

REGULATION COMMITTEE

Thursday 16 March 2023

2.00 pm Luttrell Room - County Hall,
Taunton



To: **The members of the Regulation Committee**

Cllr T Lock (Chair), Cllr S Coles (Vice-Chair), Cllr B Bolt, Cllr M Caswell, Cllr M Dunk, Cllr T Grimes, Cllr E Hobbs, Cllr A Kendall, Cllr M Martin, Cllr M Murphy, Cllr K Pearce, Cllr A Soughton and Cllr M Wale

All Somerset County Council Members are invited to attend.

Issued By Scott Wooldridge, Monitoring Officer and Head of Governance and Democratic Services - 8 March 2023

For further information about the meeting, please contact Jamie Jackson on 01823 357628 or democraticservicesteam@somerset.gov.uk or Fiona Abbott on 01823 357628 or democraticservicesteam@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda.

This meeting will be open to the public and press, subject to the passing of any resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

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

Are you considering how your conversation today and the actions you propose to take contribute towards making Somerset Carbon Neutral by 2030?



RNID typetalk

AGENDA

Item Regulation Committee - 2.00 pm Thursday 16 March 2023

**** Public Guidance notes contained in agenda annexe ****

1 **Apologies for Absence**

To receive member's apologies.

2 **Declarations of Interest**

Details of all Members' interests in District, Town and Parish Councils can be viewed on the [Council Website](#)

The Statutory Register of Member's Interests can be inspected via request to the Democratic Service Team.

3 **Accuracy of the Minutes of the meeting held on Thursday 9 February 2023**
(Pages 9 - 18)

The Committee will consider the accuracy of the attached minutes.

4 **Public Question Time**

The Chair will allow members of the public to present a petition on any matter within the Committee's remit. Questions or statements about the matters on the agenda for this meeting will be taken at the time when the matter is considered and after the Case Officers have made their presentations. Each speaker will be allocated 3 minutes. The length of public question time will be no more than 30 minutes.

5 **Torr Works Quarry, East Cranmore, Shepton Mallet BA4 4RA - Application SCC/4002/2022** (Pages 19 - 62)

Demolition of Torr Blockworks and lateral extension of quarry on land at Torr Works

Applicant - Aggregate Industries UK Ltd

To consider this report.

Note – members of the Committee will be undertaking a site visit ahead of the meeting.

*The purpose of a Members' site visit is to view the site and its surroundings. The site visits are fact-finding exercises and **there will be no discussion of the merits of the applications, nor will any decision be taken.** Somerset County Council's*

Item Regulation Committee - 2.00 pm Thursday 16 March 2023

*Constitution states that "applicants, owners, agents, objectors and other interested parties are able to attend site visits and observe but **there should be no lobbying of Committee members.**"*

6 **Consultation on amendments to the Rights of Way Statement of Priorities**
(Pages 63 - 80)

To consider this report.

7 **Any Other Business of Urgency**

The Chair may raise any items of urgent business.

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Regulation Committee General Guidance notes for the meeting

1. **Council Public Meetings**

The former regulations that enabled virtual committee meetings ended on 7 May 2021. Since then, all committee meetings need to return to face-to-face meetings. The requirement is for members of the Committee and key supporting officers to attend in person, along with some provision for any public speakers. Provision will be made wherever possible for those who do not need to attend in person including the public and press who wish to view the meeting to be able to do so virtually.

2. **Inspection of Papers**

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at democraticserviceteam@somerset.gov.uk or telephone 01823 357628. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers.

3. **Members' Code of Conduct requirements**

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership. The Code of Conduct can be viewed on the council website at [Code of Conduct](#).

4. **Minutes of the Meeting**

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting.

5. **Public Question Time**

At the Chair's invitation you may ask questions and/or make statements or comments about **any matter on the Committee's agenda**. You may also present a petition on any matter within the Committee's remit. **The length of public question time will be no more than 30 minutes in total.**

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been considered. However, questions or statements about the matters on the agenda for this meeting will be taken at the time when that matter is considered and after

the Case officers have made their presentations.

The Chair will usually invite speakers in the following order and each speaker will have a maximum of 3 minutes:

1. Objectors to the application (including all public, parish council and District Council representatives)
2. Supporters of the application (including all public, parish council and District Council representatives)
3. Agent / Applicant

Where a large number of people are expected to attend the meeting, a representative should be nominated to present the views of a group. If there are a lot of speakers for one item than the public speaking time allocation would usually allow, then the Chair may select a balanced number of speakers reflecting those in support and those objecting to the proposals before the Committee.

Following public question time, the Chair will then invite local County Councillors to address the Committee on matters that relate to their electoral division.

If you wish to speak either in respect of Public Question Time business or another agenda item, you must inform the Committee Administrator by 5.00pm three clear working days before the meeting email democraticserviceteam@somerset.gov.uk or telephone 01823 357628. When registering to speak, you will need to provide your name, whether you are making supporting comments or objections and if you are representing a group / organisation e.g. Parish Council.

Statements/questions must be received in writing and by the PQT deadline which is three clear working days before the meeting.

Requests to speak after this deadline will only be accepted at the discretion of the Chair.

You must direct your questions and comments through the Chair. You may not take direct part in the debate.

Comments made to the Committee should focus on setting out the key issues and we would respectfully request that the same points are not repeated.

The use of presentational aids (e.g. PowerPoint) by the applicant/agent or anyone else wishing to make representations to the Committee will not be permitted at the meeting.

An issue will not be deferred just because you cannot be present for the meeting.

In line with the Council's procedural rules, if any member of the public interrupts a meeting the Chair will warn them accordingly.

If that person continues to interrupt or disrupt proceedings the Chair can ask the Democratic Services Officer to remove them as a participant from the meeting.

The Chair will decide when public participation is to finish. The Chair also has discretion to vary the public speaking procedures.

Remember that the amount of time you speak will be restricted, normally to three minutes only.

6. **Substitutions**

Committee members are able to appoint substitutes from the list of trained members if they are unable to attend the meeting.

7. **Late Papers**

It is important that members and officers have an adequate opportunity to consider all submissions and documents relating to the matters to be considered at the meeting and for these not to be tabled on the day of the meeting.

Therefore any late papers that are to be submitted for the consideration of the Regulation Committee, following the publication of the agenda/reports, should be sent to the Strategic Commissioning Manager via planning@somerset.gov.uk in respect of Planning and Town and Village Green items, and to the Senior Rights of Way Officer via planning@somerset.gov.uk in respect of Rights of Way items, and should be received **no less than 48 hours before the meeting**.

8. **Meeting Etiquette**

- Mute your microphone when you are not talking.
- Switch off video if you are not speaking.
- Only speak when invited to do so by the Chair.
- Speak clearly (if you are not using video then please state your name).
- If you're referring to a specific page, mention the page number.
- Switch off your video and microphone after you have spoken.
- There is a facility in Microsoft Teams under the ellipsis button called

turn on live captions which provides subtitles on the screen.

9. **Recording of meetings**

The Council supports the principles of openness and transparency. It allows filming, recording, and taking photographs at its meetings that are open to the public - providing this is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings. No filming or recording may take place when the press and public are excluded for that part of the meeting.

Please contact the Committee Administrator or Democratic Services on 01823 357628 or email democraticserviceteam@somerset.gov.uk if you have any questions or concerns.

REGULATION COMMITTEE

Minutes of a Meeting of the Regulation Committee held in the Luttrell Room - County Hall, Taunton, on Thursday 9 February 2023 at 2.00 pm

Present: Cllr T Lock (Chair), Cllr S Coles (Vice-Chair), Cllr B Bolt, Cllr M Caswell, Cllr M Dunk, Cllr T Grimes, Cllr E Hobbs, Cllr A Kendall, Cllr M Martin, Cllr M Murphy, Cllr K Pearce, Cllr A Soughton and Cllr M Wale

Other Members present virtually: Cllr L Redman*, Cllr S Dyke, Cllr B Revans and Cllr H Shearer

(*Reserve Committee member)

Apologies for absence: None

1 Declarations of Interest - Agenda Item 2

There were no new declarations made at the meeting.

2 Accuracy of the Minutes of the meeting held on 1 December 2022 - Agenda Item 3

The Minutes of the previous meeting held on 1 December 2022 were accepted as accurate and signed.

3 Public Question Time - Agenda Item 4

The Chair advised that: -

(a) a member of the public had submitted a statement as an objector and 2 agents had registered to speak in respect of agenda item 5 -application No. SCC/3854/2021

(b) a member of the public had registered to speak as an objector in respect of agenda item 6 – application No. SCC/4015/2022

The statements were considered as part of relevant agenda item.

4 Unit 22, Evercreech Junction, Shepton Mallet, Somerset BA4 6NA - Application SCC/3854/2021 - Agenda Item 5

Section 73 application to vary conditions 2 (approved plans) and 3 (noise mitigation) in respect of planning permission reference 2017/3147/CNT (section 73 application to amend condition 2 [approved plans and specification], 3 [noise mitigation] and 5 [dust control] in respect of planning permission 2013/2083 for the construction of an Anaerobic Digestion plant)
Unit 22, Evercreech Junction, Shepton Mallet, Somerset, BA4 6NA
Applicant – BioConstruct

Committee members had undertaken a site visit ahead of the meeting.

1. The Committee received a report by the Service Manager – Planning and Development, Enforcement and Compliance. The Case Officer, with reference to the report, presentation, supporting papers and the use of maps and plans, outlined the application and the key issues for consideration – whether the principle of development is acceptable, policy context and if the proposal represents sustainable development; impact on the highway network / residential amenity (noise, odour and dust); impact of the proposal on landscape character and visual amenity.

The Case Officer advised that there is no longer a requirement to vary Condition 4 (night-time noise limit) in respect of planning permission reference 2017/3147/CNT) and the applicant had withdrawn that part of the proposal.

The Case Officer provided a summary of the responses received to the application and to an additional objection from a local resident, raising concern around night-time noise. There have been additional representations received –

- Evercreech Parish Council - confirming response set out in paragraph 7.4 of the Report;
- local resident - light pollution and noise;
- letter from Environment Agency – noise and advises the Agent to work with Mendip District Council and recommends further studies.

The Case Officer commented that the principle of development has been established and the current application is seeking minor variations and that Mendip Councils' Environmental Health department were a consultee and raised no objection.

In conclusion, the Case Officer confirmed that the key issues for the Committee to consider are – impacts on the environment and local communities (policy DM3), waste transport (policy DM6) and presumption in favour of sustainable development (policy SD1) of the Waste Core Strategy development plan document. The proposal would have limited impacts which can be satisfactorily controlled by conditions and the relevant conditions will be carried forward from the earlier permission.

The Case Officer advised that the Committee that the recommendation was for planning permission to be granted, subject to the suggested amendments (additional condition and changed wording to condition 6) and subject to the prior completion of s106 agreement to secure highway improvements and landscape works in line with the earlier permissions granted in 2013 and 2017 and the legal agreement dated 2015.

2. The Committee had received written submissions and heard from the following at the meeting. Their comments / views are summarised as shown below:

S Ulph and L Suckey - objectors – the statement was read out by the Governance Manager – live close to site and very concerned as to impact of proposals on them; should be limits on proximity to houses as happens in other countries (3km) and concern about impact of noise during night-time hours.

Jasmin Ayton – Plandescil on behalf of the applicant – applicant is applying to vary conditions 2 and 3 of existing permission to permit design changes which are required due to upgrades in technology; no changes to the plant's process and no increase in noise levels; mitigation measures proposed and development can achieve the 25dB limit required by condition 4, thus negating the need to vary this condition; applicant and noise consultant have worked with statutory consultees to alleviate concerns regarding noise, resulting in environmental health removing their objection.

3. Local Division members – no comments were received.

4. The Case Officer responded to the points raised above: -

- noise nuisance – the issue of noise nuisance was addressed in the report and a lot of the objections were to the originally proposed increase in the night time noise, which has now been removed from the application. The Environmental Health officer at Mendip District Council is now satisfied the noise limits can be complied with and will not have an impact on amenity;
- requirement for 3km 'buffer zone' - there is not a similar requirement in English statute.

5. The Committee discussed the matter, and the following comments were made and responded to by Officers, as follows: -

- clarity on amended recommendation – *the Case Officer restated the amended recommendations and these were also displayed at the meeting;*
- whether this is a retrospective application – *it was confirmed that the application is partly retrospective;*
- attended site visit and was impressed by cleanliness of site and was able to hear conversations well; system works well; principle of development is not in question, what is in question is the variation of conditions; only place where could smell anything was inside receiving shed and this has fast shutting doors – *an odour mitigation specification has been provided and also covered by condition 7 (odour control);*
- what sort of waste dealt with at the site – *confirmed that can be any sort of organic waste, so can be vegetable, agricultural waste / food waste; gases produced / products are a renewable gas which can be used for*

heating or to the grid and liquid digestate which can be used as a fertilizer or soil improver;

- question on vehicular movements – *confirmed no change in transport movements and they do not operate at night;*
- noise and how measured – *confirmed that 25dB measurement is taken at window of nearest property and set out in condition 2 (noise mitigation);*
- query about the proposed additional condition which will impose an unnecessary delay – *confirmed that this would be a means of securing right turn lane being constructed on the A371 if required (and was a requirement of the original permission (application no 2013/2083) and in accordance with the timescale agreed and set out in the Travel Plan).*

6. Cllr Caswell proposed and Cllr A Soughton seconded that a 12-month time limit be included in the wording for the additional condition and the Committee RESOLVED: -

1. That planning permission be GRANTED, subject to the prior completion of a section 106 agreement to secure the financial provisions of the Travel Plan (highway works) (Reason: In the interest of highway safety and the amenity of the local area), and to secure highway improvements and landscape works in line with the permissions granted in 2013, Reference 2013/2083 and 2017, Reference 2017/3147/CNT and the agreement dated 4 February 2015, and to the conditions set out in section 10 of the Report and to the following amendments: -

(a) the additional condition: -

Condition: No further waste materials for processing shall be imported to the site following a period of 12 months from the date of this permission until such time as the right turn lane on the A371 (which is the subject of a s106 legal agreement) has been fully constructed, consolidated and surfaced to the satisfaction of the Local Planning Authority in accordance with the approved design and specification.

