

## COUNTY OF DEVON

**TOWN AND COUNTRY PLANNING ACT 1990**  
**THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)**  
**(ENGLAND) ORDER 2015**  
**TOWN AND COUNTRY PLANNING (APPLICATIONS) REGULATIONS 1988**  
**TOWN AND COUNTRY PLANNING GENERAL REGULATIONS 1992**

### GRANT OF CONDITIONAL PLANNING PERMISSION

To: **Mr David Pitt, David Jarvis Associates Ltd, 1 Tennyson Street, Swindon, Wiltshire, SN1 5DT**

Agent for: **Aggregate Industries UK Limited, Frome Regional Office, Edwin Sims House, Vallis Road, Frome, Somerset, BA11 3EG**

Devon County Council hereby **grants planning permission** to carry out the development described in the application received on **18 July 2017**, and the plans and drawings attached thereto numbered: **2543-4-1 DR-0001 P1** (Location Plan); **2543-4-5-1 DR0001 P1** (Existing Conditions); **2543-4-5-1 DR-0002 P1** (Phase 2 Working Plan); **2543-4-5-1 DR-0003 P1** (Phase 3 Working Plan); **2543-4-5-1 DR-0004 P1** (Final Phase Working Plan); **2543-4-5-1 DR-0005 P1** (Proposed Restoration); **Arboricultural Assessment** (David Jarvis Associates, Revision P2, 14 May 2018; **Limekiln Monitoring and Management Plan** (Aggregate Industries UK Limited, November 2017) and **Ecological Impact Assessment** (Michel Hughes Associates, July 2017).

brief particulars of which are as follows:

**Section 73 application to vary Conditions 3, 9 and 27 of planning permission 04/06/94/0532 to enable extraction of an additional 600,000 tonnes at Westleigh Quarry, Burlescombe, Tiverton, EX16 7JB**

subject to the conditions set out in the attached sheets



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on behalf of County Solicitor

**Date: 15 January 2019**

### NOTE

This is not a decision under the Building Regulations

Failure to adhere to the details of the approved plans or to comply with the above conditions constitutes a contravention of the Town and Country Planning Act 1990, in respect of which enforcement action may be taken.

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A MINERAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS**

#### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your mineral planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your mineral planning authority's decision, then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the mineral planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

#### **PURCHASE NOTICES**

If either the Mineral Planning Authority or the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor can he/she render that land capable of a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a Purchase Notice on the District Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

**Schedule of Conditions - Mid Devon District Council Application No. 17/01194/DCC  
Devon County Council Ref. DCC/4007/2017**

**A. TIME LIMITS**

1. The development to which the permission relates shall cease and the site shall be restored in accordance with the requirements of Condition 26 not later than 23rd July 2046, unless otherwise agreed in writing with the Mineral Planning Authority.

REASON: To comply with Section 91 and Schedule 5 of the Town and Country Planning Act 1990.

**B. OVERALL CONTROL**

2. No development shall be carried out other than in strict accordance with the approved plans referenced 2543-4-1 DR-0001 P1 (Location Plan); 2543-4-5-1 DR0001 P1 (Existing Conditions); 2543-4-5-1 DR-0002 P1 (Phase 2 Working Plan); 2543-4-5-1 DR-0003 P1 (Phase 3 Working Plan); 2543-4-5-1 DR-0004 P1 (Final Phase Working Plan); and 2543-4-5-1 DR-0005 P1 (Proposed Restoration).

REASON: To enable the Mineral Planning Authority to adequately control the development and to minimise its impacts on the rural character of the locality in accordance with Policies M16 to M27 of the Devon Minerals Plan 2011-2033.

3. (a) Notwithstanding the provisions of Part 17 (Mining and mineral exploration) Class A and B of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, no fixed plant or machinery, buildings, structures and erections shall be erected, extended or installed except with a base level of below 126 metres AOD, without the prior approval in writing of the Mineral Planning Authority.
- (b) Notwithstanding the provisions of Part 17 Class H and M (which relate respectively to Waste Tipping at a Mine and Removal of Material from Mineral-working Deposits) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, no such permitted development shall take place on the site without the prior approval in writing of the Mineral Planning Authority.

