

Regulation Committee

Thursday 7 March 2019

2.00 pm Taunton Library Meeting Room



To: The Members of the Regulation Committee

Cllr J Parham (Chair), Cllr N Hewitt-Cooper (Vice-Chair), Cllr M Caswell, Cllr J Clarke, Cllr S Coles, Cllr M Keating, Cllr A Kendall and Cllr N Taylor

Issued By Scott Wooldridge, Strategic Manager - Governance and Risk - 27 February 2019

For further information about the meeting, please contact Michael Bryant on 01823 359048 or mbryant@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda **including public speaking at the meeting.**

This meeting will be open to the public and press, subject to the passing of any resolution under Section 100A (4) of the Local Government Act 1972.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers



RNID typetalk

AGENDA

- Item Regulation Committee - 2.00 pm Thursday 7 March 2019
- 1 **Halecombe Quarry, Leigh on Mendip, BA3 5QG** (Pages 3 - 40)

Somerset County Council

Regulation Committee –
Report by Paul Hickson
Strategic Commissioning Manager

Application Number: 2017/1022/CNT
Date Registered: 13 April 2017
Parish: Leigh on Mendip
District: Mendip
Member Division: Mendip Central and East
Local Member: Cllr Philip Ham
Case Officer: Maureen Darrie (Previously Clive Conroy)
Contact Details: mdarrie@somerset.gov.uk
(01604 771123)

*Description of
Application:*

**DEEPENING OF HALECOMBE QUARRY BY THE
EXTRACTION OF LIMESTONE, REPLACEMENT OF
EXISTING ASPHALT PLANT WITH A NEW ASPHALT
PLANT AND ASSOCIATED FACILITIES, RETENTION OF
THE CONCRETE BATCHING PLANT AND REOPENING
OF THE ACCESS ROAD TO ROOKERY FARM WITH the
RELINQUISHMENT OF THE EXISTING PERMISSION AND
EXTENSION OF END DATE OF THE ENTIRE QUARRY
AND ALL QUARRYING ACTIVITIES TO 31 DECEMBER
2044 AND RESTORATION TO BE COMPLETED BY
DECEMBER 2046**

Grid Reference: 370015 - 147431
Applicant: Tarmac Trading Limited
Location: Halecombe Quarry, Leigh on Mendip BA3 5QG

1 Summary of Key Issues and Recommendation

1.1 The proposed development relates to the deepening of the quarry extraction area, replacing the asphalt plant and associated facilities, retention of the concrete batching plant and reopening of road access to Rookery Farm and extending the end date at Halecombe Quarry (a full description is provided at Section 4.1 in the 8th November 2018 Committee Report). The main issues for consideration in this Report to Committee relate to:

- The recommendation from Officers that the Regulation Committee rescinds its previous decision from 8th November 2018 and following that, in the light of additional information as set out in this report, consider and determine the planning application
- The completion, by Somerset County Council as competent authority, of a Habitats Regulations Assessment, encompassing appropriate assessment under the Conservation of Habitats and Species Regulations 2017.

In addition, the Report provides an update on various matters that have arisen and/or have been actioned since this matter was considered at Committee on 8th November 2018.

Recommendations:

- 1. That the Regulation Committee agrees to rescind its decision on planning application 2017/1022/CNT taken on 8th November 2018 for the reasons stated and also to enable the Committee to consider afresh the application together with recommendation number 2 below.**
- 2. It is recommended that planning permission be GRANTED subject to the Applicant entering into a Section 106 agreement, the Draft of which is included as Appendix 1; and imposition of conditions set out in section 7, and that authority to undertake any minor, non-material editing, which may be necessary to the wording of those conditions, be delegated to the Strategic Commissioning Manager, Economy and Planning.**

2 Background

- 2.1 The Committee considered a Report on this application at its meeting on 8th November 2018. That Report is attached as Appendix 2 to this Report as it is not intended to repeat the majority of text in this Report.
- 2.2 The Committee resolved to grant planning permission in accordance with the recommendation and officers were tasked with finalising the Draft S.106 Agreement prior to issuing planning permission.
- 2.3 Officers have worked closely with the Applicant, the Environment Agency, Councillor Ham and Leigh on Mendip Parish Council to progress the Draft S.106 Agreement to an advanced stage, discussed in more detail below.

- 2.4 Bath and North East Somerset Council (BANES) issued late representations on the morning of the 8th November 2018 Regulation Committee. The representations are set out in the e-mail, attached as Appendix 3 to this Report. Specifically, the representations related to their concerns that the impact of the proposed deepening of Halecombe Quarry on Bath Hot Springs had not been properly considered. BANES urged Members to defer the application until such time that the impact has been assessed and the ES amended accordingly. The Committee considered the request prior to making its determination to grant planning permission, subject to the completion of Section 106 agreement and the imposition of conditions.
- 2.5 Since the application was considered at Committee, there has been third party interest in having the application called in for determination by the Secretary of State and third-party freedom of information requests regarding procedural matters. These matters are addressed in turn below.

3 Third Party Interest

- 3.1 Since the resolution to grant planning permission was made, a number of requests have been made by a third party to the Council under the Freedom of Information Act 2000. These related to the requirement, under the Conservation of Habitats and Species Regulations 2017, referred to hereafter as the Habitats Regulations, for the Council to have conducted appropriate level of assessment of the potential for the development to impact on European features of interest.
- 3.2 The same third party also submitted a request to the Secretary of State for his intervention. The Secretary of State duly considered this request for the application to be called in. This was declined and a non-intervention letter was issued on behalf of the Secretary of State on 19th December 2018.
- 3.3 The Bath Hot Springs Foundation issued a formal request to have the application called in on 20th December 2018. The reason for the request was on two grounds, firstly 'the potential for adverse impact on the Hot Springs of Bath and their underground recharge hydrogeological system due to an apparent incorrect application of the Environmental Impact regulations through the use of condition rather than assessment', and, secondly 'potential impact on the Hot Springs and their underground recharge hydrogeological system due to apparent failure to properly and adequately assess the cumulative impacts of concurrent quarrying at the nearby Hanson Whatley Quarry'. The Planning Casework Unit for the Ministry of Housing, Communities and Local Government subsequently upheld the previous non-intervention letter, confirmed by e-mail to The Hot Springs Foundation on 21st January 2018.

- 3.4 Bath and North East Somerset Council (BANES) then made a further request to have the application called in. This was confirmed in an e-mail to the County Council on 8th January 2019, in which it was duly requested that the decision on this application was not issued until the outcome of the request was known. The Planning Casework Unit for the Ministry of Housing, Communities and Local Government subsequently upheld the previous non-intervention letter.
- 3.5 The Council has not had sight of the request for call-in by the third party or BANES and the Planning Casework Unit for the Ministry of Housing, Communities and Local Government is unable to provide such details unless a request is made under the Freedom of Information Act.
- 3.6 Further correspondence was received from the Agent acting on behalf of the owner of Whitehole Farm, by e-mail on 14th February 2019. The e-mail comments on the 'TOLSE' and 'AA' [definitions for which are provided below]. Comments are made on the timing of Natural England's response to the HRA, hydrology and cumulative impact of working Halecombe Quarry and Whatley Quarry, bats, the Mells Valley SAC, lighting, hours of working and culverting.