Reason: In the interests of highway safety.

(b) That Condition 6 (Highway Works) set out in section 10 of the Report be replaced with the following: -

"Prior to the commencement of the development, a Travel Plan is to be submitted to and approved in writing by the Local Planning Authority including.

- Soft and hard measures to promote sustainable travel.
- Targets and safeguards by which to measure the success of the plan.
- A timetable for implementation of the measures
- Monitoring regime of travel habits.

The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented for a period of five years from the travel plan being approved."

2. That authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager – Planning and Development, Enforcement and Compliance.

5 **Abbey Farm, Chilkwell Street, Glastonbury, Somerset, BA6 8DB - Application SCC/4015/2022** - Agenda Item 6

Proposed new roadside sign, Abbey Farm, Chilkwell Street, Glastonbury, Somerset, BA6 8DB

Applicant – South West Heritage Trust

1. The Committee received a Report by the Service Manager – Planning & Development, Enforcement and Compliance. The Service Manager, with reference to the report, presentation, supporting papers and the use of maps, photographs, and plans, outlined the application which is for the erection of a steel banner post sign to be located adjacent to the entrance to the Somerset Rural Life Museum on Bere Lane, Glastonbury, BA6 8DB.

The application site is situated within Glastonbury Conservation Area, designated in 1976. Abbey Barn is a Grade I listed building and also a Scheduled Monument and the key issues for consideration concerns its visual amenity, impact on Conservation area and highway safety.

The proposal aims to enhance the site presence within the street scene and aid visitors in finding the museum. There have been no highway objections and Historic England have no objections to the proposed sign; the proposal aims to enhance the site presence and aid visitors in finding the museum; it will be visually preferable to the existing sign; there will be no impact on the trees to the rear which is one of the concerns of the objectors and no trees will be felled; once the new sign is positioned, the existing ground mounted sign will be removed. Division Member, Cllr S Hart has advised that she is concerned about the new sign causing distraction and clutter. The Service Manager confirmed that as the existing sign will be removed as part of this proposal there will not be any visual clutter.

2. The Committee had received a written submission and heard from the following at the meeting. Their comments / views are summarised as shown below:

Rowena Beaumont – objector – letters went out to residents in Bere Lane with no reference to the sign being placed in Bere Lane; unable to see what signs will look like online; do not want a commercial sign put up opposite home; concern around trees / need protecting.

3. The Service Manager responded to the points raised by the objector: -

- The letter went out with the address associated with the application and consulted widely;
- There are images of proposed signage with the dimensions are available on our portal as “proposed signage images”;
- No trees will be removed for the erection of the signpost, as confirmed by the agent;
- Site Notice was posted on 27 September 2022 on the railings photographic proof submitted.

4. There were no additional questions or comments from the Committee.

5. Cllr E Hobbs, seconded by Cllr M Martin moved the recommendation and the Committee RESOLVED:

1. That advertisement consent be GRANTED subject to conditions set out in section 10 of the report.
2. That authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager – Planning and Development, Enforcement and Compliance.

6 **Somerset Council Rights of Way Public Path Order Policy consultation** - Agenda Item 7

The Committee considered a Report by the Rights of Way Service Manager, concerning the consultation on amendments to the Rights of Way Diversion Policy.

The Rights of Way Service Manager highlighted the background to the proposals, as detailed in the report and that in readiness for vesting day, one of the required actions is to have an updated diversion policy that is reflective of the unitary Council’s powers along with accompanying guidance notes and application form. This is crucial to ensure that there is a clear policy and process available to any prospective applicant. The review of the policy also affords the opportunity to make some minor adjustments in light of the past 15 years’ experience of applying the policy to a number of applications.

The Rights of Way Service Manager outlined the proposed main proposed changes to the Policy set out in the report and the consultation responses received: -

- title of document amended to ‘Public Path Order Policy’ to ensure the title is more accurate as to what it relates to (Appendix 3);
- sections of Acts have also been expanded to cover all the sections the new unitary Council will have powers for;
- a number of changes have been made to streamline both documents and reduce any repetition (Appendices 3 and 6);

- additional paragraphs have been included in relation to TCPA order making powers. These echo and support in policy terms what is included in DEFRA Rights of Way Circular 1/09 (Guidance for Local Authorities);
- there have been occasions where a diverted route has subsequently been enclosed, which has resulted in maintenance and usability issues. Additional text recognises that these issues should be addressed when considering a proposal to corridor a path or place it on the headland of a field;
- policy around highway junctions has been modified so as not to be overly constraining and provide greater flexibility;
- an additional paragraph relating to shared bridges clarifies the Council's position and the potential need for a legal agreement to clarify maintenance responsibility;
- additional text is included in relation to development related orders to highlight that the interface of any diverted path with newly constructed roads will be the subject of development management processes such as safety audit, technical approval and supervision;
- policy regarding compliance with the criteria, and proposals that are opposed at draft stage are amended to better reflect the current governance situation and be compliant with any future constitution;
- a new section has been introduced to provide clarity on the priority order for applications;
- section that defrays a percentage of the costs of an order has been reviewed and amended in light of certain cases over the last 15 years;
- the consultation responses had been supportive and the Somerset Local Access Forum had been supportive and had made comments about the issue of shared bridges aspect and whilst this had not resulted in an amendment to the policy, where possible, will try to separate the public use from any shared use on bridges as a result of a diversion order.

The Committee discussed the matter, and the following comments were made and responded to by Officers, as follows: -

- whether the changes will speed decision making - *in terms of resources available this will need to be discussed as part of the moving into the new unitary council – to ensure there are sufficient resources to deal with the level of applications;*
- query about the mechanism for granting a stopping up or a diversion of a footpath or right of way – *if an application is 'exceptional' (in terms of magnitude, scale and impact of the application) there would be a discussion between the Service Director in consultation with the Chair of the proposed Strategic Planning Committee as to whether it would come before the Committee to consider.*

Cllr S Coles, seconded by Cllr A Kendall moved the recommendation and the Committee RESOLVED to support the proposed changes to the Diversion Policy and that the decision as to whether or not to adopt any amendments to the

current policy will be made by the Lead Member for the Environment & Climate Change.

7 **Briefing to Somerset Planning Committees - Somerset Statement of Community Involvement Consultation** - Agenda Item 8

The Committee received a Report by the Service Manager – Planning and Development, Enforcement and Compliance which provided a briefing about the consultation on the draft Statement of Community Involvement (SCI) for the new Somerset Council. The consultation runs between 1 February – 16 March 2023 and following public consultation, the intention is to then finalise the document to be formally adopted as soon as possible following vesting day. The draft SCI was set out in the Appendix to the report.

The SCI sets out how the Local Planning Authority will engage and consult with the community and stakeholders on planning matters – this covers both engagement on planning policy (e.g. Local Plans, Neighbourhood Plans) and determination of planning applications. The SCI therefore includes who will consult through the various stages of Local Plan preparation, and what consultation methods we be used. In relation to Development Management, it includes details of consultees and neighbours who will be notified of planning applications and expectations for developers and agents in terms of pre-application engagement.

The Committee discussed the matter, and the following comments were made and responded to by Officers, as follows: -

- Query as to how the consultation is being advertised to the public; the local authorities have all been consulted on this but wondering how getting the community to respond, either individually or with community groups – *outlined statutory duties and confirmed have consulted the statutory consultees and notified all parish and town councils and have used the County's digital engagement platform (INOVEM Consult) to invite comments, alongside publicising on the 5 Council websites; welcome views on how could broaden further;*
- Setting up consultation for Somerset wide plan, will be a long running process – *The SCI sets out how the new authority will deal with new plan and planning applications;*
- The Chair thanked officers for the update and that members can also email any comment to their respective planning policy contacts or comment directly via the online consultation portal.

The Committee NOTED: -

1. The Briefing Report on the consultation on the draft Statement of Community Involvement (SCI) for the new Somerset Council and how they can respond.

2. That the final version of the SCI document will take into account comments received and will be considered by the Council's Executive for adoption.

8 **Any Other Business of Urgency** - Agenda Item 9

There were no additional items of business raised at the meeting.

(The meeting ended at 3.49 pm)

CHAIR

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Somerset County Council

Regulation Committee – 16 March 2022

Report by Service Manager - Planning & Development, Enforcement & Compliance:

Application Number: SCC/4002/2022

Date Registered: 12 August 2022

Parish: Downhead Parish Meeting,

District: Mendip District Council,

Member Division: Mendip Central East,

Division Members: Councillor Barry Clarke, Councillor Philip Ham

Case Officer: Ruth Amundson

Contact Details: planningcontrol@somerset.gov.uk

Description of Application: Demolition of Torr Blockworks and lateral extension of quarry on land at Torr Works

Grid Reference: Easting - 370101, **Northing** - 144886

Applicant: Chris Herbert, Aggregate Industries UK Ltd

Location: Torr Works Quarry, East Cranmore, Shepton Mallet, BA4 4RA

1. Summary of Key Issues and Recommendation(s)

The key issues are:

Policy context and the principle of the development

Impact on the living conditions of local residents – noise, dust, vibration

Impact on the amenity of the local area – landscape and visual impact, footpaths

Impact on the environment- groundwater and flood risk, ecology and habitats

Traffic and highway matters

It is recommended that planning permission be granted subject to

I The conditions set out in section 10 of this report

ii The prior completion by the applicant and all other parties as necessary of a Section 106 Agreement to secure ecological mitigation including

- provision of a minimum of 2.05 hectares of woodland planting and 2.8ha of grassland reversion accessible to greater horseshoe bats to comprise: 2.05ha native woodland / woodland buffer planting; 0.10ha native woodland planting in the grassland reversion site; 0.12ha of buffer planting alongside the undesignated woodland to the south of Asham Woods; 2.8ha of grassland reversion; and 310m of hedgerow enhancement. The habitat should be broadly consistent with the Ecological Enhancement Plan as contained within the shadow HRA (SLR, 2023).

- Landscape and Ecological Management Plan (LEMP).

- Programme of implementation.

- Long-term maintenance and management scheme for the woodland planting and grassland reversion, to include legal and financial mechanisms.

-Water monitoring and management measures in line with those agreed for the main site (application reference 2010/0984)

iii authority to undertake any minor non-material editing which may be necessary to the wording of those conditions being delegated to the Service Director.

2. Description of the Site and its Surroundings

2.1 Torr Works quarry is a long-established limestone quarry operated by Aggregate Industries. It covers some 205 hectares of land north of the A361, near Leighton and is located approximately 7 kilometres north east of Shepton Mallet and 7 kilometres south west of Frome. In 2021 annual production amounted to 5.4 million tonnes, 4.2Mt of which was transported from the site by rail from the railhead at the site to London and South East England. The quarry is one of two quarries in Somerset that is rail-linked. Road access is directly to the A361.

2.2 The quarry has two distinct extraction areas, the main site of 141 hectares and the Leighton extraction area to the east where an area of 28ha is permitted for mineral extraction with access through the main quarry.

2.3 The proposed extension area comprises 7.7 hectares of land to the north east of the main extraction area. A blockworks plant and associated stocking and storage

areas, buildings and areas of hardstanding currently occupy the site. The Marshall blockworks to the north does not form part of this application.

2.4 The application site is separated from the main quarry by an area of deciduous woodland. The site slopes northeast-southwest at between approximately 170m and 180m Above Ordnance Datum (AOD) and is enclosed on its north eastern and eastern edges by a large area of deciduous woodland which extends to the north east from the edge of Torr Works void and includes Shearmoor Wood, Castlehill Wood and Asham Wood.

2.5 The site is set within an agricultural landscape with scattered isolated houses, farms and other buildings together with areas of woodland. Leighton Business Park, which contains a number of commercial units, is located immediately to the east of the junction of Mitchell Elms Lane and the A361. There are also several other active and dormant quarries in the surrounding area.

3. The Proposal

3.1 The proposal involves the demolition of Torr Blockworks, removal of overburden and mineral extraction to a depth of 100 metres above ordnance datum (AOD). Permission has been granted to relocate the blockworks to Leighton Business Park. The Marshalls Mono brickworks will remain in situ to the north east of the extension area and access to it will be maintained.

3.2 The extension is expected to release 11 million tonnes of stone, which would be worked over 10 years and completed before the 2040 end date of the existing quarry permission.

3.3 No change is proposed to the method of working or to traffic, blasting or monitoring and environmental control measures already in place. Environmental enhancements are also proposed, including a replacement bat roost, a stand-off from Asham Wood, new woodland planting to replace trees lost to the development, habitat management to farmland to improve its conservation value for bats and diversion of a bridleway to avoid the need for users to cross a haul route within the quarry.

3.4 The proposed extension area would replace production at the Leighton extension area which is expected to cease by the end of 2023. The application states that the ability to balance overall production at the quarry between the Leighton and main pit extraction areas is an important aspect of the operation at Torr as it allows flexibility to deal with quarry development and maintenance by having access to two production areas. The replacement extraction area would come on stream once the Leighton extraction area is worked out and would maintain that flexibility.

3.5 Mineral extraction at Torr Works is undertaken by drilling, blasting, crushing and screening rock into graded aggregate sizes. Limestone would be extracted in a series of benches down to a depth of 100m AOD, each bench reducing in area as the quarry deepens.

3.6 Initially the quarry face is drilled using a drill rig fitted with dust suppression equipment. The number of holes drilled dependent on the tonnage of stone required for processing and the location of the face within the quarry. Once drilling is complete, the holes are charged with explosive. The explosive is detonated and the rock falls creating a new quarry face.

3.7 The rock released from the blast is loaded into dumpers by a front-end loader or 360° excavator. The dumper transfers the rock to a mobile primary crusher located within the existing quarry. The crushed rock would be transported from the extension area to the main processing area.

4. Background and Planning History

4.1 **2010/0984** – Deepening of existing quarry by 112m to 3m AOD and extension of time by 10 years until 2040, releasing approximately 115 million saleable tonnes of limestone and an increase in output of 2 million tonnes per annum to 8 million tonnes per annum at Torr Works Quarry, East Cranmore, Shepton Mallet, Somerset, BA4 4SQ – Application approved 26 March 2010

4.2 **SCC/3839/2021** – Temporary storage of limestone scalplings on land to the north of Torr Works, East Cranmore, Shepton Mallet. Application approved 5 January 2022.

