



## Appeal Decision

Inquiry held on 23-26, 31 August and 1 September 2022

Site visit made on 2 September 2022

**by J Woolcock BNatRes (Hons) MURP DipLaw MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 October 2022**

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### **Appeal Ref: APP/D1265/W/22/3295006 Westford Park Farm, Chard, Dorset**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
  - The appeal is made by Aggregate Industries UK Limited against the decision of Dorset Council (DC).
  - The application No.WD/D/19/000451, dated 7 December 2018, was refused by notice dated 21 September 2021.
  - The development proposed is temporary planning permission for an extension to Chard Junction Quarry at Westford Park Farm for the winning and working of approximately 930,000 tonnes of sand and gravel with progressive restoration to agriculture and nature conservation, inclusive of a new internal haul road and the retention of the existing mineral processing facilities and silt lagoons for a period of seven years.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The details in the above bullet points are taken from the application form. DC's Decision Notice states that the application was received on 7 February 2019 and that the site address is Chard Junction Quarry, Westford Park Farm, Thorncombe, Chard. The Appeal Form gives the site address as Aggregate Industries UK Ltd, Chard Junction Quarry, South Chard, Chard TA20 4QS.
3. The application was accompanied by an Environmental Statement about which DC issued a request for further information.<sup>1</sup> In response to issues raised by the statutory consultees a revised development scheme was submitted for the phased extraction and processing of mineral and the phased restoration of the Westford Park Farm site. The amended scheme reduced the tonnage of sand and gravel proposed to be extracted from 930,000 tonnes to 830,000 tonnes. It is the 2020 revised scheme that was considered by DC and is now the subject of this appeal. DC refused the application against the recommendation of its officers for approval. A further request pursuant to Regulation 25 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) was made in June 2022 by the Planning Inspectorate. The response, dated August 2022, was available for consultation for 30 days.<sup>2</sup>

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<sup>1</sup> CD1 and CD4.

<sup>2</sup> CD10.

4. I made an unaccompanied visit on 10 September 2022 to see views from public vantage points that were not included on my accompanied site visit. The Inquiry was closed in writing on 28 September 2022. I have taken the written representations submitted about the further information, along with that submitted at both the application and appeal stages, into account in determining this appeal. I am satisfied that the Environmental Statement, with the further information submitted, reasonably complies with Schedule 4 of the EIA Regulations. In deciding the appeal, I have had regard to the Environmental Information.<sup>3</sup>
5. DC considered a revised scheme, but the heading for the Officers' Report, the Decision Notice, along with publicity for the appeal and the Inquiry, maintained the description of the proposed development, as set out in the bullet points at the start of this decision. It was clarified at the Inquiry that the description of the proposal should be as follows:

"Temporary planning permission is sought for an extension to Chard Junction Quarry at Westford Park Farm for the winning and working of up to 830,000 tonnes of sand and gravel with progressive restoration to agriculture and nature conservation, inclusive of a new internal haul road, silt press and the retention of the existing mineral processing facilities for a period of seven years".<sup>4</sup>

Dealing with the appeal on this basis would not be prejudicial to anyone as it is evident from all the other appeal documentation that the revised scheme was being considered.

6. The proposed development comprises three elements: (1) the retention of the existing processing area/stockyard, with the addition of a silt press; (2) a haul road to the excavation area; and (3) a site for extraction, bunds/soil storage and restoration. The latter is referred to as the 'extension area' in this decision. Public Right of Way (PRoW) W44/60 traverses the field in the northern part of the extension area and would require a temporary diversion. The access lane to Westford Park Farm (referred to as the 'lane' in this decision) defines the eastern boundary of the extension area. The lane provides access to other PRoW in the AONB.<sup>5</sup>
7. Excavation with progressive restoration is proposed to proceed in three Phases. There is an existing watercourse (WC3) that flows westward from a ford on the lane across the southern part of the extension area and into the River Axe to the west. WC3 and the vegetation along it would be retained throughout the operation. It would separate Phase 1 and Phase 3, except where it would be culverted to provide for a haul road through the extension area. Adjacent to the western boundary of the extension area is a wooded bank that slopes steeply down to the floodplain of the River Axe. The restoration of the extension area to agriculture and nature conservation would include a waterbody with marginal vegetation, along with woodland and hedgerow planting.

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<sup>3</sup> The Environmental Information means the environmental statement, including any further information (required pursuant to Regulation 25) and any other information, any representations made by any body required by the Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development.

<sup>4</sup> Paragraph 2.8 of SoCG at ID14.

<sup>5</sup> This road provides access to PRoW W44/59, W44/54, W44/55 and W44/101.

8. Planning permission was originally granted for quarrying sand and gravel at Chard Junction in 1948. A number of permissions have subsequently been granted.<sup>6</sup> Parts of the appeal site comprising the silt lagoons, processing area and stockyard lie within the area that is subject to extant planning permission for the winning and working of sand and gravel.<sup>7</sup> Conditions 3 and 4 of this permission limit development to the period ending 31 March 2023 and require restoration in accordance with the plans submitted with the application.<sup>8</sup> Condition 16 provides for a five-year scheme and strategy for aftercare. It was clarified at the Inquiry that Condition 15, requiring submission of a scheme of restoration and landscaping within six months of the date of permission, has not been complied with.
9. On application, Stop the New Quarry in the Dorset AONB Action Group (abbreviated to the Action Group), Tatworth and Forton Parish Council (T&FPC), and Friends of Chard Junction Nature Reserve (Friends of ChardJn NR) were granted Rule 6(6) status pursuant to The Town and Country Planning (Inquiries Procedure) (England) Rules 2000. The Rule 6 parties participated fully in the Inquiry, with the Action Group and T&FPC opposing, and Friends of ChardJn NR supporting, the proposed development.
10. The appeal site lies within the Dorset Area of Outstanding Natural Beauty (AONB). I am required by section 85 of the Countryside and Rights of Way Act 2000 to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The appellant and DC agree that the proposal would be major development for the purposes of applying paragraph 177 of the National Planning Policy Framework (NPPF). I concur.
11. The development plan for the area includes the Bournemouth, Dorset and Poole Minerals Strategy 2014 (MS14) and the Bournemouth, Christchurch, Poole and Dorset Minerals Sites Plan 2019 (MSP19). I have also had regard to the Dorset AONB Management Plan 2019-2024 (AONBMP).
12. A Deed of Agreement dated 15 September 2022 pursuant to section 106 of the 1990 Act would safeguard provision for properties benefitting from a private water supply located within the appeal site.<sup>9</sup> It would also secure the creation and management of a wetland nature reserve, encompassing the existing silt lagoons within the appeal site and an adjoining area, formerly a minerals site, that has now been restored.<sup>10</sup> The obligation includes a contribution of £25,000 for provision of a new footbridge on public footpath W44/60 over the River Axe. It would also contribute a sum of £7,500 per annum for a period of 10 years towards management works within the Blackdowns National Character Area within the Dorset AONB. I am satisfied that these obligations would be in accordance with the statutory requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), and would accord with relevant policy.<sup>11</sup>

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<sup>6</sup> These include Ref:1/D/12/000079 for the winning and working of 1.5 million tonnes of sand and gravel as an extension to Chard Junction Quarry.

<sup>7</sup> ID26.1 planning permission granted on 19 November 2020.

<sup>8</sup> ID26.2 and ID26.3.

<sup>9</sup> ID33.2.

<sup>10</sup> The obligation provides for the developer to manage the nature reserve or for it to be transferred to a Management Board, with payment of £20,000 per year for a period of 10 years, to maintain the Nature Reserve.

<sup>11</sup> ID40.

## Main Issues

13. The main issues in this appeal are:

- (1) The effect of the proposed development on the character and appearance of the area.
- (2) The effect of the proposed development on highway safety.
- (3) The effect of the proposed development on the residential amenity of nearby occupiers by reason of noise and dust.
- (4) The effect of the proposed development on biodiversity.
- (5) The need for the development having regard to any national considerations and the impact on the local economy.
- (6) The scope for and cost of meeting the need for the development in some other way.
- (7) The extent to which any detrimental effect on the environment, the landscape and recreational opportunities could be moderated.
- (8) Whether there are exceptional circumstances for major development in the AONB, and whether the development would be in the public interest.

The Action Group considers that it would not be feasible to construct and operate a quarry in accordance with the submitted plans. Quarry design was the subject of a round-table discussion at the Inquiry.

## Reasons

### *Quarry design*

14. Objectors to the proposed development consider the description of the proposal as an 'extension' to be misleading. However, for the period that the existing processing area/stockyard and silt ponds benefit from an extant planning permission the proposal is technically an extension of Chard Junction Quarry, albeit an addition requiring a haul road about 700 m long to access the proposed extraction area. Therefore, the description of the proposed development is not incorrect, but the baseline for assessing the effects of the proposal should properly take into account that the existing processing area/stockyard and silt ponds are required to be restored by 31 March 2023.
15. The amended application plans represent a 'snapshot' at particular stages in the proposed phased extraction and progressive restoration.<sup>12</sup> It was clarified at the Inquiry that in some instances these plans do not identify the depth of working for areas shown during progressive restoration. It was evident from the documentation supporting the amended application that the depth of working would be down to 53 m above Ordnance Datum (AOD) in Phase 1, and below the water table in Phases 2 and 3.<sup>13</sup>

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<sup>12</sup> ID8.