4 Habitats Regulations Assessment

- 4.1 Freedom of information requests have been made in respect of the procedure followed by the Council in relation to the Habitats Regulations.
- 4.2 The primary cause of complaint was the fact that the Council, defined as competent authority, for the preparation of an assessment under the Habitats Regulations (an HRA), had not carried out a Stage 2 Appropriate Assessment (Stage 2 AA).
- 4.3 An HRA under the Habitats Regulations is required to evaluate the Likely Significant Effect of proposed developments protected under those Regulations. The process of HRA involves the initial Stage 1 SA followed by the Stage 2 AA if the proposals are likely to give rise to significant (adverse) impact on Natura 2000 sites (Special Protection Areas, Special Areas of Conservation and Ramsar sites).
- 4.4 Ecology and biodiversity were considered at some length in the November Committee Report and the County Ecologist comments on the planning application, consideration of effects and proposed planning conditions were set out in full.

4.5 It was reported that the County Council, as the competent authority, had carried out a Stage 1 Screening Assessment (Stage 1 SA) otherwise known as an assessment of the likely significant effect or “TOLSE” on a European site, under the Habitats Regulations. The Stage 1 SA concluded that the proposals were unlikely to cause significant effect. For that reason, the County Ecologist was satisfied that a Stage 2 AA was not required. The Stage 1 SA confirmed:

“It is the conclusion of Somerset County Council that the proposed extension to Halecombe Quarry, which also includes replacement of existing asphalt plant with a new asphalt plant and associated facilities, retention of the concrete batching plant and the reopening of the access road to Rookery Farm and restoration, is unlikely to cause a significant effect to the integrity of Mells Valley and the Mendip Woodlands SACs provided the following is conditioned or subject to a s106 agreement:

- A 20m long, 5m wide, and 1m deep butyl-lined shallow trough that will be demand-fed by a piped pump from the Rookery lagoon will be constructed in year 3, to feed slowly over a weir into a soakaway. The trough will have shallow margins in order that any grounded bat can swim to the side and escape. The northern bank will abut a shrub-vegetated screening bund, and the southern bank will be planted with a range of native shrubs in order to provide a sheltered and darkened corridor. However, the ends of the trough will remain open in order that bats have an unobstructed flight-path along the full length.*
- Details of the junction to Rookery Farm from Limekiln Lane demonstrating that commuting bats would not be affected by the creation of the access shall be submitted to and approved by the Local Planning Authority prior to any hedgerow removal occurring*
- The submitted ‘Control of Dust Scheme’ as set out in the Appendices of the Air Quality Assessment Technical Report for Proposed quarry deepening, construction of new asphalt plant and time extension Halecombe Quarry (Quarry Plan, November 2016) will be strictly applied to the permission for its duration unless otherwise modified and approved in writing by the Local Planning Authority”.*

- 4.6 Members were informed that the proposed development had been the subject of a full ecological assessment, prepared by the applicant and reviewed by the County Ecologist, in which the impacts of the proposal had been assessed and appropriate mitigation measures recommended, where necessary, in order to avoid unacceptable impacts. The proposed restoration scheme had been predicted to result in a net increase in biodiversity associated with the site and the locality.
- 4.7 Subject to the imposition of conditions as proposed by the County Ecologist, Members were informed that the proposed development complied with policy.
- 4.8 Officers have, since November, assessed matters raised by third parties and, in order to ensure that the HRA is fully compliant with the Habitats Regulations, have decided to carry out a Stage 2 AA. The reasoning for this is set out below by reference to the leading Case.
- 4.9 The Case is a decision of the Court of Justice of the European Union (CECJ) in the matter of *People Over Wind and Sweetman v Coillte Teoranta (C-323/17)* which alters the UK position in relation to HRA's under the Habitats Directive 92/43/EEC (the Directive) and consequently the Habitats Regulations. The case concerned the decision to allow the laying of cables across two European special areas of conservation (SACs) in the Republic of Ireland. The cables were intended to connect a wind farm to the electricity grid and concerns arose that the plan may have a significant impact on a protected species of freshwater pearl mussel.
- 4.10 Under Article 6 of the Directive planning permission can only be granted if:
- (a) There is no impact to the protected area [SAC], either by reason of nature of the plan or where specific preventative or mitigation techniques are employed to protect them, or
 - (b) Where there is a risk to the special area [SAC] and no mitigation can make it acceptable in terms of the Directive permission can only be granted where there are reasons of overriding public interest (including social or economic matters) and Member States shall take all compensatory measures necessary to ensure the coherence of Natura 2000 is protected.
- 4.11 Consultants in that case had prepared a Stage 1 SA concluding that a Stage 2 AA was not required because protective measures had been built into the design of the project.
- 4.12 The question considered by the CECJ was:

‘Whether, or in what circumstances, mitigation measures can be considered when carrying out screening for appropriate assessment under Article 6(3) of the Habitats Directive’.

4.13 The CECJ, in coming to a conclusion highlighted that the Directive does not refer to ‘mitigation’; only conservation, preservation, prevention and compensation. The CECJ interpreted ‘mitigation’ to mean:

“(26)... measures that are intended to avoid or reduce the harmful effects of the envisaged project on the site concerned”.

4.14 In considering the requirements for a Stage 2 AA under the Directive, the CECJ concluded that the only requirements were that:

- the plan or project is not necessary for the management of the special protection area
- it must be likely to have a significant effect on the site.

4.15 CECJ concluded that the very fact mitigation was required evidenced that the plan or project would significantly affect the special protection area. In such a scenario, an assessment should be undertaken so that the adequacy of mitigation measures could be considered with the benefit of a full Stage 2 AA (which would provide significantly more information to the decision maker).

4.16 The CECJ concluded that:

*“(37) ... taking account of such measures at the screening stage [i.e. Stage 1 SA] would be liable to compromise the practical effect of the Habitats Directive in general, and the assessment stage in particular, as the latter stage would **be deprived of its purposes and there would be a risk of circumvention... which constitutes... an essential safeguard** provided for by the directive.” (Emphasis added)*

4.17 Previously, the UK had followed case law as set down in R (on the Application of Hart DC) v Secretary of State for Communities and Local Government [2008] EWHC 1204 (Admin) which concluded:

*“(61) ... if the competent authority is satisfied at the screening stage that the proponents of a project have fully recognised, assessed and reported the effects, and have incorporated appropriate measures when deciding whether an appropriate mitigation measures into the project, there is no reason why they should ignore such measures when deciding whether an appropriate assessment is necessary... **as a matter of common sense, anything***

which encourages the proponents of plans and projects to incorporate mitigation measures at the earliest possible stage in the evolution of their plan or project is surely to be encouraged.” (Emphasis added)

