1).
- 7.25 The County Council highways officer has noted that the mine will still have the same maximum daily HGV trip restrictions in terms of numbers (restricted to 50 per day maximum). It is thought that the removal of the weekly and annual caps could lead to a higher potential frequency of reaching the maximum 50 HGV trips per day throughout the year and, with this in mind, the County Council has asked the applicant to widen the B3417 for approximately 120m at its southern end before entering Plymouth's jurisdiction under a S278 legal agreement. This would be a fairly significant improvement in terms of scale and kind and will benefit all users of the B3417 including the existing businesses.
- 7.26 These plans have now been agreed, it is the intention that these off-site works will be secured via a 'Grampian' condition to cover the works being carried out before the revised Condition 19 comes into effect and secured via a legal obligation and a S278 agreement.
- 7.27 The B3417 between Plympton and Lee Moor has already been improved by the previous mine owners as part of the reopening of the mine. This involved the construction of two new lengths of road, one bypassing the narrow Newnham Road and another length to accommodate the Mine Waste Facility to the north of the mine entrance. In highway terms, this has resulted in a road that has proved safe in terms of HGV vehicle movements, but which unfortunately has introduced an issue of anti-social driving and motorcycle riding along its route. This is evidenced by the number of serious motorcycle collisions that have occurred on the B3417 since the new section has opened. Before the road was improved this road had no such collision history. Firstly, careful consideration is being given to the new proposed widened section of road mentioned above so that a similar scenario is avoided as best as possible. Secondly, in order to help reduce speeds and anti-social driving to the north of the mine access, Devon County Council has requested a package of measures to be funded by the applicant, including:
- road lining;
  - educational signage;
  - contribution to the costs of the introduction of a 40mph speed limit;
  - contribution to the costs of a design/safety audit;

- contribution to the costs of provision of a speed camera; and
- laying a power cable from the site entrance office to the B3417 to power the speed camera.

7.28 These off-site works would also be secured through the Unilateral Undertaking by the applicants who have agreed to the requirements as set out in the highways response based on pre-application discussions with the applicant and highway authorities.

#### Size of HGVs

7.29 The potential size of vehicles was raised by Plymouth City Council, Sparkwell and Shaugh Prior Parish Councils as well as a number of objectors. There is concern that, should the operator use the larger 44 tonne vehicles, then there could be more road damage in Plympton, higher emissions due to engines under 'strain', and more pollution from tyres and brake pads as well as a much larger amount of aggregate being released into local markets.

7.30 The application states (with relation to the Unilateral Undertaking) that the applicant would be 'amenable' to including an occasional use limitation and the applicant has clarified in writing that they would be willing to accept a condition that no more than 10% of all movements are made by the 44T articulated vehicles. The County Highway Authority has confirmed that this is accepted and, if this application is approved, it is intended that this condition would apply with a requirement for the operator to provide weighbridge records to demonstrate compliance.

7.31 It should also be noted that the existing aggregate operations to the north of the site are not so restricted. The request from Shaugh Prior Parish Council that the use of 44t vehicles is further restricted to no more than 10% on any given day is noted but it is likely to be onerous in terms of management of contracts and would not reduce the overall numbers. The operator has explained that the removal of the caps is necessary to enable them to meet delivery contracts without running up against tonnage caps; similarly, the restriction to only 10% per day using 44t vehicles might restrict the hauliers that they can enter into contracts with and it would not alter the overall numbers which would remain restricted to 10% per annum. If a specific contract with a haulier using 44t trucks was implemented, then the level of usage would have to be reduced over the remaining period of the year. The national weight restriction is 44t and no other operator is so restricted.

#### Plymouth-specific Issues

7.32 Plymouth City Council commented in their objection that "given the significant increase in the export of Secondary Aggregates, the applicants should have investigated providing another route to takes construction and other heavy goods traffic more directly to the A38, avoiding Plympton's urban road network in line with paragraph 4.20 of the adopted Plymouth and South West Devon Joint Local Plan". A number of objections also mention this potential alternative.

7.33 However, the relatively minor nature of this proposal in itself would not justify requiring a whole new road which would in itself have significant environmental



impacts. When commenting on that possibility during the previous application in 2022, the proposal to use Ledgate Lane as an alternative was not supported by DCC highways due to the steep gradient and visibility issues as well as the need to use a bridge over the mainline railway.

