

APPEAL BY MVV ENVIRONMENT (DEVONPORT) LTD

WHITECLEAVE QUARRY, BUCKFASTLEIGH

APP/J1155/A/12/2185633

CLOSING SUBMISSION BY BUCKFASTLEIGH COMMUNITY FORUM (BCF)

**Introduction**

1. In opening we referred to Para 9 of the NPPF, which states;

“Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life, including (but not limited to):

improving the conditions in which people live, work, travel and take leisure”

2. We suggested that this was probably the most important single criterion against which planning applications must be judged and that it was the criterion against which this planning application must be determined. The underlying question, irrespective of whether we were considering the purported need for the development at Whitecleaves Quarry, impacts arising from dust and noise, HGVs, impacts on the ecology of the area, impacts on the community, on health, on water, is “will this development make peoples’ lives better?”

3. After 4 weeks of evidence to this inquiry, the answer to this question is now clear. On all counts, the answer is no. All of the evidence produced by BCF has shown, irrespective of the particular subject area, whether in terms of traffic, noise, air quality, ecological impacts or impacts on the community, and contrary to the assertions of MVV, not only is Whitecleaves not the right location for this development, and MVV’s case is unsupportable, but a more unsuitable location would be hard to find.

**Issues**

**Waste management and the compatibility of the proposal with national and local waste policy.**

4. National and local waste policies are set out in the NPPF, its Technical Guidance, PPS10 and the Devon County Waste Local Plan (DWP). The DWP policies should reflect national policy, and where there is any tension between the two, national policy, especially policies set out in the relatively recent NPPF should be given greater weight.
5. The NPPF came into force in March 2012, as did the Technical Guidance, whereas PPS10, originally published in 1999, was revised in March 2011. The DWP was adopted in June 2006, and its replacement is some way off in the distant future.
6. Core planning principles are set out in para.17 of the NPPF, and it is within the overall framework of these principles that policies found in PPS10 and the DWP should be situated.

#### **Devon County Waste Local Plan.**

7. The objectives and strategy of the DWP are set out in Section 3, Core Policies in Section 6 and detailed policies in Section 7.
8. Objective 3 of the DWP requires the minimisation of any adverse effects on human health and the environment, and Objective 4 requires ensuring that any proposal for waste management facilities is achieved in as sustainable a manner as possible.
9. Objective 5 sets out the waste hierarchy, and Objective 6 encourages the minimisation of the transportation of waste by situating facilities at or close to major population centres, taking into account the effects of such on local communities and the environment.
10. Of the Core Policies of the DWP in Section 6, WPC1 requires that planning applications such as this are compliant with the Objectives as set out in Section 3, and WPC2, as the explanatory text reminds us (DWP para.6.3.1), in the determination of planning applications, proposals should, at the very least, preserve and enhance the overall quality of the environment, minimise risk to human health and minimise any adverse impacts on the environment.

11. Detailed policies in Section 7 of the DWP of relevance to this application include WPP4, and is directly applicable to sites such as Whitecleave Quarry (WQ) which is not allocated in the DWP. This Policy states that proposals for waste facilities at unallocated sites will only be permitted where they accord with all relevant policies in the DWP and contribute to the achievement of a sustainable waste management strategy for the County.
12. As such, relevant policies referred to must, as a matter of common sense, include Core Policies as found in Section 6, together with all other relevant detailed policies as set out in Section 7.
13. WPC4 may be fairly described as an exception policy, and as such, should only be applied in exceptional circumstances. Further, as an exception policy, again, as a matter of common sense, the policy must be interpreted as meaning what it says, and that is that **all** (my emphasis) relevant policies must be complied with.
14. These other relevant policies, as well as those from Section 6, include WPP6 which protects SSSIs from either direct or indirect harm, WPP10 which requires that Conservation Areas are preserved or enhanced, and WPP14 which similarly requires that, as a minimum proposals should protect and maintain biodiversity, and preferably enhance such interests.
15. Policy WPP17 sets out to protect and safeguard the water environment including groundwater and drinking water supplies whilst WPP18 seeks to protect against any increased risk of flooding.
16. WPP19, in turn, protects against the sterilisation of mineral resources.
17. The minimisation of the transportation of waste is a requirement of Policy WPP20, and Policy WPP21 specifically seeks to protect against harm arising from HGV movements.
18. Policy WPP22 addressing issues of noise, health and air quality, states that any proposals which would have an “unacceptable adverse effect” on health or air quality will not be permitted. Whilst leaving aside for the moment what might constitute an acceptable adverse effect on health, it is clear that any

proposals that result in increases in noise levels or dust should not be permitted.

19. As regards specific types of waste management facilities, the explanatory text to Policy WPP29 at para. 7.5.3.2 of the DWP advises that as MRFs are “essentially industrial activities”, careful consideration must be given to the location of these facilities and that, normally, sites should be situated close to the source of waste.
20. For the reasons set out below, in our submission, the proposed scheme fails to accord with any of these policies of the DWP.

### **Planning Policy Statement 10 (PPS10)**

21. As with the DWP, the advice set out in PPS10 is set within the overall objective of sustainable development, with particular emphasis given to the need to protect human health and the environment (para.1).
22. Key planning objectives include the delivery of sustainable development, securing the recovery of waste without endangering human health or harming the environment, and also reflecting the concerns and interests of communities (para. 3).
23. Relevant advice regarding the determination of planning applications is set out in paras 22 to 38 inclusive, and is permissive of applications at unallocated sites, with the proviso that they should be consistent with other policies in PPS10 and the waste planning authority’s core strategy. Consistency with the NPPF should be a further required consideration.
24. Local environmental impacts and amenity issues are addressed in Annex E, where a series of locational criteria are set out. Considerations include the protection of water resources, nature conservation, traffic, air emissions and noise and vibration.
25. PPS10 reminds us that the planning system, in controlling the development and use of land in the public interest (para.27) should also operate in the public interest to ensure that the location of development is acceptable,

making specific reference, in the context of addressing health, to facilities being “appropriately located” (para.30)

### **National Planning Policy Framework (NPPF)**

26. As set out above, the NPPF seeks positive improvements in the quality of the built, natural and historic environment, which includes improving the condition in which people live, work, travel and take leisure (para.9).
27. The core planning principles of the NPPF set out in para.17 include the need for planning to be genuinely plan-led, empowering local people to shape their surroundings, and the need to find ways to enhance and improve the places where people live their lives.
28. Account should be taken to the different characteristics of different areas, making specific reference to supporting thriving rural communities. Pollution should be reduced, and the natural environment conserved and enhanced, and patterns of growth should be actively managed.
29. On this latter point, developments that generate significant traffic movement should be located where the need to travel will be minimised, and they should also be located (where practical) to give priority to pedestrian and cycle movements (para.35)
30. Government, we are advised in the NPPF, aims to involve all sections of the community in planning decisions in the interests of the promotion of healthy communities (para.69), whilst the health of the natural environment should be conserved and enhanced ( paras. 109, 118 and 120).
31. Set against the background of climate change, proposed development in areas of flood risk should be subject to site-specific assessment, and Technical Guidance (TG) to the NPPF has a specific section on flood risk.
32. The Technical Guidance advises that its aim is to steer new development to areas with the lowest probability of flooding through application of the Sequential Test, starting with reference to Flood Zones (TG para.3).