- 4.18 The impact of the Sweetman Case, in determining this planning application, is a requirement to consider the impacts with no mitigation in place. With reference to the County Ecologist’s conclusion, mitigation had been taken into account when the Stage 1 SA was conducted, in advance of the Sweetman Case.
- 4.19 This means that the original Stage1 SA without mitigation in place (a requirement arising from the Sweetman Case), was bound to confirm that significant effects are likely and that a Stage 2 AA should have been carried out.
- 4.20 For these reasons, the County Ecologist has now carried out a Stage 2 AA.
- 4.21 The full HRA is attached to this Report as Appendix 4. The HRA incorporates the Stage 1 SA and Stage 2 AA.
- 4.22 The Stage 1 SA concludes that a Stage 2 AA of the proposed project is necessary in response to the potential effects from the culverting of Halecombe Brook affecting the drinking resource of the Greater Horseshoe bats and the uncertainty concerning the junction to Rookery Farm from Limekiln Lane. The Stage 2 AA addresses the conservation objectives of the Mells Valley SAC and the effects on the objectives affected by the proposals.
- 4.23 The assessment focusses on the loss of drinking habitats and severance of flight lines for Greater Horseshoe Bats.
- 4.24 In respect of the loss of drinking habitat, the Stage 2 AA confirms:

There would be a loss of watercourse potentially used for drinking by Greater Horseshoe bats, which would be rendered inaccessible due to culverting. A small number of occasional passes by Greater Horseshoe bats were recorded at his on the western end of the culvert in September four-day recording period only; three on one night and one on the other night. Greater horseshoe bats were not recorded on any other occasion during the periods of automated detector recording. Furthermore, it is likely that only one bat would be affected given the spatial ecology of the species¹, i.e. one bat passing back and forth given the lack of connectivity eastward through the quarry due to the existing lighting regime.

It is therefore considered unlikely that the loss of the watercourse would have an effect on the integrity of the Greater Horseshoe bat feature of the Mells Valley SAC provided that an alternative water source is secured through condition or otherwise.

4.25 In respect of severance of flight lines, the Stage 2 AA confirms:

There would be a loss of hedgerow structure potentially used by Greater Horseshoe bats commuting in the area of Limekiln Lane. Greater Horseshoe bats will cross gaps in flight lines of up to 12 to 15 meters even when there is a low level of street lighting². It is considered that any junction arrangement unlikely to exceed this distance.

The commuting structure on the south side of Limekiln Lane would remain and at the distance from the maternity roost it is likely that only individual or small numbers of Greater Horseshoe bats would be affected. The Ecological Impact Assessment³ states that ‘... the effect can be mitigated by infill planting to enhance the flight-line, management to improve the structure, and a bat-crossing point of a maximum 3m width over the access drive.’

It is therefore considered unlikely that the loss of the short section of watercourse would have an effect on the integrity of the Greater Horseshoe bat feature of the Mells Valley SAC provided a horseshoe bat friendly junction design is secured through condition or otherwise.

¹ Rossiter, S. J., Jones, G., Ransome, R. D. & Barratt, E. M. 2002 Relatedness structure and kin-based foraging in the greater horseshoe bat (*Rhinolophus ferrumequinum*). *Behav. Ecol. Sociobiol.* (2002) 51: 510-518.

² Billington, G. 2000. *Radio tracking study of Greater Horseshoe bats at Mells, Near Frome, Somerset*. Peterborough: English Nature

³ Andrews et al, 2017. *Ecological Impact Assessment of Land at Halecombe Quarry, Leigh-On-Mendip, Frome, Somerset BA11 3RD*. Bridgwater: Andrews Ecology.

- 4.26 The assessment of effects taking account of avoidance or reduction measures included in the proposed development confirms:

It is proposed to counter-act this loss with the construction of a 20m long, 5m wide, and 1m deep butyl-lined shallow trough that will be demand-fed by a piped pump from a clean water-lagoon in the quarry at one end, and feed slowly over a weir into a soakaway. This will ensure that (unlike the Halecombe Brook) the drinking water is permanent throughout the year, but still remains clean and free of vegetation. The trough will have shallow margins in order that any grounded bat can swim to the side and escape. The northern bank will abut a shrub-vegetated screening bund, and the southern bank will be planted with a range of native shrubs in order to provide a sheltered and darkened corridor. However, the ends of the trough will remain open in order that bats have an unobstructed flight-path along the full length. In order that the water-source is available to all the bats that currently exploit the Halecombe Brook, the bund will be connected to the farmhouse, and the enhanced linear landscape elements associated with the access road, and thereon to the flight-paths on Limekiln Lane. To ensure success, methods of vegetation and aquatic habitat monitoring, and management will be set out within an overarching Ecological Management Plan. Overall, the surface area of the drinking water resource will remain unchanged. However, as the Halecombe Brook typically runs dry in late summer each year, and the compensatory water-source will be permanent (i.e. year-round) there will be a significant benefit in terms of the duration the source of drinking water is available to all seven bat species concerned. Greater Horseshoe bats tend to forage opportunistically from approximately 4km from a maternity roost.

A design for the junction to Rookery Farm from Limekiln Lane needs to be submitted that demonstrates that commuting bats would not be affected by the creation of the access should be submitted to and approved by the Local Planning Authority prior to any hedgerow removal occurring.

- 4.27 The conclusions of the HRA remain the same and the proposed mitigation and planning conditions remain the same. The only difference is that the Stage 1 SA does not include mitigation and a Stage 2 AA has been conducted.
- 4.28 Natural England were consulted on the HRA (Stage 1 SA and Stage 2 AA on 31st January 2019). In response to some suggested minor re-wording, a revised HRA was produced by the County Ecologist on 11th February 2019. Natural England were consulted by e-mail and responded by letter on 12th February 2019, confirming that '*Natural England supports the conclusion of the HRA and, subject to the mitigation identified being secured, agrees that the development, alone or in-combination, will not result in an adverse effect on the integrity of European sites.*'

4.29 Officers are satisfied that proper consideration has been given to the effects of the proposed development in the context of the Habitats Regulations.

5 Other Matters Raised by Third Parties

5.1 Section 3 refers to various matters being raised by third parties.

5.2 The 8th November Report was a comprehensive report that included detailed consideration of the main issues.

5.3 The principal issue and the focus of the presentation to the Committee was that pertaining to hydrology and hydrogeological matters.

5.4 A Hydrogeological and Hydrological Impact Assessment was carried out by the BCI Consultant Hydrogeologists Limited (BCL) on behalf of the Applicant. The full HHIA is contained within the Environmental Statement, submitted with the planning application. Section 7 in the 8th November Report sets out, in detail, the approach and findings of the HHIA.

5.5 Section 8 of the 8th November Committee Report confirms that following a request from your officers, at a meeting with the Applicant in May 2018, a supplementary "Note" was provided by BCL, the Applicant's consultant. This was requested to address the cumulative impact of deepening Halecombe and Whatley Quarries at the same time. As referred to in paragraph 8.2 of the 8th November Report, this included a proposed planning condition that restricted quarrying to the current quarry floor level of 85mAOD until a Section 106 Agreement relating to Bath Hot Springs had been entered into in a similar format to the Whatley Quarry agreement; and until mitigation measures (such as pipework, boreholes or recharge features), were installed ready for use to mitigate impacts on Whitehole Farm Spring (or other springs included under the monitoring scheme if necessary).