REASON: To enable the Mineral Planning Authority to adequately control the development and to protect the amenities of local residents and the character of the locality in accordance with Policies M18, M20 and M23 of the Devon Minerals Plan 2011-2033.

4. Except in emergencies where operations are required to protect life, limb or property, or unless otherwise agreed in writing by the Minerals Planning Authority, no face-working or primary crushing operations shall be carried out except between the following times:  
Monday to Friday 0600 to 1800  
Saturday 0600 to 1300

And no such operations shall be carried out on Sundays and on public or bank holidays (including such other public holidays as may be subsequently declared) unless previously agreed in writing with the minerals planning authority.

For the avoidance of doubt, this condition shall not apply to the loading of lorries, the operation of any processing plant, the maintenance of plant and machinery or to the operation of pumps and ancillary machinery for water management or pollution prevention purposes.

REASON: To enable the Mineral Planning Authority to adequately control the development and to protect the amenities of local residents in accordance with Policy M23 of the Devon Minerals Plan 2011-2033

5. No winning and working of minerals shall take place below 32 metres AOD.

REASON: To enable the Mineral Planning Authority to adequately control the development and to minimise the effect on local groundwater resources in accordance with Policy M21 of the Devon Minerals Plan 2011-2033.

6. Any damage to, or impediment of, drainage arrangements serving adjoining land not controlled by the developer caused by the development shall be remedied by the developer at the earliest opportunity to the satisfaction of the Mineral Planning Authority.

REASON: To ensure that the operations have no adverse effect on adjoining agricultural land in accordance with Policy M21 of the Devon Minerals Plan 2011- 2033.

7. No imported refuse, waste or other material shall be deposited on any part of the site unless previously agreed in writing with the Mineral Planning Authority.

REASON: To enable the Mineral Planning Authority to adequately control the development and to minimise the risk of pollution to local watercourses/supplies in accordance with Policies M21 and M24 of the Devon Minerals Plan 2011-2033.

8. The development shall be carried out strictly in accordance with the following phased working plans:

Phase 1 working area shown on approved drawing no. 2543-4-5-1 DR-0001 P1 (submitted September 2018)

Phase 2 working area shown on approved drawing no. 2543-4-5-1 DR-0002 P1 (submitted September 2018)

Phase 3 working area shown on approved drawing no. 2543-4-5-1 DR-0003 P1 (submitted September 2018)

Phase 4 working area shown on approved drawing no. 2543-4-5-1 DR-0004 P1 (Final Working Plan - submitted September 2018).

The developer shall notify the Mineral Planning Authority in writing within two months of the date of commencement of entering into a new phase of working, as identified on the above drawing.

REASON: To enable the Mineral Planning Authority to adequately control and monitor the development.

9. No additional external floodlighting shall be used on any part of the site unless it forms part of a scheme which shall have been previously agreed in writing with the Mineral Planning Authority. Any such agreed scheme shall be modified if so required by the Mineral Planning Authority and may be modified at the developer's request with the prior written consent of the Mineral Planning Authority.

REASON: In the interests of the amenities of the local environment in accordance with Policies M17, M18 and M20 of the Devon Minerals Plan 2011-2033.

## **C. LANDSCAPE WORKS**

10. A Landscape and Ecological Management Plan for the application site shall be submitted within six months of the date of this permission. This Plan shall include identification of the intended function and structure/composition of each landscape unit within the application

site (including the areas referred to in Condition 12 of planning permission 04/06/94/0532), and a timetable for its implementation, management and review.

REASON: To safeguard the rural character of the locality reduce the visual impact of the site and in order to promote nature conservation interests at the site in accordance with Policies M17 and M18 of the Devon Minerals Plan 2011-2033.

11. Existing trees and shrubs on the site which are not directly affected by quarrying operations shall be retained and protected during the period of development. Any such trees or shrubs which die or are removed during the period of development shall be replaced with plants of similar species in the planting season immediately following any such occurrences unless otherwise agreed in writing with the Mineral Planning Authority.

REASON: To safeguard the character of the locality and to minimise the visual impact of the proposed development in accordance with Policy M18 of the Devon Minerals Plan 2011-2033.

12. Until such a time as they are directly affected by quarrying operations, all trees, shrubs and areas of vegetation within the site area shall be retained and managed in order to maximise their nature conservation value.