33. Zone 3a is characterised as having a high probability of flooding, and Zone 3b is defined as the functional floodplain. The TG advises that “Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered...”. It appears to be accepted that part of the development site, where the settlement tanks are located, falls within Zone 3a.
34. In addition, the TG provides specific advice on the proximity of mineral workings to communities. As this application involves the quarrying and processing of some 300,000 tonnes of dolerite, the guidance is clearly relevant.
35. It advises that “particular care” should be taken when applying conditions to such developments (TG para. 20), and further that a “programme of works should be agreed which takes account, as far as is practicable, of the potential impacts on the local community over the expected duration of operations” (TG para.21).
36. In this particular case, apart from knowing that the construction phase will involve the blasting and processing of 300,000 tonnes of dolerite and the subsequent infill of a further 120,000 tonnes of inert fill, no further information has been provided by MVV in respect of the construction phase at all. The timeframe for this phase has shifted as the inquiry has progressed, to an undefined period of possibly more than 5 years, and no details of any “programme of works” have been provided save a single sheet of A4 outlining the CEMP.
37. In the absence of these details it is simply impossible to assess likely impacts of the construction phase in terms of dust and noise emissions, setting aside for the moment impacts of this phase on biodiversity and hydrological interests.
38. The TG advises that a dust assessment study “should be undertaken” (TG para.23) to establish baseline conditions in order to identify sensitive receptors, site activities that could lead to dust emissions and mitigation measures to control such emissions.

39. The TG recognises that operations such as this can impact adversely on health, and advises that additional measures to control PM10 might be necessary when sensitive receptors such as residential homes, schools and residential areas are within 1,000m of actual sources of emissions (TG para.27).
40. It is also made clear that unavoidable noise emissions should be controlled, mitigated and removed at source, and that, as with dust, an assessment should be undertaken with that in mind.
41. Whereas MVV have proposed a condition limiting noise emitted from the site of 55dB(LAeq) (30 mins), a number of witnesses have expressed concerns at the difficulties involved in enforcing any such condition, and given, as with dust emissions, that we only have the vaguest idea of what the construction phase will entail, such scepticism is well founded.
42. As with the DWP, for the reasons set out below, the evidence before this inquiry has shown that this proposed development conflicts with the principles of sustainable development, core planning principles, and specific guidance as set out in the NPPF, as well as conflicting with the key planning objectives and decision making principles set out in PPS10.

**The effects of the proposed development on:**

**The character and appearance of the area**

43. The character of Buckfastleigh has been clearly established during the course of this inquiry by Councillor Rudgeley, Mr Woodhead and the numerous local residents who object to this scheme.
44. It is a predominantly rural town, on the very edge of the Dartmoor National Park, with its past based on a combination of agriculture and quarrying. Some industry has been present, but the present day town is characterised as being heavily reliant on tourist based activities and small businesses.
45. It is served by a minor rural road, the B3380, and a relief road takes most of the heavier traffic away to the north of the town. It is unsurprisingly not

uncommon to see the B3380 used by tractors, school buses, cyclists and pedestrians.

46. The B3380 runs immediately to the south of the town's Conservation Area, and the town has, as is only to be expected given its rural location, very good air quality, and despite the proximity of the A38 trunk road (the Devon Expressway), background noise levels, whilst being higher than they might otherwise be, do not detract from its general air of rural tranquillity.
47. The town is set within a landscape of rolling, Devonian hills, predominantly agricultural, well wooded, with the Dean Burn and River Mardle flowing through, producing incised valleys, typical of the area.
48. Whilst it is accepted that no objections have been made to this application on landscape grounds by either the Dartmoor National Park Authority (DNPA) or Natural England (NE), a number of local objectors have stated that the site is visible from a number of viewpoints within the National Park, and this impact is one that should be taken into account when considering the overall planning balance.
49. In addition, an objective description of the site is provided in the Devon Minerals Local Plan 2004, where in Part B (p. 177) it states:
50. "Proximity to Buckfastleigh and the A38 makes it an extremely intrusive element in the local landscape when viewed by road."
51. A more informed view of the likely impact of the proposal on the appearance of the area will be available following the formal site visit, whereas the effect on the character of the area is largely a matter of assessing the impacts arising from the construction and operational phases of the scheme in terms of the impacts of the introduction of industrial processing activities into the current setting.
52. The proposed expansion of the Town's Conservation Area will bring it closer to the site, increasing the exposure of the CA to disturbance from increased levels of HGV traffic on the B3380.

53. Policy WPP10 requires proposals for waste management facilities not to conflict with the objective to preserve and enhance the character and appearance of Conservation Areas. This proposal makes no contribution to either preserve or enhance the Town's CA, and is highly likely to detract from the general tranquillity of the area.

**The effects on living conditions of nearby residents and the amenity of the area, with particular reference to noise, vibration and disturbance.**

54. In the absence of any statutory definition of amenity, Mr Rugg sensibly suggested that a common sense approach should be adopted when considering the effects of the proposed development on such. This is probably the only time that we find ourselves in agreement with Mr Rugg, of which, more below.

55. The notion of amenity is generally concerned with the relative pleasantness of an area. As set out above, when considering the overall character of the area, at present Buckfastleigh can be reasonably described as relatively tranquil. WQ has been largely dormant for at least 10 years, and the last major quarrying appears to have taken place back in the 1980s. (DR Peter Edwards' oral statement to the Inquiry)

56. Mr Maneylaws, the acoustic expert for MVV, gave evidence to the effect that MVV were confident that a condition limiting noise emitted from the site to 55 dB(LAeq)(30 mins) would not be exceeded during either construction or operational phases, with the notable exception of blasting operations, as modelling had taken into account various worst case scenarios. Whilst this may appear to be perfectly reasonable and satisfactory in principle, the devil, as ever, is in the detail, and, in this case, in the likely effectiveness of this and other conditions.