<sup>13</sup> At the Inquiry stage the extent of excavation was shown on Mr Hopkin's Drawings SLH22-066-D-101 and 102 in Appendix 2 of his Proof of Evidence. Suggested planning Condition 5 (ID42.2) would specify maximum depths of excavation of 53 m AOD in Phase 1 and 45 m AOD in Phases 2 and 3.

16. The Action Group submitted a technical and detailed critique of the design of the proposed quarry, arguing that the drawings depicted an undeliverable scheme. Some matters, such as haul road gradients and back filling in water, were agreed at the round-table discussion to be resolvable with the submission of further particulars.<sup>14</sup> In addition, the Action Group's expert produced a set of conceptual design sketches demonstrating how the site could be laid out and operated in a manner that would overcome the identified design flaws.<sup>15</sup>
17. However, the Action Group's remaining concerns included excavation geometry and inconsistencies in the cross-sections submitted, necessary revision of slopes towards the eastern boundary of the site, recoverable mineral tonnages and volumes of void to accept restoration material at any particular phase of working, restricted quarry floor widths and the provision of working benches, along with concerns about the available space in Phase 2a to allow sub-water table excavation and subsequent backfilling with overburden below water before excavation commenced for Phase 2b.<sup>16</sup> The Action Group concluded that additional out-of-pit overburden and soil storage capacity would have to be found and that this would be a major departure from the submitted scheme that had not been assessed.
18. Some of these concerns would be subject to other statutory provisions. It should be assumed that these regimes would operate effectively.<sup>17</sup> Safety considerations would be subject to the provisions of the Quarry Regulations 1999. Where it would be necessary and reasonable to do so, planning conditions could require the approval of further details to deal with some of the matters raised by the Action Group. There would also be considerable scope within the overall use and management of the appeal site, edged red on Drawing DR-0002, to deal with the matters contested by the Action Group, including provision for overburden and soil storage throughout the phased operation.
19. Subject to the imposition of appropriate planning conditions, I am satisfied that it would be feasible, within the parameters considered in the Environmental Information, to devise detailed provisions for the appeal site to enable the winning and working of up to 830,000 tonnes of sand and gravel with progressive restoration over a period of seven years.

#### *Character and appearance*

20. The special qualities of the AONB include its undeveloped rural character, tranquillity, remoteness, dark night skies and panoramic views.<sup>18</sup> In the AONB's Landscape Character Assessment the appeal site lies within the Undulating River Valley Landscape Character Type, centred on the floodplains and surrounding branching valleys and undulating hills, where the protection of open rural countryside from further intrusive development is a key objective. The site also lies within the Axe Valley Landscape Character Area (LCA). The key characteristics and special qualities of this LCA include a meandering terraced river floodplain with a patchwork of fields on valley bottoms and undulating hills with shallow valleys, occasional small woodlands on upper terraces and long open views along the valley floor. The LCA has largely

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<sup>14</sup> Taking into account ID20.

<sup>15</sup> Figures RA1-RA6 Ms Allington's Proof of Evidence.

<sup>16</sup> ID32.

<sup>17</sup> NPPF paragraph 188.

<sup>18</sup> CD8.05.

retained its strong undeveloped rural character, with associated characteristics of tranquillity, remoteness and dark night skies, but the assessment adds that these qualities are notably weakened by industrial activity toward Chard Junction. Overall, the LCA is judged to have a moderate strength of character and to be in a moderate and stable condition.

21. The experts at the Inquiry disagreed about landscape susceptibility. The appellant assesses landscape susceptibility for the appeal site and its local context as medium, citing a combination of woodland, a relatively low-lying position in the landscape and to a limited extent the near presence of industry as well as historic and active mineral extraction. I consider that this understates the contribution that the extension area makes to the character and scenic quality of the AONB. The valley side in which the extension area is located has existing ground levels up to 72 m AOD near the lane compared to the floodplain at the base of the valley at around 50 m AOD. The extension area is not appreciated as low-lying in this context. In addition, it seems to me that the juxtaposition of commercial activity in Chard Junction with the rural tranquillity of the extension area makes this part of the open countryside more vulnerable to intrusive development. For those leaving the built area of Chard Junction to walk in the countryside the extension area would be their first experience of open views in this attractive part of the AONB.
22. It was apparent from my site visits that the extension area is visually separated from the industrial activity in Chard Junction by wooded areas, hedgerows and the local topography. This part of the countryside is detached from the influences of the existing quarries and commercial/industrial areas within Chard Junction. Notwithstanding the proximity of these activities, this part of the appeal site retains a strong undeveloped rural character. There are attractive views from the lane, and from PRow in the area, of this rural scene extending down to and over the river valley.<sup>19</sup> These views provide for an appreciation of the landform and how it relates to the River Axe and its floodplain.
23. I also saw at my visits that there are views from the western side of the river, including from sections of the A358, B3167 and PRow, towards the AONB and the extension area.<sup>20</sup> More distant views are possible from higher vantage points on Storridge Hill.<sup>21</sup> In these views the wooded bank and other intervening trees provide some screening, but this would be less so in the winter months. However, there are some gaps in this screen and where the appeal site is visible from the west it is seen as an integral part of the wider rural landscape and attractive countryside, with little evidence of the industrial and commercial activity in Chard Junction. Parts of the haul road and the eastern higher parts of the extension area would be apparent from these western vantage points.
24. In this context the quarry operation would be a highly intrusive development. The construction of the haul road would require the removal of mature vegetation and hedgerows to regrade crossings and to create large visibility splays along Headstock Road and the lane. These are currently narrow rural lanes bounded by mature hedgerows. Replacement and proposed advance planting would take many years to be of much significance in the landscape.

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<sup>19</sup> Viewpoints 1-8.

<sup>20</sup> Viewpoints 13-15 and 18-21.

<sup>21</sup> Viewpoint 17.



The proposed bunds and soil storage mounds would help to screen views into the extraction area, but even if grassed would appear as highly engineered structures out of keeping with the undulating hills and shallow valleys that are characteristic of the area. Some of these bunds would screen off longer distance views over the open countryside. Activity and noise within the extension area and along the haul road would be apparent and would contrast sharply with the tranquillity of the area.

25. For the seven years of the proposed excavation and restoration, I consider that the operation would have an adverse effect on the character and appearance of the area of major significance. But these operational effects would be temporary, whereas the proposed site restoration would have a long-term impact.
26. The planted woodland and replacement hedgerows would not recreate existing features of the landscape, but in time would mature and contribute to the natural beauty of the AONB. However, the contours of the restored landform would be a permanent legacy of mineral extraction. The restored ground level for Phase 1 to the south of WC3 would be reasonably consistent with the existing ground levels for that part of the extension area, but levels for Phases 2 and 3 would be significantly different.<sup>22</sup>
27. To the north of WC3 the surface level of the proposed water body (about 51 m AOD) within the restored Phase 3 would be up to 15 m below the existing ground level.<sup>23</sup> By contrast WC3 and its surrounding vegetation would remain at its existing level of about 65 m AOD near the lane down to about 53 m AOD near the wooded bank. The restored landform would alter this part of the wooded bank to a wooded ridge. The top of this ridge would remain at the existing level of the top of the wooded bank, which is about 63 m AOD. The existing ground level along the part of the lane adjacent to Phase 3 slopes down from about 72 m AOD to 66 m AOD near to the ford. The elongated shape of the extension area, with a width of about 180 m in Phase 3, would not provide much space to achieve the difference in levels required by the restoration scheme. The result would be the creation of an unnatural 'bowl shaped' depression in the landform between the lane to the east, a wooded ridge along the margin of the river floodplain to the west, and WC3 and associated vegetation to the south. The wireframe landform views at ID35 provide a visualisation of this effect.
28. The east facing bank of this bowl would be wooded, its west face steeply sloping agricultural land extending down to the proposed waterbody. Given that the natural watercourse WC3 would remain unaltered, the proposed waterbody would not reflect the natural drainage pattern in the area. In this context the waterbody at the base of the bowl would appear as an artificial addition to the landscape. Furthermore, the waterbody would not appear as a natural element of the River Axe and its floodplain because the existing wooded bank would be altered to a wooded ridge. The reprofiled landform of this simple valley side would be seen as man-made, with the unnatural contours appearing as a discordant feature in this landscape of undulating hills and shallow valleys. In the long term, I consider that the restored quarry, by reason of its landform, would have an adverse effect on the character and appearance of the area of moderate/substantial significance.

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<sup>22</sup> Section 4 shown in Mr Hopkin's Drawings SLH22-066-D-101 and 102 in Appendix 2 of his Proof of Evidence.

<sup>23</sup> Section 3 as above.

29. The proposal does not include provisions to protect and/or enhance the quality, character and amenity value of the countryside and landscape. The adverse impact on the landscape would not be adequately mitigated, and compensatory environmental enhancements would not offset the residual landscape and visual impacts. This brings the proposal into conflict with MS14 Policy DM4. The scheme would be detrimental to landscape character, tranquillity and the AONB's special qualities, and so would conflict with AONBMP Policy C4a. It would also be contrary to AONBMP Policy C4c concerning protection of the quality of views into, within and out of the AONB. Given the harm I have identified, the proposed development would not conserve and enhance the natural beauty of Dorset AONB. NPPF paragraph 176 provides that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.