4.3 **SCC/3864/2021/PA** – Pre-application advice for proposed extension to Torr Works Quarry.

4.4 **2017/1506/CNT** - Variation of consented working scheme from "extraction of limestone to a depth of 115m AOD" to "extraction of limestone to a depth of 141m AOD" and variation of subsequent restoration scheme from "lake, wetland habitat, calcareous grassland, woodland and exposed quarry faces" to "restoration scheme comprising mix of calcareous grassland and woodland". Application approved 13 December 2019.

5. The Application

5.1 Documents submitted with the application include:

Application form and certificates, supporting statement, environmental statement, non-technical summary.

DRAWINGS

Drawing No. 2981-4-1-2 DR0001 S4 P7 - Site Location Plan
Drawing No. 2981-4-1-2 DR0002 S4 P7 - Existing Conditions
Drawing No. 2981-4-1-2 DR0003 S4 P8 - Initial Works
Drawing No. 2981-4-1-2 DR0004 S4 P8 - Stage 1 – Initial Extraction
Drawing No. 2981-4-1-2 DR0005 S4-P8 - Stage 2 – Working (132m AOD)
Drawing No. 2981-4-1-2 DR0006 S4-P8 - Stage 3 – Full Extraction
Drawing No. 2981-4-1-2 DR0007 S4-P8 – Restoration
Drawing No. 2981-4-1-2 DR0008 S4-P8 – Cross Sections
Drawing No. 2981-4-1-2 DR0009 S4-P8 – Bridleway Crossing
Drawing No. 2981-4-1-2 DR0010 S4 P8 – Permitted and Proposed Restoration Scheme
Drawing 3 revised – Ecological Enhancement Plan

6. Environmental Impact Assessment (EIA) And Habitats Regulations Assessment (HRA)

6.1 An environmental statement (ES) has been supplied, together with a non-technical summary. The ES considers the effects of the proposed development on ecology, the water environment, flood risk, dust, archaeology, cultural heritage, landscape and visual impact, noise, traffic and transport and socio-economic impacts. Alternatives and cumulative effects are also assessed.

6.2 The report concludes that there are no overriding, significant, adverse environmental effects arising from the proposed extension of existing quarrying operations. The ES has also been assessed by a number of expert advisors to the council and their responses are set out in the Consultation Responses section below.

6.3 The proposal has the potential to have an adverse effect on the integrity of the Mells Valley Special Area of Conservation and Mendip Woodlands Special Area of Conservation. The applicant engaged with Natural England pre-application and the application for planning permission was supported by a shadow Habitats Regulations Assessment.

6.4 Following an independent assessment of the sHRA and the submission of additional information, this was adopted by Somerset Ecological Services. Natural England has raised no objection to the proposal subject to appropriate mitigation being secured either through planning conditions or through a section 106 agreement to avoid harm to the integrity of the SACs.

7. Consultation Responses Received

External Consultees

7.1 **Forestry Commission**

Ancient woodlands are irreplaceable. They have great value because they have a long history of woodland cover, with many features remaining undisturbed. This applies equally to Ancient Semi Natural Woodland (ASNW) and Plantations on Ancient Woodland Sites (PAWS).

It is Government policy to refuse development that will result in the loss or deterioration of irreplaceable habitats including ancient woodland, unless "*there are wholly exceptional reasons and a suitable compensation strategy exists*" (National Planning Policy Framework paragraph 180).

We also particularly refer you to further technical information set out in Natural England and Forestry Commission's Standing Advice on Ancient Woodland – plus supporting Assessment Guide and Case Decisions.

As a Non Ministerial Government Department, we provide no opinion supporting or objecting to an application. Rather we are including information on the potential impact that the proposed development would have on the ancient woodland.

We would like to raise your awareness to the presence of ancient woodland in close proximity to the development boundary of this planning application. Whilst the woodland is outside of the boundary there remains the potential for the woodland to be negatively impacted by either the construction works or the development during use.

We suggest that the creation of a wooded buffer strip immediately adjacent to the existing woodland will help protect the core of the habitat from light, dust and noise. This should be a buffer strip of native tree and shrubs maintained for a period of time until the trees are fully established, this can be as long as 30 years. This strip should not be part of a general vegetated landscaping but kept separate. Planted trees should be protected against damage by mammals during establishment.

Buffer strips of this nature should be commensurate with the scale of development but an absolute minimum of a 15 metre width is generally required, whilst larger developments would require a wider buffer. The Forestry Commission can help advise on the appropriateness of any woodland creation scheme.

7.2 **Mendip District Council**

No objection

7.3 **Somerset Wildlife Trust**

As well as all the expected disturbance as a result of vehicle movements, blasting, dust etc., this proposal will require the removal of a building known to provide roosting opportunities for several species of bats.

The mitigation plans proposed for this development include creation of alternative habitat and roosting sites outside of the quarry area and planting of native evergreens as screening to minimise dust impact on Asham Woods. Overall, there is potential for ecological enhancement through the carefully designed interventions proposed.

We have one specific and one general comment on this application which we hope will be taken into account in the decision-making process.

Firstly, the timing of instatement of mitigating habitat will be critical. It will be essential to ensure that this is established early and properly monitored such that foraging species are seen to be able to adjust to changes. Also, the timing of the removal of the existing roosting sites will be important and should comply with guidelines. Bat surveys show that while horseshoe and brown eared bats only use the building for night and feeding roosts, serotine bats are using the building for over winter hibernation. Professional guidance should therefore be sought on when it will be possible to remove the building. In the case of hibernating species, Natural England advice requires like for like replacement and no destruction of a former roost possible until usage of the new roost is demonstrated.

Secondly, we would ask that this application is considered by the planning authority in the context of current and potential future applications in the area. While this application has been well considered and is of lower impact than others that we are aware of, partly because of the location being already unvegetated and currently in active industrial use, the likely cumulative effects of multiple applications in this important and sensitive area cannot be underestimated.

7.4 **Natural England 14.10.2022**

Further information is required to determine impacts on designated sites. As submitted, the application could have potential significant effects on the Mendip Woodlands SAC and the Mells Valley SAC. Natural England requires further assessment and consideration of mitigation options to be undertaken and provides the advice on the additional assessment work required below.

Without this information, Natural England may need to object to the proposal.

Further response dated 17 January 2023:

We welcome that the applicant has engaged in discussions with Natural England through our Discretionary Advice Service to address the comments raised in our last

response. The further information submitted from the applicant has addressed our previous concerns. Further measures are presented in the letter from SLR To Aggregate Industries dated 09/12/22.

Mendip Woodlands SAC

Dust

The 4m vegetated buffer and 2.5m fence has been extended to cover the area where the access road within the application sits is adjacent to the undesignated woodland to the east of the site.

The applicant has agreed to incorporate the avoidance, mitigation and monitoring measures for dust referenced in Natural England's previous comments into a dust management plan for this site.

Surface water run-off

The applicant has confirmed that the 2.5m high fence between the haul road and fence would stop runoff from the road into the woodlands. The letter from BCL Hydro to the Floor Risk Management Team (dated 19/10/22) confirms that runoff from the access road will drain under gravity into the quarry, away from the SAC. A silt board will also be provided on the fence between the bridleway and woodland to prevent runoff into the woodland.

Buddleia

The applicant has agreed to remove all buddleia from the site, this must be included in a LEMP (which should be secured by condition).

Mells Valley SAC

The applicant has increased the provision of greater horseshoe bat habitat since Natural England's previous comments, proposed mitigation measures now include:
1.83ha woodland planting (increased from 1.4)
Additional 0.1ha of new woodland planting
2.8ha grassland reversion which will include a change to cattle grazing and no use of ivermectins or fertiliser
310m of hedgerow enhancement

We consider that the overall package of mitigation measures provides a comprehensive approach to protecting and enhancing habitats and features that support SAC bats in and around Torr Works. We are therefore satisfied that the proposed mitigation will

avoid and adverse effect on the integrity of the Mells Valley SAC and Mendip Woodlands SAC.

Further response dated 16 February 2023 (summary of advice):

No objection subject to appropriate mitigation being secured

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of the Mells Valley Special Area of Conservation and Mendip Woodlands Special Area of Conservation.

In order to mitigate these adverse effects and make the development acceptable, mitigation must be secured as set out in the appropriate assessment.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

7.5 South West Heritage Trust

As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

7.6 Environment Agency

Providing the proposed lateral extension is developed and operated having full regard for the existing obligations under a Section 106 Agreement of the Town and Planning Act 1990 (dated 07/08/2012) and the groundwater and hydrology recommendations of the Environment Agency (under separate cover LPA Ref: 2010/0984 / EA Ref: WX/2010/115118/02- L01, dated 9th June 2011 attached), then the Environment Agency would have no objections to this proposal.

Safeguards should be implemented to minimise the risks of pollution. These should cover

- the use of plant and machinery
- wheel washing and vehicle wash-down - oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes

In addition, the site operator must ensure that appropriate measures are maintained/adopted to ensure wash/wastewater does not adversely affect controlled waters or affect any current numeric discharge consents to controlled waters.

Any increases in oil/fuel storage must comply with the Oil Storage Regulations ("The Control of Pollution (Oil Storage) (England) Regulations 2001").

Internal Consultees

7.7 Highway Authority

The Highway Authority does not consider the traffic movements associated with this application would represent a severe detrimental impact to the highway.

The site is to the north of the A361 and the proposal comprises of an extension to the north-east of the current main-pit and will be contained within the existing developed footprint of the wider quarry.

The proposed site is approximately 7.4Ha of land and the proposals will release approximately 11 million tonnes (Mt) of limescale for extraction.

The existing Torr blockworks plant will be relocated to a site nearby on the other side of the A361, Leighton Business Park, which has existing planning consent for the construction of a blockwork plant.

Based on an annual production rate of 1-1.5 million tonnes per annum, the proposed extraction would last approximately 10 years, within the existing working life of the current Torr quarry permission.

The majority of the mined minerals from Torr Quarry are currently transported by rail, with approximately 4.3Mt being by rail and 1.2Mt by road in 2021.

The proposal would see an additional 35 Heavy Goods Vehicles (HGV) (70 two-way movements) per day being transported from the quarry to the new blockworks site. The existing 40 HGV loads (80 two-way movements) per day to transport blocks to market from Torr Blockworks will no longer be associated with the site at Torr Works but, instead, will be moved to Leighton Business Park. The existing 35 HGV (70 two-way movements) transporting minerals from the quarry site to the blockworks will be maintained, as a result there will be a net reduction of 10 two-way movements.

The existing permission for the site has a restriction that allows no more than 3Mt to leave the quarry by road, this application does not seek to amend this figure.

Whilst the Transport Statement sets out that there will be a reduction of 10 two-way movements associated with this site, these movements will be made from the nearby Leighton Business Park instead. However, the Highway Authority does not consider that the additional movements over the wider highway network created by this application would result in a severe impact on the highway.

The site access for Torr Works Quarry is suitably designed to accommodate HGV movements.

The Highway Authority are aware of a recent application at the nearby site known as Trinidad Works and has considered this site when assessing this application

7.8 Minerals and Waste Policy

From a mineral policy perspective, there is a clear demand for minerals not only to supply local markets but nationally, particularly to the South East and London. Somerset is a key supplier of minerals to London and the south-east. On the basis of the clear presumption in favour of supporting mineral extraction in both the adopted Somerset Minerals Plan and NPPF, the principle of extending mineral extraction within an existing operational quarry is supported. This is of course subject to a full assessment of all of the relevant impacts associated with the proposal.

It is important to note that Torr is one of only 2 currently worked quarries with a railhead in Somerset. Therefore, due to the use of rail, it is able to supply minerals to London and the south-east in a more sustainable manner whilst reducing the volume of minerals transported via local roads.

It is noted that the site is located adjacent to the Asham Wood SSSI. An ecological report and protected species reports have been submitted with the application. It is also noted that an EIA report has been submitted which covers a number of potential impacts. All of these matters will need to be fully assessed by other specialists to ensure compliance with the relevant strategic and development management policies in the Somerset Mineral Plan.

In regard to employment, the scheme will not create any new jobs but help to maintain both existing direct and indirect employment at the site and beyond.

The scheme includes a restoration scheme which will link in with the existing restoration project on site, plus improvements to the local bridleway and other environmental enhancements.

On the basis of the information supplied with the application, it is considered that the proposal complies with part A of Policy SMP3. Thus, the policy team raises no objection to the proposal. As advised above, other specialists will need to review the various accompanying reports and assess the potential impacts in regard to compliance with part B of policy SMP3

7.9 Lead Local Flood Authority

Response dated 10.10.2022

Further information is requested including:-

1. The applicant should provide an indication of the flood exceedance routing and commentary on how surface water is managed in all events. It is also unclear how surface water runoff as part of the quarry extension is conveyed towards on site collection points / treatment and attenuation devices over the 10-year during of mineral extraction,

2. The LLFA require further confirmation that the applicant has engaged with the asset owner and/or the Environmental Agency of the Whatley Brook, to confirm that they consent to any alterations to the existing flow outlet in terms of flows/water quality and or further considerations under existing permit to discharge.

3. The applicant should provide evidence of communication and/or previous approval for the proposed lake on finalisation of mineral extraction, as this may form a strategic attenuation asset and it is currently unclear if this has already been given consent, with only a minor extension.

4. The LLFA request that the applicant demonstrates a consideration of the drainage strategy for the new proposed bat house.

Further response dated 16 January 2023:

Following a review of the above documents, the LLFA have the following comments:

1. The applicant highlights that this application relates to the extension and extraction of carboniferous limestone within the north-east portion of the existing Torr Quarry works as per the submitted plans, in phases over the next operational 10-year period. This portion of site is current used as part of an existing blockworks production plant and subject to this application, will be demolished to provide further mineral extraction/extension of the quarry faces. The previously permitted usage of the existing quarry land currently has permissions to continue operations until 2024, where existing materials within the lower portions of the quarry will deplete. As part of a separate application, there is currently a proposal (and subsequent planning applications) to lower the existing quarry level (100mAOD) to approximately 3m AOD and therefore the LLFA will not comment on the wider scope of works as part of this that application, which the applicant notes as 2010/0984.