- 7.34 Objectors also mention the proximity of schools, nurseries, play areas and a community centre along the route through Plympton. However, this is already an established HGV route and the overall increase in numbers should the applicant choose to export 50 loads a day for five days a week would be unlikely to cause any severe impact. Through the mainly residential area, Glen Road, the road is of good width with footways behind verges and few direct residential access points.
- 7.35 There appears to be a perception from a number of objectors that existing traffic levels and poor driving are caused by vehicles coming from Hemerdon Mine, but the mine has not been operational for some years now and the mine has not been exporting aggregate for more than a year.
- 7.36 During the trial export of secondary aggregates there were no complaints made to the Mineral Planning Authority regarding increased HGV movements or safety - had there been the trial would have been stopped under the condition applied to the trial.
- 7.37 Advice in NPPF Paragraph 111 states that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. However, none of the highway authorities have gone as far as to say that the likely impact would be severe, and this route through Plympton is used by traffic from all of the mining areas to the north as well as traffic arising from the industrial estate in Plympton through which it passes. It is the designated haul route specified for traffic to Lee Moor and specifically signposted from the A38. National Highways were consulted and the numbers projected have not led to any request to restrict numbers across the peak period at Deep Lane Junction which was a concern raised when the proposed numbers were higher.
- 7.38 There is no existing alternative route, and the current route was significantly improved by the previous operator of the mine by providing a link road avoiding the narrow Newnham Park route. One objector suggested that a circular route be adopted re-using the old Newnham Valley route, but this is now established as an alternative route for horse riders, cyclists and pedestrians and has a weight restriction on it. The current route was designed for HGV traffic and enforcing such a route would only affect the five trips (10 movements) an hour from the Hemerdon Mine and could not apply to the existing traffic from Lee Moor in any case.
- 7.39 The comments of Plymouth City Council regarding stopping movements during school pick up and drop off times are noted but, at five trips per hour, this is not a significant uplift and restricting the number of hours would concentrate the remaining movements into a shorter period. The applicant has indicated that they

do not consider such a condition to be reasonable given that the other HGV traffic in this area is not restricted in this way.

- 7.40 It appears that the damage to roads in Plympton is an existing situation and it is difficult to conclude that the proposed increase in annual movements could justify a contribution from a single operator. Advice from DCC highways is that requiring contributions for maintenance is not supported by legislation. Plymouth City Council was asked to elaborate and specify what they would wish for, and their subsequent comment was that they would not now wish to secure a contribution for general road maintenance. They have not elaborated on any required road safety measures, although they did mention that it was their view that they could be secured by DCC for specific projects or mitigation.

#### Bridleway

- 7.41 There have been concerns raised about the safety of the existing bridleway (Sparkwell Bridleway 41/Shaugh Prior Bridleway 72) along the B3417 which was constructed as a requirement of the original legal agreement in 1985. This route was created in part to replace a north-south bridleway over Crownhill Down which has been lost to the mine tip but which would be replaced in the longer term once the mining operation ceases. It is noted that these issues have been raised by the Shaugh Prior Parish Council and others as well as the British Horse Society.
- 7.42 A second bridleway (Sparkwell Bridleway 39) runs along the mine access road, crossing it close to the entrance gate. There have been no reports of issues with this as traffic is either slowing to stop at the gate or just having passed through it to leave the site. It is therefore moving slowly by the crossing point where there is good visibility. Nevertheless, the PROW officer has requested that the existing Traffic Management Plan (TMP) should be amended to properly consider the bridleway and setting out appropriate measure to safeguard and improve the crossing point with the access road.
- 7.43 The applicant has stated that the front gate to the mine is controlled by a barrier requiring vehicles to stop on entry and exit. Trucks are therefore stopped adjacent to where the bridleway crosses the road but the applicant is willing to place an additional sign in this location to warn users and trucks of the need for caution and this could be included in the Unilateral Undertaking. It is proposed that requiring the re-submission of the TMP associated with a condition requiring the sign to be in place before the export caps are removed would cover this point in the planning permission rather than the legal agreement.
- 7.44 The issues with speeding on the B3417 road are a matter of public record and concerns about widening the road to the south increasing overall speed along the whole length are noted.
- 7.45 With relation to this particular application, with the exception of managing the crossing of Sparkwell Bridleway 39 across the site access road by the mine entrance, all HGV traffic is expected to arrive and depart via Plympton and therefore would not increase the HGV movements adjacent to Sparkwell Bridleway 41/Shaugh Prior Bridleway 72.

- 7.46 These matters can be managed by new conditions requiring the review of the TMP and a requirement that HGV traffic leaving the mine should turn left along the B3417 to the strategic road network onto the A38 as per the routeing submitted. The package of safety measures contained within the Unilateral Undertaking is intended to manage the existing concerns about speeds all along this road and would support the introduction of a speed limit and safety camera.

