

North York Moors National Park Authority

District/Borough: Lockwood Ward
Parish: Irton

Application No. NYM/2019/0805/NM

Proposal: Non material amendment to planning approval NYM/2017/0505/MEIA to allow the relocation of construction boundary fence and realignment of alternative footpath to create an undeveloped area that will serve as a buffer zone between the site and the adjacent caravan park

Location: Land at Woodsmith Mine (formerly Doves Nest Farm & Haxby Plantation) Sneatonthorpe (minehead); underneath 252 km² of the NYMNP (winning & working of minerals); a corridor extending underground from the edge of the NP boundary to Wilton Complex (mineral transport system); Ladycross Plantation near Egton Lockwood Beck Farm near Moorsholm, Tocketts Lythe, near Guisborough (intermediate shaft sites); site within the eastern limits of the Wilton Complex Teeside (tunnel portal)

Decision Date: 20 December 2019

Extended to: 6 March 2020

Consultations

Scarborough Borough Council and the Parish Council - Have not responded. The deadline for responses expired on 12 December 2019.

Natural England – Has no comment.

Ramblers Association – Has confirmed they have no objection to the proposed revised footpath diversion route.

Lady Cross Caravan Park operator – Supports the application.

NPA Ecologist – considers that the location where the proposed revised public footpath diversion route crosses the highway verge is not likely to give rise to significant impact but requests an informative to indicate that any works to the verge avoid the period April to August.

Site Notice/Advertisement expiry date – N/A

Director of Planning's Recommendation

Approval subject to completion of a Section 106 supplementary deed and related legal documents and to the following condition(s):

1. PLAN01 The development hereby approved shall only be carried in accordance with the amended drawing reference 40-SMP-LC-8600-LP-31-00001 Rev 1 received 5 December 2019 and for the avoidance of doubt no development shall take place within the areas of land depicted on the drawing as "No development to take place within this area". The development shall otherwise completely accord with the approved plans and imposed conditions and informatives of planning approval NYM/2017/0505/MEIA.

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1. HWAY INF 12A The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.

Applicants are advised to contact the County Council's Access and Public Rights of Way Manager at County Hall, Northallerton on 0845 8 727374 to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

Any works to the highway verge associated with the installation of the diverted public footpath (revised route) should only take place outside the period 01 April to 31 August.

Background

The current substantive planning permission for the Woodsmith mine development was granted on 6 February 2018 (reference NYM/2017/0505/meia) following the original grant of permission in 2015. The approved development includes provision for construction of an intermediate shaft site on land at Lady Cross Plantation, near Egton, to provide access to the line of the Mine Minerals Transport System tunnel (MTS) for construction, ventilation, access and maintenance purposes. Development at the main minehead (Woodsmith site) commenced in May 2017 and MTS construction works are currently in progress at the Teesside end of the tunnel route. No development has yet commenced at the Lady Cross Plantation site and it is understood that the developer is keeping under review the need for, and extent of, any development at this site as part of wider design evolution of the whole project.

The overall permitted site area at the Lady Cross Plantation site, at its eastern side, extends to the boundary of the adjacent Lady Cross Caravan Park site. The approved drawings show a potential borrow pit for the supply of 30,000m³ of construction material for the shaft platform works as being located on land adjacent to the Caravan Park boundary, as well as construction of a 2.4m high security fence. A public footpath currently running across the Lady Cross Plantation site would, under the approved scheme, also be subject to a temporary diversion to run immediately outside the line of this security fence.

As a result of on-going review of expected development requirements at the Lady Cross Plantation site, the Mine developer has taken the view that the area of land identified for the potential borrow pit is no longer required for this or other development purposes and that a further area of land within the site boundary, to the south of the potential borrow pit location, is also not required for any development purposes. It is therefore now proposed that the approved scheme be amended to clarify that no development would take place in these two areas, and that the routes of the construction fence and diverted footpath be realigned to follow the boundary of the reduced development footprint now proposed, thus ensuring the presence of an increased development-free 'buffer zone' between the Lady Cross Plantation mine development and the Caravan Park site.

