The Planning Inspectorate

Appeal Decisions

Inquiry held between 4 and 14 October 2022
Site visit made on 12 October 2022

by Nick Palmer BA (Hons) BPl MRTPI and Rachael A Bust BSc (Hons) MA MSc LLM PhD MInstLM MCMI MIEnvSci MRTPI

Inspectors appointed jointly as a panel by the Secretary of State

Decision date: 5th January 2023

Appeal A Ref: APP/J1155/W/22/3299799
Straitgate Farm, Exeter Road, Ottery St Mary, Devon EX11 1LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Aggregate Industries UK Ltd against the decision of Devon County Council.
- The application Ref DCC/3944/2017, dated 28 February 2017, was refused by notice dated 7 December 2021.
- The development proposed is extraction of up to 1.5 million tonnes of as raised sand and gravel, restoration to agricultural land together with temporary change of use of a residential dwelling to a quarry office/welfare facility.

Appeal B Ref: APP/J1155/W/22/3299802
Hillhead Quarry, near Uffculme, Cullompton, Devon EX15 3EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Aggregate Industries UK Ltd against the decision of Devon County Council.
- The application Ref DCC/3945/2017, dated 28 February 2017, was refused by notice dated 7 December 2021.
- The development proposed is importation of up to 1.5 million tonnes of as raised sand and gravel from Straitgate Farm into Hillhead Quarry for processing.

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for extraction of up to 1.5 million tonnes of as raised sand and gravel, restoration to agricultural land together with temporary change of use of a residential dwelling to a quarry office/welfare facility at Straitgate Farm, Exeter Road, Ottery St Mary, Devon EX11 1LG in accordance with the terms of the application, Ref DCC/3944/2017, dated 28 February 2017, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for importation of up to 1.5 million tonnes of as raised sand and gravel from Straitgate Farm into

Hillhead Quarry for processing at Hillhead Quarry, near Uffculme, Cullompton, Devon EX15 3EP in accordance with the terms of the application, Ref DCC/3945/2017, dated 28 February 2017, subject to the conditions set out in the attached schedule.

Procedural Matters

3. The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the EIA Regulations) continue to apply in the context of this appeal, pursuant to Regulation 76(2)(a) of the 2017 EIA Regulations. By letter dated 19 August 2022, the Secretary of State notified the appellant that further information was required to be submitted pursuant to Regulation 22 of the EIA Regulations. The requested information was submitted on 28 September 2022 and placed in the Core Document library. The further information was advertised in the Western Morning News on 4 October, giving a deadline of 25 October 2022 for responses.

4. The Inquiry was left open to allow for responses to the further information and was closed in writing on 4 November 2022. The representations that were made in response to the publicity have been taken into account in our decision.

5. We are satisfied that the Environmental Statement as supplemented by further information, including the appellant's response to the Regulation 22 request, considered in total, is sufficient to meet the requirements of Schedule 4 of the EIA Regulations and this information has been taken into account in reaching our decision.

6. Straitgate Action Group (SAG) is a local action group of interested parties which opposes the development. SAG had Rule 6 status in the Inquiry.

7. The Appeal B application as submitted also proposed the widening of a 400 metre length of Clay Lane. Prior to the determination of the application, the Minerals Planning Authority (MPA) and the appellant agreed that this should be deleted from the description of development because planning permission has been granted for this work separately. We have amended the description in the header accordingly.

Main Issues

8. From all that we have read, seen and heard, the main issues in Appeal A are:

   i) the effect of the development on water supplies and human health;

   ii) its effect on drainage and flood risk;

   iii) its effect on heritage assets;

   iv) its effect on trees and hedgerows;

   v) its effect on highway safety; and

   vi) its effect on biodiversity.

9. In respect of Appeal A and Appeal B:

   vii) The sustainability of transporting sand and gravel by road from Straitgate Farm to Hillhead Quarry.

Reasons

10. The proposed quarry in Appeal A would be to the immediate east of the A30 and north-west of the farm buildings at Straitgate Farm. This is a Preferred Area for development of sand and gravel resources in Policy M12 of the Devon Minerals Plan (2017) (the DMP). That policy requires development to be undertaken in accordance with mitigation measures that are set out in Appendix C to the DMP.

11. It is proposed to extract up to 1.5 million tonnes of sand and gravel from an extraction area of approximately 25 ha. Soil storage and vehicle parking would take place on an area to the east of the working and north of the farm buildings. A new access road would be formed to Birdcage Lane and then onto the B3174 Exeter Road. Excavated material would be transported to Hillhead Quarry at Cullompton for processing.

Water Supplies

12. The site falls within the Budleigh Salterton Pebble Beds (BSPB) formation. It lies on high ground relative to the land to the east and south. Because of the elevation relative to surrounding land, the site and adjacent areas of high ground provide the headwaters to the aquifer via infiltration. The aquifer is of limited size and for this reason may be sensitive to any change that would affect groundwater flows.

13. Water which infiltrates the higher ground at the site emerges as springs and streams to the east and south which, together with wells and boreholes provide private water supplies (PWS). There are 3 supplies from springs[1] to the east of the site. To the south of the site there is Pitfield Spring and a number of wells and boreholes that supply residential properties. In total these provide water for about 120 residents plus farmers and businesses.

14. In addition, Straitgate Spring feeds the Cadhay Wood Stream. This does not provide a PWS but runs through Cadhay Wood County Wildlife Site.

15. The Grade I listed Cadhay House and its Grade II Registered Park and Garden obtain water from Cadhay Spring. There are medieval fishponds within the garden which are fed from the spring and from Cadhay Wood Stream. The house and its garden are used for hospitality events. There is holiday accommodation and a number of businesses which are located there, all of which are dependent on this PWS.

16. The basis for the MPA's second reason for refusal is that excavation of the sand and gravel, which forms part of an unsaturated layer over the aquifer would decrease the time taken for water to infiltrate the rock to recharge the aquifer. The concerns are that this would reduce the potential for neutralisation of the water, thereby increasing its acidity and that it would interrupt the flow of groundwater. This would affect the quality and quantity of water at PWS.

17. The appellant has monitored groundwater on the site for a number of years. Surface water flows in local watercourses and springs have also been monitored as has water quality. The data obtained from these site investigations together with rainfall data and published literature has been used to inform the appellant's assessment of hydrogeology and to develop a

[1] Birdcage Farm, Straitgate Farm and Cadhay

conceptual understanding of the water balance. The catchment area of each PWS differs such that the contribution of water infiltrating the site to the supply at each PWS will vary. The appellant's assessment takes this into account.

Time taken for infiltration

18. It is agreed between the parties that the water table responds rapidly to rainfall events. Recharge occurs within a few days. The recharge from hydrologically effective rainfall is estimated by the appellant at 85% and this is not disputed. Any model of groundwater flow must be consistent with these observations. The appellant considers that the rapid response of the water table to rainfall demonstrates rapid infiltration by means of preferential and diffuse matrix flow. On the other hand, the MPA and SAG consider that there is 'piston flow' whereby water entering the upper part of the unsaturated zone displaces water at the lower levels so as to recharge the water table. If the latter were the case, water would take a much greater time to infiltrate and to reach the PWS.

19. There is a major difference between the parties in terms of time taken for water to reach PWS after entering the ground. The SAG contends that this period is almost 11 years between entering the ground on the site and reaching Cadhay Spring whereas the appellant considers that this period is about 200 days. A significant proportion of those time periods would be taken for water to travel though the saturated zone, or aquifer. The SAG calculates that water would take 5.33 years to move through the unsaturated zone, or almost half of its estimated total travel time. By contrast, the appellant assesses the travel time through the unsaturated zone at about 10% of its calculated total time. Irrespective of the time taken for water to infiltrate the unsaturated layer, it is clear that a significant proportion of the time taken to reach PWS is spent within the aquifer, which would not be affected by the proposal.

20. Both the SAG and the MPA have based their calculations on average flow rates through the unsaturated zone taken from published literature. SAG's velocity of 1.06 m/year is a measure for Sherwood Sandstone generally. Although the BSPB forms part of this group, the velocity figure used is not specific to this formation. The MPA's view is that velocities are likely to vary between 0.5 and 3.7 m/year.

21. The average velocities of flow through the unsaturated zone used by SAG and the MPA are annual average figures which would be consistent with rapid flow periodically to coincide with rainfall events and no flow at other times.

22. The published literature shows that the BSPB formation is coarse-grained and has high levels of hydraulic conductivity. This is supported by values obtained from site investigations[2] and is consistent with the Environment Agency's (EA) Otter Valley hydrogeological model. The BSPB is not cemented; its grain sizes are large, and its porosity is quite high in terms of specific yield at 10-15%.[3]

23. These characteristics support the appellant's model of rapid infiltration rather than piston flow, which would require significant saturation of the rock to operate. For these reasons we are not persuaded that piston flow is the dominant flow mechanism in the BSPB or at the site.

[2] From soakaway tests in trial pits and piezometer tests.
[3] Consistent with the figures used by Professor Brassington and Mr Thomson.

24. It was suggested that air in the system could contribute to piston flow, but this has not been demonstrated within the BSPB or at the site and is therefore not clearly evidenced here.

25. It was also suggested that silt retention within the pores would support saturation of the rock and piston flow. Silt or fine sand may assist in retaining water above the water table by capillary action, but it has not been conclusively demonstrated that this material results in piston flow at the site.

26. Even if hydraulic conductivity is significantly lower than indicated by the published literature, the appellant has demonstrated that rapid flow through the unsaturated layer would still be possible.[4] This shows that the appellant's assessment is conservative.

27. We have taken into account the limited size of the aquifer and its sensitivity to change. We have considered all other matters raised in relation to this issue, but there is a lack of certainty regarding the MPA's and SAG's piston flow theory and this has not been convincingly demonstrated. For these reasons we prefer the appellant's model of rapid infiltration.

Acidity

28. The quality of water in PWS is governed by the Private Water Supplies (England) Regulations 2016. The regulations do not define the wholesomeness of water in terms of hydrogen ion (pH) value, although they prescribe it to be between 6.5 and 9.5. The level of acidity is monitored and can trigger an investigation by a local authority. The World Health Organisation does not prescribe any minimum pH value for drinking water.

29. While the pH value of drinking water alone may not necessarily affect its wholesomeness, it has to be borne in mind that increased acidity can corrode metal pipework with resulting contamination of water supply.

30. The monitoring of groundwater acidity at springs in the area has revealed pH values between 5.5 and 6.5[5] at Birdcage Farm Spring, Straitgate Spring and Straitgate Farm Spring. The MPA states that the pH of water at Cadhay Springs is approximately 5.6 to 5.7[6].

31. There is agreement between the parties that the pH value of rainfall entering the ground is about 4.5. Given the difference between this figure and those monitored it is evident that some neutralisation takes place within the ground before the water reaches PWS. It is agreed that neutralisation takes place in the soil layer. It is also agreed that the deeper rock including the material to be excavated contains little or no calcium carbonate minerals that would neutralise the acidity of groundwater. It has not been demonstrated that there is any other mineral in the deeper rock that would neutralise acidity.

32. It is relevant that the pasture within the site has lime applied to it which will contribute to the neutralising effect of the soil. The agent for the tenant farmer has stated[7] that lime is applied usually every other year. Soil removal during quarrying would be limited to each area worked and would be replaced following extraction. Any disruption to the neutralising effect of the soil would

[4] Dr Heathcote Proof A.5.11
[5] Dr Salmon Proof Table A.3
[6] Mr Thomson Proof paragraph 8.7
[7] CD4.53 Appendix E

be restricted to the area affected and the period during which the soil is removed.

33. Water that enters the groundwater systems from the site forms only a fraction of the water obtained at PWS, with much of the water coming from elsewhere. The appellant has assessed the effects of changes of acidity at PWS. This assumes that soil-zone neutralising processes on the site cease and the only processes still operating are evaporative concentration, the oxidation of ammonia in rainfall to nitric acid and absorption of carbon dioxide at atmospheric concentration. The appellant's analysis considers all of the streams and springs originating from the site and is based on data collected from monitoring.

