

CET/23/32
Development Management Committee
26 April 2023

County Matter: Waste

South Hams District: Proposed variation of condition 1 of permission 0704/22/DCC (Proposal to vary condition 2 of permission 1690/20/DCC (Variation of condition 4 (to extend the temporary permission) of planning permission DCC/3638/2014 for importation of inert waste for the purpose of filling the void as part of the restoration of Steer Point Quarry) to revise the design of the gravity outfall into Coflette Creek) to extend the period to import waste into the site to 31 October 2023, Steer Point Quarry, Steer Point Road, Brixton

Applicant: Mr Richard Drew

Application No: 0392/23/DCC

Date application received by Devon County Council: 27 January 2023

Report of the Chief Planner

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

1) Recommendation

It is recommended that planning permission is granted to enable importation of waste to 31 October 2023 subject to the conditions in Appendix 1 of this report, with any subsequent minor material changes to the conditions being agreed in consultation with the Chair and Local Member.

2) Summary

- 2.1 This report relates to a planning application for variation of a condition to allow an extended period for importation of inert waste materials to be used in the restoration of Steer Point Quarry. The application seeks to vary condition 1 of permission 0704/22/DCC (DCC/4285/2021) which was a variation of an earlier planning permission (DCC/3638/2014) for the importation of waste to restore Steer Point Quarry.
- 2.2 It is considered that the main material considerations in the determination of the proposed development are the need and principle of development; environmental impact; the restoration scheme and traffic and transport.
- 2.3 The planning application, representations received and consultation responses are available to view on the Council website under reference

DCC/4334/2023 or by clicking on the following link:
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/4334/2023>.

3) The Proposal/Background

- 3.1 Steer Point Quarry is located approximately five miles to the south-east of Plymouth city centre, and one mile to the south of the village of Brixton in south Devon, between the Estuaries of the River Yealm to the east and Cofflete Creek to the west. Vehicular access to the site is from Steer Point Road which connects with the A379 at Brixton, linking with Plymouth to the west and South Hams to the east.
- 3.2 The nearest properties to the landfilling operations are Steer Point Cottages (80m southwest of the infill area), and South Barton properties (110m to the east). Steer Point House and Yealmside Bungalow are approximately 190m to the east and the Steer Point peninsula properties are around 150m away to the southeast. The site is 1.2 miles south of residential properties on the edge of Brixton, along Steer Point Road.
- 3.3 The site is located within a sensitive location subject to designations including South Devon Area of Outstanding Natural Beauty (AONB), Devon Coastal Preservation Area, Regionally Important Geological and Geomorphological Site and Steer Point County Wildlife Site. Adjoining the site are the Plymouth and Sound Estuaries Special Area of Conservation and Yealm Estuary Site of Special Scientific Interest. Additionally, there is a Grade II listed bridge and a Grade II listed building, Steer Point Lodge on Steer Point Road.
- 3.4 The application site is approximately 30.1 hectares in total and contains a large quarry void at the northern end of the site where shale was extracted for brick making. The quarry void includes a freshwater lagoon to the south-west, and it is enclosed to the west and south by topsoil bunds and woodland. Areas of meadowland separate the quarry from the old brickworks area outside of the mineral planning consent area and current application area.
- 3.5 The mineral planning permissions have expired, but they provided for an indicative restoration scheme consisting of a large water body, grazing land, meadow areas, additional perimeter woodland planting and new boundary hedge bank. It had been anticipated that restoration levels would have been achieved by the use of mineral waste from the site (including overburden and subsoil generated by operations) and waste material arising from the brick making process, but it was also the case that additional materials would have been needed to be imported in order to provide an appropriate growing medium.
- 3.6 Since expiry of the mineral permissions, the former quarry has been the subject of new planning applications to facilitate its restoration:

DCC/3638/2014: importation of inert waste for the purpose of filling the void as part of the restoration, approved in January 2015 and limited to a period of four years from the date of commencement of the development. This

permission was subject to a S106 Agreement that included requirements for bridge surveys and remedial works; compliance with a haulage statement; dedication of a right of way; hours of waste deliveries; numbers of vehicle movements; details of signage; records of deliveries; aftercare programme; access to a geological exposure and a complaints procedure.