REASON: To safeguard the character of the locality and to minimise the area of disturbance by quarrying activities in accordance with Policies M17 and M18 of the Devon Minerals Plan 2011-2033.

13. Development within Rocknell Quarry shall be undertaken in accordance with the recommendations of the submitted Arboricultural Assessment (David Jarvis Associates, Revision P2, 14 May 2018), including provision of the protective fencing illustrated on drawing no. 2543-4-5 DR-0002 P1.

REASON: To safeguard the rural character of the locality and to reduce the visual impact of the site in accordance with Policy M18 of the Devon Minerals Plan 2011- 2033.

14. Unless otherwise agreed in writing with the Mineral Planning Authority, any trees or shrubs planted pursuant to conditions 10, 12, 13 and 14, which die or are removed within five years of planting, shall be replaced with plants of similar species in the planting season immediately following any such occurrences.

REASON: To safeguard the rural character of the locality and to reduce the visual impact of the site in accordance with Policy M18 of the Devon Minerals Plan 2011-2033.

#### **D. HISTORIC ENVIRONMENT**

15. Limekilns within and adjacent to Rocknell Quarry will be managed in accordance with the measures and monitoring arrangements provided in the submitted Limekiln Monitoring and Management Plan (Aggregate Industries UK Limited, November 2017).

REASON: To safeguard and conserve the historic character of the area in accordance with Policy M19 of the Devon Minerals Plan 2011-2033.

#### **E. BLASTING**

16. When carrying out blasting operations, the developer shall minimise the propagation of ground borne vibration beyond the perimeter of the site and shall ensure that all blasting procedures are designed, and executed to ensure that the maximum vibration from blasting, expressed in terms of peak particle velocity (ppv) shall not exceed 10mm per

second (at 95% confidence level) measurable at any building not under the control of the developer that is used for human habitation and is located outside the site, and shall never exceed 12mm per second at such buildings, unless previously agreed in writing with the Mineral Planning Authority.

REASON: To protect the amenities of local residents and to minimise the risk of damage to nearby buildings in accordance with Policy M23 of the Devon Minerals Plan 2011-2033.

17. Unless otherwise agreed in writing with the Mineral Planning Authority, and unless as may be necessary for reasons of safety, the number of blasting episodes shall not exceed three in any one day.

REASON: To protect the amenities of local residents and to minimise the risk of damage to nearby buildings in accordance with Policy M23 of the Devon Minerals Plan 2011-2033.

18. When carrying out blasting operations, the developer shall minimise the propagation of airborne vibration outside the site.

REASON: To protect the amenities of local residents and to minimise the risk of damage to nearby buildings in accordance with Policy M23 of the Devon Minerals Plan 2011-2033.

19. Except as may be essential for reasons of safety, no blasting shall be carried out other than between 0900 and 1600 hours on Mondays to Fridays, and between 0900 and 1300 hours on Saturdays. No blasting shall take place on Sundays nor on public holidays set out in condition 4. The developer shall inform the Mineral Planning Authority in writing within 48 hours of any occurrence outside these times, together with an explanation.

REASON: In the interests of the amenities of the locality in accordance with Policy M23 of the Devon Minerals Plan 2011-2033.

## **F. NOISE**

20. (a) Noise levels from any or all plant, equipment and quarrying operations within the Westleigh and Fenacre sites as measured at any building used for human habitation not under the direct control of the developer shall not exceed the following limits, expressed as an LAeq 1hr (equivalent continuous sound level over a one hour period):
- i). 50dB (freefield) for the period 2200 to 0600 hours,
  - ii) 55dB (freefield) for the period 0600 to 0700 hours, and,
  - iii). 60dB (freefield) for the period 0700 to 2200 hours,
- (b) Noise levels from any or all quarrying operation within the Rocknell site (for hours of operation see Condition 4) as measured at any building used for human habitation not under the direct control of the developer shall not exceed the following limits, expressed as an LAeq 1hr (equivalent continuous sound level over a one hour period);
- i). 42dB (freefield) for the period 0600 to 0700 hours, and,
  - ii) 55dB (freefield) for the period 0700 to 1800 hours.
- (c) If the sound measured within the monitoring period contains any continuous definite distinguishable note (whine, hiss, screech, squeal, hum etc) or if there are significant irregularities in the noise including impulse irregularities, such as bangs, clicks, clatters or thumps, then 5dB(A) shall be added to the measured LAeq, one hour prior to the determination of whether the above limits are being complied with.