34. This analysis demonstrates[8] that acidity will only differ from that of current groundwater where the proportion of affected groundwater is at least 60%. The springs that supply PWS in the area would all be well below this proportion. The exception to this would be Straitgate Farm Spring[9] at 62.6%. This is owned by the site owner and does not supply any other property.

35. The remaining spring-fed PWS at Birdcage Catchpits and Spring, Pitfield Farm Stream and Cadhay Spring are well below the 60% threshold in terms of the proportion of their catchment areas within the proposed extraction area and the acidity of their supplies would not be affected. The appellant estimates that the catchment of the PWS south of the site does not encroach on the proposed extraction area and so the water quality at those PWS would not be affected. No substantive evidence to the contrary was presented on this point.

36. Dr Heathcote's Figure 2.4 shows that the acidity of the water supply at Straitgate Farm Spring would be affected to a limited extent of about 1 decimal point of pH value during excavation. Following restoration of the soil, this would likely return to its current value.

37. We have found that the appellant's model of rapid infiltration is to be preferred. However, irrespective of this, it has been demonstrated that the time taken for water to infiltrate the rock would have little or no effect on its acidity and that the catchment areas of the PWS would not be adversely affected in any case because of the limited proportion of groundwater originating from the site. Although the assumptions used in the appellant's assessment have been questioned, no alternative analysis demonstrating different results has been provided.

38. Because the acidity of water supplies would not be affected by the proposal, associated issues with any additional corrosion of metal pipework at any property would be unlikely. Notwithstanding this, the submitted Unilateral Undertaking (UU) would provide for alternative water supplies in the event of any contamination. We note that much of the pipework at Cadhay House has been replaced with plastic pipes and so it is most unlikely that any such effects would occur there.

39. The medieval ponds at Cadhay are fed from an overflow from Cadhay Springs and from Cadhay Wood Stream, which in turn is fed by Straitgate Spring. The latter would be the most affected of the water sources in the area with 78.8%

[8] Dr Heathcote Proof Figure 2.4
[9] Dr Salmon Proof Table 2.1

of its catchment affected[10]. During periods of prolonged dry weather, the ponds are predominantly fed from Cadhay Springs which provide a more reliable flow than the stream. The fountains are also fed from this source.[11] The appellant's assessment[12] shows that there would be little difference in the acidity of water in Cadhay Wood Stream as a result of loss of carbon dioxide to the atmosphere and its removal by aquatic plants as well as mixing with other sources of groundwater.

40. Similarly, the Cadhay Bog Stream would not be adversely affected in terms of increased acidity. For these reasons, the ecology of the medieval ponds at Cadhay, and the County Wildlife Sites at Cadhay Bog and Cadhay Wood would not be adversely affected by water quality.

Groundwater flow

41. The second main strand of contention with respect to water supplies is the potential for interruption of supply at PWS, through removal of storage in the unsaturated zone and the potential for flows from rainfall to vary between very high and very low flows, particularly in periods of dry weather.

42. Infiltration basins would be used to ensure that rainwater continues to infiltrate the site and to prevent undue run-off. Although further infiltration testing would be necessary over the operational period of the works, the evidence is sufficient to demonstrate that the basins would effectively allow for equivalent or greater levels of infiltration than the current green field state. The amount of water entering the aquifer would not be affected. The site would have a shallower slope following restoration, which would allow for a greater amount of infiltration and recharge in that location.

43. The site is separated geologically from the PWS to the east by a fault line. Parts of the aquifer to the east of the fault line exhibit confined behaviour, as shown by the logs from piezometers located in that area. The piezometers located within the proposed extraction area demonstrate that that part of the aquifer is unconfined. Because confined behaviour could limit the capacity for infiltration, this may indicate that a greater proportion of infiltration occurs at the site than would be the case if the catchment as a whole is unconfined. However, the proportions of the PWS catchments that would be affected by confined behaviour and the consequences for the appellant's model have not been demonstrated. It has been shown that the rate of infiltration at the site, which is not affected by confined behaviour would not be significantly affected.

44. We acknowledge that the unsaturated zone has the potential to store water, but this potential would be limited given the rapid rate of infiltration through it. For this reason, it is unlikely that the unsaturated zone would effectively act as a buffer to groundwater flow. The proposal would only affect a limited proportion of the catchment of each PWS. It is also the case that the majority of groundwater flow takes place in the aquifer. Taking all of these factors together it is unlikely that the excavation of sand and gravel at the site would significantly affect groundwater flows or the quantities of water at the PWS.

45. The MPA and SAG say that legacy boreholes could have affected the groundwater data collected. However, no evidence was presented to

[10] Dr Salmon Proof Table 2.1
[11] Mr Thistlethwayte and Professor Brassington's Proofs
[12] Dr Heathcote Proof B.10

demonstrate conclusively that this was the case. The average distance between legacy boreholes and new ones was given as 70m[13] and only very limited volumes of water would pass down these. It is unlikely that the groundwater data would be affected in this way to any appreciable extent.

46. While the MPA and SAG are critical of the appellant's hydrogeological assessment, the EA is satisfied that this is robust. The appellant has monitored groundwater levels and the flows of PWS and watercourses, and data from the last 9 years is presented in the assessments. Similar monitoring together with rainfall measurements has also been carried out by the EA. The available data is thus comprehensive. We note the MPA's concern that a pumping test has not been carried out in order to assess hydraulic conductivity and specific yield, but we see no reason to doubt the robustness of the assessment work that has been undertaken by the appellant.

Method of Working

47. Table C.4 of the DMP requires dry working above the maximum winter level of groundwater. The proposed method of working would use a Maximum Winter Water Table (MWWT) grid which would be based on the highest recorded groundwater levels from piezometer data. The MWWT grid would be updated as necessary to reflect any higher groundwater readings. Extraction would normally take place during summer months and would be to the MWWT level, or to 1 metre above the current water table. Following summer working, overburden would be deposited to an average depth of 2.2 metres. Although no working would normally take place during winter months, if this were to take place it would be to a maximum depth of 1 metre above the MWWT. This method of working would allow for a 1 metre freeboard to be maintained to ensure dry working. We acknowledge that there may at times be a capillary fringe above the water table, but this would be unlikely to compromise the intended dry method of working.

48. Markers would be used on site to give clear indication to the operator of the proximity to the MWWT. SAG has expressed concern about the effectiveness of this method in ensuring that working does not directly affect the aquifer but has not put forward any alternative method.

49. Regular monitoring of the MWWT grid and ensuring that working maintains the required minimum 1 metre freeboard above the water table can be secured by planning conditions. The EA accepts that this method of working would be effective in protecting groundwater, subject to such conditions. As the MWWT grid would be based on the highest recorded water table levels, it would form a robust mechanism to ensure that there would be no breach of the water table. A condition could include an annual review mechanism to secure any updates to the drainage scheme should they be necessary as a result of groundwater monitoring.

50. SAG has concerns that the storage arrangements for soil and overburden could disturb the water table. However, a detailed soils management scheme can be required by a condition to ensure that the water table is not disturbed. Detailed drainage measures can also be secured by condition.

[13] Dr Salmon examination-in-chief

Mitigation

51. For the reasons given above, it has been clearly demonstrated that the development would not be likely to result in unacceptable adverse effects on water supplies and human health. Notwithstanding this finding, the UU would secure provision of alternative water supplies as a contingency measure. This provision is in accordance with the requirement in Table C.4 of the DMP that provision for alternative supply in the event of derogation is made. Water supplies would be monitored during quarry operation and restoration and following restoration in accordance with schemes to be agreed with the Council. This provision accords with Table C.4 of the DMP and demonstrates a precautionary approach to safeguarding water supplies.

52. The measures provided in the UU to mitigate loss of flow or water quality have been subject to criticism both by the MPA and by SAG. The UU provides a mechanism whereby either the Council, the EA or a PWS interest could report any derogation, contamination or other interference with water supply, which would then be investigated by the site owner within 2 hours of receipt of the report.

53. Provision for alternative water supply would be made by the quarry site owner. Initially this would be likely to be by means of a temporary supply such as from a bowser until the cause of the matter reported could be established. The matter would be investigated by an independent water quality consultant to determine whether it is attributable to the development. The precise nature of any measures used would be determined with regard to the particular problem reported and the practicalities of providing alternative supplies, which may vary between individual PWS. However, the mechanism provided by the UU would be adequate in ensuring alternative water supplies in the unlikely event that these would be required as a result of the development. Determination of these matters by an independent expert would be appropriate as they would require professional judgement.

54. The Water Industry Act 1991 imposes a statutory duty on the water company to provide a connection if requested to do so by means of the requisite notice. Provision of a mains connection would be one option of several including provision of new or deeper boreholes, water treatment, storage facilities, or any other solution proposed by the independent expert. Any such works would be paid for by the quarry site owner and operation of the site would cease until the requirements of the UU in this respect have been met.

55. The UU is provided as a precautionary measure in respect of water supplies and is only necessary on this basis. We find that the UU would be an effective mechanism to provide alternative water supplies.

Conclusion on water supplies

56. Much of the MPA's and SAG's cases relating to water supplies is based on criticism of the appellant's assessment, including in terms of the data relied on. We find that assessment to be comprehensive and robust. No convincing alternative assessment that is supported by site-specific data has been presented.

57. Policy M21 of the DMP requires development to seek to conserve natural resources including water. Part 1 of the policy presumes in favour of proposals

that do not harm the quality, availability and/or flow of surface water and groundwater and the integrity and function of the water system surrounding the site. Part 2 requires that any negative impacts of mineral development on natural resources should be mitigated through appropriate measures. The proposal would accord with that policy. The proposal would also accord with the requirements of Table C.4 and Policy M12 for the reasons given.

58. For these reasons the proposal would accord with Policy EN18 of the East Devon Local Plan (2016) (LP) which requires appropriate measures to ensure that development does not adversely affect the quality or quantity of either surface or groundwater. The proposal would also accord with Policy M23 of the DMP which requires protection of peoples' quality of life, health and amenity.

59. For the reasons given the proposed development would not result in unacceptable harm to water supplies or to human health.

Drainage and Flood Risk

60. The quarry would be worked in three phases and within each phase an infiltration basin would be provided at its eastern boundary, which would be contained by a bund in each case. The purpose of the bund would be to prevent run-off and to direct surface water into the infiltration areas. This would ensure recharge at the same rate, or slightly higher than currently occurs.

61. The MPA and SAG expressed concerns about the methodology used for infiltration testing and that infiltration would not work as assumed with the result that there would be ponding which could attract birds and lead to bird strike hazard to operations at Exeter Airport. We have already concluded that the appellant's assumptions regarding the rate of infiltration are adequately supported by the evidence provided. It has been shown that ponding would not occur; Exeter Airport has not objected to the proposal.

62. We have also concluded that the method of working relative to the MWWT would be effective in ensuring that working takes place above the water table. The maximum depth of excavation in summer would be at least 1 metre above the water table. Following excavation during the summer months an average thickness of 2.2 metres of restoration material would be deposited, which would be well above the 1 metre thickness required by the EA. The appellant has provided cross-sections[14] which demonstrate that working would be no lower than the MWWT. The infiltration basins would remain above the water table.

63. Within the soil storage area, a swale and piping would be used to direct surface water to an attenuation basin, from which it would be discharged at greenfield rates. Concerns were expressed about the level of the water table in the soil storage area and the potential for stored soil to become wet, but water table levels would be monitored, and soil storage arrangements can be controlled by condition.

64. The modelling used to determine the drainage strategy is precautionary, in that the infiltration rate used in the groundwater modelling has been halved. This demonstrates robustness in the drainage design. A 10% allowance for climate

[14] CD4.24A

change has been made which is appropriate given that the design life of the quarry is 10 years.

65. While we note the concerns raised by the MPA and SAG that the drainage design is not sufficiently detailed, it has been demonstrated that this would work effectively in providing sustainable drainage for the site. Both the EA and the Lead Local Flood Authority have no objection to the surface water drainage scheme proposed, the latter noting that "it is extremely conservative in its design". Both of those bodies recommend the imposition of conditions regarding the detailed design of the drainage scheme. A final detailed design can be secured by planning conditions, which can include requirements for additional infiltration tests to be carried out, annual reviews of the scheme and details of a scheme for the management of exceedance flows.