DCC/4183/2020: variation of Condition 4 of DCC/3638/2014 to extend the temporary permission to May 2023, approved in April 2021 subject to a deed of variation to the S106 Agreement.

DCC/4234/2021: a S106A application to vary the S106 Agreement to increase the number of vehicle movements was submitted, but this was withdrawn prior to determination.

DCC/4285/2021: variation of Condition 2 of DCC/4183/2020 to vary the approved plans for a gravity outfall to Cofflete Creek, approved in April 2022, subject to a further deed of variation to the S106 Agreement as previously amended.

- 3.7 The quarry void has largely been filled in accordance with the requirements of the approved restoration plan, with restored areas having been reseeded and hedgerows in the early stages of establishing. This restoration plan requires the importation of approximately 140,000m³ (at 1.5t/m³) of inert material; as of November 2022, total imports to the site amounted to 110,480m³ leaving a further 29,519m³ left to complete the planned restoration.
- 3.8 This new application seeks to vary Condition 1 of permission DCC/4285/2022 approved in April 2022 to extend the period for importation of material for completion of the approved restoration from the current limit of 9 May 2023 to 31 October 2023. The applicant advises that a number of factors have contributed to the shortfall in material at the site including, but not limited to, the impacts of the Covid-19 pandemic, availability of material, and delays in obtaining the required Environmental Permit to commence importation.
- 3.9 Based on the 50,000m³ per annum importation restriction, the maximum number of load movements permitted to site imposed through the extant planning permission, and the remaining deficit (29,519m³), it has been calculated that a further six months will be sufficient to complete the required importation.
- 3.10 This materials importation is required in order to restore the quarry, including partial infilling and levelling out of the existing site (to integrate with the surrounding landscape), hedgerow planting to form fields, the creation of a wetland area to manage surface water runoff (including gravity outfall pipe), and a permissive path to follow the old railway.
- 3.11 The extant planning permission which this application seeks to vary was subject to Environmental Impact Assessment. Regulation 19 of the Town and County Planning (Environmental Impact Assessment) Regulations 2017 makes provision for subsequent applications where environmental information

has been previously provided, and Planning Practice Guidance provides further clarity on the requirements where applications seek to vary an original consent. A Section 73 (variation of conditions) application is considered to be a new application for planning permission under the 2017 EIA Regulations.

- 3.12 Where environmental impact assessment was carried out on an original application, the planning authority is required to consider whether further information needs to be added to the Environmental Statement (ES) to satisfy the requirements of the Regulations. Whether changes are required or not, an Environmental Statement is required to be submitted with a Section 73 application.
- 3.13 It was agreed with the applicant that the original ES could be submitted in support of this application together with an addendum covering the additional topics required by the updated Regulations and any other change that may have occurred since permission was granted. Consideration of this application is therefore based on the information provided in the Environmental Statement and the submitted addendum.
- 3.14 The S106 Deed of Variation relating to the extant consent allowed for a new clause to be inserted in the Principal Deed that allows for the signed agreement to be applied to any future variation of condition for the development. Therefore, it is not considered necessary to seek a further variation to the S106.
- 3.15 The extant permission was also subject to Habitats Regulation Assessment [HRA]. As it is considered appropriate to use the existing information submitted in the Environmental Statement and the Ecological Addendum to the ES does not identify any new issues, it is not considered necessary to revise the HRA.

4) Consultation Responses

- 4.1 South Hams District Council: No objection.
- 4.2 Brixton Parish Council: No objection provided the work is completed within 6 months, the footpath is open as soon as infill is complete, and the concrete slabs at the entrance to the site are removed.
- 4.3 Environment Agency: No objection.
- 4.4 Natural England: No comment. General advice provided.
- 4.5 National Grid: No response received.
- 4.6 South Devon AONB Partnership: No response received.
- 4.7 Devon Wildlife Trust: No response received.