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Notwithstanding this change, there is no proposed revision to the overall planning 'red-line' boundary for the Lady Cross Plantation site, which would remain on its originally approved line. It is understood that discussions are taking place regarding the transfer of the land within the buffer zone from the Mine developer to the Caravan Park owner. This is of relevance to the related section 106 legal requirements accompanying the existing permission for the Mine development and is discussed further in the Main Issues section below.

Main Issues

An application for a non-material amendment is not an application for planning permission and is not required to be considered against the policies in the development plan. National planning guidance indicates that the local planning authority should be satisfied that the proposed change is not material, and must have regard to the effect of the change together with any previous changes made as non-material amendments, on the permission as originally granted.

The changes proposed need to be considered in the context of the overall scale and complexity of the approved Mine development, which is very extensive and comprises multiple sites and components. The approved Lady Cross Planation site itself extends to over 25ha and in its permitted form would require substantial construction works, earth moving and permanent buildings and new landforms. The proposals subject of the current non-material amendment application would in effect confirm that no development would take place within two relatively small areas of the site and reduce the overall extent of potential physical development works by approximately 2.5ha compared with that already approved. They would not lead to any changes to the operational stage development at the site, and the associated re-alignment of the footpath diversion route would reduce the length of the diversion required compared with that needed if the scheme were implemented as currently approved. It is therefore considered that the amendment proposed can reasonably be viewed as non-material in the context of both national guidance and the circumstances of this particular site.

Although other non-material amendments to the substantive Mine permission have been granted these all relate to the main mine head site and are therefore not considered to have relevance to the proposal now under consideration.

In summary, the amendment to development at the Lady Cross Plantation site now proposed is not expected to lead to any material change in the overall design principles for the development, or to any adverse impact outside the immediate site and would in effect serve to reduce the potential for adverse impact on amenity of users of the adjacent Caravan Park and is considered acceptable on that basis.

A further important consideration is the relationship between the proposed amendment and the existing legal obligations under Section 106 which are attached to the substantive Mine permission. Amongst other matters, these require the developer to provide financial security to ensure that there are resources available to the National Park Authority to reinstate the site to its original or other suitable condition in the event of default by the developer. This security is provided via a bank bond to which the Authority has access in circumstances where a defined default event has occurred. This arrangement currently applies to the

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whole of the land within the Lady Cross Planation site, as identified in the current planning permission.

As the effect of the amendment now proposed would be to confirm that no development would take place within the buffer area of land adjacent to the Caravan Park, there is no corresponding need for this area to be subject to the reinstatement security provisions set out in the section 106 agreement. Separate to consideration of the current non-material amendment application, it is understood that the applicant is in discussion with regard to the transfer of ownership of this area of land to the Caravan Park owner and this would ensure the long term retention of the land as a buffer zone in the event of any eventual development at the Lady Cross Planation site. Alongside the planning application for a non-material amendment the applicant has therefore submitted a draft section 106 second supplementary deed, the effect of which is to revise the extent of land covered by the section 106 obligations, so that it would coincide with the reduced area now to be developed. This would avoid the need for the existing section 106 obligations to be transferred to the new land owner, whilst ensuring that the necessary obligations remain in place to cover the land remaining within the control of the Mine developer and where development works are authorised to take place. Alongside a new s106 second supplementary deed, legal advice to the Authority has also confirmed that it will also be necessary to update the related s106 memorandum of understanding document and to enter into a deed of variation to the existing security bond. Satisfactory drafts of these related documents have also been received.

This approach is considered to be acceptable and it is therefore recommended that approval be granted subject to completion of a second section 106 supplementary deed and related documents as outlined above.

Contribution to Management Plan Objectives

Approval is considered likely to help meet Policy E3 which seeks to ensure that new development will not have a detrimental impact on the landscape of the National Park.

Explanation of how the Authority has Worked Positively with the Applicant/Agent

Officers have held pre-submission discussions with the applicant and have continued to engage with the applicant during consideration of the proposal.