#### Conclusions on Highways Matters

- 7.47 Devon Minerals Plan Policy M22 states that mineral development will be permitted where it can be demonstrated (where appropriate through a Transport Assessment) that it would not have a significant effect on road safety or network capacity, that negative effects can be mitigated appropriately (through a vehicle routeing strategy/funding or improvements) and public rights of way shall be maintained or diverted where feasible ensuring no adverse impact on the safety of the network.
- 7.48 It is considered that these conditions are met as there are no fundamental network objections from either Highway Authority in terms of capacity, the applicant has provided a routeing strategy following the existing HGV haulage route and has committed not to send laden HGVs north onto the minor road network through Shaugh Prior Parish avoiding Sparkwell Bridleway 41/Shaugh Prior Bridleway 72 and requiring the applicant to alter the construction management plan to ensure that the crossing of Sparkwell Bridleway 39 is considered would accord with this policy. The part of the policy requiring encouragement for other methods of transportation such as wharves or rail sidings is not practical in this location.

#### **Noise and Proximity to Residential Properties**

- 7.49 There are very few properties within close proximity to the road between the site entrance and the Devon County Council boundary on the edge of Plympton. Most objections have come from residents in Plymouth who have expressed concern about increased noise, dust and danger from any additional HGV movements.
- 7.50 It should be noted that the HGV routeing from Lee Moor and the industries in that area have always passed along the existing lorry route through Plympton to the A38 at Deep Lane junction. The route is also used by HGV traffic coming from the large Industrial estate in Plympton.
- 7.51 Local residents have expressed concern about cumulative impacts including traffic from Sherford and other new commercial developments in Plympton including the new Aldi store, and they have concerns about additional and larger vehicles increasing the background noise.
- 7.52 As the mine can already operate at the requested level of 50 export movements per day (unrestricted by size of vehicle or time of day) then the only change would be the potentially increased number of running days rather than the intensity of movements on any given day.

- 7.53 It is intended that the introduction of restrictions on weekend and holiday or early morning/evening movements as well as the percentage of larger 44t vehicles would ameliorate the impact of the potential overall increase in numbers and help to meet concerns about use of gardens and footpaths during evenings and weekends although the overall contribution to the traffic levels in Plympton is small given the overall traffic levels.
- 7.54 Any noise from the processing of secondary aggregates on the mine itself is covered by the existing planning conditions and monitoring scheme attached to the mining permission.

### **Air Quality and Health**

- 7.55 Plymouth Council in their objections have specifically raised concern that the potential use of 44T articulated vehicles with their increased loads will decrease the efficiency of each vehicle, and that this will potentially have an impact on air quality and human health through increased emission of nitrogen oxides from diesel powered trucks and particulates from soot-filled plumes of exhausts. Additionally, it is suggested that the emissions from tyre wear are strongly related to the vehicle's weight which means that larger HGVs pose a more serious risk residents in the vicinity.
- 7.56 The applicant has been asked to comment on the likely use of the larger trucks but has confirmed that only 7% of the trucks used during the temporary uplift period were articulated, and that they would be willing to accept a condition that no more than 10% of HGVs exporting aggregate should be the 44t articulated type.
- 7.57 The applicant has submitted an Air Quality Assessment (AQA) which identified the locations of sensitive receptors along the haul route (14 residential, two ecological (a Local Nature Reserve and a County Wildlife Site) and one community use (doctors' surgery). The AQA was accompanied and informed by detailed dispersion modelling based on pre covid (higher) background NO<sub>x</sub>, NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations which have been obtained from the Defra background maps in the absence of any air quality modelling sites within Plympton.
- 7.58 The AQA notes that pollutant concentrations in Plympton are primarily influenced by traffic. In terms of human health thresholds, the mean concentration of NO<sub>x</sub> at receptor locations is no more than 45% of the air quality standard of 40 ug/m<sup>3</sup> and the concentrations of PM<sub>10</sub> and PM<sub>2.5</sub> particulates are also lower than the air quality standard which would be reflected by the fact that the area has not been designated as an Air Quality Management Area by the City Council.
- 7.59 With relation to amenity, Policy M23 of the Devon Minerals Plan requires that health and amenity is protected from the adverse effects of mineral development and controlled to avoid any significant nuisance being caused to occupiers of dwellings or other sensitive properties close to the site or its transportation routes.
- 7.60 Whilst the concerns of Plympton residents are noted and understood, there will be no daily increase in traffic over that already permitted and the contribution in

Plympton would be low in respect of the overall numbers. The response from Plymouth in terms of air quality was principally based on concerns about the use of larger vehicles, so the proposed addition to the conditions restricting larger HGV numbers and operating hours are intended to ensure that contributions from this operation are not significant.