- 4.8 DCC Flood Risk Management: No objection to extension of time. Monitoring of additional waterbody will be required and a revised restoration scheme submitted should the additional waterbody be retained.
- 4.9 DCC Historic Environment: No comment.
- 4.10 DCC Coastal Officer: No response received.
- 4.11 DCC Ecology: No objection.
- 4.12 DCC Landscape: No response received.
- 4.13 DCC Public Rights of Way: No response received.
- 4.14 DCC Public Health: No response received.
- 4.15 DCC Road Safety: No objection providing the current traffic management plan is continued.
- 4.16 DCC Highways: No objection subject to the same traffic management restrictions as per the previous consent.

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. As a result of these procedures, 26 letters of objection, two comments, and two letters of support were received.
- 5.2 The material objections raised in connection with the submission are:
- the proposed restoration has been granted two previous extensions and has not been completed within these extension periods, and the extended timescale means ongoing impacts on neighbouring residents beyond those originally assessed;
 - changes to the local road network (such as the closure of Red Lion Hill) and its use since the original consent was granted mean the lorry movements and danger they pose to pedestrians, including those using Steer Point Road and collecting from the school and nursery, are no longer appropriate and pose a risk to safety, and a new impact/safety review is required;
 - the conditions regarding the timings of lorry movements (outside of school drop off/collection) are not being adhered to;
 - the ongoing noise impacts upon residents, both in close proximity to the site and along the access route, and the extension of these impacts for a further six months;
 - the impact that development has had on reed beds and bird nesting close to the gravity outfall and general impacts on ecology in the area; and
 - concerns were raised over the appropriate management and monitoring of the site and whether conditions are complied with.

5.3 Two letters support the extension of time in order to deliver the benefits of the proposed final restoration.

6) Planning Policy Considerations

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

6.2 Devon Waste Plan 2011-2031 (adopted December 2014)
Policies W1 (Presumption in favour of Sustainable Development); W2 (Sustainable Waste Management); W7 (Waste Disposal); W11 (Biodiversity and Geodiversity); W12 (Landscape and Visual Impact); W14 (Sustainable and Quality Design); W17 (Transportation and Access); W18 (Quality of Life); W19 (Flooding) and W20 (Restoration and Aftercare).

6.3 Devon Minerals Plan 2011-2033 (adopted February 2017)
Policy M27 (Restoration and Aftercare).

6.4 Plymouth and South West Devon Joint Local Plan 2014-2034 (adopted March 2019)
Policies DEV1 (Protecting Health and Amenity); DEV2 (Air, Water, Soil, Noise, Land and Light); DEV23 (Landscape Character); DEV25 (Nationally Protected Landscapes); DEV26 (Protecting and Enhancing Biodiversity and Geological Conservation); DEV29 (Specific Provisions Relating to Transport) and DEV35 (Managing Flood Risk and Water Quality Impacts).

6.5 Other material planning considerations include:

- National Planning Policy Framework;
- National Planning Policy for Waste;
- Planning Practice Guidance; and
- Plymouth and South West Devon Supplementary Planning Document.

7) Comments/Issues

7.1 It is considered that the main material planning considerations in the determination of the proposed development are the need and principle of development; environmental impact; the restoration scheme and traffic and transport.

Need and Principle of Development

7.2 The application seeks a variation of Condition 1 of the previous permission DCC/4285/2021 to extend the time period for importation of inert waste for the purpose of restoring the void left by mineral extraction. The applicant has

been working with the County Council for a number of years in order to agree a suitable restoration scheme that is in accordance with planning policy, and which achieves net benefits for the AONB and ecology, as well as enabling access for education (in relation to geology) and for recreational use. The principle of this development in this location has previously been established with the approval of a number of planning applications (summarised in 2.6) relating to the restoration of the site.

- 7.3 The additional period to 31 October 2023 for importation of waste materials is required in order to allow for the agreed restoration principles to be achieved on site following delays in obtaining the required Environmental Permit to commence importation, and further delays caused by impacts of the Covid-19 pandemic and the availability of materials. Given the benefits of the proposed restoration, and the harm that may be caused in terms of landscape to the AONB and in terms of surface water management by not allowing the restoration to be completed, it is considered that there is a clear need for the extension as proposed.