66. The site is in Flood Zone 1 with regard to fluvial flooding and is not at risk of flooding from other sources. The submitted Flood Risk Assessment (FRA) recommends that surface water is managed on site using sustainable drainage to facilitate infiltration and that infiltration basins should have impermeable bunds. The FRA further recommends that excavation is carried out in phases in order to maintain even recharge to groundwater. The drainage scheme is in accordance with the recommendations of the FRA.

67. The surface water drainage strategy would be in accordance with the requirements of Table C.4 of the DMP. This notes that the risk of increased runoff from the site during working is low but requires sustainable drainage systems to ensure that any runoff is appropriately managed. The drainage proposal would accord with Policy M24 of the DMP which requires mineral development to be resilient to the impacts of flooding and not lead to an increased risk of flooding. It would also accord with Policy EN21 of the LP which requires a sequential approach whereby developments are located in Flood Zone 1 wherever possible.

68. The appellant states that the design of the drainage scheme will retain water from flood events and result in slightly higher recharge and reduced risk of flooding in the downstream catchments. No substantive evidence to the contrary was provided. The restored landform would be flatter than it is at present which would result in more recharge and less run-off.

69. We note that flooding has previously occurred in Ottery St Mary but for the reasons given above, the development would be safe and would not increase the possibility of flooding elsewhere. We note also that there has previously been flooding as a result of a narrow culvert under Birdcage Lane, that this was upgraded in 2015 and there have been no flooding issues there since that upgrade.

70. For the reasons given the proposal would not adversely affect the area in terms of drainage or flood risk.

Heritage Assets

71. Straitgate Farmhouse is to the immediate south-east of the operational area of the proposed quarry and south of the proposed soil storage and access area. It is a traditional 17th century Devon farmhouse and is listed at Grade II. The significance of this asset derives from its age, architecture and construction as

well as its historic function as a farmhouse. It fronts onto Exeter Road but is set back from the road behind a garden and a remnant orchard.

72. To the rear of the building there are historic outbuildings in a courtyard arrangement. These form part of the historic group of buildings and can be considered to fall within the curtilage of the listed building. To the rear of that group and on both sides, there are a number of modern farm buildings, which separate the group from the site. To the west of the historic group of buildings there are trees which screen views of the buildings from the proposed quarry area.

73. The development would affect the setting of the listed building by changing the use of the land associated with it and thereby reducing its connection with agriculture. The visual effects of the quarry and soil storage area would also affect the setting, as would the activity arising from quarrying operations, including movement of material by heavy goods vehicles. The development would affect the significance of the heritage asset in terms of understanding its historic function as a farmhouse in association with the adjacent farmland. These effects would, however, be temporary for a planned operational period of 10 years plus a 2 year period for restoration, following which the site would be returned to agricultural land. The restored profile of the land would be flatter than currently exists, but this change would be limited in the context of the setting and would not harm the significance of the asset.

74. The visual effects of the development upon the setting of the listed building during operation would be limited by the screening effect of the modern agricultural buildings and the trees adjacent to the farmhouse and its outbuildings. We saw on our visit that the listed building is hidden in many views from within the site because of the topography. These aspects would mitigate the visual effects of the development during the operational period.

75. Nonetheless, there would clearly be a harmful effect on the significance of Straitgate Farmhouse during operation because of the loss of the associated agricultural land together with visual effects and the quarrying activity. This harm would be less than substantial because of the mitigating effects of the adjacent buildings and trees and given that the loss of agricultural land would be temporary.

76. Cadhay House is approximately 1.8 km to the east of the site and is Grade I listed and thus of the highest significance. It is a large stone house dating from the 16th century and built on the site of an earlier house. Its garden is a Grade II listed Registered Park and Garden (RPG). This is of similar age to the house and its medieval fishponds are a key feature. The existing garden was created in the 20th century, but it conforms to the pattern of use shown on the 1809 OS map.

77. The house and garden are used for weddings and other hospitality events. Holiday accommodation is provided at the property and there are a number of businesses associated with it. The house and its garden are regularly opened to the public and there is a tearoom there. The private water supply to Cadhay forms part of its significance, because the house has always relied on such a supply, and this contributes to its authenticity.

78. The medieval fishponds within the garden are an important part of the significance of the RPG, particularly given their age. The garden including the

ponds is designed to relate to Cadhay House and it forms part of the significance of the house. We have already concluded that the acidity and flow of the water supply to the house and the ponds would not be harmed by the development.

79. Evidence was provided to show that increased acidity can encourage growth of filamentous algae in waterbodies. If this occurred at Cadhay, it could affect the ecology of the ponds and their appearance. There could also be odour resulting from decomposition of plants which could detract from the attractiveness of the ponds and the garden. Notwithstanding our finding that the acidity of the water supply to the ponds would not be affected, even if this were the case it has not been demonstrated that filamentous algae would necessarily grow or that the appearance of the ponds would be affected. The ponds are supplied both from Cadhay Wood Stream and from the spring and it is unlikely that the level of water in them would be unacceptably affected.

80. For the reasons given in the preceding parts of this decision, the water supply to Cadhay would not be harmed in terms of quantity or quality. Consequently, the activities and uses of the house and garden would not be adversely affected. The significance of the house and garden would not be harmed in any other way. The planning obligation would provide for alternative water supplies in the event that they are interrupted or derogated as a precautionary measure and does not indicate any unacceptable level of risk to the heritage assets including their existing water supply.

81. Nonetheless, we have found that there would be less than substantial harm to Straitgate Farmhouse. We shall now consider the public benefits of the proposal. As a general principle, the National Planning Policy Framework ("the Framework") states that, when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.

82. The MPA acknowledged that there had been an error in its landbank calculation at the time it made its decision and that this is in fact greater than previously thought. However, the MPA stated that the landbank at the end of 2021 was 6.4 years, less than the 7 years required by the Framework. There is thus a shortage of sand and gravel in Devon. Although development of the allocated site west of Penslade Cross would contribute significantly to supply, there is no immediate prospect of this coming forward, and our decision must be based on the current situation with respect to sand and gravel supply.

83. The DMP states that Devon County Council works with Somerset and Cornwall to ensure the maintenance of a steady and adequate supply of sand and gravel. There is a Memorandum of Understanding between those three counties which states that extraction of land-won sand and gravel within the counties has been limited to Devon and that this is largely reliant on the BSPB which yields 80-85% of its annual production.

84. The value to the economy of the mineral to be excavated together with the shortage of aggregate minerals in the County and the south-west generally, attract great weight in favour.

85. The appellant also proposes restoration of the orchard at the front of Straitgate Farmhouse. Cuttings from the existing apple trees would be propagated and planted. We saw on our visit that tree cover within the orchard is sparse compared with what it would have been historically. Because the orchard is

part of the historic layout of the grounds to the farmhouse, its restoration can be given some weight in favour. In addition to these considerations there would be a 15% net gain in biodiversity and new public footpath provision which would further weigh significantly in favour.

86. We give great weight to the less than substantial harm to the significance of Straitgate Farmhouse, but that weight is clearly outweighed by the great weight plus additional weights to the identified public benefits of the scheme.

87. For these reasons the proposal would be in accordance with Policy M19 of the DMP which requires that, where harm to a heritage asset is identified, substantial public benefits would outweigh that harm and that significant adverse effects can be adequately mitigated. The proposal would also accord with Policy EN9 of the LP which has similar requirements in terms of weighing public benefits against harm. Policy NP2 of the Ottery St Mary and West Hill Neighbourhood Plan (2017-2031) (NP) requires development to conserve or enhance heritage assets and their settings. The proposal would be in general accordance with that policy taking into account national policy.

88. Table C.4 of the DMP recognises that the effect of development of the site on the setting of Straitgate Farmhouse would be temporary. The requirement is that any restoration scheme should consider the historic landscape character and be sympathetic to the setting of the listed building. Because the land would be restored to its current land use and field pattern this requirement would be met and the proposal would accord with Policy M12 of the DMP which requires development to take place in accordance with the requirements set out in Table C.4.

89. For the reasons given we conclude that there would be no harm to Cadhay House or its garden, and that although there would be less than substantial harm to Straitgate Farmhouse during operations, that harm would be outweighed by public benefits.

Trees and hedgerows

90. From the appellant's Tree Constraints Plan, the proposed extraction area contains four individual trees and a number of field boundary hedgerows. The appellant's Arboricultural Report[15] states that 4 English oak trees (T5, T13, T16 and T17) and a small section of trees are identified for removal. However, it has been clarified that tree T13 would be retained. The 3 trees proposed for removal are categorised using BS5837:2012 as B1 and therefore of moderate quality. A group of trees referred to by Mr Steed as W1 were noted on our site visit. However, the appellant confirmed that there would be no intention to remove these as part of this appeal proposal. It is not disputed that the proposal would result in the unavoidable loss of some trees and hedgerows.

91. The proposed site access would be located in between trees F and G. There was some debate over whether trees F and G should be categorised as A or B using BS5837:2012. In our view, both categories A and B would indicate they are worthy of protection and should be retained.

92. We turn now to the effect of the heavy vehicle movements using the access on the roots and therefore the potential for harm to trees F and G. It was calculated at the roundtable session that there would be an approximate 16.9

[15] CD1.20A Landscape and Visual Impact Assessment

metre gap between these two trees even taking into account the proposed protection measures such as barrier fencing around root protection areas and rafting to prevent soil compaction. These measures are a common form of protection in principle and the finer details can be secured through appropriate planning conditions.

93. Taking a precautionary approach in relation to trees F and G and in a worst-case scenario there is potential for them to experience damage at some point during the lifetime of the appeal proposal; an appropriately qualified arboriculturist should undertake a watching brief to monitor and advise on the effectiveness of the intended mitigation measures. This is a matter which can be satisfactorily addressed through planning conditions.

94. At the Inquiry Mr Steed believed that trees F and G (English oaks) should be regarded as "early veterans" or "next generation veterans." In time and, if unaffected by other factors they may achieve veteran tree status. However, the definition in the Framework only recognises confirmed ancient woodland and veteran trees; it does not refer to "early veterans" or "next generation veterans." Natural England and Forestry Commission Standing Advice[16] indicate that veteran trees have significant decay features, such as branch death and hollowing such that they would contribute to exceptional biodiversity, cultural or heritage value. The evidence[17] submitted does not indicate that trees F and G present any such attributes. They are over mature specimens, but not veterans, with good physiological and structural conditions with an estimated life of 20+ years.

95. Overall, limited evidence was presented to the Inquiry relating to hedgerows. In the absence of specific detailed evidence from the appellant on hedgerows, beyond the contents of the Environmental Statement[18], we are therefore led by the evidence of Mr Steed on behalf of the Council who states in his proof of evidence at paragraph 5.1 that 'arboriculturally the hedgerows are not noteworthy.' The question is the value they present in terms of corridors for wildlife. We will return to the role of the hedgerows as part of the biodiversity issue.

96. While some mature trees and hedgerows would be unavoidably lost, new trees and hedgerows have been planted as advance planting, and further hedgerows with trees would be planted as part of the restoration scheme. Although some of the advance planting has subsequently been removed at Exeter Airport's request, the advance planting and new planting would compensate for the trees and hedgerows that would be lost. Amended plans were provided to the MPA indicating additional new planting to compensate for that which was removed as a result of the airport's request.

Conclusion on trees and hedgerows

97. Policy M16 of the DMP requires maintenance and enhancement of green infrastructure, including appropriate compensation for its loss. Policy M17 requires protection and enhancement of ecological networks. Taking into account the restoration proposals following extraction, the development would accord with those requirements.

