

Please find comments on the planning that are a mixture of comments, requests for clarification of ambiguous or unclear statements, a desire to see more comprehensive detail on points of concern and objections.

	Additional information/clarification requests and comments.	References	
		Ch 7	
	<p>The South Hams SAC was established under The Conservation of Habitats and Species Regulations 2010 (the “Habitats Regulations”) which transposes the EC Habitats Directive into UK law.</p> <p>Whitecleave Quarry is in the South Hams SAC Buffer Zone hence legislation protecting this SAC applies: <i>“The aim of the South Hams SAC - Greater horseshoe bat consultation zone planning guidance is to ensure that the relevant planning authorities are in a position to meet the statutory obligations associated with the greater horseshoe bat conservation interest of the South Hams SAC.”</i></p> <p>This document brings into question several aspects of the application.</p> <p>We note that : <i>“The authority must consult Natural England as part of such an assessment and may require the project promoter to submit the information necessary for such an assessment. However, the checks and assessments must be undertaken by the competent authority, not by project promoters, agents acting on their behalf, or by Natural England. The competent authority will be required to screen and record the proposals for “likely significant effect” in order to identify the requirement for an appropriate</i></p>	7.1.2	<p><i>The assessment is based largely on baseline data compiled for the 2008 application by Devon Wildlife Consultants (DWC), and their subsequent survey work in relation to bats in 2009 and 2010. Other contemporary survey to inform the assessment comprises an updated Phase 1 habitat survey, survey of dormouse <i>Muscardinus avellanarius</i> and of otter <i>Lutra lutra</i>. The detailed protected species work undertaken to support the 2008 application and subsequent survey work in 2009, 2010 and 2011 are considered to provide a robust baseline for ecological impact assessment of the proposed scheme.</i></p>

<p><i>assessment.”</i></p> <p>It is not clear within this Environmental Statement how this approach is being followed. This needs specific clarification as to who is deemed the competent authority ensuring that it is not being paid directly or indirectly by the project promoter? Is the competent authority the Bat Conservation Trust, the Local Planning Authority or a Minister of State?</p> <p>From the glossary: <i>“Likelihood of significant effect – the significant effect check should only allow those projects to proceed where it is clear that any significant effect is unlikely. If there is any doubt and further information is needed, it should be concluded that there is a likelihood of significant effects.”</i></p> <p>We also note specifically that: <i>“The promoter must be clear that where information is lacking about a potential effect, the competent authority is likely to assume that there will be an effect.”</i></p> <p><i>In more detail the Guidelines state: “In the light of the conclusions of the assessment of the project’s effects on the site’s conservation objectives, the decision-taker must determine whether it can ascertain that the proposal will not adversely affect the integrity of the site (s). The integrity of a site is the coherence of its ecological structure and function, across its whole area that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified.” (ODPM Circular 06/2005)</i></p> <p><i>“In the Waddenzee judgement, the European Court of Justice</i></p>		
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<p><i>ruled that a plan or project may be authorised only if a competent authority has made certain that the plan or project will not adversely affect the integrity of the site. "That is the case where no reasonable scientific doubt remains as to the absence of such effects". Competent national authorities must be "convinced" that there will not be an adverse affect and where doubt remains as to the absence of adverse affects, the plan or project must not be authorised, subject to the procedure outlined in Article 6(4) of the EC Habitats Directive regarding imperative reasons of overriding public interest." (ODPM Circular 06/2005)</i></p> <p>The proposals need a clear judgement from this specific, independent competent authority who takes specific responsibility for these statutory obligations.</p> <p>Within this context we draw attention to the glossary again for an integrity test:</p> <p><i>"Integrity test - the "integrity test" is the term used for the test that the competent authority must carry out before deciding to give consent or undertake a project that would have a significant effect on a European site. The integrity test embodies the precautionary principle. The competent authority must ascertain that the project will not adversely affect the integrity of the site."</i></p> <p>We note that the original 2008 Bat Survey by Devon Wildlife Consultants (and the subsequent proposed mitigations) are stated as undertaken as part of the <i>Bat Mitigation Guidelines (2004)</i> from Natural England. Apparently this same 2004 legislation has been approximated for the latest surveys (it is not clear). However, the latest guidelines,</p>		
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<p>consulted upon in 2009 and published in June 2010 are more stringent. They now form the basis of the legal requirements for surveying and mitigation. The recommended 2009 mitigation strategy does not seem to have been updated to reflect this.</p> <p>Section 5 of the Guidelines specifies the minimum requirement for bat surveys. It states:</p> <p><i>“(ii) Manual surveys should be carried out on ten separate evenings; at least one survey should be undertaken in each month from April to October, as the bats’ movements vary through the year. Moreover, manual surveys only give a snapshot of activity (10 nights out of 214; ≈5%) therefore automated bat detector systems should also be deployed see section (vi)”</i></p> <p><i>“(vi) Automatic bat detector systems should be deployed at an appropriate location (i.e. on a likely flyway; the precise location can also be adjusted from the manual survey findings). The period of deployment should be at least 50 days from April to October and would include at least one whole week in each of the months of April, May, August, September and October (50 nights out of 214; ≈25%)”</i></p> <p>We note that every single years’ survey submitted falls well short of these guidelines. The surveys hence are not capable of being a complete picture of the site’s bat population which throws doubt on all conclusions given in relation to bat populations and mitigations provided. If it is accepted (as it should be) that the conclusions are potentially spurious, this has serious implications for the ability to determine this application according to statutory obligations.</p>		
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	<p>The Devon Wildlife Consultants' recommendation for ongoing monitoring also fall well short of the minimum required in the SAC Guidelines.</p> <p>The 2011 bat survey is still not complete, so the statement that these surveys "are considered to provide a robust baseline for ecological impact assessment of the proposed scheme" seems premature at best. There has been no public scrutiny of this, and cannot be until the survey is complete and made publicly available.</p>		
	<p>Are we to presume the redacted information specifically only relates to Peregrine Falcons or is there other information that is being redacted?</p>	7.1.5	
	<p>As a general comment on section 7.2:</p> <p>We note the numerous aspects of legislation at every level designed specifically to protect the environment, habitats and species including:</p> <ul style="list-style-type: none"> • Conservation of Habitats and Species Regulations 2010 • Wildlife and Countryside Act (WCA) 1981 (as amended) • Protection of Badgers Act 1992 • Countryside and Rights of Way (CROW) Act 2000 • Natural Environment and Rural Communities (NERC) Act 2006 • Planning Policy Statement (PPS) 9 – Biodiversity and Geological Conservation • PPS 22 - Planning and Pollution Control • UK Biodiversity Action Plan (UKBAP) • Draft Regional Spatial Strategy for South West England 2006 <ul style="list-style-type: none"> ○ Policies SD1, SD3, ENV1, ENV4, RE8 • Regional Planning Guidance for the South West 	7.2	<p><i>The Conservation of Habitats and Species Regulations 2010 consolidates all previous amendments made to the Conservation (Natural Habitats & c.) Regulations 1994 in respect of England and Wales. The Regulations transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive) and Council Directive 2009/147/EC (EC Birds Directive) into national law.</i></p>

Buckfastleigh Community Forum - Comments, requests for further information and objections in relation to Chapter 7 of ES on Ecology
 Application - DCC/3242/2011 Whitecleave Quarry Buckfastleigh