2. The Natural England's DAS noted the 'milky' appearance of the stream within the Asham Wood SSSI and it was also noted during the site visit that some existing surface water drainage from the blockworks site escapes through the gravel bund directly into the SSSI. This runoff could contain potentially harmful contaminants and therefore could impact the SSSI. The applicant confirms that on the eastern boundary of the Application Area, there will be a 4m landscaped strip, then a 4m wide bridleway and then a 2.5m solid wall fence dividing Asham Wood from the proposed quarry extension. The LLFA notes that this will provide both passive and active deflection for exceedance flow pathways away from the Asham Wood. The LLFA note that exceedance flow pathways would be routed back into the extension of the benched faces and because of the existing industrial usage and permits in place, should have adequate provision for offsite routing into the Asham Woods as per EA permit No. 021575; "Trade effluent from quarry runoff and vehicle washing". Note: We defer to Natural England DAS for further requirements with regards to ecological and

biodiversity impacts, as well as The Forestry commission responses regarding ancient woodland disturbance.

3. The applicant has provided clarity on the available storage volumes during operations as a result of phased benching of works. Although it has not been demonstrated how surface water runoff as part of the quarry extension is conveyed towards the storm balancing sump, it can be assumed that due to the topography and phasing of the works that all water will drain to quarry face and cascade to the lowest on-site point. This is then drained under gravity to the lowest point of site where the storm balancing sump will be temporarily placed prior to a pumped lift out of the basin floor level as there is no routing for natural drainage under gravity.

4. From the correspondence the applicant demonstrates a consented discharge point (under existing operational permit 021575) 265m to the south of the works into the Whatley Brook and have also provided evidence that under recent (2020) sample testing that all pollution levels are below the permitted limits. The applicant provides further evidence that average offsite rates are within the permitted offsite discharge rate as stipulated by the EA into the Whatley Brook in the 2022 Hydrological Assessment by BCL.

5. The applicant states the site is currently being worked in accordance with planning permission reference 2010/0984, dated 26th March 2010, for which the approved restoration and after use is for a lake. Whilst the applicant states that this has had prior approval under 2010/0984, from the planning portal it unclear if there are any conditional requirements of this previous planning application and there are no drawings associated with the application. The applicant should provide the approval decision notice as well as evidence that the lake restoration as per drawing 26238_21802_E.S. - 1959_TQD.5.1_Quarry Restored with Industry Retained - 2010-0948 was approved under planning application 2010/0984.

6. The applicant proposes a new Bat house as part of the ecological and environmental impacts mitigation. The applicant indicates that there is a circa 1m³ storage requirement for the proposed development and this will be managed by rainwater butts with a control tap sets at a 2l/s rate. The LLFA are content with this approach presented.

Further response dated 8 February 2023:

Having reviewed the following documents:

Torr Quarry Env Stat - Restoration Chapter - 2010-0948 PP 2010-0984 dated 10-08-2012 The LLFA is now satisfied with the information given and have no further comments.

7.10 **Somerset County Council Rights of Way Team (summary)**

No objection subject to conditions and a legal agreement to secure the diversion of bridleway SM 8/11/1 and to provide for its future maintenance.

Public Consultation

The application was advertised by means of a notice posted at the site, a press advertisement and by letters to 6 properties near the site. The following is a summary of the responses received (the responses can be viewed in full at [Planning Register : Somerset County Council](#) :-

7.11 **Marshalls Mono**

- Access – The proposals submitted by Aggregate Industries involves the extraction of limestone from underneath the former Torr Blockworks. This operation will require the removal of a significant length of the existing main haul road which gives access to the Edenhall Brick Works.

This access is used by our employees, suppliers and for our own transport contractors dispatching product. With no current alternative access, it is imperative to allow our business to continue, that an appropriate, suitable, alternative access of the same or better standard is provided by Aggregate Industries in advance of the existing main haul road being removed. We note and welcome the commitment within plan reference 2981-4-1-2 to “retain access to the block works and scapings tip” and also note s. 4.29 of the Supporting Statement confirms that “Marshalls brickworks will be retained” however we do not believe that the submitted plans provide sufficient detail to demonstrate that access to the Edenhall Brick Works will not be compromised by these proposals either in the short or long term.

- Bridleway – We note that the proposed diversionary route of bridleway SM8/11/1 runs through land currently within Marshalls leasehold. Further discussions are needed with Aggregate Industries to ensure this can be achieved.
- Support – The planning application boundary for the proposals to extract limestone adjoins our own property boundary, consequently Marshalls are seeking re-assurances that the geotechnical stability and support of our property is not compromised by the proposed adjacent excavation.

Whilst we would like to reiterate our general support for the proposals to extract further limestone at Torr Works and as a user and producer of raw materials, we welcome proposals to extend the permitted reserves at the quarry, we do feel strongly that our interests need to be considered further with additional detail and clarification provided by Aggregate Industries.

We therefore respectfully request that Somerset Council take cognisance our concerns and seeks further clarification and detail in relation to the above points from Aggregate Industries either in advance of determination or prior to the commencement of development through the imposition of appropriately worded planning conditions.

7.12 Downhead Village Meeting

On behalf of the village, concern is raised about the proposed bridleway changes, noise, dust, lighting, tree planting and impact on water courses.

7.13 One letter of objection has been received from a local resident raising concern about the impact on bats, impact on the Asham Wood SSSI, noise in local villages, impact on wildlife and ecosystems and cumulative impacts.

7.14 One letter has been received commenting on the application and raising concern about dust and fault lines but supporting the re-routing of the bridleway to avoid the need to cross a busy road and observing that additional tree planting will provide habitats for birds, bats and other wildlife.

8. Comments of the Service Manager – Planning Control, Enforcement & Compliance

8.1 The key issues for Members to consider are:-

8.2 The Development Plan

Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004). In this case, the development plan consists of the following documents, with their policies of relevance to this proposal being listed in Section 10 of this report:

- Somerset Minerals Plan (adopted 2015) (SMP)
- Mendip Local Plan Part I: Strategy and Policies 2006-2029 (adopted 2014)) (MLP)
- Mendip Local Plan Part II: Sites and Policies

8.3 Material Considerations

Other material considerations to be given due weight in the determination of the application include

- The National Planning Policy Framework, 2021 (NPPF)
- Planning Practice Guidance (PPG)
- North Somerset and Mendip Bats Special Area of Conservation Guidance on Development

8.4 Planning Policy context

8.4.1 The NPPF advises at paragraph 211 that great weight should be given to the benefits of mineral extraction, including to the economy and that mineral planning authorities should plan for a steady and adequate supply of aggregates by, inter alia, maintaining a landbank of at least 10 years for crushed rock whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised.

8.4.2 MPAs should ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality as well as ensuring that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and establish appropriate noise limits for extraction in proximity to noise sensitive properties. In addition, they should provide for high quality restoration at the earliest opportunity.

8.4.3 Policy SMP3 in the Somerset Minerals Plan supports proposals for crushed rock extraction that deliver clear economic and other benefits to the local and wider communities and which mitigate adverse impacts on the environment and on local communities to acceptable levels.

8.4.4 Torr Works supplies a large proportion of its output to London and the South East region, which, due to the geology of the area, has no hard rock resources of its own. Somerset and the South West Region are the main source of imports of crushed rock to London and an ongoing and increased supply is expected to be required to meet demand for construction projects. It is only viable to transport aggregate (a high bulk, low value product) over such distances by rail and as one of only two rail-linked quarries in Somerset, Torr Works has a strategic role in supplying rail depots in the London area.

8.4.5 The proposed extension area would ensure that the quarry can continue to supply minerals until 2040, the end date of the main permission, and would replace reserves at Leighton which will be worked out in 2023. The extension area would be worked

within the currently permitted timeframe of the quarry and restoration at the earliest opportunity would not be delayed.

8.4.6 In terms of the economic benefits of mineral extraction, the site supports 97 employees and more than 50 local contractors in addition to indirect jobs such as hauliers and jobs in companies supplying services and products that the quarry needs to operate. The extension area would maintain existing employment and investment in the local economy.

8.4.7 National policy requires mineral planning authorities to plan for a steady and adequate supply of aggregates by maintaining landbanks of a least 10 years for crushed rock and 7 years for sand and gravel, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. This is a minimum requirement not a maximum.

8.4.8 Recognising that Somerset is a nationally important supplier of crushed rock, policy SMP 2 in the Somerset Minerals Plan expects a rolling 15 year landbank to be maintained.

8.4.9 The landbank is a monitoring tool used to provide an early warning to the provision of a steady and adequate supply of construction aggregates. It is a measure of the number of years it would take for reserves to become depleted if the aggregate was worked at a rate based on the average of annual sales over a ten year period. It includes dormant and inactive sites. On the basis of the most recently published local Aggregate Assessment (2019), the landbank stands at around 27 years, although it is expected that the 2021 LAA will show that the landbank is declining gradually.

8.4.10 While the landbank is currently substantially higher than the 15 year minimum set out in the MLP, the extension area would replace reserves that are now depleted in the Leighton extension area and would maintain the quarry's capacity to supply an adequate supply of minerals, recognising its strategic nature. In addition, some of the reserves counted in the landbank may be at sites which are unlikely to be worked in the near future for various reasons and the process of identifying potential mineral resources to replenish the landbank and securing the right permissions and licences can take up to 15 years.

8.4.8 In terms of the location of the site, the adopted SMLP does not allocate specific sites or preferred areas for aggregate production. Minerals can only be worked where they naturally occur, and location options for the economically viable and environmentally acceptable extraction of minerals may be limited. The site is immediately adjacent to an existing and established quarry, which offers benefits in terms of maximising the sustainable use of existing processing plant and existing infrastructure.

8.4.9 In principle, therefore, the proposal is consistent with paragraph 211 of the NPPF and SMP policy SMP3, subject to consideration of the impacts on amenity and on the environment and any mitigation measures proposed to reduce those impacts.

8.5 Ecology

8.5.1 The NPPF states that planning decisions should contribute to and enhance the natural environment by (inter alia) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (paragraph 174).

8.5.2 The SMP states that planning permission will be granted for mineral development where the application demonstrates that the development will not generate unacceptable adverse impacts on biodiversity and measures are taken to mitigate the effects or as a last resort provide compensation for them and such measures should provide a net gain in biodiversity where possible.

8.5.3 The Mendip local plan, part 1 also includes a policy, DM5, which seeks to protect, enhance and restore Mendip's ecological networks by resisting proposals with the potential to cause adverse impacts on protected and/or priority sites, species or habitats. Exceptions will only be made where:

- a) the impacts cannot be reasonably avoided,
- b) offsetting/compensation for the impacts can be secured,
- c) other considerations of public interest clearly outweigh the impacts, in line with relevant legislation

Policy DP6: Bat protection is also relevant.

8.5.4 The applicant has provided an ecological impact assessment (SLR Consulting Ltd, July 2022, reference 406.00275.00265) which identifies a number of effects and the mitigation or compensation measures proposed to address them. The Asham Woods SSSI and the Mendip Woods SAC are important considerations as well as the more distant Mells Valley SAC.

8.5.5 The proposal would result in the demolition of a building that is used by bats and the surrounding woodland is important for roosting and foraging. The applicant has considered the potential impacts in early consultation with Natural England and proposes a new, bespoke bat barn in an optimum location to improve roosting opportunities, especially for Horseshoe Bats. In addition, foraging opportunities for bats would be maintained by the creation of new off-site woodland, pastureland reversion and the progressive restoration of the application site. An intrusive source of artificial lighting would also be removed.

8.5.6 A large part of the site is currently operational land associated with the blockworks and has negligible ecological value. The loss of some un-designated broad-leaved woodland is unavoidable and would be compensated for by a combination of off-site planting and the gains realised through progressive restoration.

8.5.7 Following Natural England's initial comments on the application a range of additional habitat creation and enhancement measures were agreed on 2 December, including

- i. An increase in the advanced planting of native woodland in the stockpile area from 1.4ha to 1.83 ha (yellow area on the enclosed plan);
- ii Incorporation of 0.10 ha of new native woodland planting within the grassland reversion site;
- iii Asham Woods - an additional 120m length of 4m wide buffer planting along the undesignated woodland to the south (0.12ha in total);
- iv Grassland reversion site 2.8ha – as previously – amended to reflect 0.10ha of new woodland above; and
- v Added hedgerow enhancement of the hedgerows bordering the above grassland reversion site (310m).

8.5.8 The measures will result in provision of 2.05 hectares of new woodland replacing the 2.04ha that will be lost as a result of the development. Progressive restoration gains in woodland habitat would amount to 1.4ha over the longer term.

8.5.9 Natural England has confirmed that it is now satisfied that the revised mitigation measures would avoid an effect on the integrity on the Mells Valley SAC providing that the mitigation measures are secured by condition or section 106 agreement.

8.5.10 Subject to appropriate conditions and the legal agreement to secure mitigation and compensation it is considered that the proposal does not conflict with policy DM2.

8.6 Highways and traffic

8.6.1 No change is proposed to the quarry access or to the level of output from the site. The Highway Authority raises no objection to the proposed extension to the extraction area.

8.6.2 Currently there are on average 40 HGV loads (80 two-way movements) per day associated with transporting blocks from the blockworks to market. If approved, the blockworks would be moved to Leighton Business Park nearby. The existing 35 HGV

(70 two-way movements) transporting minerals from the quarry to the blockworks will continue and as a result there would be a net reduction of 10 two-way movements from the quarry access.

8.6.3 Vehicle movements associated with the new blockworks site at Leighton Business Park, including the 40 loads exported to markets, would have been assessed in the context of the application for that site.

8.6.4 The existing permission for the site has a restriction that allows no more than 3Mt to leave the quarry by road, this application does not seek to amend that figure.

8.6.5 The proposal would not generate additional traffic compared to the current situation and it would not generate unacceptable impacts on the site access or the local highway network in line with SMP policy DM9.

8.7 Public Rights of Way

8.7.1 There are a number of public footpaths in the area surrounding the quarry. The route of public bridleway SM8/11/1 follows Tunscombe Lane before crossing between the main quarry pit and the application site and entering Asham Woods.

8.7.2 It is proposed to permanently divert bridleway SM8/11/1 around the extension area. The current route of bridleway SM8/11/1 current route includes an 'at grade' crossing over an internal quarry haul route before traversing the southern boundary of the blockworks.