[16] CD8.27 Ancient woodland, ancient trees and veteran trees (published 14 January 2022)

[17] CD1.20.1A, Arboricultural Survey Report (Rev 2)

[18] CD1.24A Ecological Assessment (Appendix 7/3)

98. Policy D3 of the LP requires that there is no net loss in the quality of trees or hedgerows. Policy NP1 of the NP requires retention of mature trees and hedgerows. Policy NP2 similarly requires retention of natural features and maintaining green linkages. Policy NP8 requires protection and enhancement of ecological features. While the mature trees to be lost are of value to the landscape and ecologically, the advance planting which has taken place will, when mature, compensate for their loss.

99. Although there would be some conflict with Policies NP1, NP2 and NP8, the proposal would accord with development plan policies that require no net loss in trees and hedgerows. We conclude on this issue that when taking into account the advance and compensatory planting, the proposal would not result in any unacceptable adverse effect in terms of its impact on trees and hedgerows.

100. Policy D4 of the LP, cited in the reasons for refusal, would appear to relate to advertisements and so not be relevant to the appeal proposal.

Highway safety

101. Policy M22 of the DMP and Policy TC7 of the LP require proposals to ensure safe and suitable access. At the roundtable session there was general agreement that two specific concerns related to the movement of livestock over the B3174 and the pick-up/drop off point used by school pupils. We shall deal with these matters first and then turn to other related concerns.

Livestock crossing

102. Straitgate Farm is a mixed arable/pasture agricultural holding with a dairy herd and some other livestock. At present the dairy herd predominantly graze to the north of the B3174 within the appeal site for reasons of convenience with close proximity to buildings, dairy and milking parlour facilities. It is common ground that the appeal proposal would temporarily remove some of the pastureland presently used by the dairy herd until the appeal site is restored.

103. The dairy herd already cross the B3174 Exeter Road to graze the land to the south, albeit infrequently. It has been suggested that the loss of grazing land on the appeal site would lead to a need to move the dairy herd more frequently across the B3174 to the south to graze. Furthermore, dairy cows would also need to return to the dairy and milking parlour facilities. The consequence of livestock crossing the B3174 would be an impediment to traffic flows and lead to queuing traffic.

104. The details of the Straitgate agricultural holding as set out in the Opening Statement by SAG were not disputed during the Inquiry. As such in addition to the Straitgate Farm landholding the current tenant farmer has access to additional land, some of which is owned and other land is farmed by the tenant. The combined total of land would, in principle, provide a range of options for grazing.

105. The Straitgate Farm holding is owned by the appellant and has been let on an Agricultural Holdings Tenancy to the same family since 1976.[19] It is therefore reasonable to expect that the presence of mineral resources and their

[19] CD6.39 Planning application 20/2542/FUL supporting statement (November 2020)

potential for extraction around Straitgate Farm have been known of for a number of years. We are satisfied that the tenant farmer is not only aware, but their land agent has confirmed that careful consideration has been given to the implications of the need to restrict livestock movements as a consequence of the appeal proposal.[20] As such there is no cogent evidence to confirm that there would be an increase in livestock movements.

106. The appellant has provided a Section 106 planning obligation in the form of a unilateral undertaking (UU). Schedule 6 sets out the covenants relating to the movement of livestock. It is not disputed that the livestock crossings are restrictive. However, they are necessary to ensure the free flow of traffic on the B3174. The limitations set out in Schedule 6 are precise, enforceable, related to the development and reasonable as they originate from the information provided by the tenant's land agent.[21]

107. Although the submitted UU does not contain the tenant farmer's signature, a supplementary agreement has been prepared which would be annexed and through a negatively worded planning condition ensure that the appeal scheme could not be commenced until all interests in the site are bound.

108. Current Government guidance on planning conditions suggests that negatively worded planning conditions are unlikely to be appropriate in the majority of cases. However, it is not ruled out and it can be appropriate for more complex and strategically important schemes. The appeal proposal, like many minerals developments, is a complex scheme. The appeal site is already identified as a Preferred Area for sand and gravel extraction and therefore part of the minerals strategy of the DMP. We are satisfied that a negatively worded planning condition is appropriate and effective in this case.

109. Material to this appeal proposal is a planning permission[22] granted by East Devon District Council (EDDC) for a new access to the B3174 Exeter Road to provide a livestock crossing incorporating holding pens. At the time of the Inquiry this permission had not been implemented. However, no cogent evidence was presented to suggest that it would not be implemented. From the details of this permission submitted to the Inquiry it is clear that this livestock crossing arrangement will enable a more direct, efficient and therefore safe movement of livestock when they need to cross the road which is of benefit to the livestock, farmer and other highway users.

110. Planning condition 6 of the EDDC permission controls the number of livestock crossings and we understand this followed from consultation responses from National Highways and Devon County Council Highways. We note that the same information on livestock movements was used for this livestock crossing scheme as for the appeal proposal. Although concerns were raised at the Inquiry regarding the enforceability of this condition, we do not share these concerns. However, in any event, as it has already been imposed on the planning permission, we have no power to alter the condition through this appeal.

[20] CD4.53, Transport Assessment, Appendix E
[21] CD4.53, Transport Assessment, Appendix E
[22] CD6.40 Planning permission 20/2542/FUL (21 June 2021)

School pick up/drop off point

111. At the junction of Birdcage Lane and the B3174 there is a pick-up and drop off point for school pupils. Safety concerns were drawn to our attention about the potential conflict between the HGVs coming in and out of the appeal site and the school pupils at this pick-up and drop off point.

112. It was agreed at the Inquiry that this potential conflict could be satisfactorily and effectively managed by limiting the HGV movements. HGV movements are frequently controlled through a planning condition, and we see no reason why this would not be an effective mechanism in relation to this proposal.

113. A suitably worded planning condition could be used to prevent HGVs being within or 'stacking up' within the vicinity of the pick-up and drop off point at the scheduled times when school buses would be picking up or dropping off pupils. Typically, mineral companies use third party contractors which are also bound by the terms of their contract which provides a further and separate means of managing the HGV movements. We are satisfied that the planning condition would provide sufficient control to ensure safe and suitable access.

114. Furthermore, at present, the pick-up and drop off point is unsurfaced. It was acknowledged at the Inquiry that the provision of a more formalised surface for pupils to stand on would provide betterment, particularly during inclement weather.

115. We also heard several highway related concerns from interested parties, including the design of the site access and the assumptions and calculations relating to vehicle movements on the B3174 Exeter Road.

116. Birdcage Lane is proposed to be widened and the details submitted, from a planning perspective, would satisfy the criteria set out in Table C.4 in Appendix C of the DMP. Furthermore, we note that the highway consultation bodies raised no specific concerns in this regard. The detailed design works would be implemented through a section 278 agreement with the Highway Authority.

117. The originally submitted Transport Assessment (TA) anticipated 172 two-way HGV movements per day during the quarrying operational phases, but the proposal was also tested using up to 200 two-way HGV movements per day. The routing of the HGVs involves using the B3174 Exeter Road which as we heard at the Inquiry is an important local road connecting Ottery St Mary with the wider road network and onto Exeter. According to the automated traffic count data provided within the September 2022 update to the submitted TA; the 5-day average number of two-way vehicle movements on the B3174 is 6,886. This additional survey data incorporates a theoretical growth of 1.5% in vehicle movements above the previous baseline and includes taking into account completed residential developments in Ottery St Mary.

118. SAG remain concerned that the TA omits from the assessment further residential units which have received approval which would generate further vehicle movements. The appellant confirmed that the original junction modelling calculations incorporated a growth factor of 1.12 for the period 2018 to 2033. Although some more recently approved and built residential developments have been factored in this has already created some double counting, but this adds a factor of safety. Moreover, even though the additional units cited by SAG have planning permission, we have no evidence

of certainty that they would be built, occupied and what the likely levels of vehicle movements may be, particularly given the recent changes to travel patterns arising from the covid-19 pandemic. In any event, the potential traffic increase from a further 24 dwellings even if included in the baseline would not be a significant number which could fundamentally alter the conclusions of the TA overall.

119. We find that the appellant's submitted evidence relating to highway matters is satisfactory and that it demonstrates that the access arrangements would be acceptable, and the local highway network would have sufficient capacity to safely accommodate the additional vehicles from the development. Devon County Council, as the local highways authority, has a statutory responsibility to ensure the safety of the local highway network together with National Highways. Subject to conditions, neither of these statutory bodies have unresolved concerns.

120. From the evidence submitted and heard together with our site visit observations in relation to the highway related matters, we find that the proposal would have safe and suitable access arrangements such that it satisfies the requirements of Policy M22 of the DMP and Policy TC7 of the LP in that it would not have a significant effect on road safety or the capacity and functionality of the local, or wider, highway network for all users. As such it enables the proposal to raise the sand and gravel at the appeal site in accordance with Policy M12 (b)(i) of the DMP.

Biodiversity

121. The baseline ecological evidence formed part of the Environmental Statement and has since been supplemented by further surveys and walkover surveys. The most recent ecological walkover survey was undertaken in August 2022 which reassessed the baseline protected species potential specifically for bat roosts, badger setts and dormice. Consequently, there is already a considerable wealth of survey information accompanying the appeal proposal.

122. The dates of the surveys are a matter of fact. During the lifetime of the proposal from pre-submission to the appeal stage, the appellant has undertaken periodic update surveys. To our mind this demonstrates that the appellant has kept an ecological eye on the appeal site.

123. It was common ground between the ecology witnesses at the Inquiry that there has been some habitat change at the appeal site. The change has arisen from some specific human intervention, namely advance planting by the appellant and minor changes to the agricultural regimes on site with a transition from pasture to maize. We note that some of the advance planting was requested for removal by Exeter Airport for operational reasons.

124. None of updates or walkover surveys revealed any significant change which would necessitate full re-surveys prior to the determination of the appeal proposal. Both the County Ecologist and Natural England have stated that no further information is required and that subject to appropriate conditions requiring mitigation the proposal meets policy and legislative ecological requirements. We are satisfied that sufficient ecological information is present upon which we can reach our decision.

125. Taking a precautionary approach, prior to the commencement of development further update surveys would be necessary to give the very latest ecological position. This approach is a generally accepted practice and secured through appropriate conditions.

126. The appeal site contains hedgerows which could provide potential corridors for the movement of wildlife. It is accepted that as a consequence of the proposal, some hedgerows would be removed. However, we find that the phased approach for the working and restoration of the site would minimise the impact over time.

127. The proposed restoration scheme is illustrated on plan ref SF/6 Rev E and explained within the Environmental Statement. The proposed scheme would restore the appeal site to agricultural use and includes the reinstatement of the pre-worked field pattern with hedge banks and hedgerow trees. In addition, the orchard at Straitgate Farm which is within the appellant's control will be restored and managed with some new planting.

128. We have already concluded that there would be no unacceptable adverse effect in terms of the acidity or flow of groundwater. The County Wildlife Sites at Cadhay Bog and Cadhay Wood would not be adversely affected by the proposal, and neither would the fishponds at Cadhay be so affected. There would be no adverse impact on any other designated site.

129. For the reasons given the proposal would accord with Table C.4 and Policy M12 of the DMP which require a planning application to be supported by appropriate protected species surveys. The level of information provided with the surveys is adequate and any necessary updates can be secured by means of planning conditions.

130. The conservation and enhancement of biodiversity has been considered in the layout and design of the proposed restoration scheme. It has been demonstrated that appropriate mitigation measures would be provided during operations. These measures can be secured by conditions which would ensure that protected species and the County Wildlife Sites would be adequately protected. In these ways the development would accord with the requirements of Policy M17 of the DMP. The net gain in biodiversity to be provided would also accord with part (7) of that policy. The proposal would accord with Policies NP2 and NP8 of the NP which require overall improvement to biodiversity value and consideration of potential ecological impacts at an early stage in their design, delivering a net gain in biodiversity where possible.

131. For the reasons given we conclude that sufficient survey information on habitats and protected species has been provided and that the proposal would be unlikely to harm protected species, designated sites or biodiversity in general. It is reasonable to secure updated surveys under planning conditions in the circumstances of the proposed development, including the proposed phased working over a 10-year period.