	<ul style="list-style-type: none"> ○ Policy EN1 ● Devon Waste Local Plan <ul style="list-style-type: none"> ○ Policy WPC2 ● Devon Structure Plan <ul style="list-style-type: none"> ○ Policy CO10 ● Devon Biodiversity Action Plan <ul style="list-style-type: none"> ○ Habitat Action Plans (HAP) ○ Species Action Plans (SAP) ● Teignbridge Local Plan <ul style="list-style-type: none"> ○ Policies C8, C15, C16, C22, ENV4 ● 2006 Teignbridge Biodiversity Action Plan ● South Hams SAC - Greater Horseshoe Bat Consultation Zone Planning Guidance ● Biodiversity South West - South West Nature Map – A Planners Guide <p>In the context of this bewildering and confusing array of legislation designed specifically to protect sites such as Whitecleave Quarry, would it be possible for the community in Buckfastleigh to presume that once the site had been selected by developers, there is no evidence they could reach that would lead them to any other conclusion that one where the believe they can somehow circumvent this legislation and go ahead with the development? The Environment Statement needs to be read in this context.</p> <p>If this is not a fair statement, is the applicant aware if an Environmental Statement has ever been prepared (perhaps by ScottWilson) whereby the conclusion was that the proposed site was <i>not</i> suitable for development?</p>		
	<p>We would like to highlight the objectives of PPS9. On this basis, why is this development proposed when it accepts none of these objectives in principle?</p>	<p>7.2.8</p>	<p><i>Planning Policy Statement (PPS) 9 – Biodiversity and Geological Conservation</i> <i>The Government’s policy on reconciling the potentially conflicting objectives of development and nature conservation is currently set out</i></p>

	<p>We would also like to clarify that according to the new draft National Planning Policy Framework “Development likely to have a significant effect on sites protected under the Birds and Habitats Directives would not be sustainable under the terms of the presumption in favour of sustainable development.”</p> <p>Given that some effects (later in this report) are documented to be significant, this proposal cannot be considered to be sustainable.</p>		<p><i>in PPS 9. The principal aims of PPS 9 are:</i></p> <ul style="list-style-type: none"> • <i>to avoid placing damaging development on, or close to, sensitive sites;</i> • <i>the protection of rare and protected species and habitats;</i> • <i>using the least sensitive areas for any necessary development; and</i> • <i>seeking to enhance nature conservation interests.</i>
	<p>We would like to emphasise this statement that PPS 9 makes “protected species a material consideration for local planning authorities when considering any development proposal.”</p> <p>Given that Greater Horseshoe Bats are one of the most zealously protected species in Europe, and that Buckfastleigh is home to Western Europe’s largest population which use the quarry to commute and forage, <u>this is therefore one of the most significant sites in Europe.</u></p> <p>PPS 9 also cover Peregrine Falcons and otters.</p>	7.2.10	<p><i>PPS 9 also sets out the legislative framework for the defence of legally protected species by making protected species a material consideration for local planning authorities when considering any development proposal.</i></p>
	<p>We note the issue regarding PPS23 that must protect species from pollution with reference to the toxic nature of the waste that will be brought to site - there almost certainly will be toxins and contaminants present on site; accumulating these toxins in a lagoon and the application for discharge of these toxins into Dean Burn represents a threat to various species from pollution.</p>	7.2.11	<p><i>PPS 23 advises that consideration should be given to the potential sensitivity of an area, including its nature conservation value, to adverse effects from pollution.</i></p>
	<p>We note the site is associated with nine species of principal importance (and several of lesser denoted importance) that require legal protection (including otters, which are</p>	7.2.12	<p><i>UK Biodiversity Action Plan (UKBAP)</i> <i>7.2.12 The UK Biodiversity Action Plan sets out the UK’s response to Article 6 of the European Convention on Biological Diversity. There are</i></p>

	<p>otherwise ignored in the report).</p>		<p>currently 1150 Species Action Plans (SAP) and 65 Habitat Action Plans (HAP) that extend across the UK. These habitats and species are considered to be of principal importance for the conservation of biological diversity within the UK. The following habitats and species of principal importance have been recorded on or near to the site:</p> <ul style="list-style-type: none"> • Inland rock outcrop and scree habitats • Lowland mixed deciduous woodland • Otter • Dormouse • Noctule bat <i>Nyctalus noctula</i> • Soprano pipistrelle bat <i>Pipistrellus pygmaeus</i> • Brown long-eared bat <i>Plecotus auritus</i> • Greater horseshoe bat <i>Rhinolophus ferrumequinum</i> • Lesser horseshoe bat <i>Rhinolophus hipposideros</i>
	<p>We note the statement within policy SD1 that development should “bring prosperity and well-being to all parts of the region” - this development clearly fails on that point as it actually does the opposite in Buckfastleigh as it threatens the towns viability as a tourist destination.</p> <p>As previously commented in earlier documents, the development also fails to respect environmental limits unless specific restrictions on importation of waste are placed on both the C&D MRF business as well as the waste that will be incinerated at the proposed Devonport incinerator (to which the ash is the residue) - allowing waste to be imported from other parts of the region or county in order to maintain burn rates will clearly violate the principle of the county’s ecological footprint and contradict Policy SD1.</p> <p>This development actually would encourage degradation in relation to the county’s ecological footprint, unless major restrictions are placed on the waste to be burnt and</p>	<p>7.2.16</p>	<p><i>Policy SD1: The Ecological Footprint states that: ‘The region’s Ecological Footprint will be stabilised and then reduced by:</i></p> <ul style="list-style-type: none"> • Ensuring that development respects environmental limits • Requiring the wise use of natural resources and reducing the consumption of key resources such as energy, water and minerals • Building a sustainable, low carbon and low resource consuming economy which can be secured within environmental limits to bring prosperity and well-being to all parts of the region • Requiring sustainable construction and design as the norm in all future development and when opportunities arise, improving the region’s existing building stock in line with current best practice • Minimising the need to travel by better alignment of jobs, homes and services, reducing the reliance on the private car by improved public transport and effective planning of future development, and a strong demand management regime applied in the region’s main centres in particular • Requiring a shift towards the more sustainable modes of transport • Meeting national and regional targets relating to renewable energy, resource consumption/extraction and waste production/recycling <p><i>Local authorities, regional agencies and others will include policies and proposals in their strategies, plans and programmes to assess</i></p>