- (d) The Mineral Planning Authority shall be empowered to relax the noise limits over a restricted period on application from the developer provided that it is satisfied that such a relaxation is necessitated by any abnormal requirements of the quarrying operations and that such relaxation shall not cause undue disturbance to the locality by way of noise.

The noise limits referred to above may be exceeded where emergency action is essential to the safety of the works, employees of the works or members of the public.

REASON: To protect the amenities of the local area in accordance with Policy M23 of the Devon Minerals Plan 2011-2033.

#### **G. DUST AND MUD**

21. The development shall only be carried out in accordance with the submitted Environmental Scheme (Advance Environmental, 30 June 2017) which shall be complied with at all times, or such other schemes as may subsequently be required and approved in writing by the Mineral Planning Authority.

REASON: To protect the amenities of the locality from the effects of dust and mud in accordance with Policy M23 of the Devon Minerals Plan 2011-2033.

#### **H. SOIL STRIPPING AND STORAGE**

22. No soil shall be stored other than in locations and in a manner, which shall previously have been agreed in writing with the Mineral Planning Authority.

REASON: In order to ensure that the soils are retained in a suitable condition for landscaping and restoration work in accordance with Policies M21 and M27 of the Devon Minerals Plan 2011-2033.

23. All soil stripping, regrading, subsoiling operations and the spreading of soils and their cultivation shall be carried out only during periods when there is sufficient soil moisture deficit so as to prevent any degradation of soil structure.

REASON: To maintain the structure of soils on the site for the maximum benefit of final restoration works in accordance with Policies M21 and M27 of the Devon Minerals Plan 2011-2033.

24. No topsoil or subsoil shall be removed from the site, except for restoration purposes within the site, unless previously agreed in writing with the Mineral Planning Authority.

REASON: To ensure maximum availability of soil materials for restoration works in accordance with Policies M21 and M27 of the Devon Minerals Plan 2011-2033.

#### **I. RESTORATION**

25. The site shall be progressively restored in accordance with the detailed plans listed in condition 8. Unless otherwise agreed in writing with the Mineral Planning Authority, the areas shown to be restored at each particular phase of working shall be completed within a year after the phase of working begins.

REASON: To ensure that the land is progressively restored in the interest of the amenity of local residents in accordance with Policies M23 and M27 of the Devon Minerals Plan 2011-2033.

26. The final restoration of the site shall be strictly in accordance with drawing no. 2543-4-5-1 DR-0005 P1.

REASON: To ensure that the land is adequately restored in accordance with Policy M27 of the Devon Minerals Plan 2011-2033.

## **J. NATURE CONSERVATION**

27. Unless otherwise agreed in writing with the Mineral Planning Authority any tree felling or scrub removal associated with the phased development of the site shall take place only during the months of August to March inclusive.

REASON: To minimise disturbance to birds in the nesting season in accordance with Policy M17 of the Devon Minerals Plan 2011-2033.

28. Prior to the demolition of Rocknell Bungalow, a new bat roost shall be provided in accordance with the proposal in paragraph 5.51 of the submitted Ecological Impact Assessment (Michel Hughes Associates, July 2017).

REASON: To ensure adequate protection is given to a species protected under Section 9 of the Wildlife and Countryside Act 1981.

29. Any new cave which is temporarily exposed within the site as a result of quarrying activities shall be netted as soon as is reasonably practicable in order to exclude bats from such caves.

REASON: In order to minimise the effects of quarrying activities upon the bat population in accordance with Policy M17 of the Devon Minerals Plan 2011-2033.

30. Unless otherwise agreed in writing with the Mineral Planning Authority, and notwithstanding conditions 16, 17, 18 and 19 no blasting shall take place within 100 metres of the cave known as Perry's Pot and Festival Cave between the 1st September and the 30th April inclusive.

REASON: In order to limit the impact of quarrying activities on bats hibernating in Perry's Pot and Festival Caves in accordance with Policy M17 of the Devon Minerals Plan 2011-2033.

31. Lockable grills to exclude human access shall be maintained at all entrances to the caves known as Festival Cavern and Perry's Pot. There shall be no access into the above-mentioned caves without the express written consent of the developer.