8.7.3 The diverted bridleway will pass the haul route to the temporary scalplings tip in an adjacent field.

8.7.3 In order to offer an improvement to the current situation and to better segregate the users of the bridleway and internal quarry haul route it is proposed to install a bridleway underpass under this haul route. A concrete box culvert will be installed, allowing bridleway users to pass under the access to the temporary scalplings storage area. The height of the box culvert will allow horse riders to safely pass underneath the haul route without dismounting. The bridleway will then follow the boundary between Torr Works and Asham Woods before joining its original route at the south-eastern tip of the extension area.

8.7.4 SMLP policy DM6 seeks to avoid unacceptable impacts on the PROW network and to ensure that alternative routes are provided where appropriate and that these are maintained and managed. It is considered that the proposed bridleway diversion offers a suitable alternative offering an improvement in terms of segregating the bridleway and haul road. There is, therefore, no conflict with policy DM6.

8.8 Landscape and Visual impact

8.8.1 Policy DM1 in the SMLP states that permission will be granted for mineral development subject to the proposal not generating unacceptable adverse impacts on the landscape and on visual amenity, taking into account any mitigation measures proposed.

8.8.2 The site is within the national character area: Mendip Hills. The area is characterised by its classic karst landscape features, resulting from the response of the soluble limestone to water and weathering, creating complex underground cave and river systems and surface features including gorges, dry valleys, surface depressions, swallets, sink holes and fast-flowing springs, a number of which deposit tufa on the eastern part of the hills. Woodland lying within narrow valleys or covering steep slopes emphasises the variety of slopes and landforms. Quarrying is an established feature of the Mendips and in the eastern Mendip Hills it is a major industry. However, the quarries are well screened in the landscape although they can impact on tranquillity through sirens, traffic and heavy machinery.

8.8.3 The Mendip LP policy DP4 identifies a special landscape feature, the woodland to north and east of site. Policy DP5: Mendip's Landscapes seeks to protect the quality of the local landscape and to resist proposals that would individually or cumulatively significantly degrade the quality of the landscape. The policy goes on to state that proposals for development which lie within or which would affect the setting of Special Landscape Features (as defined on the Policies Map) will be determined with regard to their impacts upon their specific qualities as described in the 2012 "Assessment of Special Landscape Features."

8.8.4 A Landscape and Visual Impact Assessment (LVIA) has been undertaken which concludes that the principal landscape effects would generally be limited to within the site itself. Landscape effects outside the site would be limited as the proposed development would comprise an extension to an existing and well-established quarry and the new development would be seen in the context of the established site.

8.8.5 The landscape effects would be temporary, albeit for an 18-year period, following which the site would be restored to coincide with the restoration of the remainder of the Torr Works quarry main pit and would provide contiguous landscape features comprising naturally regenerating scrub on the quarry benches with the remainder of the site forming part of a water body (lake).

8.8.6 Views into the site are limited to the south eastern extremities of Tunscombe Lane (PRoW bridleway SM8/11/1 and the contiguous permissive path) and to some sections of the PRoW to the north and to the south of the main pit where an initial moderate adverse effect on visual amenity would be experienced. The LVIA assesses

that the significance of effect would reduce to either a minor or negligible effect upon the restoration of the site and the remainder of Torr Works quarry.

8.8.7 There are very limited views of the site from the wider landscape owing to intervening woodland and/or topography. Any residual views of the site would be within the context of the far larger existing main pit and would therefore form a small element within the wider panoramic view.

8.8.8 The assessment therefore concludes that the proposed development could successfully be assimilated into its host landscape and upon restoration would form an integral part of the wider restoration of Torr Works Quarry.

8.8.9 Mendip District Council has been consulted and has raised no objection on landscape grounds.

8.8.10 The proposal is consistent with policy DP4 in the adopted Mendip Local Plan part 1.

8.9 Impact on local amenity (Noise, Dust, Vibration etc)

8.9.1 Policy DM8 in the SMLP states that permission will be granted for mineral development where the proposal would not generate unacceptable adverse impacts on the local amenity taking into account any mitigation measures proposed.

8.9.2 Mendip Local Plan policy DP8 also requires that all development proposals should minimise, and where possible reduce, all emissions and other forms of pollution.

Development (either cumulatively or individually) will be required to demonstrate that it does not give rise to unacceptable adverse environmental impacts on ambient noise levels, air quality, quality of water resources, biodiversity, light pollution, ground stability and public health and safety.

8.9.3 Mineral working has the potential to cause significant impacts on local amenity, including through noise, dust, odour, vibration and lighting. However, the potential impacts can be managed and minimised through the use of best practice and can be regulated through planning conditions. The environmental permit will, in addition, regulate the processes carried out at the site and will add another layer of protection.

8.9.4 No change is proposed to the method of working currently used in the main quarry. The applicant intends to operate the quarry using the same environmental mitigation measures and subject to the same conditions governing the current operations in the main site.

Vibration

8.9.5 The blasting operations required to extract the stone from the quarry face can cause impacts that extend beyond the boundary of the quarry and may include ground

vibration, air overpressure, noise, dust and, exceptionally, flyrock. Detonation of the explosive in the drill hole causes shock waves through the ground and air although most of the energy is directed at breaking the rock and the waves decay rapidly as distance from the blast increases.

8.9.6 The blasting regime in the extension area would be the same as that used in the main quarry. The optimum blast design may vary from blast to blast and will necessarily be decided by the quarry operator with reference to the site specific conditions and in order to comply with the recommended vibration criteria and planning conditions. It is always in the operator's interests to minimise vibration as this increases the efficiency and economy of blasting operations.

8.9.7 Vibration levels from production blasting measured at residential properties rarely, if ever, approach the levels necessary to cause even cosmetic damage but can have an impact on the amenity of the surrounding area. Air overpressure can be influenced by meteorological conditions such as wind speed, wind direction, cloud cover and humidity.

8.9.8 The 1998 Department of the Environment Transport and The Regions research publication, The Environmental Effects of Production Blasting from Surface Mineral Workings recommended that acceptable ground vibration criteria measured in peak particle velocity at a sensitive property could include a range of between 6 and 10 mms⁻¹ at a 95% confidence level, with no individual blast to exceed 12mms⁻¹.

8.9.10 The current conditions on the 2010 permission for the main quarry include limits that are within that range and it is proposed that the same limits are imposed on blasts within the extension area.

Dust

8.9.11 Dust control measures are proposed, including:

A 2.5 metre high solid fence will be erected where the haul road runs alongside the designated section of Asham Wood and the ecological enhancements proposed include for a 4m wide landscaped buffer to be provided adjacent to Asham Wood in this section as well;

- Dust monitoring will be undertaken adjacent to Asham Wood to ensure compliance with currently approved limits is demonstrated;
- Mobile plant will be regularly serviced and equipped with effective, non downward pointing exhausts;
- Haul roads will be adequately maintained;
- A water bowser will be used in dry conditions on haul roads and any other trafficked areas;

- An adequate supply of water shall be maintained on site at all times for use as a dust suppressant;
- The haul routes will be inspected daily to identify any requirement for repair and damping down; and
- Vehicle speeds will be limited to 15mph on unsurfaced roads.

8.9.12 It is considered that these measures will be effective in minimising dust emissions in line with SMP policy DM8

Odour

8.9.13 The extraction of stone and its transportation to the processing area within the main quarry is unlikely to produce excessive or unacceptable odour outside the quarry.

Noise

8.9.14 The application states that there is a comprehensive environmental monitoring regime operating at Torr Works, previously approved by the Somerset County Council, which addresses noise control and monitoring. This regime will be extended to the proposed extension area to ensure compliance with the existing noise-related planning conditions.

8.9.15 An assessment of the impact of noise on the Asham Wood SSSI has also been undertaken and concludes that there will be no increase in overall noise levels from the proposed quarry extension compared to the existing blockworks.

8.9.18 The application site does not extend closer to noise sensitive properties than the existing quarry and the existing noise climate is influenced by the blockworks.

8.9.19 Subject to conditions setting a limit on noise and continuation of the monitoring regime it is considered that the proposal will not have a significant unacceptable adverse impact on noise sensitive properties near the quarry.

Lighting

8.9.20 Existing lighting within the blockworks stockyard would be removed and no new lighting is proposed. This will reduce the potential for light pollution and impacts on bats in line with SMP policy DM8 and DM2.

Community engagement

8.9.21 The company holds regular meetings of the liaison committee, which includes representatives of local residents, local parish councils and Somerset County Council, Mendip District Council and other stakeholders.

8.10 The Water Environment and Flood risk

8.10.1 Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Decisions should also prevent new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. (Paragraph 174)

8.10.2 SMP policy DM4 states that permission will be granted for new mineral development providing the application demonstrates that there will not be an unacceptable adverse effect on water resources from flood risk, pollution or the integrity of land drainage and water level management systems.

8.10.3 Policy DM5 in the SMP allows for mineral extraction below the water table only where monitoring is in place to ensure early warning of potential adverse impacts and where the water abstraction and mitigation measures themselves do not give rise to unacceptable environmental impacts.

8.10.4 Policy DP8: Environmental Protection in the Mendip Local Plan requires new development proposals to demonstrate that it does not give rise to unacceptable adverse environmental impacts on the quality of water resources, whether surface water or groundwater.

8.10.5 The applicant has carried out a hydrological and hydrogeological baseline study and impact assessment (BCL Hydro, 2022), together with a flood risk assessment. The reports conclude that the development proposals at the lateral extension are not expected to introduce any significant increase to the dewatering requirement and will not increase flood risk elsewhere or reduce floodplain storage.

8.10.6 The main quarry is being worked under permission reference 2010/0984 and AIUK has an obligation under a Section 106 Agreement of the Town and Planning Act 1990 (dated 07/08/2012) to carry out a comprehensive programme of hydrometric monitoring and complete an Annual Review of the monitoring data collected throughout each calendar year. This is to establish compliance with the various conditions of the agreement and to agree the future monitoring scheme based on the data provided for inspection and approval.

8.10.7 As a result of a recommendation by the Environment the Section 106 Agreement also requires that a hydrological and hydrogeological review be completed before quarrying below the 99m AOD benchmark. This review, which is being conducted by Jacobs Engineering UK Limited (Jacobs), is ongoing but separate to this application.

8.10.8 The depth of extraction for the blockworks site extension would be limited to 100m AOD. The Area of Proposed Works occupies approximately 12 ha, of which some

5 ha overlaps with the upper benches in the existing void while the remainder is beneath the footprint of the blockworks and bund edge protection.

8.10.9 As at present, the quarry workings will be maintained free of significant accumulation of water by pumped discharge of rainfall and groundwater ingress. Discharge will continue to be subject to settlement/treatment within a series of purpose designed lagoons.

8.10.10 The report considers a number of potential impacts including:

- Interception of groundwater causing a modification of groundwater levels and flow rates within and surrounding the area from which mineral is to be extracted;
- Derogation of existing groundwater quality;
- Derogation of surface water quantity and quality;
- Potential for impact upon water supplies;
- Potential for impact upon Designated Sites, and;
- Modification of existing flooding characteristics.

It concludes that the relatively small extension is an insignificant addition to the dewatering requirement when viewed in the context of the lateral extent of the permitted extraction area at Torr Works, which equates to 140 ha.

8.10.11 That is based upon the present-day drawdown profile, where the quarry floor is at 100m AOD. The risk of intercepting groundwater at the lateral extension will be significantly diminished when the main quarry floor is lowered from 100m AOD down to 3m AOD.

8.10.12 Within the 1.96-ha area, the depth of working below groundwater level would equate to 4m on the lowest sinking at the eastern corner, declining to zero at the western margin of the Area of Proposed Works, where the existing floor has already been dewatered to 100m AOD. The existing quarry has already lowered groundwater levels by 50-60 m across the consented area (140 Ha); in this context, the current proposal at the lateral extension, where groundwater level would be lowered by 0-4 m within an area of 1.96 ha, has very limited potential for any additional impact.

8.10.13 The report identifies that groundwater and surface water quality may be affected by accidental spillages or undetected leaks of potential contaminants or by reduction of attenuation capacity due to removal of overburden and unsaturated zone aquifer materials.

Mitigation measures are proposed as follows:

- Fuel-oil powered mobile plant shall be restricted to that necessary to undertake mineral extraction, remedial measures and subsequent restoration of the Site;
- Refuelling and maintenance of machinery will be carried out in accordance with the requirements of AIUK's Environmental Management System governing operations at the Site. Such operations will only be carried out by trained personnel and take place within a surfaced area equipped with fluid interceptors;
- All oil storage tanks will be sited upon impermeable bases enclosed by oil-tight walls. Each enclosure shall provide a retention volume of at least 110% of the capacity of the oil tank it serves and be maintained free of significant accumulations of rainwater;
- All fill and draw pipes emanating from oil storage tanks should be provided with locking mechanisms and be contained within the impermeable enclosure;
- No refuelling or maintenance should be carried out in areas of mineral working;
- Operators shall check their vehicles on a daily basis before starting work to confirm the absence of leakages and a reporting system be observed to ensure that repairs are undertaken to that vehicle before it enters the working area;
- Oil sorbant material (3M Oil-Sorb or similar) will be made available on Site to cope with a loss equal to the total fluid content of the largest item of plant. Following the use of such oil sorbant material, any contaminated materials would be disposed of from Site in accordance with current waste disposal legislation; and
- Hydraulic & fuel oil lines on all plant operated within the extraction areas shall be renewed at the manufacturer's recommended service intervals to minimise the potential for contamination following failure of hoses or lines.

8.10.14 Loss or derogation of water flows and levels in Whatley Brook will be compensated by augmentation discharge from the quarry as at present. The brook is perched 35-40 metres above groundwater levels and would not be impacted by any minor change in the radius of influence of dewatering drawdown caused by the extension. The EA discharge consent will continue to provide an enforceable mechanism for maintaining water quality of water pumped into the brook.

8.10.15 The Environment Agency has raised no objection to the proposal subject to pollution control measures being implemented and subject to groundwater and surface water monitoring continuing to take place.

8.10.16 Subject to the mitigation measures being implemented, the development is in accord with SMP policy DM4: Water Resources and Flood Risk.