	<p>restrictions on where it is imported from. The proximity principle should be respected. Buckfastleigh does not want waste imported from either outside the county or country, and this local view should be given a high priority, especially as it is clearly consistent the principle of stabilising and reducing the region’s ecological footprint.</p>		<p><i>how all new developments, regeneration areas and major refurbishments contribute to stabilising and reducing the region’s ecological footprint.’</i></p>
	<p>The proposed development seems to lack recognition of all of these listed objectives. It signally fails to respect the landscape or the ecological threshold of Buckfastleigh. This is a polluting development that will impact on tranquillity in several ways on both people and animals. The site was previously being restored to a natural state and the proposals would negate this restoration.</p>	<p>7.2.17</p>	<p>Policy SD3: The Environment and Natural Resources states that: <i>‘The region’s environment and natural resources will be protected and enhanced by:</i></p> <ul style="list-style-type: none"> • <i>Ensuring that development respects landscape and ecological thresholds of settlements</i> • <i>Planning and design of development to reduce pollution and contamination and to maintain tranquillity</i> • <i>Contributing to regional biodiversity targets through the restoration, creation, improvement and management of habitats’</i>
	<p>We note there is an SSSI within the site, and that the Buckfastleigh Caves SSSI is within several hundred metres. The two sites are connected as an internationally important commuting corridor and foraging area for the most protected bat species in Europe - the Greater Horseshoe bat. Buckfastleigh is home to the largest population in Western Europe. This forms the South Hams SAC.</p> <p>We note that mitigation measures are proposed as an attempt to ameliorate the damage from the proposed development.</p> <p>Although mitigation has been proposed (and indeed some has been put in place already), the Devon Wildlife Consultants’ report which outlined the proposed mitigation measures contained the caveat that: <i>“The track way flight lines located within the western extent of the survey area will be opened up, connecting to the adjacent quarry void and woodland clearing. This will increase the level of</i></p>	<p>7.2.18</p>	<p>Policy ENV1: Protecting and Enhancing the Region’s Natural and Historic Environment states that: <i>‘The quality, character, diversity and local distinctiveness of the natural and historic environment in the South West will be protected and enhanced, and developments which support their positive management will be encouraged. Where development and changes in land use are planned which would affect these assets, local authorities will first seek to avoid loss of or damage to the assets, then mitigate any unavoidable damage, and compensate for loss or damage through offsetting actions. Priority will be given to preserving and enhancing sites of international or national landscape, nature conservation, geological, archaeological or historic importance. Tools such as characterisation and surveys will be used to enhance local sites, features and distinctiveness through development, including the setting of settlements and buildings within the landscape and contributing to the regeneration and restoration of the area.’</i></p>

<p><i>exposure within these track ways, influencing the identified flight lines, potentially reducing the suitability for greater horseshoe bats.</i></p> <p>The survey goes on to note that: <i>“It is considered that this vegetation planting may alleviate the disturbance to this track way... It is noted that the re-established track way boundary may only be reinstated following mining works, which is estimated to take 5 years to complete. During this period the track way flight line will incur a higher level of exposure than present.”</i></p> <p>Also: <i>“It is noted that this wetland and associated planting will only be reinstated following mining works, which is estimated to take 5 years to complete.”</i></p> <p>We also note the consultant’s comments that <i>“As these identified flight lines will be impacted upon, by an increase in their current exposure, further bat activity monitoring may be considered to ensure that this level of mitigation is adequate.”</i> - indicating a degree of ambivalence about the likely success, although they fail to suggest what action should be taken if mitigation does turn out to be unsuccessful.</p> <p><i>“The Mitigation Strategy (DWC 2009) also stipulated the requirement for monitoring over a period of 5 years to ensure that the areas of retained vegetation, supplementary hedgebank planting and lighting restrictions are adequate to minimise any impact to the identified greater horseshoe bat commuting flight lines.”</i></p> <p>Also: <i>“Blasting operations may cause potential disturbance</i></p>		
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<p><i>to roosting or hibernating bats within the cave systems through damage to the integrity of the cave system and/or from air pressure changes and/or vibration.”</i></p> <p>These caveats which describe clearly the lack of assurances, and the dangers of implementation of the so-called mitigation should be read in consideration with the European legislation, the Habitats Directive 92/43/EEC:</p> <p>Guidance document on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC</p> <p><i>“(76) In accordance with the precautionary principle, if the measures proposed do not guarantee the continued ecological functionality of a site, they should not be considered under Article 12(1)(d) [which requires strict protection and prohibits habitats from deterioration or destruction]. There must be a high degree of certainty that the measures are sufficient to avoid any deterioration or destruction. The assessment of the probability of success must be made on the basis of objective information and in the light of the characteristics and specific environmental conditions of the site concerned. In addition, the use of CEF measures has to take into account the conservation status of the species concerned. For example, <u>in the case of rare species with an unfavourable conservation status, there must be a higher degree of certainty</u> that the measures will work as intended than in the case of more common species with a favourable conservation status.”</i></p> <p>For instance, the Habitats Directive 92/43/EEC states that disturbances of all kinds need to be taken into account:</p>		
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<p><i>“Bats for example, when disturbed during winter hibernation heat up as a consequence and take up flight are less likely to survive the winter due to the high loss of energy resources.”</i></p> <p>With all this considered, the proposed mitigations for the bats, the most highly protected European Species clearly do not give the required assurances. They are attempts at mitigation, but do not allow the precautionary principle to be followed. Not only do the proposed mitigations not offer the required guarantee, the consultant actually provides their own ‘health warning’ of lack of functionality. The proposed mitigation therefore cannot be considered as mitigations within law. The proposed application is therefore unable to fulfil the requirements of protecting habitats and species.</p> <p>We would like to highlight PPS 9 in this regard: <i>“Planning authorities should ensure that these species are protected from the adverse effects of development, where appropriate, by using planning conditions or obligations. Planning authorities should refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”</i></p> <p>Given that the answer to the question <i>“Are there alternative solutions that would have a lesser effect, or avoid an adverse effect, on the integrity of the site”</i> is yes, (either because other sites could be used or the plans could be resubmitted with significant alterations such as no proposal to blast the rock outcrop), then “Permission must not be granted.”</p> <p>In this context, as just one example, we should bring</p>		
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	attention to a 28 acre quarry site near Barnstaple with existing planning permission to process waste that failed to sell at auction just last week.		
	The proposals appear to violate all these principles. Particular attention should be paid to the requirement to “reverse fragmentation” of sites. Given that Whitecleave Quarry sits directly between Buckfastleigh Caves SSSI and Potter’s Wood SSSI and includes foraging and commuting routes between these sites, fragmentation is exactly what this development would create. Even more so, given that this is an urban fringe “pinch point”.	7.2.22	<i>Policy EN 1: Landscape and Biodiversity states that local authorities and other agencies in their plans, policies and proposals, should:</i> <ul style="list-style-type: none"> • provide for the strong protection and enhancement of the region’s internationally and nationally important landscape areas and nature conservation sites; • draw up policies for the protection of nature conservation interests of regional and local significance; • encourage the maintenance and enhancement of the biodiversity resources of the region, having particular regard to the targets set out in tables 3, 4 and 5; • promote the restoration and expansion of depleted and vulnerable biodiversity resources in order to reverse fragmentation and create continuous viable habitats; • indicate that the protection and, where possible, enhancement of the landscape and biodiversity should be planned into new development; • have regard to the significant landscape joint character areas of the region set out in this RPG (Map 4) and aim to conserve and enhance local character; • take measures to protect the character of the countryside and the environmental features that contribute towards that character, including the minimisation of light pollution.
	See comments for 7.2.18	7.2.24	<i>Certain policies from The Devon Structure Plan have been saved to 2016 beyond the original expiry date of 2007. Of relevance to this assessment is Policy CO10: Protection of Nature Conservation Sites and Species which states: Development likely to have an adverse effect on a specially protected species should only be permitted where appropriate measures are taken to secure its protection. Special consideration should be given to any development proposals likely to affect a European Protected Species.</i>
	The decision to remove the rock outcrop with numerous mature broad leaf trees is against this policy.	7.2.28	<i>Policy C8 states: ‘The Council will seek to secure the retention of trees, hedgerows, ponds and other valued landscape features through the promotion of appropriate management practices.</i>