5.6 In accordance with Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, this additional information was formally advertised and subject to consultation. The responses to the Regulation 25 consultation are set out separately in Section 9 of the 8th November 2018 Report.

5.7 Notably, the Environment Agency did not object to the Regulation 25 consultation and suggested some draft planning conditions. BANES have no objection to the proposal to relocate the asphalt plant and extract stone to the

currently permitted depth of 68mAoD. However, they object to a second quarrying operation (in addition to Whatley Quarry) before the impacts from Whatley are understood (paragraph 9.7 of the 8th November 2018 Report).

- 5.8 In terms of local impact, a scheme of hydrometric monitoring is currently operated to allow assessment of any potential impacts associated with ongoing extraction. The principles and reporting requirements are carried forward from existing Section 106 Agreement into the revised Draft Agreement (Appendix 1). In order to further protect local groundwater resources, it is also proposed to include provision to prevent extraction below 85mAOD (current depth of the quarry) until the operator has undertaken an assessment of dewatering down to the next bench level (15m) and every subsequent bench drop. This means that extraction could not go any deeper than 85mAOD until any mitigation measures needed are implemented.
- 5.9 With these measures in place, it is considered that the local water regime would be adequately protected.
- 5.10 In terms of Bath Hot Springs, numerous discussions have taken place with the Applicant and the EA, prior to and post 8th November 2018 Committee to agree an appropriately worded conditions to deal with BANES and other third-party objections.
- 5.11 The result of these discussions is proposed, revised conditions 6 and 7. These are agreed with the EA as competent authority on these matters. The consequence of the implementation of these conditions is that the quarry would be allowed to progress to 68mAOD. Further deepening would not be permitted until an investigation into the impact on Bath Hot Springs System has been carried out by the operator. The findings will be subject to consultation with the EA and BANES 24 months in advance of proposed deepening. If in the opinion of the Minerals Planning Authority such investigation fails to demonstrate that there ***has not been, or will not be, any adverse effect*** on the Bath Hot Springs System, and remedial measures will not mitigate the effects, the Mineral Planning Authority will give notice to the operator within 6 months of the findings.
- 5.12 If this prevails, no further deepening will be permitted and the quarry will be restored in accordance with the proposed conditions.
- 5.13 BANES raise no objection to working to 68mAOD below the asphalt plant.
- 5.14 In summary, the HHIA concludes that the deepening works, when taking into account monitoring and mitigation measures, has minimal potential to cause

negative impacts on Bath Hot Springs. The proposed planning conditions offer an additional layer of protection.

5.15 The cumulative effects and alleged deficiencies in the ES have been addressed by consultation under Regulation 25.

5.16 Furthermore, it should be noted that the Secretary of State has carefully considered the case against call-in policy, in the context of the HRA, EIA and impact on Bath Hot Springs raised by third-parties. Having regard to the policy, the non-intervention letter confirms that the application does not involve issues of more than local importance justifying the Secretary of State's intervention.

6 The Draft Section 106 Agreement

6.1 The 8th November 2018 Committee Report recommendation referred to the requirement to update the historical legal agreement that related to the site. This was to be prepared, based on the Heads of Terms included at Appendix 1 of the Committee Report.

6.2 Post the resolution of the Committee to grant planning permission, officers have been working with the applicant, the Environment Agency, Councillor Ham and Leigh on Mendip Parish Council to agree the content of the Draft S.106 and minor updates to the planning conditions.

- 6.3 For ease of reference, the updated Draft Section 106 is attached at Appendix 1, as referred to in the Recommendation.
- 6.4 The Draft Agreement and planning conditions are now in agreed format, the Draft Agreement has been signed by the applicant and landowner. The Agreement is ready to be signed by the County Council and can be done without delay should Members resolve to grant planning permission.

7 The Planning Balance

- 7.1 The previous Committee Report addressed the planning balance at Section 11. The updated HRA does not impact on the planning balance.
- 7.2 The revised NPPF advises that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and reiterates that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 7.3 This application relates to the deepening of the extraction area, replacing the asphalt plant, associated facilities, retention of the concrete batching plant, re-opening of road access to Rookery Farm and extending the end date of quarrying to 31st December 2044 and requiring restoration by 31st December 2046 at Halecombe Quarry.
- 7.4 The site is recognised as an active aggregate quarry in the Somerset Minerals Plan. Members were advised in November 2018 that, at current extraction rates, and given existing site constraints, there was less than 12 months reserves left at this site.
- 7.5 The overall objective of the proposal is to continue to operate within the existing quarry area, whilst not extending the site laterally.
- 7.6 The proposed development at this site would utilise the existing infrastructure and would not intensify the development above the current rates of extraction.
- 7.7 The proposed development has been subject to a thorough assessment as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to determine potential impacts. The application has been subject to extensive consultation and engagement with consultees.

- 7.8 With the adoption of suitable mitigation measures and imposition of appropriate planning conditions it is considered that the development would not result in any significant adverse impacts on the environment or local amenity.
- 7.9 In respect of the Water Regime, which is the only element of the proposal subject to an objection, the HIAA concludes that the deepening works, when taking into account monitoring and mitigation measures incorporated into the proposed development has minimal potential to cause negative impact in the locality in comparison to the already permitted depth of extraction. This conclusion is based on the quarry deepening to 10m AOD. With the interim depth restriction, the proposed extraction to 68m AOD would be highly unlikely to have any detrimental impact on the water regime.
- 7.10 The development would also continue to provide the substantial economic benefits associated with the quarry. In addition, a Community Fund is proposed to provide financial assistance for appropriate local projects.
- 7.11 The proposal is in accordance with both the NPPF and the development plan and should therefore be supported.

8 Recommendation

8.1 It is recommended that planning permission be GRANTED subject to the Applicant entering into a Section 106 agreement, the Draft of which is included as Appendix 1; and imposition of the following conditions and that authority to undertake any minor, non-material editing, which may be necessary to the wording of those conditions, be delegated to the Strategic Commissioning Manager, Economy and Planning:

1. Commencement

The development hereby permitted shall be commenced within three years of the date of this permission.

Reason: Pursuant to Section 91 of the Town and Country Planning Act 1990 (as amended).

2. Notification of Commencement

Within 7 days of the commencement of the development hereby permitted, the Mineral Planning Authority shall be notified in writing of the commencement of the development hereby permitted.

Reason: To enable the Mineral Planning Authority to monitor the development effectively.

3. Time Limit

This permission shall be limited to a period expiring on 31 December 2046 or such earlier date as required by the provisions of Condition 6 or 7. There shall be no working of minerals on the site after 31 December 2044, or such earlier date as required by the provisions of Condition 6 or 7. The site shall be restored in accordance with the scheme, submitted to and approved in writing, by the Mineral Planning Authority under Condition 48, within two years of the cessation of mineral workings.

Reason: To ensure that the site is restored to a satisfactory after-use within a reasonable period of time.