Traffic and Road Safety

- 7.4 A number of objections have been received raising concerns regarding extending the period of time over which HGVs will be accessing the site via Brixton and Steer Point Road and related impacts including road safety, air quality, and the condition of the road.
- 7.5 Consultation with the Council's Highways and Road Safety officers has confirmed that there are no concerns regarding the safety of the highway and the number and type of vehicles accessing the site and a further impact/safety review is not required.
- 7.6 Matters such as the number of vehicle movements per day, timing of movements, sheeting of lorries, and dust and debris on the road have previously been suitably controlled by conditions and the S106 Agreement and, subject to the same controls being imposed, there are no concerns regarding the proposed extension of time in terms of highways or road safety. It is recommended that the same conditions are imposed upon this consent to ensure the safe and effective operation of the local highway network for all users. Subject to the proposed conditions, the application is considered to be in accordance with Policy W17 of the Devon Waste Plan and Policy DEV29 of the Plymouth and South West Devon Joint Local Plan.

Environmental Impacts

- 7.7 The original Environmental Statement covered a range of topics including landscape and visual impact; ecology/habitat surveys; noise impacts; transport assessment; hydrology and hydrogeology; flood risk; air quality impact assessment and geological surveys.
- 7.8 Where likely slight adverse or moderate effects and impacts were identified in the original ES and addenda, it is considered that these have been suitably

controlled and managed via compliance with approved documents and planning conditions, and the S106 Legal Agreement (and subsequent Deeds of Variation).

- 7.9 In support of this application, an additional addendum has been provided to cover additional matters required by the updated regulations and to take account of any changes in the ecological status of the site.
- 7.10 Given the information supplied with the application and consultation with the relevant statutory and internal consultees, it is concluded that the amended timescale sought in this application to allow for the completion of the restoration scheme would not result in a development that is substantially different from that which was previously assessed and approved. The revised programme would therefore be unlikely to have any significant environmental impacts that have not already been considered and suitably mitigated. The proposed extension is therefore considered to be in accordance with the policies listed in section 5 of this report.

Restoration & Water Body

- 7.11 Good progress has been made at the site in terms of achieving the restoration previously approved. As is common for restoration schemes, conditions at the site have resulted in some non-material, minor deviations from the approved scheme.
- 7.12 A possible significant change to the approved restoration scheme is in relation to an additional water body in the northwest of the void which is not included on the approved plans. This water body has emerged during restoration of the site and the operator is exploring the benefits of keeping it and monitoring the source and outfall of the water. A condition has therefore been recommended to require the submission and approval of an updated restoration scheme that accurately reflects the final restoration plans for the site and appropriately responds to the waterbody using monitoring evidence collected prior to submission.
- 7.13 Subject to the recommended condition, the application is considered to be in accordance with Policy W20 of the Devon Waste Plan.

Climate Change

- 7.14 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.

- 7.15 The impact of the development on climate change is addressed in the Environmental Statement Addendum submitted in support of the application and is considered to be low. The lifetime of the development is short and the benefits of the application in relation to surface water management, ecology, and landscape are considered to outweigh any expected minor impacts on climate change and vulnerability.

Strategic Plan

- 7.16 The proposal is considered to contribute positively to the vision and priorities in the Council's Strategic Plan 2021-2025. In particular, the completion of the restoration is expected to make a positive contribution towards 'helping wildlife and landscapes to recover' (Responding to the Climate Emergency) by restoring the landscape and delivering an overall benefit for ecology at the site including through establishing waterbodies, hedgerows, and planting.

8) Reasons for Recommendation/Alternative Options Considered

- 8.1 The Committee has the option of approving, deferring or refusing this planning application.
- 8.2 In conclusion it is considered that a further six months period to facilitate importation of sufficient waste materials to complete the approved restoration scheme will ensure the satisfactory restoration of the site with landscape and ecological benefits that outweigh the adverse effects of the associated traffic on the local area.