#### *Highway safety*

30. The Highway Authority raised no objection to the proposal, but local residents expressed concern about the effects of HGVs from the proposed quarry on both local roads and on the wider network. T&FPC highlighted the potential for vehicle conflict on routes to and from the A358 and along the B3167 to the A30, and along routes to the A35 and A303.<sup>24</sup> On-street parking along the B3167 at Dyke Hill and traffic movements associated with the local convenience store result in congestion at times for HGVs travelling to and from the west of the appeal site. The approved Freight Routes pass through the historic market towns of Chard and Axminster, where I saw at my site visits that road layout, width and alignment pose difficulties at times for the passage of HGVs. T&FPC is also concerned about the impact of HGVs on the wider road network, which passes through three AONBs, and where the personal injury incident record includes the involvement of HGVs.<sup>25</sup> The evidence submitted to the Inquiry demonstrates that routes for HGVs serving the proposed development are far from ideal.

31. However, the appellant would accept a condition limiting HGV traffic leaving the appeal site to an average of 30 laden HGVs per working day<sup>26</sup>, a maximum of 60 outbound HGVs in any single day, 1,800 HGVs in any 6-week period and an annual maximum of 6,600 laden HGVs in any 12-month period. The Action Group and T&FPC suggested more restrictive conditions.<sup>27</sup> Chard Junction Quarry has been operating with higher limits than those now proposed. This is a relevant consideration. The accident record does not indicate that the local road network was unable to cope with HGVs from Chard Junction Quarry when it was fully operational. I am not convinced on the available evidence that it would be necessary and reasonable to impose stricter limits on HGV movements than those now agreed by the appellant and DC for the proposed development.

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<sup>24</sup> ID5.

<sup>25</sup> Dorset AONB, Blackdown Hills AONB and East Devon AONB.

<sup>26</sup> The average would be calculated for each calendar three-month period in any year, as specified by suggested Condition 20.

<sup>27</sup> The Action Group (ID42.3) considers that a simple provision of 30 HGV journeys a day would provide certainty. T&FPC recommended revised hours of operation and proposed restricting HGV movements during school travel peaks (ID42.1).



32. The detailed design and construction of the proposed haul road, where it would cross public highways and footpaths, could include appropriate safety provisions to safeguard those using these routes, albeit with adverse consequences for the character and appearance of the area.<sup>28</sup>
33. On this issue, I find that the effects of HGVs would be unlikely to have an unacceptable impact on highway safety, or to result in the severe residual cumulative impacts on the road network, that would in accordance with the NPPF justify preventing or refusing the proposed development on highways grounds. Subject to the imposition of appropriate planning conditions, I find no conflict with MS14 Policy DM8 concerning transport and minerals development.

#### *Residential amenity*

34. The nearest dwellings to the proposed quarry are at Westford Park Cottages (21 m to bund, 32 m to limit of excavation), Westford Park Farm (49 m to bund, 131 m to limit of excavation), Westford Cottages (68 m to bund, 129 m to haul road and 139 m to limit of excavation) and Westford Mill (68 m to bund, 107 m to haul road and 117 m to limit of excavation).<sup>29</sup> Residential dwellings at Batemans Farm, The Stables and The Piggery are located some 30 m to the south-west of the processing area, on the opposite side of Headstock Road.<sup>30</sup> There are other dwellings further to the west and north-west of the appeal site. Yonder Hill and Station Road, which link the processing area with the B3167, include residential development.
35. DC considers that the applicant has adequately demonstrated that noise from this development could be controlled so as to secure compliance with the policy objectives and principles of the NPPF, the Noise Policy Statement for England, and the guidance found in the Planning Practice Guidance (PPG). Conditions to do so were suggested.<sup>31</sup>
36. Suggested Condition 7 provides that no operations within the extraction area would take place outside of the hours 0730 - 1630 Monday to Friday, that no operations would take place outside of the hours 0700 - 1700 Monday to Friday within the processing area (with the exception of the silt press), and that no operations would take place on Saturdays, Sundays or Bank and Public Holidays. The Action Group argued for an 0800 hours start.<sup>32</sup> It seems to me that Condition 7 would provide reasonable hours for a working quarry at the appeal site in its local context. But I have reservations about the exception for the proposed silt press.
37. The silt press would be sited within the existing processing area. This area is set below the ground level of the surrounding uses. The appellant's original noise assessment predicted a night-time noise level from the operation of the silt press of 42 dB at Batemans Farm.<sup>33</sup> However, an additional model was produced at the Inquiry with a sound power level of 101 dB L<sub>WA</sub> for the silt press, and with the addition of simple lightweight cladding, open at its northern and southern ends to allow product ingress and egress. This model predicted

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<sup>28</sup> Suggested Condition 21 would include provisions to safeguard trees in the detailed design. Condition 27 would include warning signage and other measures to ensure the safety of footpath and highway users. ID42.2

<sup>29</sup> ID31.1 and ID31.2. Distances are rounded.

<sup>30</sup> Paragraph 3.1 of SoCG at ID14. The relationship between these dwellings and the proposed silt press is shown in the projected aerial view at Figure C3 of ID29.

<sup>31</sup> ID24.

<sup>32</sup> ID42.3.

<sup>33</sup> Amended Table D1 Mr Bentley's Proof of Evidence.

that the noise level at Batemans Farm, The Stables and The Piggery would be 36 dB  $L_{Aeq,1hr}$ .<sup>34</sup> There is evidence that background noise levels in the vicinity of these dwellings are very low at night-time, with  $L_{A90}$  recorded in the mid-to-low 20s dB for a significant part of the night.<sup>35</sup>

38. The Minerals PPG advises that for operations during the evening (1900-2200) the noise limits should not exceed the background noise level ( $L_{A90,1h}$ ) by more than 10 dB(A) and should not exceed 55 dB  $L_{Aeq,1h}$  (free field). For any operations during the period 2200 – 0700 noise limits should be set to reduce to a minimum any adverse impacts, without imposing unreasonable burdens on the mineral operator. In any event the noise limit should not exceed 42 dB  $L_{Aeq,1h}$  (free field) at a noise sensitive property. The PPG adds that it may be appropriate to set specific limits to control any characteristics of the noise that might be particularly annoying.
39. I am not convinced on the evidence submitted that the operation of the proposed silt press would be likely to accord with the guidance not to exceed the background noise level by more than 10 dB(A) in the evening. The limit of 38 dB  $L_{Aeq,1h}$  in the suggested planning condition would be below the maximum of 42 dB advised in the PPG.<sup>36</sup> Nevertheless, noise from the silt press at a level of 38 dB  $L_{Aeq,1h}$  would be significantly above the background levels in the early hours of the morning. In addition, the 38 dB  $L_{Aeq,1h}$  limit in the suggested planning condition would not impose any penalty if the silt press emitted noise with any particularly annoying characteristics, such as tonality, impulsivity, intermittency or sound features that would be readily distinctive against the residual acoustic environment. The Noise PPG advises that some types and level of noise will cause a greater adverse effect at night than if they occurred during the day. This is because people tend to be more sensitive to noise at night as they are trying to sleep. It adds that the adverse effect can also be greater simply because there is less background noise at night.
40. The appellant defines the lowest observed adverse effect level (LOAEL) at night as 40 dB  $L_{Aeq,1h}$ . Below this level the appellant considers that noise can be heard but would not cause any change in behaviour or the quality of life. In my judgement, a noise level at night up to 20 dB above the background level would be more than likely to adversely impact upon the quality of life for those trying to sleep with windows open. In the circumstances that apply to this appeal, I consider that it would be inappropriate to apply a night-time LOAEL of 40 dB  $L_{Aeq,1h}$  and a significant observed adverse effect level (SOAEL) of 55 dB  $L_{Aeq,1h}$ .<sup>37</sup> This would be particularly so where noise from the proposed silt press could contain annoying characteristics. I find that the appellant's noise assessment does not demonstrate that the proposed silt press could operate throughout the night at an acceptable noise level for this location. Furthermore, reliance on suggested Condition 13, with a limit set at 2 dB above the mitigated level predicted in the revised modelling, could result in protracted monitoring and enforcement proceedings likely to erode public confidence in the effectiveness of the planning system.

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<sup>34</sup> ID29 Table 3.1.

<sup>35</sup> Figure B2 Mr Bentley's Proof of Evidence.

<sup>36</sup> Suggested Condition 13 at ID42.2 states that "Noise levels arising from the site between the hours of 2100 and 0700 shall not exceed 38 dB  $L_{Aeq,1h}$  (free field) at any receptor".

<sup>37</sup> Mr Bentley's Proof of Evidence Table 4.7 and Table 4.6.