57. A further condition will be attached to any planning permission, requiring the submission and approval by DCC of a Noise Management Plan (NMP), involving a noise monitoring strategy. As with so much of the relevant detail required in order to fully appreciate likely impacts of the scheme, not even a

draft NMP has been produced for examination at this inquiry, and this, in itself, is problematic. Irrespective of any agreement reached between DCC and MVV, as in the Statement of Common Ground (SOCG) in relation to noise and traffic matters, it is a fact that even at the very low level of operation at the quarry in the last 5 years a number of noise related complaints have been made to DCC by local residents.

58. The evidence produced by Mr Kilvington regarding MVV's construction of the EfW plant at Devonport doesn't exactly instil confidence in either the effectiveness of noise conditions or the ability of the local waste authority to effectively enforce these conditions.
59. Given that the NPPF requires any planning condition to be necessary in order to make any development acceptable (para.204), where there is evidence of complaints relating to breaches of conditions, it gives rise to questions as to the acceptability of the scheme, reflecting the suitability and appropriateness of the chosen location.
60. As regards the control of noise and vibration arising from the blasting which is necessary for the construction phase of the development, once again, an array of conditions are proposed.
61. A blasting scheme shall be submitted and approved by DCC prior to any blasting taking place, noise overpressure shall be limited to 120 dB at any buildings used for human habitation, which would seem to exclude the B3380 and the A38. No consideration at all appears to have been given to the effect of a blast on drivers using the A38, with its speed limit of 70mph, or drivers on the B3380 with its current 40mph limit.
62. If the blasting will be enough to make local residents jump (Maneylaws XX), what effect will this have on someone driving at 70mph on the A38 some 50 metres away from the blast site itself?
63. What do we know of the blasting phase itself? We know where the dolerite which will be blasted is actually sited, but beyond that, almost nothing is known. We know that there are, as far as quarrying dolerite itself is concerned, technical difficulties in utilising the consented reserves themselves

which impact on the viability of quarrying per se. (Miles Proof) We don't know how many blasts will be required, or over what period, we don't know how much material can or will be removed with each blast, and we don't know anything at all about what processes the blasted dolerite may be subject to prior to being used as infill. We don't know the size of material to be filled, levels of compaction necessary, or how that might affect hydro-geological concerns.

64. The only evidence on these matters has been produced by Ms Gilpin, who admitted to having no knowledge of quarrying (XX) (and consequently no knowledge of the processing side of the operation either). The suggestion by her in XX that blasting techniques are now so sophisticated so as to obviate the need for processing belongs in the realm of science fiction and fantasy.
65. The only person giving evidence to this inquiry with any knowledge at all of high explosives was Dr Roger, who told us that the quantities used in the test blasts were "microscopic" (EiC), whereas the actual blasting would involve hundreds of kilos. How the test blasts are supposed to provide any useful data upon which to base an informed assessment of the actual likely effects of blasting remains somewhat opaque.
66. This phase of the scheme cannot be regarded as anything other than a major civil engineering project, involving the fill of 420,000 tonnes of material, over a period which, it now appears, could be extended for over 5 years (Miles XX).
67. As I've had good cause to state on a number of occasions during the course of this inquiry, this is not an outline application. Were this a road construction project or housing development extending over a similar period of time, evidence would be required from a civil engineer at the very least.
68. This application has had no evidence from anyone with any expertise in this area, no quarrymen, blasting experts, civil engineers, nothing. In these circumstances the very delivery of this essential element of the scheme has to be questioned.
69. As regards the other major contributor to noise, vibration and disturbance, the addition of up to 200 HGVs per day falls to be assessed.

70. We know from Ms Gilpin (XX) that the “up to” 200 HGVs using the B3380 every working day will all be carrying loads of 20-25 tonne of material, save those that necessarily need to return empty to Devonport. We know further from Mr Maneylaws that there is no simple linear relationship between the size of HGVs and the noise produced by them, and it is for that reason that Mr Maneylaws has calculated likely HGV noise increases on the B3380 by way of a model (XX).
71. We know in addition that Mr Maneylaws has not taken any actual traffic noise measurements to provide a baseline figure, although measurements have been taken from 2 receptors at M1 and M3 (Maneylaws App fig. 2.1) (XX). The rationale for not taking actual baseline measurements in Mr Maneylaws’ view is that as one has to calculate likely future noise levels it is unwise to compare calculated data with actual data. I fear that at this point I am unable to appreciate the logic of such an approach.
72. Traffic surveys were undertaken of actual traffic use along the B3380, albeit limited in scope (Rugg), so it should have been possible, at the same time to take actual noise measurements in order to obtain a baseline of existing use, and noise levels arising from that use. The difficulty, accepted by Mr Maneylaws, is that the approach involving modelled calculations of noise is that it is unable to take into account the way that HGVs will actually behave in the scheme world in terms of acceleration in low gear, deceleration, idling and braking.
73. Consequently, as regards traffic noise generated by the scheme, we have no baseline data and no scheme data save that as calculated. How it is possible therefore to assess traffic induced noise impacts in these circumstances is not immediately apparent, if at all. How it is possible to conclude that any impacts will be negligible, insignificant and acceptable is even less apparent.
74. DWP Policy WPP 22 states that waste developments which would have an unacceptable adverse impact on health or air quality will not be permitted.
75. Apart from his experience with high explosives, Dr Roger was also the only person appearing before this inquiry with any medical qualifications, and consequently his evidence should be afforded significant weight.

76. His evidence and that of Dr Jean Harris-Hendriks shows that increases in traffic noise can exacerbate existing conditions such as stress and depression, and that the HIA identified air quality, noise and vibration as having negative effects on human health. Dr Roger also questioned the application of average noise statistics as they tended to ignore the effects of intermittent high levels of noise.

77. The Household Survey undertaken by BCF does provide substantial, rational and credible evidence of the health concerns of residents along the B3380, and despite MVV's assertions of negligible or minor impact on the basis of acoustic and traffic modelling, the work undertaken by MVV falls far short of proving that there will not be unacceptable adverse impacts on health or air quality.

**The effects on the local road network, highway safety and whether suitable access to the site can be achieved**

78. At the outset of his evidence in XX, Mr Rugg accepted that the scheme will generate significant amounts of traffic movement, but emphasised on numerous occasions that what really matters is the impact of those movements. On this point we are in agreement, as we are with Mr Rugg's "common sense" approach to amenity issues, which involve matters of fact and degree (XX).