8.11 Restoration and aftercare

8.11.1 The restoration strategy for the main pit includes:

- A large lake in the centre of the main quarry following cessation of dewatering
- A shallow margin round the edge of the main quarry with aquatic planting
- Creation of calcareous grassland in the Leighton extension area
- Areas of limestone grassland, scree, cliffs, rocky outcrops, hanging woodland, and downland scrub; and
- Water levels within the Wellington reservoir will be lowered, and extensive areas of shallow margins formed.

Restoration of the upper quarry benches has already commenced.

8.11.2 The key aspect of the restoration strategy for the main quarry area and the Leighton extension area is to replicate some of the natural Mendip landforms and thus help to create the most appropriate habitat types for the Mendips. The most distinctive local features are the neighbouring limestone ravine woodlands with steep boulder strewn slopes, the shallower grassy slopes with a range of calcareous plants and the gently rolling agricultural landscape.

8.11.3 For the extension area it is proposed to increase the area of open water within the void and therefore the existing restoration strategy and methods are applicable, as shown on Drawing 2981-4-1-2 DR-0007 S4-P4. While much of the extension area will eventually be submerged under water once dewatering ceases, the upper benches will remain visible. A combination of restoration blasting, mechanical ripping/scarifying and tipping is used to create an environment where tree planting and hydroseeding of the benches/faces can be undertaken or natural regeneration left to occur.

8.11.4 The Marshalls brickworks will be retained and accessed via the rerouted access road around the perimeter of the extension area void following completion of extraction.

8.11.5 SMP policy DM7 requires the applicant to demonstrate that certain criteria set out in the plan will be met and that information is provided on the financial budget for restoration and after use including progressive restoration during the life of the site and aftercare for a minimum of five years.

8.11.6 The proposed restoration strategy, a variation of one previously found to be acceptable and revised to take account of the extension, will minimise the visual impact

of the mineral development, ensure that there are no adverse impacts on water quality, protect and enhance biodiversity and create priority habitats.

8.11.7 Aggregate Industries is a member of the Mineral Products Association, which provides a restoration guarantee fund for its members. As an arm's length limited company the Mineral Products Association Restoration Guarantee Fund provides a £1m overall guarantee to planning authorities against a restoration default up to a single claim limit of £500k. It applies to all extraction sites operated by Fund members, and a planning authority can submit a claim when the operator of a quarry is unable to meet restoration obligations that arise through a planning condition.

8.11.8 It is, therefore, considered that the application demonstrates a satisfactory restoration concept backed up by a financial guarantee and that the requirements of policy DM7 are met.

8.12 The local Economy

8.12.1 Policy SMP3 in the SMLP states that permissions for the extraction of crushed rock will be granted where the application demonstrates that clear economic benefits will be delivered to the local area and measures are included to mitigate any impacts.

8.12.2 As has been discussed in the preceding sections of this report, the quarry is a strategically important supplier of crushed rock and a major local employer as well as contributing to the local economy through the procurement of goods and services in the local area. The proposal would not generate additional jobs but would maintain the existing employment and investment that Torr Works contributes to the local economy.

8.12.3 The proposal will also deliver an improved bridleway diversion route with the provision of an underpass so users of the bridleway will no longer have to cross an active haul route within the quarry and will provide a new purpose built bat barn constructed from local limestone.

8.12.4 It is clear, therefore, that the proposal delivers economic and other benefits to local communities in line with policy SMP3.

8.13 Cultural Heritage

8.13.1 The application site has been identified as having low archaeological potential and no unacceptable adverse impacts on the historic environment have been identified in response to consultation carried out with the relevant organisations.

8.14 Alternatives

8.14.1 A number of alternatives have been considered as part of the EIA

i A do nothing option would result in extraction ceasing and the mineral within the application site would be unworkable in the future.

ii Development in an alternative location.

The quarry is one of only a few with a railhead, which enables more sustainable transportation of mineral. An alternative location, either within Somerset or elsewhere would require a significant quantity of additional capacity to be available.

iii Alternative method of working.

The applicant states that the current method of drilling and blasting is the most efficient and effective method of extracting hard rock and is tried and tested throughout the Mendips.

iv Recycled or marine aggregate.

Recycled materials cannot fully substitute for the primary aggregates produced at Torr Works. Some construction/engineering operations require a certain specification of stone which cannot be replaced with either recycled or marine-won material.

8.14.2 The current proposal would allow supply to be maintained and transported by rail as well as protecting jobs at the quarry and in the supply chain. The economic contribution to the local economy would also be maintained. In addition, inert waste arisings depend on the amount of construction activity being carried out and are generally located within urban areas. It is unlikely that recycled aggregate would be capable of replacing the resource at the blockworks site both in terms of quality and quantity. Sources of secondary aggregate are locationally constrained and similarly limited in their applications.

8.15 Climate Change

8.15.1 Somerset's Climate Emergency Strategy was adopted in November 2020. The aim of the strategy is to reduce carbon emissions in the county and make Somerset a county resilient to the inevitable effects of Climate Change.

8.15.2 The strategy provides some high-level detail explaining what climate change is and what causes it, where carbon emissions arise from globally, nationally and locally and what the impacts will be here in Somerset. It also sets ambitious goals to become a carbon neutral county by 2030 and also outlines what the five Somerset councils intend to do to address the most important issues around the Climate Emergency

8.15.3 The adopted Minerals Local Plan predates the Climate Emergency declaration, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. Planning is concerned with land use in the public interest. The key focus of overarching policy is to provide opportunities for holistic change by promoting a move away from landfill, promoting

the decentralization of energy production, and by reducing the reliance on primary won fossil fuels such as oil, coal and gas.

8.15.4 Aggregate Industries has expressed a commitment to playing a significant role in enabling the UK to transition to net zero, and is striving for decarbonisation across the construction materials sector. The company has a broad, established range of low carbon solutions with a focus on the circular economy, and is continuing to invest in R&D and innovation, working in partnership with sustainability-focused stakeholders, with the goal of becoming a leading supplier of sustainable construction materials. The company has been certificated to BES 6001, The Framework Standard for the Responsible Sourcing of Construction Products, developed by the BRE (Building Research Establishment).

8.16 Conclusion

8.16.1 The proposed development is in accordance with the development plan taken as a whole and there are no material considerations that indicate a decision should be made other than in accordance with the development plan.

Human Rights Act 1998

Article 8 of the Human Rights Act 1998 (as amended) states that everyone has the right to respect for his private and family life. A public authority cannot interfere with the exercise of this right except where it is in accordance with the law and is necessary (amongst other reasons) for the protection of the rights and freedoms of others. Article 1 of Protocol 1 of the Act entitles every natural and legal person to the peaceful enjoyment of his possessions.

The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due consideration to the rights of others, the local planning authority can grant planning permission in accordance with adopted policies in the development plan.

All material planning issues raised through the consultation exercise have been considered and it is concluded that by determining this application the County Planning Authority would not detrimentally infringe the human rights of an individual or individuals.

9. Recommendation

9.1 It is recommended that:

Permission be GRANTED subject to

- I the conditions set out in Section 10 of this report;

Ii the prior completion by the applicant and all other parties as necessary of a Section 106 Agreement to secure ecological mitigation including

- provision of a minimum of 2.05 hectares of woodland planting and 2.8ha of grassland reversion accessible to greater horseshoe bats to comprise: 2.05ha native woodland / woodland buffer planting; 0.10ha native woodland planting in the grassland reversion site; 0.12ha of buffer planting alongside the undesignated woodland to the south of Asham Woods; 2.8ha of grassland reversion; and 310m of hedgerow enhancement. The habitat should be broadly consistent with the Ecological Enhancement Plan as contained within the shadow HRA (SLR, 2023).

- Landscape and Ecological Management Plan (LEMP).

- Programme of implementation.

- Long-term maintenance and management scheme for the woodland planting and grassland reversion, to include legal and financial mechanisms.

- Water monitoring and management measures in line with those agreed for the main site (application reference 2010/0984)

Iii authority to undertake any minor non-material editing which may be necessary to the wording of those conditions being delegated to the Service Director.

10 Conditions

Commencement

1. The development hereby approved shall be commenced within three years from the date of this permission. The developer shall give the mineral planning authority not less than 14 days prior notice in writing of the date of the commencement of the development.

Reason: For monitoring purposes and as required by section 91 of the Town and Country Planning Act 1990 (as amended)

Time limit

2 This permission shall be limited to a period expiring on 31 December 2040. The extraction and processing of minerals from the site shall cease by 31st December 2038, restoration shall be completed by 31st December 2040 in accordance with the approved details and all residual stocks, fixed plant and buildings to which this permission relates shall be removed by 31st December 2040.

Reason: The minerals development is temporary in nature and to facilitate strategic restoration and after-use.

Approved Plans and drawings

3 The development hereby permitted shall be carried out in strict accordance with the following approved plans and documents and with any scheme, working programme or other details submitted to and approved in writing by the Mineral Planning Authority in pursuance of any condition attached to this permission:

Planning application form and environmental statement

Supporting Statement for the Blockworks Quarry Extension, August 2022, Aggregate Industries UK Limited

DRAWINGS

Drawing No. 2981-4-1-2 DR0001 S4 P7 - Site Location Plan

Drawing No. 2981-4-1-2 DR0002 S4 P7 - Existing Conditions

Drawing No. 2981-4-1-2 DR0003 S4 P8 - Initial Works

Drawing No. 2981-4-1-2 DR0004 S4 P8 - Stage 1 – Initial Extraction

Drawing No. 2981-4-1-2 DR0005 S4-P8 - Stage 2 – Working (132m AOD)

Drawing No. 2981-4-1-2 DR0006 S4-P8 - Stage 3 – Full Extraction

Drawing No. 2981-4-1-2 DR0007 S4-P8 – Restoration

Drawing No. 2981-4-1-2 DR0008 S4-P8 – Cross Sections

Drawing No. 2981-4-1-2 DR0009 S4-P8 – Bridleway Crossing

Drawing No. 2981-4-1-2 DR0010 S4 P8 – Permitted and Proposed Restoration Scheme

Drawing 3 – Ecological Enhancement Plan

AI/SLR report -Further Information Request – NE – Torr Blockworks, 9th December 2022

Revised Drawing 3 and HEP

Reason: To define the extent of this permission

4 A copy of this permission and the approved plans showing the method and direction of working and restoration shall be displayed in the operator's site office at all times during the life of the site. Any subsequent approved amendments shall also be displayed.

Reason: To ensure the operator and site contractors are aware of the working programme and the conditions attached to carrying out the development.

Permitted development

5 Notwithstanding the provisions of Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, or any order revoking or re-enacting that order, no fixed plant or machinery, buildings, structures, erections or private ways shall be erected, extended, installed or replaced on the site and no waste materials shall be deposited except on the quarry floor or as shown on the approved drawings.

Reason: To protect the visual and residential amenities of the locality in accordance with Policies DM1 and DM8 of the Somerset Minerals Plan.

Output

6 The average annual output of stone from the quarry, in combination with stone extracted in accordance with planning permission reference 2010/0984 and permission reference 2017/1506/CNT, shall not exceed 8 million tonnes annually when calculated over a period of three consecutive calendar years. No more than 3 million tonnes of that total shall be exported from the site by road. Records shall be kept and made available to the mineral planning authority upon request to enable monitoring of output.

Reason: To limit the impact of the development on the environment and the highway network to acceptable levels in accordance with Policies DM8, DM9 and DM12 of the Somerset Minerals Plan.

Soils

7 Stripping, storage and movement of soils will only take place when they are in a dry and friable condition.

Reason: To preserve soil quality.

8. Top soil that requires storage shall be contained in stockpiles not exceeding 1 metre in height. Topsoil and subsoil that require storage shall be shaped to shed water and shall be grassed over.

Reason: To preserve soil quality.

9 No topsoil, subsoil or waste materials shall be removed from the quarry.

Reason: To ensure that materials are retained for restoration purposes and that highway impacts are minimised in accordance with Policies DM7 and DM9 of the Somerset Minerals Plan.

Operating hours

10 There shall be no face operations including operation of primary crushers, loading shovels, haul trucks and rock drilling equipment, except between 0600 hours and 2200 hours.

Reason: To protect the amenity of local residents in accordance with Policy DM8 of the Somerset Minerals Plan.

Noise

11 All mobile plant used within the area hereby permitted shall be effectively silenced to manufacturer's specifications in accordance with a scheme to be submitted to the mineral planning authority for approval within 6 months of the date of this permission

Reason: To protect the amenity of local residents in accordance with Policy DM8 of the Somerset Minerals Plan.

12 Noise levels from any activity associated with this permission shall not exceed a freefield Leq (1 hour) of 55dB(A) when measured at any residential property between 0600 and 2000 hours Mondays to Fridays and between 0600 and 1200 hours Saturdays.

Between 2000 hours and 0600 hours Monday to Friday and between 1200 Saturday and 0600 Monday noise levels from any activity associated with this permission shall not exceed a freefield Leq (1hour) of 42 dB(A) when measured at any noise sensitive residential property.

Reason: To protect the amenity of local residents in accordance with policy DM8 of the Somerset Minerals Plan.

13 Within 6 months of the date of this permission a Noise Monitoring scheme shall be submitted for the approval of the mineral planning authority. Once approved the scheme shall be implemented in full for the duration of the development hereby permitted.

Reason: To monitor compliance with conditions 11 and 12.

14 No lighting shall be installed unless a scheme for the minimisation of artificial lighting installed on the site has been submitted and approved in writing by the mineral planning authority. Once approved the scheme shall be implemented throughout the operations at the site.

Reason: In the interests of the amenity of the local area and to protect biodiversity interests in accordance with SMP policy DM2 and DM8

15 The Rail Transportation Vibration and Noise Mitigation Scheme approved by the Mineral Planning Authority on 26 June 2019 under reference 2010/0984/Cond26 shall be fully implemented and maintained for the duration of the development hereby permitted.

Reason: In the interests of residential amenity, properties' structural integrity, and biodiversity of the area, in accordance with Policies DM2 and DM8 of the Somerset Minerals Plan.

Public Rights of Way

15 No excavations shall take place within 10 metres of any Public Right of Way.

Reason: To ensure the safety of persons using the Right of Way network in accordance with Policy DM6 of the Somerset Minerals Plan.