41. Local residents living close to the proposed excavation queried noise levels arising from initial activities on the site prior to the completion of noise bunds. However, paragraph 210 g) of the NPPF recognises that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate mineral extraction. The Minerals PPG refers to short-term activities such as soil-stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance. It notes that increased temporary daytime noise limits of up to 70 dB  $L_{Aeq, 1h}$  (free field) for periods of up to 8 weeks in a year at specified noise-sensitive properties should be considered to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs.
42. I am satisfied that the additional noise modelling submitted to the Inquiry demonstrates that construction of the haul road and initial bunds in the vicinity of Westford Cottages and Westford Mill could be undertaken within the noise limit for short-term noisy activities provided for in the Minerals PPG.<sup>38</sup> The same applies for short-term activities in the vicinity of Westford Park Farm and Westford Park Cottages.<sup>39</sup> I find here that the initial construction of bunds would provide noise mitigation for the remainder of the proposed operation and so would accord with national policy to facilitate mineral extraction.
43. Many local residents raised concern about dust and associated health implications from the construction and operation of the proposed quarry. The appellant's Potential Dust and Air Quality Impact Assessment acknowledges that fugitive emissions of dusts can be produced by excavation, transportation, and tipping activities, with the potential to impact adversely on nearby dwellings at Westford Park Farm, Westford Park Cottages, Westford Mill, Westford Cottages and at Batemans Farm.<sup>40</sup> The excavated material would have a relatively high moisture content and DC considers that significant dust emissions from the quarry would be unlikely.<sup>41</sup> However, a changing climate could result in long dry periods becoming more frequent. Nevertheless, the impact of fugitive emissions could be minimised by using a number of established mitigation methods approved pursuant to a planning condition.
44. Such a condition would require the submission of baseline conditions, details of site activities and mitigation measures, provisions for monitoring and reporting to ensure compliance with appropriate environmental standards, including for fine particles (PM<sub>10</sub> and PM<sub>2.5</sub>) and NO<sub>2</sub>, along with measures to secure an effective response to complaints. I am satisfied that subject to such a planning condition and to compliance with approved mitigation measures the proposed development would not, by reason of dust or poor air quality, have a significant adverse effect on nearby ecological receptors, the amenity of the area or the health of those living nearby. I find no conflict with MS14 Policy DM2 with respect to dust.

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<sup>38</sup> Table 3.1 ID29.

<sup>39</sup> Table 6.2 Mr Bentley's Proof of Evidence.

<sup>40</sup> CD1.14 Appendix G relates to the original scheme, but I consider that its general findings regarding dust mitigation also apply to the amended scheme.

<sup>41</sup> Paragraph 7.16 of SoCG at ID14.

45. I am satisfied that local concern about air quality is a matter that could be properly addressed by the imposition of planning conditions. However, on the available evidence, I consider that the siting and operation of the proposed silt press would pose an unacceptable risk for the occupiers of nearby residential properties from unacceptable levels of evening/night-time noise pollution. This harm would be temporary. But for the period that the silt press was operational noise at night could have a significant adverse effect on the residential amenity of nearby occupiers. This brings the proposed development into conflict with paragraph 174 e) of the NPPF concerning unacceptable levels of noise pollution. I am also unable to find that the potential adverse impact from noise would be adequately mitigated to an acceptable level in accordance with MS14 Policy DM2.

### *Biodiversity*

46. The Deed of Agreement would secure the creation and management of a wetland nature reserve, encompassing the existing silt lagoons within the appeal site (4.3 ha), along with an adjoining area, formerly a minerals site that has now been restored as a nature reserve (8.5 ha). A more secure basis for, and funding of, the existing nature reserve would be beneficial. But there is evidence that it already makes a significant contribution to the biodiversity of the area.<sup>42</sup> The existing silt lagoons are required by the extant permission to be restored. It seems to me that the wildlife benefits arising from the Deed of Agreement for the proposed 12.8 ha wetland nature reserve, over and above the baseline situation, would not weigh much in favour of granting planning permission for the appeal scheme.

47. However, the scheme for the extension area includes advance woodland planting and progressive restoration to include woodland, grassland, hedgerows and a waterbody. A biodiversity audit of the appeal scheme using Natural England's Biodiversity Metric 3.1 demonstrates a likely net gain of 21.8% in habitat units and 54.6% in hedgerow units.<sup>43</sup> This would represent a significant benefit for wildlife.

48. There is local concern about the effects of the proposal on fish in the River Axe and about the impact of the scheme on the River Axe Special Area of Conservation (SAC), which lies downstream of the appeal site.<sup>44</sup> However, subject to the imposition of appropriate planning conditions, surface water drainage could be managed in accordance with an approved scheme. In addition, the discharge of water from the site to the River Axe is regulated by the Environment Agency.<sup>45</sup> I am satisfied on the available evidence that there are no likely significant effects on the River Axe SAC from the appeal scheme either alone or in combination with other plans and projects.<sup>46</sup>

49. In the long term, I find that the proposed development would provide ecological and biodiversity benefits of moderate significance. It would gain some support from MS14 Policy DM5, which states, amongst other things, that where possible proposals should enhance biodiversity. Support would also come from NPPF paragraph 176, which provides that the conservation and enhancement of wildlife is an important consideration in AONBs.

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<sup>42</sup> Friends of Chard In NR Statement of Case.

<sup>43</sup> Mr Hughes Proof of Evidence Appendix 1.

<sup>44</sup> ID18 and ID49.

<sup>45</sup> ID27.1, ID27.2 and ID50.

<sup>46</sup> ID37.

*Other matters*

50. Submissions to the Inquiry raised concerns about the suitability of restored land for agricultural use. Reference was made to the poor productivity of nearby restored land. About 70% of the extension area is currently of Grade 3b agricultural land quality and is characterised by deep permeable upper subsoil. The remainder is Grade 4. The SoCG recognises that there is potential for damage to soils through soil stripping, handling and storage. However, soil management is a matter that could be addressed by planning conditions.<sup>47</sup> With appropriate management throughout the operation, soils could be reasonably safeguarded so that the proposed restoration scheme would provide, in time, useful agricultural land. I find no conflict with MS14 Policy DM1 g. regarding protection of soil resources, or with Policy RS1 concerning restoration, aftercare and afteruse, insofar as soil quality is concerned.
51. There is local concern about drainage, surface water management and the effect on ground water. The Action Group was not convinced that surface water could be managed within the site, especially where slopes faced away from the proposed void. However, there would be considerable scope within the overall management of the operation to provide appropriate drainage for these areas. I am satisfied that these are matters that could be addressed by the imposition of appropriate planning conditions.<sup>48</sup> I find no conflict with MS14 Policy DM3 concerning the impact on surface water and ground water resources.
52. DC has in the past granted planning permission for sand and gravel extraction at Chard Junction in the AONB. However, I am not aware of all the circumstances that applied when it did so. Furthermore, the previously permitted schemes and the appeal scheme are not directly comparable. The latter includes a silt press and has a different relationship with nearby dwellings. In addition, the extension area has greater visual prominence than the formerly permitted quarries, which are located within a more wooded landscape.

*NPPF paragraph 177*

53. National policy provides that proposals for major development in the AONB should be refused other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. It adds that assessment should include: a) the need for the development, including in terms of any national considerations, and the impact upon the local economy; b) the cost of, and scope for, developing outside the AONB, or meeting the need in some other way; and c) the extent to which any detrimental effect on the environment, the landscape and recreational opportunities could be moderated. I turn next to each of these considerations in assessing compliance with national policy.

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<sup>47</sup> Suggested Condition 28 would provide for the approval of a working methodology to include the order, phasing, manner and timing of topsoil stripping, excavation and reinstatement within working phases, as well as a mechanism for annual review. ID42.2

<sup>48</sup> Suggested Condition 31 would provide for the approval of a detailed surface water management scheme for the site and for each Phase. Condition 35 provides for fuel storage to safeguard aquifers. ID42.2



### *Need*

54. Chard Junction Quarry produces coarse sand and gravels for a variety of uses, including manufacture of concrete products, single sized gravels for decorative uses such as landscaping and horticulture, and aggregates for general construction purposes. The appellant states that 20 mm single sized golden decorative gravel has historically represented 50% of sales. The River Terrace deposit at Chard is up to 30 m thick (compared to 4-5 m for traditional River Terraces) and more angular than other deposits.
55. The NPPF provides that minerals planning authorities should plan for a steady and adequate supply of aggregates by, amongst other things, preparing an annual Local Aggregate Assessment (LAA), making provision in mineral plans, and maintaining landbanks of at least seven years for sand and gravel, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised. A footnote adds that longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites.
56. DC relies on the latest draft LAA, which states that the overall landbank for aggregate is 8.1 years for combined Poole Formation and River Terrace aggregate. The appeal scheme concerns River Terrace aggregate for which there is a separate landbank of 9.8 years, based on 4.8 million tonnes (mt) reserves at the end of 2021 and ten-year average sales of 0.49 million tonnes per annum.<sup>49</sup> If Chard Junction Quarry closed the supply of River Terrace gravel in Dorset would depend upon Woodsford Quarry, located to the east of Dorchester, and Hurn Court Farm Quarry adjacent to Bournemouth airport. The landbank also includes Avon Common, north of Chichester, an implemented permission that has not been worked since permission was granted in 2007. The appellant considers that the landbank for River Terrace aggregate is 6.4 years if Avon Common is included, and 2.7 years if it is excluded.
57. The appellant's assumption as to remaining reserves at Hurn Court Farm is not disputed by DC. However, there is a disagreement about reserves at Woodsford Quarry.<sup>50</sup> DC considers that at the end of 2021 the remaining reserves at Woodsford Quarry amounted to 2.5 mt.<sup>51</sup> The operator of Woodsford Quarry was asked "Are there any constraints on increasing the total annual output of the quarry?". The response, dated 26 July 2022, was "Planning condition constrains on annual output are the only constraints and we have the production capability to produce more aggregate."<sup>52</sup> This was reflected in DC's proof of evidence, also dated 26 July 2022, which states that planning requirements are a constraint on output at Woodsford Quarry and if these were amended or removed output could increase.<sup>53</sup> At the Inquiry, the appellant assumed that the whole of the reserves would be exhausted at the current production rate during the life of the permission, and so applied an

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<sup>49</sup> CD8.09.