Appeal A and Appeal B: Transportation of minerals

132. The DMP allocates Straitgate Farm for sand and gravel extraction as part of a Preferred Area. Policy M12 and Table C.4 do not make provision for processing to take place at the site. The MPA's committee report states that

processing of the mineral on site at Straitgate Farm would not be possible because of space constraints and airport safeguarding requirements.

133. Instead, the DMP recognises that the mineral will be transported elsewhere for processing. Policy M22 requires that, within geological constraints, mineral development should minimise the distance that minerals are transported. Table C.4 includes a similar requirement. That policy recognises that minerals must be worked where they are found and that there will likely be requirements to transport the mineral for processing elsewhere as a matter of principle.

134. The distance between Straitgate Farm and Hillhead Quarry is about 23 miles. It has not been demonstrated that there is any suitable and available location for processing the mineral closer to the site. Because there is no closer processing facility, the requirement to minimise travel distance would be met.

135. Notwithstanding this, in recognition of the Council's declared climate emergency and having regard to the emissions from using conventional fuels, the appellant has proposed using hydrotreated vegetable oil as fuel for all of the vehicles that would transport the mineral for processing. It is possible to secure a scheme and monitoring arrangements to ensure that this is secured by means of a condition. This arrangement would limit greenhouse gas emissions over the 10-year period of operation.

136. There is no other substantive evidence before us of any harm resulting from transportation of the mineral. The Transport Assessment demonstrates that there would be no unacceptable impact on highway safety.

137. We have already noted that there is little prospect of the allocated site at west of Penslade Cross coming forward in the near future. Therefore, any advantage that that site would have over the appeal site in terms of its proximity to Hillhead Quarry is not material to our decision.

138. For the reasons given, we are satisfied that a condition requiring the use of hydrotreated vegetable oil as fuel would meet the tests in the Framework. On this basis the proposal would accord with Policy M20 of the DMP which requires development to contribute to the achievement of sustainable development, climate change resilience and mitigation, including through minimising the atmospheric release of greenhouse gases. The proposal would also accord with Policies M12 and M22 of the DMP.

139. For these reasons there would be no unacceptable harm in terms of sustainability arising from transportation of sand and gravel by road from Straitgate Farm to Hillhead Quarry.

Other Matters

140. We have taken into account all other matters raised by interested parties, including those raised by the Member of Parliament.

141. We have found that there would be no unacceptable adverse effect on highway safety. We are satisfied that the assessment adequately considers all road users and that it is robust. Because lorries would be routed via the strategic road network there would be no unacceptable disturbance to residents from HGV movements.

142. The East Devon Area of Outstanding Natural Beauty (AONB) is about 2.7km away from the site at its nearest point. Any views of the development from the AONB would be limited because of this distance and not harmful. Landscape impact did not form a reason for refusal by the MPA.

143. To the extent that the quarry and soil storage mounds would be visible from adjacent routes, this would be for a limited duration. The mounds can be seeded to blend them into the landscape and existing trees and hedgerows can be protected by conditions. The quarry working would be located away from Birdcage Lane which would limit the degree of visual intrusion when seen from that road.

144. Because the proposal would have limited impact on the landscape and there would be no other unacceptable adverse environmental impact, we find no reason why the local tourism industry would be affected by the proposal.

145. Concerns have been expressed about the stability of soil stored on the site. Conditions can ensure that this is stored in accordance with best practice to ensure stability. Conditions can also be imposed to ensure that the quality of the soil for agricultural use following restoration is maintained.

146. The Appeal A proposal includes the temporary change of use of Little Straitgate Cottage to a quarry office/welfare facility. We have no concern regarding this aspect of the proposal.

Planning Obligation

147. The submitted UU secures a number of obligations on the part of the site owner. We have already found that the obligations with regard to local water interests and control over livestock crossings on the B3174 would be effective.

148. Table C.4 of the DMP also requires provision of new paths to connect to the existing rights of way network as part of restoration proposals. The UU secures this provision together with a permissive footpath inside the hedge line along Birdcage Lane during the lifetime of the permission. The UU requires the owner to enter into a Public Footpath Creation Agreement with the Council whereby a commuted sum for future maintenance of the footpath would be paid.

149. The UU provides for access to the site by Exeter Airport's bird control specialist to monitor compliance with the Wildlife Habitat Management Plan. It also provides for tree planting to be in accordance with the approved plan. These measures, in conjunction with the relevant conditions are necessary to ensure the safety of operations at Exeter Airport, in accordance with Table C.4 of the DMP.

150. Planning conditions would secure an aftercare scheme and a Farm Management Plan (FMP). The appellant has offered a 10-year aftercare period which is greater than the 5-year period normally required. The UU would secure this period of aftercare and that the FMP is implemented for a 30-year period. These measures are necessary in terms of ensuring matters such as tree establishment and avoiding soil compaction over an extended period, in order to benefit biodiversity and limit surface water run-off.

151. The UU also secures an annual financial contribution to the Council to be used towards tree planting. The MPA has explained that the contributions

would be used by the Devon Ash Dieback Resilience Forum for tree planting in Devon. The MPA considers that the obligation meets the tests in regulation 122(2) of the CIL Regulations[23] because it would contribute to the provision of biodiversity net gain. We see no reason to disagree with this assessment.

152. We are satisfied that all of the planning obligations contained in the UU meet the tests in Regulation 122(2) of the CIL Regulations and we give weight to those obligations.

Planning Balance

153. Policy M12 of the DMP allocates the site for sand and gravel extraction, subject to detailed requirements set out in Table C.4 and other relevant policies. For the reasons given above, it has been clearly demonstrated that the proposal would accord with those policies and with the development plan as a whole.

154. There are also significant material considerations which weigh in favour of the proposal. These include its contribution to sand and gravel supply in Devon in circumstances where there is not currently a 7-year landbank as required by the Framework. It is also relevant that the mineral would be of value in contributing to supplies in the wider south-west of the country. Further benefits would result from the 15% net gain in biodiversity, the provision of new footpaths, a hard-surfaced school bus pick-up and drop off facility and restoration of the orchard at Straitgate Farm.

155. Although there would be less than substantial harm to the significance of the listed building at Straitgate Farm this would be limited to the 10-year working life of the quarry, following which the setting would be restored. The less than substantial harm we have identified would be clearly outweighed by the benefits of the proposal.

156. We are satisfied that there would be no unacceptable adverse effect on private water supplies either in terms of quality or quantity. The planning obligation provides additional reassurance in this respect and is in accordance with the requirement of Table C.4 of the DMP. There would be no other harm that would indicate that permission should not be granted.

Conditions

157. A draft list of conditions for both appeals was agreed between the MPA and the appellant and this was discussed at the Inquiry. We have imposed the suggested conditions with some minor changes in respect of those set out for Appeal A to reflect discussions at the Inquiry and to ensure they accord with the tests set out in national policy. All conditions imposed are reasonable and necessary to make the approved developments acceptable in planning terms.

Appeal A

158. It was explained at the Inquiry that it has not been possible for the farm tenant to sign the section 106 agreement because of ongoing negotiations. Because the agreement would restrict movement of livestock over the B3174, any tenant should be party to it, although the owner would have ultimate control on this matter. The Planning Practice Guidance advises that planning

[23] Community Infrastructure Levy Regulations (2010) as amended

conditions that require a section 106 agreement to be entered into should only be imposed in exceptional circumstances. In this case the mineral is of strategic importance and condition 2 would be enforceable because it requires a supplementary agreement to be entered into before commencement of any development.

159. It is necessary to specify the standard condition setting out the time limit for implementation and also the approved plans to provide certainty. It was confirmed at the Inquiry by the MPA and the appellant that the submitted cross-sections plan SF/5-4 does not accurately reflect the proposal in that it indicates that mineral will be extracted to ground water level. Accordingly, condition 3 omits reference to that plan. Other conditions control the maximum depth of working and require submission of a detailed restoration scheme.

160. The proposal envisages working over a 10-year period and it is necessary to limit the life of the permission to this period to limit the duration of its environmental effects and in the interest of the amenity of the area.

161. The National Planning Practice Guidance advises caution when removing permitted development rights. In this case we do find it necessary to restrict the permitted development rights for the erection of new buildings and structures because, firstly Table C.4 of the DMP requires that views from the A30 towards the East Devon AONB are maintained. Secondly, Exeter Airport would require control over the maximum height of any new building or structure in the interest of airport safety.

162. A Construction and Environmental Management Plan is necessary to control environmental effects during construction of the quarry including its means of access. The appellant's additional landscape information submitted in accordance with the Regulation 22 request identifies a need for a watching brief by an arboriculturist and we have added this requirement to the condition.

163. A Landscape and Ecological Management Plan (LEMP) is necessary to ensure ongoing monitoring of habitats and species and provision of necessary mitigation. The detailed requirements of the LEMP were discussed at the Inquiry and we have made amendments to the suggested condition to reflect the changes that were discussed. The suggested wording for sub-section (h) of this condition was amended following discussion between the appellant and the MPA and set out in an e-mail.[24]

164. A Farm Management Plan is necessary to ensure that soils are managed so as to avoid compaction which would increase potential for surface water run-off. It is also necessary to ensure the future maintenance of new tree planting to ensure they become established following the aftercare period.

165. It is necessary to require full details of the working methodology to ensure protection of soils and management of surface water run-off. It is also necessary to ensure that the site access is provided and used in accordance with the approved plans and that mud or debris is not deposited on the highway to ensure highway safety.

166. Conditions requiring a detailed drainage scheme are necessary to ensure sustainable drainage and to avoid localised flooding.

[24] From Nigel Gould dated 24 October 2022

167. A condition restricting hours of operation is necessary to ensure the living conditions of nearby residents are not adversely affected. We have added a restriction on HGV access during school pick-up and drop off times in order to ensure pupil safety, in accordance with the times discussed at the conditions session.

168. Planning permission has already been granted for improvement works to Clay Lane near Hillhead Quarry. In the interest of highway safety, it is necessary for those works to be carried out before material is transported to that quarry for processing. We have imposed a condition with this requirement.

169. Condition 19 is a negatively worded condition requiring provision of the approved livestock crossing over the B3174 before commencement of soil stripping on phase 1 of the development. This is necessary in the interest of highway safety and to effectively control livestock crossing in accordance with the section 106 agreement. Provision of this facility would require land on the opposite side of the road in which the farm tenant has an interest. There is a reasonable prospect that the livestock crossing can be provided.

170. A condition has been imposed requiring a travel plan to be approved. This would ensure that the detailed travel arrangements for vehicles visiting the site avoid any disruption and congestion that might adversely affect highway safety, particularly with respect to school pupils waiting at the pick-up and drop off point. This is necessary in the interest of highway safety.

171. It is also necessary to maintain a 10-metre buffer between the development and the A30 trunk road to ensure the safe operation of that road.

172. The appellant has proposed that heavy goods vehicles transporting material to Hillhead Quarry use hydrotreated vegetable oil as fuel, in order to reduce carbon emissions. For this reason, it is necessary to include a condition requiring a scheme for use of this fuel to include monitoring arrangements to allow this requirement to be enforced.

173. A condition requiring archaeological investigation is necessary because the site is of potential archaeological interest.

174. Conditions are also imposed which require management measures in accordance with submitted details, a restriction on creation of new water bodies and a programme of site inspections in order to ensure the safe operation of Exeter Airport through restricting the attractiveness of the site to birds.

175. A number of conditions are necessary to provide mechanisms for monitoring of private water supplies, to ensure working above the water table and to provide for effective monitoring of groundwater levels and stream flows, both during operation and afterwards. In conjunction with the planning obligation, these measures are necessary to protect groundwater and surface water flows.

176. The suggested condition for groundwater monitoring would impose a 10-year requirement for post-restoration monitoring, however the section 106 agreement provides for this period to be agreed in writing between the parties. We have accordingly not included reference to the post-restoration period for monitoring in the condition.

177. Conditions are necessary to provide safeguards against environmental impacts. In this regard it is necessary to restrict storage of oils, fuels and chemicals on site to prevent pollution. It is also necessary to manage dust emissions and to impose noise limits in order to safeguard living conditions of residents. It is necessary to identify the dwellings that would be subject to the noise limit monitoring by reference to the Noise Impact Assessment.