Production Blasting

16 Blasting shall be undertaken in such a manner to ensure that ground vibration at any vibration sensitive building, measured as a maximum of three mutually perpendicular directions taken at the ground surface, does not exceed a peak particle velocity (PPV) of 9mms⁻¹ in 95% of all blasts measured over any continuous six month period, and no single blast shall exceed a PPV of 12mms⁻¹. The measurement is to be taken at or near the foundations of any vibration sensitive building in the vicinity of the quarry existing at the date of this permission.

Reason: To limit ground vibration from blasting operations so as to protect the amenities of local residents and the structure of buildings in accordance with Policy DM8 of the Somerset Minerals Plan.

17 Each individual blast referenced in Condition 16 shall be monitored in accordance with a Blast Monitoring Scheme which shall be submitted for the approval of the mineral planning authority within 6 months of the date of this permission. All monitoring shall be undertaken in accordance with the terms of the approved scheme for the duration of quarrying operations at the site. In addition:

- (a) Blasting times shall be clearly advertised at the Quarry;
- (b) A warning, audible at the site boundary, shall be sounded prior to any blasting operations taking place, and shall be sounded again immediately after blasting has finished.
- (c) Blasting times shall be clearly advertised in a prominent location on the operator's website, at least 24 hours in advance of the blasting occurring.
- (d) Blasting times should also be advertised in advance through appropriate social media channels, at least 24 hours in advance of the blasting occurring.

Records shall be made available to the mineral planning authority upon request.

Reason: To ensure that the impact of blasts on residents is minimised, and to protect the amenities of local residents in accordance with Policy DM8 of the Somerset Minerals Plan.

18 Except in the case of emergency to maintain safe quarry working, no blasting shall take place at the site except between 1000 and 1600 Monday to Friday, and there shall be no blasting on Saturdays, Sundays and Public Holidays.

For the purpose of this condition, "emergency" means any circumstances in which the operator has a reasonable cause for apprehending injury to persons or serious damage to property.

Reason: To protect the amenities of local residents in accordance with Policy DM8 of the Somerset Local Plan.

19 All individual blasts shall be designed, managed and implemented to minimise the extent of air overpressure resulting from blasts. If air overpressure exceeds 120dB at any nearby sensitive residential property (not owned by the applicant) the Local Planning Authority shall be informed within 7 days and the design, management and implementation of the blasts must be reviewed prior to any further blasting being undertaken at the site, with all future blasting being undertaken in accordance with the findings of the review.

Reason: To limit air overpressure from blasting operations so as to protect the amenities of local residents and the structure of buildings in accordance with Policy DM8 of the Somerset Minerals Plan

20 The Blast Vibration Control Scheme approved by the Mineral Planning Authority on 26 June 2019 under reference 2010/0984/Cond23 shall be implemented in full accordance with the approved details and shall be maintained for the duration of the development hereby permitted.

Reason: In the interests of residential amenity and properties' structural integrity, and the biodiversity of the area, in accordance with Policies DM2 and DM8 of the Somerset Minerals Plan.

Dust suppression

21 The Dust Suppression Scheme approved by the Mineral Planning Authority on 19 June 2016 under reference 2010/0984/Cond24 shall be implemented in full accordance with the approved details, and shall be maintained for the duration of the development hereby permitted.

Reason: In the interest of the residential amenities in the area, and the biodiversity interests of nearby ecological features including designated sites, in accordance with Policies DM2 and DM8 of the Somerset Minerals Plan.

Pollution prevention

22 The Pollution Prevention Strategy approved by the Mineral Planning Authority on 19 June 2016 under reference 2010/0984/Cond25 shall be fully implemented and maintained in accordance with the approved details for the duration of the development hereby permitted.

Reason: To protect the water environment in accordance with Policy DM4 of the Somerset Minerals Plan.

23 The scheme for storage of oils, fuels and chemicals approved by the Mineral Planning Authority on 7 November 2016 under reference 2010/0984/Cond28 shall be fully implemented in accordance with the approved scheme and maintained for the duration of the development hereby permitted.

Reason: To prevent pollution of the water environment in accordance with Policy DM4 of the Somerset Minerals Plan.

Biodiversity Management Plan

24 Within three months of the date of this permission, a revised Torr Quarry Biodiversity Management Plan (BMP), to include Torr Blockworks Extension, shall be submitted to, and approved in writing by, the Mineral Planning Authority for approval. The content of the BMP shall include the following measures/provisions:

- 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); and
- g) details of the body or organization responsible for implementation of the plan.

In addition, the BMP shall include the following monitoring measures:

- a) aims and objectives of monitoring to match the stated purpose;
- b) identification of adequate baseline conditions;

- c) appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation and mitigation measures being monitored can be judged;
- d) methods for data gathering and analysis;
- e) location of monitoring;
- f) timing and duration of monitoring;
- g) responsible persons and lines of communication; and
- h) review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the BMP. The report shall also set out (where the results from monitoring show that conservation aims, and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives. The BMP will be implemented in accordance with the approved details (see note 14).

Reason: In the interest of the biodiversity and in particular protected species of the area, in accordance with Policy DM2 of the Somerset Minerals Plan.

25 Any planted or transplanted trees or hedgerows which die during the life of the permission or during the five years following the cessation of operations shall be replaced with trees/shrubs of such size and species as may be specified by the Mineral Planning Authority in the first planting season following any such occurrence.

Reason: To ensure the effectiveness of the landscaping and restoration proposals, in accordance with Policies DM1 and DM7 of the Somerset Minerals Plan.

Construction Environmental Management Plan (CEMP): Biodiversity

26 No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including nesting birds habitat clearance measures, results of an update badger survey, badger buffer zones and safeguarding habitat clearance and

construction measures, precautionary habitat clearance measures for amphibians, with cross-reference to a detailed mitigation strategy for bats; strategy outlining Root Protection Areas in accordance with BS 5837:2012; Pollution Prevention Reasonable Avoidance Measures to be implemented during construction; and measures for the removal of buddleia from the site.

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.

g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

h) Use of protective fences (including use of silt boards), exclusion barriers and warning signs.

i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and in accordance with Policy DP5 and DP6 of the Mendip District Local Plan and Policy DM2 of the Somerset Minerals Plan.

Transport

27 The development hereby approved shall take place in accordance with the construction traffic management plan set out in Chapter 5 of the Transport statement by AECOM, November 2021.

Reason: In the interests of Highway safety and amenity

28 The mitigation measures set out in the Hydrological and Hydrogeological Assessment, BCL Hydro May 2022 shall be implemented throughout the duration of operations.

Reason: To protect the water environment in accordance with SMP policy DM4 and DM5

Restoration

29 Not later than 31 December 2038 or the expiry of 6 months following the permanent cessation of the winning and working of minerals and the depositing of mineral waste, whichever is the sooner, a detailed final restoration scheme, including drawings to illustrate the proposals for the final restoration of the quarry shall be submitted to and approved by the Local Planning Authority in writing. The final restoration scheme shall be based upon the restoration concept plan and include, inter alia the following matters:

- a) the nature of the intended after use of the site;
- b) the location, depth and treatment of any dust/fine aggregate on the site;
- c) the ripping of the quarry floor (other than where comprised of bedrock) and the re-spreading over the floor
of the excavated area of any overburden, subsoil and topsoil previously stripped from the site, in that order;
- d) the ripping of any compacted layers of final cover to ensure adequate drainage and aeration; such ripping should normally take place before placing of the topsoil;
- e) the machinery to be used in soil re-spreading operations;
- f) the final proposed levels of the site on a contour plan at 5m intervals and the gradient of the restored slopes which shall be graded to prevent ponding of, or erosion by surface water and to conform with the surrounding land;
- g) the drainage of the restored land including the formation of suitably graded contours to promote natural drainage and the installation of artificial drainage where necessary,
- h) the position and design of any ditches and watercourses where all such features shall be designed to achieve maximum ecological diversification;
- i) the removal of plant, buildings, machinery and concrete or brickwork, and other obstructions, replacing of subsoil and then topsoil previously stripped from the site;
- j) details of the spreading of soils previously stripped and stored on the site including depths and placement areas;
- k) the method of soil replacement and soil handling;
- l) position and erection of boundary fencing;

Reason: To ensure that the site is restored satisfactorily in accordance with Somerset Minerals Plan policy DM7: Restoration and Aftercare

30 Progress towards achieving restoration shall be subject to a joint formal review between the applicant, or their agents or successors in title and the Mineral Planning Authority on an annual basis from the date of this decision notice. Each review shall comprise the submission to the Mineral Planning Authority of an assessment of progress on the approved restoration scheme. Any amendments to the approved restoration and aftercare scheme shall be agreed in writing with the Mineral Planning Authority prior to implementation.

Reason: To ensure that the site is left in a condition to allow a beneficial after use of the site, in accordance with Policy DM7 of the Somerset Minerals Plan.

Aftercare

31 An aftercare scheme shall be submitted for the approval of the Local Planning Authority prior to 31 December 2040; the scheme shall provide for a five year period of aftercare following the restoration of each phase or discreet area of restoration, specifying the steps to be taken and the period during which they are to be taken, and who will be responsible for taking those steps. The scheme shall provide for any drainage measures and for an annual meeting between the applicants, Local Planning Authority and any other body appointed by either party.

Once approved the scheme shall be implemented in full for the duration of aftercare period.

Reason: To ensure satisfactory aftercare satisfactorily in accordance with Somerset Minerals Plan policy DM7: Restoration and Aftercare.

11 INFORMATIVES

Relevant Development Plan Policies

1 The following is a summary of the reasons for the County Council's decision to grant planning permission.

2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision on this application should be taken in accordance with the development plan unless material considerations indicate otherwise. The decision has been taken having regard to the policies and proposals in:-

Somerset Minerals Plan (Adopted 2015)

Mendip Local Plan Part I: Strategy and Policies 2006-2029 (adopted 2014)

The policies in the development plan particularly relevant to the proposed development are:-

Somerset Minerals Plan DPD Up to 2030

SMP2 Crushed rock supply and landbank
SMP3 Proposals for the extraction of crushed rock
DM1 Landscape and visual amenity
DM2 Biodiversity and geodiversity
DM3 Historic environment
DM4 Water resources and flood risk
DM5 Mineral extraction below the water table
DM6 Public rights of way
DM7 Restoration and aftercare
DM8 Protection of local amenity
DM9 Minerals transportation
DM10: Land Stability
DM11: Management of solid mineral wastes
DM12: Production limits and cumulative impacts

Mendip District Local Plan 2006-2029

Core Policy 1: Mendip Spatial Strategy
Core Policy 3: Supporting Business Development and Growth
Core Policy 4: Sustaining Rural Communities
Core Policy 9: Shepton Mallet
Development Policy 1 - Local Identity and Distinctiveness Character
Policy 2 - Open Areas of Local Significance
Policy 3 - Heritage Conservation
Policy 4 - Mendip's Landscapes
Policy 5 - Biodiversity and Ecological Networks
Policy 6 - Bat Protection
Policy 7 - Design and Amenity of New Development
Policy 8 - Environmental Protection
Policy 9 - Transport Impact of New Development

Policy 23 – Managing Flood Risk

3 The County Planning Authority has also had regard to all other material considerations.

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

In dealing with this planning application the County Planning Authority has adopted a positive and proactive manner. The Council offers a pre- application advice service for minor and major applications, and applicants are encouraged to take up this service. This proposal has been assessed against the National Planning Policy Framework, Minerals Local Plan and Local Plan policies, which have been subject to proactive publicity and consultation prior to their adoption and are referred to in the reasons for approval. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant/agent as necessary.



**CONSULTATION ON AMENDMENTS TO THE
RIGHTS OF WAY STATEMENT OF PRIORITIES**

Author: Andrew Saint, Senior Rights of Way Officer

Date: 16 March 2023

This document is also available in Braille, large print, on tape and on disc and we can translate it into different languages. We can provide a member of staff to discuss the



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details.

1. Summary of Key Issues and Recommendation

1.1. The County Council currently has a backlog of 375 undetermined applications to modify the Definitive Map and Statement. The policy which dictates the order in which those applications are investigated is known as the Statement of Priorities.

1.2. Applications received prior to November 2011 were scored against a range of criteria set out in the Rights of Way Improvement Scorecard. Under the current Statement of Priorities (appendix 1) those applications are investigated in their scored order. Applications which have been received since November 2011 have not been scored and are to be dealt with in chronological order. The policy also allows for applications to be 'taken out of turn' in certain circumstances.

1.3. It has been over four years since the Statement was last reviewed. On the whole the Statement is considered to work well. However, following continued concerns and discussion with user representatives, it is now recommended that greater priority should be given to those applications which are supported by user evidence. It is also recommended that applications which are not compliant with certain procedural requirements should be given less priority.

1.4. A copy of a draft Statement, including the proposed changes, can be found at appendix 2. It is recommended that the Regulation Committee provide their support for the proposed changes which will need to be approved by the Lead Member for Environment and Climate Change.

2. Background

2.1. The County Council has a duty to keep the Definitive Map and Statement under continuous review. An order must be made to modify the Map and Statement where evidence is discovered which, when considered with all other available evidence, shows that they are in error¹.

2.2. The duties described in the above paragraph apply irrespective of whether an application has been made. However, there is provision within the legislation which allows for any member of the public to make an application for a Definitive Map Modification Order. Where such an application is made in accordance with the legislation, the County Council must determine it as soon as reasonably practicable.

2.3. The County Council's Statement of Priorities sets the framework for how applications are to be prioritised. This ensures fairness and transparency for applicants.

¹ This duty can be found in section 53(3)(c) of the Wildlife and Countryside Act 1981.

2.4. Historically, the County Council scored applications against a series of criteria. They were then investigated in scored order, those with the highest scores being given higher priority. The policy of scoring new applications was removed from the Statement of Priorities when it was last reviewed in 2018. However, at that time it was also decided that those applications which had already been scored should continue to be dealt with in scored order. Those applications which had not been scored (i.e. those received after 28 November 2011) would be investigated in chronological order.

2.5. As part of the 2018 review the County Council considered various other options for prioritising the applications it received. One such option was to give greater priority to applications which were supported by user evidence. While this was considered a strong option at the time, no consensus could be reached and there were concerns that it would be open to abuse.