<sup>50</sup> ID12.

<sup>51</sup> 2.5 mt reserves at the end of 2021 was referred to in an email exchange between DC and the operator of Woodsford Quarry at CD9.13.

<sup>52</sup> CD9.13.

<sup>53</sup> Mr Badley's Proof of Evidence paragraphs 6.22 and 7.10.



extraction rate of 154,000 tonnes per annum for the remaining 6 years of the permission to arrive at reserves of 0.924 mt for Woodsford Quarry.<sup>54</sup>

58. However, it was evident at the Inquiry that there is no convincing evidence for this assumption. The appellant was not able to provide any further information about the nature of the planning constraint cited by the operator, other than to speculate about recent capacity issues concerning silt lagoons and the possible need for another planning permission. DC submitted, on the basis of what was known about the permission for Woodsford Quarry, that the operator's assumption that there are planning constraints is wrong. Even if the operator is correct, there is nothing before the Inquiry to indicate the prospects of overcoming any constraints, or if they prevailed, what effect they might have on the overall output during the life of the quarry. In these circumstances, it would not be appropriate to extrapolate current production rates for the duration of the permission to determine remaining reserves. I prefer DC's reliance on the draft LAA, which is based on confidential returns from quarry operators, rather than relying on speculation about the nature of any constraints on output. On the balance of probabilities, I find that more than 50% of the 4.8 mt reserves cited in the LAA is attributable to Woodsford Quarry.
59. The appellant argues that Avon Common (1.5 mt) should not be included in the landbank because it has not come forward in the last 15 years and is currently recorded on Tarmac's website as a "Sand & Gravel Quarry film location in Dorset".<sup>55</sup> However, there is nothing to indicate that the implemented use has been abandoned. Avon Common should rightfully be included in the landbank as permitted reserves. Provision exists to separately consider constraints on the availability of consented reserves, which I come to later in this decision.
60. I find that DC can currently demonstrate a landbank for River Terrace gravel in excess of seven years and has done so for many years. Nevertheless, the PPG provides that there are a number of reasons why an application for aggregate minerals development is brought forward in an area where there exists an adequate landbank. These could include increases in demand, consented reserves inappropriately located relative to the main market areas, the qualities of the aggregate, along with known constraints on the availability of consented reserves.
61. The appellant refers to a steady decline in the sales of River Terrace aggregate since 2015.<sup>56</sup> A reason for this decline was said at the Inquiry to be a distorted market, with Avon Common resulting in a false landbank that restricts other applications from coming forward. However, if that was the case the PPG provides guidance about bringing forward other development. There was no dispute at the Inquiry that the level of demand is reflected in the LAA based on ten-year average sales. Paragraph 3.18 of MSP19 notes that in seeking to establish whether there has been a shortfall in supply, and the extent of the shortfall, there will be particular focus on the findings of the LAA. It adds that such a shortfall could result, for example, from one of the allocated sites proving to be undeliverable, or significantly increased sales for several consecutive years leading to a shortfall in provision within the life of the Plan. There is no convincing evidence of either in this case. On this matter, I find no

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<sup>54</sup> Mr Toland Evidence in Chief.

<sup>55</sup> ID36.

<sup>56</sup> From 0.58 mt in 2015 to 0.39 mt in 2021. Draft LAA Table 2 at CD8.09.

evidence of significant increases in demand for River Terrace aggregate that can be forecast with reasonable certainty.

62. Consented reserves are located towards the eastern and southern parts of Dorset, but this does not necessarily mean that they are inappropriately located relative to the main market areas. The appellant states that Chard Junction Quarry is renowned for its gravel deposits, which are highly sought after in local, regional, and in some cases, national and international markets. The appellant's 'Heat Map' for 2020/21 sales does not specify final destinations for the aggregate.<sup>57</sup> It is not, therefore, a sound basis for drawing overall conclusions about sustainable transport considerations. The information available about the destinations for River Terrace gravel does not demonstrate that the consented reserves are inappropriately located.
63. Aggregate from Chard Junction Quarry has contributed to meeting demand in both Somerset and Devon. Sand and gravel are not currently worked in Somerset, which does not maintain its own landbank of permitted reserves but has a shared joint sand and gravel sub-regional apportionment with Devon and Cornwall. The sand and gravel landbank in Devon was 7.6 years in 2020. A provisional update for 2021 calculated a landbank of 6.4 years.<sup>58</sup> However, Dorset's landbank assessment is based on historic supply data, which included that exported from Dorset to Devon and Somerset. In addition, Devon and Somerset, in accordance with national policy, must also plan for a steady and adequate supply of aggregate. The contribution that the appeal site could potentially make to the supply of sand and gravel in the neighbouring counties is not likely to be so important that it would justify development in an area where there is an adequate landbank.
64. The nature, type and qualities of the aggregate such as its suitability for a particular use within a distinct and separate market can justify minerals development notwithstanding an adequate landbank. Some River Terrace gravel is used for decorative purposes, historically 50% from Chard Junction Quarry and less from Woodsford.<sup>59</sup> The remainder is used for general construction purposes. Limited information was submitted about the significance of decorative gravel to the appeal scheme.<sup>60</sup> It was clarified at the Inquiry that the appellant's need case is not based on the need for River Terrace decorative gravel.<sup>61</sup> Nonetheless, the appellant argues that this is an additional feature of the case as to demand/quality/supply. The supply of decorative gravel may be a beneficial feature of the proposal, but the evidence adduced in this regard is not sufficient to justify minerals development in an area where there exists an adequate landbank.
65. As outlined above, if there is a constraint at Woodsford Quarry nothing is known about it, particularly regarding its likely significance over the plan period. No evidence was submitted to the Inquiry as to why Avon Common has not been worked. There is nothing to indicate that this is attributable to

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<sup>57</sup> Appendix 1 of Mr Toland's Proof of Evidence. The most significant single delivery source was the Uffculme Bagging Plant in Devon, but that is unlikely to have been the final destination for the aggregate.

<sup>58</sup> ID12.

<sup>59</sup> The operator has no information on the amount of aggregate that leaves Woodsford Quarry for decorative use and noted that not all bagged aggregate ends up as decorative aggregate (CD9.13).

<sup>60</sup> I asked for further supporting evidence in respect of the amounts of material that are supplied as decorative aggregate but was advised that no further information could be provided (ID47).

<sup>61</sup> Mr Toland was asked in Cross Examination to precisely identify the need. River Terrace decorative gravel was not identified in this regard by the appellant's need witness, who confirmed that the main focus was the need for River Terrace gravel for Dorset, Devon and Somerset for the next five years.

any restrictions or constraints other than the commercial preference of the operator. There are no known constraints on the availability of consented reserves that might limit output over the plan period to such an extent that would warrant development in an area with an adequate landbank.

66. The appeal scheme would maintain employment for eight employees at the quarry, with three HGV drivers employed by hauliers based at the quarry, and other hauliers visiting the site.<sup>62</sup> The appellant's accounts for Chard Junction Quarry in 2019 indicated economic benefits of £1,087,017 comprising labour and wages, aggregate levy, business rates, haulage and maintenance.<sup>63</sup> The appeal scheme would make a similar economic contribution. Taking all these considerations into account, I consider that the proposal would have a beneficial impact on the local economy of modest significance.
67. The appellant refers to River Terrace gravel having national markets, but there is no evidence to give any indication of the scale and significance of this trade. In the absence of evidence to the contrary, it seems to me that River Terrace gravel extracted from the appeal site would be likely to have a negligible effect on national considerations.
68. On this issue, I find no convincing evidence, by reason of need, to justify elevating the weight to be given to the benefits of extracting sand and gravel from the appeal site, including to the economy, above the great weight required by paragraph 211 of the NPPF.