178. It is necessary to ensure that any nesting birds are not disturbed during construction or clearance works and a condition is imposed to this effect. It is also necessary to control lighting in order to protect wildlife.

179. It is necessary to ensure adequate protection for retained trees, shrubs and hedgerows by requiring appropriate measures to be put in place. These measures are necessary to limit the impact on the landscape and ecology. It is also necessary to secure provision of a new hedgerow along the A30 to limit views of the development from that road, in the interests of protection of the landscape and highway safety.

180. Conditions are necessary to ensure that best and most versatile agricultural soils are retained and appropriately managed. It is necessary to ensure that these are not unduly compacted in order to limit potential for surface water run-off. Conditions are also necessary to ensure phased restoration in accordance with mitigation measures set out in the application and as required by other conditions. A condition is necessary to set out requirements in the event that excavation works cease. Annual reporting is necessary to enable the MPA to review progress against the approved documents. Details of aftercare are required to be approved and adhered to in accordance with national policy.

Appeal B

181. Similar to condition 18 imposed in respect of Appeal A, it is necessary to restrict commencement of the importation of mineral for processing from Straitgate Farm until the widening of Clay Lane has been carried out, to ensure highway safety.

182. It is also necessary to restrict the material that can be imported from Straitgate Farm to as raised sand and gravel in order to define the terms of the permission and to limit wider transport of material and potential for greenhouse gas emissions from transport.

Conclusion

183. For the reasons given, having carefully considered all matters raised, we conclude that the appeals should be allowed and planning permission be granted subject to the conditions for both appeals set out in the attached Schedule.

Nick Palmer *Rachael A Bust*

INSPECTORS

APPEARANCES

FOR THE MINERAL PLANNING AUTHORITY:

James Burton, of Counsel instructed by Graham Cridland on behalf of Devon County Council

He called:

Paul Thomson BSc DESS CGeol	Water & Environment Director, Zenith Global Ltd
Michael Steed BSc (Hons) (For) MICFor MCIEEM M.Arbor.A	Chartered Natural Resource Consultant
Christine Mason BSc MSc MCIEEM	Lead Planning and Technical Ecologist, Burton Reid Associates Ltd
Ignus Froneman BArch Stud ACIfa IHBC	Director, Cogent Heritage
Robin Upton BSc (Hons) MRTPI	Director, CarneySweeney

Conditions and obligations session:

Andrew Hill	Devon County Council
Graham Cridland	Solicitor

FOR THE RULE 6 PARTY:

Richard Moules, of Counsel instructed by Tim Taylor of Khift Ltd

He called:

Professor Rick Brassington BSc MSc CGeol FGS CEng MICE FCIWEM	Former Visiting Professor of Hydrogeology, Newcastle University
Rupert Thistlethwayte	Owner of Cadhay
Laura Horner BSc	Former Principal Planning Officer
Alex Meletiou MRICS	Former Rural Estates Manager, Somerset County Council

Conditions and obligations session:

Tim Taylor	Solicitor, Khift Ltd

FOR THE APPELLANT:

Richard Kimblin, of Kings Counsel and Odette Chalaby, instructed by Chris Herbert of Aggregate Industries UK Limited

They called:

Dr Shaun Salmon BSc MSc PhD FGS MCIWEM CWEM	Technical Director, Wood
Dr John Heathcote MA PhD FGS CGeol	Hydrogeological Consultant
Dr Richard Breakspear BSc PhD CWEM CSci	Associate Director, Wood
Stuart Wilson BSc (Hons) MSc MCIEEM CEnv	Technical Director (Ecology), SLR Consulting Ltd
Timothy Malim BA (Hons) FSA MCIFA	Technical Director, Hampton Heritage Design & Consultancy Ltd
Simon Tucker BSc (Hons) MCIHT	Director, DTA Transportation Ltd
Nigel Gould BSc DipURP MRTPI	Planning Director, Heaton Planning Ltd

Conditions and obligations session:

Chris Herbert	Aggregate Industries UK Ltd

INTERESTED PARTIES:

Roger Giles	Ottery St Mary Town Council
Dr Douglas Ferguson	Local resident
Chris Wakefield	Straitgate Action Group
Cllr Jess Bailey	Devon County Councillor and East Devon District Councillor
Amanda Townsend	West Hill Parish Council
Robert Pooley	Local resident
Monica Mortimer	Straitgate Action Group

DOCUMENTS SUBMITTED AT THE INQUIRY

ID.01	Opening submissions on behalf of the Minerals Planning Authority
ID.02	Opening submissions for Straitgate Action Group
ID.03	Appellant's Opening Statement
ID.04	Presentation – Introduction to hydrogeological issues – Paul Thomson
ID.05	Draft Section 106 Agreement Inquiry Note by SAG
ID.06	Letter from Mr Gould (Heatons) to Mr Taylor 11.10.22
ID.07	Draft Conditions 07.10.22
ID.08	Supplemental Deed 06.10.22
ID.09	Unilateral Undertaking 13.10.22
ID.10	Appellant's Response to Rule 6 Party's submissions on Draft Unilateral Undertaking 13.10.22
ID.11	Closing Submissions on behalf of the Minerals Planning Authority
ID.12	Closing submissions for Straitgate Action Group
ID.13	Appellant's Closing Submissions
ID.14	SAG Response to Regulation 22 Request

CD6.76	A detailed hydrogeological study of groundwaters from the Triassic sandstone aquifer of south-west England - Walton
CD8.27	Ancient woodland, ancient trees and veteran trees: advice for making planning decisions
CD9.44	Decision notice DCC-4067-2018 (Clay Lane)
CD9.45	Rev B – Scheme layout DCC-4067-2018 (Clay Lane)
CD9.46	Rev E – Scheme layout DCC-4067-2018 (Clay Lane)
CD9.47	Site location plan DCC-4067-2018 (Clay Lane)
CD9.48	Site plan DCC-4067-2018 (Clay Lane)
CD9.49	Planting plan DCC-4067-2018 (Clay Lane)
CD9.50	Response to Dr Heathcote's note by Paul Thomson
CD9.53	Freshwater acidification: its effects on species and communities of freshwater microbes, plants and animals – Muniz (abstract)
CD9.54	Effects of neutralization and early reacidification on filamentous algae and macrophytes in Bowland Lake – Jackson et al (abstract)
CD9.55	Acidification of Swedish freshwaters – Brodin (abstract)

CD9.56 Biological, chemical and physical responses of lakes to experimental acidification – Schindler & Turner (abstract)

CD9.57 Coping with algae in ponds – Suffolk Wildlife Trust

CD9.58 Ponds with fluctuating water levels – Suffolk Wildlife Trust

SCHEDULE OF CONDITIONS

Appeal A

Standard Commencement

1 The development hereby permitted shall be begun within three years of the date of this permission. Written notification of the date of commencement of any works on the site deemed to begin the development shall be sent to the Mineral Planning Authority and Exeter Airport's Operations Duty Manager (or such other suitably qualified officer of Exeter Airport) within seven days of commencement.

Land Interests

2 No development shall commence unless and until all relevant interests in the land are bound by the Section 106 unilateral undertaking given by (1) Camas UK Limited to (2) Devon County Council dated 20 October 2022. Any interests to be so bound shall enter into a supplemental deed substantially in the form of Inquiry Document Ref. ID.08.

Approved Documents

3 The development hereby permitted shall be undertaken in accordance with the following approved plans:

- Overview Plan R22/L/3-3-001 rev B
- Detail Area Plan R22/L/3-3-002
- Detail Area Plan R22/L/3-3-003 rev A
- Detail Area Plan R22/L/3-3-004
- Detail Area Plan R22/L/3-3-005
- Detail Area Plan R22/L/3-3-006 rev A
- Detail Area Plan R22/L/3-3-007 rev A
- Detail Area Plan R22/L/3-3-008 rev A
- Extraction and Ancillary Development SF/2 rev B
- Advance Tree Planting SF/3 rev C
- Development Phase 1 SF/5-1 rev C
- Development Phase 2 SF/5-2 rev B
- Development Phase 3 SF/5-3 rev B
- Restoration Scheme SF/6 rev E
- Cross sections R22/L/3-3-009 rev A
- Cross sections R22/L/3-3-010 rev A
- 0308.101 rev F Junction improvement scheme layout
- 0308.104 Junction improvement long section

- SF/RS/XX Road Section AB
- SF/RS/XX Road Section CD

The development shall comprise the winning and working of sand and gravel, the deposit of associated mineral waste and operations ancillary to mining, and as otherwise specified in the application documents.

Life of the Permission

4 From the date that development is begun for the purposes of condition 1 above, the winning and working of sand and gravel and all operations and uses of land authorised by this permission (save for any restoration and aftercare pursuant to conditions 51 and 53) shall cease not later than 10 years from the date of the implementation of this permission, after which the site shall be restored and the aftercare period concluded in its entirety in accordance with the approved detailed restoration and aftercare schemes as required by conditions 51 and 53.

Restriction of Permitted Development Rights

5 Notwithstanding the provisions of Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, replacing or re-enacting that Order with or without modifications), the written approval of the Mineral Planning Authority shall be required under Part III of the Town and Country Planning Act 1990, for the erection or re-siting of any building, permanently sited plant or machinery or structure other than such development permitted by this decision.

Pre-Commencement Conditions

Construction Environmental Management Plan

6 No development hereby permitted shall commence until a Construction and Environmental Management Plan, which shall identify and propose mitigation for off-site impacts for all stages of the construction of the quarry, has been submitted to and approved in writing by the Mineral Planning Authority. The Plan shall include:

(a) details of the construction of the site access including the submission of a plan indicating these works in relation to the surveyed root spread of Trees F and G and including proposals to mitigate impacts of the road construction on the tree roots, to include a watching brief by a qualified arboriculturist;

(b) details of the materials to be used in the junction including kerbs, fencing, surfacing, drainage and signage (including the provision of a sign directing HGVs to turn right only on reaching the B3174 Exeter Road);

(c) details of the gravel surfacing of the roadside verge on the eastern side of Birdcage Lane and proposals to protect the roots of the hedgerow tree (Tree H);

(d) details of the management of surface water during the construction and soil stripping phases;

(e) details of any works proposed to Little Straitgate Cottage;

(f) details of any external lighting including security lighting and lighting to be installed for the safety of site personnel;

(g) details of dust suppression during the construction stage;

(h) a programme and methodology for any pre-construction surveys required for protected species including badgers, bats, breeding birds, dormice and reptiles;

(i) A written scheme of protection and mitigation measures for protected species and ecological features;

(j) ecological supervision of works to include a phased timetable with clear responsibilities to be carried out by a suitably qualified person; and

(k) details of the route, specification and design of new and temporary public rights of way.

All work associated with construction of the quarry shall be undertaken in accordance with the approved Plan.

Landscape and Ecological Management Plan

7 Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The LEMP shall include all ecological and landscaping recommendations set out in the submitted Environmental Statement and Regulation 22 submissions, providing a detailed phased programme of work and detailed specifications. It shall include:

(a) any survey updates not set out in the Construction and Environmental Management Plan required by condition 6;

(b) full details of ecological and landscape mitigation measures (advance, operational, phased restoration, final restoration and aftercare) including method statements as required for protected and priority species and details of all habitat protection, creation, enhancement and management (including any hedge translocation) and soil management;

(c) proposals for monitoring of the Cadhay Bog and Cadhay Wood County Wildlife Sites;

(d) summary information (including annotated plans and schedules) should be provided to give an overview of requirements as well as detailed timetables and method statements and specifications to be adhered to by the contractors;

(e) a programme and methodology for any pre-construction surveys required for protected species;

(f) details of compliance and ecological monitoring, including submission of an annual report to the Mineral Planning Authority setting out the measures undertaken in the past year and proposals for the following 5 years which shall take into account the results of monitoring and

include any required measures to improve ecological outcomes based on an agreed set of indicators for measuring net gain;

(g) all clearance and planting works shall be carried out under an Ecological Watching Brief by a suitably qualified ecologist;

(h) a biodiversity gain plan setting out habitat enhancement and compensatory habitat planting sufficient to support a change in value attributed to the development of 15% the pre-development value (of on-site habitats) and 1% the pre-development value (of on-site hedgerows). This should be supported by appropriate planting plans and management plans; and

(i) provision of full details of monitoring and reporting on the success of the restoration proposals and an agreed set of indicators for measuring net gain.