- 7.61 One objection was made on the basis that the production of secondary aggregate on the mine might increase dust. The activity of the production of secondary aggregate is ancillary to the principal mining operation and does not require planning permission in its own right. It is, however, subject to the planning conditions that already apply to the mining operation as well as a detailed environmental monitoring scheme. The mine owners are aware that all of the monitoring arrangements need to be in place before the mining itself recommences and so the aggregate production would be captured by the Conditions and schemes managing the mining and tipping.

### **Potential for Flooding**

- 7.62 There are no flood risk implications caused by an increase on the overall number of HGV movements. Issues relating to the road and re-surfacing would, if planning permission is granted, be resolved between DCC highways and the flood risk management team to ensure that surface water is properly managed.

### **Nature Conservation/ Habitats**

- 7.63 The objection by Devon Wildlife Trust regarding lack of Biodiversity Net Gain is noted. However, it is important to consider that the red line of this application relates only to the mine site itself as this application is to vary a condition of the original planning permission. The request for off-site road improvements has arisen from extensive preapplication enquiries and was requested by DCC highways officers. As the red line of this application cannot be extended to include the offsite works which are within the highway, these matters would be dealt with via a separate S278 highway agreement but only if planning permission is granted. The applicants included an ecological assessment for the off-site works but, as these do not in themselves require permission, this was asked for to demonstrate completeness and to be considered as a part of that separate legal process. Once the off-site highway works are agreed the applicant will be required to include the measures in the Unilateral Undertaking and the Construction Environment Management Plan associated with the S278 agreement.

### **Landscape**

- 7.64 Policy M18 of the Devon Minerals Plan requires that mineral development (including its operational practices) should have regard to the special qualities, distinctive character and features of the landscape. The landscape character of this area is defined by mining activity both at Hemerdon and to the north in the Lee Moor China Clay operational areas. Landscape restoration is taking place on the periphery of the China Clay areas at Lee Moor but the first phase of restoration at Hemerdon was delayed when the mine went into receivership.

- 7.65 The sale of secondary aggregates, above the calculations of the original consent, would reduce the amount of material going to the tip, but a certain amount is required in any case to support the tailings within the Mine Waste Facility. That is regulated in detail by an Environmental Permit and safety is the major priority.
- 7.66 The approved restoration concept accommodates the 100 million tonnes of tipped material into a very large landform restored on its surface to a mixture of woodland, and moorland. The removal of material from that landform could result in a lower landform, however, the conditions of the mining operation require detailed restoration proposals to be submitted at various stages of the development and these would be reviewed based on the available amount of material once mining recommences using the new ore sorters and process methods. The approved plans show the final (maximum) tipping levels but it was always understood that the vagaries of the metals prices and world markets might mean that of the mine ceased operations (as in 2018) restoration might have to be at a lower level and the County Council and underlying land owners jointly hold a restoration bond for this purpose.
- 7.67 Some objectors have raised concerns that, if less material goes to the Mine Waste Facility, the operator might seek to import material to make up the original levels. The operators have confirmed in writing that this would not be the case and the existing conditions also preclude this. Any restoration at a lower level would be subject to annual review under the existing conditions in any case. With large-scale long term mineral operations of this nature an element of review is always built in to ensure that restoration meets the current best practice of the time.

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

- 7.68 Paragraph 152 of the National Planning Policy Framework requires that “the planning system should support the transition to a low carbon future in a changing climate”, while Devon County Council has declared a climate emergency and committed to facilitating the reduction of Devon’s carbon emissions to net-zero by 2050. The scope for individual planning applications to contribute to these initiatives will be dependent on the nature and scale of the development being proposed, and relevant considerations are outlined below.
- 7.69 The provision of secondary aggregates as a result of permitted mining operations are considered to have less impact as the material is produced in any case ancillary to the primary use of the land. The operators acknowledge that this is an important consideration as they understand that the site has a lawful consent only for the production of tungsten and tin. The production of high-quality secondary aggregates sold through other mining operations is well established in Devon and especially Cornwall with the majority the material coming from the China Clay quarries in Cornwall and to a lesser extent from Lee Moor to the north of this site.

## **8) Strategic Plan**

- 8.1 The Devon Strategic Plan 2021 – 2025 states that Devon County Council will invest in Devon’s Economic Recovery and will maintain and where necessary

improve our highway network...to help generate and sustain economic growth. The highways officers have identified an important highway improvement to be secured as a consequence of granting planning permission for this proposal which would benefit not only this business, but also the Internationally important China Clay operations to the north of the site which also use the same haul route through Plymouth to access the strategic road network.

## **9) Financial Considerations**

- 9.1 The proposal raises no financial implications for the Council in its role of county planning authority.