#### *Alternatives*

69. MSP19 Policy MS-1 states that an adequate and steady supply of sand and gravel will be maintained through a combination of: A. the continued provision from remaining reserves at permitted sites; and B. allocation of new sites and extensions to existing sites. Little detailed evidence was submitted to the Inquiry about the cost of, and scope for, developing outside the AONB, or meeting the need in some other way. Dealing with A. first, no convincing evidence was submitted about any impediments to working the Avon Common site that would prevent the operator from responding to any market need. Woodsford Quarry has the production capability to produce more aggregate.<sup>64</sup> No convincing evidence was put before the Inquiry about any restrictions on Woodsford Quarry that would prevent the operator from increasing production of River Terrace aggregate to take advantage of any market 'failure'.
70. Turning to B. there is some force in the appellant's submission that sites allocated by Policy MS-1 are unlikely to make a significant contribution to the supply of River Terrace aggregate in the next five years given that none is yet at planning application stage. However, the Woodsford extension site AG4 (2.1 mt of primarily River Terrace aggregate) could potentially utilise the existing Woodsford processing plant. The operator has indicated that this 'North East Extension' will be kept under review.<sup>65</sup> The potential contribution of allocated sites to meeting demand in the next five years should not be ruled out.

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<sup>62</sup> Mr Toland's Proof of Evidence paragraphs 3.5.6 and 3.5.7.

<sup>63</sup> ID39.

<sup>64</sup> CD9.13.

<sup>65</sup> CD9.13.

71. I consider that there is currently reasonable scope for market forces to balance supply and demand within the consented reserves and allocations for River Terrace aggregate.

#### *Mitigation*

72. During the operational phases of the development the mitigation measures proposed would have a marginal impact on moderating the effects of quarrying. Some of these measures, such as the bunds, would themselves have adverse consequences on the local landscape. On restoration there would be some mitigating biodiversity and recreation benefits. However, the enduring adverse impact on the local landscape due to the artificial topography of the restored landform would not be mitigated. Overall, I consider that moderation of detrimental effects on the environment, the landscape and recreational opportunities would be possible only to a limited extent.

#### *Exceptional circumstances*

73. 'Exceptional circumstances' in paragraph 177 of the NPPF has its ordinary meaning of an unusual occurrence or one that is not typical. The Court has given it a broad meaning.<sup>66</sup> The way in which a site can meet the need, including its location, can fall within the concept of 'exceptional circumstances'. Paragraph 177 is a development management policy that in this case should be read together with the policies for facilitating the sustainable use of minerals. Applying this policy requires an exercise of judgement.

74. The current landbank for River Terrace sand and gravel does not indicate an exceptional need for minerals from the appeal site. There is nothing unusual about the fact that there is demand for decorative gravel and that the appeal site could contribute to this market. The utilisation of the existing plant and facilities at Chard Junction Quarry would not necessarily give the appeal scheme a clear advantage in planning terms over operating on a greenfield site, particularly so if the greenfield site was located outside the AONB. The appeal site is located close to the borders of three counties. However, the adjoining mineral planning authorities also have a responsibility to plan for a steady and adequate supply of aggregate. No exceptional considerations arise from the appeal site's location towards the north-western boundary of Dorset. The proposed development would make a modest contribution to the local economy that would fall far short of being exceptional. The appeal scheme would result in significant biodiversity benefits. But it is Government policy that decisions should enhance the natural environment by providing net gains for biodiversity. Therefore, the biodiversity net gain from the proposed development should not be considered as exceptional.

75. I find nothing sufficiently unusual or atypical in each of the considerations relied upon by the appellant to demonstrate exceptional circumstances. Taken together, the combined effect of these considerations does not result in an occurrence that is exceptional. In my judgement, the proposed development does not meet the NPPF paragraph 177 requirement for exceptional circumstances to justify major development in the AONB.

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<sup>66</sup> *Compton PC v Guildford BC. SSCLG and Wealden DC.*

### *Public interest*

76. What is in the public interest for the purposes of applying NPPF paragraph 177 is also undefined. DC considers that for mineral planning MS14 and MSP19 are the statutory expression of what is in the public interest because these have been adopted by a democratically elected body and found sound through a full public process to meet development needs. However, it seems to me that it is the totality of the planning system that operates in the public interest. This encompasses statutory provisions, the development plan, national and local policy and guidance, along with development management in accordance with this overall policy framework, taking into account relevant material considerations.
77. The appeal scheme would not conserve or enhance the natural beauty of the AONB. For the reasons set out in the next section of this decision, the harm I have identified to the AONB would not be outweighed by the benefits of the proposed development. The proposal would conflict with the development plan taken as a whole, and with the AONBMP. In addition, there are local development management considerations in this case that weigh against the proposal. Taking all relevant matters into account, I find that the proposed development would not be in the public interest.

### *Planning balance and policies*

78. Given the harm I have identified to the character and appearance of the area, it is my judgement that the great weight to be given to conserving and enhancing landscape and scenic beauty in the AONB outweighs the great weight attributable to the benefits of mineral extraction, including to the economy, and the biodiversity benefits of the appeal scheme. Potential harm to the amenity of the area from silt press noise at night tips the balance further against the proposal. I find that the planning balance falls against the proposed development.
79. For the reasons given in the character and appearance section of this decision, the proposal conflicts with MS14 Policy DM4 and is contrary to AONBMP Policies C4a and C4c. It would also be contrary to AONBMP Policy C2f. This provides that proposals harmful to the character and appearance of the area will not be permitted unless there are benefits that clearly outweigh the significant protection afforded to the conservation and enhancement of the AONB. Furthermore, the appeal scheme is at odds with Policy C1a of the AONBMP, which states that development that does not conserve and enhance the AONB will only be supported if it is necessary and in the public interest. The proposed development would gain some support from MS14 Policy DM5 concerning biodiversity. However, I am not convinced that noise would be adequately mitigated to an acceptable level in accordance with MS14 Policy DM2.
80. The appeal scheme does not gain support from MS14 Policy SS2 concerning permission for unallocated (windfall) sites because it has not been demonstrated that there is a need that cannot be met within allocated sites. MS14 Policy AS1 provides that an adequate and steady supply of locally extracted sand and gravel will be provided by maintaining a landbank of permitted reserves of at least seven years. This will be achieved from i. existing permitted sites, ii. sites allocated in the MSP, and iii. new sites not identified in the MSP provided, amongst other things, monitoring indicates that



the sites identified in ii. are unlikely to meet landbank requirements. The latter is not the case here and so the proposal gains no support from this part of Policy AS1.

81. The Spatial Strategy in MS14 provides that designated Resource Blocks identify the spatial distribution of the sand and gravel resource, excluding major constraints, such as the AONB. Policy AS1 also states that future sites required to contribute to meeting an adequate and steady supply of locally extracted sand and gravel will be located within the Resource Blocks. I do not read 'future sites' here to mean only allocations. Policy AS1, read as a whole, says that the supply is to be achieved by i. existing sites, ii. allocations and iii. windfalls. In this context 'future sites' includes both allocations and windfalls. This interpretation is consistent with MSP19 paragraph 3.14, which states that Policy AS1 requires that new sand and gravel quarries are located within the designated Resource Blocks. As the appeal site lies outside the Resource Blocks the proposal conflicts with this part of Policy AS1. However, the weight to be given to this policy conflict should be reduced to the extent that this part of Policy AS1 is not fully consistent with paragraph 177 of the NPPF.<sup>67</sup>
82. Nevertheless, the supporting text at paragraphs 3.15, 3.16 and 3.19 of MSP19 concern unallocated sites outside the Resource Blocks. Paragraph 3.19 says "Points i-iv also apply to the proposed development of unallocated sites outside the Resource Blocks." But it is not clear whether 'Points i-iv' refers to the factors set out in paragraph 3.17 or the criteria in Policy MS-2.<sup>68</sup> However, it is not crucial in this case whether the 'factors' or 'criteria' apply, because both deal with the matters at issue in this appeal concerning need, impact on permitted/allocated sites, and environmental net gain. Paragraph 3.19 also states that exceptional circumstances would have to be demonstrated, in line with the NPPF. In addition, paragraph 3.16 provides that the policy stance is clear that new sand and gravel quarries should be located within the Resource Blocks and that new quarries proposed outside the Resource Blocks would have to be justified through demonstrating exceptional circumstances. The NPPF is, therefore, an important other material consideration in this case, and I turn to it next.
83. As set out above, I consider that the requirement for exceptional circumstances to justify major development in the AONB is not met. In addition, it has not been demonstrated that the proposed development is in the public interest. The appeal scheme is, therefore, contrary to paragraph 177 of the NPPF. Taking into account national policies for conserving and enhancing the natural environment, regarding habitats and biodiversity, and for facilitating the sustainable use of minerals, I find that the appeal scheme would conflict with the NPPF as a whole.

## **Conclusion**

84. The planning balance falls against the proposal. Taking into account my findings in this decision regarding MS14 and MSP19, I consider that the appeal scheme conflicts with the development plan, taken as a whole. It is also in

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<sup>67</sup> However, I do not consider that the policies most important for the determination of this appeal [DM1, DM2, DM3, DM4, DM5, RS1, SS2, AS1 and MS-1] taken as a whole are out-of-date.

<sup>68</sup> MSP19 Policy MS-2 sets out criteria for sand and gravel extraction from unallocated sites within the Resource Blocks.



conflict with both AONBMP policy and the NPPF. The appellant argues that dismissing the appeal would effectively sterilise the minerals within the appeal site. However, the sand and gravel within the extension area would remain for possible extraction in the event that a policy compliant scheme was proposed in the future. A scheme that utilised the existing processing facility would have some commercial and public benefits. But those advantages would not, in this case, warrant granting planning permission for a development that conflicts with local and national policy.

85. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*J Woolcock*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

David Forsdick KC	Instructed by Planning Solicitor for Dorset Council
He called	
Martin Peacock CMLI	Landscape Architect Dorset Council
Tom Munro	Lead Officer Dorset AONB Team
Trevor Badley BA MPhil MRTPI	Lead Project Officer Dorset Council
Andrew Sierakowski BSc (Econ) Hons MSC GDL LLM MRTPI	Consultant Planner Dorset Council

### FOR THE APPELLANT:

Richard Kimblin KC and Sioned Davies of counsel	Instructed by Amy Buttery Legal Counsel Aggregate Industries UK Limited
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They called

Steven Hopkins MGeol MSc MBA CGeol FGS FIQ	Aggregate Industries
Michel Hughes	Director Michel Hughes Associates
Clive Bentley BSc (Hons) CIEH MIEnvSc MIOA CEnv CSci	Acoustic Consultant Sharps Acoustics
Daniel Godfrey MSc MA (Cantab) MCIHT CMILT CTPP	Associate Director AECOM Ltd
Paul Gibbs DipLA CMLI DipUD	David Jarvis Associates
Liam Toland BA (Hons) MSc MRTPI	Planning Director Heatons

### FOR TATWORTH AND FORTON PARISH COUNCIL Rule 6 Party:

David Bell BSc (Hons) BA MCIHT	LGPS Resources
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### FOR STOP THE NEW QUARRY IN THE DORSET AONB ACTION GROUP Rule 6 Party:

Beatrix Silvano	Local resident
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She called

Ruth Allington MSc MBA FGS CGeol EurGeol FIMMM MIQ CEng MAE QDR	Allington Collaborative Problem Solving
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### FOR FRIENDS OF CHARD JUNCTION NATURE RESERVE Rule 6 Party:

Andrew Littler  
Geologist Chartered Engineer Member of Institute of Quarrying

He called

Nigel Spring	Ecologist and Director of European Conservation Action Network (EUCAN)
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#### INTERESTED PERSONS:

Edwina Boulton	Local resident
Guy Dickinsen	Dorset CPRE
Albert Lampey	Local resident
Max Silvano	Local resident
Amanda Dunstan	Local resident
Steve Christopher	Local resident
Cllr Jenny Kenton	Ward Councillor
Cllr John MacOrnish	Parish Councillor
Andrew Locke	Axe Vale Rivers Association

Other local residents asked questions and participated in the without-prejudice round table discussion about suggested planning conditions. Mr Herbert for the appellant and Mr Jefferies for DC contributed to this discussion.

#### DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

ID	1	Opening statement on behalf of the appellant
ID	2	Opening submissions on behalf of the Mineral Planning Authority
ID	3	Opening statement on behalf of Stop the New Quarry in the Dorset AONB Action Group
ID	4	Opening statement on behalf of Tatworth and Forton Parish Council
ID	5	Site visit plans submitted by Tatworth and Forton Parish Council
ID	6	Additional viewpoints suggested by AONB Team
ID	7	Emails with Somerset Council dated 7 July 2022
ID	8	Note from appellant and DC concerning substituted plans
ID	9	Written statement by Jillian and John Wallis
ID	10	Statement by Dorset CPRE
ID	11	Amendments to Mr Munro's Proof of Evidence
ID	12	Latest data about the need for and supply of sand and gravel SoCG
ID	13	PPG Minerals paragraphs 081 084 and 089
ID	14	Final version of Statement of Common Ground (SoCG) between appellant and DC
ID	15	Statement by Cllr MacOrnish including aerial photograph of River Axe flood 1992
ID	16	Statement by Edwina Boulton
ID	17	Statement by Cllr Jenny Kenton South Somerset District Council
ID	18.1	Statement by Andrew Locke and attachments
ID	18.2	Email dated 9 September 2022 from Andrew Locke concerning EA Discharge Consent
ID	19	Appellant's Update Note Day 2 - 24 August 2022
ID	20	Extracts from BS 6031:2009 Code of Practice for Earthworks
ID	21.1	Dorset Council's notification letter dated 2 August 2022 about the Inquiry
ID	21.2	Photographs of site notice
ID	22	Emails between Aggregate Industries and Dorset Wildlife Trust
ID	23.1	Appellant's Update Note Day 4 - 26 August 2022
ID	23.2	Mr Hopkins' Plan - Phase 3 Updated Eastern Slope design
ID	24	Environmental Health Officer's response in relation to noise 26 August 2022
ID	25.1	Woodsford planning permission No.1/E/2005/0742

ID	25.2	Woodsford storage and bagging WD/D/18/0001616
ID	25.3	Woodsford silt lagoons APP/D1265/W/19/3232596
ID	26.1	Planning permission for Chard Junction Quarry WD/D/20/000313
ID	26.2	Carter's Close Revised Restoration Proposals Drawing No.2751-4-5-2-DR-0005 S4-P1 Jan 2020
ID	26.3	Carter's Close Cross Sections Drawing No.2751-4-5-2-DR-0004 S4-P3 Jan 2020
ID	27.1	Environment Agency Consent to Discharge 7 April 2000
ID	27.2	Notice of Variation to Consent 21 June 2000
ID	28	Question from Edwina Boulton
ID	29	Appellant's supplementary note relating to noise 31 August 2022
ID	30	Appellant's note on proposed level of funding for the Chard Junction Quarry Nature Reserve
ID	31.1	Distances – Westford Mill and Westford Cottages DJA18
ID	31.2	Distances – Westford Park Farm Cottages and Westford Park Farm DJA19
ID	32.1	Ruth Allington's comments on section 9 of ID23
ID	32.2	Figure RA7 sketch showing layout of Phase 3a incorporating appellant's inferred working methodology
ID	32.3	Figure RA8 north-south sketch sections showing progressive excavations and backfilling below and above ground water level using the appellant's inferred design parameters and working methodology
ID	33.1	Draft Deed of Agreement pursuant to section 106 and Plan 3
ID	33.2	Deed of Agreement dated 15 September 2022 pursuant to section 106
ID	34	Addendum to SoCG on various figures
ID	35.1	Wireframe Landform View – VP3 DJA20
ID	35.2	Wireframe Landform View – VP5 DJA21
ID	36	Extract from Tarmac website about Avon Common
ID	37	Appellant's note on <i>Dutch Nitrogen</i>
ID	38	Appellant's note about habitat linkages
ID	39	Appellant's note on economic benefits
ID	40	Community Infrastructure Levy (CIL) Compliance Statement by DC
ID	41	Site visit itinerary VP locations
ID	42.1	Suggested planning conditions discussed at Inquiry
ID	42.2	Final version of suggested planning conditions by appellant and DC
ID	42.3	Email dated 9 September 2022 from Action Group with observations on suggested planning conditions
ID	43	Closing submissions on behalf of Tatworth & Forton Parish Council
ID	44	Closing submissions on behalf of Stop the New Quarry in the Dorset AONB Action Group
ID	45	Closing submission on behalf of the Mineral Planning Authority
ID	46	Closing submissions on behalf of the appellant
ID	47	Appellant's Update Note Day 6 – 1 September 2022
ID	48	Permitted Mineral Processing and Stockyard Drawing No.2598-4-4-2-DR-0012 S4-P1 5 September 2022
ID	49	Written representation dated 6 September 2022 from Shaun Leonard Director of The Wild Trout Trust
ID	50	Email from Action Group dated 7 September 2022 concerning ID27 and response by the appellant dated 8 September
ID	51	Email from appellant dated 13 September 2022 concerning the WC3 culvert

## PLANS

Application Site Plan - 2376-4-4-1-DR-0002-S4-P8  
Site Location Plan - 2598-4-4-2-DR-0001 - S4-P6  
Existing Conditions - 2598-4-4-2-DR-0003-S4-P8  
Initial Operations - 2598-4-4-2-DR-0004-S4-P10  
Phase 1 - During Operations - 2598-4-4-2-DR-0005-S4-P10  
Phase 2 - During Operations - 2598-4-4-2-DR-0006-S4-P10  
Phase 3a - During Operations - 2598-4-4-2-DR-0007-S4-P10  
Completion of Mineral Extraction - 2598-4-4-2-DR-0008-S4-P10  
Restoration Proposals - 2598-4-4-2-DR-0009-S4-P10  
Northern Lagoons Concept Restoration - 2598-4-4-2-DR-0010-S4-P1