Farm Management Plan and Aftercare

8 Prior to any works of restoration taking place at the site, a Farm Management Plan shall be submitted to and approved in writing by the Mineral Planning Authority. The Plan shall be prepared with the objective of managing the soils at the site so as to avoid farming practices that encourage soil compaction. It shall include measures for the management of tree planting over a period of 30 years from the date of this permission. Farm management on the site shall subsequently be undertaken in accordance with the approved Plan.

Working Methodology of Phase 1

9 No stripping of soils in Phase 1 or in any of the soil storage or overburden areas shall commence until full details of the working methodology for Phase 1 of the development have been submitted to and approved in writing by the Mineral Planning Authority. The methodology shall include the following details:

(a) the proposed timing of commencement;

(b) the details of the methodology for soil stripping and the volume and storage destination of the topsoils, subsoils and overburden;

(c) full details of the methodology for surface water management within the working phase including cross sections of the attenuation basins and the capacity figures and methods to manage run-off into the most appropriate stream catchments at greenfield run-off rates;

(d) the location of the haul routes within the working phase and proposals to avoid compaction of the quarry base; and

(e) the direction of working and proposals for phased restoration to ensure that restoration takes place at the earliest opportunity.

Development shall take place in accordance with the approved details.

Construction and Use of Site Access

10 There shall be no soil stripping in the working or soil/overburden storage areas until the new site access, haul road, parking area and wheel wash

have been constructed and completed in accordance with plans refs. 0308.101 rev F and 0308.104 and, in the case of the wheel wash and lagoon, detailed drawings which shall have been previously submitted to and approved in writing by the Mineral Planning Authority.

11 The site access point for all traffic visiting the quarry shall be the new site entrance on Birdcage Lane as shown on plans refs. 0308.101 rev F and 0308.104. Except for emergency purposes, there shall be no HGV, plant or other vehicular access to the site from entrances onto Exeter Road.

12 No mud, water or debris from the site shall be deposited on the public highway network, and all heavy commercial vehicles leaving the site shall be sheeted or have their loads otherwise totally enclosed before entering the public highway.

Management of Surface Water Run-off

13 No stripping of any soils, other than that required for the construction of the site access, shall take place until a detailed drainage scheme for the site has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:

(a) The measures set out in Chapter 2 of the approved Hydrogeology/Drainage Regulation 22 Response dated July 2017;

(b) Updated infiltration tests shall be carried out using an infiltrometer and shall be undertaken in strict accordance with BRE Digest 365 Soakaway Design (2016) and must be undertaken within the Budleigh Salterton Pebble Beds. A representative number of tests shall be conducted in order to provide adequate coverage of the site, with particular focus placed on the locations and depths of potential infiltration devices; and

(c) The provision of an annual review mechanism to enable any updates to the scheme to be approved by the Mineral Planning Authority as a result of the ongoing monitoring of the groundwater levels over the life of the permission.

Development shall take place in accordance with the approved scheme.

14 No stripping of any soils in the extraction phases shall take place until a detailed scheme for the management of exceedance flows has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of:

(a) the routes that overland flow run-off from extreme rainfall (above soil infiltration capacity/drainage design) would take;

(b) the proposed bunds to be constructed on the eastern boundary of each phase of mineral extraction to contain such exceedance flows, as shown on plans A2.1, A2.2 and A2.3 all dated July 2017; and

(c) proposals to re-work (or rip) the base of the mineral voids to a depth of 1m before restoration to maximise infiltration.

Development shall take place in accordance with the approved scheme.

15 During the stripping of soils from any part of the site the presence of any existing land drainage features shall be recorded, and details shall be submitted to the Mineral Planning Authority prior to any extraction of mineral in that phase. Information on existing land drainage features shall be used to inform the design of a new land drainage scheme which shall be submitted to and approved in writing by the Mineral Planning Authority as part of the detailed working and phasing required by condition 48 prior to the replacement of any soils.

16 The working and restoration infiltration design shall ensure that drainage mimics the pre-excavation drainage. This shall be achieved following the principles described in the July 2017 Hydrogeology/Drainage Regulation 22 responses report. The design shall be submitted to and approved in writing by the Mineral Planning Authority before the commencement of soil stripping in any phase.

Hours of Operation

17 Except in emergencies to maintain safe quarry working (the reasons for which shall be notified in writing to the Mineral Planning Authority within five days of the event occurring):

(a) no operations, other than water pumping, environmental monitoring, servicing and maintenance of plant shall be carried out at the site except between 07:00 hours and 18:30 hours on Mondays to Fridays and between 07:30 hours and 13:00 hours on Saturdays and at no time on Sundays or Public Holidays;

(b) servicing and maintenance of plant shall not be carried out at the site other than between 07:00 hours and 18:30 hours on Mondays to Fridays and between 07:30 hours and 14:00 hours on Saturdays and at no time on Sundays or Public Holidays; and

(c) haulage movements in or out of the site shall be restricted to 07:00 hours to 17:30 hours on Mondays to Fridays (subject to the limitation during school terms below); and 08:00 hours to 13:00 hours on Saturdays. There shall be no HGV movements on Sundays or Public Holidays or during the periods 07:45 hours to 08:45 hours and 15:15 hours to 16:45 hours during school terms.

Highways and Transport

18 There shall be no export of materials from the site for processing until the road improvement at Clay Lane, Uffculme as approved by permission 18/01/0174/DCC (DCC/4067/2018) has been completed and is open to all traffic.

19 No soil stripping in Phase 1 of the development hereby approved shall be undertaken unless the cattle crossing permitted by East Devon District Council permission ref. 20/2542/FUL has been fully implemented and brought into operation in accordance with the conditions of that permission.

20 No operations to construct the site access shall be undertaken until a Travel Plan for the site, to include proposals to avoid scheduled school bus pick-up and drop-off times at Birdcage Lane and Toadpit Lane has been submitted to and approved in writing by the Mineral Planning Authority. The approved

scheme shall be implemented for the duration of operation at the site and shall be reviewed prior to the start of any new school term to ensure that it reflects the current use of the bus pick-up and drop-off point.

21 The maximum extent of quarry workings adjacent to the A30 trunk road boundary shall not exceed that shown on drawing SF HWYS/1 (Cross sections through A30) and a minimum buffer zone of 10 meters shall be maintained at all times between the site boundary and the quarry workings. The buttressing of extraction slopes to the northern boundary of Phase 2 shall be undertaken in accordance with the submitted plans with an agreed final slope profile as shown on drawing SF HWYS/1.

22 Prior to the export of any sand or gravel from the site, a scheme which ensures that all heavy goods vehicles entering and leaving the site, together with all plant and equipment located within the site, use hydrotreated vegetable oil fuel shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include details of how the use of hydrotreated vegetable oil fuel will be monitored to secure compliance with this condition. All heavy goods vehicles and plant shall be used in accordance with the approved scheme.

Archaeology

23 No development shall take place until a written Archaeological Scheme of Investigation has been submitted to and approved in writing by the Mineral Planning Authority and implementation of a programme of archaeological work has been secured. The development shall be carried out at all times in accordance with the approved scheme.

Airport Safeguarding

24 The management steps to safeguard Exeter Airport from the possibility of bird strike set out in the Wildlife and Habitat Management Plan by Avian Safe shall be implemented throughout the life of the quarrying operation and the restoration and aftercare periods. The topsoil and subsoil overburden mounds hereby approved shall be grass seeded within one calendar month of their creation.

25 No water body shall be created within the site other than the approved weighbridge lagoon.

26 Prior to commencement of development a programme of site inspections by a representative of Exeter Airport to be undertaken outside of operational periods shall be submitted to and approved in writing by the Mineral Planning Authority. The inspections shall be carried out in accordance with the approved programme.

Water Protection and Monitoring

27 Prior to the commencement of development, a water supply monitoring scheme shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall secure the ongoing monitoring, management and maintenance of water supplies and shall specify:

(a) the monitoring arrangements (including monitoring of pH levels) for private water supplies;

(b) the monitoring arrangements (including monitoring of pH levels) for stream flows at private water supplies;

(c) the frequency of monitoring at the private water supplies which for the avoidance of doubt shall be a minimum of once per month for the lifetime of the planning permission;

(d) the continuation of the surface water and groundwater monitoring points including a requirement to maintain a piezometer at each corner of each working sub-phase of the development and to replace any piezometers that become lost through quarry working;

(e) the maintenance arrangements for the piezometers at the private water supplies;

(f) the form and content of the annual monitoring report which is to be provided to the Mineral Planning Authority in respect of the private water supplies.

The development shall be implemented in accordance with the approved monitoring scheme.

28 Prior to the commencement of any soil stripping on any phase of the development, a review of the Maximum Winter Water Table (MWWT) grid (being the hydrogeologically modelled surface of the maximum winter water table based on the highest recorded winter groundwater levels) shall be submitted to the Mineral Planning Authority for its approval in writing. The review shall contain the collected data from the piezometers located within the site together with the groundwater levels set out in the *Report on the reserves of pebble beds at Straitgate Farm, Nr Rockbeare: S J Parkhouse; Report No: GR10/90; December 1990.* Operations at the site shall not be continued in the event that the maximum recorded groundwater levels in any review carried out pursuant to this condition exceeds the height of the levels in the MWWT grid until such time that a revised review of the MWWT grid has been submitted to and approved by the Mineral Planning Authority in writing.

29 Before the commencement of any soil stripping on Phase 1 of the development, details of the 'summer' and 'winter' working methods and groundwater levels that would trigger each working method shall be submitted to and approved in writing by the Mineral Planning Authority. During 'summer' working mode there shall be no working below the Maximum Winter Water Table (MWWT) grid and during 'winter' working mode the working shall be no deeper than the MWWT grid plus 1m.

30 Piezometer coverage across the site shall be, at any time, no less than the proposed one piezometer at each corner of each working sub-phase. Piezometers which are lost through quarry working shall be replaced within seven days. Continuous monitoring of all site piezometers (and interpolation between them) shall be used to ensure, during working, that the base level to which the quarry is worked is no closer to the measured groundwater level than 1 metre.

31 Stream flow, groundwater level and water quality monitoring shall be undertaken throughout the life of the quarry and post-restoration in accordance with a monitoring scheme to be submitted to and approved in

writing by the Mineral Planning Authority. Following the initial groundwater management and monitoring, annual monitoring reports shall be produced, presenting the collected data to date and assessing any changes to stream flow and groundwater levels (including groundwater levels in private water supplies) and the possible causes of these. If quarry working is assessed to be the cause of the impacts, the report shall propose mitigation measures. The annual monitoring report shall include the requirements set out in this condition and the foregoing conditions 27 to 30 and shall be submitted to the Mineral Planning Authority between 1st and 31st March for each year of operation.

Groundwater Protection and Pollution Control

32 There shall be no storage facilities for oils, fuels or chemicals on the site.

Dust and Particulates

33 Prior to the commencement of the development hereby approved a Dust Management and Monitoring Plan shall be submitted to and approved in writing by the Mineral Planning Authority (in consultation with National Highways on behalf of the Secretary of State for Transport). Dust management and monitoring shall be undertaken in accordance with the approved plan throughout the period of quarrying works and site reinstatement.

Noise

34 For short term operations such as site preparation, soil and overburden stripping, bund formation, removal and final restoration, the free-field Equivalent Continuous Noise Level shall not exceed 70 dB LAeq, 1 hour. These operations shall not exceed a total of eight weeks in any calendar year for work close to any noise sensitive property where the suggested noise limit for routine operations is likely to be exceeded. The operator shall notify the Mineral Planning Authority in writing if such operations are likely to exceed the normal permitted levels set out in condition 35 and shall not carry out the operations unless the Mineral Planning Authority has given its written approval.