4. Display of Planning Permission & Related Documents

A copy of this planning permission and related documents (including the approved application details, plans and scheme of operations and any subsequent scheme submitted and approved under conditions attached to this permission) shall be made known to any person(s) given responsibility for the management, control or operation of activities at the site and copies of the said documents shall be available for inspection on site at all times when personnel are operating at the site for the purpose of mineral extraction, maintenance or restoration.

Reason: To ensure those persons responsible for the site are aware of the terms of this permission.

5. Completion in accordance with approved details

The development hereby permitted shall be carried out in strict accordance with the approved plans, unless otherwise approved in writing by the Mineral Panning Authority: -

Plans

Site Location Plan: M15.126.D.001 (17/02/2016)

Context Plan: H076/00145 (February 2017)

Current Situation (survey undertaken 05/09/2016): H076/00134 (March 2017)

Asphalt Plant Layout Plan: HAL/555 (07/03/17)

Plant Elevations: HAL/549 (08/03/17)

Block Phasing: H076/00135 (March 2017)

Phase 1: H076/00136 (March 2017)

Phase 2A: H076/00137A (October 2018)

Phase 2B: H076/00138 (March 2017)

Phase 2C: H076/0139 (March 2017)

Phase 3: H076/00140 (March 2017)

Phase 4: H076/00141 (March 2017)

Phase 5: H076/00142 (March 2017)

Phase 6: H076/00143 (March 2017)

Concept Restoration: H076/00144 (March 2017)

Maximum Extraction: H076/00147 (March 2017)

Plans & Elevations of two storey welfare facilities and control room: HAL/554 (07/03/17)

Plan & Elevation of Drivers Welfare Facilities: HAL/553 (21/09/16)

Plan & Elevations of Covered Aggregate Storage Bays: HAL/551 (21/09/16)

Plan & Elevations of IBC Storage Building: HAL/552 (21/09/16)

Figure1: Access Details Lime Kiln Lane (June 2016)

Bat Corridor: M15.126.D.028 (March 2017)

Documents

Volume 1 Non-Technical Summary March 2017

Volume 2 Environmental Statement (including Appendices 1-3) March 2017

Volume 3 Technical Reports Part A March 2017

Volume 3 Technical Reports Part B March 2017

Volume 4 Planning Application Statement (including Appendices 1-3) March 2017

Hydrogeological Cumulative Impact Note dated 22 June 2018

Letter from QuarryPlan dated 11 September 2018

6. **Excavation Depth Limit**

There shall be no extraction of limestone below 68 metres Above Ordnance Datum (AOD) (apart from the provision of a quarry drainage sump) until an investigation into the impact of quarrying at Halecombe Quarry on the Bath Hot Springs System has been carried out by the operator. The investigation shall assess if there has been, or will be any adverse effect on the Bath Hot Springs System.

The investigation may include, although not be limited to:

- Implement measures to monitor flow, temperature, total heat output, water levels and groundwater levels of the Bath Hot Springs System
- The need for additional monitoring boreholes

The findings of such an investigation shall be submitted to the Mineral Planning Authority for consideration, in consultation with the Environment Agency (EA) and Bath and North East Somerset Council (BANES), at least 24 months prior to progressing below 68mAOD. If, in the opinion of the Mineral Planning Authority, such an investigation fails to demonstrate that there has not been, or will not be, any adverse effect on the Bath Hot Springs System by quarrying at Halecombe Quarry, and if remedial measures would not mitigate any adverse effect, the Mineral Planning Authority shall give notice to the operator of this opinion within 6 months of receipt of the investigation findings.

Following receipt of such notice, no further deepening of the quarry will be permitted below 68m AOD.

The operator shall submit a revised Concept Restoration Plan within 6 months of the date of the Notice served by the Mineral Planning Authority, showing the final quarry floor at 68m AOD. Thereafter the site shall be restored in accordance with the requirements of Condition 48.

Reason: In order to protect the integrity of groundwater resources and the Bath Hot Springs System.

7. **Excavation Below 68mAOD**

If the operator has demonstrated to the satisfaction of the Mineral Planning Authority, in consultation with the Environment Agency (EA) and Bath and North East Somerset Council (BANES) that there has not been, or will not be, any adverse effect on the Bath Hot Springs System, under the requirements of Condition 6, further investigations shall be carried out, in accordance with the same criteria

outlined in Condition 6, for each subsequent bench drop; these being (a) 55m AOD, (b) 40m AOD and (c) 25m AOD.

The findings of such investigations shall be submitted to the Mineral Planning Authority for consideration, in consultation with the EA and BANES, at least 24 months prior to progressing below each bench.

If, in the opinion of the Mineral Planning Authority, in consultation with the EA and BANES, such investigations fails to demonstrate that there has not been, or will not be, any adverse effect on the Bath Hot Springs System by quarrying at Halecombe Quarry, and if remedial measures would not mitigate any adverse effect, the Mineral Planning Authority shall give notice to the operator of this opinion within 6 months of receipt of the investigation findings.

Following receipt of such Notice in respect of (a) above, no further deepening of the quarry will be permitted below 55m AOD.

Following receipt of such Notice in respect of (b) above, no further deepening of the quarry will be permitted below 40m AOD.

Following receipt of such Notice in respect of (c) above, no further deepening of the quarry will be permitted below 25m AOD.

The operator shall submit a revised Concept Restoration Plan within 6 months of the date of the Notice served by the Mineral Planning Authority, showing the final quarry floor at the level that quarrying ceased. Thereafter the site shall be restored in accordance with the requirements of Condition 48.

The operator shall also submit to the Mineral Planning Authority for consideration, in consultation with the EA and BANES, an Annual Water Monitoring Statement for the Bath Hot Springs System (if progressing below 68m AOD).

The Annual Water Monitoring Statement should include, although not be limited to:

- All data collected to monitor flow, temperature, total heat output, water levels and groundwater levels of the Bath Hot Springs System for the reporting period (the hydrometric year October to September).
- Assessment of the occurrence of adverse effects upon the Bath Hot Springs System that may have occurred during the reporting period.
- Details of any mitigation / remedial measures implemented during the reporting period.
- A discussion of data quality issues, status of installed monitoring equipment and recommendations regarding improvements to the monitoring measures.

A further review of monitoring, quarry abstraction rates and safeguard conditions for the Bath Hot Springs System shall be undertaken every four years or at least 24

months prior to extraction of limestone below the next bench drop, whichever comes first.

Reason: In order to protect the integrity of groundwater resources and the Bath Hot Springs System.

8. **Dewatering Limit**

If the dewatering rates are in excess of 15,000 m³/day over a continuous period of eight weeks (“the event”), then the operator shall undertake a detailed hydrogeological review of operations to establish the cause of the increased dewatering rates. The findings of such a review and any recommendations as to reduction of the same (including monitoring and control mechanisms) shall be submitted to and approved by the Mineral Planning Authority in consultation with the Environment Agency within four weeks of “the event”. The agreed measures shall be implemented and maintained in full.

Reason: In order to protect groundwater resources.