79. Having undertaken some limited traffic survey work, in order to assess the impact of the addition of up to 200 HGVs on the B3380 (which he accepted is defined using DfT criteria as a minor, rural road (XX)), Mr Rugg proceeds to make a simple comparison between existing HGV use and that use under the scheme, concluding that all impacts, whether on amenity, road safety, access or severance will be insignificant.

80. Having agreed that one should adopt a common sense approach to the assessment of amenity impacts however, it is at this point that common sense goes out of the window. Mr Rugg accepted that although the traffic count of existing HGV useage provides overall totals, no detail is provided of the size

of HGVs using the B3380 at present. Given that the DfT definition of an HGV is any vehicle of over 3.5 tons, the failure to make any distinction whatsoever between vehicles of that size and those in the scheme world which will all be carrying loads of between 20-25 tonnes (giving a gross weight in the mid-30 tonne range), save those returning empty to Devonport, defies all common sense.

81. For Mr Rugg to assert that in terms of impacts on pedestrians, cyclists, the elderly crossing the road, children and drivers there are no differences between HGVs of 3.5 tons and 35 tons flies in the face of all logic, reason and common sense. Consequently, his conclusion of insignificant impact on the amenity of the local community is unsupportable.
82. In addition, the approach to the assessment of projected impacts in terms of the actual intensity of use of the B3380 by the additional HGVs is also fundamentally flawed. Mr Rugg's approach is to average out use over a 10 hour period, making no attempt to assess likely impacts on an hourly basis. The example that he was taken to of 20 HGVs in one hour and none in the next, giving an average of 10 per hour clearly fails to significantly underestimate the impact of 20 HGVs in one hour on both the B3380 and those using it whether on foot, cycle or car.
83. One can have a degree of sympathy for Mr Rugg in that, as he accepted it is very difficult to model such, given the uncertainties of HGV use in the scheme world. He, and we, have absolutely no idea where the C&D inputs will come from, or where the processed outputs will go, nor where any IBAA will go. In fact the only element of the scheme world of which we can be certain, in traffic terms, is that up to 65,000 tonnes p.a. of IBA will come from Devonport and that HGVs will be capped at a daily maximum of 200. Everything else is unknown.
84. How the capped daily maximum of 200 HGVs was arrived at is itself shrouded in mystery. Mr Rugg had no idea as to how the figure was arrived at, and nor do we. There is no evidence produced by MVV to show that the scheme is incapable of working effectively with a cap of 75 HGVs per day, which would clearly have less impact.

85. As regards road safety issues in respect of accident statistics relied upon by Mr Rugg, as it emerged in XX, his reliance upon global statistics is wholly irrelevant to any consideration of the likely impacts of the scheme on the B3380.
86. Mr Rugg's approach to this issue was to take total miles travelled by HGVs on the national road network, and then simply divide that by the number of accidents involving pedestrians and cyclists and HGVs. Once motorway miles and distances travelled on A roads are deducted, a more realistic figure may be arrived at, but once again the effect of Mr Rugg's evidence is to grossly underestimate likely impacts of HGVs on the local road network, and to misrepresent the severity of likely impacts.
87. Taken as a whole, the Transport Assessment and Mr Rugg's evidence is fundamentally flawed and no reliance whatsoever can be placed on such when assessing likely adverse impacts either in respect of traffic per se or traffic related impacts such as air quality and noise arising from the proposed development.
88. There are two traffic related DWP policies, WPP 20 and WPP 21.
89. WPP 20 seeks to minimise the need to transport waste, and WPP 21 prohibits proposals where the potential generation of HGV movements would cause demonstrable harm to interest of acknowledged importance.
90. Road safety is referred to in the explanatory text 7.4.9.14., and is clearly relevant to Policy WPP21. The evidence of Dr Cartwright together with the unreliability of Mr Rugg's evidence lends significant weight to the conclusion that the requirements of this Policy have not been satisfied.

### **Protected species and nature conservation**

91. Mr Day described WQ as being of extremely high value in terms of biodiversity. In passing he also observed that he couldn't believe that given that value this proposal had reached this Appeal stage without a whole series of ecological surveys.

92. In his evidence he catalogued a list of protected flora and fauna about which no basic survey data was available. Greater Crested Newt, other amphibians, reptiles, otters, invertebrates (including the elusive British Cave Shrimp and a species of beetle that has only ever been recorded 6 times previously in the UK), ancient woodland, bryophytes and lichen.
93. The surveys that MVV have latterly undertaken have been solely in response to Mr Day's criticisms as set out in his original proof. Some have continued to appear even during the course of this inquiry. It almost goes without saying that one reactive survey carried out in June hardly provides any reasonable baseline against which to assess the impacts of blasting 300,000 tonnes of dolerite, a construction phase with the potential to last more than 5 years, (the details of which are still unavailable for scrutiny and assessment, despite even DCC requesting such in its Scoping Opinion in April 2011 CD A14) and an operational phase which will continue for at least a further 20 years.
94. Mr Day's evidence regarding the need for further survey data, the times of the year that such surveys should be done, and the time restrictions that the presence of species already proven to be on site cast significant doubts over whether this scheme can even be delivered.
95. The LEMP imposes severe restrictions as to when blasting may occur given the need to protect the strategic flyway and bats roosting in Potter's Wood Caves. The presence of nesting peregrines means that no disturbance should occur during their nesting season. Natural England's advice in respect of Greater Crested Newts require surveys to be undertaken in the spring, and Mr Day suggests that they should not be disturbed during their hibernation period which runs from November to March.
96. Otter surveys should be undertaken over a period of a year to provide a basis upon which an informed assessment of impact may be made. This is necessary to establish the pattern of usage of the Dean Burn and the population structure of the species. Despite all previous surveys by MVV recording no presence, during this inquiry, in early July, a spraint was recorded at the site entrance.