Mike Deaton
Chief Planner

Electoral Division: Bickleigh & Wembury

Local Government Act 1972: List of background papers

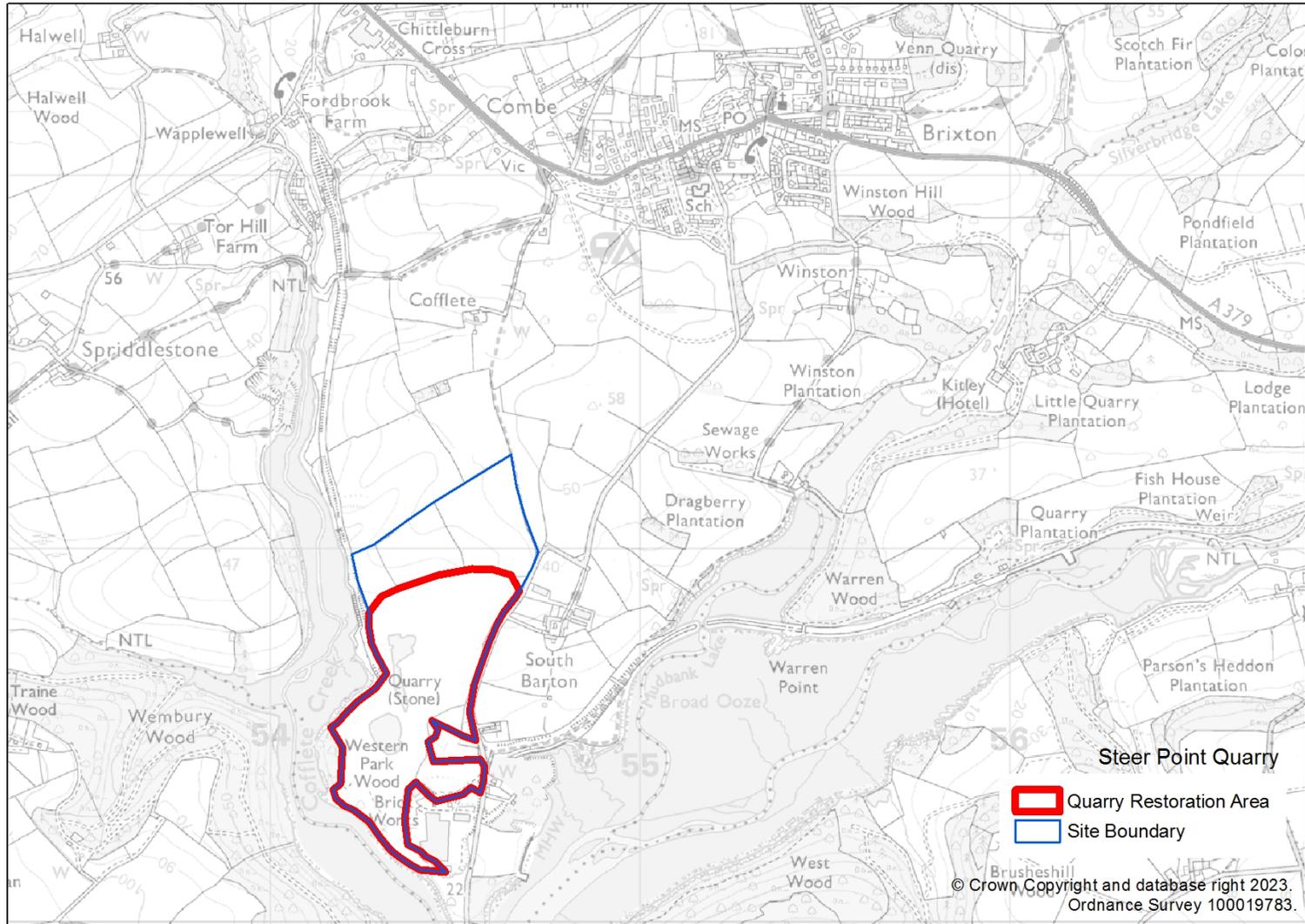
Background Paper Casework File
Date January 2023
File Reference DCC/4334/2023

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sc/cr/variation of condition Steer Point Quarry gravity outfall Coflette Creek Brixton
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Location Plan



Appendix I
To CET/23/32

Planning Conditions

1. The permission shall be limited to a period ending on 31 October 2023, by which time the infilling/tipping operations shall have ceased and the site restored in accordance with the landscape restoration set out on drawing numbered 1741.200.