9. **Asphalt Plant**

Prior to the construction of the proposed asphalt plant details of the colour scheme of the proposed structure shall be submitted to and approved in writing by the Mineral Planning Authority. The asphalt plant shall be constructed in accordance with the approved scheme.

Reason: In the interests of the amenity of the area.

10. **Noise & Vibration Time Restriction**

There shall be no crushing, drilling, screening, face working or face loading operations except between the following times:

06:00-20:00 Monday to Friday

06:00-12:00 Saturday

Operations classified as temporary (bund formation, tipping, surface stripping and restoration) are permitted between the following times:

09:00-17:00 Monday to Friday excluding Bank Holidays

The listed operations shall not take place on Sundays, Bank Holidays or National Holidays.

Reason: To protect the amenity of local residents and minimise noise disturbance to the surrounding area.

11. Control of Blasting Times

Other than in emergencies, no blasting shall take place except between the following times:

13:00 – 14:00 hours and 16:00 – 17:00 Monday to Friday

There shall be no blasting on Saturdays, Sundays, Bank Holidays or Public Holidays.

The operator shall inform the Minerals Planning Authority within two working days if blasting was required to take place outside these times.

Reason: In the interests of the residential amenities of the locality.

12. Control of Blasting Impact

No blasting shall take place unless it has been designed and carried out in accordance with an agreed Scheme of Blast Monitoring & Design at Halecombe Quarry that ensures a 95% confidence of not exceeding the peak particle vibration limits of:

- 9mm/s at the foundation of any temporary or permanent dwelling not in the ownership of the operator; and,
- 15mm/s at the foundation of Rookery Farmhouse.

Within 6 months of the date of this permission, the operator shall submit and obtain written agreement of the Mineral Planning Authority of a revised "Scheme of Blast Monitoring & Design at Halecombe Quarry". This shall specify the details of:

- the blast design process using the blast regression curve detailed in the report provided by Rocblast dated May 2016 or amore recent revision;
- the procedure to maintain and provide blast design records to the planning authority upon request;
- the review and update process to be applied to the blast design curve throughout quarry development;
- the procedures to be adopted to minimise air over-pressure impacts;
- the procedure to investigate vibration and address blast related complaints;
- the equipment used and procedure to monitor every blast event in at least two locations. These locations in the first instance will be selected from the purpose

made monitoring locations at either Leigh-on-Mendip First School, Green Shutters or Rookery Farm but may also include any residential location under investigation;

- the procedure to inform the planning authority on occasions when vibration limits are exceeded.

All blasting operations shall thereafter be carried out in accordance with the approved scheme.

Reason: In the interests of confirming appropriate blast design to safeguard residential amenities and to protect the historic features of the Listed Rookery Farm and Mells Park walls.

13. Reduction of Noise from Mobile Plant

All mobile plant used in association with the development hereby permitted shall be effectively silenced to manufacturer's specifications and all noise control measures shall be maintained to their design specification for the duration of the development hereby permitted.

All mobile plant used in association with the development shall adopt broadband reverse warning alarms or adopt other visual warning devices.

Reason: In the interests of the residential amenities of the area.

14. Control of Noise from Extraction or Processing

Noise from operations associated with the development when expressed as a free-field Leq (1 hour) shall not combine with noise associated with other permitted activities within the Halecombe Quarry site to exceed the following specified levels at the following locations:

During the daytime hours of 06:00-20:00

- 45dB(A) at Bellfields or The Old Vicarage;
- 46dB(A) at Knapp Hill Farm;
- 48dB(A) at Green Shutters or Soho Cottage; and
- 50dB (A) at the Traveller encampment at Park Corner.

During the evening, night-time hours of 20:00-06:00

- 35dB (A) at all of the above locations.

Reason: In the interests of the residential amenities of the area.

15. **Control of Noise from Temporary Operations**

The Mineral Planning Authority shall be informed 2 working days prior to the intention to undertake temporary operations as defined within Technical Guidance to the NPPF (31). The total duration of temporary operations shall be recorded by the operator and shall not accumulate to exceed a total of 8 weeks in any one calendar year unless prior agreement has been provided by the Mineral Planning Authority. Temporary operations shall not exceed a free-field Leq (1 hour) noise level of 70dB (A) at any residential location.

Reason: In the interests of the residential amenities of the area.

16. **Earthworks**

The operator shall adopt measures to:

- Record the full details of any noise complaints arising from activities in the permitted site and the outcome of investigations and any implementation of any preventative measures when found necessary;
- Undertake noise monitoring sufficient to demonstrate compliance with planning limits upon request by the Mineral Planning Authority, or when complaint investigation indicates noise may be at, or above planning limits; and,
- Maintain the records of noise complaints for at least a period of 12 months and provide access to such records without charge within 2 working days of a request from the Mineral Planning Authority.

Reason: In the interests of the residential amenities of the area.

17. **Control of Dust**

The development hereby permitted shall be carried out in strict accordance with the Control of Dust Scheme as set out in Appendices 1-3 of the "Air Quality Assessment Technical Report for Proposed quarry deepening, construction of new asphalt plant and time extension Halecombe Quarry" (QuarryPlan, November 2016).

Reason: To minimise dust and airborne materials escaping from the site as a result of the operations hereby permitted, to ensure the integrity of a European site and in the interests of local amenity.

18. Control of Artificial Lighting

Within 6 months of the date of this permission a scheme for the control and mitigation of lighting pollution and glare shall be submitted for the written approval of the Mineral Planning Authority. The approved scheme shall be implemented in full for the duration of the development hereby permitted.

Reason: To protect the amenity of the locality and to minimise the nuisance and disturbance to neighbours, light sensitive wildlife and the surrounding area.

19. HGV Access

There shall be no HGV vehicular access to the quarry except by the access onto Sonners Hill as shown on Drawing No: H076/00134.

Reason: In the interests of highway safety and local amenity.

20. Rookery Farm Access

The proposed Rookery Farm access shall be constructed in accordance with details shown on the submitted plan, Figure 1: "Proposed Replacement Access to Rookery Farm from Limekiln Lane, Preliminary Layout" (June 2016), within 12 months of the commencement of the development hereby permitted. Once constructed the access shall be maintained thereafter in that condition at all times.

Reason: In the interests of highway safety.

21. Rookery Farm Entrance Gates

Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 10 metres from the carriageway edge and shall thereafter be maintained in that condition at all times.

Reason: In the interests of highway safety.

22. Rookery Farm Gradient of Access

The gradient of the access way shall not at any point be steeper than 1 in 10 for a distance of 10 metres from its junction with the public highway. This part of the access shall be maintained at that gradient thereafter at all times.

Reason: In the interests of highway safety.

23. Rookery Farm Access Surfacing

The proposed access over at least the first 10 metres of its length, as measured from the edge of the adjoining carriageway, shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Mineral Planning Authority. Once constructed the access shall thereafter be maintained in that condition at all times.

Reason: In the interests of highway safety.