			<i>Encouragement will be given to the restoration or creation of new landscape features where deemed to be of significant public benefit through the provision of advice and assistance.'</i>
	As above.	7.2.29	<i>Policy C15 states: 'The Council recognises the value of semi-natural and natural wildlife habitats and will seek the retention, enhancement and management of such areas including broadleaved woodland, hedgerows, traditional meadows, moorland, heathland, wetland, coastal features and highway corridors.'</i>
	This appears to have been ignored, but again provides protection for sites such as Whitecleave Quarry.	7.2.33	<i>The Teignbridge BAP identifies the biodiversity in the District and sets priorities for conservation. It sets objectives and lists actions for the Council to undertake to conserve and enhance local biodiversity. The Teignbridge BAP covers the parts of the District outside Dartmoor National Park. The 2006 BAP is currently under review and a revised draft is due to be published in 2011.</i>
	Why is there no detail here? The site is part of the South Hams SAC Buffer Zone and needs to be treated as part of the SAC. The application seems to contravene guidance but gives no details of this.	7.2.35	<i>South Hams SAC - Greater Horseshoe Bat Consultation Zone Planning Guidance This guidance (from herein termed "GHS Planning Guidance") was produced by Devon County Council and Natural England to inform planning applications with regard to potential impacts on greater horseshoe bats. It contains guidance on the level of bat survey required in order to determine impacts.</i>
	Regarding Natural England's comments: the supplied evaluation of indirect hydrological effects seem totally inadequate with erroneous conclusions. The wording of SAC Guidelines must be considered: <i>"The promoter must be clear that where information is lacking about a potential effect, the competent authority is likely to assume that there will be an effect."</i> NE's comments requiring <i>"post-construction monitoring to monitor the effective of mitigation"</i> again implies ambivalence about their effectiveness and highlights the lack of <i>"guarantee"</i> required by European legislation (Habitats Directive).	7.3	<i>Natural England responded to consultations on 25 April 2008, 6 November 2008 and 5 April 2011. It recommended the following:</i> <ul style="list-style-type: none"> • <i>Assessment of effects on European sites</i> • <i>Assessment of effects on bats and bat roosts (specifically greater horseshoe bats and cave hibernacula), dormouse, otter, badger Meles meles and peregrine Falco peregrinus.</i> • <i>Indirect hydrological effects on cave hibernacula due to land re-profiling must be evaluated.</i> • <i>Indirect effects such as artificial lighting and removal of habitat and disruption to bat commuting routes must be evaluated and mitigated.</i> • <i>An Ecological Clerk of Works during construction and post-construction monitoring to monitor the effective of mitigation.</i>

	<p>We note the applicant has already filled in the quarry lagoon which appears to be without the knowledge of DCC or the Environment Agency. According to the surveys this appears to have already had a detrimental impact on the Daubenton's Bat species which forages over the quarry void. Was any analysis done on the aquatic ecology other than noting that the green tint of the new pool is due to toxic cement dust?</p> <p>There has been no details given about what toxins are expected to be found in the toxic leachate that will be collected in the lagoon and the potential impact that could have on wildlife.</p>		<p><i>DCC consultation response of 11 April 2011 stipulated:</i></p> <ul style="list-style-type: none"> • Proposals to fill the quarry lagoon must be assessed for impacts on aquatic ecology. • <i>Devon Bat Group must be contacted for contemporary bat records in area.</i> <p><i>EA consultation response of 22 March 2011 stipulated:</i></p> <ul style="list-style-type: none"> • <i>The nature of the lagoon feature is unclear and needs to be outlined.</i> • <i>The scoping report may need to include an assessment of aquatic (as well as terrestrial) ecology if it is proposed to infill a quarry lagoon.</i>
	<p>As per our earlier comments, we are concerned about an undeclared conflict of interest between the URS/ScottWilson consultant and the Devon Bat Group.</p>	7.3.1	
	<p>Results? Given this report was filed in July, it is difficult to declare the results of the September survey!</p>	7.3.5	<p><i>As the original survey data were three years old, the survey was updated using a nest tube survey method during 2011. Ten dormouse nest tubes were deployed on 16 April 2011 at appropriate locations and these were checked for use in June and again in September 2011.</i></p>
	<p>Results? Is this planning application being rushed through without necessary time for consultation?</p>	7.3.10	<p><i>The first dusk survey session will be undertaken in July 2011 and a dusk and dawn survey session will be undertaken in September 2011.</i></p>
	<p>Who does the bat ecologist work for? Is this an independent assessment?</p>	7.3.11	<p><i>Trees that will be felled to make way for the scheme were subjected to a ground-based visual assessment by a bat ecologist to identify any features that could potentially support roosting bats.</i></p>
	<p>Given that Natural England had not seen the final Habitat Regulations Assessment report from 2008 during the 2011 consultation, was any mitigation to this site undertaken and was it in compliance with requirements and has this been monitored and confirmed by a third party?</p>	7.3.12	<p><i>The scheme will not affect the existing workshop building which supported a bat roost in 2008. As such no further survey and assessment of likely impacts on bats in this feature, beyond the findings of DWC (2008), has been undertaken for this ES.</i></p>
	<p>Note the dewatering was undertaken without the knowledge of the relevant authorities.</p>	7.4.1	<p><i>Whitecleave Quarry was, until 1986, a working quarry for the purposes of excavating Dolerite for use in construction projects. The site comprises a large quarry void (currently largely dewatered). The site has planning permissions in place which permit the continued</i></p>

	<p>We note the applicant recognises that existing environmental legislation could now legally be used to enforce restrictions on any proposed quarrying activity - possibly reversing earlier permissions.</p> <p>The statement <i>“it would still likely result in similar ecological impacts”</i> seems to bear no basis in fact given the specific importance of the rock outcrop both in relation to the environment, and the health and wellbeing of animals and humans. This is why the removal of this outcrop has been precluded in previous planning permission.</p>		<p><i>quarrying of the site until 2042. In the absence of the proposed development it is possible that quarrying could be re-activated in the future if it becomes economically viable. The extent of future quarrying would be governed by the existing planning permission but would be subject to Habitats Regulations Assessment in respect of South Hams SAC and so could be subject to revision. Although this specifies a smaller area of rock is permitted to be quarried than is planned as part of the current proposal, it would still likely result in similar ecological impacts.</i></p>
	<p>We note the statement that no quarrying is proposed other than to fulfil the placing of a waste processing operation. This should be read in the context of the existing ROMP conditions.</p>	7.4.2	<p><i>This proposal will mean that only minerals which need to be removed for the construction of the IBA facility will be extracted, no other quarrying activities are proposed. This work will be done within a 12-18 month time frame</i></p>
	<p>The statement <i>“the extent of woodland lost from the Dolerite spur would be slightly less”</i> appears to be totally wrong and needs clarification.</p> <p><i>“Therefore the overall potential impact from mineral permissions upon protected species is likely to be greater than that of the proposed IBA scheme.”</i> This statement appears to be totally unjustified.</p>	7.4.3	<p><i>Whilst the existing mineral permission allows for the excavation of additional Dolerite from within the quarry, the extent of woodland lost from the Dolerite spur would be slightly less. However, the duration and overall extent of this work in other parts of the quarry, including in close proximity to the bat commuting route would be greater than the proposed work to create the IBA platform in the proposed scheme. Therefore the overall potential impact from mineral permissions upon protected species is likely to be greater than that of the proposed IBA scheme.</i></p>
	<p>The claim that the quarry would not be sterilised after over 200,000 tonnes of inert waste is placed on top of it appears a leap of faith. Where would this 200,000+ tonnes of inert waste be moved to if access to dolerite was required? How sustainable is a policy of dumping this on top of the dolerite just to remove it and transport it at a later date to another site? If this site is identified and available, why is it not proposed to put the waste there now?</p>	7.4.4	<p><i>Whilst most of the areas covered by the existing permission would not be quarried, the infill Dolerite would also not be sterilised. The material which will be used for the infill of the existing quarry void would be loose enabling future access to the mineral asset.</i></p>