2.6. The Statement has operated well since 2018 but this is felt to be an opportune time to undertake another review and consider possible changes to further improve the policy.

3. Key proposals

3.1. The changes now being proposed are set out in the draft version of the Statement of Priorities at appendix 2. Many of those changes form part of a tidying up exercise and/or clarify the existing wording. Of particular note in this respect is that paragraphs 2 and 3 in the existing Statement would be merged into a single paragraph (paragraph 2 of the proposed new Statement). The intention here is to make the policy more concise without changing the overall meaning. Changes have also been made to reflect the move to a new unitary council.

3.2. In addition to the minor amendments referred to above there are two proposals with wider reaching implications. The first of those proposals relates to applications supported by user evidence while the second concerns uncertified applications. Each of these proposals is discussed in more detail below.

User Evidence

3.3. The current review does not propose to alter the general approach to prioritising applications; those applications which were scored prior to 2011 would continue to be ranked in that order while later applications would be ranked in chronological order. However, the Statement of Priorities includes a number of factors which allow for an application to be dealt with out of the normal order. It is recommended that these factors should be updated to allow applications based on user evidence to be given greater priority. The rationale for this is that it would

provide greater opportunity to gather first-hand evidence from those familiar with the route in question.

3.4. Broadly speaking the evidence supporting any given case falls into one of two categories; documentary or user evidence. The majority of the County Council's applications are based solely on documentary evidence. However, there is a significant minority which include user evidence.

3.5. User evidence is typically formed of first-hand witness accounts of the route. It can sometimes be collected on user evidence forms or letters/emails. However, evidence given in person (either by way of an interview with an officer or at a public inquiry) can be incredibly useful in adding to the written accounts. It will often draw out information which would not otherwise have been apparent from the written evidence. Furthermore, evidence given in this way normally carries more evidential weight.

3.6. The size of the County Council's backlog of applications means that it can be many years between the receipt of an application and it being investigated. As time passes interested parties (e.g. users, landowners etc) tend to move away or become unavailable for other reasons such as ill health or death. As a result, the opportunity to gather and verify evidence diminishes. Documentary evidence tends not to suffer from this problem to the same extent. Furthermore, even where witnesses are still available when investigation comes to take place, the passing of time inevitably makes their recollection of events less detailed and, sometimes, less reliable. It is primarily for these reasons that it is proposed to prioritise applications which are supported by user evidence. Investigating them sooner will give the Council a greater opportunity to gather valuable evidence from users, landowners and other interested parties.

3.7. It will be noted that the amended Statement is worded so as to prioritise those applications which, at the time of their submission, were accompanied by five or more user evidence forms. This is to avoid applicants abusing the system by submitting a very small amount of user evidence with the sole intention of pushing their application up the list (i.e. the concern that was raised when this policy change was considered during the 2018 review).

Uncertified applications

3.8. Schedule 14 to the Wildlife and Countryside Act 1981 sets out how an application to modify the Definitive Map and Statement should be made. First, the applicant must complete an application form detailing what changes they are seeking and what evidence they are submitting in support of their application. Having done this, the application is added to a public register.

3.9. Having made the application the applicant must then serve notice on affected landowners/occupiers. Finally, they must certify to the County Council that those notices have been served. Once certification has taken place the County Council has a duty to determine the application and it must do so 'as soon as reasonably practicable'.

3.10. While the majority of applications in the County Council's backlog comply with the requirements of Schedule 14, there are a significant minority for which the second and third steps in the application process (i.e. notice serving and certification) have not yet been completed.

3.11. The County Council's current practice is to strongly encourage applicants to fully comply with the application requirements as set out in Schedule 14. However, the lack of a certificate has not thus far been a factor in determining the priority given to an application.

3.12. The proposed revisions to the Statement of Priorities alter this approach. When uncertified applications reach the top of the queue they would be held in abeyance until such time as a certificate had been received from the applicant or all other certified applications had been investigated (see paragraph 3 of the revised Statement).

3.13. By altering the policy in this way the County Council will be sending a stronger message to applicants that they ought to be complying with all of the statutory requirements. It also ensures that resources are focused on those applications which the County Council has a duty to determine as soon as reasonably practicable. That is not to say that the uncertified applications should not be considered. However, they would typically be treated under the new policy as a lower priority than those applications which had been certified.

3.14. The proposed Statement of Priorities includes an exception to the general rule of holding uncertified applications in abeyance. That rule would not apply to those applications which had been taken out of the normal order in accordance with paragraph 4 of the revised Statement. In such cases the applicant would still be strongly encouraged to certify their application. However, where that step is not taken the Council would not immediately suspend investigation. The reason for this is that, by definition, applications which are taken out of the normal order are considered to be of higher priority. Having accepted the need to investigate such cases ahead of others in the queue, it would seem illogical to then deprioritise them as a result of a failure in the application process.

3.15. It should be noted that the approach set out above is not without disadvantages. If the applicant is dissatisfied with their application being held in abeyance then it will normally be within their gift to rectify the situation (i.e. they can serve notice on the landowner and certify that they have done so). However, that option is not open to other affected parties such as landowners.

3.16. Holding an uncertified application in abeyance is likely to lead to further delays in the affected landowner(s) being informed of the existence of that application. Furthermore, unless the application meets one of the criteria for being taken out of turn, it is likely to remain uninvestigated while newer certified cases continue to take priority over it. The affected landowner(s) will therefore have longer to wait for a resolution to the issue. During that time the application would remain on the Council's register and would need to be disclosed to potential buyers conducting local searches.

3.17. However, as mentioned above, de-prioritising uncertified applications will allow the Council to focus its resources on those cases which it has a duty to determine as soon as reasonably practicable.

3.18. Furthermore, it should be noted that the Deregulation Act 2015 will pass the burden of serving notice on the landowners affected from the applicant to the Council. The relevant provisions of that Act are yet to be commenced but it is understood that Defra are looking to bring them into force later this year and that the intention is that they would apply retrospectively (i.e. there would be a duty on the Council to serve notice on the landowners affected by applications in our backlog as well as those affected by new applications). If this is the case then all applications will become certified in due course. At that time any issues surrounding the prioritisation of uncertified applications is likely to fall away.

3.19. In addition to requiring the Council to serve notices on landowners, the Deregulation Act 2015 will also make a number of other changes which are intended to streamline the application process. It is hoped that this will assist in reducing the size of the current backlog. It may also necessitate further changes to the Statement of Priorities. Any changes which would affect the way in which applications are prioritised would need to be agreed by the Lead Member. However, it is recommended that officers be authorised to make minor editorial amendments to the Statement where those amendments have no bearing on the overall mechanism for prioritising applications. The intention of this is to allow reference to the relevant sections and schedules of the Wildlife and Countryside Act 1981 to be updated as these are changed by the Deregulation Act 2015.

4. Consultation

4.1. Over the previous two years a number of user representatives have made strong representations that user evidence applications should be given greater priority. The reasons given are much the same as those set out above.

4.2. The Somerset Local Access Forum (whose members represent a variety of interests including landowners and users) were consulted on amending the Statement of Priorities on 13 October 2022. However, at the time the proposals around holding uncertified applications in abeyance were not being considered. The Forum have not met since October 2022 and so it has unfortunately not been possible to seek their views on that particular proposal.

4.3. The Forum were supportive of each of the other changes being proposed. They also suggested that applications for routes which have become obstructed should be given greater priority. This is considered to already be addressed within paragraph 6(ii) of the revised Statement which allows for applications to be taken out of turn in exceptional circumstances having had regard to the likelihood of a route being obstructed by a development.

5. Conclusion

5.1. Officers have been acutely aware to ensure that any proposed revision to the policy is necessary, light-touch, maintains a fair and balanced approach, and does not become overly cumbersome to administer. This final point is considered to be critical to ensuring that resources are not unnecessarily diverted away from dealing with the current outstanding applications.

5.2. It is proposed that the policy be amended to enable cases which rely on user evidence to be investigated as a high priority while individuals' experiences of a route are fresher in their minds. In addition the proposed revisions would, in most cases, give greater priority to those applications which have been certified. In doing so the Council will be better able to focus its resources on those applications which it has a duty to determine as soon as reasonably practicable.

5.3. The decision as to whether or not to adopt any amendments to the current policy will be made by the Lead Member for Environment and Climate Change.

5.4. Should the proposed changes to the policy be adopted officers will continue to monitor their effectiveness in order to identify and address any unintended consequences.

6. Recommendation

6.1. It is recommended that the Regulation Committee provide their support for the proposed changes to the Statement of Priorities.

List of Appendices

Appendix 1. The current Statement of Priorities

Appendix 2. Draft Statement of Priorities with proposed changes

Appendix 1.

The current Statement of Priorities

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The Definitive Map and Statement of Rights of Way Statement of Priorities

1. This statement sets out how Somerset County Council prioritises the investigation of applications to modify the legal record of public rights of way known as the Definitive Map and Statement. For the purpose of this document the term 'application' is used in a broad sense and encompasses both:

- i) applications made under section 53(5) of the Wildlife and Countryside Act 1981 (including applications for which the County Council has waived the requirement for strict compliance with Schedule 14 of the 1981 Act); and
- ii) cases which are not subject to an application made under section 53(5) but which the County Council have nevertheless undertaken to investigate of its own accord.

2. Applications which were received by or before 28 November 2011 and which were scored under the previous Statement of Priorities will ordinarily be investigated in scored order (those with the highest score being investigated first).

3. Applications received since 28 November 2011 will ordinarily be investigated in chronological order of receipt with the oldest applications being investigated first.

4. Subject to the provisions below, all applications received by or before 28 November 2011 will be investigated before the investigation of those applications received since that date.

5. Applications can be investigated out of their normal order (i.e. the order set out in paragraphs 2 to 4 above) in the following circumstances:

- i) where it is determined that an application should be investigated out of turn in accordance with paragraph 6 below; or
- ii) where the application is subject to a direction made by the Secretary of State under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981; or
- iii) where the application is being considered as part of a batch pursuant to paragraph 7 below

The order in which applications prioritised under this paragraph are investigated will be at the discretion of the Rights of Way Service Manager.

6. Applications will only be taken out of turn in accordance with paragraph 5(i) in exceptional circumstances, having regard to the existence of the following:

- i) the path concerned is subject to a Small Improvement Scheme or is identified /affected by any Future Transport Plan;
- ii) the claimed rights are likely to be obstructed as a result of development;
- iii) an affected party can demonstrate that:
 - a) they are experiencing exceptional problems due to an application that impacts on their property, and
 - b) their out of turn request has the support of the Chairman of the Regulation Committee and/or the local County Councillor;
- iv) the path concerned is subject to a Section 130A notice and the County Council is satisfied that there is cogent evidence that:
 - a) the status or alignment of the path is in dispute; and
 - b) the resolution of that dispute would enable the County Council to respond with greater certainty to the Section 130A notice.

7. In order to make the most efficient use of resources, applications may be batched together. In such cases applications which would otherwise be of a lower priority will be brought forward to be investigated with an application which is about to be investigated. All batching will be at the discretion of the Rights of Way Service Manager.

Appendix 2.

Draft Statement of Priorities with proposed changes

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The Definitive Map and Statement of Rights of Way Statement of Priorities

1. This statement sets out how Somerset Council prioritises the investigation of applications to modify the legal record of public rights of way known as the Definitive Map and Statement. For the purpose of this document, and unless otherwise stated, the term 'application' is used in a broad sense and encompasses both:

- i) applications made under section 53(5) of the Wildlife and Countryside Act 1981 ('the 1981 Act') and which are compliant with paragraph 1 of Schedule 14 to that Act (including applications for which the Council has waived the requirement for strict compliance with that paragraph); and
- ii) cases which are not subject to an application made under section 53(5) but which the Council have nevertheless undertaken to investigate of its own accord.

2. Subject to the provisions below, applications which were received on or before 28 November 2011 and which were scored under a previous Statement of Priorities will ordinarily be investigated in scored order (those with the highest score being investigated first). Once investigation of all of those applications has begun, applications which have been received since 28 November 2011 will be investigated in order of receipt with the oldest applications being investigated first.

3. Unless taken out of the normal order in accordance with paragraph 4 below, investigation of applications falling into the category described in paragraph 1(i) above will not commence until such time as either:

- i) they have been certified in accordance with paragraph 2(3) of Schedule 14 to the 1981 Act; or
- ii) all other certified applications have been investigated.

For the avoidance of doubt this paragraph does not apply to those cases which are not subject to an application made under section 53(5) but which the Council have nevertheless undertaken to investigate of its own accord.

4. Applications will be investigated out of their normal order (i.e. the order set out in paragraphs 2 above) in the following circumstances:

- i) where it is determined that an application should be investigated out of turn in accordance with paragraph 6 below;
- ii) where the application is subject to a direction made by the Secretary of State under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981;
- iii) where the application is being considered as part of a batch pursuant to paragraph 7 below; or
- iv) where the application was supported by 5 or more user evidence forms originating from multiple addresses when originally submitted.

The order in which applications prioritised under this paragraph are investigated will be at the discretion of the Rights of Way Service Manager.

5. Where the applications currently being investigated are wholly those under 4(iv) then a minority of resource may still be apportioned to progressing those applications as per paragraph 2

6. Applications will only be taken out of turn in accordance with paragraph 4(i) in exceptional circumstances, having regard to the existence of the following:

- i) the path concerned is subject to a Small Improvement Scheme or is identified /affected by any Future Transport Plan;
- ii) the claimed rights are likely to be obstructed as a result of development;
- iii) an affected party can demonstrate that:
 - a) they are experiencing exceptional problems due to an application that impacts on their property, and
 - b) their out of turn request has the support of the Chairman of the Strategic Planning Committee and/or the local Somerset Councillor;
- iv) the path concerned is subject to a Section 130A notice and the Council is satisfied that there is cogent evidence that:
 - a) the status or alignment of the path is in dispute; and
 - b) the resolution of that dispute would enable the Council to respond with greater certainty to the Section 130A notice.

7. In order to make the most efficient use of resources, applications may be batched together. In such cases applications which would otherwise be of a lower priority will be brought forward to be investigated with an application which is about to be investigated. All batching will be at the discretion of the Rights of Way Service Manager.

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