97. Reptile surveys should be undertaken in the summer, and they should not be disturbed whilst hibernating over the period November to March, and invertebrate surveys should be done from spring until autumn.
98. When one takes an overview of the time restrictions imposed by the need to protect biodiversity interests, whether during hibernation or breeding periods, it can be seen that the window during which blasting and construction can take place becomes more and more restricted.
99. Whilst MVV seek to reassure the Inquiry that all of these matters can be dealt with by the need for ongoing surveys pursuant to the LEMP, and that mitigation measures enshrined in a combination of the LEMP and by way of planning conditions will ensure no adverse impacts, the manifest failures to provide even basic survey data provides little assurance that biodiversity interests will be protected.
100. Mr Day's view is that the site has a significant number of high value ecological receptors, highly susceptible to pollution and threatened by this scheme. A significant number of these (all species of bats, of which 12 out of a total of 18 species of bat have been recorded on the site, otters and the hazel dormouse) are protected at the very highest level of European law.
101. Mr Day expressed a number of concerns regarding potential sources and pathways of pollution which would adversely affect biodiversity. In respect of airborne pollution, Mr Day highlighted a contradiction in the evidence of MVV's experts. He pointed out that whereas Mr Mellor takes the view that there will be no impact whatsoever in terms of dust pollution, Dr Gray recognises that there will be dust generated, particularly during the construction phase, but that the impact of such will not be relevant.
102. Mr Day pointed out that 300,000 tonnes of dolerite contains 200 tonnes of phosphorus, some of which may become more available in the environment, in turn affecting plant growth. Similarly, the release of nitrates into the environment has the potential to disturb the present ecosystem, and both nitrates and phosphates may also find their way into the aquatic environment (both surface and groundwater).

103. These issues have not even been considered by MVV, leave alone assessed or mitigated.
104. As if these biodiversity interests were not enough to give MVV reason to reconsider their selection of this site as being suitable and appropriate for the location of an industrial process, they appear to have wholly failed, or wilfully failed, to appreciate the significance of the site and its role in supporting what is probably Europe's largest population of Greater Horseshoe Bats (GHB).
105. This inquiry has had the benefit of expert evidence from Professor Altringham, perhaps the leading expert in his field in the UK.
106. The South Hams Special Area of Conservation (SAC) is a European designated site by reason of its GHB population. It is calculated by Prof Altringham that the WQ site is used as a commuting route by approximately 5% of the total UK population of GHB. The site lies within a Strategic Flyway for the SAC, recognised as such by NE.
107. The requirement of the Habitats Regulations 2010 and Directive 92/43/EEC is that the project in question will not harm the integrity of a European site, and that this should be established to a high degree of certainty (where no reasonable scientific doubt remains as to the absence of adverse effects on the integrity of a European site - European Court of Justice, Waddenzee case paras 59-61). This may be referred to as the certainty test.
108. In considering the certainty test, the competent authority can take into account the effectiveness of mitigation proposed, as established in the Dilly Lane case (R on the application of Hart DC v SSCLG and others [2008] EWHC 1204. This may be referred to as the effectiveness test.
109. Given the weight apparently placed on this judgement it is worth setting out relevant observations from Sullivan J (as was) on the effectiveness test.

110. At para 55 of the judgement Sullivan J emphasises that “The competent authority is not considering the likely effect of some hypothetical project in the abstract. The exercise is a practical one which requires the competent authority to consider the likely effect of the particular project for which permission is being sought.”
111. Further, Sullivan J stated para 61 that “While it is agreed that “effective mitigation of adverse effects can only take place once those effects have been fully recognised, assessed and reported”, if the competent authority is satisfied at the screening stage that the proponents of a project have fully recognised, assessed and reported the effects, and have incorporated appropriate mitigation measures into the project, there is no reason why they should ignore such measures when deciding whether an appropriate assessment is necessary.”
112. Prof Altringham was asked to specifically address whether, in the case of the mitigation measures set out in the LEMP, this test had been met. In his view, he acknowledged that whilst the effects of the scheme proposed had been recognised, they had not been recognised in full, and that the seriousness of the situation had not been fully appreciated.
113. As regards whether appropriate mitigation measures had been incorporated, he was unequivocal in stating that the real problem was the effectiveness of the mitigation proposed. There was also a lack of confidence in the mitigation scheme being implemented in full, and in perpetuity, and that his research and that of others had shown that in the majority of cases mitigation measures had been singularly unsuccessful.
114. He regarded the suite of mitigation measures proposed here to be an experiment, and that of the array of strategies proposed none had been tested in any objective way, and that these proposals were tantamount to conducting a number of experiments in parallel.
115. He was equally unequivocal in his views on the possible consequences of such an approach being adopted. He stated that GHB might abandon the

strategic flyway and, as the population is already hemmed in and there are few remaining places for them to go, the results could be a reduction in an already small population and a similar reduction in the reproductive success of the population. Consequently, the integrity of the South Hams SAC will be harmed.

116. He further stated that there was real scientific uncertainty as to effectiveness of the mitigation and the impact of the scheme.
117. The EC Methodological Guidance (ID 67) sets out the stages required to be undertaken in the assessment of plans or projects affecting Natura 2000 sites.
118. Appropriate Assessment (AA) is the first stage of this process. Firstly, as set out above, there should be screening undertaken to assess significant effects. Although the Guidance advises against incorporating mitigation measures at this stage (page 14), even if the Sullivan approach is adopted, Prof Altringham's explicit view is that a full AA is still necessary. However it is questionable given the absence of adequate survey data (surveys available only cover a relatively short period of time, absence of dawn surveys, variations in numbers of bats), whether there is, at the present time sufficient data to do a full AA.
119. In the context of AA, the Guidance advises that evidence of the degree of confidence in the likely success of mitigation measures should be provided by a scheme's proponents. When questioned about this, Prof Altringham stated that no such evidence had been provided by MVV.
120. In the light of this remaining uncertainty as to the absence of harm to the SAC, it becomes necessary to consider alternative solutions. It should be noted that alternative solutions in the context of the Conservation Regulations is far wider than the consideration of alternative sites as required by the EAI Regulations.
121. The Guidance makes clear (p 33) that before a plan or project may proceed it must be objectively concluded that no alternative solutions exist.

122. As MVV take the view that not even an AA is necessary for this project (having screened out adverse effects at the screening stage), it is unsurprising that no consideration whatsoever has been given to the satisfaction of this requirement of the Regulations. As the Guidance sets out (p 35), alternative solutions may include variants of locations and scale, size, means of meeting objectives, methods of construction and operational methods. It is noteworthy that the Guidance further advises (Box 14 p.35) that, when assessing alternative solutions the precautionary principle should be applied, which only serves to reinforce the intention of the Directive to provide a strict system of protection. In this context Prof Altringham expressed the view that there had to be alternative solutions and sites which were not as rich, with such a large population of bats using it.
123. It is only if no alternative solutions exist that it becomes necessary to consider IROPI, and if it is established that there are, as far as European protected sites are concerned (as distinct from European protected species), authorisation may only be granted after the European Commission have been consulted (flow chart to Guidance).
124. As if these derogation tests to protect the integrity of the SAC were not enough to prove fatal to this scheme, the Habitats Directive and Conservation Regulations also provide a raft of protective measures for individual European species, such as all other species of British bats, Otters, Greater Crested Newts and Hazel Dormice, which I my submission cannot be met.
125. It seems to be agreed that NE EPS licences will be required in order for this project to proceed. MVV will doubtless rely on the grant of an EPS licence to relocate dormice when some of the vegetation was removed from the spur. This however, does not serve as any precedent upon which they can rely.
126. Two matters are relevant here. Firstly proportionality must be applied. The evidence put to NE in respect of dormice was that only relatively small numbers would be disturbed, and that the local population was healthy. The situation in respect of 11 other species of bat, otters and GCN is likely to be very different, and due to the paucity of survey data provided by MVV,

significant delays are probable before any assessment of impact on favourable conservation status can be undertaken.