## **10) Legal Considerations**

- 10.1 This proposal has been managed in accordance with statutory requirements and there are no specific legal considerations. As the offer to improve the B3417 is via a Unilateral Undertaking under S106 the Town and Country Planning Act, this undertaking would need to be concluded and signed before the issue of any planning permission.

## **11) Equality Considerations**

- 11.1 Regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty. Given the nature of the proposal and the measures within the recommended conditions, it is considered that no adverse impacts on persons with protected characteristics would occur.

## **12) Risk Management Considerations**

- 12.1 This proposal has been managed in accordance with statutory requirements and no risks to the Council in its role of mineral planning authority are considered likely to arise.

## **13) Reasons for Recommendation/Alternative Options Considered**

- 13.1 The Committee has the option of approving, deferring or refusing this planning application.
- 13.2 The only reason that the export of secondary aggregates from this particular site is controlled is through the wording of Condition 19. The export of secondary aggregates from existing mineral sites is normally regarded as being ancillary to the primary mining operation.
- 13.3 The proposal does not seek to increase the existing permitted daily number of movements but to 'stabilise' the output to enable the business to plan to meet contracts without running up against tonnage caps. It is clear that this is likely to increase overall numbers by increasing the running days over the course of a year but would not increase the existing permitted daily export levels (see table in Appendix 2).

- 13.4 When the mine went into receivership a number of jobs were lost and there was concern about the future of the site. The tungsten remains unworked and, as tungsten is an internationally important 'critical mineral', it is unlikely that it would remain unworked given its status. Policy M9 of the Devon Minerals Plan clearly expresses support for the continued development of the mine. Government guidance makes it clear that minerals may only be worked where they are found and the aggregate created by the tungsten mine would be produced in any case.
- 13.5 This location is close to existing markets in Plymouth and South West Devon which are currently served by the importation of materials from the China Clay operations to the north but also from aggregate imported from Cornwall and elsewhere.
- 13.6 Government guidance on the application of conditions states that conditions must be necessary and reasonable. When the original condition was imposed, it was clear that there was uncertainty about the impacts of the potential export of secondary aggregates which had not been considered at that time. This planning application has assessed those likely impacts both in Devon and in Plymouth and it is clear that, although there are high HGV movements on the roads in Plympton, the concerns of objectors do not support a conclusion that the impacts would be 'severe' or that there would be an unacceptable increase in other impacts such as noise or dust/particulates. The NPPF states that: "Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness".
- 13.7 Since the original condition was applied, there are more HGVs on the roads but there is also a policy push towards the provision of secondary and recycled aggregates in locations proximate to their likely use. Furthermore, the operators have made it clear that the current Condition 19 would affect the viability of the business and, as the export of aggregates is an operation that would normally be considered as "ancillary" to the production of tungsten and tin then, on balance, the likely impact would not be so significant as to warrant refusal to vary this condition, given the undertakings on road improvements, the restriction on the weight of vehicles and the proposed new conditions restricting the routing to the north and the hours of operation. The condition of the roads and the concerns of Plymouth and objectors are noted, however, advice from the County highway authority is that the mineral planning authority cannot require contributions to deal with road damage in an adjoining local authority area.
- 13.8 Enabling the operator to increase the export of secondary aggregates would support the future of the mine and its jobs as well as delivering secondary aggregates into the local market in accordance with Policy M10. The material produced ancillary to the tungsten operation would otherwise go to tip and have to be replaced in the market by primary aggregates or secondary aggregates from other sites in any case.
- 13.9 In conclusion it is considered that the use of secondary aggregates where they are genuinely produced in association with the primary purpose of producing tungsten and tin is supported by general national and local planning policies (subject to resolving specific site based environmental issues) and will help the



County to meet its current target to provide 20% of aggregates produced from secondary sources.

13.10 The proposed restriction on the use of larger articulated vehicles, and the introduction of hours of operation is a control that does not currently exist on the site and the proposed hours of haulage Monday to Friday are more restrictive than those applied to the china clay and sand quarries to the north.

13.11 The highway improvements put forward as a part of the Unilateral Undertaking will help to ensure that the B3417 is a safer route for all of the HGVs coming from this site and the china clay quarries to the north and, whilst it is noted that there remain concerns about the routeing, it is not considered that the numbers involved could justify the requirement for this one operator to construct a new road which would in itself have practical and environmental impacts.