REASON: To ensure adequate protection is given to a species protected under Section 9 of the Wildlife and Countryside Act 1981.

32. All caves which are exposed during quarrying operations shall be surveyed, photographically recorded and inspected by an appropriate person using an established code of practice, the details of which shall be agreed in writing with the Mineral Planning Authority within six months of the date of this permission.

REASON: To ensure the adequate recording of important geological features in accordance with Policy M17 of the Devon Minerals Plan 2011-2033.



## **K. GROUNDWATER PROTECTION**

33. Any facilities for storage of oils, fuel or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to 110% of the capacity of the tank. If there is multiple tankage, the compound shall be at least equivalent to 110% of the capacity of the largest tank. All filling points, vents and sight glasses, must be located within the bund. The drainage system of the bund shall be sealed with no outlet to any watercourse, land or underground strata.

REASON: To prevent pollution of the water environment in accordance with Policy M21 of the Devon Minerals Plan 2011-2033.

## **L. AFTERCARE**

34. Unless otherwise agreed in writing with the Mineral Planning Authority:
- (a) aftercare schemes requiring such steps as may be necessary to bring the site to the required standard for use for amenity shall be submitted for approval by the Mineral Planning Authority not later than the expiration of 10 years following the date of this planning permission.
  - (b) The submitted schemes shall specify the steps to be taken and the during which they are to be taken. Such steps shall be carried out for a maximum period of five years following the completion of the operations required to comply with sub-condition 1 above.
  - (c) Subject to sub-condition 4 below, aftercare of the site shall be carried out in accordance with the aftercare scheme as approved by the Mineral Planning Authority.
  - (d) Where the Mineral Planning Authority agrees in writing with the person or persons responsible for undertaking the aftercare steps, there shall be lesser steps, or a different timing between steps, the aftercare shall be carried out in accordance with the agreement.

REASON: To ensure the site is restored to a condition capable of beneficial use in accordance with Policy M27 of the Devon Minerals Plan 2011-2033.

## **M. PRIOR CESSATION**

35. In the event of a cessation of winning and working of minerals prior to the achievement of the completion of the approved scheme which, in the opinion of the Mineral Planning Authority constitutes a permanent cessation within the terms of Paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, a revised restoration scheme to include details of aftercare, shall be submitted for approval to the Mineral Planning Authority within two years of the cessation of winning and working, or within such other periods as may be otherwise agreed in writing with the Mineral Planning Authority. The revised scheme as approved shall be carried out within one year of the written approval unless otherwise agreed in writing with the Mineral Planning Authority.

REASON: To enable the Mineral Planning Authority to adequately control the development and to ensure that the site is restored to a condition capable of beneficial use in accordance with Policy M27 of the Devon Minerals Plan 2011-2033.

## **N. MONITORING**

36. The developer shall notify the Mineral Planning Authority in writing within 2 weeks of the dates of the commencement, completion and restoration dates of each new phase of working and bunding.

REASON: To enable the Mineral Planning Authority to adequately control the development, monitoring and aftercare of the site.

37. During the period of development and restoration of the site, the developer shall undertake monitoring and analysis in accordance with the submitted Environmental Scheme (Advance Environmental, 30 June 2017), and shall keep comprehensive records of monitoring and analysis of the following matters:

- (a) Groundborne vibration and air overpressure,
- (b) Noise, and
- (c) Dust.

The Environmental Scheme shall be reviewed within five years of the date of this permission and any revised Scheme shall be submitted for the approval of the Mineral Planning Authority.

REASON: To enable the effects of any unforeseen circumstances of the development to be adequately monitored during the course of the operations in accordance with Policy M23 of the Devon Minerals Plan 2011-2033.

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38. The developer shall within 14 days of being required by the Mineral Planning Authority supply to it copies of the monitoring records and permit access to all monitoring equipment at all times at the request of the Mineral Planning Authority.

REASON: To enable the effects of the development to be adequately monitored during the course of the operations.

### **INFORMATIVE NOTE**

#### **Statement of compliance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015**

In determining this application, the Mineral Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application by liaising with consultees, respondents and the applicant/agent and discussing changes to the proposal where considered appropriate or necessary. This approach has been taken positively and proactively in accordance with the requirement of the NPPF, as set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015.