

**Application Number**

P/2013/1179

**Site Address**Yalberton Tor Quarry  
Yalberton Road  
Paignton  
Devon  
TQ4 7PD**Case Officer**

Carly Perkins

**Ward****Description**

Variation of Condition 3, 5, 27 and 28 (P/2010/0638 Phased approach to recovering and disposing of in-situ and imported waste, the progressive land filling of the quarry void with inert waste and the construction of an appropriate geological barrier in conjunction with waste recycling operations and restoration and ceasing of mineral extraction)

**Executive Summary/Key Outcomes**

This application is for the variation of conditions 3, 5, 27 and 28 of application reference P/2010/0638. That application was for the ceasing of mineral extraction, a phased approach to recovering and disposing of in-situ and imported waste, the progressive land filling of the quarry void with inert waste and the construction of an appropriate geological barrier in conjunction with waste recycling operations and restoration.

The purpose for varying the conditions is to enable the applicants to continue working towards a lower restoration level. The proposal is to leave the remaining in-situ waste within the void, revising the restoration proposals for the site.

Subject to the deed of variation, the proposed variation to conditions 3, 5, 27 and 28 is considered acceptable and without greater impact to the character or appearance of the locality, the workings of the quarry, biodiversity or local amenity.

The application is referred to committee because of its type as a minerals/waste application for which there is no delegated powers for officers.

**Recommendation**

Approve subject to a deed of variation to the legal agreement.

### **Statutory Determination Period**

8 weeks, the determination date was 2 January 2014 however due to an error on the red line plans the application had to be re-advertised. In addition there is a bond on the original permission which needs to be amended to take account of the new permission through a deed of variation.

### **Site Details**

Yalberton Tor Quarry is an existing quarry, approximately 3ha in area and, at its maximum, 25m deep, with vehicular access from Yalberton Road. It has been worked in the past for limestone aggregates. Inert materials were deposited, by a previous operator, over roughly the south-eastern half of the void.

The site is on the edge of the built up area, with countryside beyond. Industrial estates adjoin the east and north boundaries. The nearest residential property is approximately 40m south west of the site and there are a number of residential properties to the north-west and west.

The site has been under new ownership since January 2008. The new operating company's principal business is the recycling of construction and demolition waste materials into secondary aggregates. Ancillary buildings, weighbridge and wheel-cleaning equipment are sited in the vicinity of the access. All incoming and outgoing vehicles are routed along Yalberton Road to and from the traffic light-controlled junction on Brixham Road.

### **Detailed Proposals**

The application is for the variation of conditions 3, 5, 27 and 28. The purpose for varying these conditions is to enable the applicants to continue working towards a lower restoration level. The Planning Statement states that 'the economic viability of the existing operation is no longer realistic and after further extensive borehole testing it has become apparent that the remaining in-situ waste... was consistently not being shown as a risk of contamination and therefore being accepted to remain in-situ.' The proposal is therefore to leave the remaining in-situ waste within the void, revising the restoration proposals for the site and in order to do this a variation of condition application is required before a variation to the existing permit (from the Environment Agency) can be obtained.

It is proposed that conditions 3, 5, 27 and 28 are varied to take in to account the new revised plans and changes to the restoration level. Drawing YTQ-R-1 illustrates the proposed restoration based on a reduced waste input.

The resultant scheme is largely similar in terms of land use but the land form will differ with the reduced volume of imported material resulting in the retention of exposed low level rock faces on the northern/eastern periphery of the application site. Drawing YTQ-P-1 to 5 show the progressive infilling of the remaining void space based on the proposed restoration concept.

Phase 1 will take place within the central cell which forms a north to south valley feature. Phase 2 involves the restoration landform being created from west to east in order to preserve the site facilities, access, infrastructure and avoid disturbance of the topsoil storage mounds. This is illustrated on drawing YTQ-P-2 which shows the western area being overtipped to tie levels into the adjacent landform. Phase 3 will extend the restoration landform east by overtipping the phase 1 area resulting in a gentle surface gradient. Phase 4 will bring the restoration landform up to what is at present the operational part of the site. At Phase 4 it is expected that grassland would have begun to establish over phases 2 and 3. Phase 5, the final phase, involves the removal of site facilities and infrastructure and distribution of the remaining soils/soil forming materials held within the storage mounds.

At phase 5 an assessment would be made as to whether additional materials would be needed to complete the restoration and provide adequate medium for the establishment of grassland, trees and hedgerows.

The majority of the site is to be restored to agricultural pasture.

### **Summary Of Consultation Responses**

*Environment Agency:* No objections to the proposal subject to the variation of the permit.

*RSPB:* No comments other than to reiterate their recommendations made for application P/2010/0638 that restoration should include nature conservation benefits, specifically habitat creation and management to provide suitable conditions for curlew buntings.