**Mike Deaton**  
Chief Planner

**Electoral Division: Bickleigh & Wembury**

### **Local Government Act 1972: List of background papers**

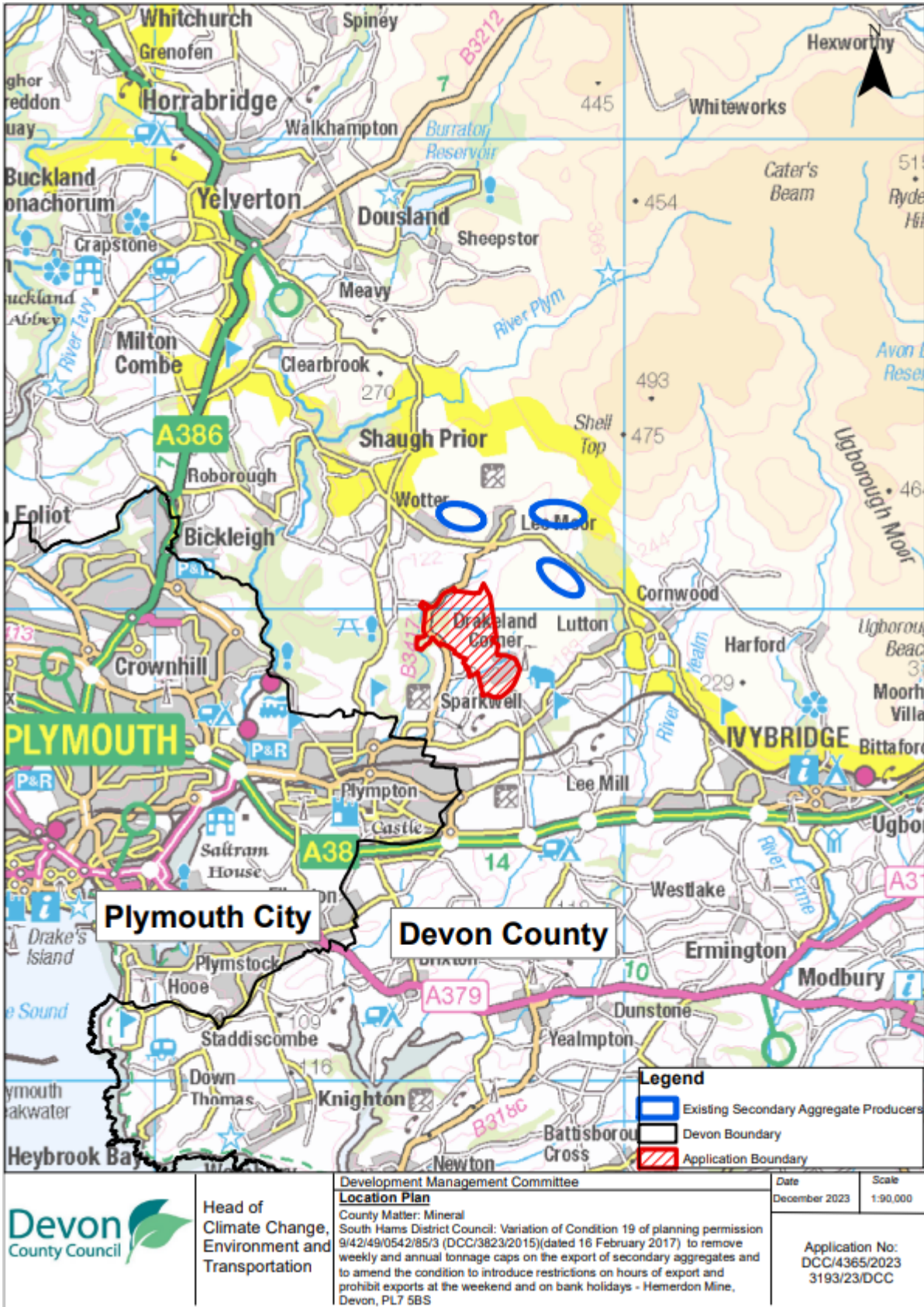
Background Paper Casework File  
Date 24.08.2023  
File Reference DCC/4365/2023

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sc/cr/Variation of Condition 19 Hemerdon Mine Plympton  
02 241123