## CORE DOCUMENTS (CD)

CD1.01 Application Form - Chard Junction Quarry  
CD1.02 Land ownership agriculture holder's certificate  
CD1.03 Minerals Application Supplementary Information  
CD1.04 Site Location Plan (2598-4-4-2-DR-0001-S4-P6)  
CD1.05 Application Site (2598-4-4-2-DR-0002-S4-P7)  
CD1.06 Existing Conditions (2598-4-4-2-DR-0003-S4-P6)  
CD1.07 Initial Operations (2598-4-4-2-DR-0004-S4-P7)  
CD1.08 Phase 1 - During Operations (2598-4-4-2-DR-0005-S4-P6)  
CD1.09 Phase 2 - During Operations (2598-4-4-2-DR-0006-S4-P6)  
CD1.10 Phase 3 - During Operations (2598-4-4-2-DR-0007-S4-P6)  
CD1.11 Restoration Proposals (2598-4-4-2-DR-0008-S4-P6)  
CD1.12 Cross Sections (2598-4-4-2-DR-0009-S4-P6)  
CD1.13 Northern Lagoons Concept Restoration (2598-4-4-2-DR-0010-S4-P1)  
CD1.14 Environmental Statement Technical Appendix B - Ecology  
CD1.14 Environmental Statement Technical Appendix C - Soils Resources  
CD1.14 Environmental Statement Technical Appendix D.1 - Archaeological  
CD1.14 Environmental Statement Technical Appendix D.2 - Geophysical  
CD1.14 Environmental Statement Technical Appendix D.3 - Archaeological  
CD1.14 Environmental Statement Technical Appendix E - Heritage  
CD1.14 Environmental Statement Technical Appendix F - Noise  
CD1.14 Environmental Statement Technical Appendix G - Environment  
CD1.14 Environmental Statement Technical Appendix H - Transport  
CD1.14 Environmental Statement Technical Appendix I.1 - HIA  
CD1.14 Environmental Statement Technical Appendix I.2 - Flood Risk  
CD1.14 Environmental Statement  
CD1.15 Planning Statement  
CD1.16 Non-Technical Summary  
CD1.17 Landscape and Visual Impact Assessment  
CD1.18 Ecological Impact Assessment  
CD1.19 Transport Statement  
  
CD2.01 Historic England Response - 25-3-19  
CD2.02 AONB Response - 28-03-19  
CD2.03 Environment Agency Response - 28-03-19  
CD2.04 West Dorset District Council Response - 28-03-19  
CD2.05 Highways Response - 03-04-19  
CD2.06 Dorset Council Response - 04-04-19  
CD2.07 Flood Risk Management Response - 09-04-19

CD2.08 Dorset County Ecology Response- 10-04-19  
CD2.09 Natural England Response - 18-04-19  
CD2.10 Landscape Services Response - 11-06-19  
CD2.11 Further AONB Comments - 24-10-19

CD3.01 Representation - Wallis (Neighbour) - 18-03-19  
CD3.02 Representation - Lampey (Neighbour) - 25-03-19

CD4.01 Regulation 25 request  
CD4.02 Chard Reg 25 Submission April 20  
CD4.02 Reg 25 Appendix 2 - Addendum LVIA  
CD4.02 Reg 25 Appendix 3 - Addendum Cultural Heritage Report  
CD4.02 Reg 25 Appendix 4 - Addendum EcIA  
CD4.02 Reg 25 Appendix 5 - Addendum Hydrology  
CD4.02 Reg 25 Appendix 6 - Addendum Noise Assessment  
CD4.02 Reg 25 Appendix 7 - Alternatives Matrix  
CD4.03 Application Site Plan (2376-4-4-1-DR-0002-S4-P8)  
CD4.04 Existing Conditions (2598-4-4-2-DR-0003-S4-P8)  
CD4.05 Initial Operations (2598-4-4-2-DR-0004-S4-P10)  
CD4.06 Phase 1 - During Operations (2598-4-4-2-DR-0005 S4-P10)  
CD4.07 Phase 2 - During Operations (2598-4-4-2-DR-0006\_S4-P10)  
CD4.08 Phase 3a During Operations (2598-4-4-2-DR-0007\_S4-P10)  
CD4.09 Completion of Mineral Extraction (2598-4-4-2-DR-0008\_S4-P10)  
CD4.10 Restoration Proposals (2598-4-4-2-DR-0009\_S4-P10)

CD5.08 Representation Lance Wallis - 22-05-20  
CD5.09 Representation Lance Wallis - 29-05-20

CD5.01 Historic England Response - 18-05-20  
CD5.02 South Somerset District Response - 20-05-20  
CD5.03 Natural England Response - 12-06-20  
CD5.04 Environment Agency Response - 18-06-20  
CD5.05 Landscape Services Response - 22-07-20  
CD5.06 AONB Response - 29-07-20  
CD5.07 Agent response to Landscape and AONB comments - 12-08-20

CD6.01 Sustainability Benefits of Chard Junction Quarry - Applicant - 20-10-20  
CD6.02 Sustainability Benefits of Chard Junction Quarry - Appendix  
CD6.03 National Infrastructure Strategy - Nov-2020  
CD6.04 Minerals and Waste Planning Policy Response - 13-11-20  
CD6.05 Comments to the Mineral Policy Officer - Letter from Applicant - 08-12-20  
CD6.06 PROW Response - 17-02-21  
CD6.07 Email Attachment - PROW Diversion Order Redacted - 17-02-21  
CD6.08 Devon County Council Response - 16-03-21  
CD6.09 Somerset County Council Response - 24-03-21  
CD6.10 Archaeology Response - 26-05-21  
CD6.11 Representation Batemans Farm - 10-06-21  
CD6.12 Representation - Westford Cottages - 09-07-21  
CD6.13 Indicative Silt Press Location (2598-4-4-2-DR-0011-S4-P2) - 14-07-21  
CD6.14 Silt Press Building Layout-Floor Plans and Elevations (CLP25016)- 14-07-21  
CD6.15 Email thread - Mr Connell & Case Officer - July and 05-08-21  
CD6.16 Email thread - Mr Connell & Case Officer - 10-11-12-08-21  
CD6.17 Tatworth and Forton Parish Council Response - 09-08-21



CD6.18 Email thread - Mr Connell & Case Officer - 12-08-21  
CD6.19 Conservation Officer Response - 12-08-21  
CD6.20 CPRE Response - 20-08-21  
CD6.23 Representations on behalf of Stop the Dorset Quarry Action Group containing a Technical Review by Ms Ruth Allington - 28-08-21  
CD6.24 Letter from Applicant - 02-09-21  
CD6.25 Email from Applicant - 03-09-21  
CD6.26 Representations for Committee - 06-09-21  
CD6.27 Schedule of Speakers - 06-09-21  
CD6.28 Representation - Axminster Clerk - 13-09-21  
CD6.29 Letter of Advice from Buxton Solicitors 03-09-21

CD7.01 Committee Report  
CD7.02 Decision Notice

CD8.01 BCPDMSP 2019  
CD8.02 Bournemouth, Dorset, and Poole Minerals Strategy 2014  
CD8.03 West Dorset, Weymouth and Portland Local Plan (2015)  
CD8.04 Bournemouth, Dorset and Poole 10th Local Aggregates Assessment 2011-2020 (December 2021)  
CD8.05 Dorset AONB Management Plan  
CD8.06 Somerset Minerals Local Plan  
CD8.07 10<sup>th</sup> Devon Local Aggregates Assessment (August 2021) Material Planning Policy Considerations  
CD8.08 Devon Minerals Plan 2011-2031 (2017)  
CD8.09 Draft Local Aggregate Assessment, DC and BCP, 2012-2021  
CD8.10 BCPD MSP- 1 August 2019 – Inspector’s Report

CD9.01 Profile of the UK Mineral Products Industry  
CD9.02 Summary Notes for Case Management Conference - 23/05/22  
CD9.03 GRS Product Brochure  
CD9.04 Appellant Statement of Case - March 2022  
CD9.05 Dorset Council Statement of Case - 09.05.22  
CD9.06 Stop the new Quarry in Dorset AONB Statement of Case - 16.05.22  
CD9.07 Tatworth and Forton Parish Statement of Case - 16.05.22  
CD9.08 Friends of Chard Junction Nature Reserve Statement of Case - 15.05.22  
CD9.09 Flooding at Westford - August 2021  
CD9.10 Stop the new Quarry in the Dorset AONB Appendix to SoC - 16.06.22  
CD9.11 Inquiry Programme Timetable  
CD9.12 Email from Andy Hill, Devon County Council  
CD9.13 Email from Peter Andrew-Hills Aggregate  
CD9.14 Draft Section 106 Agreement  
CD9.15 Inspector’s queries re suggested conditions  
CD9.16 Inspector’s Pre-Inquiry Note  
CD9.17 Inspector’s draft agenda for round-table discussion about Quarry Design  
CD9.18 Amended agenda of Quarry Design round-table proposed by Ruth Allington and Steven Hopkins  
CD9.19 GLVIA Chapter 5 + glossary  
CD9.20 Appellant's Appearance List

CD10.01 Chard Reg 25 Submission August 2022  
CD10.02 Appendix 1 – Ecological Impact Asset  
CD10.03 Appendix 2 - Revised ES Chapter 9

CD10.04 Appendix 3 - Revised ES Chapter 10  
CD10.05 Appendix 4 - Revised ES Chapter 14  
CD10.06 Appendix 5 - Revised ES Chapter 16  
CD10.07 Appendix 6 - Revised ES Chapter 17  
CD10.08 Appendix 7 - Revised ES Chapter 18  
CD10.09 Appendix 9 - Addendum Non Technical Summary

#### JUDGMENTS

*JA Pye (Oxford) Estates Ltd v West Oxfordshire DC and Another* 1982  
*Compton PC v Guildford BC* [2019] EWHC 3242 (Admin)  
*SSCLG and Wealden DC* [2017] EWCA Civ 39