127. Secondly, whereas the extraction and use of dolerite was relied upon in the previous licence application to satisfy the IRPOI test (however questionably), under the present scheme, in the absence of the availability of dolerite it remains unclear as to what might constitute an imperative reason of over-riding public importance. Suggestions by MVV that the need for an IBA processing plant would meet such a requirement is not established, and tentative at best.

128. Consequently, on the basis of the evidence before this inquiry, there can be no certainty that EPS derogation licences will be granted in order to allow this scheme to proceed.

129. In addition to meeting the requirements of the Habitats Directive and Conservation Regulations, this appeal is also subject to compliance with the requirements of the EIA Regulations (whether 1999 or 2011 is unimportant, as the mandatory statutory requirements remain unchanged).

130. Under the Environmental Impact Assessment Regulations 2011, Regulation 3(4) prohibits grant of planning permission unless “environmental information” is first taken into consideration.

131. Regulation 2 defines environmental information, environmental statement and refers to Schedule 2 and Parts I and II of Schedule 4.

132. Schedule 2 describes developments for the purposes of definition as Schedule 2 development. This development falls within category 11 (b) as an installation for the disposal of waste.

133. Part II of Schedule 4 sets out the minimum (and mandatory) requirements in respect of data required to identify and assess the main effects the development is likely to have on the environment. Part I of Schedule 4 sets out the requirements for information that may be reasonably required to assess environmental effects of the development. (see paras 3-4). Mitigation measures envisaged are required to be described pursuant to Schedule 4 Part II para 2.

134. Focusing on the requirement set out in Schedule 4, Part 2, para 3, as it is only once the data required to identify and assess the main effects which the development is likely to have on the environment that mitigation measures can be taken into account, the question for this inquiry is whether MVV (or any other party) has produced the data referred to in para 3, which is the first step in any assessment of environmental impact.
135. Whilst we consider this issue in the context of protected species and nature conservation, the requirement is equally applicable to matters concerning traffic impacts, air and noise and the water environment.
136. Mr Day has produced a veritable catalogue of failures to provide even the most basic of data surveys. Prof Altringham has identified a number of similar failures in respect of GHB in particular. Mrs Fraser has highlighted the failure of MVV to undertake even the most basic of hydrogeological surveys. Practically all main effects, likely significant effects, and all adverse effects, whether to do with air quality, noise, hydrology, traffic or ecology have been, in the view of the Appellants, minimised by resort to mitigation measures. In some notable areas, such as ecology, reliance on the effectiveness of mitigation has resulted in the Appellants failing to undertake even basic preliminary data assessments.
137. Such an approach fails to meet the most basic requirements of an EIA. The particular circumstances which prevail at Whitecleaves Quarry and the town of Buckfastleigh have been elided by the application of national statistics to the local situation, by the use of broad reliance on mitigation measures from other developments, over-reliance on the permitting regime, and an overall failure to grapple with the specific situation at this particular location.
138. Taken as a whole, there is no reasonable basis upon which even the main effects of the proposed development can be assessed, setting aside any sensible assessment of significant adverse effects as required by the Regulations.

139. The CEMP is still on a sheet of A4, and is likely to remain so long after the close of this inquiry, given that it has taken over 2 years to produce even this bare outline.
140. How the main effects and significant adverse effects of the construction phase of this project are to be assessed when any detail remains obscured by doubt and uncertainty is wholly unclear. The same considerations apply to so many of the mitigation measures outlined in the LEMP.
141. In this context we should not lose sight of the fact that one of the purposes of the EIA Directive and Regulations is to ensure public consultation, participation, scrutiny and transparency.
142. There is no such possibility of such public involvement when it comes to either the CEMP or the detail of the LEMP. That process simply involves a cosy, bilateral arrangement between MVV and DCC, with no requirement to involve the public whatsoever.
143. The effect of this, whether intentional or not, is to circumvent the rights of public participation in the process of EIA, and given what has already happened regarding the very late withdrawal by DCC of reason for refusal 1, public scepticism over the process is both perfectly understandable and perfectly reasonable.
144. DWP text at 7.3.2.7 advises that development that would harm SACs will only be allowed if there is no alternative site and there is an imperative reason of overriding public importance, whilst Policy WPP 6 prohibits any development likely to harm, either directly or indirectly SSSIs.
145. Part of the Potter's Wood SSSI lies within the red line boundary of the site, and Mr Day's evidence, when taken in conjunction with that of Mrs Fraser, casts significant doubt as to whether the proposal is policy compliant.
146. DWP Policy WPP 14 states that proposals for waste management facilities should include provision to maintain or enhance the extent, diversity and local distinctiveness of the county's nature conservation resource. This proposal fails to either maintain or enhance these resources, and poses a

very real threat to these resources. Consequently this proposal conflicts with the purposes of DWP Policy WPP 14.

**Air quality and water pollution, and any implications for health, quality of life and amenity**

147. In contrast to Mr Maneylaws' approach to the assessment of noise impacts arising from the proposed development, and that of Mr Rugg's in respect of traffic, Dr Gray's approach is not reliant on modelling or calculations. Dr Gray bases his assessment on a consideration of the activities that have taken place at the site over the last 5 years. He then takes recent mitigation into account, and then, given what is known about the construction and operational phases of the scheme, increasing mitigation efforts in order to ensure that any adverse impacts will be limited to the site boundary.

148. Whilst superficially attractive, in that this approach does not rely on modelling, and has some basis in reality, any conclusions that Dr Gray draws rely exclusively on the success of the mitigation measures to be applied.

149. This approach is underpinned by two assumptions. Firstly that mitigation measures as are currently in place to control dust emissions under the ROMP are effective. Secondly, as he stated in XX, that activities that will take place in both construction and operational phases are essentially similar in nature to those that have taken place relatively recently.

150. As regards the first assumption, there is evidence that, despite the very low levels of activity at the site since the lease was taken on by Gilpins, complaints of dust nuisance have been recorded. Although no enforcement action resulted, the levels produced were clearly enough to cause members of the public to take the trouble to contact DCC.