REASON: To minimise the impact of the development and to secure effective restoration of the site in accordance with Policy M27 (Restoration and Aftercare) of the Devon Waste Plan 2011-2031 and Policy W20 (Restoration and Aftercare) of the Devon Minerals Plan 2011-2033.

2. The development shall be carried out in strict accordance with the details shown on the approved drawings numbered/ titled: 1247/2763, AA/01/RJ/01/Rev A, AA/01/RJ/02/Rev D, 1741.5 Revision F, SPP1741.02 Revision L, 1741.200, SPP1741.4 Revision E, SPP1741.6, SPP1741.7.1, SPP1741.7.2, SPP.1741.4, SPP.1741.5/ B, Landscape and Ecology Restoration & Monitoring Plan (dated November 2015/revised March 2016, prepared by Michelle Hughes Associates), Dust Management Plan (dated March 2016 - WD Daniels Plant Hire Ltd), Noise Management Plan (dated January 2016 - WD Daniels Plant Hire Ltd), Construction/Operational Traffic Management Scheme (prepared by W[D] Daniels Plant Hire Ltd dated 3.11.2014), Construction Environmental Management Plan (prepared by Michelle Hughes Associates dated July 2015/revised March 2016), Culvert Method statement, 'RAMS 099 Culvert Construction' Champion Groundworks Ltd, dated 13.10.2021, and Reptile displacement prior to excavation of bund in the west of the site – the key principles;

unless varied by the conditions below or by legal agreement.

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

3. Within three months of the date of this consent, a revised Restoration Plan and a revised Landscape and Ecology Restoration Management and Monitoring Plan shall be submitted to and approved in writing by the Waste Planning Authority. The revised schemes shall include any minor amendments made to the final restoration levels, final planting plans, and full details of the additional water body and how it is to be managed and monitored. The development shall be carried out in accordance with the approved plans and details.

REASON: In order to ensure appropriate restoration of the site in accordance with Policy W20 (Restoration and Aftercare) of the Devon Waste Plan 2011-2031 and Policy M27 (Restoration and Aftercare) of the Devon Minerals Plan

2011-2033, and to ensure flood risk is managed appropriately in accordance with Policy W19 (Flooding) of the Devon Waste Plan 2011-2031.

4. Waste operations at Steer Point Quarry shall only take place between 0830 to 1730 on Mondays to Fridays. There shall be no working on Saturdays, Sundays and Public Holidays. For the avoidance of doubt this condition does not apply to the delivery of waste which is subject to the associated S106 Agreement.

REASON: To protect the living conditions of nearby residents and in accordance with Policy W18 (Quality of Life) of the Devon Waste Plan 2011 – 2031.

5. A maximum of 50,000 cubic metres of *inert waste material shall be brought into site during any one calendar year.

REASON: To control the types of waste disposed of at the site in accordance with policy W7 (Waste Disposal) and to ensure that the development does not have an unacceptable impact on the highways network in accordance with policy W17 (Transportation and Access) of the Devon Waste Plan 2011 – 2031.

*Inert waste is not chemically or biologically reactive and will not decompose.

6. No processing of waste including crushing or screening shall take place at the site.

REASON: To protect the tranquillity of the AONB and the living condition of nearby residents in accordance with Policies W12 (Landscape and Visual Impact) and W18 (Quality of Life) of the Devon Waste Plan 2011 – 2031.

7. No additional external lighting shall be used or installed on any part of the site.

REASON: To ensure that the development does not have an unacceptable impact on the local landscape and residential amenity, in accordance with Policies W12 (Landscape and Visual Impact) and W18 (Quality of Life) of the Devon Waste Plan 2011 – 2031.