	<p>Whitecleave Quarry is in the South Hams SAC Buffer Zone and hence is legally required to be treated as part of the SAC.</p> <p>Given that this is potentially the largest site of greater horseshoe bats in Europe, its importance should not need to be emphasised yet again.</p>	7.4.6	<p><i>The South Hams SAC is 700m to the north of the Whitecleave Quarry boundary. The Joint Nature Conservation Committee (JNCC) states that the SAC supports "more than 1,000 adult greater horseshoe bats (31% of the UK species population). It contains the largest known maternity roost in the UK and possibly in Europe. As the site contains both maternity and hibernation sites it demonstrates good conservation of the features required for survival." (JNCC, 2011).</i></p>
	<p>What are these ongoing discussions and why are they taking so long? We assume an open, detailed and publicly declared summary of these negotiations would be part of any planning obligation?</p>	7.4.9	<p><i>There are two SSSI within 2 km of the Whitecleave Quarry site, Potters Wood SSSI and Buckfastleigh Caves SSSI. The northern tip of Potters Wood SSSI is within the existing worked quarry but the habitat in this small area comprises recently worked bare ground, which is of negligible ecological value. The proposed scheme plans to use this worked ground and spoil within Potters Wood SSSI boundary. However, to ensure that due process is adhered to, this potential constraint is subject to ongoing discussion with Natural England at time of writing. See Section 4.2.14 and Plate 4.1 in Chapter 4 of the ES.</i></p>
	<p>The expression "<i>outside of the scheme footprint</i>" is appears to be ambiguous as the impact footprint goes way beyond the physical footprint.</p>	7.4.20	<p><i>Within the search area but outside of the scheme footprint, there are records of badger and otter together with eight bat species, namely greater horseshoe, lesser horseshoe, common pipistrelle Pipistrellus pipistrellus, soprano pipistrelle P. pygmaeus, brown long-eared bat Plectous auritus, Natterer's bat, Daubenton's bat Myotis daubentonii and whiskered bat M. mystacinus.</i></p>
	<p>The statement that "<i>The scheme is some 70m from the nearest watercourse (Dean Burn) which will not impact on Dean Burn</i>" is outrageously disingenuous. The applicant will be applying for discharge of a toxic leachate into this watercourse. They use this statement to justify "<i>Otter is not considered further in this ES</i>" despite the fact that not only is the otter a European Protected Species, but according to the 2008 Devon Wildlife Consultant's report Otter spraints were discovered near the site; also in 2000, "<i>signs of otters were found at Whitecleave Viaduct, as well as the Dean Burn Bridge and under the viaduct crossing the Mardle</i>". Clearly otters are dependent upon this watercourse that the</p>	7.3.7 & 7.4.40	<p>Otter <i>A search of the woodland on and adjacent to the site for otter field signs did not find any otter refuges. The scheme is some 70m distant from the nearest watercourse (Dean Burn) and will not impact on Dean Burn. Otter is not considered further in this ES.</i></p>

	<p>applicant intends to discharge toxic leachate into. The presence of otters this close to site has not been recorded in appendix 7.7</p> <p>According to European Legislation the law should ensure that <i>“due attention is paid to the presence of otters and that appropriate actions are taken to safeguard the places they use for shelter or protection or breeding.”</i></p>		
	<p>With reference to our earlier comments that the bat surveys have failed to adhere to the minimum requirements set out in the South Hams SAC Guidelines (designed to ensure compliance with <i>The Conservation of Habitats and Species Regulations 2010 (the “Habitats Regulations”)</i>) any conclusions that Devon Wildlife Consultants are attempting to draw on behalf of the applicant are likely to be erroneous.</p>	7.4.46	<p><i>The number of commuting greater horseshoe bats was higher in 2010 (peak evening count of 143) than in 2008 (peak evening count of 23). In addition the commuting route was found to have changed between 2008 and 2010 with bats commuting along the track at the northern extent of the site. Vegetation clearance between 2008 and 2009 increased the exposure of the former track utilised by the bats, which altered their commuting route to utilise the adjacent wooded vegetation immediately to the south, before rejoining the previous commuting route at the entrance to the quarry void.</i></p>
	<p>This is untrue. Which independent expert has given this opinion?</p>	7.4.47	<p><i>Trees to be cleared for the proposed scheme are semi-mature in stature and lack features that could support roosting bats.</i></p>
	<p>See comments for 7.3.12</p>	7.4.48	<p><i>An internal and external inspection of the site workshop (referred to as ‘the weighbridge’ in the DWC report) was undertaken by DWC in October 2008 (see Appendix 7.3) to inform an earlier development proposal. However this building is not part of the present scheme and will not be affected.</i></p>
	<p>We note this site is within the South Hams SAC Buffer Zone and is of the highest importance possible within European regulations.</p>	7.4.52	<p><i>Within this assessment, South Hams SAC and South Dartmoor Wood SAC, approximately 700 m and 2.5 km from the proposed development, respectively, are considered to be of Very High (International) value. The seven SSSI within 5 km of the site are considered to be of High (National) value, reflecting their geographical status.</i></p>
	<p>Despite clear advice that blasting during the cold winter months (to include November to February) is potentially very damaging to bats and should be avoided as part of statutory mitigation proposals, the applicant is choosing to</p>	7.5.2 & Appendix 7.14 (a.k.a. Appendix 7.17)	<p><i>To avoid and minimise impacts on protected species, construction works will adhere to a seasonal timetable with potentially disturbing activities being undertaken outside of the most sensitive stages of the life cycle of the species concerned. An ecological constraints and mitigation calendar, showing when certain</i></p>