24. Rookery Farm Visibility Splay

At the proposed access there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays shown on Figure 1 "Proposed Replacement Access to Rookery Farm from Limekiln Lane, Preliminary Layout" (June 2016). Such visibility splays shall be constructed prior to the use of the new access from Rookery Farm onto Lime Kiln Lane and shall thereafter be maintained at all times.

Reason: In the interests of highway safety.

25. Lorry Sheeting

All loaded Lorries leaving the quarry shall be sheeted to secure their loads except for vehicles less than 3.5 tonnes gross vehicle weight, part loaded large articulated lorries and lorries carrying stones in excess of 500mm.

Reason: In the interests of highway safety, to minimise dust dispersion and to protect the environment.

26. Wheel cleaning

The wheel cleaning facilities at the site shall be retained and maintained for the duration of quarrying activities. No vehicle leaving the site via the Somers Hill access shall enter the public highway unless their wheels and chassis have been cleaned to prevent the deposition of detritus from the site onto the public highway. Any detritus from the site deposited on the highway shall be removed immediately and in any event at the end of each working day.

Reason: In the interests of highway safety and local amenity.

27. Disposal of Surface Water

Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Mineral Planning Authority. Such provision shall be installed before the new access from Rookery Farm onto Lime Kiln Lane is completed and thereafter maintained at all times.

Reason: In the interests of highway safety.

28. Safeguarding of Watercourses and Drainage

The development hereby permitted shall be carried out in strict accordance with the approved 'Control of Surface Water Management Scheme', dated January 2003. The approved scheme shall be implemented in full for the duration of the development hereby permitted.

Reason: To prevent the increased risk of flooding.

29. Water Discharge

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas, roadways or hardstandings for vehicles shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor. Repair, maintenance and fuelling of plant and machinery shall, where practical, only take place on an impervious surface drained to an interceptor and the contents of the interceptor shall be removed from the site completely.

Reason: To minimise the risk of pollution of the water environment.

30. **Storage of Fuels**

Any new or amended facilities for the storage of oils, fuels or chemicals shall be sited on an impervious base and surrounded by integral impervious bund walls, details of which shall be submitted to and approved in writing by the Mineral Planning Authority before any works commence. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank or the combined capacity of interconnected tanks, plus 10% or 25% of the total volume, whichever is the greater. All filling points, vents, gauges and site glasses must be located within the bund. There shall be no working connection outside the bunded area. Associated pipe work should be located above ground where possible and shall be protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata.

Reason: To prevent pollution of the water environment.

31. **Stability**

The operator shall work in accordance with the design parameters in the 'Halecombe Quarry Geotechnical Assessment', report (reference 09-059-R-001) dated February 2009 and prepared by KEY GS on the likely stability of the proposed mineral excavation at Halecombe Quarry, to be updated in a biennial review, or more frequently as may be required by the Mineral Planning Authority.

Reason: To ensure the long-term stability of the excavation, restoration and after-use.

32. **Stability of Final Excavation**

The applicant shall submit a stability assessment of the final excavation and restoration proposals, taking into account the period of water recharge, by the designated competent person, to the Mineral Planning Authority within three months of the completion of Phase 6 and the results of the assessment shall be reviewed and agreed in writing with the Mineral Planning Authority.

Reason: To ensure the long-term stability of the excavation, restoration and after-use.

33. **Monitoring and Reporting**

For each calendar year, and for a minimum of the following calendar year, the following information shall be retained on site and made available at all reasonable times to the Mineral Planning Authority upon request:

- A general introduction stating company aims and the relevant planning documents;
- The relevant limiting conditions;
- Other measures, either planning or self-imposed, employed to reduce impact;
- The objectives of the monitoring scheme;
- The methods by which monitoring is undertaken;
- The times at which monitoring occurs;
- The information gathered and its presentation;
- The actions resulting from monitoring;
- The actions resulting from public complaint;
- An up-to-date survey of the quarry;
- The depth of extraction.

The information retained and provided upon request shall address the following:

- Weather - a log of daily weather conditions to be incorporated in the analyses of impacts;
- Blasting - to include results of the vibration and air overpressure monitoring;
- Noise - to include the measured LAeq 1 hour (free field) level in dB(A), date and time of measurement, description of site activity, and details of measuring equipment;
- Dust monitoring;
- Light monitoring;
- Water resource monitoring;
- Stability - to include results of the inspection and assessment of excavated slopes and tips where the 1999 Quarry Regulations have required this.

The effectiveness of the mitigation and monitoring shall be reviewed with the Mineral Planning Authority on an annual basis, with the exception of stability, which shall be reviewed biennially.

Reason: In the interests of the residential and visual amenities of the area, to safeguard the ecology and water environment of the locality and to protect the landscape character of the area.

34. **Permitted Development Rights**

Notwithstanding the provisions of Part 19 and 21 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order amending or replacing that Order, no fixed plant or machinery, buildings, structures, erections or private ways shall be erected, extended, installed or replaced at the site, except within the area outlined by a dashed black line on Drawing No. H076/00137A.

Reason: In the interests of the visual amenities of the area.

35. **Plant and Machinery**

The details of the mobile plant to be used in the final phase of the development as set out in letter dated 28th April 2006 and enclosures from Mr Andrew Cadell and approved by the Mineral Planning Authority on 26th July 2006 shall be implemented in full for the duration of the development hereby permitted.

Reason: To minimise the nuisance and disturbance to neighbours and the surrounding area.

36. **Output Limit**

The annual output of stone from the quarry shall not exceed 1 million tonnes in any one calendar year, or an annual average of 900,000 tonnes over any three-year period.

Reason: To minimise possible nuisance and disturbance to adjoining properties and nearby residents, and in the interests of highway safety and the amenities of the surrounding area.

37. Production Figures

Production figures for each year shall be submitted in writing to the Mineral Planning Authority before 31 January of each subsequent year.

Reason: To ensure that the Mineral Planning Authority can monitor the output of the site.

38. Hedges and Trees

Unless otherwise agreed in writing by the Mineral Planning Authority all hedges and trees along and, within, the boundary of the site, not directly affected by the operations, shall be retained, maintained and protected from damage throughout the duration of the operations. No stripping of soils, excavation and deposition of materials, shall be carried out within 5m of such hedgerows or beneath the canopies of trees. Any hedgerow or tree that may be seriously damaged, removed or die during the course of, or as a result of, the operations hereby permitted, shall be replaced with a plant of similar type during the next planting season, or as may be agreed with the Mineral Planning Authority.

Reason: In the interests of visual amenity and wildlife conservation.

39. Landscaping Scheme

The revised programme and detailed scheme of landscaping entitled, 'Landscaping Scheme for Halecombe Quarry' dated 30th August 2007 and submitted under covering letter of the same date by Mr Andrew Cadell and approved by the Mineral Planning Authority on 24th October 2007 shall be implemented in full for the duration of the development hereby permitted.

Trees, shrubs and hedges planted in accordance with the approved scheme shall be maintained and any that may be seriously damaged, removed or die during the

course of, or as a result of, the operations hereby permitted, shall be replaced with a plant of similar type during the next planting season, or as may be agreed with the Mineral Planning Authority.