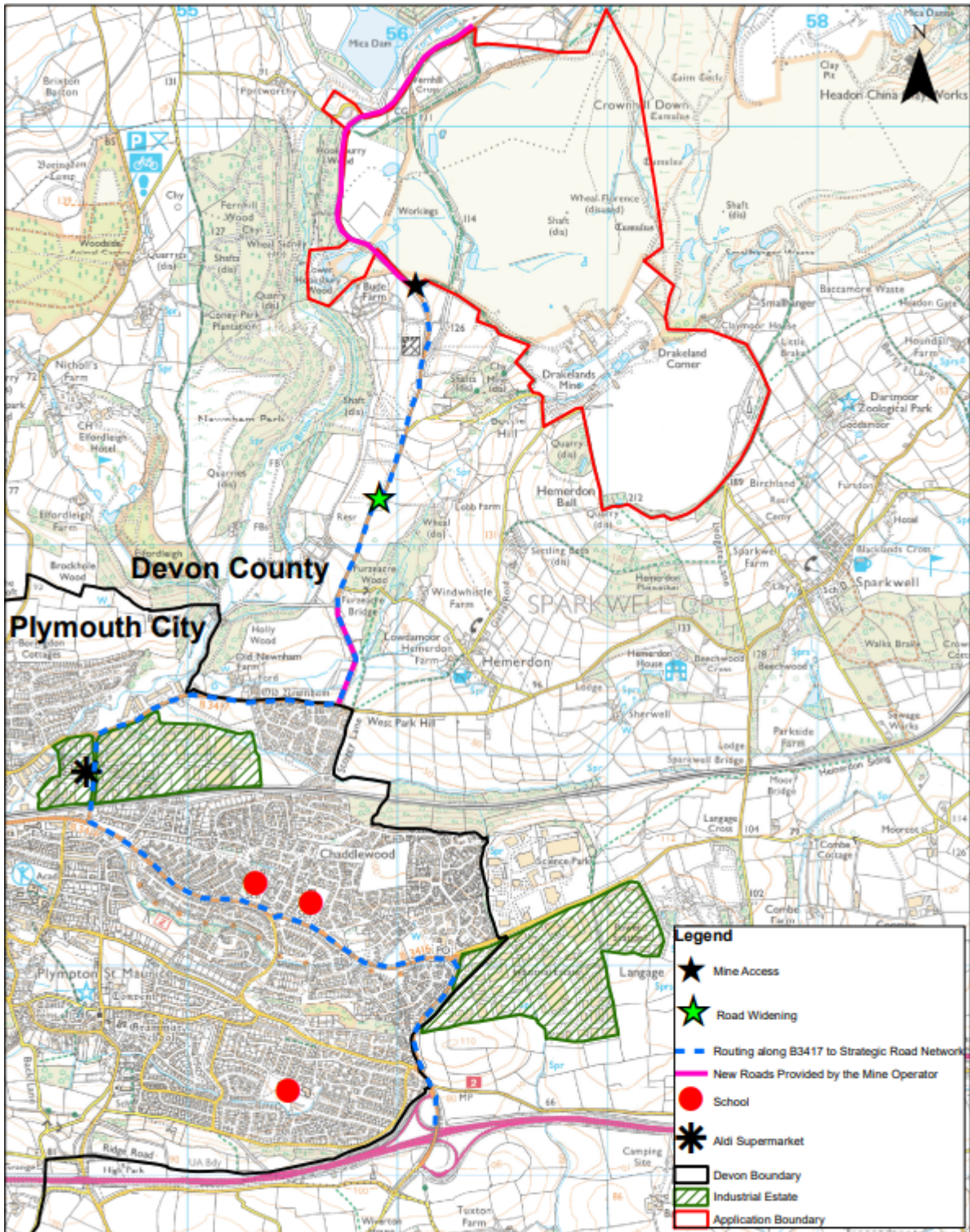
**Location Plan:**





# Plan 2: Site Context

CET/23/104



**Legend**

- ★ Mine Access
- ★ Road Widening
- Routing along B3417 to Strategic Road Network
- New Roads Provided by the Mine Operator
- School
- ★ Aldi Supermarket
- Devon Boundary
- Industrial Estate
- Application Boundary



Head of Climate Change, Environment and Transportation

Development Management Committee  
**Site Plan**  
 County Matter: Mineral  
 South Hams District Council: Variation of Condition 19 of planning permission 9/42/49/0542/85/3 (DCC/3823/2015)(dated 16 February 2017) to remove weekly and annual tonnage caps on the export of secondary aggregates and to amend the condition to introduce restrictions on hours of export and prohibit exports at the weekend and on bank holidays - Hemerdon Mine, Devon, PL7 5BS

Date	Scale
December 2023	1:20,000
Application No: DCC/4365/2023 3193/23/DCC	

## **Appendix 1 to CET/23/104**

### **Planning Conditions**

The planning permission issued under the County Council's reference DCC/3823/2015 shall be reissued subject to the following amended and new conditions (this previous permission may be found at this link:

<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/3823/2015>):

#### **Condition 19 (Amended)**

No waste other than that required to be transported to a suitably licensed facility and otherwise unable to be disposed within the site shall be transported from the site. The number of heavy goods vehicles transporting waste (that is not permitted to be disposed within the Mine Waste Facility) or secondary aggregate leaving the site shall not exceed 50 in any one day.