<p>ignore later advice and highlight one opinion from one individual in a document prepared in 2001 for Hanson Aggregates (George Bemment October 14th 2001). The fact that they are basing their case on a ten year old document is telling.</p> <p>Various questions arise here: Legally, should this document be used by an unrelated third party? Have they sought permission to quote this opinion? Should a ten year old opinion imply an ability to ignore later advice? As far as we are aware, George Bemment is still an active bat ecologist in the area and surely some sense of precaution should ensure that her opinion is re-sought in an official sense?</p> <p>The document used has been quoted in a context that was clearly to refute concerns of Natural England, but Natural England's response to this attempted refutation have not been included.</p> <p>The document states <i>"In my view, there is no evidence that winter blasting would have a detrimental effect on bat populations"</i></p> <p>The statement <i>"there is no evidence"</i> does not give much comfort, and fails to reflect the required precautionary principle.</p> <p>Bearing in the mind the EC Habitats Directive (which the proposals clearly contradict) was only codified into UK law in 2010, we must give some leeway to the idea that the earlier 2001 opinion could once have been valid, but no longer is.</p> <p>The EC Habitats Directive 92/43/EEC states that <i>"Bats for</i></p>		<p><i>works will be undertaken and when this should be avoided, is provided in Appendix 7.14.</i></p> <p><i>An Ecological Clerk of Works (ECoW) will be employed to oversee habitat clearance works. Their task would be to advise on and deal with any unforeseen protected species issues and to minimise potential impacts on protected species through appropriate impromptu mitigation or, for more substantial constraints, additional mitigation agreed in consultation with Natural England.</i></p> <p><i>Peripheral woodland will be protected from 'site creep' during the construction phases by provision of suitable temporary fencing. Fencing will be installed along the boundary of Potters Wood SSSI (to prevent a potential offence being committed (damaging the SSSI) under the WCA 1981, as amended), but also along other woodland and around the existing section of hedge bank.</i></p>
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<p>example, when disturbed during winter hibernation heat up as a consequence and take up flight are less likely to survive the winter due to the high loss of energy resources.”</p> <p>The 2008 report by DWC stated: “Blasting operations may cause potential disturbance to roosting or hibernating bats within the cave systems through damage to the integrity of the cave system and/or from air pressure changes and/or vibration. The type and level of blasting should be selected to avoid any such impact. If an impact can not be avoided prior permission will be required from Natural England. As a precautionary measure it may be considered suitable to avoid blasting operations during the most sensitive periods for bats, such as maternity or deep hibernation periods, which would be May to August and November to February respectively.”</p> <p>The 2009 Mitigation Strategy stated that “Mitigation measures within this document relating to bat species included the...precautionary timing of any proposed blasting operations to avoid the most sensitive periods for bats, such as maternity or deep hibernation periods, i.e. May to August and November to February respectively of winter and mid summer.”</p> <p>The precautionary principle that is required for such a site is being wantonly disregarded.</p> <p>Blasting should not be taking place in winter, contrary to the schedule they have submitted in Appendix 7.14 (7.17)</p> <p>Is it appropriate to have the consultant paid for by the applicant, whose job it is to get the application passed, to be</p>		
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<p>the ecological clerk of works?</p> <p>Surely the fencing will disrupt the bat flight corridors?</p> <p>All the mitigation strategies appear to be inadequate - as Devon Wildlife Consultants stated themselves, these mitigations are an end-game strategy - there will be years in between as the site develops where the ultimate mitigations will serve no purpose and will very likely have no mitigating impact whatsoever. Is it really credible to believe that two small ponds will serve the purpose of a body of water that once covered several hundred square metres?</p> <p>Much clearer evidence is needed of the timeline of the establishment of these proposed mitigations and the likely impact of their absence in the meantime whilst they establish.</p>		
<p>As previously noted, parked lorries already appear to be breach of this promise, and the proposed fencing during construction will also do so.</p> <p>As previously stated re winter blasting (see 7.5.2 above).</p> <p>Not sure why a past tense is being used in relation to the lesser horseshoe bat roost in the workshop building - is this being monitored actively?</p> <p>As above, much clearer evidence is needed of the timeline of the establishment of these proposed mitigations and the likely impact of their absence in the meantime whilst they establish. DWC's report 2010 states that "it is important that this hedgebank becomes established prior to the mining works." - how long will the hedgebank take to</p>	<p>7.5.6</p>	<p>Obstruction to bat commuting routes will be minimised. All stockpiled materials and vehicle parking will be sited outwith the identified bat commuting routes illustrated in the Greater Horseshoe Bat Activity Overview Map (Appendix 7.6). This applies to all phases of the scheme.</p> <p>A study of bats on site conducted by The Devon Bat Consultancy (1999) (see Appendix 7.9), was reviewed and used by Bemment (2001) (Appendix 7.10), to assess potential impacts of blasting on cave roosting bats. Bemment concluded that blasting of Dolerite is unlikely to have an impact on hibernating bats utilising the caves of the Potters Wood SSSI between December and March. Based on this conclusion, blasting of Dolerite to remove the 'spur' will be undertaken over two blasting seasons (October-February).</p> <p>The existing site workshop building (which supported a lesser</p>

<p>"establish" in relation to what is removed? The suggested 3 years seems conveniently short. Given the statement by the consultants that "Within the hedge individual trees should be selected at intervals of 20m and remain uncut, allowing these trees to develop into mature trees. Suitable trees are likely to be the longer growing oak or ash", to suggest that 3 years is sufficient appears to be slightly optimistic. Some independent objective evidence is required and the precautionary principle followed.</p>		<p>horseshoe bat and brown long-eared bat roost in 2008) is not part of the scheme and its structure or use will not be directly affected.</p>
<p>We note "disturbance to nearby species will probably result" and again refer to the EC Habitats Directive 92/43/EEC that "There must be a high degree of certainty that the measures are sufficient to avoid any deterioration or destruction...in the case of rare species with an unfavourable conservation status, there must be a higher degree of certainty"</p>	7.6.2	<p>Temporary disturbance to nearby species will probably result from general disturbance (associated with dust, noise, movement, lighting and vibration) from the construction of the MRF.</p>
<p>The statement "and the mitigation for the scheme ensures that no disruption or damage to the commuting route will occur" is false. No assurances have been made, and indeed statements to the affect that the mitigations may well not be sufficient have been made instead.</p> <p>As above, this must be read in the context of the EC Habitats Directive 92/43/EEC.</p> <p>We also note the South Hams SAC Guidelines state that: "In urban or "pinch point" situations (see glossary), existing strategic flyway habitat is particularly susceptible to development pressures due to the relatively limited routes available for commuting." Whitecleave Quarry represents a "pinch point".</p>	7.6.4	<p>This ES has considered the potential to impact on the population of greater horseshoe bats which form the qualifying feature for the designation of the South Hams SAC. Since the Whitecleave Quarry site contains a greater horseshoe bat commuting route identified as a strategic commuting route in the GHS Planning Guidance, any disturbance or damage to the commuting route on site could have the potential to impact on the South Hams SAC through disruption to commuting bats. Since the works for Construction Phase 1 will not occur near the bat commuting route and the mitigation for the scheme ensures that no disruption or damage to the commuting route will occur, no impact is predicted on the South Hams SAC.</p>
<p>This is untrue. The heavily wooded outcrop clearly forms part of a bat commuting route and has trees that are</p>	7.6.6 & 7.6.7	<p>The proposed scheme will result in permanent loss or modification of bare ground. This is considered to be a Low magnitude impact on a</p>

	<p>potentially capable of sheltering bats (despite what the anonymous 'bat expert' quoted in the report claims). Removal of this outcrop will massively increase the open nature of the whole site which the consultants' reports seem to ignore in terms of being suitable for bat populations.</p> <p>The quarry void (when it had water) was also a significant habitat area for foraging as demonstrated by earlier bat surveys.</p> <p>The 2008 DWC report noted the <i>"Daubenton's bat which was identified by their distinctive foraging flight pattern, foraging close over the surface of water bodies, such as the Dean Burn water course or the pool within the quarry void."</i></p> <p><i>As "A detrimental effect on bat populations would be interpreted as a decline in the numbers of bats recorded" the apparent marked decline in Daubenton's bat over the survey period - although in common with all other conclusions, could be completely erroneous - likely relates to the dewatering of the quarry void without the relevant permissions. This could potentially constitute a criminal offence and should be investigated by the Police.</i></p>		<p><i>receptor of Negligible value and will result in a Neutral effect which is Not Significant.</i></p> <p><i>The loss of semi-natural broad-leaved woodland on the Dolerite spur is a High magnitude impact on a receptor of Low-Medium value and will result in a Moderate Significant effect at the local scale through a loss of woodland.</i></p>
	<p>Again we note the statement that disturbance to habitat and species will be created.</p>	<p>7.6.15</p>	<p><i>Temporary general disturbance to nearby habitats and species (associated with dust noise, movement, lighting and vibration) from drilling, blasting and re-distribution of the existing Dolerite in a sequenced extraction; Temporary general disturbance to nearby habitats and species (associated with dust noise, movement, lighting and vibration) from installation of the IBA.</i></p>
	<p>We note the permanent loss of habitat at this site.</p> <p>Assumptions about the impact of the fence appear to be</p>	<p>7.6.16</p>	<p><i>Permanent impacts that could result from Construction Phase 2 include:</i></p> <ul style="list-style-type: none"> <i>• Permanent habitat loss / habitat modification within the footprint of the IBA facility (which includes part of a 7000 m2 concrete slab for the</i>