Reason: In the interests of visual amenity and wildlife conservation.

40. **Rights of Way**

Appropriate measures shall be taken to ensure the safety of users of Public Rights of Way during construction of the Rookery Farm Access and site bunding.

Reason: To ensure the safety of persons using the Rights of Way network in the interests of the amenities of the area.

41. **Bat Trough**

A 20m long, 5m wide, and 1m deep butyl-lined shallow trough that will be demanded by a piped pump from the Rookery lagoon will be constructed within 3 years of the commencement of the development hereby permitted, to feed slowly over a weir into a soakaway. The trough will have shallow margins in order that any grounded bat can swim to the side and escape. The northern bank will abut a shrub-vegetated screening bund, and the southern bank will be planted with a range of native shrubs in order to provide a sheltered and darkened corridor. However, the ends of the trough will remain open in order that bats have an unobstructed flight-path along the full length.

Reason: To ensure the integrity of a European site.

42. **Commuting Bats**

Prior to hedgerow removal and any works associated with the construction of the junction to Rookery Farm from Limekiln Lane, a scheme demonstrating that commuting bats would not be affected by the creation of the access shall be submitted to and approved in writing by the Mineral Planning Authority.

Reason: To ensure the integrity of a European site.

43. **Landscape and Ecological Management Plan**

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by the Mineral Planning Authority prior to mineral workings being carried out in Phase 2A. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason: To ensure the integrity of a European site and in the interests of the ecology, residential and visual amenities of the area.

44. **Green Corridor**

A 'green corridor' will be created as shown on Drawing No. M15.126.D.028 'Bat Corridor', through the construction of a timber acoustic fence alongside the dryer drum (to reduce any noise emanating from this source), with the back wall of the aggregate store and the feeder canopy finished in traditional profile sheeting (of a suitable colour). A post and rail fence will then be constructed on the other side to provide a walkway for pedestrians, with suitable tree planting which will continue to the west. Tree planting will also be continued on the western and southern margins of the mobile crushing plant. The fence will be constructed within three months of the culvert being installed, protected from any subsequent construction activity and maintained for the duration of the development hereby permitted.

Reason: In the interests of European protected species.

45. **Hedgerow Planting**

Within 6 months of the completion of the access to Rookery Farm, native species hedgerows incorporating standard trees every 20 metres shall be planted either side of the road as illustrated in Figure 14 of the Ecological Impact Assessment (Andrews Ecology, 2017). Once planted it will be managed in strict accordance with the approved Landscape and Ecological Management Plan.

Reason: In the interests of the favourable conservation status of European protected species.

46. **Lighting Design for Bats**

Prior to the operation of the new asphalt plant, a "lighting design for bats strategy" shall be submitted to and approved in writing by the Mineral Planning Authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

- b) show how and where external lighting will be installed (including the provision technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Mineral Planning Authority.

47. **Soils**

All areas of the site left undisturbed, and all topsoil, subsoil and soil making material mounds shall be kept clear of noxious weeds for the duration of the development hereby permitted.

Reason: In the interests of amenity and wildlife conservation.

48. **Restoration of the Site**

The site shall be restored and managed for nature conservation, quiet recreation, agriculture and water storage in accordance with the Concept Restoration Plan (H76/00144) (or any revised Plan required under Condition 6 or 7); and a scheme to be submitted for the approval in writing of the Mineral Planning Authority prior to the extraction of limestone below 25m AOD (level 10) or at least 12 months before final restoration works are undertaken. The scheme shall include details of the following:

- Purpose, aims and objectives for the after-use of the site;
- Details of the proposed final landform and phased progression of workings towards this form;
- Extent and location of proposed works shown on appropriate scale plans;
- Method statement for ground forming and soil preparation, to include details of the overburden, sub and top soils to be used in reclaiming the site, the ripping of any compacted layers of final cover to ensure adequate drainage and aeration so that the material is suitable as a rooting medium;
- The drainage of the reclaimed land, including the formation of suitably graded contours to promote natural drainage and the installation of artificial drainage if required;
- Timing of reclamation operations in relation to phased working of the site;

- Review of nature conservation opportunities and constraints for the working, to include consideration of the establishment of limestone grassland, native broadleaf woodland, hazel coppice and artificial bat caves;
- Description of target habitats and range of species appropriate for the workings;
- Selection of appropriate strategies for maintaining or introducing target habitat or species;
- Techniques and practices for establishing habitats, species and earth heritage features;
- Sources of soil forming materials, plant stock and other species introduction including details of grass seed mixes, tree and hedgerow species, spacing, protection and management measures to provide for the use of native tree and hedgerow species and a suitable grass seed mix for the establishment of limestone grassland;
- The boundaries of the lake to be left on the conclusion of working and details of the battering down of the restored banks of the lake in accordance with Plan 'Concept Restoration Plan' (H076/00144);
- The removal of all quarry plant and machinery;
- Provision of public access;
- Provision of security measures and fencing requirements;
- Provision of an Annual Work Plan identifying the previous years' work and proposals for restoration works in the forthcoming year;
- The personnel responsible for the work;
- Proposals for monitoring the success of works carried out.

The Site shall be restored no later than 31 December 2046. In the event that Notice is served by the Mineral Planning Authority under Condition 6 or 7, the Site shall be restored within 24 months of the date of the Notice.

Reason: To ensure that the site is left in a condition capable of beneficial after-use and in the interests of the residential amenities and ecology of the area.

49. **Completion of Restoration**

On completion of the restoration works in accordance with the approved scheme required under Condition 48 the operator shall seek the confirmation of completion from the Mineral Planning Authority in writing.

Reason: To confirm when the aftercare period commences.

50. **Restoration on cessation of Mining Operations**

In the event of there being a permanent cessation of mining operations prior to the completion of the approved maximum extraction plan (H076/00147), a scheme and programme for the final restoration and aftercare of the site shall be submitted within six months of such cessation to the Mineral Planning Authority for approval in writing. Such a scheme shall incorporate the principles embodied in the scheme approved under Condition 48. The scheme shall be implemented as approved.

Reason: To ensure that the site is left in a condition capable of beneficial afteruse and in the interests of the residential amenities and ecology of the area.

Statement of Compliance with Article 35 of the Town and Country Development Management Procedure Order 2015

In determining this application, the Mineral Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions and the scoping of the application. The proposals and the content of the Environmental Statement have been assessed against relevant Development Plan policies, the National Planning Policy Framework, including the accompanying technical guidance and European Regulations. The Mineral Planning Authority has identified all material considerations; forwarded consultation responses that have been received in a timely manner; considered any valid representations received; liaised with consultees to resolve issues and progressed towards a timely determination of the application. Issues of concern have been raised with the applicant, including matters relating to hydrology/hydrogeology, and have been addressed through negotiation and acceptable amendments to the proposals requested through Regulation 25 submissions. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

APPENDICES TO REPORT

1. Draft S.106 Agreement
2. Report to Regulation Committee, 8th November 2018
3. E-mail from Bath and North East Somerset Council, 8th November 2018
4. Habitats Regulations Assessment, 11th February 2018