*Environmental Health:* No objections or comments raised.

*Highways Engineer:* The variations will not have any particular impact in highways terms. The comments made by the highways department as part of the original application still remain valid. Previous comments state that providing the usage of the entrance to the quarry isn't any greater than the previous working usage then highways would have no objection, in addition it is advised that the hedgerows are kept back so that visibility can be maintained.

### **Summary Of Representations**

None received.

### **Relevant Planning History**

P/1993/0438 Restoration of land by infill with inert materials APPROVED

P/1996/01065 Use as recycling centre for inert materials APPROVED

P/1998/0584 Review of mineral permission (conditions) APPROVED

P/2009/0382 Temporary siting for a period of 12 months of mobile crushing and screening equipment relating to the recycling operation, with related reduction in level of filled material from 47m AOD to approximately 37m AOD, associated safety bunds and creation of new vehicle turning area  
APPROVED

P/2010/0638 Phased approach to recovering and disposing of in-situ and imported waste, the progressive land filling of the quarry void with inert waste and the construction of an appropriate geological barrier in conjunction with waste recycling operations and restoration and ceasing of mineral extraction  
APPROVED

### **Key Issues/Material Considerations**

The key issue is whether the revised phasing scheme and revised lower restoration level is acceptable and not to the detriment of the overall working of the quarry or the restoration of the quarry.

As stated above the purpose for varying these conditions is to enable the applicants to continue working towards a lower restoration level. The Planning Statement states that 'the economic viability of the existing operation is no longer realistic and after further extensive borehole testing it has become apparent that the remaining in-situ waste.. was consistently not being shown as a risk of contamination and therefore being accepted to remain in-situ.' The proposal is therefore to leave the remaining in-situ waste within the void, revising the restoration proposals for the site and in order to do this a variation of condition application is required before a variation to the existing permit (from the Environment Agency) can be obtained.

The planning statement states that the revised scheme of works will bring the following benefits, 'security of an existing recycling/landfill operation, maintain employment at the quarry, an earlier completion date [and] an in-keeping/appropriate landform within the surrounding area'.

The representations from the consultees have not raised any objections to the variation of the conditions and in line with these comments the revised phasing and restoration level is not considered to be of detriment to the nearby nature conservation designations, the highway network or occupiers of nearby buildings.

The variation of condition is not considered to result in any greater impact to the character or appearance of the nearby AGLV. The remaining conditions will remain the same as the original permission.

**S106/CIL -**  
N/A

**Conclusions**

Subject to the deed of variation of the legal agreement, the proposed variation to conditions 3, 5, 27 and 28 is considered acceptable and without greater impact to the character or appearance of the locality, the workings of the quarry, biodiversity or local amenity.

**Condition(s)/Reason(s)**

01. Unless otherwise agreed by the Local Planning Authority in writing, no development shall be carried out other than in accordance with the approved plans YTQ 001, YTQ 002 and YTQ P1-YTQ P5 Phasing Scheme Stages.

Reason: To enable the Local Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area and in accordance with Policies WS and M1 of the Saved Adopted Local Plan 1995-2011.

02. No screening of materials, as depicted on Phasing Scheme YTQ P1-YTQ P5 with the words "Screening Operation" shall take place in the areas shown as "Permanent Stockpile Area" and "Permanent Infrastructure" on those Plans, except with the prior written approval of the Local Planning Authority.

Reason: In the interests of amenities of the area and in accordance with the objectives of Policy WS of the Saved Adopted Local Plan 1995-2011.

03. Unless otherwise agreed by the Local Planning Authority in writing, the site shall be restored, using soils or soil-making material, to the contours shown on plan YTQ-R1 Final Restoration Levels.

Reason: To ensure appropriate restoration and in accordance with Policy WS of the Saved Adopted Torbay Local Plan 1995-2011.

04. Before the level of Land filling operations reaches a level of 40m AOD (approximately 2m below the lowest restored ground level), or by such later date as may be agreed by the local planning authority in writing, an aftercare scheme, to run for five years and setting out such steps as may be necessary to bring the restored land to the required standard for use for agriculture, or nature conservation, shall be submitted for the approval to the Local Planning Authority and thereafter implemented as approved, unless previously agreed in writing by the Local Planning Authority.

Reason: to enable the Local Planning Authority to adequately control the development and to ensure the land is restored to a condition capable of beneficial use and in accordance with Policy WS of the Saved Adopted Torbay Local Plan 1995-2-1.

**Relevant Policies**

- NC3 Protected sites - locally important site
- WS Waste management and disposal strategy
- EP3 Control of pollution
- EP4 Noise
- T26 Access from development onto the highway
- NPPF National Planning Policy Framework