<p>based on nothing.</p> <p>We have already queried the highly dubious conclusions presented in Chapter 10 in relation to hydrology, but would like to re-iterate this point about the lack of information concerning cave hydrology and the impact it will have on both the Potter’s Wood SSSI cave system and the bats in light of the SAC Guidelines that “The promoter must be clear that where information is lacking about a potential effect, the competent authority is likely to assume that there will be an effect.” - The information about cave hydrology is lacking.</p> <p>We have also commented on the recalcitrance of the applicant to detail exactly the nature of the lagoon and the likely level of toxins in the water. Nowhere in this document assessing ecological impacts has the proposed request to the Environment Agency for a discharge license for toxic leachate into Dean Burn been addressed. This could be construed as demonstrating a lack of regard for due process or of trying to divert attention from this very important issue.</p>		<p><i>processing yard, on which will sit the IBA processing facility and storage bays/ stockpiles of materials). This footprint includes areas of vegetation. Bare ground/rock habitat will be lost from the quarry base as it is buried by infilling with the blasted Dolerite.</i></p> <ul style="list-style-type: none"> • Construction of a permanent reinforced wire mesh fence with an overhang to protect the IBA building from damage by falling rocks from the quarry face. This feature is unlikely to obstruct bat commuting as it follows the existing line of the quarry. • <i>Potential non-significant alterations to the hydrology and hydrogeology of the site and its surroundings as a result of the removal of the present Dolerite ‘spur’ and its redistribution for quarry infilling. This is addressed in detail in Chapter 10 Hydrology, Hydrogeology and Flood Risk; and</i> • Construction of a concrete-lined lagoon to store excess water run-off.
<p>It is not clear that the proposed mitigation will control light spill - removing the rock outcrop and the mature trees on it, to be replaced by a small bund topped with newly planted vegetation will take many years to give anything like the appropriate mitigation - as stated by Devon Wildlife Consultants. The SAC is therefore unquestionably threatened and the precautionary principle should warrant rejection of the planning application.</p>	7.6.17	<p><i>This ES has considered the potential to impact on the population of greater horseshoe bats which form the qualifying feature for the designation of the South Hams SAC. Since the Whitecleave Quarry site contains a greater horseshoe bat commuting route identified as a strategic commuting route in the GHS Planning Guidance, any disruption or damage to the commuting route on site could have the potential to impact on the South Hams SAC through disruption to commuting bats. Without mitigation to control light spill it is likely that there will be a significant effect on greater horseshoe bat commuting behaviour, such that this species may be deterred from using the site.</i></p>
<p>Once again we would like to draw attention to the 2001</p>	7.6.19 - 7.6.20	<p><i>The SSSI protects greater horseshoe bat roosts within its cave system.</i></p>

	<p>report for Hanson Aggregates and reiterate our earlier comments (see 7.5.2 above).</p>		<p><i>The closest cave entrance (through which horseshoe bats would enter the caves) is 200m from the site and is not in line of sight. With the exception of blasting (addressed below), the noise and vibration associated with other activities during Construction Phase 2 is not anticipated to impact on bats in the caves.</i></p> <p><i>The potential impact of blasting on greater horseshoe bats roosting in caves in Potters Wood SSSI has been assessed by Bemment (2001) (Appendix 7.10) who concluded such operations are unlikely to disturb hibernating bats in the caves. Based on this opinion it is considered that blasting during the period December to March would therefore have an impact of Negligible magnitude on a Medium-High (Regional) value receptor, resulting in a Low effect which is Not Significant. However, the potential impact of blasting during the bat breeding season (May- August) is more of an unknown quantity and under the precautionary principle it is considered to pose a more significant risk of disturbance to bat maternity colonies within the caves. Such an impact could be of Medium-High magnitude and result in a Major/Moderate effect on the breeding success of bats, which may result in a Significant effect on the population.</i></p>
	<p>We note this significant loss of woodland and its acknowledged high magnitude impact which will impact the local community and the National Park. This acknowledgement does not sit comfortably with the applicant's conclusions in other parts of the report.</p>	<p>7.6.23</p>	<p><i>Loss of approximately 0.37 ha of semi-natural, broad-leaved woodland on the Dolerite spur will result in a High magnitude impact on a receptor of Medium (District/Borough) value and result in a Moderate effect, which is Significant especially at a local level.</i></p>
	<p><i>"Small areas"</i> is subjective and disingenuous. Neither the bats nor the local community would regard these as small areas.</p> <p>The statement <i>"The mitigation ensures that bat commuting routes remain intact at all times"</i> is not only misleading and</p>	<p>7.6.26</p>	<p><i>Construction Phase 2 involves removal of two small areas of semi-natural, broad-leaved woodland from the spur. The mitigation ensures that bat commuting routes remain intact at all times and will be protected by the extension of the hedge bank and there will be no impact on bat commuting routes. There will be permanent loss of a small area of bat foraging habitat resulting in a Low impact on a receptor of Low-Medium (District/Borough) value resulting in a Low</i></p>

	<p>incorrect, it is in direct contradiction with earlier statements by Devon Wildlife Consultants as noted in relation to point 7.2.18 above.</p> <p>We note the conclusion that there will be a loss of an area of bat foraging habitat. Given the bats are the largest population in Western Europe, this local impact is actually highly significant.</p>		<p><i>effect which will be Not Significant at the population level.</i></p>
	<p><i>“The mitigation includes avoidance of blasting during the peregrine nesting season (March to August) if birds are nesting” - the predicate “if birds as nesting” is not appropriate</i> at all and needs to be clarified that no blasting at all will be allowed to take place between March and August full stop, regardless of the current presence of nesting birds, as blasting may well dissuade Peregrines from setting up nests.</p>	<p>7.6.27</p>	<p><i>The proposed IBA facility is at the base of the quarry cliffs which support peregrine nesting and roosting sites. Without mitigation, rock blasting at a critical stage of a breeding attempt may result in nest desertion which would be a High impact on a receptor of Low-Medium value resulting in a Moderate effect which is Significant at the local level. The mitigation includes avoidance of blasting during the peregrine nesting season (March to August) if birds are nesting. With avoidance mitigation and careful timing of construction to be outside the nesting season no increase in noise, vibration, lighting or dust above existing levels is projected during the nesting season and no significant effect on breeding peregrine is anticipated.</i></p>
	<p>How many times does this misleading statement - <i>“and the mitigation for the scheme ensures that no disruption or damage to the commuting route results”</i> - have to be repeated before we have to conclude that this report is deliberately misleading? Mitigation is <u>not</u> ensured, there are no assurances.</p>	<p>7.6.35</p>	<p><i>This ES has considered the potential to impact on the population of greater horseshoe bats which form the qualifying feature for the designation of the South Hams SAC. Since the Whitecleave Quarry site contains a greater horseshoe bat commuting route identified as a strategic commuting route in the GHS Planning Guidance, any disturbance or damage to the commuting route on site could have the potential to impact on the South Hams SAC through disruption to commuting bats. Since no vegetation is to be cleared in Construction Phase 3 and the mitigation for the scheme ensures that no disruption or damage to the commuting route results, no impact is predicted on the South Hams SAC.</i></p>
	<p>As above.</p>	<p>7.6.43</p>	<p><i>No impacts on bat commuting routes or foraging habitat are anticipated.</i></p>
	<p>The bund feature may be useful. It could be argued that it will be more useful than the lagoon was (before it was dewatered). However, the bund will take many years to</p>	<p>7.6.44</p>	<p><i>Creation of the wetland strip with associated buffer zone vegetation and extension to the lagoon will result in a likely beneficial impact to bats by diversifying and increasing the extent of foraging habitat on</i></p>