151. As regards the second assumption, and the similarity of the scheme with current activity at the site, in our submission, the scale of the construction phase bears no comparison at all with current levels of activity, and, as

discussed above, the Inquiry has not been provided with any real evidence as to what will actually take place during this 5 year period.

152. Water pollution issues were addressed by Mrs Fraser for BCF, and, as with the evidence produced by Mr Day and Prof Altringham, she is highly critical of the lack of basic data survey work undertaken by MVV.
153. The original ES submitted in support of the planning application in June 2011 clearly shows Middle Devonian limestone outcropping at the base of the quarry, and is described both in the text and in cross-sections.
154. The original text also describes the whole of the Upper Devonian limestone as a principal aquifer. Groundwater levels are estimated at 50 – 60m AoD within the quarry, with groundwater flow to the Dean Burn.
155. By October 2011 this situation had changed completely. The text referred to above had been removed, and a new conceptual model produced showing the quarry to be situated within a large intrusion of dolerite wholly isolated from the limestone strata.
156. Mrs Fraser confirmed that there appeared to be no good evidential basis for this radical transformation to the original conceptual model. The advantage to MVV of course is that the new, improved model provides no linkage between the quarry and the limestone, thus enabling them to assert that the scheme will pose no risk at all to groundwater.
157. The only evidence of structural geology that this Inquiry has before it, is provided by the BGS and a geotechnical report produced for Hanson's (the Sedman report ID9) in October 2007. The Sedman report tells us that there is a contact between the dolerite and the limestone in the floor of the quarry. Footwall strata are exposed in a bank at the site of the old coating plant and also in a new access cutting. Sedman also confirms that in the absence of pumping, groundwater would rise to a level of between 47 and 50m AOD.
158. When asked, albeit on the basis of limited evidence, which conceptual model was the more accurate, Mrs Fraser's preference was for the original model. She further stated that it would be a relatively simple matter for MVV to confirm the validity of the later model by means of drilling in order to obtain

basic data on the position of the water table and the underlying geology. This, for reasons best known to MVV, remains to be done.

159. It would be a very simple task for MVV to validate their conceptual model. A few boreholes drilled in the base of the quarry would confirm or disprove the presence of limestone. MVV could have done so at any time over the last 2 years. The only reason for not doing so seems to be the fear that their conceptual model would be proven to be incorrect, giving them very real difficulties with the EA.
160. Mrs Fraser described the setting of the quarry as being sensitive. Both the principal aquifer and Dean Burn should be regarded as sensitive receptors, and if the original model is accurate then groundwater and contaminants can both flow into and out of the void, and into Dean Burn by sub-surface movements.
161. Permeability is an additional relevant consideration, and MVV rely on the relatively low permeability of dolerite to support their “bucket” model. Mrs Fraser takes issue with this, being of the view that many secondary aquifers have similar permeability characteristics. She is quite satisfied that there will be linkage and connectivity between the void and the permeable limestone, even following completion of the construction phase.
162. The consequences of this are potentially far reaching. Mrs Fraser, Professor Drey and Mr Day have all described the possibility of contaminants in solution entering groundwater through the void, and not being intercepted by either the lagoon or the settlement tanks. This would pose significant risks of pollution to both surface water and groundwater, including private boreholes.
163. This situation is exacerbated by the fact that this area on the edge of Dartmoor can react very quickly in response to rainfall, particularly in periods of high rainfall. This in turn can lead to dramatic changes in groundwater levels and flows.
164. A further consequence of the prevailing rainfall regime is that levels of surface runoff can also fluctuate dramatically. Mrs Fraser expressed very real

concerns in respect of the lagoon over-topping and also of the settlement tanks flooding.

165. The settlement tanks are situated in Flood Zone 3a, defined in the Technical Guidance to the NPPF as a high probability flood zone where only water compatible and less vulnerable uses of land are appropriate. Mrs Fraser classified the settlement tanks as being more appropriately described as more vulnerable to flooding and consequently the exception test as set out in the Technical Guidance should be applied.
166. Mrs Fraser expressed concerns that as both the lagoon and settlement tanks would contain hazardous material both as sediments and in solution, in the event of over-topping or flooding these materials would be mobilised and enter the Dean Burn.
167. She considered that in order to undertake a full assessment of risks to the water environment far more quantitative data was required such as the quality of the lagoon discharge, leachate, flow of the Dean Burn, pumping flows and groundwater flows. She described such data as essential to obtain an idea of baseline conditions and in the absence of such it would be impossible to assess any adverse impacts arising as a result of the scheme. Furthermore without such information it would be equally impossible to draw up adequate mitigation requirements.
168. MVV's approach to water quality issues is the same as their approach to air quality, noise and ecology. Firstly deny the possibility of any adverse impact and secondly claim that any potential adverse impact can be mitigated away.

### **Tourism and the local economy**

169. Councillor Rudgeley's evidence has established the importance of tourism to the local economy, and the evidence of Mr Rines, which BCF adopts, together with the Economic Impact Assessment appended, reinforces that. In addition the Inquiry has had the benefit of direct evidence from two local businessmen Mr David and Mr Christy. A number of other local

businesses have submitted written representations expressing concerns over adverse impacts arising from the proposed scheme.

170. A petition of local businesses signed by 101 of those businesses was originally submitted to DCC as part of the consultation responses to the planning application. The petition expressed the view that in their opinion the proposed development would have serious adverse effects on the local economy, including tourism (described in the petition as “economically vital”), secondary spending by visitors and regeneration in the area.
171. As regards regeneration, in addition to setting out details of tourist businesses, with visitor numbers showing steady growth even through difficult economic times, Councillor Rudgeley also provided evidence of the Town Council’s vision for the next 20 years, as it will be set out in the emerging Neighbourhood Plan.
172. The vision is that of mixed use development at the Devonian site, including elements of housing, business and leisure uses (EiC). The intention is that the business element of the development would be linked to Buckfastleigh’s heritage and history. Councillor Rudgeley emphasised that Buckfastleigh is the only Town Council with a sub-committee tasked with developing tourism within its area, and her evidence of numbers of tourist visits (Rudgeley App F1) at a wide range of attractions provided within the local area is testament to the importance of this sector to the local economy.
173. For example, South Devon Railway report that between 60-75% of visitors travel by car, based on 2012 visitor numbers of over 101,000, and that figure could be up to 75,000 vehicles. South Devon Railway are currently putting a proposal together for a Heritage Centre where an increase in visitors is being projected up to 50,000, and the Town Council have very real fears that the WQ development would prejudice the future success of this expansion.
174. Damage to the local economy falls into 2 broad categories, that of actual damage brought about by the direct impact of HGV traffic on the B3380, giving rise to severance and amenity issues, and secondly perceived damage and damage to reputation, as evidenced by Gabriel David.

