

Appendix 3: Late Representation from BANES 8th November 2018

From: [Sarah James](#)

Sent: 08 November 2018 11:16

Subject: Re : Planning Application reference 17/1022/CNT Halecombe Quarry HOLDING OBJECTION

Importance: High

Dear Mr Hickson and Conroy

Please accept this e-mail as a formal representation on behalf of Bath and North East Somerset Council in relation to the above Planning Application

I am writing to you with regard to the above proposed development which is due to be considered at the Planning Committee today. I wish to advise you that in the very limited time available we have made an initial assessment of the application and have some very significant concerns with regard to the apparent lack of consideration given to the possible effect of the development upon the Hot Springs.

B&NES Council notes that the proposed development is EIA Schedule 1 development and accordingly has been accompanied by an Environmental Statement (ES). The Council has grave concerns that the potential impact of the development on Bath Hot Springs has not been properly considered. The assessment of this matter is notably absent from the ES; this is both unacceptable and legally questionable.

The purpose of an Environmental Impact Assessment is to comprehensively assess the potential environmental impacts of a development proposal, including any potential in-combination effects with other proposals. It appears that the EIA has not considered the impact of further extraction at Halecombe Quarry on the Hot Springs either in isolation or in combination with other quarries in the area; this is a serious omission.

It is noted in the Committee Report that it is instead proposed to deal with Hot Springs issues by the imposition of conditions should members be minded to grant permission; this is a seriously flawed approach. It is not appropriate to simply defer matters of fundamental importance and/or matters which may relate to the principle of development to condition. Errors made in not including these matters within the scope of the EIA cannot be retrospectively corrected through the imposition of conditions.

Notwithstanding the above comments, the Conditions that have been recommended (Condition 4 and 5) are overly complex and there are very significant concerns with the drafting of these

conditions as suggested which in our view will not effectively address the concerns we have raised and which do not appear to meet the Tests; further if consideration of such fundamental matters are to be deferred until after permission has been granted a S.106 Agreement is the only appropriate mechanism to address the issue. The Conditions as drafted could result in permission in effect being taken away for elements of the proposal after it has been granted - which fails the reasonability test. The conditions do not enable in-combination effects (with other quarries) to be considered. The conditions erroneously refer to third parties such as the Environment Agency and B&NES which planning conditions cannot do.

The Council urges SCC to defer this application until such time that the impact of the development on Bath Hot Springs has been assessed and the Environmental Statement amended accordingly. Alternatively the application could be amended to specify that extraction below 68mAOD is no longer proposed – this would enable the applicant to submit a further application when the necessary studies have been undertaken whilst still allowing extraction to continue for a number of years.

This Council would be keen to engage in discussions in relation to the concerns raised in the event that a deferral is made. In the event that the SCC decide to proceed to the committee with the application we request that the committee members are aware of this Council's concerns in full and our request for Deferral.

Kind regards

Sarah James

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Development Management

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