	establish, and in the meantime, the viability of the site is clearly threatened, as warned as a danger by Devon Wildlife Consultants.		<i>the site, resulting in a Low beneficial impact on a receptor of Medium-High (Regional) value resulting in a Moderate beneficial effect which is Significant at the local level.</i>
	As previously stated, this appears to be a misleading and erroneous statement based on selective disclosure of facts.	7.6.49	<i>No impacts are anticipated on designated sites because woodland habitat or bats will not be disturbed.</i>
	We note the applicant's earlier clarification that existing environmental legislation could in future restrict their planning permission in relation to quarrying.	7.6.55	<i>Potential permanent impacts of the operational IBA processing facility are from general disturbance (associated with dust noise, movement, lighting and vibration). Noise levels have been calculated in Chapter 13 Noise and Vibration. With predicted noise levels from operation being at or below the noise limit on the previous planning permission for the site and the Teignbridge Council recommended limit. Although the recommended limits pertain to the human environment, noise levels from operational activities are also not expected to cause significant disturbance to ecological receptors.</i>
	This statement appears to need more clarification or objective justification : <i>"A lower magnitude impact could also occur occasionally during winter if bats temporarily aroused from hibernation during periods of mild weather were to utilise the habitat surrounding the site but this again would likely be Not Significant."</i> Why Not significant?	7.6.60	
	Note earlier comments in relation to the limitations of the proposed mitigation. What action will be taken if mitigation is not deemed to be appropriate? Is a framework for compensation measures be in place? Will further restrictions be placed on the site?	7.6.61	<i>The lighting design for the MRF and IBA will ensure that lights do not point directly into the identified bat commuting routes and that light spill is minimised into the bat commuting routes. Light spill will not exceed the 3 lumen m⁻² level recommended in the DWC Mitigation Strategy. Without mitigation, the impact from artificial lighting would probably result in a High magnitude impact on a Medium-High value receptor, resulting in a Major/Moderate effect on bats which would be Significant at the county population level for greater horseshoe bat and at the local population level for other species. With mitigation, the impact is expected to be of Negligible magnitude and Not Significant. Measurements of the illuminance level along bat commuting routes will be undertaken post-construction to ensure that these comply with that agreed in the planning permission.</i>
	Again we note the clear acceptance that removal of the rock outcrop and woodland represent a high impact, significant	7.7.1	<i>During Construction Phase 2 there will be loss of semi-mature broad-leaved woodland on the Dolerite spur, resulting in a High impact in</i>

<p>event at the local level. Something that seems to be ignored or downplayed in other parts of the report.</p> <p>We also note that many of the trees on this outcrop, are native broadleaf trees well over 20 years old. Teignbridge District Council should clearly be consulted as these should be subject to Tree Preservation Orders (N.B. A resident of Buckfastleigh has requested a clarification from TDC on this issue and is awaiting a response).</p> <p>The replacement trees are either conifers, or much slower growing native broadleaf trees.</p> <p>We note the statement within the South Hams SAC Guidelines that <i>“landscapes with broadleaved woodland and watercourses are important [for greater horseshoe bats] as they provide habitat continuity”</i> and that there will be a prolonged period under the proposals where there is a marked deterioration in the number and quality of broadleaf trees.</p>		<p>the medium term. This is significant at the local level. The new areas of planting (i.e. the hedge bank, the swale/wetland strip and small areas near the phone mast and the bank leading to MRF, and at the top of the quarry) will not fully replace and compensate for the area, form and stature of the woodland lost to the scheme. In the long-term, new plantings will partially compensate for the stature of trees lost but not in terms of form as a distinct block of woodland that will be lost. The replacement trees will effectively be replanted woodland fragments although these will adjoin or be in close proximity to existing woodland which is beneficial in terms of habitat connectivity. In summary a Low magnitude impact on broad-leaved woodland will remain in the long-term, i.e. the period it takes for new plantings to attain a similar age to those trees lost, which is significant at the local level.</p>
<p>This seems a casual attitude towards the loss of native broad-leaved woodland and the bats that use it to forage although we note that “In the short term this is considered to result in a Significant effect”.</p>	7.7.2	<p>The loss of semi-mature broad-leaved woodland will result in a short term Low impact on woodland foraging bats, which are expected to habituate to the change in environment and redistribute to other nearby woodland foraging areas. In the short term this is considered to result in a Significant effect at the local level but in the medium to long term this will be NotSignificant.</p>
<p>The ponds are tiny in relation to the lake in the quarry void that supported foraging bats.</p>	7.7.4	<p>The provision of new wildlife ponds and bee meadow at the southern end of the quarry will enhance habitat diversity on site, resulting in a Low positive impact on biodiversity, which is Significant at the local level.</p>
<p>It cannot be concluded that there will be no impact on the South Hams SAC as per previous points. This appears to be an unjustified and spurious conclusion that contradicts evidence presented (inadequate as it is).</p>	7.8.3	<p>In particular, the mitigation will ensure that no interruption occurs to the greater horseshoe bat commuting routes around the periphery of the site. Since no impacts will occur to statutory designated sites or the commuting routes of the greater horseshoe bats (a qualifying</p>

			<i>feature of the South Hams SAC), it can be concluded that there will be no impacts on the South Hams SAC.</i>
	<p><i>“The impacts of the scheme on protected species can be adequately mitigated to comply with legislation and planning policy.”</i> This statement is a value judgement and is difficult to substantiate as it appears to contradict the evidence given. With respect to earlier comments in relation to section 7.2.18 and the EC Habitats Directive 92/43/EEC, it would seem the precautionary principle should be followed and the application rejected.</p> <p>We note the loss of woodland is not permissible under Regional Planning Policy RE8: Woodlands and Forests.</p>	7.8.6	<p><i>The impacts of the scheme on protected species can be adequately mitigated to comply with legislation and planning policy. The net loss of woodland would contradict Regional Planning Policy (Policy RE8: Woodlands and Forests), which advocates replacement “with appropriate new woodland on at least the same scale”.</i></p>
	<p>The statement <i>“The flight lines as indicated by DWC and provided with this document as appendix 1, will be kept free of buildings, stockpiles and no lorry parking will be allowed to ensure the bats have free passage at all times. Refer to the overall plan for the site”</i> already appears to be violated with lorries clearly visible from Plymouth Road being parked overnight in bat flight lines.</p>	Appendix 7.13	