175. Mr David's evidence suggests that even the threat of pollution damage to his product could result in severe impacts on turnover and employment, and his expansion plans, as with the SDR could suffer as a consequence.

176. As regards the former, the severance and impacts on the amenity of tourists arriving by car using the stretch of the B3380 between Dart Bridge and Lower Dean, from which tourists access Buckfast Abbey, the South Devon Railway (SDR), the Butterfly and Otter Sanctuary and the Valiant Soldier, parking is provided at the SDR/Otter Sanctuary, but a visit on foot to the town centre, which includes the Valiant Soldier and the Millennium Green would entail crossing the B3380. Despite Mr Rugg's assurances that there are no differences in car drivers' or pedestrians' experiences of different sizes of HGVs, such assurances are at the very least counter-intuitive, and seem far from common sense.

177. Mr Christy, who has run a Garden Centre business at Lower Dean for 26 years gave direct evidence of the adverse impact of HGVs accessing Dean Forge on his business. He stated categorically that his business suffered as a direct consequence, and on the basis of that experience, he and his family have decided that they would close the business and move away should this appeal be successful.

178. In summary, there is evidence that the proposed development will prejudice existing employment, damage the reputation of successful businesses and threaten future expansion plans of local business.

**Whether alternative sites to meet the need is a material consideration in this case, and if so, the suitability and availability of such sites**

179. Although BCF do not promote alternative sites for the purposes of this Appeal, it is clear that the issue is only material where the need for the proposed scheme has been established. Submissions on need are set out below in the context of consideration of the planning balance.

180. If MVV's need case is established then we adopt the submissions of DCC in this respect, but would also ask that serious consideration be given to those alternative sites identified by Mr Goldsworthy.

181. In this context we would also echo and endorse the concerns expressed by Mr Smith in his evidence regarding the apparently obstructive attitude adopted by officers of Plymouth City Council, and to a lesser extent DCC, in dismissing any and all sites put forward by Mr Goldsworthy on the grounds of non-availability. Little weight should be given to views expressed by Officers who, without any apparent approval by elected members, would appear to be acting in conflict with their contractual obligations arising from the agreement between MVV and the South West Devon Waste Partnership (SWDWP).

182. Not only are allocated sites suddenly not available, but no consideration has been given to any unallocated site, save WQ.

**Whether the benefits of the scheme would be sufficient to outweigh any harm that might be caused**

183. We have set out a litany of the harm that this development will cause should permission be granted. Harm to human health, in terms of air and water quality and noise, potential harm to jobs present and future. Harm to nature and biodiversity interests. Conflict with planning policy is, by definition harmful, and contrary to the public interest. Harm to European protected habitats and species is of international concern.

184. In some respects actual harm is less damaging than the threat of harm. Actual harm can be remedied, rectified, put right. The threat of harm, the doubt, the uncertainty as to whether the mitigation will work or not, the doubt as to whether people's drinking water will be polluted or not will hang, like a Sword of Damocles over this community for years to come. This harm cannot be remedied, cannot be rectified. The only way for this harm to be avoided is for this appeal to be refused.

185. As was stated in opening, as regards need, we may accept that MVV need to find some way of disposing of up to 65,000 tonnes of IBA per year for the next 25 years, being contractually bound to do so. However, this, limited, corporate need, is by no means a public interest need. It is a need that a

private company have taken upon themselves, without any degree of compulsion. It is a need that they have effectively volunteered to take on. As to the wisdom of having made such a commitment without having secured either a means of disposing of IBA or having obtained the other necessary consents for being able to do so, that is a matter for them to reflect upon.

186. Do Gilpins need this development? There is no evidence that they need to take this liability on board. Once again, they appear to have offered themselves to MVV, making a commitment to treat unprecedented volumes of waste, a quantum leap removed from anything which they have previous experience of.

187. Despite the agreement between DCC and MVV, what evidence is there that there is any need for additional C&D MRF in the county? No hard evidence has been produced. The only real evidence before this inquiry is that contained in the very recently published Waste Management Plan for England (ID 84a) dated 16 July 2013. This consultation paper reports that although the target set under the revised Waste Regulations 2011 is to achieve at least 70% by weight material recovery of C&D waste by 2020, the actual figure reached is a 90% recovery rate (p.19). There is no reason to presume that Devon has failed to reach this level of recovery, and, on the face of it there is no pressing need for additional C&D MRF in the county.

188. The need for this development is not a public interest need, this is not a need of planning policy, at either a national or local level. As such, it cannot possibly override the public interest inherent in good planning, the public interest in the protection of the public and the environment, the public interest enshrined in planning policy and legislation.

## **Conclusions.**

“There are known knowns; these are things we know we know. We also know there are known unknowns; that is to say we know that there are some things we do not know.” D Rumsfeld. Former US Secretary of Defence. February 2002.

189. It is now clear that the harm likely to be caused by this proposed development can be predicted with a reasonable degree of certainty, whereas the benefits put forward by MVV are highly speculative, uncertain and unpredictable. In closing, the harm falls neatly into Mr Rumsfeld's category of "known knowns". We know that the scheme conflicts with planning policies at a national, and local level, and is therefore contrary to national and local public interests. We know that if this scheme proceeds life will never be the same again for the local community to their serious detriment.

190. What of the "known unknowns", the things that we know that we don't know? We know that we don't know whether this project would be deliverable, or sustainable. Crucially, we simply don't know whether the mitigation proposed upon which this scheme overly depends for its success will be effective, how it will be implemented, monitored or enforced, and what the consequences will be in the event of failure. We don't really know what levels of traffic and noise will be generated by the scheme, what the actual effects on air quality will be, and what the impacts on amenity will be, despite the best attempts of MVV to downplay these impacts.

191. What will happen to Europe's largest population of GHB? To the other European Protected species, the Peregrines nesting in the quarry, the otters and the dormice? What will be the harm to the community of Buckfastleigh? More importantly, what will be the harm to the children that we've heard playing, without a care in the world, during every day of this inquiry?

192. They are what sustainable development is all about. It is about change for the better. It is about not prejudicing their futures. Does this planning application improve peoples' lives?

193. The reasons for dismissing this Appeal are overwhelming and we respectfully submit that you should do so.

Charlie Hopkins

for Buckfastleigh Community Forum

19<sup>th</sup> July 2013