35 Except for short term operations as described in condition 34 the free-field Equivalent Continuous Noise Level shall not exceed 55 dB LAeq, 1 hour at any of the properties listed in paragraph 6.3 of the Noise Impact Assessment by Advance Environmental dated 15 December 2016. Measurements taken to verify compliance shall have regard to the effects of extraneous noise and shall be corrected for any such effects.

36 No vehicle, plant, equipment and/or machinery shall be operated at the site unless it has been fitted with and uses an effective silencer. All vehicles, plant, equipment and/or machinery shall be maintained in accordance with the manufacturer's specification at all times. Noise limits shall not apply to audible safety devices required by Health and Safety regulations, but the devices should, wherever practicable, be set at the minimum statutory level consistent with providing a safe system of working. The best practicable means to minimise noise emitted by audible safety devices shall be employed.

Ecology

Protection of Nesting Birds

37 There shall be no soil stripping or clearance of hedgerow, trees, ruderal or shrub vegetation within the site during the bird nesting season (1 March to 31 August inclusive) unless the developer has been advised by a suitably qualified ecologist that clearance will not disturb nesting birds and a record of this is kept. Such checks shall be carried out in the 14 days prior to clearance work commencing and records shall be made available to the Mineral Planning Authority on request.

Site Lighting

38 There shall be no fixed lighting installed at the site without the prior written approval of the Mineral Planning Authority. Before soil stripping operations commence, a scheme for the mobile lighting of the access track, weighbridge and operational areas of the quarry shall be submitted to and approved in writing by the Mineral Planning Authority. Development shall be carried out in accordance with the approved details.

Management of Trees, Hedgerows and Boundaries

39 All existing trees, shrubs and hedgerows within the site and on its boundaries shall be retained and protected from damage during the process of extraction and subsequent restoration unless they are identified to be removed as part of the current phase or a succeeding phase of mineral working or restoration as set out in the approved plans.

40 Before the commencement of the site access works, soil stripping in Phase 1, deposition of stripped soils in the approved soil storage bunds or the commencement of any new phase of working or soil/overburden storage, the applicant shall identify all the trees, shrubs and hedgerows to be protected and shall submit to the Mineral Planning Authority a detailed scheme to identify the nature of fencing, root protection zones and management of the operations to ensure that the vegetation remains protected from damage or root compaction for the duration of any adjacent operations. Operations shall not commence until the scheme has been approved in writing by the Mineral Planning Authority and development shall subsequently take place in accordance with the approved scheme.

41 Outside the designated mineral working areas, trees shall not be felled, lopped or topped or have their roots damaged and hedgerows shall not be removed, thinned or cut back without the prior written consent of the Mineral Planning Authority.

Any such vegetation which is removed without consent, or which dies, becomes severely damaged or seriously diseased during permitted operations or during the aftercare period as specified in condition 53 shall be replaced with trees and shrubs of a similar species during the first planting season following the death or removal.

All tree and shrub planting and other landscape works implemented pursuant to this permission shall be maintained and shall be protected from damage for the duration of the extraction and restoration works, and for ten years from the completion of restoration in any part of the site.

Throughout the life of the operation the operator shall maintain fences, hedges and other boundaries between any development area used for development authorised by this permission and any adjoining land.

Provision of Hedgerow along the A30

42 In the first planting season following the date of this permission a hedgerow shall be planted along the boundary with the A30 Trunk Road. The hedgerow shall comprise a mix of native species for which details of the species, size, planting density and provenance shall first have been submitted to and approved in writing by the Mineral Planning Authority.

Soil Management and Protection

43 Soils shall only be stripped and moved when dry and friable and no soil handling shall proceed during and shortly after significant rainfall, and/or when there are any puddles on the soil surface.

44 Plant or vehicle movement shall be confined to clearly defined haul routes which shall first have been identified on a drawing and approved in writing by the Mineral Planning Authority. No heavy plant or machinery shall traverse soils except for the express purpose of stripping or stacking soils or replacing soils in restored areas.

45 All topsoil, subsoil, and soil forming material shall be retained on the site and pockets of suitable soil forming material shall be recovered wherever practicable, during the stripping or excavation operations, for use during the restoration phase in accordance with the scheme required by conditions 46 and 47.

Soil Handling Methodology

46 All soil handling operations shall be carried out in accordance with a detailed Soils Management Scheme that shall be submitted to and approved in writing by the Mineral Planning Authority before any stripping or replacement of soils commences. The scheme shall be in accordance with the Defra "Good Practice Guide for Handling Soils – Sheets 1-4" and the Defra "Guidance for successful restoration of Mineral and Waste Sites". The schemes shall also contain the following:

(a) the methodology detailed within the Regulation 22 Additional Information – Landscape Soils and Arboriculture report (June 2017), notably sections 3.3 and 3.4 of that report;

(b) the appropriate tests to determine if the moisture content is drier that the lower plastic limit and therefore less prone to damage if handled;

(c) where subsoils are not to be retained, the applicant shall identify those soils and soil substitutes intended to be used in their place. Soils identified for use as a subsoil substitute shall be stripped separately and either re-spread over the replaced overburden or stored separately for subsequent replacement; and

(d) the detailed criteria for the management of soil storage bunds to include seeding for protection of run-off and deleterious weed growth.

Soil Movement; Destination and Notification

47 No longer than three months before the commencement of stripping or replacement of soils on each working phase or sub-phase, a Scheme of Soil Movement and Restoration shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include a plan which shall clearly identify the origin, intermediate and final locations of soils as defined by soil units, together with details balancing the quantities, depths and areas involved, the location, contours and volumes of the receiving/donating soil storage bunds and identifying the soil types and volumes contained therein.

No soils shall be stripped in any new phase or part phase until the scheme for that phase has been approved in writing by the Mineral Planning Authority and no soils shall be replaced until details have been submitted including the depth, soil types and aftercare proposals for each phase and sub-phase. Once the scheme has been approved the Mineral Planning Authority shall be given five clear working days' notice of the intention to start stripping or replacement of soils in any phase or part phase of the permitted operation.

Phased Working and Restoration

48 The working and restoration of the site shall be carried out in stages, progressively as the extraction proceeds, strictly in accordance with detailed phased restoration plans which shall be submitted to and approved in writing by the Mineral Planning Authority. Detailed schemes for progressive phased working and restoration shall be submitted for approval by the Mineral Planning Authority on or before the following dates:

(a) phase 1 within 12 months of the date of this permission or before commencement of soil stripping; there shall be no commencement of soil stripping in phase 2 until such time approval has been secured for the detailed restoration of phase 1;

(b) phase 2 at least 1 year prior to the completion of working in phase 1; there shall be no commencement of soil stripping in phase 3 until such time approval has been secured for the detailed restoration of phase 2;

(c) phase 3 at least 1 year prior to the completion of working in phase 2; and

(d) the physical groundworks to complete the final restoration of the site shall be completed within 2 years of the completion of mineral working in phase 3.

The detailed working and restoration shall be based on the principles of restoration and aftercare approved in the LEMP required by condition 7, and shall specify the following matters:

(aa) details of the extent, depth and direction of working and phasing, slope profiles or working phases;

(bb) details of the surface features to be retained or created to provide a mixture of ecological types;

(cc) details of the preparation of the land surface before soiling;

(dd) details of the design and management of surface water management features including surface water infiltration basins and bunds to retain and direct surface water into the appropriate overland flow routes to receiving watercourses;

(ee) depth and method of preparation and spreading of soils;

(ff) details of final land drainage, to include management of infiltration basins and wet grassland areas;

(gg) details of proposed planting, seeding and management of the restored areas to include details of size, species provenance of trees and shrubs and seeds and the maintenance of and staking/screening of planting;

(hh) details of translocation of species where appropriate;

(ii) details of maintenance arrangements to include procedures for the replacement of failed planting or restore areas; and

(jj) a programme for their implementation and monitoring. Once approved, the schemes shall be implemented and complied with at all times.

49 All plant, machinery and buildings associated with the winning and working of minerals and ancillary operations and the access road shall be removed from the site within two years of completion of mineral extraction. A scheme for the restoration of the haul route and the reinstatement of the hedgerow and the lane verges shall be submitted to and approved in writing by the Mineral Planning Authority within one year of the completion of the physical restoration works to the site. The scheme shall be implemented within two years of its approval.

Prior Cessation

50 In the event of the cessation of winning and working of minerals for a period in excess of two years prior to the completion of the approved scheme, the operator shall notify the Mineral Planning Authority in writing of such cessation.

Within six months of such notification, or if, in the opinion of the Mineral Planning Authority, a permanent cessation has occurred and the Authority has served written notice on the operator of this opinion, the operator shall submit to the Mineral Planning Authority a revised restoration scheme for the approval of the Authority.

The revised restoration scheme shall include details of the phasing of the revised scheme and the removal of fixed and mobile plant, machinery and structures, and shall be fully implemented within two years of the written approval. The restored areas shall then pass into aftercare as set out in condition 53.

Restoration

51 The restoration of the site shall be completed within two years of the cessation of winning and working minerals in the final phase and in

accordance with the approved plans set out in condition 3 and any schemes approved as required by condition 7. Before works to restore any working compartment, a detailed scheme of restoration shall be submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include:

(a) depth of subsoils and topsoils;

(b) removal of stones and other materials in excess of 100mm in any dimension which are likely to obstruct cultivation in the agricultural after-use which shall be picked and removed from the site;

(c) proposals to manage areas of differential settlement occurring during the restoration and aftercare period;

(d) proposals for planting, maintenance and aftercare for the surface of each restoration phase;

(e) proposals to rip or otherwise manage the subsoils to avoid compaction and aid free drainage of the site;

(f) proposals for water management in respect of recharging specific watercourses; and

(g) detailed proposals for the removal and restoration of the site access.

Annual Reporting

52 An annual report shall be submitted to the Mineral Planning Authority by 31 March each year to include the following information:

(a) an assessment of the progress of the operation over the previous 12 months in relation to the phasing of working and restoration;

(b) a report on the progress with the restoration and land management steps set out in the LEMP; and

(c) a statement setting out the proposed working and restoration for the following 12 months along with any significant steps identified in the LEMP.

Aftercare

53 An Aftercare Scheme requiring that such steps as may be necessary to bring the land to the required standard for the use of agriculture shall be submitted to the Mineral Planning Authority for its approval not later than three months prior to the date on which it is first expected that the replacement of topsoil shall take place.

The submitted scheme shall provide:

(a) an outline strategy for the 10 years aftercare period in accordance with paragraph 57 of the Minerals Planning Practice Guidance. This shall specify the steps to be taken and phasing in the management of the land to promote its rehabilitation to the target after-uses including where appropriate:

- a map clearly identifying all areas with phasing, subject to aftercare management;
- timing and pattern of vegetation establishment, with cultivation practices and secondary treatments;
- management of livestock, soil, fertility, weeds and pests etc;
- establishment of hedgerows, trees and other surface features;
- remedial surface and piped drainage systems, irrigation and watering, and
- a pre-release report to demonstrate that the land has been reclaimed to the required standard.

(b) A detailed annual programme, in accordance with paragraph 58 of Minerals Planning Practice Guidance, to include an annual aftercare meeting, to be submitted to the Mineral Planning Authority not later than two months prior to that meeting.

The aftercare shall be carried out in accordance with the approved scheme.

Appeal B

Standard Commencement

1 The development shall commence within three years of the date of this permission. Written notification of the date of commencement of any works on the site deemed to implement the permission shall be sent to the Mineral Planning Authority within seven days of commencement.

Highway Improvements

2 There shall be no importation of materials from Straitgate Farm for processing until such time as the road improvement at Clay Lane, Uffculme as approved by permission ref. 18/01/0174/DCC (DCC/4067/2018) has been completed and is open to all traffic.

Origin of Materials

3 There shall be no importation of materials to the site from Straitgate Farm other than as raised sand and gravel.