HGV movements shall only occur during the following specified periods: Mondays to Fridays 07:00 – 17:00. No HGV movements shall be permitted on Saturdays, Sundays or Bank Holidays.

There shall be no importation of waste materials to the site unless they are specifically required for restoration purposes as identified in the annual restoration proposals and the amount previously agreed by the Mineral Planning Authority. The operator shall provide to the Mineral Planning Authority details of the number of HGVs leaving the site carrying secondary aggregates or mineral waste over a 12 months period.

Reason: In the interests of highway safety and to ensure that the overall restoration profiles are considered in any movements of materials in accordance with Policies MP41 and MP56 of the Devon County Minerals Plan and Policies M18, M23 and M27 of the Devon Minerals Plan.

#### **New Condition - Offsite Highway Improvements**

The export tonnage shall not exceed 4,000 tonnes per week until such time as the applicant has implemented the offsite highway improvements set out in drawings 10668-HL-01 Rev F and 10668-HL-02 Rev B and in accordance with a construction and environment management plan (CEMP) which shall have been previously submitted to and approved in writing by the Mineral Planning Authority, and have received the written confirmation of the Highway Authority that the works are complete.

Reason: To ensure that the existing narrow stretch of the B3417 is improved before the number of running days is increased in the interests of highway safety and efficient operation of the route network in accordance with Policy M22 (Transportation and Access) of the Devon Minerals Plan and Policy DEV29 (Transport) of the Plymouth and South West Devon Joint Local Plan.

#### **New Condition - Notification of Commencement**

The applicant shall notify the Mineral Planning Authority in writing on the first date when the weekly export of secondary aggregates exceeds 4,000 tonnes.

Reason: For the avoidance of doubt.

### **New Condition - Left-hand Turn Only**

Prior to notification of the tonnage increase (as required by Condition \*) the operator shall have installed a sign at the site exit onto the B3417 instructing drivers of laden Heavy Goods Vehicles carrying secondary aggregates to turn left out of the site only, in accordance with details of the sign and its location that shall previously have been agreed in writing by the Mineral Planning Authority.

Reason: To ensure that HGV traffic uses the agreed lorry routing to the primary route network in the interests of highway safety in accordance with Policy M22 (Transportation and Access) of the Devon Minerals Plan.

### **New Condition - Weight Restriction**

Not more than 10% of HGV traffic exiting the site and carrying secondary aggregates shall exceed 32 tonnes laden weight per annum. The operator shall keep weighbridge records of all vehicle movements and tonnages which shall be made available to the Mineral Planning Authority within seven days of request.

Reason: To reduce emissions, noise and damage to the highway network in accordance with Policies M22 (Transportation and Access) and M23 (Quality of Life) of the Devon Minerals Plan and Policies DEV1 (Protecting Health and Amenity); DEV2 (Air, Water, Soil, Noise, Land and Light) and DEV29 (Transport) of the Plymouth and South West Devon Joint Local Plan.

### **New Condition - Traffic Management Plan**

The export tonnage shall not exceed 4,000 tonnes per week until a revised Traffic Management Plan indicating measures to improve the safety of Sparkwell Bridleway 39 where it crosses the mine access road is submitted to and approved in writing by the Mineral Planning Authority. Following its approval, the revised Traffic Management Plan shall be implemented and complied with for the duration of the planning permission.

Reason: In the interests of the safety of users of the public bridleway in accordance with Policies M22 (Transportation and Access) of the Devon Minerals Plan.

## Appendix 2 to CET/23/104

Table 1: Comparison of existing permitted and proposed HGV movements associated with secondary aggregates export

Vehicle Type	Gross weight	Load Size	Max tonnage per day @ 50 movements	Export Movements per hour (average – <u>12 hour day</u> ) @ 50 export loads per day,	Export Movements per hour (average – <u>10 hour day</u> ) @ 50 loads per day,	Weekly Movements (current cap of 4k tonnes) – cut off after	Max running days per annum (current annual cap of 150k tonnes)	Max possible tonnage per annum (current)	Max possible tonnage per annum <u>proposed</u> (5 days per week – 252 days)**
3 axle rigid	26t	15t	750	4.1	5	5 days	200	150k	189k
4axle rigid	32t	20t	1000	4.1	5	4 days	150	150k	252k
articulated	44t	30t	1500	4.1	5	2.7days	103.4	150k	378k
<b>4 axle rigid 90% + Articulated 10%</b>	<b>32t/44t</b>	<b>20t/ 30t</b>	<b>1050</b>	<b>4.1</b>	<b>5</b>	-	-	-	<b>264.6k* (proposed by applicant)</b>

\*At 10% 44t loads - 5 exports (10 movements) per day

\*\* Removing weekends and Bank Holidays as proposed by the varied condition